



European
University
Institute

ROBERT
SCHUMAN
CENTRE FOR
ADVANCED
STUDIES

KNOW RESET – BUILDING KNOWLEDGE FOR A CONCERTED AND SUSTAINABLE APPROACH TO REFUGEE RESETTLEMENT IN THE EU AND ITS MEMBER STATES

Co-financed by the European Union

Refugee Resettlement in the EU: Between Shared Standards and Diversity in Legal and Policy Frames

**Delphine Perrin
Frank McNamara**

KNOW RESET Research Report 2013/03
EU Comparative Report



© 2013. All rights reserved.
No part of this paper may be distributed, quoted
or reproduced in any form without permission from
the KNOW RESET Project.



KNOW RESET
Building Knowledge for a Concerted and Sustainable Approach to Refugee Resettlement
in the EU and its Member States

Research Report
KNOW RESET RR 2013/03

Refugee Resettlement in the EU:
Between Shared Standards and Diversity
in Legal and Policy Frames

Delphine Perrin
With the collaboration of Frank McNamara¹
Robert Schuman Centre for Advanced Studies, European University Institute, Florence, Italy

¹ Frank McNamara reviewed the report and wrote the chapter on ‘Responsibility-Sharing and the Resettlement/Relocation Dichotomy’.

© 2013, European University Institute
Robert Schuman Centre for Advanced Studies

This text may be downloaded only for personal research purposes. Any additional reproduction for other purposes, whether in hard copies or electronically, requires the consent of the Robert Schuman Centre for Advanced Studies.

Requests should be addressed to know-reset@eui.eu

If cited or quoted, reference should be made as follows:

Delphine Perrin, Frank McNamara, Refugee Resettlement in the EU: Between Shared Standards and Diversity in Legal and Policy Frames, KNOW RESET RR 2013/03, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2013.

THE VIEWS EXPRESSED IN THIS PUBLICATION CANNOT IN ANY CIRCUMSTANCES BE REGARDED AS THE OFFICIAL POSITION OF THE EUROPEAN UNION

European University Institute
Badia Fiesolana
I – 50014 San Domenico di Fiesole (FI)
Italy

<http://www.eui.eu/RSCAS/Publications/>
<http://www.know-reset.eu/>
<http://cadmus.eui.eu>

KNOW RESET - Building Knowledge for a Concerted and Sustainable Approach to Refugee Resettlement in the EU and its Member States

The KNOW RESET Project, which is co-financed by the European Union, is carried out by the EUI in partnership with ECRE (the European Council on Refugees and Exiles). The general objective of the project is to construct the knowledge-base necessary for good policy-making in the refugee resettlement domain in the EU and its 27 Member States. It aims to explore the potential to develop the resettlement capacity, to extend good practices and to enhance cooperation in the EU.

KNOW RESET maps and analyses frameworks and practices in the area of refugee resettlement in the 27 EU Member States. The team involved in the project, gathering members of the EUI's and ECRE's large networks, has proceeded with a systematic and comparative inventory of legal and policy frameworks and practices related to resettlement in the EU and its 27 Member States, providing the most updated set of information. The publication of comparative data and the dissemination of research results contribute to raising awareness for refugee resettlement and refugee protection in the EU and provide a knowledge-tool for policy-makers, governmental and non-governmental stakeholders interested or involved in resettlement activities and policies in the EU and countries of first asylum. The project involves too field research in Kenya, Pakistan and Tunisia, which will add to the knowledge and the assessment of resettlement practices of refugees from countries of first asylum to the EU.

KNOW RESET has resulted in the first website mapping EU involvement in refugee resettlement. It focuses on resettlement in the EU and covers the 27 Member States, involved in resettlement in one form or another, and to various degrees. It contains a unique database providing legal, administrative and policy documents as well as statistics collected from national authorities by the project team. It also includes a series of comparative tables and graphs, the country profiles of the Member States, country of first asylum reports, as well as thematic reports and policy briefs. This user-friendly website is a valuable instrument for: comparing the varied frameworks, policies and practices within the EU; for evaluating the resettlement capacity in the EU; for following the evolution of Member States' commitment in resettlement; and for assessing the impact of the Joint EU Resettlement Programme.

Results of the above activities are available for public consultation through the website of the project:
<http://www.know-reset.eu/>

For more information:

KNOW RESET project – Migration Policy Centre
Robert Schuman Centre for Advanced Studies (EUI)
Via delle Fontanelle 19
50014 San Domenico di Fiesole
Italy
Tel: +39 055 46 85 892
Fax: + 39 055 46 85 770
Email: know-reset@eui.eu

Robert Schuman Centre for Advanced Studies
<http://www.eui.eu/RSCAS/>

List of Contents

| | |
|---------------------------------------------------------------------------------------------------------|----|
| Abstract | |
| Acronyms | |
| 1. Introduction | 1 |
| 2. The Development of Resettlement-Related Frameworks and Policies in the EU and its Member States..... | 4 |
| 2.1 The Turning Points of the Last Decade..... | 4 |
| 2.2 The Development of a Formal Basis for Resettlement in the EU..... | 15 |
| 3. Diversity in the Content of Resettlement Frameworks and Policies..... | 17 |
| 3.1 Diversity in Selection Criteria and Procedures | 17 |
| 3.2 Diversity in Status and Rights Granted..... | 31 |
| 4. Responsibility-Sharing and the Resettlement/Relocation Dichotomy | 34 |
| 4.1 The Emergence of Relocation | 35 |
| 4.2 The Distinction between Relocation and Resettlement..... | 36 |
| 4.3 Relocation as a Complement to Resettlement..... | 38 |
| 5. Conclusion..... | 40 |
| 5.1 Recommendations | 42 |
| Annex 1: Formal Basis for Resettlement and Effective Resettlement in the EU Member States | 43 |
| Annex 2. Pre-Arrival and Post-Arrival Phases of Refugee Resettlement in the EU Member States | 48 |
| Annex 3: EU Member States' Position toward Resettlement and Relocation | 60 |

Abstract

The report presents and compares frameworks and policies relating to refugee resettlement in EU Member States. The time-frame of the report is the last decade, i.e. 2003 to 2013. It is based on the research conducted for the Know Reset Project and extensively uses the interviews with different stakeholders involved in refugee resettlement in the EU, which make valuable contribution to the understanding of Member States' options and policies in the domain of refugee resettlement.

This report firstly seeks to present and explain the evolution of EU Member States' commitment in resettlement during the last decade by linking it to relevant related initiatives at international (UNHCR) and EU levels, most importantly in 2007/2008 and 2011/2012. The report secondly presents and compares the content of resettlement-related frameworks and policies in EU Member States, and seeks to analyse them in light of common standards and priorities developed by the UNHCR and the EU. Last, the report tries to clarify the apparent dichotomy between resettlement and intra-EU relocation and the ambiguous relation between the two processes, which may raise priority issues in refugee protection burden-sharing.

Acronyms

| | |
|--------|---------------------------------------------------------------------------------|
| ATCR | Annual Tripartite Consultations on Resettlement |
| CEAS | Common European Asylum System |
| CGRS | Belgium's Commissioner General for Refugees and Stateless Persons |
| EASO | European Asylum Support Office |
| ERF | European Refugee Fund |
| ETC | Emergency Transit Centre |
| EUREMA | Pilot Project for intra-EU Relocation from Malta |
| GPP | Gateway Protection Programme |
| ICRIRR | International Conference on the Reception and Integration of Resettled Refugees |
| JEURP | Joint EU Resettlement Programme |
| JHA | Justice and Home Affairs |
| NGO | Non Governmental Organisations |
| MIGRI | Finnish Immigration Service |
| RFF | Refugee Resettlement Form |
| RPP | Regional Protection Programme |
| WGR | Working Group on Resettlement |

1. Introduction

The EU Member States have long been criticised for their low level of participation in the resettlement of refugees from countries of first asylum which are unable to provide the adequate protection. Nevertheless, despite the fact that very few States had a resettlement policy in Europe up until recently and even if legal reference to it was almost non-existent, a number of European countries have a considerable history of having contributed to the reception of refugees and have responded to collective protection needs.

Initially, the resettlement of refugees was essentially used to respond to the collective needs of protection due to war or mass persecution. Once created, the UNHCR came to use resettlement as a key tool to finding solutions for European refugees after the 2nd World War.² During the Cold War, the UNHCR turned to resettlement to respond to the many different refugee crises of that era. Several European countries participated to the resettlement of Hungarians who had fled to Yugoslavia and Austria after the Soviet invasion of 1956. Likewise, European countries reacted similarly to the expulsion of Asians from Uganda in 1972 and to refugee crisis in Chile after the 1973 coup d'état and, as a final example, European states also reacted positively to the hundreds of thousands of Indo-Chinese 'boat-people' in the late 1970s. At that time, resettlement was utilised as a tool in safeguarding first asylum in neighbouring countries.

While Sweden had adopted a resettlement programme as soon as 1950, it was in the late 1970s that European countries initiated resettlement programmes. The Netherlands decided to resettle on a programme-basis in 1977 and adopted its first quota in 1984. Finland received a number of refugees at the request of UNHCR in 1979 and then launched a programme in 1985. Denmark implemented its first programme in 1979.

After the important increase in Vietnamese people leaving their country, the use of large-scale resettlement was seen as a pull-factor for departures and the offer of resettlement places fell drastically. It was decided to strengthen the rules for resettlement and the Comprehensive Plan for Action signed in 1989 oriented resettlement on individual protection needs.³

From then on, 'fleeing the Cold War' would not automatically lead to refugee status and the UNHCR took steps in the following years to '*develop multilateral consultative processes, strengthen its resettlement management capacity and articulate resettlement policy and criteria.*' The first Resettlement Handbook was released in 1996.⁴ In 1995, the Working Group on Resettlement (WGR) was established to enable the systematic consultation between the UNHCR, resettlement States and international organisations like IOM. These partners and invited NGOs then launched the Annual Tripartite Consultations on Resettlement (ATCR) from 1996. It is here that UNHCR's report on Projected Global Resettlement Needs, produced annually, is discussed in detail by the partners⁵ in June each year, while the WGR is held in October and March.

In the meantime, resettlement was a key tool in the subsequent major refugee crises, such as the 1st Gulf War in 1991, the need to transfer inmates in Bosnia and Herzegovina in 1992, followed by the war in the former Yugoslavia, and the 1999 Kosovo crisis. Yet, refugee resettlement did not increase significantly during the 1990s, and European uptake remained low. Only one new resettlement country emerged in the European Union during the 1990s, namely Ireland, which started its first programme in

² UNHCR Resettlement Handbook 2011, p.47.

³ For developments on the history of resettlement, see UNHCR Resettlement Handbook 2011, and Margaret Piper AM, Paul Power, Graham Thom, *Refugee Resettlement: 2012 and Beyond*, UNHCR Research Paper n°253, February 2013.

⁴ UNHCR Resettlement Handbook 2011, p.50

⁵ *Ibid.* p.52

1998. Indeed, Ireland responded to the Bosnian crisis of 1992 and to the Kosovan crisis of 1999. Up until 2000 it continued to accept relatives of Vietnamese refugees who were initially admitted in 1979 and relatives of Bosnian refugees admitted between 1992 and 1996. *'All three of those programmes were coming to an end. The UNHCR approached the Department of Foreign Affairs and made the case for joining the resettlement quota programme. Decisions were taken in 1998 to bring the Bosnian and Vietnamese programmes to an end and to join the annual resettlement quota programme'*⁶.

In late 2000, the UNHCR initiated the Global Consultations on International Protection in an attempt to revitalise the international refugee regime, bring together Northern and Southern states and find some form of convergence between the protection needs of refugees and the interests of states. The consultations lasted for two years and resulted in two major outcomes: the 2001 Declaration of States Party which reaffirmed UNHCR's mandate, and the Agenda for Protection which was endorsed by the UN General Assembly in 2002.

The Agenda for Protection called for the expansion of resettlement opportunities due to the extent of protracted refugee situations. Together with the Convention Plus Initiative in 2004, the Agenda for Protection sought to revive resettlement along a more comprehensive, planned and strategic approach. Convention Plus attempted to develop agreements between States to supplement the 1951 Geneva Convention and enhance refugee protection at a regional level.

Yet, revelations of corruption within the UNHCR influenced attitudes towards the management of resettlement at this time. As well as this, the terrorist attacks in the United States on the 11th of September 2001 resulted in resettlement coming to be viewed as being a security concern. Public perceptions made resettlement from countries such as Iraq, Afghanistan and Somalia more "complicated"⁷.

Things started to change in the mid-2000s. One significant factor that influenced changing attitudes to resettlement was the fact that there were major changes within the UNHCR⁸, such as: The arrival of a new High Commissioner, António Guterres, a former Portuguese prime minister who took office in 2005 and who quickly declared an interest in improving and increasing resettlement; the formation of a specialised Resettlement Service and the efforts of senior UNHCR staff who demonstrated a capacity to be both more strategic and more effective in the way they dealt with the various stakeholders, particularly resettlement States. Supplementing these initiatives was a renewed focus on capacity building within the UNHCR, including the revision of the UNHCR Resettlement Handbook.⁹

The number of EU Member States committed to resettlement has increased significantly over the past decade and even more significantly during the past five years.

Five Member States had a resettlement programme before 2003, i.e. Sweden, Denmark, the Netherlands, Finland, and Ireland. While only one new resettlement country emerged in the EU during the 1990s, nine were created during the following decade, seven between 2008 and 2013. The number of 'resettlement countries' in the EU is now fourteen: in addition to the five countries cited above, the United Kingdom launched a programme in 2004, Portugal in 2007, the Czech Republic, Romania and France in 2008, Hungary, Belgium, Germany and Spain in 2012/2013. Bulgaria is also about to start a programme in 2014. Two additional Member States refer to resettlement in law (Poland and Slovenia), even though they have not resettled yet, and two other Member States have already joined resettlement operations on an *ad hoc* basis (Italy, Luxembourg).

⁶ Interview with Martina Glennon (Assistant Principal Officer) and Elaine Houlihan (Executive Officer), Resettlement Unit, Office for the Promotion of Migrant Integration, 5 January 2012.

⁷ *Refugee Resettlement: 2012 and Beyond*, op.cit. p.11

⁸ *Ibid.* p.13

⁹ *Ibid.*

Besides, Slovakia hosts an Emergency Transit Centre (ETC) for the humanitarian transfer of refugees before their resettlement to EU Member States or third countries, as does Romania. Among the six EU Member States which have not taken any steps toward getting involved in resettlement, Lithuania began discussions in February 2012 on participating in resettlement.¹⁰

The past decade has truly been revolutionary in terms of the initiation of refugee resettlement in some shape or form by Member States. For that reason, the time-frame of this report is the period from 2003-2013 and focusses on the current situation relating to resettlement in the EU.

It is based on the research conducted within the Know Reset project between 2011 and 2013, which has provided the following research material:

- A collection of national data on legal and administrative frameworks, resettlement policies at EU and national levels;
- Statistics collected from the national institutions in the 27 Member States;
- Interviews conducted with governmental and non-governmental stakeholders involved in resettlement in the Member States;¹¹
- Comparative analytic tools created for the project;
- Country of first asylum reports based on field research in Kenya, Pakistan and Tunisia.

In particular, the report utilises the policy positions, opinions and explanations of the different stakeholders interviewed in the framework of the project, which allow for an invaluable insight into Member States' law and policy with regard to refugee resettlement.

This report firstly seeks to present and explain the evolution of EU Member States' commitment in resettlement over the past decade by linking it to relevant related initiatives at international (UNHCR) and EU levels. Two turning points have emerged from the observation of this evolution over the past decade. In the mid-2000s, the UNHCR was seeking to revive States' commitment to resettlement, in particular through the preparation of 'group resettlement methodology' aiming at organising Multilateral Resettlement Operations. The possibility of launching a joint resettlement scheme in the EU was also considered. The adoption of the European Refugee Fund in 2007 coupled with UNHCR and EU's initiatives around the Iraqi refugee crisis constituted key incentives to expand EU Member States' involvement in refugee resettlement. A few years later, two similar factors – a financial incentive at EU level and joint resettlement initiatives – played a similar role in enhancing EU Member States commitment in resettlement in a more concerted and sustainable way.

The report secondly presents and compares the content of resettlement-related frameworks and policies in the EU Member States. It seeks to analyse those frameworks and policies in the light of common standards and priorities as have been developed by the UNHCR and the EU. This implies comparing resettlement in the EU Member States on the basis of a series of criteria, such as the following: protection needs when selecting refugees, rule of law and rights granted to resettled refugees, responsibility-sharing.

Finally, the report tries in an additional chapter to clarify the apparent dichotomy between resettlement and intra-EU relocation. While it is claimed that the two should be or are unrelated, the position of Member States are much more diversified. Some of them consider relocation as a 'mini-resettlement' likely to build their resettlement capacity, both may be merged within the same quota or based on the same legal frameworks. The ambiguous relationship between the two processes may raise priority problem in refugee protection burden-sharing.

¹⁰ UNHCR was informed by the Lithuanian Ministry of Social Security and Labour about these discussions. Written interview of the representative of Regional Office of UNHCR in Lithuania, 23rd of March 2012. Yet, as the representative of the Ministry of the Interior was unaware of any on-going discussions on resettlement issue, it follows that it is a very initial phase of a possible reform in this field. Written interview of the representative of the Ministry of the Interior, 21st February 2012.

¹¹ Some names are cited in the report, others are not when the interviewees did not wish to be named.

2. The Development of Resettlement-Related Frameworks and Policies in the EU and its Member States

It was during the second half of the 2000s that EU Member States' commitment to resettlement expanded and strengthened. Formal involvement in resettlement in the EU had two major turning points during the past decade. Those turning points are in line with important refugee crises and some significant initiatives from the UNHCR and the EU, supported by NGOs which reveal the importance of advocacy and joint operations to foster resettlement efforts in Member States.

Different steps can be distinguished in EU Member States' commitment. The 'traditional resettlement countries' resettled on a programme-basis long before adopting legislation which provided for refugee resettlement in their Asylum law. During the last decade however, the trend has been quite the opposite: States have first expressed their formal commitment to resettlement, through the reform of their law and/or the announcement of the adoption of a programme, and the effective commitment has then followed – or not.

2.1 The Turning Points of the Last Decade

a) From 2003 on

During the first half of the 2000s, both UNHCR and the EU prepared some tools aimed at developing multilateral operations and joint initiatives in the domain of refugee resettlement, which were designed to have a clear impact on States' motivation to be part of collective efforts in the following years.

The UNHCR's Agenda for Protection and Multilateral Resettlement Operations

Convention Plus addressed the issue of resettlement through the Multilateral Framework of Understandings on Resettlement, a non-binding agreement between states adopted at the High Commissioner's Forum in 2004. The aim of this agreement was to “*strengthen the international refugee protection system through a more strategic use of resettlement for the benefit of a greater number of refugees*” and its purpose was “*to guide parties to situation-specific multilateral agreements.*” It was actually attempting to recreate the “comprehensive plans of action” that had been used twenty years before in South East Asia and Central America.¹² From 2003, the UNHCR started to develop a ‘group resettlement methodology’ to enhance resettlement through the use of simpler and accelerated processing for groups of refugees while it also advocated for the adoption of flexible selection criteria that would go beyond the terms of the 1951 Convention.

Refugees may be recognised through individualised determination procedures or, in the absence of evidence to the contrary, through group-determination procedures on a *prima facie* basis.¹³ This latter approach has mainly been adopted in situations of mass influx, ‘*where the reasons of flight are generally known and the number of arrivals would overwhelm capacities to determine refugee status individually.*’¹⁴

Taking into account the need for responsibility sharing in the protection of refugees and a strategic use of resettlement, the UNHCR and its governmental and non-governmental partners have tried to undertake multilateral resettlement operations. Resettlement states have therefore been called upon to offer places to individuals who belong to specific groups and are in a country of first asylum which

¹² *Refugee Resettlement: 2012 and Beyond*, op.cit. p.11.

¹³ ‘*Prima facie* (‘in absence of evidence to the contrary’) refers to the process of group determination of refugee status, as opposed to individual determination, which is usually conducted in situations where a need to provide urgent assistance or other practical difficulties preclude individual determination, and where the circumstances of the flight indicate that members of the group could be considered individually as refugees’, UNHCR Resettlement Handbook 2011, p.20.

¹⁴ *Ibid.* p.19.

does not acknowledge refugee status for instance or cannot provide an adequate level of protection due to the number of refugees in need of protection, leading to protracted refugee situations.

