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## **The large-scale arrival of irregular migrants, asylum seekers and refugees on Europe's southern shores**

### **Report<sup>1</sup>**

Committee on Migration, Refugees and Population

Rapporteur: Ms Tineke STRIK, Netherlands, Socialist Group (SOC)

### *Summary*

Over 23 000 boat-people, mainly from Tunisia, have arrived on the tiny Italian island of Lampedusa. The first boats coming from Libya have now started to reach Malta and Italy. These numbers of arrivals are, however, insignificant compared to the 460 000 people who have fled from Libya to neighbouring countries, and thousands more are fleeing every day. Europe has to tackle the humanitarian issues arising from this wave of boat people, and give international protection to those in need. Many people will, however, have to be returned to their countries of origin if they do not have international protection needs.

Europe will also have to show more solidarity with the countries of North Africa, emerging or in crisis. Furthermore, Europe will also need to show more solidarity within its borders, in particular if countries such as Italy and Malta, and others, continue to receive large-scale arrivals from North African countries.

The report recognises that Europe will have to examine, as a priority, long-term solutions. These may be costly, but they are essential if Europe does not want to run the risk of having a number of unstable states on its southern maritime borders, with large populations of unemployed youth with little economic prospects or with substantial numbers of persons seeking international protection from ongoing conflicts.

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1. 2011 - Second part-session



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## A. Draft resolution<sup>2</sup>

1. The uprisings in Tunisia, Egypt and Libya, during the course of this year, have brought about important and brave political changes at Europe's southernmost borders. These changes have, however, created a new wave of desperate people taking desperate measures to cross the Mediterranean to flee danger or economic hardship.
2. So far this year, over 23 000 persons have arrived from Tunisia in precarious vessels on the small Italian island of Lampedusa, which has a winter population of only 5 000 inhabitants. The vast majority of these arrivals have been irregular migrants fleeing for economic reasons.
3. In the last two weeks, the first boats have started to arrive from Libya. Over 1 000 persons reached Malta and almost 900 landed in Italy. Without wanting to be alarmist, it is clear that many more could come, taking into account that 460 000 people have already fled Libya and sought refuge, mainly in Tunisia (228 000 people) and Egypt (182 000 people).
4. Thousands continue to flee Libya each day. For the moment, these persons are not Libyans; they are primarily individuals who originally came from countries where there are ongoing conflicts who then have got caught up in the Libyan conflict before being able to flee. Many of these persons cannot be repatriated to their countries of origin and Europe will need to address their asylum or other international protection needs. The situation will become even more complex should a mass exodus of Libyans, with *prima facie* protection needs, because of either the increasing terror of Colonel Gaddafi or the emergence of a civil war, start to flee the country, or if Colonel Gaddafi follows up on his threat of using irregular migration as a weapon against Europe.
5. In the meantime, the death toll from overcrowded, unseaworthy boats failing in their attempts to reach Europe's shores continues to climb, with boats with as many as 335 persons on board reported missing at sea.
6. The Parliamentary Assembly recognises that one of the first priorities is to deal with the humanitarian and international protection needs of those who have arrived on Europe's shores, primarily in Italy and Malta. Member states, the European Union, international organisations, civil society and others all have a contribution to make and need to show solidarity with the frontline states. This solidarity and willingness to share responsibility needs to extend to the coast of North Africa and the many thousands of refugees and displaced persons still seeking ways to return home after fleeing from Libya. It should also extend to those migrants and refugees who are trapped in Libya awaiting the chance to flee.
7. The Assembly notes that while there has been a wave of arrivals, there has not yet been the feared total deluge. This distinction is important because it has not always been clearly made by politicians, the media and others, leading to heightened fear and misunderstanding among the general public and calls for exaggerated responses.
8. The Assembly recognises the pressure that the frontline countries of the Council of Europe are under, and welcomes their efforts to provide humanitarian assistance in line with international obligations and encourages them to continue with these efforts. The Assembly reminds states of their international obligations not to push back boats which are carrying persons with international protection needs.
9. The Assembly notes that the current inability of the Italian authorities to return Tunisian irregular migrants has led them to provide these persons with temporary residency permits for six months. It also notes that this risks creating further tension between France and Italy, bearing in mind that France has intercepted and returned many Tunisians who have crossed the border from Italy.
10. The Assembly considers that it is never too soon to start dealing with the root causes of this wave of boat people. Some of these causes can be dealt with relatively rapidly, others are more complicated and will require more time. Tackling these causes will, however, require political will, a readiness to compromise and will require financing. The root causes are clear; they are conflicts, difficult economic situations, lack of democratically legitimised governments, of political stability and authority and a population explosion in the southern Mediterranean.

