

The Refugee Crisis in the European Union

Context

According to the United Nations High Commission for Refugees (UNHCR), the 1951 Refugee Convention states that a refugee is someone who:

“owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country.”¹

In contrast, the UNHCR suggests that “migrants, especially economic migrants, choose to move in order to improve the future prospects of themselves and their families”. It further makes the distinction by suggesting that refugees “have to move if they are to save their lives or preserve their freedom”, and that they have no protection from their own State.

According to the EU’s Border Agency, Frontex (which uses the term migrant and does not distinguish between migrants and refugees), more than 500,000 migrants have arrived at the EU’s borders this year, compared with 280,000 in 2014. In August 156,000 migrants arrived in the EU, the fifth consecutive monthly record for migration².

Competence

In relation to the current crisis, the European Union institutions can only complement the competencies and action of Member State Governments, which in many cases (like in the area of residence permits, asylum decisions, reception of refugees, external border management etc.) retain exclusive competences to address the refugee crisis. This means the EU’s role has been to try to encourage a coordinated EU wide response to the refugee crisis, and to try to encourage Member State Governments to share responsibility for dealing with the crisis.

EU Update

Both the European Council (the meeting of Heads of State and Government) and the Justice and Home Affairs Council have met on a number of occasions to discuss the refugee crisis and the European Union’s reaction to it over the last six months. A brief timeline is set out in the box below³:

¹ <http://www.unhcr.org/pages/49c3646c125.html>

² <http://frontex.europa.eu/news/more-than-500-000-migrants-detected-at-eu-external-borders-so-far-this-year-fGa82v>

³ http://europa.eu/rapid/press-release_STATEMENT-15-5697_el.htm

On 13 May 2015, the European Commission presented its European Agenda on Migration, setting out a comprehensive approach for improving the management of migration in all its aspects.

On 27 May 2015, the European Commission came forward with a first package of implementing measures of the European Agenda on Migration, including relocation and resettlement proposals, and an EU Action plan against migrant smugglers.

On 25-26 June 2015, the European Council agreed to move forward on the proposals made by the European Commission in the European Agenda on Migration, focusing on relocation and resettlement, returns and cooperation with countries of origin and transit.

On 20 July 2015, the Justice and Home Affairs Council agreed to implement the measures as proposed in the European Agenda on Migration, notably to relocate people in clear need of international protection from Italy and Greece over the next two years, starting with 32,256 in a first step, and to resettle 22,504 displaced persons in clear need of international protection from outside the EU.

On 9 September 2015, the Commission proposed a new set of measures, including an emergency relocation mechanism for 120,000 refugees, as well as concrete tools to assist Member States in processing applications, returning economic migrants, and tackling the root causes of the refugee crisis.

On 14 September, Home Affairs Ministers adopted the Decision to relocate 40,000 people in clear need of international protection from Italy and Greece.

On 17 September, the European Parliament voted in support of the Commission's proposal to relocate 120,000 refugees, which was welcomed by the Commission.

Further details of the meetings set out as a timeline is attached as an annex.

Most recently, the Justice and Home Affairs Council met on Tuesday 22 September. At the Council meeting, Member State Governments agreed to adopt the proposals put forward by the European Commission to relocate a further 120,000 refugees from Italy and Greece across all Member States. According to the decision, 66,000 persons will be relocated from Italy and Greece (15,600 from Italy and 50,400 from Greece). The remaining 54,000 persons will be relocated from Italy and Greece in the same proportion after one year of the entry into force of the decision⁴. Denmark and the United Kingdom choose not to participate in this decision. Ireland has expressed its intention to participate.

The Decision included quotas of refugees for each participating Member State to provide a home to. Hungary, the Czech Republic, Slovakia and Romania voted against the plan, but they were overruled.

The 120,000 refugees are in addition to a previously agreed plan to relocate 40,000 refugees. However, with four countries voting against the proposal and indicating they would not accept relocated refugees it is not clear whether the scheme will be able to be successfully implemented⁵.

