



Zeinach, 36, and her four children from Syria – Zee, 20 months, Massi, 9 (pink top), Nimo, 8, and Misso, 11 (little girl in cap) – are staying at the Doliana Camp in the Epirus Region, North West Greece. They are waiting to be reunited with their husband and father who they have not seen for eight months. (Photo: Aubrey Wade/Oxfam).

TOGETHER AGAIN

Reuniting refugee families in safety – what the UK can do

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SUPPORTING AND
EMPOWERING
REFUGEES



BritishRedCross

EXECUTIVE SUMMARY

More than 65 million people¹ – half of them children – have been forced from their homes due to conflict, violence and persecution. Although international law states that families are entitled to protection,² displacement and flight are forcing them apart, further compounding their suffering. Refugee family reunion is often the only way to ensure that a refugee's right to family unity can be realized.

Not only is refugee family reunion a way to reunite divided families, but it is also a tool that governments can use to offer refugees a safe and legal way to escape danger, and access protection from conflict in countries such as Syria, South Sudan and Afghanistan. The lack of access to family reunion has left men, women and children facing a stark choice: stay separated from their families in precarious, unsafe situations near or in their home countries, or embark on perilous journeys to reach loved ones already living in safety. Other families might face the impossible decision of whether to leave some members behind, be it an elderly mother in Syria or a 19-year-old daughter in a Taliban-controlled region of Afghanistan. For refugees already living in safety in the UK, the forced separation from their families and constant anxiety about their wellbeing can be devastating, preventing them from rebuilding their lives and undermining their successful integration into their new communities.

In 2013 and 2014, the Home Office refused around 30 percent of refugee family reunion cases. In 2015 and 2016, this increased to closer to 40 percent. In 2016, that's 3,678 people who were denied the possibility to live with their loved ones in safety.³

We are a group of specialist refugee agencies, human rights organizations and international humanitarian organizations that support refugees and the communities that host them in the UK and throughout the world. We are convinced that by ensuring refugee families can stay together, the UK government can make an important contribution to addressing the biggest global displacement crisis since the Second World War.

This has been echoed by parliamentary committees – including the Home Affairs Select Committee and the House of Lords EU Sub-Committee on Home Affairs – which have identified the expansion of safe and legal routes to protection, such as family reunion, as a necessary element of the response to the global refugee crisis.⁴ While the UK government has taken a leading role in providing humanitarian aid in displacement crises across the world, and has significantly increased the number of resettlement places available for Syrian refugees, it has yet to respond to these specific calls. The lack of opportunities for refugees to reunite with family members in the UK not only compels them to turn to smugglers, but also exacerbates the humanitarian crises in European countries like Greece and Italy, where displaced people arrive by sea in an attempt to join their families, and instead end up trapped living in squalid conditions and unable to exercise their rights.

This paper highlights how the UK government could do more to enable refugees with family members in the UK to travel here safely. In so doing, the government could help make families more resilient in the face of displacement, prevent men, women and children from embarking on dangerous journeys, and support the integration of refugees in the UK.⁵

Key recommendations

Refugee family reunion policy as a route to protection in the UK:

- Amend the UK Immigration Rules by expanding the criteria for qualifying 'family members' for the purposes of refugee family reunion to include: young adults who were dependant on the family unit prior to flight, parents, siblings and in-laws and any dependent relative.
- Allow an expanded group of extended family members, including adult siblings, aunts and uncles, and grandparents to sponsor child relatives to join them here under refugee family reunion policies, where it is deemed in the child's best interests.
- Allow children found to be in need of international protection in the UK to bring family members here under the refugee family reunion policy.
- Reintroduce legal aid for refugee family reunion.

Other routes to protection in the UK for family members at risk:

- Allow British citizens to sponsor family members who have been forcibly displaced or are at risk in their home country, under the same terms as set out in refugee family reunion policy.
- Use the Mandate Refugee Resettlement scheme to its full potential, including more frequently using discretion when considering submissions for resettlement in the UK for extended family members.

Routes to protection in the UK for family members arriving in Europe:

- Ensure transfers can proceed from Greece, France and Italy in a timely manner by providing UK expertise, including resourcing outreach teams to work with member states to identify children and adults that may be eligible for transfer to the UK, prioritizing unaccompanied children, pregnant women and other vulnerable adults.
- Ensure that timely and clear information is provided about the process of applying for transfer to another state signatory to the Dublin III Regulation, tailored to the situation in the country of arrival. An appropriate agency should be funded to assist.
- Establish a clear procedure for acquiring from family members in the UK the paperwork needed in requests for transfer and ensure that people on the move in search of safety in all signatory countries are informed of it.
- Fund legal aid programmes in Greece, France and Italy to ensure that people have the help they need to access safe and regular pathways to the UK and other EU member states.
- Make a clear commitment to generous interpretation and use of the discretionary clause (Article 17) of the Dublin Regulation to protect family unity and particularly vulnerable groups.
- Develop profiles of people that the UK government might consider eligible for transfer to the UK under the discretionary clause to facilitate its use and the development of best practice.