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2. Draft resolution adopted unanimously by the committee on 12 April 2011.

11. Europe will need to invest heavily in these countries in the economic and democratic sense. Furthermore, negotiation will be necessary on sensitive issues such as the return of nationals and opportunities for legal avenues of migration. If Europe does too little, it risks having as neighbours countries in North Africa with populations in conflict and poverty, their youth lacking prospects, with major consequences in terms of irregular migration.

12. The Assembly, recognising that events in North Africa are of concern to all member states of the Council of Europe, therefore calls on member states to:

12.1. acknowledge that the arrival of a large number of irregular immigrants on the southern shores of Europe is the responsibility of all European states and requires a solution which envisages the need to share this responsibility collectively. The Assembly reminds member states of the repeated appeals of the Council of Europe Commissioner for Human Rights for the need for effective responsibility sharing;

12.2. provide urgent humanitarian aid and assistance to all those persons arriving on Europe's southern shores and other borders, including through the provision of adequate accommodation, shelter and health care, as highlighted previously in Assembly [Resolution 1637 \(2008\)](#) on Europe's boat people: mixed migration flows by sea into southern Europe;

12.3. refrain from automatic detention and have recourse to detention only where there is no other reasonable alternative, ensuring that conditions comply with minimum human rights standards as outlined in Assembly [Resolution 1707 \(2010\)](#) on detention of asylum seekers and irregular migrants in Europe;

12.4. ensure that vulnerable persons, including women and children, victims of torture, victims of trafficking, and the elderly, are not detained and receive appropriate care and assistance;

12.5. guarantee the right of asylum and non-refoulement through:

12.5.1. ensuring that there are no push-backs of boats with persons in need of international protection;

12.5.2. assuring the quality and consistency of asylum decisions in line with Assembly [Resolution 1695 \(2009\)](#) on improving the quality and consistency of asylum decisions in the Council of Europe member states;

12.6. ensure that, in screening arrivals and carrying out asylum determinations, these are carried out without delay, but that speed is not given preference over fairness;

12.7. provide full support to the Office of the United Nations High Commissioner for Refugees (UNHCR), International Organisation for Migration (IOM), International Committee of the Red Cross (ICRC) and other international and national organisations providing humanitarian and other assistance, both in North Africa and in the European countries of arrival, and generously take part in resettlement programmes for refugees stranded in North African countries;

12.8. show solidarity in the challenges faced, which includes sharing responsibility with front-line states, including by:

12.8.1. giving further support to the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) and the newly established European Asylum Agency (EASO), and encouraging further use of European Union funding available through the External Borders Fund, the Return Fund, the European Refugee Fund and the Integration Fund;

12.8.2. looking into the possibility of taking on commitments for resettlement of those with international protection needs from the European countries of arrival and on suspending the application of the Dublin Regulations;

12.8.3. working together, including with the European Union, on the issue of voluntary and forced returns, taking into account necessary human rights safeguards when relying on readmission agreements in line with Assembly [Resolution 1741 \(2010\)](#) on readmission agreements: a mechanism for returning irregular migrants;

12.8.4. acknowledging the particularly difficult situation in which Malta finds itself, in view of the size of its territory, its high population density and limited human and material resources, and committing to the resettlement of those with international protection needs.