⁴ <http://www.consilium.europa.eu/en/meetings/jha/2015/09/22/>

⁵ <http://www.bbc.co.uk/news/world-europe-34324096>

On 23 September, an informal meeting of heads of state or government agreed a series of measures to try to address the refugee crisis. According to the statement issued following the meeting, Member State Governments have agreed a number of measures which largely seek to address the issue of refugees coming to the European Union, rather than addressing what happens when they reach the EU⁶. According to the statement released after the meeting:

“We decided on a number of immediate priorities and had an in-depth discussion on how to achieve long-term sustainable solutions. We all recognised that there are no easy solutions and that we can only manage this challenge by working together, in a spirit of solidarity and responsibility. In the meantime we have all to uphold, apply and implement our existing rules, including the Dublin regulation and the Schengen acquis.”

The package of measures broadly agreed by Member States includes:

- Additional €1 billion in funding for the United Nations High Commissioner for Refugees, the World Food Programme and other agencies working in the region;
- assist Lebanon, Jordan, Turkey and other countries in dealing with the Syrian refugee crisis, including through a substantial increase of the EU's Regional Trust Fund in response to the Syrian Crisis ("Madad Fund");
- Work more closely with Turkey to stem migration flows;
- assist the Western Balkan countries in handling the refugee flows;
- tackle the dramatic situation at our external borders and strengthen controls at those borders, including through additional resources for Frontex, EASO and Europol, and with personnel and equipment from Member States;
- meet requests from front-line Member States for assistance by the institutions, the agencies and other Member States in order to ensure identification, registration and fingerprinting of migrants (hotspots) and at the same time ensure relocation and returns, at the latest by November 2015.

The Member State Governments also called for “a renewed UN-led international effort to bring an end to the war” in Syria. The issue of migration will once again be considered at the October European Council.

The UK Government's Response

Protocol 21 to the European Union Treaties allows the United Kingdom and Ireland to choose whether it wishes to opt in to measures in the area of freedom, security and justice. Protocol 22 applies the same provisions to Denmark.

The UK Government has indicated it will not opt-in to the Commission's proposals to relocate 40,000 refugees from Greece and Italy (as agreed by the Justice and Home Affairs Council meeting on 20 July) or the recent scheme proposed by the European Commission (and considered by the Extraordinary Home Affairs Council meeting on 14 September and the Justice and Home Affairs Council on 22 September) to relocate a further 120,000 refugees across the European Union from Greece, Hungary and Italy. The

⁶ <http://www.consilium.europa.eu/en/press/press-releases/2015/09/23-statement-informal-meeting/>

Home Secretary, Theresa May, set out the UK Government's reasons for this in the House of Commons on 16 September:

"I also made clear that we do not support all of the Commission's recent proposals which include the relocation of 120,000 people already in Europe. As I have said before, the UK believes that this approach risks encouraging even more people to risk their lives making the dangerous journey across the Mediterranean or into Europe.

Instead, we should be – as the UK is doing – resettling people directly from the region, including Syrian refugees from Turkey, Jordan and Lebanon – such as those the Prime Minister met on his visit to the region on Monday. This is important for three particular reasons. Firstly, it ensures that we are taking the most vulnerable people – not just those who are sufficiently fit or who have enough money to make the journey to Europe. Secondly, it deters people – of any age or wealth – for attempting the perilously journeys which have already led to so many tragic deaths. And thirdly, it helps to break the business model of those callous criminal gangs preying on human misery in this way.

I made clear once again at the council meeting on Monday that the UK will not be participating in a compulsory EU relocation scheme, and our position on this has been acknowledged clearly by the Commission and other Member States."⁷

On 7 September, the Prime Minister set out the UK Government's policy on the refugee crisis to the House of Commons. He said:

"Britain already works with the UN to deliver resettlement programmes and we will accept thousands more under these existing schemes. We have already provided sanctuary to more than 5,000 Syrians in Britain and have introduced a specific resettlement scheme, alongside those we already have, to help those Syrian refugees particularly at risk.

But given the scale of the crisis and the suffering of the Syrian people it is right that we should do much more. So Mr Speaker, we are proposing that Britain should resettle up to 20,000 Syrian refugees over the rest of this Parliament. In doing so we will continue to show the world that this is a country of extraordinary compassion always standing up for our values and helping those in need.

So Mr Speaker, Britain will play its part alongside our other European partners. But because we are not part of the EU's borderless Schengen agreement or its relocation initiative, Britain is able to decide its own approach. So we will continue with our approach of taking refugees from the camps and from elsewhere in Turkey, Jordan and Lebanon. This provides refugees with a more direct and safe route to the UK, rather than risking the hazardous journey to Europe which has tragically cost so many lives.