Among the groups of vulnerable persons to be resettled, some refugees appear to be ‘safer’ than others and may compensate for caseloads that are deemed to be ‘risky’ on security grounds. In the second half of the 2000s, new sources of ‘safe’ refugees emerged. This was the case of Burmese. For many years Thailand and to a lesser extent Malaysia had resisted approaches to allow UNHCR to gain access to Burmese refugees to process them for resettlement but in the early 2000s, negotiations succeeded in convincing them to change their policy.¹⁵

Besides, a number of major repatriation operations, especially those to Afghanistan, Iraq and South Sudan faced important difficulties which led some resettlement states to resettle refugees from those countries, even though they were considered as being ‘risky.’¹⁶

The EU’s Initial Steps toward a Joint Resettlement Programme

At the EU level, the Amsterdam Treaty had created a new area of competence for the European Union by transferring asylum policy and the Schengen *acquis* from the intergovernmental pillar to the Community pillar. Within the objective of an EU asylum policy, the European Commission suggested in its Communication of 22 November 2000 that ‘*Processing the request for protection in the region of origin and facilitating the arrival of refugees on the territory of the Member States by a resettlement scheme are ways of offering rapid access to protection*’ (COM 2000/0755 final). The Commission believed that only a joint EU approach could create the necessary political and operational terms for accessing European territory and for allowing resettlement to be used for strategic purposes - both to assist the EU Member States and attain the objectives of the UNHCR’s Agenda for Protection.

At the time when the United Kingdom was suggesting ‘transit and treatment centres’ in third countries in line with its ‘Safe Borders, Safe Haven’ policy, the Commission’s Communication of 3 June 2003 (COM(2003) 315 final) presented resettlement as a way to provide for ‘managed and orderly arrivals of persons in need of international protection.’ This way of presenting resettlement was confirmed in June 2004 in a Communication¹⁷ in which the Commission proposed an EU-wide resettlement scheme.

In the Hague Programme of 4 and 5 November 2004, the European Council set a series of objectives and priorities with a view to further developing the Common European Asylum System (CEAS) in its second phase. In particular, the European Council underlined the need for the EU to contribute in a spirit of shared responsibility to a more accessible, equitable and effective international protection system and to provide access to protection and durable solutions at the earliest possible stage. The European Council went on to call for the development of EU-Regional Protection Programmes (RPP) which included a joint resettlement programme for Member States willing to participate in such a programme. The Commission then set out its action plan for one or more Regional Protection Programmes.¹⁸ Those RPP were not shaped as a humanitarian response¹⁹ but as a tool to support and build the protection capacity in third countries. Resettlement from the countries

¹⁵ *Ibid.* p.11. As a result, whereas only 246 Burmese were resettled in 2002, by 2009 the number had grown to 24,781, a 100 fold increase¹⁵.

¹⁶ *Ibid.* p.12

¹⁷ Communication from the Commission to the Council and the European Parliament of 4 June 2004 on the managed entry in the EU of persons in need of international protection and the enhancement of the protection capacity of the regions of origin: “improving access to durable solutions”. COM(2004) 410 final.

¹⁸ Commission Communication to the Council and the European Parliament of 1 September 2005 on regional protection programmes. COM(2005) 388 final. (Not published in the Official Journal).

¹⁹ Marcin Pruss, European Commission, Know Reset Final Conference, Brussels, 10 July 2013.

covered by an RPP was considered as a way to enhance their involvement in refugee protection and as a response to the strategic use of resettlement which attempts to influence the behaviour and attitudes in countries of first asylum.

In the meantime, the European Commission also started to fund ‘twinning projects’ aiming at developing joint resettlement processes. The MORE Project (Modelling of National Resettlement Process and Implementation of Emergency Measures) was an EU funded Project which ran from December 2003 to April 2005 and ‘twinning’ a traditional resettlement country, Finland, with a recent one, Ireland, in cooperation with UNHCR, IOM and ECRE. The aim of the Project was to develop comprehensive models for the resettlement process, which could be utilised by other EU Member States and other countries. The main outcome of the Project was the production of a practical guide to the resettlement process.

Impact at National Level

Before 2003, only five EU Member States had resettlement programmes: the four ‘traditional resettlement countries’, i.e. Sweden, Finland, Denmark and the Netherlands, and Ireland which legislated for resettlement in 1996 and started its programme in 1998. The Czech Republic also introduced a reference to refugee resettlement in its Asylum Act in 1999 but only resettled from 2008.

The following changes occurred during the first half of the 2000s:

- The **UK** introduced a specific provision in 2002 in its Nationality, Immigration and Asylum Act and started its programme in 2004, ‘*to demonstrate the UK’s commitment to supporting UNHCR’s global effort to provide durable solutions to the plight of refugees and increasing its international contribution to sharing the refugee burden.*’²⁰
- **Ireland** extended its annual quota in 2005 from 10 cases (around 40 persons) to 200 persons to be admitted.
- The three Scandinavian ‘traditional resettlement countries’ of the EU decided to formally legislate for their commitment by introducing a specific reference to resettlement: **Finland** in 2004, **Denmark** and **Sweden** in 2005.
- **Germany**, which only resettled on an *ad hoc* basis at that time, changed its law in 2004, to allow admission from abroad and issuance of residence permit.
- **Romania**, which had never resettled, introduced a specific provision in its law in 2006. Article 3(5) of the Asylum law opened the possibility to resettle on a programme-basis.

In legislating in this way, Romania is representative of a greater trend among the newer Member States, those which joined the EU in 2004 and 2007. The need to revise legislation to conform to the EU *acquis* on asylum was also an opportunity to legislate for resettlement.

Therefore, by 2007, only one new resettlement country had been created in the EU since the beginning of the 2000s, i.e. the UK. Despite this slow progress, the formalisation of a commitment to resettle was already on progress.

b) The 2007/2008 Turning Point

This turning point is due to Multilateral joint operations initiated by both the UNHCR and the EU and the adoption of financial incentives for resettlement by the EU.

²⁰ Written interview with Dave Atkinson, Home Office, Refugee Team, 16 May 2012.

The UNHCR's Calls for Group Resettlement and Protracted Situations

The UNHCR pursued its efforts to incentivise and guide States toward situation-specific multilateral resettlement operations. The purpose in its doing this was to encourage states to focus attention on situations where it was considered that a strategic resettlement operation could leverage benefits for a much larger number of refugees, including creating a better protection environment and opening up the possibility of local integration.²¹

In addition to the 'classical' multilateral resettlement operations, the UNHCR launched a Special Initiative on Protracted Refugee Situations in 2008 which focused on five situations among which three had to be resolved through resettlement:

- Afghan refugees in Iran and Pakistan;
- Refugees from Myanmar in Bangladesh;
- Eritrean refugees in eastern Sudan.²²

Besides, at that time, the refugee crisis due to the 2nd Gulf War began to severely impact the countries surrounding Iraq, i.e. Jordan, Syria and Lebanon. In March 2007, the UNHCR declared that Iraqis fleeing their country from five central governorates were entitled to *prima facie* refugee status and called for their resettlement. In addition, it established eleven priority resettlement profiles to help assess the vulnerability of Iraqi refugees. Refugees belonging to one of these eleven categories were prioritised for resettlement²³ in line with the seven globally defined resettlement criteria.

The ERF and the Iraqi Refugee Crisis

The European Refugee Fund (ERF) for the period 2008-2013 adopted Decision 573/2007/EC, aimed, among other things, to '(...) support the voluntary efforts made by Member States to provide international protection and a durable solution in their territories to refugees and displaced persons identified as eligible for resettlement by the UNHCR, such as the actions that the Member States implement to assess the resettlement needs and transfer the persons concerned to their territories, with a view to granting them a secure legal status and to promoting their effective integration.'²⁴

Member States could apply for funding to help implement resettlement programmes, and could seek 4,000 Euro per resettled person provided the refugee belonged to one of the four vulnerable categories eligible, they were:²⁵

- persons from a country or region designated for the implementation of a Regional Protection Programme;
- unaccompanied minors;
- children and women at risk, particularly from psychological, physical or sexual violence or exploitation;
- persons with serious medical needs that can only be addressed through resettlement.

Beyond this increase in funding, the funding of twinning projects also continued. The MOST Project succeeded the MORE Project from 2006 to 2008. The Ministry of Labour in Finland led the MOST project and the project partners were the Irish Reception and Integration Agency, the Spanish Ministry of Labour and Social Affairs, and the Swedish Migration Board in cooperation with UNHCR,

²¹ *Refugee Resettlement: 2012 and Beyond, op.cit.* p.16.

²² UNHCR Resettlement Handbook 2011, p.59.

²³ *10,000 Refugees from Iraq, A report on Joint Resettlement in the European Union*, ICMC, May 2010, p.12.

²⁴ Recital 18 of Decision 573/2007/EC.

²⁵ Article 13 of Decision 573/2007/EC.

IOM and ECRE. It aimed at exploring ways to improve the resettlement process and focused on the quality of integration services.

In parallel, a Joint EU Call to resettle 10,000 refugees from Iraq was adopted by the Justice and Home Affairs Council (JHA) on 27-28 November 2008. Help to vulnerable refugees was specifically mentioned. The Council Conclusions came about under the French presidency of the EU and under the leadership of some Member States that had already been involved in the resettlement of Iraqi refugees since 2007.

Besides, under the Slovenian EU presidency in 2008, EU Ministers from larger resettlement countries had signed a declaration where they committed to resettle quantitatively more and prompted their colleagues to do the same.²⁶

Impact at National Level

The Joint Call at EU level had a clear impact on several Member States which stresses the importance of launching multilateral operations to obtain national commitments. The initiatives of some Member States acting as leaders were also key incentives to get their partners involved. The UNHCR's call to resettle refugees from Iraq was actively promoted by some important Member States. The Netherlands and Sweden in particular urged other Member States to respond to the Iraqi refugee crisis. The adoption of the Council Conclusions was primarily promoted by Germany in early 2008. Then, in June 2008, France signed an *ad hoc* agreement with the UNHCR (the 'IRAK 500' programme) embarking on a two-year programme for the resettlement of vulnerable Iraqi refugees belonging to minority groups. On 20-21st November 2008, in anticipation of the EU JHA Council meeting, Germany adopted a key decision to accept 2,500 Iraqi refugees from Jordan and Syria as part of Europe's response to the refugee crisis. The fact that Germany decided to make a significant contribution and accept a large number of Iraqi refugees greatly influenced the adoption of the Council Conclusions.²⁷

The number of countries involved quadrupled, from two in 2007 to eight in 2009. Eventually, twelve EU Member States participated in the joint effort to resettle refugees from Iraq: Seven programme-based resettlement countries (Sweden, Finland, the Netherlands, the UK, Portugal, Denmark, Ireland), and five Member States (Belgium, France, Germany, Italy, Luxembourg) responded the call on an *ad hoc* basis.

A second significant incentive to resettle also appear to be twinning projects and supportive initiatives among Member States. The Iraqi crisis was the opportunity for the EU and some Member States to develop and test joint initiatives and pass on lessons from their own experiences. In the framework of the MOST project, representatives of the Spanish government from the Ministry of Labour and Social Affairs participated in selection missions to Jordan and Syria with the Swedish partner in 2007 and 2008 to find out how the resettlement process could be organised. The missions involved the selection of Iraqi refugees, and was conducted as part of a learning process focussing on refugee selection.

A Temporary Desk in Iraq (TDI), funded by the European Commission aimed 'to improve practical cooperation on protection, resettlement and the return of Iraqi refugees.' From May 2009 to October 2010, this pilot project brought together General Directors of Immigration Services from Germany, the Netherlands, the UK and Belgium. The expertise was aimed at being transmitted to the EASO in order to support its forthcoming activities in the domain of resettlement. As part of the TDI project, Belgium and the Netherlands went on a joint mission to Syria in May 2009. Furthermore, Bulgaria and Slovakia

²⁶ Phone interview with Andreas Ollinen, political adviser to the Swedish Minister for Migration and Asylum Policy, Ministry of Justice, 16 May 2012.

²⁷ *10,000 Refugees from Iraq, A report on Joint Resettlement in the European Union, op.cit.*, p.14

participated as observers in the Dutch mission to Syria in October/November 2009.²⁸ In 2010, a proposal was made for a similar Desk in Afghanistan.

Belgium and Luxembourg's 2009 pilot resettlement schemes in response to the November 2008 Conclusions were preceded by guidance from the Netherlands. In 2008, Belgium and Luxembourg were invited to join the Netherlands on a selection mission in Thailand in order to promote resettlement. By the end of 2007, delegations from Belgium and the Czech Republic had observed the Dutch resettlement process in Thailand under the twinning project entitled 'Durable solutions in practice.' A Romanian delegation took part in a selection mission to Jordan in February 2008 under the same project. Representatives from Belgium, the Czech Republic and Romania also visited the Netherlands, where they were given a general overview of Dutch resettlement policy, including quota and reception.

Twinning projects are not only aimed at promoting resettlement to potential future resettlement countries but also to exchange experiences. Ireland for instance benefited from the support and experience of Canada and the UK when it resettled Burmese Rohingya in 2009. *'I visited Bradford where the Rohingya refugees had been resettled and representatives from Bradford subsequently visited Ireland to meet the Rohingya community here. This resulted in some members from both of the Rohingya Communities making contact with one another.'*²⁹ In 2009, Ireland also took some refugees in cooperation with the UK, within a transnational EU funded project. Bulgaria and Belgium also participated in that initiative as at that time they were considering participating in programme resettlement. The Netherlands' involvement in fostering further commitments among Member States appears to be determinative in the above-mentioned cooperation schemes. Ireland stresses that Finland had also provided an excellent support during its early years of resettlement and that it then had the opportunity to support Slovenia, Belgium and Bulgaria. *'We learn from each other all of the time and it wouldn't happen without the EU.'*³⁰

The financial contribution of the ERF was also a clear incentive to generate EU Member States' involvement in refugee resettlement. Belgium's pilot project to resettle refugees from Iraq was conditional upon a request for European funding. *"Concretely, the selection mission and the transfer of the resettled refugees took place within the framework of the ERF community actions project "Temporary Desk on Iraq", which meant that up to 90% of the costs of the selection and transfer of refugees could be recuperated through the European Commission. Furthermore, 50% of the reception and integration of the resettled refugees was co-financed by the national section of the ERF."*³¹

Also Portugal established a multi-annual programme (2008-2013) in the context of the ERF which projected the resettlement of a certain number of refugees in the categories identified in Article 13 of the ERF.³² The financial incentive is still emphasized by the Ministry to further develop resettlement in Portugal.

The following changes occurred from 2007/2008 on:

- **Portugal**, which accepted an intake of 33 refugees on an *ad hoc* basis from January 2006, then launched a programme in 2007 to receive 30 refugees a year, and formalised its commitment through the adoption of a legal provision in 2008. Though Portugal never formally responded to the November 2008 Conclusions, it accepted an urgent case of one Iraqi family of five who arrived in September 2008 and another Iraqi family who were resettled from Syria in 2009.

²⁸ *Ibid.* p.24

²⁹ Interview with Martina Glennon, *op.cit.*

³⁰ *Ibid.*

³¹ Written interview with Ewout Adrians, CGRS-FEDASIL, 4 May 2012.

³² Written interview with the Portuguese Ministry of Internal Affairs, February 2012.

- Beside its 'IRAK 500' programme, **France** concluded an agreement with the UNHCR in 2008 to engage in programme-based resettlement for one hundred files per year. *'If the Iraq issue was an incentive to engage in resettlement, the development of resettlement in the EU might have had a positive impact too on the French commitment. France was about to take the presidency of the EU (second half of 2008) and prepared the asylum and immigration European Pact that included provisions on resettlement and intra-EU relocation. It has to be underlined as well that, in 2007, the number of asylum seekers was the lowest of the decade (ca 35 000 applications). It might have dispelled a certain reluctance regarding the reception of further refugees. Finally, advocacy by Forum réfugiés and France terre d'asile might have had an impact too.'*³³
- In the multi-year plan of the ERF 2008-2011, **Spain** presented a proposal to accept 150 refugees, 50 per year. In 2009, Madrid revised its law regulating the right to asylum and subsidiary protection and made a specific reference to the prospect to establish a resettlement programme in cooperation with the UNHCR and other relevant bodies. It also engaged in a resettlement programme during the subsequent years but eventually did not implement its resettlement programmes.
- In the **UK**, the annual quota was increased coinciding with the November 2008 Conclusions in 2008/2009 which brought the annual total from 500 to 750 refugees.
This is all the more on the Eastern side of the EU that the formal commitment is the most impressive:
- **Hungary** and **Slovenia** included a reference to resettlement in their respective laws in 2007.
- The **Czech Republic** launched its resettlement programme in June 2008 and resettled nine Burmese families in October 2008 and February 2009. Twelve other Burmese families were resettled during 2010.³⁴
- In **Romania**, a Government Decision taken in 2008 on the Resettlement of Foreigners provided for resettlement and stated that 120 refugees would be resettled during the period 2008-2010. Only 38 refugees were resettled in the context of this provision, representing the quota due on 2009 and the programme was subsequently suspended. Resettlement was fully funded by the ERF.³⁵ The quotas due on 2008 and 2010 have not been fulfilled due to the delayed approval of Government Decision no. 1596/2009 on the resettlement of refugees in Romania, as well as due to the economic and social situation resulting from the global economic crisis.³⁶
- After joining the ACTR in 2007, a twinning project with Ireland in the following two years and a twinning project with the Netherlands in 2009, **Bulgaria** established an intergovernmental Taskforce on Resettlement in 2010. The objective of this Taskforce was to create a draft pilot resettlement programme to be implemented in 2013.

At the end of this period, a new one starts with similar incentives, i.e. group resettlement and financial support, being applied in the context of a new refugee crisis.

³³ Interview with Matthieu Tardis, France Terre d'Asile, April 2012.

³⁴ Petr Novak, Ministry of the Interior of the Czech Republic, Know Reset Final conference, Brussels, 10 July 2013.

³⁵ Written interview with the Romanian Office for Immigration (ROI), 23 January 2012.

³⁶ *Ibid.*

c) The 2011/2012 Turning Point

The Refugee Crisis in the Mediterranean and Group Resettlement Initiatives

In 2011, a mass influx of refugees began to flow into Tunisia and Egypt as a result of the conflict in Libya. In February 2011, the UNHCR made a global call for places for resettlement from Tunisia and Egypt. On the 2nd of March 2011, the UNHCR organised a conference of resettlement States and other interested countries. That conference resulted in the launching of the Global Resettlement Solidarity Initiative for refugees ex-Libya to ease the burden on Tunisia and Egypt which had received tens of thousands of refugees. Resettlement was presented as a way to ensure that vulnerable persons did not risk dangerous boat journeys across the Mediterranean. The European Commission reacted to the calls made by the UNHCR by inviting experts from the Member States to a “resettlement experts meeting on refugees stranded in Libya” on the 28th of March 2011.³⁷ The JHA Council of 11-12 April 2011 argued favourably for the extension of Regional Protection Programmes and claimed that it had the objective of alleviating protracted refugee situations, notably through enhancing refugee resettlement. The European Commission asked Member States to transfer their annual quotas from the countries that they had already pledged to North African countries, if they could not provide new resettlement places as the UNHCR and the European Commission requested of them. On the 12th of May 2011, Commissioner Cecilia Malmström convened a Ministerial Conference, co-chaired with the Hungarian Presidency, to discuss and review commitments and pledges from the Member States and the Associated Countries in respect of the extension of the pilot project in Malta for the relocation to other Member States of persons who were beneficiaries of international protection and the resettlement to Europe of refugees stranded in North Africa. The Conference was organised as a concrete implementation of the solidarity statements included in the Council Conclusions of April 2011.³⁸

In July 2011, the UNHCR stated that twelve countries had pledged 900 places. Almost one third were offered in addition to annual resettlement programmes or were an *ad hoc* contribution. Yet, at the end of June, the UNHCR submitted more than 1,000 refugees for resettlement and 80 departed for the ETC in Romania for processing by resettlement countries.³⁹ In July 2012, according to the UNHCR, twelve countries worldwide had pledged 1,700 dedicated resettlement places, this figure does not include the United States of America which offered an open-ended number of places. 5,500 refugees were submitted for resettlement worldwide and 1,270 refugees departed for resettlement directly and through the ETCs.⁴⁰

The Joint EU Resettlement Programme (JEURP)

A proposal to establish a Joint EU resettlement Programme was tabled in September 2009 under the Swedish Presidency. The aim was to increase the EU’s humanitarian impact, to integrate resettlement into external relations policy, to streamline actions of Member States and to make them more cost effective.⁴¹ The proposal remained in limbo between institutions mainly because of the annual priority setting and because of an argument between the Council and the Parliament about which decision procedure to use in connection to the implementation of the Lisbon Treaty.

³⁷ Interview with Ewout Adriaens, *op.cit.*

³⁸ http://europa.eu/rapid/press-release_MEMO-11-295_en.htm?locale=fr Memo/11/295, 13/05/2011

³⁹ UNHCR Projected Global Resettlement Needs 2012, July 2011, p.10, <http://www.unhcr.org/4f0fff0d9.html>

⁴⁰ UNHCR Projected Global Resettlement Needs 2013, July 2012, p.11, <http://www.unhcr.org/5006aff49.html>

⁴¹ Communication from the Commission to the European Parliament and the Council of 2 September 2009 on the establishment of a joint EU resettlement programme [COM(2009) 447 final]

On 29 March 2012, the European Parliament voted on the Joint EU Resettlement Programme, already approved by the Council. Decision 281/2012/EU of 29 March 2012 amended Decision 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme ‘Solidarity and Management of Migration Flows.’

