

UNHCR POSITION ON THE DESIGNATIONS OF LIBYA AS A SAFE THIRD COUNTRY AND AS A PLACE OF SAFETY FOR THE PURPOSE OF DISEMBARKATION FOLLOWING RESCUE AT SEA

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Introduction

1. This position supersedes and replaces UNHCR's guidance on foreign nationals in Libya contained in the *Position on Returns to Libya – Update II* of September 2018; however, UNHCR guidance in relation to Libyan nationals and habitual residents as provided in the September 2018 position remains valid.¹ It is based on information available up until 15 August 2020, unless otherwise stated.
2. The current situation in Libya is characterized by political and military fragmentation, armed hostilities between the Government of National Accord (GNA) forces and the Libyan Arab Armed Forces (LAAF) commanded by Khalifa Haftar, the proliferation of armed groups and a general climate of lawlessness, as well as a deteriorating human rights situation.² Since 2014, protracted armed conflict between rival armed groups has resulted in large numbers of civilian casualties,³ displaced hundreds of thousands of

¹ UNHCR, *Position on Returns to Libya – Update II*, September 2018, www.refworld.org/docid/5b8d02314.html.

² "The conflict has since escalated into a dangerous and potentially endless proxy war fueled by cynical foreign powers that has now widened geographically with civilians paying the highest price"; United Nations Support Mission in Libya (UNSMIL), *One Year of Destructive War in Libya, UNSMIL Renews Calls for Immediate Cessation of Hostilities and Unity to Combat COVID-19*, 4 April 2020, <https://bit.ly/2XJO1dT>. See also, UN Security Council (UNSC), *As Foreign Interference in Libya Reaches Unprecedented Levels, Secretary-General Warns Security Council 'Time Is Not on Our Side', Urges End to Stalemate*, 8 July 2020, SC/14243, <https://bit.ly/3frs763>; Council on Foreign Relations (CFR), *Civil War in Libya*, updated 13 August 2020, <https://on.cfr.org/3h1OBfY>; Al Jazeera, *The Unfolding Geopolitical Power Play in War-Torn Libya*, 19 June 2020, <https://bit.ly/3f6cbqj>; African Center for Strategic Studies, *Geostrategic Dimensions of Libya's Civil War*, 18 May 2020, <https://bit.ly/3gC9Bce>; Human Rights Watch (HRW), *Despite Covid-19, Libya War Rages, with Civilians at Risk*, 7 May 2020, <https://bit.ly/2Mh2Krq>; Foreign Policy, *The Libyan Civil War Is About to Get Worse*, 18 March 2020, <https://bit.ly/2Z1XTHz>. The Global Peace Index 2019 ranked Libya as the 7th least peaceful country in the world; Institute for Economics and Peace, *Global Peace Index 2020: Measuring Peace in a Complex World*, 11 June 2020, <https://bit.ly/38z35QC>, p. 9. After the discovery of eight mass graves near Tarhuna during the recent offensive, the UN Human Rights Council passed a resolution authorizing a fact-finding mission on violations of international human rights law and international humanitarian law since 2016; Office of the UN High Commissioner for Human Rights (OHCHR), *Human Rights Council Adopts 13 Resolutions; Requests the Establishment and Dispatch of a Fact-Finding Mission to Libya*, 22 June 2020, <https://shar.es/abWexo>.

³ "Between 1 April and 30 June 2020, UNSMIL documented at least 358 civilian casualties (106 deaths and 252 injuries). This figure represents an overall increase in civilian casualties of 173 per cent compared to the preceding period in the first quarter of 2020[1] with a 65 per cent increase in deaths and 276% increase in injuries. The victims include 261 men (deaths and injuries), 45 women (deaths and injuries), 44 boys (deaths and injuries), and eight girls. Ground fighting was the leading cause of civilian casualties, followed by explosive remnants of war, and airstrikes." Given limitations on access to and information flow from conflict-affected areas, the actual casualty figures are likely to be significantly higher; UNSMIL, *Civilian Casualties Report 1 April - 30 June 2020*, 29 July 2020, <https://bit.ly/33iCczP>. For updated casualty figures, see: <https://unsmil.unmissions.org/human-rights-report-civilian-casualties-0>.

people,⁴ disrupted people's access to basic services and livelihoods, and destroyed vital infrastructure.⁵ In 2019, armed conflict and political instability had a direct impact on the lives of a quarter of the population.⁶ Insecurity and the lack of governance have enabled illicit activities, allowing corruption,⁷ people smuggling and human trafficking to thrive further fuelling instability in the country.⁸ The armed conflict has affected major cities, including the capital Tripoli, and violence continues unabated in many parts of the country.⁹ In May 2020, the Acting Special Representative of the UN Secretary-General for Libya voiced concerns that the conflict will "*intensify, broaden and deepen*."¹⁰ Multiple ceasefire initiatives have been unsuccessful in curbing the conflict.¹¹

3. On 4 April 2019, Khalifa Haftar, commander of the Libyan Arab Armed Forces (LAAF), launched a military offensive to capture the western region of Libya and the capital Tripoli held by the UNSC-recognized GNA. At the time of writing, the GNA has regained control over all of Tripoli and Tarhouna and has expanded eastwards towards Sirte.¹² The renewed violence in 2020 had displaced 27,750 people by 22 June 2020.¹³ The large presence of anti-personnel landmines and improvised explosive devices (IEDs) in southern Tripoli neighbourhoods represents a major security hazard and is preventing the return of internally displaced persons (IDPs) to their homes.¹⁴

⁴ As of June 2020, it was estimated that over 424,000 Libyans remained internally displaced. Insecurity remained the most significant cause of displacement, while worsening economic conditions being a contributing factor. Most recent displacements were primarily due to an increase in the instances of armed conflict in western Libya. An estimated some 456,000 IDPs have returned to their homes as of June 2020; International Organization for Migration (IOM), *Displacement Tracking Matrix (DTM), Libya IDP and Returnee Report: Mobility Tracking Round 31 | (May - June 2020)*, 13 August 2020, <https://bit.ly/3g2aaek>, pp. 4, 10. See also, UN News, *Time Is Running Out for Libya, UN Chief Warns Security Council*, 8 July 2020, <https://shar.es/ab5tjJ>.

⁵ See below "*Humanitarian Situation*".

⁶ Around 1.8 million people; United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *2020 Humanitarian Needs Overview: Libya*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf (hereafter: OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf), p. 5.

⁷ According to Transparency International's 2019 Corruption Perceptions Index, Libya ranks 168th out of 180 countries globally; Transparency International, *Corruption Perceptions Index 2019*, 23 January 2020, www.transparency.org/cpi2019. See also, New York Times, *A Police State with an Islamist Twist: Inside Haftar's Libya*, 20 February 2020, <https://nyti.ms/2LIA5w6>.

⁸ "Human trafficking and the smuggling of migrants, although reduced considerably compared with previous reporting periods, continues to finance networks that contribute to instability"; UNSC, *Letter Dated 29 November 2019 from the Panel of Experts on Libya Established Pursuant to Resolution 1973 (2011) Addressed to the President of the Security Council*, 9 December 2019, S/2019/914, www.ecoi.net/en/file/local/2021151/S_2019_914_E.pdf, p. 2. According to UNSMIL / OHCHR, "*migrants and refugees continue to be particularly vulnerable to trafficking or to being sold to smugglers, including for sexual exploitation*"; UN General Assembly (UNGA), *Situation of Human Rights in Libya, and the Effectiveness of Technical Assistance and Capacity-Building Measures Received by the Government of Libya*, 23 January 2020, A/HRC/43/75, www.ecoi.net/en/file/local/2024860/A_HRC_43_75_E.pdf (hereafter: UNGA, *Situation of Human Rights in Libya*, 23 January 2020, www.ecoi.net/en/file/local/2024860/A_HRC_43_75_E.pdf), para. 41. See also, Middle East Eye, *Libya's People-Smuggling Militias Return just in Time for Migrant Season*, 22 April 2020, <https://bit.ly/35QBkBL>; Reuters, *Trafficking Risk High for Hundreds of Migrants Sent Back to Libya*, 15 January 2020, <https://reut.rs/3fFCtjW>.

⁹ The Guardian, *End of Tripoli Siege Raises Fears of Full-Scale Proxy War in Libya*, 26 June 2020, <https://bit.ly/3fa37ku>; France 24, *Pro-Haftar Powers 'Looking for Alternatives' after Opponents Seize All of Western Libya*, 10 June 2020, <https://bit.ly/3d6tkOQ>; Al Jazeera, *What's Behind GNA's Decision to Launch Offensive to Seize Sirte?*, 9 June 2020, <https://bit.ly/3d8kLDI>; UNSMIL, *UNSMIL Statement on Recent Developments in Libya*, 7 June 2020, <https://bit.ly/2UORtmZ>; Al Jazeera, *Libyan Government Forces Seize Haftar Stronghold Tarhuna*, 5 June 2020, <https://bit.ly/2UN4w8e>.

¹⁰ UNSC, *Despite Calls for Libyan National Army Ceasefire Amid COVID-19 Pandemic, Unabated Fighting Could Push Libya to New Depths of Violence, Acting Special Representative Warns Security Council*, 19 May 2020, <https://bit.ly/3eG0V3s>.

¹¹ The LAAF, which is affiliated with the Tobruk-based House of Representatives, backed a plan for a ceasefire proposed by Egypt in early June 2020, but the GNA instead launched its offensive against Sirte, using airstrikes and ground troops; Al Jazeera, *Libya: GNA Says Sirte Offensive Launched as Haftar Backs Truce*, 7 June 2020, <https://bit.ly/2CagF0x>. "Despite repeated calls for a humanitarian ceasefire, including by the United Nations Secretary-General, hostilities continue unabated, hindering access and the delivery of critical humanitarian supplies"; OCHA et al., *Joint Statement on Libya*, 13 May 2020, <https://bit.ly/2LFH3Rx>.

¹² "The UN remains concerned about a possible humanitarian disaster should the current escalation and mobilization around Sirte lead to military operations. The lives of more than 125,000 people in and around Sirte are at great risk"; OCHA, *Daily Noon Briefing Highlights: Libya – Pakistan*, 3 August 2020, <https://bit.ly/3h2XYLI>. See also, Financial Times, *UN Says 'Huge Risk' of Regional War in Conflict-Riven Libya*, 27 July 2020, <https://on.ft.com/2DMwn31>; Al Jazeera, *Libya: GNA Fighters Head for Front as Battle for Sirte Looms*, 18 July 2020, <https://bit.ly/2XU4Bsg>; Jamestown Foundation, *In Libyan Quagmire, Front Shifts East From Tripoli to Sirte*, 11 June 2020, <https://bit.ly/30QHGzS>; Al Jazeera, *Timeline: Haftar's Months-Long Offensive to Seize Tripoli*, 19 February 2020, <https://bit.ly/2LCAaAu>.

¹³ OCHA, *Libya: Tarhuna and Sirt Flash Update No. 2*, 22 June 2020, <https://bit.ly/3iK2Mht>. "New evidence obtained by Amnesty International indicates that war crimes and other violations may have been committed between 13 April and 1 June [2020] by warring parties in Libya during the latest surge in fighting near Tripoli, including, looting, indiscriminate attacks, and the planting of anti-personnel landmines in civilian buildings"; Amnesty International, *Libya: Retaliatory Attacks Against Civilians Must Be Halted and Investigated*, 5 June 2020, www.ecoi.net/en/document/2030992.html. See also, HRW, *Libya: Apparent War Crimes in Tripoli*, 16 June 2020, <https://bit.ly/2Abl6GF>.

¹⁴ HRW, *Libya: Landmines Left After Armed Group Withdraws*, 3 June 2020, www.ecoi.net/en/document/2030785.html; UNSMIL, *UNSMIL Condemns the Use of Improvised Explosive Devices Against the Civilians in Ain Zara and Salahuddin in Tripoli*, 25 May 2020, <https://bit.ly/335psuD>.

Situation of Foreign Nationals (Including Asylum-Seekers, Refugees and Migrants)

4. Libya is not party to the 1951 Convention Relating to the Status of Refugees or its Protocol.¹⁵ It has ratified the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention)¹⁶ and is also party to the African Charter on Human and Peoples' Rights ("Banjul Charter").¹⁷ While the right to asylum is provided for in Article 10 of Libya's 2011 interim Constitutional Declaration,¹⁸ there is no asylum legislation or any established asylum procedures.¹⁹ As a result, all non-Libyans, regardless of their status or protection needs, including asylum-seekers and refugees, fall under national immigration laws.²⁰ Applicable Libyan laws criminalize all irregular entry, stay, or exit, for example without the appropriate documentation or through unofficial border posts, without distinguishing between asylum-seekers/refugees, migrants, or victims of trafficking.²¹ The law foresees that violations are penalized with an undefined prison sentence with "hard labour" or a fine of approximately 1,000 Libyan Dinars (USD 730) and deportation once the sentence is completed.²² Foreign nationals who have been deported from Libya are not permitted to return without a decision from the General Director of the General Directorate for Passports, Nationality and Foreigners Affairs.²³
5. As of 1 August 2020, UNHCR in Libya had registered 46,823 asylum-seekers and refugees.²⁴ In addition to asylum-seekers and refugees officially registered, there are foreign nationals or stateless persons with international protection needs who have not been registered with UNHCR.²⁵ As of April

¹⁵ UNGA, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, Vol. 189, www.refworld.org/docid/3be01b964.html, p. 137; *Protocol Relating to the Status of Refugees*, 31 January 1967, UN Treaty Series, Vol. 606, www.refworld.org/docid/3ae6b3ae4.html, p. 267.

¹⁶ Although Libya is a party to the OAU Convention, it has not enacted domestic legislation to implement the convention; Organization of African Unity (OAU), *Convention Governing the Specific Aspects of Refugee Problems in Africa* ("OAU Convention"), 10 September 1969, 1001 UN Treaty Series 45, www.refworld.org/docid/3ae6b36018.html.

¹⁷ See Article 12(3) with regards to the right to seek and enjoy asylum in accordance with member states' laws and international conventions; OAU, *African Charter on Human and Peoples' Rights* ("Banjul Charter"), 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), www.refworld.org/docid/3ae6b3630.html. In 2004, Libya also ratified core international protocols relating to human trafficking and smuggling of migrants, including: UNGA, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, 15 November 2000, www.refworld.org/docid/4720706c0.html; UNGA, *Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime*, 15 November 2000, www.refworld.org/docid/479dee062.html.

¹⁸ Article 10 of the 2011 Constitutional Declaration stipulates: "The State shall guarantee the right of asylum in accordance with an Act of Parliament. The extradition of political refugees shall be prohibited"; Libya, *Constitutional Declaration*, 3 August 2011, www.refworld.org/docid/5b645f5d4.html.

¹⁹ UNSC, *Letter Dated 29 November 2019 from the Panel of Experts on Libya Established Pursuant to Resolution 1973 (2011) Addressed to the President of the Security Council*, 9 December 2019, S/2019/914, www.ecoi.net/en/file/local/2021151/S_2019_914_E.pdf, footnote 32; UNHCR, *UNHCR Submission for the Universal Periodic Review – Libya – UPR 36th Session*, October 2019, www.refworld.org/docid/5e1749392.html, pp. 1-2. See also, Médecins Sans Frontières (MSF), *Trading in Suffering: Detention, Exploitation and Abuse in Libya*, 23 December 2019, <https://bit.ly/2YXoJUP>.

²⁰ "Libya lacks a legal framework that can organise the migration and refugee situation, despite historically being a host country. With no legislation recognising refugee status and a law that criminalizes the illegal entry, exit and departure, refugees and migrants lack basic legal safeguards and are forced into the fringes of society"; Open Democracy, *Locked Up with no Escape: Refugees and Migrants in Libya Face Bombs, Virus and Everything in Between*, 18 May 2020, <https://bit.ly/2TIknEt>.

