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MOTION FOR A RESOLUTION

to wind up the debate on the statements by the Council and the Commission
pursuant to Rule 110(2) of the Rules of Procedure

on migratory flows in the Mediterranean, with particular attention to the tragic
events off Lampedusa
(2013/2827(RSP))

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European Parliament resolution on migratory flows in the Mediterranean, with particular attention to the tragic events off Lampedusa (2013/2827(RSP))

The European Parliament,

- having regard to the Council discussions of 7 and 8 October 2013 on the recent events in Lampedusa,
- having regard to the statements made by the President of the Commission and Commissioner Cecilia Malmström on 9 October 2013,
- having regard to the statement of the United Nations High Commissioner for Refugees of 12 October 2013¹,
- having regard to Resolution 1872(2012) of the Parliamentary Assembly of the Council of Europe (PACE), entitled ‘Lives lost in the Mediterranean Sea: Who is responsible’ and adopted on 24 April 2012,
- having regard to previous statements by the UN Special Rapporteur on the human rights of migrants and to his latest report of 24 April 2013 on the management of the external borders of the European Union and its impact on the human rights of migrants²,
- 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 Office³,
- having regard to the proposal for a regulation of the European Parliament and of the Council 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

¹ <http://www.unhcr.org/print/52594c6a6.html>

² http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.46_en.pdf

³ OJ L 132, 29.5.2010, p. 11.

External Borders of the Member States of the European Union¹,

- having regard to the position of the European Parliament adopted at first reading on 10 October 2013 with a view to the adoption of Regulation (EU) No .../2013 of the European Parliament and of the Council establishing the European Border Surveillance System (EUROSUR)²,
 - having regard to the Joint Communication of the 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, 78, 79 and 80 of the Treaty on the Functioning of the European Union (TFEU),
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas the tragedy off Lampedusa of 3 October 2013 left at least 360 migrants dead, with hundreds of others missing; whereas the subsequent tragedy off Malta on 11 October 2013 has left at least a further 23 people dead;
- B. whereas according to the International Organisation for Migration, at least 20 000 people have died at sea since 1993, demonstrating once more the need to do everything possible to save the lives of people in danger and the need for Member States to abide by their international sea rescue obligations;
- C. whereas there is still a lack of clarity at EU level regarding the division of responsibility among the various entities involved in rendering assistance to vessels in distress, and regarding responsibility for coordinating search and rescue operations;
- D. whereas smugglers and human traffickers exploit irregular migration and victims are forced, lured or deceived into coming to Europe by criminal networks, and whereas those networks pose a serious risk to the lives of migrants and a challenge for the EU;
- E. whereas the principle of solidarity and fair sharing of responsibility is laid down in Article 80 TFEU;

¹ OJ L 304, 22.11.2011, p. 1.

² P7_TA(2013)0416.

³ OJ C 296 E, 2.10.2012, p. 114.

- F. whereas the new revised Common European Asylum System (CEAS) aims to provide clearer rules and to guarantee fair and adequate protection of people in need of international protection;
- G. 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;
- H. whereas the Member States should be encouraged to make use of the funds that will be available from the Asylum and Migration Fund and of those 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;
1. Is of the opinion that Lampedusa should be a real turning point for the EU and that the only way to prevent another tragedy is to adopt a coordinated approach based on solidarity and responsibility, backed up by common instruments;
 2. 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 ensure that people can gain access to the Union asylum system in a safe manner without having resort to people smugglers or criminal networks and without putting their lives in danger;
 3. Calls on the Member States to explore and promote all existing EU legislation and procedures allowing safe entry into the EU; notes that legal entry into the EU is preferable to more dangerous irregular entry, which could entail human trafficking risks;
 4. Calls on the Commission and the Member States to consider the tools available under the EU’s visa policy in the region, with a view to facilitating legal channels for migration into the EU and thereby helping to reduce the impetus for irregular immigration into the EU;
 5. Calls for the EU and its Member States to monitor mixed migration flows by using the available European and national instruments, and to maintain good coordination and communication, for instance through the gathering and analysis of relevant information;
 6. Calls for the Union, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) and the Member States to ensure that assisting migrants in distress and rescue at sea is among the key priorities in implementing the newly adopted EUROSUR Regulation;
 7. Calls for the EU to increase its cooperation with third countries, in particular in the context of its Neighbourhood Policy, inter alia by supporting and encouraging those third countries to fulfil their obligations under international law, including with respect to

rescue at sea, protection of refugees and respect for fundamental rights;

8. 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 CEAS are correctly implemented;
9. Underlines, in particular, the importance of sharing financial responsibility in the field of asylum, and recommends creating a well-resourced mechanism based on objective criteria to reduce the pressure on Member States receiving higher numbers of asylum seekers and beneficiaries of international protection, in either absolute or proportional terms;
10. Recalls that EU solidarity should go hand in hand with responsibility; reminds the Member States of their 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;
11. Calls on the co-legislators, in particular the Council, to agree swiftly to the new interception rules for Frontex-coordinated operations at sea in order to achieve effective and coordinated rescue measures at the 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;
12. Calls for the Union and its Member States to revoke or review any legislation that criminalises people assisting migrants at sea; asks the Commission to propose amending Council Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence¹ in order to clarify that the provision of 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;
13. Calls for the Union and its Member States to ensure that shipmasters undertaking search and rescue operations are not accused of facilitating the smuggling of those rescued, or faced with criminal charges;
14. 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;
15. 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;
16. 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

¹ OJ L 328, 5.12.2002, p. 17.

European law, and points out that measures to detain migrants must always be subject to an administrative decision, and must be duly substantiated and temporary;

17. 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;
18. Calls on the Member States to consider, where necessary, applying Article 3(2) of Regulation 604/2013¹ in order to assume responsibility for the asylum claims of people who are at risk of being unable to enjoy access to their rights in any Member State unable to fulfil its obligations; affirms that, similarly, the Member States should consider applying Article 15 of the aforementioned regulation in order to bring extended family members together;
19. 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;
20. Calls for an increase in the respective budgets of the European Asylum Support Office (EASO) and of Frontex; recalls that proper funding of these instruments is vital in order to develop a coordinated approach;
21. Calls on Frontex and the Member States to ensure that all border guards and other personnel of the Member States who participate in the European Border Guard Teams, along with Frontex staff, receive training in relevant Union and international law, including fundamental rights, access to international protection, and guidelines for identifying persons seeking protection and directing them towards the appropriate facilities, in accordance with Article 5 of the revised Frontex Regulation;
22. Welcomes the Commission's intention to establish a task force on the issue of migratory flows in the Mediterranean; insists that this can be considered only to be a first step towards a more ambitious approach;
23. Calls, generally, for a more holistic approach to be adopted in respect of EU policy on asylum, legal migration, employment, irregular immigration, visas, external borders, foreign affairs and development in order to ensure a comprehensive approach to interlinked migration issues;
24. Instructs its President to forward this resolution to the Council and the Commission, and the governments and parliaments of the Member States.

¹ OJ L 180, 29.6.2013, p. 31.