



Article

# The 1956 Hungarian Refugee Emergency, an Early and Instructive Case of Resettlement

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Abstract

The Soviet repression of the Hungarian uprising in 1956 caused an exodus of 200,000 refugees. Most of the refugees fled to Austria. Austria immediately called on states to help both financially and by physically sharing the refugees by means of resettlement. As a result, most of the refugees were resettled very quickly in a large number of states. Those facts stand in stark contrast to the contemporary resettlement practice that is characterized by a scarcity of resettlement places and few resettlement states. On the assumption that past practice informed and shaped contemporary resettlement law and practice, the resettlement of the Hungarian refugees – the first large-scale resettlement under the present legal regime – is revisited with a view to understanding why it was considered necessary to resettle the refugees, how so many resettlement places were secured, whether UNHCR applied a responsibility sharing device, what eligibility criteria – if any – were applied by the resettlement states, and what was actually offered to the refugees by those states.

## Introduction

On 21 May 1958, Atle Grahl-Madsen submitted a number of questions pertaining to Hungarian refugees to the Royal Netherlands Embassy in Oslo in connection with a lawsuit involving Hungarian refugees in Norway. One of those questions was whether Hungarian refugees “who left their home country after the uprising in 1956, [are] considered to be refugees ‘as a result of events occurring before 1 January 1951’ (e.g. the establishment of the Communist regime in Hungary) and consequently eligible under the Convention relating to the status of refugees of 28th July 1951?”.<sup>1</sup> In general, it was replied, the 1951 Convention applied to refugees originating from the satellite countries who left their country as a result of the establishment of the communist regime; consequently, it also applied to Hungarian refugees who left their country after the uprising of 1956.<sup>2</sup>

This interpretation turned the Hungarian refugee emergency into the textbook example of the rather elastic interpretation of the Convention definition in which states engaged

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<sup>1</sup> Letter of 21 May 1958, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118. The pending lawsuit presumably concerned the expulsion of two young Hungarian refugees on account of a number of criminal offences they had committed, covering letter of the Netherlands Embassy to the Minister of Foreign Affairs, 23 May 1958, *loc. cit. supra*.

<sup>2</sup> Letter of the Ministry of Foreign Affairs addressed to the Netherlands Embassy in Oslo, 11 June 1958, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118. (Original in Dutch.) This question had been raised earlier in the General Assembly, see no. 3 *infra*.

preceding the adoption of the 1967 Protocol Relating to the Status of Refugees that removed the forbidding dateline of 1 January 1951 from the Convention definition.<sup>3</sup> Perhaps as a result, this emergency is not primarily remembered for the way it was resolved, using the language of durable solutions to the problem of refugees of the Statute of the United Nations High Commissioner for Refugees (hereafter: UNHCR):<sup>4</sup> the Hungarian refugee emergency was resolved by means of resettlement. States, including the Netherlands, had, rather than by definitional issues, been vexed by the question as to how many resettlement places should be offered to Austria, that was confronted with a substantial influx of Hungarian refugees - 180,000 –<sup>5</sup> in the short time that flight from the Russian military crackdown of the Hungarian uprising was possible.<sup>6</sup>

The resettlement of some 170,000 Hungarian refugees is history, albeit tangible history considering the number of publications regarding the Hungarian uprising and aftermath that still appear,<sup>7</sup> and the question is why it should be revisited more than fifty years later. A first reason is that the resettlement of Hungarian refugees in 1956 and 1957 constitutes the first large-scale resettlement undertaken within the framework of the contemporary refugee law regime, that is, the 1951 Convention and the Statute of UNHCR. The directly preceding large-scale resettlement (of one million refugees) had taken place in the wake of the Second World War within a different legal framework: the Constitution of the International Refugee Organization (hereafter: IRO).<sup>8</sup>

A second reason is related to the contemporary reluctance of (most) states to engage in resettlement as may be inferred from the structural scarcity of resettlement places: nowadays less than 1 per cent of the world's refugees are actually resettled in third states, and UNHCR struggles to increase the average annual number of 80,000 resettlement places that are offered.<sup>9</sup> Indeed, the solution of 'resettlement' is not a popular one, and is in fact considered to be the least desirable one, as well as the solution of last resort,<sup>10</sup> most likely due to the fact

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<sup>3</sup> Another famous instance pertained to the Algerian refugees who fled the Algerian war of independence from France. Despite the fact that the Statute of UNHCR comprises a definition without a dateline in Art. 6B, the same question was raised with respect to UNHCR's mandate *ratione personae*, see UNGAOR, 11<sup>th</sup> Session, Third Committee, 689<sup>th</sup> Meeting, para. 15 (Sweden). With respect to its mandate, UNHCR merely pointed to the absence of the date limit in Art. 6B; with respect to the 1951 Convention, it observed that "it is reasonable to relate the departure of the refugees from Hungary not merely to the events which took place in Hungary in November 1956, but also to fundamental political changes which took place as a result of the last war", Annex IV to UN doc. A/AC.79/49; see also UN docs. A/Res/1006 (ES-II), A/Res/1129 (XI), and the observations made by the representatives of, respectively, the Netherlands, UNGAOR, 11<sup>th</sup> Session, Third Committee, 689<sup>th</sup> Meeting, 23 November 1956, para. 25, Chile, UNGAOR, 11<sup>th</sup> Session, Third Committee, 691<sup>st</sup> Meeting, 26 November 1956, para. 12, and Israel, UNGAOR, 11<sup>th</sup> Session, Third Committee, 692<sup>nd</sup> Meeting, 26 November 1956, para. 6.

<sup>4</sup> Art. 1, Statute of UNHCR.

<sup>5</sup> *United Nations Yearbook 1957* at 233.

<sup>6</sup> See section II *infra*.

<sup>7</sup> For accounts of the refugees themselves, see in particular: V. Illés, *Kind van een andere tijd. Het verhaal van een Hongaarse vluchteling*, Amsterdam, 2006; L. Kalános, "Levensverhaal" in F. Tervoort (ed.), *De Vluchteling. Zijn camera als wapen tegen onrecht*, Soesterberg, 2012, 25-140; A.S. Grove, *Swimming Across. A Memoir*, New York, 2001.

<sup>8</sup> On the IRO, see L.W. Holborn, *The International Refugee Organization, A Specialized Agency of the United Nations. Its History and Work 1946-1952*, 1956; on resettlement by the IRO, see *ibid.* Ch. XX, and for numbers of resettled refugees, see in particular *ibid.* annex 40, at 433.

<sup>9</sup> *UNHCR Statistical Yearbook 2010* at 38 (the actual number varies: 29,560 in 2006, 49,868 in 2007, 65,874 in 2008, 84,657 in 2009, 72,914 in 2010, and 61,231 in 2011, UNHCR, "Frequently Asked Questions about Resettlement", April 2012 at 6).

<sup>10</sup> Cf. Executive Committee Conclusion no. 67 (1991) sub (g). Hathaway speaks of "the residual role now officially attributed to resettlement", J.C. Hathaway, *The Rights of Refugees Under International Law*, 2005 at 976.

that it cannot rely on any particular obligation on the part of states in contrast to the generally preferred solution of voluntary repatriation.<sup>11</sup> Voluntary repatriation hinges on the human right to return to one's country of origin – be it of nationality or habitual residence – and hence on the obligation of states (of origin) to accept their nationals and habitual residents. Resettlement, in contradistinction, is essentially based on the goodwill of states. Probably for that reason, states feel free to constrain the resettlement offers they make by means of selection criteria that go well beyond protection needs in the sense of the 1951 Convention and derive from immigration concerns such as integration potential, public health, national security, and other national interests including foreign policy.<sup>12</sup> When the contemporary reluctant practice is compared with the speedy resettlement of some 170,000 Hungarian refugees from Austria a mere 60 years ago, the question arises as to how such was accomplished.

