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*Plenary sitting*

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**B9-0342/2023**

11.7.2023

## **MOTION FOR A RESOLUTION**

to wind up the debate on the statements by the Council and the Commission

pursuant to Rule 132(2) of the Rules of Procedure

on the need for EU action on search and rescue in the Mediterranean  
(2023/2787(RSP))

**Lukas Mandl**

on behalf of the PPE Group

**Domènec Ruiz Devesa, Birgit Sippel, Juan Fernando López Aguilar**

on behalf of the S&D Group

**Fabienne Keller**

on behalf of the Renew Group

**Erik Marquardt, Gwendoline Delbos-Corfield, Grace O’Sullivan, Tineke**

**Strik, Alice Kuhnke, Damien Carême, Monika Vana, Jordi Solé, Damian**

**Boeselager, Saskia Bricmont**

on behalf of the Verts/ALE Group

**Cornelia Ernst**

on behalf of The Left Group

**B9-0342/2023**

**European Parliament resolution on the need for EU action on search and rescue in the Mediterranean  
(2023/2787(RSP))**

*The European Parliament,*

- having regard to the Universal Declaration of Human Rights of 1948,
- having regard to the Geneva Convention of 1951 and the additional protocol thereto,
- having regard to the International Convention for the Safety of Life at Sea of 1974 (SOLAS) and to the International Convention on Maritime Search and Rescue of 1979 (SAR Convention) as amended, and to the related resolutions of the International Maritime Organization (IMO), notably Resolution MSC.167(78) of 20 May 2004 entitled ‘Guidelines on the Treatment of Persons Rescued At Sea’,
- having regard to Chapter 5 of the SAR Convention on operating procedures,
- having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms,
- having regard to Article 1, Article 2(1), Article 3, Article 6, Article 18, Article 19 and Article 24(2) of the Charter of Fundamental Rights of the European Union (the Charter),
- having regard to Article 67(1), Article 77(1) and Article 77(2) of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU) No 656/2014 of the European Parliament and of the Council of 15 May 2014 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<sup>1</sup>,
- having regard to the UN Global Compact of 19 December 2018 for Safe, Orderly and Regular Migration and on Refugees,
- having regard to Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624<sup>2</sup>,
- having regard to the Commission proposals of 23 September 2020 on the New Pact on Asylum and Migration (COM(2020)0609),
- having regard to the Commission communication of 1 October 2020 on Guidance on the

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<sup>1</sup> OJ L 189, 27.6.2014, p. 93.

<sup>2</sup> OJ L 295, 14.11.2019, p. 1.

implementation of EU rules on definition and prevention of the facilitation of unauthorised entry, transit and residence<sup>3</sup>,

- having regard to its resolution of 19 May 2021 on human rights protection and the EU external migration policy<sup>4</sup>,
  - having regard to the recommendation of the Council of Europe Commissioner for Human Rights of June 2019 entitled ‘Lives saved. Rights protected. Bridging the protection gap for refugees and migrants in the Mediterranean’, to its 2021 Follow-up report entitled ‘A distress call for human rights – The widening gap in migrant protection in the Mediterranean’ and to its Human Rights Comment of September 2022 entitled ‘For the rights of the living, for the dignity of the dead – Time to end the plight of missing migrants in Europe’,
  - having regard to its resolution of 8 March 2022 on the shrinking space for civil society in Europe<sup>5</sup>,
  - having regard to the report of the United Nations’ High Commissioner for Human Rights of 11 October 2022 entitled ‘Nowhere but back: Assisted return, reintegration and the human rights protection of migrants in Libya’,
  - having regard to the EU Action Plan of 21 November 2022 for the Central Mediterranean ,
  - having regard to the EU Action Plan of 6 June 2023 for the Western Mediterranean and Atlantic routes,
  - having regard to the Report of 20 March 2023 by the UN Independent Fact-Finding Mission to Libya,
  - having regard to the report of the European Union Agency for Fundamental Rights of 6 July 2023 entitled ‘Six steps to prevent future tragedies at sea’,
  - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas according to International Organization for Migration (IOM) figures, 27 633 persons have been recorded as missing (presumed dead) in the Mediterranean since 2014; whereas the death toll has been highest in the Central Mediterranean, with the IOM reporting over 17 000 deaths and disappearances; whereas in 2022, 2 406 persons were recorded as dead or missing and for 2023 the figure has already reached 1 875 dead or missing; recalls that this route is only one of many deadly routes taken by persons seeking to reach Europe;
- B. whereas many vulnerable people such as women and unaccompanied minors are among those trying to reach Europe by crossing the Mediterranean; whereas many of these are at risk of falling victim to trafficking and exploitation and are therefore in need of

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<sup>3</sup> OJ C 323, 1.10.2020, p. 1.

