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ANALISI & OPINIONI

*Private Sponsorship Programmes in Europe and the Rule of Law:
Towards a Greater Involvement
of Private Actors in International Protection*

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Key Words

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Introduction

Refugee private sponsorship is emblematic of asylum governance's evolution towards a greater involvement of private actors. Domestic factors explain the emergence of private sponsorship schemes in Europe; the peculiarity of the Common European Asylum System, migrant death toll in the Mediterranean, the rise of resettlement and the institutional crisis which followed the increase in refugee and other migrants' arrivals in the years 2014-2016. Private sponsorship is currently one of the few examples of opening of safe and legal pathways for refugee protection and it offers remarkable insights into the European "asylum crisis" of the past years.

Safe and legal pathways for refugee protection: a global and regional narrative

At the global level, both the [New York Declaration for Refugee and Migrants](#) (para 77, 78 and 79) and the recently adopted [Global Compact on Refugees](#) (para 95) reflect the need to expand the number and range of legal pathways available for refugees, including private sponsorship. At the European level, institutions evince growing interest in private sponsorship initiatives, not yet accompanied by effective actions. While the European Commission has embedded its discourse on private sponsorship into the effort of promoting resettlement and enhancing safe and legal pathways, the European Parliament has focussed on advancing European humanitarian visas.

With the [resolution of 11 December 2018](#) the European Parliament requested the European Commission to table a legislative proposal establishing a European Humanitarian Visa. Hints of the European Commission's interest in private sponsorship can be found in various communications on the delivery of the [European Agenda on Migration](#), in the [pilot project coordinated by the European Asylum Support Office \(EASO\)](#) as well as in the recent [Study on the feasibility and added value of sponsorship schemes as a possible pathway to channels for admission of persons in need of protection in Europe](#).

Private sponsorship in Europe: national programmes

A number of European Union Member States have implemented or are implementing *ad hoc* national programmes. Those small-scale initiatives represent a breakthrough from the lack of solutions available to international protection seekers. Altogether, these schemes have brought more than 3,000 refugees to Europe during the past three years (2016-2019), not counting extended family reunification schemes. These numbers might seem of little relevance when compared with asylum applications lodged by asylum seekers after entering the European territory irregularly, just as resettlement figures are not significant when looking at the European Union's contribution to [UNHCR projected resettlement needs for 2019](#).

Participation of non-state actors to refugee resettlement is not a novelty. Civil society actors have been working with and for refugees for a long time. Instead, what is emerging from these new practices is that roles traditionally performed by state governments or international organisations are now taken on by private actors. It is emblematic of this trend the fact that the European Commission describes private sponsorship as "*a transfer of responsibility from government agencies to private actors for some elements of the identification, pre-departure, reception or integration process of beneficiaries*" ([Feasibility Study on Private Sponsorship, 2019](#)).

Civil society and faith-based organisations as well as private citizens are mobilising resources, making use of their knowledge and expertise in order to provide policymakers with effective responses to migration challenges. They are giving a new impulse to the principle of international responsibility sharing by providing access to asylum in Europe

from first countries of asylum hosting large numbers of refugees. One has to ask, yet, can this be interpreted as a trend or a symptom of state disengagement from asylum responsibility?

Humanitarian Corridors: piloting private sponsorship

The Humanitarian Corridors started in Italy as a pilot project emanating from the advocacy of faith-based organisations. The frequency of deadly shipwrecks near the island of Lampedusa had the effect of triggering a response from those organisations and their constituencies, namely: to mobilise and prevent deaths in the Mediterranean Sea.

The project consists of a partnership between the organisations and the national government, represented by the Ministry of Foreign Affairs together with the Ministry of Interior. The basis for such scheme is a “Memorandum of Understanding” (MoU) which stipulates the organisations’ full management of a fixed quota of visas issued on humanitarian grounds according to Article 25 of the [European Community Code on Visa](#). The MoU enables the organisations to select programme’s beneficiaries in the country of departure (Lebanon, Turkey, and Ethiopia), to organise for their visa application with the Italian consulate, arrange for the exit permits with the country of departure’s authorities, travel to Italy as well as supporting the beneficiaries’ asylum application and integration once in Europe. The project is entirely funded and run by the faith-based organisations ([Trotta, 2017](#)). Moreover, the Humanitarian Corridors have an outspoken transnational mission. Even if, in practice, they are implemented very differently according to the domestic context, they were inaugurated also in France (2016) and Belgium (2017) and are becoming a point of reference for piloting private sponsorship across Europe.

