

Refugee Council—Written Evidence (PMS0003)

Refugee Council key recommendations

1. The UK Government should commit to creating alternative legal routes for refugees to reach safety in the UK by:
 - a. Offering thousands of additional places on the UK's excellent resettlement schemes to refugees around the world at this time
 - b. Proactively seeking to help families separated by forced displacement to reunite in the UK
 - c. Exploring other legal avenues for refugees to reach the UK, such as humanitarian or asylum visas.
2. The UK government should also seek to share responsibility for a greater proportion of arrivals to the EU by ensuring that the Dublin III regulation is used to its full potential and that UK guidance reflects this.

For more detailed recommendations, please see the body of the submission.

Context

1. Smugglers exist fundamentally because of the lack safe and legal routes for refugees and irregular migrants to the EU. In their effort to tackle irregular migration, the UK and other states have placed a plethora of border controls overseas that effectively prevent refugees (sometimes intentionally, see point 5) as well as irregular migrants from reaching our shores. In the case of refugees they are driven by push factors forcing them from their home countries, and Europe offers a place of refuge where they can rebuild their lives, possibly aided by the opportunity to reunite with family members already living in safety in Europe. In our experience, some refugees may make an active decision to seek protection in Europe but others have less control over their journey or their destination.
2. Given the remit of the Refugee Council, this submission deals exclusively with the use of smugglers' services by people in search of protection and offers some solutions in this context. While we acknowledge that there will be some without protection needs taking the sea route to Europe, the UN Refugee Agency (UNHCR) finds that the majority are refugees, a conclusion based on the nationalities of arrivals over the first six months of 2015: Syria (34%); Afghanistan (12%); Eritrea (12%); Somalia (5%); and Nigeria (5%). In 2014, the 28 Member States of the EU gave 95% of Syrian asylum seekers, 89% of Eritrean asylum seekers and 63% of Afghan asylum seekers, protection in the first instance.¹
3. When people are forcibly displaced, because of conflict or persecution, it is often many years before they are able to find a safe haven where they can begin to rebuild their lives. After fleeing their homes, they may be forced to survive in precarious and dangerous circumstances both within their country of origin and in third countries. They are often forced to make secondary movements as they may still be at risk, or because of insecure and unsustainable conditions in countries which are unable or unwilling to respond appropriately to the needs of the disproportionate number of refugees they are hosting. Travelling irregularly through transit countries such as Egypt, Libya and Morocco amongst others, they are at risk of further violence and exploitation.² Women travelling irregularly are particularly vulnerable to sexual violence.³
4. Invariably, refugees are forced to travel in the company of smugglers because of a lack of safe and legal routes to Europe for refugees. The UK does not offer an 'asylum visa' and in fact, when war breaks out and people begin fleeing a country like Syria for example, other types of visas such as student or visitor visas, are

¹ UNHCR, July 2015, *The sea route to Europe: The Mediterranean passage in the age of refugees*. Available here: <http://www.unhcr.org/5592bd059.html>

² Amnesty International, May 2015, 'Libya is full of cruelty': Stories of abduction, sexual violence and abuse from migrants and refugees. Available here: <https://www.amnesty.org/en/documents/mde19/1578/2015/en>. See also blog by Acer, Human Rights First, Refugees in Egypt Urgently Need Protection, January 2015. Available here: <http://www.humanrightsfirst.org/blog/refugees-egypt-urgently-need-protection>

³ MSF, March 2010, *Sexual Violence and Migration: The hidden reality of Sub-Saharan women trapped in Morocco en route to Europe*. Available here: http://www.msf.org.uk/sites/uk/files/Sexual_violence_and_migrants_201003253808.pdf

routinely refused if the authorities believe there is an intention to claim asylum upon arrival. In the case of Syria, this is borne out by the Home Office quarterly immigration and asylum statistics that show a steady increase in the number of visa applications from Syrians refused during the course of the conflict; from 25% in the second quarter of 2011 to 59% in the first quarter of this year.⁴

