

**FOR A EUROPEAN STRATEGY IN THE FIELD OF MIGRATION AND ASYLUM**

APPEAL TO THE EUROPEAN PARLIAMENT ON OCCASION OF THE ITALIAN PRESIDENCY SEMESTER

Barbara Spinelli (MEP- GUE-Ngl – “L’Altra Europa con Tsipras” delegation)  
Daniela Padoan  
Guido Viale

**GUARANTEE THE RIGHT TO FLEE**

For the first time since the end of the Second World War, the number of refugees, asylum seekers and people experiencing internal displacement all over the world has passed the 50 million mark. According to the United Nations High Commissioner for Refugees’ annual report, this figure is the highest one ever recorded after the mass escape, during the first half of the past century, from the Nazi Fascist-dominated Europe. “Ours was a generation of refugees that moved around the world like had never happened before”, stated Ruth Klüger, a writer and Germanist who survived Auschwitz, “I am just one of those countless refugees. Flight became the expression of my world and of the period in which I lived. I am entirely a person of the twentieth century. And in the twenty-first [century], we will continue to have masses of refugees, entire generations of refugees”.

These were prophetic words: flight is increasingly becoming an expression of our world, of the time in which we live. It is a flight that views Europe as a place of arrival, a safe haven. People – men, women and children – arrive on the southern shores of our continent having left behind them countries that are in flames, dictatorships, genocides, famines, climate and environmental catastrophes, wars that have become inane and endless against terrorism, for which western policies – linked to an economic and biopolitical model of distribution of spoils – are very often directly or indirectly to blame.

Nowadays, refugees are the product, on an industrial scale, of that great war, immaterial and undeclared as it is, which is the war against the poor, with a stark border separating people who have a right to move from those who are denied that right. But a worldwide war, which sets apart subjects of the law from marginal bodies whose fate is at the mercy of events that are decided elsewhere, cannot turn Europe into a barbed wire fence.

The Europe we want must be a place of welcome, of respect and of dignity.

**STOP THE REFOULEMENT OF MIGRANTS**

In 2013, the number of forced migrants has grown by as much as six million. This increase is mainly due to the continuous Syrian carnage which, three years after the conflict began, has resulted in 2.5 million people losing the possibility of living in their country. Men, women and children have been amassed for months in the main railway station of Milan, without the city council – which has effectively been abandoned by the State – managing to take full charge of

them, in spite of its considerable efforts. There are also crowds of people on the run from the Central African Republic, from southern Sudan, from Eritrea, from Libya which has been thrown into chaos by the western war – and they all go to add to the refugees from Somalia and the Maghreb region. They are men, women and children who reach our coasts – and Sangatte, Ceuta, Melilla – not just looking for bare life, but for freedom and justice as well: for that inclusion in the concept of humanity without which any discussion about rights loses its meaning, as they are exclusively reserved for a privileged class of people.

Instead, they often find rejection, juridical, economic and social subordination, denial of freedom. Many come to their deaths during the journey, so much so that the Mediterranean Sea has become a cemetery where the shipwreck of the very thought of equality and solidarity upon which our democracies are founded takes place.

Therefore, there is no need to appeal to rhetorical resorts that have become completely baseless, unrelated to the truth revealed by the Conradian *Heart of Darkness*: Europe does not represent “the beacon of civility, the globalisation of civilisation” described by Prime Minister Matteo Renzi in Strasbourg on 2 July to open Italy’s semester as the Presidency of the EU. Europe has become that horror which Marlow, the ivory merchant, a figure of colonial greed and domination, brings to Africa; a mask that reveals just to what extent the heart of darkness inhabits the light itself that our civilisation has insisted on exporting, shrouding its domination in moral superiority.

#### **PREVENT THE MASSACRE IN THE MEDITERRANEAN**

The time has come for the European Union to look at itself: to look at the sea of deaths that its policies have caused and continue to cause, and to seek some concrete, immediate solutions, unless it wants its own citizens to eschew the eyes of their institutions.

The forty-five migrants who were found asphyxiated in the hold of a large boat in Pozzallo are the latest, poor victims of an enormous carnage but already, right as we write, more victims are joining them: twenty thousand men, women and children, have drowned in the Mediterranean since 1998 - and the number is rounded down. There have been 500 verified victims only in this first part of 2014. It is an epochal tragedy, about which we will not be able to say that we did not know, when it will have become history. The History of Europe.

European citizens can no longer passively witness the massacre that unfolds before their eyes, day after day – which is even more inconceivable if one considers that in its Charter of Fundamental Rights, the European Union has declared that the person is the centrepiece for its policies, and it has considered policies on borders, asylum and migrations as veritable common policies.

