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Protection in Europe for refugees from Syria

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Forced Migration Policy Briefings

The Refugee Studies Centre's (RSC) Forced Migration Policy Briefings series seeks to stimulate debates on issues of key interest to researchers, policy makers and practitioners from the fields of forced migration and humanitarian studies. Written by academic experts, the briefings provide policy-relevant research findings in an accessible format.

Policy Briefing 10 builds on research by Professor Dawn Chatty, looking at the perceptions of Syria's refugees, as well as those of policymakers, practitioners and host communities, in respect of the minimum 'right to life' standards for survival in dignity (ie health, shelter, water, nutrition and protection and education of children) that should be made available to those displaced by the violence and armed conflict in Syria.

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Acknowledgements

Cynthia Orchard is the primary author of this report with the exception of the UK case study. She is currently completing a Master's degree in International Human Rights Law at the University of Oxford, is a graduate of the University of Virginia School of Law, and has experience in refugee law in the US and UK.

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List of abbreviations

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CoE	Council of Europe
CEAS	Common European Asylum System
CSR51	1951 Convention relating to the Status of Refugees
EASO	European Asylum Support Office
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)
ECtHR	European Court of Human Rights
ECRE	European Council on Refugees and Exiles
ECSR	European Committee of Social Rights
ELENA	European Legal Network on Asylum
ESC	European Social Charter
EU	European Union
Eurosur	European Border Surveillance System
Frontex	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
GPP	Gateway Protection Programme (United Kingdom)
HAP	Humanitarian admission programme
ICCPR	International Covenant on Civil and Political Rights
IOM	International Organization for Migration
IRL	International refugee law
MRS	Mandate Refugee Scheme (United Kingdom)
RPP	Regional Protection Programme
PSR67	1967 Protocol Relating to the Status of Refugees
SHAP	Syrian Humanitarian Admission Programme (Ireland)
THAP	Temporary Humanitarian Admission Programme (Germany)
UNHCR	United Nations High Commissioner for Refugees
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
VPR Scheme	Vulnerable Persons Relocation Scheme (United Kingdom)

Glossary

Note: these definitions are not intended to be comprehensive, exclusive legal definitions but rather general explanations of these terms.

Airport transit visa (ATV)	Document showing prior approval by a government to enter its territory merely for the purpose of travelling through an airport on route to another country; states use ATVs to prevent asylum-seekers from boarding flights transiting their territory, at times with a visa-free country as their final destination, and then applying for asylum while in transit.[1]
Asylum-seekers	People who seek recognition as refugees, but who are not yet recognised as such by any government or official body.[2]
Complementary protection	Protection against return to a country where a risk of torture or inhuman or degrading treatment exists for a person who does not qualify for refugee status, on the basis of an international convention such as the Convention against Torture or the European Convention on Human Rights.[3]
Control mechanisms	Migration-related laws, policies and practices which aim to reduce irregular migration flows through restricting people's international movements, such as visa regimes, workplace inspections, detention, carrier sanctions, and strict enforcement of borders with physical barriers and/or enhanced detection methods.[4]
Humanitarian admission	Granting to persons (usually in groups) who have fled their home country and who are in need of international protection the right to enter and reside in a third

[1] ECRE/ELENA 'Information Note on Syrian Asylum Seekers and Refugees in Europe' (November 2013) <http://www.ecre.org/component/downloads/downloads/824.html> accessed 6 May 2014, fn 105

[2] UNHCR 'Who We Help' <http://www.unhcr.org/pages/49c3646c11c.html> accessed 28 June 2014

[3] Ruma Mandal, 'Protection Mechanisms Outside of the 1951 Convention ("Complementary Protection")' (UNHCR PPLA/2005/02, June 2005) <http://www.unhcr.org/435df0aa2.html> accessed 28 June 2014

[4] Rey Koslowski, 'The Evolution of Border Controls as a Mechanism to Prevent Illegal Immigration' (Migration Policy Institute, 2011) <http://www.migrationpolicy.org/research/evolution-US-border-controls-illegal-immigration> accessed 28 June 2014

	country, on a temporary basis (usually renewable, depending on the circumstances), often granted in emergency situations with expedited procedures.[5]
Humanitarian protection (HP)	Status granted to people in the UK who do not qualify for refugee status, but who are eligible to remain in the country because they are at risk of torture or other serious abuse in their home country. In the UK, those deemed eligible are usually granted HP for three years, renewable, with rights to work, education, healthcare, and other benefits. Similar types of status are known as 'subsidiary protection' in some countries, especially in Europe.[6]
Humanitarian visa	Document granting permission to enter a country due to the difficult circumstances of the applicant, such as risk of harm due to an armed conflict, serious medical concerns, being a minor or other vulnerable person without resources or support etc.[7]
In-country grant of asylum	Approval of an asylum application that was made by a refugee who travelled to the host country in a capacity other than refugee resettlement or humanitarian admission (eg in an unauthorised way or as a student or employee who later claimed asylum).[8]
Irregular migrants	People who enter a state without permission or by deception, some of whom are refugees with a right to asylum and who should not be penalised for unauthorised entry.[9]

[5] International Catholic Migration Commission, 'Welcome to Europe! A Comprehensive Guide to Resettlement' (International Catholic Migration Commission - ICMC, July 2013) (ICMC), 97, fn 2

[6] 'Humanitarian Protection' (UK Home Office, 15 May 2013) <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257431/huma-prot.pdf> accessed 28 June 2014

[7] ECRE/ELENA n 1, 43

[8] The European Union Agency for Fundamental Rights, *Handbook on European Law relating to Asylum, Borders, and Immigration* (Council of Europe, 2013) (EUAFR), 1.6

[9] 'Key Migration Terms' (IOM, 2011) <http://www.iom.int/cms/en/sites/iom/home/about-migration/key-migration-terms-1.html> accessed 28 June 2014

Person of concern	Person with similar protection needs to a refugee, including asylum-seekers, internally displaced persons, stateless persons, and returnees, all of whom are 'of concern' to UNHCR.[10]
Protected entry procedures (PEP)	Rules which allow persons in need of international protection to apply for entry to another country at its embassies abroad.[11]
'Push-back'	Forced return of irregular migrants from a border or territorial boundary at sea to a country or territory where a person is not at risk of persecution, torture, or inhuman or degrading treatment (or being sent to such a country); if there is a risk of such abuse, 'return' constitutes *refoulement*.[12]
Refugees	Persons who have fled their home country and who meet the criteria for refugee status under the 1951 Refugee Convention or other applicable law, whether or not their status has been recognised by any official body.[13]
Refugee status	Official acknowledgement granted by a government, UNHCR or another relevant body that a person is a refugee..[14]
Refoulement	Return by any method, including rejection at a border or interception at sea, of a person to a country where s/he is at risk of persecution, torture, or inhuman or degrading treatment or punishment.[15]

[10] *Manual on Security of Persons of Concern* (*UNHCR,* First Edition, November 2011) <http://www.refworld.org/docid/4f6313032.html> accessed 28 June 2014

[11] Christopher Hein and Maria de Donato (Italian Council for Refugees), 'Exploring Avenues for Protected Entry in Europe' Laura Facchi (ed) (Cooperativa Sociale Inlavoro ONLUS, March 2012) <http://www.fluechtlingshilfe.ch/asylrecht/eu-international/schengen-dublin-und-die-schweiz/exploring-avenues-for-protected-entry-in-europe/at_download/file> accessed 24 June 2014

[12] UNHCR 'Denied Entry and Pushed Back: Syrian Refugees Trying to Reach the EU' (Briefing Notes, 15 November 2013) <http://www.unhcr.org/528618159.html> accessed 28 June 2014

[13] UNCHR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees* (December 2011, HCR/1P/4/ENG/REV.3) <http://www.refworld.org/docid/4f33c8d92.html> accessed 28 June 2014

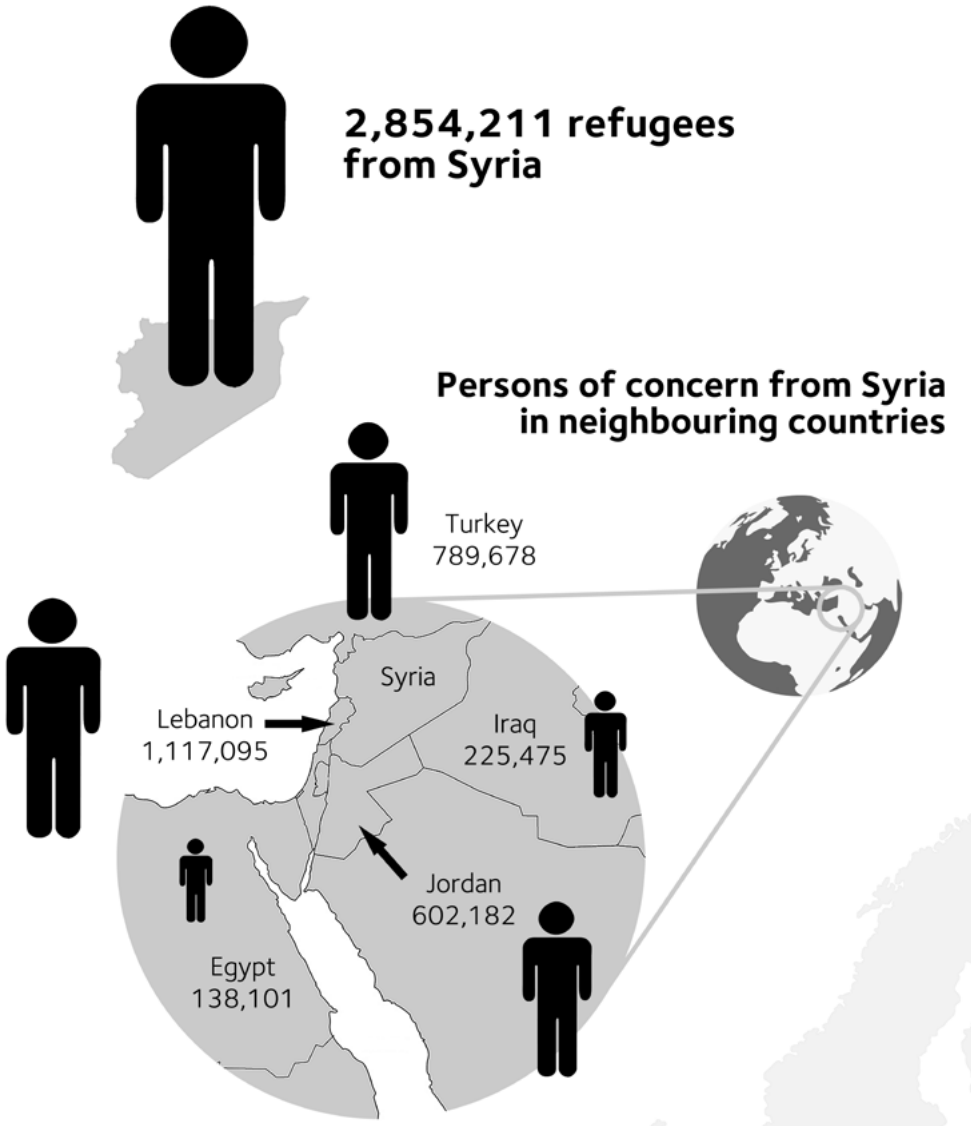
[14] UNCHR *Refugee Status Handbook*, n 13

[15] EUAFR n 863, 3.1

Refugee resettlement	Granting persons at risk of persecution who have fled their country of origin the right to refugee status in a third country, sometimes with immediate permanent resident status and sometimes with an intermediary status which leads to permanent status.[16]
Relocation	Movement of refugees from one European state to another, usually to help relieve the burden posed by refugees in states with external borders.[17]
Subsidiary protection	Status granted to people who do not qualify for refugee status, but who are eligible to remain in the host country because they are at risk of torture or other serious abuse in their home country, often related to ongoing armed conflict. (In the UK this is termed 'humanitarian protection'.)[18]
Temporary protection	The right to enter or remain in a country for a limited time due to risk of serious harm in a person's home country. This is usually granted to large groups of people under expedited procedures and is normally renewable if adverse conditions persist; the beneficiaries should also be able to claim asylum and have their claims assessed on an individual basis.[19]
Transfer	The movement of an asylum applicant from one European country to another under the Dublin Regulation, which assigns responsibility for processing asylum applications.[20]

[16] UNHCR *Resettlement Handbook* (4 July 2011, and updated country pages) <http://www.unhcr.org/4a2ccf4c6.html> accessed 5 June 2014, Ch 1
[17] ICMC n 5, 112-14
[18] EUAFR n 8, 2.2
[19] 'Protecting Refugees – Q&A' (UNHCR undated) <http://www.unhcr-northerneurope.org/who-we-help/refugees/protecting-refugees-qa.html> accessed 28 June 2014
[20] EUAFR n 8, 4.2

Key figures: Europe and the Syrian refugee crisis



123,600 refugees from Syria in Europe

31,797 confirmed pledges to admit refugees from Syria into Europe, 2013–2014

340 Syrians resettled to Europe, 2011–2013

Executive summary

This report considers the response of European countries to the refugee crisis in the Syrian region. We provide an overview of the European reaction generally, summaries of the responses of selected countries (Germany, Sweden, Norway, Bulgaria, Greece and Italy), and a more in-depth case study of the UK. Our report supplements a report supervised by Susan Akram at Boston University School of Law, 'Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing' (the Akram report).

In agreement with the Akram report, we stress that the refugee crisis relates not only to Syria, but is a regional refugee crisis. Lebanon, Turkey, Jordan, Iraq and Egypt currently host approximately 96% of the more than 2.8 million registered refugees from Syria, in addition to thousands more refugees from Palestine, Iraq, Iran and other countries. Significant numbers of these refugees resided in the region prior to the civil war in Syria and have been awaiting resettlement for years. The countries neighbouring Syria, which are overwhelmed by this refugee crisis, need and deserve greater solidarity from Europe, and we emphasise the urgency of addressing the protection needs of non-Syrian refugees in the region as well as Syrian refugees.

With the exception of Germany's exemplary humanitarian admission programme and private sponsorships and a few other limited initiatives, the primary aim of the European response to the refugee crisis has been containment in the countries neighbouring Syria – with some European countries investing significant funding in the provision of humanitarian aid – and to reinforce Europe's borders. Although numerous European countries have initiated resettlement, humanitarian admission, or expanded family reunification programmes for Syrians, the numbers allowed entry under most countries' programmes are low. The response of some countries is particularly worrying. For example, in Greece and Bulgaria, the European countries closest to Syria and theoretically most accessible to refugees from the region, there have been credible allegations of asylum-seekers having been forcibly removed without assessment of their claims for international protection, of being beaten or otherwise mistreated by authorities, of being detained without just cause in inappropriate and/or unlawful conditions, and of being denied access to sufficient food and medical care. Encouragingly, there are some signs of improvement, but much work remains to be done by these and other European countries and institutions. Together, they must ensure that adequate support is provided for those countries which, due to economic crises and/or drastic increases in the number of requests for asylum, are struggling to provide adequate protection.

In 2013 and 2014, some European countries responded to UNHCR's call for more resettlement or humanitarian admission for Syrian refugees. Leading the way, Germany pledged admission to 20,000 refugees from Syria via its Temporary Humanitarian Admission Programme, through which approximately 6000 refugees had arrived in Germany by mid-2014. In addition, German states have approved approximately 5500 admissions through private sponsorships. As of 2014, the pledged or actual admissions for refugees from Syria to all other European countries remain appallingly low; there are approximately 6300 places pledged for resettlement or humanitarian admission

throughout the rest of Europe. Although some countries such as Ireland and Switzerland have implemented expanded family reunification programmes for Syrians, both these programmes were limited in duration and are now closed. Some European countries also have regular resettlement programmes but they process relatively low numbers of refugees. (The annual quotas currently total 6247 for all European resettlement programmes.) Furthermore, in recent years the actual number of arrivals has not fulfilled the annual quota for some countries, and many of the annual quota resettlement places will be allocated to refugees residing in other parts of the world.

Our report highlights the UK because it leads Europe in its commitment of humanitarian aid to the Syrian crisis and has created a new resettlement programme for Syrians, the Vulnerable Persons Relocation (VPR) Scheme, as well as introducing concessions for Syrians outside the immigration rules. However, the VPR Scheme currently aims to resettle only a few hundred Syrian refugees over the next three years; the concessions will have a limited impact; and the UK has not reacted with any ad hoc special asylum programme to afford protection to refugees from the region who make their own way to the UK. Thus, the UK's response reflects the general tendency to contain the crisis in the Syrian region and to make only minimal efforts to increase admission for refugees.

Whilst we applaud both the humanitarian efforts to assist refugees in the countries neighbouring Syria and the resettlement that is ongoing, we believe that containment of the refugee crisis to the Syrian region is unsustainable. Without an imminent end to the armed conflict in Syria, it is unlikely that refugees will be able to return home safely in the near future. Local integration is generally not possible in the neighbouring countries, primarily because they are overwhelmed by the numbers of refugees who have already crossed their borders.

In signing the 1951 Convention and/or the 1967 Protocol Relating to the Status of Refugees as well as various European asylum instruments, European countries have implicitly acknowledged the moral, humanitarian, and practical imperative of offering protection to refugees within their territories. We advocate for European countries to open their doors to more refugees, and particularly, to expand safe and legal routes of entry into Europe.

Recommendations

Significantly expanded resettlement programmes offering permanent residence outside the countries neighbouring Syria would be the best option for refugees. However, given the unlikelihood of expansion of resettlement on a mass scale and in agreement with the Akram report, we recommend that European countries implement a Comprehensive Plan of Action for refugees in the countries neighbouring Syria. This should comprise three main components: activation of a regional temporary protection regime, expanded resettlement, and the development of other legal routes of entry into European countries. In addition, we propose that UNHCR, governments and NGOs expand public education campaigns to combat anti-immigrant sentiment, emphasising the contributions refugees

make to their host countries as well as the life-threatening situations from which they have fled.

1. **Expand humanitarian admission/temporary protection:** Preferably as part of a region-wide, coordinated programme, European countries should significantly expand their humanitarian admission/temporary protection regimes for refugees (of any nationality or stateless) to allow them to enter Europe from the countries neighbouring Syria. Germany's example could be followed and expanded upon, and/or the EU Temporary Protection Directive could serve as a model. Although temporary protection does not provide as much long-term security for refugees as resettlement, it may be easier to implement for political reasons, and it serves the aim of getting refugees to a place of safety as well as the aims of solidarity and responsibility-sharing.

    - In accordance with the Temporary Protection Directive, beneficiaries of temporary protection should have the right to claim asylum.
    - Temporary Protection should continue until it is actually safe for refugees to return to their country of origin.
    - Beneficiaries of temporary protection should have the right to family reunification with, at a minimum, their immediate family members, and whenever practicable, consideration should be made for other family members.

2. **Expand resettlement:** European countries should significantly expand resettlement programmes allowing entry into Europe for refugees currently in the countries neighbouring Syria, with particular focus on clearing the backlog of refugees (of any nationality) already approved for resettlement.

    - Resettlement should be prioritised based on the urgency of the need for resettlement (protection needs and vulnerabilities) and the length of time waiting for resettlement, with attention to the criteria of the country offering resettlement and principles of family unity.
    - Resettlement should ideally be coordinated through UNHCR, which has the expertise and ability to process large numbers of applicants.
    - The EU should take an active coordinating role in encouraging a region-wide resettlement programme, providing increased logistical and financial support to countries which require it.

3. **Develop alternative legal routes for refugees:** European countries should explore alternative legal routes of admission into Europe for refugees in the countries neighbouring Syria, such as expanded family reunification, student scholarships, academic fellowships, employment or training programmes, and private sponsorships. These programmes offer many benefits in addition to protection for refugees, among them: funding may be split with private organisations; refugees benefit by doing something of value to themselves and potentially their home country or host country;

and they help prevent a generation of young people from missing educational and other opportunities. The principle of family unity should also be considered and incorporated into these programmes wherever possible, and reasonable access to diplomatic missions must be ensured (which does not require refugees to make dangerous or expensive journeys). Alternative routes could be combined with concessions to the regular immigration rules to facilitate entry of refugees.

- Governments could explore partnerships with educational institutions which might be able to accept students on scholarships, with costs split between governments and those institutions. Governments could contribute to existing programmes such as the Albert Einstein German Academic Refugee Initiative (DAFI) or develop similar scholarship programmes specific to their own countries.
- Governments could consider the German and Canadian models of private sponsorship and design locally suitable programmes in collaboration with UNHCR.
- Governments and UNCHR could explore possibilities of private employment sponsorship and partnerships with businesses.

These recommendations build on existing laws, policies, practices, and historical examples of expanded temporary protection regimes in Europe. Furthermore, current practices in Turkey and Germany demonstrate that the proposed measures are well within the possibilities of European countries.

Introduction

As of 7 July 2014, some 2,854,211 million people have fled the civil war in Syria and registered as refugees.[21] In July 2013, UN High Commissioner for Refugees António Guterres observed that the world has 'not seen a refugee outflow escalate at such a frightening rate since the Rwandan genocide almost 20 years ago…'[22] This is now 'the largest crisis of forcible displacement in the world, and…[poses] a growing threat to regional peace and security.'[23] Europe's response to the crisis in terms of opening its doors to refugees has been slow to start and minimal in numbers.[24]

This policy briefing supplements a report supervised by Susan Akram, 'Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing,'[25] and will discuss the response of European countries to what is not just a 'Syrian' refugee crisis, but a broader regional refugee crisis.[26] With the aim of contributing to improved responses

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[21] UNHCR 'Syria Regional Refugee Response: Inter-agency Information Sharing Portal' (updated regularly) <http://data.unhcr.org/syrianrefugees/regional.php> accessed 7 July 2014

[22] UNHCR 'UNHCR Chief Urges States to Maintain Open Access for Fleeing Syrians' (16 July 2013) <http://www.unhcr.org/51e55cf96.html> accessed 5 June 2014 ('UNHCR Chief Urges States').

[23] UNHCR, 'Ministerial Coordination Meeting of Major Host Countries for Syrian Refugees in Jordan' (4 May 2014) <http://www.unhcr.org/536652a39.html> accessed 5 June 2014

[24] Charlotte McDonald-Gibson, 'Syria Conflict: Hundreds More Desperate Refugees Could Die at Sea as Europe Does Little to Help' *The Independent* (15 May 2014) <http://www.independent.co.uk/news/world/ middle-east/syria-conflict-hundreds-more-desperate-refugees-could-die-at-sea-as-europe-does-little-to-help-9380519.html> accessed 9 June 2014; Human Rights Watch (HRW), 'EU: Act Now to Help Syria's Refugees' (HRW, 17 March 2014) <http://www.hrw.org/news/2014/03/17/eu-act-now-help-syria-s-refugees> accessed 29 May 2014.; Omar Dahi, 'Syria in Fragments: The Politics of the Refugee Crisis' (2014) *61 Dissent 1*, 45-48; Nils Muižnieks, 'Syrian Refugees: A Neglected Human Rights Crisis in Europe' (CoE Commissioner's Human Rights Comment, 20 December 2013) <http://humanrightscomment.org/2013/12/20/ syrian-refugees-a-neglected-human-rights-crisis-in-europe/#more-360> accessed 5 June 2014. This report generally considers 'Europe' as the EU countries plus Switzerland, Iceland, Liechtenstein and Norway (EU+). Turkey, although a CoE member and seeking EU membership, will not be considered part of Europe for purposes of this report.

