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HUMANITARIAN ADMISSION PROGRAMMES

Expanding and
Increasing Pathways
to Protection

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The European Resettlement Network is a joint initiative coordinated by the International Organization for Migration (IOM), the International Catholic Migration Commission (ICMC), and the Office of the United Nations High Commissioner for Refugees (UNHCR). Its current project, co-funded by the European Union under the Asylum, Migration and Integration Fund (AMIF), supports the further development of resettlement and complementary forms of admission to the EU for those in need of international protection. The content and conclusions of this paper cannot necessarily be taken to represent the positions of each coordinating organisation, but serve to contribute to the debate on expanding the provision of protection-sensitive, sustainable European pathways of admission for refugees.

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ACRONYMS

AMIF	Asylum, Migration and Integration Fund (EU)
ERN	European Resettlement Network
EU	European Union
HAP	Humanitarian Admission Programme
HAPP	Humanitarian Admission and Protection Programme
ICMC	International Catholic Migration Commission
IDP	Internally Displaced Person
IOM	International Organization for Migration
MENA	Middle East and North Africa
NGO	Non-governmental Organization
RSD	Refugee Status Determination
UNHCR	Office of the United Nations High Commissioner for Refugees
VPRS	Vulnerable Persons Resettlement Scheme

Introduction

Existing approaches in the field of international protection, notably resettlement, have not always been used by States to provide an adequate response in the context of emerging crises, or as contributions to third-country solutions to protracted displacement situations. In some cases, new approaches are developed. Some of these go on to inform the established architecture of international protection for potential use in future situations. The Syrian crisis has seen the emergence of the language of ‘Humanitarian Admission’, both as a concept and as specific programmes allowing entry to some European States for several thousand people who had found initial refuge in Lebanon, Jordan and Turkey. The *ad hoc* Humanitarian Admission Programmes (HAPs) created by some States between 2013 and 2015 could provide insights into how the overall goal of increasingly structured programmes of third country protection for refugees can be achieved both in complement and in addition to resettlement.

Although resettlement might have been the desired response to the international protection needs of the Syrian refugees, States have responded with a different tool due to their domestic political situations as well as to the nature of the crisis at that juncture in time when it was believed or hoped by many, including Syrians themselves, that they would soon be able to return to Syria. While the Humanitarian Admission Programmes developed in response to the Syrian crisis were flexible and provided large numbers of people in need of protection with a route out of the crisis, States have generally used them to grant a short-term (renewable) status, and a lesser package of rights than is granted to refugees who are resettled. Humanitarian Admission Programmes, in the absence of larger resettlement programmes, could be a way to increase capacity in complementary pathways of admission, but the underlying premise of this study is that it must be ensured that such programmes are used by States to offer valuable protection and guarantees of essential human rights.

This feasibility study has been prepared in the framework of the European Resettlement Network+ project “Developing innovative European models for the protection of refugees and providing support to new resettlement countries”.¹ As such its scope is limited to those in need of international protection. Similarly, while acknowledging that other specific protection needs exist in the context of mixed flows, for the reason noted above, and in recognition of UNHCR’s position and perspective on complementary pathways, the scope of this feasibility study will be confined to a discussion of the feasibility of Humanitarian Admission Programmes for “persons in need of international protection”.

The aim of this feasibility study is to offer policy options and approaches to build upon the foundations of European experience with Humanitarian Admission Programmes for Syrians since 2013. While the Humanitarian Admission Programmes that have been developed to date provide guidance to this study, they are not described in detail as this has been done in an accompanying scoping paper.²

Discussions on ‘Humanitarian Admission’ can give rise to some confusion: It has been used as an umbrella term to collectively describe various approaches “including family reunification programmes, using different referral mechanisms and aiming at time-efficient refugee processing to provide temporary protection to Syrian refugees” (ICMC, 2015: 8). Meanwhile, the term ‘Humanitarian Admission Programmes’ has simultaneously been assigned to some specific national programmes of organized selection and entry for displaced Syrians. The focus of this study is to provide policy options regarding *programmes* specifically.

1 The project “Developing innovative European models for the protection of refugees and providing support to new resettlement countries” is jointly implemented by IOM, ICMC and UNHCR and co-funded by the European Union - see the ERN+ website for additional details: <http://www.resettlement.eu/news/ern-relaunch>

2 The ERN+ Scoping Paper on Humanitarian Admission to Europe is available at www.resettlement.eu

Germany introduced the first Humanitarian Admission Programme for Syrians in March 2013, leading to calls from UNHCR for other countries to consider establishing Humanitarian Admission Programmes responsive to the protection needs of the Syrian refugee population (ICMC, 2015: 31). Subsequently, due to a variety of factors, including public pressure as well as political imperatives, Austria, the United Kingdom, France, Ireland and Switzerland all established varieties of Humanitarian Admission Programmes.

When, in the earlier phases of the international response to the Syrian situation, UNHCR had requested that States make 50 per cent of places available for Syrians under traditional resettlement and 50 per cent via other types of admission, pledges received were less than one-third resettlement and about two-thirds other forms of admission (ICMC, 2015: 27). In other words, some States appeared to be more prepared to offer (temporary) Humanitarian Admission Programme places rather than (permanent) resettlement opportunities.³ One exception, after a brief initial short-term programme, was the United Kingdom. Its Vulnerable Persons Relocation Scheme, as it was called when first established, to admit a small number of Syrians through granting humanitarian protection, was quite quickly transformed into a larger-scale resettlement scheme (Vulnerable Persons Resettlement Scheme) for 20,000 people over five years, which provided beneficiaries with refugee status.

Europe is not alone in exploring alternative humanitarian pathways to protection: In Latin America, for example, several initiatives are also underway (Jubilut 2016).⁴ Moreover, at the global level, through the New

York Declaration for Refugees and Migrants, States undertook to "... consider the expansion of existing humanitarian admission programmes, possible temporary evacuation programmes, including evacuation for medical reasons, flexible arrangements to assist family reunification, private sponsorship for individual refugees and opportunities for labour mobility for refugees, including through private sector partnerships, and for education, such as scholarships and student visas" (UNGA 2016: para 79).

The contents of this study are presented in such a way as to make them accessible to any State or group of States as a starting point for discussion and development of Humanitarian Admission and Protection Programmes (HAPPs).⁵ For clarity to the reader, programmes that have already been operated are referred to in this paper as Humanitarian Admission Programmes, but avoiding the abbreviation 'HAP', while *future* programmes are referred to as HAPPs. The policy options contained in the study include, for example, broadening the approach beyond the displaced Syrian population to additional target groups in need of international protection and a pathway to safety. The alternatives presented seek to expand pathways for those in need of international protection through admission to third countries in such a way that existing solutions, such as resettlement, and key policies, including family reunification, are duly complemented and safeguarded.

Two essential issues for this feasibility study are: 1) determining the primary characteristics of a HAPP; and 2) establishing the relationship of HAPPs to resettlement, as well as their place in the international protection

3 In practice, some States have shifted between temporary and permanent status: as noted further below, the UK started out granting short-term residence and more limited rights, but moved in 2017 to offering longer-term residence and full refugee rights. Austria started with a more long-term approach, and has shifted to an initially short-term residence. Germany has maintained short-term status with more limited rights as its *modus operandi* for Humanitarian Admission Programmes.

4 According to Jubilut (2016), both Brazil and Argentina have set up humanitarian entry visas for Syrians, while countries in the region have also established humanitarian residence permits for Haitians and Venezuelans in particular in response to different crises in those two countries. Latin American States have also established numerically small 'resettlement in solidarity' programmes (pp.2-4)

5 As will be explained in more detail below, the suggestion to add 'protection' to the name of these programmes is partly to add emphasis and partly for clarity in this study to distinguish past Humanitarian Admission Programmes from future HAPPs. To be clear on the terminology: this paper draws on past Humanitarian Admissions Programmes (which have been labelled as such by the State that has operated such a programme) and where referring to past programmes spells out 'Humanitarian Admission Programmes'. Some of these programmes have been given titular abbreviations in practice and called, for example HAP1 or HAP2 (in Germany) or simply HAP. In this paper that abbreviation is avoided unless the usage is clearly spelled out or comes from a direct citation. The abbreviation HAPP is used here to signify the proposed future for Humanitarian Admission and Protection Programmes. Where necessary for further clarity 'previous', 'current' or 'future' is inserted.

architecture. These issues underpin the content of this study. The options are framed by fundamental policy considerations for any EU Member State seeking to establish a Humanitarian Admission and Protection Programme, and incorporate existing EU legislation, references to the negotiations on the future Union Resettlement Framework, as well as funding considerations. The roles of international and non-governmental organizations are set out. Moreover, the two essential features of HAPPS, including their complementarity to resettlement and their role relative to the upholding of the right to family unity through family reunification are discussed in detail.