²¹ "The government arrested, detained, or otherwise punished victims for unlawful acts traffickers compelled them to commit, such as immigration and prostitution violations and alleged affiliation to armed groups"; US Department of State, *2020 Trafficking in Persons Report: Libya*, 25 June 2020, www.ecoi.net/en/document/2036306.html.

²² Provisions for the detention of non-citizens for immigration-related violations are contained in two laws: Law No. 6 (1987) Regulating Entry, Residence and Exit of Foreign Nationals to/from Libya as amended by Law No. 2 (2004), available at: <https://bit.ly/2M3D96V> and <https://bit.ly/2nnd98C>; and Law No. 19 of 2010 on Combating Irregular Migration, available at: <https://bit.ly/2KbZlll>. "Although Law 19 remains widely unimplemented today, it continues to feed a culture of systematic abuse including the arbitrary and unlawful detention of migrants and refugees in the country"; Open Democracy, *Locked Up with no Escape: Refugees and Migrants in Libya Face Bombs, Virus and Everything in Between*, 18 May 2020, <https://bit.ly/2TIknEt>. See also, Mixed Migration Centre (MMC), *What Makes Refugees and Migrants Vulnerable to Detention in Libya*, December 2019, <https://bit.ly/2Aebwn9>, pp. 7-8. On collective expulsions from South-East and South Libya, see below para. 16.

²³ Libya, *Law No. 6 (1987) Regulating Entry, Residence and Exit of Foreign Nationals to/from Libya as Amended by Law No. 2 (2004)*, <https://bit.ly/2M3D96V>, Article 18.

²⁴ Of these, 34 per cent are Syrian, followed by Sudanese (32 per cent), Eritrean (12 per cent), and Palestinians (10 per cent). Other nationalities include Somalis, Iraqis, South Sudanese, and Yemenis. The vast majority (72%) reside in Tripoli, Aljara and Misrata. For updated figures, see: UNHCR, *Libya: Statistical Dashboard*, last updated 1 August 2020, <https://data2.unhcr.org/en/dataviz/105?sv=0&geo=666>. UNHCR registers persons of concern through its Serraj Registration Office in Tripoli and at detention centres. At the time of writing, registration in detention centres has been suspended owing to COVID-19-related access constraints and UNHCR conducts only emergency registration at the Serraj Registration Office in Tripoli. Between January and 12 August 2020, over 4,300 refugees and asylum-seekers have been registered by UNHCR; UNHCR, *UNHCR Update: Libya*, 14 August 2020, <https://bit.ly/3iQTyZb>, p. 1.

²⁵ In practice, the Libyan authorities have only recognized that individuals of nine designated nationalities may have a claim for international protection. Accordingly, UNHCR has registered as persons of concern primarily individuals from these nine countries, namely Ethiopia, Eritrea, Iraq, Palestine, Somalia, Sudan, South Sudan, Syria and Yemen. Outside of the nine nationalities, UNHCR exceptionally registers small numbers of persons from

2020, the International Organization for Migration (IOM) recorded at least 625,600 foreign nationals, including refugees and asylum-seekers, living in Libya.²⁶

6. Asylum-seekers, refugees and migrants transiting through or remaining in Libya are particularly vulnerable in the context of the volatile security situation across the country,²⁷ general breakdown of the rule of law and government structures, and deteriorating socio-economic conditions.²⁸ The majority of asylum-seekers, refugees and migrants do not have valid entry visas or access to residence permits, putting them at acute risk of arrest and detention for irregular entry or stay.²⁹ As a result of their irregular status and lack of legal documents,³⁰ as well as widespread discriminatory practices (particularly against persons from sub-Saharan countries, based on their ethnic origin),³¹ many, including those of non-Arab nationalities, do not benefit from social protection mechanisms available to vulnerable Libyans through the Ministry for Social Affairs. They face challenges to access basic services and employment, resulting in poor living conditions and heightened vulnerability.³²
7. While no specific access to education or health services is granted on the basis of possession of a UNHCR asylum-seeker or refugee certificate, in practice, such access may be more likely for those who hold UNHCR documents, depending on the locality and authority responsible. Persons of concern from Arab countries including Iraq, Palestine, Sudan, Syria and Yemen have in the past been granted access to education and medical care. However, there has been evidence to suggest that children who previously enjoyed access to formal education may no longer have such access as a result of an increased demand for school places by Libyan children displaced by the conflict.³³ With regards to health services, UNHCR and its partner the International Rescue Committee (IRC) advocate on a case-

other refugee-producing situations, including for instance Mali, Burkina Faso and NW/NE Nigeria, and, irrespective of nationality, persons with particular claim profiles such as persons of diverse sexual orientations and/or gender identities, survivors of sexual and gender-based violence (SGBV) and survivors and victims of trafficking. UNHCR continues to advocate for the registration of all persons seeking international refugee protection, regardless of nationality, and seeks cooperation from all partners to ensure quality referrals to UNHCR.

²⁶ The top five countries of origin are Niger, Chad, Egypt, Sudan and Nigeria, which together account for up to 72 per cent of Libya's migrant population. Women represent approximately 11 per cent and children seven per cent. Of the children, 23 per cent were reported to be unaccompanied. Migrants were identified in all of Libya's municipalities, with the largest populations present in the Tripoli region, followed by Ejdabia region (Eastern Libya), and Murzuq region (Southern Libya); IOM, *Displacement Tracking Matrix (DTM), Libya's Migrant Report Round 30 (March - April 2020)*, 29 June 2020, <https://bit.ly/2ZBhmYZ>.

²⁷ "Protection risks are most significant for refugee and migrants, compared to other groups of concern. Risks include unlawful killings, torture, sexual and gender-based violence (SGBV), arbitrary detention, forced labour and extortion"; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 6. See also, The New Humanitarian, *As War Drags On, Troubles Mount for Libya's Coast Guard and Migrant Detention Centres*, 26 February 2020, <https://bit.ly/2Wstn2D>; HRW, *Libya: Reckless Fighting Endangers Civilians*, 14 January 2020, <https://bit.ly/2U86tfc>; InfoMigrants, *Migrant Situation Deteriorating in Libya*, IOM Says, 4 December 2019, <https://bit.ly/2LoXSQy>.

²⁸ "The ongoing conflict and the current pandemic further weakened the already tenuous economic situation in Libya"; UNSC, *United Nations Support Mission in Libya: Report of the Secretary-General*, 5 May 2020, S/2020/360, www.ecoi.net/en/file/local/2029811/S_2020_360_E.pdf (hereafter: UNSC, *Report of the Secretary-General*, 5 May 2020, www.ecoi.net/en/file/local/2029811/S_2020_360_E.pdf), para. 6. "While the UN Development Programme's 2019 Human Development Index categorizes Libya as a 'high' human development country, its ranking has fallen 43 places from 67th in 2010 to 110th in 2019, making it the largest drop in HDI rankings globally. This drop in performance is felt by Libya's people mainly through the collapse of public services, especially education and health, higher prices through cuts to food and fuel subsidies, conflict-related loss of shelter and livelihoods and major setbacks in ensuring the safety of citizens and the rule of law"; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 9. Impunity and a lack of rule of law mean that human rights violations by both state and non-state actors, including against foreign nationals, often go unpunished; UNGA, *Situation of Human Rights in Libya*, 23 January 2020, www.ecoi.net/en/file/local/2024860/A_HRC_43_75_E.pdf, para. 36. See also, UNHCR, *Libya: Humanitarian Crisis Worsening amid Deepening Conflict and COVID-19 Threat*, 3 April 2020, <https://bit.ly/2Zg8Pfh>; The New Humanitarian, *As War Drags On, Troubles Mount for Libya's Coast Guard and Migrant Detention Centres*, 26 February 2020, <https://bit.ly/2Wstn2D>; Al Jazeera, *Libya Faces 'Catastrophic Financial Crisis' Due to Oil Blockade*, 16 February 2020, <https://bit.ly/3fJvp5V>. See also below "Humanitarian Situation".

²⁹ "Libya's criminalization of irregular entry – and the failure of authorities to draw distinctions between different categories of migrants – has meant that all individuals arriving in the country without a permit are at risk of detention at any time." Additionally, "Libyan law criminalizes irregular migration, [and] migrants and asylum seekers are often hesitant to report abuse to Libyan authorities"; MMC, *What Makes Refugees and Migrants Vulnerable to Detention in Libya*, December 2019, <https://bit.ly/2Aebwn9>, pp. 8, 10. See also, MSF, *Trading in Suffering: Detention, Exploitation and Abuse in Libya*, 23 December 2019, <https://bit.ly/2YXoJuP>.

³⁰ "Inability to access essential services is also linked to lack of civil documentation. (...) Additional barriers exist for migrants and refugees in accessing basic services. Around 13 per cent of migrants and refugees reported being denied treatment at health facilities, while 25 per cent reported not being able to access education due to lack of documents, language barriers and discrimination"; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, pp. 21-22.

³¹ "Human rights groups have documented racial discrimination and xenophobia against sub-Saharan African refugees and migrants in Libya"; MMC, *What Makes Refugees and Migrants Vulnerable to Detention in Libya*, December 2019, <https://bit.ly/2Aebwn9>, p. 16. "Asylum-seekers and refugees continue to be detained for long periods in inhumane conditions where serious human rights violations regularly occur, with individuals from Sub-Saharan Africa including the Horn of Africa countries at higher risk of harm due to discrimination and racism"; UNHCR, *UNHCR Submission for the Universal Periodic Review – Libya – UPR 36th Session*, October 2019, www.refworld.org/docid/5e1749392.html, p. 2. See also, Open Democracy, *Locked Up with no Escape: Refugees and Migrants in Libya Face Bombs, Virus and Everything in Between*, 18 May 2020, <https://bit.ly/2TKnEt>.

³² OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, pp. 5, 12, 17, 21. See also below "Humanitarian Situation".

³³ UNHCR Information, August 2020.

by-case basis for access, and work to expand access generally via programmes serving both host communities and refugees.³⁴ UNHCR has observed a progressive increase in the number of refugees and asylum-seekers in need of humanitarian assistance, including cash, food, non-food items (NFIs), and medical care.³⁵

8. In late 2018, UNHCR and the Libyan Ministry of Interior opened a new Gathering and Departure Facility (GDF) as a transit site to host refugees who had been identified for a solution outside of Libya, pending their evacuation. In January 2020, UNHCR announced the suspension of operations at the GDF amid concerns that it could become a military target. UNHCR relocated dozens of highly vulnerable refugees, already identified for resettlement or evacuation to third countries, to an alternate temporary shelter pending departure, while hundreds of others were moved to urban areas.³⁶ With a high number of refugees and asylum-seekers in urban areas, UNHCR has expanded its urban protection and assistance programmes since late 2019.³⁷
9. A significant number of asylum-seekers, refugees and migrants are detained or held in captivity for various periods of time, including following interception or rescue at sea or, more recently, interception on land, including near land borders or embarkation points.³⁸ A number of asylum-seekers, refugees and migrants are held in officially designated detention centres administered by the Directorate to Combat Illegal Migration (DCIM).³⁹ Some are transferred to facilities under the Ministry of Interior used

³⁴ For example, UNHCR and the International Rescue Committee (IRC) negotiated with municipal and health authorities to allow IRC medical teams to operate in a Primary Health Care Centre (PHCC) serving both host communities and refugees in the Gargaresh area, which is densely populated with refugees. Training of medical staff and support to the PHCC has started, and the PHCC offers general health services as well as reproductive health services, ante-natal care, SGBV-integrated support, psychosocial support (PSS), thereby expanding the services beyond those offered in the Community Day Centre. UNHCR Information, August 2020.

³⁵ UNHCR Information, August 2020.

³⁶ "Unfortunately UNHCR was left with no choice but to suspend work at the Gathering and Departure Facility in Tripoli after learning that training exercises, involving police and military personnel, are taking place just a few meters away from units housing asylum seekers and refugees"; UNHCR, *UNHCR to Suspend Operations at GDF in Tripoli amid Safety Concerns*, 30 January 2020, <https://bit.ly/2LDRchA>. See also, UN News, *Libya: UN Refugee Agency Deeply Concerned by Shelling Near Tripoli Facility*, 3 January 2020, <https://shar.es/aHFXa9>; UNHCR, *UNHCR Expands Help to Refugees in Urban Areas in Libya, Reassesses Role of Gathering and Departure Facility*, 28 November 2019, <https://bit.ly/3cGqGzW>.

³⁷ UNHCR and other humanitarian actors in Libya have undertaken a sustained effort to increase the availability of assistance and protection in urban areas, including for persons released from detention or disembarked following interception or rescue at sea. When it has been possible to arrange group releases from detention centers, or transfer from the GDF, persons of concern have been systematically provided with cash and/or in-kind assistance including medical care, non-food items and hygiene kits to support the transition to urban settings. Urban assistance programming has been expanded to reach more of the most vulnerable refugees and asylum-seekers living in urban areas, including cash-based initiatives or other forms of support such as food assistance. Protection services, including registration, documentation, and legal advice and assistance, have been strengthened, while screening for eligibility for solutions such as resettlement and evacuation to Emergency Transit Mechanisms (ETMs) has been increased. Resettlement from urban settings has more than doubled from 2018 to 2019 and continues to increase; UNHCR Information, August 2020. See also, The New Humanitarian, *Anxiety and Uncertainty as UN Refugee Agency Halts Work at Libya Facility*, 31 January 2020, <https://bit.ly/2Zq5BWK>; UNHCR, *UNHCR Expands Help to Refugees in Urban Areas in Libya, Reassesses Role of Gathering and Departure Facility*, 28 November 2019, <https://bit.ly/3cGqGzW>.

³⁸ "The majority of migrants and refugees that attempted to leave by boat were returned to Libya, with the majority of those returned sent to detention, where humanitarian partners did not have full access to them"; OCHA, *Libya 2020 Humanitarian Response Monitoring: Periodic Monitoring Report (Jan - May 2020)*, 4 August 2020, <https://bit.ly/3arTfAO>, p. 30. "The UN is concerned that over 5000 migrants and asylum seekers have been intercepted at sea this year and returned to Libya where they are frequently subjected to arbitrary detention, human rights violations and abuses"; UNSMIL, *On the One Year Anniversary of the Bloody Attack on the Tajoura Detention Centre, the UN Renews Its Call for the Closure of Migration Detention Centres and Accountability*, 2 July 2020, <https://bit.ly/38tSO88>. "The majority of those disembarked in Libya continued to be brought to detention centres often located in close proximity to the fighting and in compounds controlled by armed groups"; UN Human Rights Council, *Human Rights Council Holds Interactive Dialogue on the Situation of Human Rights in Libya*, 18 June 2020, <https://bit.ly/2YFtPeP>. "Thousands of Libyans are held across the country by the interior, defense, and justice ministries of competing authorities in long-term arbitrary detention without charge"; HRW, *Libya: Detainees at Risk of Coronavirus Spread*, 29 March 2020, www.ecoi.net/en/document/2027295.html. "A recent study found that ten per cent of migrants surveyed between May 2017 and June 2019 reported being detained in Libya, and the proportion of respondents experiencing detention increased over time. Those migrants seeking to move to Europe were twice as likely to be detained as those seeking to remain in Libya. In 2019, more than 9,000 migrants and refugees have been returned to Libya by the Libyan Coast Guard after being rescued or intercepted at sea, many of whom are returned to detention"; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 12. See also, IRC, *Over 200 Children Stopped at Sea and Sent to Libyan Detention Centres; IRC Calls for Their Release*, 29 July 2020, <https://bit.ly/33pFnFM>.