1 REFUGEE FAMILY REUNION POLICY AS A ROUTE TO PROTECTION IN THE UK

1.1 LIMITED DEFINITION OF ‘FAMILY’

The UK’s Immigration Rules are an important part of the picture on family reunion, and key to ensuring people do not have to make dangerous journeys to Europe.

Part 11 of the UK’s Immigration Rules⁶ states that adults granted refugee leave or humanitarian protection in the UK are entitled to sponsor their close family members to come and live with them here.⁷ However, there are a number of restrictions on which family members qualify for such refugee family reunion. For adult refugees in the UK, only partners⁸ and dependent children under the age of 18 who were part of the family unit before the refugee fled will usually come under the definition of ‘family’.

The rules have the capacity to be somewhat flexible: in cases with compelling and compassionate circumstances, other relatives may be granted leave outside the rules at the discretion of the Home Office. However, the trend in recent years has been for fewer and fewer family reunion visas to be granted outside the rules. In 2011, 77 visas were granted outside the rules; by 2014 this had fallen to 12.¹⁰ Indeed, in 2013–2015 – the period over which the global refugee crisis has grown dramatically – only 65 applications for refugee family reunion were granted outside of the rules.¹¹ Over 20,000 family reunion applications were made during this period.¹²

Many of those applying for family reunion are from some of the most war-torn countries in the world. The narrow definition of ‘family’ used in deciding refugee family reunion applications can mean that some family members are granted visas to the UK while other members of the same family are refused. This can leave families facing impossible decisions: bring some family members to safety but leave others behind, often at even greater risk as they may be isolated and alone in dangerous circumstances; or put their loved ones’ lives in the hands of smugglers in a desperate attempt to be together in the UK. Anxiety about family members left behind is a major barrier to the integration of refugees in the UK.

In 2016, the British Red Cross helped 2,337 people reunite with a loved one in the UK through refugee family reunion. 42 percent (993) were from Syria. Almost three-quarters of those (715) were children.⁹

Box 1: Muhammad, from Syria

Muhammed is a former lawyer from Dara’a in Syria. He arrived in the UK in March 2014 and was recognized as a refugee in December. He immediately began the process of applying for family reunion so that his wife Amal and their children could live with him in safety here. Devastatingly, the family were forced to leave their two eldest children, a son and a daughter, behind because they are over 18. ‘We are a very close family; our bonds are very special,’ Muhammed told the British Red Cross. ‘My little kids ask me every day: “Baba, what happened with Kusai and Athar? When will they join us? When will we see them and talk to them?” I truly have no idea and don’t know what to tell them.’

In July 2016, the Home Office published improved guidance on refugee family reunion, giving greater clarity on when compassionate circumstances may apply – highlighting, for example, situations in which children over the age of 18 may be granted leave outside the rules. However, it continues to depend on the discretion of the decision maker. Home Office entry clearance officers may also decide to grant leave outside the rules on the condition that the family member has no recourse to public funds, including no access to most benefits or free

hospital treatment in most of the UK. Amending the rules to include this category of dependent would make decision making more consistent.

Recommendation

Amend the UK Immigration Rules by expanding the criteria for qualifying 'family members' for the purposes of refugee family reunion to include: young adults who were dependant on the family unit prior to flight, parents, siblings and in-laws and any dependent relative.

1.2 EXTENDED FAMILY AND THE SPONSORSHIP OF CHILDREN

Many unaccompanied children have extended family members in the UK who could care for them. However, the current rules prevent the latter from sponsoring their child relatives, denying them a safe route to refuge in the UK.

Box 2: Nabil, from Syria

17-year-old Nabil¹³ found himself alone in Lebanon after fleeing his bombed home in Syria. Several of his family had been killed. Those who were alive were scattered far and wide, including his older brother who was living in safety in Scotland. Boarding a plane to join his brother was not an option for Nabil because siblings are not eligible for family reunion under the UK Immigration Rules. Instead, he made his way alone by land and sea to France, and nearly drowned when his boat capsized in the Aegean Sea. In France, he endured six months in the 'Jungle' in Calais, was held in detention and risked his life repeatedly in desperate attempts to reach his brother by boarding lorries to the UK. After receiving legal advice, Nabil was finally allowed to come to the UK under the Dublin III Regulation (see Chapter 3), and is now in Scotland waiting for a decision on his asylum application.¹⁴

Recommendation

Allow an expanded group of extended family members including adult siblings, aunts and uncles, and grandparents to sponsor child relatives to join them under refugee family reunion policies, where it is deemed in the child's best interests.

