The European Parliament,

– having regard to its previous resolutions on Kenya, in particular those of 30 April 2015¹ and on of 18 May 2017 on the Dadaab refugee camp²,

– having regard to its resolution of 25 March 2021 on a new EU-Africa Strategy – a partnership for sustainable and inclusive development³,

– having regard to the joint statement of 21 June 2021 by the Republic of Kenya and the European Union,

– having regard to the declaration by the High Representative of the Union for Foreign Affairs and Security Policy on behalf of the EU on the International Day Against Homophobia, Transphobia and Biphobia, 17 May 2021,

– having regard to its resolution of 24 October 2019 on the situation of LGBTI people in Uganda⁴,

– having regard to the Council conclusions of 10 May 2021 entitled ‘The Horn of Africa: a geo-strategic priority for the EU’,

– having regard to the joint statement of 29 April 2021 by the Government of Kenya and the United Nations High Commissioner for Refugees (UNHCR): Dadaab and Kakuma Refugee Camps Roadmap,

– having regard to the UNHCR statement of 25 March 2021 on the situation of LGBTIQ+ refugees in Kakuma camp,

– having regard to the UN Secretary-General’s message of 17 May 2021 on the International Day against Homophobia, Biphobia and Transphobia,

³ Texts adopted, P9_TA(2021)0108.

having regard to Articles 2, 3(5), 21, 24, 29 and 31 of the Treaty on European Union (TEU) and Articles 10 and 215 of the Treaty on the Functioning of the European Union (TFEU), which commit the EU and its Member States, in their relations with the wider world, to upholding and promoting universal human rights and the protection of individuals, and adopting restrictive measures in the event of grave human rights breaches,

having regard to the values of human dignity, equality and solidarity contained in the 1951 Convention Relating to the Status of Refugees,

having regard to Article 14 of the Universal Declaration of Human Rights of 1948, which recognises the right to seek asylum from persecution in other countries,

having regard to the EU Emergency Trust Fund for Africa (EUTF for Africa),


having regard to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of 1984,

having regard to the joint communication from the Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 25 March 2020 entitled ‘EU Action Plan on Human Rights and Democracy 2020-2024’ (JOIN(2020)0005),

having regard to the African Charter on Human and Peoples’ Rights (ACHPR),

having regard to the Universal Declaration of Human Rights,

having regard to the UNHCR Comprehensive Refugee Response Framework,

having regard to the decision by the High Court of Kenya of 8 April 2021 temporarily blocking the closure of the Dadaab and Kakuma refugee camps,

having regard to the Commission communication of 23 September 2020 on a New Pact on Migration and Asylum (COM(2020)0609),

having regard to the UN Global Compact on Refugees,

having regard to Rules 144(5) and 132(4) of its Rules of Procedure,

A. whereas Kenya hosts the second largest number of refugees and asylum seekers in Africa after Ethiopia; whereas according to the UNHCR, as of 31 May 2021, Kenya’s population of refugees and asylum seekers stands at 519 989 in Kakuma, Dadaab and urban areas;

B. whereas the Kakuma camp is located in Turkana county, one of the poorest counties in Kenya; whereas according to the UNHCR, the living conditions in the camp are dire and constantly deteriorating, with extreme poverty, poor housing and infrastructure, and lack of water, sanitation, medicines and electricity supplies; whereas both the local population and the refugees are suffering severe food and water shortages and a lack of basic needs; whereas the COVID-19 pandemic has worsened an already alarming humanitarian situation in the camp and the county in which it is located;

C. whereas the human rights and security situation at Kakuma refugee camp in Kenya has deteriorated exponentially; whereas armed robberies, thefts, rapes and killings are often reported, with women, children, persons with disabilities and LGBTIQ+ people being the most vulnerable to violence; whereas these attacks are currently under investigation;

D. whereas women and girls in the camp are subjected to various forms of sexual violence, most frequently rape; whereas refugee girls, new arrivals and single women who are heads of a household are particularly at risk; whereas rape is perpetrated by refugee men from the camp, local community members, and/or security guards; whereas other forms of violence such as child and forced marriage, female genital mutilation and intimate partner violence are also common;

E. whereas on 15 March 2021 in Kakuma 3 Block 13, two refugees suffered second-degree burns during an arson attack with a petrol bomb while they were sleeping; whereas one of the victims, Ugandan refugee Chriton Atuhwera, perished as a result of the injuries he sustained; whereas a growing number of LGBTIQ+ refugees have been attacked and injured, with many having to flee the refugee camp to an area where they are not protected and not legally allowed to stay;

