

## **The Way Forward**

Europe's role in the global refugee protection system



# **Towards a European Resettlement Programme**

## Acknowledgements

ECRE wishes to express particular thanks to James Milner (Refugee Studies Centre, Oxford) and Patricia Coelho (ECRE) for generously providing his expertise throughout the development of this policy proposal.

Our thanks go to a number of people who have also informed the development of ECRE's thinking through expert discussions and/or commenting on drafts: Gil Loescher (CIIS), Furio De Angelis and Natasha Gyar (UNHCR), Phil Douglas (European Commission), Margaret Piper (Refugee Council of Australia), Berta Romero and Sasha Bennett (Refugee Council USA), Joanne Van Selm (Migration Policy Institute), Kjell Ostby (Norwegian Home Office), Ruben Ahlvin (Swedish Migration Board) and Claes Bergdahl (Swedish Ministry of Foreign Affairs).

We are also grateful to individuals working in refugee-assisting organisations within the ECRE network, who gave their invaluable support by sharing their expertise and experience. These include Reyes Castillo (ACCEM Spain), Jon Williams (British Refugee Council), George Joseph (Caritas Sweden), Doris Peschke (CCME), Anne La Cour Vaagen and Mette Honoré (Danish Refugee Council), Ariane Den Uyl and Stefan Kok (Dutch Refugee Council), Charlotte Sirren-Borrego (Finnish Red Cross), Marta Pardavi (Hungarian Helsinki Committee), Charles Davy, Bill Canny, Ken Patterson, Mariette Grange and Ann Marie Winter (ICMC), Karl Kopp (Pro Asyl Germany) and Ragna Vikoren (Norwegian Refugee Council).

And finally we would like to acknowledge those members of staff within ECRE's Secretariat who have made significant contributions in steering and shaping this paper. These are Peer Baneke, Clara Odofin, Richard Williams and Maree Preferment.

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## Foreword

The European Council on Refugees and Exiles (ECRE) is a pan-European network of refugee-assisting non-governmental organisations, concerned with the needs of all individuals seeking refuge and protection within Europe. It promotes the protection and integration of refugees based on the values of human dignity, human rights and an ethic of solidarity. ECRE draws on the energy, ideas and commitment of an active membership and a strong secretariat. It strives to involve wider civil society, the political community and refugee communities in its work.

ECRE aims to ensure that its ideas, projects, research and policies are of the highest quality, legally accurate and representative of a wide range of knowledge, experience and best practice throughout Europe. ECRE encourages the widest possible active involvement of its member agencies.

### The Way Forward

The development of this paper on a European resettlement programme is part of the organisation's development of a series of proposals entitled "**The Way Forward - Europe's Role in the Global Refugee Protection System**", designed to provide constructive recommendations on a number of topical refugee policy issues and contribute to positively influencing the European debate. The other proposals address the issues of guarding refugee protection in regions of origin, improving solutions for refugees through integration, the development of fairer and more efficient asylum systems and the return of asylum seekers whose applications have been rejected.

## Executive Summary

Resettlement is the transfer of refugees from their country of asylum to a third country that has previously agreed to admit them and grant them some formal status, normally as refugees with permanent residence and the possibility of acquiring future citizenship. If a refugee cannot locally integrate in their country of first asylum and there is no prospect of repatriation in the medium to long-term, resettlement becomes the only possible **durable solution**.

At least two thirds of refugees around the world are languishing in protracted refugee situations where for unacceptably long periods of time their basic rights and essential needs are not fulfilled. Many are in camps with no prospect of being able to settle locally or return home, and desperately in need of a chance to rebuild their lives. Such refugees would potentially be eligible for resettlement.

Despite its potential, resettlement constitutes a relatively small part of the global refugee protection system. Some 16 countries worldwide undertake the resettlement of refugees: 55,600 refugees were resettled in 2003 around the world,<sup>1</sup> and in 2004 closer to 100,000 places were made available.<sup>2</sup> However only seven of these 16 countries are European and fewer than 5,000 refugees are resettled to Europe each year.

In the past, the generous response of other countries to the need to resettle refugees from Europe ensured the region's stability in the aftermath of World War II and in the early days of the Cold War. Europe is in turn now doing comparatively little to resettle refugees from regions hosting the overwhelming majority of refugees, despite today's acute global resettlement needs.

**Europe must substantially increase its resettlement activities and take a fairer share of the large number of refugees worldwide in urgent need of resettlement.**

As well as being one of the three possible traditional durable solutions, alongside voluntary return and local integration, resettlement has two other universally accepted functions

It serves as a tangible demonstration of international solidarity and burden-sharing with countries in refugees' regions of origin that are hosting the overwhelming majority of the world's refugees and are themselves often poor and unstable. Resettlement will be a crucial element in the European Union's (EU) new Regional Protection Programmes requiring such countries to do more to protect and integrate refugees. At a time when many developing countries see Europe attempting to avoid its protection responsibilities by restricting access to Europe and to asylum procedures for those who seek protection, resettlement as an expression of solidarity is extremely important.

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<sup>1</sup> Refugees by Numbers (2004 edition), UNHCR. Though many more thousands were also resettled bilaterally by some of those countries.

<sup>2</sup> United Nations High Commissioner for Refugees, Mr. Ruud Lubbers, Talking Points for the Informal Justice and Home Affairs Council (Luxembourg, 29 January 2005)

First and foremost, however, resettlement is an international protection tool to meet the needs of refugees whose life, liberty, safety, health and other fundamental human rights are at risk in the country where they have sought refuge.

### **Why should Europe resettle refugees?**

The following key reasons demonstrate why Europe should resettle:

- Resettlement creates the opportunity to provide protection, especially to those most in need such as the most vulnerable;
- Resettlement is a way for Europe to exercise its solidarity and take its share of its responsibility in the provision of this durable solution to the world's refugees;
- Resettlement provides access to Europe for refugees;
- Resettlement provides the opportunity to develop coordinated, high-quality reception and integration programmes;
- Resettlement is an important means of facilitating public understanding of all refugees, their plight and the situations they flee.

### **What resettlement is not**

It is equally important to emphasise what resettlement is not. Fundamental to ECRE's approach in promoting the expansion of resettlement to Europe is the principle that the establishment of national and/or European resettlement programmes should not negate or undermine the right to seek and enjoy asylum in Europe. It should rather complement the existing European and/or national systems for dealing with the protection claims of spontaneously arrived asylum seekers. Resettlement is not and should not be considered a potential substitute for states' obligations under international and European law to consider applications for asylum on their territory. Moreover, the development of resettlement activities in no way diminishes the continuing need for states to strengthen their national asylum systems.

At the same time, resettlement alone cannot and should not be seen as the only means of addressing the protection needs of refugees in regions of refugee origin. Resettlement is not a universal panacea and it must be approached as part of a comprehensive protection and durable solution strategy that develops the strategic use of resettlement and benefits all refugees - not just those eligible for resettlement. In this way, resettlement is only part of the more comprehensive engagement by European states needed to address the protection of all refugees.

## How could Europe resettle more refugees?

Europe should increase its resettlement activities in the following ways:

European states that currently undertake resettlement should implement their programmes more efficiently and increase their efforts to fill the annual quotas made available. They should also make every effort to consistently expand resettlement programmes.

Emerging resettlement countries and those countries that have not yet considered resettlement in Europe should, as a matter of urgency, undertake to establish a national resettlement programme on whatever scale feasible.

European states should also act in a coordinated fashion to enhance and expand their resettlement activities. This would not only increase available resources on behalf of refugees by increasing cost efficiency, but it would also have a greater impact.

## Collective European resettlement

The EU has begun to explore the possibility of a legislative framework on resettlement through the establishment of an *EU-wide resettlement scheme*. ECRE has to date supported these proposals, noting however that such a scheme should lead to an increase in resettlement opportunities and, rather than being voluntary, should engage the participation of *all* EU Member States.

In the longer term such a scheme should be expanded into a truly joint *European resettlement programme*. Such a programme should be based on common criteria and commit European states to making a significant number of resettlement places available each year. While involving the participation of all EU Member States, a European resettlement programme would also allow for non-EU countries to be associated with and/or fully participate in it.

## A European Resettlement Programme

In this paper, ECRE suggests, on the basis of the views and experience of its member agencies, how such a joint European resettlement programme could be developed and how it could function. In doing this ECRE considers the question of how commitments to resettle a certain number of refugees could be set and shared by states, as well as what criteria should be used to target agreed commitments, namely who gets resettled. The resettlement process itself is also addressed in some detail and ECRE makes suggestions about how identification of refugees, processing, decision-making and pre-departure activities could be adjusted in the context of a European resettlement programme. The important roles that UNHCR, non-governmental organisations (NGOs) and refugees can and should play as stakeholders in such a programme is emphasised.

## **Role of UNHCR**

UNHCR is charged with the international responsibility for seeking durable solutions for refugees and plays a central role in global resettlement efforts. Given the tremendous demand for resettlement in the field, parallel systems would be highly problematic. UNHCR should therefore undertake and be resourced to conduct a greater coordination role in the resettlement process.

## **Role of NGOs**

A European resettlement programme should have mechanisms to make full use of the experience and expertise of non-governmental organisations (both in receiving countries and in regions of origin) to help ensure that the resettlement process remains credible, transparent and focused on the protection needs of refugees.

## **Role of Refugees**

Engaging refugee populations, the oft-neglected partner, in resettlement planning is also important, as it would ensure that resettlement expectations are more effectively managed, and that more credible information on the functions and limits of resettlement is transmitted within the refugee population.

*This proposal on the future of European resettlement activities is part of the organisation's development of a series of proposals entitled **"The Way Forward - Europe's Role in the Global Refugee Protection System"**, designed to provide constructive recommendations on a number of topical refugee policy issues and contribute to positively influencing the European debate. The other proposals address the issues of guarding refugee protection in regions of origin, creating fairer and more efficient asylum systems in Europe, improving solutions for refugees through integration and the return of asylum seekers whose applications have been rejected.*



## Introduction

The European Council on Refugees and Exiles (ECRE) and its member agencies have long recognised the value of resettlement as a durable solution for refugees, and long been engaged in resettlement activities. In a joint ECRE/USCR report published in August 2003<sup>3</sup> the strategic and expanded use of resettlement was one durable solution put forward as a way to provide better access to protection and in turn meet the need to alleviate the impact of migration controls on refugees in need of international protection. Several ECRE member agencies are actively involved in national resettlement programmes, undertaking a range of responsibilities from participating in selection missions and national coordination mechanisms, to providing pre-departure, reception and integration services to resettled refugees. ECRE and two of its member agencies were additionally involved in the MORE Project, which aimed to develop comprehensive models for the resettlement of refugees, for use by the Member States of the European Union (EU) and other countries. By collecting existing good practice from around Europe, the project sought to facilitate better and quicker integration of resettled refugees in particular.<sup>4</sup>

In turn the internationalisation of the European Union's asylum policies has been a distinct trend in recent years. The importance of giving greater priority to the so-called 'external dimension' of asylum and immigration policies has been stressed by EU heads of state at a number of European Council meetings (Tampere in 1999, Laeken in 2001, Seville in 2002 and Thessaloniki in 2003). Since Tampere a number of policy decisions and activities have been aimed at developing co-operation with third countries in the 'management of migrations flows'.<sup>5</sup> For example the High Level Working Group on Migration and Asylum was established and charged with preparing practical and operational proposals to increase such co-operation with countries of origin and of transit of asylum seekers. There has also been a drive to negotiate EU readmission agreements with third countries and a financial programme set up to assist third countries in the areas of migration and asylum. In response the European Commission in a 2004 Communication also stressed that the EU should pay greater attention to the external factors influencing the arrival of people seeking protection.<sup>6</sup>

Since 2000, the European Commission has in various Communications increasingly flagged up the provision of protection through resettlement as worthy of further consideration. In 2003 it commissioned a study on the feasibility of setting up more

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<sup>3</sup> Sections of this paper are drawn from the ECRE/US Committee for Refugees report, *Responding to the Asylum and Access Challenge: An agenda for Comprehensive Engagement in Protracted Refugee Situations*, April 2003. The research for the report was undertaken by Gil Loescher, Bill Frelick, Steve Edminister and James Milner particularly in relation to the case studies and the sections on resettlement, and Petra Catz in relation to the sections on Comprehensive Approaches, Responsibility Sharing and the External Dimension.

