

**Remarks to the Security Council by Ján Kubiš, Special Envoy of the Secretary-General for Libya, and Head of the United Nations Support Mission in Libya**

**New York, 15 July 2021**

*Mr. President,*

*Distinguished Members of the Security Council,*

Let me begin by thanking Minister Le Drian and the French presidency for convening this in-person meeting. I welcome Prime Minister Abulhamid Al Debiabh and other high level representatives.

I am coming from my most recent visit to Libya where I held consultations with a wide range of actors to convince them to safeguard and advance the course to national inclusive, free, and fair parliamentary and presidential elections this December. While all my interlocutors reiterated their commitment to holding elections on 24 December, I am afraid many of them are not ready to walk the talk. I reminded them of the overwhelming demand and expectations of the Libyan people and of the international community for the elections on time, necessary to complete Libya's democratic transition and avoid a return to conflict, violence, and chaos.

The constitutional basis for elections should have been clarified by now. Regrettably, the House of Representatives, the mandated body to do so in consultation with the High Council of State, has not delivered yet. Last week, a new committee of the House of Representatives was established to prepare electoral laws for holding **the** elections on 24 December and requested UN's support. I have advised the Speaker of the House of Representatives to consult with High Council of State in line with Libyan Political

Agreement and to ensure that the legal and constitutional basis are in place for holding the elections on 24 December, as per UNSCR 2570, Berlin-II conference conclusions and LPDF Roadmap.

I also convened a virtual meeting of the Libyan Political Dialogue Forum (LPDF) at the end of May, to consider a draft constitutional basis recommended by the Forum's Legal Committee and address key issues that the Committee left unresolved. The outstanding issues raised by LPDF members themselves included whether presidential elections should take place through a direct vote by the people or indirectly through Parliament; whether a referendum on the draft permanent Constitution should be held first, even as a precondition for direct presidential elections; what should be the criteria for eligibility of candidates, especially for President, and whether military personnel and dual citizenship holders should be eligible and on what conditions; and questions about representation of cultural components.

The May session of the LPDF was unable to resolve these issues and insisted that an in-person meeting was necessary to negotiate a compromise. This meeting took place in Geneva with kind support of Switzerland on 28 June to 2 July. At the request of some LPDF members, UNSMIL convened the LPDF's Advisory Committee in Tunis from 24 to 26 June to prepare for the meeting in Geneva by developing options to bridge the differences over the unresolved issues. The advisory committee reached a broad consensus on a compromise proposal which sought to address the concerns of the various constituencies and interest groups within the LPDF. The proposal was tabled during the Geneva meeting of the LPDF.

However, it became clear in Geneva that LPDF members were fragmented into various blocs and interest groups with different affiliations. The various blocs maintained their

entrenched positions reflected in their proposals and the LPDF was unable, unwilling to reach an agreement on a final proposal for a constitutional basis for the elections.

Because of this failure of both the constitutional bodies and the LPDF, the situation in Libya is getting more difficult, confrontational, and tense. Institutional, political and individual interests stand in the way of agreeing on the necessary legal framework for holding the elections on 24 December 2021, as agreed by the LPDF in its Roadmap, endorsed by the UN SC. Old and new status quo forces are using diverse tactics and often legitimate arguments with only one result – obstructing holding of the elections. My predecessor who had his own experience with similar approaches called them “spoilers” – a correct description given the impact of their approach and maneuvering.

[Sensitive issues remain at the centre of the stalemate. Some groups insist on putting in place preconditions for elections that would jeopardize the agreed election date, including demands that a referendum, withdrawal of all mercenaries, foreign fighters and foreign forces, reunification of the military and national reconciliation take place before the national elections. Other groups have concerns that restricting eligibility by barring dual citizens, individuals indicted but not convicted of certain crimes, and those maintaining military positions from running for the presidency would exclude certain individuals from the elections. This, they say, would undermine the chances of a significant part of the population and some armed groups accepting the election result and lead to renewed conflict. A third major issue is fear by some groups that the country could return to a dictatorship if elections were held without a permanent Constitution or under a constitutional basis that does not restrict eligibility criteria or circumscribe the prerogatives of the new President.]

