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70th anniversary of the 1951 Refugee Convention: the Council of Europe and the international protection of refugees

Report[1]
Committee on Migration, Refugees and Displaced Persons
Rapporteur: Lord Leslie GRIFFITHS, United Kingdom, Socialists, Democrats and Greens Group

Summary

In the year of the 70th anniversary of the 1951 Convention relating to the Status of Refugees, the Parliamentary Assembly welcomes initiatives to consolidate and make more effective the international protection of refugees and asylum seekers. Having expressed its concern about the increasing frequency of expulsions and pushbacks of refugees and asylum-seekers at Europe's borders, the Assembly recalls that the 1951 Refugee Convention and the European Convention on Human Rights require States to protect the rights of people to seek asylum and ensure protection from *refoulement*, even if they enter a country irregularly. The Assembly aligns itself with the United Nations High Commissioner for Refugees in recognising that the efficient and expeditious return of persons found not to be in need of international protection is key to maintaining the integrity of asylum systems in Europe and of the international protection system as a whole. National parliaments should play their role in putting in place efficient asylum procedures and systems that maintain fairness safeguards and adhere to international law.

To uphold fundamental rights of those who flee persecution for reasons specified in the 1951 Refugee Convention, States are called upon to ensure full support to UN-led priority initiatives for the protection of refugees and asylum seekers and the relevant Council of Europe actions.

The support and political will of State parties to the 1951 Refugee Convention, and their commitment and generosity, are crucial and should not be taken for granted. National parliaments should act resolutely at the political level to ensure positive attitudes to refugees and asylum seekers in Europe and beyond.

1. Reference to Committee: Doc 15232, Reference 4573 of 19 April 2021.

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A. Draft resolution[2]

1. In the year of the 70th anniversary of the 1951 Convention Relating to the Status of Refugees (the 1951 Refugee Convention), the Parliamentary Assembly welcomes ongoing initiatives aimed at consolidating and making more effective the international protection of refugees and asylum seekers, and warns against certain negative tendencies.

2. The Assembly is highly concerned by the increasing number of refugees and asylum seekers in the world, including, most recently, from Afghanistan. At the end of 2020, 82,4 million people were displaced worldwide with 20,7 million refugees under the mandate of the United Nations High Commissioner for Refugees (UNHCR). An estimated 34 million (42%) of the 82,4 million forcibly displaced persons are children below the age of 18.

3. The Assembly is concerned about the increasing frequency of expulsions and pushbacks of refugees and asylum-seekers at Europe's borders and recalls that the 1951 Refugee Convention and the European Convention on Human Rights (ETS No. 5) require States to protect the rights of people to seek asylum and ensure protection from *refoulement*, even if they enter a country irregularly. The Assembly emphasises the importance of preserving access to territory and asylum procedures and calls on Council of Europe member States to uphold their existing commitments to refugee protection by admitting asylum-seekers at their borders and enabling the submission of asylum applications.

4. The Assembly also warns against the tendency to criminalise solidarity towards refugees and life-saving activities. It deplores the fact that people, who have helped asylum-seekers and refugees, have been investigated, charged and, in some cases, convicted just for providing assistance in the saving of lives, for monitoring human rights, or for standing in solidarity with migrants and asylum seekers.

5. The Assembly calls upon national parliaments to prevent misuse of anti-smuggling laws to curb solidarity and humanitarian acts intended to protect the rights of refugees and asylum seekers. It is convinced that saving lives is not a crime, that feeding starving people is not a crime, and that providing shelter to families in need is not a crime. These activities are based on fundamental values that the Council of Europe was set up to defend.

6. The Assembly emphasises, therefore, the urgent need to strengthen Council of Europe member States' commitment to upholding fundamental rights of those who flee persecution for reasons specified in the 1951 Refugee Convention. Marking the 70th anniversary of the 1951 Refugee Convention, the Assembly underscores the need to enhance the international protection of refugees and asylum seekers. The Assembly, therefore, calls upon member States' parliaments to ensure full support to UN-led initiatives for the protection of refugees and asylum seekers, to support the relevant Council of Europe actions and to take specific actions at national level, as follows:

6.1. with regard to ensuring full support to UN-led initiatives, the Assembly:

6.1.1. recognises the importance and achievements of the 1951 Refugee Convention and its 1967 Protocol and recommits itself to the core values at the heart of these instruments – including *non-refoulement*, non-penalisation and non-discrimination, and ensuring access to international protection for those who need it, among other human rights;

6.1.2. recognises that, while circumstances may change in the light of political, social, environmental and cultural developments, great care should be taken to ensure that nothing should weaken or diminish respect for the Convention's core values or dampen the spirit of liberality and co-operation which lie at the heart of its provisions;

6.1.3. re-affirms its commitment to the role and mandate of the UNHCR and honours its achievements over the years whilst recognising the scale of the problems facing it, and the international community, at the present time. It understands how political instability across the globe, the ravages of the Covid-19 pandemic, and the climate change crisis are likely to see the number of people seeking refuge and international protection increase. It resolves to work hand-in-hand with the UNHCR as it works together with States to address these paramount issues;

6.1.4. while recognising the fact that governments must implement the principles of the 1951 Refugee Convention in the context of their own domestic law, urges all States to ensure that, in all such cases, they align themselves with the interpretation of the Convention put forward by the UNHCR;

2. Draft resolution adopted by the committee on 28 September 2021.

6.1.5. recognises the priority established by the UNHCR to support programmes that give refugees the opportunity to become self-reliant, wherever possible. It welcomes the fact that, increasingly, proposals to achieve this are being fostered by community sponsored initiatives and recommends that member States provide their full support to these;

6.1.6. welcomes the widespread support elicited by the UN Global Compact on Refugees and calls upon national parliaments to actively promote its implementation. This is a programme which offers a framework for more predictable and equitable responsibility sharing in the treatment of refugees and stands directly in line with the major thrust of the 1951 Refugee Convention. The Assembly looks forward to receiving a report from the high-level meeting to be held in December 2021 and to scrutinising and assessing what happens afterwards;

6.2. with regard to supporting relevant Council of Europe action, the Assembly:

6.2.1. recalls that the Council of Europe has extensive experience in addressing human rights issues, including the protection of the rights of refugees and asylum seekers, in accordance with international human rights standards set by the 1951 Refugee Convention and its 1967 Protocol and other relevant international treaties;

6.2.2. notes that recent action plans formulated in the migration sphere within the Council of Europe, which have focused on the protection of children and vulnerable persons, are set to conclude in 2025. For the period following that date, as part of a successor plan, the Council of Europe, through its Special Representative of the Secretary General of the Council of Europe on Migration, should consider aligning itself with the UNHCR in effecting its "Strategy on Resettlement and Complementary Pathways." This strategy has set target figures for resettlement at one million refugees and two million others through complementary pathways such as family reunification or labour mobility schemes – targets to be achieved by 2028. A new pan-European Action Plan to support resettlement and enhance refugees' self-reliance in the years 2025-2028, in concert with work already being done by UNHCR on the subject, would effectively address a vital aspect of efforts being made for the protection of refugees;

6.2.3. recommends that all relevant expert bodies and intergovernmental committees pay priority attention to refugee and migrant issues, enhancing co-ordination on this matter, in close co-operation with the UNHCR. This will require co-ordinating responses from across a number of fields (education, health, access to employment, legal status and housing for example) to meet the needs of refugees and asylum seekers;

6.3. With regard to the call for taking specific action at national level, the Assembly:

6.3.1. notes that the 1951 Convention was the work of States working together internationally. But it is the governments of member States which must put its principles and values into practice. Each State will do this within their own domestic law and this will inevitably mean that there will be variations in the specific means of achieving it. The Assembly recognises that the efficient and expeditious return of persons found not to be in need of international protection is key to maintaining the integrity of asylum systems in Europe and to the international protection system as a whole. The Assembly urges, therefore, the governments of all Council of Europe member States to put in place efficient asylum procedures that maintain fairness safeguards and adhere to international law, including the principle of *non-refoulement*. All who lay claim to asylum, whatever the outcome, should be treated humanely and with respect;

6.3.2. urges parliamentarians across member States to press their governments to offer support to countries of origin from which refugees and migrants move towards Europe. Development aid should be offered in order to build capacity, achieve political stability, strengthen protection of human rights, and to enjoy economic improvement in these countries, as well as in countries which host large refugee populations. This would allow for a focus on the root causes of migration and displacement, and go some way towards destroying the "business models" of those involved in people-smuggling;

6.3.3. underscores the key role that needs to be played by members of parliaments, as decided in Resolution 2379 (2021) "The Role of parliaments in implementing the United Nations Global Compacts for Migrants and Refugees". The Assembly reaffirms its recent agreements on this matter and reiterates the opportunities open to parliamentarians in their various functions – representative, legislative and oversight – and also in the realm of international diplomacy;

6.3.4. stresses that Assembly members, acting in their capacity as members of their own respective parliaments, should become catalysts and/or multipliers for the task of raising awareness of, and assisting with the implementation of, the 1951 Refugee Convention and its 1967 Protocol.