³⁹ The DCIM was established as a division of the Ministry of Interior of the Tripoli-based Government of National Accord (GNA) in 2012 to tackle irregular migration flows into the country. It is responsible for arresting anyone who has entered the country irregularly, organizing the deportation of irregular migrants and managing the detention centres. DCIM regularly provides updated lists of officially designated detention facilities run by DCIM to UNHCR and others. Both UNHCR and IOM have access to these facilities and provide support, mostly core relief items, and health services to detainees. Note: references to DCIM in this document relate to the entity under the authority of the GNA. In addition, there is a DCIM affiliated with the Ministry of Interior of the Tobruk-based House of Representatives. UNHCR and its partners Premiere Urgence International and LibAid monitor conditions in detention facilities administered by DCIM in East Libya and provide medical care and core relief items to detainees; UNHCR Information, August 2020.

as investigation centres after rescue or interception at sea.⁴⁰ Many are held captive upon crossing to Libya from neighbouring countries in places run by armed factions and criminal networks, including in warehouses and farms.⁴¹ Although the number of persons held in DCIM-administered detention centres declined over the course of 2019 and early 2020, at the time of writing, the number is once again on the rise.⁴² As at 7 August 2020, UNHCR estimates that 2,500 foreign nationals, including 1,212 persons of concern to UNHCR, are held in the DCIM-administered detention centres.⁴³ Between January and April 2020, hundreds of migrants returned to Libya by the Libyan Coast Guard (LCG) were unaccounted for following their disembarkation.⁴⁴

10. In all detention facilities, conditions fail to meet international standards⁴⁵ and have been described as “horrendous”⁴⁶ and “cruel, inhuman and degrading”.⁴⁷ Deaths in detention due to violence, suicide, and disease have been reported.⁴⁸ Both male and female asylum-seekers, refugees and migrants, including children,⁴⁹ are routinely subjected to torture and other forms of ill-treatment, including rape and other

⁴⁰ In addition to officially designated detention centres under the authority of DCIM, UNHCR has received reports of persons rescued or intercepted at sea being transferred to facilities (data collection and investigation facilities) run by the Ministry of Interior. There are no available figures for those held in these facilities and UNHCR and IOM do not have access. There is concern over the fate of hundreds of missing foreign nationals who were transferred to a facility under the authority of the Ministry of Interior following their disembarkation in Libya since January 2020; IOM, *IOM Alarmed by Return of Migrants to Libya from Maltese Waters*, 16 March 2020, <https://bit.ly/2VI0y1h>. See also, IOM, *Migrants Missing in Libya a Matter of Gravest Concern*, 17 April 2020, <https://bit.ly/2BEyBAC>.

⁴¹ “Armed groups throughout Libya hold thousands of men, women and children in prolonged arbitrary and unlawful detention and subject them to torture and other human rights abuses”; UNSC, *Report of the Secretary-General*, 5 May 2020, www.ecoi.net/en/file/local/2029811/S_2020_360_E.pdf, para. 84. “Despite multiple requests, Libyan authorities have not provided any clear accounting as to the whereabouts of these people, or why they were taken to unofficial detention facilities. (...) Multiple credible reports from migrant communities in contact with IOM allege detainees are being handed over to smugglers and tortured in an effort to extort payments from their families, abuses that have been extensively documented by the media and UN agencies in the past”; IOM, *Migrants Missing in Libya a Matter of Gravest Concern*, 17 April 2020, <https://bit.ly/2BEyBAC>. See also OCHA et al., *Joint Statement on Libya*, 13 May 2020, <https://bit.ly/2LFH3Rr>; MSF, *Refugees Tapped in Libya: Nowhere to Go but the Sea*, 15 January 2020, <https://bit.ly/38s4doU>.

⁴² The decline of asylum-seekers, refugees and migrants in detention until May 2020 resulted from a combination of factors, including reduced numbers attempting to cross the Mediterranean Sea; increased releases upon disembarkation; closure of detention centers near front lines; evacuations to ETMs in Italy, Niger and Rwanda; advocacy for release to urban settings by the humanitarian community; actions by detainees themselves resulting in release (escapes, walk-outs with the agreement of detention centre managers); COVID-19-related factors; lack of DCIM funding to pay for catering facilities in detention centers; and expansion of urban responses, including processing for solutions outside of detention centers; UNHCR Information, August 2020. “The number of people being held in state-run detention centers has nearly doubled in the last two months [May and June 2020], with more than 2,300 migrants and refugees in detention”; OCHA, *Libya Situation Report*, 8 July 2020, <https://bit.ly/3k1bjWS>, p. 2. In February 2020, reports stated that DCIM was no longer detaining all intercepted migrants, refugees or asylum-seekers due to a lack of food supplies; The New Humanitarian, *As War Drags On, Troubles Mount for Libya’s Coast Guard and Migrant Detention Centres*, 26 February 2020, <https://bit.ly/2Wstn2D>. The Berlin Conclusions, adopted by the UNSC on 12 February 2020, state: “We urge all parties to end the practice of arbitrary detention and the Libyan authorities to establish alternative procedures to detention, especially for those in high-risk areas of conflict, and gradually close the detention centres for migrants and asylum seekers while simultaneously amending the Libyan legislative frameworks on migration and asylum to align them with international law and internationally recognized standards and principles”; UNSC, Resolution 2510 (2020), 12 February 2020, [https://undocs.org/S/RES/2510%20\(2020\)](https://undocs.org/S/RES/2510%20(2020)), para. 46.

⁴³ UNHCR, *UNHCR Update: Libya*, 7 August 2020, <https://data2.unhcr.org/en/documents/details/78157>. See also, OCHA, *Libya Situation Report*, 8 July 2020, <https://bit.ly/3k1bjWS>, p. 2. “In 2019, over 3,562 individuals were registered in detention centres”; UNHCR, *UNHCR Update: Libya*, 3 January 2020, <https://bit.ly/3739SRF>.

⁴⁴ “[IOM] expresses grave concerns for the fate of hundreds of migrants returned to Libya by the coast guard this year [2020] who are now unaccounted for”; IOM, *Migrants Missing in Libya a Matter of Gravest Concern*, 17 April 2020, <https://bit.ly/2TMhTFn>. Similarly, in June 2019, OHCHR called upon the GNA to locate hundreds of migrants who had gone missing following their handover by the Libyan Coast Guard (LCG) to the DCIM-run Al-Khoms detention facility. OHCHR said that the disappearance of migrants was “worrying given reports that migrants are being sold for forced labour or to smugglers promising transit to Europe. There are also reports that some women have been sold for sexual exploitation”; OHCHR, *Press Briefing Note on Libya*, 7 June 2019, <https://shar.es/aHBPLB>. See also, Global Initiative Against Transnational Organized Crime, *The Human Conveyor Belt Broken: Assessing the Collapse of the Human-Smuggling Industry in Libya and the Central Sahel*, March 2019, <https://bit.ly/3dvHtGc>, p. 27.

⁴⁵ “DCIM-run detention facilities suffered from massive overcrowding, lack of basic infrastructure, dire sanitation problems, and food shortages. Detainees, including trafficking victims, had limited to no access to medical care, legal aid, and other forms of protective services”; US Department of State, *2020 Trafficking in Persons Report: Libya*, 25 June 2020, www.ecoi.net/en/document/2036306.html. See also, International Criminal Court (ICC), *Statement to the United Nations Security Council on the Situation in Libya, Pursuant to UNSCR 1970 (2011)*, 5 May 2020, <https://bit.ly/2zxq7tB>; UNGA, *Situation of Human Rights in Libya*, 23 January 2020, www.ecoi.net/en/file/local/2024860/A_HRC_43_75_E.pdf, para. 30; MSF, *Trading in Suffering: Detention, Exploitation and Abuse in Libya*, 23 December 2019, <https://bit.ly/2YXoJuP>.

⁴⁶ “Meanwhile, the Libyan Coast Guard is continuing to turn vessels back to its shores, and place the intercepted migrants in arbitrary detention facilities where they face horrendous conditions including torture and ill-treatment, sexual violence, lack of health care and other human rights violations”; OHCHR, *Press Briefing Note on Migrant Rescues in the Mediterranean*, 8 May 2020, <https://bit.ly/3cCT7yA>.

⁴⁷ HRW, *Libya: Nightmarish Detention for Migrants, Asylum Seekers*, 21 January 2019, <https://bit.ly/2SXU3WE>.

⁴⁸ “While there is no official count of how many refugees and migrants are dying in Libyan detention centres, there have been reports of deaths from medical negligence, suicide, attacks by militias, and detainees being tortured to death or shot while trying to escape”; The Guardian, *Teenage Boy the Latest to Die in Libyan Refugee Detention Centre*, 21 January 2020, <https://bit.ly/3eAgz0n>. In June 2019, OHCHR expressed concern “about the ghastly conditions in which migrants and refugees are being held in detention in Libya – with some 22 having died of tuberculosis and other illnesses in the Zintan detention facility since September 2018”; OHCHR, *Press Briefing Note on Libya*, 7 June 2019, <https://bit.ly/3aQJHQB>. See also, MSF, *Out of Sight, Out of Mind: Refugees in Libya’s Detention Centres*, 12 July 2019, <https://bit.ly/3gonX0m>; Al Jazeera, *‘We Need Urgent Help’: Refugees Perish in Libyan Detention Centre*, 7 June 2019, <https://aje.io/667sf>.

⁴⁹ UN News, *As Fighting in Libya Escalates, so Does Number of Children ‘at Imminent Risk of Injury or Death’*, 18 April 2020, <https://shar.es/aHBV0R>; UNHCR, *The Challenge of Helping Child Refugees in Libya Overcome Trauma*, 28 January 2020, <https://shar.es/aHBV0R>.

forms of sexual violence,⁵⁰ forced labour, forced recruitment,⁵¹ as well as extortion,⁵² both in official and unofficial detention facilities.⁵³ Those detained have no possibility to challenge the legality of their detention or treatment.⁵⁴ Foreign nationals in detention are also impacted by the general security situation in the country as demonstrated during the escalation in fighting around Tripoli both in early 2019 and in the first few months of 2020.⁵⁵ Observers have expressed concerns that the COVID-19 pandemic could further exacerbate poor detention conditions, where detainees often do not have access to adequate food supplies and medical care.⁵⁶

11. On 2 July 2019, two airstrikes targeted the Daman building complex, which was a series of buildings on a compound near Tripoli owned by the GNA, and which served as the headquarters of a pro-GNA armed group.⁵⁷ One of the airstrikes struck the Tajoura detention centre, a building on the compound, killing at least 52 asylum-seekers, refugees and migrants and injuring 87 others.⁵⁸
12. Insecurity and the absence of a central state authority with effective control have allowed Libya to become a main country of transit and departure for refugees and migrants seeking to reach Europe, often in unseaworthy overcrowded boats.⁵⁹ Smuggling and trafficking networks operating across East and West Africa bring the refugees and migrants by road via Libya's southern border, which borders

⁵⁰ "Former detainees report brutal methods of torture. Detention-related victims of rape and other forms of sexual violence include men, women and children. Detainees have died from injuries sustained through torture, and from the failure to provide proper and timely medical care. My Office is aware of allegations of serious violations in many prisons and detention facilities throughout Libya"; ICC, *Statement to the United Nations Security Council on the Situation in Libya, Pursuant to UNSCR 1970 (2011)*, 5 May 2020, <https://bit.ly/2zxq7tB>. In February 2020, OHCHR expressed concern about sexual violence in detention facilities against both Libyan and foreign women; UNGA, *Situation of Human Rights in Libya*, 23 January 2020, www.ecoi.net/en/file/local/2024860/A_HRC_43_75_E.pdf, para. 31. See also, Women's Refugee Commission, "More than One Million Pains": *Sexual Violence Against Men and Boys on the Central Mediterranean Route to Italy*, March 2019, <https://bit.ly/2AtgkoY>, pp. 21-25.

⁵¹ "Male detainees have even been forcibly recruited by armed groups in detention centres, particularly since the recent escalation in military battles between the GNA and LNA"; MMC, *What Makes Refugees and Migrants Vulnerable to Detention in Libya?*, December 2019, <https://bit.ly/2Q3sVUJ>, p. 16. See also, Small Arms Survey, *Diaspora in Despair Darfurian Mobility at a Time of International Disengagement*, June 2020, <https://bit.ly/3iO2Tkn>, p. 61; Info Migrants, *Migrants Recruited in Libya to Fight Civil War*, 17 January 2020, <https://bit.ly/34a8ex>.

⁵² "In western Libya, numerous armed groups, including some GNA-aligned units, continued to be involved in the trafficking of detained migrants and benefited from extortion payments sent by the migrants' family members for the migrants' release." And further: "Elements of the LCG reportedly work with armed groups and other criminals, including traffickers, to exploit migrants for profit"; US Department of State, *2020 Trafficking in Persons Report: Libya*, 25 June 2020, www.ecoi.net/en/document/2036306.html. "Migrants and refugees in Libya continued to be routinely subjected to arbitrary detention, torture, including sexual violence, abduction for ransom, extortion, forced labour and unlawful killings"; UNGA, *Situation of Human Rights in Libya*, 23 January 2020, www.ecoi.net/en/file/local/2024860/A_HRC_43_75_E.pdf, para. 36. See also, OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 6; MSF, *Trading in Suffering: Detention, Exploitation and Abuse in Libya*, 23 December 2019, <https://bit.ly/2YXoJuP>; UNSC, *Letter dated 29 November 2019 from the Panel of Experts on Libya Established Pursuant to Resolution 1973 (2011) Addressed to the President of the Security Council*, 9 December 2019, www.ecoi.net/en/document/2021151.html, paras 57, 165, and Annex 21.

⁵³ OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 19; UNGA, *Situation of Human Rights in Libya*, 23 January 2020, www.ecoi.net/en/file/local/2024860/A_HRC_43_75_E.pdf, para. 41.

⁵⁴ "There is no judicial review or other oversight mechanism"; UNHCR, *UNHCR Submission for the Universal Periodic Review – Libya – UPR 36th Session*, October 2019, www.refworld.org/docid/5e1749392.html, p. 3. See also, US Department of State, *2020 Trafficking in Persons Report: Libya*, 25 June 2020, www.ecoi.net/en/document/2036306.html; UNHCR, *The Challenge of Helping Child Refugees in Libya Overcome Trauma*, 28 January 2020, <https://shar.es/aHBV0R>.

⁵⁵ The LAFF's military offensive put migrants and refugees in detention in grave danger, and caused significant shortages of food and other supplies; Al Jazeera, *As Tripoli Conflict Continues, Detained Migrants Run Out of Food*, 2 May 2019, <https://bit.ly/2LoRatQ>; HRW, *Libya: Detained Migrants at Risk in Tripoli Clashes*, 25 April 2019, <https://bit.ly/2xZZKfq>; Deutsche Welle (DW), *Libya's Migrants under Threat as Battle for Tripoli Sets In*, 16 April 2019, <https://bit.ly/3bvc05i>. Some detention centres run by militias or the government are close to, or part of, a militia or military compound. This exacerbates security risks, as was clear from the 3 July 2019 bombing of the Tajoura detention centre by foreign aircraft; UNSMIL / OHCHR, *The Airstrikes on the Daman Building Complex, Including the Tajoura Detention Centre*, 2 July 2019, 27 January 2020, <https://bit.ly/2WwoeloO>. Additionally, the insecurity affects disembarkation. On 9 April 2020, 280 persons intercepted at sea were unable to disembark in Libya due to heavy shelling, and on 7 May 2020, IOM staff waiting to receive 25 people had to flee the port because of artillery fire; IOM, *Libya Considers Its Ports Unsafe for the Disembarkation of Migrants*, 9 April 2020, <https://bit.ly/2LnZqu2>; ECRE, *Med: Hundreds Remain Stranded at Sea as Ports Are still Closed, Solidarity Remains Lacking and Interceptions Continue*, 8 May 2020, <https://bit.ly/2T5WiqZ>.

