

**Statement at the 8<sup>th</sup> Swiss Symposium (UNHCR et Organisation Suisse d'Aide aux Réfugiés) – Bern, Switzerland, 19-20 mai 2022**

**“Respect for human rights and effective multilateralism, as a tool for more solidarity”**

Leyla Kayacik, Special Representative of the Secretary General on Migration and Refugees

Good morning, ladies and gentlemen, dear State Secretary, dear participants. As from the outset, let me express my gratitude to the organisers of this symposium to extend this invitation to me and to say how pleased I am to be here today with you.

You might well be wondering what a representative of an organisation aimed at upholding human rights, democracy and the rule of law can possibly have to say about a question, which is very much connected to migration management. Yes, it is true that the Council of Europe does not have a mandate for managing migration as such. But, indirectly, we influence migration processes through:

our instruments, most notably our European Convention on Human Rights; the relevant judgements of “our” Court, the European Court of Human Rights; and our other standards.

The Council of Europe is an intergovernmental organisation founded in the aftermath of the second WW to uphold democracy, human rights and the rule of law across the European continent. Today, it is encompassing 46 member states, following the decision of our Committee of Ministers on 16 March 2022, that the Russian Federation ceases to be a member of the Council of Europe, after 26 years of membership.

Our activities are framed in three main pillars: human rights, the rule of law, and democracy. Our role goes from standard setting, to monitoring and to cooperation.

The Council of Europe promotes human rights through its convention systems, notably through the European Convention on Human Rights and the European Social Charter, but also through other conventions, such as the Convention on the Prevention of Torture and Inhuman or Degrading Treatment, or Punishment (CPT), the Convention on Action against Trafficking in Human Beings (GRETA), the Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as “the Lanzarote Convention”, or the Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention), or the European Commission against Racism and Intolerance (ECRI) specialising in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance.

All these standards are monitored on a regular basis. Monitoring bodies, composed of independent experts conduct regular visits to assess implementation, to identify areas where more support is needed. The Council of Europe then engages in follow-up work to enhance the capacity of states to address areas of challenge.

These instruments and standards apply in all our 46 member states.

Our legal space does not stop however at the borders of our member states. A number of Conventions are open to signature by non-Council of Europe member states.

Allow me to talk a bit of my position. The position of the Special Representative of the Secretary General on migration and refugees was created in 2016, with the aim to support member states to take into account their human rights' obligations also when dealing with refugees and migrants.

As I have mentioned before, our 46 member states are bound by the European Convention on Human Rights. This means that everyone entering this territory – and even some who have not physically entered but who can be considered to be under the effective control of our member states – is covered, refugees and migrants too. Whatever their nationality, ethnic origin or religion, they are all protected by our human rights standards and fall under the jurisdiction of the European Court of Human Rights.

Implementing these standards is about the rule of law. In the CoE, we have developed important benchmarks for effective rule of law mechanisms, adopted recommendations on how to strengthen institutions on the one hand to implement these standards, and on the other hand to have effective independent institutions to provide for real checks and balances for the implementation of standards/international obligations. The very important role of the civil society must be emphasised in this context.

Now how these principles affect my work, as Special Representative on Migration and Refugees?

Our position is that the human rights standards of the Organisation apply throughout the whole migratory process as well and provide a strong legal framework on which our member states' migration management policies should be founded. A fair system which treats everyone with dignity and respect and grants protection to those in need is a more credible system. Full compliance with human rights standards will mean general trust in institutions, fewer

challenges to decisions made and actions undertaken in general, but also in the migratory process.

In the CoE, we believe in the principle that human rights and the rule of law are integral parts of any migration management policy. Effective and independent justice system, strong institutions to assure that individual rights are taken into account are essential for us, and hence our member states to be successful democracies.

Our system for human rights protection is one of the most developed in the world, and for many years now we have worked on putting in place a range of standards and tools which helps to develop the capacity of our member states to meet these challenges. Through the Court's judgments, standards on detention for migration purposes, accommodation and minimum social rights for migrants and protection of migrant children have been elaborated. Training courses and cooperation activities have been developed to help member states implement these standards.

