

The Minister of the Interior

in agreement with

the Minister of Defense and

the Minister of Sustainable Infrastructure and Mobility

GIVEN the United Nations Convention on the Law of the Sea, with annexes and final act (UNCLOS), made in Montego Bay on 10th December 1982, ratified by Law n. 689 of 2nd December 1994;

GIVEN the International Convention for Safety of Life at Sea (SOLAS), ratified by Law n. 313 of 23rd May 1980;

GIVEN Law n. 147 of 3rd April 1989, of accession to the International Convention on maritime search and rescue (SAR), and its Annex, adopted in Hamburg on 27th April 1979 and the related implementing regulation, adopted by Decree of the President of the Republic n. 662 of 28th September 1994;

GIVEN Article 77 of the Treaty on the Functioning of the European Union;

GIVEN the Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard;

GIVEN art. 1 of Law n. 121 of 1st April 1981, laying down the new system of the Administration of Public Security, under which the Minister of the Interior, being the National Public Security Authority, is responsible for ensuring public order and security, and has the top management of the related services, by coordinating the tasks and activities of police forces in this area and adopting the consequent provisions;

GIVEN the Legislative Decree n. 286 of 25th July 1998, laying down the Consolidated Text of the provisions concerning immigration regulations and rules on the legal status of foreigners;

GIVEN the Decree-Law No. 130 of October 21, 2020, converted into law, with amendments, by Law No. 173 of December 18, 2020, on urgent provisions on immigration, international and complementary protection, amendments to Articles 131-bis, 391-bis, 391-ter and 588 of the penal code, as well as measures on the prohibition of access to public establishments and places of public detention, on the fight against the distorted use of the web and on the discipline of the National Authority for the rights of persons deprived of their liberty;

GIVEN, in particular, Article 1, paragraph 2, of the aforementioned Decree-Law No. 130/2020, which provides that the Minister of the Interior, in consultation with the Minister of Defense and the Minister of Infrastructure and Transportation, after informing the President of the Council of Ministers, may restrict or prohibit the transit and stop in the territorial sea for public order and security reasons;

GIVEN the Resolution MSC.167(78), adopted on May 20, 2004, by the International Maritime Organization, on Guidelines on the Treatment of Persons Rescued at Sea;

GIVEN the Ministerial Decree of July 14, 2003, on provisions on the fight against illegal immigration;

GIVEN the Note Verbale No. 170671, of October 24, 2022, in which the Ministry of Foreign Affairs and International Cooperation brought to the attention of the Embassy of the Federal Republic of Germany the behavior held by the ship Humanity 1, flying the German flag, of the NGO SOS Humanity, during sea rescue operations that took place outside the SAR area of Italian responsibility, noting how these operations were carried out in the absence of any instruction and form of coordination by the competent SAR Authority;

CONSIDERING that the above-mentioned Note Verbale attests that the activity carried out by the above-mentioned naval asset contravenes the spirit of international, European and national standards on sea rescue and, moreover, is not in line with European and national standards on security and border control and on the fight against illegal immigration;

GIVEN the Directive No. 70327, adopted by the Minister of the Interior on October 24, 2022, addressed to the Police Forces and the Corps of *Capitanerie di Porto*, with which indications are provided regarding the need for the dependent operational sectors to monitor the above-mentioned naval asset, providing information to the Public Security Department on any developments in the reported situation, also for the purposes of assessing the preconditions for the application of the aforesaid Article 1, paragraph 2, of Decree-Law No. 130/2020;

GIVEN the Note Verbale no. 321.70 of 2 November 2022, with which the German Embassy, in response to the note verbale of 24 October, asked the Ministry of Foreign Affairs and International Cooperation to provide prompt support for the disembarkation in an Italian port of people on board the ship Humanity 1, in compliance with the relevant international Conventions, denying any form of responsibility of the flag State;

GIVEN the additional Note Verbale no. 0178809 of 2 November 2022, addressed to the Embassy of the Federal Republic of Germany, with which the Ministry of Foreign Affairs and International Cooperation, requested information on the persons present on board the ship Humanity 1 - also with regard to identification aspects and to possible cases of vulnerability - on the marine areas in which it operated and on possible request for international protection by people on board;

CONSIDERING that due to the modalities by which the said naval asset has been operating, confirmed - moreover - by the information transmitted by the Public Security Department, by note No. 588122, of October 29, 2022, the transit and stop in the territorial sea are considered as detrimental to public order and security, pursuant to the aforementioned Article 1, paragraph 2, of Decree-Law 130/2020;

GIVEN, in fact, that under Article 19, paragraph 2, of the aforementioned UNCLOS Convention, the passage of a foreign ship is considered detrimental to order and the security of the State when engaged in taking on board or disembarking persons in violation of the immigration laws and regulations in force in the coastal State;

TAKING ALSO ACCOUNT OF the need for the Italian State to ensure, pursuant to Article 77 of the Treaty on the Functioning of the European Union, effective surveillance of the crossing of the EU's external borders;

NOTING that, with effect from October 26, 2022, the aforementioned ship, arrived in Italian SAR waters, after having crossed the SAR areas of other States, has forwarded to ITMRCC several requests

for a place of safety (POS), thereby expressing the real intention to transfer the people on board to Italy rather than ensuring them the most timely safety.

TAKING INTO ACCOUNT, moreover, the outcomes of the last meeting of the National Committee for Public Order and Security, held on October 27, 2022, which was attended by the Commander General of the Corps of *Capitanerie di Porto*, also with regard to the risks to public order and security related to the phenomenon of irregular immigration;

NOTING the prompt readiness of the Italian Authorities to provide immediate assistance to the vulnerable persons on board the said vessel - as occurred on the occasion of the medical evacuation carried out on October 27, 2022 - and to meet any possible need in terms of logistical technical support that the said vessel may require and, in any case, to meet any other possible primary need;

HAVING INFORMED the President of the Council of Ministers and the Council of Ministers;

DECREES that

The ship *Humanity 1* is prohibited from stopping in national territorial waters beyond the time necessary to ensure rescue and assistance operations for people in emergency conditions and in precarious health conditions reported by the competent national authorities.

In any case, all the people who remain on the boat will be assured of the necessary assistance for exiting territorial waters.

An appeal against this measure may be filed with the Regional Administrative Court (T.A.R.) of Lazio within 60 days of notification.

Rome,

The Minister of the Interior
Matteo Piantedosi

The Minister of Defense
Guido Crosetto

The Minister of Sustainable Infrastructure and Mobility
Matteo Salvini