



Provisional version

## A comprehensive humanitarian and political response to the migration and refugee crisis in Europe

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

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#### *Summary*

The migrant and refugee crisis remains one of the main challenges facing European countries, which have so far failed to cooperate effectively in addressing its root causes. The crisis is in this sense more a political issue of migration management policy than of lack of resources or capacity. In this context, the Parliamentary Assembly points to the range of recommendations it has already made in other adopted texts, which when combined form a coherent set of policy orientations.

The Assembly emphasises that migration of all types will be an increasing feature of the world's societies in the future and that general well-being will depend on the effective protection of the fundamental rights of people on the move, especially refugees. It therefore urges States to acknowledge that immigration into Europe is both instrumental for the renewed dynamic and modernisation of societies and for Europe's survival of the "demographic winter" which the continent is entering. Looking to the future, it considers it essential that States work together on devising new provisions in international law for the protection of the victims of forced migration due to climate change.

In view of the urgent need to find comprehensive humanitarian and political responses to the present crisis, the Assembly calls on member States and on Europe's neighbouring countries to pursue dialogue to ease tensions and resolve conflicts and to continue denouncing cases of abuse of human rights of refugees and asylum-seekers, while recognising that levels of protection of the fundamental rights of migrants should be similar wherever they find themselves, but that individual States should have the liberty to seek appropriate solutions as long as they comply with international human rights standards.

<sup>1</sup> Reference to Committee: Doc. 14005, Reference 4203 of 22 April 2016.

| <b>Contents</b>  | <b>Page</b> |
|--|-------------|
| <b>A. Draft resolution .....</b>   | 3           |
| <b>B. Draft recommendation .....</b>   | 5           |
| <b>C. Explanatory memorandum by Mr Marques, rapporteur .....</b>   | 6           |
| 1. Introduction .....  | 6           |
| 2. Is international law concerning migrants and refugees “comprehensive”? .....  | 7           |
| 3. Addressing the need for reform .....  | 8           |
| 4. Can a comprehensive solution include elements located “outside” Europe? .....   | 8           |
| 5. What, therefore, constitutes a comprehensive response? .....  | 10          |
| 5.1. Financial and humanitarian solidarity and efficient and coordinated funding channels .....  | 10          |
| 5.2. Combating corruption and criminal activities.....   | 11          |
| 5.3. Recognition of migration as an opportunity for economic, social, cultural and demographic European development, and countering reactions of rejection of migrants ..... | 11          |
| 6. “After the crisis” – avoiding catastrophe in the future.....  | 12          |
| 6.1. Inclusive and forward-looking policies.....   | 12          |
| 6.2. Climate change – the next crisis? .....   | 12          |
| 7. Conclusions .....   | 13          |

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

1. The Parliamentary Assembly regrets that despite much debate and some positive actions, the migrant and refugee crisis remains one of the main challenges facing European countries. It considers that this state of affairs, although mainly the consequence of armed conflicts in Syria and in other countries, demonstrates the failure of European states to cooperate effectively in addressing its root causes, providing humanitarian assistance and protecting the human rights and managing efficiently the reception, asylum processing and integration of refugees and asylum seekers.

2. The Assembly recalls its numerous adopted texts calling for greater cooperation and increased solidarity and sharing of responsibilities between countries of origin, transit and destination of refugees, in particular Resolution 2118 (2016) on refugees in Greece: challenges and risks – a European responsibility and Resolution 2088 (2016) on the Mediterranean Sea: a front door to irregular migration. The implementation of the recommendations in these texts would go a long way to creating the proper conditions for a solution to be found to the refugee crisis, which is more a political problem and one of migration management policy than of lack of resources or capacity.

3. The Assembly points to the range of recommendations made in other resolutions with a more general scope, which when combined form a coherent set of policy orientations, such as Resolution 2147 (2017) on the need to reform European migration policies, Resolution 2043 (2015) on democratic participation for migrant diasporas, Resolutions ... and ... (2017) on migration as an opportunity for European development and on integration of refugees in times of critical pressure. A third group of texts applies to particularly at-risk groups, such as Resolution 2136 (2016) on harmonising the protection of unaccompanied minors and Resolution 2159 (2017) on protecting refugee women and girls from gender-based violence.

4. With respect to tapping the potential of Europe's regions and of civil society, the Assembly welcomes the initiative to launch a Parliamentary Diaspora Network and believes that the engagement of diaspora communities is part of the solution to the ongoing crisis and a good basis for the future with respect to the reception and integration of regular migrants as well as refugees.

5. The Assembly also recalls Resolution 2137 (2017) on the impact of European population dynamics on migration policies, which points to the fact that in addition to a need for a new workforce in most of Europe's ageing countries, many of Europe's rural regions are suffering from a population exodus despite good potential for development and, and that more incentives to encourage migrants and refugees to settle in these areas would benefit both the new inhabitants and the dwindling communities.

