

**Committee: SOCHUM 1**

**Topic: The Question of legal routes for refugees**

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## **Summary**

People are often forced to flee their homes as a result of conflict, persecution or humanitarian crises. In 2023 there were 31.6 million refugees (under the UNHCR mandate), and this number could increase as conflicts and crises progress. However, reaching a safe destination can be challenging, and should a refugee reach a country in which they can apply for asylum, there are often legal barriers in place. The US and Germany (the two biggest destinations for international migrants) received 1,189,166 and 444,432 asylum applications in 2023, respectively. Yet only 60,000 people were resettled in the US and 95,997 people were granted refugee status in Germany.

Part of the issue is that some refugees migrate illegally, which is to say by a route that is not approved or regulated by the government of the potential host country. In some cases, however, this is unavoidable. Refugees attempting to cross the Darien Gap (the border between Panama and Columbia) have no other option, as they must travel through dense jungle not regulated by either government. In order to combat illegal migration, many governments have tried to close or restrict movement across borders. Donald Trump is an example of this, as his progress towards building a wall along the US-Mexico border limited access to legal routes of migration or refugees seeking asylum.

These barriers to legal routes of migration mean that most refugees reside in host countries neighbouring their country of origin (72% as of 2022). This puts pressure on these host countries, especially if countries bordering them are unwilling or unable to admit refugees. In order to reduce this pressure, complementary pathways to third countries and resettlement programs have been recommended by the Global Compact on Refugees and the Global Compact for Safe, Orderly and Regular Migration.

With conflicts and humanitarian crises (such as the ongoing wars in Ukraine and Gaza) continuing to displace people, as well as with the possibility of future climate refugees, governments need to find a solution to this issue. By increasing international cooperation and data sharing, governments can provide asylum for those in need while being able to exercise their national sovereignty to determine who they admit.

## Definition of Key Terms

**International Migrant** - An international migrant is anyone who has moved away from their place of residence across an international border, either temporarily or permanently.

**Refugee** - According to Article 1 of the 1951 Refugee Convention, a refugee is someone who is outside of their country of origin "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion". Massive human rights violations, external threats or extreme public disorder are the main "objective" measures for determining if someone is a refugee rather than an international migrant.

**Legal Migration Route** - Legal migration routes are pathways through which refugees or other international migrants can enter a country in a manner that is formally recognised or approved by its government (forms of migration not recognised by governments often include smuggling or bypassing border controls/regulations). Forms of legal migration routes include resettlement programs, family reunification, humanitarian visas, complementary pathways or asylum.

**Resettlement Program** - The UNHCR defines resettlement programs as the selection and transfer of refugees from a state in which they have applied for protection to a willing third country which has agreed to accept them with permanent legal residence. By gaining legal residence they are protected against refoulement (sending a refugee back to their country of origin while still facing persecution) and can apply for naturalisation at a later stage.

**Family Reunification** - A process by which international migrants already granted legal residential status can bring members of their family into a country. Over the past 20 years it has been one of the largest causes of migration into the EU, so implementing it in other countries and regions could aid refugees with family already in a destination country.

**Humanitarian Visas** - Humanitarian visas are issued to people at the discretion of the host country and are typically limited in number, allowing a refugee to legally enter the country that issued it and apply for asylum. Humanitarian visas can also be issued to family members not eligible for family reunification or refugees unable to access resettlement programs.

**Asylum** - A protected status granted to refugees, enabling them to stay in a host country without being deported. To be eligible for asylum a person must be facing persecution in their country of origin typically resulting from their race, religion, political opinion or social group.

**Complementary Pathway for Admission to Third Countries** - A complementary pathway is defined by UNHCR as a migration pathway specifically modified for refugees which grants them the ability to work and receive education or other opportunities outside their countries of origin, including the ability to apply for visas like other international migrants. This can be facilitated by UNHCR resettlement programs and contains safeguards against refoulement.

**Voluntary Repatriation** - A refugee returning to their country of origin after persecution against their social group, class, race, religion or set of political beliefs has ended and they can once again benefit from its protection. This is the eventual goal of many UN resolutions on refugees, once humanitarian issues in a refugee's country of origin have been resolved.

## Background Information

"Children make up over half of the world's refugees" (Global Compact on Refugees, clause 76). Yet despite the vulnerability of most refugees and their need for asylum, many are unable to find sanctuary due to a lack of access to legal routes of migration. Of the 29.4 million refugees under the UNHCR mandate in 2022, 5.4 were still awaiting international protection and confirmation of their status as refugees. Furthermore, of the 1.5 million refugees in need of resettlement, only 114,000 were resettled (7.75% of the total). As seen below, resettlement programs have

consistently failed to keep up with the demand for them over the past few decades.

