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Keynote speech

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First of all, I like to thank the Gulbenkian Foundation for hosting this important conference on a very important and challenging issue, the so-called Migration and Refugee crisis in Europe.

I will share with you some reflexions and try to answer the question: What can and shall the EU and its Members-States do to better manage these migratory flows in the short and medium term.

As all we know the migratory movements across the Mediterranean Sea is an endemic phenomenon for more than 20 years. In May and June 2007, several tragic events which took place in the Central Mediterranean, created at that time an intense political discussion about Migration within the European Institutions.

Myself participated in a Public Hearing on Tragedies of Migrants at Sea which took place at the European Parliament. At that time was estimated that, from 1997

until 2007, at least 10.000 people died trying to cross the Mediterranean and reach Europe.

Since 2011, in the wake of the “Arab Spring”, migratory flows have exponentially increased, as well the tragic events, and is affecting Europe in an unprecedented manner.

First, since 2014 there is an exponential growth of the influx of asylum seekers. 2014, EU Member States, registered more than a half million asylum seekers. 2015, over 1,2 million asylum seekers were registered in the EU. And in the 1st quarter of 2016 the number of asylum seekers increased by more than 50% if compared with the first quarter of 2015.

Secondly, these asylum seekers were registered mainly in few Member States. Only Germany registered more than 60% of all asylum seekers, followed by Italian, France or Sweden.

Lastly, this crisis is also very challenging because there is an inherent tension between the State’s sovereign right to control their borders and migration and the right of everyone facing persecution or inhuman treatment to seek asylum.

But to understand the dimension of this crisis we have to take it into perspective.

The Syrian conflict alone triggered the world's largest refugee crisis since the Second World War. According UNHCR, there is almost 5 million refugees in the Region, affecting in particular neighbouring countries, like Turkey (circa 3 million Syrian refugees), Lebanon (1.2 million) and Jordan (628.160).

The whole Europe registered 1 million Syrian refugees which compared to the number of Syrian refugees in little country with 4,5 million inhabitants like Lebanon (1.2 million) is a drop in the Ocean.

But inside Europe, the responsibility to protect Syrian refugees is not fair shared. 65% of Syrian refugees are in only to States: Germany and Serbian. Sweden, Austria, the Netherlands or Denmark received 23%. All other European countries 11%.

Notwithstanding all EU measures, the migration influx and the tragic accidents at sea have dramatically increased. The Mediterranean Sea route is the most dangerous and lethal border in the world, in which thousands of people have lost their live trying to enter the EU. Only since 2014, it is estimated that more than 10.000 people died in the attempt to reach EU by see.

2015, following the tragic shipwreck 60 miles off the Libyan coast, in which more than 800 migrants feared dead, the EU adopted several measures in the framework of the European Agenda for Migration to respond to the Mediterranean crisis situation, such as

- 1- The EU Borders and Coast Guard Agency, that reinforces FRONTEX competencies and the obligations of Member States regarding the control of the external Border.
- 2- The launch of the military operation EUNAVFOR MED – Sophia to disrupt smuggling and trafficking networks in the Southern Central Mediterranean, including rendering smuggler vessels inoperable.
- 3- The EU-Turkey agreement to stop the influx of refugees coming from Turkey to Greece through the Aegean Sea.
- 4- In the field of solidarity 2 measures were adopted:
 - (1) An EU-wide resettlement scheme to transfer 20.000 refugees from a third country to a member State.
 - (2) The temporary relocation scheme to relocate 160.000 asylum applicants from Italy and Greece and distribute them among the other Member States.

Until 14 November 2016, only 7.224 refugees were relocated, mostly to France, Portugal and Finland.

As the numbers shows the relocation mechanism is not functioning well. This is due to many reasons: First the procedure is very heavy and imply the setting up of facilities (the hotspots) and human resources. Secondly, many refugees opted to continue their journey to other Member States, like Germany or Sweden. Lastly, some Member States, like Poland, Slovakia, Austria or Hungary refused to relocate and others make few places available.

Taking into account all this measures, one can conclude that the EU response doesn't represent any substantial change in its approach to migration. It followed the "old strategy" and is mainly based on reinforcing borders controls.

The increase of search and rescue operation is positive, but it will not address the main causes of migratory influx and will not prevent smugglers to continue their business.

The reinforcement of return operations faces operational and legal constrains. The vast majority of the people arriving by Sea, like Syrians, Eritreans, Yemenis, Nigerians or Somalis, are fleeing conflicts, lack of rule of law, human rights violations and therefore are in need of international protection. According the principle of *non*

refoulemen they cannot be lawfully returned and have at least the right to present a claim for protection.

As António Guterres (2015) points out “we can’t deter people fleeing for their lives. They will come. The choice we have is how well we manage their arrival, and how humanely”.

Thus, addressing the root causes of migration flows is essential, but once again the cooperation with third countries of origin and transit is focused on giving assistance to strengthen their migration and border management capacity and to enforce readmission agreements.

And this is a very “old” EU strategy in the field of its external migration and asylum policy: shift the burden of migration control and refugee protection to countries of transit and origin, through helping them to better protect refugees, to better control their borders and imposing them readmission agreements that allows returning irregular migrants. Until now this kind of measures were unable to stop de flow.