The research for this study has included a desk review of literature on Humanitarian Admission Programmes and resettlement (including literature published up to January 2018); interviews or discussions on existing and past Humanitarian Admission Programmes with actors from Germany, Austria, Switzerland, Estonia and the UK, as well as IOM and UNHCR; and a roundtable on Humanitarian Admission Programmes organized by the European Resettlement Network (ERN+) in Berlin in September 2017. The roundtable and associated meetings and discussions were important research tools in this area on which relatively little has been written. The roundtable was held under 'Chatham House' rules, so no attribution is made where points from that discussion are used in this paper, although in some cases the fact that information comes from those discussions is noted.

Humanitarian Admission Programmes: how and why they were developed

Several European States developed Humanitarian Admission Programmes in response to the Syrian crisis, suggesting that this situation gave rise to a need for entry and protection approaches that could offer an expedited response, and which did not correspond directly with previous initiatives. In particular, several States wanted a way to admit persons in need of international protection on a short-term basis.⁶

Whereas the protection offered through resettlement is (or should be) a durable solution, the protection that has been offered through Humanitarian Admission Programmes has varied, including providing initially a shorter-term option, offering admission and protection during a specific period of time and on a renewable basis, but not necessarily a permanent solution. As exceptions to this, the French and Austrian⁷ programmes have granted permanent status immediately to beneficiaries of their Humanitarian Admission Programmes should they meet the eligibility requirements for refugee status under the 1951 Convention and its 1967 Protocol (further, as noted, the United Kingdom's Vulnerable Persons Relocation Scheme transitioned into a resettlement programme in 2017).

The temporary nature of the solutions offered, the reluctance of States to offer refugee status owing to domestic considerations, and the request for a speedy and flexible response resulted in States opting for Humanitarian Admission Programmes. Moreover, the traditional resettlement process was deemed more labour intensive at that time, though in the intervening period concerted efforts on the part of resettlement States and UNHCR

to implement more streamlined approaches have aided efficiencies in the resettlement process.

Given the permanency of the solution it offers, resettlement would have been the preferred solution, however States' initial reluctance to employ it led to Humanitarian Admission Programmes being developed. One question looking ahead is whether such programmes could be a stepping stone to resettlement, either to a new resettlement programme or, as the example of the United Kingdom demonstrates in the Syrian case, a direct and explicit shift from a Humanitarian Admission Programme to resettlement for a specific population and situation.

Continued crossings of the Mediterranean Sea by refugees and migrants, particularly during 2015-2016, drew public and political attention to the relative absence of legal pathways for admission and protection. While there has been a particular focus on the Syrian population to date, the New York Declaration (UNGA, 2016) reflected the consensus of States to expand the scope of Humanitarian Admission Programmes as a complementary pathway of admission to all refugee populations.

UNDERLYING MOTIVATIONS OR DRIVERS IN THE EMERGENCE OF HUMANITARIAN ADMISSION PROGRAMMES

In considering the way forward, it is useful to draw out the **underlying motivations or drivers** of the emergence of Humanitarian Admission Programmes to date. In the context of Syrian refugees, at least five primary underlying factors could be identified, the weight of each varying from State to State. The following are not, therefore, addressed in any particular order of importance:

6 One could compare and contrast this with the development of temporary protection for former Yugoslavs in the 1990s, or the Humanitarian Evacuation Programme for Kosovars in 1999, but that discussion would go beyond the scope of this study.

7 In the case of Austria, the status granted changed to an initial three years status in 2017.

1. Advocacy by family members already in a European State for their (extended) family to be able to join them

Such family members were subsequently afforded the opportunity to avoid even lengthier stays in camps or difficult protection situations in neighbouring States, as well as from the need to take a risky journey, potentially with smugglers, to reach safety. Parliamentarians in the German Länder, for example, were receiving requests for assistance from the family members of those Syrians who had been displaced by the conflict. The push to do something was transmitted to the Federal level, sparking action, notably in the establishment of the Humanitarian Admission Programme and Länder sponsorship programmes.⁸ In Ireland too, the first Syrian Humanitarian Admission Programme announced in March 2014 was inspired by requests from the Syrian community already in Ireland for their family members in countries neighbouring Syria to join them (INIS 2014).⁹

2. The establishment of a faster procedure, in particular relative to the lengthier resettlement procedures in place at the time

In general, traditional resettlement programmes require a refugee status determination (RSD) by UNHCR as well as a resettlement referral, whereas the newly developed Humanitarian Admission Programmes needed only a “HAP Referral”. Two outcomes of the initial push to achieve speed as well as relatively sizable quotas in the Humanitarian Admission Programmes were to allow for a simplified procedure and to accept referrals of beneficiaries by family members and other actors in addition to UNHCR. In fact, in 2014, UNHCR developed a combined procedure, which meant RSD and a referral for resettlement (merged RSD-Resettlement) could be achieved quite rapidly. This was one reason for which the United

Kingdom subsequently converted its Vulnerable Persons Relocation Scheme for Syrians to a Vulnerable Persons Resettlement Scheme, with associated Refugee Leave to Remain for five years upon arrival.

3. The creation of tailored and situation-specific programmes

Such programmes, with a limited duration and a clearly specified quota of arrivals, seemed more straightforward and manageable for some European States rather than expanding their existing resettlement programmes (where relevant) or establishing new ones. Moreover, States wanted to provide temporary protection solutions instead of refugee status, with the latter more typically provided in resettlement programmes. Nevertheless, in some cases, the experience of establishing and operating Humanitarian Admission Programmes has led or could lead to some of these States creating resettlement programmes with annual quotas in the future. This driver may or may not have been behind the creation of the Humanitarian Admission Programmes for the States in question, but did underlie the support for such programmes from UNHCR and refugee advocates.

4. The expression of solidarity with first countries of asylum neighbouring Syria

This was made explicit in the first German HAP, for example, which was presented as a gesture, at least, of solidarity in the face of the 356,000 Syrians Lebanon was hosting by spring 2013, and certainly of the one million who were in Lebanon by April 2014 (UNHCR, 2014a).

5. Advocacy by civil society actors

In the United Kingdom, the 2014 announcement of the Syrian Vulnerable Persons Resettlement Scheme (VPRS) resulted from significant pressure from society at large, including NGOs, the media and politicians, for the government to act (Smith et al, 2014). Germany and Austria also saw strong advocacy from churches and NGOs.

The latter two drivers could equally have been forces

⁸ It should be noted that the Humanitarian Admission Programme was not the only response in Germany – for example an IOM Family Assistance Programme, funded by the German Federal Foreign Office was also set up in 2016. Since 2015 more than 350,000 Syrians and Iraqis have been recognized as refugees, making them eligible to reunify with their spouses and children (IOM 2017).

⁹ A second programme, taking into account the lessons learned from the difficulties arising in the first programme, was announced in 2017 (Pollack, 2017).

for the development of resettlement programmes for Syrians, but the need for faster procedures; the fact that (some) States did not want to grant refugee status; and the significant “up-front” numbers included in programmes in response to political imperatives led, in the first instance at least, to Humanitarian Admission Programmes. In the Austrian context, where there was no pre-existing resettlement programme, the Humanitarian Admission Programme granted long-term stay from the point of arrival through the provision of refugee status. However, as a Humanitarian Admission Programme, there was greater flexibility in conceiving and implementing it, whereas a resettlement programme would have needed more time in terms of the legislative and procedural requirements. Germany was also just starting its first pilot resettlement programme in 2012-13. Furthermore, until UNHCR increased capacity in the MENA region and introduced the merged RSD-resettlement procedures, the resettlement processes in place at that time could not meet the demands of new programmes requiring leaner procedures.

One question for future scenarios is how to identify those situations that are best met with resettlement and those that might be met, at least in the short-term, with a form of Humanitarian Admission Programme or future HAPP. Part of the answer to this might lie in

timing; part in the targeting of specific populations and/or situations; and part in the status States are willing to provide to those in need of international protection. The demand for speed and efficiency as well as status considerations might in some cases point to a HAPP, so that admission and protection at least get underway. A HAPP could then, if the need prevails over time, be converted to a resettlement programme with sufficient capacity, efficient procedures, full protection and long-term status. In other words, while ideally resources, efficiencies and political will would be in place so that States could offer resettlement on a sufficiently large-scale to meet protection needs, the implementation of HAPPs would be an acknowledgement that this was not the case. HAPPs could fill the gap for a short period of time, but must be crafted in such a way that they indeed offer a rights-based, quality protection to beneficiaries even if the initial duration of status is time-limited but extendable. Furthermore, the number of people in need of international protection who could benefit in the short-term from the programme might be a consideration for embarking on a HAPP. HAPPs could also be powerful responsibility-sharing tool if they benefit large numbers of those in need of international protection within a short period of time and relieve pressure on States in the region in so doing.

