



Resolution 1999 (2014)¹

Final version

The “left-to-die boat”: actions and reactions

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 1872 \(2012\)](#) “Lives lost in the Mediterranean Sea: Who is responsible?”, which was adopted after a thorough investigation into the responsibilities of those who could have gone to the rescue of 72 people on board a small rubber dinghy, later known as the “left-to-die boat”, which set off towards Europe on 26 March 2011 and from which only nine people survived.

2. Unfortunately, the catalogue of lives lost at sea did not end with this incident. More recently, in October 2013, two vessels capsized within sight of the coast of Lampedusa, leading to the loss of over 400 lives. Again, in May 2014, two shipwrecks resulted in the deaths of dozens of people with hundreds missing. These catastrophes once again revealed the crucial need for Europe and the rest of the world to fill in the gaps in the legal framework, policies and practices of rescue at sea.

3. The Assembly acknowledges that important efforts have been made by member States, Italy in particular, to save more lives at sea. However, a number of concerns still remain, including failures to co-operate, to define and admit responsibility, and also to learn lessons. The left-to-die boat incident clearly highlighted the urgent need to guarantee fundamental rights, while respecting the legitimate security imperatives of border controls.

4. The Assembly therefore wants to reinforce its previous recommendations and encourage the adoption of further measures to prevent communication and responsibility gaps when it comes to saving the lives of people in distress in the future.

5. With a view to applying zero tolerance towards lives lost at sea, the Assembly further recommends that member States:

5.1. with regard to rescue at sea and lives lost:

5.1.1. adopt clear, binding and enforceable common standards with regard to search and rescue operations, including disembarkation, fully consistent with international maritime law and international human rights and refugee law obligations;

5.1.2. work towards extending the recently adopted rules for the surveillance of the European Union external sea borders, in the context of the operations of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), to national operations outside the framework of Frontex operations;

5.1.3. commit to improving the recording and identification of migrants who die or disappear at sea, and ensure that survivors and relatives of the victims have prompt access to information about them;

5.1.4. ensure family links are maintained or restored following rescue operations;

5.1.5. commit to swiftly, independently and thoroughly investigating any reported failures to rescue people at sea and to ensuring accountability;

1. *Assembly debate* on 24 June 2014 (21st Sitting) (see [Doc. 13532](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Ms Tineke Strik). *Text adopted by the Assembly* on 24 June 2014 (21st Sitting). See also [Recommendation 2046 \(2014\)](#).



- 5.1.6. commit to assisting coastal States to increase resources for search and rescue operations;
 - 5.2. with regard to criminalisation of irregular migration:
 - 5.2.1. abolish factors which dissuade private vessels from carrying out rescues, by ensuring that the people rescued will be allowed to land quickly and by ending the threat of prosecution on charges of aiding and abetting irregular immigration which give rise to moral and financial damages;
 - 5.2.2. urge shipmasters and fishermen to comply with their obligations under international law to assist and report to the relevant authorities of the member States any migrant boats in distress;
 - 5.2.3. ensure financial compensation for shipmasters and fishermen for possible financial losses incurred as a result of rescue operations;
 - 5.3. with regard to push-back practices:
 - 5.3.1. end all push-back practices and ensure that practices of rescue at sea are compliant with the right to seek asylum and the right to be protected against *refoulement*;
 - 5.3.2. ensure the credibility of any judicial probe or investigation into push-back incidents by guaranteeing their independence, impartiality and transparency;
 - 5.3.3. publicly condemn any occurrence of summary removals or collective expulsions which come to their attention and ensure accountability for any such incident;
 - 5.3.4. ensure, in particular, that any accelerated asylum procedures and the assessment of personal circumstances in the context of search and rescue operations respect a person's right to be protected from *refoulement*, in line with the 2009 Council of Europe Guidelines on human rights protection in the context of accelerated asylum procedures; ensure that all those intercepted have access to individual procedures to seek international protection or highlight other needs where protection is concerned, and have access to an effective remedy against any decision regarding return;
 - 5.3.5. ensure that any bilateral readmission agreement is drafted and implemented in a manner fully consistent with international human rights and refugee law standards and includes effective safeguards of human rights and access to a fair and proper individual assessment;
 - 5.4. with regard to the left-to-die boat incident:
 - 5.4.1. fully co-operate to find answers to the outstanding questions, by informing the rapporteur swiftly and adequately about the location of their vessels during the time the boat in question was drifting in search of help, and the messages their vessels received;
 - 5.4.2. grant the right to residence for the survivors whose applications for asylum or residence on humanitarian grounds are still pending;
 - 5.5. show further solidarity with third countries by giving more refugees access to resettlement or temporary reception programmes, and guarantee safe access to protection.
6. With a view to encouraging the creation of safe legal migration channels and preventing irregular migrants, asylum seekers and refugees from undertaking hazardous journeys to Europe, and to sharing the responsibility for asylum seekers inside the European Union, the Assembly recommends that the European Union:
- 6.1. encourage its member States to increase resettlement quotas for persons in need of international protection and adopt a common approach to humanitarian visas; explore further possibilities for protected entries and migration routes enabling migrants to reach Europe in a regular manner;
 - 6.2. take steps to further harmonise the common asylum standards and procedures in the European Union, by, for example, considering a joint processing of asylum applications and the creation of a uniform asylum status; explore further possibilities to reinforce solidarity for asylum seekers and refugees within the European Union;