[25] Susan Akram and others, 'Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing' (Boston University School of Law International Human Rights Clinic, July 2014) <http://www.bu.edu/law/central/jd/programs/clinics/international-human-rights/documents/FINALFullReport.pdf>

[26] Although Syrians form the largest group of refugees in the region, there are at least 144,414 non-Syrian registered refugees in Iraq (33,489), Egypt (28,458), Turkey (24,458), Jordan (21,388), Lebanon (5,262), and Syria (31,390) – mainly Iraqis, Afghans, Eritreans, Ethiopians, Iranians, Somalis, South Sudanese, Sudanese and Turkish, plus additional

by European countries, we provide an overview of the refugee law framework in Europe and the current response by the European Union (EU) and selected European countries – Bulgaria, Greece, Italy, Germany, Sweden, and Norway – and focus on the UK as a case study. Whilst we applaud efforts to assist refugees in the countries neighbouring Syria, we emphasise the crucial need for European countries to take in more refugees to help alleviate the overwhelming burden on the countries neighbouring Syria. Thus, this report primarily addresses protection *in Europe* for refugees coming from the countries neighbouring Syria, through resettlement and humanitarian admission programmes (HAPs) and also considers alternative legal routes of entry into Europe for refugees from the Syrian region.[27]

In agreement with the Akram report, we note the need to address the protection of refugees from all countries of origin who are present in the countries neighbouring Syria: some of whom have been awaiting resettlement for years. We note that much of the data and reports relating to the refugee crisis in the Syrian region focus on Syrian refugees or refugees of other nationalities who lived in Syria prior to being forced to leave due to the civil war. As a result, much of the information cited in this report relates to those refugee groups. Where possible, we also discuss the situation of other refugee groups in the Syrian region, and we note that current Eurostat data shows that, up to and including 2013, European countries continued to offer resettlement through their regular resettlement programmes mainly to refugees from countries other than Syria.[28] It is vital

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numbers of Palestinians. Of these, UNHCR estimates that about 36,000 'have resettlement needs,' but there will not be sufficient resettlement places for them. Email correspondence from Peter O'Sullivan, Resettlement Project Coordinator, UNHCR Belgium, to Cynthia Orchard, 14 July 2014. See also n 43 and Table 1. Furthermore, recent events in Iraq and the increasing closure of borders for Syrians are exacerbating the already critical refugee situation in the region. UNHCR, '2014 UNHCR country operations profile – Iraq' (undated) http://www.unhcr.org/pages/49e486426.html#> accessed 26 June 2014. See also 'Sunni Militants "Seize Iraq's Western Border Crossings"' *BBC* (22 June 2014) <http://www.bbc.com/news/world-middle-east-27962073> accessed 26 June 2014; UNHCR 'Concern over Syrian Refugees at Al Qaem as Iraq's Crisis Deepens' (UNHCR, 20 June 2014) <http://www.unhcr.org/53a40eed9.html> accessed 26 June 2014; 'UN: Iraq Refugees Could "Overwhelm" Neighbours' *ITV* 17 June 2014 <http://www.itv.com/news/update/2014-06-17/un-iraq-neighbours-may-be-overwhelmed-by-refugees/> accessed 26 June 2014

[27] See Definition of Terms for meanings of these terms as used herein, and see text n 107 for the EC definition of resettlement. 'The Syrian region' in this context includes Lebanon, Turkey, Jordan, Iraq and Egypt.

[28] See tables showing resettlement figures for Germany, Sweden, Norway, and the UK in ICMC n 5, 179, 217-18, 252-53, 263-64. For example, Sweden's total resettlement figure of 1820 in 2013 includes (among others) 395 Eritreans, 370 Somalis, 245 Syrians, 215 Afghans, and 210 Colombians. Eurostat, 'Resettled Persons by Age, Sex and Citizenship – Annual Data (Rounded) - Syria.'

that countries continue to consider the protection needs of refugees of other countries of origin, particularly in the countries most burdened by the increasing numbers of refugees from Syria, in parallel with additional resettlement places and humanitarian admission/ temporary protection for Syrian refugees.

Relatively few refugees from Syria are able to obtain protection in Europe because the EU's external borders are tightly controlled and European resettlement and humanitarian admission programmes process relatively small numbers of refugees.[29] By June 2014, Europe hosted fewer than 4% (approximately123,600) of the 2.8 million registered refugees from Syria, most of whom arrived in Europe in unauthorised ways.[30] In 2013, with no end in sight to the war in Syria, UNHCR asked countries outside the Syrian region to increase the number of refugees they resettle to help relieve the burden on neighbouring countries, setting a target of 30,000 resettlement/humanitarian admission programme places for the most vulnerable Syrian refugees in 2014 (in addition to usual resettlement quotas). European countries began to acknowledge Syrian refugee resettlement needs and have now pledged to resettle or grant humanitarian admission to 31,797 Syrian refugees (plus a likely 'few hundred' to the UK). Germany's 2013 and 2014 pledges to grant humanitarian admission to 20,000 refugees from Syria are by far the largest.[31] In some cases, fulfilment of these pledges is well underway. By June 2014, Germany had granted humanitarian admission to approximately 6000 Syrian refugees and another 5500 Syrians were able to enter Germany through private sponsorships.[32]

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[29] The shortage of available resettlement places is by no means limited to the crisis in the Syrian region. With an average 80,000 refugee resettlement places available each year globally, most of the 690,000 refugees throughout the world currently designated as in need of resettlement remain without any adequate solution. UNHCR 'UNHCR Hails 10 Years of UK's Refugee Resettlement Programme, Warns of Growing Global Needs'(19 March 2014) <http://www.unhcr.org.uk/news-and-views/news-list/news-detail/article/unhcr-hails-10-years-of-uks-refugee-resettlement-programme-warns-of-growing-global-needs.html> accessed 10 July 2014

[30] This figure (123,600) is for Syrian asylum applications in 'wider' Europe and includes some double applications; the actual number of in Europe is likely lower. UNHCR 'Syrian Refugees in Europe: What Europe Can Do to Ensure Protection and Solidarity' (11 July 2014) <http://www.refworld.org/docid/ 53b69f574.html> accessed 11 July 2014

[31] European Council on Refugees and Exiles (ECRE), 'Germany to Resettle 10,000 More Refugees from Syria - Time for the Rest of Europe to Play their Part' (12 June 2014) <http://www.ecre.org/media/news/press-releases/574.html> accessed 13 June 2014 ('Germany to Resettle'). See Table 3 for individual countries' pledges. The UK government apparently intends 'that the VPR scheme will support several hundred people over the next three years.' HL Deb, 6 May 2014, vol 753 Col WA440 <http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/140506w0004.htm> accessed 23 June 2014

[32] Agence France Presse, 'Germany Doubles Intake of Syrian Refugees to 20,000' (Reliefweb, 12 June 2014) <http://reliefweb.int/report/germany/germany-doubles-intake-syrian-refugees-20000> accessed 13 June 2014

In addition, as discussed below, several thousand Syrians have benefited or will benefit from an expanded (but temporary) family reunification programme for Switzerland. These numbers are a very significant increase from 2013 – by the end of 2013, only 340 Syrians had been resettled to Europe (since 2011);[33] and only 5,795 refugees total from all countries of origin were resettled to Europe in 2013.[34]

Thus, while the target of 30,000 has been met, it amounts to just over 1% of the total number of registered refugees from Syria, and refugees continue to flow out of Syria. UNHCR has increased its call for resettlement and admission of Syrian refugees to 100,000 in 2015–2016.[35] However, even 100,000 is a very small proportion of the current total. Notwithstanding the humanitarian aid provided and the expansion of resettlement and humanitarian admission programmes, the claims by Lebanon, Turkey, Jordan, Iraq and Egypt that Europe has 'abandoned' them have some merit.[36]

The vast majority of refugees from Syria remain in the countries neighbouring Syria. Compared with approximately 123,600 Syrian refugees in Europe, every country in the region hosted higher numbers of Syrian refugees than all of Europe together; Lebanon hosted nearly ten times more.[37] Simply put, Syrian refugees now comprise almost one fourth of the population of Lebanon.

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[33] Mostly to Sweden. Eurostat, 'Resettled Persons by Age, Sex and Citizenship – Annual Data (Rounded) – Syria' (Eurostat, updated 6 June 2014) <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do> accessed 11 June 2014

[34] Eurostat, 'Resettled Persons – Annual Data' (updated 6 June 2014) <http://epp.eurostat.ec.europa.eu/tgm/graph.do?pcode=tps00195&language=en> accessed 11 Jun 2014

[35] UNHCR 'Update on the High-Level Segment on Solidarity and Burden-Sharing with Countries Hosting Syrian Refugees' (59th meeting of the Standing Committee, Agenda item 3 (v), 4-6 March 2014) <http://www.unhcr.org/5319de7e9.html> accessed 28 May 2014, 2-3 ('Update on the High-Level Segment'); ECRE/ELENA, n 1

[36] Harriet Sherwood and others, 'Europe Faces "Colossal Humanitarian Catastrophe" of Refugees Dying at Sea' *The Guardian* (2 June 2014) <http://www.theguardian.com/world/2014/jun/02/europe-refugee-crisis-un-africa-processing-centres> accessed 9 June 2014

[37] In addition, more than 6.5 million are internally displaced within Syria. UNHCR 'Syrian Refugees in Europe' n 30. See also Ragıp Soylu, 'Turkey Seeks More Assistance for Syrian Refugees' *Daily Sabah* (22 May 2014) http://www.dailysabah.com/politics/2014/05/22/turkey-seeks-more-assistance-for-refugees> accessed 9 June 2014; Martin Grant and Harriet Chulov, 'EU Must Open Doors to Avoid Syrian Refugee Catastrophe, Says UN' *The Guardian*, (13 January 2014) <http://www.theguardian.com/world/2014/ jan/13/syrian-refugee-catastrophe-european-union-united-nations> accessed 29 April 2014; Muižnieks n 24

Table 1: Refugees from Syria in neighbouring countries [38]

Country	Persons of concern from Syria	Palestinian refugees from Syria
Lebanon	1,117,095	51,300
Turkey	789,678	Not reported
Jordan	602,182	10,687
Iraq	225,475	Not reported
Egypt	138,101	~6,000
Total	2,872,531	67,987 reported

As discussed in detail in the Akram report, there are serious protection gaps for refugees (particularly Palestinians) in the countries neighbouring Syria, and some countries have recently closed their borders to refugees from Syria. However, the fact remains that these countries, already facing difficult circumstances, have permitted mass influxes of refugees into their territories, whereas European countries have not. Turkey in particular has implemented a temporary protection regime, which, although not perfect, serves as a remarkable example of what European countries could do.[39]

The refugee crisis in the Syrian region has relevance for Europeans because it is a catastrophic displacement of people and a humanitarian disaster, which by its nature affects all of humanity. If we shut our eyes (and close our borders) to this crisis, we become, as a group, less humane. At a more practical level, this crisis is on Europe's 'doorstep;'[40] it could result in serious destabilisation of the entire region and possibly beyond. Numerous governments and organisations have emphasised the need for European and other countries to provide more aid to the countries neighbouring Syria and to offer resettlement or admission to more refugees from Syria.[41] European countries

[38] UNHCR 'Syrian Refugees in Europe' n 30, 4; UNWRA, 'Syria Crisis: 63% of Palestine Refugees from Syria Have Been Displaced' <http://www.unrwa.org/syria-crisis> accessed 11 June 2014

[39] UNHCR 'Syrian Refugees in Europe' n 30, 36 also provides a brief description of Turkey's temporary protection regime.

[40] Muižnieks n 24

[41] See eg ECRE 'What's Happening Right Now?' (2014) <http://www.helpsyriasrefugees.eu/en/whats-happening-right-now.html> accessed 5 June 2014; UNHCR 'Ministerial Coordination Meeting'; HRW 'EU: Act Now to Help Syria's Refugees,' 'EU: Act Now to Help Syria's Refugees'; 'EU Pondering Burden-Sharing for Syrian Refugees and African Migrants' (9 October 2013) <eashttp://eubulletin.com/1032-eu-pondering-burden-sharing-syrian-refugees-african-migrants.html> accessed 5 June 2014; Philippe Fargues and Christine Fandrich, 'The European Response to the Syrian Refugee Crisis: What Next?' (Migration Policy Centre, 2012) <http://www.migrationpolicycentre.eu/docs/MPC%202012%2014.pdf> accessed 28 April 2014, 8, 13-16

receiving the largest numbers of Syrian refugees have also called for other European countries to do their part.[42] Claims in favour of greater contribution from Europe include:

- It is grossly unfair for countries neighbouring Syria to bear the overwhelming burden of hosting approximately 2.8 million refugees, in addition to the significant numbers of refugees they already hosted prior to 2011.[43] European countries rightly ask the neighbouring countries to keep their borders open to refugees from Syria, but they must take in more refugees themselves.
- Conditions for refugees in the neighbouring countries are appalling in many cases, and even with increased aid, conditions are unlikely to reach satisfactory levels because these countries are overwhelmed. With no end to the war in sight, and with other actual and potential refugee flows, containing refugees within the region is not a sustainable solution.
- The situation of refugees in the neighbouring countries is straining already difficult relations within the region, creating serious tensions among refugees and host populations, and potentially precipitating 'an explosion that could engulf the entire Middle East.'[44]

UNHCR publishes numerous reports, articles and statistics relevant to this topic, many of which are cited in this policy briefing.[45] In addition, numerous reports by European

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[42] European Resettlement Network (ERN), 'German Parliament Calls for EU Pledging Conference on Resettlement of Syrians' (ERN, [May 2014]) <http://www.resettlement.eu/news/german-parliament-calls-eu-pledging-conference-resettlement-syrians> accessed 3 June 2014 ('German Parliament Calls'); Alistair Scrutton and Johan Ahlander, 'Sweden Demands EU Shares Out Asylum Seekers Burden' *Reuters* (25 March 2014) <http://www.reuters.com/article/2014/03/25/us-sweden-immigration-europe-idUSBREA2O0TQ20140325> accessed 10 June 2014

[43] For example, at the end of 2011, there were 8491 registered Iraqi refugees in Lebanon; 32,197 registered Iraqi refugees in Jordan, and a further 100,254 registered Iraqi refugees in Syria. By 2013, there were 9478 registered Iraqi refugees and 3040 registered Iranian refugees in Turkey, and numbers of Iraqi refugees in Jordan and Lebanon had decreased by a few thousand. ICMC n 5, 66-67; UNHCR 'Projected Global Resettlement Needs 2014' (19th Annual Tripartite Consultations on Resettlement, Geneva 1-3 July 2013) <http://www.unhcr.org/51e3eabf9.html> accessed 29 May 2014, 53, 83. In 2013, UNHCR offices in Turkey and the MENA region submitted about 19,000 non-Syrian refugees for resettlement outside the region. O'Sullivan, 14 July 2014 n 26

[44] UNHCR 'UNHCR Chief Urges States' quoting UN High Commissioner for Refugees António Guterres.

[45] For example UNHCR 'Syrian Refugees in Europe' n 30; UNHCR 'Update on the High-Level Segment' n 35; UNHCR 'Unlocking Complementary Solutions for Syrian Refugees' (11 February 2014) <http://www.unhcr.ie/images/uploads/news/Unlocking%20Complementary%20Solutionsfor%20Syrian%20Refugees.pdf> accessed 27 May 2014;UNHCR 'Finding Solutions for Syrian Refugees: Resettlement, Humanitarian

agencies are germane and are cited herein, including the European Asylum Support Office's very recent 'Annual Report: Situation of Asylum in the European Union 2013.'[46] Several NGO reports and resources also provide excellent information relevant to Europe, including: the November 2013 ECRE/ELENA report, 'Information Note on Syrian Asylum Seekers and Refugees in Europe';[47] the 2012 Migration Policy Centre report by Philippe Fargues and Christine Fandrich, 'The European Response to the Syrian Refugee Crisis: What Next?';[48] and the EU Resettlement Network website contains helpful information, particularly the International Catholic Migration Commission's guide, 'Welcome to Europe! A Comprehensive Guide to Resettlement' and country information pages.[49] Recent reports providing information on refugees in the Syrian region include: the February 2014 report by Roger Zetter and others, 'The Syrian displacement crisis and a Regional Development and Protection Programme: Mapping and meta-analysis of existing studies of costs, impacts and protection'[50] and the April 2014 report by the Center for Middle Eastern Strategic Studies (ORSAM)'s Oytun Orhan, 'The Situation of Syrian Refugees in the Neighboring Countries: Findings, Conclusions and Recommendations.'[51]

Following this introduction, we provide in Part 1 an overview of the relevant legal frameworks and institutions. Part 2 considers the European reaction to the refugee crisis in the Syrian Region, looking at humanitarian and development aid, border control, Syrian asylum claims in Europe, European resettlement programmes, and alternative legal routes of entry into Europe for refugees from the Syrian region. In Part 3, we consider more closely six countries – three border countries (Bulgaria, Greece, and Italy) and three that lead the response to the refugee crisis in the Syrian region (Germany, Norway, and Sweden). Finally, Part 4 provides a case-study of the UK's response, examining in particular the UK's new Vulnerable Persons Relocation Scheme (VPR Scheme).

Admission, and Family Reunification' (18 October 2013) http://www.unhcr.org/5249282c6.pdf> accessed 10 May 2014;UNHCR, *Resettlement Handbook* n 16 and updated country pages

[46] EASO '2014 EASO Report' (July 2014) <http://easo.europa.eu/wp-content/uploads/EASO-AR-final.pdf> accessed 10 July 2014

[47] ECRE/ELENA n 1

[48] Migration Policy Centre n 41

[49] ICMC n 5, especially 67-71. Country pages available at <http://www.resettlement.eu/country> accessed 10 June 2014

[50] Ministry of Foreign Affairs of Denmark, 4 February 2014

[51] Report No: 189, April 2014 <http://www.orsam.org.tr/en/enUploads/Article/Files/201452_189ing.pdf> accessed 1 June 2014

1 Legal framework and institutions

The international refugee law framework

Broadly speaking, the international refugee law (IRL) framework comprises international instruments, case law, customary international law, and UNHCR guidelines. Together, the 1951 Convention relating to the Status of Refugees (CSR51)[52] and the 1967 Protocol Relating to the Status of Refugees (PSR67)[53] form the primary basis of modern IRL.[54] The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),[55] International Covenant on Civil and Political Rights (ICCPR),[56] and customary international law operate complementarily to protect anyone from *refoulement* – being returned to a place where s/he faces serious abuse (torture or cruel, inhuman or degrading treatment or punishment).[57]

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[52] Adopted 28 July 1951, entered into force 22 April 1954, 189 UNTS 137

[53] Adopted 31 January 1967, entered into force 4 October 1967, 606 UNTS 267

[54] UNHCR 'The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol' (2011) <www.unhcr.org/4ec262df9.pdf> accessed 19 February 2014 ('The 1951 Convention') 4, noting that the 1967 Protocol eliminates the time and geographical limitations of the 1951 Convention and that it applies independently. The Protocol (art I(1) incorporates the substantive provisions of the Convention.

[55] Adopted 10 December 1984, entered into force 26 June 1987, 1465 UNTS 85. Art 3(1) states: 'No State Party shall expel, return (*refouler*) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.'

[56] Adopted 16 December 1966, entered into force 23 March 1976, 999 UNTS 171. Art 7 states: 'No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.'

[57] See *Hirsi Jamaa and Others v Italy*, App no 27765/09 (ECHR, 23 February 2012), especially paras 23 and 134, citing with approval UNHCR's 2001 'Note on International Protection' (A/AC.96/951), which confirms in para 16 that *non-refoulement* is a principle of customary international law binding on all states. See also Guy Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (3rd ed, OUP 2007) 208-09, 285-86, 302-03, 345-54 (rejecting the arguments of James Hathaway that *non-refoulement* does not constitute customary international law). Although in certain contexts meaningful distinctions between 'persecution,' 'torture' and 'cruel, inhuman or degrading treatment or punishment' may exist, the term 'serious abuse' is used herein to encompass all these terms. With respect to complementary protection, the CAT's prohibition of *refoulement* applies only to the risk of torture, whereas ICCPR Article 7 prohibits other serious abuse as well as torture and has been authoritatively interpreted to prohibit *refoulement*. The prohibition of *refoulement* is 'absolute and non-derogable' under these treaties, protecting persons at risk even if they are not protected under the Refugee Convention. See Elihu Lauterpacht and Daniel Bethlehem, 'The Scope and Content of the Principle of Non-Refoulement: Opinion' in Erika Feller, Volker Türk, and Frances Nicholson (eds) Refugee Protection in International Law (CUP 2003), 92,140-164, especially para 253; UNHCR 'The 1951 Convention' n 54.

UNHCR is the 'guardian' of the Refugee Convention and its mandate is to protect refugees and seek lasting solutions to the challenges they face.[58] Parties to the CSR51 and PSR67 are obligated to cooperate with UNHCR in performing its mandate.[59] However, participation in resettlement programmes is not obligatory under IRL, and some countries do not offer resettlement or opt to arrange it through their own programmes.[60] UNHCR has initiated several projects to expand resettlement in recent years. It coordinates much of the world's resettlement and encourages countries to offer more resettlement places, describing resettlement as 'a mechanism for refugee protection, a durable solution and an element of responsibility sharing with refugee-hosting countries.'[61]

One of the quirks of international refugee law is that there is often no way for refugees to legally reach a host state to claim asylum. However, CSR51 (Art 31) provides that illegal entry into a country of refuge should not be penalised; UNHCR has reiterated and expounded on this in numerous publications, emphasising the right to claim asylum and that detention of asylum seekers should be an exceptional measure and must be legally justifiable.[62]

The European refugee law framework

The international refugee law framework applies to European countries to the extent that they are parties to the relevant international conventions and on issues of customary international law, such as *non-refoulement*. International protection in Europe is governed by two distinct but sometimes overlapping regional systems: the Council of Europe (CoE) legal system and the EU legal system.[63] In addition, countries have developed their own national asylum systems and laws.

The CoE system

Relevant CoE law primarily comprises certain provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms (also known as the European Convention on Human Rights, ECHR) and the case law of the European Court of Human

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[58] Statute of the Office of the UNHCR UNGA Res 428(V) (14 December 1950); Gil Loescher and James Milner, 'UNHCR and the Global Governance of Refugees,' in Alexander Betts (ed), *Global Migration Governance* (OUP 2011), 192-95

[59] CSR51, art 35; PSR67, art II

[60] UNHCR *Resettlement Handbook* n 45, 1.3.5; ICMC n 5, 23-24

[61] UNHCR *Resettlement Handbook* n 45, 1.1

[62] See for example UNHCR 'Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-seekers and Alternatives to Detention' (2012) <http://www.refworld.org/pdfid/503489533b8.pdf> accessed 27 May 2014

[63] The European Union Agency for Fundamental Rights, *Handbook on European Law relating to Asylum, Borders, and Immigration* n 8, provides a recent, comprehensive discussion of European refugee law, and the 2014 EASO Report (n 46) provides even more up-to-date information about recent developments. For the purposes of this report, Turkey will not be considered part of Europe.

