



Press release, 24th March 2011

**IALANA Germany: Immediate end to military action in Libya
Ceasefire necessary for the protection of the civilian population**

In an urgent appeal to the Federal Government, IALANA Germany urged for an immediate end to the bombing of Libya. The offensive of cruise missiles and the bombing campaign by stealth bombers and pursuit planes provoked casualties among the civilian population, which should be prevented through sanctions against Gaddafi's regime.

It also seems highly doubtful whether the 1973 UN Security Council Resolution is compatible with the UN Charter to the extent of giving the green light to military intervention. Firstly, it should be recalled that the ratio of the international community to individual states, such as the relationship between the states through the principle of sovereign equality under Article 2 Paragraph 1 of the UN Charter, and by the restrictions laid down in Article 2 Paragraph 3, prohibition on the use of force is determined. Sanctions under Chapter VII of the UN Charter, particularly in its strongest form of military sanctions under Article 42 of the UN Charter, require an establishment of danger to the peace under Article 39 of the Charter. The Security Council used the phrasing in the Resolution of 17th March:

“...determining that the situation in the Libyan Arab Jamahiriya continues to constitute a threat to international peace and security...”.

Further arguments in support are not found at this point. Without doubt, there has not been a breach of the peace by the Libyan government in the form of an attack on another state. An attack against a “de facto” state on Libyan territory has also not taken place. For this, the opposition movement and those from their formed National Council would have to establish a permanent de facto rule over part of Libyan territory in terms of a separatist state. However, the National Council has reassured on several occasions that the formation of a separatist state

in Cyrenaica is not a consideration for them. Their aim is to remove Gaddafi from power and gain control over the whole of Libya.

It is therefore a non-international armed conflict, a civil war. However, it is an established principle, derived from the respect of national sovereignty of states and the prohibition on the use of force as well as the principle of neutrality, that third parties should not interfere in civil wars in favour of the conflicting parties. This was made explicitly clear by the UN International Court of Justice in The Hague in their judgement on Nicaragua on 27th June 1986.

Unless the intervention is based on humanitarian reason, the following applies: the violation of the Genocide Convention can lead to a declaration of the breach of peace and military sanctions through the Security Council. However, there is no indication that the Gaddafi regime is systematically killing parts of the population based on ethnic grounds or grounds of tribal affiliation, as in Rwanda.

However, both factions have complied with the rules of international humanitarian law through their armed actions. This includes the general principle of international law, whereby it is illegal to conduct attacks against the civilian population. This principle is enshrined in Article 51 of the Additional Protocol I of the Geneva Convention of 12.8.1949 on the protection of victims of international armed conflicts and is also observed in civil wars.

Subsequently, indiscriminate attacks which are not directed for a specific military purpose are prohibited, Article 51, Paragraph 4a) 1 of Additional Protocol. As such, it is likely to cause loss of life among civilians, injuries to civilians, damage to civilian objects or a combination thereof, which are disproportionate to the concrete and direct military advantage, Article 51, Paragraph 5b) 1 of Additional Protocol.

In this regard, as far as it established in its initial phrasing, the Security Council has kept a low profile in its Resolution and acts as if the attacks against the civilian population in Libya “could constitute crimes against humanity”.

In fact, there is no secure evidence so far. The case is already called for the International Criminal Court to investigate the evidence and assess criminal penalties. In any case, at present there is no principle codified in either international law or customary international law which allows military sanctions to prevent violations of Article 51 of the Additional Protocol. The Security Council is breaking new ground with this case and is not covered by existing international rules.

Furthermore, under Article 42 of the UN Charter, military sanctions can only be imposed if peaceful sanctions under Article 41 of the Charter would be insufficient or have already proven to be insufficient. This is also questionable. As the German Foreign Minister Westerwelle rightly indicated after the beginning of the offensive, that a trade embargo for Libyan oil and natural gas should be imposed. Westerwelle regarded this as a main task for the EU. The obstruction of any source of income after freezing all foreign accounts would have been a first attempt to force the Gaddafi clan to back down. Even the more powerful Apartheid regime in South Africa finally broke down after economic sanctions and isolation. It is also contradictory for the German federal government on the one hand to abstain from voting on the Resolution 1973 (2011) of the UN Security Council, and on the other hand to declare that it considered all of the stated objectives to be appropriate and to allow the US to have a base in Stuttgart to direct their offensive. This contradicts the commitment that Germany made in the 2 + 4 Treaty of 1990, whereby only peace may emanate from German soil.

The massive military deployment is also politically counterproductive. It provides a possible respite for the opposition forces in the east of the country but poses a great risk that the majority of the people in the country will side with the Gaddafi clan after an attack from foreign forces. This would weaken the forces fighting for political change in Libya. It will also weaken the opposition forces in the whole of the Arab region, for they will be accused at least from now to be standing in alliance with the USA, the UK and France and carrying out their affairs.

Finally, there is a lack of credible military action due to its double standards. The opposition forces in Yemen and Bahrain who have been shot down by their dictators have not received similar support. In contrast, there have been calls against the military assistance from Qatar. The ruling Emid Hamed Al Khalifa consolidated the executive, legislature and judiciary in one person as absolute monarch. There are no political parties or parliament in his country. The democratic rights and freedoms, for which the people in Libya are risking their lives, are denied to his own citizens.

It is therefore necessary for an immediate ceasefire and to begin negotiations between the conflicting parties over a peaceful solution to the future of Libya.