⁵⁶ "There are thousands of people being held in detention centres and the conditions they are living in are horrific. They're overcrowded and often completely unsanitary. People can neither practice social distancing there nor carry out regular handwashing"; IRC, *Libya: Lack of COVID-19 Tests when Boats Return Risks Surge in Cases, Warns IRC*, 9 July 2020, <https://bit.ly/3goiXs8>. See also, Reuters, *Coronavirus Narrows Options for Migrants Buffeted by Libya's War*, 8 May 2020, <https://reut.rs/3d9GFqF>; OHCHR, *Press Briefing Note on Libya*, 17 April 2020, <https://bit.ly/3e5Fb0h>; Friedrich-Ebert-Stiftung, *COVID-19 in Libya: The Virus Provides Cover for Escalation*, 17 April 2020, <https://bit.ly/2ZIH29A>. On 14 August 2020, the number of COVID-19 cases in Libya reached 7,050 while 135 deaths have been recorded; Xinhua, *Libya Reports 439 New COVID-19 Cases, 7,050 in Total*, 14 August 2020, <https://bit.ly/2Y4Rip7>.

⁵⁷ UNSMIL / OHCHR, *The Airstrikes on the Daman Building Complex, Including the Tajoura Detention Centre*, 2 July 2019, 27 January 2020, <https://bit.ly/2WwoeloO>, para. 2.

⁵⁸ "(...) the Tajoura attack, depending on the precise circumstances, may have amounted to a war crime. (...) In addition, the failure to move detainees from the vicinity of a potential military objective or move military objects that were positioned next to the detention centre, likely amounting to a violation of the obligation under international law to take all feasible measures to protect civilians under their control from the effects of potential attacks"; UNSMIL, *On the One Year Anniversary of the Bloody Attack on the Tajoura Detention Centre, the UN Renews Its Call for the Closure of Migration Detention Centres and Accountability*, 2 July 2020, <https://bit.ly/38tSO88>.

⁵⁹ UNHCR, *Libya: Activities at Disembarkation: Monthly Update*, July 2020, 5 August 2020, <https://bit.ly/30YxJAw>; MSF, *Refugees Trapped in Libya: Nowhere to Go but the Sea*, 15 January 2020, <https://bit.ly/2T49KMe>.

Niger, Chad, Algeria and Sudan.⁶⁰ From there, they make their way to Libya's north-west from where they attempt to move onwards to European destinations, mainly to or via Italy or Malta.⁶¹

13. *En route* and during their stay in Libya, asylum-seekers, refugees and migrants, including children, are at risk of being subjected to widespread and systematic human rights violations and abuses⁶² at the hands of smugglers, traffickers, armed groups, militias and criminal gangs acting with impunity.⁶³ These violations and abuses reportedly include unlawful deprivation of liberty and arbitrary detention; torture and other forms of ill-treatment; rape and other forms of sexual violence; abduction for ransom and other forms of extortion; forced labour; and unlawful killing.⁶⁴ Women and girls, but also men and boys, are subjected to rape, forced prostitution and other forms of sexual violence.⁶⁵ In a particularly horrifying incident, a group of traffickers opened fire in a warehouse in Mezda southwest of Tripoli in May 2020,

⁶⁰ MSF, *Trading in Suffering: Detention, Exploitation and Abuse in Libya*, 23 December 2019, <https://bit.ly/2YXoJuP>; UNHCR/IMPACT Initiatives, *Mixed Migration Routes and Dynamics in Libya in 2018*, June 2019, <https://bit.ly/35W8LTq>, pp. 90-101. MMC found in December 2019 that 68 per cent of interviewees had used a smuggler, out of a sample of 5,159 asylum-seekers, refugees and migrants in Libya. MMC, *What Makes Refugees and Migrants Vulnerable to Detention in Libya*, December 2019, <https://bit.ly/2Aebwn9>, p. 21. See also, MMC, *MMC North Africa 4Mi Snapshot: The Role of Smugglers in East Africans' Mixed Migration to Libya via Sudan*, February 2020, <https://bit.ly/3gVAKb5>. Some foreign nationals are also smuggled via the coastal route from Egypt, including some Syrians and South Asians; K. Kuschrinder and A. Triandafyllidou, *Smuggling, Trafficking, and Extortion: New Conceptual and Policy Challenges on the Libyan Route to Europe*, 52(1) *Antipode* 206-226, 4 October 2019, <https://bit.ly/3azpjms>.

⁶¹ MSF, *Trading in Suffering: Detention, Exploitation and Abuse in Libya*, 23 December 2019, <https://bit.ly/2YXoJuP>; UNHCR/IMPACT Initiatives, *Mixed Migration Routes and Dynamics in Libya in 2018*, June 2019, <https://bit.ly/35W8LTq>, pp. 36-37; Foreign Policy Centre, *The Strategic Role of the Fezzan Region for European Security*, 30 May 2019, <https://bit.ly/3bcUIDD>. One refugee interviewed by Foreign Policy in February 2020 had paid 16,000 USD in smuggler's fees; Foreign Policy, *Europe's Harsh Border Policies Are Pushing Refugees all the Way to Rwanda*, 20 February 2020, <https://bit.ly/360KmvZ>.

⁶² UN News, *Thousands Suffer Extreme Rights Abuses Journeying to Africa's Mediterranean Coast, Say Humanitarians*, 29 July 2020, <https://shar.es/ab5t6X>; UNHCR, *'On this Journey, No One Cares if You Live or Die' Abuse, Protection, and Justice Along Routes Between East and West Africa and Africa's Mediterranean Coast*, 29 July 2020, www.unhcr.org/5f2129fb4, pp. 10-11, 14-17. Using a sample size of over 3,000 refugees and migrants who had passed through Libya, Doctors for Human Rights Italy (MEDU) found that "between 2014 to 2020, 85% of migrants and refugees from Libya suffered torture and inhuman and degrading treatment in that country, 79% were detained in overcrowded facilities with poor hygienic conditions, 75% suffered from constant deprivation of food, water and medical care, and 65% experienced serious and repeated beatings"; MEDU, *The Torture Factory: Report on Human Rights Violations Against Migrants and Refugees in Libya (2014-2020)*, March 2020, <https://bit.ly/2B7U1FH>, p. 11, see also, pp. 48-49. "Migrants, refugees and asylum seekers are particularly at risk of SGBV perpetrated by smugglers, traffickers and criminal gangs. Of surveyed respondents, 231 migrants and refugees who transited through Libya to Tunisia in 2018, 83 per cent disclosed experiencing violence or abuse in Libya"; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 20.

⁶³ UNHCR, *'On this Journey, No One Cares if You Live or Die' Abuse, Protection, and Justice Along Routes Between East and West Africa and Africa's Mediterranean Coast*, 29 July 2020, www.unhcr.org/5f2129fb4, pp. 20-21. "Perpetrators of these violations and abuses have in an overwhelming number of cases not been held to account, and include State officials, members of armed groups, smugglers, traffickers and members of criminal gangs"; UNGA, *Situation of Human Rights in Libya*, 23 January 2020, www.ecoi.net/en/file/local/2024860/A_HRC_43_75_E.pdf, para. 36. According to the US Department of State, in 2019, "criminal networks, militia groups, government officials, and private employers exploited migrants, refugees, and asylum-seekers in sex and labor trafficking. (...) International observers continued to report complicity of government officials involved in human trafficking and migrant smuggling operations, including Libyan Coast Guard (LCG) officials, immigration officers, security officials, Ministry of Defense (MOD) officials, members of armed groups formally integrated into state institutions, as well as officials from the MOI and MOI's Department to Combat Illegal Migration (DCIM)"; US Department of State, *2020 Trafficking in Persons Report: Libya*, 25 June 2020, www.ecoi.net/en/document/2036306.html. See also, OCHA, *Statement by Yacoub El Hillo, Humanitarian Coordinator for Libya, on the Killing of Migrants Southwest of Tripoli*, 29 May 2020, <https://bit.ly/3dw93n7>.

⁶⁴ US Department of State, *2020 Trafficking in Persons Report: Libya*, 25 June 2020, www.ecoi.net/en/document/2036306.html; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 12; The New Humanitarian, *As War Drags On, Troubles Mount for Libya's Coast Guard and Migrant Detention Centres*, 26 February 2020, <https://bit.ly/2Wstn2D>; UNGA, *Situation of Human Rights in Libya*, 23 January 2020, www.ecoi.net/en/file/local/2024860/A_HRC_43_75_E.pdf, paras 36, 41-42; Council of Europe: Commissioner for Human Rights, *Third Party Intervention by the Council of Europe Commissioner for Human Rights, S.S. and Others v. Italy*, 15 November 2019, <https://bit.ly/3fQGcLs>, paras 11-12. "As of 30 June, at least 68 refugees or migrants are known to have died along the Central Mediterranean land route in 2020, mostly in Libya"; UNHCR, *'On this Journey, No One Cares if You Live or Die' Abuse, Protection, and Justice Along Routes Between East and West Africa and Africa's Mediterranean Coast*, 29 July 2020, www.unhcr.org/5f2129fb4, p.14, see also pp.15-17.

⁶⁵ "There is a reportedly high prevalence of sexual assault and other forms of sexual violence and exploitation of female migrants either along the migration routes to Libya or in DCIM-run and militia-run detention facilities in Libya; perpetrators of sexual violence against female migrants include various armed groups, smugglers, traffickers, and MOI officials"; US Department of State, *2020 Trafficking in Persons Report: Libya*, 25 June 2020, www.ecoi.net/en/document/2036306.html. "The IOM has also documented an increase in sexual abuse of women and girls in Libya, and a corresponding increase in the number of women and girls who arrived on the shores of Europe pregnant, having been raped during their time in Libya"; Euronews, *Abused in Libya and Forced into Prostitution back Home: the Nightmare of Trying to Reach Europe*, 21 June 2020, <https://bit.ly/2BHm0w9>. See also, ICC, *Statement to the United Nations Security Council on the Situation in Libya, Pursuant to UNSCR 1970 (2011)*, 5 May 2020, <https://bit.ly/2zxq7tB>; L. Reques, E. Aranda-Fernandez, C. Rolland, A. Grippon, N. Fallet, C. Reboul, N. Godard & N. Luhmann, *Episodes of Violence Suffered by Migrants Transiting Through Libya: A Cross-Sectional Study in "Médecins du Monde's" Reception and Healthcare Centre in Seine-Saint-Denis, France*, 14 Conflict and Health, 28 February 2020, <https://bit.ly/2zFgSaZ>; Al Jazeera, *Rape, Abuse and Violence: Female Migrants' Journey to Libya*, 25 January 2020, <https://bit.ly/2T7EyeZ>; UNSMIL, *SRSR Ghassan Salamé Message on Human Rights Day*, 10 December 2019, <https://bit.ly/2LXUdcJ>; UNSC, *Report of the Secretary-General on Conflict-Related Sexual Violence*, 29 March 2019, S/2019/280, www.ecoi.net/en/file/local/2006897/S_2019_280_E.pdf; para. 55; Women's Refugee Commission, *"More than One Million Pains": Sexual Violence Against Men and Boys on the Central Mediterranean Route to Italy*, March 2019, <https://bit.ly/2AtgkoY>.

killing 30 persons and injuring 11 others.⁶⁶ Since the armed conflict has shifted away from Tripoli, the Ministry of Interior has taken action against certain trafficking and smuggling networks in western Libya.⁶⁷

14. Since 2017, Italy and the EU provide assistance to the Libyan Coast Guard (LCG) to increase its capacity to carry out search and rescue operations and prevent irregular departures on the Central Mediterranean route.⁶⁸ As a result of increased LCG operations, the number of people successfully crossing from Libya to Europe, particularly to Italy, has reduced significantly since 2017.⁶⁹ However, in May 2020 UNHCR observed a renewed increase in departures from Libya as a result of increased fighting and deteriorating living conditions and loss of livelihoods due to COVID-19.⁷⁰ Out of the total number of people who do attempt the crossing, the proportion of persons intercepted or rescued at sea by the LCG has increased.⁷¹ The increase in interception and rescue operations conducted by the LCG resulted in greater numbers of persons disembarked in Libya.⁷² The LCG have reportedly been involved in human rights violations against asylum-seekers, refugees and migrants, including the use of firearms.⁷³ The LCG have also been accused of colluding with smuggling networks.⁷⁴ Against this

⁶⁶ "Holding centers run by these criminal networks, such as the one in Mezda, are prevalent in Libya and bear witness to the abuse, exploitation, extortion and violence against migrants. It is just one example of the many risks, migrants face in the country"; OCHA, *Statement by Yacoub El Hillo, Humanitarian Coordinator for Libya, on the Killing of Migrants Southwest of Tripoli*, 29 May 2020, <https://bit.ly/3dw93n7>. See also, IOM, *IOM Deplores Killing of 30 Trafficked Migrants in Libya*, 28 May 2020, <https://bit.ly/2ZO6ull>.

⁶⁷ Al Marsad (online platform that monitors the Libyan Security Sector), *Bashagha Addresses El Kabir about 4 Smugglers on the West Coast ... among them El Mashri Friend* (in Arabic), 20 June 2020, <https://bit.ly/3h34Bgk>; Libya Observer, *Joint Operations Forces Continue Raiding Dens of Human and Fuel Smugglers*, 22 June 2020, <https://bit.ly/2F3Sdj9>. See also, UNHCR, *UNHCR Expresses Condolences over Tragic Death of Asylum-Seeker in Libya, Urges more Action Against Criminal Smuggling and Trafficking*, 24 July 2020, <https://bit.ly/2QYud3l>.

⁶⁸ European Commission, *Central Mediterranean Route: Commission Proposes Action Plan to Support Italy, Reduce Pressure and Increase Solidarity*, 4 July 2017, <https://bit.ly/2tnTE1T>; *Memorandum of Understanding on Cooperation in the Fields of Development, the Fight Against Illegal Immigration, Human Trafficking and Fuel Smuggling and on Reinforcing the Security of Borders Between the State of Libya and the Italian Republic*, 2 February 2017, <https://bit.ly/2NrWI5G>. Italy renewed its memorandum with Libya in February 2020 for a period of three years; InfoMigrants, *Agreement Between Italy and the Libyan Coastguard Renewed for Three Years*, 7 February 2020, <https://bit.ly/2Z43IUP>. See also, EU Logos-Athena, *When Migrants Do not Arrive in Europe: The Memorandum of Understanding*, 4 March 2020, <https://bit.ly/2WWKKHL>.

⁶⁹ The Central Mediterranean Route saw its largest arrival numbers in 2016, with over 181,400 migrants, refugees and asylum-seekers arriving to Italy by sea. 2017 saw the arrival of more than 119,300 persons, which marked a 34 per cent decrease from the previous year. Italy remains the primary country of arrival for persons who depart from Libya. In 2018, 23,370 persons arrived in Italy, and only 11,471 persons arrived in Italy in 2019. Between January and July 2020, over 14,000 persons were recorded as having arrived in Italy by sea. For updated arrival figures, see: <https://data2.unhcr.org/en/situations/mediterranean/location/5205>. Arrivals from Libya are also reported in Malta; UNHCR, *Arrivals to Europe from Libya: May 2020*, 7 July 2020, <https://bit.ly/3g7ZlCq>. See also, ANSA, *After Record Year, 883 Migrants Arrive in Malta in 2 Months*, 2 March 2020, <https://bit.ly/349VxtA>; UNHCR, *Malta Sea Arrivals and Asylum Statistics 2019, 2020*, <https://bit.ly/3h9PjHE>.

