

Legal avenues to safety and protection through other forms of admission

INTRODUCTION

An increasing number of people are seeking safety in countries beyond their immediate region. Many are embarking on long and dangerous journeys to reach Europe, whether by land or by sea. At least half of them are persons fleeing war, conflict, and persecution. These mixed migratory movements of unprecedented numbers of persons of concern are from sub-Saharan Africa and the East and Horn of Africa, as well as from the Middle East. They embark on difficult journeys through Turkey, the Horn and North of Africa, and the Mediterranean. Irregular arrival by sea has, in particular, witnessed an alarming increase, and with it, deaths at sea. In 2014 alone, more than 155,000 persons have been rescued and arrived on Mediterranean shores, representing a six-fold increase from 2013. In addition, according to UNHCR estimates, over 3,000 people have died or are missing at sea so far this year. This trend is expected to continue throughout 2014. While comprehensive figures for persons trying to enter irregularly through land borders do not exist, it has been noted that border control measures have become more restrictive, particularly in the eastern Mediterranean, making it more difficult for persons needing protection to access the EU and to seek asylum.

The key question is how States, including in cooperation with third countries and UNHCR (where persons of concern are involved), can proactively take up opportunities that arise in the context of these movements and provide appropriate responses to them. The question has arisen against the backdrop of the *Global Initiative on Protection at Sea*, which was developed earlier in 2014 to address the complex and urgent challenges of comprehensive approaches to the protection of refugees, asylum-seekers, and stateless persons traveling irregularly by sea. Below are suggestions for admissions programmes, which would offer legal avenues for accessing safety and protection, that States could consider implementing.

PROGRAMMES TO BE CONSIDERED

1. Humanitarian admission

Humanitarian admission is similar to resettlement, and is an expedited process providing protection in a third country for refugees with urgent needs. Residence under humanitarian admission may be either permanent or temporary, depending upon a State's legislation. Humanitarian admission may be used for specific categories of refugees, such as vulnerable persons, extended family members, or individuals with medical needs. Austria, France, Germany, Ireland, and the United Kingdom of Great Britain and Northern Ireland are implementing humanitarian admission programmes in response to the Syrian refugee crisis.

2. Community-based private sponsorship

Private sponsorship programmes tap into private resources to enable refugees to be resettled with the support of private citizens with a legal entity, NGOs, or other interested groups such as local authorities or faith-based groups. Private sponsorship programmes, such as those in Australia and Canada, can create bonds between refugees, community-based organizations, and receiving communities, and can take place alongside or in hybrid

arrangements with government resettlement programmes. Private sponsorship can also enable refugees to reunite with extended family members who may not otherwise qualify under family reunification criteria. Sponsors may take responsibility for some of the costs associated with resettlement, reception, and integration support in the receiving community, extending the country's capacity to support refugees.

3. Medical evacuation

Medical evacuation provides for the admission of refugees with urgent medical needs that could be successfully treated in a third country. Protection problems may arise as families must balance the costs of medical treatment against other essential needs such as food, rent and education. The resettlement of those with serious medical conditions is a concrete measure of burden-sharing with countries bearing the pressure of supporting medical cases that require costly treatment interventions. Refugees with medical needs may be admitted on resettlement or humanitarian admission programmes, along with their families who are a key source of support.

4. Humanitarian visas

Humanitarian visas provide persons in need of international protection, already in a country other than the country of origin, with a means of accessing a third country for purposes of applying for asylum.¹ Persons of concern may travel to a third country on a humanitarian visa and may have their status converted to asylum-seeker or refugee upon arrival. They may also be provided with access to expedited asylum procedures. Humanitarian visas may also be useful in the context of addressing family reunion requests for members of the extended family. Brazil has provided humanitarian visas for more than 4,200 Syrian refugees, and Argentina has also created a humanitarian visa programme for Syrians.