Humanitarian Admission and Protection Programmes (HAPPs): Policy Options

Although specifically defining programmes or policy approaches is generally useful for collective understanding, in this instance, it may be more useful to explain and explore their scope in terms of general characteristics. The first of these is to emphasise the protection aspect, which is a core element to the feasibility of future programmes. One reason for drawing attention to the protection aspects in setting out policy options on future programmes is to underline the fact that such programmes are not only about ‘admission’, but should also be very clearly about protecting persons in need of international protection. This is particularly important, as some past Humanitarian Admission Programmes have lowered protection outcomes; a situation which should be avoided. The addition of the words ‘and Protection’ in the context of this study therefore deliberately seeks to draw attention to this. A second reason for drawing out the protection aspect of future Humanitarian Admission and Protection Programmes is to emphasise the fact that these programmes are designed for people in need of international protection, and should not be used for other migration management purposes.¹⁰ As noted above, in order to provide sufficient clarity to the reader, programmes that have already been created are referred to as Humanitarian Admission Programmes (while avoiding the abbreviation ‘HAP’ to emphasise the distinction), while *future* programmes are referred to as HAPPs.¹¹

¹⁰ This point relates in part to the history of misuse of resettlement for migration management purposes, for example in the Indo-Chinese case (see Robinson, 2004), which States and UNHCR have mindfully avoided through the approach to resettlement taken in the 1990s onwards.

¹¹ For an abundance of clarity, this is not to suggest that people who were admitted on Humanitarian Admission Programmes did not receive protection, of course they did and that was the purpose of their admission. The point here is largely one of distinction between past and future, as well as laying titular stress on the fact that protection is central to the programmes at hand.

STRENGTHENING THE PROTECTION ASPECT OF HUMANITARIAN ADMISSION PROGRAMMES, AND DEVELOPING THE RATIONALE BEHIND THEM

Humanitarian Admission Programmes to date have been tools to provide entry and a status, although sometimes access to post-arrival support and services has been limited in comparison to refugees admitted for resettlement or those recognized as refugees through the asylum procedures. The UK example demonstrates this point: when the VPRS was a Humanitarian Admission Programme, in its earliest days, those admitted were granted five years’ Humanitarian Protection, a status which does not allow access to some public services for example certain welfare benefits or student finance. Furthermore, without refugee status individuals are unable to apply for refugee Convention Travel Documents to reconnect with family and friends. These issues were addressed when the UK changed its policy in July 2017 to grant Refugee Leave to those arriving under the VPRS and VCRS.

HAPPs could be **stand-alone, flexible protection tools** with similarities to resettlement and used as **emergency tools**, allowing a rapid scaling-up of admission programmes. They could also be a useful **stepping-stone** to resettlement, either in the form of the creation of new resettlement programmes, or as a new strand to an existing programme (i.e. initially launching a new element of a programme through a HAPP and then transitioning to resettlement).

However, in keeping with this, HAPPs should not be ‘resettlement-light’: They offer a distinct and complementary approach, which allows for the expedited and larger-scale admission of persons in need of international protection. States might not (yet) be ready to offer

a durable solution, and instead prefer to offer temporary protection to beneficiaries of HAPPs. They may also turn to HAPPs for other reasons of efficiency or because they do not yet have a resettlement programme in place, as noted above. This should not mean that a reduced form of protection is granted to beneficiaries in terms of their rights. Safely removing persons in need of international protection out of danger is significant in and of itself; however, this should be accompanied by a commensurate acknowledgement of their rights. It should be recognised that their residence status might need to be renewed and, in due time, actually become permanent dependent on the situation, and there should be clear planning for that scenario. It would rarely, if ever, be appropriate to continue HAPPs indefinitely: If a given displacement crisis continues to give rise to the need for international protection then, within a reasonable period of time (e.g. within the validity period of the initial residence permit), States should convert their HAPP to resettlement as it becomes clearer that a more permanent solution is really required. Likewise, the status of those initially admitted on a HAPP should then be extended in line with resettlement.

CORE FEATURES OF HAPPS

Broader explanations providing details of the characteristics of proposed future HAPPs will be set out below. However, it is useful first to draw out the four most important core features of Humanitarian Admission Programmes to date, namely: flexibility; complementarity with resettlement; expedited processing, and; maximising international-responsibility sharing. These features, it is recommended, should be carried forward in any HAPPs, as they underpin the desire to see these programmes continue and be further enhanced:

- **Flexibility:** That is, the ability to adapt programmes to the needs of specific situations, places, groups, and contexts. As set out in the ERN+ scoping paper,¹² those European States that have created Humanitarian Admission Programmes since 2013 have adapted their programmes over time. In the cases of Germany, Austria, France, Switzerland and Ireland, there have

been multiple programmes, each learning from the experiences of the previous programme(s). As such, the programmes have been flexible enough to adapt to changing circumstances and lessons learned. Being flexible approaches, Humanitarian Admission Programmes should be adaptable to groups and situations beyond the Syrian population for whom they were originally developed. Such flexibility might mean that programmes are useful as forerunners to resettlement in some situations, or as a complementary pathway to resettlement where that solution is not feasible (i.e. where an expedited organized departure, admission and protection approach is warranted). Another element of flexibility may come in the application of various eligibility criteria in addition to and not *in lieu* of vulnerability and protection needs – with the latter remaining the driver of eligibility criteria. These could include extended family links or other connections to the destination State, as has sometimes been the case to date. However, while making use of flexibility in this context, the right to family unity under existing EU and national legislation regarding family reunification must be upheld for persons already in the EU. HAPPs should not serve as an alternative to this through admitting nuclear family members, who would otherwise be eligible under existing family reunification legislation, with potentially reduced status, duration of residence or other rights and entitlements.

- **Complementarity with resettlement:** Humanitarian Admission Programmes have been similar to, and sometimes overlapped with, resettlement. However, they have also differed from resettlement, for example through the use of eligibility criteria going beyond the established UNHCR resettlement submission categories and by making use of other referral actors beyond UNHCR. Humanitarian Admission Programmes have generally been, at least initially, short-term protection tools that could be quickly activated and made use of expedited processing, whereas resettlement is designed to be a durable solution from the beginning (although, as noted, not all EU Member States admit resettled refugees with a permanent residence permit initially). Future HAPPs could continue the practice seen in past Humanitarian Admission Programmes of using additional criteria for eligibility in addition to UNHCR resettlement submission categories. HAPPs would then offer additionality,

¹² Available at www.resettlement.eu

complementing resettlement by “broadening the criteria for humanitarian admission programmes in mass displacement and protracted situations, coupled with as appropriate temporary humanitarian evacuation programmes and other forms of admission” (UNGA, 2016, Annex I CRRF para 14 c). The protection offered to HAPP beneficiaries should be at least equivalent to subsidiary protection, though preferably at the level accorded to refugees, even if the residence status might initially be temporary due to the flexibility afforded by a HAPP. While there are differences between resettlement and the suggested HAPPs, there are many elements of the two pathways that overlap or are identical, including the practical aspects of referral, pre-departure assistance, transfer, orientation and arrival.

- **Expedited processing:** As noted, a key reason for the development of Humanitarian Admission Programmes for Syrians was the need to react quickly, with programmes being seen to work through the reality of arriving soon after programmes had been announced. One result of the push for expedited processing has been the development of the merged RSD-resettlement processing modality by UNHCR, as well as the increase in the capacity of UNHCR’s operations in the MENA region. These approaches will need to be carried forward globally, as is currently the case, so that in both resettlement and any future HAPPs, there is expedited processing, producing quick, efficient but also thorough methods for identifying and selecting eligible candidates.

- **Maximising responsibility-sharing:** Both resettlement and HAPPs are not only tools offering third country solutions for those in need of international protection, but also tools to demonstrate solidarity and responsibility-sharing with countries of first asylum – an essential component of the international protection regime, as recently re-stated in the New York Declaration for Refugees and Migrants (UNGA, 2016). While an initial HAPP could be relatively small, if large numbers are not immediately feasible (i.e. with places in the hundreds at least), it should be adapted and expanded over time, with sufficient places to powerfully demonstrate the responsibility-sharing intention.

WHAT COULD HAPPS LOOK LIKE?

