

# First report on the activities of the Secretary General's Special Representative on Migration and Refugees



1 February 2016 to 31 January 2018

Ambassador Tomáš Boček

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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1 February 2016 to 31 January 2018

**Presented to the Secretary General  
and the Committee of Ministers**

French edition:  
*Premier rapport sur les activités menées  
par le Représentant spécial du Secrétaire  
Général sur les migrations et les réfugiés*

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Cover and layout:  
Documents and Publications Production  
Department (SPDP), Council of Europe

Photos:  
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Printed at the Council of Europe

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## Chapter 1

# Introduction and overview of activities

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1. The Secretary General appointed me to be his Special Representative on Migration and Refugees as of 1 February 2016. I am the first person to hold the post, the creation of which was announced in December 2015. My first mandate was for two years; a second two-year mandate has recently been agreed.
2. My terms of reference are to collect information on the protection of the fundamental rights of migrants and refugees in Europe and to offer advice and assistance to member states; to strengthen the co-ordination of migration-related activities within the Organisation; and to develop further our co-operation and effective communication with international partners. The protection of refugee and migrant children is one of my key priorities. As a Special Representative of the Secretary General, my task is not to monitor member states but rather to work with them to find and implement solutions to the challenges linked to migration in Europe.
3. In the two years since my appointment, I have conducted six fact-finding missions in nine member states and published five mission reports. I have worked, in co-operation with the states concerned and other sectors of the Council of Europe, to implement follow-up activities in line with the recommendations in my reports. I have also published a thematic report on children and prepared, after consultation with other relevant services of the Organisation, an Action Plan on Protecting Refugee and Migrant Children. The Action Plan was adopted by the Committee of Ministers in May 2017. I have established good channels of communication with international partners including the United Nations (UN), the European Union (EU), the Organization for Security and Co-operation in Europe (OSCE) and a number of international non-governmental organisations (NGOs).
4. During this time, I have also built up my Office. At the end of the second year of my mandate, my team is composed of six staff members: two legal advisers, a political adviser, a programme officer, a communications officer and an administrative assistant. I have a website and social media accounts and my Office publishes a monthly newsletter about Council of Europe migration-related activities.
5. I am grateful to the Governments of Hungary, Andorra, Liechtenstein, Belgium, Monaco, Italy and Serbia and to the International Association of Former Council of Europe Staff Members for their voluntary financial contributions to support our work on refugee and migrant children. I also wish to record my thanks to Turkey for seconding an official to my Office for a year (July 2016 to July 2017).

## Chapter 2

# Fact-finding missions, reports and follow-up activities

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### A. Summary

6. In 2016 I carried out fact-finding missions to:
  - ▶ Greece and “the former Yugoslav Republic of Macedonia” (7-11 March);
  - ▶ Turkey (30 May-4 June);
  - ▶ Calais and Grande-Synthe camps, northern France, followed by discussions in Paris and London and further visits in the Grand Est region (12-13 and 21-23 September and 7-8 November);
  - ▶ Italy (16-21 October).
7. In 2017, I conducted fact-finding missions in:
  - ▶ Serbia and two transit zones in Hungary (12-16 June);
  - ▶ Bulgaria (13-17 November).
8. Five fact-finding reports were published following these missions. The reports contain detailed descriptions of the migration-related challenges in the member state visited, as identified during the fact-finding mission. They also make recommendations as to how the Council of Europe can assist the member state to tackle these challenges. Following publication of these reports, my Office co-ordinates the follow-up activities of the various sectors of the Council of Europe which, upon the member state’s request, co-operate with the national authorities to implement my recommendations.

### B. Greece and “the former Yugoslav Republic of Macedonia”

9. High numbers of refugees and migrants arrived in Greece in 2015 and travelled northwards through “the former Yugoslav Republic of Macedonia”. Following the effective closure of the Western Balkan route in early spring 2016, many found themselves in these two countries unable to continue their journeys. During my mission, I visited a “hotspot” and reception centre on the island of Chios, a shelter for unaccompanied children in Athens and camps in both countries, including Idomeni and Tabanovce.

10. My report was published on 11 May 2016. In it, I highlighted the serious overcrowding in some of the camps I visited and called for more resources to increase capacity to house migrants and refugees in decent living conditions. I addressed the treatment of refugee and migrant children in Greece, underlining the need for alternatives to detention for families and unaccompanied minors and for educational provision in the camps. I also offered the Organisation's assistance to strengthen the Greek child-protection system to protect refugee and migrant children from exploitation. I drew attention to capacity concerns regarding the processing of asylum claims in Greece, and recommended human rights training for those involved in examining applications and improved case management to ensure the speedy processing of appeals. While I was impressed by the attitude of the local population in Greece, I nonetheless emphasised the need for integration policies, to respond to the reality of the likely long-term stay of many migrants and refugees. I also expressed concern at reports of pushbacks and ill-treatment by those guarding the border of "the former Yugoslav Republic of Macedonia", and recommended human rights training for all relevant personnel. As with Greece, I also called for more resources to provide decent accommodation for migrants and refugees.