However, the European Union which has declared its intention to prevent and fight human trafficking since 2000, is in fact allowing refugees and migrants to cross the Mediterranean by placing their lives in the hands of transnational criminal organisations, because those have been left to hold a monopoly over the sea transport.

### **ENACT THE TREATIES**

This situation is even more serious in view of the fact that the Treaty on the Functioning of the European Union (TFEU) envisages a direct responsibility in the fields of integrated border management (art. 77), of the management of every stage of the migration process (art. 79), of the reception of people (art. 78) and of fair sharing of responsibility, not just financial, between all the Member States (art. 80).

These are norms that, five years after they came into force, have only partially been translated into legislation: in practice, strategies such as the *Global Approach for Mobility and Migration* and the so-called *Mobility Partnerships* with third countries are still preferred, although they lack a binding legal basis, they are undertaken on a voluntary basis and without the participation of the European Parliament through co-decision.

The recourse to such expedients and surrogates by the institutions, instead of making use of the instruments provided by the Treaties to establish common policies, confirms the lack of political will on the part of the Member States and the Commission's pusillanimity.

The failure of this approach is demonstrated by the inability to provide for and enact simple and impelling solutions like the creation of humanitarian corridors. The ineptitude in bringing together a majority among the Member States that may put into practice the principle of solidarity, including its financial implications, envisaged by art. 80 of the TFEU, cannot be concealed by the rhetoric of the European Council or by the avalanche of documents, meetings and conferences, nor by continuous deferments to the role of the European Agencies, whose task should be the implementation of European policies, rather than acting as a screen for their absence.

Nor is it possible to keep quiet about the hypocrisy whereby policies to refuse entry – envisaged by many measures in the implementation phase – are presented as meant to save the lives of migrants and refugees, when it is precisely those policies which leave them no other choice than the risk, increasingly present, of death by drowning.

The primary responsibility for all of this falls upon the Member States, the Council and the Commission, which have completely ignored the Treaties – particularly the norms that seek to transform policies for border control, asylum and the integration of migrants into common European policies that must be implemented while respecting the principle of solidarity. The obsession of the war against “illegal” immigration and the closure of regular channels for access have operated in concrete terms to heighten, as a dissuasive instrument, the risk suffered by everyone who is seeking to cross the borders of Fortress Europe.

### **DISMANTLE FORTRESS EUROPE**

Unable to draw up a genuine common policy, the European Union entrusts it to its agencies, like Frontex or Europol,<sup>1</sup> effectively abdicating the mission that it set itself through the Lisbon Treaty and the Charter of Rights. This is not the

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<sup>1</sup> As was stated most recently in the European Council of 26 and 27 June 2013.

Europe we want, nor is Frontex what the European citizens voted last May in favour of.

As European citizens, we say that the Europe which has sought to barricade itself within a fortress has failed.

“We are not the ones who cross borders, the borders are crossing us”. This sentence was written on a sign exhibited by a migrant, during the *Freedom March* which reached the enormous glass buildings where the EU Summit on Migration convened, the 27 June of this year, and it perfectly describes the condition experienced by the millions of people who seek to enter or to stay in Fortress Europe.

The Euro-Mediterranean area must become a space of cooperation and solidarity among peoples, not an unbreachable outer frontier for people fleeing from wars and misery, nor a distressing inner frontier put in place to sift out each one's biography, made out of history, affection, bonds, belonging.

It is Italy's task during this European semester to promote the organic and solidarity-based implementation of all the provisions in the treaties concerning borders, immigration, asylum and the integration of migrants, taking charge of protecting and welcoming people who have been uprooted and enabling them to settle anew, if they wish to do so.

#### **PROMOTE A COMMON EUROPEAN POLICY**

Aware of the responsibilities that the Member States have assigned to the European Union in these fields, there is a need to act with maximum urgency in order for the EU to be equipped with the necessary instruments to face the massive flows of refugees. Art. 78 of the TFEU and the 2001 Directive on temporary protection already envisage the preparation of intervention plans which, however, the Commission refrains from proposing to the Council.

The supposed global strategy of the Mediterranean *Task Force* that was debated by the European Council and developed during the informal Justice and Home Affairs Council on July 8th – entrusted to initiatives adopted on a voluntary basis, diplomatic approaches that lack credibility and operational instruments with limited resources, such as Frontex – is a mere smokescreen and it certainly does not amount to a common European policy that is worthy of the challenge which the Union, and particularly the countries that look onto the Mediterranean, are called upon to tackle.<sup>2</sup>

We ask the European Parliament, through its competent commission – in cooperation with the Italian Presidency and the Commission – to proceed, within the next six months, to objectively evaluate whether the policies and means enacted by the Union's institutions and agencies, its Member States and third countries, are adequate.