6. In this respect the Parliamentary Assembly considers that member states should acknowledge:

6.1. that migration of all types will be an increasing feature of the world's societies in the foreseeable future, and that as a consequence the chances of general well-being depend also on the effective protection of the fundamental rights of people on the move, especially refugees, who have been deprived of the individual possibility and collective capacity to ensure their livelihood;

6.2. that immigration into Europe is both instrumental for renewed dynamic and modernisation of societies and for Europe's survival of the "demographic winter" which the continent is entering;

6.3. that one of the next waves of refugees will certainly be driven by extreme climatic unbalance, and that it is therefore essential to work together on devising new provisions in international law for the protection of the victims of forced migration due to climate change, while promoting the full implementation of the Paris accords and those successive COP conferences in order to limit the negative effects of man-made ecological disasters in the making.

7. In view of the ever more urgent need to find comprehensive humanitarian and political responses to the crisis by improving cooperation and harmonising human rights protection, the Parliamentary Assembly calls on member states and on Europe's neighbouring countries to:

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<sup>2</sup> Draft resolution adopted unanimously by the Committee on 2 June 2017.

- 7.1. pursue dialogue with countries in situations of armed conflict and do their utmost to promote peaceful solutions to end the plight of people forced to leave their homes as a consequence of war;
  - 7.2. fully implement the provisions of relevant international treaties to which they are parties, in particular the 1951 Geneva Convention and its 1967 Protocol, the European Convention on Human Rights and the UN Convention for the Protection of the Rights of the Child, as well as the Lanzarote and Istanbul Conventions, and to ratify those conventions to which they are not yet parties;
  - 7.3. work towards a more systematic implementation of these treaties and cooperative supervision of their implementation;
  - 7.4. for European Union member states, implement rapidly the new Regulation on a common asylum procedure replacing the Asylum Procedures Directive once adopted by the European Union;
  - 7.5. cooperate in maintaining and developing transnational information systems and databases on asylum applications and their results, on returns and on the refugees going missing (especially children);
  - 7.6. speed up the work on the reform of the Common European Asylum System including the revision of the Dublin Regulation and the modalities of applying the principles of responsibility and solidarity in the future;
8. With respect to national practices and regulations, the Assembly further calls on member states to:
    - 8.1. respect the rights and dignity of all refugees and asylum-seekers, in particular vulnerable groups such as children and women refugees and unaccompanied minors;
    - 8.2. ensure refugees and asylum seekers' access to legal protection and assistance and their right to appeal;
    - 8.3. align as far as possible levels of protection and social and financial assistance having regard to the cost of living in order to encourage a more balanced distribution of refugees within the European territory;
    - 8.4. share and implement best practices in areas such as family care and accommodation, education and vocational training, health care and psychological assistance, age assessment, guardianship and mentoring;
    - 8.5. provide full and accurate information to refugees on the possibilities of settlement in different regions, their comparative advantages and challenges;
    - 8.6. consider introducing a requirement that refugees undertake to reside for a fixed period of time in a host country which has offered assistance and facilitated integration, in order to avoid premature departures from countries which have believed and invested in integration as an asset;
    - 8.7. work hand-in-hand with non-governmental organisations to ensure that refugees and asylum-seekers receive appropriate protection and assistance at all stages of their journey from their country of origin to their settlement in a new destination;
  9. The Assembly calls on the European Union, the United Nations and the Council of Europe to:
    - 9.1. step up their supervision of the implementation of legislation related to refugees and migrants and where necessary to update provisions to better adapt them to today's needs;
    - 9.2. consider carefully whether the establishment of asylum-processing centres outside the European Union's borders and/or the European continent with necessary safeguards and in compliance with international human rights standards with respect to refugees and asylum-seekers could be envisaged;
    - 9.3. continue their denunciation of cases of abuse of human rights of refugees and asylum-seekers where and when they occur, and to call member states' governments systematically to account over these cases;

9.4. recognise that while the level of protection of the fundamental rights of migrants should be similar wherever they find themselves individual states should have the liberty to seek appropriate solutions while complying with international human rights standards.

**B. Draft recommendation<sup>3</sup>**

1. The Parliamentary Assembly refers to Resolution ... (2017) on a comprehensive humanitarian and political response to the migration and refugee crisis, which calls for increased dialogue and better-coordinated policies and action at European level, the Parliamentary Assembly commends the activities carried out by the Council of Europe in this area, in particular the work of the Special Representative of the Secretary General on Migration and Refugees and the Commissioner on Human Rights.
2. It welcomes the work with local and regional authorities of the Council of Europe Congress of Local and Regional Authorities and the Migrant and Refugee Fund established by the Council of Europe Development Bank (CEB) in October 2015 to help countries support refugee programmes.
3. The Assembly, considering that the Council of Europe's present activities in this area would benefit from a common platform for exchange, experience sharing and policy-making among Council of Europe member states, as well as a solid basis for steering the Organisation's action, calls upon the Committee of Ministers to set up, in the context of the Organisation's 2018-2019 Programme and Budget, a Steering Committee on Migrants and Refugees in order to give added coherence and create greater synergies between the Organisation's activities in this domain, while enabling agreed positions on reception, asylum and integration to be promoted, followed up and assessed in terms of results.