HAPPs need to be flexible, additional, and complementary to resettlement. In situations in which family ties might be used as an eligibility criterion or motivation for a programme, ensure that this is in addition to vulnerability and protection criteria, and that the right to family life through family reunification is fully safeguarded for those already in Europe and distinct from the HAPP. In addition, HAPPs need:

- To meet the need for third country solutions for persons in need of international protection;
- To share responsibility for refugee protection and show solidarity with States in regions of origin that host large refugee populations; and,
- Where relevant, to address the concerns of populations from a given conflict zone, or countries experiencing large displacements for any reason, already resident in Europe and wishing to see solidarity with the displaced population from their homeland, potentially including family members;¹³

Future HAPPs can build upon the innovations in the experience some European States have had with Humanitarian Admission Programmes in the following ways:

Pre-selection

- **Establish clear operational guidelines,** including establishing the competencies of government, and international or non-governmental organizations involved in a HAPP, whether it is a national programme or a programme that is developed at a regional level. UNHCR has been the main referral agency to date (with the exception of the German HAP, the Swiss programme and, initially, the Austrian HAP). Therefore, having the required expertise in providing referrals for refugees in

¹³ Such concerns on the part of the family members already in the European State might, for example, give rise to stress which hampers their integration, dependent on the personal situation including their own length of residence in the destination State. In addition, such family members often find support among national NGOs and elected representatives, either on local authorities or at national level. Addressing these concerns therefore has several advantages in term of contributing to stability and the sense that action is being taken.

line with UNHCR resettlement submission categories, it is the obvious agency to take the lead role in this area.

- Where necessary to establish and clarify the **specific target population**, define the population requiring international protection by applying (if necessary for the purposes of narrowing the group to make the programme operationally practical) additional protection-sensitive criteria beyond an explanation of their protection needs, while at all times taking a non-discriminatory approach. Such targeting is necessary to refine a broad caseload, for example, so that it facilitates the operational effort to identify eligibility for a HAPP.
- **Determine eligibility in a balanced way:** Those eligible for a HAPP should be first and foremost in need of international protection and in need of a third country solution based on their vulnerability, and be able to benefit from receiving that protection in the admitting State. Any additional eligibility criteria should not, and indeed could not, reliably predict any ability of the new arrivals to integrate successfully. An individual or family might have more than one of the identifying features for eligibility. A HAPP should provide access to protection in a non-discriminatory way, meaning that focusing on only one additional criterion in isolation would not be appropriate, and that the need for protection is central to eligibility. Previous efforts to seek protection, for example, through (irregular) entry to the EU, should not prejudice eligibility for protection if such protection is needed and a person otherwise falls within the relevant criteria.
- **Submission criteria**, transmitted to UNHCR and any other organizations involved in referrals, should flow from the eligibility categories and help to refine the target group, thereby allowing for the efficient identification of specific groups, families or individuals.
- **Admitting people in need of international protection on a relatively large-scale** and in a relatively short timeframe, could be pursued either through one significant quota or through consecutive programmes, each building on the one prior to it to adapt to any changes in the situation, whether in the country of origin, first asylum or destination.

Selection

- **Pursue expedited procedures for identification, referral, selection and admission** through the use of simplified forms, dossier selection and other measures, while ensuring high standards are maintained and that all necessary and appropriate checks are conducted to detect any exclusion concerns. Ultimately, the decision to admit persons of concern is taken by the destination State. UNHCR's expertise and mandate to undertake RSD and exclusion analysis should also be taken into account.
- **Allow varied identification and referral channels**, through which various actors, including extended family members, NGOs, international organizations or other groups in the destination State or in the region have been involved in referrals for Humanitarian Admission Programmes, and could potentially identify candidates for HAPPs. Referral, in terms of dossier preparation, as well as an assessment and verification of the protection needs, is normally carried out by UNHCR, which is the mandated organization to undertake this activity. Other (international) actors have been involved in dossier preparation and the identification of beneficiaries particularly in locations where UNHCR may not have access. Any potential referral actors beyond UNHCR should have sufficient capacity on the ground to ensure quality identification in a non-discriminatory and protection-sensitive way.
- **Conducting selection on a dossier basis**, although if interviews are required by a particular State, these should not cause excessive delays that could in any way endanger potential beneficiaries. Video-conferencing and other technologies could be used as relevant and appropriate to facilitate the selection process, again so long as these can be done in an expedited and secure way.
- **Government authorities could conduct security clearance** remotely using biometric and other data, in cooperation with organizations on the ground as appropriate and, as is currently the case, in line with applicable data protection standards and human rights provisions.

Pre-departure

- Appropriate **health screening and identification of any healthcare needed after arrival** should be conducted through post-selection, pre-departure health assessments in the first country of asylum, while thorough (recommended three days¹⁴) **pre-departure orientation and language training** should be pursued. These aspects could be in line with what is offered for resettlement if a programme exists in the country offering a HAPP, or otherwise developed in line with general good practice in this area. These requirements and support activities are in the interests of the receiving State, so the receiving government should cover the expenses for them.

- **Organize departure, with pre-arranged transportation and visa provision**, which should be paid for by the receiving government or, in exceptional cases, either subsidised in a means-tested way or paid for on an interest-free loan basis. In order to promote participation in a HAPP, it is important that beneficiaries not find themselves either dependent on family or significantly indebted in order to undertake movement for protection purposes.

Arrival

- **Organize arrival**, with beneficiaries to be met by professional supporting organizations on landing and guided through immigration and customs procedures.

- **Grant appropriate status on (or prior to) arrival**, which, for HAPP beneficiaries could be refugee status and an indefinite or permanent residence status that guarantees access to and enjoyment of all rights, including family reunification, without discrimination. When considering the implementation of a HAPP that provides beneficiaries with an initially temporary (but renewable, on a needs-basis) status, States should take into account elements related to processing as well as the intended design of programmes. The granting of temporary status may, for example, be necessary in situations

where timeframes do not allow for in-depth individual assessments of international protection needs or due to a States' specific legislation. Status, for EU Member States, should be in line with the requirements of the Qualification Directive. If EU funding is made available to Member States conducting HAPPs (see below for more information on this), then the protection requirements of statuses regulated at the EU level should apply. If the selection procedures have revealed that the person qualifies for refugee status, then that status should be granted, thereby potentially avoiding instances where beneficiaries may feel the need to apply for asylum (requiring further state resources) after arrival. The fact of qualifying for refugee status does not mean that the beneficiary ought to have been resettled rather than have arrived through a HAPP, since the underlying reasons for their protection need might alter following short-term residence with subsidiary or another equivalent temporary form of protection. Any change would need to be assessed on an individual basis. However, in all cases, non-permanent residence permits should be renewable (in line with EU regulations, as applicable). The decision on which status to grant under HAPPs should always be guided by the desire to provide refugees with protection and a clear perspective for the future. Regardless of the type and duration of status that the beneficiaries are provided under a HAPP, such status should be predictable and beneficiaries must be fully informed about their rights and obligations in the receiving country prior to their admission.

- **Ensure that beneficiaries of HAPPs enjoy all the rights and entitlements accorded in line with relevant EU protection statuses**, including access to, for example, healthcare, employment, education, income support and housing. Every effort should be made to ensure that nuclear families travel together as HAPP beneficiaries, as has been the case with Humanitarian Admission Programmes. In the event that this is not possible due to particular circumstances prevailing at the time of departure, the universally recognised right to family life should be upheld.

- Organize the **initial post-arrival period**, possibly in a reception facility with a structured programme of classes for orientation and language needs. This should

¹⁴ In line with IOM's standard recommendation for Pre-Departure Orientation.

include training and assistance in setting the first steps towards becoming established and finding employment or enrolling in school/university and other activities, such as obtaining drivers licences, etc.

- Ensure that **housing** is ready for people to move into after the initial reception period. While affordable and appropriate housing is a barrier in many European States, account should be made of people's desire to be close to family members where family connections form part of the identification and selection of beneficiaries for the programme. If HAPP beneficiaries are to reside with family members already in the country, a small subsidy could be considered as a goodwill gesture to enable those families to accommodate their extended family, at least for an initial period, thereby relieving the State of some difficulty in finding affordable housing.¹⁵ Generally, on a HAPP, the expectation should be that the government is responsible financially for the new arrivals and for helping them to become established.

Longer-term

- **On-going professional social support services** are necessary for all HAPP arrivals, although the duration of this and intensity might be adjusted on a case-by-case basis. Even where direct support appears not to be necessary, there should be regular follow up.
- **Plan for integration**, which can, for example, be strengthened through community and family support,

¹⁵ No explicit examples of government housing subsidies being used for extended family members to house their newly arriving refugee/humanitarian admission programme beneficiary family could be found. This idea arose in reflection on comments at the Roundtable held for this project about a) the difficulties in finding affordable housing and b) the potential pitfalls of dependency within the extended family when new arrivals are housed by family already in the receiving State. Roofs4Refugees in Canada offers some thinking on similar lines, although not specifically about families offering rooms – see <https://www.roofs4refugees.ca>. The French government organized a project via eleven organizations in France to offer one year of professional support and find accommodation with families for a total of 1,361 refugees over a period of two years. The announcement of the programme in 2016 did not explicitly link it to resettlement or Humanitarian Admission Programmes, nor did it specifically involve the family members of refugees. The sum per refugee was €1,500 for the one year of support and accommodation. See Ministère de la Cohesion des Territoires, <http://www.cohesion-territoires.gouv.fr/favoriser-l-hebergement-citoyen-des-refugies-chez-les-particuliers-emmanuelle-cosse-annonce-les-resultats-de-l-appel-a-projets>

where applicable. This should also include language acquisition and access to employment and educational opportunities.