⁷⁰ "Comparing the months of April and May of this year to 2019 shows the number of people who arrived in Italy after departing from Libya increased by 352% (...) in 2020. Such an increase suggests COVID-19 movement restrictions had little effect on crossings"; MMC, *Quarterly Mixed Migration Update North Africa, Quarter 2, 2020: North Africa*, 21 July 2020, <https://bit.ly/2Xq2b4r>, p. 5. "Along with a sharp escalation in fighting in the past month, the country has also recorded its first confirmed cases of COVID-19. This has led to tighter restrictions on movement, making it almost impossible for refugees and asylum-seekers to find work, while the cost of food and rent have gone up. This combination of factors is thought to be driving more to risk their lives on the Mediterranean"; UNHCR, *Conflict and Pandemic Drive more People to Risk Deadly Sea Route from Libya*, 15 May 2020, <https://bit.ly/3gupBxo>.

⁷¹ "From January to July 2020, 6,439 people were rescued/intercepted at sea by the Libyan Coast Guard, an increase of 41.7% compared to the same period in 2019"; UNHCR, *Libya: Activities at Disembarkation: Monthly Update, July 2020*, 5 August 2020, <https://bit.ly/30YJAW>. See also UNHCR, *Arrivals to Europe from Libya - May 2020*, 7 July 2020, <https://bit.ly/31YCDx>, p. 1 and above para. 13.

⁷² UNHCR, *Libya: Activities at Disembarkation: Monthly Update, July 2020*, 5 August 2020, <https://bit.ly/30YxJAW>; UNHCR, *Arrivals to Europe from Libya: May 2020*, 7 July 2020, <https://data2.unhcr.org/en/documents/details/77525>, p. 1. See also above para. 9.

⁷³ "The list of accusations against Libya's coast guard is long: human rights violations including torture, violence toward and hindering rescue operations of volunteer rescue groups, being made up of a number of groups that were often formerly militia as well as being involved in smuggling networks"; InfoMigrants, *When Helping Hurts: Libya's Controversial Coast Guard, Europe's Go-to Partner to Stem Migration*, 24 July 2019, <https://bit.ly/3fMIHji>. See also, AP, *UN Says Libyan Authorities Shot Dead 3 Sudanese Migrants*, 28 July 2020, <https://wapo.st/3gm1rUO>; AP News, *Making Misery Pay: Libya Militias Take EU Funds for Migrants*, 31 December 2019, <https://bit.ly/3dGUY4a>; Euronews, *EU Funds Libyan Coast Guard but Has Limited Monitoring Capacity, Leaked Report Suggests*, 3 November 2019, <https://bit.ly/3dS1EhF>; AP News, *Migrant Shooting Highlights Concern about Libyan Coast Guard*, 20 September 2019, <https://bit.ly/2UapXjh>. According to Sea Eye, a rescue charity, in April 2020 a Libyan-flagged boat fired shots into the air, causing half of the passengers of one of the boats to jump into the sea, endangering their lives. Sea Eye, *Alan Kurdi Rescues 150 People from Two Wooden Boats in One Day*, 6 April 2020, <https://bit.ly/3c85QbO>. See also, UNHCR, *UNHCR Urges Investigation Following Deadly Incident at Libya Disembarkation Point*, 28 July 2020, <https://bit.ly/31dBTgq>; Times of Malta, *Libyan-Flagged Speedboat Fires Warning Shots as Migrants Are Rescued*, 6 April 2020, <https://bit.ly/3etscWM>; DW, *Libya Authorities 'Fire Warning Shots' at Migrant Rescue Ship*, 26 October 2019, <https://bit.ly/2Ly93Xi>.

⁷⁴ "(...) some LCG units, which were under the authority of the MOD [Ministry of Defence], were allegedly composed of former human traffickers and smugglers or coordinated with groups involved in human trafficking, human smuggling, and other crimes"; US Department of State, *2020 Trafficking in Persons Report: Libya*, 25 June 2020, www.ecoi.net/en/document/2036306.html. See also, MSF, *Trading in Suffering: Detention, Exploitation and Abuse in Libya*, 23 December 2019, <https://bit.ly/2YXoJup>; MMC, *What Makes Refugees and Migrants Vulnerable to Detention in Libya*, December 2019, <https://bit.ly/2Aebwn9>, p. 9. The UN Secretary-General voiced concern over migrants missing from detention centres after being returned to Libya: "Serious concerns continue with regard to the transfer of migrants rescued or intercepted at sea by the Libyan Coast Guard to unofficial detention centres in Khums. Hundreds of rescued migrants who were reported to have been sent to detention centres were later listed as missing, and it is believed that they may have been trafficked or sold to smugglers, while others disappeared on their way to nearby Suq al-Khamis"; UNSC, *United Nations Support Mission in Libya: Report of the Secretary-General*, 26 August 2019, S/2019/682, www.ecoi.net/en/file/local/2015610/S_2019_682_E.pdf.

background, in April 2020 a European Parliament majority demanded that cooperation with the LCG be stopped.⁷⁵

15. In parallel, the activities of non-governmental organization (NGO) rescue boats have been increasingly restricted, including by criminal proceedings⁷⁶ and the seizure of vessels, leading some to suspend rescue operations.⁷⁷ Additionally, some states began closing ports during the COVID-19 crisis, declaring them unsafe, and thereby preventing NGO search and rescue boats from docking.⁷⁸ These developments, among others, have led to a estimated higher percentage of people dying at sea than ever before.⁷⁹
16. In June 2018, Libya formally declared a Search-and-Rescue Region (SRR), indicating that it assumed primary responsibility for search and rescue coordination in an area extending to around 100 miles from some of the primary embarkation sites.⁸⁰ Libya established a Joint Rescue Coordination Centre (JRCC), reportedly supported by Italy. In a number of instances, NGOs reported difficulties to contact the JRCC.⁸¹
17. Dependent on international protection needs, the international community has scaled up in the past years a range of options for foreign nationals. This includes assistance to migrants for voluntary return to countries of origin, supporting the evacuation of asylum-seekers to third countries and increased

⁷⁵ European Parliament, *Stop Cooperation with and Funding to the Libyan Coastguard, MEPs Ask*, 27 April 2020, <https://bit.ly/2LZOR0x>.

⁷⁶ The Intercept, *From the Mediterranean to Mexico, Capt. Pia Klomp Believes Rescuing Refugees Is Worth Facing Prison Time*, 10 July 2019, <https://bit.ly/2X87IBi>; The Guardian, *Mediterranean Will Be 'Sea of Blood' Without Rescue Boats*, UN Warns, 9 June 2019, <https://bit.ly/2LCyryj>; DW, *German Boat Captain Pia Klomp Faces Prison in Italy for Migrant Rescues*, 8 June 2019, <https://bit.ly/369TjDa>; Open Democracy, *Hundreds of Europeans 'Criminalised' for Helping Migrants – as Far Right Aims to Win Big in European Elections*, 18 May 2019, <https://bit.ly/2ZdVAvH>. See also the case of Sea Watch captain Carola Rackete, who was arrested after docking without authorization in Lampedusa. In January 2020, an Italian high court found that she should not have been arrested; InfoMigrants, *Sea-Watch Captain Rackete Shouldn't Have Been Arrested, Italian High Court Rules*, 21 January 2020, <https://bit.ly/2TifQsh>.

⁷⁷ "(...) there is now very little search and rescue capacity left in the Central Mediterranean, and many migrants, refugees and asylum seekers are intercepted by the Europe-supported Libyan Coastguard and forced to return"; MSF, *Deteriorating Situation for Vulnerable People Trapped in Libya Risks Becoming a Humanitarian Catastrophe*, 18 June 2020, <https://bit.ly/3ibO6QQ>. See also, UN News, *UN Rights Office Concerned Over Migrant Boat Pushbacks in the Mediterranean*, 8 May 2020, <https://bit.ly/2Xu2bkk>; The New Humanitarian, *How COVID-19 Halted NGO Migrant Rescues in the Mediterranean*, 28 April 2020, <https://bit.ly/369MPnJ>; Al Jazeera, *Two Rescue Ships Impounded by Italy*, 7 May 2020, <https://bit.ly/3guTbDd>.

⁷⁸ The New Humanitarian, *How COVID-19 Halted NGO Migrant Rescues in the Mediterranean*, 28 April 2020, <https://bit.ly/369MPnJ>. In April 2020, "Malta and Italy failed to respond to multiple overloaded dinghies in distress in their search and rescue regions, and declined a place of safety for disembarkation to nearly 200 people rescued by two non-governmental organisation (NGO) ships"; MSF, *EU States Use COVID-19 to Shirk Search and Rescue Obligations*, 17 April 2020, <https://bit.ly/2Tg8wNH>. See also, UNHCR, *News Comment on Search and Rescue in the Central Mediterranean by Gillian Triggs, Assistant High Commissioner for Protection at UNHCR, the UN Refugee Agency*, 1 May 2020, <https://bit.ly/2zb40cH>; Euractiv, *Fears Mount over Migrants Dying 'Out of Sight' in Mediterranean*, 15 May 2020, <https://bit.ly/2yYxeeT>. Also in April 2020, it was reported that Malta was using private fishing boats and merchant vessels to turn back ships from international waters and return the passengers to Libya; New York Times, *Latest Tactic to Push Migrants from Europe? A Private, Clandestine Fleet*, 30 April 2020, <https://nyti.ms/3cldE5a>. See also, The Guardian, *Exclusive: 12 Die as Malta Uses Private Ships to Push Migrants Back to Libya*, 19 May 2020, <https://bit.ly/2TjpACE>; UN News, *UN Rights Office Concerned Over Migrant Boat Pushbacks in the Mediterranean*, 8 May 2020, <https://bit.ly/3crcQk4>.

⁷⁹ IOM researchers compiled in April 2020 a set of measurements which compare the number of attempted crossings to deaths on the Central Mediterranean route, using arrival data from Malta and Italy and departures from Tunisia and Libya. They found that the death rate was 1.98 per cent in 2015, 2.27 per cent in 2016, 1.98 per cent in 2017, 2.88 per cent in 2018, and 4.78 per cent in 2019; IOM, *Calculating "Death Rates" in the Context of Migration Journeys: Focus on the Central Mediterranean*, 3 April 2020, <https://bit.ly/3cD9yLs>, pp. 7, 9. See also, IOM, *Shipwreck off Coast of Libya Pushes Migrant Deaths on the Mediterranean Past 20,000 Mark*, 3 May 2020, <https://bit.ly/3cL4PaO>. UNHCR and IOM called for a reevaluation of the approach to search and rescue in the Mediterranean after 45 persons died in a shipwreck off the Libyan coast on 17 August 2020. UNHCR, *IOM, UNHCR Call for Urgent Action after 45 Die in Largest Recorded Shipwreck off Libya Coast in 2020*, 19 August 2020, <https://bit.ly/32mBSO6>.

⁸⁰ Libya notified the International Maritime Organisation (IMO) in accordance with international law. "The Libyan Port and Maritime Transport Authority has notified the International Maritime Organisation (IMO) on 14 December 2017 with the Libyan Search and Rescue (SAR) region (SRR) in accordance with the provisions of the SAR Hamburg Convention. The declaration of the SRR represents a constitutive, legitimate act since Libya is contracting party of the Hamburg Convention 1979 on SAR"; EU Parliament, *Parliamentary Questions: Answer given by Mr Avramopoulos on behalf of the European Commission*, 4 September 2018, <https://bit.ly/3kE9C28>. See also, Canadian Coast Guard, *Search and Rescue Contacts: Libya*, accessed 15 August 2020, <https://bit.ly/3al8LhL>.

⁸¹ In June 2019, the Commissioner for Human Rights of the Council of Europe expressed concern about the Joint Rescue Coordination Centre (JRCC), saying: "The role of the JRCC is problematic on several counts. For one, NGOs have called attention to several incidents in which the JRCC was found to be unresponsive to distress calls. When the JRCC has assumed coordination of rescue operations, this has sometimes led to instructions to NGOs to refrain from rescuing people and to wait for the Libyan Coast Guard, even when NGOs were already on the scene or in closer proximity to the distress situation than the Libyan Coast Guard. There are also several reports of NGOs being warned or threatened to leave the scene of an incident. Furthermore, there have been worrying allegations that Libyan Coast Guard vessels, when rescuing or intercepting persons at sea, have done so in a manner that put lives at risk. Importantly, when the JRCC coordinates rescue operations, this invariably results in the disembarkation of the intercepted persons in Libya, despite the fact that it cannot be considered a place of safety"; Council of Europe: Commissioner for Human Rights, *Lives Saved. Rights Protected. Bridging the Protection Gap for Refugees and Migrants in the Mediterranean*, 30 June 2019, <https://bit.ly/3cJi5N5>, p. 21, see also pp. 15, 20, 24, 51. See also, Il Metropolitan (in Italian), *Guardia Costiera, Soccorso Gommono quasi Affondando con a Bordo 84 Persone in Area SAR*, 29 July 2020, <https://bit.ly/3iTeY0Y>; SOS Méditerranée, *Amidst EU Agreement to Avoid Boats in Distress, Ocean Viking Rescues 274 People off Libya*, 20 February 2020, <https://bit.ly/3bHpWcv>.

resettlement directly out of Libya. Since 2015, IOM's ability to support migrants to return to their countries of origin through its Voluntary Humanitarian Returns (VHR) programme has been a critical intervention enabling the return of over 50,000 migrants.⁸² UNHCR has established two Emergency Transit Mechanisms (ETM) in Niger and Rwanda for the evacuation of vulnerable asylum-seekers and refugees from Libya to Niamey or Kigali, respectively,⁸³ from where further resettlement and other legal pathways are sought.⁸⁴ In addition to evacuations via the ETMs, UNHCR is also conducting direct humanitarian evacuations from Libya to third countries such as Italy,⁸⁵ as well as resettlement to third countries.⁸⁶ However, these activities can only reach a limited number of those with international protection needs in Libya.⁸⁷ UNHCR and IOM were forced to temporarily suspend departures from Libya, from 17 March 2020 until 18 June 2020, due to the COVID-19 outbreak and related travel restrictions.⁸⁸

18. In 2020, increased deportations by land from eastern and southern Libya mostly to Egypt, Sudan, Niger, and Chad have been reported, with the Office of the UN High Commissioner for Human Rights (OHCHR) expressing concern about “*the deportation of at least 1,400 migrants from eastern Libya to Chad, Niger, Somalia and Sudan*” between January and April 2020.⁸⁹

Humanitarian Situation

19. The ongoing conflict and political impasse have reportedly led to a further deterioration of humanitarian conditions across all sectors in Libya.⁹⁰ The conflict has also resulted in the damage to and destruction

⁸² IOM, *More than 50,000 Migrants Benefited from Voluntary Humanitarian Return Assistance from Libya since 2015*, 27 February 2020, <https://bit.ly/2LFQQJH>.

⁸³ As of 30 July 2020, over 5,700 vulnerable refugees and asylum-seekers have departed from Libya since 2017, including 297 in 2020. This includes 3,514 individuals who departed as part of ETMs to Niger (3,208 persons) and Rwanda (306 persons); 808 humanitarian evacuations to Italy; and 1,385 resettlement departures; UNHCR Information, August 2020. See also, UNHCR, *UNHCR Update: Libya*, 30 July 2020, <https://bit.ly/3fkLdKR>, p. 1.