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<sup>2</sup> On this issue, see document 11436/14 which Statewatch is about to publish.

### **ESTABLISH HUMANITARIAN CORRIDORS**

In the meantime, it is a matter of urgently providing for the opening of authorised and safe routes for people who leave the country of their birth, citizenship or residence – fleeing from wars, persecution and environmental, climate or economic catastrophes. There is a need to create a humanitarian corridor between the African and European coasts, first on land and then at sea, safeguarded by the United Nations and European Union Agencies, for the purpose of preventing new tragedies and guaranteeing the effective exercise of the right to seek asylum in all the transit countries; this simultaneously implies doing away with new mafia syndicates of human traffickers.

On this matter, the European Parliament must be exhaustively informed of the reasons for which operations like EUBAM<sup>3</sup> in Libyan territory do not make it possible to tackle human trafficking.

It is necessary to arrange channels of legal entry whereby a system of ferryboats and charter flights may replace the substandard vessels that are not seaworthy, and to establish UN and European posts in the main ports of departure and in transit camps in which to identify, safeguard and provide temporary visas to refugees.<sup>4</sup>

The *European Asylum Support Office* (EASO) must be granted powers to coordinate the activities of Member States, along the same lines as what was done with Frontex in the field of border controls; there is a need to sort arrivals between the various ports and airports that are equipped for reception, in order to manage the distribution of individuals and families throughout the European territory in a rational manner; it is necessary to cease the unsustainable pressure suffered by the inhabitants of the current places of arrival of people smugglers, above all in Lampedusa, as their residents often find themselves having to stand in for the abysmal absence of the State and the European Union, which they do with great generosity.

More generally, Italy and all the countries of southern Europe can no longer be left alone in the burdensome task of sea rescues, which concerns us all as European citizens.

### **ASSURE FREEDOM OF MOVEMENT AND MUTUAL RECOGNITION**

It is urgent to make the European Union's internal borders permeable by abrogating national norms and administrative practices which, within the Schengen area, limit people's freedom of movement, as well as the freedom to choose where to live and the freedom to re-establish their affective bonds. This means healing the wounds inflicted by a twisted application of the Schengen Treaty on the part of certain Member States, not only to people, but to the very concept of freedom and equality that our democratic culture claims it is seeking to safeguard. Whoever is in the European space, regardless of their citizenship,

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<sup>3</sup> EU Border Assistance Mission in Lybia.

<sup>4</sup> See the pilot project.

must be able to enjoy the full exercise of equal rights, just as is called for in the Lampedusa Charter which we use as a reference.

This is why we ask for the closure of every detention centre for migrants and refugees that, however it may be called, amounts to an *extra ordinem* form of detention.

On the same grounds, it is urgent to establish the “mutual recognition” of asylum decisions, in line with what already happens for expulsion decisions, so that people may enjoy freedom of movement and of family reunion within the Union’s space. This implies the need to correctly apply, in accordance with the European Parliament’s requests and UNHCR’s suggestions, the Dublin III Regulation, favouring the criterion of family reunion; likewise, it implies the need for changes to enable the Regulation to comply with the Luxembourg Court’s recent jurisprudence concerning minors.

#### **FACILITATE APPLICATIONS AND VISAS**

It is urgent for the procedures to apply for refugee status and to request asylum to be simplified, just like it is urgent to establish a system of temporary visas that may be applied for in any embassy of the States of the European Union in the different countries in the world for people who are fleeing situations of war, persecution, or life danger.

It is necessary to set up a normative framework that may be able to restore juridical dignity to refugees as soon as possible, putting an end to the asylum externalisation policies through which the European Union currently transfers competence for providing international protection to transit States.

#### **PROVIDE CARE FOR UNACCOMPANIED MINORS**

There is an urgent need to provide care for unaccompanied minors. During the last year and a half, almost 6,000 unaccompanied minors have arrived in Italy. Many of them have been held for months in inadequate facilities, which do not envisage either educational or integration pathways; others have eluded surveillance and are entirely lacking protection. A legislative proposal has been submitted to resolve this situation,<sup>5</sup> but unaccompanied minors are often in transit towards other countries and there is a need to find joint solutions at a European level to ensure their reception, identification and protection.