This decision determined common EU resettlement priorities for 2013 and announced an increase in the financial assistance that Member States would receive from the European Refugee Fund for the resettlement of refugees. In addition to this, that decision also provided for the following changes:

- The ERF used to only fund the resettlement of refugees from outside the EU to Member States but now also funds relocation between Member States.
- The general rule is that Member States will receive a lump sum of 4,000 Euro for each person resettled according to the agreed priorities. Member States who apply for financial support from the European Refugee Fund for the first time will receive a lump sum of 6,000 Euro per resettled refugee.

Additional funding is also available for those Member States which have not previously or have only once received ERF funding for the resettlement of refugees. Those Member States will get a lump sum of 5,000 Euro per resettled person. This is particularly relevant for the countries that have not yet received ERF funding, or have only received it once and have expressed an interest in undertaking resettlement, most notably, Belgium, Bulgaria, Germany, Hungary, Luxembourg, Poland and Romania. Italy and Spain have made ERF pledges in the past, but have not fulfilled these, and in that case would still be eligible for the extra funding.⁴²

- The JEURP widens the categories of refugees whose resettlement is supported with EU funding in 2013. The amendment to the ERF adds specific vulnerable groups and geographic priorities to the existing categories of refugees whose resettlement is funded under the ERF.

To facilitate the calculation of funding needs through the European Refugee Fund for 2013, Member States were asked to provide the Commission with an estimate of the number of persons per category they planned to resettle in 2013.

The European Commission continued to fund a number of projects to support and enhance practical cooperation relating to resettlement in the EU, such as ‘Practical cooperation in EU resettlement’ jointly implemented from 2010 onward by the ICMC, IOM and the UNHCR and ten Member states (Belgium, France, Hungary, the Netherlands, Poland, Portugal, Romania, the United Kingdom, Slovakia and Sweden). ‘Paving the way - a handbook on the Reception and Integration of Resettled Refugees’ was produced in 2011 within the framework of this project.⁴³

‘Linking in EU Resettlement’, launched in September 2011, aims at further developing the achievements of the practical cooperation project.⁴⁴ It aims to strengthen the expertise of European practitioners at all stages of resettlement and the integration process, including the capacity of municipalities and civil society. It focusses on the reception and integration of refugees at the local level and linking the pre-departure and post-arrival phases in order to make resettlement more successful.

Also significant is the establishment of an EU Resettlement Network, an initiative co-funded by the European Refugee Fund and involving IOM, the UNHCR and the ICMC. The objectives of the network include the promotion of information exchange, collaboration, and policy development.

⁴² Written interview with UNHCR Hungary, April 2012.

⁴³ See : <http://www.icmc.net/pubs/paving-way-a-handbook-reception-and-integration-resettled-refugees>

⁴⁴ <http://www.resettlement.eu/page/linking-eu-resettlement-project>

Activities undertaken by the Network include stakeholder meetings, training for practitioners and pilots of innovative activities.⁴⁵

Impact at National Level

The UNHCR and the EU's call to resettle refugees from the Shousha camp in Tunisia was responded to by Belgium, Germany, Hungary and Spain. Ireland also resettled some refugees from Tunisia within the existing quota, as well as Portugal and Sweden. Again, group resettlement initiatives with financial support were key incentives in convincing Member States to commit to resettlement both in responding to the refugee crisis and in making a strategic use of resettlement and thus utilising resettlement in a more sustainable fashion. Indeed, Belgium, Germany and Spain took the opportunity to engage in programme-based resettlement.

The following changes occurred in 2011/2012:

- In 2011, **Germany** agreed to launch a resettlement programme from 2012 on, planning to resettle 900 refugees over three years. 195 refugees were resettled from the Shousha camp to Germany in September 2012, and 105 Iraqi refugees arrived from Turkey in October 2012.
- In preparation for the European Commission meeting on 28 March 2011, the inner cabinet of the Belgian federal government decided on 24 March 2011 to resettle 25 African refugees who fled from Libya to Tunisia after the outbreak of the revolution. Furthermore, the new Belgian government agreement of December 2011 stated that **Belgium** would participate in resettlement programmes on a European level. Belgium pledged to resettle 100 refugees in 2013.
- In 2012, **Spain** resettled 80 refugees from the Shousha camp and renewed its engagement to resettle on a programme-basis in 2013-2014, 30 refugees a year. Already at the end of the 1990s, UNHCR announced that Spain was among the newly emerging resettlement countries.⁴⁶ It was then removed from this list since Spain never implemented any programme. In 2008, it presented a proposal to accept 150 refugees over three years, but this provision was never carried out.⁴⁷ During the subsequent years, the Council of Ministers approved an annual programme and even raised the quota from 75 refugees planned in 2010 to 100 refugees planned in 2011. None of these programmes have been implemented. Nevertheless, in 2012, the Spanish Council of Ministers again approved an annual resettlement programme for 2013-2014 and also resettled refugees from *Eritrea, Sudan, and Somalia* in July 2012 in response to a call made by the UNHCR. Instead of considering the latter resettlement as an ad hoc resettlement which it seemed to be, Spain claimed that it was based on the 2009 Asylum law and counted within the quota approved for 2011.
- **Poland** reformed its Aliens Act in 2011 which now refers to resettlement. The UK has been developing a twinning arrangement with the Polish government to support them in their aspirations to become a resettlement country
- **Romania** adopted a new programme. In 2012, a Government Decision was proposed for the Amendment of the 2008 Government Decision on the Resettlement of Refugees in Romania and set the number of refugees to be resettled over two years (2012 and 2013) at 40.

⁴⁵ *Refugee Resettlement: 2012 and Beyond*, op.cit. p.20

⁴⁶ Joanne van Selm, Tamara Woroby, Erin Patrick, Monica Watts, *The feasibility of setting up resettlement schemes in EU Member States or at EU level, against the background of the Common European Asylum System and the goal of a Common Asylum Procedure*, Migration Policy Institute, Tender n°. DG.JAI-A2/2002/001, 2003, executive summary, p.vii

⁴⁷ Written interview with an advisor to the Spanish Ministry for Employment and Social Security, also the former sub-director for Immigration, under the Office of the Secretary of State for Immigration and Emigration, April 2012.

- The Hungarian Government announced its decision to become a resettlement country in October 2010 and confirmed its commitment through a pledge submitted to the Ministerial Conference organized by UNHCR in Geneva in December 2011. In response to the “Arab spring” in 2011 a Governmental Decision (No. 1139/2011) was adopted on the launch of an asylum solidarity programme in relation to the situation in North Africa. On this basis, **Hungary** intended to focus its resettlement commitment to the North-African region.⁴⁸ Hungary promised to resettle a family of five to eight persons in 2012-2013 as a pilot programme but eventually resettled only one refugee.
- **In Bulgaria**, the instability of the government as well as practical difficulties had postponed the official launching and the implementation of the resettlement programme prepared since 2010.⁴⁹ Yet, in June 2012, the political decision on the submission of a pilot resettlement quota of 20 persons in 2013 was adopted. Unfortunately, the application for EU funds was deposited after the deadline.
- **Slovenia** promised to resettle on a programme-basis in 2014.

For some Member States, the **EU’s financial incentive is determining** their commitment. In Belgium, the 2011 decision was, like in 2009, conditional upon securing European funding. *‘The choice of countries has until now not been based on strategic choices connected to Belgian Foreign Policy. In 2011 the decision was made to resettle from Tunisia and not Egypt for a pragmatic reason: European funding was only available for “urgent resettlement”, while in Egypt UNHCR focused on resolving the “protracted refugee situation”’*⁵⁰. The European Commission indeed included “urgent resettlement” in its annual priorities for the ERF programme for community actions for 2011 through which up to 90% of the operation could once again be financed by Europe.

Being part of a joint effort is also a clear motivation. For Belgium, participating in worldwide and EU operations is a key incentive. This was the case when it resettled in 2009 and 2011.⁵¹ This is also true of Bulgaria⁵² and Italy. The Italian government has been involved in discussions with the UNHCR regarding the closure of the Iraqi refugee camp named Camp Ashraf and the resettlement of the Iranians refugees that were hosted there. It seemed that Italy was not going to bind itself unless others were willing to join⁵³ - the general attitude of waiting unless others follow shows that resettlement probably would be more efficiently organised at the European level as it would automatically involve burden sharing among Member States and therefore they might be more willing to cooperate in such a context. In Romania, *‘the Government’s decision to get involved in the resettlement of refugees process was influenced by the political will of strengthening Romania’s status as an important global partner by undertaking efforts and responsibilities incumbent upon the international community in the area of refugee protection. Since the resettlement of refugees plays an important role in the EU’s external policies on asylum, the involvement of Romania in the resettlement programme was driven also by the desire to assume its obligations as an EU Member State.’*⁵⁴

⁴⁸ Interview with UNHCR Hungary, *op.cit.*

⁴⁹ Anna Andreeva, Bulgarian State Agency for Refugees, Know Reset Final Conference, Brussels, 10 July 2013.

⁵⁰ Interview with Ewout Adriaens, *op.cit.*

⁵¹ *Ibid.*

⁵² Anna Andreeva, Know Reset Final Conference, *op.cit.*

⁵³ Phone interview with the head of unit VII of the Bilateral and Multilateral Cooperation in Migration, International Protection and International Adoptions, DG Italians abroad and migration policies at the Ministry for Foreign Affairs, February 2012.

⁵⁴ Written interview with ROI, *op.cit.*

An evolution has occurred in resettlement law and policy and has led to Member States increasingly committing to resettling refugees. However, an extension of the commitments in resettling refugees in the EU is not linear and does not necessarily mean that the number of refugees resettled in the EU will steadily rise. As mentioned above, some commitments may be postponed, not implemented or revised.

2.2 The Development of a Formal Basis for Resettlement in the EU

The adoption of a legal basis for resettlement was not considered as necessary by many stakeholders, as resettlement is a voluntary practice rather than a legal duty. Numerous stakeholders insist that the resettlement decision is political. The impact of changes in governments on State involvement in resettlement confirms the political nature of the decision to resettle. This was the case recently in both Bulgaria and Belgium. Yet, for Oskar Ekblad, Head of Resettlement Activities in Sweden, a barrier for many EU countries seems to be the lack of necessary legislation.⁵⁵ During the past decade, most of the resettlement countries have undertaken to formalise their practice or prepare a future practice with the adoption of a formal framework.

Thirteen EU Member states now refer to refugee resettlement in the law governing Aliens and/or Asylum⁵⁶ and fifteen have adopted government acts. Among these, sixteen⁵⁷ have already effectively resettled and thirteen have resettled on a programme-basis (see Annex 1). The legal framework is very diverse from one EU Member State to another. Besides, the existence of a formal basis does not imply the effective practice of resettlement and its absence does not prevent a Member State from resettling.

Although they have a formal basis to do so, Slovenia and Bulgaria have not yet resettled any refugees while Poland has resettled without using the legal basis relating to resettlement. Contrary to this, Scandinavian countries have long had the experience of resettlement before they undertook the step of adapting their legislation accordingly. The Netherlands have not included any resettlement-related provision in their Aliens law despite the fact that that State has been resettling for over forty years.

Most of the ‘new’ Eastern EU Member states have adopted a specific provision related to resettlement: the Czech Republic, Hungary, Poland, Romania, Slovenia. The Baltic states, on the other hand, are reluctant to join any resettlement activity. Those five ‘new’ Member States have taken the opportunity of adapting their asylum legislation for the EU *acquis* to introduce a reference to resettlement. As far as Bulgaria is concerned, no provision has been introduced in law but in 2010 a Intergovernmental Task Force on Resettlement (RWG) was created, with the objective of creating a draft pilot resettlement programme. It required two years before the Council of Ministers issued a decision in 2012 to launch the Pilot Resettlement Programme to be implemented in 2014. In terms of implementation, only the Czech Republic has effectively undertaken its resettlement programme. Romania has been only able to resettle for one year, 2008, out of the three years initially planned. Despite a specific provision introduced in 2007, Hungary has not resettled any refugee up to 2013 when it resettled one person. Slovenia has not resettled yet and Poland has not resettled on the basis of the legal provision introduced in 2011.

Those new Member States were approached by the UNHCR, which used accession to the EU in order to advocate for refugee resettlement in countries, which were eager to show their good will and commitment in EU and international affairs. They are also particularly motivated by the financial

⁵⁵ Phone interview, *op.cit.*

⁵⁶ Czech Republic (1999), Denmark (2005), Finland (2004), Germany (2004), Hungary (2007), Poland (2011), Portugal (2008), Ireland (1996), Romania (2006), Slovenia (2007), Spain (2009), Sweden (2005), UK (2002).

⁵⁷ Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Italy, Luxembourg, the Netherlands, Portugal, Ireland, Romania, Spain, Sweden, the UK. And even eighteen if we add Hungary which planned the resettlement of one family in 2012-2013 and eventually resettled one person, and Poland which resettled 16 persons through a personal spontaneous initiative of its Prime Minister in 2011.

incentives introduced by the EU which explains the wave of commitments after the adoption of the ERF for the period 2008-2013. Indeed, while the lump sum granted to States upon resettling a refugee may seem low and insufficient in Member States with a high cost of living, it is considered as being important in countries where the receiving and integration capacity is a work in progress.⁵⁸ In contrast, the Irish management team argues that *‘resettlement cannot be based on an “incentive” because there are costs to the State not just first year costs but ongoing costs for many many years. For medical cases the costs can be serious but it is a decision to save a life. The incentive to resettle has, first and foremost, to be humanitarian. People, and particularly children are living in dire circumstances and they are in need of an opportunity to build a life. The EU gives €4,000 per head for taking from their RPPs (Regional Protection Programmes) and other vulnerable groups. It is good to get it but it would not be a reason to join.’*⁵⁹

Only a few other Member States have adopted a specific provision to prepare for a commitment to resettlement: this was the case of the UK, which changed its legislation in 2002 and started a programme in 2004; the same for Ireland, which introduced a provision in 1996 and started a programme in 1998.

The law sometimes comes afterwards. In Portugal, the 2007 programme was launched by a Resolution of the Council of Ministers, and its sustainability was confirmed by the corresponding revision of Asylum law in 2008. The Scandinavian countries have inserted some references to resettlement in law during the 2000s, long after their programmes had started.

In a majority of EU Member states, the formal basis for resettlement has primarily and exclusively come from the executive authorities rather than from the Parliament. This confirms the voluntary, and thus political dimension of resettlement. The commitment in refugee resettlement is seen as a governmental decision, in addition, it is based upon political considerations more than any legal obligation.

Moreover, a legal reference to resettlement is generally accompanied or followed by executive measures, in order to specify the conditions in which resettlement shall be undertaken: the quota (Ireland, Slovenia) and sometimes the target (Czech Republic) or geographical allocation of resettlement (Finland, Sweden). Some executive measures are the basis for an *ad hoc* resettlement in response to a specific call for resettlement. This was specifically the case in 2009 in response to UNHCR’s call related to the Iraqi refugee crisis (Belgium, Germany) and in 2011 in response to the refugee crisis in Libya (Belgium, Germany, Hungary). In some other states, an executive measure is taken to shape a programme, like in Bulgaria.

Nine EU Member states have absolutely no formal basis for resettlement and for some of them, this is clearly linked to a refusal to commit to resettlement. With the exception of Austria and Luxembourg, all of these states are situated at EU’s external borders: the three Baltic states (Lithuania⁶⁰, Estonia, Latvia), plus Greece, Italy, Malta and Cyprus. They invoke certain socio-economic difficulties (Baltic states) and in the reception of aliens (Greece, Malta, Cyprus, Italy) to refuse resettlement. Instead, the latter have called for the relocation of refugees from their territory to other EU Member states. The absence of legal basis however did not prevent Austria and Luxembourg to resettle some refugees on an *ad hoc* basis. Yet, Austria considers the reception of 31 Iraqis in 2011 as being the Church’s initiative and as a humanitarian evacuation. Luxembourg resettled 28 Iraqis in

⁵⁸ Anna Andreeva, Final Conference, *op.cit.*

⁵⁹ Interview with Martina Glennon, *op.cit.*

⁶⁰ According to the representative of the Migration Department, the Lithuanian position on resettlement issue is clear – Lithuania is in favour of participation in resettlement programmes only on voluntary basis and refuses to take a part in any such programmes. Communication with the representative of the Migration Department, 18th of November 2012.

2009. In Slovakia, according to a recent political resolution,⁶¹ resettlement is expected to begin in the future years, it is also committed to relocation and to humanitarian reception through its ETC.

France and Italy are interesting examples of by-passing a lack of basis for granting asylum outside the territory. The lack of national legislation explains the need for a subsequent post-arrival process for resettled refugees to obtain a status. In both countries, the procedure of resettlement has to start abroad. In Italy, the Ministry of Internal Affairs must first agree to the resettlement project and allow the Ministry of Foreign Affairs to issue visas to the selected refugees so that they can apply for refugee status once on Italian soil. In normal circumstances, issuing a visa to someone requesting asylum is prohibited and considered as being favourable to irregular migration.⁶² On Italian soil resettled persons can ask for refugee status and the request is assessed, and generally confirmed, through priority procedures by the relevant Territorial Commission. Similarly, in France, the government has committed, through an agreement with the UNHCR concluded in 2008, to annually resettle a hundred cases on a dossier-basis. Yet, it gives OFPRA (Office Français Pour les Réfugiés et Apatrides) the responsibility to grant the refugee status on the basis of the resettled persons' application when they arrive in France.

While legal and other formal basis enabling refugee resettlement have been adopted in a growing number of EU Member States, the different provisions relating to resettlement are all country specific. There is no standard model shared in the EU. Those provisions can be divided between those which mention the UNHCR and those which do not; those which specifically mention the word 'resettlement' and those which do not; those which address the possibility to resettle without any details and those which specify the procedures to follow and/or the rights granted. Paradoxically, the countries which detail resettlement the most are also the countries which have not resettled yet, such as Poland and Slovenia.

The diversity in the formal basis for resettlement is even greater in substance, when looking at the content of resettlement frameworks and policies in the EU Member States.

3. Diversity in the Content of Resettlement Frameworks and Policies

While 'being part of the club' is a key motivation for Member States getting engaged in refugee resettlement, Member States are extremely unreceptive to any proposal to harmonise the selection of refugees to be resettled. The ERF is a way in which the selection of refugees may be influenced. Nevertheless, the EU is unlikely to develop a common selection procedure nor is it likely to reach an agreement as to how to divide the resettled refugees amongst Member States. Even more problematic is the diversity in the status and rights granted to the resettled persons and the integration capacity of Member States.

3.1 Diversity in Selection Criteria and Procedures

The UNHCR has developed standards to identify and select the refugees who are most in need of protection. EU funding instruments have partly supported those standards.

According to UNHCR Resettlement Handbook, 'Refugee status determination is a precondition to resettlement.'⁶³ The 1951 Convention and its Protocol constitute the primary refugee protection instrument which provides the definition of a refugee. The UNHCR was initially established to seek

⁶¹ Migration Policy of the Slovak Republic- Perspective until the year 2020, 31 August 2011

⁶² Interview with Counsellor Fiammetta Milesi Ferretti, agent for the Ministry of Foreign Affairs on the National Commission for Refugees (Commissione Nazionale per il diritto d'asilo), 5 May 2012.

⁶³ UNHCR Resettlement Handbook 2011 p.21.

solutions for refugees, as they were be defined in the 1951 Convention.⁶⁴ On the basis of the ‘soft law’ which has made refugee law evolve, through Declarations and Resolutions adopted at inter-state level on the one hand, and regional legal instruments adopted in Africa (the 1969 OAU Convention governing the specific aspects of Refugee Problems in Africa) and in Latin America (the 1984 Cartagena Declaration on Refugees) on the other hand, the UNHCR has extended its mandate to persons affected by the indiscriminate effects of armed conflict or other events which have seriously disrupted public order: *‘In addition to individuals who meet the criteria in the 1951 Convention definition, UNHCR recognises as refugees persons who are outside their country of nationality or habitual residence and unable to return there owing to serious and indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order.’*⁶⁵

Resettlement applied to refugees falling under one or more of the UNHCR Resettlement Submission Categories :⁶⁶

- Legal and/or physical protection needs of the refugee in the country of refuge (this includes a threat of refoulement);
- Survivors of torture and/or violence, where repatriation or the conditions of asylum could result in further traumatization and/or heightened risk; or where appropriate treatment is not available;
- Medical Needs, in particular life-saving treatment that is unavailable in the country of refuge;
- Women and Girls at Risk, who have protection problems particular to their gender;
- Family Reunification, when resettlement is the only means to reunite refugee family members who, owing to refugee flight or displacement, are separated by borders or continents;
- Children and Adolescents at Risk, where a best interests determination supports resettlement;
- Lack of Foreseeable Alternative Durable Solutions, which generally is relevant only when other solutions are not feasible in the foreseeable future, when resettlement can be used strategically, and/or when it can open possibilities for comprehensive solutions.

