

SAFE – foSter cooperAtion For improving access to protection

Ensuring complementary pathways and private sponsorship as a solution for beneficiaries of the international protection and persons in need of protection

Position paper

SAFE¹ is a three-year project co-funded by the European Commission, implemented and coordinated by Forum réfugiés, a French non-profit, and in partnership with six European partners: Federation of Protestant Mutual Aid (FEP), French Red Cross (CRF), Federation of Protestant Churches in Italy (FCEI), Italian Red Cross (CRI), Mediterranean Universities Union (UNIMED) and Oxfam Italy. It aims to facilitate the exchange of experiences, expertise and practices among organizations involved in the implementation of private sponsorship schemes and resettlement programs, and to strengthen a European dynamic.

For the United Nations refugee agency (UNHCR), complementary pathways to resettlement have emerged, for several years, as one of the sustainable solutions to be further explored. After a first 2019-2021 strategy for resettlement and complementary pathways, the UN Agency has set out, in its 2030 roadmap, the desire to systematize refugees' access to the various complementary routes. This ambition echoes the ones of the European Commission, expressed in the Resolution of 23 September 2020², reiterated on the occasion of the High-level Forum on legal pathways to protection and resettlement cooperation of 29 November 2022³.

SAFE project partners, together with representatives of Member States, Members of the European Parliament, civil servants within the European Commission and the European Union Asylum Agency, share this aspiration. However, they would like to shed light on certain issues they consider necessary to take into account and provide recommendations in the context of developing complementary pathways and private sponsorship.

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Increasing protection needs, increasing need for complementary pathways

Each year, more and more people are internationally displaced, resulting in an ever-increasing need for international protection, and, therefore, legal pathways. Very limited legal pathways result in people in need of international protection engaging in risky journeys. Indeed, in trying to reach a country of asylum in the European Union (EU), people on the move are often obliged to choose dangerous routes, risking

¹ SAFE website: <https://safepathways.eu/the-project/>

² Official Journal of the European Union, Commission Recommendation (EU) 2020/1364 of 23 September 2020 on legal pathways to protection in the EU: promoting resettlement, humanitarian admission and other complementary pathways : <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32020H1364>

³ European Commission, *Migration management: High-level Forum on legal pathways to protection and resettlement cooperation, 29 November 2022*: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7248

their life or being exposed to exploitation from smugglers, since few alternatives for safe passage exist. The UNHCR estimates that global resettlement needs for 2024⁴, for instance, are about 2.4 million people, whilst successive crises of recent years (Covid-19 and major displacements linked to the aggression of Ukraine) have slowed down resettlement activities.

The UNHCR 2030 Roadmap⁵ aims to have 2 million refugees accessing complementary pathways by 2028, and to ensure that 15% of refugees are enrolled in higher education by 2030⁶. To achieve these objectives and respond to resettlement needs, developing, expanding and institutionalizing complementary pathways is essential.

SAFE partners welcome the European Commission's recommendation of 23 September 2020, part of the Pact on Migration and Asylum, on legal pathways to protection in the EU, promoting the increase in resettlement places and development of complementary pathways; as well as the call of the High-level Forum on legal pathways to protection and resettlement cooperation made on 29 November 2022 for the development of community sponsorship schemes, humanitarian admission and other complementary pathways, including family reunification.

Complementary pathways should, as the name indicates it, be complementary

Complementary pathways allow a wide range of responses to diverse situations. They should not be used to replace governmental reception systems nor to reduce possibilities to seek asylum in the EU (which is a right guaranteed in the 1951 Convention and in the EU legal system⁷). They should be the primary means of discharging the duty to protect. They shouldn't eliminate the possibility to request asylum on the territory or at the borders. Furthermore, they should be additional to resettlement, and should not compromise States' commitments. One complementary pathway should not undermine another. They should combine in such a way as to enhance or emphasize the qualities of each other or another.

International protection is an obligation, its mechanisms should not depend on political will and should not be hampered or limited by an increase in protection needs or be called into question in the event of a change in the political majority of a State.