We will continue to use the established UNHCR process for identifying and resettling refugees and when they arrive here we will grant them a 5 year humanitarian protection visa. And we will significantly expand the criteria we use for our existing Syrian Vulnerable Persons Relocation scheme.

⁷ <https://www.gov.uk/government/speeches/home-secretarys-update-on-the-migration-situation-in-europe-and-the-middle-east>

As we do so we will recognise that children have been particularly badly affected by the crisis in Syria. Mr Speaker, in most cases the interests of children are best met in the region where they can remain close to surviving family members. But in cases where the advice of the UNHCR is that their needs should be met by resettlement here in the UK, we will ensure that vulnerable children, including orphans, will be a priority.”⁸

The United Nations schemes referred to by the Prime Minister in his speech are illustrated in the box below⁹.

The Syrian Vulnerable Persons scheme was launched in January 2014, and according to the UK Government “is the first resettlement programme run by the UK to target support for refugees specifically on the basis of their vulnerability”. The scheme has provided support to 216 people to date which is based on need rather than fulfilling a quota.

Gateway is one of the oldest and largest resettlement programmes in the EU. The current commitment is to resettle 750 refugees per year – usually people who have been displaced for more than 5 years.

Mandate has operated since 1995. It’s designed to resettle individual refugees from anywhere in the world if they:

- have been recognised as refugees by UNHCR, and judged by them to be in need of resettlement
- have a close family member in the UK who is willing to accommodate them

The Prime Minister also told the House of Commons that the full cost of supporting Syrian refugees in the UK will be met through the UK Government’s international aid budget for the first year, easing the burden on local communities. The Prime Minister said this was in line with internationally agreed rules.

5-year humanitarian protection visa

The UK Government’s approach of providing homes for 20,000 Syrians is based on giving them a 5-year humanitarian visa. UK Government guidance on the issuing of humanitarian protection visas states:

“a person eligible for subsidiary protection means a third country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15, and to whom Article 17(1) and (2) do not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country”.¹⁰

⁸ <https://www.gov.uk/government/speeches/syria-refugees-and-counter-terrorism-prime-ministers-statement>

⁹ <https://www.gov.uk/government/news/syria-refugees-uk-government-response>

¹⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257431/huma-prot.pdf

The UK Government states that a person becomes eligible to apply to settle in the UK (known as ‘indefinite leave to remain’) after spending five years in the UK as either a refugee or as someone with humanitarian protection¹¹. This suggests that those Syrians granted a five year humanitarian visa will be eligible to apply for leave to remain in the UK at the conclusion of the visa’s eligibility.

New UK Minister

As well as emphasising the financial and humanitarian support the UK has provided, the UK Government last week announced the appointment of a new Minister who will be responsible for “coordinating and delivering work across government to resettle 20,000 Syrian refugees in the UK, along with coordinating the provision of government support to Syrian refugees in the region”¹². Richard Harrington MP has been appointed as a Parliamentary Under Secretary of State jointly at the Home Office, the Department for Communities and Local Government, and the Department for International Development. He will report to the Home Secretary.

Following his appointment, one of the Minister’s first roles was to host an NGO meeting to agree with stakeholders how best to harness the strong desire expressed by the public, and a range of organisations, to welcome these refugees to the UK¹³.

Speaking in the House of Commons on 16 September, the Home Secretary, Theresa May, provided an update on the action being taken by the UK Government in response to the refugee crisis:

“The response of the British public has been one of overwhelming generosity, and many have been moved to make very kind offers of assistance. In order to harness that tremendous generosity, we have set up a webpage (<https://www.gov.uk/government/news/syria-refugees-what-you-can-do-to-help—2>) for those who want to help. And in collaboration with Her Majesty’s Government, the Red Cross has set up a helpline for anyone who wants advice on the ways in which they can be of assistance to Syrians in need of protection in the UK.

In addition to the new Minister, I have established a dedicated Gold Command Team within the Home Office to bring together important partners such as the Local Government Association, DFID, DCLG, the Foreign & Commonwealth Office, the UNHCR and NGOs. This team is working closely with local authorities across the UK to ensure that refugees will have the support and care they need locally on arrival.

