



Provisional version

## Violence against migrants

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

Committee on Migration, Refugees and Displaced Persons

Rapporteur: Mr Andrea RIGONI, Italy, ALDE

### Summary

The phenomenon of violence against migrants has significantly increased throughout Europe over recent years, which manifests itself in forms such as physical violence, labour exploitation, trafficking, as well as sexual harassment and abuse, discrimination, and hate speech.

Even if the rights of migrants are generally protected through legal instruments, violence still remains a big issue in the context of smuggling migrants, violence in detention centres or the forced labour market.

This report places the protection of the human rights of migrants as well as the necessity to combat racism, discrimination, and hate speech which lead to violence against migrants, at the forefront of migration management priorities through a series of specific measures.

It suggests a number of measures to improve legislation as well as the protection of and assistance to the victims of violence. It also stresses that awareness-raising measures and information-sharing with the host populations can play a major role in preventing violence against migrants.

The report highlights the role of local communities in preventing violence against migrants. The member States of the Council of Europe should empower local authorities to support migrants' integration through housing, social inclusion and job creation programmes.

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<sup>1</sup> Reference to Committee: Doc. 13444, Reference 4040 of 11 April 2014.

**Contents**

**Page**

<b>A. Draft resolution</b> .....	3
<b>B. Explanatory memorandum by Mr Rigoni, rapporteur</b> .....	5
1. Introduction .....	5
2. Definition and different types of violence against migrants .....	6
2.1. Definition of violence and types of violence.....	6
2.1.1. Physical violence. ....	6
2.1.2. Trafficking of migrants. ....	6
2.1.3. Violence in immigration detention centres.....	6
2.1.4. Violence and exploitation in the labour market.....	7
2.1.5. Hate crimes.....	7
2.2. Migrant women and children as vulnerable targets.....	8
2.3. Violence against LGBT migrants. ....	9
3. International and European legal framework .....	9
4. Case studies on violence against migrants .....	9
4.1. France.....	9
4.2. Germany.....	10
4.3. Greece.....	12
4.4. Italy.....	14
4.5. Turkey.....	14
4.6. Russian Federation.....	15
5. Measures to combat violence against migrants.....	16
5.1. Addressing the root causes of violence.....	16
5.2. Strengthening legislation.....	17
5.3. Protecting and assisting victims and witnesses.....	17
5.4. Punishing perpetrators of violence.....	18
5.5. Raising awareness of the problem.....	18
6. Conclusions and recommendations.....	18

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

1. The Parliamentary Assembly is very concerned with the increased phenomenon of violence against migrants in Europe, which manifests itself in forms such as physical violence, labour exploitation, and trafficking, as well as sexual harassment and abuse, discrimination and hate speech.

2. Regrettably, very few European governments have taken active steps to combat the root causes of violence against migrants. Moreover, during the recent economic crisis, anti-migrant rhetoric has been widely used by populist parties and mass media, provoking stigmatisation, intolerance and xenophobia. The introduction of increasingly restrictive policies towards migrants and harsher measures against irregular migration is also aggravating the situation.

3. The Assembly is highly concerned about women and children migrants, who are particularly vulnerable to different forms of violence and abuse, including sexual violence, especially in detention centres or places of mass concentration of migrants. These groups should receive special protection from the receiving countries, including through the provision of safe reception facilities and alternatives to their detention.

4. The Assembly believes that the opening of regular channels for migration, combating the exploitation of migrants in the labour market, the promotion of a positive image of migrants in political discourse and in the mass media, as well as the development of social inclusion programmes are the most effective steps to combat violence against migrants in Europe.

5. Therefore, the Assembly calls on all member States of the Council of Europe to place the protection of the human rights of migrants at the forefront of migration management priorities and to combat racism, discrimination, and hate speech, which lead to violence against migrants. In particular, it asks member States, whenever this is not the case:

### 5.1. through legal measures:

5.1.1. to ensure that the perpetrators of violence against migrants are prosecuted regardless of the victims' status;

5.1.2. to review and amend national legislation with the aim of ensuring that irregular migration is not considered a criminal offence;

5.1.3. to strengthen national legislation against hate speech, discrimination and xenophobia and, in particular, to ensure that all forms of incitement to racial discrimination are criminalised;

5.1.4. to amend national legislation to enable all migrants to have equal access to justice when violence is perpetrated against them;

5.1.5. to amend national penal legislation to ensure the prosecution of "hate crimes" as a specific criminal offence;

5.1.6. to include special provisions in national labour-related legislation to punish employers who commit violent or illegal acts against migrants, including failure to pay wages or unlawful dismissal;

5.1.7. to ratify the United Nations 1990 International Convention on the Protection of the Rights of all Migrant Workers and their families;

5.1.8. to ratify and fully implement the 2011 Istanbul Convention on preventing and combating violence against women and domestic violence (CETS No. 210) in order to ensure protection for migrant women in all Council of Europe member states;

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<sup>2</sup> Draft resolution adopted by the Committee on 22 March 2016.

5.1.9. to ratify and fully implement the 2007 Lanzarote Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201) in order to provide protection for migrant children against such abuse.

5.2. through protection and assistance to the victims of violence:

5.2.1. to put in place measures to ensure the safety of migrants during criminal justice procedures;

5.2.2. to provide the necessary care for victims (medical treatment, psychological and social assistance) without discriminating against the migration status of victims paying special attention to vulnerable groups ( women, children, LGBT);

5.2.3. to ensure that victims of violence in detention centres have access to legal aid and can lodge complaints;

5.2.4. to promote alternatives to immigration detention, in particular for children;

5.2.5. to inform migrants who are victims of violence of their rights and of available remedies, as well as providing information on social services through helpdesks or printed materials, for instance, so that they can receive assistance.

5.3. through the prevention of violence by means of information, awareness-raising and integration:

5.3.1. in cooperation with non-governmental organisations, to collect, analyse and systematise information on violence committed against migrants and to share it with all related institutions;

5.3.2. to provide training for law enforcement personnel and prosecuting and judicial authorities on how to deal with hate crimes and how to assist the victims;

5.3.3. to support the work of non-governmental organisations working with victims of violence against migrants and promoting migrants integration;

5.3.4. to raise the awareness of migrants and local host communities about cultural and religious traditions, thereby promoting tolerance and the social inclusion of migrants.

6. The Assembly considers that local communities play a major role in preventing violence against migrants. Therefore, the member States of the Council of Europe should empower local authorities to support migrants' integration through housing, social inclusion and job creation programmes.

## B. Explanatory memorandum by Mr Rigoni, rapporteur

### 1. Introduction

1. Migrants are often exposed to discrimination and racism in the host countries. In extreme cases, these xenophobic sentiments of hostility may take the form of physical or psychological violence. Regrettably, the phenomenon of violence against migrants has significantly increased throughout Europe over recent years.

2. In some countries, migrants are perceived by a part of the population as responsible for the high rates of crime and unemployment and their claims for equal access to the labour market, housing and public services are opposed. Furthermore, migrants are sometimes seen as undermining national cultures and values and constitute a threat to public security.

3. These fears are often used by populist parties for their political objectives, and reflected by the media. As a result, migrants are often subject to bias-motivated aggression, either through verbal exclusion and psychological distress or even bodily injuries and assaults.