Apart from being a durable solution to the problem of refugees in the sense of a solution to the plight of the refugees concerned, resettlement is also considered in terms of a means to realise 'burden-sharing' as implied by the preamble to the 1951 Convention. The preamble refers to the need for cooperation with the United Nations to solve the contingency of states that are unduly heavily burdened (that is, by refugees) as a result of geographical proximity to the country of origin. In that sense, resettlement can be seen to constitute a solution to the plight of the country of refuge rather than (primarily) one to that of refugees. Viewed from this perspective, the Statutory reference to 'the problem of refugees' manifests itself as a problem that is not so much borne by refugees but rather by others, particularly states, and the United Nations. The need for cooperation referred to in the preamble to the 1951 Convention has not, however, been given an operative counterpart in the body of the Convention. In the absence of a mandatory sharing or distributive mechanism, any burden-sharing – including physical burden-sharing – partakes of the realm of discretionary acts which, again, may explain why so few resettlement places are offered.

The contemporary paucity of places stands in stark contrast to the few (historical) instances where states have been more generous. One of those instances is the resettlement of Hungarian refugees: "We had 100,000 people resettled in the first 10 weeks – which I think is inconceivable today", High Commissioner Guterres remarked at the occasion of the fiftieth anniversary of the Hungarian uprising and refugee crisis.<sup>13</sup> The then Deputy High Commissioner for Refugees, James Read – acting as High Commissioner following the untimely death of the first High Commissioner, Gerrit Jan van Heuven Goedhart – stated that this resettlement "is a sharing of burdens which those in refugee work have always looked upon as the ideal, but until now it has not been a 'realistic possibility'".<sup>14</sup> When this observation was made, the total number of offers of 'asylum' exceeded the number of Hungarian refugees present in Austria.<sup>15</sup>

The questions that arise in this respect are the following. Why was it considered necessary to resettle the Hungarian refugees? How were those places secured? Did UNHCR devise a responsibility-sharing mechanism? What eligibility criteria were applied, if any?

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<sup>11</sup> On voluntary repatriation, see *e.g.*, M.Y.A. Zieck, "Voluntary Repatriation: Paradigm, Pitfalls, Progress", 23 *Refugee Survey Quarterly* 2004, 33-54.

<sup>12</sup> For examples, see M.Y.A. Zieck, "Quota refugees", the Dutch Contribution to Global Burden-Sharing by Means of Resettlement of Refugees", 39 *International Journal of Legal Information* 2011, 130-163, para. 7. *Cf.* FORUM/CG/RES/04 at 7 ("the present trend of categorizing refugees into 'first class refugees' and others, which turns into a fight between various resettlement countries in getting the most 'attractive refugees'").

<sup>13</sup> UNHCR News Stories, "Fiftieth Anniversary of the Hungarian uprising and refugee crisis", 23 October 2006.

<sup>14</sup> UN doc. A/3371 (Report to the Secretary-General on Refugees from Hungary), para. 5.

<sup>15</sup> *Ibid.*, para. 6. Note the reference to 'asylum' rather than 'resettlement', on which see section VI *infra*.

The solution of ‘resettlement’ is defined in somewhat ambiguous terms, presumably owing to the fact that it may serve different purposes as indicated earlier.<sup>16</sup> Although it will invariably entail the transfer of a refugee from a country of refuge or asylum to a third state, it is not clear whether this relocation should equally invariably be considered in terms of permanent settlement, particularly not if the transfer is induced by the incapacity of states of refuge to protect large numbers of refugees. An alternative is to view it in terms of relocation that merely involves the substitution of the country of refuge by another one. Considering the immediate resettlement of the Hungarian refugees, the question arises as to how this resettlement was defined. More in particular, what was actually offered to the Hungarian refugees by the resettlement states?

The research into a comparatively speaking large-scale resettlement that took place in the early years of the contemporary refugee law regime - in the sense indicated earlier – is part of a long-term research project that seeks to identify the applicable legal framework to resettlement as a solution UNHCR is to pursue by virtue of its mandate.<sup>17</sup> In view of the fact that the solution of resettlement is not detailed in the Statute of UNHCR (nor in the 1951 Convention for that matter), its development fell to UNHCR. Reviewing UNHCR’s practice of resettlement – assuming consistency, and consequently that contemporary practice has been informed and shaped by past practice –<sup>18</sup> serves to identify the normative framework UNHCR applies including any shortcomings (such as possible incompatibilities with the 1951 Convention, and failure to address particular issues).

The research into the resettlement of the Hungarian refugees in 1956 and 1957 is in that sense not meant to be of immediate relevance to contemporary practice, it is rather more modest: it seeks to give past answers to contemporary and recurrent questions pertaining to resettlement; answers that may eventually contribute to identifying the applicable legal framework and any flaws or oversights from which it may or may not suffer. Those questions are, as indicated above, why it was considered necessary to resettle the Hungarian refugees, how the requisite resettlement places were secured, if this large-scale resettlement was realised by means of a sharing device, what, if any, selection criteria were applied by resettlement states, and, lastly, what was actually offered by those states to the refugees concerned?

As for the structure of this paper, sections two and three will give some facts and figures about the flight of the Hungarian refugees. The fourth section will address the issue of physical ‘burden-sharing’ and illustrate how it was secured. The fifth section will identify the selection criteria that were applied by the resettlement states, and the sixth what was actually offered to the refugees by them. The seventh section will show how the burden was eventually shared, and the last section comprises some final observations including the question as to what induced so many states to offer resettlement places.

It appears that the key to the resettlement of the Hungarian refugees was the fact that Austria was manifestly overwhelmed by the number of refugees that entered the country in a very short period of time. This sense of being overwhelmed is compared with the contemporary criterion that may trigger a form of physical burden-sharing in the European Union by virtue

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<sup>16</sup> Cf. Zieck, 2011, *loc. cit. supra*, at 159.

<sup>17</sup> The publication on ‘quota refugees’, see *supra*, is part of it and so is a chapter on the limitations of voluntary repatriation and resettlement that will appear later this year in a research handbook on International Law and Migration (Edward Elgar Publishers).

<sup>18</sup> Cf. the following observation: “The 1956 uprising and its aftermath helped shape the way humanitarian organizations – not least UNHCR – were to deal with refugee crises for decades to come”, [UNHCR’s] *Refugees*, Special Issue, 2006, no. 144, editorial at 2.

of the Temporary Protection Directive, particularly to show that Austria's stance has not changed over the years: just like over half a century ago, it asks for an equitable formula to secure even burdens. The final section also highlights an issue that is of more immediate relevance to the contemporary practice and legal framework of resettlement. The resettlement of Hungarian refugees appears to have been induced mainly by the desire to relieve Austria, whilst contemporary resettlement practice appears instead to be geared predominantly towards solving protection problems of refugees in their first country of asylum. Both then and now UNHCR's involvement appears to end when the refugees are moved out of the country of refuge, and that seems to be an incongruous flaw in the contemporary legal framework considering the fact that resettlement, however defined, is not tantamount to loss of refugee status.