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<sup>3</sup> Draft recommendation adopted unanimously by the Committee on 2 June 2017.

## C. Explanatory memorandum, by Mr Duarte Marques, Rapporteur

### 1. Introduction

1. The work on this report was launched after the conference with the same title held on 18 December 2015 at the *Assemblée nationale* in Paris, which raised many issues as to how action on the part of member States and partner countries could be better coordinated and responsibilities better shared in managing the lasting migration and refugee crisis.<sup>4</sup> The motion for a resolution pointed to systemic weaknesses in existing regulations and mechanisms revealed by the scale of mass arrivals of refugees in Europe and to the divisions among Council of Europe member States according to their political stances and geographical situations. It suggested that the Parliamentary Assembly of the Council of Europe could serve as a platform for the exchange of ideas, opinions and experiences between countries of origin and transit and host countries, in order to build up operational models for asylum and integration.

2. In preparing the report, I have explored three main strands of what may be understood as "comprehensive political and humanitarian responses" to the current crisis. Firstly, at the level of the Parliamentary Assembly's own work, I have looked at the many recommendations adopted on specific aspects of migration,<sup>5</sup> which while taking into account new developments will be presented in the draft resolution as a single, "comprehensive" corpus of recommendations related to humanitarian action and common political strategies.

3. The report also examines how the notion of "comprehensive" applies to the existing international law on migrants and refugees and to what extent policies and programmes are inclusive with respect to all the dimensions of the current crisis. While it is evident that the current crisis is "global", and that in a restrictive sense it concerns essentially refugees fleeing conflicts rather than other types of migrant, international organisations each have different scope, different visions of what global action implies and different means of carrying it out. At the same time, states defend their right to decide on their own policies and national situations vary enormously, even within the usual migratory categories which divide countries into those of origin, transit and reception.

4. Thirdly, the report looks at the obstacles to a commonly-accepted and supported approach to migration as, despite the protracted nature of the crisis and its global repercussions affecting the whole of Europe, and despite the numerous calls for cooperation from all sides, solidarity and burden-sharing are not generalised. At the Paris conference, one of the moderators pointed out that the solidarity which had been demonstrated among Europeans during times of extreme hardship in the 20<sup>th</sup> century was much less evident today. The report examines the manifestations of this relative breakdown in an effort to define the reasons why states do not succeed in implementing comprehensive responses and the obstacles to better coordination. In conclusion, the recommendations made in the draft resolution will aim to propose and promote realistic comprehensive humanitarian and political responses to the migration and refugee crisis.

5. In the framework of the work on the report I carried out a fact-finding visit to Hungary, where I met with parliamentarians from majority and opposition parties, decision-makers and experts from the relevant governmental departments and with representatives of the main national and international NGOs working with refugees and migrants. I also visited the "transit zone" centre for asylum-seekers at Röszke near the border with Serbia. I would like to thank the Hungarian parliamentary delegation for their assistance in organising the mission.

6. An exchange of views was held during the January part-session meeting with Lisa Matos from the William James Centre for Research, ISPA, and a number of other think-tanks and academics working on the subject who were asked to give their professional opinion on how better to cooperate in ensuring humanitarian management

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<sup>4</sup> See the proceedings of the conference at : <http://website-pace.net/documents/19863/3366379/AS-MIG-INF-2016-03-EN.pdf>

<sup>5</sup> The Assembly's latest resolutions and recommendations all call for better cooperation and coordination in the management of the migration and refugee crisis, for instance Resolution 2137 on the impact of European population dynamics on migration policies, Resolution 2089 (2016) on organised crime and migrants, Resolution 2118 (2016) on refugees in Greece: challenges and risks – a European responsibility and Resolution 2088 (2016) on the Mediterranean Sea: a front door to irregular migration. Other resolutions have a more general scope and contain a range of recommendations, which when combined form a coherent set, such as Resolution 2147 (2017) on the need to reform European migration policies, Resolution 2043 (2015) on "Democratic participation for migrant diasporas" and two other reports presented during the full-day PACE debate on migration on 28 June, on integration in times of critical pressure and migration as an opportunity for European development.

of the migrant and refugee crisis. These were taken into account in the preparation of the report and the draft adopted texts.

## 2. Is international law concerning migrants and refugees “comprehensive”?

7. Migrants and refugees fall within different types of legal systems, from the specific 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol which provide protection for persons displaced from their countries through conflict, to national legislation which reflects European Union directives where member states are concerned. These may operate simultaneously or have a “cascade” effect according to the hierarchy of norms they represent. To take migrant children as an example, unaccompanied migrant minors are to be treated first and foremost as children and provided with the same rights as all children, protected by the UN Convention on the Rights of the Child and the ECHR, before their situation and care as migrants are addressed under the specific provisions of rules applying to migrants. This is expressed clearly in PACE Resolution 2136 (2016) on harmonising the protection of unaccompanied minors in Europe.

