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Migratory flows in the Mediterranean Sea, with particular attention to the tragic events near Lampedusa

Greens/EFA motion for resolution

Tabled by Daniel Cohn-Bendit, H el ene Flautre, Franziska Keller, Jean Lambert, Judith Sargentini, Jean-Jacob Bicep, Rebecca Harms on behalf of the Greens/EFA Group *The European Parliament*, – having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms, – having regard to the Universal Declaration of Human Rights of 1948, – having regard to the Geneva Conventions of 1949 and the additional protocols thereto, – having regard to Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office(1), – having regard to the proposal for a Regulation of the European Parliament and of the Council of 12 April 2013 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (COM(2013)0197), – having regard to Regulation (EU) No 1168/2011 of the European Parliament and of the Council of 25 October 2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union(2), – having regard to the Joint Communication of the European Commission and of the High Representative of the Union for Foreign Affairs and Security Policy of 20 March 2013 entitled ‘European Neighbourhood Policy: Working towards a Stronger Partnership’ (JOIN/2013/0004), – having regard to its resolution of 7 April 2011 on the review of the European Neighbourhood Policy – Southern Dimension(3), – having regard to the oral question on ‘Voluntary permanent Union relocation scheme’ of 20 May 2013, – having regard to the report of its Committee on Civil Liberties, Justice and Home Affairs on the visit by its delegation to Lampedusa in November 2011, – having regard to Articles 77 and 80 of the Treaty on the Functioning of the European Union, – having regard to Rule 110(2) of its Rules of Procedure, A. whereas the latest tragedy off Lampedusa, of 3 October 2013, left more than 300 migrants dead; B. whereas according to the International Organisation for Migration at least 20 000 people have died at sea since 1993, pointing once more to the urgent need to review the EU’s approach to migration and asylum policy so as to do everything possible to save the lives of people in danger, and to the need for Member States to fulfil their international sea rescue obligations; C. whereas in April 2012 the Parliamentary Assembly of the Council of Europe (PACE) adopted Resolution 1872(2012) entitled ‘Lives lost in the Mediterranean Sea: Who is responsible?’, which concluded that, if a search and rescue zone is not covered because the state responsible for that zone fails to fulfil its legal duty ‘to render assistance’, then the state receiving the initial call for assistance is responsible for coordinating the search and rescue operation; D. whereas there is still confusion at EU level regarding the division of responsibility among the various entities involved (NATO, the European Agency for the Management of Operational Cooperation at the External Borders of