Need for harmonized protections

Complementary pathways and private sponsorship may be implemented in very different ways in Member States and within States. The result is a wide variety of situations for beneficiaries on arrival in the EU, which can hinder the integration process.

Even though complementary pathways are tailored to different profiles (such as students, professionals and families), all beneficiaries share the commonality of requiring international protection. Yet there is at present no systematic recognition of refugee status upon arrival for different legal pathways, which creates, in addition to a complex system, administrative precarity and vulnerabilities contrary to the protection logic.

⁴UNHCR, *Projected Global Resettlement Needs*: <https://reporting.unhcr.org/unhcr-projected-global-resettlement-needs-2024>

⁵ UNHCR, *Third Country Solutions for Refugees: Roadmap 2030*, June 2022. Available here: <https://globalcompactrefugees.org/sites/default/files/2022-08/Third%20Country%20Solutions%20for%20Refugees%20-%20Roadmap%202030.pdf>

⁶ UNHCR, *15by30 Roadmap - Coming together to achieve 15% enrolment by 2030*: <https://www.unhcr.org/media/15by30-roadmap-coming-together-achieve-15-enrolment-2030-visualized-pdf>

⁷ UNHCR, *The 1951 Refugee Convention*: <https://www.unhcr.org/about-unhcr/who-we-are/1951-refugee-convention>
Official Journal of the European Union, *Treaty on the functioning of the European Union*: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF> (Article 78 TFEU)

The multiple procedures and statuses depending on the resettlement scheme and complementary pathway (visa, stay permit of different lengths, asylum seeker status ...) have different rights attached to them, including differences in access to the healthcare system and to integration programs. Refugees participating in university corridors in the UNIV'R and COMET projects⁸, for example, arrive in France with a student visa. They are not considered to be refugees, but foreign students. They can ask for asylum in France, but the uncertainty of the result can revive traumas. It is therefore essential to avoid differences in treatment of people with protection needs by creating a common core.

Whilst there may be cultural, legal and historic reasons for these variances, in the absence of a single process and status, some shared norms could represent a positive way forward.

A common understanding of the different forms of complementary pathways, such as in the potential future EU framework on resettlement, accompanied by common safeguards, would clarify processes and ensure they are clearer and better harmonized.

Definitions should highlight the need for international protection, and establish minimum standards on access to rights, accommodation and integration. This is all the more important in the context of future development of labor mobility as a complementary pathway, where the beneficiaries' need for protection must be given special attention (and not forgotten) during the identification and selection process.

Need to define roles and functions

Public authorities are primarily responsible for defining and implementing asylum policies that meet global needs for international protection. According to the European Commission, "sponsorship programs may involve a transfer of responsibility from government agencies to private actors for some elements of the identification, pre-departure, reception, or integration processes of refugees"⁹, but this is quite different from civil society shouldering the entire burden. The roles of the private and public sectors must therefore be clearly defined and a base common to Member States determined.

From the start of the program, respective roles and responsibilities should be defined in the pre-departure and post-arrival phases. Both should develop and promote services to support beneficiaries of international protection, including, inter alia, monitoring and complaint systems for all actors involved; as well as psychosocial support for the beneficiaries and their families, both in the country of origin and destination, and for sponsors (social workers, refugees, volunteers and diaspora organizations). A monitoring and complaint system should indeed help Member States and their partners to build community sponsorship schemes upon existing good practices.

Member States should remain responsible for the security checks and admission procedures and need to guarantee that appropriate safeguards and safety nets are in place¹⁰.