1.3 REFUGEE CHILDREN IN THE UK

The UK, unlike most other EU Member States, does not allow children who are recognized as refugees to sponsor even their very closest family members to join them. Lone children are not more readily granted international protection in the UK than adults. The assertion that family reunion rights for children would provide an incentive for families to send ahead lone children is unfounded.

If a child is found to be a refugee after claiming asylum, the UK government has thereby recognized that it is not safe for them in their home country and that they cannot live with their family there. The UK government's responsibilities to that child refugee must therefore be no less than they would be to an adult refugee – and they have as much right as an adult to live with their family, as recognized in the UN Convention on the Rights of the Child, of which the UK is a State Party.¹⁵

As a result of this rule, child refugees in the UK are condemned to live apart from their family, growing up instead in the UK care system, at the expense of local authorities.

Box 3: Tesfa, from Eritrea

The older Tesfa¹⁶ got, the more he feared being forced into Eritrea's notoriously brutal and endless military service. One of his older brothers had been taken by soldiers in 2010 and Tesfa's family hadn't heard from him since. He knew soldiers could come for him anytime. When they came to his school, he stopped attending. Aged 16, without telling his family, he fled. He didn't plan to come to Europe, but had to keep moving in his search for refuge, passing through Sudan and Libya. One year after leaving Eritrea, he found himself in the UK.

Eventually, Tesfa managed to speak to his mother, who had fled to Saudi Arabia. 'She didn't believe it was me at first – she said my voice had changed. For me, it was the best moment. It'd been a year and a half since I'd heard her voice,' he said. Tesfa told the Refugee Council that he worries about his mother and younger siblings all the time: 'If I was to be able to be reunited with my family in Britain it would be like a dream. The government is doing its best to help refugees and we thank them for that. But if we're to make our home here then we need our families; people we feel safe and secure with.'

Recommendation

Allow children found to be in need of international protection to bring family members to the UK under the refugee family reunion policy.

1.4 LEGAL AID FOR FAMILY REUNION

Advice and representation relating to refugee family reunion was taken out of the scope of legal aid in April 2013 in England and Wales, because it was considered a straightforward immigration matter that does not warrant the need for specialist legal advice. However, the Office of the Immigration Services Commissioner (OISC), which regulates immigration advisers, has determined that OISC level 1 advisers are not allowed to give advice on family reunion applications which require a higher level of competency (OISC level 2), highlighting a discrepancy in government policy. The British Red Cross has found that many refugee family reunion cases are complex and often require the expertise and experience of legal advisors. In a study of 91 refugee family reunion cases in 2015, 33 percent relied on witness statements and statutory declarations that had to be provided by legal advisors.¹⁷

Box 4: Male sponsor from Zimbabwe

A Zimbabwean refugee told the British Red Cross: 'I could never have made the application on my own. I'm not earning enough money to hire a lawyer. I wouldn't know where to start. I don't agree with this being straightforward. There's a legal piece to everything. Like applying for family reunion. It's a legal thing to get approval from government. They want to see an argument being put across. I've heard of people struggling until now in bringing their family over. It's difficult.'

Recommendation

Reintroduce legal aid for refugee family reunion.

2 OTHER ROUTES TO PROTECTION IN THE UK FOR FAMILY MEMBERS AT RISK

2.1 FAMILY MIGRATION

Only those granted refugee status or humanitarian protection can bring their family to the UK under refugee family reunion rules. Refugees who become British citizens – and others settled in the UK who fear for the lives of loved ones abroad – must meet the requirements and bear the costs of the regular family migration system, regardless of the danger in which their loved ones overseas might be.

With the exception of relatives with demonstrable long-term care needs,¹⁸ only immediate family members¹⁹ are eligible under the regular family migration route. There is a significant cost attached to making an application to join family living in the UK and, in most cases, an applicant would also need to show a good level of English. Still more prohibitive are the minimum income requirements²⁰ of the family member in the UK.²¹ Similarly, a relative with care needs would need to demonstrate that their needs cannot be met in their home country, and that the family member in the UK was able to accommodate and care for them for five years without claiming benefits, and with no access to free secondary healthcare.