## I. The Hungarian Exodus and Figures

"[A]s a result of the harsh and repressive action of the Soviet armed forces, increasingly large numbers of refugees are being obliged to leave Hungary and to seek asylum in neighbouring countries".<sup>19</sup> In the relatively short time span of a few months, 200,000 persons left Hungary, that is, about 2% of the Hungarian population at the time.<sup>20</sup> Most of the refugees, some 180,000, fled to Austria, 20,000 to Yugoslavia, and much smaller numbers to other states.<sup>21</sup> The focus will throughout be on the Hungarian refugees in Austria.

Actual flight was only possible for a few months:<sup>22</sup> the exodus started on the 28th of October 1956,<sup>23</sup> and continued until June 1957. Resettlement of refugees from Austria started as early as 7 November 1956,<sup>24</sup> that is, only about a week after the first refugees had arrived there.

## II. Destination Austria, Some Facts

"If I am ever required to be a refugee, I hope I make it to Austria".<sup>25</sup>

When Austria, a country with a population of seven million people at the time, was confronted with the influx of Hungarian refugees, it was still hosting 'old' refugees ("Altflüchtlinge") – Second World War refugees – a number of whom lived in camps. Figures

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<sup>19</sup> UN doc. A/Res/1006 (ES-II) (The Situation in Hungary), 9 November 1956. On the Russian intervention, see *inter alia*, Q. Wright, "Intervention, 1956", 51 *American Journal of International Law* 1957, 257-276.

<sup>20</sup> Quite a substantive percentage of whom – 20% - were Jewish refugees, on the cause of this percentage, see P.I. Hidas, "Canada and the Hungarian Jewish Refugees, 1956-57", 37 *East European Jewish Affairs* 2007, 75-89.

<sup>21</sup> On Hungarian refugees in Yugoslavia, see in particular UN doc. A/AC.79/54 (The Problem of Hungarian Refugees in Yugoslavia). There were also reports about the Soviet army forcibly deporting Hungarian men, women and children from their homes to places outside Hungary, UN doc. A/Res/1127 (XI); Wright mentions the number of some 16,000 deportations, Wright, 1957, *loc. cit. supra*, at 260.

<sup>22</sup> The Dutch ambassador in Vienna reported an incident that took place in the border area on 20 January 1957 in broad daylight: a group of about 20 Hungarian refugees were pursued by 30 heavily armed Hungarian soldiers accompanied by bloodhounds. Some refugees who had already entered Austrian territory were captured and dragged back to Hungary: only one managed, protected by an Austrian officer, to stay (wounded) in Austria, Letter addressed to the Netherlands Minister of Foreign Affairs, 22 January 1957, 268/64, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118.

<sup>23</sup> UNGAOR, 11<sup>th</sup> Session, 587<sup>th</sup> Plenary Meeting, 21 November 1956, para. 88.

<sup>24</sup> UN doc. A/AC.79/49 (1957) (The Problem of Hungarian Refugees in Austria, An assessment of the needs and recommendations for future action, submitted by the High Commissioner), paras. 21, 26.

<sup>25</sup> J.A. Michener, *The Bridge at Andau*, 1957 at 224.

vary, but the number of 'old refugees' was estimated to amount to 150,000 persons.<sup>26</sup> Austria nonetheless immediately welcomed the refugees, stating it would grant them all asylum regardless of their reason for leaving Hungary.<sup>27</sup> It recognised the refugees on a *prima facie* basis as refugees in the sense of the 1951 Convention.<sup>28</sup>

Austria was, however, soon overwhelmed by the scale of the influx, illustrative for which is the request to refugees arriving at the border to come back a few days later, when Austria's absorption capacity would allow it to receive them.<sup>29</sup> As to the scale and pace involved: on 21 November 55,000 refugees had entered Austria, 60,000 on 23 November, 92,000 on 28 November (of whom 22,000 had moved to other countries offering them asylum), 114,000 on 5 December,<sup>30</sup> and 166,795 on 14 January (but at that time many refugees had already been resettled too).<sup>31</sup> The influx of refugees averaged 2,665 per day in the first weeks of November, and in the last week of that month (21-26 November), 7,706 per day.<sup>32</sup>

### III. Burden-Sharing

“the hungarians streaming into austria at the present time arrive deprived of any means and in a state of exhaustion. they have to be cared for immediately, to be fed and clothed. the austrian federal government, in cooperation with everyone willing to help, is undertaking all possible efforts to accommodate these unfortunate people as quickly as possible. but, in spite of all the desperate efforts on the part of the austrian authorities and the austrian people to cope with this difficult problem, austria cannot do it alone. she necessarily depends on generous joint immediate help from other countries”.<sup>33</sup>

The first refugees poured into Austria on 28 October 1956, and already on 5 November the Austrian Interior Minister – Oskar Helmer – sent a telegram to UNHCR asking for help, both in the form of financial assistance and assurances that most of the refugees would be quickly moved on out of Austria.<sup>34</sup>

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<sup>26</sup> UN doc. A/3371 (Report to the Secretary-General on Refugees from Hungary), para. 1; 114,000 according to UN doc. A/AC.79/49, para. 5; 130,000 according to yet another source, United Nations, *The Exodus from Hungary*, 1957 (UN Publication Sales Number: 1957.I.3) at 2; and 190,000 according to the Austrian representative to the United Nations at the time, Mr. Waldheim, UNGAOR, 11<sup>th</sup> Session, Third Committee, 693<sup>rd</sup> Meeting, 27 November 1956, para. 57; according to Holborn, Austria cared for 30,000 refugees at the time, and 150,000 Volksdeutsche, L.W. Holborn, *Refugees: A Problem of Our Time. The Work of the United Nations High Commissioner for Refugees 1951-1972*, Vol. 1, 1975 at 391.

<sup>27</sup> A. Gémes, “Deconstruction of a Myth? Austria and the Hungarian Refugees of 1956-57”, in S. Dempsey, D. Nichols (eds.), *Time, Memory, and Cultural Change*, 2009, available at [www.iwm.at/index2.php?option=com\\_content&task=view&id=125&Itemid=125&pop=1&page=0](http://www.iwm.at/index2.php?option=com_content&task=view&id=125&Itemid=125&pop=1&page=0).

<sup>28</sup> UN doc. A/AC.79/49, para. 16. (Soldiers and armed refugees were interned, Gémes, 2009, *loc. cit. supra*, at 3.) The Austrian Supreme Court (“*Oberste Gerichtshof*”) judged in July 1957 that the Hungarian refugees should be considered to be refugees in the sense of the 1951 Convention since the events in Hungary were the consequences of events taking place before 1 January 1951, Y. von Stedingk, *Die Organisation des Flüchtlingswesens in Österreich seit dem Zweiten Weltkrieg*, Vienna, 1970 at 13.

<sup>29</sup> P. Haslinger, “Zur Frage der ungarischen Flüchtlinge in Österreich 1956/7”, in G. Seewann (ed.), *Migrationen und ihre Auswirkungen. Das Beispiel Ungarn 1918-1995*, 1997, 147-162 at 154.

<sup>30</sup> United Nations, *The Exodus from Hungary*, 1957 at 1; see also table 1 in Annex I to UN doc. A/AC.79/49.

<sup>31</sup> UN doc. A/AC.79/49, para. 16.

<sup>32</sup> See UN doc. A/AC.79/49, para. 19, and table 1 in Annex 1 to *ibid.*; Annex I to UN doc. A/AC.79/49/Rev.1.

<sup>33</sup> Permanent Representative of Austria to the Secretary-General on 26 November 1956, text transmitted by telegram to the Netherlands, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118; see also United Nations, *The Exodus from Hungary*, 1957 at 3.

<sup>34</sup> R. Colville, “How the Hungarian Crisis Changed the World of Refugees”, [UNHCR's] *Refugees* 2006, no. 144, 4-11 at 7.