Last Friday, I chaired a cross-government meeting which brought together the Secretaries of State for Communities and Local Government, Work and Pensions, International Development, Education, and the Wales and Scotland Offices – as well as Ministers from five other government departments and representatives from the Local Government Association – to drive forward this important work. Together we agreed the plan of action, which includes urgent work to expand the criteria for our

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¹² <https://www.gov.uk/settlement-refugee-or-humanitarian-protection/eligibility>
[ov.uk/government/news/home-office-minister-with-responsibility-for-syrian-refugees-appointed](https://www.gov.uk/government/news/home-office-minister-with-responsibility-for-syrian-refugees-appointed)

¹³ <https://www.gov.uk/government/speeches/home-secretarys-update-on-the-migration-situation-in-europe-and-the-middle-east>

existing Syrian Vulnerable Persons Resettlement Scheme and to scale up our current processes.”¹⁴

Most recently, on 23 September, the UK Government announced a further £100m in funding to support refugees in camps bordering Syria¹⁵.

The Scottish Government's Role

In response to the public response in Scotland to the humanitarian crisis developing, the Scottish Government called a summit¹⁶ of key stakeholders to plan Scotland's response to the crisis.

As a result of the summit, the establishment of an operational taskforce to co-ordinate Scotland's practical response to the humanitarian refugee crisis was announced. The Group, to be chaired by the Minister for Europe and International Development, Humza Yousaf will engage with “organisations across Scotland to establish capacity in a range of matters such as housing, health services, language support, transport and social services”¹⁷. The group “will also examine how Scotland can harness the goodwill of the public in Scotland with many of the humanitarian organisations already reporting a huge number of offers of practical help from individuals and groups across the country”.

Following the summit, the Scottish Government announced that the work of the operational taskforce will be supported by an initial £1 million in Scottish Government funding to ensure that services across Scotland are prepared to deal with the arrival of refugees¹⁸.

Ahead of the first meeting of the operational taskforce, the Scottish Government's Europe and International Development Minister issued a news release in which he was quoted as saying:

“As made clear by the First Minister at last week's emergency humanitarian summit, Scotland is willing to take our fair share of refugees to help some of the most vulnerable people in need.

We welcome the Prime Minister's shift in attitude and late recognition that the UK has a role to play as an important first step. The 20,000 refugees over five years should not be seen as a cap or an upper limit and we must also play our part in responding to the crisis on the southern European coast line.

We believe that the UK should opt in to the EU relocation scheme and while the Prime Minister has made clear that the year one resettlement will be funded from the UK international aid budget, we seek urgent clarification on the impact that this will have on the work of existing aid projects.

¹⁴ <https://www.gov.uk/government/speeches/home-secretarys-update-on-the-migration-situation-in-europe-and-the-middle-east>

¹⁵ <http://www.bbc.co.uk/news/uk-politics-34339921>

¹⁶ The full list of groups represented at the summit was as follows: Afghan community; Amnesty International; British Red Cross; Catholic Church Bishops' Conference; Christian Aid; Church and Society Council; Church of Scotland; CoSLA; Edinburgh Churches for Sanctuary; Edinburgh City Council; Glasgow Campaign to Welcome Refugees; Glasgow City Council; Glasgow Girls; Mercy Corps; Muslim Council of Scotland; New Scots Refugee Integration Strategy Core Group; Oxfam; Refugee Women's Strategy Group; Save the Children; Scottish Catholic International Aid Fund; Scottish Human Rights Commission; Scottish Refugee Council; Scottish Trades Union Congress; Syrian community; Uniting Nations in Scotland.

¹⁷ <http://news.scotland.gov.uk/News/Scotland-responds-to-humanitarian-crisis-1ca3.aspx>

¹⁸ <http://news.scotland.gov.uk/News/Initial-1-million-to-support-humanitarian-taskforce-1ca6.aspx>

The refugee situation is at crisis point now and stretching UK support and refugee intake over the next five years means a number of people who could be helped immediately will be left without the vital help they need.

We want to work constructively with the UK Government and the First Minister has again, today, written to the Prime Minister outlining the proceedings of Friday's summit which focused on looking at some of the practical issues involved in integrating those who come here to seek protection.

Today, I met with the Scottish Refugee Council to discuss the immediate service provision required to take in refugees and tomorrow I will chair the first meeting of the taskforce which will bring together stakeholders from across Scotland in the areas of local government, housing, health services, language support, transport and social services and will co-ordinate Scotland's humanitarian and practical response.