In the framework of my mandate as Special Representative, I carry out fact-finding visits to different member states of the Council of Europe. The aim of these missions is to collect information on the protection of the fundamental rights of migrants and refugees and to offer targeted advice and assistance to member states.

Based on the findings of the first fact-finding missions, my office issued a thematic report on the situation of refugee and migrant children, which triggered the adoption of the Action Plan on Protecting Refugee and Migrant Children in Europe. The Action Plan aimed to provide a comprehensive response to the identified protection gaps and to facilitate the integration of refugee and migrant children who are to stay in Europe.

Last May, the Council of Europe adopted its new, 5-year Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe. The Action Plan was endorsed by all – back then – 47 member states in our Committee of Ministers. As the Special Representative on Migration and Refugees, I am in charge of coordinating its implementation.

After this important stock taking on our CoE standards, it is time for me to sit back, reflect, and provide an honest statement. We all agree that the subject of migration became the inexhaustible source for populism, hate-speech and xenophobic rhetoric also at the highest political level. There is a huge mistrust in the European institutions, in multilateralism in general. Recent public opinion polls suggest that the biggest frustration of the citizens in Europe is due to the multilateral institutions' inability to properly address and manage the migration issue. Will the current, unprecedented refugee crisis, the unprecedented unity and solidarity of states to support the millions of refugees fleeing Ukraine change this course?

It is also up to us, Ladies and Gentlemen, dear colleagues, up to us, international organisations, how we will be able to seize this opportunity. How we will be able to prove that effective multilateralism is not only a well sounding slogan, but that it is also implemented, and it works in practice, it really works on the ground.

We arrived at a cross-road in many ways in international politics and international relations, thus, it has never been so important than nowadays to stand up and support each other us, international and regional organisations. We must unite our forces in a very effective way: support the overall aim – the respect of human rights – with the expertise and added value we each have against the worrying tendency in our member States to set aside our standards

and values when they are seen to be inconvenient, or inexpedient to furthering security goals.

Not acting will lead to the erosion of our values and norms established after the second WW. We cannot allow that the core values and standards which are the foundations of an international co-operation system that was built to preserve peace in Europe are undermined.

We must speak up against it. Loud and united.

How can the Council of Europe and in particular, the Special Representative of the Secretary General of the Council of Europe contribute to this aim?

Within my mandate as Special Representative, my role is “to seek, collect and analyse information, including through fact finding missions, on the human rights situation of refugees and migrants and report to the Secretary General, notably on the basis of the European Convention on Human Rights and other Council of Europe instruments.”

As Special Representative I also need to coordinate internally migration related activities. In general, but also in the context of the 5-year Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum. It is also in light of this Action Plan that we envisage our interventions in our respective member states most hit by the current refugee crisis.

I liaise closely and coordinate with our member states through the Council of Europe Network of Focal Points on Migration, which is composed of our member states’ representatives dealing with migration management in their respective countries.

Lastly, but in the context of our discussions today most importantly, I am mandated “to liaise and exchange information with relevant international

organisations and specialised agencies”. My aim in this respect is simple: to create synergies and added value when undertaking CoE activities. We all have a role to play, we all can bring complementary elements within the framework of our mandate.

While effective multilateralism remains a key principle in this undertaking, emphasising the importance of Council of Europe’s legal instruments for the protection of the human rights of refugees and migrants, in particular the European Convention of Human Rights and the role of the European Court of Human Rights interpreting it and securing the effective respect of the principle of *non-refoulement* continue to be a priority.

Let me give you some concrete examples:

In the UN family, our relations are most developed with the United Nations High Commissioner for Human Rights (UNHCR). Let me emphasise the importance of the UNHCR’s Office presence in Strasbourg, and the important role your colleagues are playing in facilitating this very fruitful cooperation. In the past years this has been continuously strengthened, and a number of events were organised jointly in different member states of the CoE focusing on relevant ECtHR case law, Council of Europe, European Union and UNHCR actions on asylum and migration. The joint events and the actions proposed in the framework of the previous Action Plan on the Protection of Refugee and Migrant Children in Europe (2017-2019) contributed to concrete thematic cooperation, such as on alternatives to immigration detention, on statelessness, on education (recognition of refugees’ qualifications – EQPR), and resulted in the development of new training modules provided in the framework of the HELP free online courses on Refugee and Migrant Children and on Alternatives to Immigration Detention, in addition to the already existing, but recently updated

course on Asylum and Human Rights. New areas of enhanced cooperation will be considered with UN partners, in particular with UNHCR, also in the context of the implementation of the CoE Action Plan on Vulnerable Persons in the context of Migration and Asylum in Europe (2021-2025).