As regard solidarity within the EU and with the third countries most affected by mass influxes of refugees and

migrants, the EU answer was shy, if one compare with the huge protection efforts made by countries like Lebanon, with 1.2 million, or Turkey, with 3 million Syrian refugees.

Beyond the very special legal commitment that the EU has to the right to asylum, Europe has a special historical and moral duty to protect people fleeing war and persecution, because asylum is in the heart of its values.

But what should and can the EU do to meet the migration challenges faced by Europe?

The answer to this question is not easy. I will focus on five measures.

First, strengthening save and rescue operations to save lives of migrants and refugees in distress at sea has to remain a priority. This is not only a legal obligation enshrined in international Law, but also a moral duty.

Secondly, the fight against smuggling and trafficking of human beings is a priority, a legal obligation and an urgent measure not only for the EU, but for the entire international community. EU has to cooperate with third countries to tackle this type of crimes. But alone the criminal persecution, borders controls or even disrupting

smugglers networks by destroying their vessels and assets are not enough to fight against illegal migration.

Measures to fight against irregular migration are justified, but they cannot take precedence over the right to seek asylum, that is at the core of the European civilization and values.

It makes no sense to force those fleeing Syria, Eritrea or Nigeria to risk their lives in dangerous routes.

Thus the EU needs a wide resettlement program to organise orderly the arrival of those persons and allow them to fully exercise their right to seek asylum.

The right to seek asylum is a universal human right and it is also, as Guterres (2015) pointed out “a political principle that has guided nations for thousands of years and is at the very foundation of the values upon which modern Europe was built”.

Thus, EU should explore other type of measures to reduce the number of refugees attempting to cross illegally the Mediterranean and thereby save lives, by creating more legal alternatives for refugees to find protection and immigrants to enter legally Europe

Thirdly, Europe needs a real common asylum policy based on solidarity and fair sharing of responsibility within the EU.

Discrepancies in Member-States protection systems and reception conditions, individual preferences of asylum seekers and diverging recognition rates have led to wide secondary movements between Member-States and to an unsustainable system in which few Member-States (Germany, Sweden, Italy, France, UK) take the majority of all refugees (Guterres).

Solidarity among Member States is mostly expressed through operational support by EASO and financial support, rather by intra-EU transfer of asylum seekers and refugees (De Bruycker p-4-5).

To the backdrop of the Syrian crisis the EU could, by triggering the Temporary Protection Directive, provide immediate protection to those who have fled areas of armed conflict or endemic violence and are unable to return to their countries of origin. Instead of triggering the Temporary Protection Directive, the EU adopted a temporary relocation scheme to relocate 160.000 asylum applicants from Italy and Greece to the territory of other Member States.

It is a fact that the EU cannot receive everyone that needs protection, but we have to put this migratory crisis into perspective. Those countries in the Middle East and Africa closer to the countries of origin of these migrants have received much higher influxes of refugees. Alone Lebanon, with 4.5 million population, received 1.2 million Syrian refugees. The whole Europe, with more than 500 million people received 1 million.

Objectively, Member States have the capacity to make more and offer protection to a greater number of refugees, through resettlement schemes.

Regional Development and Protection Programme for refugees and host communities, like the one in Lebanon, Jordan and Iraq, are gut initiatives.

Nevertheless, many refugees in neighbouring countries with exhausted reception capacities have no perspective of a dignifying future and will try to reach Europe, legally or illegally.

Thus, reinforcing resettlement of refugees must be an integral part of EU efforts to support countries facing massive influxes of refugees, because as Guterres (2015) stated, “we can no longer meet our obligations simply by financing programs in other countries”.

But Europe needs also to organize better legal migration instead of trying to control or fighting it. And this is the fourth point.

In the globalised world, Europe will continue to receive immigrants and due to its demographic decline, immigration will play an important role in its strategy for growth and employment and for the sustainability of its welfare system.

To avoid social conflicts and preserve social cohesion, all those measures regarding migration and asylum should be accompanied by the strengthening of integration policies. The EU and its Member States have to be ready to invest much more in integration of migrants and refugees into our societies.

Lastly, **as** it is not feasible for Europe to receive everyone that needs protection or has a legitimate hope to have a better live, the EU has to address more seriously the root causes of migration (forced or voluntary), like conflicts, lack of rule of law, human rights violations, extreme poverty.

This requires changes in its external policy, more engagement in development policies, and changes in its own internal policies, like the common agriculture policy or

its trade policy, to allow other countries to have a chance to develop themselves and guarantee better live conditions to their populations.

To conclude, and this are my last words, the migratory humanitarian crisis is a complex phenomenon and poses huge challenges.

Only a global approach, that addresses root causes of migration and is able to manage lawfully migration flows, can provide a long-term solution. Strengthening border controls and measures to fight illegal immigration are needed, but alone will not be effective to stop immigration, as long there are development gaps in the world, as long migrants have a reasonable prospect to have a better live in Europe, as long refugees and people seeking international protection haven't legal pathways to enter in Europe.