5. There are other examples of efforts made to prevent refugees from accessing protection in the UK. Continuing with the example of Syria, in March of this year changes were made to the immigration rules to remove the transit without visa exemption for Syrians with a visa for entry to the USA. This was done *explicitly* for the purpose of preventing Syrians with a USA issued visa from claiming asylum in the UK.⁵ This is despite the fact that the numbers of Syrians claiming asylum in the UK is low, even compared to other EU Member States: Since 2011, approximately 6,000 Syrians have claimed asylum in the UK whereas *in 2014 alone* Germany received 40,000 asylum applications from Syrians.⁶ Such efforts to prevent refugees reaching the UK contribute to the creation of a 'Fortress Europe', and create and increase demand for smugglers' services.
6. A truly effective answer to human smuggling needs to concentrate on reducing 'demand' rather than curbing 'supply'.⁷ In the case of refugees, demand for smugglers' services is created not only by wars, conflict and persecution, i.e. the causes of refugee flight, but also by the lack of alternatives to irregular travel. Yet far more effort, attention and resource is invested in reducing supply through disrupting smuggling networks, as well as prevention, through the stricter application of law enforcement and the tightening of border control. This is disappointing given that, as Steve Symonds from Amnesty International UK highlighted in his oral evidence to the committee on 22 July, blocking one smuggling route simply leads to the creation of new irregular channels, often exposing refugees to even greater risks as well as greater cost. This is borne out by an examination of the evolution of smugglers' routes to Europe since the early 1990s.⁸
7. Clearly, demand for smugglers services would be reduced by addressing the causes of refugee flight. But at a time when the international community seems incapable of both ending existing wars and preventing new ones, this remains a distant goal at best. In the meantime, demand can only be reduced by opening new legal channels for refugees to protection in Europe and reinforcing existing ones.

Reducing demand for smugglers services: Creating safe and legal routes for refugees

8. Consideration of the different responses to UNHCR's call for the proactive admission of Syrian refugees by states provides detail on the different safe and legal routes that states can make available to refugees.⁹ This submission specifically highlights resettlement, family reunification and humanitarian visas as the measures that the Refugee Council considers most appropriate for the UK.

Resettlement

9. Resettlement involves the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them – as refugees – with permanent residence status.¹⁰ The number of refugees around the world in need of a resettlement place continues to increase year on year and UNHCR recently projected that 1,150,000 refugees will be in need of resettlement in 2016.¹¹ While last year saw an increase in the numbers of refugees resettled, largely in response to an appeal by UNHCR for additional resettlement places for Syrian refugees, the number of resettlement places available globally

⁴ See Home Office immigration statistics available here: <https://www.gov.uk/government/statistics/immigration-statistics-january-to-march-2015-data-tables>

⁵ 16 March 2015, *Statement of changes in immigration rules*, available here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/413118/48244_HC_1116.pdf?utm_content=bufferedc21&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer We would particularly draw your attention to paragraph 3.2 of the explanatory notes.

⁶ Eurostat 2015, *Asylum applicants and first instance decisions on asylum applications 2014*. Available here: <http://ec.europa.eu/eurostat/documents/4168041/6742650/KS-QA-15-003-EN-N.pdf/b7786ec9-1ad6-4720-8a1d-430fcfc55018>

⁷ Achilli, L., June 2015, *The smuggler: hero of felon?* Migration Policy Centre, EUI. Available here: <http://cadmus.eui.eu/handle/1814/36296>

⁸ As above

⁹ The committee may want to see UNHCR guidance on the pledging process prior to the Ministerial-level pledging conference on Resettlement and other forms of admission for Syrian refugees available here: <http://resettlement.eu/sites/icmc.ttp.eu/files/Resettlement%20and%20other%20forms%20of%20admission%20for%20Syrian%20refugees%20-%20Guidance%20to%20support%20the%20pledging%20process.pdf>

¹⁰ UNHCR, 2011, *UNHCR Resettlement Handbook*. Available here: <http://www.unhcr.org/46f7c0ee2.pdf>

¹¹ UNHCR, 2015, *UNHCR Project Global Resettlement Needs 2016*. Available here: <http://www.unhcr.org/558019729.html>

continues to be dwarfed by need. In 2014, 105,200 refugees were resettled: If this number is maintained into 2016, it will provide solutions for only around 9% of those in need according to UNHCR's projection. The vast majority of refugees resettled in 2014 went to USA (73,000), Canada (12,300) and Australia (11,600).¹² Historically, EU Member States' commitments to resettlement compare poorly, with Europe as *a whole* consistently providing a global annual quota of around 5,500 places a year. 750 of these places are in the UK via the Gateway Protection Programme (GPP).