11. Activities by way of follow-up to the report's recommendations are now under way. In Greece, human rights training has been delivered to the members of the committees examining appeals against decisions rejecting asylum requests. The Organisation has also provided expert advice on the management of the caseload of the Greek administrative courts, responsible for reviewing the decisions of the appeals committees. Greece is participating in a Council of Europe pilot project on the recognition of the qualifications of refugees, which has recently entered its second phase. Training on integration of migrants, with a focus on non-discrimination, has been organised in Athens for teachers and for local authority administrators and will be delivered in February 2018. In "the former Yugoslav Republic of Macedonia", human rights training has been provided to police officers involved in guarding the border with Greece. The Council of Europe Development Bank will fund a project to build facilities to accommodate vulnerable migrants and refugees, including unaccompanied children.

## C. Turkey

12. Turkey has the highest refugee population in Europe, with around 3.1 million at the time of my visit. My fact-finding mission included visits to removal centres and temporary protection centres in Istanbul, in northern Turkey at the border with Bulgaria, in the south-east along the Syrian border and on the Aegean coast. I met with representatives of government and of the various different regional and local authorities, international organisations and local and international NGOs working with migrants and refugees.

13. My report was published on 16 August 2016. I underlined the significant efforts to host the high number of migrants and refugees. However, I drew attention to the importance of improving their access to information about their rights and the different protection regimes. As regards living standards, I highlighted the need to address the precarious living conditions of millions of refugees outside camps, in



particular through resources for accommodation and welfare support and better access to the labour market. I offered the Organisation's assistance to strengthen Turkish legislation on unaccompanied children, to devise alternatives to detention for families and to develop social inclusion policies for refugees. I also made proposals to improve school attendance by refugee children and offered human rights training for government officials, administrative judges, law-enforcement officers and border guards.

14. Co-operation on activities to follow up on the recommendations in my report has begun. Turkish migration officials have received human rights training and a migration-related training course on the European Social Charter for Turkish civil servants has been developed and is expected to be delivered in 2018. A project on sharing good practices on work permits for migrants, for the benefit of the competent Turkish policy makers, is also in hand.



## D. Calais and Grande-Synthe

15. By summer 2016 the number of migrants and refugees in the camps of northern France, hoping to cross the English Channel, had reached record heights. Many were under the age of 18. I visited the camps in Calais and Grande-Synthe and the Command and Control Centre in Calais. I held meetings with the representatives of central government, the local authorities, the police, international organisations and local and international NGOs. Following my fact-finding visit, I travelled to Paris and London to meet with relevant French and British senior officials and civil society representatives.

16. The report on my mission to northern France was published on 14 October 2016, shortly before the closure of the Calais camp. I expressed concern about the absence of published plans providing details of how the camp's residents, in particular unaccompanied children and families, would be accommodated. I called for assurances that all pending dossiers for transfers of unaccompanied children to the United Kingdom would be processed before the camp's evacuation. I also offered the Organisation's assistance in strengthening civil society to enable NGOs to provide effective information to migrants on their rights and in reducing the lengthy delays for submitting asylum applications in the Calais area. I underlined the need for integration policies for asylum seekers and refugees. Given the prevalence of criminal rings operating between France and the United Kingdom, I proposed that the Council of Europe assist in tackling smuggling.

17. In early November 2016, I visited several reception facilities in Strasbourg and the wider Grand Est region to speak to migrants and refugees who had been evacuated from the Calais camp. I was interested to hear how the evacuation had been carried out and what the expectations of those who had been transferred from Calais were. Based on the information I gathered, I subsequently updated the Secretary General and the Committee of Ministers. I also engaged in written correspondence with the French and British Governments concerning the assessment and transfer of children during and in the wake of the camp's closure. I am monitoring the developing situation in and around Calais closely.

## **E. Italy**

18. Following the closure of the Western Balkan route, the focus on new arrivals in Europe shifted to the central Mediterranean route to Italy, where numbers had been steadily increasing and soon outnumbered arrivals in Greece. During my mission to the country, I visited official facilities for migrants and refugees and informal settlements at the border with Switzerland, in Sicily and in Rome, including the "hotspots" in Pozzallo and Lampedusa. I met government officials, local authorities, the Italian coast guard, relevant EU agencies and international organisations and representatives of civil society.

19. My report was published on 8 March 2017. I called for more solidarity from other member states to ensure a fairer distribution of asylum seekers across the continent. My key recommendations included the need to strengthen asylum reception capacity, particularly for unaccompanied children, and to put in place appropriate educational provision for all migrant and refugee children. I pointed out that further assistance for those making the transition to adulthood was also needed. I highlighted the importance of improving the child-protection system and offered guidance on combating corruption in the migration-related services sector. I drew attention to the difficulties faced by recognised refugees in Italy and proposed the Organisation's assistance in putting in place appropriate integration policies. I also offered training for administrative judges and expertise to improve case management.

20. I subsequently visited Rome to discuss my report with the authorities and explore possibilities for follow-up activities. Over the course of 2018, I will continue to discuss with the Italian Government potential activities in response to the recommendations in my report.

## F. Serbia and two transit zones in Hungary

21. The effective closure of the Western Balkan route left migrants and refugees who had hoped to reach northern Europe stranded in Serbia. Legislative amendments in Hungary in March 2017 resulted in strict limits on the number of those permitted to enter Hungary to claim asylum, and the automatic application of a border asylum procedure in “transit zones”. During my mission, I visited Serbian reception centres for migrants and refugees in Belgrade and at the borders with Croatia and Hungary. I had meetings with Serbian government officials, local authorities, relevant international organisations and NGOs. I also visited two transit zones in Röszke and Tompa in Hungary, at the border with Serbia.

