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B6-0268/2006

## **MOTION FOR A RESOLUTION**

to wind up the debate on the statement by the Commission

pursuant to Rule 103(2) of the Rules of Procedure

by Martine Roure and Louis Grech

on behalf of the PSE Group

on the situation of refugees in Malta

**B6-0268**

**European Parliament resolution on the situation of refugees in Malta**

*The European Parliament,*

- having regard to the Universal Declaration of Human Rights, and in particular Article 14 thereof, which says that 'everyone has the right to seek and to enjoy in other countries asylum from persecution',
  - having regard to the 1951 Geneva Convention on the status of refugees, and in particular Article 31 thereof on refugees unlawfully in the country of residence,
  - having regard to the European Human Rights Convention, and in particular Article 5 thereof under which 'Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the case of lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so';
  - having regard to the EU Charter of Fundamental Rights<sup>1</sup>, and in particular Article 1 thereof on the inviolability of human dignity and Article 18 thereof on the right of asylum,
  - having regard to Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers and Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted,
  - having regard to Council Regulation (EC) No 343/2003 of 18 February 2003 (Dublin II) establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national,
  - having regard to Article 6 of the EU Treaty and Article 63 of the EC Treaty,
  - having regard to Rule 103(2) of its Rules of Procedure,
- A. whereas a delegation from the Committee on Civil Liberties, Justice and Home Affairs travelled to Malta on 24 March 2006 to visit the administrative detention centres, in particular the Safi and Hal Far centres and Lyster Barracks,
- B. having regard to the findings made on the spot by the members of the delegation and reported in the Maltese press,
- C. whereas Malta is located at the southern borders of the European Union, is a small island

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<sup>1</sup> OJ C 364, 18.12.2000, p. 1.

of 316 sq. km with a population of 400 000, and a population density of 1200 people per sq. km, and clearly has only a limited capacity to take in and accommodate the migrants and asylum seekers who regularly land in large numbers on its coastline, in particular since Malta's accession to the European Union,

- D. whereas the annual average number of people arriving in Malta is equivalent to 45% of the number of births in Malta and whereas, in relation to population, one arrival in Malta corresponds to 114 Italy, 150 in France and 205 in Germany,
- E. whereas in 2005 Malta took in 2.9 asylum seekers for every 1000 inhabitants putting it in second place in the EU behind Cyprus,
- F. whereas Malta spends 1% of its national budget on coping with the current situation, which can only become more acute in the months and years ahead,
- G. whereas Malta employs a significant proportion of its army and police force, more than 10% of manpower, in dealing with the humanitarian emergency and managing detention and reception centres,
- H. whereas Malta is not the final destination of people who arrive on the island, who say that they want to go to other EU countries,
- I. whereas these considerations can in no circumstances justify keeping people in detention for periods as long as 18 months or asylum seekers having to wait for more than eight months on average for their asylum interview,
- J. whereas the Maltese authorities do not have enough staff to process asylum applications within a reasonable period,
- K. whereas some of the people arriving Malta come from war-torn countries, in particular the Horn of Africa and Darfur, and they cannot be sent back to their countries of origin,
- L. whereas illegal immigration and the illegal entry of asylum seekers are not criminal offences, but administrative offences,
- M. whereas the detention of asylum seekers can be no more than a measure of last resort 'decided individually', which must 'not affect the unalienable sphere of private life', and must 'guarantee an adequate standard of living' as required by Directive 2003/9/EC on the reception of asylum seekers, which came into force on 5 February 2005,
- N. whereas residence in open centres is always preferable to that in real detention centres, as shown by the experience of Ceuta and Melilla,
- O. whereas, in the event of detention, the maximum period may not exceed a reasonable time and detention must apply only to people who are to be deported or sent back to the border and should in no case apply to asylum seekers,
- P. whereas the growing number of migrants and asylum seekers in Malta may be one of the causes of the development of racist and xenophobic sentiment among Malta's population,