<sup>4</sup> For further information see the MORE Project website: [www.more.fi](http://www.more.fi)

<sup>5</sup> See the *Communication Integrating Migration Issues in the European Union's Relations with Third Countries* COM (2002) 703 final, 3.12.2002. Migration issues have been progressively incorporated into EU Regional and Country Strategy Papers and have always featured majorly in the EU's strategy towards the Balkan region through the Stabilisation and Association Process.

<sup>6</sup> *Communications Towards more accessible, equitable and managed asylum systems*, (COM 2003) 315 final) and *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.

resettlement schemes in EU Member States and a scheme at EU level,<sup>7</sup> and in November 2003 a seminar was held to discuss with the various stakeholders the options put forward by that study.<sup>8</sup>

The European Commission has since begun to explore the possibility of an EU legislative framework on resettlement through the establishment an *EU-wide resettlement scheme* within the framework of so-called EU Regional Protection Programmes. So far it has proposed that resettlement feature as one option available to EU states within a ‘toolbox’ of measures, alongside others such as bolstering the ability of countries of first asylum to provide protection.<sup>9</sup> The European Parliament has supported this proposal.<sup>10</sup> The Council of Ministers in turn approved in November 2004 a programme that provides the new framework for the development of the EU’s policies on ‘Justice, Freedom and Security’ for the next five years. The framework confirms the intention to develop joint resettlement activities at the EU level.<sup>11</sup>

ECRE has closely followed the resettlement policy debate at the EU level, providing its views on the proposals made to date, and within that it has fully supported proposals to develop an EU-wide resettlement scheme. A wide range of other actors, including EU Member States, the UN High Commissioner for Refugees (UNHCR), other non-governmental organisations (NGOs) and academics have also called for the expansion of European resettlement activities and the development of a European resettlement programme. This body of work on resettlement in Europe in the last five years has led to a richness of thinking that constitutes an important reference point for this paper.

The purpose of this paper is to make the case for the increased use of resettlement by European countries on two levels: first, through the establishment of national resettlement programmes and the expansion of existing national programmes; and secondly, through the development of a joint European resettlement programme. This paper therefore sets out ECRE’s detailed proposal on what elements and priorities such a programme should contain.

References to “Europe” or “European countries” mean all European countries, rather than just those that are members of the EU. At the same time it is recognised that the EU is likely to play a significant role in the development of any collective European

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<sup>7</sup> *Study on 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*, Joanne van Selm, Tamara Woroby, Erin Patrick and Monica Matts, Migration Policy Institute and European Commission, 2003.

<sup>8</sup> *Towards more orderly and managed entry in the EU of persons in need of international protection*, Seminar organised by the Italian Ministry of Interior, with the support of the European Commission and the cooperation of the Italian Refugee Council (CIR), Rome 13-14 October 2003.

<sup>9</sup> See the Communications *Towards more accessible, equitable and managed asylum systems*, (COM 2003) 315 final) and *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

<sup>10</sup> See *European Parliament resolution on asylum procedure and protection in regions of origin* (2004/2121(INI)), P6\_TA-PROV(2004)0100, 15 December 2004 and *Report on asylum procedure and protection in regions of origin* (2004/2121(INI)), Jean Lambert, Final A6-0051/200429 November 2004.

<sup>11</sup> *Presidency Conclusions-Brussels, 4/5 November 2004: Annex 1: The Hague Programme, Strengthening Freedom, Security and Justice in the European Union* p. 21-22.

resettlement activities. This paper therefore consciously places itself in the context of the recently adopted 'Hague Programme'.<sup>12</sup> In making recommendations the paper focuses on the short to medium term and refers directly to the European Commission's (EC) proposal to establish an EU-wide resettlement scheme, which to date remains a fairly broad proposal allowing for a flexible and voluntary framework.

However, within the Hague Programme, the EU has also set itself the target of establishing a Common European Asylum System (CEAS) with a common asylum procedure throughout the EU by 2010. Once such a system were in place and as the EU further develops the external dimension of its asylum policies in conjunction with its external relations and development cooperation policies, the possibilities in terms of how an EU resettlement scheme could function would change and favour the development of a truly *joint European resettlement programme*,<sup>13</sup> with more common elements, and complementing a CEAS. Such a programme would be less flexible than the EU resettlement scheme currently being discussed and comprise common elements such as shared criteria on who would be targeted. It would involve the participation of all EU Member States, but could function only on the basis of a commitment by all European countries to make a significant enough number of resettlement places available through the programme. At relevant points therefore the paper also makes recommendations with a view to this more long-term possibility.

The paper builds on developments at the European level and in international resettlement policy, through the Global Consultations on International Protection, recent Annual Tripartite Consultations on Resettlement (ATC) and the work of the Resettlement Working Group in Geneva as part of UNHCR's Convention Plus process.<sup>14</sup> As such, this paper also aims to outline specifically how recent developments in international resettlement policy may be applied to the development of a new European resettlement programme that is focused on the protection of refugees, the identification of a timely durable solution to their plight and the demonstration of solidarity with countries of first asylum.

Section 1 of the paper presents a definition of resettlement, a discussion of its functions, key arguments for resettlement to Europe, and an overview of present European resettlement efforts.

Section 2 addresses the questions of level setting and coordination in resettlement activities, including a discussion of how levels of commitment for a European resettlement programme could be set, different ways in which the responsibility for resettlement could be shared and coordinated among Member States and how resettlement does and does not relate to European asylum systems.

Section 3 addresses the mechanics of a resettlement programme by presenting possible resettlement criteria and procedures. This includes a discussion of which refugees should be included in a European resettlement programme, how resettlement

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<sup>12</sup> *Ibid*

<sup>13</sup> The term European is consciously used with the view that non-EU countries could also associate themselves voluntarily with such a programme which would nevertheless be led by the EU.

<sup>14</sup> See the result of this group's discussion: *Multilateral Framework of Understandings on Resettlement*, Forum/2004/6, 16 Sept 2004 as a frame of reference for the elaboration of resettlement programmes.

activities should be targeted, eligibility issues, what criteria should be used and the determination of family composition. It discusses how the principles outlined in Section 2 could be applied in the various stages of the resettlement process, including identification, processing, decision-making and pre-departure activities. It also considers the actual and potential roles and responsibilities of UNHCR, government representatives, countries of first asylum, NGOs and refugees within the different stages of the resettlement process.

It should be noted that the issue of the integration of resettled persons is beyond the scope of this paper. Recommendations set out by ECRE in its proposal: *Towards the Integration of Refugees in Europe*, and in its *Position on the Integration of Refugees in Europe* (2002) should be referred to.<sup>15</sup> ECRE recognises that with regards to integration resettled persons may have additional specific needs—particularly where vulnerable groups, with specific health needs or disabilities for example, are resettled, and where persons from protracted camp situations in regions of origin have been resettled.

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<sup>15</sup> See also the forthcoming MORE Project Handbook on best practice on resettlement in Europe which looks at existing practice on the integration of resettled refugees ([www.more.fi](http://www.more.fi)), as well as the following UNHCR documents: *UNHCR Resettlement Handbook* (updated 2004), *Refugee Resettlement. An International Handbook to Guide Reception and Integration; Supporting Next Steps in Integration Initiatives An Inventory of Opportunities and Needs in the Integration of Resettled Refugees*, a project of the Annual Tripartite Consultations on Resettlement implemented by the Canadian Council for Refugees, August 2004.

# 1. Principles of Resettlement

## 1.1 What is resettlement?

### 1.1.1 Resettlement defined

Resettlement is the transfer of refugees from their country of asylum to a third country that has previously agreed to admit them and grant them some formal status, normally as refugees with permanent residence and with the possibility of acquiring future citizenship. As such, resettlement is one of the three possible traditional durable solutions for refugees, along with repatriation and local integration in the country of first asylum.

If a refugee cannot locally integrate in their country of first asylum and if there is no prospect of repatriation in the medium to long-term, resettlement becomes the only possible solution. The need for resettlement is even more acute where a refugee cannot find ‘effective protection’ in their country of first asylum.

### 1.1.2 Functions of resettlement

The last five years have seen significant developments in international resettlement policy, especially through the Annual Tripartite Consultations on Resettlement, the Resettlement Working Group, and the Global Consultations on International Protection and the Convention Plus initiative. The *Agenda for Protection*,<sup>16</sup> resulting from the Global Consultations process, highlights three functions of resettlement: as a tool of international protection, as a durable solution and as a tangible demonstration of international solidarity and burden sharing with countries of first asylum. Further, through the Convention Plus process, the strategic use of resettlement to relieve protracted refugee situations and enhance the combined use of all three durable solutions is promoted.<sup>17</sup>

#### **Recommendation 1:**

The three universally accepted functions of resettlement should act as the guiding principles for any expanded resettlement activities in Europe.

#### **Tool of international protection**

Resettlement is, first and foremost, a tool for meeting the special needs of refugees whose life, liberty, safety, health and other fundamental human rights are at risk in the country where they sought refuge. Such protection considerations should be at the core of all resettlement activities.

To realise the protection function, resettlement procedures need to be dependable and responsive to protection needs. Resettlement criteria should demonstrate the flexibility to respond to the protection needs of refugees who have been in limbo for a long time and to *prima facie* refugees who have particularly pressing protection needs although they may not fulfil all the requirements of the 1951 UN Refugee Convention

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<sup>16</sup> *Agenda for Protection*, UN Doc. A/AC.96/965/Add.1, 26 June 2002.

<sup>17</sup> See Multilateral Framework of Understandings on Resettlement, Forum/2004/6, 16 Sept 2004.

definition.<sup>18</sup> Resettlement programmes could also be responsive to unforeseen refugee situations, and include provisions to respond to emergency and urgent resettlement needs. At the same time, resettlement priorities should be responsive to the most pressing protection needs, not political pressures or priorities in the resettlement country.

### **Durable solution**

Resettlement's second function is as a durable solution for individual refugees or groups of refugees. It is now recognised that there is no 'durable solutions hierarchy', and that "resettlement can no longer be seen as the least-preferred durable solution; in many cases it is the *only* solution for refugees."<sup>19</sup> Resettlement is the only durable solution for individual refugees or groups of refugees for whom both local integration, in a manner appropriate to their culture, social, religious or educational backgrounds and voluntary repatriation are deemed not to be viable durable solutions in the medium to long-term.<sup>20</sup>

### **Burden and responsibility sharing**

An increase in European resettlement commitments should also be motivated by a third function of resettlement. As an expression of international solidarity and as a responsibility sharing mechanism, resettlement programmes should serve as a means of responding to the fact that the overwhelming majority of the world's refugees are hosted in the region of refugee origin, mainly in host countries that are among the world's poorest and least stable.

In the past, the generous response of other countries to the need to resettle refugees from Europe ensured the region's stability in the aftermath of World War II and in the early days of the Cold War. With the enthusiastic and active support of civil society in Western countries, and motivated by political and humanitarian considerations, resettlement was identified by a range of governments as the best solution for refugees remaining in Europe after World War II. The International Refugee Organization facilitated the resettlement of over 1 million refugees to countries outside Europe in the late 1940s. Additional resettlement commitments were required to find solutions for displaced persons remaining in camps around Europe until the early 1960s.

In return for the support they have historically received through resettlement, European countries have responded generously to the resettlement need of certain high-profile refugee emergencies in the past, and most recently to emergencies that had the potential to directly affect Europe. European resettlement efforts were able to help address the protection needs of refugees from a range of contexts and regions of origin, including the 1956 Hungarian crisis, the Ugandan Asians, the resettlement of Chilean dissidents, and the Comprehensive Plan of Action for Indochinese refugees.<sup>21</sup>

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<sup>18</sup> Article 1A(2) of the 1951 Convention relating to Status of Refugees.

<sup>19</sup> Sadako Ogata, UN High Commissioner for Refugees, Geneva, April 2000.

<sup>20</sup> See *UNHCR Resettlement Handbook 2004*, Chapter 4.9.

<sup>21</sup> It should be noted that resettlement should not be confused with residence permits granted within the temporary protection regime.