22. My report was published on 19 October 2017. In respect of Serbia, I underlined the need to address the precarious legal situation of migrants and refugees, to improve their living conditions and to ensure their access to asylum procedures. I recommended urgent action to strengthen the guardianship system to protect children from exploitation. I offered the Organisation’s assistance to strengthen capacity to process claims and to train relevant judges and officials, including the border police. I was impressed with the positive attitude of the Serbians and the fact that anti-immigrant rhetoric did not form part of the political discourse there despite the high numbers. As regards the Röszke and Tompa transit zones in Hungary, I highlighted my concerns under Article 5 of the European Convention on Human Rights about migrants’ *de facto* deprivation of liberty there. I drew particular attention to the confinement of children, including unaccompanied children over the age of 14. I offered advice and expertise on modifying the law governing these matters, in particular to put in place a guardianship system for children over 14.

23. These issues were subsequently taken up in dialogue with the Hungarian authorities in the framework of the Lanzarote Committee further to a visit by a delegation of that committee to the transit zones in July 2017. In the context of this dialogue, the Hungarian authorities provided information regarding improvements to asylum procedures, material conditions and healthcare for children and the introduction of educational programmes in the transit zones. I expect in 2018 to continue working with the Serbian and Hungarian authorities to implement my recommendations.

## G. Bulgaria

24. During my mission in Serbia, it became apparent that it was important to complete my overview of the treatment of migrants and refugees along the Western Balkan route by carrying out a mission in Bulgaria. I visited reception centres around Sofia and in the south-central part of the country close to the border with Turkey. I met government officials, civil society representatives and relevant international organisations. My report on the mission will be published in early 2018.



# Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe (2017-2019)

## Chapter 3

# Protection of refugee and migrant children

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25. I was given a special mandate by the Secretary General to focus on the situation of the high number of refugee and migrant children currently in Europe. On 22 March 2017 I therefore published a thematic report on migrant and refugee children, which brought together the key findings concerning children from my fact-finding missions. It highlighted a number of issues, including the lack of alternatives to detention and effective guardianship systems for children, the risk of trafficking and exploitation, the challenges of transitioning to adulthood and problems accessing information and education.

26. On the basis of the thematic report, I co-ordinated the drafting of an Action Plan on Protecting Refugee and Migrant Children in Europe (2017-2019), which was adopted at the 127th Session of the Committee of Ministers in Nicosia on 19 May 2017. The Action Plan proposes concrete support from the Council of Europe to member states at all stages of the migration process to address the main concerns identified in my thematic report, taking into account complementarity and co-operation with the EU and other key partners. The proposed actions are grouped around three pillars: ensuring access to rights and child-friendly procedures; providing effective protection; and enhancing the integration of children who will remain in Europe.

27. Different sectors of the Council of Europe, including those dealing with inter-governmental human rights co-operation, children's rights, education, trafficking, human rights training, sports, youth participation and the media, are involved in the implementation of the Action Plan. All actions envisaged for 2017 were achieved or under way as planned by the end of the year. Implementation will continue to be a priority in 2018. The challenge now is to obtain the necessary funding, including via voluntary contributions, to ensure that these agreed activities to improve the situation of migrant and refugee children in Europe are fully implemented within the timescale envisaged. My Office is in close co-operation with the Office of the Directorate General of Programmes (ODGP) in this respect.

## Chapter 4

# Advice on legislation

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28. In January 2017 I led a mission to Ljubljana, accompanied by a team of experts, to discuss with the Slovenian authorities a bill proposing to amend the Aliens Act. Among other changes, the modifications proposed enabled the country's borders to be closed in certain circumstances. The purpose of my visit was to advise the authorities on whether the modifications complied with the European Convention on Human Rights and Slovenia's other international commitments. I raised my concerns about the proposed changes, and in particular the risk of *refoulement*, with the Speaker of Parliament, government officials and senior civil servants. The ombudsman has since referred the law to the Constitutional Court on the basis of human rights concerns. A decision is pending.

29. In November 2017, at the request of the Minister of Interior of Montenegro, I provided an expert Opinion on the compliance of the Montenegro draft law on foreigners with Council of Europe values and standards, particularly with respect to migration. The Opinion was based on advice from three independent experts in the framework of the European Union/Council of Europe Horizontal Facility for the Western Balkans and Turkey. Aside from an analysis of the human rights implications of the draft text, the Opinion also discussed the proposed new provisions on statelessness. The draft law was subsequently amended in the light of the Opinion and is currently making its way through the legislative process.

## Chapter 5

# Co-ordination of activities within the Council of Europe

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30. As noted above, my Office has worked closely with other services of the Council of Europe in the preparation and implementation of the Action Plan on Protecting Refugee and Migrant Children and in respect of the recommendations in the reports on my fact-finding missions. We also receive regular contributions from them for the migration newsletter, published by my Office, which gives a monthly overview of the activities of the Organisation in the migration field.

31. My Office and I communicate regularly with colleagues from, in particular, the Office of the Commissioner for Human Rights, the Secretariat of the Parliamentary Assembly of the Council of Europe (PACE), the Children's Rights Division, the Human Rights National Implementation Division, the Registry of the European Court of Human Rights, the Human Rights Intergovernmental Co-operation Division, the Secretariats of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the European Commission against Racism and Intolerance (ECRI), the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Venice Commission, the Education Department, the Youth Department, the Department of the European Social Charter (ESC), the Justice and Legal Co-operation Department, the Secretariat of the Congress of Local and Regional Authorities and the ODGP.