8. The existing international conventions are increasingly questioned as to their capacity to cope with the current crisis. At the same time, not all countries have committed themselves to the applicable conventions, or apply them only partially, in particular Europe’s neighbouring countries. Neither Jordan nor Lebanon are parties to the 1951 Refugee Convention, and although Turkey has ratified the 1951 Refugee Convention and 1967 Protocol, it applies a geographical limitation excluding Syrian refugees.<sup>6</sup> In parallel, although most Council of Europe member states comply most of the time with the Convention on Human Rights and other conventions, national sovereignty means that provisions concerning migrants and their treatment may be more restrictive than those provided by international norms, for instance with respect to employment, benefit from social assistance and the right to residence (or citizenship).

9. The replies to a recent questionnaire on national integration policies circulated by the European Centre for Parliamentary Research and Documentation (ECPRD) to the parliaments of member States, at the request of Ms Susanna Huovinen (Finland, SOC) in the framework of the preparation of her report on the Integration of migrants (foornote with reference) has shown the very great divergence between countries in these fields, which would seem to indicate that unified, united responses cannot be expected.<sup>7</sup>

10. In a Human Rights Comment published in November 2016, entitled “Migrants in limbo in Europe have the right to live in dignity”, the Council of Europe’s Human Rights Commissioner recalled the need for European states to fully abide by their human rights obligations and work together towards common solutions based on inter-state solidarity, refraining from undermining existing human rights standards by adopting even more restrictive asylum and immigration laws.

11. As well as referring to the protection of the human rights of migrants as enshrined in the European Convention on Human Rights, the Commissioner regularly points to other Council of Europe mechanisms, such as ECRI’s policy recommendations applying to irregular migrants, the recommendations and reports of the European Commission for the Prevention of Torture and Inhuman or Degrading Treatment and other Council of Europe texts and guidelines such as the Twenty Guidelines on Forced Return. In addition, Full implementation by Council of Europe member States and partner countries of these rules and guidelines would go a long way to ensuring that the rights of migrants and refugees are upheld.

12. The European Court of Human Rights has a growing corpus of case-law on migration issues. An often invoked example is the *Hirsi Jamaa and Others v. Italy* case of 23 February 2012, where the European Court on Human Rights ruled that Somalian and Eritrean migrants travelling from Libya, intercepted at sea by the Italian authorities and sent back to Libya, had been subjected to collective expulsion prohibited by Article 4 of Protocol No. 4 to the Convention, and that the applicants had fallen within the jurisdiction of Italy for the purposes of Article 1 of the Convention (obligation to respect human rights). The Court also found a violation of Article 3 of the Convention (prohibition of inhuman or degrading treatment) because the applicants had been exposed to the risk of ill-treatment in Libya and of repatriation to Somalia or Eritrea. Another case is that of *Ilias and Ahmed v. Hungary*, concerning the border-zone detention for 23 days of two Bangladeshi asylum-seekers as well as their removal from Hungary to Serbia. On 14 March 2017, the Court held that there had been a violation of Article 5

<sup>6</sup> See the report by Ms Groth on “A stronger European response to the Syrian refugee crisis” and Resolution Res (2017) xx on “Human rights implications of the European response to transit migration across the Mediterranean”

<sup>7</sup> See AS/Mig/Inf (2017) 15.

§§ 1 and 4 (right to liberty and security) because the applicants' confinement in the Röszke border-zone had amounted to detention without any reasoned decision, violation of Article 13 (right to an effective remedy) and violation of Article 3 on account of the applicants' expulsion to Serbia exposed them to a real risk of being subjected to inhuman or degrading treatment.

### **3. Addressing the need for reform**

13. Resolution 2147 (2017) on the need to reform European migration policies, adopted in the framework of an urgent debate during the January 2017 session, calls for a meaningful dialogue involving the Office of the United Nations High Commissioner for Refugees (UNHCR) and other international stakeholders on the interpretation of legal provisions of the 1951 United Nations Convention relating to the Status of Refugees, including the criteria for qualifying for status, as well as on the issue of definition of a third safe country. Resolution 2147 also advocates efforts to find a constructive solution concerning more negotiated repartition of responsibility sharing with a view to fully implementing the European Council's conclusions of June 2015 with regard to relocation and resettlement of refugees. Significantly, the very mixed responses to the European Union's relocation and resettlement programmes, with their proposed "quotas", have also shown that solidarity and responsibility-sharing are not a given attitude when it comes to migrants and refugees.<sup>8</sup>

14. During my visit to Hungary on 15-16 May the authorities were awaiting the decision of the European Court of Justice on the country's refusal to accept the allotted quota for the reception of refugees and asylum-seekers set by the European Union (1 500 persons). Although the Parliament and Government representatives with whom I spoke stated the intention of the country to respect the Court's decision whatever the outcome, it was clear that Hungary did not approve this attempt by the European Union to impose the sharing of responsibilities in this way. The slow fulfilment of the quotas set for other countries has also demonstrated the limits of this type of exercise seen as *ultra vires* on the part of some states.