Rights (ECtHR).[64] Although the CoE system does not give rise to refugee status, it protects people from *refoulement*. Individuals, NGOs, and states can submit complaints regarding violation of their rights under the ECHR to the ECtHR, and the ECtHR has developed a large body of law relevant to asylum and complementary protection issues.[65]

The EU legal system

The EU refugee legal system is based mainly on the relevant provisions of the Charter of Fundamental Rights of the European Union[66] and EU asylum regulations and directives (collectively referred to as the 'asylum *acquis*'). The CSR51 and the PSR67 are incorporated into EU law in the Treaty on the Functioning of the European Union (TFEU) (Article 78) and the Qualification Directive.[67] However, EU law is constantly evolving, and EU states are not all legally bound by all parts of the asylum *acquis*.[68] The authoritative body for interpreting EU law is the Court of Justice of the European Union (CJEU),[69] which has considered the jurisprudence of the ECtHR on human rights issues and has generally developed its own jurisprudence along similar lines, recognising various human rights as 'general principles' of European law, based primarily on national constitutions and regional human rights treaties. [70] In 2000, the Charter of Fundamental Rights of the

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[64] Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR); The ECHR articles most relevant to refugee law are 2, 3, 5, 8 and 13. All member states of the Council of Europe have incorporated or otherwise given effect to the ECHR in their domestic legal systems, and many provisions of the ECHR apply to non-Europeans – under Article 1, Parties must ensure ECHR rights to all persons 'within their jurisdiction.' EUAFR n 8, 16. The EU is not yet a party to the ECHR, but the Treaty of Lisbon requires the EU to become a party to the ECHR. This is in progress but will likely take several years. EUAFR n 8, 22

[65] EUAFR n 8, 15-16, 63

[66] (2012/C 326/02); EUAFR n 8, 15-17

[67] (2011/95/EC); EUAFR n 8, 12, 61

[68] EU regulations relevant to asylum law include the Asylum Procedures Directive (2005/85/EC) (currently being amended or 'recast') - Article 7(1) confirms that the presence of an asylum-seeker in the territory of a member state is lawful; the Reception Conditions Directive (2003/9/EC) Article 6, which requires member states to provide asylum applicants within three days of lodging their application a document showing that they have permission to remain in the country pending the outcome of their application; the Qualification Directive (2011/95/EC) Article 24, which entitles refugees to three-year residence permits and beneficiaries of subsidiary protection to one-year residence permits; the Dublin II Regulation (Council Regulation (EC) No. 343/2003); and the Dublin III Regulation (EU) No 604/2013 (26 June 2013), effective 1 January 2014 (discussed below). EUAFR n 8, 19, 43-45

[69] The court's name changed from the European Court of Justice (ECJ) in 2009 when the Treaty of Lisbon came into force. EUAFR n 8, 19

[70] EUAFR n 8, 22. However, the ability of individuals to access the CJEU is somewhat restricted.

European Union codified many of these human rights principles. Although initially a non-binding declaration, the Charter was incorporated into EU law by the Treaty of Lisbon in 2009, and is now binding on both EU institutions and member states.[71] The Charter is the first European instrument to establish a (limited) right to asylum in Europe (Article 18),[72] and it includes an explicit prohibition on *refoulement* (Article 19).[73]

EU law allows for both refugee status (for persons who meet the CSR51/PSR67 criteria for refugees) and subsidiary protection (for persons who do not qualify as refugees but require international protection because they would be at risk of serious abuse in their country of origin or another country to which they could be sent).[74]

Whilst the Charter establishes the right to asylum, neither it nor any other EU law creates a mechanism for entering Europe lawfully to claim asylum – rather, the right to asylum applies once a person is in the EU or at its external borders.[75] At borders, there are significant limitations: the Asylum Procedures Directive (Article 35) allows countries to process asylum applications at borders, but permits states to maintain the border procedures existing before 2005; in addition, rejection at a border does not constitute *refoulement* if a person is in a safe third country, even if the person has no legal status in that country.[76]

CEAS and EASO

The CoE established the Common European Asylum System (CEAS) in 1999, in accordance with the TFEU, Article 78, and various steps have since been taken towards this objective, including the creation of the EU's European Asylum Support Office (EASO), which has been operating since 2011, as well as the recent recast of the Dublin Regulation, 'Dublin III' (discussed below). The mission of the EASO is to provide expertise on asylum issues for member states; enhance cooperation on these issues; help member states comply with international and EU obligations vis-à-vis refugees; and support EU countries experiencing pressure on their asylum systems.[77] Its mandate

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[71] ibid 20-21

[72] 'The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention [...] and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union…'

[73] Other provisions of the Charter relevant to asylum include Article 47 (right to an effective remedy and fair trial principles) and Article 52 (minimum protection under the Charter must be at least equivalent to ECHR protections). EUAFR n 8, 21

[74] EUAFR n 8, 62

[75] ibid, 35

[76] ibid, 35-36

[77] ibid, 35; European Parliamentary Research Service (EPRS), 'EU Funds for Asylum, Migration and Borders' (Briefing 11/2/2014) <http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/130663/LDM_BRI(2014)130663_REV1_EN.pdf> accessed 29 April 2014 (EPRS), 3-4; European Asylum Support Office, 'What is EASO' (EASO,

includes working on relocation and resettlement issues.[78] The implementation of the CEAS has resulted in various directives to protect the rights of asylum applicants. These include the Asylum Procedures Directive, which requires, for example, that detention orders relating to asylum applicants must be eligible for judicial review pending decisions on their claims (Article 18(2)) and that there must be an effective remedy against negative asylum decisions (Article 39(1)). Furthermore, the EU 'Returns Directive' sets standards for EU members' return procedures; for example, pre-deportation detention is limited to six months under Article 15(5).[79] The CEAS harmonisation process is ongoing and will continue to impose additional obligations on member States with respect to safeguarding applicants for asylum or other international protection measures.[80]

The Dublin Regulation

All EU+ states are parties to the Dublin II Regulation that establishes which European country is responsible for assessing an asylum claim and the procedures for transferring asylum-seekers to the responsible state.[81] Special vulnerabilities can be taken into account, and a country is permitted to take responsibility for assessing an applicant's claim even absent such vulnerabilities, and is *required* to take responsibility in cases where the claimant's rights would likely be violated in the country which would normally bear responsibility for the claim.[82] Unfortunately, serious protection gaps continue to persist in

undated) <http://easo.europa.eu/about-us/what-is-easo/> accessed 29 April 2014

[78] ICMC n 5, 115-16

[79] Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals; Minos Mouzourakis, 'Cyprus: Detention of Syrian Asylum Seekers and Access to an Effective Remedy' (Fahamu Refugee Legal Aid Newsletter, 1 March 2014) <http://frlan.tumblr.com/post/78228834063/cyprus-detention-of-syrian-asylum-seekers-and-access> accessed 19 May 2014

[80] Mouzourakis n 79

[81] Council Regulation 2003/343/EC, 18 February 2003; Ch. III of the Dublin Regulation requires that asylum applications are processed by 1) a country in which the applicant has family members, under certain conditions; 2) a country which has granted the applicant entry or residence, again with conditions; 3) the first European country the applicant entered, with some exceptions; 4) a country which the applicant legally entered; 5) a country in which the applicant has claimed asylum in the airport; or 6) if none of the above apply, the country in which the asylum claim is made. Under Ch II (Art 3(2)), transfer cannot be made to a country that would otherwise be responsible if there are 'systemic flaws in the asylum procedure and in the reception conditions' which create a 'risk of inhuman or degrading treatment.' See also EUAFR n 8, 101, 242; European Commission, 'Country responsible for asylum application (Dublin)' (European Commission, last updated 30 April 2014) <http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/ examination-of-applicants/index_en.htm> accessed 19 June 2014

[82] EUAFR n 8, 101-03 citing Joined Cases C-411/10 and C-493/10 *NS v Secretary of State for the Home Department* and *ME and Others v Refugee Applications Commissioner &*

the implementation of the Dublin II Regulation.[83] However, the 2013 'recast,' 'Dublin III,' should close some of these gaps and increase protection for refugees.[84]

Generally, the Dublin Regulation applies in the same way to Syrian asylum-seekers as to any other asylum-seekers.[85] Most countries have stopped Dublin transfers to Greece because of the risk of human rights violations, further to the ECtHR's findings in *MSS v Belgium*. In addition, UNHCR recommended a suspension of transfers to Bulgaria from January to April 2014 and currently cautions against transfers of particularly vulnerable asylum-seekers to Bulgaria.[86] Transfers to Italy are also viewed as problematic by some countries, and may be affected by the outcome of *Tarakhel v Switzerland*, currently pending with the ECtHR's Grand Chamber.[87]

Minister for Justice, Equality and Law Reform [2011] CJEU and *MSS v Belgium and Greece* [GC] (Application no 30696/09) ECHR 21 January 2011; it was found that both Greece and Belgium violated ECHR Art 3 and 13 because Greece mistreated asylum-seekers in various ways, there was inadequate access to asylum procedures in Greece and a risk of *refoulement* from Greece to Afghanistan, and for Belgium, the transfer to Greece exposed the asylum-seeker to such harm without the possibility of an effective remedy.

[83] UNHCR '2014 UNHCR Regional Operations Profile - Northern, Western, Central and Southern Europe' <http://www.unhcr.org/pages/49e48ed26.html> accessed 5 May 2014 ('2014 UNHCR Regional Operations Profile'); ECRE/ELENA n 1, 31; Dagens Nyheter, 'Let's Not Shut our Eyes on Refugees' (Presseurop, 1 August 2013) <http://www.presseurop.eu/en/content/article/4022911-let-s-not-shut-our-eyes-refugees> accessed 6 May 2014

[84] Dublin III Regulation (EU) No 604/2013 (26 June 2013) effective 1 January 2014; ECRE, 'Dublin Regulation: What Is the Dublin System?' (ECRE, undated) <http://www.ecre.org/topics/areas-of-work/protection-in-europe/10-dublin-regulation.html> accessed 26 May 2014. See also 2014 EASO Report n 46, 2.6

[85] ECRE/ELENA n 1, 7

[86] UNHCR 'Bulgaria as a Country of Asylum: UNHCR Observations on the Current Situation of Asylum in Bulgaria' (2 January 2014) <http://www.refworld.org/docid/52c598354.html> accessed 26 May 2014; UNHCR 'Bulgaria: UNHCR Says Asylum Conditions Improved, Warns against Transfer of Vulnerable People' (15 April 2014) <http://www.unhcr.org/534cfae69.html> accessed 26 May 2014

[87] (Application No 29217/12) [GC] ECHR 12 February 2014; ECRE, 'ECtHR Grand Chamber Hears Case of *Tarakhel v Switzerland* on Dublin removal of Afghan family to Italy' (14 February 2014) <http://ecre.org/component/content/article/70-weekly-bulletin-articles/600-ecthr-grand-chamber-hears-case-of-tarakhel-v-switzerland-on-dublin-removal-of-afghan-family-to-italy.html> accessed 26 May 2014 Some countries, eg Denmark and Germany, have stopped transfers to Italy under the Dublin Regulation. ECRE/ELENA n 1, 68, 74

Some EU countries have also taken a 'Dublin-style' approach to asylum-seekers who enter their territory from another European country that is not in the EU by using a 'safe third country' analysis to return them to the country from which they entered the EU.[88]

Relocation within Europe

In 2008, in accordance with the principle of responsibility-sharing, the EU initiated a programme to transfer refugees from states with external borders to other participating European countries. The pilot programme to relocate refugees in Malta to other states, EUREMA, is funded by the ERF and relocated 227 refugees in 2010–2011. Ten countries agreed to participate in EUREMA, but only France, Germany, Luxembourg, Portugal, Slovenia and the UK actually received refugees under EUREMA. In 2012, EUREMA II was launched in response to increasing numbers of refugees from Syria, with Bulgaria, Hungary, Lithuania, Poland, Portugal, Romania and Slovakia agreeing to accept a total of 91 refugees from Malta. Denmark, Germany, Ireland, Liechtenstein, the Netherlands, Norway, Spain and Switzerland opted to make their own relocation agreements with Malta, agreeing to accept a total of 265 refugees in 2012–2013.[89] A 2012 EASO report on EUREMA noted conflicting views about the success of the programme.[90] The EC has proposed a permanent relocation programme, and while this could be useful in helping some states cope, particularly those closest to Syria, an obligatory regime is unlikely to be implemented in the near future.[91]

Some European actors have questioned whether relocation competes with the impetus for resettlement, an apt concern considering that funding for both activities comes from the European Refugee Fund (ERF) (now being consolidated into the Asylum, Migration and Integration Fund (AMIF) and some countries have converted resettlement slots into relocation places. Both relocation and resettlement have important roles; however, relocation must not supplant resettlement, and if there must be a prioritisation, resettlement is usually more urgent than relocation.[92] In addition, Swedish authorities have

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[88] For example, in February 2013, Austria returned a Syrian asylum seeker who had passed through Bosnia and Herzgovina (BiH) back to BiH reasoning that BiH was a 'safe third country' of asylum and that he should seek asylum there. Maureen Master, Protection Officer, UNHCR, Bosnia and Herzegovina (comment on early draft of this report, provided to Cynthia Orchard, 24 June 2014)

[89] ICMC n 5, 112-13

[90] EPRS n 77, 5

[91] ICMC n 5, 113-14; Delphine Perrin and Frank McNamara, 'Refugee Resettlement in the EU: Between Shared Standards and Diversity in Legal and Policy Frames' (KNOW RESET RR 2013/03, European University Institute, 2013) <http://www.migrationpolicycentre.eu/docs/Know-Reset-RR-2013-03.pdf> accessed 26 May 2014, 35, 39

[92] ICMC n 5, 114; Perrin and McNamara n 91, 36-37. See also Frank McNamara, 'Between Solidarity and the Priority to Protect – Where Refugee Relocation Meets Refugee Resettlement' (Migration Policy Centre, 2013) <http://www.migrationpolicycentre.eu/between-solidarity-and-priority-refugee-relocation-meets-refugee-resettlement/>

noted that its priority is resettlement from non-European countries rather than relocation from European countries which are obligated to comply with European and international standards of refugee protection.[93] An evaluation of the EUREMA project is currently underway by the EC and EASO.[94]

European border control: Frontex and the Shengen area

Through the Schengen system and other agreements, Europe has created free movement within the member states but has increased external border control.[95] In 2004, the EU created the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union; this is a specialised external border control agency known as Frontex.[96] Although European states maintain the right and duty to control their external borders, both Frontex and individual states are obliged to comply with international and regional law, as well as Frontex regulations, with particular regard to the prohibition on *refoulement*.[97]

Refugees at sea

Various laws regulate how European states address asylum-seekers at sea. These include the UN Convention on the Law of the Sea;[98] the International Convention for the Safety of Life at Sea (SOLAS);[99] and the Search and Rescue (SAR) Convention,[100] which obligate

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accessed 12 June 2014

[93] Perrin and McNamara n 91, 38

[94] Email correspondence from Peter O'Sullivan, Resettlement Project Coordinator, UNHCR Belgium, to Cynthia Orchard, 8 July 2014. For more information about relocation, see also 2014 EASO Report n 46, 73-74

[95] European Union, *Convention Implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, on the Gradual Abolition of Checks at their Common Borders* ('Schengen Implementation Agreement') 19 June 1990. For other Schengen acquis, see EUAFR n 8, 244. Schengen states include all EU states except the UK and Ireland, with Bulgaria, Croatia, Cyprus, and Romania candidates to join; Iceland, Liechtenstein, Norway and Switzerland are non-EU members. EUAFR n 8, 26-35; European Commission, 'Schengen Area'(EC, undated) <http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen/index_en.htm#resp_map> accessed 22 May 2014

[96] EUAFR n 8, 18

[97] Schengen Borders Code (Regulation No. 562/2006) (art 6) prohibits *refoulement* and unlawful discrimination. See also *Hirsi Jamaa and Others v Italy*, App no 27765/09 (ECHR, 23 February 2012) para 32, citing Council Decision of 26 April 2010 (2010/252/EU) supplementing the Schengen Borders Code with respect to external sea borders and Frontex operations; EUAFR n 8, 26-27

[98] Adopted 10 December 1982, entered into force 16 November 1994

[99] Adopted 1 November 1974, entered into force 25 May 1980. 1184 UNTS 3

[100] *International Convention on Maritime Search and Rescue* (adopted 27 April 1979, entered into force 22 June 1985) 1405 UNTS 97

Parties to assist and rescue people who are 'in distress at sea' and requires ships to take rescued persons to a 'place of safety'; and the Charter of Fundamental Rights of the European Union and ECHR Protocol 4.[101] In addition, there are numerous EU resolutions and directives, as well as relevant case law. Furthermore, UNHCR is creating a Central Mediterranean Sea Initiative aimed at improving responsibility-sharing agreements and sea rescue operations,[102] and in 2013 the EU established a 'Task Force Mediterranean' to address the loss of (migrant) life at sea.[103]

In 2012, the ECtHR confirmed in *Hirsi Jamaa and Others v Italy*,[104] that the principle of *non-refoulement* applies at sea; that the return of persons to a country which has no functioning asylum system and from which they may be sent to their countries of origin where they are at risk of torture or inhuman or degrading treatment violates ECHR Article 3; and that the removal of groups of persons without considering on an individual basis whether they are at risk of serious abuse in their countries of origin further violates the prohibition of collective expulsions of ECHR Protocol 4 (Art 4) and Article 19 of the Charter of Fundamental Rights of the European Union.[105]

Legal routes of entry for persons in need of international protection

As noted, few refugees are able to enter Europe through legal routes. Europe's borders are relatively secure, and control mechanisms, such as visa requirements (including airport transit visas), enhanced passport security features, carrier liability laws and border controls, make it increasingly difficult for refugees to enter Europe legally or safely.

Other than resettlement programmes, in which states are generally not required to participate, family reunification and humanitarian admission are the most widely used legal routes of entry for refugees into Europe. [106] Other potential routes, such as protected entry procedures, humanitarian visas, or temporary protection programmes, are rarely used at present. Other regular immigration categories (for example, family members, students or business persons) are possible for very few persons fleeing armed conflict or persecution. Most refugees lack documentation, ties, and/or funding necessary for many immigration categories; for example, refugees generally cannot qualify for student or other

[101] Protocol 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms securing certain rights and freedoms other than those already included in the Convention and in the First Protocol thereto, Strasbourg, 16.IX.1963; see also EUAFR n 8, 36-38

[102] UNHCR '2014 UNHCR Country Operations Profile – Europe' (undated) <http://www.unhcr.org/pages/4a02d9346.html> accessed 17 June 2014

[103] 2014 EASO Report n 46, 48

[104] n 97

[105] See also EUAFR n 8, 38

[106] ECRE/ELENA n 1, 25-27. 11 European states require ATVs for Syrians: Austria, Belgium, the Czech Republic, France, Germany, Hungary, Italy, the Netherlands, Spain, Switzerland, and the UK. UNHCR 'Syrian Refugees in Europe' n 30, 7

visas which require intent to return to one's country of origin; and extended family visas, where they exist, often have lengthy waiting times and require demonstration of ability to financially support and accommodate the applicant.

Resettlement

The European Commission defines resettlement as:

> *The process whereby, at the request from UNHCR based on a person's need for international protection, third country nationals or stateless persons are transferred from a third country to a Member State where they are permitted to reside with refugee status (within the meaning of Article 2(d) of the European Union 'Qualification Directive') or a status which offers the same rights and benefits under national and Community law as refugee status.* [107]

In recent years, European countries have resettled on average around 5500 to 6000 refugees, about 8% of the total numbers of refugees resettled in the world.[108] Fifteen European countries now have legislated resettlement or humanitarian admission programmes: Belgium, the Czech Republic, Denmark, Finland, France, Germany, Iceland, Ireland, the Netherlands, Norway, Portugal, Romania, Spain, Sweden, and the United Kingdom.[109] Of the countries that do not have regular resettlement programmes, several have external borders, including the Baltic states and south-eastern states (Greece, Italy, Malta and Cyprus), which claim that because their positions dictate that they receive more refugees than other European states, there should be more relocation of refugees from their territories to other European countries.[110]

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[107] ERF III Decision, Article 3(1)(d). This refers to the older Qualification Directive (2004/83/ EC); note that the amended/recast Directive (2011/95/EC) improves the rights provided under subsidiary protection.

[108] ICMC n 5, 99

[109] This refers to countries which have legislated resettlement programmes; several other countries have some other basis for resettlement, and 16 countries have actually participated in resettlement programmes. Switzerland had a resettlement programme but ended it in 1998 and currently accepts very low numbers of refugees through special resettlement projects and is developing a new resettlement programme; Hungary and Bulgaria are also developing resettlement programmes; however, in neither country are conditions apt for effectively processing increased numbers of refugees. ICMC n 5, 23, 98, 124-28, 273-75. See also 'Resettling the vulnerable who cannot go home' (SWI, 22 May 2013) <http://www.swissinfo.ch/eng/politics/ Resettling_the_vulnerable_who_cannot_go_home.html?cid=35828070> accessed 26 May 2014; Perrin and McNamara n 91, 47; UNHCR, 'New Doors Open' (undated) <http://www.unhcr.org/pages/4a2ced836.html> accessed 26 May 2014. Further information about individual European countries' resettlement programmes is provided in the UNHCR *Resettlement Handbook* country pages and on the ERN website.

