Brussels,

2nd Resettlement and Relocation Forum: "Solidarity in Practice"
25 November 2014

Discussion Paper

1. Introduction

The EU and the countries in our neighbourhood are experiencing unprecedented migratory flows and certain Member States are under a particular pressure. In this context the issues of intra-EU and international solidarity and responsibility sharing are one of the most immediate challenges for the future.

The Commission has in the course of the year received several ministerial letters calling for solutions to ensure more solidarity among the EU Member States, especially with those receiving the greatest numbers of irregular migrants and asylum seekers and hosting the greatest number of beneficiaries of international protection. At the same time, the EU should be able to display meaningful solidarity with host countries outside of the EU as well as with people in need of international protection.

While many stakeholders are calling for more solidarity and a fairer sharing of responsibility among the Member States on the basis of a possible distribution key, the specific ideas put forward vary in substance. As a tool of external solidarity, a distribution/allocation mechanism could guide an EU-level political agreement on resettling refugees from third countries, while as an intra-EU solidarity tool it could guide relocation of asylum seekers and/or beneficiaries of international protection between the Member States.

These issues should now be addressed in more practical terms that go beyond mere words and statements. The principal objective of the Forum is to work towards Solidarity in Practice through a specific use of solidarity measures, such as resettlement of refugees to the EU and other legal avenues for allowing persons in need to seek protection in the EU without having to resort to illegal practices, as well as relocation of asylum seekers or beneficiaries of international protection within the EU. While taking stock of the current situation, the Forum will provide for practical discussion on a more inclusive use of these solidarity tools and fairer sharing of responsibility among the Member States.

2. Resettlement

Resettlement to the EU involves the transfer of a refugee, on a request from the United Nations High Commissioner for Refugees (UNHCR) based on a person's need for international protection, from a third country to a Member State in situations where other lasting solutions (return or local integration) are either not feasible or have failed.
The UNHCR, being a key partner for all Member States in resettlement efforts, will present its thoughts on the functioning and future direction of the Union Resettlement Programme under the Asylum, Migration and Integration Fund (AMIF).

The decision whether to resettle, and if so, how many persons to resettle, lies with the national authorities of the Member States. However, the Union Resettlement Programme is based on a set of common EU priorities which, among others, are instrumental to providing financial incentives for resettling efforts. The geographical priorities enumerated under Annex III of the AMIF Regulation can be amended if there is a clear justification for doing so or in the light of any recommendations from the UNHCR. In view of the emerging crises in our immediate neighbourhood, the Commission would like to use this opportunity to verify whether these priorities still correspond to the practical needs. From the Commission's perspective the last priority, which now reads "Syrian refugees in the region", should be changed to "Refugees from Syria in the region" to include Palestinians and other stateless persons from Syria who clearly share the need for resettlement along with Syrian citizens. Other priorities should remain unchanged.

Under the AMIF, the Member States are asked to make pledges for resettlement (and relocation) for (initially) two-year periods, starting in 2014-2015, as part of their national programmes. The Commission will present the state of play of this pledging exercise, with particular emphasis on the current possibilities of financial support under the AMIF.

Delegations will be invited under topic 2.b of the draft agenda to reflect on the following question:

Do the Member States agree on the suggested change to the current geographical priorities under Annex III of the AMIF Regulation ("Refugees from Syria in the region" instead of "Syrian refugees in the region")?

2.1 Towards a more inclusive resettlement policy

Several Member States have expressed their frustration that their commitment to resettle is not matched by others. Sweden and Germany, for instance, receive both high numbers of spontaneous asylum applications and at the same time take in significant numbers of resettled refugees, whereas 12 Member States do not resettle at all. Moreover, some Member States which do not resettle refugees do not have a large number of spontaneous asylum-seekers either. In this context, it should be recalled that the Council Conclusions of 10 October 2014 indicated that an initiative "should be undertaken without delay... proposing a credible number of resettlement places, on a voluntary basis, in order to offer an alternative legal avenue and contribute to stabilize refugees communities in partnership with UNHCR". The Conclusions underlined that "while taking into account the efforts carried out by Member States affected by migratory flows, all Member States should give their contribution to [resettlement] in a fair and balanced manner."\(^1\)

At the informal JHA Council in July 2014, Austria, in view of this imbalance between the commitments being made by different Member States on the one hand, and the on-going crisis in the Mediterranean on the other, proposed a resettlement programme initiative "Save

\(^1\) Council conclusions of 10 October 2014 - “Taking action to better manage migratory flows".
Lives" based on a distribution key, which could potentially encompass all Member States. The Austrian Delegation will present this initiative in more practical terms at the Forum.

2.2 The way ahead

A specific EU distribution/allocation mechanism for the resettlement of refugees could enable the EU as a whole to launch a specific pilot project, responding to the commitments made in the October Council and building upon the "Save Lives" initiative. The pilot project could consist of a pledge from the EU as a whole for a certain number of resettlement places from a priority region/s, taking into account the current migratory flows and pressure. The resettled persons would then, as part of such a scheme, be allocated for resettlement in the participating Member States according to a distribution key, developed on the basis of agreed criteria and weighting factors (such as size of the population and GDP). Current pressure in terms of spontaneous asylum applications or numbers of refugees on the territory of a Member State could also be taken into account. Participation by all Member States in such a resettlement pilot scheme, especially those who have not resettled so far, would be highly desirable.

Delegations will be invited under topic 4.b of the draft agenda to reflect on the following questions:

1. In view of the commitments made at the JHA Council of 10 October 2014 quoted above, the Commission presumes that all Member States are ready to participate on a voluntary basis in resettlement activities. Do you intend to participate in implementing or derogate from this political commitment?