32. My staff and I attended numerous Council of Europe meetings, including meetings of the PACE Committee on Migration, Refugees and Displaced Persons, the Ad Hoc Committee on the Rights of the Child (CAHENF), the Lanzarote Committee, the Drafting Group on human rights and migration (CDDH-MIG), the Committee of experts on administrative detention of migrants (CJ-DAM) and the Joint Council on Youth. We prepared a number of briefings or speaking notes for the Secretary General and other sectors of the Council of Europe. We also contributed to the Secretary General's 2016 and 2017 Annual Reports and the 2017 Highlights. We provided input on a number of drafts prepared by other services, including the draft guidelines on transition to adulthood and on age assessment and the draft Gender Equality Strategy (2018-2023). My Office has supported the work of PACE, for example on ending immigration detention of children. We also assisted the Committee of

Ministers in the context of the 2017 annual meeting on intercultural dialogue, on the theme of religion and migration, notably through the preparation of a discussion paper. We have promoted the work of our colleagues in other services through our involvement in their events and our dissemination of information on their activities.

33. In order to further strengthen the co-ordination of migration-related activities within the Council of Europe, an intersecretariat co-ordination group on migration has recently been established as a platform for joint and complementary action involving the secretariat of the relevant bodies, institutions and services. My Office is responsible for the organisation of the group, whose tasks include contributing to the implementation of the Action Plan on Protecting Refugee and Migrant Children, sharing relevant migration-related information, ensuring coherence and relevance of activities to be developed in future policy cycles of the Organisation, identifying possibilities for extra-budgetary funding of migration-related activities and co-ordinating the Council of Europe's participation in relevant international forums, including the UN and the EU, on migration issues.

## Chapter 6

# Co-operation with other international organisations

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34. During my two years in post, I have established good working relationships with all major international partners, including the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), the Office of the High Commissioner for Human Rights (OHCHR), the International Organization for Migration (IOM), the European Commission, the General Secretariat of the Council of the EU, the European Parliament, the EU Fundamental Rights Agency (FRA), the European Border and Coast Guard Agency (FRONTEX), the European Asylum Support Office (EASO), the OSCE (in particular the Office for Democratic Institutions and Human Rights (ODIHR)) and all major international NGOs active in the field of migration and refugee protection in Europe.

35. In September 2016 I attended the UN High-Level Summit to address large movements of refugees and migrants. I was a panellist at the third thematic discussion on the Global Compact on Refugees in October 2017, where I spoke on the theme of "Promoting social inclusion". I also submitted written comments in the context of the sixth thematic discussion on the Global Compact for Safe, Orderly and Regular Migration. I will continue to follow and participate as appropriate in the development of the two Global Compacts in 2018. My Office has received invaluable advice and practical assistance from the UNHCR, UNICEF, the IOM and the OHCHR in the context of several of my fact-finding missions.

36. Throughout the reporting period, my Office and I have frequently exchanged information and views with our EU counterparts. We have regular meetings with representatives of the principal EU institutions in Brussels and are also in close contact with the FRA. We have set up biannual meetings with the Commission's Directorate-General for Migration and Home Affairs to discuss relevant developments in our respective institutions and other migration-related matters of mutual interest. I delivered speeches at both the 10th and the 11th EU Forum on the Rights of the Child, organised by the European Commission. I hope to continue exploring opportunities to work together over the course of my next mandate, particularly as regards implementation of the Action Plan on Protecting Refugee and Migrant Children and the recommendations in my fact-finding mission reports.

37. I have also attended several meetings with the OSCE and ODIHR over the course of my mandate and have taken part in events that they have organised.



## Chapter 7

# Participation in events

38. Aside from fact-finding missions, my staff and I participated in around 25 international conferences and events on migration-related issues during the reporting period, organised by a number of different partners including the OSCE, the European Commission and the UNHCR. We also took part in around 20 events in Strasbourg.

39. We delivered about 35 speeches at these events, including my keynote address at an OSCE/ODIHR expert round-table meeting on good practices in migrant integration at the local level, and opening and closing remarks at a conference on immigration detention of children organised by the Czech chairmanship of the Committee of Ministers.



## Chapter 8

# Communication

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40. In general, we have received very good media coverage: more than 250 news items on my Office and activities were published during the reporting period by local and international media.

41. My report on my fact-finding mission to Greece was covered by *Reuters, the Daily Mail, Kronen Zeitung, Salzburger Nachrichten, Blic, Focus, La Presse, Xinhuanet, Český rozhlas, Postimees, Baltic News Network, AFP, France Info, Tribune, Die Welt, Deutsche Welle, Kleine Zeitung, Ekathimerini, Dikailogitika, Protothema, Ert.gr, Tanea, Efsyn, Greek Reporter, Huffington Post Greece, Magyar Hirlap, Radio Vatican, Aska News, Agenzia Nova, Stranieri in Italia, Netpress, Telegraf, Lokalno, Lider, Tocka, Telma, A1 on, Sitel, Standard, TV21, Makfax, MIA, Nova TV, The Independent, Athens News Agency, Macedonian Press Agency, Jurnal, Europalibera, Hotnews, Place publique, Agerpress, Napova News, EFE, World Bulletin, Sozcu, Breitbart and Union Radio.*