Some EU Initiatives have come in support to UNHCR resettlement standards and policies.

The EU considers and funds resettlement operations only when they follow the UNHCR’s requests (Decision No 573/ 2007/EC (Article 3 (1) (d)). The transfer of refugees from a third country to an EU country would not be considered resettlement and funded as such if it is carried out independently from the UNHCR. The EU also supports the resettlement of specific categories of vulnerable persons on the basis of the UNHCR’s selection criteria and prioritizes the resettlement of some refugee groups identified by the UNHCR as being in urgent need of group resettlement.

Decision 281/2012/EU of 29 March 2012 amending Decision 573/2007/EC has extended the funding of resettlement to the following categories of vulnerable groups:

- women and children at risk,
- unaccompanied minors,
- survivors of violence and/or torture,

⁶⁴ ‘A refugee is any person who ‘owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it’.

⁶⁵ UNHCR Resettlement Handbook 2011 p.19.

⁶⁶ *Ibid.*, p.37.

- persons having serious medical needs that can be addressed only if they are resettled,
- persons in need of emergency or urgent resettlement for legal and/or physical protection needs.

The amended ERF also prioritizes the resettlement of persons from a geographical location on the list of common priorities. For 2013, this list includes: Congolese refugees in the Great Lakes Region (Burundi, Malawi, Rwanda, Zambia); Iraqi refugees in Turkey, Syria, Lebanon, Jordan; Afghan refugees in Turkey, Pakistan, Iran; Somali refugees in Ethiopia; Burmese refugees in Bangladesh, Malaysia and Thailand; Eritrean refugees in Eastern Sudan.

The amended ERF still funds resettlement of persons from a country or region designated for the implementation of a Regional Protection Programme, and these programmes have been extended. The first two Regional Protection Programmes targeted the Newly Independent States (NIS) (Ukraine, Moldova and Belarus) and the Great Lakes Region (Tanzania). They now also cover the Horn of Africa (Kenya, Djibouti and Yemen) and North Africa (Egypt, Tunisia and Libya).

a) The Selection Process

During the last decade, most of the resettlement operations carried out in EU Member States have relied on UNHCR pre-selection, with some exceptions:

- In 2011, Austria resettled 31 Iraqis directly from Iraq where they had been selected by the Church, through representatives in Iraq of the archdiocese of Vienna. This operation was following the initiative of the Cardinal Christoph Schönborn.⁶⁷ The Austrian authorities emphasize that the resettlement activities of these Christians from Iraq were a humanitarian evacuation and not resettlement. Austria defines resettlement only those evacuations where refugees are evacuated from a third country and not from their country of origin.⁶⁸ The activities that have been carried out by Austria were an expression of solidarity and not a commitment to any further resettlement in the future.
- In 2011, on his way back from a visit to Tunisia, the Polish Minister of Foreign Affairs took a group of refugees on board of his plane, who after escaping from Libya, had found a temporary shelter in Tunisia.⁶⁹

It should be noted that these two countries are not considered as being resettlement countries.

Apart from these isolated examples, EU Member States select the refugees to be resettled from a list referred to them by UNHCR. Yet, only six Member States refer to the UNHCR in their laws as one of the basis or as *the* basis of resettlement, i.e. Hungary, the Czech Republic, Denmark, Finland, Ireland and Spain.

Section 7§(5) of the Hungarian Asylum Law provides that the Minister may grant refugee status to an alien who was granted recognition as a refugee by the competent authorities of another country or the Office of the United Nations High Commissioner for Refugees. The Czech law, Section 90 (Chapter XII, Joint, Delegating and Temporary Provisions) is similar: *‘The Czech Republic may grant asylum to an alien without previous proceedings if he/she has been recognized as a refugee according to an international agreement by a decision of the Office of the High Commissioner (UNHCR).’* Also

⁶⁷ <http://www.bmeia.gv.at/aussenministerium/presenews/presseaussendungen/2011/ankunft-von-30-irakischen-christen-in-oesterreich.html> (February 2012).

⁶⁸ Interview with the Austrian Ministry of the Interior, 6 February 2012.

⁶⁹ Sources: Polish Ministry of Foreign Affairs - note available on the Ministry of Foreign Affairs website: http://www.msz.gov.pl/en/news/foreign_minister_radoslaw_sikorski_brings_home_north_african_refugees and in the press and radio: <http://www.polskieradio.pl/5/3/Artykul/387167,Sikorski-wroci-do-Polski-z-uchodzcamiz-Libii>; Interviews with Mrs Agnieszka Kunicka, Head of the Refugee and Repatriates Counselling Centre, Polish Humanitarian Action, and Mr Maciej Fagasiński, Amnesty International Poland, May 2012.

Section 8 of the Danish Alien Act: *‘Upon application, a residence permit will be issued to an alien who arrives in Denmark under an agreement made with the United Nations High Commissioner for Refugees or similar international agreement (...).’* Section 90 of the Finnish Act (Refugee quota) stipulates *‘Under the refugee quota, Finland may admit for resettlement persons considered refugees by UNHCR or other aliens in need of international protection (...).’* In the Irish Refugee Law, the following subsection was inserted in 2003: *‘The Minister may, after consultation with the Minister for Foreign Affairs, enter into agreements with the High Commissioner for the reception and resettlement in the State of refugees.’* The Spanish Law on a sylum makes specific reference to resettlement programmes in the First Additional Provision: *‘The protection framework envisaged under the present law shall apply to persons who gain entry to Spain through resettlement programmes developed by the Government, in conjunction with the UNHCR and in some cases, other relevant international organisations (...).’* (unofficial translation).

The other Member States do not mention UNHCR in their national laws.

When referring some cases to resettlement states, the UNHCR takes into account the preferences and criteria previously discussed with and indicated by the Member States. Then, resettlement States generally add their own selection process, either on a dossier-basis or through selection missions, and may search for certain criteria which the refugees must satisfy.

The selection process in different States is extremely diverse. Criteria and procedures vary from one country to another. They may also vary from one year/period to another.

While Luxembourg and Portugal have exclusively resettled on a dossier-basis, for some Member States, dossier selection has become the rule after experiencing selection missions. In Ireland, face-to-face interviews are considered as the best form of selection. *‘You get a feel for the people to be resettled, can gather specific information, correct bio data etc. hear stories of their experiences first hand, explore family links that are not always visible on the RRF. With this information you can better prepare for their arrival and reduce surprises for service providers. You also have the opportunity to dispel myths and reduce unrealistic expectations and answer questions through a short cultural orientation programme held in association with the interviews. We also talk separately to the teenagers, the women and men as separate groups so that each one could ask their specific questions. That can be very interesting and enlightening.’* Yet, Ireland conducted selection missions only from 2005 to 2008 *‘due to the reduced numbers (of resettled refugees) at the moment.’* *‘We too must be realistic about the benefits based on the costs and effort required by many organisations to organise such missions. The numbers we are currently taking do not warrant missions.’*⁷⁰

Spain, which organised selection missions to Tunisia in 2011 and in 2012 to Syria, decided to base its 2013-2014 programme on dossiers. Italy only had selection missions in Iraq in 2009 to assess the local situation. Future resettlements to Bulgaria will be selected on a dossier basis.

Selection on a dossier-basis does not necessarily mean an easier and faster process. For instance, France refuses half of the dossiers submitted.⁷¹ Around eighty percent of all refugees from Iraq selected were accepted through selection missions, and twenty percent were selected based on dossiers provided by the UNHCR. Selection missions enable the authorities to have a clear and more realistic idea of how refugees live in their country of first asylum. Yet, selection missions come in addition to interviews already carried out by the UNHCR and may be considered by refugees as being an endless and exhausting process.

⁷⁰ Interview with Martina Glennon, *op.cit.*

⁷¹ Matthieu Tardis, France Terre d’Asile, 31 May 2013.

Most of Member States use both selection methods. Among the *ad hoc* resettlement countries, Belgium selected on a dossier-basis from Tunisia in 2011 while it organised a selection mission to Syria and Jordan in 2009. *‘For reasons of objectivity and verification it was decided at the time that a selection mission was necessary and that a dossier-based selection was not desirable. An important reason for this was the specificity of the refugee population: a section of the nominated dossiers involved persons with possible ties with the Ba’ath-regime of Saddam Hussein. The interviews carried out on location delivered additional and relevant information, that made it possible for the CGRS to make final decisions in questionable or complex dossiers, in both a positive and a negative manner.’*

For the resettlement of Eritrean and Congolese refugees from the Shousha camp in Tunisia in 2011, a selection mission was also planned initially. *‘However, it was decided that this mission would be cancelled due to the deteriorating security situation in the Shousha camp and the subsequent request by UNHCR not to organise a selection mission. Because the protection need, primarily that of the Eritreans, was overwhelmingly clear and the RRF’s of UNHCR were in general sufficiently extensive and detailed for profound analysis of the credibility and the refugee criteria, the Secretary of State Wathelet decided to follow the advice of UNHCR. This dossier-based selection was evaluated as positive and after arrival no cases of abuse were established. Cost cutting and speed of execution are the most important advantages of dossier-based selection.’*⁷²

The Czech Republic has opted for a policy of selection missions but dossier selection is still possible. Slovenia has taken the exact opposite stance for future resettlement. In Denmark and Finland, the rule is to select through missions but urgent cases can be selected through dossiers. Similarly, Belgium foresaw that if *‘it were to evolve to a resettlement country with a set programme, it would be possible for example to opt to reserve a number of places for dossier-based selection and urgent or emergency resettlement places. Another part of the quota, more specifically the priority groups, could then be selected through missions.’*⁷³

In the UK, refugees are generally selected for GPP resettlement during selection missions. Some cases are considered on a dossier basis. In future, some interviews may be conducted using remote video conferencing facilities.⁷⁴ Finland accepts around one hundred emergency cases a year on a dossier basis as an exception to the normal procedure which is to organise selection missions conducted by MIGRI officials, representatives of Employment and Economical Development Centres and, if necessary, security officials. In recent years, local municipalities have also taken part in the missions.

The Netherlands, which suspended missions from 1999 to 2005, chooses a hundred refugees a year on a dossier-basis and four hundreds through missions. Sweden has a specific approach, and selects more than half of its quota through dossiers and less than a half through missions.

Four Member States have opted for a selection on a mission-basis only, namely Germany, Hungary, Poland and Romania.

Selection missions are conducted in countries of first asylum, but may also be organised in an ETC in Romania or in Slovakia. The UK for instance selected some Palestinians from Syrian/Iraqi border camps in the ETC in Romania in 2009.

Whether or not they select on a dossier or mission basis, some Member States may require the selected refugees to apply for their status after arrival. This is the case in France and in Italy, as already mentioned above. This decision has most likely been made on the basis of legal reasoning: the law does not allow the granting of status abroad. France *terre d’asile* notes that, even if OFPRA (the French Office for Stateless persons and Refugees) tries to examine the applications on an accelerated

⁷² Written interview with Ewout Adriaens, *op.cit.*

⁷³ *Ibid.*

⁷⁴ Interview with Dave Atkinson, *op.cit.*

basis and always provides a positive answer, this additional application process has a psychological impact on the refugees. Added to this, the additional application process also represents extra work for integration stakeholders. The process of integration is also postponed.⁷⁵ In 2013, France made a number of commitments to reduce the obstacles that exist for refugees. As a result, resettled persons will not need to wait for their refugee stay permit – which takes months – before being able to access integration programmes, including French language classes. They will be able to sign their integration contract upon arrival. On top of this, OFPRA may no longer interview refugees and only apply a ‘transfer of protection’.⁷⁶ This is already the case in Belgium, where the resettled refugee, upon arrival in Belgium, must also go through the same steps as a regular asylum seeker even though this is merely a formality (i.e. no interview is carried out by the Immigration Service, nor by the CGRS).⁷⁷

The post-arrival application process in addition to the pre-arrival selection process exists in nine Member States, i.e. Belgium, Italy and France as have been already mentioned, as well as the Czech Republic, Germany, Romania, Hungary and Poland where it is foreseen in the future. Finally, in Sweden the post-arrival application process is optional. The majority of those countries have committed to resettlement on a programme-basis. Only Sweden, among them, is a traditional resettlement country, and the post-arrival application process is not a requirement but a possibility. The resettled persons receive their permanent residence permit independently of their status. The status of refugees can enable the resettled persons to have better access to some rights, such as family reunification. The requirement of a post-arrival process is not based on the fact that resettled persons have been selected on a dossier-basis since Sweden, the Czech Republic, Germany, Hungary and Romania also organise selection missions. This additional application process still prolongs the road to protection for vulnerable persons who have already followed an extremely long process to be recognised as refugee by the UNHCR, then being selected by UNHCR to be resettled, then by the EU Member State in the country of first asylum. It is thus recommended to abandon this additional process or at least to make it optional like in Sweden.

b) The Selection Criteria

Some resettlement states have advised the UNHCR that they are only prepared to accept refugees from certain locations or that they wish to exclude or favour certain categories of refugees. The UNHCR takes these profile restrictions into account when referring refugee cases to the different receiving States. In addition, those countries may add some other criteria in selecting refugees on a dossier or mission-basis. Those selection criteria thus vary from one Member State to another. They may be based on a series of national factors, that can be political, economic, legal, etc.

Geneva Convention and Mandate Refugees

Some Member States do not wish to depart from the refugee definition provided by the Geneva Convention and would not resettle refugees who do not meet its criteria. This is, for example, true in the case of the Czech Republic. This is also a legal requirement in Hungary (Asylum Law, Section 7§(5)). The Romanian Law (art.3(5)) similarly requires that resettled persons meet the requirements of the Geneva Convention. However, other Member States include the possibility to resettle persons who would meet the conditions to be granted subsidiary protection or humanitarian protection (e.g. Denmark, Finland, Sweden). In contrast, the Irish Refugee Act states that the person does not need to meet the definition of a refugee. In Section 24, “*A programme refugee*” means a person to whom leave to enter and remain in the State for temporary protection or resettlement as part of a group of persons has been given by the Government and whose name is entered in a register established and

⁷⁵ Matthieu Tardis, 31 May 2013, *op.cit.*

⁷⁶ *Ibid.*

⁷⁷ Interview with Ewout Adriaens, *op.cit.*

maintained by the Minister for Foreign Affairs, whether or not such person is a refugee within the meaning of the definition of “refugee” in section 2.’ The wording of the Finnish Act is also quite open: Section 90 states that ‘*Under the refugee quota, Finland may admit for resettlement persons considered refugees by UNHCR or other aliens in need of international protection*’; Section 92 stipulates among the Requirements for admitting aliens into the country under the refugee quota, that ‘*1) The alien is in need of international protection with regard to his or her home country, 2) The alien is in need of resettlement from the first country of asylum, 3) The requirements for admitting and integrating the alien into Finland have been assessed, 4) There are no obstacles under section 36 to issuing a residence permit.*’

ECRE advocates that ‘the determination of a protection status for resettlement within a European Resettlement Programme should be flexible, involving an inclusive interpretation of both the refugee definition in the 1951 Refugee Convention and of persons qualifying for subsidiary protection according to the EU Qualification Directive. Refugee Status Determination should also strongly (...) allow for resettlement to be extended to refugees recognised under the UNHCR mandate, including those recognised under the extended mandate.’⁷⁸

As stated in the UNHCR Resettlement Handbook, ‘the prima facie group determination is more easily applied in States which accept a wider definition of a refugee that includes indiscriminate or generalised violence.’⁷⁹ Most of the Member States would actually accept the resettlement of persons who do not necessarily fulfill the Geneva Convention criteria but would correspond to the subsidiary protection or humanitarian protection criteria. Yet, the status granted to those resettled persons would thus very likely be less protective than refugee status.

Group Resettlement and Strategic Use of Resettlement

As mentioned above, the UNHCR has an active role in identifying “priority caseloads” for resettlement to orientate resettlement states’ attention on certain refugee situations.

Recently resettled groups have included: Liberian refugees from Guinea and Sierra Leone, Somali refugees from Kenya, Burundian refugees from Tanzania, Congolese refugees from Burundi, Eritrean refugees from Ethiopia, Eritrean refugees from Saudi Arabia, Afghan refugees from Tadjikistan, Uzbek refugees from Kyrgyzstan, Burmese refugees from Thailand and Malaysia and Bhutanese refugees from Nepal.⁸⁰ The caseloads identified for 2012 were: Iraqis in Jordan, Syria and Lebanon; Iraqis and Iranians in Turkey, Afghans in Pakistan; Afghans in Iran; Somalis in Dadaab Camp in Kenya; Colombians in South America; Eritreans in East Sudan; North Africans displaced from Libya.

The observation of national statistics clearly shows the participation of EU Member States to group resettlements and the sharing of the same groups among some Member States. Iraqi refugees have been resettled in eleven Member States, with the largest contributors being Germany, France, the UK and Finland. The same groups of refugees may be resettled over several years. Like Germany and France, the Netherlands has resettled Iraqis for many years from the early 1990s. In 2010, the Netherlands’ quota allocated 150 places for Iraqi refugees. Likewise in the UK, which had pledged that two-thirds of the 750 annual places would be reserved for Iraqis in 2008. The UK continued to resettle refugees from Iraq in 2010 and 2011.⁸¹

Burmese refugees have been resettled in Ireland, the Netherlands, the UK and have represented the largest number of resettled persons in the Czech Republic, Denmark and Finland during the past

⁷⁸ ECRE AD10/12/2008/ext/AB, ‘Concrete steps towards a European Resettlement Programme’, Brussels, 10 December 2008.

⁷⁹ *op.cit.*, p.19.

⁸⁰ *Ibid.*, p.57

⁸¹ *10,000 Refugees from Iraq, A report on Joint Resettlement in the European Union*, *op.cit.*, pp.25, 27.

decade.⁸² Congolese have been resettled in Denmark, the Netherlands, Portugal, Finland, the UK and Belgium; Bhutanese refugees have been received in Denmark and the Netherlands, and Afghan refugees have been resettled in Finland, Sweden and the Netherlands, among others.

A strategic use of resettlement can become part of a State's foreign policy. The Czech Republic explains the focus of its resettlement programme on the Burmese by the long-term support for the Burmese democratic movement. Burma has long been a priority country for Czech foreign policy – former President Václav Havel nominated Daw Aung San Suu Kyi for the Nobel Peace Prize.⁸³ The Netherlands is also deeply influenced in its choice of mission destinations by the potential to make strategic use of resettlement. In their view, resettlement should contribute to the improvement of refugee protection and resettlement and should be the final cornerstone of the three durable solutions (return, local integration in the region and resettlement). The Dutch mission to Sudan in 2012 is a good example of the strategic selection of a mission destination.⁸⁴ The Dutch Minister for Immigration and Asylum recently proposed that resettlement be used as strategically as possible with regard to the other objectives of the country's migration policy.

Among refugee groups, certain caseloads have been labelled “risky”, such as the Somalis in Kenya, and others have constituted “favoured” caseloads, such as the Burmese from Thailand. The latter are deemed to be a low security risk and are believed to have attributes that make it easier for them to adjust to life in the resettlement country. This has led to situations where resettlement states actively compete for some groups of refugees while ignoring others in equally vulnerable situations.⁸⁵ As a result, Afghans were the largest refugee population in 2011 but were ninth when it came to resettlement. The Burmese, on the other hand, were seventh in overall population size but second in terms of the numbers resettled. Some larger refugee groups (the Sudanese, Vietnamese, Chinese and Serbians) did not feature at all in the top ten resettlement caseloads whereas the largest resettlement caseload (the Bhutanese) is from a numerically small community.⁸⁶

Bulgaria announced that the priority groups of its resettlement pilot programme would be Afghan and Iraqi refugees from Turkey,⁸⁷ which appear among the 2013 priority groups of the amended ERF. The financial incentive provided by the ERF evidently influences some Member States' contribution to group resettlement.

In Ireland, the preference is for group resettlement, particularly if there are five or more families from the same region where they can be a self supporting group. *‘Group resettlement allows us to place the refugees outside of the Capital in smaller communities without the risk of isolation. We tend to resettle individual cases in Dublin or Cork where they may find members of their own community. From an economy of scale point of view, group resettlement allows for the provision of a centralised reception, orientation and language training programmes post arrival to prepare the group for independent living. Service providers will be more inclined to engage in preparation activities for groups.’*⁸⁸

⁸² See Know Reset graph here <http://www.know-reset.eu/?c=00693>

⁸³ Petr Novak, Know Reset Final conference, *op.cit.*

⁸⁴ Written interview with Janneke van Etten, Senior Policy Officer at the Ministry of the Interior and Kingdom Relations, Migration Policy Department, Asylum, Reception and Return. Answers provided in consultation with the Immigration and Naturalisation Service, the Central Body for the Reception of Asylum Seekers and the Ministry of Foreign Affairs, April 2012.

