



Strasbourg, July 6th, 2017

Dear President Juncker,

Dear Vice-President Timmermans,

Dear Commissioner Avramopoulos,

Dear President Tusk,

Dear Justice and Home Affairs Ministers,

We would like to express our concerns regarding the Joint declaration by Commissioner Avramopoulos and the Ministers of Interior of France, Germany and Italy issued on 3rd of July and the Communication on an "Action plan on measures to support Italy, reduce pressure along the Central Mediterranean route and increase solidarity" issued on 4th of July with the aim of having these measures "endorsed" at the informal JHA Council in Tallinn on 6th and 7th of July.

First of all, we would like to highlight the fact that the European Commission is required to ensure that the Treaties are properly enforced. By proposing measures to be adopted directly by the Council, the European Commission, once again, is circumventing the European Parliament's role as co-legislator, not respecting the ordinary legislative procedure.

Secondly, we would like to raise our concerns on the extremely worrying immediate measures to be taken by the Commission, the EU Agencies the EU Member States, and particularly Italy, according to the Action plan as drafted by the Commission. We strongly believe that these proposed measures will inevitably lead to a violation of human rights, notably:

- The requirement on Italy to draft a Code of Conduct for NGOs involved in Search and Rescue activities raises the concern that this is being put in place to remove the independence of SAR NGOs. This would be against the international Law of the Sea and established international humanitarian principles. Moreover, this proposal ignores completely that SAR NGOs have increasingly coordinated their work to address the humanitarian crisis in the Mediterranean, including in the form of the publication of the 1st Edition of the [Voluntary 'Code of Conduct for Search and Rescue Operations undertaken by civil society Non-Government Organisations in the Mediterranean Sea'](#) published through Human Rights at Sea. This proposal has also a symbolic nature that dismisses the essential role SAR NGOs have been playing at sea in rescuing lives while fuelling accusations against them (that have been denied

by both FRONTEX and the Commission). We urge therefore the Commission and Member States to respect the independence of NGOs and refrain from putting them in a role that contradicts their mission while there is no evidence justifying such a decision. We would like to use this opportunity to call, once again, for a large-scale coordinated proactive European Search and Rescue Operation in the Mediterranean which takes into account the key role and contribution of all actors engaging in SAR in the Central Mediterranean. This is a long-standing call of the European Parliament which was never put in place after the end of Mare Nostrum, leading thus to the need of NGOs filling the vacuum left by the EU and its Member States.

- The proposal for an increased support to Libya's sea and land border management, is not only unrealistic (especially in the southern land borders) and dangerous but it also disregards the actual situation in the country which leads to an absolute lack of a clear "chain of command" and responsibilities in the local "authorities" involved in border management. Furthermore, the proposal dismisses calls by both the UN former Special Rapporteur on Libya and international NGOs such as MSF or Human Rights Watch, to not fund and train militias which are those who are currently performing these tasks in Libya. Human rights abuses by the militias, notably in detention centers or while intercepting people at sea, have been well-documented by these stakeholders. Through funding and training of sea and land border management actors in Libya, the European Union and its Member States would de-facto contribute to actions of refoulement putting people at risk of further persecution and inhuman treatment as compared to what they experience already on a daily basis in Libya.

- The pressure on other countries in the region, notably Tunisia and Egypt, to intercept people at sea raises also concerns regarding de facto refoulement as both countries lack key safeguards in their asylum and immigration law and would result in a violation of human rights. Further concerns are raised by the absolute absence of reception capacity of these two countries which would lead both to destabilise local societies and to inhuman conditions of living for the people kept or returned there.

- The immediate measures called by the Commission on Italy, far from showing solidarity towards the country, aim at implementing and legitimising a practice of systematic detention as well as removing safeguards enshrined in European and international law when it comes to return procedures, limiting the possibility of access to international protection and the right to appeal. The call on Italy to "make wider use of inadmissibility grounds based on first country of asylum or safe third country concept" and "develop list of safe countries of origin based on the most common countries of origin of migrants arriving in Italy", coupled with a call to expedite return procedures, will also inevitably lead to a violation of asylum-seekers' right to an individual examination and remedy.

Instead of proposing short-term measures which violate our obligations under international law and which fuel far-right political views and rhetoric, we urge you to have a long-term vision in line with the current discussions at UN level for a *Global Compact on Safe, Regular and Orderly Migration* and put in place the principle of solidarity and responsibility enshrined in the Treaty at the heart of your policies abiding by Europe's duty to respect human rights and international law, including the right to international protection.

We call on you to make sure that proactive European search and rescue operations take place in order to stop the deaths at sea.

We stress once again the imminent need to provide safe and legal ways for both asylum-seekers and migrants, notably through an ambitious EU resettlement framework and the establishment of humanitarian visas and we call on you to take immediate action on this.

We urge you not to build EU migration policies around returns and externalisation of border control and search and rescue, that worsens the situation in transit and origin countries, and to build a new fair and sustainable system of allocation and sharing of responsibility among Member States where the genuine links of asylum-seekers will be fully taken into account.

Yours sincerely,

Cornelia Ernst, Member of the European Parliament

Malin Björk, Member of the European Parliament

Martina Anderson, Member of the European Parliament

Marie-Christine Vergiat, Member of the European Parliament

Marina Albiol, Member of the European Parliament

Barbara Spinelli, Member of the European Parliament

Ska Keller, Member of the European Parliament

Judith Sargentini, Member of the European Parliament

Sophie Int' Veld, Member of the European Parliament

Angelika Mlinar, Member of the European Parliament

Xabier Benito Ziluaga, Member of the European Parliament

Lynn Boylan, Member of the European Parliament

Matt Carthy, Member of the European Parliament

Stefan Eck, Member of the European Parliament

Eleonora Forenza, Member of the European Parliament

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Liadh Ní Riada, Member of the European Parliament

Miguel Urban Crespo, Member of the European Parliament

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