Engaging in large-scale sustained resettlement activities may be used strategically as part of a comprehensive solution for protracted refugee situations, and may be important in serving to improve the protection environment for those refugees who are not resettled and remain in the country of first asylum - a function that it has served historically - while making the global refugee regime more equitable, and therefore sustainable.<sup>22</sup>

Mindful of the need to expand resettlement opportunities, delegates to the 2001 Annual Tripartite Consultations on Resettlement in Geneva encouraged the expansion of resettlement in Europe, both on the part of individual countries and collectively through the EU. When addressing the possibility of an EU-wide resettlement scheme in a background paper for the 2001 ATC, UNHCR stated: *“The possibility of creating additional resettlement opportunities, as a particular mechanism to share responsibilities with countries of refuge, should be encouraged and further explored. Resettlement is one of the tools in the arsenal of protection within the whole governance structure for refugees. A fresh look should be taken at the useful role that fair and global resettlement commitments might play in giving practical meaning to the need to offer durable solutions to refugees under the UNHCR mandate.”*<sup>23</sup> (Caution was, however, expressed that such a system be viewed as “a complement to other protection and assistance efforts and not as a substitute for asylum.”)<sup>24</sup>

Given that the majority of the world’s refugees are found in protracted refugee situations,<sup>25</sup> and therefore potentially eligible for resettlement, a significant increase in global resettlement numbers is required if the three functions of resettlement are to be meaningful.

## **Recommendation 2:**

Any reconsideration of European resettlement activities, either on the part of individual states or collectively through the European Union, should include resettlement commitments that are responsive to global resettlement need.

### **1.2 Why resettle?**

There are many reasons why the resettlement of refugees to Europe should take place. Many of those reasons are ethical and practical, but all demonstrate how a wide range of groups would benefit, beyond the refugees themselves. The following key reasons demonstrate why Europe should resettle:

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<sup>22</sup> See Discussion Paper by the Working Group on Resettlement *The Strategic Use of Resettlement*, UN Doc. EC/53/SC/CRP.10/Add. 1, 3 June 2003 and *Multilateral Framework of Understandings on Resettlement*, High Commissioner's Forum, Forum/2004/6, 16 Sept 2004.

<sup>23</sup> “*Background Note for the Agenda Item: Strategic Utilization of Resettlement to Enhance Asylum and Protection Prospects*”, Annual Tripartite Consultations on Resettlement, Geneva, 20 June 2001, paragraph 20.

<sup>24</sup> *Ibid*, paragraph 21.

<sup>25</sup> The UN High Commissioner for Refugees has stated that 6 million persons are involved in 38 protracted refugee situations worldwide, *Lubbers urges EU to take more holistic approach to refugees*, UNHCR Press release to EU Informal Meeting of Justice and Home Affairs Ministers in Luxembourg, 29 January 2005.

- **Resettlement creates the opportunity to provide protection, especially to those most in need**, such as the most vulnerable and those in protracted refugee situations, thus helping to formulate solutions to those situations.

- **Resettlement is a way for Europe to exercise its solidarity and take its share of its responsibility in the provision of this durable solution to the world's refugees.**

This is important when the size of the global refugee population in urgent need of resettlement is far greater than the number of places available, and the overwhelming majority of the world's refugees remain in regions of origin, themselves often poor and unstable. At a time when many developing countries see Europe attempting to avoid its protection responsibilities, resettlement as an expression of solidarity is very important.

- **Resettlement provides access to Europe for refugees.**

This is important at a time when huge efforts and resources are being invested in restricting access to European Union states, widely and indiscriminately preventing refugees from reaching sanctuary in Europe—for some, one of the few places where they have a hope of finding lasting protection.

- **Resettlement provides the opportunity for co-ordinated and quality reception and integration programmes to be developed.**

The resettlement process builds in the necessary time and information for states to plan better for the arrival of refugees, for example in the provision of housing, education and financial support. The predictability of resettlement helps lead to better planning and budgeting for the resettlement programme. It also facilitates close coordination among service providers and the devising of integration programmes.

- **Resettlement is an important means of facilitating public understanding of all refugees, their plight and the situations they flee.<sup>26</sup>**

The process surrounding the resettlement of refugees to Europe plays an important role in this, but in turn the resettlement of refugees in Europe also contributes to the enrichment of our societies and cultures.

Other reasons include the way in which resettlement helps countries in regions of origin increase their capacity to provide protection to those who remain in their territory. Resettlement can play a role in improving the protection environment for thousands if not millions of other refugees who have not been resettled. By strategically using resettlement, protracted refugee situations can be addressed, thereby impacting positively on development and diminishing the risk of instability caused by these protracted refugee situations.

There is also anecdotal information that individuals bypass current resettlement programmes in regions of origin and avail themselves of the services of smugglers to

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<sup>26</sup> The resettlement of Kosovar refugees evacuated from Macedonia during the Kosovo crisis in the spring of 1999 (on a temporary basis in Europe and permanent basis in the United States) helped to educate the public about the plight of refugees and generated considerable public support, not just for refugee resettlement but also for other humanitarian programmes.



gain access to Europe, as there is little confidence in the dependability and efficiency of current resettlement efforts. It is possible that if resettlement activities were more dependable and effective, more people would see these programmes as a viable alternative to resorting to being smuggled. Still, this should not be seen as the primary motivation for establishing a European resettlement programme, for a number of reasons: the right to seek asylum must be upheld; people will continue to need to seek asylum in Europe; and very importantly there are no benefits to be gained by pitting resettled refugees against asylum seekers and thus creating a 'good refugee' versus 'bad refugee' dichotomy.

### 1.3 European resettlement today

A total of 16 countries worldwide currently participate in ongoing global resettlement activities<sup>27</sup> by making available an annual quota for the resettlement of refugees.<sup>28</sup> These include the emerging resettlement countries of Brazil, Chile, Ireland, Iceland, Benin and Burkina Faso, which have agreed to annual resettlement commitments within the past three years, and collectively have resettled roughly 500 refugees since their establishment. Additionally the UK started a resettlement programme in 2003 with an initial commitment to resettle 500 refugees in that year.<sup>29</sup>

The traditional European resettlement countries are Denmark, Finland, The Netherlands, Sweden and Norway. These countries have a long experience of resettlement and altogether made available a quota of over 4,200 refugees during 2004, with a particular emphasis on vulnerable refugees.<sup>30</sup> However not all these places have actually been filled - Finland, Denmark and Sweden being the countries that have managed to fill their places most effectively over recent years.

Beyond Europe, although New Zealand is a resettlement country, the United States, Canada and Australia are the 'big three' resettlement countries. Together, they are responsible for resettling around 85,000 refugees a year. The United States in particular commits itself to resettling more refugees than all other resettlement countries combined.<sup>31</sup>

#### **Recommendation 3:**

Comparing Europe's current level of resettlement activities with other countries, and with 6 million refugees in 38 protracted refugee situations around the world,<sup>32</sup> Europe should increase its engagement in resettlement.

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<sup>27</sup> Only 7 of these are European.

<sup>28</sup> *Easy guide on refugee resettlement programmes 2003/2004 - Information as of February 2004.*

<sup>29</sup> To date 150 have actually been resettled through the so-called Gateway Protection Programme.

<sup>30</sup> *Easy Guide on refugee resettlement programs 2003/2004.*

<sup>31</sup> For details of annual numbers of refugees resettled to the USA see Refugee Admission Figures at: <http://www.refugeecouncilusa.org/library.html#admissions>

<sup>32</sup> *Lubbers urges EU to take more holistic approach top refugees*, UNHCR Press release to EU Informal Meeting of Justice and Home Affairs Ministers in Luxembourg, 29 January 2005.

**Recommendation 4:**

European states that currently undertake resettlement should increase their efforts to fill the annual quotas made available. They should also make every effort to consistently expand resettlement programmes.

**Recommendation 5:**

Emerging resettlement countries and those countries that have not yet considered resettlement in Europe should, as a matter of urgency, undertake to establish a national resettlement programme on whatever scale feasible, in order to begin to take their share of the global resettlement responsibility.

## 2. Level Setting and Coordination

The increasing cooperation between European countries on the external dimension of asylum and immigration policies and on foreign policies, and the benefits of economies of scale through collective action, suggest that countries operating only independently would be less likely to maximise the protection benefit of their resettlement activities.<sup>33</sup> In contrast, coordinated European resettlement activities, by being more cost efficient, would not only increase available resources on behalf of refugees but would have a greater impact.

### **Recommendation 6:**

European states should also act in a coordinated fashion to enhance and expand their resettlement activities.

In the short to medium term, the development of European resettlement is likely to be through closer coordination of individual national resettlement programmes and a flexible and voluntary EU-wide resettlement scheme. This would be a positive step forward.

### **Recommendation 7:**

The establishment of an EU-wide resettlement scheme as proposed by the European Commission should lead to an increase in the opportunities for resettlement to Europe and should also engage the participation of *all* EU Member States.

In the longer term however, as the EU further develops the external dimension of its asylum policies in conjunction with its external relations and development cooperation policies, it will become possible and indeed desirable for resettlement to expand further through a joint European resettlement programme with more common elements.<sup>34</sup> Such a programme could function only on the basis of a commitment by all European countries to make a significant enough number of resettlement places available through the programme.

### **Recommendation 8:**

In the longer term an EU-wide resettlement scheme should be expanded into a truly joint *European resettlement programme* based on common criteria and the commitment of European States to make a significant number of resettlement places available every year.

### 2.1 Setting levels of commitment for a European Resettlement Programme

In view of the public and media attention given to asylum numbers in Europe, the number of refugees resettled to Europe under any expanded resettlement activities will likely be of significant concern to European states. As mentioned above, for resettlement to fulfil its functions as a meaningful demonstration of solidarity with

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<sup>33</sup> See the *Multilateral Framework of Understandings on Resettlement*, Forum/2004/6, 16 Sept 2004 from the UNHCR Convention Plus process which sets out arguments why this would be the case.

<sup>34</sup> This would include the possibility of non-EU countries being associated and fully participating in a broader European resettlement programme.

countries of first asylum and as a useful component of a comprehensive durable solutions strategy, resettlement numbers need to be significant, and proportional to Europe's prosperity relative to countries of first asylum. At the same time, however, for resettlement to be well managed, reasoned consideration needs to be given to the number of refugees that current structures can resettle in a given year, how these structures need to be developed to accommodate additional numbers, and the process whereby the level of resettlement commitment should be determined.

Member States of the EU committed themselves to resettling about 4,700 refugees in 2004.<sup>35</sup> This includes exceptional family reunification cases to non-resettlement countries (France and Belgium). In contrast, the former UN High Commissioner for Refugees, Ruud Lubbers, proposed that European states should be responsible for the resettlement of 100,000 refugees a year, as part of his desire to see global resettlement efforts increased from approximately 100,000 a year to 250,000.<sup>36</sup>

An increase of 95,000 resettled refugees might be difficult (but not impossible) to achieve both practically and politically; but any increase in European resettlement activities should be progressive, with multi-year programmes, in order to ensure the establishment of the necessary structures. This would be particularly useful in building towards a joint European resettlement programme.

At this stage, it does not seem possible to ask *how many refugees Europe could resettle*. History does not seem to suggest that there is a 'natural limit' to the number of refugees that a country or region can resettle. Resettlement commitments have, historically, been limited only by the political will to commit the necessary resources.

The more important question to ask is *how many refugees Europe should resettle*. History illustrates that there is no objective answer to this question, and that the determination of resettlement commitments is more a political question. With strong public support and demonstrable political will, European resettlement activities may be sufficiently generous to respond to the dramatic resettlement need exhibited in regions of refugee origin.

### **Recommendation 9:**

European resettlement commitments should be significant enough to make an appropriate contribution to meeting the large global resettlement needs.

### **Recommendation 10:**

In developing a European resettlement programme European countries should commit themselves to collectively resettling a certain number of people (be this through setting up a quota, target or ceiling) and they should determine a fair and equitable system for the allocation of places. The number agreed on should be based on:

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<sup>35</sup> United Nations High Commissioner for Refugees, Mr. Ruud Lubbers, *Talking Points for the Informal Justice and Home Affairs Council* (Luxembourg, 29 January 2005)

<sup>36</sup> *Opening statement by Ruud Lubbers*, Annual Tripartite Consultations on Resettlement, Geneva, June 2002. The High Commissioner's proposed division for the resettlement target of 250,000 was 100,000 for North America (Canada and the United States), 100,000 for Europe and 50,000 for the rest of the world.