[110] Perrin and McNamara n 91, 16, 35

In 2005, the European Commission began creating Regional Protection Programmes (RPPs) designed to enhance support and solutions for refugees in regions outside Europe. The two main aims of RPPs are voluntary repatriation and local integration, with resettlement as an option when neither of those is a realistic possibility. In practice, relatively few refugees have been resettled through RPPs.[111]

Emergency transit facilities

Some European countries are resettling small numbers of refugees through Emergency Transit Facilities, which were established in Romania (2008) and Slovakia (2010) with support from UNHCR and IOM in order to assist in the evacuation of refugees from countries where they were at risk of some kind, pending processing of their cases for onward resettlement. However, only minimal numbers of refugees have been processed through these centres.[112]

Special resettlement programmes

In response to past refugee crises, the EU has encouraged and financially supported resettlement programmes from designated priority areas to EU states.[113] For example, in 2009, in response to the Iraqi refugee crisis, the EU implemented a joint resettlement programme aimed at resettling 10,000 refugees.[114] Although only 5100 refugees were actually afforded international protection through this programme, as the first joint European resettlement initiative, it was an important step forward.[115] Unfortunately this experience did not lead to a significant expansion of resettlement by European countries. In 2012, in response to increasing numbers of refugees from Libya, UNHCR urged European and other states to resettle approximately 5400 refugees. European countries did not respond quickly to this call and eventually resettled only 801 of these refugees.[116]

Despite the disappointing response to the Libyan refugee crisis, there have been other significant developments in European resettlement efforts. In March 2012, the EU established a Joint Resettlement Programme in order to expand and enhance cooperation on resettlement among EU countries.[117] Funding is currently provided by the European

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[111] ICMC n 5, 101-04

[112] ICMC n 5, 112; UNHCR, 'Guidance note on Emergency Transit Facilities' (4 May 2011)<http://www.refworld.org/docid/4dddec3a2.html> accessed 25 June 2014

[113] Fargues and Fandrich n 41, 15

[114] ICMC n 5, 107-08

[115] Germany received the nearly half (2501) of the refugees under this programme. In addition to Iraqi refugees, the programme also resettled 1285 Palestinians from the Al-Tanf refugee camp (on the Iraq/Syria border), allowing it to be closed in February 2010. ICMC n 5, 11. See also ICMC & International Rescue Committee, '10,000 refugees from Iraq, A Report on Joint Resettlement in the European Union' (2010) <http://www.icmc.net/pubs/10000-refugees-iraq> accessed 24 June 2014

[116] ICMC n 5, 111

[117] European Commission 'External Aspects' (EC, undated) <http://ec.europa.eu/dgs/

Refugee Fund and will continue under the new AMIF.[118] Member States can receive funds for: 1) an eligible national resettlement programme;[119] 2) 'lump sum' payment from the fund for each eligible refugee they resettle (eligible refugees include women and children at risk, unaccompanied children, people with serious medical needs, survivors of torture or other violence, people who urgently need resettlement for other reasons, and any refugees from designated RPP areas or EU priority areas); or 3) 'Community Actions' (cooperation between EU states on resettlement issues). In 2013, the figures were €4000 per resettled refugee; €5000 per resettled refugee if having only used European Refugee Funds (ERF) once previously; and €6000 per resettled refugee if having never previously used ERF funding.[120]

Temporary protection

The conflict in the former Yugoslavia in the 1990s generated more than two million refugees in Europe. Although many of them met the criteria for refugee status under the Refugee Convention, most European countries granted them temporary protection rather than refugee status.[121] Because there was no consensus on temporary protection measures, European countries implemented their own versions of temporary protection, which varied significantly from state to state.[122] At the time of the Balkan refugee crisis, in most (if not all) European states, temporary protection was not a route to asylum, but was a short-term measure pending the practicability of repatriation.[123] In terms of granting admission, many countries either eliminated the visa requirement for refugees from the former Yugoslavia or granted a form of 'provisional admission'; however, various countries were inconsistent in their admission of refugees as the conflict continued over several years.[124] Several countries re-implemented visa requirements at various times or

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home-affairs/what-we-do/policies/asylum/external-aspects/index_en.htm> accessed 29 April 2014

[118] EPRS n 77, 7. See also 2014 EASO Report n 46, 54

[119] To receive ERF (now AMIF) funds for resettlement, the resettlement must be of persons identified by UNHCR as eligible; the beneficiaries must receive refugee or an equivalent status. ICMC n 5, 105

[120] ICMC n 5, 105-06, 110-11, 116-18

[121] Susan M. Akram, 'Temporary Protection and its Applicability to the Palestinian Refugee Case', BADIL, *Information & Discussion Brief*, Issue No 4, June 2000 <http://www.badil.org/en/documents/category/51-bulletins-briefs?download=555%3Abrief-no.4-temporary-protection-and-its-applicability-to-the-palestinian-refugee-case&start=50> accessed 24 June 2014, fn 11; Morten Kjaerum, 'Temporary Protection in Europe in the 1990s' (1994) 6 IJRL 444, 450. See also Humanitarian Issues Working Group, *Survey on the Implementation of Temporary Protection* (8 March 1995) <http://www.refworld.org/docid/3ae6b3300.html> accessed 12 June 2014

[122] Kjaerum n 121, 447-48, 450-51

[123] ibid 449-50

[124] Michael Barutciski, 'EU States and the Refugee Crisis in the Former the Yugoslavia' (June-July 1994) 14 Refuge 32-33

closed their borders to refugees from the Balkan states. Then, as now, some states received much larger numbers of refugees due to their geographical location and other factors and complained that some states were not sharing the responsibility as hosts.[125]

EU policy has advanced since the 1990s; the EU issued a Temporary Protection Directive in 2001, which established a framework and minimum standards for participating states to follow when implementing a programme of temporary protection. Under Art 2(a) 'temporary protection' means:

> *a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection.* [126]

Temporary protection under the Directive should be for one year, with renewal possible if conditions in the designated country persist (Art 4). Temporary protection should not displace asylum, but should be an intermediary, immediate measure of protection, and persons granted temporary protection should be able to apply for and be granted refugee status if eligible (para (10), Arts 4, 19).[127] UNHCR issued guidelines on temporary protection and stay in February 2014, which are generally in alignment with the EU Temporary Protection Directive.[128]

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[125] Of non-adjacent states, Germany led in offering international protection, hosting 300,000 refugees from the former Yugoslavia by the end of 1993. Barutciski n 124, 33, Table 1

[126] Council Directive on Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts between Member States in Receiving such Persons and Bearing the Consequences Thereof (2001/55/EC) <http://www.refworld.org/docid/3ddcee2e4.html> accessed 3 June 2014 ('EU Temporary Protection Directive').

[127] UNHCR 'UNHCR Welcomes EU Agreement on Temporary Protection' (Briefing Notes, 1 June 2001) <http://www.unhcr.org/nes/NEWS/3b17a0b24.html> accessed 12 June 2014 (confirming that temporary protection should not displace the possibility of asylum and discussing the need for legal routes into Europe)

[128] UNHCR 'Guidelines on Temporary Protection or Stay Arrangements' (February 2014) <http://www.refworld.org/pdfid/52fba2404.pdf> accessed 2 June 2014; UNHCR 'Roundtable on Temporary Protection' (Concept Note, 15-16 July 2013) <http://www.unhcr.org/5284cf2b9.html> accessed 3 June 2014; 'Temporary Protection' in the European context is similar to but differs somewhat from Temporary Protected Status (TPS) in the US. US Citizen and Immigration Services 'Temporary Protected Status' (undated) <http://www.uscis.gov/humanitarian/temporary-protected-status-deferred-enforced-departure/temporary-protected-status> accessed 3 June 2014

A key difference between the Balkan and Syrian refugee crises is, of course, that most refugees from Syria are not in Europe, and thus would not benefit from temporary protection if it required physical presence in the potential host state. However, under the 2001 Temporary Protection Directive, 'mass influx' can mean a spontaneous movement of people *or* an assisted evacuation (Art 2(d); and states should facilitate eligible persons' entry into their territory, including, for example, the issuance of visas free of charge (Art 8(3)).

Protected entry procedures (PEPs) and humanitarian visas

Protected entry procedures (PEPs) or humanitarian visas are another possible route for legal entry into Europe. They would allow asylum-seekers to apply for asylum or another type of international protection in a host country from outside its territory (usually at its embassies abroad).[129] Protected entry procedures would be a way for European states to offer protection to more refugees and others in need of international protection in their country of origin or in countries of first asylum, and could be used in addition to regular resettlement programmes. Eligibility for protected entry procedures could be prioritised based on: 1) current level of risk of harm to applicant; 2) reasons for and urgency of need for international protection; 3) likelihood of adequate protection in current country of residence; 4) any special vulnerabilities of the applicant; 5) family or other ties to potential host state.[130]

Although the possibility of European states implementing protected entry procedures or issuing humanitarian visas has been discussed within European governmental institutions and non-governmental organisations for years, the use of such procedures by European countries is at present very limited.[131] The November 2013 ECRE/ELENA report observes

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[129] Gregor Noll, Jessica Fagerlund and Fabrice Liebaut, 'Study on the Feasibility of Processing Asylum Claims outside the EU against the Background of the Common European Asylum System and the Goal of a Common Asylum Procedure' (European Community, 2002) <http://ec.europa.eu/dgs/home-affairs/e-library/docs/pdf/asylumstudy_dchr_2002_en_en.pdf> accessed 2 June 2014, 3

[130] Hein and Donato n 11, 16

[131] Hein and Donato n 11, 12-15, also noting that implementing such procedures could be authorised under the Schengen Borders Code (Art. 5, Para 4 (c) which states that 'third-country nationals who do not fulfil one or more of the conditions laid down in paragraph 1 may be authorized by a Member State to enter its territory on humanitarian grounds…'; and the EC Visa Code, Regulation (EC) No 810/2009, Art. 25, Para 1 (a), which states that '[a] visa with limited territorial validity shall be issued exceptionally…when the Member State concerned considers it necessary on humanitarian grounds.…' See also Platform for European Red Cross Cooperation on Refugees, Asylum Seekers and Migrants (PERCO), 'Position on the Need to Create Legal Avenues to Access International Protection within the European Union' (International Federation of Red Cross and Red Crescent Societies, 6 November 2012) <http://www.ifrc.org/PageFiles/89645/PERCO% 20Postion%20on%20Legal%20Avenues%20to%20Access%20International%20Protection%20within%20the%20

that none of the European countries it researched currently used protected entry systems[132] and that France reportedly provides visas in very limited humanitarian cases, but this is an unofficial practice, the details of which are not available to the public.[133] In March 2012, ECRE reported that Switzerland had a protected entry procedure (which was 'the only one of its kind among European countries').[134] However, Switzerland abolished the procedure for applying for asylum at its embassies on 28 September 2012. According to the website of the Swiss Federal Office of Migration, the possibility of applying for a humanitarian visa remains in place, but only for persons who are 'in imminent and serious danger of bodily harm,' and specifically excluding people who are in a third country.[135] As is discussed below, Switzerland and Ireland also operated expanded family reunification programmes for Syrians for a limited time beginning in 2013, and Germany continues with its private sponsorship programme; however, it is noted that these differ from a PEP which allows admission without a sponsor in the potential host country.

Whilst protected entry procedures would theoretically benefit many refugees, in practice, PEPs may not be feasible when there are large numbers of refugees (and as demonstrated by the closure of the Swiss family reunification programme after only two months) because embassies are not equipped to deal with high volumes of asylum applications. Resettlement programmes are generally a better option, especially when coordinated by UNHCR, which has greater expertise and capacity to shift staff from one refugee crisis to another, as well as a more refugee-friendly perspective than many embassies. However, to the extent that PEPs can be an additional complementary solution, they should be implemented.

EU%20final%20adopted%20version%2006112012.pdf> accessed 2 June 2014

[132] ECRE/ELENA n 1, 27

[133] ibid, 28

[134] ECRE 'ECRE and CIR Press Conference: "Reaching Europe in Safety: The Possibility to Seek Asylum through an Embassy Saved my Life"' (Weekly Bulletin, 23 March 2012) <http://www.ecre.org/component/downloads/downloads/474.html> accessed 24 June 2014

[135] Swiss Federal Office for Migration (BFM), 'Asylum Applications from Abroad, at a Border Crossing and at the Airport' (BFM, last modified 08.10.2012) <https://www.bfm.admin.ch/content/bfm/en/home/ themen/asyl/asylverfahren/asylgesuch/asylgesuch_aus_ausland.html> accessed 2 June 2014. ICMC's July 2013 report states that five European countries have Protected Entry Procedures, and that several European countries have admitted people in need of international protection through Humanitarian Evacuation Programmes (HEPs). ICMC n 5, 98, citing the 2002 report by Noll, Fagerlund and Liebaut n 129. However, it appears that few if any European countries currently use PEPs in any but the most limited circumstances; we were unable to find further information about such procedures.

Barriers to resettlement and humanitarian admission

There are numerous obstacles to the expansion of resettlement and humanitarian admission programmes. Three of the most important are: funding/resources; anti-immigrant sentiment and related political implications; and security concerns and related requirements for resettlement.[136]

These issues intersect in various ways. Neither States, European governmental institutions, nor UNHCR have unlimited funding at their disposal for resettlement, and governments must balance funds between resettlement and domestic programmes, including support and integration programmes for refugees granted asylum in-country. That said, funding constraints can generally be overcome where there is a will to do so. The resources channelled towards, for example, enhanced border control could be re-directed towards resettlement or temporary protection programmes. However, governments are subject to political pressure from anti-immigrant groups, which have considerable influence in some European countries, and anti-asylum-seeker sentiment is likely to be at least partially responsible for European governments' shift towards containing refugees in regions of origin rather than resettlement into Europe.[137] Anti-immigrant groups often argue that their governments should focus on solving domestic problems rather than allowing more people in or providing foreign aid, and they often link security risks to immigrants. Whilst real security risks should not be ignored, neither should security concerns allegedly posed by refugees be exaggerated. Fortunately, although security concerns are paramount for many European governments and sometimes have a negative impact on resettlement and humanitarian admission programmes, European countries have not delayed resettlement or humanitarian admission due to enhanced security checks to the same degree as in the US.[138]

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[136] Christine Bonney, 'Is Resettlement in a Western Country the Most Viable Solution for Protracted Refugee Situations?' (2013) 9 JPIS 88, 89-90, 96, 104-106

[137] Sherwood and others n 36 (noting support for the 'neo-fascist' Golden Dawn party in Greece and the 'xenophobic' Northern League party in Italy); Bonney n 136, 89-90, 96, 104-106

[138] Since the 9/11 attacks, security concerns have resulted in more detailed security checks for resettlement programmes, meaning delays in processing refugees for resettlement to many countries, as well as stricter interpretations of refugee criteria by some countries, particularly the US, resulting in some countries' annual resettlement quotas not being filled in recent years. However, the US experience has also shown that it is possible to make the security check process shorter while retaining effective security controls, and European countries have simpler security checks than the US. ICMC n 5, 29, 86; Juliette Tolay, 'Turkey, the EU and Syria: Reprioritising Refugees' Rights and Needs' (OpenDemocracy, 18 February 2014) http://www.opendemocracy.net/opensecurity/juliette-tolay/turkey-eu-and-syria-reprioritising-refugees%E2%80%99-rights-and-needs> accessed 17 June 2014. See also Eric Voruz, 'Resettlement of Refugees, towards Greater Solidarity' (Report to Committee on Migration, Refugees and Displaced Persons, Parliamentary Assembly, Council of Europe, Provisional version [undated] 2014) <http://

2 European response to the Syrian refugee crisis

The European response to the Syrian refugee crisis is a study in contrasts. Although the EU and European states are the world leaders in responding to the crisis at political and humanitarian levels, the European approach has primarily been to contain the refugee crisis within countries neighbouring Syria, providing significant (but inadequate) support for refugees in those countries, and to strengthen European borders.[139] The numbers of refugees admitted into Europe are incredibly low compared with the overall number of refugees present in the countries neighbouring Syria. Furthermore, there is wide variation within Europe – some European countries, particularly Germany and Sweden, have opened their doors to Syrian refugees to a much greater extent than other European countries. Some European countries treat Syrian and other refugees in appalling ways which clearly violate international and European law. Some European countries, such as Sweden, Norway, Germany, and the UK, have highly developed laws and policies regarding asylum and other forms of international protection; others, such as Greece and Bulgaria, are in the fledging stages of developing asylum and international protection laws and procedures. There are remarkable differences in the levels of wealth and economic stability among European countries, which affect the capacity to respond to the Syrian refugee crisis, as well as migration and refugee issues more generally.

Humanitarian and development assistance

The EU (through its institutions and member states) is the largest contributor in the world to humanitarian and development aid in response to the Syrian civil war, and the EU and member states have also been actively involved in seeking a political resolution to the conflict in Syria. As of September 2013, the EU and its member states had contributed more than €1.3 billion in humanitarian and development aid in response to the crisis, with a further approximately €14 million from Norway and Switzerland.[140]

In December 2013, the EU announced the launch of a Regional Development and Protection Programme to assist refugees and host communities in Lebanon, Jordan and Iraq. This is a *development programme*, and its activities will focus on assisting refugees and communities within the target countries, rather than resettlement. The programme's

website-pace.net/documents/19863/168397/20140313-RefugeeResettlement-EN.pdf/feccb533-f15a-49fd-b6cd-0aeba5e7dee2> accessed 29 May 2014

[139] Fargues and Fandrich n 41, 11-12. Amnesty International notes, for example, that in 2012-13, the EC provided €228 million towards enhancing Europe's external border controls, but allocated only €12 million to Greece to support refugee assistance (through the ERF). Amnesty International, *An International Failure: The Syrian Refugee Crisis* (AI Index: ACT 34/001/2013, 13 December 2013) <https://www.amnesty.org/ en/library/asset/ACT34/001/2013/en/8a376b76-d031-48a6-9588-ed9aee651d52/act340012013en.pdf> accessed 4 May 2014

[140] ECRE/ELENA n 1, 17; see also Council of the European Union, 'Towards a Comprehensive EU Approach to the Syrian Crisis' (JOIN(2013) 22 final, 24 June 2013) <http://register.consilium.europa.eu /doc/srv?l=EN&f=ST%2011482%202013%20INIT> accessed 28 April 2014, 2-3

total budget is €16 million (€12.3 million from the EU and the remainder from Denmark, the Netherlands and the UK).[141]

Border control

The main routes into Europe for refugees from Syria are by land via Turkey to Greece and Bulgaria and by sea to Greece and Italy. With increased surveillance and the 2012 construction of a fence along the Greek–Turkish border (and planned fencing along the Bulgarian–Turkish border), more refugees and have risked unsafe boat journeys, and arrivals in Europe via the Mediterranean Sea have increased significantly in 2013 and 2014.[142] The cost of gaining unauthorised entry to Europe is high, and many refugees risk their lives – hundreds of migrants die in sea journeys to Europe each year, and many more are exploited by smugglers.[143]

Frontex has expanded its operations in response to increased irregular migration resulting from the conflict in Syria. Syrians are the largest nationality seeking unauthorised entry into Europe, and the expansion of Frontex operations in 2013 resulted in significant decreases in the numbers of people detected attempting to enter Europe irregularly along the Greek and Bulgarian land borders with Turkey.[144]

Following the October 2013 tragedy off the coast of Lampedusa, in which 366 migrants died (268 of them Syrians),[145] in December 2013, the European Commission began implementation of Eurosur (the European Border Surveillance System, in planning since

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[141] European Commission, 'External Aspects' n 117. See also Zetter and others n 50; ECRE/ELENA n 1, 17.

[142] UNHCR 'Syrian Refugees in Europe' n 30, 10-11

[143] In known incidents from 1998 to August 2011, 17,738 people died attempting to reach Europe; and in 2013 alone, approximately 600 migrants died at sea. UNHCR 'Syrian Refugees in Europe' n 30, 7-8, 10; Hein and Donato n 11, 11. See also Ian Traynor and Tom Kington, 'EU pressed to rethink immigration policy after Lampedusa tragedy' *The Guardian* (8 October 2013) <http://www.theguardian.com/world/2013/oct/08/eu-immigration-policy-lampedusa-tragedy> accessed 27 May 2014; John Psaropoulos, 'Bridge to Nowhere: Syrian Refugees in Greece' *Al Jazeera* (17 July 2013) <http://www.aljazeera.com/indepth/features/ 2013/07/20137109458209535.html> accessed 5 May 2014; Damian Vodenitcharov, 'Bulgaria: Stories from the Voenna Rampa Camp' (Migration Policy Centre, Syrian Refugees, undated) <http://syrianrefugees.eu/ ?page_id=597> accessed 6 June 2014

[144] ECRE/ELENA n 1, 27; ECRE, 'Frontex: Most People Attempting to Enter the EU Irregularly Are Syrians' (ECRE Weekly Bulletin, 16 May 2014) <http://us1.campaign-archive2.com/?u=8e3ebd297b1510 becc6d6d690&id=9804fc0d44#frontex> accessed 27 May 2014; Frontex, 'Annual Risk Analysis, 2014' (Frontex, May 2014) <http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_ Analysis_2014.pdf> accessed 27 May 2014

[145] UNHCR 'Syrian Refugees in Europe' n 30, 10

2008). Eurosur was developed by Frontex as 'an information-exchange system designed to improve management of the EU external borders.'[146] Eurosur's operation is likely to result in increased detection of irregular migration on Europe's borders and could prevent more refugees from Syria from being able to seek asylum in Europe; on the other hand, Eurosur may also result in more refugees being rescued at sea and taken to Europe.

Syrian asylum claims in Europe

In 2013, 50,470 Syrians submitted asylum applications in the EU, approximately double the number from 2012.[147] Germany and Sweden continued to be the top destinations for Syrian asylum-seekers, together accounting for more than half of Syrian asylum claims in Europe in 2013.[148]

Greece, Italy, Bulgaria and other southern border countries have been criticised for their response to Syrian refugees and have responded that they bear an unfair burden due to their locations.[149] However, although increased numbers of refugees from Syria are entering these countries, as indicated in Table 2, other European countries received much higher numbers of asylum applications (from all countries of origin), with the highest numbers in Germany (109,580), France (60,100), Sweden (54,260) and the UK (29,190). This compares with Italy (27,830), Greece (8230), and Bulgaria (6980). Relative to population, the European countries with the highest numbers of asylum applicants (from all countries of origin, per 1000 inhabitants) were Malta (4.8), Sweden (4.6), Luxembourg

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[146] The objectives of Eurosur are to reduce irregular migration into Europe, save lives at sea, and prevent cross-border crime. Frontex 'Eurosur' (undated) <http://frontex.europa.eu/intelligence/eurosur> accessed 11 June 2014. Also following the Lampedusa tragedgy, Italy implemented 'Mare Nostrum,' a search and rescue operation which has considerably reduced migrant deaths at sea (discussed further in the section on Italy).

[147] This compares with 484,600 total asylum applications in Europe in 2013. Alexandros Bitoulas, 'Asylum Applicants and First Instance Decisions on Asylum Applications: 2013' (Eurostat, March 2014) <http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-QA-14-003/EN/KS-QA-14-003-EN.PDF> accessed 4 May 2014, 5. With 56,400 asylum applications by Syrians in 2013, Syria was overall the top country of origin for number of asylum applications made in 44 'industrialized' countries and in the EU. 2014 EASO Report n 46, 37; UNHCR 'Asylum Trends 2013: Levels and Trends in Industrialized Countries' (2014) <http://www.unhcr.org/5329b15a9.html> accessed 28 May 2014 ('Asylum Trends 2013'), Table 1. See also UNHCR 'Syrian Refugees in Europe' n 30, 13 (noting increasing numbers of Syrian asylum claims in early 2014); 2014 EASO Report n 46, 15-17; UNHCR '2014 UNHCR regional operations Profile' n 83; ECRE/ELENA n 1, 6

[148] The top five receiving countries – Sweden, Germany, Bulgaria, the Netherlands, and Switzerland, together account for 70% of asylum applications by Syrians in the EU. UNHCR, 'Syrian Refugees in Europe' n 30, 15. See also UNHCR '2014 UNHCR Regional Operations Profile' n 83; Bitoulas n 147, 19

[149] Grant and Chulov n 37

(3.8), Switzerland (3.2) and Montenegro (2.5).[150] These numbers do not, however, represent the numbers of refugees and other persons in need of international protection who have not submitted asylum applications, of whom there are substantial numbers in some countries, particularly Greece.