“FURTHERMORE EARLY TEMPORARY ACCEPTANCE OF AS GREAT A NUMBER AS POSSIBLE OF THESE REFUGEES BY EUROPEAN STATES IS URGENTLY REQUESTED STOP THE FEDERAL GOVERNMENT APPEALS TO THE FEELINGS OF SOLIDARITY IN HELPING REFUGEES WHICH HAS SO OFTEN BEEN EVIDENCED IN THE PAST STOP”.<sup>35</sup>

UNHCR immediately issued an appeal to the 20 states member of the UNREF Executive Committee – the predecessor of its current Executive Committee – for financial aid and temporary asylum for the Hungarian refugees. The appeal was eventually extended to other states with a demonstrated interest in and devotion to the solution of refugee problems.<sup>36</sup> The Netherlands was one of the UNREF members to receive the appeal by telegram from UNHCR:

“IN OUR AND AUSTRIAN GOVERNMENTS OPINION EXTREMELY EFFECTIVE HELP WOULD ALSO BE PROVIDED IF GOVERNMENTS SYMPATHETIC TO TRIALS OF HUNGARIAN PEOPLE WOULD AGREE TO GIVE AT LEAST TEMPORARY ASYLUM TO GREATEST POSSIBLE NUMBER OF REFUGEES STOP YOUR GOVERNMENT IS THEREFORE URGENTLY REQUESTED TO GIVE CONSIDERATION TO THIS POSSIBILITY IN ADDITION TO FINANCIAL AID FOR THESE REFUGEES STOP SERVICES OF THIS OFFICE ARE AVAILABLE TO ASSIST IN SELECTION STOP”.<sup>37</sup>

The United Nations General Assembly called for help too. On 9 November it called for “speedy and effective arrangements for emergency assistance to refugees from Hungary”.<sup>38</sup> Only later that month, on 21 November, did the General Assembly recognise the urgent need for care and *resettlement* of the Hungarian refugees.<sup>39</sup>

Meanwhile, on 17 November, the Austrian Foreign Ministry had sent an *Aide Mémoire* to about 20 mission chiefs in Vienna insisting that states should, beyond the assistance offered already, bear the burdens of the refugee influx, in particular by means of quick indiscriminate resettlement and financial help.<sup>40</sup>

In the Third Committee – on 23 November – the question was nonetheless posed whether Austria was in a position, unaided, to provide for the refugees in its territory, and if not, what

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<sup>35</sup> Telegram from Austrian Federal Government Received by Office of the United Nations High Commissioner for Refugees on 5 November 1956, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118.

<sup>36</sup> UN doc. A/3371, para. 4 (the qualification of the states that were addressed was cast in terms of the criteria that qualify states for membership in the advisory body foreseen in Art. 4 of the Statute of UNHCR).

<sup>37</sup> Telegram addressed by Office of the United Nations High Commissioner for Refugees on 5 November 1956 to Governments Members of United Nations Refugee Fund Executive Committee, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118.

<sup>38</sup> UN doc. A/Res/1006 (ES-II), 9 November 1956. The General Assembly also entrusted UNHCR with the task of making appeals to meet the needs of the Hungarian refugees, and coordinating the provision of emergency aid, *ibid.*

<sup>39</sup> UN doc. A/Res/1129 (XI) (A/Res/409).

<sup>40</sup> “Die Bundesregierung halte es für geboten, dass auch andere Staaten über die von ihnen bereits gewährte oder zugesagte Hilfe hinaus im Verhältnis zu ihren Möglichkeiten die aus dem Flüchtlingsstrom sich ergebenden Lasten tragen. Besonders dringend sei die schnelle und unterschiedslose Übernahme von Flüchtlingen in die einzelnen Staaten, wobei Familien nicht getrennt werden sollen, sowie die Bereitstellung von finanzieller Hilfe und verschiedenen Sachgütern”, text of the cable cited in A. Gémes, “Political Migration in the Cold War: The Case of Austria and the Hungarian Refugees of 1956-57”, in A.K. Isaacs (ed.), *Immigration and Emigration in Historical Perspective*, Pisa, 2007, 165-182 at 181.

steps should be taken to enable UNHCR to provide assistance.<sup>41</sup> This question was basically one that pertained to the ‘further mandate’ the General Assembly had given UNHCR to assist Hungarian refugees. Iraq stated this action of the General Assembly had been essential, for Austria could not bear the heavy burden imposed by the influx of refugees alone and that it was the duty of the United Nations to assist all refugees.<sup>42</sup>

On 26 November 1956, the Austrian representative to the United Nations, Mr Waldheim, “addressed an urgent appeal to Governments to give maximum aid to Austria and to that end to accept the largest possible number of refugees without imposing any formalities”.<sup>43</sup> UNHCR referred to the very heavy burden on Austria where one person in every hundred was now a refugee.<sup>44</sup>

The next day – 27 November – the Austrian representative impressed again upon the Third Committee of the General Assembly that the “enormous influx of Hungarian refugees into Austria was placing an almost impossible strain on the country”. Referring to the money spent already – nearly 5 million USD – and the estimated 24 million USD to maintain the present number of refugees in Austria for six months, he added that: “That burden was too heavy for Austria to bear alone; the problem was an international one, and could be solved only through international co-operation”.<sup>45</sup> Waldheim also suggested that reception centres and staging camps could be set up in other European countries; further transfer arrangements could be made from there.<sup>46</sup> UNHCR requested states to admit more refugees, if need be on a temporary basis.<sup>47</sup>

On 29 November, the UN Secretary-General and UNHCR issued a joint appeal – an appeal-by-telegram – based on two resolutions of the General Assembly – 1004 (ES-II) and 1007 (ES-II) – asking states for further aid, in cash or in the form of temporary asylum or resettlement offers.<sup>48</sup>

On 12 January, Austria again appealed to UNHCR, pointing to “the dangers of this situation” – meaning its assumption that there would still be some 70,000 refugees in Hungary at the end of June 1957 – and asking the urgent intervention of the agency to promote further resettlement.<sup>49</sup> The Austrian government thereupon decided to suggest resettlement quota based on percentages for individual states to UNHCR “da die Anzahl der in Oesterreich befindlichen Flüchtlinge schon jetzt die wirtschaftlichen Kräfte Oesterreichs übersteigt”.<sup>50</sup> The suggestion was repeated in the 4th session of UNREF’s Executive Committee by Austrian

<sup>41</sup> UNGAOR, 11<sup>th</sup> Session, Third Committee, 690<sup>th</sup> Meeting, 23 November 1956, para. 2 (Greece).

<sup>42</sup> *Ibid.*, para. 24. The next question that was raised pertained to the mandate *ratione personae* of UNHCR, more in particular whether it comprised the Hungarian refugees, see *ibid.* para 35 (Uruguay), and n. 3 *supra*.

<sup>43</sup> UNGAOR, 11<sup>th</sup> Session, Third Committee, 691<sup>st</sup> Meeting, 26 November 1956, para. 6.

<sup>44</sup> UNGAOR, 11<sup>th</sup> Session, Third Committee, 692<sup>nd</sup> Meeting, 26 November 1956, para. 35.

<sup>45</sup> UNGAOR, 11<sup>th</sup> Session, Third Committee, 693<sup>rd</sup> Meeting, 27 November 1956, para. 57.

<sup>46</sup> *Ibid.*, para. 61.

<sup>47</sup> Cable from the permanent representative of the Netherlands at the United Nations in Geneva to the Netherlands Ministry of Foreign Affairs, 27 November 1956, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118.

