

To Mr. H. Van Rompuy
President European Council

To the Heads of State or Government of the European Union

Brussels, 17 June 2011

Re: The need for a protection-oriented European response to migrant and refugee flows resulting from the recent developments in North Africa

Dear Mr. Van Rompuy,

As the humanitarian crisis in Libya worsens and its impact on neighbouring countries increases, the EU's response to the developments in the region and in particular the needs of refugees fleeing the region so far are proving inadequate. Ahead of the European Council on 23 and 24 June, the undersigned non-governmental organisations urge the Heads of State and Government to give a strong signal of compassion with people in need of international protection and solidarity with the countries in the region. These countries are going through an epochal change and there is a need for the EU to show true political leadership by providing a solid and generous response.

True leadership and vision for the Southern Mediterranean neighbourhood

While the May 2011 Commission communications on migration and on dialogue, mobility and security, endorsed by the June JHA Council contain a number of positive elements for a more dynamic approach, the EU policy vision for the Southern Mediterranean neighbourhood is still modest. If the EU is genuinely committed to support the Middle East and North African countries it means investing substantially in their economies and institutions; it also means showing solidarity and humanity to the people displaced that risk their lives in search of a safe haven.

In this respect we regret that the 'dialogue on migration, mobility and security' appears to be very Euro-centric and security oriented, essentially reflecting a public discourse of fear of immigration, rather than a true partnership between the two sides of the Mediterranean. A true partnership would need to fully acknowledge mobility needs from both sides, including the EU's need for mobility, as already highlighted in the Europe 2020 strategy. It would also mean that the region's burning and multiple refugee protection challenges become a central part of the partnership, integral to the protection of human rights and democratic governance.

A more ambitious Global Approach to Migration

The migratory flows resulting from the events in the North-African region and the Middle East take place at a time when the EU is evaluating its Global Approach to Migration, launched in 2005. A new impetus is needed to ensure that the Global Approach to Migration becomes more strategic, efficient and coherent with development policies. It should be transformed into an inspired and ambitious policy, that is truly global and centred around four key themes: *mobility, development, security and protection*. We also believe that such an approach should be better integrated in key partnerships of the EU (such as the EU-Africa and the EuroMed Partnership) and better coordinated with humanitarian aid and development cooperation that aims to address the root causes of migration. This is all the more relevant for the Middle East and North African countries, where mobility and refugee protection should be integral to medium and long term development.

A generous European response to the refugee crisis

The total number of people that have fled Libya since the start of the conflict has now reached almost one million. Half of these have been hosted by Tunisia and the rest are in Egypt and the neighbouring countries. It is the largest refugee crisis this region has ever seen. There are also thousands of internally displaced persons within Libya. The humanitarian needs in the region are pressing and constantly growing. There are only few solutions in sight for these populations in the long run and the question will soon be how to prevent

this from becoming a protracted refugee situation.

Contrary to public perception, the number of people that have actually come to Europe is small. According to the latest statistics from UNHCR a total of 43,799 persons have arrived in Italy and Malta since January 2011. These numbers show clearly that the refugee crisis is not in Europe but on the other side of the Mediterranean. Yet, the European response so far has been rather feeble.

EU Member States have a moral obligation to do more and better in protecting those in need of international protection. The current situation in the region and at the EU's borders requires a proactive approach that does not put *protection* second to security. We call on the EU and its Member States in particular to:

➤ **Offer more resettlement places in Europe**

As a minimum European countries must offer resettlement places in significant numbers to the most vulnerable refugees fleeing Libya, particularly the Sub-Saharan refugees that are unable to return to their countries of origin or find any other durable solutions in the region. Following the extraordinary JHA Council in May a limited number of EU Member States have offered to resettle in total 700 persons from Libya. We welcome this offer, but much more is needed. The EU, as the region's immediate neighbour should take the lead in an ambitious resettlement effort of refugees from the region that would be in addition to the recent commitments by JHA Ministers. Moreover, we call on all European institutions to reach a meaningful compromise and unblock negotiations on the Joint EU Resettlement Programme, that, once adopted will provide the framework for a coordinated response for resettlement in Europe in 2012.