10. In 2013, UNHCR appealed to States to admit on resettlement or other forms of admission 30,000 Syrian refugees from 2013 to 2014. In 2014 the agency called for an additional 100,000 places for Syrian refugees from 2015 to 2016. The agency called for the development of these avenues to ensure protection and solutions for the most vulnerable and to help "provide safe legal alternatives to perilous irregular secondary movements by land and sea".¹³ While we understand that this target of 130,000 places for Syrian refugees over three years is likely to be met, the target does not reflect need. Amnesty International has called for 380,000 Syrian refugees from the main host countries to be relocated by the end of 2016, approximately 10% of the total refugee population in those countries at that time.¹⁴ Aid agencies including Save the Children and Oxfam working with Syrian refugees in the major host countries, called on the Government to ensure the UK takes its 'fair share' of resettled refugees from Syria, estimated to be 10,000 refugees, in addition to Syrians arriving through other routes.¹⁵
11. However, the Government has shown considerable reluctance to providing resettlement places to Syrian refugees, despite leading the international response to the refugee crisis in other respects. It was only after considerable pressure following a campaign led by the Refugee Council that the Government responded to UNHCR's appeal and established the Vulnerable Persons Relocation scheme for Syrians (VPR). According to the most recent publicly available statistics 187 refugees have been resettled in the UK since the start of the conflict. This contrasts particularly poorly with countries like Germany that have made real and meaningful efforts to create alternative legal routes to safety for Syrian refugees through a commitment to offer refuge to 35,000 through humanitarian admission and private sponsorship.
12. The European Council's commitment following the June summit to establish 20,000 resettlement places is welcome but given the extent of need, evidenced by both the projections by UNHCR and by the numbers of refugees taking dangerous irregular routes across the Mediterranean, and given that this is the only measure that begins to address the issue of safe and legal routes for refugees, it is a disappointingly small step. Furthermore, it is unclear whether the proposal is 20,000 *additional* resettlement places in Europe or if this figure simply represents a target for existing programmes: in which case, it may only equate to a few more thousand resettlement places a year across the whole of the EU.
13. It is in this context that the Government recently announced an expansion of the VPR to an estimated 800 resettlement places over a three year period, an additional 100 resettlement places a year. This means the UK will be receiving just over 1,000 resettled refugees every year for the next three years. Given the scale of the global refugee crisis as well as the immediate pressures on the Europe's borders, **the UK's resettlement programmes should be offering thousands of additional places to refugees around the world at this time**, and the UK Government should be proactively calling on other European states to follow suit. In order for the UK to significantly scale up its resettlement programmes, more resource must be made available to the relevant team in the Home Office.

Family reunion

¹² UNHCR, 2014, *World at War: UNHCR Global Trends, Forced Displacement in 2014*. Available at: <http://unhcr.org/556725e69.html>

¹³ UNHCR, 2014, Ministerial-level pledging conference: Resettlement and other forms of admission for Syrian refugees – guidance on the pledging process. Available here:

<http://resettlement.eu/sites/icmc.ttp.eu/files/Resettlement%20and%20other%20forms%20of%20admission%20for%20Syrian%20refugees%20-%20Guidance%20to%20support%20the%20pledging%20process.pdf>

¹⁴ Amnesty International, 2014, *Left out in the cold: Syrian refugees abandoned by the International Community*. Available here:

http://www.amnesty.eu/content/assets/Reports/Left_Out_in_the_Cold_Syrian_Refugees_Abandoned_by_the_International_Community_final_formatted_version.pdf