- **Monitor and evaluate** the HAPP in its entirety and individual elements of it, including their relationship to or comparison with other protection measures, with lessons learned taken into account in regular revisions of the programme.

SELECTED SPECIFIC ASPECTS OF HAPPS

The sections below will pull out some of the elements listed above, reflecting on experience with Humanitarian Admission Programmes in the period 2013-2017, and how that experience can be used to shape the optimal HAPP model on which States, or the EU, can build. Attention will also be paid to the legal basis, the Union Resettlement Framework, and funding issues for HAPPs.

Target populations

Previous Humanitarian Admission Programmes have been designed almost exclusively for Syrians in need of international protection. If complementary pathways, and in this case specifically HAPPs, are to be further explored and developed and become useful protection tools, then other populations will also need to be included as beneficiaries. Potential groups that could be eligible for HAPPs are: first, the same type of group that has been targeted by States operating Humanitarian Admission Programmes for Syrians, namely large populations of displaced persons in need of international protection who have fled emerging crises and created a major influx over a short period of time in neighbouring countries. Targeting this type of group would enable States to use a HAPP as a powerful responsibility-sharing tool. A second type of group could be those populations that are in a mass displacement or protracted refugee situation and for whom, as a result largely of domestic political pressure, broader criteria might be used such as ties to a given country or extended family ties **in addition to** protection and vulnerability criteria.

As called for in the New York Declaration third countries should “consider broadening the criteria for resettlement and humanitarian admission programmes in mass displacement and protracted situations” (UNGA 2016, Annex para 14c). This is needed in order to expand complementary pathway opportunities for a growing number of persons in need of international protection for which third country solutions are deemed the most appropriate solution.

Of note that in the framework of this feasibility study the scope is limited to those in need of international protection, while acknowledging that there are other situations which might require broader forms of protection to be considered this falls outside the scope of this study.

Establishing the target population as the basis for a HAPP gives the framework upon which the eligibility criteria for individuals to be considered as beneficiaries of the programme can be built.

Eligibility

As HAPPs become further developed, they can be flexibly tailored to emerging contexts and situations. Given that many of these, like that of Syrians, can see hundreds of thousands of persons in need of international protection, there have to be well-established and very clearly defined eligibility criteria.

Among the objective criteria are first and foremost international protection needs, vulnerability criteria, situation-specific concerns, country of origin, and the location of initial protection. Not all of these criteria would necessarily be applicable to every situation, and each new HAPP would require reconsideration on a case-by-case basis.

The eligibility criteria used for some of the Humanitarian Admission Programmes to date, notably the German, Irish, Swiss and part of the Austrian programmes have relied on extended family ties.¹⁶ States can find such criteria to be useful in assisting in settlement for both the newcomers and the family members already in a

European State who are concerned for their family in the region of origin. While family links are an important consideration, this should not be at the expense of the use of protection and vulnerability-based criteria, but rather in addition to them. As such, there needs to be safeguards and standards in place to ensure that HAPPs cannot be (mis-)used as vehicles for family reunification only, or for migration purposes, and also to ensure that there are clear understandings of the distinctions and overlapping elements between HAPPs with family-linked eligibility criteria and any family basis to private/community-based sponsorship. HAPP beneficiaries should be expected to have access to regular professional social services, NGOs or other support mechanisms, and not to be fully reliant on family members for support. There could be situations in which a blended approach combining HAPPs and private sponsorship by families could be envisaged. However, in general, as programmes that could be large in size and require significant administration and public support, mainstream HAPPs should be government initiated and government financed.

If States were to use (extended) family ties for eligibility for HAPPs, protection needs and vulnerability should be central, and family ties might then be an additional criterion for some programme places. However, a blended programme involving places for people with an existing family connection, but also places for people without such ties would be appropriate.

Eligibility for resettlement in the European context is primarily focused on UNHCR determination of refugees’ specific needs. UNHCR’s Resettlement Submission Categories spell out the protection needs of potential beneficiaries (legal and/or physical protection needs; survivors of violence and/or torture; medical needs; women and girls at risk; family reunification; children and adolescents at risk; lack of foreseeable alternative durable solutions). Where UNHCR has been asked to make referrals for Humanitarian Admission Programmes, the same criteria applicable to resettlement have been used for eligibility, with any supplementary factors sought by States that have operated a Humanitarian Admission

¹⁶ The links between HAPPs and family ties are explained further in a separate section below.

Programme, such as a family connection, coming after a vulnerability assessment.¹⁷

The resettlement submission categories might overlap with States' development of eligibility criteria for HAPPs, but there could also be differences, not least in situations where HAPPs might be employed to capture people who would not be prioritized for resettlement, such as extended family members.¹⁸ The broadening and flexible aspects of HAPPs, as well as the fact that they should be complementary to resettlement, mean that their eligibility scope can in certain situations capture persons who might not fall within the resettlement submission categories, while ensuring that protection-sensitive and non-discriminatory approaches are respected.

Any group definitions should be clearly expressed, and particular attention should be made to the fact that these definitions must balance various categories and not be discriminatory.

Referral actors and mechanisms

UNHCR has been as the main referral source in Humanitarian Admission Programmes to date, as is the case for resettlement to European countries. Some Humanitarian Admission Programmes started with additional referral sources, including NGOs and family members, but as UNHCR simplified its referral process, merged RSD and resettlement interviews, and increased capacity in the MENA region, it became the focal agency for existing Humanitarian Admission Programmes. UNHCR's processes for identification of candidates for resettlement and Humanitarian Admission

Programmes include important integrity safeguards based on long-standing practice and experience, which other potential referral actors may not have.

UNHCR's vast experience in referrals makes it the obvious actor for this role in HAPPs. However, there could be circumstances in which other relevant international actors (NGOs or other International Organizations) could be considered as referral bodies, or cases in which UNHCR's capacity on the ground does not allow them to reach the referral numbers requested at a given time (see Piper et al, 2013: 10, and as was initially the case in the MENA region when Humanitarian Admission Programmes were first established in 2013-14). Making a referral is different from identifying the people who are to be, or could be, referred. Families, or other actors, can identify some candidates for a HAPP, but the referral should be made by an organization with sufficient experience and capacity on the ground to ensure efficiency and completeness, and to avoid any undue delays or missing information, for example. This is a role that UNHCR continues to lead on.

Selection

One of the major issues to be confronted in approaching organized or managed entry on humanitarian grounds is the impact of procedures for assessing claims at the various stages on the administrative structure a State has for refugee, asylum and immigration policies. The Humanitarian Admission Programmes developed by European States to date have primarily made use of dossier selection (See EMN, 2016).¹⁹ Dossier selection is generally less resource intensive than selection missions. However, some governments prefer to have their own staff interview candidates before selection is finalized. This is, partly, to take full responsibility with regards to security and the exclusion of anyone for whom there are clear grounds for concern that they would pose a criminal or public safety threat or be seeking to defraud the system. HAPPs should continue the practice of dossier selection methods, and where necessary, and under secure circumstances, video-conferencing technology might be used to expedite the process if there is a need for direct conversations for security purposes, for example.

¹⁷ There is discussion about what exactly constitutes 'vulnerability', and it is a significant question for balancing HAPPs and ensuring their complementarity with resettlement. For some, the word conjures images of only the most ill, injured, disabled, aged, or young and unaccompanied, being selected, which can mean that programmes are kept small, because the assistance required can be resource-intensive. A person's vulnerability is often related directly to the risks they run in the context of the place where they are living.

¹⁸ As resettlement places remain well below UNHCR's needs assessments, it might seem that there ought to be more focus on increasing resettlement numbers rather than expanding the types of programmes available for third country solutions. Indeed, every effort should be made to increase resettlement capacity: HAPPs could, over time, contribute to that increase in resettlement availability. The essential flexibility of HAPPs and their nature as complementary to, not replicas of, resettlement mean, however, that they could reach people who resettlement might not target.

¹⁹ The major exception to this is France (see UNHCR 2016a).