Finally, it is important to underline the role of countries of origin. The transnational operations intrinsic to the implementation of complementary pathways may be facilitated by reinforced diplomatic cooperation between Member States and former host countries. Indeed, where departure from host countries requires special procedures, such as exit visas, registration of non-nationals, or the obtention of a

⁸ UNHCR, *Couloir universitaire pour les réfugiés vers la France – Programme UNIV'R* : <https://services.unhcr.org/opportunities/education-opportunities/couloir-universitaire-pour-les-refugies-vers-la-france-programme-univr>

COMET website: <https://www.cometnetwork.eu>

⁹ https://home-affairs.ec.europa.eu/system/files/2023-06/EMN_INFORM_Resettlement_final.pdf

European Commission, Migration Policy Institute, ICF, *Study on the feasibility and added value of sponsorship schemes as a possible pathway to safe channels for admission to the EU, including resettlement*, 23rd October 2018. Available here: https://home-affairs.ec.europa.eu/pages/document/study-feasibility-and-added-value-sponsorship-schemes-possible-pathway-safe-channels-admission-eu_en

¹⁰ Official Journal of the European Union, *Commission Recommendation (EU) 2020/1364 of 23 September 2020 on legal pathways to protection in the EU: promoting resettlement, humanitarian admission and other complementary pathways*: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32020H1364>

recognized travel document, Member States should cooperate with the relevant authorities to guarantee the safe and timely departure of beneficiaries.

Need to simplify administrative procedures for accessing complementary pathways

Simplified procedures to access complementary pathways must be established. As the need for international protection has already been identified in the first country of asylum or transit, it is necessary to facilitate the procedures for beneficiaries, both before their departure, and after their arrival.

Taking into consideration the key role of travel documents in ensuring legal pathways, it is fundamental to address the release of documents which permit travel. Many individuals seeking safe pathways may not have access to their national passports for several reasons. Institutions should therefore facilitate safe movements for people in need, by facilitating access to consulates and considering granting a *laissez-passer* or humanitarian visa free of charge (such as is granted to the beneficiaries of the UNIV'R and COMET projects). On the latter, State authorities should work to harmonize the process for issuing humanitarian visa, by creating a transparent and accessible mechanism.

Once in the host country, avoiding excessive bureaucracy, speeding up the refugee status determination procedure and recognizing the principle of *non-refoulement* for beneficiaries is decisive.

Need to facilitate access to complementary pathways on family and humanitarian grounds

In its recommendation of 23 September 2020, the European Commission calls on Member States to “establish admission programs on humanitarian grounds such as family sponsorships”, because regulations on family reunification only cover members of the immediate family¹¹. Furthermore, despite the EU legal and policy framework, including the implementation of the EU Family Reunification Directive, the procedures allowing beneficiaries of international protection in Europe to reunite with their loved ones (which is a right, article 7 of the European Union Charter of Fundamental Rights¹²) present considerable challenges, due to various legal, practical and administrative obstacles¹³.

In this context, widening possibilities to enable family members to access international protection seems to be a priority for those who are not eligible for family reunification and with a high level of protection concerns, such as persons with disabilities and single parents. To this end, the concept of “naming”, already implemented in Canada, which allows private sponsors to identify the person(s) they will support, could be developed at the European level; as long as it does not hinder access to complementary pathways to persons with no prior links with the host country (complementarity is key). Supporting extended family reunification through naming could enable those who do not fall within current family reunification criteria to access international protection and, thus, join their extended family abroad, providing a response to all the resettlement needs that will not be addressed for diverse reasons. In addition, it would avoid DNA testing, uphold the right to family life, and offer targeted support.

¹¹ Swiss Red Cross, German Red Cross, Finnish Red Cross, French Red Cross, Red Cross EU Office, *Handbook on safe avenues to access protection in Europe*, 2023. Available here: <https://redcross.eu/positions-publications/safe-avenues-to-access-protection-in-europe.pdf>

¹² Official Journal of the European Union, *Charter of Fundamental Rights of the European Union*: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>

¹³ Red Cross EU Office, *Upholding the right to family reunification for beneficiaries of international protection in Europe*, May 2023. Available here: <https://redcross.eu/positions-publications/upholding-the-right-to-family-reunification-for-beneficiaries-of-international-protection-in-europe.pdf>

However, the feasibility of this opportunity depends on the ability of consulates to issue humanitarian visas to enable family members to enter the EU. In this regard, partners regret the absence of any mention of the request by the European Parliament's Civil Liberties Committee (LIBE) to table a legislative proposal establishing a European Humanitarian Visa¹⁴, sent to the Commission in 2018, in the 2020 recommendations part of the Pact.