the Member States of the European Union (Frontex, Member States) as regards rendering assistance to vessels in distress, and as regards responsibility for coordinating a search and rescue operation; E. whereas Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence⁽⁴⁾ has caused uncertainty among fishermen and other seafarers as regards responsibility and the likelihood of impunity in the event that they save lives at sea; F. whereas EU legislation already provides a number of tools, such as the Visa Code and the Schengen Borders Code, making it possible to grant humanitarian visas; G. whereas the Member States should be encouraged to make use of the funds that will be available from the Asylum and Migration Fund and the Internal Security Fund, and of the funds available under the Preparatory Action to ‘Enable the resettlement of refugees during emergency situations’, which covers, among other things, the following measures: supporting persons already recognised as refugees by the Office of the UN High Commissioner for Refugees (UNHCR); supporting emergency action in the case of groups of refugees, identified as priorities, who are under armed attack and who face conjunctures of extreme vulnerability and of a life-threatening nature; providing, where needed, extra financial support during emergencies to the UNHCR and to its liaison organisations in the Member States and at EU level; H. whereas the EU is currently negotiating mobility partnerships with southern Mediterranean countries, including in relation to border management; whereas Italy and Libya decided in July 2013 to reinforce their cooperation on migration control following the agreement signed in April 2012; whereas several Member States (Spain, Italy, France, Malta, Portugal, Cyprus and Greece) and Libya decided in September 2013 to join forces as part of the Seahorse Mediterraneo project; 1. Is of the opinion that Lampedusa should serve as a real wake-up call for Europe and that the only way to prevent another tragedy is to acknowledge politically that the obligation to save and rescue prevails over all other rules and laws, and to adopt a coordinated approach based on solidarity and responsibility, backed up by common instruments; 2. Calls for the EU and its Member States, in terms of external action, not to cooperate with neighbouring countries on migration control until they have demonstrated their respect for the human rights of migrants, refugees and asylum seekers, including by establishing an effective system for assessing asylum claims and protecting refugees; asks for an increase in financial assistance to the UNHCR; recommends that Libya have a seat agreement with the UNHCR; asks for increased technical assistance, including human resources, for better screening of refugees and facilitation of resettlement; 3. Asks, in terms of internal EU measures, for an increased budget for the European Asylum Support Office (EASO); 4. Stresses that the relocation of beneficiaries of international protection and asylum seekers is one of the most concrete forms of solidarity and responsibility-sharing; stresses the importance of projects such as the Pilot Project for Intra-EU Relocation from Malta (EUREMA) and the extension thereof, under which beneficiaries of international protection have been, and are being, relocated from Malta to other Member States, and advocates developing more initiatives of this kind; regrets the fact that this project has not been as successful as expected because Member States are reluctant to participate; calls on the Member States to participate more actively in the EUREMA project in a spirit of solidarity and responsibility-sharing; calls on the Commission to propose a permanent and effective intra-EU relocation mechanism; 5. Asks Frontex to assist the Member States in circumstances requiring increased technical and operational assistance at the EU’s external borders, taking into account the fact that situations may involve humanitarian emergencies and rescue at sea (Article 2 of the aforementioned Frontex Regulation); urges Frontex to make full use of the instruments at its disposal to implement its fundamental rights strategy in the Mediterranean, notably by asking its Fundamental Rights Officer for an assessment of the Hermes operation, with a specific focus on the recent tragedies in the Sicilian Channel; 6. Underlines, in particular, the importance of responsibility-sharing in the field of asylum, and recommends creating a well-resourced mechanism based on objective criteria and the right of asylum seekers and beneficiaries of international protection to choose where to apply, in order to reduce the pressure on those Member States receiving higher numbers of asylum seekers and beneficiaries of international protection, in either absolute or proportional terms; 7. Recalls that EU solidarity should go hand in hand with responsibility; recalls that the Member States have a legal obligation to come to the assistance of migrants at sea; calls on those Member States which have failed to fulfil their international obligations to stop turning back boats with migrants on board; 8. Calls for the EU and its Member States to suppress or revoke any legislation which criminalises people assisting migrants at sea; asks the Council to