Pre-departure orientation, health assessments and movement assistance

Existing practice for resettlement as well as for Humanitarian Admission Programmes to date has generally seen pre-departure health assessments, fit-to-travel checks and pre-departure (cultural) orientation programmes operated by IOM under agreements with the receiving governments. Receiving governments should take responsibility for the transportation, health assessments and fitness to travel and orientation costs, and only in exceptional circumstances should these be subsidised, possibly on a means-tested basis or through the establishment of an interest-free loan.²⁰

Status

The **minimum status to be granted** to HAPP beneficiaries on arrival should be subsidiary protection. This could be temporary, for at least one year, but preferably longer than this with renewable residence, and with a view to permanent residence within a reasonable period (for example, the five years set out in the EU's long-term residence directive (European Union, 2004) should the conditions upon which they arrived under a HAPP not have changed.²¹ However, as indicated below in reference to the right to family reunification, it is important to give due consideration to the fact that refugee status may be preferable for HAPP beneficiaries.

The status granted should be predictable in nature, and beneficiaries should be fully informed about their rights and obligations in the receiving country prior to their admission. Handling the status in this initially limited

way, but with a predictable pathway to permanent residence reflects the fact that HAPPs are situation-specific and limited in terms of the duration of the programme. However, those who arrive may prove to be in need of longer-term protection.

A situation in which HAPP beneficiaries are required to apply for asylum after arrival should be avoided wherever possible (though acknowledging the legal restrictions that apply in some EU Member States that make this necessary, at least as a formality). From a purely administrative perspective, it would be resource intensive to first grant admission and protection, and then enter into another procedure after arrival. Other systems, such as humanitarian visas, would require a post-arrival procedure; however, for HAPPs, status for an initial period should ideally have been decided prior to arrival. Any review of status must be assessed on an individual basis, although any re-assessment of the duration of residence after the initial period might be conducted on a group basis if country of origin information makes it clear that return is impossible.

Arrival and initial Reception

The fact that arrival into the EU destination State is organised means that there is an opportunity to continue orientation, language lessons, and generally facilitate what might be called a 'soft landing'. Nonetheless, finding the optimal approach is difficult, and this, like other aspects of HAPPs, requires a degree of flexibility both in terms of the broad policy and in the specifics of implementation. HAPPs need to be sufficiently robust to respond to the different situations from which new groups of beneficiaries are arriving. People who have recently been displaced might be traumatized, but their adaptability should not be underestimated; likewise, people who have been in refugee camps for months or years might have developed habits of dependency, but they might also be ready for a new independent life. A programme has to generalise, but also maintain sufficient flexibility for the needs of different individuals and groups.

Entry paperwork and airport greetings need to be organized. Practice from the German Humanitarian Admission Programmes has demonstrated that an initial reception period in an organized facility with a schedule of language

²⁰ The US, Canada and Australia all have systems that involve a loan, repayable after arrival, for the medical and transport costs associated with refugee resettlement. Individuals arrive with a loan: in the US at least, this has certain advantages in that it starts to establish a 'credit score' for the individual, demonstrating for the purposes of future loan or credit card applications that they have a track record in loan repayment. European States have not operated such loans for resettlement.

²¹ The reference to 'temporary' here is to a short-term, time-limited residence permit or leave to remain. The term 'temporary protection' has a checkered past in Europe over the last two decades, with many national policies emerging in response to the Yugoslav crises of the 1990s and the agreement on an EU Temporary Protection Directive in 2002, as yet not implemented. While many Member States' subsidiary protection categories offer temporary stay, the term 'temporary protection' is not currently used.

and cultural training is beneficial to the integration process (Borrud, 2013), and this model can be built upon in HAPPs. As noted above, making available the full range of relevant support services to those arriving is key, including for language acquisition, trauma management, job-seeking/income support, housing, education, health, and other services.

Integration

Regardless of beneficiaries arriving on a temporary, albeit, renewable residence status, integration support is necessary so that they can begin to settle into and contribute to as well as benefit from their new communities at the earliest possible opportunity.

A key element to the integration process is the right to enjoy family life. HAPPs should therefore endeavour to keep families intact during the selection and arrival process. In the event that they are separated, the right to family reunification after arrival is essential. As this right has been limited for those granted subsidiary protection, in order to ensure that families that have been separated can avail themselves of the right to a family life through family reunification under the Family Reunification Directive, it is important that due consideration be given to the fact that it would be preferable for HAPP beneficiaries to be granted refugee status.

Those entitlements associated with refugee status which will be particularly important for HAPP beneficiaries include the right to work and access to benefits, education and healthcare. There is, of course, a difference between the right to work and the ability to actually find employment. Research with Syrians in Europe²² has shown that language skills have been a major barrier to employment (Betts and Buith 2017). Language training and other employability support measures, such as recognition of previous experience and qualifications, would be key aspects of an integration package, amongst other measures.

²² The Syrians involved in the cited research did not (necessarily) arrive on a Humanitarian Admission Programme.

Monitoring and evaluation

As flexible tools, with each HAPP being limited in duration, and new iterations being developed according to circumstances and needs, there will be a need for structured monitoring and evaluation. Governments, partner organizations, and independent bodies could conduct this monitoring and evaluation. Each new HAPP needs to learn the lessons, positive and negative, from the previous programme and adapt accordingly, while also adjusting to the different situation it is intended to address. The role HAPPs play in the overall protection architecture should also be regularly re-evaluated.

EU negotiations on a Union Resettlement Framework

The institutions of the European Union are in the process of negotiations on the basis of the European Commission's 2016 proposal for a Union Resettlement Framework (European Commission 2016). Discussions between the Commission, European Parliament and Council of the European Union began in December 2017.

The Commission's proposal is intended to build upon, and be consistent with existing resettlement and humanitarian admission initiatives of the Union (whereby humanitarian admission refers specifically to the Voluntary Humanitarian Admission Scheme (VHAS) from Turkey, which is said to constitute a flanking measure to the mutual commitments contained in the Joint Action Plan with Turkey).²³ On humanitarian admission specifically, the European Parliament (2017) has taken the position that humanitarian admission programmes should be national programmes that serve as an **adjunct** to resettlement and should be in addition to resettlement targets under the Framework and could potentially respond to Internally Displaced Persons as well. The Council (2017) seeks to add humanitarian admission to the Framework so that there would be a 'Union Resettlement and Humanitarian Admission Framework', though its complementarity with resettlement is unclear. The Council suggests that Member States may grant a humanitarian

²³ At the time of writing the VHAS is not yet operational.

status under national laws, that provides for the same rights as subsidiary protection, for those admitted under humanitarian admission programmes; but adds that they may also grant international protection. The Council, Commission and European Parliament, also all posit additional referral actors alongside UNHCR.

Furthermore the issue of funding arrangements for resettlement and humanitarian admission programmes remains to be addressed as the positions of the Commission, Parliament and Council vary at this stage.

As these negotiations are in their early stages as this feasibility study is being written, it is impossible to comment on the direction that will be taken.

ROLES AND EXPERIENCES OF INTERNATIONAL ORGANIZATIONS AND NON-GOVERNMENTAL ORGANIZATIONS

Humanitarian Admission Programmes have seen NGOs in the receiving States continue or expand existing roles in working with asylum-seekers, those recognized with status, and resettled refugees within the destination countries, as well as take on new roles as referral bodies and/or preparing dossiers for consideration.

UNHCR has a unique role in resettlement, and its processing of refugees for resettlement also offers safeguards in terms of quality and integrity. UNHCR's role in HAPs has been two-fold: operational and as an advocate for the programmes' development. Operationally, in terms of identification, processing and referral, UNHCR has extended its processing safeguards to candidates for Humanitarian Admission Programmes and has adapted and streamlined some of the procedures in order to meet the requirements in a changing situation i.e. merged RSD and resettlement interview procedures in MENA. On the advocacy side, UNHCR has encouraged the development of pathways to protection that are complementary to resettlement (for example UNHCR, 2014) and organized key Consultations with Member States to stimulate reflection and programme contributions such as the 30 March 2016 High-Level meeting on global responsibility sharing for Syria (UNHCR 2016c).

On the operational front, adjusting from traditional resettlement to novel forms of Humanitarian Admission Programmes has presented some challenges, such as the development of more streamlined procedures. There was also a need to adjust to the situation of other referral organizations (e.g. church groups, NGOs, families), which was in part necessitated by the desire for expedited procedures in a situation in which UNHCR had to increase its regional capacity to meet demand. This increase in capacity was achieved and Austria, for example, switched to full UNHCR referrals based on the quality and safeguards in place.