**Table 3. Number of refugees needing resettlement and number of refugees resettled globally, from 2005**

| Year | Total projected resettlement needs (including multi-year planning), persons | Resettlement arrivals | Proportion resettled (%) |
|------|---|-----------------------|--------------------------|
| 2005 | –   | 80,734                | –                        |
| 2006 | –   | 71,660                | –                        |
| 2007 | –   | 75,271                | –                        |
| 2008 | –   | 88,772                | –                        |
| 2009 | –   | 112,455               | –                        |
| 2010 | –   | 98,719                | –                        |
| 2011 | 805,535   | 79,727                | 9.90                     |
| 2012 | 781,299   | 88,918                | 11.38                    |
| 2013 | 859,305   | 98,359                | 11.45                    |
| 2014 | 690,915   | 105,148               | 15.22                    |
| 2015 | 958,429   | 106,997               | 11.16                    |
| 2016 | 1,153,296   | 172,797               | 14.98                    |
| 2017 | 1,190,519   | 102,709               | 8.63                     |
| 2018 | 1,195,349   | 92,348                | 7.73                     |
| 2019 | 1,428,011   | 107,729               | 7.54                     |
| 2020 | 1,440,408   | 34,383                | 2.39                     |
| 2021 | 1,445,383   | 57,436                | 3.97                     |
| 2022 | 1,473,156   | 114,242               | 7.75                     |

Source: UNHCR, n.d. (accessed 17 June 2023).

Note: Projected Global Resettlement Needs Report by UNHCR is available from 2011.

In order to increase the resettlement rate and reduce the number of refugees still waiting for asylum, several steps need to be taken. Firstly, more information about the eligibility of each refugee for asylum and resettlement programs needs to be accessible so that governments can make informed decisions and modify their admissions processes to make them more effective. Furthermore, UN organisations such as the IOM or UNHCR (see below for more information) could provide aid to countries struggling to cope with the quantity of refugees seeking asylum. Additionally, in order to increase the capacity of legal routes more housing and infrastructure needs to be built to accommodate refugees and integrate them into society. Lastly, a general shift in mindset needs to occur in some countries, as for many high-income countries accepting skilled workers will cause both economic growth and reduce the effects of an ageing population. While it may take time, accepting refugees is both a humanitarian duty and a pragmatically

sound policy, and as such steps need to be taken to increase the accessibility of legal routes of migration for refugees.

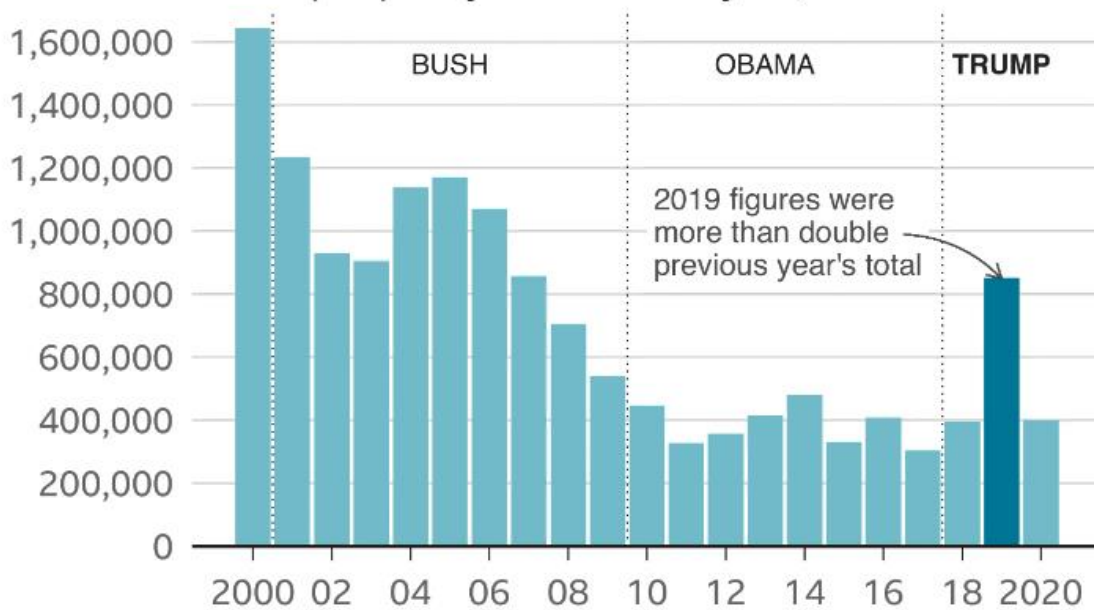
## Major Countries and Organizations Involved

### The USA

The USA has the biggest migration corridor in the world as of 2020 (over 10.8 million people having crossed the US-Mexico border) and has been the main destination for international migrants for over 50 years. However, President Trump built an additional 15 miles of primary barriers to prevent illegal crossings by international migrants. Overall, however, there has not been a significant reduction of the number of migrants apprehended at the US-Mexico border.