<sup>4</sup> OJ C 15, 12.1.2022, p. 70.

<sup>5</sup> OJ C 347, 9.9.2022, p. 2.

immediate protection;

- C. whereas saving lives is first and foremost an act of solidarity with those at risk, but also a legal obligation under both Union law and international law, as Article 98 of the United Nations Convention of the Law of the Sea (UNCLOS) – ratified by all Member States and the Union itself – requires states to render assistance to any person in distress at sea;
- D. whereas Article 19(2)(g) of UNCLOS, read in combination with Article 17 thereof, provides that a foreign ship has the right of innocent passage through the territorial sea of state parties to the Convention and that the passage of a foreign ship must be considered to be prejudicial to the peace, good order or security of the coastal state if in the territorial sea it engages in the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal state;
- E. whereas the international law of the sea and maritime law require states to take preventive, early warning and response measures to reduce the risk of fatalities at sea, including by operating adequate and effective search and rescue (SAR) services; whereas European human rights law requires states to fulfil positive duties with regard to safeguarding the lives of those within their jurisdiction and to take preventive measures to forestall real and immediate risks to human life;
- F. whereas in the event that the Maritime Rescue Coordination Centre (MRCC) in charge of the SAR region does not assume responsibility for an operation, including cases where a failure to do so is systemic, the 2004 IMO MSC Guidelines on the treatment of persons rescued at sea consider the first Rescue Coordination Centre alerted to be responsible;
- G. whereas international maritime and human rights law, as well as Union law, require the disembarkation of persons rescued to a place of safety; whereas Union law defines ‘place of safety’ as a location where rescue operations are considered to terminate and where the survivors’ safety of life is not threatened, where their basic human needs can be met and from which transportation arrangements can be made for the survivors’ next destination or final destination, taking into account the protection of their fundamental rights in compliance with the principle of non-refoulement;
- H. whereas all vessels operating in the Mediterranean, including when engaged in rescue operations, have the obligation to respect the relevant international conventions and other applicable rules;
- I. whereas, in accordance with the Commission Guidance on the implementation of EU rules on the definition and prevention of the facilitation of unauthorised entry, transit and residence, ‘everyone involved in search and rescue activities must observe the instructions received from the coordinating authority when intervening in search and rescue events, in accordance with general principles and applicable rules of international maritime and human rights law’; further recalls that ‘criminalisation of non-governmental organisations or any other non-state actors that carry out search and rescue operations while complying with the relevant legal framework amounts to a breach of international law, and therefore is not permitted by EU law’;

