

## **Critical period for Libya requires urgent attention from Germany and Europe**

### Policy Recommendations

May 2021

Building on the 23 October 2020 ceasefire declaration and United Nations-led consultations in the framework of the Libyan Political Dialogue Forum (LPDF), the Libyan peace process eventually led to the establishment of a new interim government on 10 March 2021, tasked with the organisation of parliamentary and presidential elections on 24 December 2021. Following years of conflict, national fragmentation, destruction of civilian infrastructure, and deterioration of economic and social rights including access to water, health and electricity, this latest attempt at peace appears to enjoy a stronger national consensus compared to the 2015 Skhirat agreement, and visible support at the international level.

However, the situation remains fragile; Germany and other European actors must prioritise addressing the lack of accountability and rule of law in Libya, to ensure that basic conditions are met for the organisation of free and fair elections and to prevent a resumption of the conflict or a *de facto* partition of the country.

In the pursuit of these objectives, a common and cohesive European strategy on Libya would be more effective; European states, including Germany, should work toward ensuring the EU is able to unite behind these goals. Until consensus can be reached, leadership and initiative by willing States and institutions on the recommendations detailed at the end of this briefing will be even more crucial.

The continued restrictions on fundamental public freedoms and civic space are a first major problem. In addition to physical threats from armed groups, both administrative and state security officials have continued to impede the work of civil society and restrict freedom of association, of expression and of the press through the application of unlawful executive decisions and decrees. This is illustrated by the Civil Society Commission's [persistence](#) in applying Presidential Council Decree no. 286 of 2019 during the past year, despite its [unlawful](#) and repressive nature. Libyan civil society organisations have also highlighted the need to promptly [reform the media sector](#) and improve its legal framework, and to stop prosecuting journalists for their work, especially in unfair [military trials](#).

Electoral campaigns are a critical time for free expression and debate during which the media has an important role to play. The rights to free speech and free assembly and association constitute a cornerstone of representative democracy and the right to political participation, without which elections cannot be considered [free or fair](#). Civil society organisations also have an important oversight and monitoring role to play during electoral processes. Independent

Libyan civil society, including rights defenders, lawyers, members of the judiciary and journalists, must be protected as key partners and interlocutors of Germany and the EU to help ensure peace and stability.

The power of armed groups throughout the country and the impunity with which they continue to operate constitute other major impediments to the organisation of elections and the reunification of national institutions, in addition to obstructing efforts to re-establish the rule of law. Grave human rights violations continue to be [reported](#), with almost total impunity, including extra-judicial killings, torture, enforced disappearances, sexual violence, arbitrary arrests and detentions. Dozens of mass graves have been [uncovered](#) in the past year around Tarhuna, and bodies continue to be found. Shooters killed one person and injured two others on [8 April](#) 2021 in an overcrowded detention centre in Tripoli, in one of several recent violent attacks against migrants. The national justice system has been unable to investigate grave violations and abuses and hold perpetrators accountable.

The [release](#) of Abdel-Rahman Milad known as "Bija", announced by Libyan officials on 12 April 2021, was indicative of the prevailing climate of impunity. An alleged human trafficker under UN sanctions, Bija is the head of a Libyan coastguard unit in Zawiya. The Government of National Accord reportedly promoted him to the rank of Major in March. The [murder](#) of Mahmoud al-Werfalli, a commander in the Libyan Arab Armed Forces (LAAF) wanted by the International Criminal Court for his responsibility in war crimes, on 24 March 2021 in Benghazi, is another case of justice left to the hands of armed groups. Haneen and Ayman Al-Abdali, daughter and son of lawyer and activist [Hanan Al-Barassi](#) -- who was assassinated in Benghazi in November 2020 after she spoke out against militia abuse -- were both arrested in the following days and are now identified as suspects in Al-Werfalli's killing. Before her arrest, Haneen al-Abdali was forcibly disappeared just hours after she named individuals she believed were responsible for her mother's murder in [a live broadcast](#).

While the 5+5 Joint Military Commission has facilitated critical [confidence-building measures](#), little progress has been achieved so far regarding security sector reform, even though the ceasefire agreement includes a provision on the identification and categorisation of all national armed groups to allow for their eventual dismantlement and for vetted individuals' reintegration into state institutions. The JMC appears to be lacking sufficient political support to address this critical issue. Prime Minister Dbeibah has not yet appointed a Minister of Defence, presumably because no individual figure has been able to gain support from all the armed groups so far.

In this context, strong international accountability processes are required to deter a resumption of conflict and incite protagonists to respect the political agreement. The UN Independent Fact-Finding Mission on Libya (FFM), established in June 2020 to investigate violations and abuses of international human rights and humanitarian law since 2016, was an important first step. However, it has been severely hampered by budgetary constraints and difficulties related to the pandemic.