¹⁵ Refugee Council, November 2014, News story: *Aid agencies call for UK to resettle up to 10,000 refugees from Syria*. Available at http://www.refugeecouncil.org.uk/latest/news/4200_aid_agencies_call_for_uk_to_resettle_up_to_10_000_refugees_from_syria

14. The commitment to provide additional resettlement places was the only measure that was adopted by the European Council during the summit on 26 June that acknowledged the need for safe and legal routes for refugees to Europe. However, in addition to an increase in the provision of resettlement places, the Commission also called for Member States to utilise other legal avenues to the full including private and government sponsorship, humanitarian permits and family reunification to help refugees reach safety.¹⁶ These proposals seem not to have been considered by the European Council at all.
15. Family reunion is one of the few existing legal channels available for refugees to come to Europe. The families of recognised refugees and those granted humanitarian protection can apply to enter the UK under the family reunion rules, to be reunited in the UK. Evidence suggests that refugees seeking to bring their family members to join them in the UK as well as to other EU states face considerable barriers. Currently, very few refugees with relatives in the UK would qualify for family reunion due to the very restrictive nature of family reunion rules.
16. UNHCR has repeatedly advocated for swifter, more efficient family reunification procedures for refugees in Europe, particularly for Syrians, but there is little indication that member states are prepared to make the process any easier. In fact, the trend is towards more restrictive eligibility criteria, more onerous requirements for supporting documentation and less availability of state-funded legal aid to help refugees navigate the increasingly complex application process.¹⁷ This is true of the UK where, most notably, following the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) refugees are no longer entitled to legal aid to support their applications. For further information on the barriers to family reunion facing refugees in the UK as well as detailed recommendations on how to facilitate family reunion, see the British Red Cross report *Not so straightforward*.¹⁸
17. The withdrawal of legal aid for family reunion reflects a tendency to see it as a straightforward immigration matter. The British Red Cross report not only examines the complexity of the process, it also highlights the humanitarian and protection needs of family members who wish to travel to the UK. Of the 91 cases included in the study, the majority of sponsors (in the UK) were men while 95% of applicants were women and children (seeking to join their sponsor in the UK). 51% of applicants were exposed to security risks. 96% of those exposed to security risks were women and children.¹⁹ The report makes clear that family members of refugees in the UK, entitled under current rules to join them, may be living in insecure conditions and still at risk while they seek to resolve the significant complexities arising from their family reunion application. Where this is not possible and family members are refused, it is reasonable to assume that travelling to the UK through irregular channels, possibly at great risk, becomes the family's only option if they are to live together in safety.

Limited definition of family

18. Like other EU member states, the UK government's definition of family for the purposes of family reunion is the Western concept of the 'nuclear family'. However, unlike other EU member states, unaccompanied children granted asylum or humanitarian protection in the UK are denied the right to reunite even with their closest family members. This is despite the fact they have been through an asylum determination system and been found to be a refugee or in need of humanitarian protection, in the same way as an adult. The right to reunite with your family is a fundamental right of a refugee and as a matter of urgency the Home Office should amend the rules for unaccompanied children so that they are in line with adults granted refugee status or humanitarian protection.
19. For adult refugees, only partners and dependent children under the age of 18 would qualify for family reunion in the UK, under the usual rules. This, for example, means that a Syrian father granted asylum in the

¹⁶ European Commission Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 13 May 2015. Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf

¹⁷ Siegfried, K, July 2015, *Family reunion out of reach for many refugees in Europe*, article published on IRIN website available here: <http://www.irinnews.org/report/101712/family-reunion-out-of-reach-for-many-refugees-in-europe>

¹⁸ British Red Cross, 2015, *Not so straightforward: the need for qualified legal support in refugee family reunion*. Available here: <http://www.redcross.org.uk/~media/BritishRedCross/Documents/About%20us/Not%20so%20straightforward%20refugee%20family%20reunion%20report%202015.pdf>

¹⁹ As above

UK would be allowed to bring his wife and his younger children to join him. However his eldest child, an 18 year old daughter, would not ordinarily be allowed to travel with the family and they would be forced to leave her behind or pay smugglers to bring her to the UK – in either scenario, putting the young woman at considerable risk. The above does not refer to one specific case, however we are aware of a number of cases, including Syrian, where young female family members who are 18+ are refused.