- 6.3. strengthen regional protection programmes and ensure their sustainability through sufficient funding; support neighbouring countries in improving their asylum and protection systems through mobility partnerships, and make further co-operation on migration and border control dependent on a sufficient level of protection for asylum seekers in these countries;
 - 6.4. ensure that Frontex makes the protection of fundamental rights a priority of its joint operations, and in particular seeks the ability – which is still lacking in the recently adopted regulation – to apply the rules (on search and rescue, disembarkation and *non-refoulement*) to migrant boats within the territorial waters of third States which clearly cannot meet their international obligations regarding search and rescue at sea or uphold the rights of irregular migrants, asylum seekers and refugees;
 - 6.5. ensure that Frontex establishes an effective mechanism for individual complaints of violations of fundamental rights, in order to improve its accountability;
 - 6.6. ensure that the mechanism of the European border surveillance system (EUROSUR) contributes to protecting and saving lives at the European Union's external borders;
 - 6.7. adopt measures to prohibit penal sanctions on private vessels carrying out search and rescue operations and to compensate them when they face economic loss after engaging in rescue operations;
 - 6.8. set up a proper system of data collection concerning the mortal remains of people who lose their lives in the Mediterranean and make it swiftly accessible to relatives.
7. The Assembly recommends that the North Atlantic Treaty Organization (NATO):
 - 7.1. take into account possible movements of people in need of international protection in all NATO operations and reach agreements with all countries concerned to ensure that these people are cared for;
 - 7.2. ensure that all NATO assets are equipped with Global Maritime Distress and Safety Systems (GMDSS), in any of its versions, and have the means to receive Hydrolant distress messages;
 - 7.3. publish the results of the lessons-learned process in which it has been examining ways to strengthen information sharing and procedures related to search and rescue at sea during NATO-led operations.
 8. The Assembly believes that the International Maritime Organization (IMO) should play a role in promoting a common and effective application of the legal framework of rescue at sea, as different approaches still today create excessive delays and failures to rescue people in distress at sea. To this end, it recommends that the IMO:
 - 8.1. step up its efforts with a view to developing a regional memorandum of understanding on procedures to facilitate the co-ordination of search and rescue operations and the disembarkation of persons rescued in the Mediterranean Sea;
 - 8.2. promote new consultations for amending and implementing the current legal framework, and, in particular, the IMO conventions, with clearer and stricter rules and definitions;
 - 8.3. amend the International Convention for the Safety of Life at Sea (SOLAS) to expressly provide that exemptions generally applying to ships of war and troopships do not apply to search and rescue equipment and devices essential to transmitting and receiving distress signals and for communicating during search and rescue operations.