- 1) a true assessment of need for resettlement, and not one based on UNHCR's capacity to process the cases or overall country pledges;
- 2) a spirit of responsibility, sharing equally with other countries or unions of similar size and economy;
- 3) the political willingness and financial capacity to support a well run programme.

### **2.1.1 Multi-year resettlement commitments**

Multi-year resettlement commitments would be a useful means of ensuring the dependability of national resettlement programmes and a European programme, while facilitating longer-term planning by implementing agencies. At present, most national resettlement commitments are set on an annual basis,<sup>37</sup> and while it may be argued that there has been little change in resettlement commitments over the past four years, and may therefore be considered dependable, formal multi-year resettlement commitments, those that roll over any unfilled places would be most useful to the formulation of comprehensive durable solutions strategies and the strategic use of resettlement.<sup>38</sup> Multi-year commitments would also be beneficial to resettlement countries, as they would facilitate easier budgeting and planning of resettlement activities. Further to the objective of ensuring the responsiveness of resettlement, however, multi-year commitments can most usefully be seen as minimum-level commitments, revisited regularly to ensure that they are in line with resettlement need.

#### **Recommendation 11:**

Formal multi-year resettlement commitments, that roll over any unfilled places, should be developed as a useful means of ensuring the dependability of both national resettlement programmes and a European programme. However they should be regarded as minimum-level commitments and revisited regularly to ensure that they are in line with resettlement need.

## **2.2 Sharing resettlement responsibility**

The development of a European resettlement programme would also require some agreement on how the resettlement responsibility should be shared among participating states. There are two types of responsibilities associated with resettlement: the physical responsibility of receiving resettled refugees; and the fiscal responsibility of meeting the costs associated with resettlement activities. This section will consider the nature and possible approaches to sharing both of these responsibilities.

### **2.2.1 Sharing the physical responsibility**

The physical responsibility of resettlement involves the reception of resettled refugees into the territory of a state, and allowing resettled refugees to remain in that state and

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<sup>37</sup> Note that Norway and The Netherlands undertake multi-year commitments.

<sup>38</sup> In the absence of a roll over mechanism at the very least the unused part of any allocated budget should still only be used for resettlement-related activities.

take steps towards permanent legal status, typically citizenship. Simply put, it is the question of ‘who goes where?’

There are different ways of determining ‘who goes where’. One is to distribute the physical responsibility of resettling refugees according to a previously agreed upon sharing formula, akin to the assessment of dues to the United Nations. Such assessments have, however, traditionally proved difficult to enforce, and lead to many concerns about ‘free-riders’ in the provision of a common good. Pre-determined assessments also require some aspect of enforcement.

Another possibility would be to share the physical resettlement responsibility through a process of voluntary bidding or pledging<sup>39</sup> to meet a given commitment. Although such an approach would likely result in a higher level of compliance, it would likely lead to the resettlement commitment being set at a level so low as to ensure that it would be filled by voluntary bidding.

### 2.2.2 Sharing the fiscal responsibility

Fiscal responsibility sharing relates to meeting the costs of resettlement, from activities in regions of origin related to the identification and processing of refugees for resettlement to the costs of travel, reception and support of recently resettled refugees. Given the focus of this paper, the costs discussed will include only those prior to arrival in the resettlement country.

The resettlement of refugees from overseas is a labour-intensive process and a relatively costly option for assisting refugees. The U.S. per capita cost of resettlement in 2004 for example was about \$3,507,<sup>40</sup> which included payments for overseas processing and pipeline development<sup>41</sup> (\$884), transport costs (\$1,382), reception and placement (\$1,014) and Refugee Processing Centre (\$227).<sup>42</sup> In the U.S. the costs for social and health benefits are far more limited than they are in European countries however, and specific needs (e.g. HIV/AIDS treatment) will often be covered by private sources.

Although the more refugees are resettled the lower the operational costs become relatively (particularly relating to overseas processing, cultural orientation and integration), costs can vary greatly from country to country and reliable comparative data on the cost of countries’ resettlement programmes is hard to come by, in part because of the considerable differences in approach to resettlement from country to country.

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<sup>39</sup> This is promoted by the *Study on 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*, Joanne van Selm, Tamara Woroby, Erin Patrick and Monica Matts, Migration Policy Institute and European Commission, 2003.

<sup>40</sup> Figures from US State Department Bureau of Populations, Refugees and Migration and provided by Refugee Council USA.

<sup>41</sup> Costs related to overseas processing and pipeline development include, *inter alia*, the staffing and logistics costs of running resettlement selection missions, maintaining processing offices in regional resettlement hubs, and staff training and support. Information provided by Refugee Council USA.

<sup>42</sup> The Refugee Processing Centre is the venue where all the refugee cases are processed, assured and allocated to the national resettlement agencies.

For some, the price of resettlement raises the question of whether it represents the best use of the limited funds available for humanitarian programmes. Although seductive in its simplicity, the argument needs to be put within a much broader context. Although more costly than providing care and maintenance to refugees in most countries of first asylum, resettlement serves the important function of providing protection to a limited number of individuals with no other options. Unlike care and maintenance assistance, resettlement also provides a durable solution for refugees at risk in insecure countries of first asylum as well as for refugees who have little hope of repatriation and limited rights in countries of first asylum.

As with the physical resettlement responsibility, the fiscal responsibility may be shared according to assessed or voluntary arrangements, with similar limitations. Unlike the physical responsibility, however, which can logically be assumed only by a state, the fiscal responsibilities may be shared by a broader range of actors, including private organisations and corporations.

The EU feasibility study on resettlement proposes the establishment of a European Refugee Resettlement Fund (ERRF).<sup>43</sup> Such a fund would be a very useful mechanism for sharing the fiscal resettlement responsibility. Contributions to the ERRF should not only be received from Member States, but also solicited from private donors, corporations, organisations or individuals.

**Recommendation 12:**

As a first step the EU should establish a European Refugee Resettlement Fund, as part of fiscal responsibility sharing, to support the costs of resettlement activities of its Member States, accession states and other European countries. Contributions to the funds should come from not only Member States, but also private donors.

**Recommendation 13:**

Refugees should not be required to bear any of the costs of their resettlement.<sup>44</sup> This sets a dangerous precedent for equating access to protection with financial means, and could discriminate against certain refugees and groups of refugees.

**Recommendation 14:**

In addition under no circumstances should an approach to responsibility sharing be undertaken in which countries are allowed to circumvent their responsibility to resettle persons physically by increasing their financial contributions and paying other countries to resettle their 'share' of refugees.

Important reasons why this approach should not be allowed to develop include the fact that physical resettlement entails additional and often unquantifiable social costs, and more generally the issues of immigration, asylum, the integration of non-nationals and race / community relations are of unique sensitivity to each country.

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<sup>43</sup> See Joanne van Selm, Tamara Woroby, Erin Patrick and Monica Matts, *Study on 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 and European Commission, 2003.

<sup>44</sup> This means all costs incurred by the resettlement process including re-location and initial reception and integration support provisions.



### 2.2.3 Private sponsorship: public-private responsibility sharing

There are examples of public-private partnerships that help defray the costs of refugee resettlement and some that also undertake joint media and communications campaigns in favour of refugee resettlement, support training programmes, other integration support measures and the placing of refugees in companies.

For instance, in addition to the 7,500 government-assisted refugees that Canada resettled in 2004, the Canadian government also resettled between 2,900 and 4,200 refugees under a private sponsorship programme.<sup>45</sup> Under the programme, organisations with sponsorship agreements with the government or any group of five Canadian citizens agree to cover the costs of a refugee's first year in the country (this means the costs in addition to the basic welfare provisions that the Canadian government still cover). The additional private funds effectively create more resettlement opportunities. The programme has the added benefit of fostering the involvement of private citizens with refugees, which helps educate and create popular and political support for refugees and humanitarian programmes.

#### **Recommendation 15:**

Recognising that states have primary responsibility for the financing of refugee resettlement and integration as mechanisms to promote civil society and public support, other financing models, such as private-public partnerships should be explored.

### 2.3 Resettlement and asylum procedures: What resettlement is not

It is equally important to emphasise what resettlement is not. The central role of resettlement in Australia's new approach to asylum seekers<sup>46</sup> has brought the independence of resettlement into doubt and has, for some, re-cast resettlement as a tool of migration management and not a tool of international protection. As UNHCR argues, however, "*while resettlement constitutes a multi-faceted response mechanism, it is certainly not the panacea for all problems besetting asylum systems today, particularly those related to widespread illegal migration.*"<sup>47</sup> UNHCR develops this position by arguing that resettlement and asylum are two distinct and separate possibilities that should not be used to work against each other. UNHCR is very specific about stating how using resettlement to restrict the admission of asylum seekers would undermine the right to seek asylum, as enshrined in the Universal Declaration of Human Rights and the 1951 Refugee Convention, and that resettlement should be complementary to and not a substitute for other protection activities.<sup>48</sup>

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<sup>45</sup> Information as of February 2004 from *UNHCR Easy Guide on refugee resettlement programmes 2003/2004*.

<sup>46</sup> Australia allocates an overall number of admission places per fiscal year. Although the overall allocation represents a cap, numbers can be moved between the asylum and resettlement components, according to need. See *World Refugee Survey 2002 Australia Country Report and Sea Change: Australia's new approach to asylum seekers*, US Committee for Refugees, February 2002. Available on-line: <http://www.refugees.org>

<sup>47</sup> "*New Directions for Resettlement Policy and Practice*," UNHCR Standing Committee 21<sup>st</sup> Meeting, EC/51/SC/INF.2, 14 June 2001, paragraph 23.

<sup>48</sup> *Ibid*, paragraph 24 and *Background Note for the Agenda Item: Strategic Utilization of Resettlement to Enhance Asylum and Protection Prospects*, Annual Tripartite Consultations on Resettlement, Geneva, 20 June 2001, paragraph 21.



The recent European Commission Communication on ‘Improving Access to Durable Solutions’<sup>49</sup> also clearly supported the crucial premise that resettlement should be complementary and without prejudice to the proper treatment of individual requests in the context of spontaneous arrivals in the EU.<sup>50</sup> Any other approach in Europe would undermine the right to seek asylum as expressed in the EU’s Charter of Fundamental Rights<sup>51</sup> and in recently adopted EU legislation, particularly the Qualification Directive.<sup>52</sup>

Fundamental to ECRE’s approach therefore is the principle that the establishment of national schemes and an EU resettlement scheme should not negate or undermine the right to seek and enjoy asylum in Europe, rather it should complement the existing European and/or national systems for dealing with the protection claims of spontaneously arrived asylum seekers. Resettlement is not and should not be considered a potential substitute for states’ obligations under international law and European law to consider applications for asylum on their territory. Further, the development of resettlement activities in no way diminishes the continuing need for states to strengthen their national asylum systems.

In the long term, however, with a joint EU resettlement programme in place, in the context of a more common EU refugee protection system, and a substantial number of refugees being resettled to Europe (at present only 1% of refugees get resettled in the world), it is feasible that responsibility for asylum applications could be linked in some way to responsibility for resettlement.

Two key principles would have to be at the core of any mechanism linking those responsibilities :

- 1) no reduction in the total number of persons resettled annually to Europe could be allowed - only a re-allocation of countries’ existing commitments between themselves;
- 2) there could be no application of limits on the number of spontaneous asylum claims that any country could consider, and therefore no impact on a country’s responsibility to consider all asylum claims lodged on their territory.

A system with these fundamental safeguards in place, which would allow an individual country’s resettlement responsibilities to fluctuate, could help level-out the perceived ‘peaks and troughs’ in the treatment of asylum claims in Europe and go

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<sup>49</sup> *Communication from the Commission to the Council and the European Parliament 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.

<sup>50</sup> As did the more recent Note of the Luxembourg Presidency to the Informal Meeting of Justice and Home Affairs Ministers, *Determining an approach for the external dimension of the European Asylum Policy*, 27-29 January 2005,

<sup>51</sup> Article 18 of *The Charter of Fundamental Rights of the European Union*, December 2000 OJ (2000/C 364/01).