UNSMIL continues to facilitate efforts to find common ground, including through the work of a Consensus Building Committee established by the LPDF which we are convening tomorrow, and through my own engagement with the political and other leaders in Libya.

Together with HNEC we are requested to advise the committee convened by the HoR. We are ready to do so with the aim to facilitate holding of the elections on 24 December. This committee intends to meet next week in Italy.

To increase our engagement with Civil Society including women and youth of the country, the UNSMIL Leadership intends to engage them in a digital dialogue, used by UNSMIL in the past.

*Mr. President,*

I am deeply concerned about the wider ramifications of the stalemate in the political/electoral track and related cleavages that are the result of the standoff between key Libyan State institutions, in particular between the Government of National Unity and the House of Representatives, the Government of National Unity and the Libyan National Army, the House of Representatives and the High Council of State, and between those who want to respect the 24 December timeline and those who would see the elections delayed.

On a positive note, despite the lack of a legislative electoral framework, the High National Electoral Commission (HNEC) initiated the Voter Registration Update on 4 July with a special provision for the inclusion of IDPs. The HNEC decided to move forward and start the implementation of this part of the process that does not fully

require to have legislation in place. Yet, there are limitations to what can be done in the absence of an electoral legislation.

If the impasse over the constitutional basis and the ongoing standoff between State institutions are not quickly resolved if the key leaders of the country will not show a political will to reach a solution, a compromise and to implement it, that could reverse the positive momentum seen just a few months.

The ramifications of the political impasse and the risk it poses to other key national priorities, particularly on the security and economic tracks, are already beginning to manifest themselves. The House of Representatives has not adopted the budget presented by the Government of National Unity, despite several rounds of consultations between the House and the Government on finalizing the budget proposal. The last effort failed only this week. The House of Representatives and the High Council of State have not, up to now, agreed how to proceed on appointments to sovereign positions despite several meetings facilitated by Morocco. The Libyan National Army has not allowed the Government of National Unity to extend its authority to the areas it controls. The Presidency Council and the Government have not been able to agree on the appointment of the Minister of Defence, a position crucial for implementation of the Ceasefire Agreement, for progress on disarmament, demobilization and reintegration of armed groups, security sector reform and reunification of the military. And, recently, the 5+5 Joint Military Commission postponed the reopening of the coastal road to connect the eastern and western parts of the country to protest the failure to take decisions that would facilitate the holding of elections on time to protest the stalemate on the withdrawal of mercenaries, foreign fighters, and foreign forces. They have also complained about the failure by the Government of National Unity to pay salaries of the opposing forces and fighters. If

not addressed, all of that could cause the suspension of participation of any of the two parties in the JMC, that otherwise keeps demonstrating exemplary unity, patriotism and leadership in taking steps to implement the ceasefire agreement.

*Mr. President,*

I am concerned that although the ceasefire agreement continues to hold notwithstanding minor clashes between armed groups and criminal gangs, the unity of the JMC and implementation of the agreement could unravel if the political process remains stalled. The JMC has a vital role in the implementation of the ceasefire agreement and its achievements have previously paved the way for political progress. Every effort must therefore be made to preserve its unity and to insulate its work from the detrimental effects of the political stalemate and the standoff between Libya's main political actors.

The United Nations will continue to support the implementation of the ceasefire agreement in Libya. In line with Security Council resolution 2570, preparations are ongoing for the deployment of an UNSMIL ceasefire monitoring component in support of the Libyan-led, Libyan-owned ceasefire monitoring mechanism.

The Secretariat is currently preparing for the first phase of deployment of ceasefire monitors, including with the recruitment of personnel and procurement of enabling elements. The Secretariat will then reach out to Member States regarding support for the full deployment of the UNSMIL ceasefire monitoring component once the necessary financial resources have been secured.