- J. whereas since the end of the operation Mare Nostrum on 31 October 2014, there has been no proactive state-operated SAR in the Central Mediterranean;
- K. whereas, on 20 March 2023, the Council decided to extend the mandate of the EU Common Security and Defence Policy operation EUNAVFOR MED IRINI until 31 March 2025, tasked, inter alia, with supporting capacity building and training of the Libyan coast guard and navy;
- L. whereas the European Border and Coast Guard Agency (Frontex) is currently operational in the Mediterranean through Themis (which supports Italy in the Central Mediterranean), Poseidon (which supports Greece at the Greek sea borders with Türkiye) and Indalo (which supports Spain in the Western Mediterranean);
- M. whereas the Libyan coast guard continues to intercept or rescue a large number of persons at sea; whereas on several occasions the Joint Rescue Coordination Centre in Libya has failed to fully meet its obligations under international maritime law to coordinate rescue operations, is often unresponsive to distress calls, has hindered NGO vessels from saving lives and has put lives at risk when rescuing or intercepting persons at sea; whereas Frontex assets have been transmitting information to the Libyan Maritime Rescue Coordination Centre about people in distress at sea;
- N. whereas people intercepted by the Libyan coast guard are transferred to detention centres where they are systematically exposed to arbitrary detention in inhumane conditions, and where torture and other ill-treatment, including rape, as well as arbitrary killings and exploitation are endemic; whereas the UN High Commissioner for Refugees takes the view that Libya does not meet the criteria for it to be designated as a place of safety for the purpose of disembarkation following rescue at sea;
- O. whereas migrant smuggling and trafficking are distinct phenomena addressed by distinct legal frameworks at Union and international level; whereas human trafficking involves the recruitment, transportation or reception of a person through the use of violent, deceptive or abusive means for the purpose of exploitation, while the smuggling of migrants, according to the Protocol against the smuggling of migrants by land, sea and air (UN Anti-Smuggling Protocol) means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident;
- P. whereas in its resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, Parliament took the view that a permanent, robust and effective Union response in SAR operations at sea is crucial to preventing an escalating death toll of migrants attempting to cross the Mediterranean Sea; whereas legal and safe pathways should be created in order to reduce irregular migration and the death toll in the Mediterranean;
- Q. whereas in its resolution of 18 April 2018 on progress on the UN Global Compacts for Safe, Orderly and Regular Migration and on Refugees, Parliament called for greater SAR capacities for people in distress, for greater capacities to be deployed by all states, and for the support provided by private actors and NGOs in carrying out rescue operations at sea and on land to be acknowledged;

- R. whereas a strong and permanent solidarity mechanism between the Member States is a key priority to ensure the fair sharing of responsibility at Union level following the disembarkation of migrants after an SAR operation;
1. Expresses its deep regret and sorrow at the recurring tragic loss of life in the Mediterranean, most notably the recent shipwreck of 14 June 2023, when a fishing boat sank in the Ionian Sea off the coast of Pylos, Messenia, Greece while carrying an estimated 750 persons, of whom 104 were rescued, with 82 bodies having been recovered and the rest missing, presumed dead; urges the EU and its Member States to do their utmost to identify the bodies and the missing persons, and to inform their relatives; recalls the need to ensure the humane and dignified treatment of the survivors and calls on the Member States to make use of the temporary voluntary relocation mechanism to relocate these persons, taking into account family links and ensuring they receive adequate care;
  2. Reiterates the obligation under the international law of the sea to assist persons in distress and calls on all Member States, individually, and when acting as Member States of the EU or in relevant international forums, to fully abide by the standards of relevant international law and Union law; calls on all vessels conducting SAR operations to comply with the instructions given in compliance with relevant international and Union law by the competent Rescue Coordination Centre and to cooperate with the Member State authorities and Frontex in order to ensure the safety of migrants;
  3. Expresses its concerns that despite the large number of people rescued in recent years, the IOM has recorded 27 633 persons missing in the Mediterranean since 2014; calls on the Commission to assess current Member States' practices regarding SAR operations and to start work immediately on a new, more sustainable, reliable and permanent approach to them, replacing existing ad hoc solutions, and to provide material, financial and operational support to Member States in order to enhance the overall capacity for saving lives at sea and coordinating SAR operations;
  4. Calls, moreover, on the Member States and Frontex to enhance proactive SAR operations by providing sufficient vessels and equipment specifically dedicated to SAR operations and personnel along the routes where they can make an effective contribution to saving lives; calls on the Commission to support such initiatives politically and financially; calls on Member States to make full use of all vessels able to assist in SAR operations, including vessels operated by NGOs; believes that NGO vessels and merchant shipping should not be a substitute for the due fulfilment by the Member States and the Union of their SAR obligations; calls for the establishment of a comprehensive EU SAR mission implemented by the Member States' competent authorities and Frontex;
  5. Considers that all actors in the Mediterranean should proactively transmit information and, where appropriate, relay mayday messages concerning persons in distress at sea to the authorities responsible for SAR operations and, where appropriate, to any vessels in the vicinity that could imminently engage in SAR and bring those persons to a safe port of disembarkation; encourages Member States to take due account of the Commission Guidance on the implementation of EU rules on the definition and prevention of the facilitation of unauthorised entry with a view to enabling the work of all SAR actors;

further calls on Member States to maintain their nearest safe ports open to NGO vessels and not to criminalise those who provide assistance to migrants in distress;