In addition, I provide feedback and follow up on behalf of the organisation to the stock-taking on the implementation of the Global Compact on Refugees, by emphasising, among others, the added value of the regional approaches, such as the one promoted by the Council of Europe, in achieving concrete and effective results.

During the High-Level Officials Meeting in Geneva on 14-15 December last year, the Council of Europe confirmed its commitment to continue its work to address statelessness, alongside the [two pledges](#) made in October 2019 during the High-level segment specifically addressing this important theme.

A technical meeting and a high-level conference jointly organised by UNHCR and the CoE took place on 23-24 September 2021 in Strasbourg to strengthen efforts to end statelessness in Europe. These international events brought together over 130 senior representatives of governments of member States, national authorities with specific expertise in nationality and statelessness issues, judges, representatives of international and regional organisations, civil society organisations and academics, as well as stateless individuals. As a result, we have identified two priority follow-up actions which will be undertaken by the CoE in the period 2022-2025 to pursue the work on statelessness: the elaboration of guidance on child-sensitive procedures for stateless children and on the establishment of nationality, in particular for children.

The other example I wish to emphasise here is our cooperation with the European Union Agency for Fundamental Rights (FRA). Our relations in the area



of migration and refugees have been developed only in the past years and can be considered as the most enhanced with and within the EU structures, and which also produced concrete results. The two important joint notes developed together, namely on the "Fundamental rights of refugees, asylum applicants and migrants at European borders" (March 2020), and on "European standards on remedies, complaints mechanisms and effective investigations at borders" (July 2021) give a complete picture in a clear and comprehensive manner of existing standards and obligation stemming from the ECHR and EU law and complements well the Handbook on European law relating to asylum, borders and immigration jointly produced by the ECtHR and FRA.

It is in this very context of already established and well working international cooperation that I have organised an online meeting on 8 April with representatives of UNHCR, IOM, UNICEF, the Office of the United Nations High Commissioner for Human Rights (OHCHR), EU Fundamental Rights Agency (FRA), European Union Asylum Agency (EUAA) and OSCE/ODIHR to exchange information on the actions carried out in the context of the current crisis. The aim of the meeting was to enhance synergies and to determine how best the Council of Europe, within its mandate, can complement the ongoing efforts on the ground.

It is also in this context, the context of effective multilateralism, that I conduct my fact-finding visits, the most recent ones to Slovakia and the Czech Republic, the upcoming ones to Poland and Moldova, to assess the situation of refugees fleeing Ukraine, and to propose assistance to our member states, should they wish to cooperate with us, in the framework of the Council of Europe's mandate, bearing in mind that its activities are of complementary nature to those international organisations already active on the ground.

Is this approach the right one? I believe so. In my view, this is simply the only way to have a meaningful role to play, which ultimately leads to real impact on the ground. Engage in targeted, well-coordinated action in the spirit of transparency, dialogue and honest cooperation with our partners. This is our responsibility. If successful, I am confident that it will lead us to rebuild the mistrust in multilateralism I have already mentioned. Mistrust of our member states, mistrust of the citizens, whose human rights' we all must protect.

I am confident that with a rebuild trust of states in us, a well working, well implemented, effective multilateralism will ultimately give us, and most importantly the causes we defend, strength. Our core values, we must preserve, it is our duty and obligation. Alone, we are not able to do so any longer. Those days are gone... But let us remind ourselves: every crisis is a new opportunity. This one here is one, not to be missed.

Ladies and gentlemen, dear Colleagues,

Two years ago, the Council of Europe celebrated the 70th anniversary of the adoption of the European Convention on Human Rights, next year we will celebrate the 70th anniversary of it entering into force in 1953. This important Convention is our guiding principle, our shared and added value. If implemented, it leads us to more respect to each other, more respect for human rights, and ultimately to more solidarity.

Thank you for your kind attention!