⁸⁴ In late 2018, UNHCR and the Libyan Ministry of Interior opened a new Gathering and Departure Facility (GDF) as a transit site to host refugees who had been identified for a solution outside of Libya, pending their evacuation. However, beginning in July 2019, the GDF, under the jurisdiction of the Ministry of Interior of the GNA, stopped functioning as a transit centre after it became severely overcrowded when 900 individuals spontaneously entered the GDF hoping for evacuation from Libya. In January 2020, UNHCR suspended operations at the GDF amid concerns that it could become a military target. UNHCR relocated dozens of highly vulnerable refugees, already identified for resettlement or evacuation to third countries, to safer locations, while hundreds of others were moved to urban areas. Between November 2017 and December 2019, UNHCR evacuated 3,208 individuals from Libya to Niger. The following countries have provided confirmed pledges for Niger: Belgium, Canada, Finland, France, Germany, Italy, Luxembourg, Malta, Netherlands, Norway, Sweden, Switzerland, the United Kingdom and the United States of America. As of 1 June 2020, 2,454 evacuated refugees have departed from Niger to resettlement countries. Due to COVID-19, resettlement flights have been suspended since March 2020; UNHCR, *Emergency Transit Mechanism: Factsheet June 2020*, 12 June 2020, <https://bit.ly/3keBmdx>; UNHCR, *UNHCR to Suspend Operations at GDF in Tripoli amid Safety Concerns*, 30 January 2020, <https://bit.ly/2LDRchA>. UNHCR has received a total of 800 pledges for the resettlement of refugees through the Rwanda ETM, including from Norway, Canada, France and Sweden. As of 2 March 2020, 39 evacuees had been resettled and 268 evacuees remained in the ETM centre in Rwanda; UNHCR, *Rwanda: The First Large Group of Refugees Evacuated from Libya Resettled to Sweden*, 2 March 2020, <https://bit.ly/367i5E6>. From 1 January 2020 to 11 May 2020, UNHCR evacuated 128 persons of concern from Libya; UNHCR Information, August 2020.

⁸⁵ In 2019, a total of 393 refugees were evacuated to Italy; UNHCR Information, August 2020.

⁸⁶ Between January and 24 July 2020, UNHCR resettled 169 refugees from Libya; UNHCR, *UNHCR Update: Libya*, 24 July 2020, <https://bit.ly/33obXYS>, p. 2.

⁸⁷ Resettlement places are available “for a tiny minority of refugees in Libya”; UNHCR, *Along with a Sharp Escalation in Fighting in the Past Month, the Country Has also Recorded Its First Confirmed Cases of COVID-19*, 15 May 2020, <https://bit.ly/3gFIPJW>. See also, MSF, *Trading in Suffering: Detention, Exploitation and Abuse in Libya*, 23 December 2019, <https://bit.ly/2YXoJuP>.

⁸⁸ At the time of writing, departures have yet to resume; UNHCR Information, August 2020. See also, UNHCR, *Joint Statement: UN Refugee Chief Grandi and IOM's Vitorino Announce Resumption of Resettlement Travel for Refugees*, 18 June 2020, <https://bit.ly/3fUthae>; UNHCR / IOM, *IOM, UNHCR Announce Temporary Suspension of Resettlement Travel for Refugees*, 17 March 2020, <https://bit.ly/2TUkFII>. See also, MSF, *Deteriorating Situation for Vulnerable People Trapped in Libya Risks Becoming a Humanitarian Catastrophe*, 18 June 2020, <https://bit.ly/3ibO6QQ>.

⁸⁹ OHCHR, *Oral update of the United Nations High Commissioner for Human Rights on Libya pursuant to Human Rights Council resolution 40/27*, 18 June 2020, <https://bit.ly/31oqu5q>. “We are concerned about the expulsions of at least 1,400 migrants and refugees this year from eastern Libya in violation of Libya’s international human rights law obligations on non-refoulement and collective expulsions, and the risk that more may soon be forcibly deported”; OHCHR, *Press Briefing Note on Libya*, 28 April 2020, <https://bit.ly/2M1vqVb>. At least 145 persons were deported in January by the Benghazi-based immigration authority. CGTN Africa, *145 Illegal Immigrants Departed from Eastern Libya*, 30 January 2020, <https://bit.ly/2FHM0YH>. The MMC recorded the deportation of over 2,940 foreign nationals of 13 different nationalities including Somalis, Ethiopians and Sudanese between January and June 2020. Deportations of Sudanese through the unofficial Karb Eltoum border crossing with Sudan reportedly intensified between April and June 2020; MMC, *Quarterly Mixed Migration Update North Africa, Quarter 2, 2020: North Africa*, 21 July 2020, <https://bit.ly/2Xq2b4r>, pp. 3, 4, 7. See also, IOM, *IOM Libya: Monthly Update - April 2020*, 6 May 2020, <https://bit.ly/2AyOk3o>.

⁹⁰ “The humanitarian situation has deteriorated to levels never previously witnessed in Libya”; UNSMIL, *One Year of Destructive War in Libya, UNSMIL Renews Calls for Immediate Cessation of Hostilities and Unity to Combat COVID-19*, 4 April 2020, <https://bit.ly/2XJO1dT>. “Protracted political and economic instability, which has severely impacted governance structures, has resulted in a significant deterioration in basic services provision. With each passing year, people’s well-being and living standards have been eroded, with the most vulnerable increasingly relying on negative coping strategies”; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 4. See also, OCHA et al., *Joint Statement on Libya*, 13 May 2020, <https://bit.ly/2LFH3R3>; InfoMigrants, *Libyan Humanitarian Crisis Worsening, UNHCR*, 6 April 2020, <https://bit.ly/2XdUA8p>.

of homes, hospitals, schools, water and electricity systems, and other critical infrastructure.⁹¹

20. In June 2020, it was estimated that over one million persons were in need of life-saving humanitarian assistance and protection, including 400,000 internally displaced Libyans and 654,000 asylum-seekers, refugees and migrants.⁹² The number of people in need has increased due to the economic effects of the COVID-19 pandemic.⁹³
21. Areas of ongoing conflict as well as areas with disrupted and poor economic and livelihoods opportunities with large numbers of returnees, IDPs, migrants, refugees and asylum-seekers are among those with the most severe needs across multiple sectors.⁹⁴ Bureaucratic constraints and the volatile security and political situation hampers sustained humanitarian access,⁹⁵ leaving the most vulnerable communities, including asylum-seekers, refugees and migrants, with unmet urgent needs.⁹⁶
22. **Livelihoods:** In 2019, the conflict, particularly fighting around Tripoli, caused the gross domestic product (GDP) to fall by two-thirds and dramatically increased the country's debt.⁹⁷ The overall economic situation reportedly continues to deteriorate due to a prolonged liquidity crisis, insecurity, and

⁹¹ Clingendael Institute, *Tripoli's Electricity Crisis and Its Politicization*, April 2020, <https://bit.ly/30Q7F19>; UNSMIL, *One Year of Destructive War in Libya, UNSMIL Renews Calls for Immediate Cessation of Hostilities and Unity to Combat COVID-19*, 4 April 2020, <https://bit.ly/2XJO1dT>; United Nations International Children's Fund (UNICEF), *Libya: 'Dire and Untenable' Situation for Tens of Thousands of Children in Unrelenting Conflict*, 17 January 2020, <https://shar.es/aHBSNR>.

⁹² UN Human Rights Council, *Human Rights Council Holds Interactive Dialogue on the Situation of Human Rights in Libya*, 18 June 2020, <https://bit.ly/2YFtPeP>. This number is up from an estimated 897,000 persons in need of humanitarian assistance as foreseen by the 2020 Humanitarian Needs Overview; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, pp. 8, 16.

⁹³ "The continued socioeconomic impacts of COVID-19, along with the protracted crisis and its associated impacts on deteriorating public services, continued to stretch the most vulnerable people's coping capacities, particularly the more than 1 million people estimated to be in need of humanitarian assistance in 2020"; OCHA, *Libya: July Humanitarian Bulletin*, 14 August 2020, <https://bit.ly/33ZFg4a>, p. 3. An assessment undertaken by IOM in June 2020 showed that "29% of migrants interviewed in June 2020 reported being unemployed, representing a substantial increase compared to 17% in February 2020." Furthermore, "[I]n 93% of assessed locations, migrants who rely on daily labour opportunities were reported to have been negatively affected due to Covid-19 induced slowdown in economic activities"; IOM, *Libya: COVID-19 Mobility Tracking 3*, 30 July 2020, <https://bit.ly/3kax2f1>, p. 1. "The combination of curfews and high food prices has resulted in most refugees and migrants in Libya being unable to find the daily work necessary to support themselves and meet their food needs"; Food and Agriculture Organization (FAO), *Libya Revised Humanitarian Response Coronavirus Disease 2019 (COVID-19) May - December 2020*, 16 July 2020, <https://bit.ly/2XntRH0>, p. 2. "Most refugees and asylum seekers in Libya have been unable to find any daily work to support themselves as curfews have been introduced and food prices and the cost of basic goods have dramatically risen. The cost of a minimum expenditure food basket that would meet basic needs has increased by 24 percent since March [2020]. Many refugees say that they are only able to afford to eat one meal a day"; UNHCR / World Food Programme (WFP), *UNHCR, WFP Join Forces to Reach Thousands of Refugees and Asylum Seekers in Libya with Emergency Food Aid*, 16 June 2020, <https://bit.ly/2A8YKqm>. See also, WFP, *WFP Libya COVID-19 Response June 2020*, 28 June 2020, <https://bit.ly/31VrT3T>. Migrants and refugees in urban areas often rely on temporary labour, and as such are extremely vulnerable to unemployment; UNHCR, *UNHCR Update: Libya*, 8 May 2020, <https://bit.ly/3dbWkvJ>; IOM Libya, *Monthly Update*, April 2020, <https://bit.ly/3cMzuEn>.

⁹⁴ "While IDPs continued to face hardship and a wide array of protection needs stemming from conflict dynamics, migrants, asylum seekers and refugees in urban settings were even more exposed to risks due to their lack of a social safety network, their reliance on humanitarian support for essentials and basic services, their exposure to risks related to exploitation and abuse, as well as social discrimination they face and linguistic barriers they encounter"; OCHA, *Libya 2020 Humanitarian Response Monitoring: Periodic Monitoring Report (Jan - May 2020)*, 4 August 2020, <https://bit.ly/3arTfAO>, p. 9. "Of the total number of people in need, nearly 50 per cent are concentrated in four mantikas [administrative areas] — Tripoli, Ejdabia, Misrata and Benghazi. Migrants and refugees remain among the most vulnerable and at-risk groups in Libya and constitute the largest portion of people in need, at 36 per cent. Nearly two thirds of the total IDP population are in need and, unable to afford rent, live in sub-standard shelters, and cannot afford or access basic services. An estimated 74,000 people who have returned to their place of origin, are in need of humanitarian assistance, with the largest number in Ejdabia, Tripoli and Zwara"; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 6. See also, VOA, *Shelling Kills 2 at Tripoli Displaced People Shelter, Officials Say*, 16 May 2020, <https://bit.ly/2WHJ5GY>; Al Jazeera, *Timeline: Haftar's Months-Long Offensive to Seize Tripoli*, 19 February 2020, <https://bit.ly/2LCAaAu>; UN News, *UN Libya Mission Strongly Condemns Bombing of Military Academy, At Least 30 Dead*, 5 January 2020, <https://shar.es/aHKS9N>.

⁹⁵ "Humanitarian access remains a persistent challenge across the country, compounded by COVID-19 restriction measures"; OCHA, *Libya: July Humanitarian Bulletin*, 14 August 2020, <https://bit.ly/33ZFg4a>, p. 1. See also, OCHA, *Libya: Humanitarian Access Report (May 2020)*, 13 July 2020, <https://bit.ly/3keHp1J>, pp. 1-2; OCHA, *2020 Libya Humanitarian Response Plan*, 16 February 2020, <https://bit.ly/36jeOBB>, p. 21.

⁹⁶ "An estimate of 897,000 people are considered to be in need of humanitarian assistance in Libya in 2020. This reflects the most vulnerable people that have been identified as having the most severe needs (severe, catastrophic and extreme). Those in need of humanitarian assistance include internally displaced persons, returnees, non-displaced conflict-affected people, refugees and migrants"; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 3. See also, UNHCR, *Libya: Humanitarian Crisis Worsening amid Deepening Conflict and COVID-19 Threat*, 3 April 2020, <https://bit.ly/2Zg8Pfh>; UNSC, *United Nations Support Mission in Libya: Report of the Secretary-General*, 15 January 2020, S/2020/41, www.ecoi.net/en/file/local/2024177/S_2020_41_E.pdf, paras 72-74, 78-81, 83..

⁹⁷ "(...) real GDP growth reached an average of 21% during 2017-18, but slowed down sharply to 2.5% in 2019 [as a result of the outbreak of conflict in Tripoli in April 2019], and is expected to be negative in 2020"; World Bank, *Libya's Economic Update: April 2020*, 16 April 2020, <https://bit.ly/2ZPxxSj>; UNSC, *United Nations Support Mission in Libya: Report of the Secretary-General*, 15 January 2020, S/2020/41, www.ecoi.net/en/file/local/2024177/S_2020_41_E.pdf, para. 38.

the continued rise in the cost of living.⁹⁸ Living conditions are worsening due to “*the protracted nature of instability, continued escalations in conflict, and weak governance structures.*”⁹⁹ Asylum-seekers, refugees and migrants face additional obstacles to employment.¹⁰⁰ According to reports, asylum-seekers, refugees and migrants are increasingly compelled to reduce expenditures on food, education and healthcare,¹⁰¹ and many are therefore forced to resort to negative coping strategies.¹⁰² Asylum-seeker, refugee and migrant children, particularly boys, are disproportionately affected by the worst forms of child labour.¹⁰³

23. **Food security:** As of February 2020, 336,000 persons were reported to be in need of food assistance; however, due to insecurity and the socio-economic impacts of COVID-19, WFP estimates that the number of food insecure people increased to 683,000, of which 209,000 are migrants and refugees.¹⁰⁴ Negative coping strategies such as cutting the number of daily meals and reducing non-food related expenses such as health and education are reported to be prevalent.¹⁰⁵ Due to limited port access, road blockages and insecurity, food imports into Libya have reportedly diminished, which has caused significant fluctuations in food prices.¹⁰⁶ Asylum-seekers, refugees and migrants are especially vulnerable to food insecurity.¹⁰⁷

⁹⁸ War on the Rocks, *As Conflict Escalates in Libya, the Economy Veers Towards Crisis*, 19 May 2020, <https://bit.ly/2LLgURc>; World Bank, *Libya's Economic Update: April 2020*, 16 April 2020, <https://bit.ly/2ZPxxSI>; UNSMIL, *UNSMIL Convenes Meeting of Libyan Economic Experts to Discuss Establishment of an Experts Commission to Unify Financial and Economic Policy and Institutions*, 7 January 2020, <https://bit.ly/3e0YesU>. An oil blockade which began in January 2020 had cost Libya over four billion USD by May 2020, compounding an already tenuous economic situation; UNSMIL, *Acting SRSG Stephanie Williams Briefing to the Security Council*, 19 May 2020, <https://bit.ly/2LLhLkS>; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 24.

⁹⁹ OCHA, *2020 Libya Humanitarian Response Plan*, 16 February 2020, <https://bit.ly/36jeOBB>, p. 21.