These far more restrictive requirements were introduced to the rules governing family migration to the UK in July 2012, immediately before forced displacement began to grow dramatically globally. They prevent many families from living together in the UK in safety. It is difficult to imagine how people caught up in conflict or fleeing persecution could meet such criteria. The lack of viable options for British citizens with loved ones who have been forcibly displaced has led to extraordinary situations such as British nationals compelled to leave the UK to live with their families stuck at a border in mainland Europe.

Box 5: Sharif, from Iraq

Sharif, an Iraqi recognized as a refugee in the UK, and who subsequently became a British citizen, had tried for fourteen years to bring his family living in Kirkuk to the UK, but had been refused four times. With growing fears that ISIS would overrun the town, the family was forced to take matters into their own hands. Sharif did not know that his family had been forced to flee until they arrived in Europe. Unable to bring his family to live with him in the UK, Sharif felt compelled to live with his wife and four children in a tent in the squalor of a refugee camp in France.²²

Recommendation

Allow British citizens to sponsor family members who have been forcibly displaced or are at risk in their home country, under the same terms as set out in refugee family reunion policy.

2.2 MANDATE REFUGEE RESETTLEMENT SCHEME

The little-known and little-used Mandate Refugee Resettlement scheme could provide an answer for British citizens with relatives overseas who are in need of international protection, as illustrated in the case of Sharif. The scheme brings to the UK people recognized as refugees by UNHCR and deemed eligible for resettlement with close family in the UK willing to accommodate them when they first arrive and help them find their feet. The scheme is usually only available to close family ties and, only in exceptional cases and at the Home Office's discretion, are other relatives considered.²³

Just eight refugees arrived in the UK through this route in 2016.²⁴ Only 40 have done so since the beginning of 2014.²⁵ However, the Mandate Refugee Resettlement scheme could play a critical role in preventing refugees who have relatives in the UK from falling into the hands of smugglers and traffickers.

Recommendation

Use the Mandate Refugee Resettlement scheme to its full potential, including more frequently using discretion when considering submissions for resettlement in the UK for extended family members.

3 ROUTES TO PROTECTION IN THE UK FOR FAMILY MEMBERS ARRIVING IN EUROPE

3.1 THE DUBLIN III REGULATION

Some of the people arriving in Europe, or stuck at a border unable to move forward, are seeking to join family members in the UK. Some may have been entitled to family reunion from their home country or nearby, but were unable to realize that right. Others might not fit the narrow definition of ‘family’ used in refugee family reunion. All are taking significant risks to come to Europe, in their attempt to join their loved one and are adding to the numbers caught up in humanitarian crises in Greece, Italy and elsewhere.

After arrival in Europe, EU legislation known as the Dublin III Regulation²⁶ allows some asylum claims to be transferred to other EU member states. While in many cases the Dublin Regulation is used to send people seeking asylum to the country of their first arrival in the EU, the Regulation actually prioritizes the processing of asylum applications by signatory states in which applicants have close relatives.²⁷

People seeking asylum who have close family members²⁹ who are also seeking asylum, or who have been granted protection in another signatory state, can request to be transferred to join them and have their asylum claim assessed there.³⁰ The Regulation also provides opportunities for unaccompanied and separated children to join family members.³¹ It puts an obligation on the state to proactively identify states in which relatives are legally present and, if it is in the child’s best interests, to transfer responsibility for the child’s asylum claim to that state.³² The Regulation allows for other family members who may be dependent³³ on wider family³⁴ to be reunited with them. There is also a discretionary clause that enables states to ask any signatory state to take responsibility for someone’s asylum claim if that person has a family link not covered in other Articles, based on cultural and/or humanitarian grounds.³⁵

This section sets out how the UK can help families reunite in Europe under the Dublin III Regulation which the government will remain bound by until it leaves the EU.³⁶ The principle of sharing responsibility for refugee protection, and supporting the reunification of displaced and divided families, must remain a critical element of the response to refugees arriving in Europe beyond the UK’s exit from the EU.

3.2 REUNITING FAMILIES UNDER DUBLIN III

While the greater focus on family unity in the Dublin Regulation is extremely welcome, by and large, the system for such transfers to the UK, as well as to other European countries, is not working. The reasons for this include a lack of political will among European governments to remove the obstacles to smoother and quicker transfers, failure to provide information about the process and the absence of legal aid to support applicants.

Children can face particularly lengthy delays, with cases often taking more than a year to process. The asylum systems of Greece and Italy have been overwhelmed by the sheer volume of applications, resulting in delays in the appointment of guardians, the scheduling of asylum appointments and the submission of ‘take charge’ requests by the host countries – all of which are necessary steps if a child is to join their relative in another state.