- Q. whereas the European Union should intervene to support Malta in its efforts to manage migratory flows, as is indeed the wish of the Maltese authorities,
- R. whereas, for Malta and for other small countries, accession to the European Union has entailed problems in applying Regulation (EC) No 343/2003 of 18 February 2003 (Dublin II),
- S. whereas the Commission is required to review Regulation (EC) No 343/2003 of 18 February 2003 (Dublin II), within three years of its entry into force in March 2003,
- T. having regard to Communication COM(2006)67 on strengthened practical cooperation adopted by the Commission on 16 February 2006 which states that 'the first evaluation of the Dublin Regulation<sup>1</sup>, which will take place in 2006, will also provide a useful focal point for consideration of how the Regulation might be adjusted in certain situations to ensure that Member States were not unduly disadvantaged by their geographic location',
- U. whereas the review of Regulation (EC) No 343/2003 of 18 February 2003 (Dublin II) should examine the conclusions of the forthcoming report by the Office of the UN High Commissioner for Refugees on Dublin II and the reports of NGOs on the same matter, in particular the ECRE/ELENA report,
1. Recognises the problems faced by Malta in managing the migration emergency in recent years, caused in particular by Malta's accession to the European Union;
  2. Expresses its solidarity with the Maltese authorities and forces of law and order that face a significant problem, bearing in mind Malta's size and population and the fact that the final destination of migrants and asylum seekers is not Malta;
  3. Welcomes the transparency afforded by the Maltese authorities, who have given the delegation from the Committee on Civil Liberties, Justice and Home Affairs free access to the centres and, for the first time, to the press;
  4. Condemns the inhuman and degrading conditions of migrants and asylum seekers in the administrative detention centres in Malta;
  5. Calls on the Maltese authorities to allow NGOs full access to closed detention centres and calls on the NGOs responsible to establish a permanent presence in these centres so as to ensure access to medical and legal aid;
  6. Calls on the Maltese authorities to apply Directive 2003/9/EC on the reception of asylum seekers more rigorously, in particular with regard to life in detention centres;
  7. Calls on the Maltese authorities to keep asylum seekers in open centres and to restrict detention in closed centres to illegal migrants who are to be deported or sent back to the border, in accordance with international law and European Union law;

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<sup>1</sup> Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, OJ L 50, 25.2.2003).

8. Insists that the Maltese authorities should cut the period of detention of migrants significantly and should not systematically detain asylum seekers;
9. Expresses concern at the xenophobic and racist attitudes that have developed in Malta following the massive influx of migrants and asylum seekers to the island;
10. Advocates a greater role for the European Union in managing humanitarian emergencies linked to migratory flows and asylum seekers;
11. Calls on the Council and the Member States to give practical aid to Malta by:
  - sending groups of experts, including independent experts, to provide assistance in determining asylum-seeker status, and
  - sending groups of experts, including independent experts, to advise on compliance with Directive 2003/9/EC on the reception of asylum seekers;
12. Considers that the Member States of the European Union should show greater solidarity vis-à-vis Member States that are the destinations of migratory flows into the EU and calls on Member States to admit asylum seekers from Malta and other small countries to their territory, in particular by using the funds provided by the ARGO programme and the European Refugee Fund 2008-2013;
13. Calls on the Member States to systematically apply the humanitarian clause (Article 15) of Regulation (EC) No 343/2003 (Dublin II), including for asylum seekers from Malta so as to permit their reunification with family members and other dependent relatives in another Member State;
14. Calls on the Commission to propose as soon as possible the creation of an emergency fund to deal with humanitarian crises in Member States;
15. Urges the Commission to launch an initiative as soon as possible to revise Regulation (EC) No 343/2003 (Dublin II) which questions its basic principle, namely that the Member State responsible for processing an asylum application is the first country of entry, which places an intolerable burden on countries in the south and east of the EU, and introduces a fair mechanism for burden sharing among Member States;
16. Calls on the Commission, as part of this review, to propose practical ways of amending Regulation EC No 343/2003 (Dublin II) in particular:
  - to ensure family reunification by
    1. introducing a broader definition of the family for separated minors,
    2. allowing family reunification at all stages of the asylum application up until the final decision,
    3. allowing reunification with a member of the family legally resident in a Member State for other reasons, such as subsidiary protection,

to protect the most vulnerable groups such as separated minors by allowing an application by an unaccompanied minor to be considered by the Member State in which the family member is living,

to allow a right of appeal having suspensory effect against any transfer provided for by Regulation EC No 343/2003 (Dublin II);

17. Hopes that people enjoying protection will be able to move freely to Member States where they have family ties, thus facilitating their integration into society;
18. Calls on the Commission, as guardian of the Treaties, to ensure compliance with the right of asylum in the European Union, in accordance with Article 6 of the EU Treaty and Article 63 of the EC Treaty, and in particular with Directive 2003/9/EC on the reception of asylum seekers and Directive 2004/83/EC<sup>1</sup> on the minimum standards for obtaining refugee status;
19. Asks the Council to go ahead, in conjunction with Parliament, with adoption of the 'return' Directive, in compliance with international commitments, which provides, inter alia, for harmonisation of the conditions for detaining illegal migrants in the European Union and detention solely as a last resort for people who are to be deported;
20. Draws attention to the need for a Community immigration and asylum policy based on the opening of channels for legal immigration and the definition of common standards for protection of the fundamental rights of immigrants and asylum seekers throughout the Union, as established by the 1999 Tampere European Council and confirmed by The Hague programme;
21. Instructs its Committee on Civil Liberties, Justice and Home Affairs to monitor the measures taken by the Maltese authorities to remedy the situation and comply with asylum law, as well as the legislative measures required at European level;
22. Further instructs the Committee on Civil Liberties, Justice and Home Affairs to continue its work of monitoring living conditions in detention centres in the European Union, as it has done in Lampedusa, Ceuta and Melilla, Paris and Malta, and wherever necessary in the rest of the European Union;
23. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the Office of the UN High Commissioner for Refugees.

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<sup>1</sup> OJ L 304, 30.9.2004, p. 12.