This is first and foremost a humanitarian crisis and it requires a humanitarian response. The overwhelming support we have seen from the Scottish people over the past few days shows our willingness to help the most vulnerable in the world.”¹⁹

The operational taskforce met for the first time on 8 September. According to the Scottish Government;

“The operational task force brings together Scottish Ministers, the Scottish Refugee Council, the UK Government, local government and key stakeholders to coordinate Scotland's humanitarian and practical response. Its first meeting today considered issues including housing, health services, language support, and social services for refugees.”²⁰

The Minister for Europe and International Development also indicated that the majority of Scotland's local authorities had indicated their willingness to accommodate refugees.

Following the European Commission's proposals for the relocation of a further 120,000 refugees from Greece, Hungary and Italy, the Scottish Government indicated that Scotland would be prepared to take its share. In a press release on 9 September, the Minister for Europe said:

“Scotland stands ready to accept its fair share of refugees and we are again urging the UK Government to opt in to this EU relocation scheme and help our neighbours and European partners on the mainland cope with this humanitarian crisis.”²¹

The Scottish Government has also set up a website - <http://www.scotlandwelcomesrefugees.scot/> - to help co-ordinate Scotland's response to the international refugee crisis. Following the website going live, it was viewed over 10,000 times in the first 48 hours with:

“Seven hundred people from across Scotland - Glasgow, Edinburgh, Aberdeen, North Berwick, Kilmarnock, Falkirk, Dundee, Troon, Campbeltown, Isle of Mull – have signed up to help, offering accommodation, befriending services and English language skills.”²²

¹⁹ <http://news.scotland.gov.uk/News/Scotland-s-response-to-refugee-crisis-1cb4.aspx>

²⁰ <http://news.scotland.gov.uk/News/Refugee-task-force-first-meeting-1cc5.aspx>

²¹ <http://news.scotland.gov.uk/News/UK-should-opt-in-to-EU-Refugee-Scheme-1cd2.aspx>

²² <http://news.scotland.gov.uk/News/Scotland-extends-helping-hand-to-refugees-1d36.aspx>

Giving evidence to the European and External Relations Committee on 17 September 2015, the Scottish Government's Minister for Europe and International Development addressed the question of how Scotland can support refugees:

“Let me say definitively that, without any doubt, we cannot act unilaterally. It would give me pleasure if I could open up Scotland to take more refugees. I would not hesitate to do that, nor would our local authorities hesitate for a second, but that cannot be done. There is no legal route for us to do that.

As things stand, we are represented by the UK when it comes to EU schemes or to negotiating with the United Nations, although we have a dialogue with them. We cannot simply send out boats and bring people here; that is not possible for us. What we can do is continue to influence the UK Government and to put pressure on it, but the public will need to continue the pressure.”²³

The Minister also provided the Committee with more details of the refugee taskforce:

“On the task force, one of the advantages of being a country of our size is that we have been able to bring people around the table very quickly. I thank all the stakeholders and non-governmental organisations, particularly the local authorities and many others who have managed to come around the table so speedily. That shows a determination to take the issue forward.

The task force has a few immediate priorities. Of course, one is to find suitable accommodation for the immediate 1,000 refugees who we have said we are ready to take. As I reiterated in the debate, Scotland will take more—we will take a proportionate share of refugees. However, the immediate concern must be to find suitable accommodation. I use the word “suitable” deliberately, because I would say that Scotland has not always got the accommodation right in the past. We have put people in accommodation that nobody else wanted or that was seen as substandard. We have also put refugees only in areas of high and multiple deprivation. We have to ask local authorities that do not have areas of multiple deprivation to play their part. Suitable accommodation is the first aspect and we have made good progress on that.

The second thing is to ensure that the wraparound services of integration are there for refugees, not from the day they arrive but pre-arrival. As you know, these things have to be in place before people arrive—we particularly need to work with local communities where refugees will be housed.”²⁴

On 21 September, the First Minister met with the UK Government's Foreign Secretary Phillip Hammond and reiterated the Scottish Government's view that the UK should opt-in to the extended EU-wide relocation scheme announced by the EU President recently. At the same time as this meeting was taking place, the Deputy First Minister was in Brussels where he” outlined Scotland's desire to participate in the EU-wide co-ordinated action on refugees”²⁵.