7. Finally, the Assembly recognises that the UNHCR cannot exist without the support and political will of States-parties to the 1951 Refugee Convention. The fact that it has achieved so much in the last 70 years is because of States' commitment and generosity, and the Assembly hopes that all Council of Europe member States will continue to support the UNHCR for the next 70 years.

B. Explanatory memorandum by Lord Leslie Griffiths, rapporteur

1. Introduction

1. The 70th anniversary of the Convention Relating to the Status of Refugees offers a time for reflection as we consider the importance and impact of a measure that has saved millions of lives and offered a strong framework for the protection of those with a well-founded fear of persecution. The Convention has been described as "one of the most widely accepted international norms [that] remains the sole legally binding international instrument that provides specific protection to refugees."[3]

2. The Conference of Plenipotentiaries which launched the 1951 Refugee Convention expressed the hope "that governments in the countries of first refuge would grant the right of asylum within their territories with the utmost liberality and [that other countries would] undertake jointly with the countries of first reception to bear the costs arising out of [such efforts]." It went on to urge "governments [to] continue to receive refugees in their territories and that they act in concert in a true spirit of international cooperation in order that refugees may find asylum and the possibility of resettlement."[4]

3. It's a matter of fundamental importance that we remind ourselves of the hopes spelled out in 1951 as we face the challenges of the present moment. We must over and again find ways of displaying the same qualities now – "utmost liberality," "bearing the costs jointly," and a "true spirit of international cooperation" – as we look towards the future all these years later.

4. So there is plenty to reflect on (and give thanks for) as we look at past progress in this area. But, just as surely, we need to examine some serious challenges as we consider how best to move forward. A number of developments on our own continent carry the risk of eroding the framework of agreements, of which the 1951 Refugee Convention is one, within which we have worked over the decades. This is a critical moment and it is important to face these risks honestly and fearlessly.

2. The 1951 Convention and its 1967 Protocol

5. The 1951 Refugee Convention is both a status and rights-based instrument anchored by a number of fundamental principles, most notably non-discrimination, non-penalization, and *non-refoulement*. It lays down basic minimum standards for the treatment of refugees and provides a particular role for the United Nations High Commissioner for Refugees (UNHCR) with whom States undertake to co-operate. The Convention's 1967 Protocol importantly removed the Refugee Convention's temporal and geographical restrictions to make it possible for it to be applied universally.

6. The original aim of the Convention was to protect the two million people who were still displaced six years after the ending of the Second World War. The 1967 Protocol broadened the scope of the Convention to include refugees not just in Europe but across the world. 149 States are now party to one or other of these documents. This reflects a global consensus on our shared humanitarian values and it is noteworthy that key principles set out in those agreements now have the status of customary law binding upon all nations.

7. As the first and only modern codification of international refugee law of universal scope, worldwide, and in terms of its history and relevance, it bears several similarities with the Council of Europe's Convention on Human Rights (ETS No. 5). The guarantees enshrined in both conventions create synergies that offer a very solid human rights protection framework for refugees. European States are, therefore, well placed to play a major role in upholding the Refugee Convention and to develop its aims.

8. The scale of need in these matters has increased exponentially. There are currently 82,4 million refugees and people displaced in their own countries and "unknown millions" who are stateless.[5] Against this stands a total of 26.4 million registered refugees now hosted in countries around the world, testament to those governments which have endorsed the Convention in both word and deed. But those figures also serve as an indication of the size of the challenge that remains ahead of us. This is all before the recent and ongoing events in Afghanistan.

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3. Lucy Mablin, March 2010, "Historically European, Morally Universal? The 1951 Geneva Convention on the Status of Refugees".
4. Dr Paul Weis, "The Refugee Convention 1951 – the Travaux preparatoires", pages 270-272.
5. UNHCR – Figures at a Glance.