➤ **Ensure access to the asylum system in Europe**

Access to protection in Europe remains problematic for those fleeing violence and human rights abuses in Libya and elsewhere in the region, and they are forced to engage in dangerous seacrossings in often unseaworthy vessels that have already costed thousands of lives. So far EU Member States have refrained from pushing back boats carrying refugees and migrants trying to reach their shores. However, recent press reports with regard to the lack of assistance for 16 days to a boat in distress that was left adrift in the Mediterranean carrying women, children and babies raise questions as to EU Member States' active compliance with their search and rescue obligations.

We urge EU Member states, and in particular the Southern EU Member States directly affected by the new arrivals, to continue to ensure access to the territory and to a fair asylum procedure to those arriving in the EU in line with the EU acquis, Article 18 of the EU Charter of Fundamental Rights and their obligations under international refugee and human rights law. Regardless of their status no one should be sent back to Libya now and in the near future. EU Member States should fully comply with their search and rescue obligations with regards to all persons in distress at sea while respecting the principle of non refoulement.

➤ **Engage in concrete solidarity and responsibility-sharing**

While numbers of refugees, asylum seekers and migrants arriving in the EU remain low compared to the influx in Tunisia and Egypt, Italy and Malta are most directly affected by the recent migrant and refugee arrivals from Libya and Tunisia. As the pressure on their asylum systems is growing, other EU Member States should take concrete measures to assist those countries in a spirit of solidarity and responsibility sharing as required under Article 80 TFEU. There are many ways in which EU Member States can show concrete solidarity. These include intra-EU relocation of those granted protection in Southern EU Member States and the provision of technical support as regards reception conditions and the processing of asylum applications, either bilaterally or through the European Asylum Support Office.

We welcome the recent commitment of a number of EU Member States to relocate in total 300 refugees and beneficiaries of subsidiary protection from Malta as an expression of solidarity to the particular pressure the country is currently facing as well as the protection needs of the refugees concerned. Intra EU-relocation should always be with the full consent of the persons concerned and the numbers involved should never be deducted from an annual resettlement quota. Additional intra-EU relocation may be necessary in the future and therefore we encourage EU Member States to further explore possibilities to use this tool in close cooperation with the Commission as well as UNHCR and NGOs. Although still in its start-up phase, possibilities to increase technical support to the asylum systems in Italy and Malta through EASO should equally be further examined based on a permanent assessment of the specific needs in those countries. The EU should also fully implement its EU Action Plan on Unaccompanied Minors to ensure that unaccompanied children in migratory flows receive all the special protection and assistance they are entitled to as children. Finally, EU Member States and states subject to the Dublin Regulation should refrain temporarily but immediately from transferring asylum seekers back to Southern EU Member States under this Regulation and assume responsibility for processing their claim under the sovereignty clause and make more generous use of the humanitarian clause.

➤ **Support the development of protection space in North Africa**

Tunisia and Egypt face not only immediate humanitarian needs, that require continuous international support in the short and medium term; they also face the challenge of providing protection and durable solutions to the refugee populations resident in their territory in the medium and long term. We welcome the Commission's intention to implement a Regional Protection Programme in North Africa and believe this will be an important step, but the needs for capacity building for the authorities and civil society organisations are increasing and will need substantial support. We urge the EU and its Member States to engage in a long term investment and support these countries to build their asylum systems and ensure protection. Other neighbouring countries, such as Chad and Niger, will also need support and capacity building to meet increasing refugee protection needs.

We hope the European Council on 23 and 24 June will be able to provide political leadership in a spirit of solidarity with the countries in the region and with the aim of honouring their obligations under international human rights and refugee law towards refugees and others in need of international protection.

Yours Sincerely,



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ECRE Chair



Jorge Nuño Mayer
Secretary General



Johan Ketelers
Secretary General



Conny Reuter
Secretary General



Save the Children

Olivia Lind
Head of EU Office



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