²³ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10097>

²⁴ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10097>

²⁵ <http://news.scotland.gov.uk/News/Urgent-refugee-action-required-1d56.aspx>

Annex: The European Union Institutions Response to the Refugee Crisis

April European Council

On 23 April 2015, a special meeting of the European Council (at the time held to address the on-going tragedy in the Mediterranean) agreed amongst a number of measures to “set up a first voluntary pilot project on resettlement across the EU, offering places to persons qualifying for protection”²⁶.

Commission Communication - A European Agenda on Migration

Shortly afterwards, the Commission published its Communication, “A European Agenda on Migration”, proposing a series of measures to respond to the immediate crisis in the Mediterranean. On 8 June 2015 the European Commission adopted a Recommendation proposing an EU-wide resettlement scheme, supported by EU funding, to provide places for 20,000 individuals currently outside the EU who are in need of international protection²⁷. The annex to the Recommendation included an allocation of refugees to each Member State with the UK asked to take 2,309 which was 11.54% of the overall total²⁸.

European Council - 25-26 June

At the European Council on 25-26 June, Member State governments again discussed the refugee crisis. In reference specifically to relocation and resettlement of refugees, the Council Conclusions stated²⁹:

“In the light of the current emergency situation and of our commitment to reinforce solidarity and responsibility, and in line with its April decision in all its regards, including paragraph 3, the European Council agreed on the following interlinked measures to help 60,000 people:

- a) the temporary and exceptional relocation over two years from the frontline Member States Italy and Greece to other Member States of 40,000 persons in clear need of international protection, in which all Member States will participate;
- b) the rapid adoption by the Council of a Decision to this effect; to that end, all Member States will agree by consensus by the end of July on the distribution of such persons, reflecting the specific situations of Member States;
- c) the setting up of reception and first reception facilities in the frontline Member States, with the active support of Member States' experts and of EASO, Frontex and Europol to ensure the swift identification, registration and fingerprinting of migrants (“hotspots”). This will allow to determine those who need international protection and those who do not. The Commission will draw up, in close cooperation with the hosting Member States, a roadmap by July 2015 on the legal, financial and operational aspects of these facilities;

²⁶ <http://www.consilium.europa.eu/en/press/press-releases/2015/04/23-special-euco-statement/>

²⁷ http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/asylum/general/docs/recommendation_on_a_european_resettlement_scheme_en.pdf

²⁸ http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/asylum/general/docs/recommendation_on_a_european_resettlement_scheme_annex_en.pdf

²⁹ <http://data.consilium.europa.eu/doc/document/ST-22-2015-INIT/en/pdf>

d) the immediate provision of enhanced financial assistance to the frontline Member States to help alleviate the costs of receiving and processing applications for international protection;

e) the agreement that all Member States will participate including through multilateral and national schemes in the resettling of 20,000 displaced persons in clear need of international protection, reflecting the specific situations of Member States.

The Council Conclusions also stated that:

“Without prejudice to the specific situation of the United Kingdom, Ireland and Denmark pursuant to Protocols 21 and 22 to the Treaties. The UK will not participate.”

Protocol 21 to the Treaties allows the United Kingdom and Ireland to choose whether it wishes to opt in to measures in the area of freedom, security and justice. Protocol 22 applies the same provisions to Denmark. As a result, the UK, Ireland and Denmark are not included in the Commission’s proposed distribution quotas.

The European Council also agreed a number of other measures on return, readmission and reintegration policies for those asylum seekers not qualifying for protection.

Justice and Home Affairs Council - 20 July

The Justice and Home Affairs Council meeting on 20 July 2015 discussed the relocation and resettlement of refugees as agreed by the June European Council. The Council agreed on measures to³⁰:

- AGREE to the relocation of 40,000 persons in clear need of international protection, which will run over two years, from the frontline Member States Italy and Greece,
- AGREE, as a first step, to the relocation of 32 256 persons in accordance with the Annex
- AGREE to update the figures by December 2015 with a view to reaching the overall number of 40,000 in accordance with the commitment taken at the European Council on 25-26 June 2015.

In addition, the Justice and Home Affairs Council also agreed that a further 20,000 persons “in clear need of international protection” should be resettled in the EU with financial support being provided by the Union Resettlement Fund. The United Kingdom Government is participating in this programme and will provide homes to 2,200 persons.