9. New international commitments and pledges towards refugee protection are formulated by States in the Global Compact on Refugees (GCR) adopted by the United Nations General Assembly on 17 December 2018. This seeks to enhance humanitarian responses and to operationalise the principles of burden and responsibility sharing which should offer better protection to refugees and stronger support to host countries and communities.

10. The Standing Committee of the Assembly adopted on 28 May 2021 Resolution 2379 (2021) "The Role of parliaments in implementing the United Nations Global Compacts for Migrants and Refugees" based on the report[6] by Mr Nicos Tornaritis (Cyprus, EPP/CD). The role of parliaments in supporting the 1951 Convention will also be an important aspect of this report. We need to redouble our efforts to ensure that the parliaments we represent enhance their co-operation with the UNHCR in our joint effort to meet the objectives on refugee protection, including economic recovery of countries of origin and refugee resettlement measures.

3. The role of the Council of Europe and Office of the United Nations High Commissioner for Refugees

11. The UNHCR is mandated to provide international protection, as well as to lead and co-ordinate international action to protect refugees and, together with States, to provide solutions to their problems worldwide. It also intervenes on behalf of stateless persons and, in some cases too, on behalf of internally displaced people. In the course of writing this report, I have had an opportunity to interact with UNHCR officials in London, in Strasbourg and in Geneva.[7] These fruitful encounters have allowed me to make some helpful adjustments to both the report and the draft resolution.

12. The UNHCR works in 134 countries across 546 locations.[8] It has a Representation in Strasbourg which allows for a very close collaboration both with the Council of Europe and the European Parliament. That presence which was established in 1996, originally as a liaison office and, along with its branches in 15 countries across the continent (including Parliamentary Assembly partner for democracy countries),[9] has contributed significantly to a cross-fertilising and co-operative role for us all.

13. In our own region, the UNHCR is concerned with the plight of 6.6 million refugees, 2 million internally displaced people, 1.2 million asylum seekers and 0.5 million stateless people.[10] The UNHCR Representation to the European Institutions in Strasbourg engages on an ongoing basis with the Council of Europe and the European Court of Human Rights in its efforts to provide protection against *refoulement* and the risk of arbitrary detention.

14. The UNHCR benefits from continued partnership and close co-ordination of activities with all relevant entities of the Council of Europe[11] including the Committee of Ministers and other key bodies such as the Parliamentary Assembly, the European Court of Human Rights,[12] the Congress of Local and Regional Authorities, the Commissioner for Human Rights, the Special Representative of the Secretary General on Migration and Refugees, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,[13] the Group of Experts on Action against Trafficking in Human Beings,[14] Group of Experts on Action against Violence against Women and Domestic Violence,[15] and other committees[16]. In addition, UNHCR Strasbourg reports on the discussions of the European Parliament plenary sessions in close co-operation with UNHCR's Representative for EU Affairs in Brussels.

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6. See Doc. 15229.
7. On 2 and 3 September in Geneva, meetings were held with Ms Geraldine Salducci Petruccelli, Senior Protection Officer, and Ms Anne-Birgitte Krum-Hansen, Senior Protection Coordinator, Regional Bureau for Europe; Ms Grainne Ohara, Director, Division of International Protection; Ms Stella Ogunlade, Chief of Section (civil society), Partnership Capacity section, Directorate of External Relations, Ms Rachel Criswell, Senior Policy Officer, GCR/Multi-stakeholder, Global Compact on Refugees; Ms Clair Roberts Lamont, Public Outreach Coordinator, Multi-stakeholder (Relationships with Faith-Based Organisations), Global Compact on Refugees; Ms Perveen Ali, Head, and Mr Ziad Ayad, Senior Policy Officer, of the Global Compact on Refugees Coordination Team; followed by an online meeting with Ms Gilllian Triggs on 6 September 2021.
8. Operations Global Focus (unhcr.org).
9. External Presence and Programme Support.
10. www.unhcr.org.
11. Especially with the Directorate General of Human Rights and Rule of Law and the Directorate General of Democracy.
12. European Court of Human Rights.
13. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).
14. Group of Experts on Action against Trafficking in Human Beings (GRETA).
15. GREVIO is the independent expert body responsible for monitoring the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, the Istanbul Convention) by the Parties.