20. Family reunion rules in the UK and other member states do not recognize the way that forced migration can change the makeup of a family and their dependency on extended family. In addition to ensuring that those entitled to refugee family reunion under the current rules are able to access it, the Refugee Council recommends that at this time of exceptional need a more flexible approach is taken to what constitutes as 'family' allowing refugees with extended family members living in the UK who are willing to act as sponsors, to be allowed to join them in safety here.
21. Alternatively, the Government could follow the examples of States that have provided opportunities for the admission of relatives beyond family reunification rules including Austria, Germany, Ireland, and Switzerland.²⁰ For example, Germany has pledged 10,000 places to Syrian refugees through private sponsorship. Refugees in Germany are able to privately sponsor members of their extended family if they can guarantee accommodation and living costs.
22. The Refugee Council recommends that the Government proactively seeks to help families separated by forced displacement reunite in the UK by:
 - a. Making legal aid available for family reunion.
 - b. Simplifying the family reunification process and seeking ways to make it safer for applicants living in insecure conditions.
 - c. Amending the rules so that unaccompanied children found to be in need of protection can reunite with their family in the UK.
 - d. Taking a more flexible approach to the definition of family during this time of exceptional need.
 - e. Ensuring that the relevant team in the Home Office is sufficiently resourced to swiftly process family reunification applications.

Humanitarian visas

23. Humanitarian visas is another tool that could be used to enable refugees to access the UK and other EU Member States and claim asylum, thereby creating a safe and legal route. Certain states already issue humanitarian visas however there is a lack of detail around such programmes, complicating understanding of the opportunities they may present for people in need of protection. However, current practice suggests the following process:
 - a. Applicants for humanitarian visas approach the consular representation of the potential host state (possibly in a third country).
 - b. The consular representation may pre-screen the humanitarian visa application to identify protection needs but this is only an initial assessment as the final status determination procedure is conducted after entry to the host state.
 - c. After arrival in the host state, the applicant lodges an asylum application.
24. The humanitarian visa programmes of Brazil and France seem to operate on this basis and were established in response to the Syrian refugee crisis. Since 2013, Brazilian embassies in countries neighbouring Syria have had the possibility to issue special humanitarian visas for Syrians and other nationalities affected by the Syrian conflict who want to seek refuge in Brazil. Claims for asylum are presented upon arrival in Brazil. As of February 2015, Brazil had issued 7,380 humanitarian visas to Syrian refugees.²¹ Since 2012 French consulates have been able to issue asylum visas where a need for protection is evidenced on a discretionary basis. There is little detail on the scheme but as of February 2015 France had issued 1,880 visas to Syrians to enable them to travel to France and claim asylum.²²

²⁰ UNHCR, 2014, Ministerial-level pledging conference: Resettlement and other forms of admission for Syrian refugees – guidance on the pledging process. Available here:

<http://resettlement.eu/sites/icmc.ttp.eu/files/Resettlement%20and%20other%20forms%20of%20admission%20for%20Syrian%20refugees%20-%20Guidance%20to%20support%20the%20pledging%20process.pdf>

²¹ UNHCR, August 2015, *Resettlement and Other Forms of Admission for Syrian Refugees* (list of pledges). Available here:
<http://www.unhcr.org/52b2febaf5.pdf>

25. **The Refugee Council recommends that the UK government explores the use of humanitarian visas to facilitate access to protection in the UK for refugees**, through discussion with other EU Member States.

Arrivals to the EU: Sharing responsibility

26. A significant commitment to the establishment of safe and legal routes to Europe by a number of Member States would lead to a reduction in the numbers attempting to arrive by sea. Admission of refugees through legal channels such as resettlement, family reunion and humanitarian visas, would also allow for better planning and management. However, given the lack of safe and legal channels and the inevitable high numbers therefore taking irregular routes and arriving in Italy and Greece, the UK government needs to recognise that a more equitable sharing of responsibility for refugees (including hosting them) is required within the EU.