¹⁰⁰ “Migrants living in Libya are vulnerable to exploitation by state and non-state actors, including employers who refuse to pay laborers’ wages”; US Department of State, *2020 Trafficking in Persons Report: Libya*, 25 June 2020, www.ecoi.net/en/document/2036306.html. “Most refugees in Libya live in urban areas, relying on daily labour to support themselves. But most of this work has dried up in the last few months because of tight restrictions on movement [related to COVID-19]; UNHCR, *Food Aid Offers Lifeline to Refugees under Curfew in Libya*, 13 August 2020, <https://bit.ly/34ali5P>. “(...) restriction measures imposed to reduce the spread of COVID-19 has particularly affected migrants and refugees, many of who face increased discrimination, inability to access services due to fear of arrest or detention and have lost livelihood opportunities given their reliance on the informal sector and daily wage labour”; OCHA, *Libya 2020 Humanitarian Response Monitoring: Periodic Monitoring Report (Jan - May 2020)*, 4 August 2020, <https://bit.ly/3arTfAO>, p. 5. See also, REACH, *Protection Monitoring During COVID-19 Crisis: Libya*, 27 June 2020, <https://bit.ly/2VUwoYl>, pp. 3-4; Reuters, *Coronavirus Narrows Options for Migrants Buffeted by Libya's War*, 8 May 2020, <https://reut.rs/3d9GFqF>.
¹⁰¹ UNHCR, *Conflict and Pandemic Drive more People to Risk Deadly Sea Route from Libya*, 15 May 2020, <https://bit.ly/3gupBxo>; UNHCR, *UNHCR Update: Libya*, 8 May 2020, <https://bit.ly/3dbWKvJ>; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 24; IOM / WFP, *Hunger, Displacement and Migration*, November 2019, <https://bit.ly/3bPEsyU>, pp. 3, 24-25.

¹⁰² OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 5.

¹⁰³ “(...) arbitrary detention and child labor disproportionately affect migrant and refugee children due to the lack of legal status and civil documentation. (...) child labour among refugee and migrant children is common, particularly in the south where 79 per cent of respondents reported encountering refugee or migrant children working in their baladiya [municipality] in the past year, compared to 54 per cent of respondents in the west and 32 per cent in the east”; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, pp. 17, 24.

¹⁰⁴ OCHA, *Libya 2020 Humanitarian Response Monitoring: Periodic Monitoring Report (Jan - May 2020)*, 4 August 2020, <https://bit.ly/3arTfAO>, p. 8. In 2020, WFP planned to reach 182,000 persons with food aid. Those considered to be most vulnerable to food insecurity include IDPs, returnees and refugees, and in particular unemployed female-headed households; WFP, *WFP Libya Country Brief: June 2020*, 27 July 2020, <https://bit.ly/2XnnSIO>.

¹⁰⁵ OCHA, *Libya: COVID-19 – Situation Report No. 7*, 22 June 2020, <https://bit.ly/3ebFV3Y>, pp. 1, 2; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 15.

¹⁰⁶ The prices of many staple food items (e.g. rice and wheat flour) have risen significantly over the past several years. Cooking fuel was 350 per cent more expensive in March 2020 than in January 2019; Food Security Cluster, *Food Security Situation: Libya*, March 2020, <https://bit.ly/2ThZCQ4>. Prices rose again at the beginning of restrictions related to the COVID-19 pandemic. Although the situation subsequently improved, prices remained high, forcing many households to adopt negative livelihood coping strategies to afford food; OCHA, *Libya: COVID-19 – Situation Report No. 7*, 22 June 2020, <https://bit.ly/3ebFV3Y>, pp. 1-2. “Many refugees say that they are only able to afford to eat one basic meal a day, with fruit, vegetables and meat considered luxuries”; UNHCR, *Food Aid Offers Lifeline to Refugees under Curfew in Libya*, 13 August 2020, <https://bit.ly/3hdYqao>. See also, WFP, *WFP Libya Country Brief*, March 2020, <https://bit.ly/2zU96Kw>; REACH, *Libya COVID-19 Rapid Market Assessment*, 9 April 2020, <https://bit.ly/3g3ooNp>. The acting Special Representative of the UN Secretary-General in Libya stated that people faced “a loss of income, food shortages and price spikes, including supply chain disruptions.”; UNSMIL, *Acting SRSG Stephanie Williams Briefing to the Security Council*, 19 May 2020, <https://bit.ly/2LLhLkS>. By August 2020, prices began to stabilize: “Across Libya, the prices of essential food and basic goods continued to fall in July, but remained eight per cent above preCOVID-19 levels (...) Reductions were largely driven by a 43 per cent drop in unofficial fuel prices and an increase in official fuel vendors”; OCHA, *Libya: Humanitarian Bulletin*, 14 August 2020, <https://bit.ly/2YdWEOZ>, p. 3. See also, REACH, *Libya Libya Joint Market Monitoring Initiative (JMMI): 1-9 July*, 5 August 2020, <https://bit.ly/3kSmtxz>, p. 1.

¹⁰⁷ The situation was exacerbated by the COVID-19 pandemic as food prices increased and many refugees and migrants lost their jobs, impounding their vulnerability to food insecurity. An IOM Assessment undertaken in June 2020 showed that 39% of migrants surveyed were potentially food insecure; IOM, *Libya: COVID-19 Mobility Tracking 3*, 30 July 2020, <https://bit.ly/3kax2f1>, p. 1. See also, FAO, *GIEWS Country Brief: Libya*, 13 May 2020, <https://bit.ly/3eoT5Lo>; UNHCR, *UNHCR Update: Libya*, 8 May 2020, <https://bit.ly/3dbWKvJ>. Already before the COVID-19 pandemic, many migrants and refugees faced difficulties to cover their daily food needs. Over half of migrants and refugees interviewed by WFP from January 2019 to May 2019 “voiced their worries to obtain sufficient food to eat. To cope with the lack of food, more than a quarter of respondents have gone a whole day without eating and 15 percent have skipped meals in the 30 days before the survey”; WFP, *The Migration Pulse: Understanding the Needs and Food Security Situation of Migrants in Libya*, July 2019, <https://bit.ly/2Xzp8kY>. See also, Barilla Center, *Migration and the Libyan Hunger Trap*, 21 November 2019, <https://bit.ly/2X7zQQE>.

24. **Health:** The health care system is reported to have deteriorated to the point of collapse.¹⁰⁸ A number of health care facilities have been closed, particularly in conflict-affected areas.¹⁰⁹ Attacks against medical personnel and facilities have been reported, as well as interference and disruption of the work of health workers.¹¹⁰ While medical needs, particularly conflict-related injuries, reportedly continue to rise,¹¹¹ there is a shortage of medicines, medical supplies and equipment along with a critical shortage of specialized and skilled staff.¹¹² Pregnant women and persons with chronic diseases, disabilities and mental health issues are particularly vulnerable in light of the limited capacity of health services.¹¹³ Asylum-seekers, refugees and migrants' access to healthcare remains very limited.¹¹⁴ Many asylum-seekers, refugees and migrants are also reported to suffer from psychological distress and trauma as a result of events encountered en route to, during their stay in Libya (including in detention), and at sea.¹¹⁵
25. **Shelter:** Waves of conflict since 2011 have destroyed housing and infrastructure, particularly in the most densely populated coastal areas.¹¹⁶ As a result, thousands of people, mostly IDPs, are reported

¹⁰⁸ According to Elizabeth Hoff, head of mission for the World Health Organization (WHO) in Libya, "[T]his is a health system that was close to collapse before you get the coronavirus"; The Africa Report, *Coronavirus in War-Torn Libya Fuels Worst-Case Scenario Fears*, 27 March 2020, <https://bit.ly/2TDxXJx>. See also, Health Cluster Libya, *Impact of COVID-19 Prevention Measures on Humanitarian Operations for Health Sector in Libya*, 23 April 2020, <https://bit.ly/2zR66OQ>, pp. 3-4; VOA, *Libya War Escalates as Health Care System Crumbles*, 7 April 2020, <https://bit.ly/2LKSJTe>. In 2019, it was assessed: "More than 22 per cent of health care centres have been closed, and those that remain open, 26 per cent offer no essential services and only 6 per cent provide all essential services"; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 10.

¹⁰⁹ "Up to 90 per cent of public health care services in some areas are closed or under resourced"; OCHA, *Libya: COVID-19: Situation Report No. 4*, 12 May 2020, <https://bit.ly/2AKVMZn>, p. 2. "More than 22 per cent of public health care facilities are closed. In open facilities there are a lack of medicines, equipment and staff to provide critical services"; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 13.

¹¹⁰ "Between January and May [2020], there were 20 reported attacks on health infrastructure, killing six people and injuring 21 others. The attacks damaged 13 health centres, many of which temporarily suspended operations and transported patients to other facilities"; OCHA, *Libya 2020 Humanitarian Response Monitoring: Periodic Monitoring Report (Jan - May 2020)*, 4 August 2020, <https://bit.ly/3arTfAO>, p. 5. See also, UNSMIL, *Civilian Casualties Report 1 April - 30 June 2020*, 29 July 2020, <https://bit.ly/33iCczP>; WHO, *WHO Libya Biweekly Operational Update (1-15 May 2020)*, 17 May 2020, <https://bit.ly/3bPfu9t>; UN, *Secretary-General Condemns Continued Attacks on Medical Facilities in Libya*, 7 April 2020, SG/SM/20037, <https://bit.ly/36XhTrv>.

¹¹¹ According to Willem de Jonge, head of operations for the International Committee of the Red Cross (ICRC) in Libya, "Traditionally, war-wounded were sent abroad for treatment, for proper healthcare, which of course is impossible now because of the travel restrictions. So not only do we see an increase in the number of war-wounded, because there's an increase in fighting, but these war-wounded are having to be treated in Libya, which again puts an extra strain on the health system"; Euronews, *Libya: Caught Between Bombs, Bullets and now COVID-19*, 16 April 2020, <https://bit.ly/2X7f4AV>.

¹¹² "The ongoing conflict has severely impacted the country's health system and medical services, which have limited resources and face shortages of basic equipment and medicines. Many hospitals or health facilities, located in areas close to the conflict, have also been damaged or closed"; UNSMIL, *UNHCR Steps Up Help During Ramadan for Displaced Libyans, Refugees and Asylum Seekers, as War and Coronavirus Make Life Harsher*, 3 May 2020, <https://bit.ly/3djJFKf>. See also, The New Humanitarian, *Libyan Doctors Battle on Two Dangerous Fronts: COVID-19 and War*, 10 June 2020, <https://bit.ly/31TVzOM>; Middle East Eye, *Coronavirus in Libya: The Doctor Battling War Wounds amid Outbreak*, 4 May 2020, <https://bit.ly/2X77Fju>; Al Jazeera, *Libya: Coronavirus Outbreak Could Be 'Catastrophic' for Migrants*, 4 April 2020, <https://bit.ly/2XdcwQq>; WHO Libya, *Annual Report 2019*, 18 March 2020, <https://bit.ly/2yiZn8p>, pp. 7-8.

¹¹³ "A health sector assessment conducted in October [2019] revealed a sharp increase during the reporting period in unmet health needs, for women and girls in particular"; UNSC, *Report of the Secretary-General*, 5 May 2020, www.ecoi.net/en/file/local/2029811/S_2020_360_E.pdf, para. 79. There are "only two public mental health hospitals in the entire country. (...) Reproductive, maternal and child health services have been equally affected by the lack of specialised health workers and essential medicines"; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 21.

¹¹⁴ "Women and girls, especially refugees and asylum seekers, are facing challenges in accessing public health due to lack of documentation required by many public health facilities." And further: "Not knowing where to go to get assistance continues to be the largest barrier to health care access for refugees and migrants in Libya. A survey by the Mixed Migration Centre highlighted that 38 per cent of the 936 migrants and refugees surveyed identified not knowing where to go as their largest barrier to access health services. Around 25 per cent of surveyed migrants and refugees highlighted fear of arrest and deportation as a barrier, followed by 24 per cent citing perceived stigma or discrimination against foreigners"; OCHA, *Libya: COVID-19 Situation Report No. 7*, 22 June 2020, <https://bit.ly/3eHjGnp>, p. 2. "Overall, 24 per cent of Libyans reported challenges in accessing health care. For Libyans, this was highest among IDPs at 29 per cent (compared to 25 per cent of non-displaced and 19 per cent of returnees) but is a far greater challenge for migrants and refugees, with 80 per cent reporting such difficulties" (emphasis added); OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 12, see also pp. 5, 21-22, 24. COVID-19 poses an additional challenge to refugees and migrants. According to ICRC, foreign nationals "are in a difficult situation, their access to health care is more difficult than that of a Libyan national... they will be living in close confinement and many won't be able to carry out the physical distancing that is being advised"; Euronews, *Libya: Caught Between Bombs, Bullets and now COVID-19*, 16 April 2020, <https://bit.ly/2X7f4AV>. See also, IOM, *Displacement Tracking Matrix (DTM), Libya's Migrant Report Round 30 (March - April 2020)*, 29 June 2020, <https://bit.ly/2ZBhmYZ>, pp. 5, 7; Friedrich-Ebert-Stiftung, *COVID-19 in Libya: The Virus Provides Cover for Escalation*, 17 April 2020, <https://bit.ly/2ZIHZ9A>.

¹¹⁵ "Refugee and migrant children, of whom 35 per cent are unaccompanied and separated children, are traumatized throughout their journey and stay in Libya, experiencing or witnessing abuse, killing, torture, and sexual exploitation"; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 19. See also, UNHCR, *UNHCR Expresses Condolences over Tragic Death of Asylum-Seeker in Libya, Urges more Action Against Criminal Smuggling and Trafficking*, 24 July 2020, <https://bit.ly/30oXjyD>; MSF, *Libya: Man's Death in Detention Center Fire Underscores Urgency of Evacuating Refugees*, 2 March 2020, <https://bit.ly/3gDPQ4K>; UNHCR, *The Challenge of Helping Child Refugees in Libya Overcome Trauma*, 28 January 2020, <https://shar.es/aHBV0R>.

¹¹⁶ UN News, *UN Condemns Deadly Shelling on Civilian Areas of Libyan Capital*, 9 May 2020, <https://shar.es/aHFkji>; UNSMIL, *One Year of Destructive War in Libya, UNSMIL Renews Calls for Immediate Cessation of Hostilities and Unity to Combat COVID-19*, 4 April 2020, <https://bit.ly/3cw8qbj>; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, pp. 11, 21.

to live in substandard conditions in damaged and/or unfinished buildings.¹¹⁷ Asylum-seekers, refugees and migrants have particular difficulty in accessing adequate shelter due to high rental prices, their irregular situation in Libya, and reported competition for affordable accommodation with IDPs and other vulnerable Libyan populations.¹¹⁸

26. **Education:** Barriers to school attendance include damage to and destruction of schools.¹¹⁹ Instances of kidnappings and other attacks by armed groups against children, teaching personnel and schools have been reported.¹²⁰ Asylum-seekers, refugees and migrants continued to report severe challenges to access education due to documentation requirements, language barriers, unaffordability of educational services and discrimination.¹²¹
27. **Water, Sanitation, Fuel and Electricity:** Public services have reportedly been disrupted and infrastructure has deteriorated, particularly in conflict-affected areas, severely impacting access to electricity, fuel, sanitation and clean water.¹²² Libya further experienced severe water shortages in July 2019 and in April 2020 due to the conflict.¹²³ Frequent electricity cuts reportedly remain a challenge for many households.¹²⁴

¹¹⁷ IOM, *DTM Libya: IDP & Returnee Report*, 5 April 2020, <https://bit.ly/2Zhf1s1>; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, pp. 11, 21. The cost of housing has significantly increased in Tripoli and elsewhere as a result of the conflict and increased demand due to IDP arrivals: "For many people, the conflict has destroyed or damaged their homes and many have fled due to the proximity of fighting, impacting living conditions. Coupled with increased demand due to IDP arrivals this has led to shortages in adequate shelter options and associated increases in rental costs"; OCHA, *Libya Situation Report*, 29 April 2020, 29 April 2020, <https://bit.ly/2BIE4GK>, p. 3. See also, IOM, *DTM Libya: Tripoli Update (09 January 2020)*, 9 January 2020, <https://bit.ly/2CjpiWx>, p. 1; Reuters, *Property Prices Soar in Libya's Capital as Displaced Seek Housing*, 13 November 2019, <https://reut.rs/2XhYD3t>.