F. whereas although Kenya law punishes consensual same-sex relations with up to 14 years in prison, it is the only country in the region which accepts refugees based on sexual orientation and gender identity; whereas around 300 refugees and asylum seekers registered in Kakuma refugee camp have an LGBTIQ+ profile with most of them having reported that they are living peacefully in the Kakuma community according to the UNHCR;

G. whereas according to the 2020 global review by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), nearly half of the countries worldwide where homosexuality is outlawed are in Africa; whereas just 22 of 54 African nations have legalised homosexuality;

H. whereas in many African nations the standing anti-LGBTIQ+ laws date back to the colonial era;

I. whereas in March 2020 some refugees with LGBTIQ+ profiles asked the UNHCR to relocate them outside Kenya as a result of the hostility of the country towards them; whereas over the past few months over 30 LGBTIQ+ people have been relocated from the Kakuma 3 part of the camp to other parts based on the safety concerns they raised and following careful assessment by the UNHCR on the ground; whereas the European Parliament mandate on the proposal for a regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council called efforts to be made over time to achieve a fair distribution of resettled persons among the Member States, and that those
efforts should be combined with efforts to establish international binding rules regarding the shared worldwide responsibility to resettle persons in need of resettlement as indicated by the UNHCR;

J. whereas in November 2020 the Kenyan Government and Human Rights Watch confirmed that the era of COVID-19 had seen an exponential increase in attacks on the LGBTIQ+ persons, notwithstanding that violence more generally had also flared up;

K. whereas resettlement departures from Kenyan refugee camps of LGBTIQ+ people continue to fall short of actual needs; whereas the COVID-19 pandemic has slowed down the process; whereas, according to the UNHCR, since 2019 some 235 refugees with this profile have been put forward for resettlement, of whom 48% have departed the country;

L. whereas in spite of the fact that the UNHCR and its partners had prepared facilities to respond to the pandemic, 65% of camp-based refugees have reported less access to health facilities after the outbreak compared to before the outbreak in March 2020, mainly owing to fear of infection and the unavailability of medical staff; whereas only 3% of the Kenyan population is fully vaccinated against COVID-19; whereas the vaccination campaign in Kenyan refugee camps started on 30 March 2021, with the Kakuma camp being allocated 2,000 doses of vaccines;

M. whereas the Kenyan Government has made several attempts to close the camp in recent decades; whereas on 24 March 2021, Kenya’s interior minister gave the UNHCR a 14-day ultimatum to draw up a plan for the closure of both Dadaab and Kakuma camps; whereas on 8 April 2021, the Kenyan High Court temporarily postponed the closure for 30 days; whereas on 29 April 2021 the UNHCR and the Kenyan Government agreed on a roadmap towards a later closure of the Kakuma and Dadaab camps by 30 June 2022; whereas the roadmap includes voluntary return for refugees to their countries of origin in safety and dignity, departures to third countries under various arrangements and alternative stay options in Kenya for certain refugees from East African Community (EAC) countries;

N. whereas while the UN acknowledged the government’s concerns and recognised that refugee camps should not be long-term solutions to forced displacement, international and human rights organisations have warned that an abrupt and disorderly closure would lead to a humanitarian catastrophe and that forced repatriations would violate international law; whereas refugees at Kakuma in general live in fear of being deported;

O. whereas, in spite of its vast natural resources, the Horn of Africa is one of the poorest regions in the world; whereas food security is extremely precarious and millions of people living in the region suffer from malnutrition and are at risk of famine; whereas drought and armed conflicts are the two main reasons for displacement of persons in the region, including in Kenya, as stressed by the Nairobi Global Plan of Action adopted at the summit of the Intergovernmental Authority on Development (IGAD) on 26 March 2017; whereas conflicts such as those in Somalia and Ethiopia, and pre- and post-election violence in Uganda and Tanzania, make voluntary return unjustifiable for reasons of safety and dignity for most refugees in Kakuma camp; whereas since late 2019, Kenya has been affected by a combination of unprecedented threats and severely impacted by climate change, witnessing the largest desert locust invasion in the last 60 years, floods that have marked the rainfall seasons and COVID-19 restriction measures;
P. whereas the EU Emergency Trust Fund (EUTF) for Africa signed at the Valletta summit on 12 November 2015 was designed to address the root causes of destabilisation, forced displacement and irregular migration by promoting resilience, economic opportunities, equal opportunities, security and development; whereas the EU is responding to the life-saving basic needs of refugees hosted in Kenyan refugee camps; whereas the EU Trust Fund for Africa is established under the Development Cooperation Instrument (DCI), and must be aligned to the primary objective of EU development policy, which remains ‘the fight against poverty’;