15. On 6 April 2016, the European Commission published a communication on reform of the common European asylum system and enhancing legal avenues to Europe. Its declared objective is to "move from a system which by design or poor implementation places a disproportionate responsibility on certain Member States and encourages uncontrolled and irregular migratory flows to a fairer system which provides orderly and safe pathways to the EU for third country nationals in need of protection or who can contribute to the EU's economic development." The introduction stresses that success depends on the system being "comprehensive, and grounded on the principles of responsibility and solidarity."

16. More generally, the Commission has proposed a "comprehensive harmonisation of procedures across the EU" by replacing the Asylum Procedures Directive by a Regulation establishing a single common asylum procedure instead of the currently diverging ones in the Member States. The new rules for conducting asylum procedures will become directly enforceable in EU Member States' national legislation, and cover admissibility, the use of border and accelerated procedures, the treatment of subsequent applications, and the right to remain in the territory. The Commission places priority on the harmonisation of the maximum duration of the procedure, both at first instance and at the appeal stage. However the Assembly regrets that progress on these policy and legislative fronts has been far too slow.

17. Another hoped-for outcome of the Regulation is a unified refugee status valid in all countries. In its comments on the proposal, the European Network on Refugees and Exiles (ECRE)<sup>9</sup> welcomes measures such as the mandatory provision of free legal assistance and representation at all stages of the asylum procedure, but is concerned about mandatory safe country and admissibility concepts and about the extremely short deadlines for applications. It points to a trend towards externalisation and an effort to prioritise administrative efficiency and convenience over the detailed examination of protection needs.

### **4. Can a comprehensive solution include elements located "outside" Europe?**

18. The Malta Declaration adopted by the members of the European Council on 3 February 2017, entitled "on the external aspects of migration: addressing the Central Mediterranean route" refers in its very first sentence to

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<sup>8</sup> See the report with the same title (Doc. XXX, rapporteur Mr Varvitsiotis, as well as the European Union's 9<sup>th</sup> progress report on the resettlement and relocation schemes at: [http://europa.eu/rapid/press-release\\_IP-17-218\\_en.htm](http://europa.eu/rapid/press-release_IP-17-218_en.htm).

<sup>9</sup> See the proposal and the comments by the European Council on Refugees and Exiles (ECRE) at: <https://www.ecre.org/ecre-comments-on-the-proposal-for-an-asylum-procedures-regulation/>

the “EU’s *comprehensive* migration policy”, going on to state that “a key element of a sustainable migration policy is to ensure effective control of our external border and stem illegal flows into the EU”. The declaration goes on to set out the Union’s intention of pursuing solutions which displace many aspects of the management of the migration and refugee crisis outside the EU’s frontiers, specifically in Libya, with all the risks of reduced human rights protection and control this could entail. The most recent deterioration in the political situation in Libya appears to make the proposed solutions of capacity-building and training increasingly unrealistic for the near future.

19. The implementation of the EU/Turkey Statement of 18 March 2016, after a slow beginning, has undeniably helped to reduce the pressure of refugee flows towards Greece and the Balkans. It would also appear that the investment in reception and processing facilities has enabled reasonable living conditions to be ensured. But continuing political instability and the lack of systematic external inspections, as well as the absence of long-term visibility of the new structures in Turkey, makes an early assessment premature even if both the EU and Turkey are able and willing to maintain their commitment to the Statement 2016 in the medium term. Indeed, the EU needs to assume its own responsibilities with respect to Turkey in order for the agreement to be fully operational.

20. The idea of establishing “hotspots” outside Europe in order to avoid refugees risking their lives in dangerous sea crossings and to deal with reception and asylum processing has also made significant headway recently, raising however concerns as to the human rights and humanitarian consequences of such establishment. The PACE’s own Resolution 2147 (2017) recommends the exploration of “possibilities for better identifying people in need of international protection and organising external processing of asylum applications by means of safer procedures established outside Europe in safe third countries, provided that the human rights of the asylum seekers are safeguarded as already recommended by the Assembly in previous resolutions and according to European Union standards.”

21. Coming back to the Malta declaration, most of its policy proposals concentrate on the action which will be taken to stabilise Libya, build capacities in order for the Libyan authorities to acquire control over the land and sea borders and to combat transit and smuggling activities. The EU aims at “an inclusive political settlement under the framework of the Libyan Political Agreement and to support the Presidency Council and the Government of National Accord backed by the United Nations”. An “integrated approach will involve Libya and other countries on the migration route, as well as relevant international partners, [...] Europol and the European Border and Coast Guard.” Objectives of the agreement include ensuring adequate reception capacities and conditions in Libya for migrants, in cooperation with the UNHCR and IOM, and “information campaigns and outreach addressed at migrants in Libya and countries of origin and transit, in cooperation with local actors and international organisations.”

22. It remains to be seen whether shifting more reception facilities and even asylum procedures on the other side of Europe’s borders can function adequately.<sup>10</sup> Many humanitarian organisations warn against this type of externalisation, considering that the stakes are too high and that success depends too heavily on the unstable political context of Europe’s neighbours.

