

Twelve Arguments and Seven Proposals for the EU Refugee Resettlement Scheme

"A common resettlement instrument should be created. Resettlement programmes should be used strategically to complement and encourage additional durable solutions in host countries (local integration) and countries of origin (return) and thereby ultimately contribute to solving protracted refugee situations. If all Member States could contribute to a common programme, we could attain the volumes necessary to achieve a strategic impact. The common resettlement scheme should be based on existing experience and best practices among the Member States and should lead to increased resettlement potential in the European Union." (Report of the Informal High Level Advisory Group on the Future of European Home Affairs Policy "Future Group": "Freedom, Security, Privacy – European Home Affairs in an open World, point 99)

The second half of 2009 is expected to be of crucial importance for a future EU policy on refugee resettlement. On 1st July 2009, Sweden, the EU member state with the most extensive experience in refugee resettlement, takes over the Presidency of the Council of the European Union. In September, the European Commission will present its proposal for an EU resettlement scheme. This proposal will be reflected in the "Stockholm Programme" on the area of freedom, security and justice for the years 2010-2015, which will be adopted by the European Council in December 2009.

As discussions on a common EU refugee resettlement scheme enter a decisive phase, it is important to underline in some central arguments

WHY such a scheme would make sense, and offer some guidance on

HOW it might be designed.

This paper aims at providing arguments, and thus supporting the policy proposals by the ECRE core group on resettlement¹.

1. Resettlement is an integral part of any future Common European Asylum System

Europe has played a considerable role in protection through offering asylum in Europe and also through improving protection systems abroad. Yet, in order to have a fully-fledged commitment to refugee protection, a system of sharing responsibility with regions which are protecting most of the world's refugees is needed.

¹ While this paper is issued by the Churches' Commission for Migrants in Europe, it is the result of consultations with a wider group of civil society partners, in particular the European Council for Refugees and Exiles (ECRE) and its members, the International Rescue Committee and the International Catholic Migration Commission.

Of the around 32 million persons of concern to UNHCR globally, only 3,4 million were to be found in Europe, one of the richest regions in the world. Europe's commitment to asylum therefore needs to contain a considerable resettlement element. Responses to the Green Book on the Future of the Common European Asylum System have signalled a clear recognition by EU Member States that resettlement needs to gain importance in creating the "Europe of asylum".

2. Pooling of competences between Member States for protection, responsibility sharing within the EU can be planned in advance

Different EU Member States will have different possibilities of offering protection, with some being able to take in larger numbers due to existing reception capacity, some being able to offer specialised assistance e.g. to refugees with medical needs or be a good place for resettlement due to specific connections of refugees (e.g. the refugee fleeing from Uzbekistan, who had 25 years ago studied in what is now Latvia could find good conditions to rebuild life there). Coordination and pooling of competences is likely to increase the chance of making resettlement a success for refugees and receiving countries alike.

3. A Joint EU refugee resettlement programme helps smaller Member States to engage

Smaller Member States are so far often reluctant to engage in resettlement, as the initial infrastructure for a resettlement programme may be too costly or ambitious for them. This is probably most problematic for relatively small or poorer Member States, which consider introducing only small resettlement quotas (Portugal, the Czech Republic and Romania have currently quotas of 30 and 40 persons) than for big Member States. To organize a separate selection mission for a group of 30 persons is unpractical and very costly. A joint EU programme could open ways to smaller Member States for offering protection capacity, while not having to set up a complete resettlement infrastructure by themselves.

4. A joint, substantial refugee resettlement programme gives credibility to external action of the EU

The EU is increasingly active throughout the world as an actor in human rights protection, including the protection of refugees. The calls for the respect of refugees' human rights in other world regions can only be credible if the EU supports those countries, which bear the major responsibility in protecting refugees, by using resettlement strategically. So far the EU with its 500 million inhabitants has offered protection to around 5.000 resettled refugees per year, while the 33 million inhabitants of Canada each year welcome 7.500 resettled refugees (target 2007). Increased resettlement will enhance the chance of a human rights impact of the EU in other regions.