Q. whereas since 2012 the EU has provided more than EUR 200 million in humanitarian aid and has allocated EUR 286 million through the European Development Fund (EDF) for the period 2014-2020, focusing on job creation, food security, resilience and institution building, and education in particular; whereas Kenyan asylum seekers are totally dependent on humanitarian support for their basic needs; whereas the new NDICI – Global Europe financial instrument will continue the implementation of EU programmes in Kenya;

R. whereas in 2021 the EU allocated EUR 15 million in funding for humanitarian projects in Kenya, aiming first at assisting refugees and, since 2016, EUR 45 million for refugees and host communities in Kenya under the EU Emergency Trust Fund for Africa; whereas in the Kakuma and Dadaab refugee camps, the EU continues to support the provision of basic life-saving aid such as food assistance, healthcare, undernutrition treatment, water, sanitation and hygiene (WASH), protection and education;

1. Expresses its deep concern about the humanitarian situation and the reports of protracted violence within the Kakuma camp; strongly condemns the arson attack with a petrol bomb perpetrated on 15 March 2021 in Kakuma 3 refugee camp against two LGBTIQ+ refugees; is deeply concerned about the standing threats in Kakuma refugee camp against individuals with an LGBTIQ+ profile; recalls that over 30 individuals have been urgently relocated in the last few months;

2. Urges the Kenyan authorities to continue investigating and to bring full clarity regarding this crime and to hold those responsible to account in accordance with Kenyan law and with respect to international human rights law;

3. Recognises the important and constructive role that Kenya plays and recalls the challenging regional situation, which is characterised by regional crises and conflict; acknowledges the importance of the Kakuma refugee camp for thousands of refugees and asylum seekers in the bordering regions of Kenya, including the most vulnerable of their number, notably those with an LGBTIQ+ profile that people who face criminalisation and even the death penalty in their countries of origin;

4. Commends the collaborative work done over the years between Kenya’s Refugee Affairs Secretariat (RAS), the UNHCR and other partners when addressing the protection of all refugees; stresses, however, that the current situation in the Kakuma camp is unsustainable in a long-term perspective and requires an efficient, coordinated response by the Kenyan Government, the governments of the region and the international community as a whole, including the EU; takes note of the recent adoption of the Dadaab and Kakuma Refugee Camps Roadmap in this regard;
5. Calls on the Kenyan Government to maintain Kakuma and Dadaab refugee camps, at least until the situation in the region stabilises; urges the Kenyan Government to ensure that the human rights of refugees are respected when taking any decisions that concern them; stresses that EU financial assistance to third countries for the reception of refugees should not be a substitute for the responsibility of the EU in hosting and resettling a fair share of people in need of international protection;

6. Calls on the Kenyan Government, the UNHCR and the international community to commit to working together and finding alternative, durable, appropriate and rights-based solutions that are in line with the responsibility-sharing principles and goals of the Global Compact on Refugees (GCR); recommends that, in order to be effective, this should include the resettlement to the EU of a meaningful number of refugees in need of international protection;

7. Stresses the need for a more integrated and comprehensive regional approach to the management of refugees and for the strengthening of cooperation between Kenya and its neighbouring countries on political, security, humanitarian and development issues in order to address the root causes of forced displacement; calls for the need for adequate security in refugee camps to be met, and on the Kenyan Government to enhance security within the Kakuma camp and strengthen the protection of refugees, in particular the most vulnerable groups; calls on the law enforcement authorities and the other branches of government in Kenya to ensure that refugees are protected and safe;

8. Calls on the Kenyan Government and the UNHCR to ensure the implementation of the repatriation programme fully in line with international obligations and Kenya’s domestic responsibility; insists that any repatriation process in the country of origin must be voluntary, safe, sustainable, dignified and rights-based, with returnees having access to objective, neutral and pertinent information on what will happen should they decide not to volunteer;

9. Expresses grave concern at the situation in the Horn of Africa, particularly regarding poverty and food insecurity; calls on the Commission to release the emergency humanitarian aid needed to cope with the refugee problem and the famine in the region; calls for the aid provided by the EU and the Member States in the Horn of Africa to be used, as a matter of priority, to address violence, including sexual violence, and the problems linked to severe inequalities, poverty, chronic malnutrition, access to health and public services, particularly reproductive healthcare, and the achievement of sustainable development goals;