Encouraging cross cutting collaborations and improving communication

The use of complementary pathways is still too limited. Their expansion requires sustained efforts to inform people about the existence of these pathways. Consequently, tailored information sharing should be provided in a timely and transparent manner to facilitate access. In its recommendations on legal access routes, the European Commission encourages Member States to set up support programs that improve access to information.

SAFE partners believe that, first, capacity building and training on resettlement and complementary pathways should be expanded for all stakeholders supporting asylum seekers and refugees, including civil society organizations, sponsor groups, volunteers, national and local authorities, the private sector, and academics. Partnerships among these actors should be further explored through multi-stakeholder platforms, like the SAFE platform¹⁵. Indeed, a deep collaboration would create a synergy in promoting and implementing complementary pathways.

Then, a contact point should be designated within each institution involved in implementing legal pathways, to provide detailed and customized information, whether they are in the countries of destination, transit, or origin.

Finally, it is critical that States report clear and segregated data (on numbers, profiles, lengths of procedures, etc.) according to each pathway's mechanism as part of monitoring indicators, to adopt best practices and improve communication and guidance.

Need to secure funding for complementary pathways

The implementation of complementary pathways is restricted due to limited resources. It could be facilitated by the support of private sponsors. However, these sponsors should not be seen as the only means of financing the schemes. They must complete public funding, in line with the Recommendation of the European Commission of 23 September 2020, which encourages "Member States [to] make full use of other EU funding opportunities to support and improve resettlement, humanitarian admission and other complementary pathways for those in need of international protection and their integration and social inclusion in the host societies, in particular the European Social Fund and the European Regional Development Fund".

More recently, the Commission has expressed, in its implementing decision on the financing components of the Thematic Facility under the Asylum, Migration and Integration Fund (AMIF) and adoption of the Work Programme for 2023, 2024 and 2025 (of 23 November 2022)¹⁶, its ambition to scale up community sponsorship schemes and to promote complementary pathways linked to education and work.

¹⁴ European Parliament, Legislative Train Schedule, *Proposal for a Regulation on establishing a European Humanitarian Visa* : <https://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-proposal-for-a-regulation-on-establishing-a-european-humanitarian-visa>

¹⁵ SAFE website: <https://safepathways.eu/forum/>

¹⁶ European Commission, *Implementing decision on the financing of components of the Thematic Facility under the Asylum, Migration and Integration Fund and adoption of the Work Programme for 2023, 2024 and 2025*, 23rd November 2022. Available here: https://home-affairs.ec.europa.eu/system/files/2022-12/AMIF-Work%20Programme%202023-2025_en.pdf

SAFE partners welcome this initiative but point out that such support should not be limited to labor mobility or academic pathways. The need for funding concerns all legal pathways, in particular the human resources costs that are essential to the successful integration of refugees, not usually supported by private funds, and not sufficiently covered by national funding or other sources.

SAFE partners emphasize the importance of investing in high-quality reception conditions and access to services facilitating the integration process, including adequate financial and logistical support.

In welcoming the successful resettlement programs and complementary pathways which include comprehensive pre-departure assistance, high-quality reception conditions and swift access to integration measures, SAFE partners highlight the imperative to avoid the creation of a two-tier system where beneficiaries of legal pathways benefit from better services and opportunities than persons who apply for asylum (and eventually obtain it) in EU Member States¹⁷.



The second Global Refugee Forum, which will take place in December 2023, is an opportunity to commit to guaranteeing complementary, common and sustainable protection pathways. SAFE partners urge policymakers and stakeholders to take into account the above-mentioned considerations in doing so.



¹⁷ NGOs Statement, *Mounting global needs call for renewed European leadership on resettlement*, 13 June 2022. Available here : <https://ecre.org/wp-content/uploads/2022/06/Joint-Statement-For-publication-on-13.06.22.pdf>