Table 2: Asylum applications submitted in selected European countries (from all countries of origin, by number of applications in 2013) [151]

Country	2009	2010	2011	2012	2013
Germany	27,650	41,330	45,740	64,540	109,580
France	42,120	48,070	52,150	55,070	60,100
Sweden	24,190	31,820	29,650	43,880	54,260
United Kingdom	30,670	22,640	25,900	27,980	29,190
Italy	17,600	10,050	34,120	17,350	27,830
Switzerland	14,490	13,520	19,440	25,950	19,440
Hungary	4,670	2,100	1,690	2,160	18,570
Austria	15,820	11,010	14,420	17,410	17,500
Netherlands	14,910	13,330	11,590	9,660	14,400
Poland	10,590	6,530	5,090	9,170	13,980
Belgium	17,190	21,760	26,000	18,530	12,500
Norway	17,230	10,060	9,050	9,790	11,470
Greece	15,930	10,270	9,310	9,580	8,230
Denmark	3,820	4,970	3,810	6,190	7,540
Bulgaria	850	1,030	890	1,230	6,980
Spain	3,010	2,740	3,410	2,580	4,500
Malta	2,390	140	1,860	2,060	2,200
Cyprus	3,200	3,160	1,770	1,630	1,250

Access to asylum procedures for refugees from Syria is not assured to a sufficient level in all European states,[152] and most European countries do not prioritise Syrian asylum

[150] UNHCR 'Asylum Trends 2013' n 147, Table 1
[151] ibid
[152] ECRE/ELENA n 1, 25

applications.[153] Furthermore, although UNHCR and various governments recognise that most Syrians who qualify for international protection do in fact meet the criteria for refugee status,[154] there is significant variation among European states in their assessment of Syrian asylum applications and in the type of protection granted. Overall in the EU, applications for asylum from Syrians have the highest recognition rates of all asylum-seekers, with 91% resulting in positive decisions.[155] The data on approvals and statuses for Syrians have changed somewhat significantly within some states since 2012, with some states moving towards granting subsidiary protection and others moving towards granting refugee status.[156] Some European countries, such as Bulgaria and the Czech Republic, almost exclusively grant Syrian refugees subsidiary protection rather than refugee status; while others (for example, Spain and Greece) have tended to refuse requests for asylum entirely, granting no form of protection at all to Syrian asylum-seekers in 2012.[157] It is hoped that this will improve significantly, particularly in Greece, which began major changes to its asylum procedures in 2013.[158] In addition, significant variation exists within Europe as to what a grant of subsidiary protection means. Sweden now grants permanent residence to Syrians regardless of whether the protection offered is refugee status or subsidiary protection; Denmark grants four-year residence to refugees and beneficiaries of subsidiary protection; several countries grant three-year residence permits to beneficiaries of subsidiary protection, but some countries offer less than three-year residency.[159]

Initially (in 2011), many European states put decisions about Syrian asylum applications temporarily on hold, although some states continued granting status in positive cases.[160] Approval rates for both refugee status and subsidiary protection of Syrian refugees in Europe declined slightly in early 2013. This was likely linked to several factors such as transfers under the Dublin Regulation and/or negative credibility determinations relating to claimed Syrian nationality.[161]

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[153] ibid 30

[154] ibid 22; UNHCR 'International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II' (22 October 2013) <http://www.refworld.org/docid/5265184f4.html> accessed 24 June 2014

[155] UNHCR 'Syrian Refugees in Europe' n 30, 16; ECRE/ELENA n 1, 6, 22. Because some countries report Dublin cases and faked nationality cases as refusals, the 'effective protection rate of genuine Syrians is likely to be closer to 100%.' 2014 EASO Report n 46, 24, 39

[156] ECRE/ELENA n 1, 6.

[157] ibid 7, 24; 2014 EASO Report n 46, 39-40.

[158] See section on Greece.

[159] ECRE/ELENA n 1, 8-9, 37

[160] ibid 21; European Asylum Support Office, 'Annual Report on the Situation of Asylum in the EU in 2012' (EASO, July 2013) <http://easo.europa.eu/wp-content/uploads/EASO-Annual-Report-Final.pdf> accessed 29 May 2014

[161] ibid 24

Most, if not all, European states have suspended returns to Syria.[162] European countries issued Syrians with 12,599 return decisions in 2013, but few were actually implemented.[163] Some countries, such as Germany, Denmark and Poland, have formal non-return policies, but others have only unofficial practices of non-return. However, numerous reports have been made of returns of Syrian asylum-seekers from Cyprus, Poland, Spain, and Greece to countries where their situation will be dire, such as Lebanon and Turkey.[164]

Most European countries offer family reunification for refugees and some for beneficiaries of subsidiary protection. There are, however, numerous difficulties with respect to family reunification, in particular, lack of documentation and difficulties for family members in accessing European embassies.[165] Some countries, namely Cyprus, Hungary and Slovakia, do not offer family reunification at all.[166]

Reception facilities in European countries range from relatively good to non-existent or appalling (especially for children). Countries reported to have poor reception facilities include Bulgaria, Cyprus and Greece.[167]

Although under international law asylum-seekers should be detained only in exceptional circumstances, practices regarding detention of asylum-seekers vary significantly among European states.[168] There are allegations of unlawful detention, detention in poor conditions and serious abuse of Syrians in some states, particularly in the south-eastern border countries.[169]

[162] UNHCR 'Syrian Refugees in Europe' n 30, 7; Fargues and Fandrich n 41, 15
[163] Frontex 'Annual Risk Analysis, 2014' n 144, Table 11
[164] ECRE/ELENA n 1, 7, 10, 28, 44-45
[165] ibid 9, 38
[166] ibid 42
[167] ibid 35-36. See also UNHCR 'Syrian Refugees in Europe' n 30, 19-20 (discussing continuing challenges regarding reception conditions and some recent improvements).
[168] ibid 31
[169] ibid 7-8, 33-35. See also UNHCR 'Syrian Refugees in Europe' n 30, 20-21

Box 1: Palestinians in Europe

Approximately 540,000 Palestinians, many of them stateless, lived in Syria prior to the civil war, and many are now refugees from Syria in Lebanon, Jordan, Egypt, Iraq and Turkey. Although addressing the situation of Palestinians in any comprehensive way is beyond the scope of this report, we note that, as discussed in the Akram report, Palestinians often face serious discrimination and abuse in the countries in which they have sought refuge, and their situation is frequently significantly worse than other refugees in the region.[170]

For Palestinians who remain in the region, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) is mandated to assist them in the West Bank, East Jerusalem, the Gaza Strip, Jordan, Syria and Lebanon, but UNRWA's resources are grossly insufficient to adequately address the needs of Palestinians, especially with the increasing numbers of Palestinian refugees from Syria. This situation, bound up with regional politics, religion and history, is contributing to serious tensions in the region. [171]

Some Palestinian refugees are excluded from the protection of the CSR51 by Article 1D because they are included in UNWRA's mandate. Under the EU Qualification Directive, Palestinian refugees applying for international protection in Europe whose assistance from UNRWA has ceased 'for any reason' should be granted refugee status (unless they are subject to an exclusion or cessation clause).[172] In 2012, the CJEU held in *Abed El Karem El Kott and Others*, that 'for any reason' in this context means a reason beyond the control of the applicant, such as UNRWA ceasing to exist or being unable to fulfil its mandate, or the applicant having been forced to leave the areas in which UNRWA works for reasons such as threats to personal safety or because UNRWA could not 'guarantee that his living conditions in that area would be commensurate with the mission entrusted to that organ or

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[170] See Table 1, showing more than 67,987 registered Palestinians in Lebanon, Jordan and Egypt; note, however, that many are likely unregistered, and figures for Iraq and Turkey are not reported on UNWRA's website. UNWRA 'Syria Crisis: 63% of Palestine Refugees from Syria Have Been Displaced' n 38; UNHCR 'Update on the High-Level Crisis.' See also Zetter and others n 50, 5-6, 11-13, 18, 29-31

[171] Dahi, 45-48; National Institute of Social Care and Vocational Training, 'The Ongoing Nakba: Palestinian Refugees from Syria in Lebanon' Jadaliyya Reports, 26 December 2013 <http://www.jadaliyya.com/pages/index/15766/the-ongoing-nakba_palestinian-refugees-from-syria-> accessed 27 May 2014; ERN, 'The Syrian Refugee Situation' (ERN, undated) <http://www.resettlement.eu/page/syrian-refugee-situation> accessed 5 June 2014

[172] Qualification Directive (2011/95/EC) art 12(1)(a); EUAFR n 8, 75

agency.'[173] UNHCR agrees with the CJEU's interpretation in *El Kott*, and also notes that practical, legal, and safety barriers may prevent Palestinians from living in areas in which UNRWA operates and should also be included in the interpretation of 'for any reason.' UNCHR also notes that under the Qualification Directive, European states are free to adopt interpretations more favourable to refugees than the minimum standards set out in the Directive.[174]

Despite the difficulties faced by Palestinian refugees beyond those of other refugees from Syria, European countries generally have not implemented any special policies for them, and in some European countries, Palestinians are less likely to be granted international protection than other refugees from Syria.[175] However, statistics on Palestinian asylum claims are not reported uniformly throughout Europe, and the number of Palestinians granted asylum in Europe is unknown.[176]

[173] CJEU, C-364/11, 19 December 2012, paras 65, 82(1)
[174] UNHCR 'Note on UNHCR's Interpretation of Article 1D of the 1951 Convention Relating to the Status of Refugees and Article 12(1)(a) of the EU Qualification Directive in the Context of Palestinian Refugees Seeking International Protection' (May 2013) <http://www.refworld.org/pdfid/518cb8c84.pdf> accessed 19 June 2014
[175] See for example Table 6 below, showing the approval and refusal of Palestinian claims in the UK.
[176] UNHCR 'Syrian Refugees in Europe' n 45.

European resettlement and humanitarian admission programmes in response to the Syrian crisis

The number of Syrian refugees being resettled to or otherwise granted protection in Europe remains pitifully low compared with the number of refugees from Syria within the neighbouring states. Of the approximately 2.8 million registered refugees from Syria in the neighbouring states, European states resettled only 340 in 2013 (with another 6000 granted humanitarian admission in Germany by June 2014). European countries have pledged to resettle or grant humanitarian admission to approximately 20,000 refugees from Syria by the end of 2014 (plus another 10,000 to Germany by an unspecified date).[177]

Some European leaders have called for increased resettlement in response to the Syrian crisis. For example, the EU Parliament issued a Resolution on 9 October 2013 calling on member states to assure safe entry and access to asylum procedures in their territories for Syrian refugees. The Resolution encourages states to implement new or expanded

[177] Eurostat, 'Resettled Persons – Annual Data' <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=0&language=en&pcode=tps00195> accessed 29 May 2014. See also UNHCR 'Projected Global Resettlement Needs'; Voruz

resettlement programmes and humanitarian admission over and above existing national quotas, as well as continuing to support humanitarian aid and other programmes addressing the conflict and resulting crises in and around Syria.[178]

The EU approved a Regional Protection Programme (RPP) for the Syrian region in 2012, and began implementation in 2013. Although few refugees have been resettled to Europe through RPPs in the past, the RPP for the Syrian region offers a possible avenue for legal entry of refugees from Syria into Europe that could be further explored.[179]

Despite these and a few other efforts, there has not been a cohesive European response on resettlement of Syrian refugees, and individual countries' programmes vary dramatically. Germany's programme contrasts markedly with the resettlement/humanitarian admission pledges for Syrian refugees by other European countries, which range from 1500 (Austria), 1200 (Sweden) and 1000 (Norway) to 500 or fewer for the remaining countries which have offered any resettlement places for Syrians in 2014. Table 3 details individual countries' pledges as well as regular resettlement quotas.

Table 3: Resettlement and humanitarian admission of Syrian refugees to Europe [180] and annual resettlement quotas [181]

Confirmed pledges and admissions for Syrians 2013/2014			Annual resettlement quota
Country	**Syrian refugees to be admitted**	**Type of admission**	
Austria	1,500	humanitarian admission	–
Belgium	150	resettlement	100
Denmark	140	resettlement	500
Finland	500	resettlement	750

[178] ECRE/ELENA n 1, 18; European Parliament Resolution of 9 October 2013 on EU and Member State Measures to Tackle the Flow of Refugees as a Result of the Conflict in Syria (2013/2837(RSP)

[179] ICMC n 5, 101-04; see also Zetter and others n 50

[180] UNHCR 'Finding Solutions for Syrian Refugees: Resettlement and Other Forms of Admission of Syrian Refugees' (27 June 2014) <http://www.tagesschau.de/syrische-fluechtlinge-104.pdf> accessed 6 July 2014 ('Finding Solutions' 2014)

* Notes: Belgium: includes 75 to be admitted in 2014 and 75 in 2015; Ireland: includes refugees to be admitted 2014 to 2016; Switzerland: includes refugees to be admitted 2013-2015. Non-European countries included for comparison.

[181] UNHCR 'EU Resettlement Fact Sheet' (undated) <http://www.unhcr.org/524c31b69.pdf> accessed 10 June 2014; UNHCR *Resettlement Handbook* n 45

Confirmed pledges and admissions for Syrians 2013/2014			Annual resettlement quota
Country	**Syrian refugees to be admitted**	**Type of admission**	
France	500	resettlement/ humanitarian admission	100 cases
Germany	20,000 5,500	humanitarian admission individual sponsorship	300
Hungary	30	resettlement	–
Ireland	310	resettlement	80
Liechtenstein	4	resettlement	–
Luxembourg	60	resettlement	–
Netherlands	250	resettlement	500
Norway	1,000	resettlement	1,120
Portugal	23	resettlement	–
Spain	130	resettlement	30
Sweden	1,200	resettlement	1,900
Switzerland	500	resettlement	–
United Kingdom	[open ended]	resettlement - VPR Scheme	750
Total Europe	**31,797 + UK**		
Australia	500	resettlement	12,000 (+500 non-UNHCR)
Belarus	20	resettlement	–
Canada	200 1,100	resettlement private sponsorship	7,735 (+6,865 non-UNHCR)
New Zealand	100	resettlement	750
United States of America	[open ended]	resettlement	58,000 (+12,000 non-UNHCR)
Uraguay	120	resettlement	30
Total confirmed pledges	**33,837 + US + UK**		

As with other crises, a Core Group on Resettlement has been created in response to the Syrian crisis. The Core Group on Syrian Resettlement formed in December 2013 with UNHCR's encouragement and is chaired by Sweden.[182] It has begun work and has already proved very useful in making progress towards its goals, which include:

- Enhancing cooperation with and increasing support to resettlement countries to share best practices, make programmes more efficient, expand resettlement opportunities, improve acceptance rates, and apply eligibility criteria flexibly, with emphasis on resettlement of particularly vulnerable groups and individuals;
- Engaging in dialogue with host countries neighbouring Syria to facilitate resettlement, protection, and assistance for refugees, including increasing opportunities for refugees in host countries, such as scholarships and employment programmes;
- Expanding complementary solutions for refugees, including: 'family reunification, humanitarian admission, medical evacuation, humanitarian evacuation, temporary protection, private sponsorships, labour mobility and investor schemes, student scholarships, and fellowships for academics.'[183]

In addition, with UNHCR, the Geneva-based Permanent Missions of the countries neighbouring Syria have established a Host Countries Resettlement Working Group (RWG) 'to exchange information and feedback on the humanitarian admission and resettlement programmes in the region.'[184]

Complementary solutions and immigration concessions for refugees

In addition to resettlement, temporary protection and humanitarian admission, UNHCR advocates 'complementary solutions' for refugees such as expanded family reunification, private sponsorships, labour mobility and investor schemes, student scholarships, academic fellowships, and medical evacuation.[185]

At times refugees may qualify, or partially qualify, for 'regular' immigration categories, such as students, family members, workers, businesspersons etc. The advantage to qualifying under an immigration category is that it provides a legal route into the host

[182] UNHCR 'Finding Solutions' 2013 n 45; ICMC n 5, 24. Core Group members include: Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Japan, Luxembourg, Norway, the Netherlands, New Zealand, Romania, Spain, Sweden, Switzerland, the UK, the US, Uruguay, IOM, and the EU. O'Sullivan, 8 July 2014 n 94; UNHCR 'Update on the High-Level Segment' n 35.
[183] UNHCR 'Unlocking Complementary Solutions' n25; UNHCR 'Update on the High-Level Segment' n 35; O'Sullivan, 8 July 2014 n 94; UNHCR 'Finding Solutions' 2014 n 180
[184] UNHCR 'Finding Solutions' 2014 n 180
[185] UNHCR 'Unlocking Complementary Solutions for Syrian Refugees' n25

country other than via resettlement or humanitarian admission (both of which are available to relatively few refugees).[186]

Some of these complementary solutions are currently being utilised by refugees from Syria, albeit to a limited extent. For example, Germany's private sponsorship programme has admitted 5500 Syrian refugees.[187] In addition, scholarship programmes exist, including the German-funded DAFI (Albert Einstein German Academic Refugee Initiative) scholarship;[188] the Swedish Institute Study Scholarships for Syrian Students;[189] Portugal's Global Platform for Academic Emergency Assistance to Syrian Students;[190] and the Erasmus Mundus Programme.[191]

Some governments at times make concessions outside (ie relax some of the standards of) the usual immigration rules to make it easier for refugees to qualify to enter or remain. For example, as will be discussed below, the UK has made concessions for Syrian refugees regarding required documentation, extension of stay in the UK when normally no extension would be granted or switching from certain immigration categories to others when normally no switching is permitted in-country.[192] Although these particular concessions may be of limited value because they do not affect entry into the UK, they could be expanded. Other possible concessions might include: exemption from the

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[186] For an overview of immigration laws in the EU, see IOM, *Laws for Legal Immigration in the 27 EU Member States* (IOM, 2009) <http://publications.iom.int/bookstore/free/IML_16.pdf> accessed 16 June 2014

[187] ERN 'The Crisis in Syria' (undated) <http://www.resettlement.eu/news/crisis-syria> accessed 11 July 2014

[188] UNHCR 'Overview of Scholarships for Higher Education – Syria situation' (November 2013) <http://data.unhcr.org/syrianrefugees/download.php?id=3475> accessed 17 June 2014; UNHCR, 'DAFI Scholarships' (undated) <http://www.unhcr.org/pages/49e4a2dd6.html> accessed 17 June 2014

[189] Swedish Institute, 'Swedish Institute Study Scholarships for Syrian Students' (undated) <http://studyinsweden.se/scholarship/swedish-institute-study-scholarships-for-syrian-students/> accessed 17 June 2014

[190] UNHCR 'Syrian Refugees in Europe' n 30, 26

[191] European Commission, 'Erasmus Mundus Programme' (updated 12 December 2014) <http://eacea.ec.europa.eu/erasmus_mundus/programme/action2_en.php> accessed 17 June 2014. See also National Coalition of Syrian Revolution and Opposition Forces 'Scholarships and Grants for Undergraduate and Graduate Degrees' (undated) <http://www.etilaf.us/scholarships> accessed 17 June 2014; EU Neighbourhood Info Centre, 'Scholarship opportunities in Europe: apply now from Palestine, Jordan, Lebanon and Syria' (ENPI, 13 January 2014) <http://www.enpi-info.eu/mainmed.php?id_type=1&id=35754> accessed 17 June 2014

[192] UK Home Office 'Guidance on the Concessions to the Immigration Rules for Syrian Nationals' (undated) <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279687/syrian-concessions.pdf> accessed 16 June 2014

requirement of intent to return to one's home country for visit and other visas; exemption from or relaxation of funding, accommodation, or language requirements for students or family member categories; and exemption from or relaxation of certain requirements in employment categories, such as the necessity to show that there are no qualified local applicants (the domestic labour market test).

In addition, governments could prioritise any applications by Syrians or other refugees in the countries neighbouring Syria made within the regular immigration categories; could create or expand scholarship programmes for Syrian students or employment programmes combined with relevant language training for Syrian workers with needed skills; or otherwise facilitate employment sponsorship by private employers.

3 Selected European countries' responses to the Syrian refugee crisis

In this section, we consider several European countries' responses to the Syrian refugee crisis. We look first at three of the EU border countries geographically closest to Syria – Bulgaria, Greece, and Italy. We then consider Germany and Sweden, both leaders in responding to the Syrian refugee crisis and the EU countries with the highest numbers of in-country asylum claims by Syrians. Germany has by far the largest humanitarian admission programme for Syrians in Europe. Sweden has the largest regular resettlement programme in Europe and largest resettlement programme for Syrians and is distinguished for having offered Syrian refugees permanent residency. We then turn to Norway, which has the second largest regular resettlement in Europe, the second largest Syrian resettlement programme, and is a leader in the response to the refugee crisis in the countries neighbouring Syria. In the following chapter, we consider in more depth the UK, a leader in the political and humanitarian responses to the Syrian crisis and also in the early stages of implementing a resettlement programme for vulnerable Syrian refugees.

The selection of countries examined clearly is not comprehensive, and there are important developments in some other European countries. For example, Ireland initiated its Syrian Humanitarian Admission Programme (SHAP) (an expanded family reunification programme) in 2013.[193] Austria announced in April 2014 that it would expand its humanitarian admission programme for Syrian refugees for 2014 from 500 to 1500, making it the second largest humanitarian admission programme after Germany.[194] Switzerland has recently tried an expanded approach to family reunification – in September 2013, the government announced that it would permit family members of Syrians in Switzerland to apply for admission to Switzerland at its embassies abroad; however, after thousands of Syrians sought to benefit from this programme at Swiss embassies in Turkey, Lebanon and Jordan, it was cancelled in November 2013.[195]

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[193] Irish Naturalisation and Immigration Service, 'Syrian Humanitarian Admission Programme' (undated) <http://www.inis.gov.ie/en/INIS/Pages/SYRIAN%20HUMANITARIAN%20ADMISSION%20PROGRAMME> accessed 10 July 2014. As of 30 April 2014, this programme is closed for new applications. Only 86 applications were lodged under SHAP, all of which are currently being processed. Email correspondence from SHAP Applications Section, INIS to Cynthia Orchard, 11 July 2014.

[194] ERN 'Austria Expands the Humanitarian Admission Programme from 500 to 1500 Syrian Refugees' (undated) <http://www.resettlement.eu/news/austria-expands-humanitarian-admission-programme-500-1500-syrian-refugees> accessed 10 May 2014

[195] Swiss Federal Department of Justice and Police 'Easing of visa requirements for Relatives of Syrian Nationals Living in Switzerland' (Press Release, The Federal Council, 04 September 2013) <http://www.ejpd.admin.ch/content/ejpd/en/home/dokumentation/mi/2013/2013-09-041.html> accessed 10 July 2014. See also ECRE/ELENA n 1, 39-41; Ray Smith, 'Swiss Spring for Syrian Refugees Passes' (Interpress News Service, 25 January 2014) <http://www.ipsnews.net/2014/01/swiss-spring-syrian-refugees-passes/> accessed 6 May 2014. The Swiss authorities received 8200 applications and thus far under this programme have issued 3750 visas. UNHCR 'Finding Solutions' 2014 n 180, fn 4

At the other end of the spectrum, besides the challenges discussed in Greece, Bulgaria and Italy, serious problems exist in the treatment of Syrian (and other) refugees, particularly in the southern border countries, such as Cyprus and Malta.

Border countries: Bulgaria, Greece and Italy

Bulgaria

Bulgaria is one of the first possible entry points into Europe from the countries neighbouring Syria.[196] The number of asylum-seekers in Bulgaria increased sharply in 2013, from around 1000 in most previous years to around 7000–8000 in 2013, approximately 5000 of them from Syria.[197]

In 2012, the approval rates for asylum applications were poor but they are improving significantly. For example, in 2012, there were 30 refusals and 55 approvals; and in the first quarter of 2013, five refusals and100 approvals.[198] Despite the signs of improvement in early 2013, the number of rejections and approvals compared with the number of applications indicates that the vast majority of applications were not being decided promptly. However, by the end of 2013, Bulgaria had overall the highest positive decision rate in the EU28 (88%), related to the fact that the majority of asylum-seekers in Bulgaria were Syrian and Somali and that Bulgaria tends to grant subsidiary protection rather than refugee status.[199]

Issues of particular concern

There are numerous issues of particular concern in Bulgaria, including:

- Although the Bulgarian Criminal Code offers asylum-seekers exemption from criminal liability for illegal entry, irregular migrants apprehended in Bulgaria are subject to arrest and prosecution and are usually given suspended sentences and required to pay fines.[200]
- Harsh reception conditions (including inadequate food, shelter and medical care, and lack of education for children) and at times detention in poor and overcrowded conditions in emergency or detention centres for protracted periods. Even Bulgarian officials have acknowledged that the conditions in some of the

[196] Entry is mainly by land; access by the Black Sea is rare. Frontex 'Annual Risk Analysis, 2014' n 144, 40.