The European Commission’s latest proposals

During his “State of the Union” speech on 9 September 2015, the European Commission President Jean-Claude Juncker called on Member States to adopt the Commission proposals on the emergency relocation of a total of 160,000 refugees at the Extraordinary Justice and Home Affairs Council on 14 September³¹. The Commission later produced a press notice outlining the measures it was proposing. The Press release outlined the following proposal:

³⁰ <http://www.statewatch.org/news/2015/jul/eu-jha-council-20-7-15-final-prel.pdf>

³¹ http://europa.eu/rapid/press-release_SPEECH-15-5614_en.htm

“An emergency relocation proposal for 120,000 refugees from Greece, Hungary and Italy: following the sharp increase in illegal border crossings in the Central and Eastern Mediterranean, but also on the Western Balkans route, over the last few months, urgent action is needed. The Commission proposes to relocate 120,000 people in clear need of international protection from Italy (15,600), Greece (50,400) and Hungary (54,000). The relocation would be done according to a mandatory distribution key using objective and quantifiable criteria (40% of the size of the population, 40% of the GDP, 10% of the average number of past asylum applications, 10% of the unemployment rate). It applies to nationalities of applicants with an EU-wide average recognition rate of 75% or higher[1]. This comes in addition to the Commission’s proposal from May to relocate 40.000 people in clear need of international protection from Italy and Greece to other EU Member States, thus bringing the total proposed number up to 160,000. The relocation will be accompanied by €780 million EU budget support for participating Member States, including a 50% pre-financing rate to ensure that governments on national, regional and local level have the means to act very swiftly.”³²

The Commission provided a proposal for the number of refugees each Member State should take from Italy, Greece and Hungary. The proposal builds on the initial Council agreement to relocate 40,000 refugees which the UK Government has opted out of. The number of refugees it is proposed each of the other Member States should take is provided in the table below:

Emergency Relocation for Italy, Greece and Hungary

	<i>Italy</i>	<i>Greece</i>	<i>Hungary</i>	TOTAL
Austria	473	1529	1638	3640
Belgium	593	1917	2054	4564
Bulgaria	208	672	720	1600
Croatia	138	447	479	1064
Cyprus	36	115	123	274
Czech Republic	387	1251	1340	2978
Estonia	48	157	168	373
Finland	312	1007	1079	2398
France	3124	10093	10814	24031
Germany	4088	13206	14149	31443
Latvia	68	221	237	526

³² http://europa.eu/rapid/press-release_IP-15-5596_en.htm

Lithuania	101	328	351	780
Luxembourg	57	185	198	440
Malta	17	56	60	133
Netherlands	938	3030	3246	7214
Poland	1207	3901	4179	9287
Portugal	400	1291	1383	3074
Romania	604	1951	2091	4646
Slovakia	195	631	676	1502
Slovenia	82	265	284	631
Spain	1941	6271	6719	14931
Sweden	581	1877	2011	4469
TOTAL	15600	50400	54000	120000

The Commission also proposed a number of other measures including:

- A temporary solidarity clause which means if – for justified and objective reasons such as a natural disaster – a Member State cannot temporarily participate totally or in part in a relocation decision, it will have to make a financial contribution to the EU budget of an amount of 0.002% of its GDP.
- A Permanent Relocation Mechanism for all Member States – meaning if any EU Member State is experiencing a crisis situation and extreme pressure on its asylum system as a result of a large and disproportionate inflow of third country nationals, the Commission may introduce a solidarity mechanism to provide for the relocation of refugees
- A common European list of Safe Countries of Origin – The European Commission is proposing a Regulation to establish an EU common list of safe countries of origin which will allow for swifter processing of individual asylum applications from candidates originating from countries considered to be safe across the EU, and for faster returns if the individual assessments of the applications confirm no right of asylum.
- Addressing the external dimension of the refugee crisis - The external dimension is a key component in the efforts of solving this crisis. Renewed efforts are being devoted to support diplomatic initiatives and find political solutions to the conflicts in Syria, Iraq, and Libya.

Extraordinary Home Affairs Council

On 14 September, an extraordinary Home Affairs Council meeting considered the European Commission's proposals on the emergency relocation of a total of 120,000 refugees which would build on the initial Council agreement (agreed at the Justice and Home Affairs Council held on 20 July) to relocate 40,000 refugees.