<sup>52</sup> *Council Directive 2004/83/EC of 29 April 2004, on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted*, OJ L304/12, 30.09.2004 which supports the principles in the Charter and states that it seeks to ensure full respect for human dignity and the right to asylum of applicants for asylum and their accompanying family members, Preamble parag 10.

some way to addressing the perception of an unequal distribution of responsibility among Member States for considering asylum claims. However, the indicators that could be used to determine when and how such a burden-sharing mechanism could work are numerous.

**Recommendation 16:**

An approach linking resettlement and asylum responsibility in the context of a truly joint European resettlement programme could be explored in the long term, but through only a thorough study of all the possible permutations and their consequences, in order to determine whether there are viable methodologies that would contribute to better burden and responsibility sharing without compromising Europe's role in the global refugee protection system.

At the same time, resettlement alone cannot and should not be seen as the only means of addressing the protection needs of refugees in regions of refugee origin. Resettlement is not a universal panacea and it must be approached as part of a comprehensive protection and durable solutions strategy that develops the strategic use of resettlement and benefits all refugees - not just those eligible for resettlement. In this way, resettlement is only part of a more comprehensive engagement needed by European states to address the protection needs of all refugees.

## **2.4 Coordinating resettlement**

The most effective and efficient resettlement activities have been determined to be those that are based on close coordination and cooperation by a range of resettlement actors, including resettlement countries, countries of first asylum, UNHCR, NGOs and refugees themselves. This section specifically explores the *coordination* roles that the various key actors should undertake in a functioning European resettlement programme. Their roles in the resettlement process are discussed in Section 3 of this paper.

### **2.4.1 European Resettlement Office**

In the short term an EU resettlement office in Brussels could be developed with the aim of focusing on encouraging the development of new resettlement programmes in EU countries (which might be national or regional involving several countries), ensuring closer cooperation between European resettlement countries in collaboration with UNHCR, and facilitating the development of an EU resettlement scheme.

In the long term such an office could take on a more operational role, undertaking tasks such as placing representatives in regions, planning allocations, coordinating missions with UNHCR, setting levels and resettlement priorities, managing the joint European resettlement programme, and could also represent the programme in the UN-led tripartite consultation process and engage in resettlement policy development, including ensuring the strategic use of resettlement and the formulation of comprehensive solutions for protracted refugee situations. European governments should provide operational staff for such an office, but it should also be staffed by representatives from the EU.

**Recommendation 17:**

An EU resettlement office in Brussels, working in close cooperation with UNHCR, should be incrementally developed in order to support the effective implementation of European resettlement activities. Such an office should at all times avoid duplication of UNHCR activities and work closely with relevant UNHCR and NGO staff in a tripartite spirit.

**2.4.2 The role of UNHCR**

Any developments in European resettlement, either collectively through the EU or individually on the part of states, should be through the tripartite global resettlement efforts as coordinated by UNHCR. This is for reasons of principle and pragmatism. According to its mandate, UNHCR is charged with the international responsibility for seeking durable solutions for refugees. The coordination of resettlement programmes has led to greater efficiency in resettlement activities and more responsive resettlement programmes. Moreover, the pragmatic concerns related to resettlement activities outside of tripartite mechanisms point to the importance of retaining UNHCR's role as the coordinating body of the resettlement process. Given the tremendous demand for resettlement in the field, parallel systems would be highly problematic, resulting in parallel applications, duplicate structures, unnecessary costs and security concerns. If multiple opportunities were created for submitting resettlement applications, and there were a lack of management and coordination of resettlement activities through UNHCR, additional pressures and confusion would emerge, and frustration would increase, not diminish.

At the same time ECRE recognises the considerable constraints on UNHCR resources for its work on resettlement both in the regions of origin and at headquarters in Geneva. For example UNHCR currently has too few officers with exclusive resettlement responsibilities posted in complex situations facing overwhelming resettlement need. The direct consequence of the human and material resource constraints for those required to conduct resettlement processing is a significant backlog of unexamined cases and long waiting periods for the results of interviews. In many cases, asylum seekers wait far too long (this can be 1-2 years) for the results of their status determination interview with UNHCR. Resettlement procedures still then have to take place, and this has left vulnerable refugees stranded in desperate conditions for months on end, often with little or no assistance from UNHCR.

In 2001, Nordic countries encouraged states to *“explore ways of harmonising resettlement policies and criteria in order to ensure the equitable treatment of refugees, more efficient processing, the avoidance of duplication, and the better use of valuable and scarce resources.”*<sup>53</sup> ECRE also recognises that the quality of information provided needs to be improved, as it is crucial that states have, for example, confidence in the registration process. The best way of addressing all these issues is through the development of more and better ways for Europe to collaborate with UNHCR. The EU and its Member States could also for example support UNHCR by seconding staff to UNHCR resettlement operations to facilitate

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<sup>53</sup> *Report of the Nordic Regional Resettlement Meeting*, Oslo, 6 – 7 November 2001. Available on-line at <http://www.unhcr.ch>

resettlement to the EU and other countries. This could be accompanied by the necessary greater prioritisation of resettlement within UNHCR.

**Recommendation 18:**

UNHCR should undertake and be resourced to conduct a greater coordinating role in the resettlement process. This should include increasing resettlement staffing generally.

**2.4.3 European Resettlement Coordinators (ERCs) in regions of origin**

UNHCR and a number of resettlement countries (especially the US, Canada and Australia) have agreed in recent years on the usefulness of having representatives of resettlement countries permanently based in a number of resettlement hubs, such as Nairobi and Accra. Representation at these hubs allows more local coordination and information sharing between UNHCR and resettlement countries, and has proven to contribute to more efficient, effective and responsive resettlement in east and west Africa.

At present, and as a result of the comparatively smaller scale of current European resettlement programmes, European resettlement presence in refugees' regions of origin is *ad hoc*. Most European states coordinate their resettlement programme through the Resettlement Section in UNHCR's Geneva Headquarters. Some send missions to the regions to take decisions on resettlement dossiers.

As European resettlement activities increase, and as European programmes become more integrated, it will be in the interest of the EU to have permanent representation in the established resettlement hubs. The role of these representatives—European Resettlement Coordinators (ERCs)—would be three-fold.

First, ERCs would reinforce the resettlement activities of UNHCR by liaising with UNHCR and non-European resettlement countries to ensure that European resettlement is responsive to need in the region and managed in coordination with other programmes to avoid duplicating and over-burdening UNHCR structures.

Secondly, ERCs would communicate resettlement and other resource needs identified in the region to the European resettlement office in Brussels.

Thirdly, in the medium to long term, ERCs would act as the focal point for all Member States at the pre-departure stage of the resettlement process, especially in monitoring the pre-departure screenings and the issue of necessary travel documents, thus ensuring the integrity of the resettlement process.

As such, the role of the ERC would be to reinforce ongoing resettlement efforts in the regions, through greater coordination, and support UNHCR's activities by ensuring that resettlement and resource needs are promptly identified and met.

#### **2.4.4 The role of Non-Governmental Organizations (NGOs)**

It is also important to highlight the role that should be played by NGOs in the coordination of resettlement, both in Europe and in refugees' regions of origin. This is a key element that has been lacking from other proposed models for enhanced European resettlement activities.

The global tripartite model could be replicated at the European level. The merits of such a mechanism have been clearly identified and supported by the three main stakeholders at the global level. The consultations have gradually become an important vehicle for UNHCR's cooperation with governments and NGOs and a mechanism to enhance partnership by offering a forum not only to review progress on resettlement issues during the year, but shape a joint strategy on resettlement.

In addition important lessons may be drawn from the current active involvement of some European NGOs in their national resettlement programmes and the involvement of NGOs in other large resettlement programmes around the world (e.g providing reception and integration support).

##### **Recommendation 19:**

Mechanisms that make full use of the experience and expertise of NGOs are needed for input into the development of new national programmes and any collective European programme. Significant NGO involvement in an EU resettlement scheme should therefore be developed.

NGOs can also play an important role in the resettlement process in regions of origin. For example more effective linkages need to be developed between UNHCR resettlement staff and NGO operational staff in the field. So just as EU Member States could coordinate their engagement through European resettlement coordinators in the refugees' regions of origin, NGOs could coordinate their response in an expanded refugee assistance and resettlement operation.

##### **Recommendation 20:**

Mechanisms to make the most of the experience and expertise of NGOs in the resettlement process in regions of origin need to be put in place. NGOs working on behalf of refugees and those involved in refugee integration in resettlement countries could designate one NGO to coordinate an NGO-wide response, by acting on behalf of them all as the focal point in a site of significant refugee need and as local liaison and implementing partner with host governments, European diplomatic missions, UNHCR, the International Organization for Migration (IOM), and other humanitarian agencies, as well as local NGOs and other actors in local civil society. Any structures would, however, have to be reviewed as an EU resettlement scheme developed into a joint programme.

#### **2.4.5 The role of refugees**

The oft-neglected partner in the resettlement process is the refugees themselves. Engaging refugee populations, as far as possible, in resettlement planning will ensure that resettlement expectations are more effectively managed, that more credible information on the functions and limits of resettlement will be transmitted within the

refugee population and that instances of fraud and corruption are more quickly and credibly reported. Seeking and incorporating the views of resettled refugees in evaluations of pre-departure information and procedures would also help improve resettlement programmes.

**Recommendation 21:**

Refugees should be engaged in resettlement planning, coordination and evaluation.

**2.4.6 The role of the country of first asylum**

It must not be forgotten that countries of first asylum also have a role to play in the coordination of resettlement. Hosting large and/or protracted refugee populations, especially in underdeveloped and unstable regions may cause legitimate security concerns for the state. The presence of protracted refugee populations can exacerbate local grievances and may alter the domestic political balance as the continued refugee presence becomes politicised.<sup>54</sup>

**Recommendation 22:**

Countries of first asylum should be involved in the planning of large-scale resettlement activities to ensure that they result in the alleviation rather than exacerbation of security concerns.

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<sup>54</sup> For a discussion of the direct and indirect security burdens associated with the protracted presence of refugees in countries of first asylum see: Gil Loescher and James Milner, "Protracted Refugee Situations and Host State and Regional Insecurity", Conflict, Security & Development, April 2004.

### 3. Criteria and Procedures

#### 3.1 Resettlement criteria: Who gets resettled?

After level setting, decisions are required about how the established resettlement target is to be applied, and which refugees should benefit from resettlement. In some cases, these questions have already been resolved through the tripartite resettlement process and the development of the UNHCR *Resettlement Handbook*. Other questions, such as the targeting of resettlement activities, require more consideration.

##### 3.1.1 Targeting resettlement activities

Traditionally, foreign policy and issues of domestic politics have determined the focus of resettlement activities. During the Cold War, the majority of western resettlement activities were targeted at individuals ‘voting with their feet’ against Communism and fleeing to the west. Such considerations were particularly evident in the US-led response to the exodus of refugees from Vietnam, Laos and Cambodia following the consolidation of Communist regimes in the region in the mid-1970s. To a certain extent, political considerations still guide the prioritisation of the US Resettlement Programme, with certain minority groups, such as religious minorities from Iran, benefiting from special resettlement categories.

More common, however, is the allocation of resettlement numbers to certain geographic regions. Australia, Canada, Denmark, Finland, Norway, Sweden and the US all sub-divide their annual target by geographic region. This is not only an important planning tool, ensuring the allocation of sufficient resources to regional offices, but a transparent means of demonstrating commitment to the global nature of modern resettlement.

An additional tool has recently been developed that could further assist resettlement countries to target their resettlement activities more effectively according to resettlement need. UNHCR now produces an annual statement of global resettlement need in time for discussion at the Annual Tripartite Consultations on Resettlement every June. This report outlines, by country office, specific resettlement needs among nationalities or other categories of refugees. If this process is continued and supported with the necessary resources to make its contents increasingly reliable, the global resettlement needs report could also serve as a very useful tool for targeting resettlement activities.

Finally, resettlement activities may also be targeted according to the functions of resettlement. Out of the total resettlement commitment, a portion could be allocated to providing protection to persons with special needs and other vulnerable refugees. The remaining portion could then be allocated for the durable solutions and international solidarity functions of resettlement, and applied to the strategic use of resettlement in protracted refugee situations.<sup>55</sup>

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<sup>55</sup> *Multilateral Framework of Understandings on Resettlement*, High Commissioner's Forum, Forum/2004/6, 16 Sept 2004



European states may have particular interests, preferences or expertise in responding to the resettlement needs of refugees in one or more of these categories. For example, a European state may have a historical connection with a protracted refugee situation, and may wish to concentrate their portion of the resettlement target on advancing a comprehensive solution for that group. At the same time, another European state may have developed special programmes for the resettlement of victims of torture or unaccompanied children.