Caritas had a major role to play in Germany's first HAP, being a key referral partner alongside UNHCR but also with referrals coming from regional Parliamentarians and family members in Germany. Over the course of three Humanitarian Admission Programmes, the referral role has shifted away from Caritas. Under the Austrian Humanitarian Admission Programmes, various churches also had a strong referral role though, as noted, this gradually shifted to UNHCR.

IOM's role in Humanitarian Admission Programmes has been very similar to IOM's support provided under traditional resettlement, at least for the part of the caseload referred to IOM for pre-departure processing and movement-related support (as described above). Pre-departure health assessments and pre-departure orientation have been included as key components in the Austrian, German, UK and Swiss programmes. This is based on the government's request and common good practice of providing beneficiaries with the necessary information on the programme, including related rights and entitlements, as well as to ensure that they are able to travel in a safe, dignified and orderly manner. IOM has also provided pre-departure, transit and post-arrival assistance, whenever requested, as part of a continuum of care ensuring that beneficiaries who are specifically vulnerable or who have significant medical conditions are provided with the necessary assistance throughout the process.

A full range of organizations should continue to be involved in all stages of HAPPs, fulfilling mandated roles and supporting the broadest possible application and inclusion.

Safeguarding Solutions and Rights

Due to the manner in which Humanitarian Admission Programmes to date have been discussed and developed, there is a strong need to ensure clarity on the safeguarding of resettlement as a durable solution, and of the right to enjoy a family life which leads to the right to family reunification. HAPPs should be employed **in addition** to both resettlement and family reunification, and should not be carried out to the detriment or in a way that could jeopardize either.

IN WHAT WAYS SHOULD HAPPS COMPLEMENT RESETTLEMENT?

Future HAPPs should complement and indeed support resettlement in various ways. Some of these will be in relation to national programmes, including in the aspects of receptivity and domestic support for a State's participation in resettlement. Other ways in which HAPPs can complement resettlement might include in adding numbers to third country solutions for those in need of them, and the capacity that allows for more resettlement in the future.

Each State that developed a Humanitarian Admission Programme in response to the Syrian crisis had a different level of experience or engagement with resettlement, which influenced the ways in which their Humanitarian Admission Programmes were developed and/or implemented. Of note, the **United Kingdom**, with an established resettlement programme, converted its Humanitarian Admission Programme (VPRS) to resettlement at a fairly early stage. In **Germany**, where a pilot resettlement programme had been established not long before HAP I was created, there has been some overlap in the ways in which humanitarian admission and resettlement are managed from a policy and political perspective. However, the outcomes for individual refugees might be different with regard to the duration and basis of their status (UNHCR 2016). The Humanitarian Admission Programmes began as distinct from and complementary to a developing resettlement scheme. By 2017, there is more overlap between the

Humanitarian Admission Programmes and resettlement, partly as a national response to regional (EU) political pressures.

Meanwhile, in **Austria**, where there is no resettlement programme, the Humanitarian Admission Programmes have, in effect, been *de facto* resettlement. There is some discussion about developing a resettlement programme in the future. If a resettlement programme were to be developed, the Humanitarian Admission Programmes might prove not just to have been a pathway complementary to resettlement, but one leading to a resettlement programme in the longer term. With no programme in place, Austrian actors (both government and NGOs) saw resettlement as a continuous, long-term practice as somehow daunting, whereas the *ad-hoc* nature of a Humanitarian Admission Programme was less intimidating. However, having experienced the Humanitarian Admission Programme, there is now greater enthusiasm to advocate that Austria embark on a resettlement commitment.²⁴ In other words, in this case, a Humanitarian Admission Programme could prove to be a stepping-stone towards the development of a resettlement scheme.

Beyond the specific country experience, however, there are aspects of Humanitarian Admission Programmes and resettlement that are complementary and aspects that are interwoven. Humanitarian Admission Programmes, as the newer approach, have leant on or developed from resettlement practices at the field level, but have also influenced some of the thinking and ways of doing resettlement. In some cases, the impact on resettlement has been to bring in new methods, or update old ones; in others, it has been to reinforce the importance of resettlement as a durable solution – what some term the 'Gold Standard'. The nature, role and importance of resettlement should not be undermined by the political

²⁴ The statements here reflect discussion at the Roundtable for this project, held under Chatham House rules, so no attribution to specific participants is made.

pressures of individual crises, but positively reinforced where appropriate.

Initially, Humanitarian Admission Programmes were seen to have several efficiencies over resettlement: The simplified 'HAP referral' form, for example, reportedly took about half the time to submit than a regular resettlement submission form did (ICMC, 2015: 31). Also, in the earlier days of implementation, as presumptions of eligibility were made with some screening, Humanitarian Admission Programmes did not require Refugee Status Determination (RSD) or Country of Origin Information (COI) from the field level, both of which are normally required for resettlement. However, in 2014 UNHCR made changes such that for Syrians the RSD and resettlement/HAP interview were combined (UNHCR, undated) – a clear efficiency for both resettlement and Humanitarian Admission Programmes. UNHCR has submitted around 9,000 vulnerable cases using the simplified HAP referral form under the Austrian, French, German and United Kingdom programmes or schemes. It could be said that Humanitarian Admission Programmes have supported or brought about developments in streamlining referrals and processing that have transferred to, and benefitted resettlement.

In sum, HAPPs could have obvious features that overlap with resettlement:

1. People are selected for an organized movement, arriving with refugee or subsidiary protection status;
2. Beneficiaries are medically screened and assisted where necessary pre-departure;
3. They are given information and training to assist them in understanding the scope of the programme and developing skills and attitudes as a basis for a sustainable integration post-arrival;
4. Their departure is planned and prepared, and they are met on arrival.
5. Post arrival, robust integration support measures should also be provided

However, there are also clear distinctions, for example in the scale of the programmes. Although more resettlement places might be required, and the needs have generally been increasing, the programmes operated by

individual EU Member States (with some exceptions) have generally remained numbered in the hundreds, whereas Humanitarian Admission Programmes have generally been in the thousands (European Commission, 2017). The target groups have been different; Humanitarian Admission Programmes procedures have generally been expedited in comparison to those for resettlement. In addition, the rights and entitlements of beneficiaries are often different, on issues such as travel documents or family reunification for example, and particularly on duration of status, and these have all, where there is a difference, been more limited for Humanitarian Admission Programme beneficiaries.

By offering a flexible tool for adaptation to group displacement situations requiring immediate protection for a population in need of international protection, but where States decide to provide temporary solutions versus the permanent solution of resettlement, HAPPs can complement and be additional to resettlement, allowing an expansion in the number of vulnerable persons in need of protection who are admitted to European States for that purpose.

WHAT ARE THE ROLES OF FAMILY TIES AND THE RIGHT TO FAMILY LIFE?

The element of family is relevant to HAPPs on two levels. First, some of the Humanitarian Admission Programmes that were developed for Syrians were based on a (often extended) family connection with someone already in the destination State. The reality is that, unless family reunification is broadened to include, for example, elderly parents and unmarried children aged 18 and over (see UNHCR, 2015), governments may be called upon by those resident in their State with family members forcibly displaced to act on their behalf and, as such, these ties might be grounds for eligibility under some HAPPs. Second, the right to family reunification has most often not been granted to Humanitarian Admission Programme beneficiaries after arrival. It is presumed that the nuclear family at least will travel together, meaning the right to family life as covered by family reunification legislation generally is addressed. These two levels link in with what many advocates have called for, which is a

broader use of family reunification to facilitate the legal entry of Syrians to European States (ECRE 2017). In a sense, Humanitarian Admission Programmes have partly been used to do that – however, the overlaps and distinctions between upholding the right to family life on the one hand and allowing access through Humanitarian Admission Programmes on the other is not totally clear, and is open to critique.

Where past Humanitarian Admission Programmes developed for Syrians in Germany, Austria, and Switzerland had a strong, but not always exclusive, family component as a basis for eligibility, the family members already in a European State have also often become responsible for at least some of the costs involved in the arriving family members' travel and initial accommodation. From the point of view of governments, this has enabled them to limit expenditure while increasing the number of people admitted, and engendering public support. However, it has also created dependencies which, it is suggested, should be avoided in HAPPs, although the financial support element can be considered appropriate for a private sponsorship model.²⁵

The family connection criterion has usually been advanced as a basis for integration and community connections. The thinking behind this has included that having the family link to someone already in place in the destination State would make it easier for those newly arrived, create more of a community basis, and also would respond to the requests for support from the family members already in the destination country to have their family members join them. Indeed, such family ties satisfy the right to family life, and potentially remove a barrier to integration for those who might find it difficult to settle while concerns for the safety of family members left behind prevail (Beaton et al, 2018).