However, there is no clarity yet on when the Libyan component of the mechanism will be in place. The Government and the 5+5 JMC have also at times indicated that the main task of the UN component should be to monitor the withdrawal of mercenaries and foreign fighters, rather than patrolling to verify compliance with the ceasefire agreement.

The reopening of the coastal road is an essential step for ceasefire implementation. On 8 June, the Presidency Council issued an order to the Commander of the Sirte-Jufra Operations Room to relocate its armed groups, a necessary step prior to the reopening of the road. This provided impetus for a JMC meeting in Sirte from 19 to 22 June to discuss preparations for a safe opening, and a further meeting was to follow on 5 July to discuss final arrangements. However, the meeting was postponed by the eastern delegation to the JMC in reaction to the LPDF meeting and what they saw as attempts by the certain blocs to postpone elections. I stressed to the JMC the importance of moving ahead with opening the coastal road, as not doing so would serve the interest of spoilers. I also stress the need for all authorities and institutes active in the security file to consult and coordinate their moves with 5+5 JMC.

The continued presence of foreign forces and mercenaries also threatens the ceasefire. It is imperative that Libyan and international actors agree on a plan to commence and complete withdrawal of mercenaries and foreign forces. Initial signals to this end are encouraging, but concrete steps and agreements are needed.

The security situation is further complicated by recent attacks and a renewed terrorist threat by Al Qaeda in the Islamic Maghreb (AQIM) and Islamic State (IS)/Daesh, particularly in the South. The delayed reunification of Libya's security and military apparatus along with the lack of a centralized and coordinated approach is allowing

space for violent extremist organizations to recruit, operate and increase their asymmetric activities. I urge Libya's security actors to jointly address this threat in consultation and cooperation with the 5+5 JMC, local actors notably tribal leaders guided by a broader interest to reinforce stability and security.

*Mr. President,*

On 8 July, I delivered the report of the international financial audit to the Presidency Council in the presence of the Prime Minister and the heads of the two branches of the Central Bank of Libya (CBL). The audit was requested by the former head of the Presidency Council, Fayez Serraj, in a letter on 10 July 2018 and was subsequently mandated by the Security Council which requested that UNSMIL facilitate the process.

The main finding of the audit is that the unification of the Central Bank of Libya is no longer simply recommended but required. While Libya's foreign currency reserves were largely protected during the past five years, the division in the Central Bank of Libya has eroded the integrity of the banking system and impeded monetary reform. Due to the lack of a unified budget and successive oil blockades, both branches of the Central Bank extended credit to their respective former governments, thereby accumulating large debts. Managing this debt is only possible if the Central Bank unifies. In plain terms, Libya's banking system will likely collapse, absent unification.

The transmission of the audit report marks the end of the financial audit review and the beginning of the process to unify the two branches of the Central Bank of Libya. It is my hope that the international community can support this process as it moves forward, within the framework of the Berlin Process.

*Mr. President,*

On 31 May, the Presidency Council launched a series of workshops to develop a legal framework and structure for the Libyan High National Commission for Reconciliation, with participation from the African Union, UNSMIL, the Minister of Justice as well as legal experts and representatives of internally displaced persons. The United Nations and the African Union are supporting initiatives planned by the Presidency Council, including meetings with tribal and local community leaders, women, and youth. Advancing these initiatives is essential for laying the groundwork for a longer-term national reconciliation process, as well as to promote unity and social cohesion ahead of the December elections.

*Excellencies,*

The situation of migrants and refugees in Libya remains dire as the number of people attempting to cross the Mediterranean continued to increase in the first five months of 2021. By 26 June, the Libyan Coast Guard intercepted and returned to Libya 14,751 migrants and refugees, exceeding the total number of all returnees in 2020.