**Recommendation 23:**

The driving force behind the allocation of commitments for a European resettlement scheme should not be political considerations; the commitments should be divided between specific regions hosting refugees and the different functions of resettlement. Numbers allocated to specific regions should be determined in consultation with the global resettlement needs assessment prepared annually by UNHCR. Minimum numbers should also be specified for the resettlement of vulnerable groups and refugees with special protection or other needs, such as victims of torture and medical cases. All commitments however should be able to respond to unforeseen resettlement needs.

The experience NGOs have working directly with refugees in regions of origin and resettled refugee communities in Europe means that they have a wealth of valuable knowledge about the different refugee groups/populations potentially suitable for resettlement through an EU resettlement scheme. A constructive dialogue with NGOs would therefore help ensure that targeting decisions are rooted in refugee realities.

**Recommendation 24:**

The targeting of populations by the EU should be informed by a dialogue with NGOs to ensure that decisions are rooted in refugee realities.

### **3.1.2 Determining a continued need for international protection**

The first consideration in determining an individual's eligibility for and need of resettlement should be their continued need for international protection, as outlined in Chapter 3 of the UNHCR *Resettlement Handbook* (2004). As a minimum, the individual in question should be found to be under the mandate of UNHCR and in need of international protection. In some instances, the individual may not meet the refugee definition contained in the 1951 Refugee Convention, but may still be in need of consideration for resettlement. Indeed individuals who would, if seeking asylum in Europe, qualify for a subsidiary form of protection as defined in the EU Qualification Directive should also be considered for resettlement to Europe<sup>56</sup> (this would among other things contribute to maintaining coherence in the EU's refugee protection policies).

That consideration raises the issue of the importance of flexible determination of refugee status. In some recent cases, refugees have been found ineligible for resettlement because they could not demonstrate an individual fear of persecution

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<sup>56</sup> This recommendation is made while still noting ECRE's stated concerns regarding the Qualification directive and its descriptions of the necessary criteria to qualify for Convention and subsidiary protection statuses.



while facing threats to their life and liberty in their country of asylum, nor that they would face similar threats if returned to their country of origin. A consideration of this possible imbalance should be included in the development of a European approach to resettlement. This view is echoed by UNHCR that has argued that a flexible and protection-based approach to resettlement is “*particularly important for refugees who have been in limbo for many years, or for refugees from within prima facie populations who have particularly pressing protection needs in the country of asylum even while they may not, at that point in time, fulfil all the requirements of the 1951 Convention definition.*”<sup>57</sup> Such limited interpretations of the 1951 Refugee Convention are also particularly problematic in relation to 'group' criteria.

#### **Recommendation 25:**

For the protection function of resettlement to be effectively realised, considerations of the individual's need for international protection should be balanced with their vulnerability in the country of asylum and their need for resettlement. The determination of a protection status for resettlement within an EU scheme 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 follow the guidance in Chapter 3 of the UNHCR Resettlement Handbook and allow for resettlement to be extended to refugees recognised under the UNHCR mandate, including those recognised under the extended mandate.

### **3.1.3 Application of exclusion clauses**

#### **Recommendation 26:**

The application of flexible criteria should not, however, preclude a full consideration of the possible application of the relevant Exclusion Clauses, as contained in Article 1F of the 1951 Refugee Convention, and according to the procedures outlined in Chapter 3 of the UNHCR Resettlement Handbook.

### **3.1.4 Determining a need for resettlement**

As well as the process of determining a person's eligibility for a protection status there is also a process for determining resettlement as the appropriate solution for that individual. The resettlement criteria as contained in Chapter 4 of the UNHCR Resettlement Handbook (2004), include the following categories:

#### *1. Legal and physical protection needs*

When a refugee faces an immediate or long-term threat of *refoulement* or threats to physical safety or human rights in the country of refuge equivalent to those set out under the refugee definition, thereby rendering asylum untenable.

#### *2. Survivors of violence or torture*

When the required medical care, counselling and other types of special assistance are not available in the country of first asylum, especially when the victim of violence suffers from physical and/or serious psychological problems.

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<sup>57</sup> *New Directions for Resettlement Policy and Practice*, UNHCR Standing Committee 21<sup>st</sup> Meeting, EC/51/SC/INF.2, 14 June 2001, paragraph 10.

*3. Medical needs*

When the medical condition of the refugee is deemed to be urgent; when adequate treatment is not available either in the country of first asylum or through temporary medical evacuation; and when there is a favourable prognosis for treatment in a resettlement country.

*4. Women-at-risk*

Those women who have protection problems and find themselves without the support of traditional protection mechanisms within the family or community are deemed to have special needs and may therefore be in need of resettlement.

*5. Family Reunification*

Where a family unit is separated during flight or in the country of first asylum and where resettlement can preserve or restore the basic dignity of a refugee's life through family reunification. This criterion may be broader than the right to family reunification in European states' domestic legislation.

*6. Children and adolescents*

Where a 'best-interest determination' for unaccompanied or separated minors in a refugee situation determines that resettlement is the best solution for the child. It is generally held that resettlement of unaccompanied minors should be considered only on a case-by-case examination where other solutions, such as tracing of other family members or local adoption, are not appropriate.

*7. Older Refugees,*

The elderly may be particularly vulnerable when confronted with the causes and effects of becoming a refugee and resettlement may be an appropriate solution, especially when the resettlement of an elderly refugee facilitates reuniting them with other family members.

*8. Refugees without local integration prospects*

Resettlement may be identified as the only durable solution for individual refugees or groups of refugees for whom both local integration, in a manner appropriate to their cultural, social, religious or educational backgrounds, and voluntary repatriation, are deemed not to be viable durable solutions in the medium to long term. This has proven to be the most challenging of the resettlement criteria to apply in the field, and UNHCR is working to refine its definition in order to give it more operational meaning.

**Recommendation 27:**

The resettlement criteria as contained in Chapter 4 of the UNHCR Resettlement Handbook should serve as the basis for the determination of resettlement need for European resettlement activities.

**Recommendation 28:**

Women and children comprise specific criteria in themselves, and their specific rights, vulnerabilities and needs should be strongly taken into consideration and mainstreamed throughout the resettlement criteria and procedures, including status determination.

**Recommendation 29:**

*Any identified need for resettlement according to UNHCR's criteria should be the overriding principle rather than any considerations of an individual's integration potential.*

**Recommendation 30:**

*In the longer term, as an EU resettlement scheme develops into a joint European resettlement programme, these criteria should be reflected in the resettlement activities of all Member States.*

### **3.1.5 Determining family composition**

It has been increasingly recognised by a number of resettlement partners that the determination of family composition can be a difficult aspect of the determination of which individuals may be included in the same resettlement application, or subsequently eligible for family reunification. Chapter 6 of the UNHCR Resettlement Handbook (2004) provides useful guidelines on the determination of family composition, especially in contexts where credible documentation is not available and where non-biological associations are common.

Particularly dependent members of the family unit might include people who are not blood relatives, including foster children, who risk becoming unaccompanied minors if excluded from the family unit during the resettlement process. Demonstrated dependency, in either the country of asylum or the country of origin, should be the governing principle in determining the eligibility for inclusion of non-biological family members in resettlement cases, as put forward in the UNHCR Resettlement Handbook (updated 2004).

**Recommendation 31:**

Resettlement should focus on protecting and guarding the unity of the family. In the case of the nuclear family, namely parents and children under the age of 18, no additional criteria should apply in defining them as a family unit. The notion of the family unit should not be limited to the nuclear family however; it should also be rooted in an understanding of dependency where a person directly depends on another for his or her safety and economic and psychological well-being.<sup>58</sup>

## **3.2 The Resettlement Process**

While expanding their resettlement activities in regions of origin, European states, individually and collectively through the EU, should recognise the need to identify and address the current constraints on resettlement in regions of origin. The resettlement process is time-consuming and resource intensive and this will require

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<sup>58</sup> See paras 11-13 of *ECRE Position on Refugee Family Reunification*, July 2000, for the different categories of persons who should qualify as dependent family members.

states to address effectively the three constraints that currently impede processing in the regions - namely programme, resource and procedural constraints.<sup>59</sup>

There are essentially five stages in the resettlement process: (1) the identification of refugees in need of protection and of resettlement based on their vulnerability in the country of asylum and their eligibility according to established criteria; (2) the preparation of a resettlement dossier and its submission to a resettlement country for adjudication; (3) the adjudication of resettlement dossiers by resettlement countries; (4) pre-departure formalities; (5) arrival and the process of integration.<sup>60</sup> Given the focus of this discussion paper, only the first four stages of the process will be addressed.

The purpose of this section is not to describe the purposes and requirements of each stage in the process, as this can be found in the UNHCR Resettlement Handbook (2004). This section also proceeds from the premise that the stages as described in Chapter 6 of the UNHCR Resettlement Handbook, and endorsed by resettlement countries and NGOs, should equally be endorsed by the EU and form the basis for the resettlement process of any EU resettlement scheme and subsequent joint programme. The purpose of this section, therefore, is to highlight particular issues of discussion that arise out of a consideration of the various stages of the resettlement process.

### 3.2.1 Identification

One of the most practical challenges in the resettlement process, especially in the context of large protracted refugee populations, is to identify those refugees most in need of resettlement consideration. Given that identification is the only way to enter the resettlement process, many would argue that it is among the most difficult, yet most important, stages. The central questions that need to be asked are: *who should be able to refer an individual for resettlement consideration and to whom should they refer them?*

Some countries consider resettlement dossiers prepared and submitted by UNHCR only, either through regional hubs or through the Resettlement Section in UNHCR's Geneva Headquarters. Other countries consider resettlement applications received from their missions in the field, although this practice is decreasing. Finally, some countries have provision for considering domestically initiated resettlement applications, requests for resettlement that originate not from the country of first asylum but an individual, typically a family member, or an organisation, in the case of private sponsorship, in the resettlement country. In all scenarios access to the refugee populations is essential and the support of countries of first asylum is needed to facilitate such access.

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<sup>59</sup> See also the MORE Project and its handbook *Shaping our Future. A practical guide to the selection, reception and integration of resettled refugees*, 2005, which collates best practice in Europe and models the resettlement process: [www.more.fi](http://www.more.fi)

<sup>60</sup> *Responding to the Asylum and Access Challenge. An Agenda for Comprehensive Engagement in Protracted Refugee Situations*, August 2003, ECRE/USCR

Special attention has been paid in recent years to the increasingly valuable role that NGOs have played in the identification of refugees in need of resettlement.<sup>61</sup> There are a number of cases where NGOs are engaged in the task of identifying vulnerable refugees in need of resettlement consideration, either through a formalised sub-agreement or more informally through the Community Services or Protection Units of UNHCR field offices. Such relationships are extremely useful and should be encouraged, as NGOs typically have a different quality of contact with vulnerable refugees in the field, and are often better situated to identify them. This would especially help with, for example, the identification of victims of torture as a group in need of special protection, and it would not only help identify the most needy cases but broaden accountability by legitimising the selection process.

**Recommendation 32:**

Countries of first asylum should facilitate access to refugee populations to help the identification of refugees in need of resettlement.

**Recommendation 33:**

Any European resettlement programme should include provisions for the consideration of resettlement referrals from UNHCR, overseas missions, organisations or family members already in the resettlement country, and NGOs (via UNHCR) working in the region of origin.

**Recommendation 34:**

The involvement of NGOs in the identification of refugees in need of resettlement should be supported. This would not only help identify the most needy cases, but legitimise the selection process and therefore broaden accountability. There are various ways in which NGOs could be involved in the context of a European resettlement programme:

- By developing formal arrangements or partnerships, making NGOs implementing partners in order to identify groups and individuals in need of resettlement;
- By getting NGOs involved in referrals on a case-by-case basis (for example through the delivery of training and ensuring safeguards to maintain the integrity of the original programme);
- By further developing State-funded deployments/secondments to UNHCR to meet new needs.