13. The Assembly, taking into account that it is necessary to tackle as soon as possible the root causes of these large-scale arrivals of irregular migrants, asylum seekers and refugees, urges member states to:

13.1. provide support for economic, social, democratic and legal reform and development in Tunisia and Egypt, and as appropriate in Libya;

13.2. provide legal avenues for migration (such as through seasonal work, circular migration and other forms of migration) for persons coming from the affected countries, in order to reduce the pressure of irregular migration and a means of support for the countries concerned;

13.3. be ready to provide substantial assistance to Libya to stabilise the country as soon as it comes out of its current conflict.

14. If a mass exodus of Libyan refugees occurs because of increasing terror by Colonel Gaddafi or the emergence of a civil war, the Assembly encourages the European Union member states to consider applying the temporary protection directive (Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof).

15. The Assembly reminds member states of the financing possibilities offered by the Council of Europe Development Bank and encourages them to present projects asking for loans to contribute to the creation of adequate reception facilities and infrastructures to help to meet the needs of these vulnerable persons.

## **B. Draft recommendation<sup>3</sup>**

1. The Parliamentary Assembly refers to its Resolution ... (2011) on the large-scale arrival of irregular migrants, asylum seekers and refugees on Europe's southern shores.
2. In this context, the Assembly welcomes, following the initiative of the Secretary General of the Council of Europe, the quick response given by the Committee of Ministers to possible Council of Europe action in the event of massive arrivals of asylum-seekers and migrants from the southern Mediterranean. It also welcomes the support given by the Committee of Ministers to the Secretary General's proposals regarding the elaboration of emergency action plans and the training of officials dealing with requests for asylum.
3. While hoping that these measures will be implemented without delay, the Assembly underlines that the Council of Europe has a greater role to play, both in the short and long term.
4. The Assembly believes that the experience of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Council of Europe Commissioner for Human Rights and the Assembly could be helpful for the authorities involved in dealing with these large-scale arrivals of migrants and asylum seekers. It recommends that the Council of Europe bring together those responsible for reception and detention in member states, together with relevant Council of Europe bodies, to look at best practices and methods of co-operation to ensure that minimum standards of human rights are protected and that there is clarity on what is expected from member states.
5. The Assembly also urges the Committee of Ministers to examine, with the Council of Europe Development Bank, the extent to which it can support member states in the reception of irregular migrants, refugees and asylum seekers, and the integration of those found to be in need of international protection.

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3. Draft recommendation adopted unanimously by the committee on 12 April 2011.

## C. Explanatory memorandum by Ms Strik, rapporteur

### 1. Introduction

1. The large-scale arrival of irregular migrants, asylum seekers and refugees on Europe's southern shores is not a new phenomenon. The Parliamentary Assembly has already dealt with this issue in several reports and has adopted a number of relevant texts, in particular [Resolution 1637 \(2008\)](#) on Europe's boat people: mixed migration flows by sea into southern Europe; [Recommendation 1645 \(2004\)](#) on access to assistance and protection for asylum seekers at European seaports and coastal areas and [Resolution 1521 \(2006\)](#) on the mass arrival of irregular migrants on Europe's southern shores.

2. The events this year in Tunisia, Egypt and in Libya have, however, brought about a new wave of desperate people, using desperate means to flee danger and/or to find a new life.

### 2. Timeline of events

- Tunisia: On 17 December 2010, a young street vendor, Mohamed Bouazizi, set himself on fire in a protest against the seizure of his merchandise by the police. This tragic measure was followed by a wave of protests across the country, which culminated, on 14 January 2011, with the departure of the President of Tunisia, Mr Ben Ali, who fled the country.
- Egypt: On 17 January 2011, a man set himself on fire near the parliament building in protest about the poor living conditions in Egypt. In the following days, Egyptians took to the streets against the regime of President Hosni Mubarak. After eighteen days of mass protest, President Mubarak resigned on 11 February 2011, and handed power over to the military.
- Libya: Protests erupted in Libya on 16 February after a human rights campaigner was arrested. On 25 February, the protest wave reached Tripoli. Rebel forces along with civilians took over a large number of towns, and later came under attack from forces loyal to Colonel Muammar Gaddafi. On 18 March 2011, the United Nations Security Council voted in favour of a no-fly zone and air strikes against Colonel Gaddafi's forces. On 20 March 2011, British, American and French air forces participated in Operation Odyssey Dawn<sup>4</sup> and attacked Colonel Gaddafi's military. A few days later, NATO took control of the military operations of the allies in Libya. On 30 March, Libya's foreign minister resigned.
- Protests, of different intensity, are also ongoing in Yemen, Syria, Morocco, Algeria, Saudi Arabia, Bahrain and Jordan.