4. In some host countries, there are insufficient legal safeguards available to migrants to protect themselves from discriminatory and xenophobic practices and racism, which tend to increase if migrants are in an irregular situation. This means that they become one of the main targets of hate crimes and are subject to degrading treatment in detention centres and social exclusion which amounts to clear violation of their fundamental rights and access to justice.

5. There is increasing concern regarding violence against migrants, including women and children. The exposure of children to physical violence and hate speech creates an alarming situation. In addition, serious attention must be paid to the reports on the alleged lack of effective police investigation procedures.

6. In addition to violence committed against migrants, there is a new phenomenon of violence between and within different migrant communities. Such tensions are particularly present in areas of mass concentration of migrants, such as migrant detention centres, camps and temporary accommodation areas. Very often the host communities do not know how to react to such manifestations of violence. This problem deserves particular attention but is not covered by the present report.

7. The Parliamentary Assembly of the Council of Europe has dealt with some issues regarding these manifestations of violence. The Committee on Culture, Science, Education and Media has investigated the role and impact of the media as an incitement to violent behaviour and predispositions.<sup>3</sup> The Committee on Migration, Refugees and Displaced Persons has, for its part, examined the prejudices experienced by Roma migrants in Europe<sup>4</sup> and looked into the issue of the trafficking of migrant workers for forced labour.<sup>5</sup> Concerns about the perpetration of violent acts against women, including migrant women, such as sexual harassment and sexual abuse has been addressed by the Committee on Equality and Non-Discrimination from the perspective of the link between gender and violence and legal protection.<sup>6</sup>

8. This report is aimed at examining the ways in which migrants can be subjected to violence, the scope of the phenomenon and motives behind it on the one hand, and accountability of the perpetrators, preventive measures and protection offered to victims by the authorities on the other. Furthermore, it is aimed at raising awareness concerning violent crimes as a form of exclusion and irreversible denial of fundamental rights and protection.

<sup>3</sup> Report "Violence in and through media", Committee on Culture, Science, Education and Media, [Doc. 13509](#), 6 May 2014.

<sup>4</sup> Report "Roma migrants in Europe", Committee on Migration, Refugees and Displaced Persons, [Doc. 12950](#), 8 June 2012.

<sup>5</sup> Report "Trafficking of migrant workers for forced labour" Committee on Migration, Refugees and Displaced Persons, [Doc.13086](#), [Resolution 1922 \(2013\)](#), [Recommendation 2011 \(2013\)](#).

<sup>6</sup> Report "Violence against women in Europe", Committee on Equality and Non-Discrimination, [Doc. 13349](#), 31 October 2013.

## 2. Definition and different types of violence against migrants

### 2.1. Definition of violence and types of violence

9. Various types of violence are experienced by migrants in host countries. This violence can be direct or indirect. Direct violence includes physical force with the intention of causing harm, labour exploitation, bodily injuries, sexual abuse, extortion, exploitation and trafficking. Direct violence also includes destruction of personal property which may put migrants' lives in danger.

10. Indirect violence includes aggressive threats, verbal violence, sexual harassment, discrimination and xenophobia which may be considered as hate crimes. Hate crime involves the use of information and communication means to convey aggressive and discriminatory messages. These messages are intended to cause psychological distress, marginalisation and discourage access to services such as education, housing, health, etc.

#### 2.1.1 Physical violence

11. Migrants experience physical violence at all stages of their migration process. Many undocumented migrants are subjected to ill-treatment by border police, including during push-backs. Many report inhuman and degrading treatment in detention, or being kept in inhuman conditions.

12. In recent years, there seem to be more and more cases of ill-treatment of migrants and asylum seekers by law enforcement officers. People are slapped, kicked and beaten by local police and very often these cases of inhuman treatment are never investigated. In some cases these violent acts lead to deaths of migrants. They are also vulnerable to attacks and robbery by bandits on their way to the countries of destination.

#### 2.1.2 Trafficking of migrants

13. Human trafficking represents one of the most extreme forms of physical and verbal violence to which migrants can be submitted. Migrants subject to trafficking often experience coercion, cruelty in the form of beatings, assaults and abuse of their condition. They are insulted and the target of manifestations of hate while becoming objects to serve other financial goals. Their identities are destroyed, as are their family ties or any attachment to systems of protection and reception of migrants in the host society.

14. Most trafficking occurs at national or regional level; but there are also notable cases of long-distance trafficking. Europe is the top destination for victims from the widest range of other countries. It is difficult to secure accurate statistics on the numbers of trafficked persons because many of them are never identified, but according to the EUROSTAT Statistical Working Papers on Trafficking on Human Beings,<sup>7</sup> the number of registered victims coming into contact with the authorities of 34 European Countries for the 2010-2012 period was 30 868 (with the highest numbers registered in Italy, the Netherlands, Romania and the United Kingdom).

15. This report will not deal with violence against migrants as a result of trafficking as it is a subject of other reports under preparation by the Committee.

#### 2.1.3 Violence in immigration detention centres

16. In the last ten years, the number of immigration detention centres in Europe has increased: in 2012 there were 473 certified detention centres in 44 countries across Europe. Detention has become one of the main tools for "managing" the migrant population and, at the same time, constitutes a continuous violation of migrants' rights. Every year in the member States of the European Union, almost 600 000 migrants (asylum seekers whose application for protection has been rejected; migrants whose right to remain has expired or who have never enjoyed that right, including those who have remained in the territory for many years) are deprived of their liberty and, in some cases, also of legal assistance, health-care and family contact. Furthermore, people who have been denied access to European countries at the border are often "contained" in waiting zones such as international airports, ports and stations before being sent back.

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<sup>7</sup> EUROSTAT Statistical Working Papers on Trafficking on Human Beings, 2014 edition [http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking\\_in\\_human\\_beings\\_-\\_eurostat\\_-\\_2014\\_edition.pdf](http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_eurostat_-_2014_edition.pdf)

17. The detention of asylum seekers is a common and sometimes systematic practice. In the Czech Republic, asylum seekers are detained “with the obligation to stay in detention centres” usually set up for migrants for a maximum duration of 120 days.<sup>8</sup> In Malta, asylum seekers who do not hold valid papers – who represent the majority – are systematically detained. The Slovak Republic also organises the detention of asylum seekers, in particular in waiting zones located in airports and in detention centres for migrants.<sup>9</sup> In Belgium, asylum seekers at the border are automatically detained while their application is being examined.

18. When evaluating the implementation of the Returns Directive,<sup>10</sup> the European Commission has underlined that it is necessary to react to “striking cases of inhuman detention conditions”, thereby recognising that serious violations of human rights are committed and remain unpunished at national level. These violations consist of limited visits of family members and NGOs,<sup>11</sup> lack of information regarding their administrative situation, protection of their rights and possible remedies through the absence of interpretation, judicial control and legal assistance.

19. The administrative detention of migrants is a system which breaches the fundamental rights of migrants while at the same time criminalising them. It also lacks effective legal safeguards, leaving migrants hidden from the public eye and which, most of all, is a source of unjustified violence against them.

#### *2.1.4 Violence and exploitation in the labour market*

20. In the labour market context, regular and irregular migrants are particularly vulnerable: they are exploited or forced to work and, in order to remain in the country, they prefer to work and stay under these conditions rather than be reported to the authorities.