⁸⁵ *Refugee Resettlement: 2012 and Beyond*, *op.cit.*

⁸⁶ *Ibid* p.24

⁸⁷ Interview with Anna Andreeva, Bulgarian State Agency for Refugees, February 2012.

⁸⁸ Interview with Martina Glennon, *op.cit.*

In contrast, France does not currently want to engage in group resettlement. Indeed, a commitment such would imply a commitment in terms of capacity that France says it does not have.⁸⁹ Moreover, it decided not to respond to the UNHCR special Call for North Africa and explained to the European Commission that the reason was the “generosity” of France for the plight of refugees in the world as evidenced by the high number of asylum seekers.⁹⁰

Geographical/National Origin and Regional Protection Programmes

Member States may have some preferences in selecting refugees from particular countries of origin or of first asylum. The preference for some national origin can be dictated by a search for continuity in the foreign communities already present in the receiving country. Some Member States believe that a sustained concentration of resettlement and reception on a particular group improves integration potential. In other words, if a State continues to resettle from the same group then an existing community is ready to welcome newly resettled refugees of that same group. Some Member States, like Portugal, favour a continuity in the origin of the refugees to be resettled. In Finland, the annual geographical allocation of the quota is also based on the need of continuity in the chosen refugee groups. France prioritized cases that have links with France or knowledge of French in the *Iraq 500* and EU relocation schemes – even if, in practice, NGOs did not notice that these refugees had specific links with France.

Then, the selection of refugees hosted in some countries of first asylum can be influenced by the development of Regional Protection Programmes (RPPs). The 2005 Communication which provided for RPPs⁹¹ set out that RPPs should be brought forward with the intention of enhancing the protection capacity of the regions involved and better protecting the refugee population by providing durable solutions, one of which is resettlement. The Communication stated that the resettlement of refugees from countries covered by an RPP to EU Member States was seen as an important factor in demonstrating the partnership element of RPPs to third countries.⁹² Since that 2005 Communication, RPPs have continued to be an important element in how the EU has approached resettlement. RPPs were again central to the landmark establishment of JEURP in 2009.⁹³ That Commission Communication stated that in RPPs which will be developed in the future, *‘resettlement should be more effectively incorporated and its implementation should be closely monitored.’*⁹⁴ The Council and Parliament’s Decision in 2013 on the EU’s resettlement priorities for 2013 further underlines the continued influence of RPPs in how the EU resettles.

The UK’s regional preferences are influenced by the situation of the RPP.⁹⁵ This is also the case for Belgium⁹⁶ and Portugal as additional European funding is available if resettlement takes place from a country/region where a Regional Protection Programme is in place.

Resettlement countries wish to favour the integration of the resettled refugees, not only at the post-arrival stage with integration tools but through selection. This can be done through opting for continuity in chosen groups, or through choosing certain UNHCR categories like women-at-risk and unaccompanied minors, who might be more expensive in a financial sense but are also more easily inserted into the receiving society.

⁸⁹ Matthieu Tardis, 31 May 2013, *op.cit.*

⁹⁰ Interview with Matthieu Tardis, *op.cit.*

⁹¹ COM(2005) 388 final.

⁹² Page 4, paragraph 7.

⁹³ COM(2009) 447 final.

⁹⁴ Page 10.

⁹⁵ Interview with Dave Atkinson, *op.cit.*

⁹⁶ Interview with Ewout Adriaens, *op.cit.*

UNHCR Submission Categories and EU Priority Funding

The role of European funding in targetting the categories of refugees to be resettled may be determinative in some Member States. In Portugal, the selection criteria for 2008-2013 followed the categories identified in paragraph 3 of Article 13 of the ERF. Cases accepted by the Government have been routed, so far, in legal or physical protection needs and in the absence of local integration prospects in the first country of asylum.⁹⁷

While a recent research paper was wondering: ‘Why is it that the acceptance rate of submissions relating to women, children and adolescents at risk has the lowest acceptance rates when it can easily be argued these are some of the most vulnerable refugees?’,⁹⁸ this category of vulnerable refugees has been prioritised by several Member States and has also been prioritised by the ERF.

Belgium prioritized Palestinians and women-at-risk in 2009. In 2011, it favoured families with children and single women. The UK also decided on the resettlement of a small percentage for medical cases and a higher percentage for women-at-risk.⁹⁹ Most Iraqi refugees arriving in the UK through the GPP between the end of 2008 and 2010 were families, in addition to some cases of women-at-risk.¹⁰⁰ There are no so-called “important target groups” to be found in the Dutch policy, these depend on the mission destinations and as such can change on an annual basis. However, persons with traumatic experiences (victims of violence or torture), women “at risk” and persons with serious medical conditions do receive special attention.¹⁰¹ Similarly, for France, protection needs are the main criteria for the Ministry and more particularly the lack of protection and integration prospects in the country of first asylum. Vulnerable groups such as women and children at risk, victims of violence and medical needs are prioritised.¹⁰²

The proportion of resettled women (not only at risk) seems to be higher than the proportion of men. This is also the case in the refugee population as a whole in at least in five EU Member States where the information has been made available. In Belgium, women have accounted for 79% of the total of resettled people over the past decade. This figure stands at 60% in Portugal, 55% in Germany, 53% in Romania and 51% in the UK.¹⁰³

In contrast, some categories of vulnerable persons, like elderly persons, may be deemed unlikely to integrate and therefore may not be accepted for resettlement. This is the case in Ireland. ‘*In the past a small number of unaccompanied older persons were accepted and while their safety and security was taken care of they were very isolated and lonely.*’ Rather, ‘many older people are admitted as a part of family units. They may eventually live apart but they benefit from the support of the family unit that accompanied them.’¹⁰⁴

‘Likewise, in general, cases with serious mental health issues are not accepted. This is due to difficulties accessing appropriate services in the Irish Mental Health sector. Issues arise as many of the cases referred through resettlement have minority languages and it can be difficult to provide services through an interpreter that is not specifically trained to interpret in a mental health environment. Therefore, in the best interests of the applicant we do not accept persons with serious mental health

⁹⁷ Interview with Internal Affairs, Portugal, *op.cit.*

⁹⁸ *Refugee Resettlement: 2012 and Beyond*, *op.cit.* p.28. The same report actually notes that since 2006 there has been a renewed focus on women and girls at risk.

⁹⁹ Interview with Dave Atkinson, *op.cit.*

¹⁰⁰ *10,000 Refugees from Iraq, A report on Joint Resettlement in the European Union*, *op.cit.*, p.26.

¹⁰¹ Interview with the Dutch Ministry of Interior, *op.cit.*

¹⁰² Presentation of the Head of the Asylum Service of the Ministry of Internal Affairs to a seminar on resettlement organised by France terre d’asile in June 2011, reported by Matthieu Tardis during his interview, *op.cit.*

¹⁰³ See the Know Reset graph here <http://www.know-reset.eu/?c=00691>

¹⁰⁴ Interview with Martina Glennon, *op.cit.*

issues.¹⁰⁵ In France too, authorities and social workers are making a link between the selection criteria, and the refugees' integration. Namely, they consider that vulnerable refugees (medical cases, aging refugees) are more difficult to accommodate and to integrate.¹⁰⁶

Unlike the other Nordic countries, Sweden does not have special provisions for special categories like urgent medical cases.¹⁰⁷ Sweden prioritises maximum flexibility in filling the quota. It considers that, if a specific number of places is established for women for example then one has to deny places to this category after the ceiling has been reached. Moreover, if there are fixed places for a category e.g. unaccompanied minors, it can be difficult to find places for this category in municipalities.¹⁰⁸

Strategies designed far in advance of programme resettlement can result in certain difficulties in responding to emergency situations. When a crisis develops, such as the situation that occurred when resettlement was urgently required for large numbers of refugees who had fled to Egypt and Tunisia from Libya in 2011, the response was extremely slow. On a macro level, it is relevant to note that during 2011, only 72.7% of cases that the UNHCR had submitted to Member States and that were deemed as having "emergency priority," were accepted. This compares to 86.1% of the "urgent priority" cases and 94.1% of the "normal priority" cases and reflects a situation where refugees with relatively lower protection needs have a greater chance of being resettled in a timely manner.¹⁰⁹

Some Member States allocate part of their quota for urgent and emergency cases, like Sweden (350 places). Other countries such as Ireland do not have a reserved number of places for emergency resettlements, such cases are included in the quota. The UK, for its part, does not support the resettlement of refugees in emergency situations and argues that its policy is to provide help and advice in alleviating the situation in situ.¹¹⁰ It considers that resettlement programmes are aimed at relieving the burden of refugees in protracted situations where resettlement is the only viable solution.

Some Member States resettle specific categories of refugees, independently of UNHCR and the EU priorities. Sweden for instance has an agreement with the International Criminal Court in The Hague to offer resettlement to Tribunal witnesses and their family members.

Denmark agreed in 2007 to resettle Iraqis, following an initiative by Danish soldiers in Iraq. It decided to resettle Iraqis who had formerly worked for the Danish Coalition forces in response to reports that the safety of a number of employees and their families was threatened because of their association with the troops. The decision to resettle preceded the withdrawal of Danish troops by approximately one month. International media sources reported that two hundred Iraqi aides and translators were secretly airlifted out of the southern region of Basra in July 2007. Likewise, in 2007, the British government began to resettle Iraqis that were formally locally employed (LE) with the British Armed Forces or civilian missions. The UK decided to reserve 600 of the 1,000 places allocated for Iraqis from the end of 2008 to March 2010 to LE and their dependants, provided they meet the UK resettlement programme criteria. The UK government stopped accepting LE Iraqi applications for resettlement in May 2009; although not all of those who were accepted had arrived. A smaller number of Iraqis, who were not former employees of the British Forces in Iraq, have been accepted for resettlement based on referrals from the UNHCR. In 2013, the UK announced the same priority for former locally-engaged staff in Afghanistan¹¹¹.

¹⁰⁵ *Ibid.*

¹⁰⁶ Interview with Matthieu Tardis, *op.cit.*

¹⁰⁷ Interview with Oskar Ekblad, *op.cit.*

¹⁰⁸ Phone interview with the Swedish Ministry of Justice, Division for Migration and Asylum Policy, 30 March 2012.

¹⁰⁹ *Refugee Resettlement: 2012 and Beyond*, *op.cit.* p.13.

¹¹⁰ Interview with Dave Atkinson, *op.cit.*

¹¹¹ See for instance here <http://www.bbc.co.uk/news/uk-22620207>

National preferences for certain refugee categories, when they do not compete, can be complementary. From 2008, when refugees having fled from Iraq were resettled in EU Member States, some Member States opted to resettle Palestinians while others preferred Iraqis, most of the time on the basis of a pre-existing community in the country. The UK and Italy made Palestinians a resettlement priority in 2009, while Germany, Luxembourg and Portugal have not integrated Palestinians into their ad hoc or quota resettlement programmes for Iraqi refugees.

The objective of having a concerted approach to resettlement in the EU should not necessarily be to have the same targets in all the Member States, except when a group situation urgently needs to be resolved. Currently, despite the apparent diversity in selection criteria, there is a certain amount of common ground in relation to profile restrictions, which results in “competition” for the favoured caseloads while those in the excluded groups can be left out in the cold.¹¹² This situation is partly due to resettlement states’ focus on the ‘integration potential’ of refugees.

The ‘Integration Potential’: A Criteria for Refugees or for the receiving society?

One important consideration is the introduction of the so-called integration potential criteria into the selection process. It has been adopted by the Czech Republic, Denmark, the Netherlands, Finland, France, Germany, Slovenia. In Romania, the potential for integration was applied in 2008, but dropped in 2012 in the revised resettlement programme after discussions with the UNHCR. Denmark has even incorporated the integration potential criteria into legislation and added supplementary criteria of influence: language qualifications, education and work experience, social network, age, motivation.¹¹³ The Dutch Minister for Immigration and Asylum recently proposed to the UNHCR that they select higher profile refugees such as human rights activists and academics.

Actually, several Member States which have committed to resettlement, expect a return on their investment. In Spain for instance, *‘the incentives could be to obtain some form of compensation for the participation in European Resettlement programmes, financial compensation alone would not be enough because these programmes should be co-financed by each EU Member State. Perhaps the selection of highly qualified/skilled persons who would be more likely to integrate into Spanish society may positively determine an eventual decision to resettle. The most important factors may include the necessity to obtain skilled workers suitable for the labour market of each country, as well as a profile of resettled people who won’t run up excessive expenses in the health care or social system of EU Member States.’*¹¹⁴

This is a reminder of resettlement policy after WWII, as explained by Sweden: *‘Resettlement in Sweden started in 1950, when the first annual refugee quota was set. To begin with, the Swedish refugee quota was a contribution to the international ambitions to empty the refugee camps in Europe after the Second World War. At the time, Sweden also suffered a labour shortage. In fact, nine out of ten of the collective transferred refugees between 1950 and until mid-1970’s were of working age and able-bodied. Sweden’s resettlement activities have since taken a humanitarian direction.’*¹¹⁵ Today, Sweden does not use integration criteria, and *‘believes that the integration element can be evaluated in cases of labour migration but not in the case of refugees, where the need for protection should be decisive.’*¹¹⁶

¹¹² *Refugee Resettlement: 2012 and Beyond*, op.cit. p.13.

¹¹³ Section 8 (4) of the Aliens Act: In the selection of aliens issued with a residence permit under subsections (1) to (3), the aliens’ possibilities of establishing roots in Denmark and benefiting from the residence permit, including their language qualifications, education and training, work experience, family situation, network, age and motivation, must be emphasised, unless particular reasons make it inappropriate.

¹¹⁴ Interview with an advisor to the Spanish Employment Ministry, op.cit.

¹¹⁵ Interview with Oskar Ekblad, op.cit.

¹¹⁶ Interview with Andreas Ollinen, op.cit.

While basing the selection of refugees on criteria that is supposed to favour integration rather than vulnerability is problematic, the frontier between both considerations can be tiny. In 2008, Germany was considering helping Iraqi refugees suffering religious persecution and sought specific measures to help Christian Iraqis. Since the Christians were persecuted because of their religion, governments easily argue that the reason for their selection was their particular vulnerability. Yet, choosing Christians instead of Muslims may also be motivated by some EU Member States' wish to limit the reception of a culture deemed to be a threat to the main culture of the country. In 2008, after much internal and external debate and negotiation involving UNHCR and the EU, Germany agreed to admit not only refugees from persecuted minorities but also vulnerable refugees with specific medical needs and female headed-households.¹¹⁷ Likewise, in France, the *Iraq 500* programme was adopted by the President of the French Republic after a visit of the Minister of Foreign Affairs to Iraq and his meeting with a high representative of the Chaldean Catholic Church there in 2007. The scheme was first dedicated only to Christian Iraqis. Some organisations, including France terre d'asile, protested against the scope of this humanitarian programme and underlined the contradiction between, on the one hand, the target of the programme and, on the other hand, the principle of secularism and the protection grounds. Finally, the programme was opened to all "persecuted minorities."¹¹⁸

A specific situation that seems to particularly impact upon Eastern European countries is that most of them argue that refugees do not want to be resettled in their countries. Bulgarian experience with relocation, considered as a test for further resettlement, revealed that no refugee in Malta was ready to go to Bulgaria.¹¹⁹ The refugees resettled in Romania in 2009 are said to have left the country after they received a residence permit. *'The group of 38 refugees resettled in Romania were extremely unhappy about their current situation and what they felt was a dire socio-economic condition compared to their lives in Malaysia, where there were plenty of jobs and good wages (...) The refugees claimed they had been given confusing information about their new home country by the Romanian authorities and UNHCR during the cultural orientation course prior to their departure. They criticized Romania for not being a good resettlement country and demanded that the UNHCR send them to the USA or a Nordic country.'*¹²⁰ Hungary had a similar experience. In 2007, it provided refuge to 29 Cuban nationals who were living on the US base in Guantanamo. The majority of the refugees had already left Hungary only a few months after arrival and settled down in Spain. Hungary has also participated in the EU relocation pilot project in Malta (EUREMA). The relocated couple spent only three days in Hungary before returning to Malta. Having assessed the reception conditions actually offered by Hungary the relocated couple found that they were not given what had been promised to them.

In Italy too, the Palestinian refugees resettled in Riace fled to Norway, where they are said to have received a more attractive social package and would have better socio-economic opportunities.¹²¹ They were then brought back to Italy even though they were not brought back to Riace but were reinserted in other reception facilities in Italy. Italy considers that it is the lack of money available which led to the Palestinians leaving the country.

These countries actually share several gaps in their integration capacity and probably a lack of qualified resettlement/relocation planning that takes place before the arrival of the resettled/relocated

¹¹⁷ *10,000 Refugees from Iraq, A report on Joint Resettlement in the European Union, op.cit.*

¹¹⁸ Interview with Matthieu Tardis, *op.cit.*

¹¹⁹ Anna Andreeva, Final Conference, *op.cit.*

¹²⁰ 2010 Participatory Assessment Report of UNHCR Being a refugee How refugees and asylum-seekers experience life in Central Europe, available online at <http://reliefweb.int/report/bulgaria/being-refugee-how-refugees-and-asylum-seekers-experience-life-central-europe>

¹²¹ According to the Counsellor Milesi Ferretti, *op.cit.*

refugees.¹²² Most of all, they share a problem of “managing refugees’ expectations” which is also underlined in France¹²³ despite the better integration capacity available there.

The 2012 Decision in Romania, which dropped the integration potential criteria, nevertheless requires refugees to express their consent to be resettled in Romania before being moved there. This option is the result of a misunderstanding on the part of the Romanian State as to the reasons why refugees leave the country post resettlement and as to the purpose of resettlement in the first place. The decision suggests that refugees should be grateful to be resettled in the EU, regardless of the situation that they find themselves in once they have been resettled. If there was better information as to the reception conditions available and as to life in the receiving country then expectations would be more realistic.¹²⁴

Besides, *‘resettlement should not be about what the entrants can do for a country but more about what the country can do for them. The raison d’être for resettlement is and always should be protection. (...) Who is to say that people determined not to possess “integration potential” will not settle well? There is ample evidence that this need not necessarily be the case – providing refugees are given the right sort of assistance.’*¹²⁵ Resettling governments that focus on the ‘integration potential’ of refugees justify their position by claiming that it makes it easier to provide services and that integration will be more successful. These criteria, however, are hard to meet for displaced persons who were born in camps or who have been living there for a long time. They are also likely to rule out some of the most vulnerable refugees.

In selecting refugees for resettlement, the UNHCR urges countries not to use integration potential and other discriminatory criteria (e.g. family size, age, health status, ethnicity and religion). Such discrimination undermines the protection and needs-based approach to resettlement, creating inequalities and protection gaps, and limits access to resettlement for some of the refugees who are most at risk. The integration of refugees in a country of resettlement is therefore a separate consideration, which involves the refugees’ adaptation and active participation in the new society.¹²⁶

Recently, the UNHCR has called for the resettlement of 2,000 Syrian refugees by the end of 2013. People with serious medical needs and the disabled are set as being resettlement priorities by the UNHCR.¹²⁷ The UNHCR announced that it will discuss the selection with each resettlement country to avoid the application of discriminating criteria such as religion. It has called the resettlement countries to be flexible in their selection criteria.¹²⁸

*‘Instead of discussing the integration potential of refugees it might be useful to move forward to a focus on the integration capacity of (the receiving country). This way, the responsibility rests on the receiving country to ensure access to necessary support services in place to facilitate integration of arriving refugees.’*¹²⁹

Yet, as stated above, the more EU Member States that are open to flexibility in selecting refugees, the more those States may provide flexibility in the status and rights granted to refugees. Indeed, recent resettlement experiences have led to the resettled persons being granted a temporary protection and rights that are not similar to those offered with the refugee status.

¹²² Interview with UNHCR Hungary, *op.cit.*

¹²³ Interview with Matthieu Tardis, *op.cit.* and Interview with the Ministry for Integration, Asylum Service, 3 April 2012.

¹²⁴ Interview with Matthieu Tardis, *op.cit.*

¹²⁵ *Refugee Resettlement: 2012 and Beyond*, *op.cit.* p.23.

¹²⁶ Interview with UNHCR Hungary, *op.cit.*

¹²⁷ UNHCR – Responding to protection needs of displaced Syrians in Europe – June 2013.

¹²⁸ Newsletter 59 France terre d’asile, September 2012.