3. On 8 March 2011, the Assembly's Political Affairs Committee held an exchange of views on the situation in Egypt. On 11 March 2011, the Standing Committee held a current affairs debate on the Council of Europe and emerging democracies in the Arab world. On 15 March 2011, the Committee on Migration, Refugees and Population, meeting in Brussels, decided to ask the Bureau to propose to the Assembly to hold a current affairs debate or alternatively a debate under urgent procedure at the April part-session on the subject of the large-scale arrival of irregular migrants, asylum seekers and refugees on Europe's southern shores. The Committee on Migration, Refugees and Population has also accelerated its work on "Rescue at sea" and "Responsibility sharing in Europe" in view of the urgency of finding solutions. Both reports ought to be debated at the forthcoming June part-session.<sup>5</sup>

4. On 15 March 2011, upon the initiative of the Secretary General of the Council of Europe, the Committee of Ministers held an extraordinary meeting to examine possible Council of Europe action in the event of the massive arrival of asylum seekers and migrants from the southern Mediterranean. At this meeting, the Committee of Ministers supported the Secretary General's proposals on the elaboration of emergency action plans, as well as proposals regarding the training of officials dealing with requests for asylum.

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4. In this context, it should be recalled that a distinction should be made and maintained between two separate bodies of law, namely the right to resort to armed force (*jus ad bellum*) and the obligation to abide by the provisions of international humanitarian law once a conflict is occurring (*jus in bello*). While the former is a matter for the United Nations Charter to authorise, the latter applies to that which is and is not lawful once a situation of armed conflict is actually taking place. The notion of protecting civilians by authorising the use of force does not absolve the parties to the conflict from their obligations to respect international humanitarian law.

5. The interception and rescue at sea of asylum seekers, refugees and irregular migrants (Mr Díaz Tejera, Spain, SOC) and Asylum seekers and refugees: sharing responsibilities in Europe (Mr Christopher Chope, United Kingdom, EDG).

### 3. Figures for arrivals

#### 3.1. Italy/Lampedusa

5. As a result of ongoing events in the southern Mediterranean, according to the UNHCR, between mid-January and 6 April 2011, more than 23 000 persons (including over 21 000 Tunisians) arrived by boat in Lampedusa, leading to massive overcrowding at the migrant reception centre. Only a small percentage of these persons have sought asylum and most of them have meanwhile been transferred to other locations in Italy.<sup>6</sup>

6. The local reception centre, designed to accommodate 850 people, at present hosts some 2 000 persons. This situation changes daily, but what remains constant is the overcrowding. In the course of the recent arrivals, several thousand people were forced to sleep in the open air, close to the reception centre and on the docks. Many people were unable to find shelter from the rain and cold weather. The UNHCR also expressed serious concerns as regards the conditions of hygiene, reported to be dire, and called on the Italian authorities to take urgent action to alleviate overcrowding on the island, which outside of the tourist season has only about 5 000 inhabitants.<sup>7, 8</sup>

7. Thousands of migrants have in the meantime been transferred from Lampedusa to the mainland in Italy. Many of them were transferred to a reception centre in Manduria, in southern Italy; others have been transferred to the region of Puglia or to Sicily. The Italian government has prepared an emergency plan to host 10 000 migrants, as a temporary measure before their repatriation to Tunisia. On 6 April, Italy reached an agreement with Tunisia according to which a six-month temporary residency permit will be granted to the Tunisians already in Italy, while Tunisia has agreed to simplify and accelerate return procedures for newly arriving Tunisians.