21. Amnesty International has confirmed the widespread exploitation of foreign migrant workers in Italy, where on arrival the majority is reported to receive less than 40% of the legal minimum wage.<sup>12</sup>

22. Until now, member States have not addressed the exploitation of and violence against migrants in labour contexts as a public concern. There is a lack of legislation to criminalise the behaviour of the employers and to supervise the conditions in which migrant workers perform their work.

#### *2.1.5 Hate crimes*

23. During the economic crisis anti-migrant rhetoric became more popular among the local populations of some countries who blamed migrants for the political and economic problems in their countries. It provoked racist and xenophobic tension, which often resulted in violence and can be considered as “hate crime”.

24. Migrants who face such violence fear identifying themselves fear moving freely and reporting such crimes to the police due to their mistrust of the law enforcement system. They are also afraid of deportation and, therefore, prefer not to seek the help of local communities or any specific organisation. This leads to the marginalisation of migrants and creates barriers to their integration into the host society.

25. Unfortunately, very few European governments are taking active steps to combat this form of violence and the root causes of hate crimes. Hate crimes are rarely investigated and prosecuted by the law enforcement authorities, because often the national legislation does not establish specific offenses or penalties for such crimes. The victims of the hate crimes also lack adequate legal protection.

26. The UNHCR has taken important steps in addressing the issue of protecting refugees and asylum seekers from hate crimes. In December 2009, the UNHCR released a Guidance Note which outlines key strategic elements to address this problem.<sup>13</sup>

<sup>8</sup> « Detention Context Forms », Europe regional workshop, International Detention Coalition, (Brussels, 27-28 May 2014), information provided by participating NOGs.

<sup>9</sup> *Ibidem*

<sup>10</sup> [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/immigration/return-readmission/docs/communication\\_on\\_return\\_policy\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/immigration/return-readmission/docs/communication_on_return_policy_en.pdf)

<sup>11</sup> « Returns » Directive (EC/115/2008), Art. 16.4 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>

<sup>12</sup> <http://www.euronews.com/2013/02/15/italy-s-migrant-slavery/>

## 2.2. Migrant women and children as vulnerable targets

27. Migrant women make up a significant percentage of women who report intimate partner violence which leads to them feeling intimidated and stigmatised, as highlighted by [Resolution 1697 \(2009\)](#) on Migrant women: at particular risk from domestic violence.

28. On arrival in the country of destination, violence and discrimination continue to be part of migrant women's lives as they experience a dual vulnerability to violence reflecting gender inequalities existing in both origin and destination societies, as well as to their status as foreigners.

29. Women represent only 11% of people being smuggled across the Mediterranean. Fleeing their homes in North and sub-Saharan Africa and the Middle East to escape poverty or a violent family environment, these women embark on a journey filled with terror. Many are raped, beaten, and tortured. Some of them are pregnant and suffer miscarriages or die in transit; others become pregnant after being raped during the trip. The fortunate ones who finally manage to reach European soil may be locked behind fences for indeterminate periods of time or subject to trafficking to pay back their "debt" to their smugglers.

30. In addition to the hardships faced during any journey as an illegal migrant these women are also both vulnerable and invisible, at the mercy of men who control their words and visibility to the outside world. The problems faced by migrant women are almost entirely absent from any media coverage.

31. The 2011 Istanbul Convention on preventing and combating violence against women and domestic violence (CETS No. 210) especially addresses violence against women as a form of gender-based violence which also applies to girls under the age of 18.<sup>14</sup> Article 3 of this convention states that violence can be understood as a human rights violation and a form of discrimination.<sup>15</sup>

32. This is why I call for the general and faster ratification of the Istanbul Convention<sup>16</sup> in order to broaden the personal scope of this Convention to cover all migrant women.

33. Child migrants are caught between laws protecting children and European (anti-) migration policies. International laws guarantee children's access to education and healthcare irrespective of their immigration status and oblige public authorities to work in the children's best interest.<sup>17</sup> However, the restrictions imposed by immigration policies are pushing children away from essential services, leaving them even more isolated and vulnerable to organised crime networks.

34. The detention of children is also a form of violence and has detrimental effects on the child's psychological and physical well-being.<sup>18</sup> Children confined to this prison-like environment, lack of freedom and constant surveillance risk suffering from depression, high levels of anxiety, and symptoms of post-traumatic stress such as insomnia, nightmares and bed-wetting. Therefore, it is very important that the governments of the Council of Europe member States follow the recommendations of the Parliamentary Campaign to End Immigration detention of Children and introduce alternative solutions to detention.

35. Again, I urge all member States to ratify the Council of Europe Lanzarote Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201)<sup>19</sup> to ensure better protection for child migrants.

36. Another issue regarding women and children is the perpetration of sexual abuse and harassment in immigration detention centres. There are cases where the guards or the immigration detention centres' workers use their respective positions of power to abuse vulnerable, traumatised women and children. For instance, a

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<sup>13</sup> Human Rights First, Combating Violent Hate Crime Against Refugees, Asylum-Seekers, and Migrants: Recommendations for State, [www.Humanrightsfirst.org/discrimination](http://www.Humanrightsfirst.org/discrimination)

<sup>14</sup> <http://conventions.coe.int/Treaty/EN/Treaties/Html/210.htm>

<sup>15</sup> Article 3 <http://conventions.coe.int/Treaty/EN/Treaties/Html/210.htm>

<sup>16</sup> <http://www.conventions.coe.int/Treaty/EN/Treaties/Html/210.htm>

<sup>17</sup> Article 2, United Nation Convention on the Rights of the Child

<sup>18</sup> Report PACE, Committee on Migration, Refugees and Displaced Persons, [Doc. 13597](#), 15 September 2014.

<sup>19</sup> <http://conventions.coe.int/Treaty/en/Treaties/Html/201.htm>



2006 Legal Action for Women (LAW) investigation into Yarl's Wood Removal Centre (Milton Ernest, United Kingdom) found that 70% of migrant women had reported rape, of whom 57% had no legal representation and 20% had lawyers who demanded payment in advance.

### 2.3. Violence against LGBT migrants

37. Lesbian, Gay, Bisexual and Transgender (LGBT) migrants are fleeing violence, humiliation, inequality and discrimination in their countries, but often face the same discrimination in their host countries. In Germany, for example, in the period from 1 August to 31 December 2015, the association of gays and lesbians for the states of Berlin and Brandenburg reported 95 cases of physical violence, including sexual attacks against migrants. What is the most appalling is that the LGBT migrants arriving in Europe are attacked by their companions in the migrants' centres. The Dutch authorities had to move the LGBT migrants in Amsterdam to a separate refuge to ensure their safety.

38. A positive development occurred when Germany opened the first shelter for LGBT refugees in Nuremberg. It was initiated by the association "Fliederlich" at the request of a number of LGBT migrants who felt threatened in the shelters where they had been accommodated before. There are also plans to open a bigger centre with 120 beds in Berlin later in 2016.<sup>20</sup>

## 3. International and European legal framework

39. The United Nations 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICEMW) stresses in its Article 16 that all migrant workers and their family members are entitled to protection by the State. The substance of this protection can be found in Article 68 which highlights the need to prevent and eliminate illegal or clandestine movements and to impose effective sanctions on persons or entities that use violence against migrants and their families.

40. Regarding violence as linked to discriminatory practices, the United Nations International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) can be referred to in combination with new political commitments to combat hate crime and online hate speech based on racial grounds which account for psychological violence.