42. My mission to Turkey and subsequent report were covered by *the LA Times, DPA, Deutsche Welle, n-tv-de, Het Belang van Limburg, El día.es, EFE, la Vanguardia, Te interesa, Diario Vasco, La Información, Nouvelles D'Armenie, AFP, Stiripesurse, Istoe, Swissinfo, La Tribune de Genève, 24 heures, Domovina, Agence Andalou, TRT, Hür24, TGRT Haber, TRT Español, TRT Persian, YENI SAFAK, Sputnik, Xinhua, Ansamed, Hürriyet Daily News, Daily Sabah, Haberdetaylari, Hürriyet and EU Observer.*

43. My report on my fact-finding mission to the camps in northern France was covered by *ARTE Journal, Le Monde, Liberation, France3, AFP, The Wall Street Journal, RP Online, Deutsclandrundfunk, ARA, L'Humanité and Swissinfo.ch.*

44. My visit to Slovenia was covered by *Dnevnik, STA, DELO, SIOL.NET, France24, Hürriyet Daily News, Yahoo News, AFP, VECER and RTV Slovenia.*

45. My fact-finding mission to Italy and subsequent report were covered by *BBC World Service, La Stampa, Corriere della Sera, Rai News, Sky TG24, Il Foglio, Il Gazzettino, EFE, Giornale di Sicilia, Il Mattino, Adnkronos, AgenSIR, Il Messagerio, Il Fatto Quotidiano, Il Giornale, Agenzia di Stampa Italpress, Il Velino/AGV News, Radio Vaticana, Radio 24, The Local Italy, La Voce d'Italia, TG3web, Salzburger Nachrichten, Privatbankar.hu, Origo, Il Giorno and Vanity Fair.*

46. My report on my fact-finding mission to Serbia and two transit zones in Hungary was covered by *ANSA, Tanjug, Blic, Fonet, Balkan Magaszin.net, B92, Betqa, RTS, Mondo-SE, Dnevnik, O21, N1, eBrčko, OE24, Der Standard, Tözsdé Fórum, Gondola, Index, Magyar Nemzet, Inforadio.hu, Privatbankar.hu and Maszol.*

47. My thematic report on children was covered by *The Guardian*, *EU Observer*, *l'Orient du jour*, *Reuters*, *SDA*, *ATS*, *AFP*, *Euronews*, *Haberler*, *Zougla*, *Info.cz*, *The Star*, *Arti49*, *Memleket*, *Timeturk*, *ANSA*, *Epoch Times*, *Tiroler Tageszeitung Online*, *Danas*, *Proexpansion*, *Agence Europe* and *Ekathimerini*.

48. I gave around 30 interviews to national and international media, including a live interview for BBC Radio on *Newshour* on my Italy report and interviews for *ARTE Journal* on my mission to Calais, for *Reuters* on my mission to the Hungarian transit zones and for *TVE* on general issues related to migration in Europe. I recorded a number of video messages, including on the Council of Europe "No hate speech" movement and on the occasion of the 2016 European Day on the Protection of Children against Sexual Exploitation and Sexual Abuse.

49. To mark International Migrants Day 2016, I organised a screening of the film *Fire at Sea (Fuocoammare)*, an award-winning documentary on the migration crisis set in Lampedusa. On International Migrants Day 2017 I made a statement emphasising the importance of integration as a solution to the migrant crisis.

50. In May 2016, my Office launched a webpage to publicise the activities of the Council of Europe in the field of migration and refugees. This was replaced in September 2017 with a website. All my reports and a number of speeches and other papers are available on the website. The webpage had 16 155 views in 2016 and 21 472 views in 2017. Since its launch, the website has had a monthly average of almost 900 unique visitors, with a peak of over 1 000 in November. I also set up social media accounts on Facebook and Twitter in March 2016 and currently have around 1 000 followers on each. Over the reporting period I published 302 tweets and, on Facebook, 83 posts, which reached 53 725 users.

51. In September 2016 I launched a revised version of the Council of Europe Migration Newsletter, in close co-operation with the different services of the Organisation. The newsletter has over 1 500 subscribers. My Office also circulates a daily round-up of migration news to a distribution list of key internal contacts.

52. My Office is involved in promoting Council of Europe standards and awareness of the migration-related activities of the Organisation among school and university students. We helped the European Law Students' Association (ELSA) to organise a live webinar on migration law in November 2016. My legal adviser participated in the webinar along with colleagues from the Office of the Commissioner for Human Rights and the PACE secretariat. Traineeships in my Office are available to candidates who have applied through a scheme set up by ELSA. My staff and I have also met with many high school and university students to speak about our work and human rights issues affecting migrants and refugees.

## Chapter 9

# Organisational matters

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53. Over the course of the first two years of my mandate I set up my Office. There has been a significant degree of movement, in terms of my staff, during this time. By the end of my first year, I had a team of five staff: a head of office/senior legal adviser, a legal adviser, a political adviser, a communications officer and an administrative assistant. Four of these were permanent Council of Europe employees, two of whom were on temporary secondments from the European Court of Human Rights. The fifth staff member was on secondment from the Turkish civil service. During the second year of my mandate, a new legal adviser (also a permanent staff member) joined the team in April, and a programme officer (on a temporary contract funded by the Council of Europe's Action Plan provisions and voluntary contributions) joined in June to co-ordinate the implementation of the Action Plan. However, the political adviser left at the end of her secondment in July, and one of my legal advisers was absent for seven months on maternity leave (February-August). My head of office/senior legal adviser left the team in December 2017 and there are no immediate plans for his replacement. A political adviser, who is a permanent staff member, joined my Office on secondment in January 2018. The turnover has inevitably had an impact on productivity and it has been challenging for our Office to carry out our numerous activities with such a small team. We will have to consider how to be as efficient as possible despite our low numbers over the next reporting period. But it is clear that we will have to be selective in terms of the activities that we undertake.