8. While it is understandable that Italy looks for rapid and effective solutions to stop irregular migration, such accelerated procedures should not exclude access to international protection for those in need. Indeed, not only Tunisians are arriving in Lampedusa from Tunisia, but increasingly Eritreans, Ethiopians and Somalis. On the weekend of 28 March, the first boats from Libya arrived in Italy, with 877 people on board. A number of them will certainly have well-founded claims for international protection and the UNHCR is engaging in contingency planning with Italy as more arrivals can be expected.

#### 3.2. Situation at the French/Italian border

9. This new agreement between Italy and Tunisia, which reportedly will allow free travel within the Schengen zone for those granted a six-month temporary residency permit, is unlikely to reassure France and its concerns that many of the arrivals will seek to enter France. Given the historical and cultural ties between the two countries, many of the Tunisians who have arrived in Italy are believed to have already tried to reach France to settle. For this reason, the French authorities have reinforced border controls between Italy and France. Intercepted irregular Tunisian migrants have been sent back to Vintimille, in Italy.

10. The European Commission has criticised this decision, recalling that both France and Italy are members of Schengen, a European border-free space. Irregular Tunisian migrants intercepted by the French law enforcement should be put in French detention centres and France should negotiate their return with the country of origin.

#### 3.3. Malta

11. Malta has so far received around 1 000 persons, almost all in need of protection (819 arrived in a very short time span<sup>9</sup>), and these persons are in detention awaiting processing.<sup>10</sup> Among them are over 411 Somalis, 250 Eritreans and 87 Ethiopians. There are 557 men, 180 women and 82 children.<sup>11</sup> All of them were placed in detention centres, including the children, before they could be medically screened and moved with their parents to open centres.

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6. Source of the figures: UNHCR briefing, 6 April 2011.

7. See UNHCR briefing note of 22 March 2011 "UNHCR calls for action to alleviate humanitarian situation on Lampedusa".

8. It should be noted that at one stage the number of migrants and asylum seekers on the island exceeded the number of the local population.

9. Over 500 persons arrived on 28 March alone.

10. <http://migrantsatsea.wordpress.com/2011/03/28/500-migrants-reach-malta-from-libya-first-arrivals-in-2011/>.

11. Source, UNHCR, 6 April 2011.

12. Following the radical drop in arrivals by sea in recent months, Malta's detention centres were largely empty and can, for the time being, accommodate recent arrivals. Malta is, however, concerned about a possible larger scale of arrivals, which would stretch its reception capacities.

13. In facing these arrivals, the authorities are urged to pay particular attention to setting up mechanisms for identifying, in particular, vulnerable individuals, including women, children, victims of trafficking, victims of torture, etc. Following a recent visit to Malta, the Council of Europe Human Rights Commissioner has heavily criticised Malta's mandatory detention policy.<sup>12</sup> This practice is even more reprehensible when it concerns vulnerable groups, especially children.

### 3.4. Greece

14. Notwithstanding the fact that there have been no sea arrivals in Greece of irregular migrants, refugees or asylum seekers coming from the conflicts in North Africa, one should keep in mind that Greece received 10 300 claims for asylum in 2010 and, according to Frontex's Annual Risk Analysis report,<sup>13</sup> Greece now accounts for 75% of all detections of illegal border crossings in the European Union. Migration flows change quickly and Greece is soon likely to have to face arrivals of mixed migration flows in the aftermath of these recent events.

### 3.5. Reported push-backs

15. While push-back practices are clearly condemned, denial of access to territory of persons coming from Libya should also be condemned. On 14 March 2011, the Italian authorities denied entry to about 1 800 persons aboard the ship *Mistral Express* coming from Libya. The vessel eventually made its way to Morocco.<sup>14</sup>

16. The UNHCR has in the past already expressed serious concerns about the impact of such a policy which, in the absence of adequate safeguards, can prevent access to asylum and undermines the international principle of non-refoulement. In this context, it is also worth underlining European Union Commissioner Cecilia Malmström's clear statement that the banning and push-back of migrants encountered at sea is not permitted.<sup>15</sup>

17. Countries concerned should be urged not to proceed with any push-backs. Also, notwithstanding the need for action, there must be no mass expulsion and access to international protection must be provided.