23. In September 2015, the EU Commission proposed the adoption of a Regulation establishing an EU common list of “safe countries of origin” in order to facilitate the swift processing of applications of persons from these countries, with the objective of moving towards a fully harmonised list of safe countries of origin at EU level, based on proposals by the Commission, with priority given to the inclusion of third countries from which a significant number of applicants originate. This list is still not official, due to disagreement among member states as to the countries to be listed. In the meantime, countries draw up and use their own lists of safe countries.

24. As regards the “safe third country” mechanism, which enables certain applications to be declared inadmissible where protection could be availed of in a third country, the Commission, in its Communication of 10 February 2016, encouraged all Member States to foresee and require its use in their national legislation. The Commission also announced its intention of proposing a more harmonised EU approach to its use, in full respect for the international obligations enshrined in the EU Charter of fundamental rights and the European Convention on Human Rights (ECHR) and the Geneva Convention, so as to guarantee that it is applied in the same manner in all Member States, and to establish a mechanism for the adoption of an EU list of safe third countries.

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<sup>10</sup> In September 2015, European Council President Donald Tusk suggested the setting up of “hotspots” close to war zones outside Europe, where refugee camps already exist.

## 5. What, therefore, constitutes a comprehensive response?

25. The Paris Conference identified the need for common strategies aiming to ensure, in particular, respect for human rights of migrants, education and awareness-raising for all and integration. The main measures were seen to be:

- more financial and humanitarian solidarity between the countries in the front line of massive arrivals, those of transit and final destination countries. It was largely consensual that the scale of arrivals had become too large for the transit countries to handle;
- the need to combat corruption and criminal activities, and to improve international cooperation of police forces and intelligence;
- enhanced cooperation between international organisations, including police files and databases of asylum applications, etc.;
- efficient and coordinated funding channels for humanitarian aid and infrastructure;
- renewed efforts to tackle the root causes of the crisis through, inter alia, the negotiation of political solutions by destination countries;
- recognition of migration as an opportunity for economic, social, cultural and demographic European development, and countering reactions of rejection through “powerful ideological communication”;
- greater efforts to ensure decent humanitarian and security conditions in transit countries and countries of origin, creating thereby more attractive living conditions and addressing the general security situations which often lie behind the departure of migrants..”

These areas for enhanced cooperation are examined in more detail below.

### *5.1. Financial and humanitarian solidarity and efficient and coordinated funding channels*

26. Resolution 2118 (2016) on refugees in Greece: challenges and risks – a European responsibility, states that “the refugee and migrant crisis in the eastern Mediterranean must be fully accepted as a European and global problem, and not only a Greek one. The only effective response will be based on respect for the human rights of refugees and migrants, in accordance with the fundamental values common to the Council of Europe, the European Union and their member States, and on genuine solidarity and the practical sharing of responsibility.”

27. With respect to funding, Resolution 2164(2017) on ways to improve the funding of emergency refugee situations encourages all European States to step up their financial burden-sharing, including through co-operation in frameworks such as the European Union, the Office of the United Nations High Commissioner for Refugees (UNHCR) and other international humanitarian organisations. It also calls on “the European Union to continue its diversified funding to improve reception conditions, accelerate asylum procedures and encourage short- and medium-term integration of migrants and refugees, alongside additional measures to reinforce security, border controls and returns systems and urges the United Nations and its member States to do their utmost to fulfill the ‘Grand Bargain’ agreed at the World Humanitarian Summit in May 2016”.

28. On 4-5 April 2017, the EU, Germany, Kuwait, Norway, Qatar, UK and UN co-chaired a Conference in Brussels on supporting the future of Syria and the region, bringing together over 70 countries, international organisations and civil society that collectively committed to continued engagement and support for Syria and the region. The conference concluded with Commissioner Stylianides announcing the global commitment of €5.6 billion for 2017, of which €3.7 billion is from the EU and Member States, including €1.275 billion from the Commission for both humanitarian and resilience support. The Commission pledged an additional €560 million for 2018 for inside Syria, Jordan and Lebanon, thus maintaining the level of its engagement. The co-chairs, supported by all participants, adopted a Joint Declaration, including specific annexes on supporting the resilience of host countries and refugees in the context of the Syrian crisis for Jordan and for Lebanon and of the pledging made.

29. The declaration adopted at the conference underlined the need to respond to the humanitarian situation by ensuring assistance and protection for populations in need and support to the neighbouring countries, and stated that “a political solution was more urgent than ever before”. The participants called for more political efforts in supporting a resolution to the crisis in order to secure a future for Syria and its people. But it should be noted that refugees come also from other countries, for instance Eritrea, Somalia, Iraq, and Afghanistan.

## *5.2. Combating corruption and criminal activities*

30. Until recently, international police cooperation with respect to migrants was partial. With the increase in insecurity and the need for better international two-way protection of migrants and resident populations, efforts have been made to step up the exchanges of information and the improvement of international databases. Closer surveillance of the number of asylum applications made could help to identify suspicious activities and organised crime.