¹²⁹ Interview with UNHCR Hungary, *op.cit.*

3.2 Diversity in Status and Rights Granted¹³⁰

According to the UNHCR, resettlement involves ‘*the selection and transfer of refugees from one state in which they have sought protection to a third state which has agreed to admit them – as refugees – with permanent residence status. The status provided ensures protection against refoulement and provides a resettled refugee and his/her family or dependents with access to rights similar to those enjoyed by nationals. Resettlement also carries with it the opportunity to eventually become a naturalised citizen of the resettlement country.*’¹³¹

The ERF has voiced support for this set of objectives. According to the Decisions establishing the ERF III (2008-2013), an action is considered a resettlement and only funded as such if the persons transferred from a third country to a Member State are permitted to reside with refugee status.¹³² Alternatively, a status which offers the same rights and benefits under national and Community law as refugee status may be awarded.

This means that granting subsidiary protection or another status on the basis of national law would not preclude an ERF support if this status grants the same rights as refugee status.

The EU law and accordingly national laws in the EU Member States, stipulate that two forms of protection can be granted: refugee status and the subsidiary protection. In most of EU Member States, the rights attached to the refugee status are different from those granted with the subsidiary protection. Moreover, the rights attached to both statuses vary from one Member State to another.

While all EU Member states may grant the refugee status to resettled refugees, some of them may instead only grant a subsidiary protection to part of them. This is the case in the Czech Republic, Denmark, Italy, Portugal, Poland, Romania, Spain and Sweden.

This is not always applied in conformity to national law. The Polish Act foresees that resettlement applies both to persons meeting the requirements of refugee status and of subsidiary protection – and leads to one of those statuses – like most of the Member States. In contrast, the Hungarian law, like Spanish law 12/2009, only mentions refugee status as regards resettlement: ‘*Refugees who are resettled in Spain will have the same status as refugees who are recognised as such under the provisions of this Law.*’ Yet, among the 80 refugees resettled from Tunisia to Spain in 2012, 74 were granted subsidiary protection, only four received refugee status and two were family reunifications. The impact on the right of residence is significant, as a refugee receives a five-year residence permit in Spain while a person who has received the subsidiary protection will only receive a one-year stay permit.

In many Member States, the rights attached to refugee status differ from those granted with the subsidiary protection. The Portuguese Asylum and International Protection Law (Law 27/2008 of June 30) issues residence permits for refugee status for five years, renewable for similar periods, and residence permits for subsidiary protection are issued for a minimum of 2 years, renewable for similar periods. In Italy, subsidiary protection leads to a three-year stay permit, instead of a five-year residence permit for a refugee. It is in France that the difference between residence permits are best highlighted, refugees receive a ten-year residence permit and a beneficiary of the subsidiary protection receives a one-year residence permit.

Granting status that is different from refugee status does not necessarily mean that the resettled person is only temporarily protected. Those who are resettled in Sweden are divided into three categories and may be granted one of the following statuses: (i) convention refugees (ii) persons in need of subsidiary protection or (iii) individuals “otherwise in need of protection.” Yet, they all

¹³⁰ For an exhaustive comparison of the status and rights granted to resettled refugees in the EU, see the country profiles of the 27 Member States on Know Reset website, <http://www.know-reset.eu/?c=00003>

¹³¹ UNHCR Resettlement Handbook 2011, p.3.

¹³² Within the meaning of Article 2(d) of Directive 2004/83/EC.

receive a permanent residence permit before arriving in Sweden, whatever their status.¹³³ A right to permanent residence, in conformity with the UNHCR's standard, is also provided in Belgium and in the UK. In most of Member States, the residence permit is time-limited but renewable, and in some of them, it is common to all resettled persons, whatever their status. This is the case in Denmark and Finland, which grant a four-year stay permit to resettled persons. The Netherlands deliver a five-year residence permit, which then leads to a right to permanent residence. In Romania, the law stipulates that resettled persons '*will have the same rights and obligations in Romania as the refugees recognized by the Romanian State*' (Art. 3(5)).

The ERF's financial incentive can clearly orientate the decision. This was the case for Belgium in 2009 and 2011: '*Amongst others because of the funding regulations of the ERF, refugee status must be granted in Belgium and as such, persons who are only eligible for subsidiary protection are excluded. In the future, expanding to include subsidiary protection could be considered, including the relevant criteria, or potentially the development of a completely parallel resettlement procedure with its own criteria and a status sui generis.*'¹³⁴

This is already happening in Ireland, where resettled persons have a specific status, the 'programme refugee,' which provides similar rights to those offered to the refugees, but also some specific rights, such as some facilities for family reunification. Under the current Irish resettlement programme, members of the family are dealt with in two ways. Immediate family members are included in the quota. Therefore when an application is examined, care is taken to ensure that all of the nuclear family members are considered together at the time of application. The admission of any other family members such as siblings of the applicant, are at the discretion of the Minister. Should an applicant decide to omit a member of the nuclear family at the time of application, and then seek to be reunited with that family member at a later date, this type of application would be at the discretion of the Minister. The definition of "family member" for resettlement purposes, which includes unmarried children over the age of 18 years, is broader than the definition of "family Member" in the Refugee Act 1996, as amended. This avoids a situation where the act of resettlement actually results in other family members becoming "vulnerable" in their current environment and reduces the number of family reunification applications later.¹³⁵

In contrast, resettled persons in Germany have less rights in terms of family reunification than those of the refugees, which may inhibit the integration of the refugees. This is a reason why the country has been criticised by some stakeholders, despite Germany's recent significant commitments in refugee resettlement. The national legislation for the future resettlement programme will be the same as for the *ad hoc* resettlement of Iraqi refugees in 2009/2010, which does not provide a refugee protection status. The resettled refugees will receive temporary three-year residence permits, renewable where deemed necessary. After seven years, provided the applicant meets the relevant requirements, a settlement permit may be granted.

Some recent changes in some Member States have tended to favour the integration of resettled persons. They concern the placement upon arrival. The placement in camps may postpone or even impede integration prospects.¹³⁶ France has therefore decided that resettled persons would now be

¹³³ Interview with Oskar Ekblad, *op.cit.*

¹³⁴ Interview with Ewout Adriaens, *op.cit.*

¹³⁵ Interview with Martina Glennon, *op.cit.*

¹³⁶ An illustration with the reception conditions in Hungary: '*As for reception conditions in general, refugees and beneficiaries of subsidiary protection are accommodated in the open OIN integration facility in Bicske (...). The present system has proven to be ineffective in equipping beneficiaries of international protection with the skills required for integration. Living in Bicske for up to one year keeps people isolated from the local community. Most of the residents do not have any contacts with Hungarian people except for the social workers. They often do not have any other ties to people living outside the camp who could ease their integration into the society. This also slows their process of learning the language and how different institutions and services operate. After having lived in Bicske for 6 months most of the refugees do not dispose of the features*

placed in houses.¹³⁷ This important reform nevertheless prolongs the resettlement process as the reception of refugees is decided as and when houses are getting available. A recent change has also taken place in the Dutch resettlement policy, aimed at the direct placement of refugees in the municipalities. From the moment of selection of the refugee that is to be resettled, contact is made with local and regional authorities in relation to the preparation for housing and support.¹³⁸

For Hungary, *‘a positive Finnish experience was not to try integration in the capital, but in a smaller place, where local community can take a part in the integration. The families or groups this way integrate really in the society and not in their local diaspora, from which they might have wanted to detach anyways.’*¹³⁹ This interpretation goes against the Irish experience for instance. As mentioned above, resettlement is organised in such a way that the refugees can be in contact and maintain the link with their fellow nationals. Individual cases are generally resettled in the greater Dublin area while groups are resettled in smaller places. In addition, *‘one thing unique about the Irish programme is that the Resettlement Unit, Office for the Promotion of Migrant Integration provide direct support to individual cases resettled in Dublin while local authorities and NGO’s provide direct support services for those resettled outside of the Capital. This keeps the National Coordinating team in touch with the day to day issues arising and helps us to understand the challenges faced by both the refugees and the service providers. Each year the learning informs the process for the coming year. The country is also smaller than most EU Member States.’*¹⁴⁰

The support and monitoring of refugees by service providers are indeed essential for refugees. In Italy, the placement in individual houses did not favour the integration of the resettled refugees since they were situated in uninhabited areas with no public transportation facilities. Isolation and the lack of employment perspectives led to a number of resettled persons leaving Italy.

In most Member States, the resettled persons get permission to work and access to all social benefits. Yet, even in countries where the resettlement experience is described as a success, like in the UK or in Ireland, a low level of employment and of economic independence among the refugees has been noted.¹⁴¹

A growing concern applies to the possible development of a lower reception quality, which may be a result of a greater number of places being available for resettlement. The UK for instance aspires to increase its quota of 1,000 refugees per year when this becomes affordable, but *‘the present fiscal climate suggests that additional money for resettlement is unlikely in the near future and the focus will need to be either: increased funding from Europe; or reducing the levels of support and accommodation to refugees in order to increase the numbers resettled within the existing budget.’*¹⁴²

Does accepting a greater number of refugees necessarily mean offering less rights?

The UNHCR itself has had to call for temporary shelter in order to get more resettlement States to respond to major refugee crises. Apart from calling for the durable resettlement of 2,000 Syrian refugees -who do not appear among the priority groups of the EU as listed for 2013 and as proposed

(Contd.) —————

– detailed knowledge on employment conditions, satisfactory health condition, own financial resources, language etc. – that are needed for finding employment. After being released from Bicske, refugees do not have any realistic prospects on access to accommodation or employment. Access to language courses is also of great concern. As a result, some refugees opt to move to other EU Member States, upon recognition of their refugee status. If returned to Hungary, they often become homeless. Homeless refugees reportedly face various violations of their physical integrity, with single women and the vulnerable particularly at risk’. Interview with UNHCR Hungary, April 2012

¹³⁷ Matthieu Tardis, 31 May 2013, *op.cit.*

¹³⁸ Interview with the Dutch Ministry of Interior, *op.cit.*

¹³⁹ Interview with the Hungarian Office of Immigration and Nationality (OIN), April 2012.

¹⁴⁰ Interview with Martina Glennon, *op.cit.*

¹⁴¹ Interviews with Dave Atkinson and Martina Glennon, *op.cit.*

¹⁴² Interview with Dave Atkinson, *op.cit.*

for the future AMF (Asylum and Migration Fund) - it also called for the 'humanitarian' temporary reception of 10,000 Syrian refugees in 2013. Germany responded to the call by offering to receive 5,000 Syrians, some of whom already have family links with Germany. This valuable German contribution to protecting refugees and alleviating the effort of the countries of first asylum is double the number of refugees that Germany resettled during the Iraqi refugee crisis five years ago. In terms of protection however, this contribution may be more comparable to the temporary protection granted during the Kosovo war in 1999, and is therefore linked to the hope of a rapid return of Syrian refugees to their country of origin – which appears to be unlikely, given the current situation there.

While the integration of refugees in general and resettled refugees in particular, has become the focus of the UNHCR together with governmental and non-governmental stakeholders involved in the field, opting for the temporary protection of refugees in situations which call for durable solutions may raise additional difficulties both for refugees and the receiving societies.

'Resettlement is a process which only begins with the transfer of a refugee and her/his family and dependants to a new country. Just as with the other durable solutions, integration is thus essential to the durability of resettlement. UNHCR only supports the resettlement of further persons of concern once there is a proven system in place addressing in a comprehensive manner a reception and integration system. The status provided in the country of resettlement should provide a resettled refugee and her/his family and dependants with a durable solution: integration requires the receiving country to ensure that refugees have access to resources required for their longer term stability and adjustment to the new society, while fostering a sense of belonging and participation.'¹⁴³

4. Responsibility-Sharing and the Resettlement/Relocation Dichotomy

This report has already established that a considerable revolution has occurred in the approach taken by the EU and its Member States toward resettlement over the course of the past ten years. However, in the past few years a parallel system has emerged which has, at times, overlapped and at other times been obvious in its differences. That parallel system of 'intra-EU resettlement' is most commonly referred to as relocation.

Resettlement has already been set out above in a quote from the UNHCR as being "the selection and transfer of refugees from one state in which they have sought protection to a third state which has agreed to admit them – as refugees – with permanent residence status."¹⁴⁴ In the EU, it should be added that that third State must be the country of first asylum which is not a Member State of the EU. Relocation on the other hand refers to the transfer of persons from one Member State to another. A Commission Communication from 2009 sets out a further explanation as to what resettlement is and also provides an explanation as to relocation. Resettlement is a humanitarian exercise concerned with solidarity with third countries i.e. those States which are not Member States of the EU.¹⁴⁵ Relocation on the other hand is a 'burden sharing' exercise, the purpose of which is to share the responsibility of receiving refugees among Member States of the EU. Thus, relocation is concerned with intra-EU solidarity.¹⁴⁶

¹⁴³ Interview with UNHCR Hungary, *op.cit.*

¹⁴⁴ UNHCR Resettlement Handbook 2011, p.3

¹⁴⁵ Based on the wording of the Commission Communication to the European Parliament and the Council on the Establishment of a Joint EU Resettlement Programme. Page 3. See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009DC0447:EN:NOT>

¹⁴⁶ Based on the wording of the Commission communication to the European Parliament and the Council on the Establishment of a joint EU resettlement Programme. Page 3. See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009DC0447:EN:NOT>

4.1 The Emergence of Relocation

The intra-EU solidarity which led to relocation can be traced back to the intense strain on southern Member States in dealing with mass arrivals of irregular migrants. In 2009, Cyprus, Greece, Italy and Malta adopted what is now commonly known as the Quattro Paper¹⁴⁷. This was a document highlighting these Member States' concerns with their asylum and migration situations, coupled with a list of recommendations primarily addressed to the EU. On 19th April 2011, the same EU Member States together with Spain adopted a Joint Communiqué, which reiterated their concerns in relation to the flows of migrants and asylum-seekers reaching their territory and calling the EU for 'responsibility-sharing' among the Member States¹⁴⁸. Those southern States made multiple requests for assistance from the Commission and their EU partners and have spoken in favour of relocating refugees *from* their territories.

The European Council Conclusions of June 2009 called for the coordination of voluntary measures for internal reallocation of beneficiaries of international protection present in the Member States exposed to specific and disproportionate pressures, starting with a pilot project for Malta. This project, called EUREMA for European Relocation Malta, targeted a total of 255 beneficiaries of international protection hosted in Malta. France, Germany, Hungary, Luxembourg, Poland, Portugal, Romania, Slovakia, Slovenia, and the UK joined the initiative to re-allocate beneficiaries with a view to integrating them in their respective societies¹⁴⁹.

In April 2011, the European Commission decided to extend the project (EUREMA II). The programme is set to run from the beginning of 2012 until the end of 2013. To bolster uptake for EUREMA, the EU made financial assistance from the European Refugee Fund available to both resettlement and relocation. This report has already considered how influential ERF funding can be as an incentive to resettle or not to resettle. It is certainly also the case with regard to relocation.

While the first EUREMA project was a pilot experiment in relocation, the second EUREMA can be seen as being a response to a specific crisis. On the 12 May 2011, the European Commission organised a Ministerial pledging conference for relocation of migrants from Malta and resettlement of migrants from North Africa. Commissioner Malmström stated that *'The situation is very serious in both North Africa and in Malta'* and hailed the positive response from Member States as a show of solidarity both in an intra-Member State sense and also in the sense of solidarity with international partners¹⁵⁰.

Participation in EUREMA was considerable. Several Member States pledged their assistance, including Germany, Poland, Spain, The Netherlands, Denmark, Ireland, Romania, Slovakia, Lithuania, Portugal, Hungary and Bulgaria as well as Associated States such as Norway, Switzerland and Liechtenstein with a total pledge for 356 persons. Whilst some countries have chosen to conduct relocation on a bilateral level, other Member States (Bulgaria, Hungary, Lithuania, Poland, Portugal, Romania and Slovakia) are participating in the EUREMA II project, for EU financing under the European Refugee Fund, Community Actions 2011¹⁵¹.

The overwhelming reason given for uptake was to express solidarity with their fellow Member States that were under a particular strain from mass arrivals at the southern borders.¹⁵² This

¹⁴⁷ http://www.interno.gov.it/mininterno/export/sites/default/it/assets/files/16/0970_Final_paper_Versione_firmata.pdf

¹⁴⁸ See EASO Monitor, <http://easomonitor.blogspot.fr/2011/04/southern-eu-ms-publish-joint-communique.html>

¹⁴⁹ See the website of the Maltese Ministry for Home Affairs and National Security, <http://mhas.gov.mt/en/MHAS-Information/EUREMA/Pages/EUREMA-I.aspx>

¹⁵⁰ See her statement on 13 May 2011, Memo 11/295, http://europa.eu/rapid/press-release_MEMO-11-295_en.htm?locale=fr

¹⁵¹ <http://mhas.gov.mt/en/MHAS-Information/EUREMA/Pages/EUREMA-II.aspx>

¹⁵² The EASO fact-finding report on intra-EU relocation activities from Malta stated that a number of Member States said that relocation was a concrete example of intra-Member State solidarity: <http://easo.europa.eu/wp-content/uploads/EUREMA-fact-finding-report-EASO1.pdf>

explanation was particularly strong among the newer Member States which are also eager to participate to intra-EU solidarity and show by this way their commitment in EU affairs. Certain among the newer accession States have supported relocation while ignoring any call for resettlement. The feeling that it is more important to show solidarity with States which are partners within the EU than with those States outside of the Union, is tangible. Finally, relocation has also been considered by some potential resettlement countries as a testing ground for the future resettlement of refugees, as was the case with Bulgaria.¹⁵³

Some EU Member States support both relocation and resettlement - Bulgaria; Denmark; France; Germany; Hungary; Ireland; Luxembourg; Netherlands; Poland; Portugal; Romania; Slovakia; Slovenia; Spain. There are States which support resettlement but not relocation - Belgium; Czech Republic; Finland; Italy; Sweden; UK. One State supports relocation but not resettlement - Lithuania. Finally, there is also the States which have not voiced a strong preference or support for either resettlement or relocation: Austria; Cyprus; Estonia; Greece; Latvia; Malta.

The key question considering the merits of relocation must be whether or not relocation is been done to the detriment of resettlement. The question relates to the potential and actual overlaps that has occurred between the two terms.

4.2 The Distinction between Relocation and Resettlement

This section examines the potential overlap between the distinct strategies of refugee protection – relocation and resettlement. Relocation and resettlement can quite easily be distinguished by considering the circumstances in which a refugee is transferred to a Member State. If that refugee is moved from a country of first asylum beyond the borders of EU Member States then that transfer is a resettlement. If a refugee has already reached the EU and is transferred from one Member State to another then that transfer is relocation.

The distinction therefore is extremely simple but nevertheless, there has been a certain overlap and confusion between the terms. The danger is that relocation is used instead of resettlement. Resettlement has a protection focus. Taking refugees from a country of first asylum is focussing efforts upon the most vulnerable of refugees. Relocating refugees from one Member State to another is effectively transferring a refugee within an area which should have a uniform protection for refugees anyway. Conducting relocation in place of resettlement therefore takes the protection focus away. The choice for Member States may be expressed in terms of solidarity. Resettlement has been conducted to express solidarity with international partners while relocation is carried out on the basis of intra-EU solidarity. Member States are faced with the choice of expressing solidarity with their partners on the EU level (relocation) or with third States (resettlement). The choice of Member States and indeed other important stakeholders, has confirmed that relocation and resettlement both suffer from certain overlap and a lack of clarity with regard to the distinction between them.

Slovakia for instance does not clearly distinguish between resettlement and relocation. It often refers to both terms by using its Slovak equivalent “presídľovanie” or “presídlenie,” both meaning resettlement. However, for relocation it would be preferable to use term “relokácia.” The Slovak

(Contd.) _____

Solidarity with other Member States was the categorical reason given to Know Reset for relocation by many Member States, see for example: Slovenia, Bulgaria, Lithuania.

¹⁵³ In May 2011, the Interior Minister Tsvetan Svetanov announced that Bulgaria would be accepting two to four North African refugees from Italy. The Minister stated that this relocation should be considered as an act of solidarity with Italy which was experiencing an influx of irregular migrants at that time and also as a training ground for future resettlement. See: The Bulgarian Helsinki Committee, Iliana Savova, “Do We Have a Quota on Humaneness”, <http://www.bghelsinki.org/en/publications/obektiv/iliana-savova/2011-08/do-we-have-quota-humaneness> However, despite the Bulgarian pledge for relocation, no persons decided to relocate to Bulgaria. Anna Andreeva, Know Reset Final Conference, *op.cit.*

Ministry of Interior's website refers to the EUREMA project as a project aimed at the *resettlement* of persons within the EU. Slovakia did plan on participating in resettlement under the 2010 ERF annual programme; however, due to Slovakia's involvement in the pilot project of relocation from Malta, it was postponed under the annual programme of 2011.¹⁵⁴ In this instance, priority was given to relocation over resettlement.