41. At European level, the European Court of Human Rights has addressed the perpetration of violence against migrants under Article 3 of the European Convention of Human Rights which states that no one should be submitted to any form of inhuman treatment. In the judgment *Nachova and Others v. Bulgaria* of 2005 the Court ruled that States have an obligation to prosecute bias-motivated violence.

42. Even though the rights of migrants are generally protected through legal instruments, violence still remains a big issue and is still being perpetrated both by institutions and civil society. There is a need to strengthen protection, otherwise violence and violations of these rights will continue to go unpunished.

## 4. Case studies on violence against migrants

43. To portray a general picture of the different forms of violence against migrants which are widespread across Europe, I decided to use the examples of some of the Council of Europe member States.

### 4.1. France

44. France is currently facing a critical situation in the Calais area, where several thousand asylum seekers and migrants who arrived from Sudan, Eritrea, and Ethiopia have been living in makeshift camps and on the streets waiting for an opportunity to cross the Channel and reach the United Kingdom. Most of them have neither accommodation nor access to sanitary or hygienic conditions and depend on the food and assistance provided by local organisations and volunteers.

45. According to the Human Right Watch investigation of police abuse in Calais, many asylum seekers and migrants reported violence and abuse from the French police. Of forty-four migrants interviewed by Human Rights Watch, nineteen of them, including two children, said that they had experienced abuse and

<sup>20</sup> Germany opens first shelter for gay refugees, The Times of Israel, February 1, 2016

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harassment.<sup>21</sup> The abuses described include beatings and attacks with pepper spray, which are prohibited by French criminal law.

46. Migrants may wait for several months to register as asylum seekers in Calais and during this period they are not eligible for accommodation. The French Government has taken some positive steps, by setting-up a day centre that provides meals and water during the day. Temporary accommodation facilities have been provided for more than 1 500 migrants. However, after the enormous increase of arriving migrants in October 2015, estimated between 3 500 and 6 000, these efforts are not sufficient.

47. The French Government has all the necessary means to improve the situation in Calais by providing a system of quick registration and processing of asylum claims, ordering an independent investigation into reports of police abuse and harassment of migrants and ensuring that these abuses will be stopped.

#### 4.2. Germany

48. Germany continues to be the main European destination for asylum seekers from Syria, Kosovo\*<sup>22</sup> and Albania, but also from Syria, Iraq, Afghanistan and other countries, with 800 000 asylum applications forecast for 2015. At the same time, there has been an increase in violence against migrants. In fact, as reported by the Antonio Amadeu Foundation, 198 cases of racially motivated attacks on asylum seekers or their accommodations have been registered in Germany in 2015, including 15 arson attacks. In 2014, the police counted 162 such attacks by neo-Nazis.<sup>23</sup> These figures are three times greater than in 2013, and attacks happen all over Germany and, not necessarily, in the regions with a higher population of migrants. One of the recent attacks was on 18 July 2015, in Remchingen, Baden-Württemberg, where a building which was prepared to host asylum seekers was set on fire. A similar arson attack happened on 3 April 2015 in Tröglitz, a small town of Saxony-Anhalt in Eastern Germany.<sup>24</sup> The perpetrators of this attack were not found, but the issue of migrants' safety in Germany was revived in the media.

49. In May 2015 the public broadcaster NDR (Norddeutscher Rundfunk) reported two incidents of police torture in Hannover, Lower-Saxony. Young refugees were arrested at the train stations and violently mistreated by the police. After these cases became public, further assaults, committed by private security staff in 2014, were denounced in Bad Berleburg and in Essen, North Rhine-Westphalia.

50. During my fact-finding mission to Germany, I tried to figure out the reasons for such a significant increase in anti-migrant attacks. The German authorities, as well as the representatives of non-governmental organisations explained this surge of violence by the rise of extremist parties, like the Alternative for Germany (AfD), the National Democratic Party (NPD) and Pegida movement (Patriotic Europeans against the Islamisation of the West). Extreme right groups organise anti-migrant demonstrations bringing their supporters to the towns where migrants are to be accommodated.

51. At the same time, German legislation does not provide necessary protections to migrants and, in some cases, significantly limits their human rights. Both German asylum/refugee law and immigration/residence Act (Aufenthaltsgesetz)<sup>25</sup> are governed at Federal level under exclusive or concurrent legislation. The basic legislation in the field is the Immigration Act.

52. First of all, Article 87 of the Residence law (AufenthG) limits access for asylum seekers and undocumented migrants to health care and obliges medical staff to denounce the latter. Meanwhile, the first paragraph of Article 4 of the Asylum Seeker Benefits Act (AsylbLG) stating that migrants are exclusively

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\* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

<sup>21</sup> <http://www.asylumineurope.org/news/26-01-2015/human-rights-watch-migrants-and-refugees-destitute-and-harassed-calais#sthash.rBdYXT4s.dpuf>

<sup>22</sup> \*All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

<sup>23</sup> <http://www.economist.com/news/europe/21648702-surge-asylum-seekers-testing-germanys-tolerance-foreigners-tr-glitz-everywhere>

<sup>24</sup> [http://www.nytimes.com/2015/04/23/world/europe/germany-immigration-refugees-asylum-integration.html?\\_r=0](http://www.nytimes.com/2015/04/23/world/europe/germany-immigration-refugees-asylum-integration.html?_r=0)

<sup>25</sup> [http://www.auswaertiges-amt.de/EN/EinreiseUndAufenthalt/Zuwanderungsrecht\\_node.html](http://www.auswaertiges-amt.de/EN/EinreiseUndAufenthalt/Zuwanderungsrecht_node.html)

entitled to receive health care services in the case of severe injury or illness, directly limits the health care access for asylum seekers. Based on the Asylum Procedure Law, it is still a widely spread practice to limit asylum seekers in their movements around the country and to oblige them to obtain a special permission to travel to another city (§§ 56 ff. AsylVfG). Finally, until recently, there was no such legal act which would punish hate crimes and violence committed with racist motivation. The victims of such crimes are not protected.

53. As was explained to me, according to Germany's national asylum-seeker policy, refugees are to be housed across the entire German territory. The region of Saxony-Anhalt is due to take 750-1 000 such refugees this year.

54. In Magdeburg, the main city of Saxony-Anhalt, where I met with the president of the Regional Parliament and the representatives of different political parties, the foreign population represents only 2.5 % of inhabitants of this region. Nevertheless, as I was informed, the fear of foreigners among the local population is significant and based on the fear of economic degradation ("foreigners will take our jobs") and the fear of difference, which was inherited from the old socialist system, where contact with foreigners had been limited. There is also a certain differentiation in the attitude to foreigners welcome culture towards refugees and asylum seekers and very strong rejection of economic migrants from Balkan countries.

55. To combat these fears, the local authorities have developed a series of integration measures and awareness raising activities, but they recognise that State financial support for such activities is not sufficient. Small municipalities have no budget for integration activities and there are no special programmes developed for the local population to prepare them for welcoming foreigners.

56. At a Federal level, the German authorities have launched a number of measures in reaction to the recent increase of violence against migrants. The Federal Anti-Discrimination Agency conducted a study on migrants' experience of discrimination. The results of the study had shown that 41.9 percent of respondents with a migrant background had been the victim of discrimination in the previous 12 months. Migrants of Muslim religion indicated a significantly higher number of discrimination experiences (38.2 percent of them experienced discrimination in the labour market).