review Directive 2002/90/EC to clarify that providing humanitarian assistance to migrants at sea who are in distress is to be welcomed, and is not an action which should ever lead to any form of sanction; calls on the Member States to repeal any legislation which makes entering or staying irregularly in their territory a criminal offence; 9. Expresses concern that a growing number of people are risking their lives by embarking on dangerous boat crossings across the Mediterranean to the EU; calls on the Member States to take measures to enable asylum seekers to access the Union asylum system in a safe manner without having to resort to people smugglers or criminal networks and without putting their lives in danger; 10. Stresses that a more coherent approach and greater solidarity with Member States facing particular pressure are needed in the reception of refugees and migrants; calls on the Member States to make sure that all the provisions of the different instruments of the Common European Asylum System (CEAS) are correctly implemented and enforced; 11. Asks for the suspension of Dublin II transfers when the rights of asylum seekers cannot be guaranteed, with reference to Italy, Greece and Malta; considers that the Dublin II Regulation⁽⁵⁾, which governs the allocation of responsibility for asylum applications, places a disproportionate burden on those Member States constituting entry points into the EU, and does not provide for a fair distribution of asylum responsibility among the Member States; notes that the Dublin II system, as it has been applied so far, in a context characterised by very different asylum systems and insufficient levels of asylum *acquis* implementation, has led to the unequal treatment of asylum seekers while also having an adverse impact on family reunification and integration; stresses, moreover, its shortcomings in terms of efficiency and cost-effectiveness, since more than half of agreed transfers never take place and there are still significant numbers of multiple applications; calls on the Commission and the Member States to ensure that asylum seekers who are returned to a Member State on the basis of the Dublin II Regulation are not discriminated against for the sole reason that they are Dublin II transferees; 12. Is of the opinion that safe and legal entry to the EU is a more effective tool than irregular entry, with all the risks associated with human smuggling, trafficking and distress at sea; calls, therefore, on the Member States to admit people in need of international protection through the visa system and, in particular, to make use of Article 25 of the Visa Code, according to which a Member State may issue visas with limited territorial validity when it considers this necessary on humanitarian grounds, or Article 5(4)(c) of the Schengen Borders Code, which refers to the possibility for a Member State to authorise third-country nationals to enter its territory on humanitarian grounds; calls on the Member States to reinforce their consular capacities with competent staff in regions with a high number of refugees; calls on the Commission and the Member States to explore, as a matter of priority, further possibilities for creating legal access to the EU for migrants; calls on the Member States to conclude negotiations on the proposal for a directive on seasonal migrant workers⁽⁶⁾ as a matter of priority; asks the Commission to prepare a roadmap for establishing a legal migration system for the EU; 13. Reminds the Member States that people seeking international protection should be referred to the competent national asylum authorities and have access to fair and efficient asylum procedures and humane reception conditions; 14. Calls on the Commission and the Member States to continue monitoring the current situation and to work on contingency planning, including the possibility of applying the Temporary Protection Directive⁽⁷⁾, if and when conditions demand it; 15. Calls on the Member States to respect the principle of non-refoulement, in compliance with existing international and EU law; calls on the Member States to put an immediate end to any improper and extended detention practices in violation of international and European law, in particular as regards the detention of minors, and points out that measures to detain migrants must always be used as a very last resort, be subject to an administrative decision and be duly substantiated and temporary; 16. Encourages the Member States to address acute needs through resettlement in addition to existing national quotas and through humanitarian admission; encourages the Member States to make use of the funds still available under the preparatory action / pilot project on resettlement; asks the Member States to define a contribution, increasing the amount per head; 17. Calls for the Union to agree swiftly to the new rules for Frontex-coordinated operations at sea in order to achieve effective and coordinated rescue measures at EU level and to ensure that operations are conducted in full compliance with relevant international human rights and refugee law and standards, and obligations under the law of the sea; fully supports the argument that the rule on search and rescue for joint operations should be legally binding and calls on the Member States to endorse this; 18. Calls for the Union and its Member States to work on the establishment of

effective and predictable mechanisms for identifying places of safety for the disembarkation of rescued refugees and migrants; recalls that a place of safety means a location where the survivor's safety and the protection of his or her fundamental rights, including the principle of non-refoulement, are not threatened;

19. Calls for the Union and its Member States to establish profiling and referral mechanisms, including access to fair and efficient asylum procedures for those who may be in need of international protection, based on the understanding that disembarkation does not necessarily imply sole responsibility for processing and solutions on the part of the state on whose territory people rescued at sea are disembarked;

20. Instructs its President to forward this resolution to the Commission and the Council. [\(1\)](#) OJ L

132, 29.
5.2010,
p. 11.

[\(2\)](#) OJ L
304, 22.
11.2011,
p. 1.

[\(3\)](#) OJ C
296 E, 2.
10.2012,
p. 114.

[\(4\)](#) OJ L
328, 5.1
2.2002,
p. 17.

[\(5\)](#) Council
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OJ L 50,
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3, p. 1.

[\(6\)](#) Proposal
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[\(7\)](#) Council
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OJ L
212, 7.8.
2001, p.
12.

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