5. Joint criteria could make UNHCR referrals easier and faster

The current situation is characterised by divergences among EU Member States with regard to the criteria which are used with respect to resettlement. While some Member States require that the person to be resettled qualifies for refugee status according to the Geneva Refugee Convention, other Member States may accept

cases for resettlement also if the person qualifies under a wider set of criteria, such as humanitarian grounds or subsidiary protection status. It must be asked whether this situation, which implies that different protection standards among Member States are applied with respect to persons to be resettled, is satisfactory, particularly in view of the objective to further develop EU external asylum policies. It also makes referral a very time and resource-consuming task. Joint criteria would therefore make UNHCR's dossier preparation and referral easier and faster. In this context, UNHCR resettlement criteria should provide the common basis for an EU resettlement programme.²

6. Joint programmes, if sufficiently large, could offer chances for strategic use and enhancing protection

A joint commitment of EU Member States to make available a national quota for resettlement, especially if numbers are increased, would offer the possibility to contribute to a broader approach to resolving refugee situations: if the EU through a joint process can commit to resettling a substantial number of refugees from region X, possibly even in addition to supporting countries in region X financially through humanitarian and development aid, the EU together with UNHCR could negotiate other durable solutions for protection space in this region – thus generating benefit for those refugees remaining in the region.

7. Mechanisms at EU level provide for making commitments in timely manner

A regular common EU resettlement scheme with a common infrastructure would allow the EU and its Member States to respond efficiently and in a timely manner to refugee crisis situation, in which they need to engage. The recent response of the EU to the Iraqi refugee crisis has shown the difficulty of a joint EU response without an existing decision-making mechanism on resettlement and corresponding infrastructure. A common programme will help to avoid such "cliff-hangers", in which political intention cannot be translated into action for months.

PROPOSAL 1:

A joint commitment of quotas in a pre-ATC process

The success of an EU resettlement scheme depends on the value it can add to national programmes – an added value for both: EU Member States and global refugee protection.

This requires a process, by which Member States would give a mandate to the EU to commit them (on the basis of previously agreed terms) to accepting certain groups of refugees for resettlement. This could be the result of a collective target (fixed number of refugees or a range) and a commitment, a process which would allow Member States to determine their own target within such a common commitment.

² Cf. UNHCR (2004) Resettlement Handbook, Chapter 4

Ideally the process could precede the Annual Tri-Partite Consultation (ATC), at which the EU could then collectively commit.

...with joint criteria and common refugee status

A joint commitment would logically entail joint criteria and also lead to a common status of refugees after arrival. Given that the question of refugee status has been determined prior to arrival, a common reference framework could be refugee status within the meaning of Article 2(d) of Directive 2004/83/EC, or a status which offers the same rights and benefits under national and Community law as refugee status (as already foreseen in the context of the European Refugee Fund).

PROPOSAL 2:

Joint forward planning of resettlement for strategic use

Once numbers of a common quota or target are significant enough, the EU could decide on a forward strategic planning. This would mean that the EU and its Member States would decide to resolve - as a priority - a limited number of existing protracted situations by committing on a multi-annual basis, i.e. the EU would commit to resettle refugees from the same region for several consecutive years.

*This could create the chance of entering into discussion with countries of origin and first asylum on a **complementary** combination of refugee protection through return, local integration and resettlement so that the number of refugees enjoying protection thanks to resettlement rises beyond those resettled.*

PROPOSAL 3:

An expert body on EU level coordinating resettlement to EU Member States

A common EU resettlement process would require an institution of coordination - either within existing structures, such as the European Commission, or within emerging structures, such as the European Asylum Support Office, or as an independent entity.

Functioning

- A body, which would have a full dedicated staff, and in addition some secondment from Member States' immigration and asylum decision-making staff, and potentially from NGOs*
- The body could provide staff for secondment to UNHCR field offices to both support UNHCR in its resettlement operations and allow its staff to gain familiarity with the refugee situation and with the process of form completion, etc. at the other end of the process*

Staff would need to have expertise in resettlement as well as a pro-active attitude to protection concerns and knowledge of the Member States' resettlement programmes

An EU resettlement body could be governed by a structure (management board) consisting of European Commission and Member States' officials, with the participation of civil society representatives. The European Parliament should be represented in the structure in order to enhance the political ownership of the EU resettlement programme. A governing body could be selected among a broader (annual) Forum of resettlement stakeholders. This Forum could be developed out of the current EU experts' meetings on resettlement.

8. The need to create a broad basis for resettlement in host societies

If resettlement is to become a significant part of refugee protection in Member States, there will be a need to "root" it in a wider context, i.e. it cannot remain an exclusively state-run endeavour with little public involvement. Experiences of established resettlement states with large programmes (USA, Canada) show that involving civil society actors enhances the impact and the success of programmes. "Resettlement fulfils an important role in the external asylum policies of the EU and there is much to be gained from a higher degree of cooperation on resettlement among Member States, UNHCR and NGOs." (European Commission: Policy Plan on Asylum, June 2008)

PROPOSAL 4:

Tripartite consultation structures on national and EU level

The setting up of a national referral scheme would therefore require a tripartite consultation at national level. National consultation between government, civil society and UNHCR would also help to map capacity for receiving and integrating resettled refugees and coordinate them. They would feed into a tripartite structure at EU level to coordinate capacity.