57. In the framework of its measures to combat violence against women the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth focuses on the special situation of immigrant women. Immigrant women are disproportionately likely to suffer violence compared with German women; in addition, immigrant women are often insufficiently informed about their rights and the system of protection and assistance in Germany. The ministry supports a network of non-governmental organisations providing assessment of needs and support for immigrant women affected by violence.

58. However, at the level of the Interior Ministry there is a lack of concrete measures to protect migrants from violence or attacks, and, in the majority of cases, no arrests have been made for the attacks and even fewer have resulted in convictions.

59. The German government must find a way to deal with the increasing anti-refugees sentiment and the new wave of immigration which is the biggest since the 90's. In addition, local authorities will have to deal with communities' growing numbers of concerns regarding sufficient housing and the feasibility of integrating different cultural groups. That is why the main challenge will be greater tolerance and acceptance of refugees. Eventually, the federal government will have to find a way to protect refugees and their accommodations.

60. It is also important that protection against discrimination be recognised as a responsibility at national and municipal level. All municipalities where migrants are accommodated should have special counselling services for migrants and community based programmes promoting migrants integration, inter-cultural knowledge, and civic commitment and volunteer's initiatives. People should be told about the harm of neo-Nazis activities in the event of discrimination.

61. I am pleased to note a recent positive development in the German Parliament, which on 23 July 2015 amended the legislation introducing more penalties for offences committed with racist motivations and granting more power to federal prosecutors in cases of "hate crimes". They will also be able to launch joint operations in cases involving several German nationals.

#### 4.3. Greece

62. During the last year Greece has experienced a dramatic increase in the flow of asylum seekers desperate to get to Europe by sea coming from Asia, Africa and the Middle East. As reported by the UNHCR, the number of arrivals of migrants by sea in 2015 has reached 520 957 by the end of September 2015.<sup>26</sup> This has increased by more than two times in comparison with 2014. The majority of them are coming from Syria, Afghanistan and Iraq.

63. Such a large number of migrants arriving to the various islands, such as Lesbos, Kos, Chios, Samos, Leros, and Rhodes have put a big strain on Greek reception capabilities. It has resulted in some isolated incidents of violence, such as on Kos Island, where police officers used batons and sprayed fire extinguishers as they tried to impose order on a crowd of migrants.<sup>27</sup> In the absence of formal reception facilities, the refugees often stay in inhuman conditions, sleeping outdoors and lacking water and food.<sup>28</sup>

64. I have received several complaints from organisations which defend migrants' rights on the cases of violence against migrants in detention centres, the inhuman conditions of detention and prolonged detention periods. The majority of these cases are not registered and police officers are not punished. Several judgements of the European Court of Human Rights had found a violation of Article 3 of the ECHR due to inadequate conditions of detention and systematic deficiencies in the asylum procedure.<sup>29</sup>

65. In order to monitor this situation, I conducted a mission to Greece, where I visited Lesbos Island, one of the main arrival points of migrants coming by sea from Turkey. There are two migrants' registration centres in Lesbos with a maximum capacity of registration of up to 2 000 people per day. However, the director of one of the centres reported the arrival of more than 4 000 people per day, which highly exceeds the capacity of the centres. Nevertheless, I witnessed good organisation of the registration process, even though the number of people waiting was massive, and among them were many families with small children. In the reception centre, there were around 10 unaccompanied minors kept separately from adults and waiting to be placed in specialised institutions for children. The authorities of the reception centre, as well as the UNHCR protection officers insisted on the strong necessity to reinforce the capacity of the centre by providing more sophisticated registration equipment, as well by increasing the number of qualified staff.

66. The Greek Asylum Service is doing its best to facilitate access to the asylum procedure and to support the relocation of people in clear need of international protection. Since the second part of 2014, in response to an increase of 315 % of Syrian nationals irregularly entering Greece, the Asylum Service has put in place a fast-track procedure for registration and examination of asylum claims within one working day. However, as there are no legal routes for the arrival of migrants from Turkey and the majority of them are trafficked by sea, it is difficult to estimate how many of them will arrive in one day. To prevent any violations of migrant's rights and combat the traffickers, it is very important to reinforce the Hellenic Coast Guard service with at least 1 000 more officers.

67. Speaking about the present situation of violence against migrants in Greece, it has significantly improved during the last two years. During the rise of the neo-Nazi party Golden Dawn in 2009-2013, physical violence such as assaults and attacks on migrants were often perpetrated by members of this party through aggressive assaults and beatings. Human Rights Watch has classified the attacks perpetrated against migrants as "semi-official actions" in the sense that the police did not investigate the attacks.<sup>30</sup> In 2012, Operation Xenios Zeus was characterised as a massive social riot in which around 4 500 police officers conducted raids on the streets in order to take immigrants to a detention centre in Athens and subject them to humiliating treatment. It is estimated that most of the 40 000 immigrants were caught during this operation and 6 000 of them were detained. In the detention centre they were forced to spend hours kneeling on the ground.<sup>31</sup>

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<sup>26</sup> UNHCR, Refugees and migrants crossing the Mediterranean to Europe, Overview of arrival trends of 28 September 2015. UNCS, 30 September 2015

<sup>27</sup> Kos migrants: Chaos amid Greek registration attempt, BBC, UK, 12/08/2015

<sup>28</sup> Greece : Refugees attacked and in « hellish conditions » on Kos, 4 September 2015, Amnesty International News

<sup>29</sup> *AL.K.v. Greece* ( No. 63542/11), 11.12.2014

<sup>30</sup> Human Rights Watch, *Hate on the Streets: Xenophobic Violence in Greece*.

<http://www.hrw.org/sites/default/files/reports/greece0712ForUpload.pdf>

<sup>31</sup> Ibidem Drier, Christoph. 2012. "Greek government launches mass round-up and deportation of immigrants." *World Socialist Web Site*, August 9 Retrieved December 1, 2012 (<http://www.wsws.org/articles/2012/aug2012/gree-a09.shtml>).

68. The Greek authorities took a number of measures to tackle this problem, such as the creation of Departments and Offices within the Hellenic Police specialised in the prevention and prosecution of crimes committed on a racial, ethnic or religious basis, creation of a hotline to report incidents of racist violence, the appointment of a Public prosecutor for the prosecution of racist violent acts, a change in rules for the public financing of political parties, as well as the establishment of a new anti-racist law in September 2014 to strengthen the current anti-racism legislation. Since 2015, detention is only applied as a last resort and for a period not exceeding 6 months. Notwithstanding these improvements, some issues remain to be addressed. They were highlighted in the ECRI's fifth report on Greece published on 24 February 2015.

69. The main problem highlighted by all human rights protecting actors, including the Greek Ombudsman is an absence of effective and independent from police mechanism of recording and monitoring of racist incidents and hate crimes, as well as protection of the victims. There is also no reliable State agency collecting the information on violent attacks against migrants.

70. On the initiative of the national Commission for Human Rights and the UNHCR, a Racist Violence Recording Network (RVRN) was created to coordinate the activities of the NGOs on gathering information on the acts of violence against migrants and ensuring the timely reaction of Greek authorities. In 2014, this network registered 46 incidents of attacks against refugees and migrants. Many victims of these reported crimes did not want to take any further actions or lodge any complaint, either because they were afraid of persecutions by the perpetrators or because they were worried about the implications on their status. Some of the victims expressed a lack of confidence in the justice system, while in two cases, the victims reported that they had been discouraged by the police. Despite several recent investigations into racially motivated crimes, attacks against refugees and migrants constituted the majority of the cases recorded by the network. Even though the intensity of these attacks has reduced, the pattern of organised attacks by groups of people and physical assaults has not stopped.