5. Admission of relatives

Programmes to admit relatives of those already residing in a third country can facilitate the use of existing family reunification mechanisms through streamlined procedures or support in countries where the family members are located. This could include, for example, facilitated access to embassies, visa waivers, issuance of humanitarian visas, or assistance with documentation. Those who do not have the option of family reunification, either because they do not fulfil the requirements or are not included in the scope of existing family reunification legislation, could be admitted under other mechanisms, such as humanitarian admission, humanitarian visas, or private sponsorship.

6. Academic scholarships

Academic scholarships provide a mechanism for refugee students, who would like to study or who have had their studies interrupted, to continue their education. Education initiatives can involve civil society, universities, and government actors working in collaboration to develop and fund academic scholarships. These programmes provide funding for travel, accommodation, subsistence and tuition. They ensure that students are provided with proper travel documentation and study visas for the duration of their studies. They also include language training, cultural orientation and psychosocial support for students. During

¹ Articles 19 and 25 of the Schengen Visa Code provide for the possibility of issuing humanitarian visas with limited territorial validity (LTV), which may be valid in one or more, but not all, Schengen States.

or upon completion of these programmes, students have the right to apply for asylum or to request an extension of their residence permits.

7. Labour mobility schemes

Labour mobility opportunities provide for the authorized onward movement of refugees from countries of asylum to third countries to pursue employment. Labour mobility can help refugees realize their human right to work, recognized in many international and regional human rights instruments, and in the 1951 Convention relating to the Status of Refugees. Access to employment is often a prerequisite for the re-establishment of a normal life, and helps refugees to live in dignity, attain an adequate standard of living, apply their skills, and realize their potential. It also provides refugees with the possibility of making contributions to the development of their host as well as their home countries and communities.

8. Resettlement

Resettlement is one of the durable solutions UNHCR is mandated to implement in cooperation with States. Resettlement is the transfer of refugees from a State in which they have sought protection to a third State that has agreed to admit them as refugees with permanent residence status. The status provided ensures protection against *refoulement* and provides access to civil, political, economic, social and cultural rights similar to those enjoyed by nationals, as well as the opportunity to become a naturalized citizen. Resettlement plays a vital role for refugees whose life, liberty, safety, health, or other human rights are at risk. Resettlement quotas could be developed for individuals who are registered as refugees with UNHCR or a host Government and are at risk of trafficking or smuggling.

KEY ELEMENTS OF AN ADMISSION PROGRAMME

For the admission programmes detailed above, States should ensure assistance and protection consistent with the central principles of international protection. They should ensure the right to apply for asylum, guarantee non-*refoulement*, provide an appropriate legal status and documentation, and recognize fundamental civil rights and dignity as persons before the law. They should also provide access to available basic services and psycho-social and medical support, as required, and facilitate the identification of adequate accommodation in a location that protects refugees' well-being. As many individuals may face challenges in covering travel costs associated with some admission programmes, UNHCR also recommends establishing travel loans or other funding schemes, which can be based on existing models and implemented in cooperation with IOM.

States may wish to target their admission programmes for specific populations in source countries from where the largest groups of individuals who are at risk of trafficking are originating, such as specific refugee populations in host countries in East and North Africa, or refugees in countries where smuggling operations originate.

States may consider:

- *Establishing a multi-annual admission programme for individuals at risk of smuggling and trafficking to ensure sustainability and predictability in programming.*
- *Exploring possibilities for other forms of admission within existing legislation and administrative frameworks, particularly through the use of humanitarian visas.*
- *Developing mechanisms to address barriers and facilitate greater access of individuals to specific admission programmes.*
- *Collaborating with civil society to expand or implement admission opportunities.*
- *Enhancing staffing or operational capacity for implementing admission programmes.*
- *Designing admission programmes in partnership with UNHCR and qualified NGOs.*
- *Providing a travel fund for individuals who need assistance in departing on admission programmes, such as humanitarian visas or sponsorship.*
- *Establishing a new resettlement or admission programme for refugees.*
- *Expanding annual resettlement quota for all refugees.*
- *Adopting more flexible criteria (including non-application of integration criteria) under resettlement programmes in considering vulnerable cases.*
- *Reserving a portion of the annual resettlement quota for responding to refugees as risk of human smuggling and trafficking.*