The funding of such secondments could be sought from EU funds (e.g ECHO or the European Refugee Fund). NGOs could work in close cooperation with a European Resettlement Coordinator (ERC) and UNHCR on this activity. UNHCR would train the NGOs in resettlement criteria, and the ERC could make the NGOs aware of admission eligibility and priorities in the EU and between the EU and other European states. Lead agencies and NGOs already based in the refugee camps or in the field would seem good candidates for such facilitation of identification. Humanitarian assistance NGOs in particular would be well placed, but the raising of organisations' awareness of refugee issues and needs would need to be undertaken.

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<sup>61</sup> The joint UNHCR/ICMC (International Catholic Migration Commission) Resettlement Deployment scheme run since 1998 has contributed to supporting adequate resettlement staffing levels. See Report of the United Nations High Commissioner for Refugees, to the United Nations General Assembly, Fifty-ninth Session, Supplement No. 12 (A/59/12), 2004

### 3.2.2 Group Resettlement

Regardless of the referral options employed by a European resettlement programme, it is essential that mechanisms are developed to ensure that referrals are managed and treated according to established prioritisation procedures.

In the interest of maximising the durable solutions and international solidarity functions of resettlement, identifying groups of refugees who share a common vulnerability and fear of persecution could complement the ongoing resettlement activities with individual cases.<sup>62</sup> Group resettlement is particularly relevant in situations linked to the strategic use of resettlement, where the processing of a large number of refugees facilitates the granting of protection benefits to other categories of refugees or contributes to other durable solutions.

Recent examples of group resettlement are the resettlement of the 'Somali Bantu' from Kenya to the US, and the resettlement of Liberians from Ivory Coast, Guinea and Sierra Leone under the auspices of UNHCR, which resulted in more than 15,000 submissions for resettlement. Members of an identified group would still need to meet security, health and other basic admissibility requirements individually, but they could establish their refugee claim by demonstrating membership of a persecuted and vulnerable group.

Group resettlement is a positive approach, with the potential to meet the needs of identified vulnerable groups. It must not, however, be undertaken at the expense of individual case identification. Group identification requires significant human resources to ensure the credibility of individuals claiming to be members of that group. In situations where group resettlement is deemed to be a positive contribution to the protection and durable solution needs of refugees, it must be ensured that UNHCR resettlement staff are not diverted from their work on the identification and processing of individual cases to assist with the verification and processing of groups in need of resettlement.

#### **Recommendation 35:**

Procedures should be developed for the identification of groups of refugees in need of resettlement. With greater numbers being resettled to Europe through a future joint programme, consideration of the group methodology would become even more necessary.

#### **Recommendation 36:**

The identification of groups in need of resettlement should not be undertaken at the expense of individual case identification; instead it should be coupled with the additional human resources required for the processing of that group.

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<sup>62</sup> See Chapter 7 of the *UNHCR Resettlement Handbook*, 2004, for a full explanation of what 'group methodology' is and its purpose.



### 3.2.3 Processing

One of the greatest concerns in the processing stage of the resettlement process is ensuring efficiency by avoiding duplication. The need to improve the standards of early and effective refugee registration in a non-resettlement context is also widely acknowledged. Greater coordination between UNHCR and the European Resettlement Coordinator, acting on behalf of European resettlement countries, would help address both these concerns. But increased resettlement to Europe would require that the European countries contribute to this part of the process too by providing financial and human resources. In particular if European states pursue additional resettlement processing in refugees' regions of origin, their support to UNHCR and operational NGOs would have to be re-examined to ensure that sufficient resources were available to support additional processing. Funds would be needed. An additional way to increase resources would be through staff from European governments being seconded to UNHCR. European NGOs could also play a supportive role in the processing stage and help address these challenges.

#### **Recommendation 37:**

If European states pursue additional resettlement processing in regions of refugee origin, they would first need to ensure sufficient resources, including support to UNHCR and operational NGOs, were made available.

#### **Recommendation 38:**

European NGOs could play a supportive role in the processing stage:

- They could assume the required administrative responsibilities prior to decision making by the resettlement country such as preparing refugees for interviews and preparing the dossiers required for State decision-making. This would leave UNHCR free to concentrate on its key mandate activities, including the coordination of durable solution activities, and again reinforce its capacity at registration and refugee status determination (RSD) level.<sup>63</sup>
- UNHCR's oversight of the RSD process would need to be maintained, but NGOs could also be usefully involved in core processing activities such as refugee status determination. It could be envisaged that through secondments to UNHCR, NGO staff could undertake RSDs up to the referral stage
- NGO staff could also be sub-contracted by governments to support them during the referral to submission stage of the resettlement process.

### 3.2.4 Decision-making

The final decision to accept a refugee for resettlement must be taken by a representative of a European state, as only states can admit refugees. No resettlement programme currently exists where UNHCR has the final say on whether an individual or group should be resettled. Such a role in an EU resettlement scheme should not be allocated to UNHCR.

There would be a clear benefit however in UNHCR and NGOs being present and providing expertise and advice to states at key stages of the decision-making process to help advise on the particular circumstances of individual cases or to provide

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<sup>63</sup> It is important to recognise that the quality of the RSD process is affected by the registration process.

additional background on the protection environment in the country of first asylum. Their involvement should be considered in decision-making processes involving both dossier cases and selection missions. NGOs already play an important role in some countries. In Denmark, for example, the Danish Refugee Council accompanies UNHCR and government officials on selection missions.<sup>64</sup>

One area where dossier consideration,<sup>65</sup> even on an exceptional basis, may be most useful is in the treatment of emergency and urgent cases, as defined by the UNHCR Resettlement Handbook.

In many cases, such rapid treatment of a resettlement request could be treated only on a dossier basis and we have therefore supported the idea suggested in the Commission's recent Communication<sup>66</sup> to explore further the facilitation of protected entry into the EU as an 'emergency strand' of an EU resettlement scheme.

**Recommendation 39:**

The involvement of UNHCR and NGOs at the decision-making stage of the process should be considered (in both dossier cases and selection missions) to help advise on the particular circumstances of individual cases or provide additional background on the protection environment in the country of first asylum.

**Recommendation 40:**

Decision-making processes should also involve refugee communities to help make state decision-makers more aware and sensitive to the many issues faced by the refugees in need of resettlement.

**Recommendation 41:**

UNHCR's determination of refugee status, made prior to submission for resettlement, should be accepted in principle in all circumstances as grounds for admission to a resettlement country, with the possibility for audit where deemed necessary by the resettlement country. If UNHCR determination decisions are not accepted, individual governments and/or the EU's reasons for rejecting cases referred to them by UNHCR and other agreed upon stakeholders should be explained. This would improve the overall process and help set clear criteria. It would also save time and reduce administration costs.

**Recommendation 42:**

In light of the protection function of resettlement, a European resettlement programme must include provisions for the treatment of emergency resettlement cases within five days.

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<sup>64</sup> Note, however, that an amendment to the Aliens Act was proposed by the Danish government in 2004 which removed the Danish Refugee Council's involvement in dossier cases.

<sup>65</sup> This means on the basis of a procedure which is purely based on the RRFF form and does not involve any face-to-face contact between the refugee being considered for resettlement and the authority involved in the decision-making, e.g through an interview.

<sup>66</sup> Communication from the Commission to the Council and the European Parliament 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



**Recommendation 43:**

In the long-term, ways to keep simple the decision-making process in a joint European resettlement programme with more common elements should be explored. The decision on resettlement for example could conceivably be taken by representatives not of a Member State, but the EU.

**3.2.5 Pre-departure activities**

After being accepted for resettlement and prior to their departure, refugees are usually expected to participate in a number of pre-departure activities, such as cultural orientation and language training. Resettlement countries also usually conduct security checks. Pre-departure activities typically take place in the country of first asylum, and NGOs can play a valuable role, indeed states have reported that NGO participation in cultural orientation activities significantly increases the chances of successful and rapid integration into the resettlement country.

**Recommendation 44:**

Pre-departure activities should be included in a resettlement scheme as they facilitate integration in the resettlement country, and they should be carried out by well-trained persons.

**Recommendation 45:**

Although there is a recognised need for security checks they should not lead to undue delays in the resettlement process.

**Recommendation 46:**

The development of a European resettlement programme should include an active role for NGOs in facilitating pre-departure activities. Cultural orientation may be conducted by NGOs on behalf of resettlement countries. NGOs can also be involved in providing counselling services, information on integration in the resettlement country and language training.

**Recommendation 47:**

NGOs could also take on monitoring, such as ensuring that refugees undergo effective medical screening and are treated for particular diseases prior to their resettlement. NGOs could even help arrange medical checks. Another useful role for NGOs would be as watchdogs for the provision of travel documentation and the issuing of exit permits by countries of first asylum, as these are common obstacles that can add unnecessary delays to the process. Ultimately, however, countries of first asylum need to be more effective at facilitating exit visas.

**Recommendation 48:**

Refugees and domestic constituencies with specific understandings of the regions of origin from where resettled refugees will be arriving could and should also be engaged in pre-departure activities:

- They could be consulted on the form and content of cultural orientation courses and refugee community organisations (RCOs) could play a role in their delivery;

- They could be used as cultural and linguistic interpreters, providing information and helping manage the expectations of refugees about to be resettled.

### **3.2.6 Facilitation of integration**

In order for resettlement to be ultimately successful the ground needs to be prepared prior to the arrival of resettled refugees. In particular the support of receiving communities in resettlement countries is essential in facilitating the eventual integration of resettled refugees. Governments and NGOs both have a role to play here, but the experiences of refugees also mean that they are likely to be well-placed to reach out, inform and support refugees being resettled and thus facilitate their integration process.

#### **Recommendation 49:**

Governments of resettlement countries should be engaged in active education programmes that target the general community, and they should also closely consult key opinion formers in the communities in which refugees are to be resettled.

#### **Recommendation 50:**

NGOs should be involved in informing the local population and enrolling their support.

#### **Recommendation 51:**

Government and NGO action to engage the support of receiving communities in resettlement countries should be followed up with immediate access to comprehensive integration programmes<sup>67</sup> for refugees upon arrival. These should involve all stakeholders including refugees already present in the resettlement country.

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<sup>67</sup> Such integration programmes should also be developed on the basis of the documents on the integration of resettled refugees cited in footnote 15.

## ANNEX 1 List of Recommendations

### **Recommendation 1:**

The three universally accepted functions of resettlement should act as the guiding principles for any expanded resettlement activities in Europe.

### **Recommendation 2:**

Any reconsideration of European resettlement activities, either on the part of individual states or collectively through the European Union, should include resettlement commitments that are responsive to global resettlement need.

### **Recommendation 3:**

Comparing Europe's current level of resettlement activities with other countries, and with 6 million refugees in 38 protracted refugee situations around the world, Europe should increase its engagement in resettlement.

### **Recommendation 4:**

European states that currently undertake resettlement should increase their efforts to fill the annual quotas made available. They should also make every effort to consistently expand resettlement programmes.

### **Recommendation 5:**

Emerging resettlement countries and those countries that have not yet considered resettlement in Europe should, as a matter of urgency, undertake to establish a national resettlement programme on whatever scale feasible, in order to begin to take their share of the global resettlement responsibility.

### **Recommendation 6:**

European states should also act in a coordinated fashion to enhance and expand their resettlement activities.

### **Recommendation 7:**

The establishment of an EU-wide resettlement scheme as proposed by the European Commission should lead to an increase in the opportunities for resettlement to Europe, and it should also engage the participation of *all* EU Member States.

### **Recommendation 8:**

In the longer term an EU-wide resettlement scheme should be expanded into a truly joint *European resettlement programme* based on common criteria and the commitment of European states to make a significant number of resettlement places available every year.

### **Recommendation 9:**

European resettlement commitments should be significant enough to make an appropriate contribution to meeting the large global resettlement needs.

### **Recommendation 10:**

In developing a European resettlement programme, European countries should commit themselves to collectively resettling a certain number of people (be this through setting up a quota, target or ceiling) and they should determine a fair and

equitable system for the allocation of places. The number agreed on should be based on:

- 1) a true assessment of need for resettlement and not one based on UNHCR's capacity to process the cases, or overall country pledges;
- 2) a spirit of responsibility sharing equally with other countries or unions of similar size and economy;
- 3) the political willingness and financial capacity to support a well-run programme.