31. In September 2016, the Migration Committee held a hearing with Brian Donald, Head of Cabinet of the Director of the European Police Office (Europol). Describing its mission, he underlined the fact that Europol had no operational powers of its own but was intended to support member states' and third countries' efforts to combat serious organised crime and terrorism. Europol thus dealt with, for example, serious offences relating to trafficking in human beings, migrant smuggling and exploitation when they involved two or more member states, and currently ran two projects particularly relevant to these topics: Focal Point Phoenix, on human trafficking; and Focal Point Checkpoint, on combating the facilitation of illegal immigration (migrant smuggling). In this context a "migrant smuggling centre" with 60 officers had been set up as part of the response to the migration crisis, notably in front-line states Greece and Italy.

32. Europol wished to operate, from a solely security-based to a victim-centred approach aimed to raise awareness, and stress the humanitarian dimension of police work. Europol has continued to support national authorities and other actors to address the risks to which such children may be exposed, including trafficking, labour exploitation, sexual abuse and being coerced into committing petty crimes. Today in the organisation, the need was felt to raise the profile of Europol's work, in order to better confront the new scale of trafficking and its global nature, which was also a problem as there were no coordination agreements with key regions such as North Africa and Libya, for instance.

33. The recent report and evidence on unaccompanied migrant children have also highlighted the need to ensure cooperation between national police forces in order to constitute reliable, comprehensive and regularly updated databases on unaccompanied children who go missing, to involve Europol and Frontex in investigations against criminal groups that might harm and exploit unaccompanied children and to fully co-operate in efforts to track missing children and to support the further development of the Schengen Information System (SIS).

## *5.3. Recognition of migration as an opportunity for economic, social, cultural and demographic European development, and countering reactions of rejection of migrants*

34. Any comprehensive political solution to the migration and refugee crisis depends on the positive stance of politicians at national level, and especially on their presentation of the benefits of well-managed migration for host societies. The Assembly has adopted several recent texts promoting the recognition of migration as part of the solution to many of Europe's challenges, from attenuating the consequences of population ageing and the "demographic winter"- see Resolution 2137 (2016), to developing lagging economies by attracting new skills and added labour force- see Resolution 1972 (2014)., In order to achieve this win-win situation for host countries and migrants, measures need to be taken to remove obstacles to the rapid entry of refugees into the labour market once their asylum procedures completed, to recognise the educational diplomas and vocational skills of migrants, and improving public information on the economic benefits of legal migration and cultural diversity for society.

35. In Hungary, the Government maintains the fear of migrants among the population by broadcasting video-clips between popular programmes invoking the risk of invasion by violent migrants, which also focus on religious differences and show Islam as a threat. This is surprising as the numbers of asylum-seekers have dropped drastically over the past months as a result of dissuasive measures (the construction of a wall and the closure of open reception centres in favour of "transition zones" denounced by NGOs as places of arbitrary detention.

36. My own country Portugal is an often-quoted example of good practices in positive, participative approaches to hosting migrants. Perhaps the relatively small size of the country and the limited numbers of non-Portuguese speaking migrants help in implementation of programmes, but the spirit in which they are carried out deserves to be promoted as a model for other countries, from the "one-stop shop" system for reception and integration of migrants to the voluntary mentoring programmes and vocational and entrepreneurship training

offered to migrants. Portugal has taken fully into account the relative advantages of migration for the country's renewal and socio-economic as well as representing an opportunity to foster cultural diversity.

## **6. “After the crisis” – avoiding catastrophe in the future**

### *6.1. Inclusive and forward-looking policies*

37. During the Paris conference, one of the “comprehensive responses” seen as necessary was that renewed efforts be made to tackle the root causes of the crisis through, inter alia, the negotiation of political solutions by countries of destination. In Resolution 2147 (2017)<sup>11</sup> on the need to reform European migration policies the Assembly “regrets the absence of a global and comprehensive vision for the management of migration flows and sustainable solutions as well as the lack of a serious debate at European level on the migration phenomenon in a long-term perspective and its consequences for host societies.” It is clear that years after the first signs of crisis, states and international organisations are still to some extent “fire-fighting” as new developments arise,

38. The Assembly has examined problems of mass migration for over a decade, as can be seen for instance in Resolution 1521 (2006) on the mass arrival of irregular migrants on Europe’s Southern shores. Yet looking at the responses so far, the United Nations humanitarian programmes constitute fire-fighting emergency reactions to situations as they unfold, and the European Union’s action give the impression of being largely improvised. National responses are even regressing in some countries as political standpoints become more radically protectionist and populist politicians play on fears and tensions in their communities. It is astonishing that in the face of such a protracted crisis, Europe has not been able to devise more united, comprehensive political and humanitarian solutions and that solidarity has remained extremely fragile.

39. In some countries (Sweden, for instance) development aid is being used to help the Swedish authorities cope with the influx of refugees; while this is understandable as an emergency measure reducing aid to countries of origin will have negative consequences in the medium-term. In other countries (eg. Denmark) further restrictions to family reunification are not only a violation of the right to family life but will run counter the integration of refugees and are likely to create social and public order problems; this issue will be considered in the report that our colleague Ms Sandbaek is preparing on the issue of family reunification.