On 25 April 2021, the head of the National Unity Government [cancelled an official visit](#) to Benghazi, reportedly after a government security team was turned back by the Tarek Ben Ziad brigade – a Madkhali Salafist paramilitary group headed by Saddam Haftar (the son of Khalifa Haftar). This incident highlights the disruptive potential of paramilitary groups in the electoral process and the continued reality of national fragmentation.

Furthermore, despite the withdrawal of foreign forces being included in the October 2020 ceasefire agreement, they remain [entrenched](#) in the country, especially in the air bases of Al Jufra, Al Khadim and Al Watya, reinforcing the possibility of a relapse into conflict and/or an unofficial partition of the country. As long as foreign military actors remain in Libya, attempts to address structural issues in the country will be held back. Within these foreign forces, Chadian rebels based in Al Jufra, employed and trained alongside the LAAF by the Russian Wagner Group, with weapons supplied by the United Arab Emirates, are now also responsible for the [killing](#) of Chadian President Idriss Déby on 20 April. Recent [announcements](#) that Turkish officials would be willing to withdraw Syrian mercenaries if mercenaries fighting for the LAAF withdraw as well, provide an opportunity for international actors to press for the withdrawal of foreign forces deployed on both sides.

In the past two years, a lack of cohesive political engagement from the European Union and Member States has led to the [expansion](#) of the influence of state and non-state actors threatening Europe's southern border and the international rule of law. Rebuilding a common and cohesive European strategy to promote sustainable peace and uphold the international rule of law in the Southern neighbourhood is [critical](#) for Europe's core geopolitical, economic and security interests, both in the region and globally.

While progress in Libya's political process has raised renewed hopes, the security situation remains unstable, compounded by the lack of justice and accountability. In that regard, human rights and the rule of law must be prioritised in order to ensure that free and fair elections take place in December, and that they do not lead to further conflict. Keeping up the focus on these structural issues is critical to lifting Libya out of crisis, in a sustainable manner, without repeating the mistakes made during previous peace attempts.

In order to safeguard the progress of the peace process and prevent a resumption of the conflict or a *de facto* partition of the country, Germany—as well as other European states and the EU—must focus efforts on the following recommendations:

- Ensure that Libyan authorities adhere to the LPDF [Roadmap](#), in particular by respecting the [Key Principles for human rights](#), appended to the Roadmap and developed in consultation with Libyan civil society; these should serve as a foundation to guarantee respect for fundamental rights and freedoms;
- Building on these [Key Principles](#) for human rights and on UN Security Council [Resolution 2570](#), support the United Nations Support Mission in Libya (UNSMIL) and Libyan authorities' efforts and work closely with them to urgently put in place a comprehensive and transparent legal framework for **security sector reform**; it should

establish a specialised technical committee for the vetting of members of armed groups and set out a strategy for their disbandment and individual reintegration, disarmament and rehabilitation;

- Press Libyan authorities to ensure that conditions are in place for **the organisation of free and fair elections** by repealing arbitrary executive decisions and laws infringing on public freedoms, and ensuring that all Libyan citizens are able to register to vote and can safely access polling stations, as highlighted in the Libya Platform [Roadmap for Human Rights](#);
- Train members of the **Higher National Electoral Commission (HNEC)** in international electoral standards to ensure fair and transparent election processes;
- Ensure that elections are monitored by an **EU Election Observation Mission** when requested by the Libyan authorities, and support domestic actors to deploy independent election monitoring initiatives;
- Condition any **bilateral and EU financial support** to Libyan authorities ahead of the elections on concrete steps taken for **security sector reform** and respecting judicial independence, as well as the freedoms of expression and association;
- Ensure that the **UN Independent Fact-Finding Mission (FFM)** to Libya, currently the only mechanism able to investigate human rights violations in the country and support accountability efforts, is renewed in September 2021 and has sufficient resources to carry out its mandate;
- Use all EU diplomatic, financial and economic leverage, including targeted sanctions, to **deter Libyan spoilers of peace** and to press foreign and Libyan actors on both sides of the conflict, to accept and implement the withdrawal of foreign forces;
- Firmly denounce perpetrators of **human rights violations** and any attempts by Libyan actors and foreign forces to disrupt the political process, including attacks on journalists and civil society;
- Review **arms transfers** – including post-sale services – and security cooperation with states with a military presence in Libya, to ensure there is no risk of contribution to violating the UN arms embargo, and condition such cooperation on the cessation of any direct or indirect military involvement in Libya (including the [funding](#) of foreign actors).