71. Until recently, racial motivation was not taken into account during the sentencing. The establishment of the general aggravating circumstance for crimes with a hate motive in Article 81 of the Criminal Code imposed to prosecute hate crimes on the basis of the specific punishable act. However, this provision cannot be effective if police officers do not pay special attention to a possible racial motivation from the earliest stage of the investigation procedure. The law enforcement personnel and prosecuting and judicial authorities should be trained on how to deal with hate crimes and how to assist the victims. They should ensure the efficient investigation of any racist motive during each stage of the judicial procedure and in particular during the stage of preliminary inquiry in accordance to the 24/5/2006 Police Circular (No. 7100/4/3).<sup>32</sup>

72. As regards the integration of migrants, the Greek authorities have adopted a national Social Integration Policy for 2014-2020, which includes pre-departure measures for potential legal migrants, Greek language courses, establishment of Migrant Support Centres and Migrant Integration Councils at municipality level. In April 2014, the Greek parliament adopted the Migration and Integration Code, which promoted long-term resident status, adopted special terms and conditions of stay for the "second generation" and included beneficiaries of international protection in integration policies for third country nationals.

73. Visiting Lesbos, I was impressed with how the Greek population shows its compassion to arriving migrants, supporting them and providing with food and goods of first necessity. This general tendency of support to refugees was stressed both by officials and representatives of the civil society. Following the public condemnation of racist attacks and the denouncing of racist rhetoric of some politicians, the number of cases of such crimes has reduced and support to neo-Nazi party Golden Dawn has significantly diminished.

74. However, the positive steps undertaken by the Greek government in combating violence against migrants should be strengthened by the implementation strategies. First of all, the victims of racist violence, including undocumented migrants, should have direct access to the judicial system. The arrests and detention of victims and witnesses who press charges, during the period between pressing charges and the issuance of the special prosecutor's act should be forbidden. It is also important to prosecute hate crimes on the basis of the specific criminal offence according to the Penal Code, in conjunction with the general aggravating circumstances. If the victims of violence are unaccompanied minors, they should be provided with free access to healthcare, housing in special accommodation centres and access to education and language learning. As

<sup>32</sup> National report on Racist Violence, Medecins de Monde-Creece, April 2014, p. 46.

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regards incidents of violence in the detention centres, the authorities should ensure that the migrants have access to legal aid and can lodge their complaints. Finally, I think that international organisations, including the Council of Europe and the UNHCR could assist the Greek government in the elaboration of an action plan to prevent and tackle hate crimes and violence against migrants, including the implementation of a special educational programme.

#### 4.4. Italy

75. Italy faces a mass number of migrants who are fleeing from wars in Syria, Iraq and Somalia; poverty in Senegal, Niger, Sierra Leone and Cameroon; and escaping oppression in Eritrea and Ethiopia. In 2014, sixty three thousand migrants crossed the Mediterranean to reach Italy.<sup>33</sup>

76. In the outskirts of Rome, in the neighbourhood of Tor Sapienza, riot police have been mobilised against refugees living in a holding centre in incidents which the UNHCR has classified as “unacceptable acts of violence and intolerance”.<sup>34</sup> It is estimated that there are 70 Nigerian refugees living in the centre including minors under 18 years old from Egypt and Bangladesh.<sup>35</sup> Those migrants were also subjected to anti-immigrant rhetoric through xenophobic and racist messages in banners unfurled during the riots stating “Muslims go home” and “Long live Il Dolce”.<sup>36</sup>

77. In other cities such as Rossano in Calabria (southern Italy), African seasonal migrant workers were attacked in January 2010 followed by another attack on a Bengali bar in Rome in March 2010. Human Rights Watch has also documented cases of law abuse enforcement against Roma migrants during camp evictions.<sup>37</sup> The Italian anti-racism organisation had registered 398 media reports of hate crimes with 186 physical assaults in that same year. Mohamed Alwash, on behalf of the High Commissioner for Refugees (UNHCR) in Tripoli reported “pushing back” episodes by Italian patrols when intercepting a boat with 89 people on board, including 75 Eritreans, with nine women and three children. That episode occurred in 2011. The refusal of the Eritreans to return led to physical contact between migrants and the Italian crew, ending with some of the Africans being beaten by the Italians with plastic and metal bars.<sup>38</sup>

78. In Lampedusa and Pozzallo, there have been riots between the police and refugees through stone throwing and violent police charges which in the opinion of the UNHCR reveal the inability of Italy to deal with a continuing flood of refugees.<sup>39</sup>

79. I should also mention a recent “Mafia Capital” network crisis in Rome, involving local politicians, business people and criminals linked to violent neo-fascist groups active in the 1970s and 1980s, who were accused of corruption over the public contracts to manage migrant reception centres. This network of traffickers was making money from the migration crisis by turning the accommodation of migrants into a profitable business.

#### 4.5. Turkey

80. Turkey is considered to be a destination country for refugees escaping from the violence in the Islamic State of Iraq and from Syria. According to the UNHCR data for November 2015, Turkey is hosting around 2,715,789 asylum seekers and refugees.<sup>40</sup>

81. Between December 2013 and August 2014 the organisation reported that Syrian refugees who were denied access to Turkish territory were being subjected to abusive violence perpetrated by the Turkish border

<sup>33</sup> <http://www.theguardian.com/world/2014/aug/01/eritrean-migrants-detention-beating-libya-europe>

<sup>34</sup> <http://www.theguardian.com/world/2014/nov/13/riot-police-violence-refugees-rome>

<sup>35</sup> <http://www.euronews.com/2014/11/13/rome-clashes-between-refugees-and-residents/>

<sup>36</sup> <https://libcom.org/blog/racist-attack-political-asylum-seekers%E2%80%99-centre-rome-new-project-italian-right-25112014>. See <http://www.thedailybeast.com/articles/2014/11/14/in-rome-s-riots-cries-for-mussolini-and-attacks-on-refugees.html#>, <http://www.euronews.com/2014/11/13/rome-clashes-between-refugees-and-residents/>

<sup>37</sup> <http://www.hrw.org/news/2011/03/21/italy-act-swiftly-end-racist-violence>

<sup>38</sup> [http://www.everyonegroup.com/Everyone/MainPage/Entries/2011/2/5\\_Wikileaks,\\_allegations\\_against\\_Italy\\_Eritreans\\_were\\_pushed\\_back\\_and\\_beaten.html](http://www.everyonegroup.com/Everyone/MainPage/Entries/2011/2/5_Wikileaks,_allegations_against_Italy_Eritreans_were_pushed_back_and_beaten.html)

<sup>39</sup> <http://www.telegraph.co.uk/news/worldnews/europe/italy/8778844/Lampedusa-fire-Centre-burned-down-by-Tunisian-refugees.html>

<sup>40</sup> UNHCR, Syria Regional Refugee Response, 3 November 2015

guards. There were 10 separate incidents in which a total of 31 civilians were beaten and attacked with live ammunition by Turkish border guards when seeking entry into the country irregularly.<sup>41</sup> They were hit, kicked, and beaten with sticks. Refugees also told Amnesty that they had been humiliated by being stripped, urinated upon or being made to crawl like animals.<sup>42</sup>

82. In October 2014, in the report “Turkey: Further information: Detention of refugees must be investigated”, Amnesty International reported that almost 300 refugees from the Syrian city of Kobani running from the Islamic State were held in a sports hall for up to 15 days in Suruç, in Turkey’s Şanlıurfa province close to the border. The group was composed of women, men and up to 30 children who lived in poor conditions being beaten, threatened with knives and ill-treated by the Jandarma military force.<sup>43</sup> The organisation says that it conducted interviews in which refugees claimed that they were put on the floor and forced to crawl by gendarmerie officers. Some were threatened with knives put to their throats and told “We will cut off your heads and throw them into Syria”.