Ireland has relocated refugees from Malta. These refugees were categorised as being part of the programme resettlement quota which exists in Ireland.¹⁵⁵ Places which otherwise would have been taken by resettled refugees were thus taken by relocated refugees. The distinction between relocation and resettlement is not made in the context of the Irish resettlement quota. However, even when the distinction is made, resettlement numbers can be substituted for relocation. When a Spanish boat picked up fifty-one migrants who were found at sea between Libya and Malta in July 2006, the Dutch resettlement quota, which is generally not used for relocation, was utilised. An emergency acute humanitarian situation existed and the Netherlands decided to accept five of the refugees for resettlement.

Internal rules within Member States can in certain circumstances dictate that refugees must be regarded as being resettled rather than relocated. In 2007, refugees were transferred from Malta to Portugal. These people had not been granted international protection in Malta. If they had been granted international protection in Malta then the Portuguese would have categorised them as having been relocated. The UNHCR had recognised them as refugees. The Portuguese State then considered these refugees as being resettled refugees.¹⁵⁶ Internal rules as to a refugee's status pre-departure have therefore dictated what category that refugee fits into and the distinction between terms is not made on the basis of where the refugees are coming from.

These examples detail how the terms have overlapped among Member States implementing their refugee protection regimes. However, the overlap does not begin and end with Member States alone, other stakeholders have also met with some overlap. Take the example of the recent announcement by the German State that it was pledging five thousand places for refugees fleeing the conflict in Syria.¹⁵⁷ In September of 2013, the UNHCR called that German pledge '*...the biggest relocation programme in existence...*'¹⁵⁸ The UNHCR here referred to it as being relocation on the basis that those refugees were a "*humanitarian admission*" rather than, *sensu stricto*, resettlement.¹⁵⁹ Most other Member States have chosen to resettle Syrians in response to the conflict. The German action is clearly not relocation in the sense outlined in this report. The UNHCR of course are free to define relocation in whatever terms it sees fit. What this reporting by the UNHCR does illustrate is that there is a lack of uniformity internationally as to how distinguish relocation from resettlement.

From the perspective of EU policymakers and refugee stakeholders, making the distinction remains a challenge. The EASO has already identified that challenge. The EASO's fact finding report on relocation from Malta stated that '*...concerns were expressed about the possible implication of relocation on the resettlement quotas in the EU. It was stressed that intra-EU relocation should not be confused with resettlement of refugees from third countries.*'¹⁶⁰ That Agency, of course, has a limited mandate and cannot direct Member States as to how they should approach relocation and resettlement.

¹⁵⁴ Please see the Slovakian country profile on the Know Reset website, available at: http://www.know-reset.eu/files/texts/00166_20130919160632_knowresetcountryprofileslovakia.pdf

¹⁵⁵ Interview with Martina Glennon, *op.cit.*

¹⁵⁶ Written interview with the Cabinet of the Secretary of State for Internal Affairs, 24 February 2012.

¹⁵⁷ See: <http://www.know-reset.eu/?c=00697>

¹⁵⁸ See: <http://www.unhcr.org/523076919.html>

¹⁵⁹ See: <http://www.know-reset.eu/?c=00715>

¹⁶⁰ See page 16 of the EASO Report, *op.cit.*: <http://easo.europa.eu/wp-content/uploads/EUREMA-fact-finding-report-EASO1.pdf>

However, the EASO can take a role in raising awareness that these two protection strategies are distinct and should not be confused.

4.3 Relocation as a Complement to Resettlement

The last section underlined the wide variety of ways in which resettlement and relocation can overlap. This section seeks to emphasise that priority must be put on resettlement. While relocation can be a valuable tool in complementing resettlement, it should never replace resettlement. Relocation can complement resettlement by providing a support to Member States which are under a particular strain from mass arrivals and perhaps also do not have the reception and procedural conditions necessary to secure the appropriate protection for refugees. However, relocation's complementary role should remain just that – complementary. The evidence suggests that relocation may have, on occasion, impacted upon the numbers of refugees being resettled from a country of first asylum, such interference in resettlement's full potential in the EU cannot be allowed to occur. This section will first turn to consideration of problems of relocation as highlighted by Member States in the course of Know Reset's research. It will then consider the approach of the EU as a collective before offering a concluding paragraph as to how relocation can accomplish its task as a complement to resettlement without interfering with the success of the EU's resettlement regime.

In Sweden, the Ministry for Justice stated that it is hesitant towards relocation and has assumed a 'wait-and-see' attitude. Sweden clearly seems to see resettlement as having twin priorities which should not be compromised by relocation. Firstly, resettlement is seen as being a burden-sharing operation with States of first asylum.¹⁶¹ Secondly, the priority of providing protection to the most vulnerable refugees should always remain the focus. It is felt by Sweden that there is a big difference between resettling people from troubled countries and resettling them from a Member State where those people should already have a reasonable level of protection. Moreover, investing in relocation would probably mean that financial means are being redirected from resettlement to relocation. Sweden has voiced support for a proper evaluation study of the pro and cons of relocation before giving any consideration to committing to relocation. The Ministry further stated that one of the reasons for relocation put forward by countries like Malta and Italy is that the refugee pressure on them is too high, but looking at the statistics, the pressure on them is not stronger than that experienced in Sweden.¹⁶² The Netherlands added its voice to the Swedish view that it is important that Member States express solidarity with developing countries who receive large numbers of refugees.¹⁶³ Many Member States find themselves in the position that relocation and intra-EU solidarity comes into conflict with this more international solidarity with countries of first asylum.¹⁶⁴ The argument could be extended that alternative measures of intra-EU solidarity exist and a Member State could make alternative offers of solidarity.¹⁶⁵ Solidarity with the country of first asylum must remain the clear priority for Member States. Financial support or special expertise might be offered in a show of intra-EU solidarity, which does not come at the price of resettlement places available.

The problems with relocation indeed go beyond the limited confines of possibly impacting upon the uptake and effectiveness of resettlement in the EU. The Czech Republic voiced the opinion that relocation involves substantial administrative and logistical burdens. Perhaps even more interesting than this though is the claim by the Czechs that relocation is a potential risk of becoming a "pull

¹⁶¹ Interviews with the various Swedish stakeholders.

¹⁶² Interview with Swedish Ministry of Justice, *op.cit.*

¹⁶³ Interview with Janneke van Etten, *op.cit.*

¹⁶⁴ This conflict between solidarity priorities is touched upon in an MPC blog post, available here: <http://debatemigration.wordpress.com/2013/02/18/between-solidarity-and-the-priority-to-protect-where-refugee-relocation-meets-refugee-resettlement/>

¹⁶⁵ Interview with Andreas Ollinen, *op.cit.*

factor" for illegal migration.¹⁶⁶ This allegation is made on the understanding that migrants may believe that upon reaching EU territory, they will get the opportunity of being relocated to a more desirable Member State, perhaps even the Member State of their choice. Romania and Lithuania voiced their belief that more needed to be done to ensure that the relocated refugees knew more about their destination pre-arrival. Lithuania considered the exercise to have been costly and ineffective.¹⁶⁷ In October 2009 Lithuania refused to contribute to the EU initiative to relocate more asylum seekers from Malta¹⁶⁸. However, in 2011, the Lithuanian Government decided to join the project, prepared by Malta and funded by the European Refugee Fund and committed to accept up to six asylum seekers.¹⁶⁹

Another important concern of Member States which receive internationally protected persons through relocation is that the system of relocation will act as a disincentive to Member States to improve their national asylum systems. In other words, if refugees are relocated to Member State A because the reception conditions in Member State B are overwhelmed, then will Member State B look upon that relocation as being a temporary assistance or as a solution?

As recently as the September of 2013, Commissioner Cecilia Malmström convened a 'Relocation Forum' to discuss the way forward for relocation and address any misgivings that Member States had about relocation. In the Commissioner's address¹⁷⁰ to the Forum, she stated that *'Relocation is not a quick fix, it will not solve all the problems. It is one of many tools to alleviate and assist a Member State under pressure and in severe difficulties. Other types of assistance include funding, technical and human resources, training, contingency planning, EASO etc. Relocation is also not an alternative to get your house in order. It is however a true expression of solidarity and I do hope that many Member States can take part.'* The Commissioner thereby reinforced relocation as an act of solidarity in light of the fact that *'five Member States take 70 % of all the asylum seekers,'* but importantly said that it is not an alternative to national asylum responsibility i.e. each Member State developing and maintaining their own functioning asylum system.¹⁷¹ The Commissioner did not address the relationship that has developed between relocation and resettlement. The Commissioner stated that she had taken the decision some months ago that there could be no Commission proposal in the foreseeable future for a permanent legal mechanism for relocation – either voluntary or compulsory. The Commissioner thus allayed any Member States fears that relocation was about to become compulsory. The Commissioner stated that while EUREMA II, the second relocation scheme from Malta, was coming to an end, financial assistance would be available in the future for relocation through the Asylum and Migration Fund. *'We understand that Member States don't necessarily want EU project-managed relocation with rigid administrative requirements – that is why we will no longer have a EUREMA project, but instead we will have money available under the Asylum and Migration Fund for relocation activities that will be much easier to implement.'* Relocation shall continue to make an important contribution toward the provision of protection for refugees in the EU.

¹⁶⁶ The Czech Republic's position on migration prepared by working group for a Parliament, to be announced to the EU Institutions, 5 June 2011.

¹⁶⁷ European Commission, Directorate-General Home Affairs, Study on the Feasibility of Establishing a Mechanism for a Relocation of Beneficiaries of International protection J LX/2009/ERFX/PR/1005, Final Report 2010, available on the internet: http://ec.europa.eu/home-affairs/doc_centre/asylum/docs/final_report_relocation_of_refugees.pdf

¹⁶⁸ Ministry of the Interior of the Republic of Lithuania, Legal information: In the Meeting of Ministers of the Interior of Lithuania and Malta Issues of Granting Asylum for Asylum Seekers in European Union were discussed, 28th October 2009, available on the internet: http://www.vrm.lt/index.php?id=131&backPID=129&begin_at=720&tt_news=2281&

¹⁶⁹ Resolution on asylum seekers from the Republic of Malta, No 1082, 14th of September 2011, available on the internet: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=406687&p_query=&p_tr2=2

¹⁷⁰ The Commissioner's full address is available here: <http://blogs.ec.europa.eu/malmstrom/refugeerelocation/>

¹⁷¹ The Commissioner quoted the statistic in her blog post, available at: <http://blogs.ec.europa.eu/malmstrom/refugeerelocation/>

In the absence of clear and cohesive guidance as to how to approach relocation so as not to impact upon resettlement, it is left to Member States to implement these distinct terms in a way which seeks to place protection for the most vulnerable at the heart of all measures. Relocated refugees should not be counted as part of a Member State's resettlement quota. Relocation should only be encouraged secondary to resettlement. Funding should prioritise resettlement above relocation. The Hague Programme, referred to earlier in this report, called for a spirit of shared responsibility to a more accessible, equitable and effective international protection system. It seems that resettlement best satisfies these objectives as its primary concern is to provide protection while the priority of relocation is to express intra-EU solidarity. Resettlement is also an expression of solidarity but this solidarity is with countries of first asylum. Countries of first asylum, beyond the territory of the EU, play host to much larger numbers and are under a greater strain than any Member State.

Resettlement can also be used to support the EU's Regional Protection Programmes. Sweden was one Member State which stated that solidarity with countries of first asylum must take preference over southern Member States that have the same responsibilities to protect as Sweden. Resettlement undoubtedly remains the preferable response to those most in need. The priority to protect those who have not been able to gain access to European territory should remain the primary objective. Providing such access negates the need for people to become irregular migrants during their journey to Europe, the journey that many refugees who are relocated have been forced to undergo. Intra-Member State solidarity, while an understandable objective in its own right, must not come at the expense of protecting those most in need. Relocation then, must only come as a complement rather than as a replacement to the numbers who are being resettled. Clarifying the important difference between the two schemes must be an important objective into the future. As Commissioner Cecilia Malmström has outlined plans to incentivise relocation through funding in September of 2013, it seems certain that relocation will continue as an option for Member States. This means that oversight of the different problems outlined here must be considered by Member States and the EU so as to impact upon resettlement as little as possible.

5. Conclusion

The development of resettlement-related frameworks and policies in the EU and its Member States is undeniable and has accelerated during the past five years. This is mainly due to the combined effect of joint operations to respond to major refugee crises and to the EU's increased support to UNHCR efforts to encourage States to begin to resettle refugees. EU led initiatives for multilateral operations has been the main incentive for Member States to get involved in refugee resettlement which have no history in resettlement.

A small majority (fourteen) of Member States are now resettlement countries, insofar as they have committed to resettling refugees on a programme basis. Moreover, while refugee resettlement depends on voluntary governmental decision, exclusive from any legal duty, it is not only based on an administrative framework any longer. Refugee resettlement is growingly based on asylum and refugee law. A quasi majority of Member States (thirteen) have included a reference to refugee resettlement in their asylum legislation, eleven of them did so during the past decade. This does not make resettlement a legal duty for those States, nor a right for refugees. Yet, the adaptation of legal frameworks may facilitate refugee resettlement. This may be the case by allowing the granting of refugee status outside the territory for instance, or designing the procedure and determining the competent institutions.

The absence of legal reference to refugee resettlement has not impeded certain Member States from resettling in the past (in Scandinavia) and still currently (in the Netherlands) in a sustainable and regular manner. Equally, the existence of a legal reference to refugee resettlement is not a guarantee that the State does or will resettle. It does not constitute an evidence of but can help and support sustainable commitment.

It has now become easier than in the past to legislate on refugee resettlement, since a set of practices and experiences have been developed. Most of all, the UNHCR has published some handbooks to guide the selection of refugees, the resettlement process and procedures as well as the granting of status and rights and the integration of resettled refugees. The EU has come to give support to UNHCR guidelines in prioritising and funding resettlement activities when they follow UNHCR standards, such as the selection of refugees falling into some of UNHCR submission categories or the granting of a status similar to refugee status. Despite those efforts to standardize and streamline refugee resettlement, the diversity in the content of resettlement-related frameworks and policies among Member States is still striking. Even basic standards of refugee resettlement such as the UNHCR mandate and its role in pre-selecting vulnerable refugees, or the granting of permanent residence are not shared by the majority of legal references to refugee resettlement.

The Joint EU Resettlement Programme has been a great support to the development of commitments in resettlement and plays an important role in the search for a concerted approach to resettlement. Indeed, through requirements for the funding, it influences the selection targets of Member States as well as the procedure and the rights granted. Nevertheless, its impact is limited. It is based on a financial incentive which does not convince all Member States, and on the positive impact of joint initiatives. The JEURP could go further, as could the EU.

The overlap between resettlement and relocation has been a negative development in respect of both of those distinct procedures. The evolution of resettlement in the EU has become susceptible to the strategic use of relocation by Member States as the ‘soft’ option when it is under pressure to stand up to its responsibility as an EU partner. Relocation can be more attractive to Member States and can be preferable to the challenge of resettlement. It is perhaps this conflict in terms which, more than anything else, has highlighted the need for strong central governance of how resettlement is handled by the Member States. Relocation, if it is to succeed must complement resettlement and not replace it.

The lack of reporting of refugee resettlement in independent news and media is an obstacle to improving resettlement in quantitative and qualitative terms. Apart from the media, resettlement can be promoted and publicised as being a public issue to be discussed by all of those which have a stake in resettlement – policymakers, NGOs, migration authorities, lawyers and refugees themselves. All stakeholders state that resettlement is not openly discussed and that the majority of society are simply not aware of it despite the fact that *‘it is an issue that can be explained and advanced among the population very easily.’*¹⁷² It may be difficult to convince policy makers for a structural commitment since not everybody knows about resettlement, including among policy makers.¹⁷³ A heightened public understanding of resettlement would assist greatly in improving how resettlement is conducted in all Member States.

‘In the Swedish context, it is very important that politicians are not afraid to stand up for refugees. They dare saying that it is an important issue and that Sweden needs to show solidarity. Moreover, the Minister of migration always mentions resettlement when he talks about asylum issues. Often, at the EU-level, Sweden stands out as the odd country proposing to improve asylum policy, to receive more refugees etc. This positive approach is considered peculiar by the other Member States. The Member States often have to deal with negative public opinion and politicians/parties that are unreceptive towards the asylum issue.’¹⁷⁴

‘In the context of growing anti-immigration atmosphere, the influence of the media would be to make the public opinion understand why we need to protect refugees. The key factors are to be found in a public discourse more open to foreigners and refugees.’¹⁷⁵

¹⁷² Interview with the Swedish Justice Ministry, *op.cit.*

¹⁷³ Ewout Adriaens, Know Reset Final Conference, Brussels, 10 July 2013.

¹⁷⁴ Interview with the Swedish Justice Ministry, *op.cit.*

¹⁷⁵ Interview with Matthieu Tardis, *op.cit.*

5.1 Recommendations

- The EU should fund and prioritize all UNHCR submission categories and not only five of them.
- Geographic priorities should be defined on a more flexible basis, be easily revised and extended when new refugee crises, such as the Syrian refugee crisis, occur.
- The EU should seek to make an impact on Member State resettlement laws and policies not only through funding and rallying, but also through its own legislating.
- A legal framework for resettlement is needed in all of the Member States.
- Even if Member States want to keep resettlement voluntary, an EU Directive could standardize some basic and fundamental elements of refugee resettlement, such as:
 - Resettlement shall aim at receiving vulnerable refugees on the basis of UNHCR submission categories, and should not include integration pre-considerations,
 - The persons to be resettled should not necessarily meet the Geneva Convention definition. A common definition of refugee could be adopted on the basis of the Mandate refugee definition.
 - Resettlement should be carried out in cooperation with UNHCR.
 - Resettled refugees should be granted a permanent residence status.
 - Resettled refugees should be granted rights similar to those granted with Convention refugee status.
 - Resettled refugees should not be submitted to an additional application process upon arrival or only as an option to gain more rights.
- Refugee Resettlement could be incorporated in the broad protection system. It should be linked to and based on a number of minimum requirements.
- An EU Resettlement System should be developed on the model of the Common European Asylum System.
- The distinction should be made and promoted by the EU between contributing toward refugee protection internally (relocation) and externally (resettlement). The emphasis in financial terms should be on resettlement.
- Being an Agency which has a responsibility for monitoring both relocation and resettlement within the EU, EASO should be fully utilised as a monitor but also to give assistance as far as this is possible.
- The EU should contribute to raising awareness and generating public support to refugee resettlement and refugee reception as a whole through media campaigns and the diffusion of information. Awareness-raising towards policy-makers will also facilitate the commitment of Member States in resettlement programmes.
- The EU should favour more cost-effectiveness and efficiency as a result of economies of scale in resettlement. In particular, joint resettlement selection missions should be promoted. In addition to reducing costs and organisational constraints, it would lower refugees' waiting time and interviews.
- The EU should continue to encourage twinning arrangements and projects favouring knowledge and information exchange with regard to refugee resettlement, as well as the exchange of practices and sharing guidelines (on the model of the Temporary Desk on Iraq), in particular when it comes to reception and integration.

