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H.E. Secretary-General Ban Ki-moon UN Secretariat Building, 38th floor United Nations, NY 10017

H.E. Thomas Mayr-Harting Permanent Representative of the European Union to the UN 666 Third Avenue, 31st floor New York, NY 10017

ASG Ivan Simonovic Director of the New York Office UN High Commissioner for Human Rights UN Secretariat Building, Room S-1310 United Nations, NY 10017

ASG-designate Ninette Kelley Director of the New York Office UN High Commissioner for Refugees 220 East 42nd Street New York, NY 10017

RE: <u>Support for a European Migration Agenda</u>

Eminences:

The New York City Bar Association's European Affairs Committee wishes to express its support for the recent Council conclusions adopting provisional measures on 25-26 June 2015 and to urge the adoption of Commission proposals to develop a broad and coherent European Migration Agenda. The New York City Bar Association¹, a voluntary association of approximately 24,000 lawyers and law students, was founded in 1870. The NYCBA has a longstanding commitment to international law, human rights worldwide, and fair and humane policies on equity and justice in issues such as migration law and policy. The NYCBA has 160 committees, many in the area of international and comparative law, and offers pro bono representation in immigration and other areas of law.

The Committee on European Affairs focuses on policies and laws within and affecting Europe; institutional and legal aspects of the European Union and EU law; and EU policies on UN-related issues. Last year, the European Affairs Committee began studying the increasingly desperate plight of people seeking entry into the European Union, both while in transit and after arrival by irregular means. The Committee organized a public panel of experts from sending and receiving countries and academic specialists in migration into Europe on October 15, 2014,² and is continuing this discussion with a panel planned for October 6, 2015 with invited UN and EU officials.³

On May 13, 2015, a "European Agenda on Migration" in the form of a Communication from the European Commission was released in Brussels.⁴ Shortly after the release of the Agenda, a Commission proposal dated May 27, 2015 for a Council decision was issued. The proposal recommended provisional measures for relocation and resettlement of selected asylum applicants, expanded activities by the European Asylum Support Office (EASO) and FRONTEX; and enhanced support for the receiving states of Italy and Greece.⁵

We strongly support these emergency measures and urge Member States of the European Union to accept responsibilities and make new commitments for these provisional measures. We also urge implementation of the European Agenda on Migration. Longer-term changes in the system for receiving and processing asylum applicants in a more humane, consistent and transparent manner are necessary. A better structure for dealing with those seeking refuge inside the European Union who are in clear need of protection, and assisting in their integration into European society, is essential. Furthermore, the Committee is of the opinion that the Agenda's focus on EU-wide standards and procedures, rather than the current differentiated approaches in Member States, is both consistent with fundamental rights in the European Union and necessary to address a problem that cannot be solved at the Member State level. Such a solution is consistent with the principles of solidarity, subsidiarity, proportionality, and fair sharing of responsibility.

In addition, the proposals to strengthen the EU's Common European Asylum System represent significant efforts to ensure that the human rights of asylum seekers and refugees are honored, while more appropriately distributing the concomitant responsibilities and burdens on Member States in the daily

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: "*A European Agenda on Migration*" (COM (2015) 240 final, May 13, 2015), *available at* <u>http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-</u>

¹ Additional information on the New York City Bar Association can be found at <u>www.nycbar.org</u>.

² Speakers were Amb. Inigo Lambertini of Italy; Amb. Ronald Jumeau of the Seychelles; Prof. Martin Schain of NYU; Prof. Fabio Morosini and Prof. Laura Sartoretto of UFRGS, Porto Alegre, Brazil, moderated by Dr. Catherine Tinker. Ten committees of the NYC Bar Association and the European Union Studies Center of CUNY Graduate Center were the co-sponsors of the event, organized by the European Affairs Committee and its chair.

³ The October 6, 2015, panel is co-sponsored with the European Union Studies Center of CUNY Graduate Center, and invitations have been made to representatives of the European Commission, the UNOHCR, and a policy center. Information will be provided separately to the recipients of this letter about this event.

migration/background-information/docs/communication on the european agenda on migration en.pdf. Last accessed on July 13, 2015. The Commission's proposals were addressed to the European Parliament, the European Council, the European Economic and Social Committee (EESC) and the Committee of the Regions (CoR). The Communication of May 13, 2015 will be referred to in our document as the "Agenda" or "European Migration Agenda").

⁵ Proposal for a Council Decision Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy and Greece (COM (2015) 286/F1, and Annexes 1-3, May 27, 2015), available at <u>http://eur-lex.europa.eu/legal-content/EN/TXT/DOC/?uri=CELEX:52015PC0286&rid=1</u>, last accessed on July 13, 2015.

administration of the EU's asylum system. Even so, the Commission's proposals in the Agenda outline only first steps and temporary solutions, with additional proposals needed to resolve the complexities of the issues surrounding migration into Europe today and in years ahead.

We believe the reforms in the Agenda are likely to lead to a safer and stronger Europe. Such reforms should extend basic human rights protections to those arriving within the EU awaiting a decision on their applications for asylum and have as a goal strengthening common bonds within the European Union while respecting concerns for security and the rule of law in the area of migration.

In conclusion, we recommend that the steps set forth in the Commission's Communication on the European Migration Agenda should be taken as soon as they can be adopted by the European Parliament and the Council, and implemented within the EU system. We recommend that all EU Member States and others accept responsibility for relocation and resettlement of those asylum applicants who are most vulnerable. Further, we recommend that additional proposals be elaborated by the European Commission to continue seeking solutions to the complicated issues affecting the EU, its Member States, citizens in local communities throughout Europe, and the people who have arrived in the EU by whatever means fleeing desperate conditions in their home states and who are in greatest need of protection of their basic legal and social rights.

A structured, consistent EU-wide approach to reviewing and granting asylum where appropriate on a prompt and equitable basis throughout the EU, and an end to indefinite detention with no hope of resolution of status for "irregular" migrants, including return where necessary, is essential. Only such a solution can fulfill the promise of the European Union itself, justify the hopes of thousands pouring into the EU seeking a better life, and comply with international law and policies guaranteeing a life of security and dignity for all.⁶

Respectfully,

Jeha KR

Debra L. Raskin President

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Dr. Catherine Tinker Chair, Committee on European Affairs

⁶ United Nations Secretary-General Ban Ki-moon, "The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet; Synthesis Report of the Secretary-General on the Post-2015 Agenda," New York, 4 December 2014. available at

http://www.un.org/disabilities/documents/reports/SG Synthesis Report Road to Dignity by 2030.pdf, last accessed on July 14, 2015.