54. The annual budget for the activities of my Office was €150 000 in 2016 and €120 000 in 2017. As I have already mentioned, we also benefited from a number of voluntary contributions amounting to €227 249.83 for the implementation of the Action Plan on Protecting Refugee and Migrant Children. These contributions are being used to fund the different activities proposed in the Action Plan and not solely those of our Office. While the allocated budget has sufficed for my first mandate as our activities and working practices have been developed, it will be difficult to carry out the activities I hope to complete over my next mandate without further financial resources being made available. Voluntary contributions could play an important role in this respect.

## Chapter 10

# Observations and future priorities

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### A. Future challenges and the Council of Europe's role

55. Migration has been identified as one of the most challenging issues in Europe and therefore as one of the priorities of the Council of Europe. This priority status is reflected in the numerous activities being carried out across the Organisation in the migration field. Managing migration has also emerged as one of the key challenges at international level in recent years. States, intergovernmental organisations and NGOs need to work together to find solutions. The Council of Europe has an important role to play in this process. The human rights expertise that we can bring to bear on the management of migration flows, at every stage, is both valuable and necessary. I believe that this is recognised by our member states and by our counterparts in other international organisations. We must therefore continue to seek to reassert our position as one of the major stakeholders in the quest for a clear and coherent response to the challenges posed by the high numbers of migrants and refugees at a global level and, more particularly, in Europe.

56. In this respect, it is vital that we keep up to date with, and feed into where relevant and appropriate, the activities of our key international partners. The Global Compacts on Refugees and for Safe, Orderly and Regular Migration will be adopted this year, following intergovernmental consultations. The Council of Europe should continue to engage with that process to ensure that its human rights approach to migration issues is ultimately reflected in these two documents. Our standards should also serve as a benchmark for the reform of the EU's Common European Asylum System; this is a point we must continue to emphasise in our discussions with our EU counterparts.

57. Over the course of my first mandate, I have followed carefully the evolving picture of migration in Europe. The past two years have been characterised by our emergency response to accommodate the very high number of arrivals. Over the next two years, it is likely that refugees and migrants will continue to arrive in Europe in significant numbers. The pressure on some of our member states, particularly those at the southern borders of Europe, will therefore remain. However, more stringent

border controls have led to a steady fall in numbers and I expect that states will renew their efforts to stem the flow through further tightening of borders, co-operation arrangements with third countries and a greater focus on returns. The challenge will be to ensure that all measures adopted and actions taken are in full compliance with the Council of Europe's human rights standards. These standards constitute binding obligations, freely undertaken by our member states in the recognition that they represent basic human values that should never again be forgotten or ignored if peace and stability in Europe are to be maintained. A further challenge over the coming months and years will be addressing the longer-term needs of those who have a legal right to remain. As the number of new arrivals stabilises at a more manageable level than the 2015 peak, we have the capacity to begin to think about integration issues, and this is a critical task. If we fail to devise policies and strategies to promote the inclusion of refugees and migrants with the right to remain in our societies, we will create entirely avoidable problems for ourselves in the future. Poor integration may hinder engagement in educational opportunities, restricting employment and future life prospects for thousands of children. Young men and women made to feel unwelcome in their local communities may grow to resent the abuse and unfair treatment they receive. Unemployment and unemployability force people to remain dependent on state benefits and charity and erode their sense of self-worth and dignity. Feelings of alienation or desperation leave them vulnerable to exploitation and radicalisation by those who seek to manipulate divisions in society. We must be proactive now, so that we can influence positively the integration process.

58. If we are to tackle these challenges successfully, there needs to be a clear, principled and holistic approach by the Council of Europe covering all aspects of migration management. In particular:

- ▶ The Organisation should continue to press for solidarity among our member states and promote the sharing of responsibility for hosting asylum seekers and refugees. As a continent, we have more than enough capacity to examine the asylum applications of all those who wish to lodge claims and to ensure that, pending a final decision, they enjoy the fundamental rights which we have chosen to guarantee to all human beings. We also have the capacity to welcome on a more permanent basis those who are ultimately granted protection status and to integrate them into our local communities.
- ▶ We should continue to uphold the right to apply for asylum for all who seek international protection and increase our efforts to ensure that this right is effectively secured in practice. This means zero tolerance towards pushbacks at our member states' borders and simplified access to asylum procedures, in accordance with human rights obligations. A fair system which grants protection to those in need is a more credible system, and makes the case for returning those not granted protection status stronger. But in order to better manage migration flows, our member states should also put in place legal pathways to Europe. The evidence I have gathered during my fact-finding missions has persuaded me that this is a central plank to resolving the so-called migration crisis. For those fleeing war and persecution, this means looking into the possibilities to put in place opportunities for seeking protection from outside Europe, in full compliance with human rights obligations, via resettlement

programmes, humanitarian visa regimes and other private sponsorship schemes. The Organisation should also assist states to establish a workable and swift procedure for reuniting refugees with their families, as required by Article 8 of the European Convention on Human Rights. For migrants not seeking international protection, the Council of Europe should encourage its member states to create realistic prospects for lawful economic migration to Europe, in line with their needs. In this way we can address the continent's labour and skills shortage and remove some of the attraction of irregular migration.