[197] UNHCR 'UNHCR Chief Urges Europe to Help Bulgaria Cope with Syrian Refugee Influx' (22 November 2013) <http://www.unhcr.org/528f88066.html> accessed 12 June 2014; Amnesty n 139, 8; See also Table 2

[198] ECRE/ELENA n 1, 21 (Eurostat data)

[199] 2014 EASO Report n 46, 23

[200] ECRE/ELENA n 1, 30

emergency centres are 'inadequate.'[201] However, conditions in reception facilities began improving significantly in December 2013.[202]

- A shortage of guardians or adequate reception facilities for unaccompanied minors.[203]
- The alleged provision of information about Syrian asylum-seekers by the Bulgarian Ministry of the Interior to the Syrian Embassy in Sofia.[204]
- 'Push-backs' along the Turkish border.[205]
- Expenditure of resources on enhanced border control along the Turkish border, rather than on improving the asylum system.[206] Like the fence and increased surveillance on the Greek–Turkish border, current activities and further planned fencing will be likely to result in irregular migrants seeking entry to other European countries via dangerous sea routes.[207]

Improvements

Bulgaria has requested EU support in addressing problems with its asylum system, and is working with EASO and UNHCR. In 2013, Bulgaria received approximately €500,000 from EU funds for asylum-seeker reception programmes. On 14 September 2013, Bulgarian officials announced a plan to provide 1000 additional reception places; however, considering the numbers of new asylum-seekers in 2013, this seems insufficient. In October 2013, Bulgaria and EASO agreed on an Operating Plan for 2014 to more appropriately manage mixed migration flows, in particular the identification and referral of migrants with protection needs.[208] There were, however, problematic areas in proposed changes, particularly detention which would violate international and EU law.[209] However,

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[201] Amnesty n 139, 5, 8-9. See also Grant and Chulov n 37; ECRE/ELENA n 1, 35-36, 54; UNHCR 'UNHCR Chief Urges Europe to Help Bulgaria Cope with Syrian Refugee Influx' n 197; Vodenitcharov n 143

[202] UNHCR 'Syrian Refugees in Europe' n 30, 19

[203] 2014 EASO Report n 46, 58

[204] ECRE/ELENA n 1, 53

[205] UNHCR 'Syrian Refugees in Europe' n 30, 8

[206] ECRE/ELENA n 1, 52. Bulgaria's ability to control its external borders is particularly important because it is seeking to join the Schengen zone. Georgi Gotev, 'Bulgaria Admits Schengen Entry Is Now a Long-term Goal' (21 January 2014) <http://www.euractiv.com/justice/bulgaria-admits-schengen-accessi-news-532883> accessed 10 June 2014; Sean Carney, 'Bulgaria Looks to Border Fence to Stem Surge in Refugees' *The Wall Street Journal* (17 October 2013) <http://online.wsj.com/news/articles/ SB10001424052702304384104579141451556508292> accessed 10 June 2014

[207] Sherwood and others n 36

[208] ECRE/ELENA n 1, 35-37, 53-54

[209] ECRE 'UNHCR: Bulgaria's Draft Law Foresees Widespread Detention of Asylum Seekers, Contrary to International and EU Norms and Standards' (Weekly Bulletin, 13 December 2013) <http://www.ecre.org/media/news/weekly-bulletin.html> accessed 13 June 2014

by early 2014, there were some noticeable improvements, particularly in reception conditions.[210]

Resettlement
In 2012, the Bulgarian government agreed to participate in the EU's joint resettlement programme, with a pilot programme scheduled to start in 2014. While Bulgaria is to be commended for joining resettlement efforts, given the current serious deficits in reception capacity and other problems, the success of the resettlement programme may be somewhat limited in the near future.[211]

Greece
Greece has also seen a significant increase in numbers of Syrian refugees since 2011 because it is one of the first European countries that refugees from the Syrian region can enter.[212]

It is difficult to accurately assess numbers of Syrian refugees present in Greece because the vast majority have not claimed asylum there – either they have been unable to do so (because the 'dysfunctional' asylum system was inaccessible) or they hoped to reach a more refugee-friendly European country or one where they had friends or relatives.[213] According to the Christian Science Monitor (citing Greek police statistics), more than 17,000 Syrians entered Greece between 2011 and December 2013.[214] However, in 2012, for example, only 275 Syrian nationals applied for asylum in Greece, whereas Greek authorities recorded the arrest of nearly 8000 Syrians for irregular entry.[215]

In response to increased numbers of irregular migrants, Greece has enhanced control of its borders, including fencing 12.5km along its border with Turkey and deploying approximately 2000 new border guards in 2012–2013. After implementation of these measures, the number of people apprehended in Greek border areas and in Greek waters declined sharply (from 32,288 in the first ten months of 2012 to 9851 in the first ten months of 2013).[216]

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[210] 2014 EASO Report n 46, 58
[211] ECRE/ELENA n 1, 55; ICMC n 5, 273 (noting the serious shortage of accommodation for refugees)
[212] ibid 76. Approximately 85-90% of irregular migrants entering Europe pass through Greece. Psaropoulos n 143, citing Francois Crepeau, UN Special Rapporteur for the Human Rights of Migrants.
[213] ibid
[214] Nikolia Apostolou, 'Greece to Syrian Refugees: Don't Get Too Comfortable' (Christian Science Monitor, 23 December, 2013) <http://www.csmonitor.com/World/Europe/2013/1223/Greece-to-Syrian-refugees-Don-t-get-too-comfortable> accessed 9 June 2014
[215] ECRE/ELENA n 1, 20
[216] Amnesty n 139, 8. See also UNHCR 'Syrian Refugees in Europe' n 30, 11; Sherwood

Issues of particular concern

Issues of particular concern in Greece include:

- Inaccessibility of the asylum system.[217]
- Systematic denial of entry to Syrian and other asylum-seekers at the Turkish border and/or at sea and return to Turkey without assessment of asylum claims.[218] In one case, Greek officials are reported to have beaten asylum-seekers apprehended at sea, removed the motor from their boat, and left them adrift in Turkish waters.[219]
- Physical abuse by Greek officials of Syrian and other asylum-seekers apprehended in Greek territory (both land and sea).[220]
- Arrest and detention of asylum-seekers, at times for several months, in overcrowded and otherwise inappropriate and unlawful conditions, at times without any information about the possibility of claiming asylum.[221] In addition, Greek officials are alleged to have taken passports and money from asylum-seekers.[222] In the past, Syrians released from detention were often issued with instructions to leave Greece (with a deadline of seven to 30 days), with failure to do so possibly leading to subsequent arrest and detention.[223]
- Grossly inadequate reception facilities and complete lack of social support to asylum-seekers or refugees, and lack of permission to work, resulting in many being reduced to abject poverty or reliance on religious or other non-governmental organisations for support.[224]
- Expenditure of significant resources to enhance border control along the Greek-Turkish border,[225] which could be used instead to improve the Greek asylum system and, more specifically, to set up procedures to allow entry for some asylum-seekers rather than focus solely on keeping people out regardless of their potential status as refugees.
- The 2012 construction of fencing along the Greek–Turkish border, which diverted 90% of the flow of irregular migration from Turkey to Greece to the Aegean Sea, resulting in numerous deaths due to the unsafe conditions of irregular migration by sea.[226]

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and others n 36; Nikolaj Nielsen, 'Fortress Europe: A Greek Wall Close Up' (EU Observer, 21 December 2012) <http://euobserver.com/fortress-eu/118565> accessed 10 June 2014

[217] ECRE/ELENA n 1, 76

[218] ibid 76-69 (n 352, 365)

[219] Amnesty n 139, 5-8; Psaropoulos n 143. See also UNHCR 'Syrian Refugees in Europe' n 30, 8

[220] ECRE/ELENA n 1, 78; Amnesty n 139, 5-8; Psaropoulos n 143

[221] ibid 77-78; Psaropoulos n 143

[222] Amnesty n 139, 5-8; Psaropoulos n 143

[223] ECRE/ELENA n 1, 32, 78

[224] ibid 77; Psaropoulos n 143

[225] Psaropoulos n 143

[226] Sherwood and others n 36; Nielsen n 216

Improvements
Prior to June 2013, asylum claims were handled by the Greek police, and the process of claiming asylum was 'notoriously difficult' and time-consuming (often taking approximately three years). In the previous system, applications were assessed by two committees, which had very low average approval rates (0.25% in the first and approximately 9% in the second). Applicants were required to report monthly to police, without exception even for urgent medical care, or lose their asylum applicant status.[227] Under this system, the Greek record on approving asylum claims by Syrians was appalling – no requests for asylum were approved in 2012 (compared with 150 rejections) and only five were approved in the first quarter of 2013 (with 20 rejections) .[228] As these figures show, very few applications were decided at all.

In mid-2013, the Greek government created its new Asylum Service under the Ministry of the Interior, which shows signs of significant improvements and which will grant asylum-seekers permission to work. However, permission to work does not, of course, guarantee employment, particularly in Greece, which had an unemployment rate of 27% in 2013.[229] Furthermore, the new Asylum Service will not deal with the backlog of close to 50,000 applicants who had claimed asylum prior to its creation, which remain the responsibility of the police. However, Greece is taking steps to deal with this backlog and other challenges with support from UNHCR and EASO.[230]

According to the Greek police, in accordance with an order issued on 9 April 2013, Syrians should not be detained for more than a few days to verify their nationality, and the expulsion of Syrians has been suspended. However, the police appear not to be following this order in full, and in any event, it does not make any provisions for reception, adequate accommodation, healthcare, or release of asylum-seekers already detained, nor does it apply to non-Syrian national refugees who previously resided in Syria, such as Iraqis or Palestinians. Furthermore, it prohibits Syrians from residing in Athens.[231]

Resettlement
Greece does not have a refugee resettlement programme and has not pledged to resettle or grant humanitarian admission to Syrian refugees.

Italy
Like Bulgaria and Greece, Italy, as a country of first entry on Europe's southern borders, has faced an increase of refugees from Syria. In 2013, more than 11,000 Syrians sought to enter Italy, mainly by crossing the Mediterranean from Libya and Egypt. The increase in

[227] Psaropoulos n 143
[228] ECRE/ELENA n 1, 21, 77 (Eurostat data), noting that 43% of applications were not decided, but were 'otherwise closed'
[229] Psarapoulos n 143
[230] 2014 EASO Report n 46, 55-57
[231] ECRE/ELENA n 1, 32, 45

numbers of people undertaking the perilous sea journey is in part due to mistreatment in Egypt and Libya, including physical abuse and detention. [232]

Issues of particular concern
Italy's treatment of Syrian and other refugees has been criticised on various fronts, particularly with respect to refugees arriving by sea. Lengthy detention is common, and conditions, particularly in Sicily and Lampedusa, are inadequate and overcrowded. Treatment at times is 'appalling' and allegedly includes abuse by authorities.[233]

However, Syrians did not figure highly in overall numbers of asylum claims in Italy in 2013.[234] The majority of refugees from Syria who reach Italy do not claim asylum but

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[232] Italian Refugee Council, '"Mare Nostrum": CIR's Director to Redattore Sociale - for the First Time since 1998, 6 Months without a Shipwreck', April 2014 <http://www.cir-onlus.org/index.php?option=com_content&view=article&id=1228:mare-nostrum-cir-s-director-to-redattore-sociale-for-the-first-time-ince-1998-6-months-without-a-shipwreck&catid=42:latest-news&lang=en&Itemid=244> accessed 9 June 2014 ('Mare Nostrum'); UNHCR 'Inter-agency Regional Response for Syrian Refugees' (24-30 January 2014) <http://reliefweb.int/report/lebanon/inter-agency-regional-response-syrian-refugees-egypt-iraq-jordan-lebanon-turkey-24-30> accessed 9 June 2014; Amnesty n 139, 7; UNHCR 'Inter-agency Regional Response for Syrian Refugees' (10-23 October 2013) <https://www.unhcr.org.hk/files/2013%20Emergency/Syria/29%20oct/Inter-Agency%20Regional%20Response%20-%20Syrian%20Refugees%2020131023.pdf> accessed 9 June 2014 (noting that in August and September 2013, 6,233 Syrians and Palestinians arrived on the Italian coast)

[233] Sara Gates, 'Italy Condemned For 'Appalling' Migrant Video Showing Refugees Stripping Naked, Being Hosed Down', *Huffington Post* 18 December 2013 <http://www.huffingtonpost.com/2013/12/18/italy-migrant-video-lampedusa-investigation_n_4466798.html> accessed 9 June 2014; Sherwood and others n 36; ECRE 'Azmi and Azzam in Belgium' (video posted by 8 April 2014) <https://www.youtube.com/watch?v=ujI8UGubw60> accessed 13 June 2014 (video testimony of Syrian refugee claiming to have been beaten by Italian police after refusing to have his fingerprints taken); ECRE 'Refugees International: Tough Times for Syrian Refugees in Egypt' (16 May 2014) <http://ecre.org/component/content/article/70-weekly-bulletin-articles/701-refugees-international-tough-times-for-syrian-refugees-in-egypt.html> accessed 13 June 2014 (with link to video)

[234] The top five nationalities of asylum-seekers in Italy in 2013 were: Nigerian (3580; 13%); Pakistani (3310; 12%), Somali (2885; 10%); Eritrean (2315: 8%); and Afghan (2175; 8%). Luca Zingoni, 'EUROSTAT: Increase in Asylum Requests in the EU in 2013 to 435,000, nearly 28,000 in Italy' (Italian Refugee Council, 2 April 2014) <http://www.cir-onlus.org/index.php?option=com_content&view=article&id=1169:eurostat-increase-in-asylum-requests-in-the-eu-in-2013-to-435-000-nearly-28-000-in-italy&catid=42:latest-news&lang=en&Itemid=244> accessed 9 June 2014. For Syrians in Italy, there were 15 rejections and 200 approvals (of any type of international protection) in 2012 and 5

seek to travel on to other European countries, where they have relatives, friends, or other connections or hope for better conditions. Approximately 94% of Syrian refugees arriving in Italy seek to continue on to other countries – only 695 of the 11,300 Syrians who reached Italy by sea in 2013, applied for asylum.[235] Many, however, are not able to leave Italy or are returned under the Dublin Regulation if they do leave.[236]

Improvements

The Italian response to the increase in refugees from Syria has been positive in some cases. For example, from September to November 2013, many refugees began staying at the central train station in Milan, hoping to take trains onward to other countries, but unable to do so. The local authorities treated this as a humanitarian emergency; local people brought bedding and food, and NGOs set up refugee shelters.[237] In addition, after the October 2013 Lampedusa tragedy, the Italian government implemented Europe's largest search and rescue naval mission, 'Mare Nostrum,' resulting in the rescue at sea of approximately 70,000 migrants (by 1 July 2014), some of them refugees from Syria, and achieving, for the first time since 1998, a six-month period (to April 2014) in which there were no migrant shipwrecks off the Italian coast.[238]

However, Mare Nostrum costs €300,000 per day, and Italy complains that it should not have to cover its costs without help from the rest of Europe, nor should all the refugees who enter Italy have to remain in Italy. The Italian Minister of the Interior recently stated that Italy 'could not become the prison of refugees who want to go to northern Europe.'[239] In 2013, Italy requested and has begun receiving EASO support to improve its asylum system, with focus on addressing the processing of continually high numbers

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rejections and 70 approvals in the first quarter of 2013. ECRE/ELENA n 1, 21 (Eurostat data)

[235] UNHCR 'Syrian Refugees in Europe' n 30, 17

[236] Italian Refugee Council 'Mare Nostrum' n 232; Frontex 'Annual Risk Analysis 2014' n 144, 39, 50 (noting that Syrians arriving in Europe often refused to be fingerprinted); UNHCR 'Inter-agency Regional Response for Syrian Refugees' (24-30 January 2014) n 232; Amnesty n 139, 7; UNHCR 'Inter-agency Regional Response for Syrian Refugees' (10-23 October 2013 n 232

[237] Amnesty n 139, 9

[238] UNHCR 'Syrian Refugees in Europe' n 30, 10; Italian Refugee Council, 'Mare Nostrum.' See also Al-Jazeera, 'Italy Rescues Hundreds of Migrants from Sea' (6 June 2014) <http://www.aljazeera.com/news/europe/2014/06/italy-rescues-hundreds-migrants-from-sea-201466114933191430.html> accessed 9 June 2014; Amnesty n 139, 6; Traynor and Kington n 143. However, this record was broken in May 2014, when at least 17 migrants died when the boat carrying them sunk off the coast of Lampedusa. BBC, 'Migrants Drown as Libya Boat to Italy Sinks', *BBC*, 12 May 2014 <http://www.bbc.com/news/world-europe-27379493> accessed 13 June 2014

[239] Sherwood and others n 36

of boat arrivals.[240] However, requests by Italian and other border country officials and non-governmental actors for the EU or CoE to take responsibility for a collective, comprehensive response to the influx of Syrian refugees (including relocation from the border states) have not yet resulted in significant achievements.[241]

Status granted
Beneficiaries of international protection in Italy may receive refugee status (five-year residence permit) or subsidiary protection (three-year stay permit).[242]

Resettlement
Like most other European external border countries, Italy does not have a regular resettlement programme, but has accepted small numbers of refugees in ad hoc resettlement programmes, such as the Joint EU resettlement of Iraqi refugees, for which Italy accepted 176 refugees.[243] So far, Italy has not pledged to accept resettled refugees from Syria, but may be more likely to do so if there is a perception of responsibility-sharing with other European countries.[244]

European leaders in refugee protection: Germany, Sweden and Norway

Germany
Aid
In 2012 and 2013, Germany contributed approximately €440 million for humanitarian and development aid to people suffering from the Syrian conflict, making Germany one of the biggest donors of international aid to the Syrian people in Syria and the neighbouring countries.[245]

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[240] 2014 EASO Report n 46, 57-58
[241] Italian Refugee Council 'From the European Council, Stalemate' (6 June 2014) <http://www.cir-onlus.org/index.php?option=com_content&view=article&id=1286:cir-from-the-european-council-stalemate&catid=42&Itemid=152&lang=en> accessed 9 June 2014; Perrin and McNamara n 91, 35
[242] Perrin and McNamara n 91, 31
[243] ICMC n 5, 108; Perrin and McNamara n 91, 2, 8, 16, 43-44 (noting that when Italy has resettled refugees they could not be granted asylum until after arrival in Italy)
[244] Perrin and McNamara n 91, 14
[245] Federal Foreign Office (of Germany) 'Germany Increases Assistances for Victims of the Syrian Conflict' (updated 15 January 2014) <http://www.auswaertiges-amt.de/EN/Aussenpolitik/Laender/Aktuelle_Artikel/Syrien/140115_HuHi_Syrien.html> accessed 6 June 2014 See also Migration Policy Centre 'Aid and Asylum Map' (undated) <http://syrianrefugees.eu/?page_id=199> accessed 6 June 2014 (Eurostat data January 2014), showing Germany as the 2nd largest European donor country.

In-country grants of asylum

Germany is one of the primary destination countries for Syrian refugees seeking asylum in Europe.[246] The approval rate for Syrian asylum applications (resulting in a positive decision of any kind) in Germany is high – 96.3% in 2012, and close to 100% in 2013, resulting in approximately 8700 grants of international protection to Syrians in 2013.[247] German officials treat stateless persons who previously resided in Syria on the same basis as Syrian nationals with respect to international protection.[248] German courts have found that Syrians who have applied for asylum in Germany after leaving Syria without permission are at risk of persecution in Syria on the basis of implied political opinion, and therefore qualify for protection.[249] Germany suspended forced removals to Syria in April 2011 and is currently not returning Syrians to Syria.[250] Although there is prioritisation of Syrian cases (since October 2013), by the end of 2013, Germany had the highest number of pending asylum cases of any country in Europe (more than 130,000).[251]

Status granted

There are various types of international protection in Germany; in 2013 (up to the end of August) 5604 Syrian asylum applications were decided on, resulting in 133 persons being granted asylum under Article 16(a) of the German Constitution, 1008 persons being granted refugee status under the Geneva Convention (§60, section 1 of the German Aliens Act), and 4184 persons being granted protection against deportation and one-year potentially renewable residence permits under §60 sections 2, 33, 4 or 7 of the Aliens Act. Ten cases were found inadmissible or unfounded, and 239 were otherwise resolved.[252]

If granted asylum or refugee status, a temporary residence permit is provided which entitles the refugee to treatment equal to German citizens with respect to social welfare benefits as well as integration assistance.[253]

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[246] ECRE/ELENA n 1, 72. See also Aron Lund, 'Slamming the Golden Door' (Carnegie Endowment for International Peace, 18 December 2013) <http://carnegieendowment.org/syriaincrisis/ ?fa=53966&reloadFlag=1> accessed 6 May 2014

[247] Email correspondence from Roland Bank, Head of Protection, UNHCR Germany, to Cynthia Orchard, 4 July 2014; ECRE/ELENA n 1, 72

[248] ECRE/ELENA n 1, 73

[249] ibid 23

[250] ibid 74. In January 2013, Germany increased the forced return of rejected asylum-seekers to Syria under a new re-admission agreement. However, in December 2013, after acknowledging reports of Syrian asylum-seekers being detained after return to Syria, the German government recommended a moratorium on further returns to Syria, and UNHCR confirms that Germany is not currently returning Syrians. Bank, 4 July 2014 n 247; Amnesty International USA 'Germany Human Rights' (AIUSA, undated) <http://www.amnestyusa.org/our-work/countries/europe/germany> accessed 25 June 2014

[251] 2014 EASO Report n 46, 19, 40. See also UNHCR 'Syrian Refugees in Europe' n 30, 16

[252] ECRE/ELENA n 1, 72

[253] Federal Ministry of the Interior (of Germany) 'Asylum and Refugee Policy in Germany'

Family reunification
Germany generally does not have specific rules regarding family reunification for refugees; rather, refugees seeking to bring their family members to Germany must meet the same requirements as other foreigners with residence permits in Germany. Generally, family members can include spouses over age 18 and partners and minor children.[254] Refugees can be exempted from German language and adequate income and accommodation requirements which apply to other family-based immigrants.[255]

Private sponsorship
In addition, most German states (länder) allow refugees from Syria in Germany to privately sponsor members of their extended family, if the relatives living in Germany can guarantee to cover accommodation and living costs, with health insurance provided by the local authority or the state. Approximately 5500 individuals have been issued private sponsorship visas.[256]

Resettlement and humanitarian admission
In terms of a regular resettlement programme, Germany has a small programme, operating since 2012, with a current annual quota of 300 refugees. Refugees admitted under the resettlement programme are granted temporary residence permits.[257] There are some problems with the current resettlement programme. For example, because resettled refugees are not granted formal refugee status, they do not have the same rights and benefits as recognised refugees with respect to permanent residency, family reunification, and citizenship. In addition, resettled refugees often experience difficulties in moving from their initial area of resettlement to another part of Germany and there are challenges relating to integration, including language and employment.[258]

Despite the newness and small size of its regular resettlement programme, of all European countries, Germany has by far the largest humanitarian admission programme for refugees from Syria, and German officials actively seek to promote expansion of resettlement or humanitarian admission of Syrians to Europe.[259] Germany's Temporary

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(BMI, undated) <http://www.bmi.bund.de/EN/Topics/Migration-Integration/Asylum-Refugee-Protection/Asylum-Refugee-Protection_Germany/asylum-refugee-policy-germany_node.html> accessed 6 June 2014

[254] UNHCR 'Germany Country Chapter,' *Resettlement Handbook* (April 2013 revision) <http://www.unhcr.org/4a2ccf4c6.html> accessed 5 June 2014, 14.1

[255] UNHCR 'Germany Country Chapter' n 254 14.1

[256] Bank, 4 July 2014 n 247; ERN, 'German Parliament Calls' n 42; Lund n 246; ECRE/ELENA n 1, 9, 43, 74.