## 4. Refugees and migrants trapped by the conflicts

18. Fleeing the violent repression of the protests and the armed conflict in Libya, by 8 April 2011, 460 000 persons had crossed from Libya to neighbouring countries, primarily Egypt and Tunisia, where they were stranded in hastily organised camps. Already on 1 March 2011, the UNHCR and the International Organization for Migration (IOM) made a joint appeal to governments around the world to provide support for an emergency humanitarian evacuation of these persons, mainly Egyptians.

19. The immediate airlift response provided by several governments – allowing tens of thousands of Egyptians to fly home within days – has significantly relieved the overcrowding at the border. However, the UNHCR urged states to maintain their efforts as people still continue to flee Libya by the thousands. Indeed, an increase in influx of Libyan families crossing to Egypt was observed early in April with up to 2 500 Libyans per day crossing the border.<sup>16</sup>

20. Furthermore, two other issues are of immediate concern in Libya.

21. First, there are an increasing number of people originating from countries where wars are ongoing; Somalis, for instance, are among those persons that have managed to cross the Libyan border into Tunisia. These people cannot be repatriated to their countries of origin. European countries therefore need to join efforts to find appropriate solutions for those persons with international protection needs.

12. [www.coe.int/t/commissioner/News/2011/110328Malta\\_en.asp](http://www.coe.int/t/commissioner/News/2011/110328Malta_en.asp).

13. [www.frontex.europa.eu/gfx/frontex/files/frontex\\_ara\\_public\\_version.pdf](http://www.frontex.europa.eu/gfx/frontex/files/frontex_ara_public_version.pdf).

14. *Il Messaggero*, "Viminale ferma nave con 1.800 migranti. PD all'attacco. Barroso: contate sulla Ue", 14 March 2011. See also "Ferry with 1 800 Evacuees from Libya, Blocked from Landing in Italy, Sails to Morocco", 20 March 2011.

15. See <http://migrantsatsea.wordpress.com/2011/02/19/frontex-operation-hermes-to-begin-on-sunday-20-feb-%e2%80%93push-back-practice-prohibited/>.

16. UNHCR, Briefing on the humanitarian situation in Libya and in the neighbouring countries, 4 April 2011.

22. Second, a number of migrants and refugees are still trapped by the conflicts in Libya. The UNHCR reports that the majority of its “most vulnerable refugees and asylum seekers remain in Tripoli, unable to relocate or access basic services”. It also reports that a number of those who have tried to flee have been attacked, shot, and even killed. Apparently, those coming from Sub-Saharan Africa risk being considered by the population as being part of the mercenary forces which act on Colonel Gaddafi’s side.<sup>17</sup> The situation is escalating and those persons, terrified for their lives, hide in their homes and cannot escape. Furthermore, they fear being forced to return to their countries of origin.

23. Resettlement arrangements for these persons (some of whom are asylum seekers, others are persons who have already been granted refugee status by the UNHRC) should be considered by governments of member states as a matter of utmost priority.

## 5. Deaths in attempting to reach Europe’s shores

24. At the end of March 2011, 27 irregular migrants were found drowned in the Mediterranean, off the coast of Tunisia.

25. On 6 April 2011, a boat capsized off Lampedusa. Italian coastguards rescued a total of 49 persons and 20 bodies have been recovered. Many more are missing as the boat is believed to have been carrying around 200 people.

26. Some boats are also reported missing. One reportedly departed on 22 March (with 335 people on board) and one on 25 March (with 68 persons on board).<sup>18</sup> It is reported that bodies have been found washed up on the Libyan coast.<sup>19</sup>

27. Such tragic accidents will continue, and are even likely to increase in the coming days or weeks. However, Europe cannot simply shut its doors and stop these boats, without dealing with the root causes.

28. In the meantime, we have to take emergency measures and act with solidarity. As the President of the Assembly said in a statement on 1 April 2011: “We can’t just plug the hole and stop this flow without dealing with the root causes, and in the meantime we have to help those in need whether they are persons in distress on the sea, people fleeing persecution or small islands taking the brunt of responsibility.”