The Home Affairs Council failed to adopt a formal decision to relocate a further 120,000 refugees. Ministers instead established "an agreement in principle" on the proposed emergency relocation of 120,000 people but without any agreement on how many refugees each Member State should provide a home to. The Presidency Conclusions state:

"In light of the current exceptional emergency situation ..., the Council has agreed in principle to relocate an additional 120 000 persons in need of international protection from any Member States exposed to massive migratory flows. All Member States confirm their willingness to participate. The numbers proposed by the Commission constitute the basis for an agreement on the distribution of those persons within the European Union. Work will be carried out as a matter of priority on the preparation of a formal decision to implement this commitment, with due regard to the flexibility that could be needed by Member States in the implementation of the decision, in particular to accommodate the current situation and unforeseen developments. With a view to the adoption of this decision at the next meeting of the Justice and Home Affairs Council scheduled on 8-9 October, the Council has invited the European Parliament to express its opinion as a matter of urgency."³³

According to reports Slovakia and the Czech Republic opposed the plan to relocate the additional migrants, as proposed by the Commission, unless it was clear that Member States decisions to take refugees could be carried out on a voluntary basis rather than through agreed quotas³⁴.

As with the allocation of 40,000 refugees which was agreed in principle on 20 July and formally approved at this Council, the UK Government chose not to participate in the scheme.

Following the meeting, Jean Asselborn, the Interior Minister of Luxembourg, which holds the rotating EU presidency said that as the agreement was backed by a large majority of countries that they would proceed on that basis with a view to adopting the proposal at the 8th October meeting of interior ministers.

According to the Luxembourg Presidency website, whilst Jean Asselborn accepted that the refugee crisis was an emergency, he also stated that, "even though we are in an emergency situation, we must, nonetheless, respect the appropriate procedures."

He also said that given that the text needs to be analysed in detail by the Council's bodies, and receive an opinion from the European Parliament, it would have been premature for the Council to take a decision at the extraordinary meeting³⁵.

On the Council's adoption of its decision to relocate 40,000 refugees from Greece and Italy, the Luxembourg Presidency of the EU stated:

³³ http://www.consilium.europa.eu/en/meetings/jha/2015/09/st12002_en15_pdf/

³⁴ <http://www.politico.eu/article/migration-crisis-schengen-juncker-refugees-orban-asselborn-ec/>

³⁵ <http://www.eu2015lu.eu/en/actualites/articles-actualite/2015/09/14-conseil-jai-extra/index.html>

“The Ministers' decision therefore establishes a "temporary and exceptional" mechanism (to last two years) aimed at "people who have an obvious need for international protection", who will be distributed from Italy and Greece to other Member States on a voluntary basis, as recommended by the European Council of June 2015. As agreed on 20 July, the agreement covers the distribution of 32,256 people, with Member States undertaking to update their contributions in December 2015 to reach a total of 40,000 people, in accordance with the commitment made by the European Council.”³⁶

The extraordinary Council also agreed a number of other measures including:

- Increased funding support to organisations such as the UNHCR “to respond to the needs of refugees in camps established close to their places of origin, in particular, at the present moment, in Iraq, Jordan, Lebanon and Turkey”.
- Measures and resources to reinforce the EU's external borders. For example, by strengthening Frontex (the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union), and its TRITON 2015 and POSEIDON 2015 operations in the seas around Greece and Italy.
- Providing support to develop the capacities of the EU's Western Balkans and Turkish neighbours to allow them to “better cope with incoming migratory flows”.
- Recognition of the importance of the return and readmission policy, emphasising the effective control of external borders and insisting on greater cooperation with the third-countries involved
- In addition to the agreement to relocate 40,000 refugees from Greece and Italy, develop robust mechanisms “to ensure identification, registration and fingerprinting of migrants; to identify persons in need of international protection and support their relocation; and to identify irregular migrants to be returned. To ensure that the process remains efficient and manageable, reception will be duly organised so as to temporarily accommodate people in line with the EU acquis until a decision is quickly taken on their situation.”

Finally, the Council welcomed the Commission's proposals of 9 September to address the refugee crisis and agreed to examine those proposals without delay and invited the European Parliament to consider them also as a matter of priority. In addition, the Council welcomed the intention of the European Commission to present proposals on the management of the European Union's external borders before the end of the year.

³⁶ <http://www.eu2015lu.eu/en/actualites/articles-actualite/2015/09/14-conseil-jai-extra/index.html>