When the Greek authorities carried out a pre-registration of 28,000 refugees in Greece in June and July 2016, they found that more than 20 percent (5,880) were eligible to benefit from family unity clauses under the Dublin Regulation.²⁸

Box 6: Sharif, from Afghanistan

15-year-old Sharif fled Afghanistan after his entire family were killed. He turned to smugglers and embarked on a six-week journey through Iran and Turkey, where he was shot at and jailed. Sharif finally made it to Europe, where he hoped for a future. But nine months later, he is in limbo due to the slow process of dealing with his application. He lives in one of Greece's notorious island camps: 'Living in the camp is so hard. Sometimes when I think about living here I get so crazy. I try to find somewhere calm, then I cry a lot.'

Sharif has an aunt in the UK who has said she would take full responsibility for him if he can just get to the UK. All Sharif wants is to have a life and a future in a safe country.

The notable exception is France, which in 2016 transferred more than 550 unaccompanied children living in Calais to join their loved ones in the UK through an expedited process.³⁷ This action has undoubtedly saved lives and prevented others from turning to smugglers.³⁸

However, very little was achieved in Greece in the same year, despite over 5,000 unaccompanied children arriving. They now live in squalid, crowded conditions – only around five are thought to have been transferred to the UK.³⁹ Similarly, Italy saw more unaccompanied children arriving in 2016 than ever previously recorded (over 25,000), and yet only three were transferred to the UK. A current proposal supported by the European Commission and the Greek authorities foresees the possibility of returning people from Greece back to Turkey, despite the fact they are trying to join a family member in Europe. Charities working with people seeking asylum in Greece are deeply concerned by these developments.

There is even less evidence of a functioning system for adults, despite the additional opportunities to transfer pregnant women, new mothers, those with severe illnesses or disabilities and the elderly offered by Article 16 of the Dublin Regulation. In 2016, the Greek authorities sent 4,886 requests to other European countries (69 of which were to the UK),⁴⁰ asking them to take responsibility for an asylum claim so that the individual concerned could be with their family. By January 2017, only around half of the total requests had been accepted, and less than half of those whose request to join their loved one in another European country had been accepted had actually travelled.⁴¹

The UK could do far more to collaborate with the Greek and Italian authorities and other signatory states to proactively identify and process children and adults eligible for transfer to the UK. The lack of a functioning system is compelling families and unaccompanied children to continue their journey after arriving in Europe, thereby putting them at great risk, often leaving them reliant on smugglers.

Box 7: Fatal journeys in Europe

In September 2016, a 14-year-old Afghan boy was killed trying to climb onto the roof of a lorry that had slowed as it approached the port of Calais in France. The boy had made an application several months earlier to have his asylum claim considered in the UK so that he could be with his brother. However, progress was so slow that he began trying to stow away on lorries at night. He was the third child who died attempting to reach the UK from Calais last year.⁴²

The risk of exploitation for women and children, especially when travelling on their own through Europe, is widely documented.⁴³ This benefits no one and results in further suffering and exploitation, including the risk of trafficking.

Recommendation

Ensure transfers can proceed from Greece, France and Italy in a timely manner by providing UK expertise, including resourcing outreach teams to work with member states to identify children and adults that may be eligible for transfer to the UK, prioritizing unaccompanied children, pregnant women and other vulnerable adults.

'Many children have to wait more than a year to reach family members in other EU states – a dangerous delay that causes children to disappear or turn to smugglers.'

3.3 SUPPORTING DIVIDED FAMILIES NAVIGATING THE PROCESS

– Joint statement by child protection agencies, 29 November 2016⁴⁴

The lack of information and advice available about the opportunities that the Dublin Regulation offers separated families and unaccompanied children upon arrival in Europe hampers its effective functioning. So too does the lack of support to help applicants through the process of requesting a transfer. Article 4 of the Regulation requires all signatory states to provide information to asylum applicants, but only after they have claimed asylum. Even then, the available information is limited.

Some families face long and unnecessary delays in securing a transfer due to challenges in completing the paperwork. A transfer can only happen once the family member they are trying to join has written to confirm that they want to be reunited with their relatives. However, this poses an enormous challenge for people stuck in refugee camps or other precarious circumstances with limited access to the internet and other means of finding their relatives in another country, who may themselves be seeking asylum without a fixed address. The application process under the Dublin Regulation allows only a three-week window for applicants to obtain consent from their family member, which makes this arrangement even more prohibitive.