### Migrants detained on the US-Mexico border

Total number of people by US financial year, 2000-2020



Source: US Customs and Border Protection agency

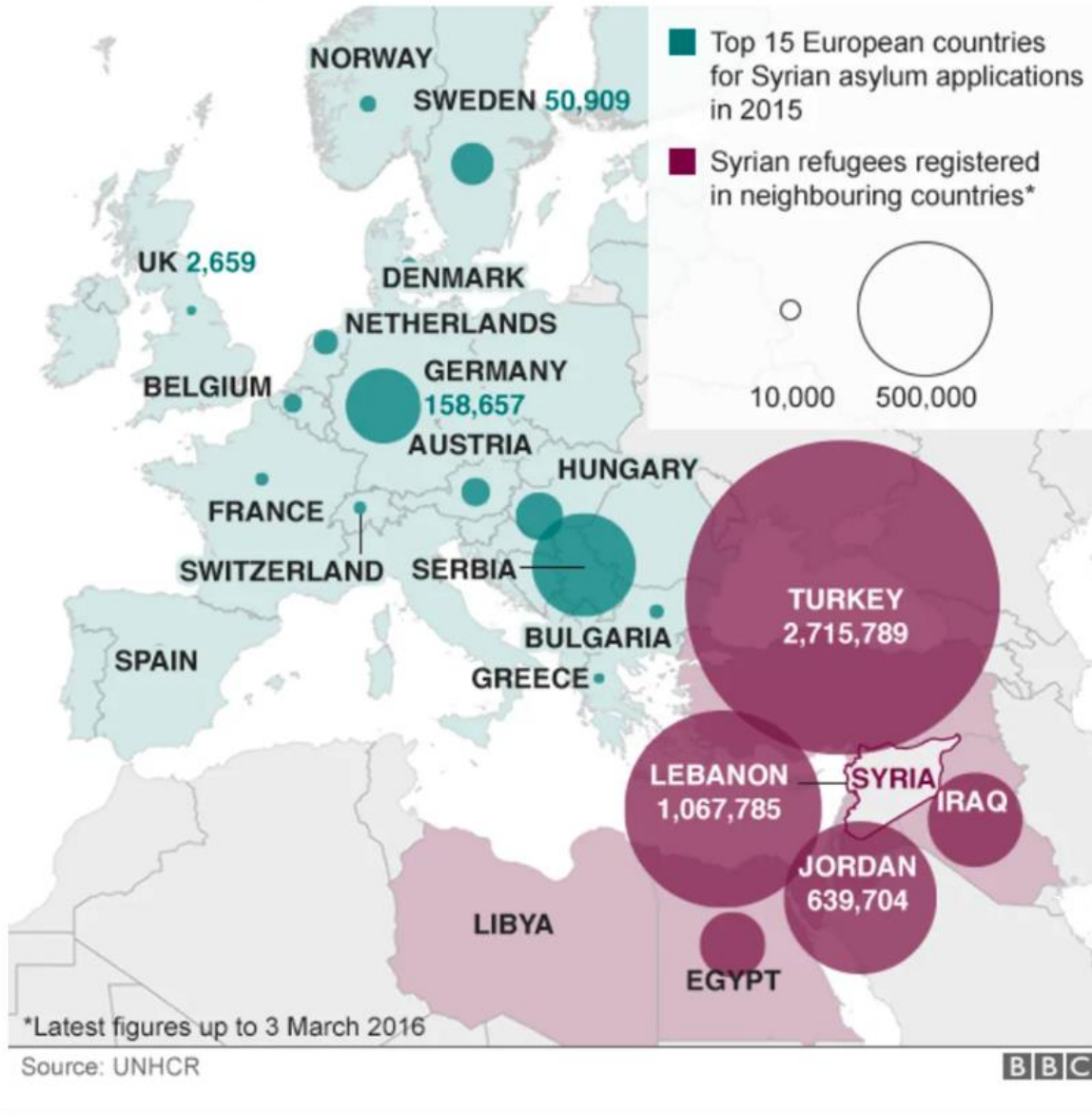


### Syria

Following the outbreak of civil war initiated by the torture of teenagers who wrote revolutionary slogans on their school, millions of refugees have fled Syria to seek asylum in neighbouring countries. As the image below shows, there are barriers to them reaching Europe, as more

refugees have been registered in Turkey than have applied for asylum in all of Europe.