As a result, there is a dramatic growth in numbers of migrants and refugees arbitrarily detained in official detention centres, without judicial review and frequently held in inhumane conditions. As of 21 June, an estimated 6,377 migrants and refugees were arbitrarily held at official detention centres across the country, a 550 per cent increase since January 2021. These developments have significantly increased human rights, humanitarian, and protection concerns. UN and other agencies continue to face restrictions from Libyan authorities on humanitarian access and access for human rights

monitoring to detention centers. We again urge the Government to swiftly approve the resumption of UNHCR and IOM facilitated humanitarian evacuation and voluntary resettlement and return flights and departures of migrant and refugees from Libya. Some 6,000 people have so far registered for such departures which have been blocked for several months.

In June, UNSMIL received yet more shocking reports of sexual violence against girls and boys in official detention centres for migrants. Such acts may constitute crimes under both international and national law.

I reiterate that Libya is not a safe port of disembarkation for migrants and refugees. Member States who support operations to return individuals to Libya should revisit their policies, bearing in mind that migrants and refugees continue to face a very real risk of torture and sexual violence if returned to Libyan shores.

Member States with influence must do more to prevent these crimes. I encourage those who provide support to Libyan security agencies alleged to be involved in these violations to shoulder their responsibility and take all feasible measures to prevent such egregious conduct.

*Mr. President,*

The overall humanitarian situation has seen some improvement since the ceasefire agreement in October of last year with more displaced people returning to their areas of origin. The number of internally displaced persons decreased to an estimated 224,000 persons, marking a 19 per cent reduction since February. But serious challenges remain

in ensuring that returnee populations have adequate and sustained access to basic services, such as healthcare and education facilities, with primary infrastructure still urgently requiring rehabilitation. Planned and often forced evictions targeting IDP communities by Libyan authorities is a growing concern. In May, some 500 Tawerghan families living in an IDP settlement at the Naval Military Academy in Tripoli were evicted. Two other sites in Tripoli where internally displaced persons, migrants and refugees live are facing forced eviction with migrants and refugees subjected to harassment and attacks. I note that forced evictions without due process are human rights violations.

UNSMIL, in cooperation with UN Women and UNFPA, hosted an in-person meeting in Tunis, Tunisia from 16 to 18 June for the Committee of Libyan Experts on Combating Violence Against Women. They concluded by adopting the first comprehensive draft legislation in the MENA region on combating violence against women. The Libyan Ministry of State for Women Affairs sponsored the meeting, and the minister, Ms. Huria Eltermal, attended and announced that the ministry will transmit the draft to the House of Representatives for adoption.

*Mr. President,*

I welcome the conclusions of the second Berlin Conference on Libya and the collective efforts of Member States and regional and international organisations to assist the Libyan people in their quest for unity, peace, stability, and prosperity. Compared to the first Berlin Conference, Libya has become an active participant and partner in finalizing the conclusions of second Berlin Conference.

As evidenced since the autumn of 2020, the implementation of the ceasefire agreement and progress on the political track and on the necessary economic reform agenda are interdependent. Positive steps are now needed to avoid backsliding on all tracks. We hope to count on the sustained support of the Security Council and Berlin process partners in this. I would like to thank a number of international partners of Libya for supporting the work of UNSMIL and efforts of Libyan parties to further advances in diverse tracks by graciously hosting their meetings.

It is incumbent on Libyan political actors to exert every effort to hold parliamentary and presidential elections on 24 December 2021, in accordance with the roadmap of the Libyan Political Dialogue Forum and as called for by the Security Council and the international community. I also urge members of the LPDF to put their differences aside and come to an agreement on a proposal for the constitutional basis for immediate consideration and adoption by the House of Representatives, so that elections may be held on 24 December. The relevance and effectiveness of these bodies rests on their ability to fulfil their responsibilities and meet the aspirations of the Libyan people. Interest groups, spoilers and armed actors must not be allowed to derail the process aimed at restoring the legitimacy, unity, and sovereignty of the Libyan State and its institutions. Here, the international community might have a special role in line with UNSCRs 2570 and 2571 to hold the spoilers to account.

Thank you.