<sup>48</sup> UN doc. A/3443, para. 2; according to UN doc. A/AC.79/49, para. 81, the appeal was made on 30 November.

<sup>49</sup> UN doc. A/AC.79/49, para. 31. In a press conference of 18 January, similar figures were mentioned, coupled to the call for resettlement by the Austrian Secretary of State, Letter of the Dutch ambassador in Austria to the Minister of Foreign Affairs, 19 January 1957, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118.

<sup>50</sup> Letter of the Dutch ambassador to the Netherlands Minister of Foreign Affairs, 23 January 1957, 275/67, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118.



Interior Minister Helmer who stated that all freedom-loving countries should accept Hungarian refugees from Austria on a quota system, and that Austria should be reimbursed for its care and maintenance costs on the same quota basis.<sup>51</sup> His concerns were shared by the other members of the Committee who agreed that the problem of the Hungarian refugees in Austria should be treated as an international problem and not as a local matter arising out of the accident of geographical situation.<sup>52</sup> The suggestion of a quota system was elaborated by the Austrian Secretary of State who proposed that countries of resettlement should accept refugees up to a number equivalent to 1 per 1,000 of their own population (which would mean larger numbers than had been offered thus far).<sup>53</sup> The Italian representative retorted that the possibility of resettling refugees did not merely depend on the demographic situation of a country but also on its economic and social position.<sup>54</sup> The proposed quota system was not discussed further, but the UNREF Executive Committee adopted a resolution on the problem of Hungarian refugees in which it stated that “the care of refugees is a burden to be shared by the whole world in accordance with the capacities of the respective countries”,<sup>55</sup> from which it may be inferred that actual resettlement should, according to the Committee, be linked to ‘capacity’, however defined. This inference is confirmed by the second operative provision of the resolution:

“Supports the appeals made by the High Commissioner for Refugees in order that the countries of first asylum be enabled to meet the costs of the Hungarian refugee problem, and that *countries which are in a position to do so* accept the settlement in their territories of an increased number of refugees”.<sup>56</sup>

Austria itself had expressed its preparedness to accept a maximum of 30,000 refugees who either did not wish to be resettled overseas or for whom there was no opportunity of overseas resettlement, for integration in Austria,<sup>57</sup> a number much larger than the suggested equivalent of 1 refugee per 1,000 inhabitants. Notwithstanding this preparedness, another joint appeal was made on 22 April 1958 (by UNHCR and ICEM) for more resettlement places when there were still 15,000 Hungarian refugees in Austria.<sup>58</sup> In 1959, there were 9,600 Hungarian refugees in Austria, 9,000 in the next year, and on 31 December 1961, the number had decreased to 7,900<sup>59</sup> (and thus approximating, incidentally, the quota suggested by Austria).

The above figures demonstrate that Austria was relieved very quickly of the large majority of the Hungarian refugees by means of resettlement.<sup>60</sup> The speed and scale of those offers should

<sup>51</sup> Annex 1 (Report of the UNREF Executive Committee, fourth session, 29 January-4 February 1957) to UN doc. A/3585/Rev.1, para. 66.

<sup>52</sup> *Ibid.*, para. 68.

<sup>53</sup> *Ibid.*, para. 74.

<sup>54</sup> *Ibid.*, para. 75.

<sup>55</sup> *Ibid.*, para. 101 (resolution no. 4 on the problem of Hungarian refugees), also included in Appendix II (Resolutions adopted during the fourth session of the UNREF Executive Committee) to UN doc. A/3585/Rev.1.

<sup>56</sup> *Ibid.* emphasis added. With reference to this resolution the High Commissioner reiterated to the Netherlands – and presumably many other states – “with a renewed sense of urgency the appeals which my Office has already made to your Government to admit an increased number of Hungarian refugees, be it on a permanent or temporary basis ...”, Letter of High Commissioner Lindt to the Netherlands Minister of Foreign Affairs, 7 February 1957, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118.

<sup>57</sup> UN doc. A/AC.79/49, para. 10.

<sup>58</sup> *UN Yearbook 1958* at 235.

<sup>59</sup> See the *UN Yearbooks* of respectively 1959 (at 228), 1960 (at 363), and 1961 (at 333); see also section VII *infra*.

<sup>60</sup> See *e.g.* Annex 1 to UN doc. A/AC.79/49; Annex to the Report of the Deputy High Commissioner to the Secretary-General included in UN doc. A/3371 of 19 November 1956. ‘Resettlement’ is used here as an umbrella term, in section VI *infra*, the question is raised what was actually offered to the refugees.

not veil the discriminatory nature of many of the resettlement offers that were made, the extent of which induced the Austrian representative to the United Nations to making the following statement: “May it be remembered that Austria, too, cannot discriminate at her borders”.<sup>61</sup>

#### IV. Selection Criteria

With respect to selection, perceptions differed. On the one hand, the representative of the Soviet Union stated the following:

“The facts, however, tell a different story. They show that in the refugee camps the inmates are now openly being screened according to certain criteria. Thus, the Press reports that the United States is placing conditions on the entry of refugees which have nothing whatsoever to do with humanitarian considerations. Today a number of American newspapers have published a report to the effect that the refugees are being subjected to a full-scale interrogation designed to elicit their political convictions; pressure is being exerted to make them renounce support for the system of people’s democracy in Hungary ...”.<sup>62</sup>

And on the other hand, there is the exclamation of a Canadian immigration official that “[a]lmost all a Hungarian will have to do is to be alive” to be eligible for resettlement.<sup>63</sup>

In practice, many states did in fact apply selection criteria,<sup>64</sup> and Austrian officials accordingly urged resettlement states “to take not only the young, the strong, the skilled, but also the lame, the sick, the handicapped, the uneconomic families”,<sup>65</sup> and also requested states to accelerate and simplify their admission procedure.<sup>66</sup> To speed up the resettlement of the Hungarian refugees, a certain number of states agreed, at the request of UNHCR, to waive the normal selection criteria.<sup>67</sup>

The criteria that were applied by the resettlement states can be categorised into outright negative criteria, restrictive criteria, positive criteria, and the absence of any criteria.

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<sup>61</sup> Gémes, 2009, *loc. cit. supra* (giving an Austrian official document as source that presumably contains the full and literal statement its representative delivered at the 693<sup>rd</sup> Meeting of the General Assembly’s Third Committee on 27 November 1956).

<sup>62</sup> UNGAOR, 11<sup>th</sup> Session, 587<sup>th</sup> Meeting, 21 November 1956, paras. 134, 135.

<sup>63</sup> Quoted in A.A. Markowitz, “Humanitarianism Versus Restrictionism: The United States and the Hungarian Refugees”, 7 *International Migration Review* 1973, 46-49 at 54.

<sup>64</sup> Saudi Arabia favoured screening to ensure that the ideological background of the refugees be compatible with that of the resettlement country to thus ensure “that they should not be misfits in their new community and that the funds spent on resettlement were not spent in vain”, UNGAOR, 11<sup>th</sup> Session, Third Committee, 692<sup>nd</sup> Meeting, 26 November 1956, para. 40. Worth mentioning is the pre-screening undertaken by the Netherlands Embassy in Budapest regarding Hungarians who attempted to obtain a visa preceding their flight from Hungary: “To those who possess a passport I extend a visa when they enjoy a good reputation or have relatives in the Netherlands who can take pity on them. [...] Those who undertake the journey with my help, are in any case politically reliable and won’t become a public charge, which cannot be said about the refugees who are admitted in the Netherlands”, Report on the situation in Hungary (1953/763), sent to the Netherlands Minister of Foreign Affairs, 24 November 1956 (original in Dutch, translation by the author), Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118.