15. The key activities of the UNHCR Representation to the European Institutions in Strasbourg include monitoring the case law of the European Court of Human Rights and the work of different Council of Europe bodies, submitting third party interventions before the Court (there have been over 40 such cases to date) and scrutinising the implementation of the Court's judgements. It contributes to intergovernmental committees and facilitates submissions to the Committee of Ministers and provides technical advice and support across its field offices. On a regular basis, it provides information relating to people or situations of concern to the UNHCR and their countries of origin to the Council of Europe bodies. In collaboration with the Council of Europe, it acts as a resource for meetings, sessions and conferences; it organises seminars and capacity-building events; and it helps develop on-line training tools for judges, lawyers, prosecutors, asylum decision-makers and NGOs.[17] It is constantly engaged in advocacy to support correct application of international legal standards and responsibility sharing for refugee protection, consistent with its mandate.

16. The UNHCR and the Council of Europe share a common commitment to all the principles and values spelled out in the 1951 Convention and the 1967 Protocol. The protection of refugees continues to be at the core of our work with the need to protect against *refoulement*, the prevention of arbitrary detention and the promotion of social inclusion and integration as the most important priorities. Both organisations face the uncertainties of the future with real concern but their symbiotic work should enable them to move forward.

4. Highlighting UNHCR activities in the Parliamentary Assembly

17. In November 2005, the Assembly adopted Resolution 1474 and Recommendation 1729 "Activities of the United Nations High Commissioner for Refugees". These texts were based on a report by Mr Mike Hancock (United Kingdom, ALDE) which recalled the historical context of the Convention and affirmed the need to consider the establishment of a new impetus which would allow for more international solidarity. It called upon member States to strengthen their commitments to upholding the rights of refugees and asylum seekers.

18. Recommendation 1729 also referred to the UNHCR "Convention Plus" process which ultimately led to the adoption of the United Nations Global Compact on Refugees. The Committee of Ministers' reply to the recommendation highlighted the actions taken by the European Committee on Legal Co-operation (CDEJ), on which the UNHCR has an observer seat, and by the Council of Europe Development Bank. It should be noted that a memorandum of understanding had been signed on 14 March 2005 between the Bank and the UNHCR "in order to continue to contribute to finding just and durable solutions to the problems of refugees in the Balkans."

19. Sixteen years after these texts, it is important to re-emphasise the Assembly commitment to the 1951 Refugee Convention and its 1967 Protocol and to express once again its full support to the UNHCR as an organisation established to co-ordinate world action for the international protection of refugees and asylum seekers.

5. A critical moment – the challenges to be overcome

20. The 70th anniversary of the Convention encourages us to assess the immeasurable good which has been achieved since its adoption. At the same time, it offers an opportunity to take a critical look at what confronts us. Without any doubt, this is a time of crisis. It serves no purpose to deny or disguise this fact. Key voices from within the UNHCR and the world of NGOs have highlighted a number of factors which must be faced honestly and realistically. It should be noted that, compared with the nearly 90% of refugees who are hosted by poor or developing countries, those who find their way to Europe and other safe havens amount to a relatively small and (what should be a) manageable number. It's important to bear that in mind as we look at the following factors:

– Many refugee determination processes are weak, resulting in backlogs over years. Those asylum seekers found not to be in need of international protection all too often cannot be returned to their country of origin. Nor can those who arrive from countries where protracted conflicts give every appearance of being irresolvable – countries like Afghanistan, Syria, Myanmar, those in the Sahel region, Democratic Republic of the Congo and, more recently, Ethiopia and Mozambique. All this undermines the integrity of the asylum regime.

16. European Commission against Racism and Intolerance (ECRI), European Committee of Social Rights.
17. Council of Europe HELP Programme. See also the Council of Europe European Qualifications Passport for Refugees Programme.

– Some States push back asylum seekers at sea, while others deny disembarkation. The protection of borders is in some places militarised and it seems that live ammunition has been used at times. Pushbacks can be accompanied by violence with immigration officers acting like soldiers and refugees treated as if they were enemy combatants. Once pushed back, these people can end up in abysmal conditions in countries with inadequate and under-resourced asylum systems.