40. In view of the need to promote the implementation of international standards for the protection of migrants and to serve as a platform for the dissemination of best practices and pan-European cooperation, I believe that the Council of Europe should shoulder once again the important responsibilities which it decided to renounce just before the refugee and migrant crisis emerged in Europe through the setting up of an intergovernmental structure involving all member states. This would allow the policies elaborated and the activities carried out in the framework of the Organisation’s different programmes to be followed up and its intergovernmental cooperation in the area to be consolidated. The rights-based approach of the Council of Europe would also complement that of the European Union, more focused on security of Europe’s citizens and the protection of its borders. This is why I have proposed a recommendation to the Committee of Ministers in the framework of this report, to reinstate a Steering Committee on Migrants and Refugees.

### *6.2. Climate change – the next crisis?*

41. One of the next migration crises will be caused by climate change.<sup>11</sup> The subject has fallen to some extent under the radar of international surveillance, as on the one hand, climate change has until now provoked movement internally, within countries, rather than over borders and on the other, the acuteness of the refugee crisis resulting from the management of the fallout of war has overshadowed concern for environmental migration. In addition, some intentional short-sightedness may be suspected on the part of politicians, as the enormous implications of the problem are difficult to communicate, and mobilising voters on a subject which seems distant and unclear is a complicated task.

42. Nevertheless, the decision-makers and international organisations must begin to anticipate the forced migration which will result from climate change and answer the questions it raises, which is whether the current

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<sup>11</sup> See Resolution 2115 (2016) on forced migration: a new challenge. The resolution calls for a review of the relevant international rules and their expansion to include a definition for environmental migrants, and for a revision of the 1951 Geneva Convention relating to the Status of Refugees, by means, for example, of an additional protocol.

refugee regime based on the Geneva conventions, with its fixed set of refugee rights, can be extended to cover a group of refugees that is much times larger than that which is currently covered. Such an extension could even produce a trade-off between climate refugees and the (political) refugees protected under the Geneva Convention. The UNHCR has a variety of programs for environmental/climate refugees, and environmentally internally displaced persons fall under the Guiding Principles on Internal Displacement of the Office of the High Commissioner for Human Rights.

43. The current legal regime on refugees provides only marginal protection, with no specific mandate, to climate refugees, which the UNHCR indeed prefers to call “environmentally displaced persons”, because of the legal rights that the intergovernmental system currently bestows upon refugees as persons who cannot avail of the protection of their home state for fear of (political) persecution. The main responsibility is placed with their home countries, which contradicts the global responsibility for the victims of climate change. In addition, the maximum number of persons the UNHCR can currently deal with is only a fraction of the additional number of climate refugees that many studies predict for 2050.

44. António Guterres became UN Secretary-General on 1 January 2017 after serving as UN High Commissioner for Refugees. He has declared himself “strongly opposed” to the extension of the Geneva Convention by creating a “climate refugee” status. Instead, he urges for better global protection, perhaps contained in a new convention which would be inspired by the Nansen initiative, which has been launched by Switzerland, Norway, Australia, Germany, Bangladesh, the Philippines, Costa Rica, Mexico and Kenya, to create solidarity mechanisms.

45. At all events, existing governance arrangements are not sufficient to cope with the looming climate “refugee” crisis, so new frameworks should be discussed and agreed internationally, taking into account the specificities of displacement due to the environment (the minimal chance of return, the predictability of situations, the collective rights of the communities concerned, the need for international assistance to be given specific third countries and regions).

## 7. Conclusions

46. The need to find comprehensive humanitarian and political responses to the refugee crisis is becoming ever more urgent. In my work on this report, it was extremely frustrating to realise that most of the potential immediate and viable solutions, as well as roadmaps for future sustainable migration management, are present and exist at both international and national levels. The problem lies in the effective implementation of policies on the ground and in the fulfilment of promised and pledges by European states, this is therefore the main message of the present report.

47. Comprehensive solutions must involve dialogue with countries in situations of armed conflict, implementation of relevant international treaties, in particular the 1951 Geneva Convention and its 1967 Protocol, the European Convention on Human Rights and the UN Convention for the Protection of the Rights of the Child. States must continue their denunciation of cases of abuse of human rights of refugees and asylum-seekers where and when they occur, and governments should be systematically called to account over such cases. Efficient transnational information systems must be maintained and developed.

48. The protection of the fundamental rights of migrants should be equal wherever they find themselves, but there are no universal solutions to the challenges of migration countries which suit the very different geographical, economic, social and cultural situations. States should have the liberty to seek appropriate solutions while complying with international law and sharing best practices. Migration of all types will be an increasing feature of the world’s societies in the foreseeable future, and as a consequence the chances of well-being for tomorrow’s civilisations depend on the effective protection of the fundamental rights of people on the move, especially refugees, who have been deprived of the individual possibility and collective capacity to ensure their livelihood. Immigration into Europe is necessary for renewed dynamic and modernisation of societies and their cultures and is an absolute necessity for Europe’s survival of the “demographic winter”.