¹¹⁸ "(...) the increased number of IDPs has augmented the demand for safe shelter spaces, adding pressure on the availability and affordability of such spaces. As a result, rent prices rose to levels that many IDPs, migrants, refugees and low-income families were unable to afford, putting many people and families at risk of eviction"; OCHA, *Libya 2020 Humanitarian Response Monitoring: Periodic Monitoring Report (Jan - May 2020)*, 4 August 2020, <https://bit.ly/3arTfAO>, p. 9. "UNHCR is particularly concerned at the growing lack of affordable housing and the rise in rental prices, as more displaced or secondarily displaced Libyans have been forced to leave their homes and are seeking new places to rent. This has particularly impacted refugees and asylum-seekers who are unable to find regular work. Refugees have told UNHCR that rental prices for single room accommodation has gone up as much as six-fold, while rental costs for houses had trebled. Many people are living in crowded, unfinished and unfurnished buildings or garage units, with as many as ten people sharing a single room"; UNHCR, *Libya: Humanitarian Crisis Worsening amid Deepening Conflict and COVID-19 Threat*, 3 April 2020, <https://bit.ly/2Zg8Pfh>. The situation has been compounded by the Covid-19 situation and the resulting loss of daily labour: "Some [refugees] are facing eviction threats from their landlords as they have fallen behind with rental payments"; UNHCR, *UNHCR Steps Up Emergency Assistance in Libya as Continued Conflict and COVID-19 Create more Hardship*, 15 May 2020, <https://bit.ly/3glayAC>.

¹¹⁹ While 97 per cent of school-aged children are enrolled in school, the conflict has caused the destruction of 44 schools and damaged 193 others, with another 28 closed for use as IDP shelters; UNSC, *United Nations Support Mission in Libya: Report of the Secretary-General*, 15 January 2020, S/2020/41, www.ecoi.net/en/file/local/2024177/S_2020_41_E.pdf, para. 80. See also, UNSC, *Report of the Secretary-General*, 5 May 2020, www.ecoi.net/en/file/local/2029811/S_2020_360_E.pdf, para. 28.

¹²⁰ "Since the start of the year [2020], at least 18 schools have been damaged as a result of the armed conflict, affecting around 15,890 children"; UNICEF, *UNICEF Libya Country Office Humanitarian Situation Report No. 2 April - June 2020*, 4 August 2020, <https://bit.ly/2Y6b5o0>, p. 2. See also, OCHA, *Libya 2020 Humanitarian Response Monitoring: Periodic Monitoring Report (Jan - May 2020)*, 4 August 2020, <https://bit.ly/3arTfAO>, p. 5; OCHA et al., *Joint Statement on Libya*, 13 May 2020, <https://bit.ly/2LFH3Rx>.

¹²¹ OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, pp. 11-13, 21-22, 24, 27. "Children from sub-Saharan Africa have particular difficulty with school access because of discrimination, language barriers and, in the case of girls, early marriage. In 2018, an estimated 62,000 school-age refugee and migrant children were registered in Libya, of whom about 53,000 needed support for education access. No unaccompanied and separated children interviewed by UNICEF had access to education (...). Education is not free for many of these children (...); UNESCO, *Global Education Monitoring Report: Arab States, 2019*, <https://bit.ly/370JhVC>. "Refugee and migrant children face discrimination and bullying, including in schools". Additionally, "(...) refugee and migrant children are far more likely to report no access to education, which is particularly acute in the south, where 59 per cent of respondents reported that their children did not have access to education"; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, pp. 5, 24, see also pp. 17, 19.

¹²² "There has been an increase in attacks on water infrastructure, which on several occasions led to a lack of water for around 2 million people in the Tripoli and central areas, particularly in April and May. Electricity cuts are frequent and can continue for days or weeks, also affecting water supplies"; OCHA, *Libya 2020 Humanitarian Response Monitoring: Periodic Monitoring Report (Jan - May 2020)*, 4 August 2020, <https://bit.ly/3arTfAO>, p. 5. "Water and sanitation needs have increased in Libya due to the escalating security situation, lack of maintenance of facilities and continued deterioration in service delivery"; OCHA, *2020 Libya Humanitarian Response Plan*, 16 February 2020, <https://bit.ly/36jeOBB>, p. 55. See also, UNICEF, *UNICEF Libya Country Office Humanitarian Situation Report No. 2 April - June 2020*, 4 August 2020, <https://bit.ly/2Y6b5o0>, p. 2; Clingendael Institute, *Tripoli's Electricity Crisis and Its Politicization*, April 2020, <https://bit.ly/30Q7F19>, pp. 4-5; OCHA, *Libya HNO 2020*, 31 January 2020, www.ecoi.net/en/file/local/2024282/libya_hno_2020-fullen_final.pdf, p. 13.

¹²³ Middle East Monitor, *Weaponising Water in Libya Despite Coronavirus Pandemic*, 30 April 2020, <https://bit.ly/3cQj3a6>; OCHA / UNSMIL, *Statement by Mr. Yacoub El Hillo, Humanitarian Coordinator for Libya, on the Disruption of Water and Electricity Supply*, 10 April 2020, <https://bit.ly/3eEIZWH>; Jeune Afrique, *Libye: La Guerre de l'Eau*, 12 November 2019, <https://bit.ly/3cPH4OK>; DW, *Libya's Impending Drinking Water Crisis*, 3 July 2019, <https://bit.ly/3blZCig>; Reuters, *In Battle for Libya's Oil, Water Becomes a Casualty*, 2 July 2019, <https://reut.rs/2zUjXj>.

¹²⁴ UN News, *'Alarming' Military Build-Up Underway in Libya, as COVID-19 Heightens Insecurity*, 19 May 2020, <https://bit.ly/2z7KFJw>; OCHA, *Libya: Situation Report*, 29 April 2020, <https://bit.ly/2LDbnfy>, p. 2.

International Protection Needs of Foreign Nationals Departing from/through Libya

28. Among those who have found themselves compelled to leave Libya, including by sea, are foreign nationals who were recognized as refugees or registered as asylum-seekers in Libya by UNHCR; foreign nationals who have been registered with or recognized as refugees in other countries where they resided before reaching Libya (by UNHCR or in state asylum procedures); as well as other persons in need of international protection who were not registered as refugees or asylum-seekers prior to their departure from Libya.
29. The situation in which a state exercises jurisdiction over people as a result of interception or rescue at sea requires respect for the principle of non-refoulement. UNHCR urges states to refrain from returning to Libya any foreign nationals intercepted or rescued at sea and to ensure that those in need of international protection are able to access fair and effective asylum procedures upon disembarkation.¹²⁵
30. Upon arrival in a country of asylum, persons seeking or otherwise indicating a possible need for international protection should be referred to national asylum procedures.¹²⁶

Libya as a Country of Asylum

31. Libya is not party to the 1951 Convention Relating to the Status of Refugees or its Protocol and, in spite of having ratified the 1969 OAU Convention relating to refugees, it does not have a functioning national asylum system. Persons in need of international protection do not enjoy the rights attached to asylum, including legal stay, non-penalisation for irregular entry, access to recognized documentation and basic rights, and protection from refoulement. Furthermore, UNHCR's ability to exercise its mandate is restricted for various reasons, including, *inter alia*, a security situation which hampers UNHCR's access to persons of concern; restrictive governmental policies that only permit persons of designated nationalities to register with UNHCR;¹²⁷ and Libya's limited institutional capacity to uphold the rule of law and prevailing impunity for widespread violations and abuses against asylum-seekers and refugees.¹²⁸

Designation of Libya as Safe Third Country

32. UNHCR does not consider it appropriate for States to designate Libya as a so-called "safe third country". The designation of a country as a safe third country may result in a request for international protection not being considered on its merits but declared inadmissible, or processed in an accelerated procedure with reduced procedural safeguards. Even before the current unrest and insecurity, UNHCR considered that Libya should not be regarded as a safe third country in light of the absence of a functioning asylum system, the widely reported difficulties and abuses faced by asylum-seekers and refugees in Libya, the absence of protection from such abuses, the lack of protection against refoulement, and the lack of durable solutions.¹²⁹

¹²⁵ See UNSC Resolution 2240 (2015), which authorizes member states to inspect vessels on the high seas off the Libyan coast if they are suspected of migrant smuggling or human trafficking from Libya, and to seize vessels which are confirmed as being used for these purposes. The resolution recognizes "that among these migrants may be persons who meet the definition of a refugee under the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto" and urges states to respect the rights of migrants and "to comply with their obligations under international law, including international human rights law and international refugee law, as applicable"; UNSC, Resolution 2240 (2015), Adopted by the Security Council at its 7531st Meeting, on 9 October 2015, 9 October 2015, S/RES/2240 (2015), www.refworld.org/docid/5b64698c4.html. See also, UNHCR, UNHCR Intervention Before the European Court of Human Rights in the Case of Hirsi and Others v. Italy, March 2010, Application No. 27765/09, www.refworld.org/docid/4b97778d2.html.

¹²⁶ Based on Eurostat data for protection rates for relevant nationalities in 2019, an estimated 28 per cent of those who departed Libya and arrived in Europe between January and May 2020 are likely to be in need of international protection. In addition, many others using this route are likely to have specific needs on account of their experiences during the journey, including in Libya, due to having been victims of trafficking, sexual and gender-based violence, or being unaccompanied children that may require temporary protection and assistance; UNHCR, *Arrivals to Europe from Libya: May 2020*, 31 May 2020, <https://bit.ly/2Oel2ct>.

¹²⁷ See footnote 25.

¹²⁸ See above Section "Situation of Foreign Nationals (Including Asylum-Seekers, Refugees and Migrants)".

¹²⁹ UNHCR, UNHCR Intervention Before the European Court of Human Rights in the Case of Hirsi and Others v. Italy, March 2010, Application No. 27765/09, www.refworld.org/docid/4b97778d2.html. See also above "Situation of Foreign Nationals (Including Asylum-Seekers, Refugees and Migrants)".

UNHCR calls on States not to channel applications for international protection from foreign nationals into an accelerated procedure or declare them inadmissible, merely on the basis of the fact that they previously resided in or transited through Libya.

Designation of Libya as a Place of Safety for the Purpose of Disembarkation following Rescue at Sea

33. In the context of rescue at sea and in line with international maritime law, disembarkation is to occur in a predictable manner in a place of safety and in conditions that uphold respect for the human rights of those who are rescued, including adherence to the principle of non-refoulement.¹³⁰ When persons are rescued at sea, including by military and commercial vessels, “*the need to avoid disembarkation in territories where [their] lives and freedoms (...) would be threatened*” is relevant in determining what constitutes a place of safety.¹³¹ In light of the volatile security situation in general and the particular protection risks for foreign nationals (including arbitrary and unlawful detention in substandard conditions in State-run detention centres, and reports of serious violations and abuses against asylum-seekers, refugees and migrants by, among others, militias, traffickers and smugglers),¹³² UNHCR does not consider that Libya meets the criteria for being designated as a place of safety for the purpose of disembarkation following rescue at sea.¹³³
34. UNHCR therefore calls on States to refrain from returning to Libya any persons rescued at sea and to ensure their timely disembarkation in a place of safety.¹³⁴ UNHCR recalls that the principle of non-refoulement applies wherever a state exercises jurisdiction, including where it exercises effective control in the context of search and rescue operations outside its territory. Where a State’s coordination or involvement in a SAR operation, in view of all the relevant facts, is likely to determine the course of events, UNHCR’s view is that the concerned State’s negative and positive obligations under applicable international refugee and human rights law, including non-refoulement, are likely to be engaged.¹³⁵

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¹³⁰ IMO, *Resolution MSC.155(78), Adoption of Amendments to the International Convention on Maritime Search and Rescue*, 1979, 20 May 2004, Annex 5, www.refworld.org/docid/432acad44.html; IMO, *Resolution MSC.167(78), Guidelines on the Treatment of Persons Rescued at Sea*, 20 May 2004, www.refworld.org/docid/432acb464.html; IMO, *International Convention on Maritime Search and Rescue*, 27 April 1979, 1403 UNTS, Annex, www.refworld.org/docid/469224c82.html, para. 1.3.2. See also, UNHCR/IOM, *Proposal for a Regional Cooperative Arrangement Ensuring Predictable Disembarkation and Subsequent Processing of Persons Rescued-at-Sea*, 27 June 2018, <https://bit.ly/2Oi1UJX>, p. 2.

¹³¹ IMO, *Resolution MSC.167(78), Guidelines on the Treatment of Persons Rescued at Sea*, 20 May 2004, www.refworld.org/docid/432acb464.html, para. 6.17. See also, Council of Europe: Commissioner for Human Rights, *Letter to Prime Minister of Malta*, 5 May 2020, <https://bit.ly/3cJwqch>; UNHCR, *UNHCR and IOM Joint Statement: International Approach to Refugees and Migrants in Libya Must Change*, 11 July 2019, <https://bit.ly/3e2ULtJ>.

¹³² “(...) Libya, which of course cannot be considered by any stretch of the imagination as a safe port for disembarkation. Many of those intercepted were returned to official and unofficial detention centres where they are routinely subjected to serious human rights violations and abuses. We are also concerned that parties to the conflict in Libya continue to store weapons and ammunition in close proximity to civilian locations, particularly detention centres where migrants and refugees are being detained”; OHCHR, *Press Briefing on Libya*, 20 December 2019, <https://shar.es/aHBMGU>. See also, OHCHR, *Oral Update of the United Nations High Commissioner for Human Rights on Libya Pursuant to Human Rights Council Resolution 40/27*, 18 June 2020, <https://bit.ly/2ZDOG1e>; and paras 8-11 above.

¹³³ Non-refoulement obligations also apply in relation to Libyan nationals and former habitual residents of Libya intercepted / rescued at sea.

¹³⁴ “UNHCR and IOM unequivocally reiterate that no one rescued at sea should be returned to Libya”; UNHCR, *UNHCR, IOM, Urge European States to Disembark Rescued Migrants and Refugees on Board the Captain Morgan Vessels*, 22 May 2020, <https://bit.ly/2ZYQHNM>. “Due to the ongoing conflict in Libya, as well as the routine detention of disembarked migrants and asylum-seekers, who often face overcrowded and unsanitary conditions, and other human rights concerns, UNHCR reiterates that no one should be returned to Libya after being rescued at sea”; UNHCR, *News Comment on Search and Rescue in the Central Mediterranean by Gillian Triggs, Assistant High Commissioner for Protection at UNHCR, the UN Refugee Agency*, 1 May 2020, <https://bit.ly/2zb40cH>. In light of the continued human rights violations against asylum-seekers, refugees and migrants, on 8 May 2020, the UN High Commissioner for Human Rights called for a moratorium on “all interceptions and returns to Libya”; OHCHR, *Press Briefing Note on Migrant Rescues in the Mediterranean*, 8 May 2020, <https://bit.ly/3cCT7yA>.

¹³⁵ UNHCR, *Submission by the UNHCR in the case of S.S. and Others. v. Italy (Appl. No. 21660/18) before the European Court of Human Rights*, 14 November 2019, www.refworld.org/docid/5dcebff54.html, para. 6.1, and paras 5.8-5.9. See also, UNHCR, *General Legal Considerations: Search-and-Rescue Operations Involving Refugees and Migrants at Sea*, November 2017, www.refworld.org/docid/5a2e9efd4.html.