Countries like Germany and Sweden take a more proactive approach – for example, when someone in Greece wants to join their family in Germany, the German authorities proactively approach the relative already in Germany and ask them to complete the relevant paperwork. If someone is trying to join a relative in the UK, the onus is on the refugee to acquire this paperwork, which causes unnecessary delays and hardship.

According to the Greek Asylum Service, the application process – including obtaining consent and necessary documentation – is quicker and smoother for applicants that benefit from legal aid. However, only a small fraction of EU funding for the humanitarian response in Greece has gone toward legal aid for people seeking legal routes out of Greece, including through family reunification under the Dublin Regulation.

Recommendations

Signatories to the Dublin Regulation, including the UK government, need to ensure that timely and clear information is provided about the process of applying for transfer to another signatory state, tailored to the situation in the country of arrival. An appropriate agency should be funded to assist.

The UK should establish a clear procedure for acquiring from family members in the UK the paperwork needed in requests for transfer and ensure that people on the move in search of safety in all signatory countries are informed of it.

Fund legal aid programmes in Greece, France and Italy to ensure that people have the help they need to access safe and regular pathways to the UK and other EU member states.

Sharing responsibility for people seeking asylum: the discretionary clause

More than 1.2 million people sought safety in Europe in 2016.⁴⁶ However, the UK received only around three percent of all asylum claims made in the EU that year.⁴⁷ While countries like Greece and Italy struggle to meet the basic needs of new arrivals, countries like Germany, Sweden and France receive much higher numbers of asylum applications than the UK.

A generous response to requests to transfer to the UK under the discretionary clause of the Dublin Regulation⁴⁹ could act as an important responsibility sharing mechanism that would help find solutions for refugees stuck in precarious circumstances in border countries, such as Greece. For example, it would be commensurate with the UK's commitment to lead efforts to address violence against women and girls if the government were to offer to transfer women at risk with relatives here through the discretionary clause, from states that are struggling to support them.

According to the Greek Asylum Service,⁵⁰ there is currently an estimated 70 percent rejection rate for people whose cases have been put forward to be transferred to another EU member states under the discretionary clause. Consequently, lawyers say that even when a person has a compelling case for transfer under the discretionary clause to join a loved one, they rarely recommend using it given the likelihood that the request will be refused. Greater awareness among the Greek and Italian authorities as well as agencies responding to the crisis of the opportunity that the discretionary clause offers, and a clear commitment by states to generously respond to requests, would go a long way to helping ensure more families are able to rebuild their lives together in safety.

'The camp is a rough place. It is not safe for women when they are on their own.'

– Woman surveyed by RRDP⁴⁵

In a recent survey of women in Greek refugee camps, half said they didn't feel safe, and nearly 70 percent did not have a secure lock on their shelter.⁴⁸

Recommendations

Make a clear commitment to generous interpretation and use of the discretionary clause (Article 17) of the Dublin Regulation to protect family unity and particularly vulnerable groups.

Develop profiles of people that the UK government might consider eligible for transfer to the UK under the discretionary clause to facilitate its use and the development of best practice.

4 CONCLUSION

Opportunities to reunite with family members living in other countries offer some of the only safe and regular routes to escape persecution and conflict for many refugees and displaced people. At a time of record global displacement, countries around the world urgently need to ensure that their immigration policies facilitate family reunification and do not hinder it, forcing families to take desperate measures in order to be together in safety.

This note has shown different ways that the UK, which currently hosts less than one percent of the world's refugees,⁵¹ can help keep families together and ensure that they can rebuild their lives in safety. In so doing, the UK government would help make families more resilient in the face of conflict; prevent men, women and children from turning to smugglers; and support the integration of refugees in the UK. With ongoing conflicts in different parts of the world, the UK can demonstrate sorely needed global leadership by helping more families find safety together.