[257] UNHCR 'Germany Country Chapter' n 254,14.1; ERN 'Germany' (updated May 2014) <http://www.resettlement.eu/country/germany> accessed 3 June 2014

[258] ICMC n 5, 188-89

[259] Dagmar Engel, 'Germany Ready to Accept More Syrian Refugees' (DW, 31 May 2014) <http://www.dw.de/germany-ready-to-accept-more-syrian-refugees/a-17673954>

Humanitarian Admission Programme (THAP) was implemented in 2013 and aims to admit 10,000 Syrians from Lebanon in 2013–2014.[260]

Persons admitted through THAP are required to stay in reception centres for two weeks on arrival in Germany and then are assigned to live in one of the sixteen states. They receive two-year potentially renewable residence permits, permission to work and potential eligibility for children's and unemployment benefits and can participate in an integration course.[261]

Three groups benefit under THAP:

1. Vulnerable persons: children, women with special needs, and members of religious minorities.[262] Up to 3% of the quota can be used to grant admission to people with serious medical conditions. These refugees must have registered with UNHCR or Caritas in Lebanon by 31 March 2013;
2. German ties: Refugees who have family members in Germany, speak German, or have other ties, with priority for persons who have sponsors in Germany willing to financially support them;
3. Syrian re-builders: people who have skills likely to be useful in the reconstruction of Syria after the war and who would benefit from further training in Germany.[263]

Of the initial 5000 beneficiaries under THAP, UNHCR undertook to assess applicants for 4000 of the 5000 places on the above three criteria (approximately 1/3 for each

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accessed 6 June 2014; Marcus Lütticke, 'Syrian refugees in Germany' (DW, 10 June 2014) <http://www.dw.de/syrian-refugees-in-germany/a-17697536> accessed 26 June 2014

[260] IOM 'Syrian Refugees Leave Beirut for Temporary Resettlement in Germany' (IOM, 7 January 2014) <http://www.iom.int/cms/en/sites/iom/home/news-and-views/press-briefing-notes/pbn-2014/pbn-listing/syrian-refugees-leave-beirut-for.html> accessed 6 June 2014

[261] ECRE/ELENA n 1, 74-75; ICMC n 5, 99

[262] According to Al-Arabiya, 'Germany Offers to Take 5,000 More Refugees' *Al-Arabiya*, 30 March 2013 <http://english.alarabiya.net/en/News/2013/03/20/Germany-offers-to-take-in-5-000-more-Syrian-refugees-.html> accessed 6 June 2014, Christian Syrians were to be given preference for admission to Germany, quoting the German Interior Minister Hans-Peter Friedrich, because 'they are under particular threat of persecution.'. However, according to both ICMC and UNHCR, Christians are not given any special preference under THAP. Bank, 4 July 2014, n 247; email correspondence from Lisa Fischer, ICMC Europe, to Cynthia Orchard, 19 June 2014. With respect to the current Syrian refugee crisis, the Austrian government initially prioritized Christians (as a persecuted minority group and on the basis of ties with a religious organization in Austria) for humanitarian admission. However, after criticism by NGOs and other stakeholders, Austria changed to UNHCR selection criteria. Fischer, 19 June 2014

[263] ECRE/ELENA n 1, 74-75

group), with the remaining 1000 places to be allocated by the German Embassy in Lebanon.[264] After the initial 4000 were processed by UNHCR, the German government decided to prioritise selection based on requests from persons residing in Germany, and approximately 6000 refugees from Syria have arrived in Germany under THAP as of July 2014.[265]

On 12 June 2014, Germany announced that it will admit an additional 10,000 refugees from Syria.[266] It is likely that a portion will be selected by UNHCR and the remainder will be selected by the German government, with many of the beneficiaries being identified by refugees already in Germany, though details remain to be confirmed.[267]

Sweden

Aid

Sweden is one of Europe's largest donors of humanitarian aid in response to the Syrian crisis. From 2011 to June 2014, Sweden donated €84,436,191.[268]

In-country grants of asylum

Sweden has one of the best asylum systems in the world in many respects and has become a primary destination for refugees from Syria in Europe. From 2011 to December 2013, Sweden provided international protection to approximately 25,000 Syrians, more than any country outside those neighbouring Syria, mainly through in-country grants of asylum.[269] Sweden suspended all forced returns to Syria in early 2012.[270] Sweden's approval rate for Syrian asylum applications has improved dramatically since 2012, when only 28% of Syrian asylum claims were approved, to an 80% approval rate in 2013 (to September). The Swedish Migration Board estimates that approximately 60,000 Syrians will claim asylum in Sweden in 2014.[271] From January to 1 June 2014, Sweden decided 8003 Syrian asylum

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[264] ibid 74

[265] Bank, 4 July 2014 n 247

[266] Agence France Presse n 32; ECRE 'Germany to Resettle' n 31

[267] Bank, 4 July 2014 n 247

[268] European Commission 'Syria Crisis: Echo Factsheet' (4 June 2014) <http://ec.europa.eu/echo/files/aid/countries/factsheets/syria_en.pdf> accessed 16 June 2014, Part 6.

[269] Lund n 246

[270] ECRE/ELENA n 1, 99

[271] ibid, 96; Sweden received the third highest number of asylum applications in Europe in 2013, approximately 54,000, or 15% of the total 435,000, after Germany (29%) and France (15%). 'Sweden Leads EU in Asylum-seeker Approvals' *The Local* (24 Mar 2014) <http://www.thelocal.se/20140324/sweden-leads-eu-in-asylum-approvals> accessed 10 June 2014. However, Iraqis from Syria and Palestinians who fled Iraq to Syria who apply for asylum in Sweden do not benefit from Sweden's generosity towards Syrians; Sweden's interpretation of the *El Kott* decision so far is that it is permissible to return these groups to Iraq. Approximately 100 of these cases are currently pending. Email correspondence from Birgitta Elfstrom to Susan Akram, 21 November 2013.

cases, with a 100% approval rate (after excluding Dublin 'and other cases').[272] The Swedish Migration Board prioritises Syrian asylum applications.[273]

Status granted
In September 2013, Sweden announced that it would grant asylum (and permanent residency) to all Syrians approved for international protection in Sweden. This brings Sweden's treatment of Syrian applications in line with its usual approach of granting permanent residence to persons in need of international protection.[274]

Persons granted refugee status can apply for Swedish citizenship after four years of permanent residency (eight years if they do not have identity documents) and are not required to pass a language or civic knowledge exam.[275]

Family reunification
Since September 2013, immediate family members (spouses, partners and children under age 18) of refugees in Sweden are entitled to family reunification (residence permits). Other relatives usually are not eligible for family reunification, but may be if there is a special dependency which existed in the country of origin.[276]

Similarly to some other European countries, there is a problem of access for family members applying to join relatives in Sweden from the Syrian region. Sweden has only an Honorary Consulate General in Beirut, which accepts applications from Lebanese citizens and stateless Palestinians legally residing in Syria. However, most stateless Palestinians are now not allowed to enter Lebanon. In the past, Syrian refugees usually travelled to Amman, Jordan to submit applications for family-based immigration to Sweden. However, the Jordanian border was closed in June 2014 to refugees from Syria (unless they had permanent residency permits). Although the Swedish missions in Beirut and Amman issue certificates to persons with an appointment at their offices, these certificates do not

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[272] Swedish Migration Board 'Asylum Decisions, Swedish Migration Board, 2014' (1 June 2014) <http://www.migrationsverket.se/download/18.7c00d8e6143101d166d1aad/1401694732982/Avgjorda+asyl%C3%A4renden+2014+-+Asylum+desicions+2014.pdf> accessed 25 June 2014, 2nd table
[273] ECRE/ELENA n 1, 96
[274] Prior to September 2013, Sweden issued temporary residence permits with no right of family reunification to some Syrians. ECRE/ELENA n 1, 96-97. As a result of the September 2013 announcement, many Syrians with a false hope that they could be granted permanent residency from outside Sweden went to Swedish embassies in Turkey, Jordan and Egypt. Linda Genborg, 'Syrian Refugees Queue at Swedish Embassies', *Goteborg Daily* 13 September 2013 <http://www.goteborgdaily.se/news/syrian-refugees-queue-at-swedish-embassies> accessed 24 June 2014
[275] ERN 'Sweden' (ERN, undated) <http://www.resettlement.eu/country/sweden#swedens-resettlement-programme> accessed 10 June 2014
[276] ECRE/ELENA n 1, 99

guarantee entry into Jordan or Lebanon, and Syrian refugees must now travel to other embassies in the region (in Ankara, Istanbul, Cairo, Abu Dhabi or Riyadh).[277]

Resettlement

With an annual quota of 1900 refugees, Sweden has the biggest regular resettlement programme in Europe, operating since 1950 and efficiently implemented by the Swedish Migration Board in collaboration with UNHCR and IOM. The usual processing time for resettlement is 20 days, and resettled refugees are granted permanent residency prior to arriving in Sweden. Sweden has a good integration programme for resettled refugees.[278]

Sweden is particularly good at emergency resettlement and can process emergency cases within five days. Of the annual quota, 250 places are reserved for emergencies; and in 2013, 200 of those will be reserved for Syrians.[279]

Although excellent in many ways, problem areas in Sweden's resettlement programme exist, including:

- Reduced availability of accommodation for refugees at the municipal level;
- A less refugee-friendly political climate in recent years; and
- Language and employment barriers for refugee integration.[280]

In 2013, Sweden pledged 1200 resettlement places for Syrian refugees in 2014. In addition, 600 of the 1900 annual quota places for 2014 are reserved for Syrians and Palestinians from Syria.[281]

As noted, Sweden chairs the Core Group on Syrian Resettlement and advocates with other countries to expand refugee resettlement for refugees from Syria.[282]

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[277] Swedish Migration Board 'Jordan has closed its Syrian border' (24 June 2014) <http://www.migrationsverket.se/English/Private-individuals/Protection-and-asylum-in-Sweden/Nyheter/2014-06-24-Jordan-has-closed-its-Syrian-border.html> accessed 25 June 2014; The Consulate of Sweden in Beirut, 'News' (Embassy of Sweden - Damascus, 9 June, 8 May, 4 April 2014) <http://www.swedenabroad.com/en-GB/Embassies/Damascus/About-us/Sweden-in-Lebanon/> accessed 25 June 2014

[278] Swedish diplomatic missions also occasionally refer refugees for resettlement. UNHCR 'Sweden Country Chapter' *Resettlement Handbook* (June 2013 revision) <http://www.unhcr.org/3c5e5a219.html > accessed 10 June 2014. See also ERN 'Sweden' n 275

[279] ERN 'Sweden' n 275

[280] ibid

[281] ERN 'The Crisis in Syria' n 187; Swedish Migration Board, 'Syrian Refugees the Focus of the Swedish Resettlement Scheme in 2014' (6 February 2014) <http://www.migrationsverket.se/English/About-the-Migration-Board/News-archive/News-archive-2014/2014-02-06-Syrian-refugees-the-focus-of-the-Swedish-resettlement-scheme-in-2014.html> accessed 10 June 2014

[282] ECRE/ELENA n 1, 99; Swedish Migration Board n 281

Norway

Although not a member of the EU, Norway participates in many EU programmes, is a member of the European Economic Area and the Council of Europe, is a party to the ECHR and is subject to the ECtHR's jurisdiction.

Aid

Norway is one of the leading contributors to humanitarian aid for persons displaced by the Syrian civil war, providing funds to be used within Syria and in the countries neighbouring Syria. By the end of 2013, Norway had contributed NOK 850 million, and a January 2014 pledge of additional humanitarian aid will bring the total to NOK 1.3 billion (approximately €160 million).[283]

In-country grants of asylum

Norway receives far fewer Syrian asylum applicants than Germany or Sweden, though the number of applications has increased significantly from 2012 to 2014. In 2012, there were just 327 applications, in 2013, there were 856 applications, and from January to May 2014, there were 525 asylum applications by Syrians.[284] Approval rates for Syrian asylum claims are high.[285] In 2012 and early 2013, Norway granted subsidiary protection to Syrian refugees much more often than refugee status.[286]

Status granted

Norwegian law (Immigration Act of 2008, Art 28) provides that a person granted refugee status or subsidiary protection is entitled to a residence permit of three years or one year, depending on the availability of evidence to confirm the applicant's identity and nationality. If there is sufficient documentary evidence, a three-year residency permit is issued; but when there is no documentary evidence of identity, Syrian nationality can be assumed and the asylum applicant granted a one-year residence permit, subject to monitoring. Permanent residence is normally granted after three years if the conditions making international protection necessary continue in existence.[287]

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[283] Nina Berglund, 'Norway Offers More Aid to Syria' (newsinenglish.no, 15 January 2014) <http://www.newsinenglish.no/2014/01/15/norway-offers-more-aid-to-syria/> accessed 30 April 2014

[284] Norwegian Directorate of Immigration (UDI), Asylum applications lodged in Norway by Citizenship and Month (2014)'; 'Asylum applications lodged in Norway by Citizenship and Month (2013)'; 'Asylum applications lodged in Norway by Citizenship and Month (2012)' (UDI, 2012-2014) <http://www.udi.no/en/statistics-and-analysis/statistics> accessed 13 June 2014

[285] In 2013 (to mid-September), 410 of 484 (84%) Syrian applications received a positive decision in the first instance. ECRE/ELENA n 1, 87

[286] ECRE/ELENA n 1, 21 (Table 3)

[287] ibid 9, 38

Family reunification
Norwegian law provides that refugees are entitled to be reunited with close family members, and other family members may also be granted family reunification in certain circumstances. Requirements are the same for resettled refugees and refugees granted asylum in Norway.[288]

There have been some problems implementing family reunification for Syrians; in particular, until April 2014, applications by refugees from Syria for family reunification (other than Palestinians from Syria, for whom there was an exemption) could not be made in Beirut, Lebanon, requiring refugees in Lebanon to travel to Amman through Syria or to Turkey. However, in April 2014, the Norwegian embassy in Beirut began accepting family-based immigration applications from refugees from Syria.[289]

Resettlement
Norway has a well-established refugee resettlement programme with an annual quota of 1120. Although not specific to refugee resettlement, the Norwegian Immigration Act 2008 (No 35) is used to authorise the resettlement programme.[290]

In 2013, Norway agreed to resettle 1000 Syrian refugees in 2014, in addition to the pre-existing quota.[291] The first 300 applicants were approved in early 2014 after Norwegian officials visited Lebanon to interview and assess refugee claims. Norway is selecting families with young children and excluding families which have an adult member who actively participated in the war or who may later seek family reunification. The Norwegian government has decided to complete the refugee assessment process of refugees from Syria prior to granting entry to Norway.[292]

Resettlement challenges for Norway include housing shortages, especially for single people, and meeting the increased demand for specialist services by refugees with serious medical conditions and other special needs.[293]

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[288] UNHCR 'Norway Country Chapter,' *Resettlement Handbook* (June 2013 revision) <http://www.unhcr.org/3c5e59835.html> accessed 13 June 2014
[289] ECRE/ELENA n 1, 39. Email correspondence from the Royal Norwegian Embassy, Visa Section, Beirut, to Cynthia Orchard, 25 June 2014
[290] ERN 'Norway' (ERN, undated) <http://www.resettlement.eu/country/norway#norways-resettlement-programme> accessed 26 May 2014
[291] ECRE/ELENA n 1, 10
[292] Nina Berglund, 'First Syrians Win Asylum in Norway' *newsinenglish.no* (17 March 2014) <http://www.newsinenglish.no/2014/03/17/first-syrians-win-asylum-in-norway/> accessed 30 April 2014; Nina Berglund, 'Norway Sets Terms for Syrian refugees' *newsinenglish.no* (28 January 2014) <http://www.newsinenglish.no/2014/01/28/norway-sets-terms-for-syrian-refugees/> accessed 30 April 2014;
[293] ICMC n 5, 225

4 Case study: the UK's response to the Syrian refugee crisis

The UK's response to the Syrian refugee crisis parallels (and in some respects, leads) the broader European approach, with generous humanitarian and development aid in the Syrian region, political pressure on the actors of the conflict, and a minimal response in terms of resettlement and humanitarian admission of refugees.

The lack of concrete action until early 2014 could be seen as the UK Government assessing its options given the unknown duration of the conflict. For example, the UK Prime Minister, David Cameron, noted in January 2014 that he was 'keeping an open mind' regarding how to respond to the Syrian refugee crisis.[294]

Aid

The UK has provided significantly more humanitarian aid in response to the Syrian refugee crisis than any other country in Europe (second only to the EU itself). As of 3 June 2014, the Department of International Development (DFID) had allocated £600 million (€747,702,646) in funds that have been, or will be, allocated to partner groups in the conflict-affected area: £249 million (€310,273,513) has been allocated to groups working inside Syria, £292 million (€363,868,885) has been allocated to groups outside Syria (Turkey, Jordan, Lebanon, Iraq and Egypt), with £59 million (€73,518,623) yet to be allocated.[295]

DFID notes that a portion of these funds will assist Palestinian refugees displaced both internally and externally by the conflict, predominantly from the £25.5 million allocated to UNRWA.[296] This relatively large amount reflects the UK's continuing support for UNRWA despite an ongoing parliamentary inquiry into how the UK provides humanitarian assistance to the Middle East, with a focus on UNRWA.[297]

The welcome generosity of DFID's budget, as set by the Foreign and Commonwealth Office (FCO), is a unilateral pledge in response to a crisis for which the FCO has advocated a more internationally coherent response, in fora such as the UN Security Council.[298] This approach seems to indicate a policy of containing the problem in the

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[294] BBC News, 'David Cameron 'Open Minded' on Syrian Refugees' *BBC* (23 January 2014) <http://www.bbc.co.uk/news/uk-politics-25858446> accessed 16 April 2014

[295] UK Department for International Development 'UK Aid Syria Response' (8 July 2014) <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/316732/DFID-Syria-Humanitarian-Programme-Summary.pdf> accessed13 June 2014

[296] UK Department for International Development n 295

[297] UK Parliament 'MPs examine the UK's Development Work in the Middle East' *UK International Development Committee* (12 December 2013) <http://www.parliament.uk/business/committees/committees-a-z/commons-select/international-development-committee/news/middle-east/> accessed 2 May 2014

[298] UK Foreign and Commonwealth Office 'Foreign Secretary Welcomes UN Resolution on aid to Syria' (22 February 2014) <https://www.gov.uk/government/news/foreign-secretary-welcomes-un-resolution-on-aid-to-syria> accessed 18 April 2014;UN Security

region in the hope of a political solution in Syria, thus placing less of a burden on the European and UK asylum systems.

The UK's asylum framework

The UK's asylum framework is well established under the authority of the Secretary of State for the Home Office (the Home Secretary).[299] The Home Office deals with all applications for asylum, and on the basis of an initial screening interview the route for the application is decided. These routes include the accelerated Detained Fast Track (DFT) procedure, the regular procedure and further assessment for suitability for transfer under the Dublin Regulation. Other alternative routes include non-suspensive appeal cases (cases certified as clearly unfounded), and unaccompanied minor cases.

The regular asylum procedure

Decisions under regular procedures should be made 'as soon as possible' and within a policy-mandated six months.[300] In reality, due to historic systematic chaos at the Home Office in the preceding decades, there is an immense backlog: by the end of March 2014, 19,685 of the applications received since April 2006 were pending a decision (initial decision, appeal or further review), amounting to a 38% increase from March 2013 (14,225).[301]

The continuing emphasis on speed when making decisions over asylum was reiterated on 12 May 2014, as the Immigration Minister indicated that '[b]etween 1 January 2013 and 31 December 2013, the average length of time taken for asylum-seekers and refugees from Syria to have an initial interview [sic] was 28 days from initial claim.'[302]

The DFT procedure

Those cases decided within the DFT procedures are decided within a target time of 15 days, including a first appeal. The main criterion for DFT cases is that they can be decided quickly. Particularly vulnerable applicants, such as pregnant women, those with mental

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Council Resolution 2139 (2014) S/RES/2139 (2014) <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2139(2014)> accessed 18 April 2014

[299] For a more substantive and detailed synopsis of the UK asylum procedure and various legal avenues, the Asylum Information Database (AIDA) National Country Report provides an excellent and detailed independent outline of the UK's asylum system at <http://www.asylumineurope.org/files/resources/uk_report_-_first_update.pdf> accessed 14 June 2014

[300] Immigration Rules, paragraph 333A

[301] UK Home Office 'Immigration Statistics, January to March 2014' (22 May 2014) <https://www.gov.uk/government/publications/immigration-statistics-january-to-march-2014/immigration-statistics-january-to-march-2014#asylum-1> accessed 16 June 2014

[302] HC Deb, 12 May 2014 Column 408W <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140512/text/140512w0004.htm> accessed 16 June 2014

and physical health problems, or those who were trafficked, are excluded from the DFT scheme. With the short time limit, the applications considered in DFT procedures should not have a level of complexity where legal advice, corroborative evidence or translation of documents is required.[303] The DFT procedure has come under international scrutiny, with the UN Committee Against Torture stating that it is not appropriate or fair for torture survivors 'due to a lack of clear guidance and inadequate screening processes, and the fact that torture survivors need to produce "independent evidence of torture" at the screening interview to be recognized as unsuitable for the DFT system.'[304] There have been legal challenges to DFT. For example, in *Saadi v UK*, the applicant claimed that the process is so onerous so as to amount to arbitrary detention contrary to Article 5.1 of the ECHR. The ECtHR disagreed, finding that the detention had the reasonable objective of preventing unlawful entry into the UK, and that in creating such a system, the UK acted in good faith, especially in light of the legitimate aim of wanting to reduce the large number of unfounded cases. Jurisprudentially, the case lacks weight; six judges dissented, primarily due to concern over the length of detention and the lack of discourse to alternatives.[305] DFT cases have notoriously high refusal rates.[306]

DFT procedures have been strongly criticised, with thematic reports such as the report of Detention Action calling for its permanent closure.[307] The Home Office, however, continues to take the approach that it will try to fix the system that has a central aim of assessing simple claims quickly, affording more resources and time within the organisation to concentrate on more complex claims.

The Dublin Regulation

The UK participates in the Dublin Regulation's mechanism for the transfer of asylum-seekers within the EU. Asylum applicants cannot appeal against the decision to transfer them under the Dublin Regulation, but they do have the limited right to request judicial review; the High Court will not review the decision itself, but will assess whether the decision to deem the individual's case as appropriate for transfer under the Dublin Regulation was legally justifiable. From the UK's perspective, one of the key problems with the Dublin Regulation is the 'sovereign clause,' under which the state responsible

[303] UK Home Office 'Asylum Process Guidance' (Undated) <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257435/detained_fast_processes.pdf> accessed 16 June 2014, para.2.2

[304] UNCAT 'Concluding observations on the fifth periodic report of the United Kingdom, adopted by the Committee at its fiftieth session (6-31 May 2013)' (May 2013) < http://www.justice.gov.uk/downloads/human-rights/cat-concluding-observations-may-2013.pdf> accessed 29 May 2014

[305] *Saadi v UK* (Application No 13229/03) [2008] < http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-84709> accessed 29 May 2014

[306] Detention Action 'Fast Track to Despair' (May 2011) <http://www.asylumineurope.org/files/resources/detentionaction_fasttracktodespair.pdf> accessed 22 June 2014

[307] Detention Action n 287

for dealing with the applicant's claim must agree to any transfer.[308] This creates challenges for the UK when states refuse to accept Dublin transfers because they are struggling to maintain their asylum procedures and legal frameworks to an international standard or for other reasons.

Refugees from Syria in the UK

Although the UK has one of the highest numbers of asylum applications in Europe (see Table 2), relatively few have been by Syrian nationals (see Table 4).[309] Since the outbreak of the armed conflict in Syria, the number of asylum applications from Syrians has naturally increased. From January 2013 to March 2014, there were 2052 applications for asylum by Syrians, with 709 cases pending in the last quarter of the same time period.