#### **PROMOTE THE INSTITUTION OF IUS SOLI**

There is an urgent need for recognition of a European citizenship that is based on *ius soli*. Although this depends on the competencies of individual Member States, adequate research and recommendations by the European institutions could support the achievement of this objective.

#### **WORK TOWARDS A “PAX MEDITERRANEA”**

Finally, we must not forget the geopolitical reasons that are the root cause of the crises in third countries that give rise to the influx of refugees. From this perspective, the prediction, analysis and coordination capability of the European Union, its High Representative and the *European External Action*

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<sup>5</sup> Law no. 1658, of 4 October 2013.

*Service* is absolutely inadequate. It suffices to consider the fact that if we were to truly welcome refugees, granting them the opportunity of having a voice alongside rights, perhaps a “third force” would be created that would be able to represent their respective countries – for instance, Syria, the Central African Republic, Eritrea and all the countries in the Horn of Africa – in possible negotiations, more and better than the so-called governments in exile which are often mere stooges.

The migration crisis shows how urgent an active European foreign policy is, which is currently impeded not only by jealously guarded and sterile national sovereignties, but also by the subjection of the European Union to NATO and the USA, which are often a root cause of the conflicts that break out in the world and especially at our borders.

Finally, a coherent action by the European Union is necessary to put a stop to the sale of weapons to the least stable areas of the world by those Member States, such as Germany, France, the United Kingdom, the Netherlands, Italy, Spain and Sweden, which figure among the world’s top ten arms exporters. Their partners in this lucrative trade are largely those very countries from which people are forced to flee to find shelter from wars, persecution, human rights violations and the suppression of democratic freedoms.

In view of the fact that refugees are a product of war, we ask as European citizens for our own peace not to be rhetorical nor a privilege reserved for people who live behind barricades, but to find concretization through policies of solidarity that are capable of including the countries that look onto the Mediterranean Sea and Africa.

Barbara Spinelli  
 Daniela Padoan  
 Guido Viale  
 Alexis Tsipras  
 Aldo Bonomi  
 Sandra Bonsanti  
 Enrico Calamai  
 Andrea Camilleri  
 Don Luigi Ciotti  
 Erri De Luca  
 Pier Virgilio Dastoli  
 Roberta De Monticelli  
 Umberto Eco  
 Maurizio Ferraris  
 Gad Lerner  
 Luigi Manconi  
 Moni Ovadia  
 Adriano Prosperi  
 Ermanno Rea  
 Marco Revelli  
 Stefano Rodotà

Gustavo Zagrebelsky  
 Ginevra Bompiani  
 Francesca Borrelli  
 Alessandro Bruni  
 Paolo Cacciari  
 Lorenza Carlassare  
 Paolo Cento  
 Francesca Costantini  
 Pape Diaw  
 Giuseppe De Marzo  
 Paolo Ferrero  
 Costanza Firrao  
 Mauro Gallegati  
 Shady Hamadi  
 Antonio Ingroia  
 Ivano Marescotti  
 Gabriele Nissim  
 Maria Pace Ottieri  
 Argiris Panagopoulos  
 Valeria Parrella  
 Simona Peverelli  
 Fabio Vacchi  
 Tiziana Vettor

**email: [corridoio.umanitario@gmail.com](mailto:corridoio.umanitario@gmail.com)**

## APPENDIX

Article 78 Treaty on the Functioning of the European Union (ex Articles 63, points 1 and 2, and 64(2) TEC)

1. The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for a common European asylum system comprising:

- a) a uniform status of asylum for nationals of third countries, valid throughout the Union;



- b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;
- c) a common system of temporary protection for displaced persons in the event of a massive inflow;
- d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;
- e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;
- f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;
- g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

3. In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.

Barbara Spinelli  
Daniela Padoan  
Guido Viale

Aldo Bonomi  
Sandra Bonsanti  
Alessandro Bruni  
Enrico Calamai  
Andrea Camilleri  
Lorenza Carlassare  
Paolo Cento  
Don Luigi Ciotti  
Francesca Costantini  
Roberta De Monticelli  
Pape Diaw  
Enzo Di Marzo  
Umberto Eco  
Maurizio Ferraris  
Paolo Ferrero  
Costanza Firrao  
Mauro Gallegati  
Shady Hamadi  
Antonio Ingroia  
Gad Lerner  
Gabriele Nissim  
Maria Pace Ottieri

Moni Ovadia  
Simona Peverelli  
Adriano Prospero  
Ermanno Rea  
Marco Revelli  
Stefano Rodotà  
Fabio Vacchi  
Tiziana Vettor  
Gustavo Zagrebelsky