9. Financial support: helping EU actors to help refugees

In order to encourage more and better coordinated resettlement of Member States, financial incentives will continue to play an important role. The European Refugee Fund for the period 2008 to 2013 (ERF III) identifies resettlement as an important component of asylum policies which is eligible for funding. Indeed, a clear positive dynamic on resettlement was supported, if not generated, by ERF funded projects on resettlement. It is important that these funds are used to stimulate an increase in resettlement numbers and not to finance existing programmes.

PROPOSAL 5:

Financial support: clear targeting of added value

In order to achieve added value on EU level, disbursement criteria of ERF or similar financial instruments should be formulated in a way that they add value to existing national programmes, by either:

- *offering additional places or*
- *offering places catering for particularly vulnerable cases, which so far could not sufficiently be addressed, or*
- *undertaking resettlement efforts which are achieving strategic impact (i.e. open up durable solutions for those resettled AND those remaining in the region) due to political cooperation between Member States or with third countries (notably countries of first asylum), or*
- *enabling to set up the basic infrastructure for a new resettlement programme, or*
- *establishing structures and activities to support and improve the quality of national programmes (e.g. national tripartite mechanisms), or*
- *aiming at more coherence between internal actions of the EU and Member States and external actions (such as development or humanitarian assistance)*

Whether funding is granted under the logic of a separate resettlement fund, or if it is maintained as an “envelope”/strand under the ERF, seems secondary, as long as funding acknowledges the additional costs involved in running resettlement programmes, which are beyond the ordinary costs of reception. In order to achieve added value, the Centralised Action strand of the resettlement funding instrument/strand could be further developed.

10. Joint programmes, if sufficiently large, could reduce costs

Setting up a resettlement scheme generates certain fixed costs. To organize separate selection missions (organize and pay interview rooms, hire interpreters etc.), orientation missions (same), medical screenings, security screenings, logistical arrangements for travel and visa, liaise with UNHCR, IOM, local or international NGOs, means that there are relatively high costs in terms of economies of scale. Some of these can be shared if activities are joint activities of Member States (e.g. missions are undertaken together). The larger the intake of refugees through resettlement, the smaller the costs will be per capita.

PROPOSAL 6:

Common pre-departure infrastructure/facilities special needs

Efficiency criteria would suggest that common health checks, vaccinations and travel documentation by EU Member States might be advantageous, unless there would be varied requirements by Member States. This could also mean that more specialized medical competence could be provided. An opening up of pre-departure cultural orientation to civil society organizations of the host countries would be advisable.

At the reception end, mapping of expertise and facilities on the side of Member States for special needs cases would be important in order to respond best to the various needs.

11. Integration of resettled refugees: from an exclusive notion to empowerment

A recurrent notion of debates on resettlement is the supposed “integration potential” of resettled refugees. While a number of countries apply the criterion of “Integration potential” in selection, very little is known about the actual integration outcomes. Recent discussions at UN level (ATC February 2009 working group) even suggest that no attempts to measure integration exist in European resettlement states. Given the evolving discussions and fora of exchange on integration in the EU, the EU context could provide a good platform for discussing how Member States can contribute to mobilizing resettled refugees’ inherent potential for integration.

PROPOSAL 7:

As part of the common EU resettlement scheme, EU and Member States could initiate a process of exchange of best practice and common benchmarking/peer-reviews on integration of resettled refugees. This process could help to mobilize resettled refugees’ potential for integration.

12. Providing for special needs, creating opportunities for refugees

Sharing specific possibilities of EU Member States to address particular needs of refugees, e.g. for medical treatment in specialised hospitals, rehabilitation opportunities, including care for elder refugees, orphans, persons with disabilities, contribute to the quality and enhance the opportunities for refugees to rebuild their lives, the major objective of all durable protection instruments.

N.B: Legal instrument for a programme

Practical co-operation of Member States has so far been limited to bi- or multilateral projects. The functioning of a binding cooperation and commitment process will need some kind of legal basis. In choosing the legal basis, both the concern regarding ownership of the Member States as well as transparency criteria should be given consideration.

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The Churches’ Commission for Migrants in Europe (CCME) is the ecumenical agency on migration and integration, asylum and refugees, and against racism and discrimination in Europe. Members are Anglican, Orthodox and Protestant Churches and Councils of Churches as well as church-related agencies across Europe. CCME formally cooperates with the Conference of European Churches and the World Council of Churches.