– Some States seek to transfer their protection obligations to other, usually poorer, nations and isolated islands, detaining asylum seekers in poor conditions indefinitely. Libya is often referred to in this regard. Since 2016, co-operation with the Libyan authorities has played a central role in the European strategy of stemming arrivals to Europe by sea. In five years, around 70 000 people have been intercepted by Libyan coastguards in the central Mediterranean and returned to Libya to face arbitrary detention in abysmal conditions, exposed to torture, ill-treatment, rape, extortion, forced disappearance and killings. The United Nations has provided plenty of evidence of these violations. And the Libyan example isn't the only one. There are other instances too of rich countries paying their way out of their international obligations in direct violation of the European Convention on Human Rights and the principle of *non-refoulement* and responsibility-sharing.

– A worrying feature of recent date is the tendency to criminalise solidarity and life-saving activities. Solidarity and compassion have in this way been turned into a crime across the world – including Europe. People who have helped migrants and refugees have been investigated, charged and, in some cases, convicted just for providing assistance in the saving of lives, or for monitoring human rights, or for standing in solidarity with migrants and asylum seekers. Some States have misused anti-smuggling laws to curb solidarity and humanitarian acts intended to protect the rights of migrants and asylum seekers. All this in defiance of the clear imperative (under the terms of the Convention) to provide life-saving services to the maximum extent or, if unable or unwilling to do so, to facilitate such services by others whether they be States or humanitarian actors in the private sector. Saving lives is not a crime, feeding starving people is not a crime, providing shelter to families in need is not a crime. These activities are based on our fundamental values.

– Some States are using Covid-19, economic challenges, and irregular arrivals of migrants as cover for disproportionate measures restricting access to asylum and to the rights protected by the Refugee Convention such as the right to livelihood and freedom of movement.

– Another proposal seeks to introduce a different "sheltered" system of access to its asylum system so that, if access is permitted, there would be a differentiated standard of asylum for those entitled to it. Article 31(1) of the 1951 Convention reads as follows: "[The]Convention prohibits the penalization of refugees on account of their illegal entry or presence if they have come directly from a territory where their life or freedom was threatened, present themselves without delay, and show good cause for their illegal entry or presence." There is a deep division of opinion about what constitutes "directly" and also the nature of such penalties as may be applied. These differences are vitally important since they affect the way the provisions of the Convention are applied with some important divergences from hitherto accepted practice. UNHCR continues to provide authoritative guidance on the interpretation of such provisions, in a manner consistent with the 1951 Refugee Convention's ambition to ensure the 'widest possible exercise of […] fundamental rights and freedoms' by refugees.

21. This list of challenges is meant to be illustrative rather than exhaustive. They give a clear indication of the precarious nature of the present moment as we consider the importance of the UN Convention on its 70th anniversary. And it raises the simple question of where this leaves us now.

6. Parliaments, Council of Europe and UNHCR – working together in a strategic partnership

22. It is important to remind ourselves of the binding nature of the Convention and its Protocol. The challenges are great but the rewards for overcoming them are even greater. And there are courses of action, practical programmes, available to us to help us to do this. It is time to look at some of them now.

23. First of all, there is the Global Compact on Refugees already referred to. An impressive 181 nations have endorsed this UN programme since its launch in 2018. The Assembly Resolution 2379 (2021) was one of the first parliamentary instruments in the world to give a formal and positive response to the Global Compact on Refugees. The Compact is a break-through. It offers a legally non-binding, readily accessible framework document, written in plain language, under which States agree they will share equitably the responsibility for refugees. In addition to the response of the States, the wider international community, civil society, NGOs, the private/business sector, parliamentarians, faith groups, scholars and city mayors are now also committed to the Compact's objectives. Together, it seeks to offer help to host nations and to enable

refugees to be self-sufficient in the countries where they have found refuge. These principles are to be implemented through the more than 1 400 pledges made by governments and civil society and other stakeholders at the first Global Refugee Forum in December 2019. Their impact will be assessed by evidence and data. On 14 and 15 December 2021 in Geneva, a high-level meeting will take stock of progress in implementing the pledges and to plan for the next Global Refugee Forum in 2023.[18]

24. The EU Pact on Migration and Asylum presents an opportunity for concerted regional and global action rather than unilateral initiatives that push the challenges posed by refugees onto others. All this is coming about while the European Union and its institutions are increasingly guided by human rights standards emanating from the Council of Europe. The fundamental rights framework and refugee standards enacted by the European Union is itself bound to international law – including the European Convention on Human Rights and the 1951 Refugee Convention. With the European Union expected to accede to the European Convention on Human Rights in the foreseeable future, normative protection of refugees in Europe should become further consolidated and strengthened.