Annexes

Annex 1. Formal Basis for Resettlement and Effective Resettlement in the EU Member States

| EU Member State | Formal Basis for Resettlement | | Date of resettlement | |
|-----------------------|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------|
| | Specific provision in Law | Governmental Act | Ad Hoc Resettlement | Programme based Resettlement |
| Austria | None | None | 2011 | None |
| Belgium | None | <i>*Decision of the Council of Ministers on a specific resettlement – Iraqi and Palestinians from refugee camps in Syria and Jordan (2009)</i> <i>*Decision of the Cabinet on a specific resettlement – from Libya (2011)</i> | 2009 2011 | Since 2013 |
| Bulgaria | None | <i>*Council of Ministers draft decision (2012) - Pilot programme</i> | None | Planned for 2014 |
| Cyprus | None | None | None | None |
| Czech Republic | Asylum Act (1999), Section 90 | <i>*Government Resolution on a specific resettlement – Burmese (2008)</i> <i>*Government Resolution on a specific resettlement – Burmese (2009)</i> <i>*Government Resolution on a specific resettlement – Burmese (2010)</i> | 2005 2007 2010 | Since 2008 |

| | | | | |
|----------------|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|-------------------|
| Denmark | <i>Aliens Act (2011), as amended in 2005, Section 8</i> | None | None | <i>Since 1978</i> |
| Estonia | None | None | None | None |
| Finland | <i>Aliens Act (2004), Section 90, 91, 92.</i> | <i>*Decision on the geographical allocation of the refugee quota, 17 February 2012</i> | None | <i>Since 1985</i> |
| France | None | <i>*Framework Agreement between France and the UNHCR (2008)</i> | <i>Since 1948</i> <i>Other relevant dates:</i> <i>1956</i> <i>1974-1984</i> <i>1999</i> <i>2008</i> | <i>Since 2008</i> |
| Germany | <i>Residence Act (2004), Section 22.</i> | <i>*Ruling of the Federal Ministry of the Interior about Iraqi refugees (2008)</i> <i>*Decision on the launch of a permanent resettlement programme and on admission of refugees from North Africa (2011)</i> | <i>2009</i> | <i>Since 2012</i> |
| Greece | None | None | None | None |
| Hungary | <i>Asylum Act (2007), Section 7</i> | <i>*Governmental Decree (2011) Refugee Solidarity Programme related to the North-African crisis</i> | None | <i>2012</i> |
| Italy | None | None | <i>2007</i> <i>2008-2009</i> <i>2009</i> <i>2010</i> | None |

| | | | | |
|----------------------------|---------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|------------|
| Latvia | None | None | None | None |
| Lithuania | None | None | None | None |
| Luxembourg | None | None | 2009 | None |
| Malta | None | None | None | None |
| Netherlands | None | <i>*Decree (2000) transfers responsibility for the quota policy for resettled refugees to the Minister of Justice</i> <i>*Decree of the Minister of Justice (2010) outlines Dutch resettlement policy</i> <i>*Government Decision (2012) Policy Framework for Resettlement (2012-2015)</i> | None | Since 1984 |
| Poland | Act on granting protection to foreigners (2003), as amended in 2011 | None | 2011 | None |
| Portugal | Asylum Law (2008), Chapter III Section V | <i>*Resolution of the Council of Ministers (2007)</i> | 2006 | Since 2007 |
| Republic of Ireland | Refugee Act (1996), Section 24. | <i>*Cabinet Decision (1998) – Quota decision</i> <i>*Cabinet Decision (2005) – Quota decision</i> | None | Since 1998 |
| Romania | Law on Asylum (2006), Article 3(5) | <i>*Agreement with UNHCR and IOM (2008): Emergency Transit Centre in Timisoara</i> | None | |

| | | | | |
|-----------------|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|----------------------------------------------------|
| | | <i>*Decision on the Resettlement of Refugees (2008) – Sets out regulation of resettlement and states how many refugees will be resettled during the period 2008-2010</i> <i>*2012 Decision to amend the 2008 Decision on the Resettlement of Refugees in Romania</i> | | <i>In 2008</i> <i>Planned for 2012-2013</i> |
| Slovakia | None | <i>*Agreement with UNHCR and IOM (2009): Emergency Transit Centre in Humenné</i> <i>*Agreement with UNHCR and IOM (2010): Emergency Transit Centre in Humenné</i> | None | None |
| Slovenia | <i>International Protection Act (2007), Chapter VIII Section 70</i> | <i>*Government Decree on implementation of resettlement based on yearly quota (2011)</i> | None | None |
| Spain | <i>Law regulating the right to asylum and subsidiary protection (2009)</i> | <i>*Royal Decree (1995) – makes reference to UNHCR requests to resettle</i> <i>*Decision of the Council of Ministers (2010) – Approves the 2010 programme: 75 refugees</i> <i>*Decision of the Council of Ministers (2011) – Approves the 2011 programme: 100 refugees</i> | <i>Since 1979</i> | |

| | | | | |
|----------------|-------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------------------|
| | | <i>*Communication of the Council of Ministries (2012) - Approved a new Resettlement Programme</i> | | 2012 Planned for 2013-2014 |
| Sweden | <i>Aliens Act (2005), Chapter 5 Section 2</i> | <i>*Spending authorization for the Migration Board (2011) –by the Ministry of Justice, defines the resettlement quota for 2012</i> <i>*Migration Board Decision on Resettlement (2012) - Distribution of places, strategic and operational assessments</i> | None | Since 1950 |
| United Kingdom | <i>Nationality, Immigration and Asylum Act (2002), Section 59</i> | None | None | Since 2004 |
| | 13 EU countries refer to resettlement in Law. | 15 EU countries have adopted government acts related to resettlement. | 10 EU countries have resettled on an ad hoc basis. | 14 EU countries have resettled on a programme basis. |
| | 18 EU countries have had a formal basis for resettlement. | | 16 EU countries have already resettled. | |

Annex 2. Pre-Arrival and Post-Arrival Phases of Refugee Resettlement in the EU Member States

i. Pre- arrival phase

| Pre - arrival phase EU countries | | Selection criteria | | Selection process | | | Application Process | | Pre-departure activities |
|-----------------------------------------|---------|-------------------------------|--------------------------------------------------------------------------------------------|-------------------|------------------------------------------------------------------|--------------------------------------------------------------------------|---------------------|-------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| | | UNHCR criteria ¹⁷⁶ | National Target Preferences | Dossiers | Missions | Actors involved | Before arrival | Upon arrival | Cultural orientation |
| 1 | Austria | No | 2011: Christian Iraqis | | Selected by representatives in Iraq of the archdiocese in Vienna | -The Church -IOM -Ministry of the Interior | Yes | | n/a |
| 2 | Belgium | No (2009, 2011) | 2011: Family with children and single women. 2009: women –at –risk and Palestinians | Yes (2011) | Yes (2009) | -UNHCR -CGRA -State Secretary for Asylum and Migration -FEDASIL | Pre-Selection | Yes (simplified procedure) | 2011: CO not provided. Information pamphlets covering information about Belgium were printed but not given to refugees. |

¹⁷⁶ **Yes:** The State accepts obligations towards refugees recognised by UNHCR according to a broader definition – Mandate Refugee Status – **No:** Geneva Convention criteria and generally Subsidiary Protection criteria.

| | | | | | | | | | |
|---|----------------|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-----|-------------------------------------------------------------------------------------------------|---------------|-------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3 | Bulgaria | Yes (possible) | Bulgaria is interested in resettling Afghani and Iraqi refugees from Turkey. | / | / | -UNHCR -State Agency for Refugees | / | / | / |
| 4 | Cyprus | / | / | / | / | / | / | / | / |
| 5 | Czech Republic | No | Possibly vulnerable persons: seriously ill persons, children, women at risk and other cases, based on specific humanitarian factors. Some integration aspects are also taken into consideration. | Possible | Yes | - UNHCR -The Resettlement Group -Minister of Interior | Pre-Selection | Yes (simplified procedure if previous UNHCR refugee status) | Done by the Resettlement Group when interviewing the people in need of resettlement in the country of first asylum –initial information about what they can expect from resettlement in the Czech Republic and to what extent they will receive assistance on arrival. |
| 6 | Denmark | No | Sub-quotas: 75 urgent cases; “Twenty-Or-More” for specially sick or handicapped refugees. Integration criteria included in 2005. Supplementary criteria of influence: language qualifications, education and work experience, social network, age, motivation. | Yes (Urgent cases) | Yes | -UNHCR -Danish Immigration Service (DIS) -Danish Refugee Council (DRC) -Municipalities | Yes | | Yes done by DIS and Danish language teachers. Offered to all refugees accepted on selection missions but not to refugees on dossier basis. Over one week. |

| | | | | | | | | | |
|---|---------|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|-----|-------------------------------------------------|---------------|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7 | Estonia | / | / | / | / | / | / | / | / |
| 8 | Finland | Yes (possible) | Annual geographical allocation of the quota, based on the need of continuity in the chosen refugee groups. Capacity to integrate is a factor. 10% of the quota are reserved for emergency cases and urgent cases. | Emergency and Urgent cases | Yes | -UNHCR -Finnish Immigration Services (MIGRI) | Yes | | Cultural orientation is the remit of IOM. The arrangement was established in 2001 and ran until the termination of the contract in 2010. The co was not arranged in 2011 and the contract is currently being negotiated. Currently no cultural orientation is organized. |
| 9 | France | Yes | 2008 (Iraq 500): Belonging to a religious minority (especially Christian) and link with France (either through family ties or knowledge of French by at least one family member). Residence either in Iraq or in a neighbouring country: Jordan, Syria, Lebanon or Turkey. | Yes | No | -UNHCR -Ministry of Home Affairs -OFPRA | Pre-Selection | Yes | Sessions of cultural introduction can be organised by IOM. This has been done only for Iraqis and EU relocation. When such activities cannot be organised, the IOM may distribute an information package, of which the Information Leaflet for People Resettled in France. |

| | | | | | | | | | |
|----|---------|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-----|-----------------|---|-----|----|
| | | | Programme-Based: Integration potential together with protection need; consideration of the reception and housing capacity in the country. | | | | | | |
| 10 | Germany | Yes | 2008: Focus on members of persecuted (religious) minorities, victims of violence and with special medical needs, single women with children. Other criteria such as capacity of integration, ties with Germany and family unity. 2011: Priority to refugees with Sub- Saharan origin who fled from Libya. | Pre- Selection | Yes | -UNHCR -BAMF | | Yes | No |
| 11 | Greece | / | / | / | / | / | / | / | / |

| | | | | | | | | | |
|----|-------------------------|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------------------------|--------------------------------------|
| 12 | Hungary | No | No specific admissibility criteria. A family (5-8 persons) from the North-African region. Aspects to consider when doing resettlement: need for international protection, security reasons, integration possibilities. | / | Yes | -UNHCR -OIN | | Yes | No |
| 13 | Ireland | Yes | Preference -Group resettlement -“balanced” caseload (mix of women at risk, disable persons, etc) -community or spiritual leaders | Yes | Between 2005 and 2008 | -UNHCR -Minister for Justice and Equality -Minister for Foreign Affairs -Office for the Promotion of Migrant Integration (OPMI) | Yes | | Yes Through the Irish authorities |
| 14 | Italy | Yes | No additional criteria. Possibly national security considerations. | Yes | No, except in Iraq in 2009 to assess the local situation. | -UNHCR -Ministry of Home Affairs -Territorial Commissions | Pre-Selection | Yes (Simplified Procedure) | No |
| 15 | Latvia | / | / | / | / | / | / | / | / |

| | | | | | | | | | |
|----|-------------|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|--------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 16 | Lithuania | / | / | / | / | / | / | / | / |
| 17 | Luxembourg | No | 2009: Families with children (young if possible), including single-parent families. | Yes | | -UNHCR -Ministry in charge of immigration -OLAI -CARITAS | Yes | | OLAI did prepare some leaflets concerning rights upon arrival, including healthcare and education |
| 18 | Malta | / | / | / | / | / | / | / | / |
| 19 | Netherlands | No | Subquota: 30 Medical cases. Refugees with medical needs and women at risk are resettled through the 'Twenty-Or-More' programme. More emphasis will be placed on the Integration potential which has been applied since 2005. Dutch Minister for Immigration and Asylum recently proposed resettlement be used as strategically as possible with regard to the other purposes of the country's | Yes: 100 refugees/year | Suspended from 1999 to 2005. Yes: 400 refugees/year | -UNHCR -Minister for Immigration, Integration and Asylum (quota definition) -Ministry of Justice -Municipalities -Ministry of the Interior and Kingdom Relations, - Ministry of Foreign Affairs -Resettlement Unit of the Immigration and Naturalisation Service (IND) - Central Agency | Yes | No | Organised by COA, consisting of three trainings. Content: elementary Dutch language skill; Information about the Dutch society; Information about the receiving municipality; and the future accommodation. For dossier-based refugees, CO trainings are developed and offered by IOM in cooperation with COA. |

| | | | | | | | | | |
|----|----------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|-----------------------------------------------------------------------------------------------------|
| | | | migration policy and UNHCR to select more higher profile refugees such as human rights activists and academics. | | | for the Reception of Asylum Seekers (COA) | | | |
| 20 | Poland | n/a | Humanitarian aspects, necessity to satisfy the essential needs of resettled refugees, actual costs of individual programmes of integration. | n/a | In the future: Interview by the Officer of the Border Guard delegated to the selection task. | -Council of Ministers -Head of the Office for Foreigners via the officer of the Border Guard outside Poland | Yes | Yes | n/a |
| 21 | Portugal | Yes | Programme: Continuity in resettlement; Privilege to citizens coming from the African continent and from Eastern Europe, but not excluding other situations of citizens coming from other places, if these justify their priority selection, mainly for serious humanitarian reasons. | Yes | None so far | -UNHCR - Immigration Service / Refugee and Asylum Cabinet - Ministry of Internal Affairs, -Portuguese Aliens and Borders Service -Portuguese Refugee Council. | Yes | | Non systematic distribution of a “Cultural Orientation Leaflet for Resettled Refugees in Portugal”. |

| | | | | | | | | | |
|----|----------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------|----------------------------------------------------------------------------------------------------------------------------|---------------|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | 2011: People from countries covered by a Regional Protection Programme, unaccompanied minors, children and women at risk. | | | | | | |
| 22 | Romania | No | Potential for integration applied in 2008, dropped in 2012. 2012 Criteria: Express consent of the refugee to be resettled in Romania; Romania's foreign policy; Relocation requirements at EU level. Minimum medical requirements to be defined. | Pre-Selection | Yes | -UNHCR -Minister of Administration and Interior – Minister of Foreign Affairs -Romanian Office for Immigration (ROI) | Pre-Selection | Yes | Yes Romanian NGOs involved in integration programmes will participate to the selection missions to inform refugees on integration activities in Romania and prepare integration programmes. In addition, possible cultural orientation and counselling services provided by ROI. |
| 23 | Slovakia | / | / | / | / | / | / | / | / |
| 24 | Slovenia | n/a | Global migration trends, crisis areas around the world, integration capacities. | Yes | Possibly | -UNHCR -Ministry in charge on internal affairs | Yes | | Yes Informative lecture - general information on Slovenia, cultural characteristics and habits, on the prohibition of polygamy and gender equality, rights and obligations of persons enjoying international protection in Slovenia. |

| | | | | | | | | | |
|----|----------------|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|---------------------------------------|-----------------------------------------------------------------------------------------|-----|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 25 | Spain | Yes (possible) | The criteria will be defined on yearly basis. Will follow EU policies. | Yes (in the future) | 2011 (Syria) 2012 (Tunisia) | -UNHCR -OAR (Office of Asylum and Refugees) | Yes | | Yes (2011) By IOM – Information sessions about Spain |
| 26 | Sweden | Yes | No additional criteria. Number of places by country of first asylum decided annually. 350 places for urgent and emergency cases. | Yes, for more than half of the quota. | Yes, for less than half of the quota. | -UNHCR -Migration Board | Yes | Possible | Yes (Migration Board Officers) For more than half of the refugees selected for resettlement, mainly those selected via in country selection missions. Generally, cultural orientation is carried out in 7-10 days. |
| 27 | United Kingdom | Yes | Regional allocation targets, including RPP. Small percentage for medical cases and a higher percentage for women-at-risk. For Mandate refugees: integration potential and links with the UK. | Possible | Yes | -UNHCR -UK Border Agency (UKBA) - Refugee Team in the Asylum Casework Directorate | Yes | No | By UK mission staff to refugees explaining the travel, reception and initial integration arrangements. Previously by IOM. Since 2011, a 1 day programme has been delivered by staff from the Refugee Resettlement Unit at the UKBA. It includes video interviews with refugees previously resettled through the programme in which they talk about their experiences of resettling and advice for new arrivals. |

II-Post- arrival phase

| <div>Post –arrival phase</div> <div>EU countries</div> | | Status granted | | | Rights granted | | | |
|--------------------------------------------------------|--------------------|----------------|-----------------------|---------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|------------------------------------------------------------|------------------------------------------|
| | | Refugee | Subsidiary protection | Programme refugee status or other Specific status | The same as national citizens | The same as refugees | The same as persons under the subsidiary protection status | Other specific rights under national law |
| 1 | Austria | X | | | | X | | |
| 2 | Belgium | X | | | X for health care and social welfare, access to education and employment. | X (5 year-stay permit) | | Right of permanent residence. |
| 3 | Bulgaria | X | | | Potential to become naturalized at a later phase | X | | |
| 4 | Cyprus | / | / | / | / | / | / | / |
| 5 | The Czech Republic | X | | | X for health care and social welfare, access to education and employment. Citizenship may be granted on request after 5 years of permanent residence. | X (10 year-stay permit) | | |
| 6 | Denmark | X | X | | X for health care and social welfare, access to education and employment. Access to citizenship after 8 years. | X (access to permanent residence after 7 years) | X | 4 year- residence permit |
| 7 | Estonia | / | / | / | / | / | / | / |

| | | | | | | | | |
|----|------------|---|---|------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|---------------------------|----------------------------------------------------------------------------------------------------------------------|
| 8 | Finland | | | X (Quota Refugees) | X for health care and social welfare, access to education and employment, after the 'integration period'. Access to citizenship after 5 years. | X | | 4 year-residence permit Direct access to immigrants' benefits upon arrival |
| 9 | France | X | X | | X for health care, social welfare and housing, access to education and employment. | X (10 year-stay permit) | X (1 year-stay permit) | |
| 10 | Germany | | | X | X for health care and social welfare, access to education and employment. | | | 3 year-stay permit. After 7 years a settlement permit can be granted. Strict conditions for family reunification. |
| 11 | Greece | / | / | / | / | / | / | / |
| 12 | Hungary | X | / | / | / | X | / | / |
| 13 | Ireland | | | X (Programme Refugees) | X for health care and social welfare, access to education and employment. Access to citizenship after 3 years – to be extended to 5 years by future reform. | X | | Facilities for family reunification |
| 14 | Italy | X | X | | X for health care and social welfare, access to education and employment. | X (5-year stay permit) | X (3-year stay permit) | |
| 15 | Latvia | / | / | / | / | / | / | / |
| 16 | Lithuania | / | / | / | / | / | / | / |
| 17 | Luxembourg | X | | | X Social welfare and healthcare | X | | |
| 18 | Malta | | | | | | | |

| | | | | | | | | |
|----|----------------|---|---|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|---------------------------|------------------------------|
| 19 | Netherlands | | | X (Invited Refugees) | X for health care and social welfare, access to education and employment. Access to citizenship after 5 years of permanent residence. | X (Access to permanent residence after 5 years) | | 5 year residence permit. |
| 20 | Poland | X | X | | | X | X | |
| 21 | Portugal | X | X | | X for health care and social welfare, access to education and employment. Access to citizenship after 6 years. | X (5 year-stay permit) | X (2 year-stay permit) | |
| 22 | Romania | X | | | X for health care, access to education and employment. | X | | |
| 23 | Slovakia | / | / | / | / | / | / | / |
| 24 | Slovenia | X | | | X for health and social care, access to education and employment. | X | | Right to permanent residence |
| 25 | Spain | X | X | | X for health care and social welfare, access to education and employment. | X (5 year-stay permit) | X (1 year-stay permit) | |
| 26 | Sweden | X | X | | X for health care and social welfare, access to education and employment. Access to citizenship after 4 years for refugees, after 5 years for beneficiaries of subsidiary protection. | X | X | Permanent Residence Permit |
| 27 | United Kingdom | x | | | X for medical care and social welfare, access to education and employment. Access to citizenship after 5 years | X | | Indefinite Leave to Remain |

Annex 3: EU Member States' Position toward Resettlement and Relocation

| EU Member States | Supports Resettlement | Supports Relocation | Merges Resettlement and Relocation | Separates Resettlement and Relocation |
|-------------------------|-----------------------------------|-----------------------------------|----------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| <i>Austria</i> | No | No | / | / |
| <i>Belgium</i> | Yes | No | / | / |
| <i>Bulgaria</i> | Yes | Yes | / | / |
| <i>Cyprus</i> | No | No (Except from its territory) | / | / |
| <i>Czech Republic</i> | Yes | No | / | Yes |
| <i>Denmark</i> | Yes | Yes | / | / |
| <i>Estonia</i> | No | No | / | / |
| <i>Finland</i> | Yes | No | / | No |
| <i>France</i> | Yes | Yes | / | Yes |
| <i>Germany</i> | Yes | Yes | Yes Seems to merge both data within resettlement. Same for the temporary reception. | / |
| <i>Greece</i> | No | No (except from its territory) | / | / |
| <i>Hungary</i> | Yes | Yes | / | / |
| <i>Ireland</i> | Yes | Yes | Yes Within the same quota | / |
| <i>Italy</i> | Yes | No (except from its territory) | / | / |
| <i>Latvia</i> | No | No | / | / |
| <i>Lithuania</i> | No | Yes | / | / |
| <i>Luxembourg</i> | Yes (once) | Yes (once) | / | / |
| <i>Malta</i> | No (except from its territory) | No (except from its territory) | / | / |
| <i>Netherlands</i> | Yes | Yes | / | Usually Yes (but used its resettlement quota for a emergency relocation in 2006) |
| <i>Poland</i> | Yes (in theory) | Yes (in theory) | Yes Same legal basis, same quota | / |
| <i>Portugal</i> | Yes | Yes | / | / |
| <i>Romania</i> | Yes | Yes | / | No |

| | | | | |
|------------------------------|-----------------|-----------------|-------------------------------------|-------|
| <i>Slovakia</i> | Yes (in theory) | Yes (in theory) | Yes (terminology) | Yes |
| <i>Slovenia</i> | Yes (in theory) | Yes | Yes Same legal basis, same quota | / |
| <i>Spain</i> | Yes | Yes | / | / |
| <i>Sweden</i> | Yes | No | / | Yes |
| <i>United Kingdom</i> | Yes | Not any longer | / | / |
| Totals: | 20 Yes | 15 Yes | 5 Yes | 5 Yes |