NOTES

- 1 21.3 million have crossed a border and become refugees. 40.8 million have been displaced within the confines of their own countries. For more information see Edwards, A. (20 June 2016). *Global forced displacement hits record high*. UNHCR. Retrieved from <http://www.unhcr.org/news/latest/2016/6/5763b65a4/global-forced-displacement-hits-record-high.html>
- 2 The Universal Declaration of Human Rights states that the family is the 'fundamental group unit of society and is entitled to protection by society and the State'. See United Nations. *Universal Declaration of Human Rights*. Retrieved from <http://www.un.org/en/universal-declaration-human-rights/>
- 3 Based on Home Office immigration statistics (23rd February 2017).
- 4 House of Commons Home Affairs Committee. (2016). *Migration Crisis*. Retrieved February 2017, from <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmhaff/24/24.pdf> and House of Lords European Union Committee. (2015). *EU Action Plan against migrant smuggling*. Retrieved February 2017, from <http://www.publications.parliament.uk/pa/ld201516/ldselect/ldeucom/46/46.pdf>
- 5 This paper does not attempt to address the many barriers and difficulties facing refugees currently entitled to family reunion. For more information on these, see: J. Beswick. (2015). *Not So Straightforward: the need for qualified legal support in refugee family reunion*. British Red Cross. Retrieved February 2017, from <http://www.redcross.org.uk/~media/BritishRedCross/Documents/About%20us/Not%20so%20straightforward%20refugee%20family%20reunion%20report%202015.pdf> and D. Bolt. (2016). *An inspection of family reunion applications: January to May 2016*. Independent Chief Inspector of Borders and Immigration. Retrieved February 2017, from <http://icinspector.independent.gov.uk/wp-content/uploads/2016/09/An-inspection-of-family-reunion-applications-January-to-May-2016.pdf>
- 6 Available at UK Government. *Immigration Rules*. First published 29 February 2016, last updated 3 January 2017. <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-11-asylum>
- 7 For more information, see: K. Pike, V. Cowan, O. Field and J. Potter. (2016). *How reuniting families can provide solutions to the refugee crisis*. British Red Cross. Retrieved February 2017, from <http://www.redcross.org.uk/~media/BritishRedCross/Documents/About%20us/RFR%20designed%20briefing%20-%20July%202016.pdf>
- 8 i.e. spouses, civil partners and same-sex partners.
- 9 Data provided by the British Red Cross.
- 10 House of Lords Written Answer 3957 by Lord Bates on 2 December 2015, retrieved February 2017 from <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2015-11-26/HL3957/>
- 11 House of Commons Written Answer 32719 by James Brokenshire on 13 April 2016, retrieved February 2017, from <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-04-08/32719/>
- 12 There is no information available on how many of the applications were made by relatives who do not fit the narrow definition of family in the refugee family reunion rules.
- 13 Name changed to protect his identity.
- 14 UNICEF. (2016). *The Refugee Crisis in Europe: The UK's role in protecting the rights of unaccompanied and separated children*. Retrieved February 2017, from <https://www.unicef.org.uk/publications/the-refugee-crisis-in-europe/>
- 15 See Article 10 (family reunification) and Article 22 (refugee children) of the UN Convention on the Rights of the Child, here <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>
- 16 Name changed to protect his identity.
- 17 J. Beswick. (2015). *Not So Straightforward*.
- 18 Parents, grandparents, adult siblings and children aged 18 and above are eligible for this route if they can meet the strict requirements, which include demonstrable long-term care needs that cannot be met in their home country even with the financial support of the family member in the UK. For more information, see the UK Immigration Directorate Instructions on adult dependent relatives: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/263241/section-FM-6.0.pdf
- 19 Married or civil partners, same-sex partners and children under 18 of the applicant.
- 20 For more information, see the UK Immigration Directorate Instructions on financial requirements: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525708/Appendix_FM_1_7_Financial_Requirement.pdf
- 21 On 22 February 2017, the Supreme Court handed down judgment in *MM & Ors* [2017] UKSC 10 ruling that the minimum income threshold is in principle lawful but unlawfully applied without proper regard to children's best interests and improper disregard of alternative funds to which a family may have

access.

22 P. Kingsley, J. Domokos and N. Parveen. (2016, 31 January). *British citizens living alongside their families in squalor of Dunkirk*. *The Guardian*. Retrieved February 2017, from <https://www.theguardian.com/world/2016/jan/31/migrants-dunkirk-british-citizens-france-tent-city-iraqi-kurds-uk-passports>

23 'Close ties' are usually taken to mean that the applicant is the spouse, minor child, parent or grandparent over the age of 65 of someone settled in the UK. In exceptional circumstances, other relationships will be considered, such as parents or grandparents under 65, or sons, daughters, sisters, brothers, uncles or aunts over 18. For more information, see the UK country chapter in the UNHCR Resettlement Handbook: <http://www.unhcr.org/40ee6fc04.pdf>

24 See Home Office Immigration Statistics, Volume 4, table 19: <https://www.gov.uk/government/publications/immigration-statistics-july-to-september-2016/list-of-tables#asylum>

25 UNHCR. (2016). *Family Reunion in the United Kingdom (UK): Briefing Paper*. Retrieved February 2017, from <http://www.unhcr.org/uk/protection/basic/576019c67/family-reunion-in-the-united-kingdom-briefing-paper-2016-576019c67.html>

26 The Dublin III Regulation establishes a method for deciding which country among the signatories (all EU member states plus four non-EU states) should process a claim for asylum. The full text is available on the EU website: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:EN:PDF>.