Within the European Union, admission policies remain under the responsibility of state governments. A transfer of responsibility for phases of resettlement *per se* is not against the rule of law. It depends on how and for which objectives the transfer of responsibility happens. Issues of publicity, transparency and predictability around the programmes arise, challenging aspects of the domestic rule of law understood as good governance.

Humanitarian Corridors schemes rely on private sponsors for the identification and selection of beneficiaries, based on a larger set of vulnerability criteria, and allow for referrals from local networks and consultation with UNHCR. Beneficiaries of the programmes apply for asylum once in the territory of the Member States concerned and benefit from an expedited asylum procedure. The Belgian scheme also foresees that the beneficiaries selected in Turkey belong to a Syrian-Orthodox group, posing issue of selectivity based on religious affiliation and, thus, discrimination. Fairness of procedures and issues of effective remedies can also be considered.

The legal bases for such schemes and their *ad hoc* nature seem over-dependent on both the discretion of the Member State concerned and the good will (and resources) of the organisations implementing the scheme. The amount of resources and commitment required by this programme is unbalanced on the sponsors. It is unclear what happens in case of sponsorship breakdown or in case of beneficiaries’ “secondary” movement to another

European country. Despite the large responsibilities the organisations bear, the process through which this limited number of faith-based organisations were selected remain ambiguous. There is no explicit selection procedure in place. The success of the organisations in reaching the agreement with the government seems to be the mere effect of their bargaining power and good will (in Italy) as well as the network effect of the first Humanitarian Corridors (in France and Belgium). The reasons in support of the choice of these specific organisations are over-simplified in the text of the agreement.

Community Sponsorship Programmes and the role of the GRSI: a strand of resettlement programmes

In parallel, the British Home Office launched in July 2016 the “Full Community Sponsorship scheme” closely linked to the Syrian Vulnerable Persons Resettlement Scheme. Civil society organisations played a significant role in its set-up, although the emergence of the sponsorship scheme might seem “top-down” and government-led as compared to the Humanitarian Corridors policy process. In 2019, Germany, Ireland and Spain launched schemes similar to the British one. The [Global Refugee Partnership Sponsorship Initiative](#) has proven to be an important player in the set-up of this stream of programmes; it aims at sharing the Canadian sponsorship experience and support the development of appropriate models in other countries.

Community Sponsorship is therefore a strand of resettlement programmes. It works as a partnership between the government and civil society groups that enables citizens to engage with refugee resettlement. Sponsoring groups are accredited by the government through a solid application process whereby sponsors are required to demonstrate their financial commitments, secure accommodation and submit a detailed and comprehensive settlement plan. If the application is successful, the government matches the refugees to the sponsors. The process can take up to one year. Sponsoring groups rely on a registered charity which act as a “safety net” in case of sponsorship breakdown. In this case, it might seem that governments are shifting the costs of asylum reception and integration on private actors transforming “public resettlement” into “private resettlement”.

These initiatives do not provide for “additionality”, intended as a feature of complementary pathways for refugee protection whereby additional places are offered to protection seekers beside resettlement places. Protection seekers who are not registered with the UNHCR or who have not been recognised as refugees are not eligible for sponsorship under such programmes.

Conclusion

These multiple initiatives have taken the shape of “pilot” projects or “experimental” strand of resettlement schemes. No private sponsorship programme in Europe is currently embedded into a legal framework. Programmes are exclusively run at the national level and characterised by a variable structure and shifting sharing of responsibilities between national

governments and private actors. Thus, these initiatives contribute to the emergence of a new layer of governance, both subnational (with the state delegating responsibility to non-state actors) and transnational (with civil society actors advocating for the same scheme across country).

Calling for the opening of legal pathways to prevent migrant deaths at sea, private actors are effectively bypassing the *status quo* of asylum procedures. Particularly in the case of the Humanitarian Corridors, the organisations implementing the programme acquire a “special permission” from their respective governments to manage humanitarian visas, identify and select beneficiaries of such programmes and offer settlement and integration support for a at least one year, largely covering the costs of the programme.

Refugee private sponsorship, along with resettlement, is likely to evolve in the coming years and has the potential to become a well-trodden path for refugee protection in Europe. Certainly, private sponsorship allows one to observe the work of civil society, to reflect on the need for humanitarian visas, to give a clear meaning to the objective of saving lives in the Mediterranean Sea and is a reminder of the significance of the principle of international responsibility sharing for refugee across countries. Ultimately, it calls for a rethinking of the legal pathways to access asylum in Europe.