83. In the sports hall, refugees were kept for around 24 hours per day. Amnesty found that it had inadequate ventilation and only one filthy toilet and shower. Some refugees who were found there, said that they now have medical problems such as respiratory problems, heart conditions, skin diseases and anaemia that worsened during their detention and by the fact they were not given access to medical treatment or medication during their detention.<sup>44</sup>

84. In addition, the International Rescue Committee delegation travelling to Turkey found out that children were traumatised by violent experiences and abuses, neglect and even exploitation.<sup>45</sup> Recent news of a 2015 report also came out claiming that a Syrian child had been attacked by the restaurant manager at a branch of Burger King for eating a customer’s left over food.<sup>46</sup>

85. In the city of Gaziantep in south-eastern Turkey, the extreme right political groups prosecute refugees by monitoring the city in order to track them down and beat them in public. They have also been expelled from neighbourhoods and attacked on the streets and parks which cause them evident bodily injuries.<sup>47</sup>

#### 4.6. Russian Federation

86. Russia is the main country of destination for migrants who come from the ex-Soviet republics of Central Asia from the Caucasus region, but also receives migrants from Africa. Due to this flow of migrants into Russia, Human Rights Watch says that the country faces ethnic tensions and labour tensions amongst migrant workers.<sup>48</sup>

87. Racist and ethnically motivated murders and other violent attacks by neo-Nazis are largely reported in Russia by human rights organisations. Migrants and refugees from Asian and African countries are the primary victims of these attacks.<sup>49</sup> As reported by the SOVA Centre for Information and Analysis, since the beginning of

<sup>41</sup> <http://www.aawsat.net/2014/11/article55338739/syrian-refugees-tortured-at-turkeys-border-crossings-report>

<sup>42</sup> media report: *Kurdish national from al-Derbasiyah beaten to death by Turkish security* (in Arabic), <http://ciwanekurd.net/index.php/2013-06-26-10-12-46/2013-06-12-08-52-11/1846-2014-02-21-19-40-57>. Media report: *Kurdish national shot dead at border by Turkish security* (in Arabic), 30 December 2013, <http://www.rojava.fm/node/1583>.

<sup>43</sup> Amnesty International issued an urgent action calling for an investigation into the unlawful detention, forced return and alleged ill-treatment of the refugees. See Amnesty International, *Turkey: Further information: Detention of refugees must be investigated*, 23 October 2014 (EUR 44/020/2014), <http://www.amnesty.org/en/library/info/EUR44/020/2014/en>. See Amnesty International, *Briefing notes on sieges across Syria*, 16 April 2014 (MDE STRUGGLING TO SURVIVE REFUGEES FROM SYRIA IN TURKEY

Index: EUR 44/017/2014 Amnesty International November 2014 45 24/018/2014), <http://www.amnesty.org/en/library/asset/MDE24/018/2014/en/2e550ed5-9224-4bf2-89cf-dd1813d4e4f8/mde240182014en.html>.

<sup>44</sup> Suruç interviews, late October 2014.

<sup>45</sup> <http://www.rescue.org/sites/default/files/resource-file/IRCReportMidEast20130114.pdf>

<sup>46</sup> <http://www.presstv.ir/Detail/2015/01/24/394589/Syria-kid-beat-in-Turkey-over-leftovers>

<sup>47</sup> <http://www.al-monitor.com/pulse/originals/2014/08/kutahyali-syrian-refugees-under-attack-turkey-gaziantep.html#>

<sup>48</sup> <http://www.hrw.org/news/2014/01/16/russia-letter-un-special-rapporteur-human-rights-migrants-and-un-independent-expert->

<sup>49</sup> The Sova Centre for Information and Analysis, “V Moskve izbit bezhenets in Azerbaijana”, December 3, 2008

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2015, four people have been killed and 37 injured in racist attacks in Russia. Twelve convictions by the court for hate motives were considered as racist violence in 2015.

88. In 2014, 12 migrants from Central Asia were killed and 23 injured (vs. 14 killed and 61 injured in 2013). Migrant victims of such attacks are afraid to report these crimes and rarely contact the police, community organisations or the media. The xenophobic discourse in the Russian mass-media and anti-migrant speeches by some politicians simply encourage the scapegoating of migrants. The Russian State Radio Vesti FM published on its web site a map called “Illegal Aliens”, showing all places where undocumented migrants live in Moscow and asking local citizens to update this map in order to expose “the migrant underground”.<sup>50</sup>

89. There were also several attacks against other “ethnic aliens” under xenophobic slogans – against Palestinians in Voronezh (6 injured), Gypsies in the Ryazan Region (4 injured), a native of Bangladesh and a citizen of China in Moscow, two Japanese nationals in the Moscow Region, and citizens of Kyrgyzstan in Moscow and Irkutsk.<sup>51</sup>

90. Human Rights Watch also documented large-scale police raids against migrants during which thousands of migrants all over Russia were detained simply because of their non-Slavic appearance. They experienced prolonged detention in police stations in temporary holding cells without access to a lawyer, and with courts ordering their deportation based on perfunctory, rubber-stamped hearings.<sup>52</sup> In 2014 the launching of Operation Migrant was characterised by mass arrests and detention of migrants in Moscow and St. Petersburg.<sup>53</sup> A similar operation, named “Operation Illegal 2014”, was conducted in St Petersburg from 22 September until 10 October 2014. The operation resulted in 437 migrants facing criminal charges.<sup>54</sup> Police officers conducted raids on the streets where immigrants were exposed to riots, beatings, destruction of property and hooliganism; actions which continue to go unpunished. During those raids, more than 7 000 people were arrested across Moscow – and more than 800 have already been served with deportation orders.<sup>55</sup>

91. The Russian authorities and law enforcement officials do not provide adequate responses to hate crimes against migrants. The human rights non-governmental organisations working with migrants reported a number of cases of ill-treatment of migrants by police. The Civic Assistance Committee organisation registered the case of a migrant beaten by police and left outside the city without consciousness.

92. In addition to physical violence, migrants and their families in Russia are particularly discriminated against when it comes to access to education and healthcare. They also face exploitation in the labour market with delays in payment of wages, non-payment or forced labour.

93. The Russian authorities should undertake urgent measures to address violence against migrants in their country and comply with their human rights obligations.