<sup>65</sup> United Nations, *The Exodus from Hungary*, 1957 at 11. When Deputy High Commissioner (UNHCR) first heard the Austrian plea, “he felt great sympathy for it, but mentally designated it as unrealistic” yet his reservations turned out to be wrong, United Nations, *The Exodus from Hungary*, 1957 at 11.

<sup>66</sup> UN doc. A/AC.79/49, para. 25. The American health screening appears to have been quite rigorous: refugees not only had to go several times to Vienna for medical check-ups, “sondern auch um sich etwa ‘über die Vollständigkeit der Zehen und Finger zu vergewissern’”, Haslinger, 1997, *loc. cit. supra*, at 157.

<sup>67</sup> UN doc. A/3585/Rev.1, para. 6.

The negative criteria comprise the exclusion of particular groups such as communists,<sup>68</sup> possible agents of the Hungarian political police (AVO, *i.e.*, *A'Ilam Védelmi Hatóság*), criminals, gypsies,<sup>69</sup> and hippies,<sup>70</sup> and the exclusion by means of formulating specific preferences such as a preference for mine workers (with three years' experience) provided they were unmarried and single, metal workers, textile workers,<sup>71</sup> farmers,<sup>72</sup> Jewish refugees,<sup>73</sup> and artisans.<sup>74</sup>

The restrictive yet positive criteria included offering resettlement places (exclusively) to mothers and children,<sup>75</sup> orphans (under five),<sup>76</sup> and children (not specified).<sup>77</sup> The positive criteria included the offer to take tuberculosis cases,<sup>78</sup> refugees who were handicapped or in some way deemed to be especially difficult cases,<sup>79</sup> and adults above the normal immigration age.<sup>80</sup> A minority of states did not apply any selection criteria. France, for instance, indicated it would accept any refugee who expressed a wish to go to France.<sup>81</sup> The same applies to Belgium,<sup>82</sup> Luxembourg,<sup>83</sup> and Switzerland.<sup>84</sup>

It is hard to say anything about the effects of the use of those criteria since scant references were made to this practice, that is, other than that it hindered quick resettlement. The High Commissioner referred in June 1957 to “a certain number of refugees, tentatively estimated at 2,000, who would be unable to leave Austria since they did not meet the selection criteria of countries of resettlement”.<sup>85</sup> The Yearbook of the United Nations refers to the fact that there were still some 19,000 refugees in Austria on 31 December 1957: “Approximately 11,000 of the 19,000 either wished to remain in Austria or were considered likely to do so through failing to meet the selection criteria of countries of resettlement”.<sup>86</sup>

<sup>68</sup> The Netherlands, A. Kövi, “Hongaarse immigratie na 1956”, 100 *Tijdschrift voor Geschiedenis* 1987, 446-459 at 448; the United States (*i.e.* those who admit voluntary membership in the communist party will not be admitted to the US), *inter alia*, UNGAOR, 11<sup>th</sup> Session, 587<sup>th</sup> Plenary Meeting, 21 November 1956, para. 136. (The United States apparently did not accept married and pregnant refugees either: “And America didn’t want anybody who was married and pregnant”, Fifty years on, *Refugees* 2006 at 14; see also Michener, 1957, *op. cit. supra* at 239.)

<sup>69</sup> Netherlands, Kövi, 1987, *loc. cit. supra*, at 448.

<sup>70</sup> M. Bos, “Hongaarse vluchtelingen in Nederland: Zuinige opvang”, 7 *Historisch Nieuwsblad*, 2006 at [www.historischnieuwsblad.nl/nl/artikel/6848/hongaarse-vluchtelingen-in-nederland.html](http://www.historischnieuwsblad.nl/nl/artikel/6848/hongaarse-vluchtelingen-in-nederland.html) (“nozems”).

<sup>71</sup> Netherlands, D. Hellema, 1956 *De Nederlandse houding ten aanzien van de Hongaarse revolutie en de Suezcrisis*, Amsterdam, 1990 at 204.

<sup>72</sup> Uruguay, UN doc. A/3405, para. 33; Venezuela, UN docs. A/3405, para. 34; A/AC.79/49, para. 25; Bolivia, UNGAOR, 11<sup>th</sup> Session, Third Committee, 692<sup>nd</sup> Meeting, 26 November 1956, para. 27; Chile, Annex to UN doc. A/3371 at 1; Ecuador, Annex to UN doc. A/3371 at 2; Argentina (refugees able to work in industry or agriculture), UNGAOR, Third Committee, 11<sup>th</sup> Session, 691<sup>st</sup> Meeting, 26 November 1956, para. 28.

<sup>73</sup> Israel, UN doc. A/AC.79/49, para. 25.

<sup>74</sup> Union of South Africa, Annex to UN doc. A/3371/Corr. 1 at 5.

<sup>75</sup> Portugal, Annex to UN doc. A/3371/Corr.1 at 4, and Denmark, UN doc. A/3405 at 17.

<sup>76</sup> Federation of Rhodesia and Nyasaland, Annex to UN doc. A/3371 at 3.

<sup>77</sup> Spain, UNGAOR, 587<sup>th</sup> Plenary Meeting, 21 November 1956, paras. 144; Argentina, UNGAOR, 11<sup>th</sup> Session, 587<sup>th</sup> Plenary Meeting, 21 November 1956, para. 84, and UN doc. A/3405, para. 3.

<sup>78</sup> Switzerland, Annex II, to UN doc. A/AC.79/49, and Norway, Annex to UN doc. A/3371 at 3.

<sup>79</sup> Norway, Annex to UN doc. A/3371/Corr. 1 at 1.

<sup>80</sup> Australia, Annex to A/3371/Corr. 1 at 1.

<sup>81</sup> Annex to UN doc. A/3371 at 2.

<sup>82</sup> UN doc. A/3464, para. 11.

<sup>83</sup> UN doc. A/3464/Add. 1, para. 2.

<sup>84</sup> UN doc. A/3464, para. 17.

<sup>85</sup> Annex II (Report of the UNREF Executive Committee (Fifth session – Geneva, 3 to 7 June 1957) to UN doc. A/3585/Rev.1, para. 66.

<sup>86</sup> 1957 at 233.

## V. What Was Actually Offered By The Resettlement States?

Nothing good, according to the Soviet Union:

“Plainly, such an approach to the problem and such a solution [that is, settlement in other countries, outside Hungary] hold no promise for these Hungarian citizens. They are faced with the terrible prospect of finding themselves in a foreign land, without rights, without shelter or means of subsistence, exposed to the most cruel exploitation and humiliation”.<sup>87</sup>

The Soviet Union thus painted a very bleak picture, and the question is what was actually offered to the Hungarian refugees by the resettlement states? UNHCR, for instance, talked about countries of asylum (Europe) and countries of overseas resettlement,<sup>88</sup> temporary asylum,<sup>89</sup> resettlement in countries of second asylum,<sup>90</sup> second asylum,<sup>91</sup> relocation,<sup>92</sup> and mass evacuation.<sup>93</sup> Ambiguous language, and the same ambiguity is manifest in the offers states made that vary from ‘asylum’, ‘temporary asylum’, ‘transit’, ‘permanent asylum’, ‘settlement’, ‘permanent settlement’, ‘resettlement’, to ‘immigration’, or a combination of those offers.

