

## Resolution as adopted

\* subject to final checking by the authors

### **Measures for a more open European Union – No more deaths in the Mediterranean Sea**

#### **Preamble**

According to the International Organisation for Migration at least 20,000 people have died at sea since 1993. In Spring 2011, the United Nations High Commissioner for Refugees (UNHCR) reported that 1,500 asylum seekers died while trying to cross the Mediterranean<sup>1</sup>. The PERCO has reported that migrants have been pushed back at land borders<sup>2</sup>. The Lampedusa tragedy in October 2013 left more than 300 migrants dead.

According to the UNCHR, around 80% of the world's refugees stay in developing countries. Only a small percentage of refugees reach the EU's borders. There is an urgent need to review the EU's approach to migration and asylum policy regarding the protection of the lives of people in danger, and the need for all European States to fulfill their international sea rescue obligations.

People are fleeing their homes in Syria. Over two million have fled to neighbouring countries. Half of them are children. According to estimates, more than 100,000 people have died and thousands have disappeared or have been arrested. The European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) receives EU funding for its operations aimed at preventing Syrian refugees from reaching the EU. Apart from Syria, a growing number of refugees also originate from Eritrea, Afghanistan or Somalia. Instead of protecting people in need, the EU is protecting itself against refugees!

At present, European and national migration policies, increasingly based on repressive and security concerns, criminalise migrants. For more than 10 years, the closure of legal entry channels to the EU has been accompanied by repressive legislations that prevent migrants and refugees access to the European territory. The only objective of these policies and measures is to control migration flows.

The EU's initiatives for preventing irregular entry, leads to serious, sometimes lethal consequences for asylum seekers and migrants, who are often forced to take dangerous routes and make use of exploitative smugglers. More action is needed to save people at sea, but it's clear that this responsibility cannot be met solely by countries that are already in difficult situations.

At the same time, the EU is moving forward with border control measures through the European Border Surveillance System (EUROSUR), "Smart Borders" and the mission of FRONTEX. The European Parliament is currently dealing with proposals by the European Commission to intercept boats in the Mediterranean Sea and push them back to Northern Africa. The European Data Protection Supervisor has found their proposed methods

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<http://www.unhcr.org/4e69fec09.pdf>

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<http://www.ifrc.org/PageFiles/89645/PERCO%20Postion%20on%20Access%20to%20International%20Protection%20final%20adopted%20Glasgow%2021102011.pdf>

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disproportionate, intrusive and costly, making it complicated for individuals to exercise their rights<sup>3</sup>. When it comes to letting people in, every cent is counted and questioned. However, the EU has no problem wasting considerable resources on keeping people out.

Regulations and directives, voted on earlier this year, are not fulfilling the aim of protecting refugees. A streamlined coordination mechanism should be set up, in which states can both exchange information and engage in substantial cooperation. Participation in these mechanisms should become compulsory, in order to avoid redundancy and inadequate protection of refugees. At present, the absence of such a coordination mechanism leads to loopholes and exceptions that put migrants at risk of being treated differently in European countries, making their chances for asylum unclear, and risking detention simply for the reason of asking for asylum. 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. Member States can make use of funds available under the Preparatory Action to 'Enable the resettlement of refugees during emergency situations'.

If legal ways to access international protection are not allowed, Member States obligations under the 1951 Refugee Convention cannot be said to be fulfilled.

### **The European Greens:**

Witnessing the ongoing construction of Fortress Europe and convinced that the events in Lampedusa should serve as a real wake-up call for Europe, want to focus the energy and resources on protecting human rights and facilitating international protections. We urge the European Union and its Member States to take action for a Union that facilitates, rather than obstructs, third country nationals' search for international protection. Today Europe must stand to its values, respect international rights and take its responsibility. We call for a fundamental reform of migration policy and to adopt a common European migration policy, based on respect of Human rights and international laws, common responsibility and solidarity.