## 5. Measures to combat violence against migrants

### 5.1. Addressing the root causes of violence

94. In order to reduce violence we must first of all understand its origin and causes. High rates of violence towards migrants are caused by intolerance (racism and xenophobia), in particular when the host country is itself unstable politically. Racism and hate speech is due to a lack of education and information of local communities, where migrants have been stigmatised for a long time in particular because of the media. In

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<sup>50</sup> Russia: Letter to the UN Special Rapporteur on Human Rights of Migrants and UN Independent Expert on Minority Issues, January 10, 2014, Human Rights Watch

<sup>51</sup> Calm Before the Storm? Xeno[hobia and Radical nationalism in Russia, and Efforts to Counteract Them in 2014, 21 april 2015, SOVA Centre for Information and Analysis, p.4-5

<sup>52</sup> <http://www.hrw.org/news/2013/08/08/russia-mass-detention-migrants>. See <http://www.hrw.org/news/2013/10/02/russia-sochi-migrant-workers-targeted-expulsion>

<sup>53</sup> <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/tajikistan>

<sup>54</sup> <http://www.ipsnews.net/2014/11/russias-immigrants-facing-crackdowns-and-xenophobia/> See <http://rt.com/news/moscow-nationalists-killing-violence-142/>

<sup>55</sup> <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/russia/16382-russia-fidh-and-adc-memorial-call-to-stop-mass-arrests-of-migrants>



addition, in the case of irregular migrant workers, because of their status, they are not protected and become more vulnerable to violence.

95. Moreover, in these cases, violence comes from the silence of the migrant victims. Since they fear being denounced or deported they do not report crimes. Consequently, perpetrators of violence remain unpunished and unknown (they can be employers, other migrants, organised criminal groups or even corrupt State actors).<sup>56</sup>

96. To address root causes of violence it is therefore necessary to facilitate access to justice for migrants: we must ensure that they receive legal assistance, regardless of their migration status and that migrant victims of violence can testify freely before the court without fear of reprisals from the host country.

97. Nonetheless, the key to combat violence remains integration. Integration should be based on the education of local communities as well as that of migrants with a particular emphasis on youth. For instance in the Netherlands, migrants must attend linguistic assistance programmes, social/vocational orientation, and general coaching.<sup>57</sup> We also need to facilitate the acquisition of nationality of migrants and ensure that there is no segregation by putting in place neighbourhood development programmes.

### 5.2. Strengthening legislation

98. Legislation is essential in order to combat violence against migrants. Nonetheless, some legislation such as that which criminalises irregular immigration can worsen this violence and make migrants more vulnerable to racism and xenophobia. Therefore, States must review and amend legislation to ensure that irregular immigration is not considered a criminal offence as well as ratifying all international human rights instruments (particularly the International Convention on the Protection of the Rights of all Migrant Workers and their families).

99. In this context, States also ought to strengthen legislation against racist hate speech, discrimination and xenophobia. All forms of incitement to racial discrimination must be criminalised in domestic law and all member States' provisions that allow for or excuse violence against migrants must be removed.

100. Legislation to fight against violence within migrant communities also needs to be strengthened. Given the vulnerability of migrant women and children, criminal and civil laws must be amended to ensure that harmful traditional practices in all of their forms (female genital mutilation, honour crimes or forced virginity testing) are prohibited and criminalised.

### 5.3. Protecting and assisting victims and witnesses

101. States must ensure that migrants are aware of their right to be protected from violence and to seek redress. Too often migrants do not seek redress because they fear reprisal or deportation orders. That is why prosecution of violence must take priority over immigration control and the status of victims.

102. Article 16 (2) of the International Convention on the Rights of All Migrants Workers and Members of their Families already provides criminal justice to migrant victims of physical or sexual violence.<sup>58</sup> However, States should put in place further measures to ensure the safety of migrants during criminal justice procedures as well as ensuring that victims will not face secondary victimisation by justice officials. In addition, States must ensure the protection of migrant witnesses from reprisal.

103. Regarding assistance, governments should provide the necessary care for victims (medical material, psychological and social assistance) without paying attention to the migration status of victims. Migrants need to be informed of their rights (by helpdesks or brochures) so that they can receive assistance. Moreover, special care should be provided to vulnerable migrant victims such as women or children, according to the type and nature of the violence experienced.

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<sup>56</sup> International Sociological Association, Criminologists without borders, report: "*Violence against migrants, migrant workers, and their families*"

<sup>57</sup> UNODC, report "*Preventing violence against migrants and enhancing community safety*"

<sup>58</sup> <http://www2.ohchr.org/english/bodies/cmw/cmw.htm>

#### 5.4. Punishing perpetrators of violence

104. Sentences for violence against migrants must be proportional to the gravity of the offence but they must also allow perpetrators of violence to reintegrate into society to avoid the risk of repeat offence. That is why alternatives to incarceration such as economic sanctions, community services orders or house arrest are preferred.<sup>59</sup> However, States should amend legislation to include as aggravating circumstances, perpetration of violence against migrants.

105. When offenders are migrants, we must ensure non-discriminatory incarceration of migrants for violent crimes.<sup>60</sup> During their detention, migrants must enjoy the same rights as non-migrants do.

#### 5.5. Raising awareness of the problem

106. Awareness campaigns must first and foremost be considered in the countries of origin. It is fundamental to inform migrants of existing risks of violence during the migration process as well as their vulnerability to criminals. They should also be informed of safe migration options and of where they can seek help.<sup>61</sup>

107. Awareness campaigns must also be undertaken in host countries. States must raise awareness on the violence endured by migrants along migratory routes, in countries of origin, transit and destination. Moreover, cultural awareness between migrant and local communities must be enhanced. It is essential that local communities understand the benefits of migration so that discrimination and xenophobia are reduced. The promotion of respect for diversity is the key for the social inclusion of migrants and non-violence.

### 6. Conclusions and recommendations

108. Up to now, the response from member States has been insufficient to protect migrants from violence. Even if the rights of migrants are generally protected through legal instruments, violence still remains a big issue in the context of smuggling migrants, detention centres and forced labour. Protection must therefore be strengthened, with a particular emphasis on women and children who are more vulnerable.

109. Law enforcement is essential but is not sufficient to prevent violence against migrants. Measures should be integrated in a wider, more comprehensive approach: from a policy level with a clear immigration policy to further preventative measures such as awareness-raising campaigns<sup>62</sup> in destination countries which would promote tolerance and social inclusion of migrants.

110. In light of the growing numbers of acts of violence against migrants the Parliamentary Assembly should call on governments to amend legislation to ensure that irregular immigration is not considered a criminal offense. States also need to fight security forces abuses: perpetrators must be brought to justice and punished. Regarding violence experienced in the context of forced labour, it is necessary to inform migrants of the working conditions to which they are entitled and finally to sanction employers responsible for violence. In addition, local governments should work and cooperate with the media so that they do not convey erroneous or caricatured information concerning migrants, which may contribute to creating xenophobic or racist sentiment towards migrants. Measures to disconnect the prosecution of violence from immigration processes are also essential so that migrants are protected against violence regardless of their immigration status.

111. Lastly, I would like to reiterate my appeal to the member States of the Council of Europe to help to generalise the ratification of the Istanbul Convention. Member States not having already done so should also ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in order to provide protection for migrant children.

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<sup>59</sup> The United Nations *Standard Minimum Rules for non-custodial Measures*, rule 8.2, General Assembly resolution 45/110, annex.

<sup>60</sup> Report "Combating violence against migrants", United Nations Office on Drugs and Crime, March 2015

<sup>61</sup> Report "Combating violence against migrants", United Nations Office on Drugs and Crime, March 2015

<sup>62</sup> Report "Combating violence against migrants", United Nations Office on Drugs and Crime, March 2015