The United States,<sup>94</sup> Luxembourg,<sup>95</sup> Germany,<sup>96</sup> and Uruguay<sup>97</sup> offered asylum to Hungarian refugees. The American offer may be explained by peculiarities of domestic law since a number of those offered asylum would be given permanent residence, while others would be given temporary stay pending legislation that would authorise their permanent admission.<sup>98</sup>

The United Kingdom, the United States, Portugal, Switzerland, Luxembourg, the Netherlands,<sup>99</sup> Italy,<sup>100</sup> and Tunisia<sup>101</sup> offered temporary asylum to the Hungarian refugees. The meaning of ‘temporary asylum’ appears to have varied. In the United States, as indicated above, it was a technical step pending the requisite legislation that would enable permanent stay. In the United Kingdom, on the other hand, it was a device to buy time: “steps are being taken to provide for them temporarily until proper provisions can be made for their disposition”.<sup>102</sup> The Portuguese offer appears to have been confined to a temporary stay that was offered to 7,000 children for as long as would be necessary for their recovery, and “if it is

<sup>87</sup> UNGAOR, 11<sup>th</sup> Session, 587<sup>th</sup> Plenary Meeting, 21 November 1956, para. 132.

<sup>88</sup> UN doc. A/AC.79/49, table II, Annex I.

<sup>89</sup> UNGAOR, Third Committee, 689<sup>th</sup> Meeting, 23 November 1956, para. 16.

<sup>90</sup> UN doc. A/3585/Rev.1, para. 3.

<sup>91</sup> Letter of 11 March of the Secretary-General and the High Commissioner for Refugees to the Minister of Foreign Affairs of the Netherlands, 11 March 1957, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118.

<sup>92</sup> UNGAOR, 11<sup>th</sup> Session, Third Committee, 692<sup>nd</sup> Meeting, 26 November 1956, para. 35.

<sup>93</sup> UN doc. A/3585/Rev.1, para. 16.

<sup>94</sup> UN doc. A/3464, para. 20.

<sup>95</sup> UN docs. A/3464, para. 11; A/3464/Add.1, para. 7.

<sup>96</sup> UN doc. A/3585/Rev.1 para. 59.

<sup>97</sup> UN doc. A/3405 at 22.

<sup>98</sup> From the 21,500 refugees, 6,500 would be given permanent residence, UN doc. A/3464 at 36. See also C.J. Bon Tempo, *Americans At the Gate. The United States and Refugees During the Cold War*, 2008, 70-71, 82-85.

<sup>99</sup> United Nations, *The Exodus from Hungary*, 1957 at 10.

<sup>100</sup> *Ibid.*; UN doc. A/3464, para. 8; see also UNGAOR, 11<sup>th</sup> Session, Third Committee, 692<sup>nd</sup> Meeting, 26 November 1956, para. 19.

<sup>101</sup> UN doc. A/3464, para. 18 sub (I).

<sup>102</sup> UN doc. A/3405, para. 31.

deemed essential, a limited number of mothers may accompany children coming to Portugal".<sup>103</sup>

A variant of 'temporary asylum' is what can be characterised as 'transit asylum', that is, asylum pending relocation elsewhere, in short, transit places. Switzerland,<sup>104</sup> Spain, Italy,<sup>105</sup> and the Netherlands made such conditional offers (sometimes for a particular number of refugees coupled with asylum for others). Switzerland accepted a number of refugees on a permanent basis, and offered 6,000 temporary places on the understanding that those 6,000 refugees would subsequently be transferred to countries which would accept them on a permanent basis.<sup>106</sup> Spain studied the possibility of complying with the request that temporary asylum be offered to a certain number of refugees to South America, provided Austria would guarantee that the "emigrants" may return to Austria if they do not prosper in South America,<sup>107</sup> a condition reminiscent of the past when comparable conditions were included in agreements the IRO concluded with resettlement states.<sup>108</sup> The Netherlands also accepted a number of refugees on transit basis initially subject to a double guarantee: the guarantee that countries of final destination accept the refugees concerned for resettlement, and that of return to Austria should transfer not be possible within six months.<sup>109</sup> The latter condition was considered to be problematical by a number of ministers.<sup>110</sup> The Netherlands accepted 2,000 refugees who were destined to go to Canada – selected by Canada in Austria<sup>111</sup> – on such a temporary basis provided the refugees signed a statement that they would accept to only stay on a temporary basis in the Netherlands.<sup>112</sup> Those who nonetheless wanted to remain in the Netherlands were put in a so-called 'think camp' ("*denkkamp*") to prevent them from influencing others who in fact did want to leave.<sup>113</sup>

<sup>103</sup> UN doc. A/3464/Add.1, para. 10.

<sup>104</sup> UN doc. A/3464, para. 17 sub (I).

<sup>105</sup> Annex to A/3371/Corr.1 at 3.

<sup>106</sup> UN doc. A/3463 and Add.1 and 2 at 35. Switzerland required a guarantee from Austria that those who it would temporary receive would return to Austria after six months if they would not have been resettled in other states, Extract minutes of the [Netherlands] Council of Ministers, 26 November 1956, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 25180. 2.05.118.

<sup>107</sup> UN doc. A/3464/Add.1, para. 11.

<sup>108</sup> See, for instance, Art. IX of the Agreement between the IRO and the Government of Luxemburg concerning the selection of refugees and displaced persons for Luxemburg of 9 March 1949, text included in Holborn, 1956. *op. cit. supra*, at 638 *et seq.*

<sup>109</sup> Uittreksel Notulen MR [Ministerraad], 26 November 1956, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 25180 Hulp aan Hongarije. 2.05.118.

<sup>110</sup> *Ibid.* In December agreement was reached with Canada about the temporary acceptance of Hungarian refugees destined to resettle in Canada, Uittreksel Notulen MR [Ministerraad], 10 December 1956, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 25180 Hulp aan Hongarije. 2.05.118.

<sup>111</sup> On rumours and facts about selecting refugees based on religion, see A.S. Thompson, S. Bangarth, "Transnational Christian Charity: The Canadian Council of Churches, the World Council of Churches, and the Hungarian Refugee Crisis, 1956-1957", 38 *American Review of Canadian Studies* 2008, 295-316 at 301; Hidas, 2007, *loc. cit. supra* (who mentions, at 81, a preference for post-secondary students, agricultural workers, miners, and maids).

<sup>112</sup> J.-W. ten Doesschate, "Het Nederlandse Toelatingsbeleid ten aanzien van Hongaarse Vluchtelingen (1956-1957), doctoraalscriptie Nieuwste Geschiedenis aan de Katholieke Universiteit Nijmegen, 1985 (not published) at 74. For a brief description of the experience in the Netherlands of one of those transit refugees, see "Revolution and Refugees: the Hungarian Revolution of 1956, 20 *Fletcher Forum of World Affairs* 1996, 101-117 at 116.

<sup>113</sup> Incomplete document from the national archive, inventarisnummer 12781, Verslagen van het interdepartementaal overleg. 2.05.118; Kövi, 1987, *loc. cit. supra*, at 449.

France offered 'permanent asylum'.<sup>114</sup> 'Settlement' was offered by Luxembourg,<sup>115</sup> Sweden,<sup>116</sup> and New Zealand.<sup>117</sup> 'Permanent settlement' was offered by Switzerland,<sup>118</sup> Iceland,<sup>119</sup> Turkey, Sweden, Venezuela, Brazil, South Africa, Argentina, Spain, the Federation of Rhodesia and Nyasaland,<sup>120</sup> and Chile.<sup>121</sup>

Venezuela offered resettlement places,<sup>122</sup> Belgium immigration and settlement,<sup>123</sup> Australia,<sup>124</sup> the Union of South Africa,<sup>125</sup> and Paraguay<sup>126</sup> offered to accept Hungarian refugees as 'immigrants'.