29. As the President of the Assembly concluded in his statement: “Each death of a boat person is one too many.”

## 6. Solidarity

30. As soon as the first new wave of arrivals on Lampedusa started, Italy declared a state of emergency on the island and appealed to the European Union and its member states for help in dealing with these and future arrivals. In February, within five days, more people reached Lampedusa than had arrived by sea to Italy in the previous twelve-month period. As stated above, Malta’s reception capacities are under serious pressure – in view of probable much larger arrivals when the weather conditions improve – Malta has also asked the European Union to immediately introduce a burden-sharing mechanism.

31. On 1 March 2011, the UHCHR “in an endeavour to demonstrate international solidarity and burden-sharing” made a proposal for an emergency resettlement effort in the context of the Libya emergency. By so doing, the UNHCR expressed its hope that countries would be able to offer resettlement places additional to their agreed quota for 2011.

32. On 16 March 2011, the Foreign Affairs Committee of the European Parliament supported the activation of a burden-sharing mechanism in case of massive arrivals of asylum seekers from North Africa.

33. As of 23 March 2011, and due to the notable increase in migratory pressure on Italy and the island of Lampedusa, in particular, Frontex (the European Union border security agency) widened the operational area of Joint Operation Hermes<sup>20</sup> and extended its duration for five more months, with the aim of strengthening Europe’s border control response capability in the central Mediterranean. The operational area has been extended to include Sardinia. Frontex reports that “In addition to one aircraft and two vessels already financed

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17. Ibid., 1 March 2011.

18. Ibid., 4 April 2011.

19. <http://migrantsatsea.wordpress.com/2011/04/05/libyan-migrant-boats-carrying-over-400-people-missing-reports-of-deaths/>.

and co-ordinated by Frontex, one Dutch and one Portuguese plane have now arrived in Pantelleria and Sardinia respectively to assist the Italian authorities in strengthening their border control activities".<sup>21</sup> On 26 March 2011, the operational area of Joint Operation Poseidon Sea,<sup>22</sup> which covers the Greek islands in the Aegean Sea, was also widened to include Crete.

34. On 5 April 2011, the European Parliament adopted a resolution on "Migration flows arising from instability: scope and role of the EU foreign policy" (2010/2269(INI)).<sup>23</sup> In this resolution, the European Parliament stressed that the European Union cannot purely rely on Frontex to help Italy or Malta cope with the migration crisis in the Mediterranean and urged the European Council to put in place an action plan for the resettlement of refugees while tackling the root causes (in particular unemployment) in migrants' countries of origin and of transit.

35. In a letter of 6 April 2011, European Union Commissioner for Home Affairs Cecilia Malmström urged all European Union member states to rapidly seek agreement on burden sharing of refugees who are fleeing Libya and the troubled North African coast into Europe. She asked them to activate emergency measures and, if necessary, a special directive of 2001 foreseeing a temporary protection mechanism that will assist countries like Malta and Italy cope with the influx.<sup>24</sup>

36. The European Union Commissioner's letter also mentions short-term measures that could be taken to stop arrivals of irregular migrants from Tunisia, for example by reinforcing Frontex action or by putting in place a partnership with Tunisia in view of the return of the irregular migrants. Finally, the letter announces that the European Union Commissioner will present in June a package of long-term measures. Malta has immediately welcomed the content of this letter, underlining that Malta had been arguing in favour of this since the beginning of the uprisings.<sup>25</sup> The European Union Home Affairs ministers met in Luxembourg on 11 April 2011 to discuss these issues.

37. On 8 April 2011 the European Commission published a memo describing in detail its response to the migratory flows from North Africa.<sup>26</sup>

38. On 26 April 2011, a French/Italian Summit will take place in Rome. French President Nicolas Sarkozy and the Italian Prime Minister Silvio Berlusconi will discuss in particular migration issues and the situation in Libya.