²⁵ As such, under the umbrella of 'Humanitarian Admission' there might be two ways for families to identify their kin who could be included on a programme: under a HAPP they would be identified for inclusion in a government-operated and supported programme; under a private sponsorship model they would be included in a programme in which the family (or others, but not the government) financially support the new arrival for some time. A blended programme, with support from both governmental and non-governmental sources (including potentially family member) might also be possible and might even be desirable, but goes beyond the realms of this particular study.

However, while a family connection might, in principle, be a logical precursor to a higher likelihood for successful integration for a newcomer, practice has shown that this is not always the case, particularly if the family members need to create new internal financial and relationship dependencies as a result of their staggered arrival and of expectations of assistance in social and cultural integration. The first Irish initiative, entitled the Syrian Humanitarian Admission Programme (SHAP), was particularly demonstrative of this according to reported assessments (MPI, 2017). Prioritizing elderly parents, unaccompanied mothers with children, single women and girls, and children and people with disabilities (INIS, 2014a; UNHCR, 2016b), the family ties aspect had the unintended consequence of family members bringing in relatives who they barely knew, if at all, bringing some social or family tensions and additional difficulties (MPI 2017). Research on Karen refugees resettled to the United States reunited as families after separation, for example, has also demonstrated that "refugee families are at risk of a constellation of relational issues that are exacerbated by the stress of resettlement." (Simmelink McClearly 2017: 1464). Indeed, having family alone sponsor refugees seems to be avoided in the strongest private sponsorship model, that of Canada, which requires established organizations or groups of at least five individual adults to act as sponsors and financial guarantors for new arrivals during their first year. Studies in the early 2000s on the Canadian programme, which has developed over more than four decades, showed that while refugees who had arrived under private sponsorship between 1979 and 1981 had been successful, there had also sometimes been "excessive intrusiveness of sponsorship groups in the lives of refugees" (Hyndman et al, 2017: 58). These studies found that the sponsors also needed support. These experiences illustrate that targeted and professional assistance is extremely valuable for the integration of newly arriving refugees also in the context of Humanitarian Admission Programmes/HAPPs, even if those arriving already have extended family in the destination country.

The development of HAPPs should tread carefully with these complexities. The potential benefits to all involved of using HAPPs to admit (extended) family members

(or put differently, the use of family ties as one eligibility criterion for a HAPP) needs to be carefully balanced through avoidance of the possible negative impacts of altered relationships as a result of changing patterns of dependency resulting from the arrival of new family members. This is particularly the case if their financial, social and emotional support is a requisite part of the programme design rather than a “top-up” beyond government support and professional social services.

Meanwhile, attention needs to be paid to those already in Europe, including any HAPP beneficiaries who arrive without the relevant nuclear family members, that they can avail of relevant family reunification legislation and that the right to family life is safeguarded. The Family Reunification Directive applies to a broad range of people. These include those who have qualified for refugee status or otherwise have a right to remain in an EU Member State for at least one year, and the possibility of a future permanent residence status, but only at States’ discretion to people with subsidiary status, temporary protection or whose request for asylum is still being processed (Article 3.2²⁶). Although some States have extended the right beyond the minimum requirements of the directive, others have been increasingly restrictive. The exclusion of people with subsidiary protection is viewed as restrictive, particularly given States’ inclination not to grant refugee status, although as noted a number of Member States do provide access to family reunification for holders of subsidiary protection. Other restrictions on non-refugees include the imposition of income stipulations, size of accommodation and similar factors. All of these challenge a right that is seen as integral to people in need of protection being able to enjoy their fundamental right to family life (Costello et al, 2017). Some of those ‘anchor’ family members who might seek admission for family displaced in the region

of origin might have immigration statuses or visas that mean these bars are in place, and a HAPP might assist them in achieving safety and protection for their family.

Some Humanitarian Admission Programmes have given rise to concerns that the right to family reunification as per EU or national legislation might be undermined. The European Parliament rapporteur for the Union Resettlement Framework, Malin Björk, has, for example, expressed this concern relating to the way in which the European Commission refers to family ties in the proposed Union Resettlement Framework (European Parliament, 2017). When those eligible are only non-nuclear family members, might they (albeit perhaps unintentionally) be admitted ahead of nuclear family members of other refugees who meet the criteria for family reunification under existing legislation? Or if nuclear family members can fall under the HAPP criteria, might this also undermine family reunification, particularly if their status is therefore different from, and lesser to the status they would have had if admitted under family reunification?

Using family ties as a criterion for eligibility to a Humanitarian Admission Programme gives rise to many ethical and policy-related questions. Why limit family reunification, but then extend it under a different name or programme? What is the net gain for government policy in promoting a programme of large numbers to bring in family members under ‘humanitarian’ programmes and simultaneously not more robustly supporting family reunification under existing legislation? The validity of these questions is particularly relevant when considering that, according to practitioners involved in discussions for this project, the burden of proof of the family connection is much higher and stricter under family reunification legislation than has been the case in Humanitarian Admission Programmes. Nevertheless, these are questions that are beyond the scope of this study to address, though they are important to acknowledge.

26 European Union (2003) Family Reunification Directive Art 3.2 states that ‘This Directive shall not apply where the sponsor is: (a) applying for recognition of refugee status whose application has not yet given rise to a final decision; (b) authorised to reside in a Member State on the basis of temporary protection or applying for authorisation to reside on that basis and awaiting a decision on his status; (c) authorised to reside in a Member State on the basis of a subsidiary form of protection in accordance with international obligations, national legislation or the practice of the Member States or applying for authorisation to reside on that basis and awaiting a decision on his status.’

Conclusions

This feasibility study sought to determine the primary characteristics of future HAPPs and to establish their relationship with resettlement in such a way that a general programme approach could be sketched for broad application by any State seeking to conduct such programmes in the future.

It has been suggested that future HAPPs should be flexible, complementary to resettlement, allow for expedited processing and a maximising of responsibility-sharing. There is a need to carefully identify those situations that are best met with resettlement from the beginning, and those that might be met, at least in the short-term, with a HAPP. The grounds on which a HAPP might be initially more suitable could include: implementable within a shorter time period; the need for speed and efficiency; larger quota size; the desire on the part of States to provide shorter-term residence and status (at least initially); as well as the desire to act more quickly to demonstrate international responsibility-sharing.

It has been stressed that HAPPs are not resettlement-light – they are distinct, additional and complementary to resettlement, and could potentially lead to (larger) resettlement programmes over time, but are not, and should not be, a lesser form of protection.

Four main points can be observed based on the experience with Humanitarian Admission Programmes to date as the basis for future policy making in this specific area.

Firstly, the element of flexibility is highly valued by national and international organization actors who have been involved in Humanitarian Admission Programmes. By having relatively time-limited programmes with significant capacity, it is possible to adapt to changing circumstances both in a given displacement situation and when new conflicts or causes of displacement arise.

Secondly, future policy in this area could emphasise not only admissions, but also the fact that such admission is for protection purposes. This might seem obvious, but it is essential: a HAPP can offer quick, or expedited, access to third country protection and perhaps a durable solution. Greater emphasis on international protection is also relevant to avoid the use of these programmes for migration management purposes, which

has happened previously in managed approaches to displacement, for example the Comprehensive Plan of Action for the IndoChinese (Robinson 2004; Towle 2006).

Thirdly, HAPPs must be viewed as complementary and additional to resettlement, supporting and sustaining resettlement as a durable solution. Indeed, in some situations it could be that what starts out as a HAPP transitions to resettlement when it becomes clear that *ad hoc* responses through HAPP may not be adequate and longer-term approaches, such as resettlement, are needed. States might start out with a HAPP based on domestic considerations regarding the admission of a given caseload for international protection purposes, but if the situation continues over time, then deeper consideration must be given to international protection obligations and finding solutions for refugees. As noted in the study, that has already been the case for the United Kingdom with its Syrian programme. What is more, engaging in a HAPP could give States with limited or no resettlement experience a way to develop the basis for a resettlement programme over time, whether or not it is a question of converting a specific HAPP into a fully-fledged resettlement programme.

Finally, HAPPs, building on Humanitarian Admission Programmes for Syrians, while taking vulnerability and protection needs as a foundational guide, may also involve (extended) family ties as one of several potential additional eligibility criteria. If that is the case, it must be handled in such a way that the right to family reunification is safeguarded, and not substituted by admission through a HAPP. Family connections can have a role to play in community building and moral support, but in the context of HAPPs, as government operated programmes, ways should be found to avoid family members becoming financially dependent on each other for housing or other needs, which would normally be covered by the State.

Humanitarian Admission Programmes initially for Syrians have succeeded in organizing the entry of thousands of people to European States where they are able to find protection and start to rebuild their lives. These experiences can be built upon to craft a systematic protection approach, falling in line with other elements of a more comprehensive approach to refugee protection and displacement, and applicable to a range of current and future protection needs.

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