Table 4: Decisions on international protection claims by Syrians in the UK [310]

Quarter	Total applications	Initial decisions	Total grants of asylum	Pending	Humanitarian protection	Discretionary leave	Refusals
Q1 2011	31	33	4	95	0	1	28
Q2 2011	46	34	8	100	0	0	26
Q3 2011	129	71	27	174	0	0	44
Q4 2011	149	119	54	233	0	5	60
Q1 2012	155	162	79	213	0	7	76
Q2 2012	177	143	94	207	2	3	44
Q3 2012	326	253	209	275	9	1	34
Q4 2012	330	291	243	304	14	0	34
Q1 2013	330	346	314	254	2	1	29
Q2 2013	372	326	270	282	2	2	52
Q3 2013	534	374	290	446	1	0	83
Q4 2013	433	282	232	553	2	0	48
Q1 2014	383	214	171	709	1	0	42

[308] Article 3(2) of Dublin II: Council Regulation (EC) No 343/2003

[309] Although most of the Syrian cases are genuine, there are some disingenuous claims for asylum by persons feigning Syrian nationality or withholding information regarding their ability to settle elsewhere.

[310] UK Home Office n 301. See Asylum Table 1g. The number of refusals includes refusals at port, where applicants are transferred to the country from which they entered, and Dublin transfers.

The UK is unlikely to return to Syria persons who came to the UK directly from Syria for two reasons: the situation there is still far too volatile and would put the failed asylum seeker in considerable danger, and logistically there are simply no flights directly back to Syria (though there are flights to airports in adjacent countries).

The number of Syrians being detained in the UK has risen sharply since the start of the conflict, though in relation to the total number of detained asylum applicants (of all nationalities) it remains relatively small (there are 2991 detainees in total.)

Table 5: Syrians detained in the UK [311]

Quarter	Syrians in detention
Q1 2010	13
Q2 2010	14
Q3 2010	24
Q4 2010	12
Q1 2011	18
Q2 2011	11
Q3 2011	15
Q4 2011	20
Q1 2012	25
Q2 2012	37
Q3 2012	71
Q4 2012	48
Q1 2013	62
Q2 2013	124
Q3 2013	208
Q4 2013	116
Q1 2014	101

Even these relatively low numbers should be treated with caution. Some may be falsely claiming Syrian nationality, be entitled to live elsewhere in safety, be applicants awaiting transfer pursuant to the Dublin Regulation or be minors detained with older family members. This number also includes persons claiming Syrian nationality in DFT procedures, for which a decision has not yet been made. Although it is beyond the scope of this report, the standard of detention facilities and treatment of detainees, in particular the justification for and lawfulness of detention of Syrians who likely cannot be removed from the UK, should also be considered.

[311] ibid

In response to the increase in Syrian asylum applications and ever-worsening situation in Syria, the Home Office published 'Operational Guidance for Syrians' to assist Home Office officials when making decisions on applications for international protection.[312] Released in February 2014, the Guidance noted that it should be read in conjunction with the FCO 'Human Rights and Democracy Report,'[313] and 'Latest Update',[314] which outline in great detail the mass atrocities (perpetrated by all sides) that have been evidenced to have occurred in the conflict. The Guidance gives specific advice regarding the difficulties that asylum applicants will have in obtaining original documents, the potential issues surrounding members of rebel groups and ties to extremist groups, the dangers of returning failed asylum-seekers to Syria, the potential danger for Government troops who deserted or defected, the appalling state of prisons and the alleged widespread use of torture.

The Guidance also refers to the possibility of granting Humanitarian Protection should a claim for asylum fail. This is vital, and it should be commended. Although the Guidance is not legally binding, as it indicates Home Office policy, decisions not to grant Humanitarian Protection to Syrians whose asylum claims have been refused may need to justify their outcome.

Palestinian refugees in the UK

As already noted, some of those displaced as a result of the Syrian conflict are Palestinian refugees who sought refuge in Syria before the conflict made their already tragic situation all the more untenable. As stipulated above, Article 1D of the CSR51 applies to some Palestinians seeking protection in Europe. Following the CJEU case of *El Kott*,[315] Palestinians should be granted asylum in the EU under the Qualification Directive where UNRWA's assistance to an individual has ceased and the return of the applicant would place the individual in danger.[316] However, as shown in Table 6 below, the refusal rate at initial decision on Palestinian asylum claims in the UK remains high, and although the percentage of cases approved has improved since late 2013, it appears that fewer Palestinian cases are being decided on (positively or negatively).

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[312] UK Home Office 'Syria: Country Information and Guidance' (UK Visas and Immigration 20 May 2014) <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283788/Syria__OGN_v9__21_February_2014.pdf> accessed 21 April 2014

[313] UK Foreign and Commonwealth Office 'Corporate Report – Syria – Country of Concern' (16 April 2014) <https://www.gov.uk/government/publications/syria-country-of-concern/syria-country-of-concern> accessed 21 April 2014

[314] UK Foreign and Commonwealth Office 'Corporate Report – Syria – Country of Concern: Latest Update 31 March 2014' (31 March 2014) <https://www.gov.uk/government/publications/syria-country-of-concern/syria-country-of-concern-latest-update-31-march-2014> accessed 21 April 2014

[315] *El Kott* n 173

[316] Qualification Directive (2011/95/EC)

Table 6: Palestinian asylum claims in the UK [317]

Quarter	Total applications	Total grants of international protection	Total refusals
Q1 2010	43	7	37
Q2 2010	42	4	50
Q3 2010	51	9	51
Q4 2010	44	10	32
Q1 2011	56	9	42
Q2 2011	62	8	35
Q3 2011	56	6	31
Q4 2011	39	4	19
Q1 2012	39	8	29
Q2 2012	44	2	20
Q3 2012	32	5	13
Q4 2012	41	7	15
Q1 2013	28	9	15
Q2 2013	24	13	14
Q3 2013	39	19	18
Q4 2013	29	10	7
Q1 2014	34	6	4

The UK's judicial institutions' reaction to the Syrian refugee crisis

The case of *Secretary of State for the Home Office v KB*[318] provided guidance on how to deal with Syrian failed asylum-seekers in light of the ongoing hostilities. The Upper Tribunal concluded that with the extremely high level of human rights abuses currently occurring in Syria, it is likely that a returnee would be mistreated due to his ascribed political beliefs by a regime intent on crushing resistance (overturning *SA and IA v Secretary of State for the Home Office*).[319] However, the Tribunal noted that '[t]he position might be otherwise in the case of someone who, notwithstanding a failed claim for asylum, would still be perceived on return to Syria as a supporter of the Assad regime.'[320] This position is surely outdated, as current Home Office Country Guidance refers to the danger to returning asylum-seekers from all parties to the conflict. Thus, the UK Courts should rectify this

[317] UK Home Office 'Immigration Statistics, January to March 2014; Table 1' (22 May 2014) <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/311790/asylum1-q1-2014-tabs.ods> accessed 16 June 2014

[318] [2012] CG UKUT 00426 (AIC)

[319] [2009] UKAIT 00006 (AIC)

[320] *SA and IA v Secretary of State for the Home Office*, n 319, paragraph 34

in the next fact-appropriate case. In addition, it should be remembered that currently refusals do not result in the UK sending failed asylum-seekers back to Syria.

The UK Courts' position on Palestinians and the interpretation of Article 1D, and by extension to the Qualification Directive Article 12(1)(a), has developed considerably over the last 12 years and has developed recently to take into account the CJEU *El Kott* decision. The Court of Appeal first stated the UK's position in the case of *El-Ali and Daraz*.[321] This case, concerning the temporal qualification of the first paragraph of Article 1D, literally interpreted the term 'at present' to denote that Article 1D only applies to those Palestinians registered with UNWRA when the CSR51 came into effect (1951). The effect of this meant that Palestinians were to be treated based on the merits of their case in light of the Refugee Convention. This case was overruled by the CJEU in *Nawras Bolbol*,[322] which stipulated that Article 1D applies where the person has not availed themselves of UNRWA's assistance. In such cases, the person should be granted protection under Article 1D. In the Scottish Court of Session case of *Said* ,[323] the Court noted that the principle in *El-Ali and Daraz* was clearly overruled by *Nawras Bolbol* regarding the temporal qualification, but held that the Court should delay interpreting the meaning of the phrase 'such protection has ceased' in light of the then imminent CJEU *El Kott* judgment. The Court placed weight in preliminary remarks on the opinion of the Advocate General, who gave five examples of the application of Article 1D pursuant to the Preliminary hearing, one of which would provide for no protection at all: where a displaced Palestinian can no longer benefit from UNWRA assistance due to a voluntary decision of that person, though Article 1A may still afford the individual some protection.[324] The Court of Session then allowed for an appeal to be lodged no more than two weeks after the *El Kott* decision.[325] The second *Said* hearing is expected to take place in late 2014. In expanding on the first *Said* decision, the Court will be offered the opportunity to quash any uncertainty around the protection of Palestinians in the UK. We understand that UNHCR will be filing an *Amicus Curiae* brief in the case, which will provide an expert opinion on the application of Article 1D/ Qualification Directive Article 12(1)(a), in light of the Syrian refugee crisis. Of course, in cases in which asylum is rejected, there remains the possibility of another form of protection (humanitarian/discretionary leave), so in the event that the forthcoming decision is not favourable to Palestinian refugees seeking asylum, they may still be eligible for other protection.

[321] [2002] EWCA Civ 1103
[322] Case C-31/09 *Nawras Bolbol v Bevándorlási és Állampolgársági Hivatal*, , [2010] CJEU
[323] *Said (Article 1D: interpretation) v. the Secretary of State for the Home Department* [2012] UKUT 00413(IAC).
[324] Opinion of Advocate General Sharpston, re: *Nawras Bolbol v Bevándorlási és Állampolgársági Hivatal*, Reference for a preliminary ruling from Case C-31/90*Fővárosi Bíróság (Hungary)*, , para 90(e)
[325] *Said* n 323, para 31

Concessions outside the immigration rules

Beyond the VPR Scheme, the UK has implemented concessions outside the Immigration Rules to reflect the complexity of the Syrian crisis. These 'Specific Immigration Concessions' were outlined by the Immigration Minister,[326] with corresponding guidance on the concessions.[327] Under these concessions, Syrian nationals already in the UK (previously habitually resident in Syria) with leave will be permitted to extend their existing stay (with exceptions) and switch from one immigration category into another (with exceptions). Dependant applications may switch with the main applicant regardless of the application type, and there is a dispensation for those who cannot retrieve documents from Syria. These concessions will run until 28 February 2015. Although some Syrians may benefit under these concessions, their value is likely to be limited because most persons to whom they apply may very well be entitled to asylum.

The UK's resettlement policy

The UK has an extensive partnership with UNHCR for two specific schemes: the Gateway Protection Programme (GPP) and the Mandate Refugee Scheme (MRS). Applications for both schemes are brought, via UNHCR, to the UK Home Office. Neither scheme is open to emergency applications for resettlement, resulting in neither scheme being particularly adaptable or suitable for accommodating a large-scale refugee crisis. A detailed overview of the GPP and MRS resettlement policies is provided by the UNHCR in its *Resettlement Handbook*.[328]

Gateway Protection Programme (GPP)

The GPP works towards a quota of 750 set by the Home Office. In 2013, 450 of those came from Africa, 55 from Asia and 245 from the MENA region. The GPP is for particularly vulnerable refugees, and applicants are identified exclusively by UNHCR; there is no access to the scheme through diplomatic posts or the through the Home Office directly. As the applicant will have already been assessed as a refugee by UNHCR, the Home Office usually accepts UNHCR's determination of refugee status unless new evidence is provided to the contrary or issues of credibility are raised after UNHCR's determination. Within the total quota, there are several flexible sub-quotas, including an aim of resettling 75 women deemed at risk, and applicants with medical issues are invited to make a special submission indicating their special medical circumstances in a pre-mission questionnaire (usually completed by UNHCR in the field where the applicant is identified as suitable candidate). Beneficiaries under the GPP receive a bespoke resettlement package including

[326] James Brokenshire MP (Immigration and Security Minister), 'Renewal of Immigration Concession for Syrian Nationals' (13 February 2014) <https://www.gov.uk/government/speeches/renewal-of-immigration-concession-for-syrian-nationals> accessed 17 April 2014

[327] UK Home Office, n 192

[328] UNHCR n 16. Country Guidance for the United Kingdom available at <http://www.unhcr.org/40ee6fc04.pdf?_ga=1.232638559.1904863759.1395845751> accessed 3 June 2014

housing, education, healthcare and other support services. In March 2014, UNHCR praised the 10-year anniversary of the scheme, under which more than 5500 refugees have been relocated to the UK, but noted that resettlement needs are increasing globally and urged the UK to expand its resettlement programmes.[329]

Mandate Refugee Scheme (MRS)
The MRS scheme does not have a quota. It focuses on reuniting family members with refugees who have settled in the UK. The application process is entirely dossier based, with the Home Office receiving applications from UNHCR worldwide.

Vulnerable Persons Relocation (VPR) Scheme
The VPR Scheme is the UK's primary tool in responding to the Syrian refugee crisis. With the conflict in Syria continuing and the refugee crisis growing in both the immediate region and on the borders of EU countries, and in response to UNHCR and other's call for resettlement of Syrian refugees, the Home Secretary Theresa May announced on 17 January 2014 that the UK would resettle 'some of the most vulnerable' Syrian refugees through a new Vulnerable Persons Relocation (VPR) Scheme.[330] The decision to create the VPR Scheme could be seen as both a political reaction to pressure from civil society and the media to assist those displaced by the conflict,[331] and an administrative move to divert attention from the asylum system and on to resettlement. The Home Secretary gave an overview of the three fundamental principles of the scheme:

- Assistance will be targeted at having the greatest possible impact, focusing on 'individual cases where evacuation is the only option.' Those who have been victims of torture, women and children at risk and in need of medical care, and especially those who are victims of sexual violence are most likely to be recommended as suitable for relocation to the UK by UNHCR. Considering the huge UK-led focus on conflict-related sexual violence, this is welcome. The Home Secretary alluded to some 12,000 Syrian women who were victims of sexual violence in Jordan alone.
- The VPR Scheme will run concurrently with GPP and MRS. Instead of participating in UNHCR's resettlement programme, as do most European countries with resettlement programmes, the UK has elected to implement this scheme

[329] UNHCR 'UNHCR Hails 10 Years' n 29
[330] Rt Hon Theresa May MP (Home Secretary), 'Oral Statement by the Home Secretary on Syrian Refugees', (29 January 2014) <https://www.gov.uk/government/speeches/oral-statement-by-the-home-secretary-on-syrian-refugees> accessed 17 April 2014. See also Deputy Prime Minister Rt Hon Nick Clegg MP, 'UK to Provide Refuge to Vulnerable Syrian Refugees' (29 January 2014) <https://www.gov.uk/government/news/uk-to-provide-refuge-to-vulnerable-syrian-refugees> accessed 17 April 2014
[331] Maurice Wren, 'The UK Must Offer a Place of Safety to Syrian Refugees' *The Guardian* (14 January 2014) <http://www.theguardian.com/commentisfree/2014/jan/14/uk-safety-syrian-refugees-un> accessed 18 April 2014

building on its existing infrastructure in the framework of its ongoing close cooperation with UNHCR.
- VPR will not have a quota, giving it the flexibility to respond to higher numbers of vulnerable refugees.

There were calls from the UK Parliamentary opposition for the UK to act in solidarity with existing UNHCR programmes,[332] though appreciation was given to the fundamental principles of the VPR Scheme. UNHCR's Representative to the UK, Roland Schilling, welcomed the VPR Scheme.[333]

With the recent UK focus on combating impunity for conflict-related sexual violence, including a lauded summit in June 2014,[334] it was not surprising that this group was included in the VPR Scheme criteria. Of course, there are political benefits to establishing a scheme that raises further awareness of the UK Government's current focus on sexual violence and meets the media's campaign for the UK to act. Further, in establishing its own scheme but building on existing programmes, the UK has a greater degree of control over who it is willing to settle within its borders.

The first beneficiaries of the VPR Scheme arrived on 25 March 2014.[335] The Immigration Minister noted their arrival and provided more details about the Scheme:[336]

> *Those admitted under the VPR scheme will be granted **five years' Humanitarian Protection** with **all the rights and benefits that go with that status**, including **access to public funds**, access to the **labour market** and the **possibility of family reunion** (emphasis added).*[337]

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[332] HC Deb, 29 January 2014, Columns 881 and 882 <http://www.publications.parliament.uk/ pa/cm201314/cmhansrd/cm140129/debtext/140129-0002.htm> accessed 19 April 2014

[333] UNHCR 'UNCHR Welcomes UK's Decision to Offer Refuge to Syrian Refugees' (28 January 2014) <http://www.unhcr.org.uk/index.php?id=494> accessed 19 April 2014

[334] UK Foreign and Commonwealth Office 'Global Summit to End Sexual Violence in Conflict' (undated, archived) <https://www.gov.uk/government/topical-events/sexual-violence-in-conflict> accessed 9 June 2014

[335] UNHCR 'UNHCR Welcomes Arrival of First Syrian Refugees under UK Government's Scheme' (25 March 2014) <http://www.unhcr.org.uk/fileadmin/user_upload/docs/UNHCR_welcomes_arrival_of_first_Syrian _refugees_under_UK_government%E2%80%99s_scheme.pdf> accessed 19 April 2014

[336] James Brokenshire MP (Immigration and Security Minister), 'Vulnerable Persons Relocation Scheme for Syrian Nationals' (25 March 2014) <https://www.gov.uk/government/speeches/vulnerable-persons-relocation-scheme-for-syrian-nationals> accessed 19 April 2014

[337] James Brokenshire MP n 336. The authority for those applicants to be granted favourable conditions are set out in: (Equality (Syria – Entry clearance outside the immigration rules) Authorisation 2014)

The Government has not released any exact figures on how many refugees will be resettled under the Scheme. On 13 May 2014, Keith Vaz MP of the Home Affairs Select Committee asked how many Syrians had been relocated, and the response was that 24 Syrians had to date been relocated under VPR.[338] On 6 May 2014, Lord Bourne received the written response to the same question as '[w]hilst there is no set quota, we predict that the VPR scheme will support several hundred people over the next three years' with 'the next group of refugees…expected to arrive this month…[and] further groups to follow on a regular basis.'[339] Requests brought under the Freedom of Information Act have met with an insistence on the overriding importance of keeping refugees' identities confidential.[340]

One of the challenges to implementing the VPR Scheme is the lack of adequate funding provided by the national government to local authorities and in some areas, the unwillingness of local authorities to participate in the Scheme, with some politicisation of these issues between national and local political leaders of opposing parties.

Protection gaps and barriers

On 4 March 2014, it was confirmed in Parliament (in a written answer to a question put in the House of Lords) that there have been removals of Syrian nationals:

> *Of the total number of Syrians refused asylum in 2013:*
>
> 1. *Twenty four have returned following an enforced removal.*
> 2. *The number of those not in the UK following a voluntary departure is low, in line with Home Office practice on published data, the number cannot be published to protect the identity of those involved.*
> 3. *Twenty remain in Immigration Removal Centres.*
> 4. *When an asylum claim has been refused, all applicants are encouraged to return voluntarily to their country of origin. The Department cannot therefore provide reliable data in answer to this part of the question. However, the Government has made a commitment to introduce exit checks by 2015 which will improve our ability to identify those who have overstayed their visas and to measure migration.* [341]

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[338] HC Deb, 13 May 2014 Column 451W <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140513/text/140513w0001.htm#14051391001476 Accessed> accessed 12 June 2014

[339] HL Deb, 6 May 2014 n 31

[340] Freedom of Information Request, 'Syrian Refugees' (20 January 2014, Request from Colin Yeo) <https://www.whatdotheyknow.com/request/syrian_refugees> accessed 13 April 2014; Freedom of Information Request, 'Syrian VPR Scheme' (3 April 2014, Request from Elizabeth Hughes) <https://www.whatdotheyknow.com/request/syrian_vpr_scheme> accessed 20 April 2014

[341] HL Deb, 4 March 2014, Column WA301 <http://www.theyworkforyou.com/wrans/?id=2014-03-04a.301.0> accessed 17 April 2014

Sadly, the Parliamentary answer given in the House of Lords by Lord Taylor was not very specific; the numbers stated *may* include persons removed on the basis of transfer under the Dublin Regulation and persons who falsely claimed Syrian nationality, and the response does not state *where* Syrians have been returned to. It is of vital importance that the Government is pressed regarding further details of any removals to ensure that the UK has not and will not in future breach its obligation under the principle *non-refoulement*.

Airport Transit Visas

The Home Office has imposed a Direct Airport Transit Visas (DATV) requirement on Syrian nationals.[342] These visas, which carry a £40 fee, aim to ensure that those deemed possible security risks are kept within the tight security confines of the airport. In practice, they pose yet another hurdle for genuine asylum-seekers who seek to enter the UK by air.

[342] HC Deb, 13 March 2012, Column 14WS <http://www.publications.parliament.uk/pa/cm201212/cmhansrd/cm120313/wmstext/120313m0001.htm#12031357000007> accessed 17 April 2014

Conclusion

The European response to the refugee crisis in the Syrian region has been primarily to contain the crisis in the countries neighbouring Syria and reinforce Europe's borders. Although the number of asylum applications by Syrians in Europe has risen sharply since the beginning of the civil war in 2011, the number of Syrian refugees in Europe (approximately 123,600), is small compared with the total number of refugees in the Syrian region. The countries neighbouring Syria, which host approximately 96% of the more than 2.8 million refugees from Syria, plus thousands more refugees from other countries, need and deserve greater solidarity from European countries.

In 2013, some European countries increased admission pledges for Syrian refugees, and both government and EU leaders have advocated for European countries to continue increasing the numbers of refugees from the region admitted into Europe. Germany is by far the leader in granting admission to Syrian refugees, having pledged humanitarian admission to 20,000 refugees from Syria in 2013 and 2014, and having approved approximately 5500 admissions through private sponsorships. However, other than Germany, resettlement and humanitarian admission figures remain small, with pledges for Syrians currently totalling approximately 6300 for all of Europe in 2014.

The response of the European countries closest to Syria and most easily reached by refugees is a matter of serious concern, and although there are some signs of improvement, much work remains to be done by these and other European countries and institutions to ensure compliance with international and regional refugee and human rights law.
As set out in the recommendations at the beginning of our report, we propose the urgent initiation of a Comprehensive Plan of Action to address the refugee crisis, which should be accompanied by increased educational campaigns to combat anti-immigrant sentiment.

The Comprehensive Plan of Action should include:

- Activation of the EU Temporary Protection Directive for refugees from Syria (including non-Syrians who previously resided in Syria), including implementing the provisions relating to offering large-scale admission. Alternatively, European countries should follow and expand on Germany's example and establish humanitarian admission programmes on a much larger scale than those which currently exist.
- Expansion of resettlement that as a minimum is sufficient to clear the backlogs of pre-existing refugees from countries neighbouring Syria, especially those who have previously been given clearance and are awaiting resettlement places.
- Development of any or all possible alternative routes to encourage and facilitate the admission of refugees currently residing in the countries neighbouring Syria (of Syrian or other nationality).

It is said that the measure of any civilisation lies in the treatment of its most vulnerable members. When responding to the Syrian refugee crisis, European nations have an opportunity to demonstrate their compassion and commitment to human rights by opening their doors to significantly higher numbers of refugees.

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