25. The Walk with Little Amal is under way as this report is being compiled. Amal is the Arabic word for Hope and this remarkable 3.5 meters high puppet represents a 9-year-old refugee living in a camp whose mother disappeared after a shopping trip. The "Walk" will cover 9 000km and visit eight countries from the Turkish/Syrian border, through Strasbourg, and ending her journey in Manchester in early November. A glittering array of talented people from the worlds of entertainment, the arts, sport and civil society are supporting this project. A Palestinian playwright, puppeteers from South Africa, Eritrea and Taiwan, together with theatre managers and sporting heroes from across the continent will take the show on the road. A staggering "250 charities, community and arts organisations along one of the world's busiest refugee routes [will offer] a charismatic and emotional gesture of hope that will flow like a river of goodwill through two continents."[19] It is important to include a reference to this event in a report of this kind – the response to this artistic contribution might well challenge assumptions about public attitudes to migration currently held by our political leaders and parts of the popular press.

26. Those initiatives apart, it is important to identify the work done by bodies and programmes within the Council of Europe towards the protection of refugees and the bodies in association with it.

27. We should certainly understand the advantages of our close working relationship with UNHCR. Since it became the only UN agency to open a dedicated office in Strasbourg in 1996, and in the spirit of a formal memorandum of understanding concluded with the Council just three years later, there has been a growing potential to exploit synergies. For example, the interpretation of the European Court of Human Rights of Article 3 of the Convention on Human Rights as prohibiting forcible removals to situations posing real risk of torture, inhuman or degrading treatment gave us a natural common purpose. So too did the development by the Council of Europe of a number of specialised human rights instruments, standard-setting and monitoring bodies covering persons of concern to UNHCR, especially those most vulnerable on account of their age, gender, race, religion etc.

28. A good example of a successful collaboration with the Council of Europe are joint capacity building events, including the jointly developed the HELP (Human Rights Education for Legal Professionals) online self-study course on asylum and human rights. This was recently released in a modernised, revised and updated version. It offers interactive learning on how legal practitioners can exploit synergies between human rights and refugee law. UNHCR has been facilitating different language versions and contributing to launching events of this course for several Council of Europe countries in collaboration with the HELP programme. It was launched for an online audience of legal experts from across the Council of Europe at the end of May 2021.

29. In recent years, the Council of Europe has, in the area of migration, chosen to highlight one particular aspect of the migration agenda by bringing forward what they call an action plan. In the years 2017–2019, for example, it opted to focus on "Protecting Refugee and Migrant Children in Europe".[20] More recently, the Committee of Ministers chose "Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe," a theme that will run in the years 2021-2025. It's not too early to give some thought to the subject for a plan that might follow on from this or at least be included in this. What about, for example, aligning ourselves with the UNHCR to "encourage the strategic use of resettlement as a tool of protection, a durable solution and a tangible form of burden-sharing in protracted refugee situations" – as proposed by the Assembly in

18. This paragraph is largely drawn from Ms Gillian Triggs *op.cit.*
19. Quotation from an article in *TheObserver* (UK) by Claire Armitstead: 4th July2021.
20. Action Plan on Protecting Refugee and Migrant Children in Europe (2017-2019) and final report on this Action Plan: https://rm.coe.int/-refugee-and-migrant-children-in-europe-final-report-on-the-implementa/16809c827d.

Resolution 1474 (2005)? It was in 2019 that UNHCR and its partners launched its "Three Year Strategy on Resettlement and Complementary Pathways[21] which aimed at the resettlement of one million refugees and the admission of two million others through complementary pathways such as family reunification or labour mobility schemes. It set itself the target of achieving these goals by 2028.