27 For a more detailed explanation of the family unity articles of Dublin III, see: British Refugee Council. (2015). *The 'Dublin' Regulation and family unity*. Retrieved February 2017, from https://www.refugeecouncil.org.uk/assets/0003/6143/Nov15_Dublin_III.pdf

28 Greek Asylum Service (2016).

29 Family members are defined as spouse (or unmarried partner where domestic legislation affords them equal treatment) and unmarried minor children (regardless of whether born in or out of wedlock or adopted under national law).

30 Under Articles 9–11 of the Dublin Regulation.

31 Including parents or legal guardians, siblings and some relatives (aunts, uncles and grandparents).

32 Under Articles 6 and 8 of the Dublin Regulation.

33 Due to illness, pregnancy, a newborn child, severe disability or old age (under Article 16).

34 Siblings, parents and children, regardless of age.

35 Under Article 17 of the Dublin Regulation.

36 The UK government announced in late 2016 that it will not be involved in the reform of the Dublin Regulation, but will remain bound by Dublin III until the UK leaves the EU. House of Commons Written Statement 370 by Robert Goodwill on 16 December 2016, retrieved February 2017, from www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-12-16/HCWS370HH

37 House of Commons Written Statement 467 by Robert Goodwill on 8 February 2016, retrieved February 2017, from <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-02-08/HCWS467>

38 Save the Children and UNICEF UK. (2016). *What next for child refugees in Europe?* Retrieved February 2017, from http://353ld710iigr2n4po7k4kgvv-wpengine.netdna-ssl.com/wp-content/uploads/2016/12/Unicef-UK-and-Save-the-Children-Briefing-on-the-Refugee-Crisis-in-Europe-15_12_2016.pdf

39 As of the end of November 2016. Ibid.

40 Hellenic Republic Ministry of Migration Policy Asylum Service. (2017a). *Statistical Data of the Greek Asylum Service (1.1.2016-31.12.2016)*. Retrieved February 2017, from <http://www.statewatch.org/news/2017/jan/greece-ministry-stats.pdf>

41 Hellenic Republic Ministry of Migration Policy Asylum Service. (2017b). *Press release – The work of the asylum service in 2016*. Retrieved February 2017, from <http://asylo.gov.gr/en/wp-content/uploads/2017/01/Press-Release-17.1.2017.pdf>

42 A. Gentleman. (2016, 18 September). *Afghan boy killed in Calais in attempt to climb on to lorry to UK*. *The Guardian*. Retrieved February 2017, from <https://www.theguardian.com/world/2016/sep/18/afghan-boy-killed-in-calais-in-attempt-to-climb-on-to-lorry-to-uk>

43 See, for example, Oxfam. (2016). *Closed Borders: Programme Report on the impact of the border closures on people on the move, with a focus on Women and Children in Serbia and Macedonia, September 2016*. Retrieved February 2017, from https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/closed_borders_eng_low.pdf

44 Unicef (29 November 2016). *Children cannot wait: 7 priority actions to protect all refugee and migrant*

children. Retrieved from https://www.unicef.org/ceecis/media_30093.html

45 Refugee Rights Data Project and Immigration Council of Ireland (2017). *Hidden Struggles: Filling information gaps regarding adversities faced by refugee women in Europe*. Retrieved from: http://refugeerights.org.uk/wp-content/uploads/2017/01/RRDP_HiddenStruggles.pdf

46 Eurostat statistics on asylum and first time asylum applicants – monthly data (rounded), retrieved February 2017, from <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tps00189&plugin=1>

47 38,517 asylum applications, including dependants, were received in the UK in 2016. Ibid.

48 Refugee Rights Data Project and Immigration Council of Ireland (2017). *Hidden Struggles*.

49 The discretionary clause enables states to ask any signatory state to take responsibility for someone's asylum claim if that person has a family link not covered in other Articles based on cultural and/or humanitarian grounds

50 Greek Asylum Service (2016).

51 According to the latest global statistics, the UK hosts 168,937 refugees and people seeking asylum. This is less than 0.7 percent of the total number of refugees and asylum seekers, which stands at 24.5 million. See UNHCR. (2016). *Global Trends: Forced displacement in 2015*. Retrieved February 2017 from <http://www.unhcr.org/uk/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html>

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Some names in this paper have been changed to protect the interviewees.

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