2. In view of the commitments made at the JHA Council of 10 October 2014 and to enhance external solidarity in the area of asylum, would you agree to participate in a pilot project on resettlement, as outlined above, and contribute to elaborating a distribution key for such a pilot project?

3. In line with the commitments made at the JHA Council, do you think the EU as a whole should be in a position to be able to make a common pledge to resettle a certain number of refugees, in appropriate circumstances?

4. Are there key criteria other than the size of the population and GDP which you would like to use to elaborate a well-defined distribution key for such a pilot project?

3. Relocation

The term "relocation" generally applies to the transfer of beneficiaries of international protection from one Member State to another. To date, a small number of asylum applicants has also been relocated.

Since 2005 a total of 692 persons have been relocated from Malta to other Member States / Associated Countries. Of these, 227 were relocated through the EUREMA I project; 14

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2 Studies dealing with devising a distribution key in the area of asylum have suggested looking at different possible indicators, such as the wealth of the country, size of the population, geographical area of the country, population density, unemployment rates, etc., and assigning them with different weighting according to perceived importance.
through the EUREMA II project; and the remaining 451 through bilateral relocation activities for which EU funding was not available. A further 113 pledges were made over the two EUREMA projects that were never carried out.

There were well-documented difficulties in relocating people to certain Member States. The reasons included, in the first place, lack of willingness or strong doubts on the side of migrants relating to a lack of a pre-existing migrant community; concerns about integration possibilities; concerns around the provision of only short-term support such as for housing; language difficulties and a lack of available language training; the unemployment rate; and word-of-mouth warnings from the existing migrant community against moving to the relocating country. Some Member States also had pre-conditions in place over which beneficiaries they would be willing to relocate that, in effect, meant that no one could be relocated in practice. In some cases where people were relocated they disappeared shortly after arrival. However, there have been some cases of successful relocation including to some Member States that are not among the EU’s wealthiest. EASO will present its preliminary findings from the evaluation of the EUREMA projects at the Forum.

3.1  The way ahead

It is clear, both from the responses of Member States to the questions asked of them, and from the decision by most Member States not to include relocation in their National Programmes under the AMIF, that there appears to be little will amongst Member States to relocate at the moment or to plan for relocating over the next few years.

The Commission would, however, like to explore the possibility of foreseeing relocation activities as an ad hoc measure to deal with a particular crisis or an emergency situation. In such a way Member States would show solidarity among themselves by relieving the Member State facing a particular migratory pressure and in particular a high number of asylum seekers.

Delegations will be invited under topic 3.b of the draft agenda to reflect on the following questions:

1. Do you agree that, in exceptional circumstances of particular pressure on a Member State, relocation should remain an option in the EU’s solidarity toolbox? If so, would you agree in principle to attend a relocation pledging conference if such a call were made?

2. What circumstances could trigger a decision to relocate? Should we agree a definition of particular pressures that could constitute such a trigger, such as a number of asylum applicants per head of population in a fixed time period? What account should be taken into consideration of the Member State’s efforts to effectively deal with the particular pressures, including via appropriate contingency planning?

3. Assuming that there is general willingness to foresee relocation activities as a possible solidarity measure in certain circumstances, and that this leads to a political agreement to relocate an agreed number of persons, should there also be an allocation or distribution key to determine how many people are relocated to each Member State? If so, which criteria could be used?
4. **Additional Legal Avenues**

Resettlement remains and will remain the most important tool for exercising solidarity in asylum and a well-established legal avenue for accessing the EU to seek protection, which should be used to the maximum degree possible. However, it is not the only existing form of legal access to international protection from outside the territory of the EU Member States. Several, but not all Member and Associated States apply – or have in the past applied – other forms of legal avenues. Where applied, the nature, scope and procedures employed vary, but most take the form of some kind of humanitarian/asylum visa allowing the person to enter the State for the purposes of seeking or being granted protection.

Several studies have been conducted on the subject in recent times. Relevant civil society organisations have repeatedly called for an EU initiative on the issue, and calls for an EU initiative aimed at exploring such additional legal avenues have also been continuously raised in the European Parliament. There is currently no EU framework for such additional legal avenues. Under the Task Force Mediterranean⁵, the Commission committed to "explore further possibilities for protected entry in the EU [which] could notably include… guidelines on a common approach to humanitarian permits/visas…"

An EU approach to humanitarian/asylum visas could have the added value of complementing other forms of legal access to international protection from outside the territory, by facilitating access to protection in the EU for persons who might not otherwise be candidates for resettlement. Any EU approach would need to give appropriate consideration to criteria limiting its numerical scope and of the need to manage the expectations of persons concerned. Account should also be taken of the need to avoid imposing an undue burden on the embassies and consulates of Member States (e.g. through cooperation arrangements, involvement of central authorities).

Guidelines on a common approach to humanitarian/asylum visas could include, for example: a common concept for humanitarian/asylum visas (e.g. a national visa allowing entry to an EU Member State to apply for asylum); a possible overall EU target number of visas per year and an agreed quota allocation among the Member States; agreed common criteria for issuing visas (e.g. designated countries of origin or transit, existence of family links in the Member States, particular vulnerability, etc.).

Delegations will be invited under **topic 5 of the draft agenda** to reflect on the following questions:

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⁵ COM(2013) 869 final
1. Do you consider that humanitarian/asylum visas should play a role in facilitating legal entry to the EU for certain persons in need of international protection? Do you have a national policy on asylum entry visas or did you have one in the past?

2. Would there be an advantage to a common Union approach to the issuing of such visas? If so, what form should it take?

3. Would you be willing to participate in a pilot project containing some of the elements of a possible common approach to asylum entry visas described above?

4. Aside from the humanitarian/asylum visas, are there other forms of protected entry worth exploring at EU level? If so, which ones?