### Syrians in neighbouring countries and Europe



### UNHCR

The UNHCR stands for the United Nations High Commissioner for Refugees, and acts as a “guardian” of the 1951 Refugee Convention and its 1967 Protocol. As a body of the UN, they help governments incorporate elements of the Convention into their laws to provide protection for refugees and ensure that they can utilise their rights. They also provide access to aid and protection, as well as helping people find work and education.

## IOM

The IOM (International Organisation for Migration) was established in 1951 and is another UN organisation involved in securing humane and orderly migration. One of its three objectives is to facilitate pathways for regular migration, which would increase the likelihood of refugees finding a legal migration route into a host country. To achieve this end, it aids refugees seeking access to resettlement programs.

## Timeline of Events

| Date               | Description   |
|--------------------|---|
| 1951               | The 1951 Refugee Convention establishes a legal definition of refugees, as well as introducing the principle of non-refoulement. However, the Convention only applies to European refugees fleeing from events occurring before 1951.   |
| 1967               | The addition of the 1967 Protocol to the 1951 Refugee Convention removes the geographic and temporal limitations to the definition of a refugee, making it applicable to all people fleeing persecution.  |
| 18 December, 1990  | The International Convention on the Rights of All Migrant Workers and Members of Their Families provides rights to international migrants that are legally working in a country. However, this does not benefit refugees who have entered a country using illegal means.  |
| March 2011         | The Syrian government cracked down on democratic protests against the torture of teenage boys who painted revolutionary slogans on the walls of their school. This sparked an anti-government uprising, causing millions to flee Syria and attempt to find refuge.  |
| 2013               | Nicolás Maduro became president of Venezuela, shortly before a fall in the price of oil (Venezuela's main export) caused 7 years of recession, widespread inflation and a shortage of access to basic goods. The humanitarian conditions caused millions to migrate out of Venezuela, often through the almost impassible Darien gap. |
| 19 September, 2016 | The New York Declaration for Refugees and Migrants, in which the 193 Member States meet and recognise the need for cooperation regarding migration. The second Annex of the Declaration led to the development of the Global Compact for Safe, Orderly and Regular Migration.   |

|                   |   |
|-------------------|---|
| 10 December, 2018 | The Global Compact for Safe, Orderly and Regular Migration is adopted by the majority of Member States in Marrakesh. While not legally binding, it focuses on providing information at different points on migratory routes and tackling illegal migration.   |
| 17 December, 2018 | The Global Compact on Refugees is affirmed by the United Nations, which sets out guidelines and solutions regarding how to equitably share efforts to aid refugees. It cites voluntary repatriation as the eventual resolution of a refugee crisis, but promotes complementary pathways and resettlement programs for short term use. |
| 31 October, 2020  | By this point nearing the end of his time as president, Donald Trump had extended the USA's primary barrier system by 15 miles (654 to 669), and built an additional layer of secondary barrier systems to restrict migration across the US-Mexico border.  |
| 24 February, 2022 | Russia invades Ukraine, causing over 6 million Ukrainian refugees to be registered worldwide as of February 2024. The European Union implemented the Temporary Protection Directive to facilitate the movements and welfare of Ukrainian refugees in Europe.  |

## Relevant UN Treaties and Events

### International Convention on the Protection of All Migrant Workers and Members of Their Families

This UN treaty provides a comprehensive list of the rights of migrant workers, including the right to leave their country of origin. This is covered in Part III, Article 8: "Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention". Furthermore, in Part IV, Article 56, paragraph 3 it is stated that: "In considering whether to expel a migrant worker or a member of his or her family, account should be taken of humanitarian considerations and of the length of time that the person concerned has already resided in the State of employment". However, not only is this treaty unable to affect the admission criteria of each Member State, but it endorses "Measures to detect and eradicate illegal or clandestine movements of migrant workers and members of their families" (Part VI,



Article 68, paragraph 2, clause b). Furthermore, this treaty only applies to international migrants that have been or are permitted to be employed in host countries, not to refugees.