39. In terms of funding, the European Union Commissioner for Home Affairs stressed that a €25 million emergency fund is available and ready to be used to face the crisis. If necessary, additional funds could be found. She also stated that, in any case, people fleeing Libya would not be sent back by the European Union.

## 7. Conclusions

40. In the draft resolution, your rapporteur seeks to tackle two issues; the first concerns the immediate humanitarian and protection needs and the second concerns the steps to be taken to tackle the root causes of this flow of migrants and asylum seekers and refugees. There is no avoiding that in doing this, member states have to show solidarity, and in this there has to be some form of responsibility sharing.

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20. Following a formal request for assistance received by Frontex on 15 February from the Italian Ministry of Interior regarding the extraordinary migratory situation in Lampedusa, Joint Operation (JO) Hermes 2011 started on 20 February with the deployment of additional aerial and maritime assets from Italy and Malta. The Italian Government requested assistance in strengthening the surveillance of the European Union's external borders in the form of a Joint Operation. Additionally, Italy requested a targeted risk analysis on the possible future scenarios of the increased migratory pressure in the region in the light of recent political developments in North Africa and the possibility of the opening up of a further migratory front in the Central Mediterranean area.

21. [www.frontex.europa.eu/newsroom/news\\_releases/art103.html](http://www.frontex.europa.eu/newsroom/news_releases/art103.html).

22. Since its inception in 2006 as a purely sea-based operation patrolling the coastal waters between Greece and Turkey, Joint Operation Poseidon has grown to become the focus of Frontex's operational deployment in the Mediterranean region. JO Poseidon, since the beginning of 2010, has also had a land-based component covering the Greek and Bulgarian land borders with Turkey.

23. <http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=en&procnum=INI/2010/2269>.

24. Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between member states in receiving such persons and bearing the consequences thereof (OJ L 212, 7 August 2001, p. 12).

25. See *Malta Today*, 6 April 2011, [www.maltatoday.com.mt/news/national/malmstrom-urges-all-eu-states-to-rapidly-agree-to-refugee-burden-sharing-system](http://www.maltatoday.com.mt/news/national/malmstrom-urges-all-eu-states-to-rapidly-agree-to-refugee-burden-sharing-system).

26. MEMO/11/226; <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/226&format=HTML&aged=0&language=EN&guiLanguage=en>.

41. We have to be realistic and the solutions that we find will have to balance the needs of the countries coming out of conflict with the concerns and interests of our member states. This will be a two-way process and will require give and take on all sides. Europe will need to give economic, social and legal support for development and democratic reforms, and will also have to look at legal avenues of migration for persons coming from these countries. These countries will have to tackle irregular migration on their side and not hinder return of their own nationals.
42. In the short term, we must immediately be prepared to resettle those refugees already recognised by the UNHCR and who are trapped by the conflicts in Libya.
43. In the short term, we have to find immediate solutions for those who are arriving daily on our southern coasts and whose numbers are likely to grow if the conflict in Libya persists and worsens. Whatever the solutions are, European states have to respect their humanitarian obligations and their obligations under international human rights and refugee law. They must provide access to fair and effective asylum procedures, taking into account the needs of vulnerable groups. They must not breach the principle of *non-refoulement*, and must refrain from push-backs at sea.
44. Member states also need to consider resettlement solutions to alleviate the burden currently on the shoulders of the countries on Europe's southern shores either by resettling asylum seekers who have been granted protection by the member states in which they have arrived or by a temporary suspension of the application of the Dublin Regulations.
45. If a mass influx of Libyan refugees occurs as a result of increasing terror by Colonel Gaddafi or the emergence of a civil war in Libya, European Union member states should be prepared to immediately apply the temporary protection directive.
46. Short-term solutions will not suffice, however. Europe will have to address the root causes and be prepared to invest heavily in the newly emerging democracies. If the youth of these countries remain without perspectives, especially in terms of employment, people will continue to try to reach Europe by desperate means in the hope of finding a better life.
47. Both in the short term and in the long term, the Council of Europe member states and the European Union have solutions. We must make sure that we use our common resources in the most effective way to deal with the current humanitarian problems and tackle the root causes.