**Recommendation 11:**

Formal multi-year resettlement commitments, which roll over any unfilled places, should be developed as a useful means of ensuring the dependability of both national resettlement programmes and a European programme. However, they should be regarded as minimum-level commitments and revisited regularly to ensure that they are in line with resettlement need.

**Recommendation 12:**

As a first step the EU should establish a European Refugee Resettlement Fund, as part of fiscal responsibility sharing, to support the costs of resettlement activities of its Member States, accession states and other European countries. Contributions to the funds should come from not only Member States but also private donors.

**Recommendation 13:**

Refugees should not be required to bear any of the costs of their resettlement. This sets a dangerous precedent for equating access to protection with financial means, and could discriminate against certain refugees and groups of refugees.

**Recommendation 14:**

In addition under no circumstances should an approach to responsibility sharing be undertaken in which countries are allowed to circumvent their responsibility to resettle persons physically by increasing their financial contributions and paying other countries to resettle their 'share' of refugees.

**Recommendation 15:**

Recognising that states have primary responsibility for the financing of refugee resettlement and integration, as mechanisms to promote civil society and public support, other financing models, such as private-public partnerships, should be explored.

**Recommendation 16:**

An approach linking resettlement and asylum responsibility in the context of a truly joint European resettlement programme could be explored in the long term, but through only a thorough study of all the possible permutations and their consequences, in order to determine whether there are viable methodologies that would contribute to better burden and responsibility sharing without compromising Europe's role in the global refugee protection system.

**Recommendation 17:**

A EU Resettlement Office in Brussels, working in close cooperation with UNHCR, should be incrementally developed in order to support the effective implementation of European resettlement activities. Such an office should at all times avoid duplicating

UNHCR activities, and it should work closely with relevant UNHCR and NGO staff in a tripartite spirit.

**Recommendation 18:**

UNHCR should undertake and be resourced to conduct a greater coordinating role in the resettlement process. This should include increasing resettlement staffing generally.

**Recommendation 19:**

Mechanisms that make full use of the experience and expertise of NGOs are needed for input into the development of new national programmes and any collective European programme. Significant NGO involvement in an EU resettlement scheme should therefore be developed.

**Recommendation 20:**

Mechanisms to make the most of the experience and expertise of NGOs in the resettlement process in regions of origin need to be in place. NGOs working on behalf of refugees and those involved in refugee integration in resettlement countries could designate one NGO to coordinate an NGO-wide response by acting on behalf of them all as the focal point in a site of significant refugee need and as local liaison and implementing partner with host Governments, European diplomatic missions, UNHCR, the International Organization for Migration (IOM), and other humanitarian agencies, as well as local NGOs and other actors in local civil society. Any structures would, however, have to be reviewed as an EU resettlement scheme developed into a joint programme.

**Recommendation 21:**

Refugees should be engaged in resettlement planning, coordination and evaluation.

**Recommendation 22:**

Countries of first asylum should be involved in the planning of large-scale resettlement activities to ensure that they result in the alleviation rather than exacerbation of security concerns.

**Recommendation 23:**

The driving force behind the allocation of commitments for a European resettlement scheme should not be political considerations; the commitments should be divided up between specific regions hosting refugees and the different functions of resettlement. Numbers allocated to specific regions should be determined in consultation with the global resettlement needs assessment prepared annually by UNHCR. Minimum numbers should also be specified for the resettlement of vulnerable groups and refugees with special protection or other needs, such as victims of torture, and medical cases. All commitments, however, should be able to respond to unforeseen resettlement needs.

**Recommendation 24:**

The targeting of populations by the EU should be informed by a dialogue with NGOs to ensure that decisions are rooted in refugee realities.

**Recommendation 25:**

For the protection function of resettlement to be realised effectively, considerations of the individual's need for international protection should be balanced with their vulnerability in the country of asylum and their need for resettlement. The determination of a protection status for resettlement within an EU scheme 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 follow the guidance in Chapter 3 of the UNHCR Resettlement Handbook and allow for resettlement to be extended to refugees recognised under the UNHCR mandate, including those recognised under the extended mandate.

**Recommendation 26:**

The application of flexible criteria should not, however, preclude a full consideration of the possible application of the relevant Exclusion Clauses, as contained in Article 1F of the 1951 Refugee Convention, and according to the procedures outlined in Chapter 3 of the UNHCR Resettlement Handbook.

**Recommendation 27:**

The resettlement criteria as contained in Chapter 4 of the UNHCR Resettlement Handbook (2004) should serve as the basis for the determination of resettlement need for European resettlement activities.

**Recommendation 28:**

Women and children comprise specific criteria in themselves and their specific rights, vulnerabilities and needs should be strongly taken into consideration and mainstreamed throughout the resettlement criteria and procedures, including status determination.

**Recommendation 29:**

Any identified need for resettlement according to UNHCR criteria should be the overriding principle rather than any considerations of an individual's integration potential.

**Recommendation 30:**

In the longer term, as an EU scheme develops into a joint European resettlement programme, these criteria should be reflected in the resettlement activities of all Member States.

**Recommendation 31:**

Resettlement should focus on protecting and guarding the unity of the family. In the case of the nuclear family, namely parents and children under the age of 18, no additional criteria should apply in defining them as a family unit. The notion of the family unit should not be limited to the nuclear family, however, and it should also be rooted in an understanding of dependency where a person directly depends on another for his or her safety and economic and psychological well-being.

**Recommendation 32:**

Countries of first asylum should facilitate access to refugee populations to help the identification of refugees in need of resettlement.

**Recommendation 33:**

Any European resettlement programme should include provisions for the consideration of resettlement referrals from UNHCR, overseas missions, organisations or family members already in the resettlement country, and from NGOs (via UNHCR) working in the region of origin.

**Recommendation 34:**

The involvement of NGOs in the identification of refugees in need of resettlement should be supported. This would not only help identify the most needy cases, but legitimise the selection process and therefore broaden accountability. There are various ways in which NGOs could be involved in the context of a European resettlement programme:

- Developing formal arrangements or partnerships, making NGOs implementing partners in order to identify groups and individuals in need of resettlement;
- By getting NGOs involved in referrals on a case-by-case basis (for example through the delivery of training and ensuring safeguards to maintain the integrity of the original programme);
- By further developing State-funded deployments/secondments to UNHCR to meet new needs.

**Recommendation 35:**

Procedures should be developed for the identification of groups of refugees in need of resettlement. With greater numbers being resettled to Europe through a future joint programme, consideration of the group methodology would become even more necessary.

**Recommendation 36:**

The identification of groups in need of resettlement should not be undertaken at the expense of individual case identification; instead it should be coupled with the additional human resources required for the processing of that group.

**Recommendation 37:**

If European states pursue additional resettlement processing in regions of refugee origin, they would first need to ensure sufficient resources, including support to UNHCR and operational NGOs, were made available.

**Recommendation 38:**

European NGOs could play a supportive role in the processing stage:

- They could assume the required administrative responsibilities prior to decision making by the resettlement country, such as preparing refugees for interviews and preparing the dossiers required for state decision making. This would leave UNHCR free to concentrate on its key mandate, including the coordination of durable solutions, and again reinforce its capacity at registration and refugee status determination (RSD) level.
- UNHCR's oversight of the RSD process would need to be maintained, but NGOs could also be usefully involved in core processing activities such as refugee status determination. It could be envisaged that through secondments to UNHCR, NGO staff could undertake RSDs up to the referral stage.



- NGO staff could also be sub-contracted by governments to support them during the referral to submission stage of the resettlement process.

**Recommendation 39:**

The involvement of UNHCR and NGOs at the decision-making stage of the process should be considered (in both dossier cases and selection missions) to help advise on the particular circumstances of individual cases or provide additional background on the protection environment in the country of first asylum.

**Recommendation 40:**

Decision-making processes should also involve refugee communities to help make state decision-makers more aware and sensitive to the many issues faced by the refugees in need of resettlement.

**Recommendation 41:**

UNHCR's determination of refugee status, made prior to submission for resettlement, should be accepted in principle, in all circumstance, as status for admission to a resettlement country, with the possibility for audit where deemed necessary by the resettlement country.

**Recommendation 42:**

In light of the protection function of resettlement, a European resettlement programme must include provisions for the treatment of emergency resettlement cases within five days.

**Recommendation 43:**

In the long-term, ways to keep simple the decision-making process in a joint European resettlement programme with more common elements should be explored. The decision on resettlement for example could conceivably be taken by representatives not of a Member State, but the EU.

**Recommendation 44:**

Pre-departure activities should be included in a resettlement scheme as they facilitate integration in the resettlement country, and they should be carried out by well-trained persons.

**Recommendation 45:**

Although there is a recognised need for security checks they should not lead to undue delays in the resettlement process.

**Recommendation 46:**

The development of a European resettlement programme should include an active role for NGOs in facilitating pre-departure activities. Cultural orientation may be conducted by NGOs on behalf of resettlement countries. NGOs can also be involved in providing counselling services, information on integration in the resettlement country and language training.

**Recommendation 47:**

NGOs could also take on monitoring, such as ensuring that refugees undergo effective medical screening and are treated for particular diseases prior to their resettlement.

NGOs could even help arrange medical checks. Another useful role for NGOs would be as watchdogs for the provision of travel documentation and the issuing of exit permits by countries of first asylum, as these are common obstacles that can add unnecessary delays to the process. Ultimately however countries of first asylum need to be more effective at facilitating exit visas.

**Recommendation 48:**

Refugees and domestic constituencies with specific understandings of the regions of origin from where resettled refugees will be arriving could and should also be engaged in pre-departure activities:

- They could be consulted on the form and content of cultural orientation courses and refugee community organisations (RCOs) could play a role in their delivery;
- They could be used as cultural and linguistic interpreters, providing information and helping manage the expectations of refugees about to be resettled.

**Recommendation 49:**

Governments of resettlement countries should be engaged in active education programmes that target the general community, and they should also closely consult key opinion formers in the communities in which refugees are to be resettled.

**Recommendation 50:**

NGOs should be involved in informing the local population and enrolling their support.

**Recommendation 51:**

Government and NGO action to engage the support of receiving communities in resettlement countries should be followed up with immediate access to comprehensive integration programmes<sup>68</sup> for refugees upon arrival. These should involve all stakeholders including refugees already present in the resettlement country.

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<sup>68</sup> Such integration programmes should also be developed on the basis of the documents on the integration of resettled refugees cited in footnote 15.

## ANNEX 2 Further ECRE Reading

Position on The Interpretation Article 1 of the Refugee Convention, September 2000

Position on the Integration of Refugees, December 2002

ECRE/US Committee for Refugees report, Responding to the Asylum and Access Challenge: An agenda for Comprehensive Engagement in Protracted Refugee Situations, April 2003

Comments on the Communication from the Commission to the Council and the European Parliament on Towards a more accessible, equitable and managed international protection regime, (COM(2003) 315 final, June 2003

ECRE Country Reports, 2004

Position on exclusion from refugee status, March 2004

Broken Promises - Forgotten Principles, An ECRE Evaluation of the Development of EU Minimum Standards For Refugee Protection, Tampere 1999 - Brussels 2004

Comments on the Communication from the Commission to the Council and the European Parliament 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, September 2004.

ECRE Information Note on the Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, October 2004.

Renewing the Promise of Protection, Recommendations from the European Council on Refugees and Exiles to the Brussels European Council, 5 November 2004 on the Multi-Annual Programme '*Strengthening Freedom, Security and Justice in the European Union*' and recent proposals to establish camps in the Mediterranean region

Guidelines on the Treatment of Chechen Internally Displaced Persons (IDPs), Asylum Seekers & Refugees in Europe, June 2005

### Other Way Forward Papers:

The Way Forward. Europe's role in the global refugee protection system. The Return of Asylum Seekers whose Applications have been Rejected in Europe, June 2005

The Way Forward. Europe's role in the global refugee protection system. Towards the Integration of Refugees in Europe, July 2005

The Way Forward. Europe's role in the global refugee protection system. Towards Fair and Efficient Asylum Systems, September 2005

The Way Forward. Europe's role in the global refugee protection system. Guarding Refugee Protection Standards in Regions of Origin, December 2005