

23 September 2019

**JOINT DECLARATION OF INTENT ON A
CONTROLLED EMERGENCY PROCEDURE
- VOLUNTARY COMMITMENTS BY MEMBER STATES FOR A
PREDICTABLE TEMPORARY SOLIDARITY MECHANISM -**

We Germany, France, Italy, Malta and XXX in the presence of the Finnish Presidency of the Council of the EU and the European Commission

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- I. Recalling the international instruments relating to search and rescue at sea and Member States' obligations in this regard, it is hereby recognised that the present document represents a specific temporary arrangement pursued without prejudice to the parties' obligations or positions in relation to such international instruments,
- II. Also recalling, in this regard, Resolution MSC. 167(78), which encourages Governments to cooperate with each other with regard to providing suitable places of safety for survivors after considering relevant factors and risk,
- III. Acknowledging the progress made over recent years thanks to the action taken by EU Member States, and the coordination efforts by the European Commission as well as the support of EU Agencies, yet still concerned with the situation in the Mediterranean and the risk of loss of life of those attempting to illegally reach Europe by sea,
- IV. Aware that smugglers abuse search and rescue rules and nearby vessels in order to implement their business model,
- V. Acknowledging the burden for maritime front line Member States resulting therefrom,

- VI. Aware that the ad hoc relocations under Article 17 (2) Dublin Regulation (discretionary clause according to which a Member State may take charge of an applicant-put in place since the summer of 2018, coordinated by the European Commission and supported by EASO and EBCGA, have proven useful to facilitate disembarkations and ensure the reception of asylum seekers through relocation in several EU Member States, but at the same time recognizing that these relocations have not been fully satisfactory since only a few EU Member States have engaged in them and because improvements can be made in the processes following disembarkations,
- VII. Acknowledging the need to establish a mechanism to tackle the possible uncertainties regarding the disembarkation reception and swift relocation of those on board, thereby addressing the challenges faced by front line Member States in this respect,
- VIII. Continuing joint efforts for breaking smugglers' business model and related criminal activity while aiming for reducing attempts to dangerous crossings of the Mediterranean Sea,
- IX. Recalling that all vessels operating in the Mediterranean and engaged in rescue operations have the obligation to respect the relevant international conventions and other applicable rules, including saving lives at sea,
- X. Recalling that the facilitation of illegal migration at sea is an offence and that it places migrants' lives at risk. In this regard the systematic activity facilitating irregular migration poses a particular cause for concern;
- XI. Recalling that persons not in need of international protection have no right to stay in the EU and need to be returned as soon as possible,
- XII. In the common understanding that the mechanism jointly decided upon hereafter, while addressing the need to protect human life and provide assistance to any person in distress, shall not open new irregular pathways to European shores,

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Jointly commit, as a common effort, to

- 1 Set up a more predictable and efficient temporary solidarity mechanism in order to ensure the dignified disembarkation of migrants taken aboard, on the high seas, by vessels in a place of safety, without prejudice to the preamble.

Every Member State can always offer an alternative place of safety on a voluntary basis and inform the European Commission accordingly.

In case of a disproportionate migratory pressure in a participating State, calculated with reference to limitations in reception capacities, or a high number of applications for international protection, an alternative place of safety shall be proposed on a voluntary basis. Persons rescued by state-owned vessels shall be disembarked in the territory of their flag State.

- 2 Participating Member States shall contribute therefore, to the swift relocation, which should not take longer than 4 weeks, of asylum seekers rescued at sea in accordance with paragraphs 1 and 2, by engaging in the relocation mechanism coordinated by the European Commission,
- 3 Call on the other EU and Schengen Member States to participate in this mechanism,
- 4 Use a fast track system for relocation on the basis of pre-declared pledges before the disembarkation and, where applicable, return immediately after disembarkation which includes, as a minimum, security and medical screening of all migrants and other relevant measures. The system should be based on agreed standard operating procedures, building on and improving existing practices by streamlining procedures and the full use of EURODAC. The Member State of relocation shall take over responsibility for the persons relocated. Moreover, the mechanism should provide for the

- support of EU Agencies e. g. on EURODAC registration and initial interviewing,
- 5 Ensure that the relocation to our national territories is achieved as fast as possible,
 - 6 Reconfirm that this temporary mechanism should not open new irregular pathways to European shores and shall avoid the creation of new pull-factors,
 - 7 Ensure the effective and quick return of those not eligible to international protection in the EU, with the logistical and operational support, as necessary, of the EBCGA and IOM. For that purpose, ensure the provision of political support of all relevant actors, including, as applicable, the use of appropriate leverages, to ensure full cooperation, including consular cooperation, by countries of origin,
 - 8 Stress the importance of giving all EU Member States concerned, all the necessary EU financial, technical and operational assistance,
 - 9 Require all vessels engaged in rescue operations, in particular, to comply with instructions given by the competent Rescue Coordination Center, not to turn off on-board transponders, automated information system (AIS) not to send light signals or any other form of communication to facilitate the departure and embarkation of vessels carrying migrants from African shores, not to obstruct the Search and Rescue operations by official Coast Guard vessels, including the Libyan Coast Guard, and to provide for specific measures to safeguard the security of migrants and operators,
 - 10 Require vessels to be registered according to the national legislation of the flag state. Wherever possible, rescue vessels shall be registered as such. The flag state administration shall ensure that such vessels are appropriately qualified and equipped to carry out such operations and comply with all safety procedures,
 - 11 Continue efforts to ensure a sustainable reform of the Common European Asylum System, including the Dublin Regulation, taking

into consideration the current imbalances of burden between Member States and their reception capacities, based on a balance of responsibility and solidarity, and taking into account the persons disembarked following search and rescue operations,

- 12 Continue and deepen our cooperation with countries of origin and transit to fight illegal migration, migrant smuggling networks and related criminal activity and human trafficking, and to enhance incentives for returns,
- 13 Enhance EU led aerial surveillance in the southern Mediterranean in order to ensure that migrant boats are detected early with a view to fight migrant smuggling networks, human trafficking and related criminal activity and minimizing the risk of loss of life at sea. Enhance the EU efforts being made by the competent authorities in this regard and calls on Member States to allocate assets and resources to any such aerial operations,
- 14 Commit to enhancing the capacities of coast guards of southern Mediterranean third countries and to encouraging UNHCR and IOM to support disembarkation modalities in full respect of human rights in those countries.
- 15 This mechanism as a pilot project shall be valid for a period of not less than six months and may be renewed subject to the agreement of the parties concerned or terminated in the case of misuse by third parties. In the meantime, we have to advance on the reform of the Common European Asylum System on the basis of an initiative of the Commission. Should the number of relocated persons within these 6 months substantially rise the participating Member States will immediately come together for consultation. During the consultations the entire mechanism might be suspended.