### **We promote the following positions:**

1. The EU must acknowledge that the obligation to save people prevails over all other rules and laws; the EU and the participants of the Schengen agreement must adopt a coordinated approach based on solidarity and responsibility, backed up by common instruments; 15 years after EU leaders promised to do so at Tampere, there is also a need to finally make a common asylum system a reality.
2. A more coherent approach to the reception of asylum seekers and migrants, and greater solidarity with Member States facing particular pressure (notably at the eastern borders and southern coasts) is needed, taking into account the wishes and needs of the asylum seekers themselves. The budget of the European Asylum Support Office (EASO) needs to be increased. To assure the structural and continued financial support of those

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[https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Opinions/2013/13-07-18\\_Smart\\_borders\\_EN.pdf](https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Opinions/2013/13-07-18_Smart_borders_EN.pdf)

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- countries facing the heaviest pressures, sound financing mechanisms should be installed. Only through structural and predictable financing mechanisms can these countries develop structural programs with a long-term perspective, rather than having to rely on short-term ad hoc measures, which only aggravate the situation in the long run.
3. The Dublin III Regulation should be fundamentally revised so that Member States are able to try claims for asylum regardless of where the asylum seeker has entered the Union. The current system is a severe restriction of the right to apply for asylum, and conflicts with the goal of shared responsibility between Member States. The Dublin Regulation puts pressure on Member States at the European Union's external borders and is one of many factors leading to unacceptable conditions for migrants in these countries.
  4. The EU, its Member States and the participants of the Schengen Agreement, must not cooperate with neighbouring countries on migration control until they have signed the Geneva Convention (as in the case of Libya) and 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.
  5. The EU cooperation policies towards the Mediterranean countries should not only be inspired or conditioned by security matters and migration control considerations. The EU Mobility Partnerships proposed to several countries in the region, in the wake of the Tunisian and Egyptian Springs are highly biased in favour of EU security interests. The EU should review and reform its cooperation with the neighbouring southern Mediterranean countries in the context of a global EU – Mediterranean and African perspective on migration.
  6. All European countries and the EU should allocate more resources to the UNHCR in order to strengthen the support in regions affected by conflict and other catastrophes.
  7. Providing avenues for safe and legal entry to the EU and the participants of the Schengen Agreement is a more effective tool than combatting irregular entry, with all risks associated. People in need of international protection should be admitted by Member States and the participants of the Schengen Agreement through the visa system<sup>4</sup>. The EU must prioritise further avenues for creating legal access to the EU for migrants, in particular, negotiations on the proposal for a directive on seasonal migrant workers<sup>5</sup>. A roadmap for establishing a legal migration system for the EU is urgent.
  8. The EU's border control systems actions must be accountable, clarifying the division of responsibilities between Member States and EU agencies. FRONTEX must be fully responsible for all acts committed during the operations that it coordinates.

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In particular, making 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 (GGEP, 12)

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Proposal for a directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment (COM(2010)0379).

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9. The mandate of FRONTEX to negotiate and enter agreements with third countries should be limited and transparent. FRONTEX should be put under an effective parliamentary control. The human rights officer and the consultative forum at FRONTEX, both successes of the Green Group in the European Parliament, need to have access to all documents and operate independently.
10. Smart Borders, with its entry/exit system (EES) and registered travellers programme (RTP), should be stopped. These initiatives amount to controlling all travellers from non-EU countries with fingerprints at the EU external borders. Smart Borders are contrary to fundamental rights and discriminatory, and will cost billions of euros and prolong queues at the European borders significantly.
11. Given the humanitarian crisis in Syria, all measures should be taken to fulfil all European States' obligations under international law. The border to Turkey is an important gateway and the focus should be to facilitate migrants' search for international protection rather than to obstruct it.
12. The EU and its Member States should activate the temporary protection directive to allow fast-track protection of Syrian and other refugees, and support Member States financially for this purpose.
13. The EU, its Member States and the participants of the Schengen Agreement, should commit to a large scale resettlement programme for Syrian and other refugees.
14. The EU, its Member States and the participants of the Schengen Agreement, should suspend visa restrictions for nationals and residents of countries facing a humanitarian crisis.
15. Embassies of EU Member States should be able to grant visas for people wishing to apply for asylum. As Platform for European Red Cross Cooperation on Refugees, Asylum Seekers and Migrants (PERCO) points out, this is already possible under EU law, but has not been implemented<sup>6</sup>.
16. Saving lives should be a priority of border management for FRONTEX, EU Member States and the participants of the Schengen Agreement. Rules on search and rescue for joint operations should be legally binding. We call on Member States to endorse this.
17. Access to asylum and the protection against asylum seekers being returned to their country of origin, need to be effectively ensured, in compliance with existing international and European law. European countries must end unlawful detention practices (particularly regarding the detention of minors). 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.
18. No more funding should be allocated to technologies aimed at keeping people out. The funds, which become available in this context, should be invested in reinforcing efficient and humane protection mechanisms.

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<http://redcross.eu/en/upload/documents/pdf/2012/Migration/PERCO%20Postion%20on%20Legal%20Avenues%20to%20Access%20International%20Protection%20within%20the%20EU%20final%20adopted%20version%2006112012.pdf>