6. Calls on the Commission to step up its coordinating role within the SAR Contact Group by convening more regular meetings and associating all actors involved in SAR, including NGOs and shipowners, with a view to developing greater synergies and common practices in order to ensure rapid response in the event of incidents at sea; calls on the Commission to report regularly on the activities of the SAR Contact Group to Parliament;
7. Calls on Frontex to significantly enhance the information available about its operational activities in relation to SAR and to make accurate and comprehensive information publicly available as regards its activities, while acknowledging its legal obligation not to reveal operational information that ‘would jeopardise attainment of the objective of operations’; calls on Frontex to fulfil its specific duties under the European Border and Coast Guard Regulation, including that of regularly briefing the Members of Parliament to which it is accountable with detailed information; stresses, in particular, the need for more detailed post-operation information;
8. Calls on the Commission to examine whether actions taken by some Member States in accordance with their national law to prevent rescue boats from entering their territorial waters without prior authorisation are in line with Union and international law and Article 18 of the Charter of Fundamental Rights, read in the light of the European Convention on Human Rights and the Geneva Convention, and to take appropriate action where, in its assessment, the actions of Member States do not comply with Union law;
9. Reiterates that EU Member States should ensure prompt and independent investigation of all shipwrecks, seeking the expertise of specialised human rights bodies in these investigations; underlines that the EU should find ways to apply the transparency and accountability principles laid out in the EU rules when investigating shipwrecks;
10. Calls on the Commission to share comprehensive information and data on the level of support provided through funding from the EU and the Member States to border and coast guards in third countries, including Libya, Türkiye, Egypt, Tunisia and Morocco, not only through direct transfers but also the form of material, technical and training assistance, including as part of the EU agencies’ activities; calls on the Commission and the Member States to assess the allegations of serious fundamental rights violations by the Libyan coast guard and to end cooperation in the event of serious fundamental rights violations faced by people intercepted at sea;
11. Calls on the Commission, Member States and Frontex to ensure that disembarkation takes place only in a place of safety in accordance with relevant international and Union law, and to ensure that such a port is the nearest safe port available for disembarkation; reminds all actors that they must refrain from issuing instructions to shipmasters that may, directly or indirectly, lead to an unnecessary delay in the safe disembarkation of rescued persons or the disembarkation of rescued persons in an unsafe place;
12. Reiterates that safe and legal pathways are the best way of avoiding loss of life and urges Member States to intensify resettlement measures and, where necessary, put in

place humanitarian corridors to the European Union;

13. Recalls that European integrated border management should be implemented as a shared responsibility of Frontex and the national authorities responsible for border management, including coast guards to the extent that they carry out maritime border surveillance operations and any other border control tasks;
14. Strongly condemns criminal smugglers and traffickers who exploit vulnerable individuals and endanger lives at sea, and calls for intensified efforts to dismantle their criminal networks, prosecute those responsible and disrupt their illicit activities;
15. Recalls that people in third countries must be informed at an early stage by media and educational institutions that the route across the Mediterranean is deadly and dangerous; calls for cooperation with those third countries to this end;
16. Notes that Parliament has previously taken the view that a permanent, robust and effective Union response in SAR operations at sea is crucial to preventing an escalating death toll of migrants attempting to cross the Mediterranean; takes the view that the proper implementation of obligations under international law on SAR requires a more proactive and coordinated approach to SAR operations from the Union and its Member States; remains convinced that Frontex – in close cooperation with Member States – should play a key role in a more proactive Union response to SAR;
17. Considers that, in line with the recommendations of the Fundamental Rights Agency, as a first step, the Commission and Member States should agree to exchange SAR protocols and develop best practices to allow Member States to adjust their SAR protocols; further believes that the Commission should also consider linking EU funding for maritime border management to the use of protocols that ensure timely assistance to people in danger at sea;
18. Instructs its President to forward this resolution to the Commission, the Council, the Member States and their national parliaments, Frontex, the European Union Asylum Agency, Europol, the Fundamental Rights Agency, the UN High Commissioner for Refugees, the International Organization for Migration and NGOs undertaking SAR activities.