10. Calls for the EU to address the issue of food insecurity and lack of basic needs in the Kakuma camp, including, inter alia, access to water, sanitation, healthcare and electricity services not only via refugee-exclusive assistance, but also through its support to national development programmes whose ability to fulfil development effectiveness has been ensured and is regularly assessed;

11. Underlines that the growing instability in the region represents an obstacle to the safe return of refugees to their countries of origin; calls for the EU, in collaboration with the international donor community, to continue to step up its efforts as a mediating partner and in support of sustainable and long-term socio-economic development in the region, thus creating an enabling and safe environment for voluntary returns and the reintegration of refugees;
12. Calls for greater efforts to protect forcibly displaced LGBTIQ+ people and for greater solidarity on the part of the international community in responding to resettlement needs globally, as these remain far greater than the actual number of spaces available;

13. Calls on the Commission to regularly report to Parliament on the implementation and programming for the EU Trust Fund for Africa and calls for a specific impact assessment covering its human rights impact to be carried out by the Commission, with the support of the Fundamental Rights Agency; calls on the Commission to present the result of such impact assessments in a timely manner to Parliament, including within the framework of the Working Group on External Financial Instruments of the Committee on Foreign Affairs and the Committee on Development;

14. Calls for the EU to continue to work closely with the Kenyan Government, the UNHCR and the wider international community in order to help find solutions to the protracted refugee situation in the region; calls for the EU to enhance the defence and promotion of human rights in Kenya;

15. Recalls that in the European Union, persecution on the basis of sexual orientation is considered a criterion for asylum application and for granting asylum; calls for the EU and its Member States to adhere to this principle; calls for the EU, notably the EU Delegations and the EU Special Representative on Human Rights, to effectively make full use of the LGBTI Toolkit and its accompanying guidelines in their dialogue with all African nations that still criminalise homosexuality and, more generally, in their dialogue with all countries in which the persecution of or violence against LGBTIQ+ people is widespread;

16. Insists that the EU Delegation in Kenya continue to monitor the situation of vulnerable people, more specifically LGBTIQ+ people and Black African women closely and to actively support civil society organisations, human rights defenders and LGBTIQ+ people on the ground;

17. Urges the EU to keep up its efforts to convince both the Kenyan Government and the African Union to reconsider their approach on LGBTIQ+, noting that their stance may in one way or another be placing LGBTIQ+ persons at risk of inhuman and degrading treatment that runs counter to the values of equality and equal protection enshrined in law;

18. Reminds the Kenyan authorities of their commitment to respect the right to freedom of opinion and expression as enshrined in Article 19 of the International Covenant on Civil and Political Rights and its obligations to guarantee fundamental rights, as provided for in the African Charter and other international and regional human rights instruments, including the Cotonou Agreement and, specifically, Articles 8 and 96 thereof; urges the Kenyan Government to guarantee, in all circumstances, the physical integrity and psychological well-being of all refugees, irrespective of their sexual orientation, gender identity or expression;

19. Calls on the international community to guarantee that refugees are covered by the COVID-19 vaccination programmes; stresses that allowing refugees to benefit from national services and integrating them into national development plans is essential for both refugees and the communities hosting them, and is in line with the pledge to ‘leave no one behind’ in the 2030 Agenda for Sustainable Development;
20. Reiterates that there can be no development without improved security in the region; strongly underlines, however, that funding must be devoted to economic, human and social development in the region, with a particular focus on the development challenges identified by the Trust Fund decision; recalls that EDF and official development assistance (ODA) funds should be used exclusively for development objectives;

21. Stresses the importance of allocating a substantial share of NDICI – Global Europe to civil society organisations in third countries, including Kenya, for providing assistance and for the protection and monitoring of the rights of migrants; calls for the EU to ensure that a significant part of the programming through this instrument is earmarked for the improvement of human rights and international protection for refugees, notably in Kenya;

22. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the EU Special Representative for Human Rights, the Secretary-General of the United Nations, the United Nations High Commissioner for Human Rights and the UN High Commissioner for Refugees, the Speaker of the Kenyan Parliament, the Intergovernmental Authority on Development, IGAD, the governments of the IGAD Member States, the African Union, the Pan-African Parliament, and the ACP-EU Joint Parliamentary Assembly.