30. Resettlement can, and should be, successful for both refugees and asylum seekers on the one hand, and host communities on the other. It requires specific efforts by host countries (for example fighting hate speech against migrants and refugees, working to improve press coverage, facilitating the access of refugees to education and employment and enhancing their social integration with the involvement of diaspora networks). These issues were highlighted in a series of webinars organised by the British Parliament on the initiative of Lord Alexander Dundee and Lord Alf Dubs in co-operation with the Organization for Security and Co-operation in Europe (OSCE).[22] A pan-European Action Plan to support resettlement and enhance refugees' self-reliance would be a true mark of European leadership in humanitarian relief and human rights protection. It would be a programme undertaken exactly in the spirit of the 1951 Convention.

31. This brings me to an important organisational matter: the need for an intergovernmental partner in the Council of Europe. The above mentioned Resolution 1474 (2005):

– 8.3 sought clarification of "the respective responsibilities of Council of Europe member States in the event of irregular secondary movement of refugees and asylum seekers";

– 8.10 stressed "the need for continued joint efforts at national and regional level to avoid and reduce statelessness".

These actions would clearly need strong intergovernmental co-operation with the possibility of bringing together government experts from all 47 member States of the council of Europe. Notwithstanding the praiseworthy co-ordination role of the Special Representative of the Secretary-General on Migration, it would be very important to either have a fully-fledged intergovernmental body dealing with matters pertaining to the international protection of refugees and asylum seekers in Council of Europe member States, or to ensure that all relevant expert bodies and intergovernmental committees pay priority attention to refugee and migrant issues, enhancing co-ordination on this matter, in close co-operation with the UNHCR.

32. I am aware that the Committee of Ministers has revised the terms of reference of the European Committee on Legal Cooperation with a view to enabling it to work on statelessness and administrative detention of migrants, in particular migrant children.[23] I am also aware of the work of the Steering Committee on Anti-Discrimination, Diversity and Inclusion which aims at steering the Council of Europe's intergovernmental work to promote equality for all and build more inclusive societies, offering effective protection from discrimination and hate and where diversity is respected.[24]

33. The question that remains is whether this is sufficient or whether there might be a need to have a dedicated intergovernmental structure that would consider all aspects related to the protection of refugees and asylum seekers, as well as migration-related matters. An interdisciplinary approach would be crucial since the resettlement and integration of refugees and asylum seekers needs public support in many fields – education, health, access to employment, legal status and documents, housing, etc.

7. Conclusion

34. I am very proud of the part played by the British Government in the process that led to the publication of the 1951 Convention. It gives me great pleasure to read that the UK representative at the Conference of Plenipotentiaries which met a few months later that the launch of the Convention "expressed the hope that the Convention would have value as an example exceeding its contractual scope and that all nations would be guided by it in granting so far as possible to persons present in their territory as refugees and who would not be covered by the terms of Article 1 the treatment for which this Convention provides."[25]

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21. UNHCR – Three-Year Strategy on Resettlement and Complementary Pathways.
22. On 18 June 2021, a webinar organised by the British Parliament focused on the 70th anniversary of the 1951 Refugee Convention: https://youtu.be/FuyfFuWqTVI, "OSCE PA migration committee members discuss voluntary relocation of child refugees at House of Lords event".
23. https://rm.coe.int/cdcj-2020-1e-terms-of-reference-2020-2021/1680998664.
24. https://rm.coe.int/tor-cdadi-2020-2021-en/16809e29a5.
25. Dr Paul Weis: *op cit*. pages 270-272.

35. I also note how the Convention was ratified in July 1951 by a British Labour Government and its enactment fully committed to in 1954 by a British Conservative Government. The treatment of refugees was, from the outset, a matter of universal human rights rather than party politics. It drew support from across the political spectrum – a common human response to common human needs. A lesson to be heeded in this anniversary year.

36. The present situation, however, seems to stand at odds with this picture from the past. We are living in fractured societies where, so often, the plight of refugees has become heavily politicised by those contending for (or administering) power on both the left and the right. This is a time for serious reflection, for digging deeply into our European conscience, to see whether we can find a way to re-affirm our commitment to the principles of *non-refoulement*, non-discrimination and non-penalisation which focused the minds of those who gave us the 1951 Convention and also to share the burden carried so disproportionately by those of our community on the front line.

37. A man caught up in the bloody civil war in England in the 17th century was described as someone "whose singular praise it is to have done the best things in the worst times and hoped them in the most calamitous." We are living in calamitous times right now and hope must not be allowed to die. The protection we give to refugees and stateless people will be a measure of our success on this front.