27. The Refugee Council is disappointed in the government's decision not to support an EU-wide relocation programme, particularly given the modest scale of the proposed scheme. However, **the UK government should seek to share responsibility for a greater proportion of arrivals to the EU through the full implementation of the Dublin III regulation including through the generous use of its discretionary clause**. This would also reduce the numbers travelling through irregular channels *after* arrival in the EU, seeking to reach family members in the UK. Some of those in Calais may be eligible to have their asylum claims considered by the UK under Dublin III.

28. EU regulation 604/2013, commonly referred to as the 'Dublin III regulation' came into force in January 2014 and the UK is fully bound by it. However, the guidance to Home Office staff published on the gov.uk website has not been amended since this change of law and still refers to Dublin II, which is no longer relevant. As a result, it is unclear what written instructions staff in the Home Office are working to, which is a concern because of the significant improvements made to policy in the latest iteration of the regulation. This needs addressing as a matter of urgency. The Dublin regulation preamble states clearly that *respect for family life and the principle of family unity should govern decisions relating to the examinations of asylum applications*. In addition, the criteria relating to unaccompanied children are rooted firmly in the best interests of children.

29. We are specifically concerned about three significant elements of the Dublin III regulation that are not reflected in current guidance. Firstly the criteria relating to unaccompanied children, listed in Article 8, require Member States to reunite children with family members, siblings or relatives, yet this is not mentioned in the guidance. Similarly Member States are bound by Articles nine, ten and eleven which relate to the reunification of family members (spouse, partner and dependant children); a fact again, not reflected in the guidance.

30. It is unclear what process the Home Office undertakes to assess how it responds to requests made under the discretionary clause (Articles 16 and 17) in bringing together relatives, including those dependant upon asylum applicants in the UK, where family or cultural considerations prompt a request for the UK to take responsibility for asylum requests made in other Member States. A positive approach to the discretionary clause would be a sensible way of showing solidarity with those Member States experiencing most pressure, as well as being in the best interests of families and relatives seeking asylum.

31. The Refugee Council recommendations that the UK government:

- Seeks to share responsibility for a greater proportion of arrivals to the EU by ensuring that the Dublin III regulation is used to its full potential including through the generous use of its discretionary clause.
- Ensures that the latest iteration of the 'Dublin Regulation' is reflected in UK guidance as a matter of urgency.

Conclusions

32. Large parts of the world are engulfed in conflict – the largest, most intractable, is on Europe's doorstep. Neither the UK nor Europe as a continent, can avoid the biggest global refugee crisis since World War II, nor should we attempt to. In fact, it is attempts to contain the crisis through the closing down of safe and legal

²² As above

routes for refugees that has in part provoked the crisis on Europe's border. There is a risk that efforts to dismantle smuggling networks are simply an extension of this theme: seeking to close down irregular routes for refugees searching for safety. In the unlikely event that these efforts were successful, this approach risks trapping people in countries where they cannot get the protection they need, where in fact, they may be at risk of further human rights abuses. The Refugee Council believes that the single most effective way to undermine the smugglers' networks is to reduce demand, as detailed above.

33. With 60 million displaced from their homes, the EU cannot continue to expect much poorer countries to bear the bulk of the responsibility for the world's refugees. While some news reports may understandably alarm, it should be remembered that the numbers seeking to enter Europe are comparatively low and the UK takes much lower numbers than some other EU Members States: In 2014 Germany received six times the number of asylum applications than the UK, Sweden received three times the number and Italy and France received double.²³ The UK government should be playing a far more constructive role in responding to the crisis, in particular, by working with our EU partners to see how the UK could provide protection to a greater proportion of the world's refugees.

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²³ UK received 31,000, Italy received 56,000, France received 63,000, Sweden received 81,000 and Germany received 166,000. From Eurostat 2015, Asylum applicants and first instance decisions on asylum applications 2014. Available here: <http://ec.europa.eu/eurostat/documents/4168041/6742650/KS-QA-15-003-EN-N.pdf/b7786ec9-1ad6-4720-8a1d-430fcfc55018>