### 1951 Refugee Convention

As stated above, this convention defines the term “refugee”. Article 1 provides the definition stated above, along with a series of exemptions from refugee status (such as having committed war crimes or having acted against the fundamental principles of the United Nations). This treaty sets out the core principle of non-refoulement, along with the basic minimum standards of work, housing and education. While it does provide these minimum requirements, it is up to Member States to grant refugee status and asylum first.

### Global Compact on Refugees

While not legally binding, this treaty attempts to provide a “basis for predictable and equitable burden-and responsibility-sharing among all United Nations Member States” regarding the response to refugees. It also calls for the creation of a periodic Global Refugee Forum, at which countries shall make concrete pledges pertaining to their contributions towards the objectives of the Compact, potentially including resettlement programs and complementary pathways for admission to third countries (the first forum was planned to be convened in 2019). The Compact further enables countries experiencing a complex refugee situation to activate a “support platform” of context specific aid from the UNHCR, as well as advising that Member Nations share financial responsibility for hosting refugees. Additionally, in Clause 91 it states that “Contributions will be sought from States, with the assistance of relevant stakeholders, to establish, or enlarge the scope, size, and quality of resettlement programmes” (including multi-year resettlement schemes), which would increase the availability of legal routes for refugees. Ultimately, the primary solution of the Compact is to prevent humanitarian crises from occurring and promote world peace in order to reduce the number of refugees through voluntary repatriation.

## Global Compact for Safe, Orderly and Regular Migration

Annex II of the New York Declaration led to the creation of the Global Compact for Safe, Orderly and Regular Migration. This treaty is not legally binding and focuses mainly on the distribution of information along major migratory routes, as well as identifying and removing illegal routes of migration. This is a goal that encompasses all international migrants, but that is also applicable to refugees. Some more specific clauses advise that host countries should provide legal stay to refugees but recognise that host countries have the final say on granting permanent residence. For example, Annex I, clause 16 suggests that: “States aim to provide resettlement places and other legal pathways on a scale that would enable the annual resettlement needs identified by the Office of the United Nations High Commissioner for Refugees to be met”.

## Previous Attempts to solve the Issue

### Temporary Protection Directives

In order to better cope with the quantity of Ukrainian refugees entering the EU, the EU implemented the Temporary Protection Directive, allowing them to gain welfare, accommodation and healthcare. While only initially lasting for 1 year (with the option to extend these permits further depending on the host countries’ situation) Ukrainians also gained access to residency permits, were able to enrol their children into education systems and could join the labour market.

### Sharing Resources to Increase Accommodation Capacity

The Global Compact on Refugees also attempts to increase international cooperation to increase the financial and economic capacity of Member States to house refugees. Several of the clauses in this treaty cover sharing financial resources to lessen the pressure on host states, such as clause 54: “In support of government strategies to manage arrivals, UNHCR, States, and relevant stakeholders will contribute resources and expertise to strengthen national capacities for reception”. Another example is clause 58: “In support of concerned countries, UNHCR, in conjunction with States and relevant stakeholders, will contribute resources and expertise to strengthen national capacity for individual registration and documentation”. Both of these clauses ensure that all Member States are contributing resources to housing refugees, granting legal migration routes greater capacity.

## International Support Platforms

In a similar manner to the clauses discussed above, the “support platform” discussed in the Global Compact on Refugees provides context specific aid to countries admitting increasing numbers of refugees from the UNHCR. This solution differs slightly from the above clauses in that it provides support in response to the increased pressure placed on a host country by an increase in the quantity of refugees, instead of a more constant form of support to countries with an already large quantity of refugees or countries which anticipate increasing numbers of refugees.

## Possible Solutions

Increasing awareness and capacity:

- Increased implementation of family reunification policies in the legislation of all member states
- Increasing the quantity of humanitarian visas available to vulnerable refugees unable to directly apply for asylum
- Relaxing the criteria for asylum, or making the application process more accessible and straightforward
- Increased awareness and accessibility of legal routes for refugees

International cooperation:

- Providing monetary assistance to countries that host refugees or participate in complementary pathways
- Increased cooperation between member nations regarding resettlement programs, in order to more equitably distribute refugees

Increasing the protections enjoyed by refugees and the ability of states to provide them:

- Extending the legal benefits enjoyed by migrant workers under the International Convention on the Rights of All Migrant Workers and Members of Their Families to all refugees
- Implementing Temporary Protection Directives similar to the one used by the EU to grant short term residence permits and ability to participate in the labour market to refugees

Preventing illegal crossings:

- Better policing of smuggling routes and prevention of harmful methods of migration (e.g small boat crossings across the Mediterranean)
- Creating physical boundaries along areas where illegal migration is common

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