- ▶ The Council of Europe should, of course, also ensure that the human rights of migrants and refugees are respected during the migratory process. Asylum procedures should function properly and the relevant provisions of the European Convention on Human Rights, as interpreted by the Court, should be applied. Decent accommodation and minimum social rights, such as access to basic health care and education, should be enjoyed by all migrants while they are on our continent, regardless of their immigration status. Additional protections for the vulnerable, including women and children, should also be in place. Human rights should moreover be protected during removal procedures, and readmission agreements with non-Council of Europe countries should be made contingent on proper international human rights supervision. Effective monitoring of reception facilities, asylum procedures and returns, both by national and international supervisory or monitoring bodies, is indispensable. Full compliance with human rights standards will mean fewer challenges to decisions made and actions undertaken in the migratory process. Moreover, our global credibility as an organisation responsible for promoting human rights and our ability to exert a positive influence over other countries in this respect are at stake. The various monitoring mechanisms of the Council of Europe play a central role in securing effective protection and decent treatment for migrants and refugees in Europe and deserve full support to continue their excellent work.
- ▶ The Organisation needs to support member states to develop integration policies for those who will stay and to combat populist, xenophobic speech, "fake news" and hate crimes. We must change the political discourse around refugees and migrants. This is no easy task. The negative perceptions created and fed by some politicians and media have taken root in many countries. Integration activities which encourage interaction between local communities, including religious organisations, and newcomers can help to break down prejudices and foster mutual understanding. Improved access to the labour market for asylum seekers and refugees can boost local economies and make the public more aware of the advantages that migration can bring. The provision of language courses is essential for communication between migrants and members of the host community. Ensuring that refugee and migrant children have access to mainstream education will help them and their families to integrate into host societies. We need to redouble our efforts to put across the positive messages about refugees and migrants' contributions to our communities. Projects already under way need political support and funding; new, innovative projects in this area should be encouraged and promoted.

59. It is clear that to achieve these goals, there needs to be united political will among our member states, commitment to the fundamental importance of the values and standards of this Organisation and the motivation to find durable solutions. But more human and financial resources allocated to migration-related activities would also help us to achieve more effective outcomes. At a very practical level, funding for activities to be undertaken by the various different services to implement the Action Plan and the recommendations in my fact-finding reports is crucial. It is important that we continue to bring added value in this area, over and above the work carried out by other actors. The human rights expertise and the practical assistance we can give are central elements of that added value.

” The Organisation needs to support member states to develop integration policies for those who will stay and to combat populist, xenophobic speech, ‘fake news’ and hate crimes.”





## B. My priorities for 2018-2019

60. Since taking up my functions, the tasks of my Office have continued to grow. We are increasingly asked to brief different parts of the Organisation on migration-related issues and to advise on or engage with the work being done by other sectors of the Council of Europe. Over the course of 2018 I will take on a greater role in co-ordinating our Organisation's activities in this area, through the implementation of the Action Plan on Protecting Refugee and Migrant Children and the organisation of the intersecretariat co-ordination group on migration. My Office is also invited to participate in a high number of international conferences, meetings and other events on topics of interest and relevance for this Organisation. I have already explained the importance of engagement with our international partners to the work that we do. At the same time, I am keen that we pursue our fact-finding missions and work with colleagues on follow-up activities in the member states. The gathering of information is key to determining where there is most need for co-operation activities, and what specific activities should be envisaged. Moreover, through fact-finding missions, we are able to identify and share information on good practices. The implementation of my recommendations leads to very practical results to improve the situation of migrants and refugees on the ground. I would also like to conduct more research into issues of particular importance in this field, to identify protection gaps and examples of good practices that can be shared. The provision of human rights advice on migration-related legislation to member states who request my assistance is another important aspect of the work of my Office.

61. It will be difficult for my Office to accomplish the many tasks for which we are now responsible and to measure up to what is expected of us without further logistical support. This means additional staff, with stable contractual arrangements to allow continuity and to enable institutional knowledge to be built up within my Office. It also means sufficient funds to permit us to carry out the increasing number of activities that we are asked to undertake. While I am optimistic that some further provision can be made, particularly as regards staff, I understand that in the current budgetary climate any additional assistance we receive is likely to be limited. As I have already indicated, staffing and budgetary limitations will naturally have an impact on our work over the next reporting period.

62. Subject to sufficient capacity and financial resources, I have set four priorities for my Office.

### I. Protection of children and other vulnerable migrants and refugees

The key action in this respect is the implementation of the Action Plan on Protecting Refugee and Migrant Children. Implementation of the recommendations of my fact-finding mission reports will also contribute to securing this objective.

### II. Integration

We are in the process of preparing a study on the human rights implications of integration policies and expect to publish the results of the study in 2018. I also intend to carry out fact-finding missions with a stronger focus on integration, rather than the member states' emergency response. I hope to identify the main challenges

in this area as well as examples of good practice which can be shared with other states. The outcome of these activities will inform further work in this field over the term of my mandate.

### III. Follow-up to fact-finding missions

As I have already mentioned, the effective implementation of the recommendations in my mission reports is a key aspect of the added value that our Organisation can offer. I will therefore continue to work closely with member states' governments and my Council of Europe colleagues to propose projects and other co-operation activities aimed at improving the situation of migrants and refugees in the countries concerned.

### IV. Co-operation with other international organisations

In 2018 I will continue to raise awareness of the Council of Europe's unique role in protecting the human rights of refugees and other migrants. I remain engaged in the process leading up to the adoption of the two UN Global Compacts and look forward to the continuation of the good relations between my Office and our international partners. Over the course of the next two years, I will focus on developing further synergies with them, including identifying scope for joint projects in all three priority areas above.

63. Aside from these four priorities, my Office will continue to seek ways to further improve co-ordination of the activities of the different sectors of the Council of Europe in the field of migration and refugee protection. I will, of course, continue to advise the Secretary General on the Organisation's overall strategy in the migration and refugee protection field. Finally, I should emphasise that while I am keen to press forward with the above priorities, the focus of my activities may evolve over the course of the next two years in order to continue to respond to developments in this dynamic field.

” It is clear that to achieve these goals, there needs to be united political will among our member states, commitment to the fundamental importance of the values and standards of this Organisation and the motivation to find durable solutions.”

# Appendix I – Mandate

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## The need for a swift and concerted action

A number of Council of Europe member states are experiencing an unprecedented influx of migrants and refugees. As a consequence, their resources and their capabilities to receive and process arriving individuals in accordance with their national legislation, international standards and their international obligations are under growing strain.

The Council of Europe is already mobilized in providing assistance and advice, notably through the Commissioner for Human Rights, Parliamentary Assembly and the Committee of Ministers. In September 2015, the SG issued a guidance to the member states regarding the “Protection of migrants and asylum-seekers: main legal obligations under the Council of Europe Convention”.

Other bodies, and especially the Committee for the Prevention of Torture and the European Court of Human Rights are, or are likely to, address these issues within the context of their regular activities.

However, in this highly volatile situation, we are experiencing unpredictable developments, notably sudden concentrations of high numbers of refugees and migrants in certain locations, with instant and serious threats to their well-being and rights under the European Convention on Human Rights, notably Article 3 (“Inhuman and degrading treatments”) and Article 5 (“Right to liberty and security”).

Any such human rights concern can, and are likely to be eventually addressed through existing Council of Europe mechanisms, but the volatility and gravity of the situation requires additional, exceptional, flexible and rapid means of action to respond to suddenly emerging threats to the rights protected under the European Convention on Human Rights.

In view of the gravity and the urgency of the situation, the SG has decided to appoint a Special Representative of the Secretary General on Migration and Refugees. The Special Representative will carry out fact-finding missions, strengthen co-ordination of the relevant activities within the Council of Europe, and establish communication and co-ordination channels with our international partners.

The objective is to enable the Council of Europe to provide immediate assistance and support to member states concerned, by complementing activities of other relevant Council of Europe bodies and by co-ordinating our action with other international partners, notably the UNHCR, IOM, UNICEF, EU, FRONTEX and others.

## The tasks of the Special Representative

The Special Representative will work with the relevant structures within the Council of Europe, the member states, the European Union and the international organisations, driving the assistance and support of the organization to the member states and fostering international co-operation in this area.

The mandate of the Special Representative will include:

- ▶ Seek and collect information, including through fact-finding missions, on human rights situation of refugees and migrants and report to the Secretary General, notably on the basis of the guidance on the “Protection of migrants and asylum-seekers: main legal obligations under the Council of Europe Convention.”
- ▶ Liaise and exchange information with relevant international organisations and specialised agencies.
- ▶ Provide input to the Secretary General on ways to strengthen Council of Europe assistance and advice to member states on human rights treatment of refugees and migrants.
- ▶ Strengthen the response of the Council of Europe, notably by reinforcing the work of the Migration co-ordinator and working closely with the Council of Europe’s Commissioner for Human Rights, Parliamentary Assembly, Congress and other relevant structures within the organization.

## Appointment, reporting and duration of the mandate

Following the usual consultations, the SG intends to appoint Ambassador Tomáš Boček as his Special Representative on Migration and Refugees.

The Special Representative will report to the SG/PO, but on a daily basis be integrated in the relevant structure in DGI. He will take up his duties as of 1 February next year.

The SG will inform on a regular basis the Committee of Ministers on the developments, accompanied, when necessary, with recommendations on action to be taken.

The Special Representative will not be a permanent structure and its mandate will end when the extraordinary circumstances will be brought under control.

## Appendix 2 – Links to fact-finding mission reports

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Report of the fact-finding mission to Greece and “the former Yugoslav Republic of Macedonia”

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680648495](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680648495)

Report of the fact-finding mission to Turkey

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680699e93](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680699e93)

Report of the fact-finding mission on the situation of migrants and refugees in Calais and Grande-Synthe, France

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016806ae620](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806ae620)

Report of the fact-finding mission to Italy

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016806f9d70](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806f9d70)

Report of the fact-finding mission to Serbia and two transit zones in Hungary

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=090000168075e9b2](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168075e9b2)

The creation of the post of Special Representative of the Secretary General on Migration and Refugees was announced in December 2015. Ambassador Tomáš Boček was subsequently appointed to the post and took up his functions on 1 February 2016.

His mandate includes:

- ▶ collecting information, including through fact-finding missions, on the human rights situation of refugees and migrants and reporting to the Secretary General;
- ▶ liaising and exchanging information with relevant international organisations and specialised agencies;
- ▶ providing input to the Secretary General on how to strengthen Council of Europe assistance and advice to member States on the human rights treatment of refugees and migrants;
- ▶ strengthening the response of the Council of Europe, by working closely with other relevant structures within the Organisation.

The protection of refugee and migrant children is one of his key priorities.

[www.coe.int](http://www.coe.int)

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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