In summary, the resettlement states offered a variety of modes of stay. Most of these states were not at the time party to the 1951 Convention: only Australia, Austria, Belgium, Denmark, Ecuador, France, Germany, Iceland, Israel, Italy, Luxembourg, Switzerland and the United Kingdom were.<sup>127</sup> In other words, most of the resettlement states were not bound to observe the 1951 Convention at the time and resorted of necessity to domestic migration law.<sup>128</sup> No documents explicate the legal status of the refugees upon resettlement.<sup>129</sup> Apparently, it was not considered to be an issue that had to be addressed explicitly.<sup>130</sup> As far as

<sup>114</sup> United Nations, *The Exodus from Hungary*, 1957 at 7.

<sup>115</sup> UN doc. A/3464, para. 11.

<sup>116</sup> *Ibid.*, para. 16.

<sup>117</sup> *Ibid.*, para. 14.

<sup>118</sup> *Ibid.*, para. 17 (see *supra*, the Swiss offer was a mixed one, consisting of permanent stay and additional places on a temporary basis).

<sup>119</sup> UN doc. A/3464/Add.2, para. 4.

<sup>120</sup> United Nations, *The Exodus from Hungary*, 1957 at 10.

<sup>121</sup> UNGAOR, 11<sup>th</sup> Session, Third Committee, 691<sup>st</sup> Meeting, 26 November 1956, para. 13. Chile added that Latin American countries, being far from Hungary, had to proceed from the assumption of permanent resettlement; emergency relief should therefore be combined with permanent solutions such as the establishment of agricultural colonies, *ibid.*, para. 14.

<sup>122</sup> UN doc. A/3464, para. 22.

<sup>123</sup> UN doc. A/3464/Add.1, para. 2.

<sup>124</sup> UN doc. A/3464, para. 1.

<sup>125</sup> UN doc. A/3464/Add.2, para. 12.

<sup>126</sup> UN doc. A/3464/Add.2, para. 10.

<sup>127</sup> The Netherlands became a party to the 1951 Convention in May 1956, and Ireland in November 1956; the United Kingdom extended the Convention to the Federation of Rhodesia and Nyasaland only in July 1960.

<sup>128</sup> However, UNHCR reported that Hungarian refugees have also been granted asylum by states not party to the 1951 Convention, Report of the UNHCR, UNGAOR, 13<sup>th</sup> Session, Supplement No. 11 (A/3828/Rev.1), para. 25.

<sup>129</sup> Quite a lot has been written about the Hungarian refugees, just not about their legal status and entitlements in the host state. The literature covers attitudes and personality factors – see e.g. H. Gleitman, J.T. Greenbaum, "Attitudes and Personality Patterns of Hungarian Refugees", 25 *The Public Opinion Quarterly* 1961, 351-365 – health issues – see e.g. A.G. Mezey, "Personal Background, Emigration and Mental Disorder in Hungarian Refugees", 106 *The British Journal of Psychiatry* 1960, 618-627; A.G. Mezey, "Psychiatric Illness in Hungarian Refugees", in *ibid.* 628-637; H.J.M. Kuyser, *Twee jaar na de vlucht, Een onderzoek naar aanpassing en persoonlijkheid van Hongaarse vluchtelingen*, Nijmegen, 1963 (Ph.D.) –, development of communities in various places – e.g. M.G. Schuchat, "Hungarian Americans in the Nation's Capital", 54 *Anthropological Quarterly* 1981, 89-93 – acculturation – e.g. in the United States: S.A. Weinstock, "Motivation and Social Structure in the Study of Acculturation: A Hungarian Case", 23 *Human Organization* 1964, 50-52, and by the same author: *Acculturation and Occupation: A Study of the 1956 Hungarian Refugees in the United States*, The Hague, 1969 – economic adjustment – e.g. K. Weiermair, "Economic Adjustment of Refugees in Canada: A Case Study", 9 *International Migration* 1971, 5-35 – and integration at large – see e.g. T. Cnossen, "Integration of Refugees, Some Observations on the Hungarians in Canada", 2 *International Migration* 1964, 135-153.

<sup>130</sup> Worth mentioning is the fate of many students among the refugees, in particular the over 600 faculty and students the University of Sopron who collectively left Hungary, a third of whom belonged to the forestry engineering department that was eventually moved as such to and adopted by the University of British

could be ascertained, only the representative of Saudi Arabia to the United Nations raised the issues of naturalisation, legal protection, and employment of Hungarian refugees to which the Austrian representative replied that those matters could be dealt with only after the refugees had been provided with the basic necessities.<sup>131</sup> Only in later documents were the legal status and rights of the Hungarian refugees mentioned albeit rather cursorily. In 1957, UNHCR reported to the General Assembly that the Hungarian refugees have been granted “special facilities with regard to the right of access to employment” in resettlement countries,<sup>132</sup> and in 1958 UNHCR reported, again to the General Assembly, that unspecified “legal problems have arisen out of the necessity of ensuring that Hungarian refugees are given the rights to which they are entitled under the Convention relating to the Status of Refugees”, but added that “[i]n general, the Governments of the countries of asylum have been outstandingly generous in the treatment they have accorded to Hungarian refugees”.<sup>133</sup>

## VI. Actual Distribution And Burden-Sharing

If the ‘Hungarian refugee emergency’ is seen in terms of ‘burden-sharing’, that is relieving Austria from the ‘burden’ it incurred on account of its geographical position, it would seem that Austria was indeed relieved. First of all, most of the Hungarian refugees were relocated or resettled outside Austria.<sup>134</sup> Eventually 410 refugees settled in Austria, the others left for 36 other states: Argentina (1,020), Australia (11,680), Belgium (5,850), Brazil (1,660), Canada (27,280), Chile (270), Colombia (220), Costa Rica (30), Cuba (5), Cyprus (2), Denmark (1,380), Dominican Republic (580), Ecuador (1), Federation of Rhodesia and Nyasaland (60), France (12,690), Germany (15,470), Iceland (50), Ireland (540), Israel (2,060), Italy (4,090), Luxembourg (240), Netherlands (3,650),<sup>135</sup> New Zealand (1,090), Nicaragua (4), Norway (1,590), Paraguay (7), Portugal (4), Spain (19), Sweden (7,290), Switzerland (12,870), Turkey (510), Uruguay (37), Venezuela (780), Union of South Africa (1,330), United Kingdom (20,990), and the United States (40,650).<sup>136</sup> Even more states had offered to accept Hungarian refugees: Bolivia had offered places for 500 families, Guatemala, Honduras<sup>137</sup> and Tunisia<sup>138</sup> had offered 100 places each, and Peru had offered 1,000 places.<sup>139</sup> The number of states offering resettlement places is quite large when it is compared to the

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Columbia in Canada, see P.I. Hidas, “The Hungarian Refugee Student Movement of 1956-57 and Canada”, 30 *Canadian Ethnic Studies/Etudes ethniques au Canada* 1998, 19-49.

<sup>131</sup> UNGAOR 11<sup>th</sup> Session, Third Committee, 693<sup>rd</sup> Meeting, 27 November 1956, para. 61: as to the source of the Saudi Arabian observations to which the Austrian representative referred, reference can be made to UNGAOR, Third Committee, 11<sup>th</sup> Session, 692<sup>nd</sup> Meeting, 26 November 1956, para. 41 where the representative of Saudi Arabia raised the question as to what would become of refugees who did not become naturalised citizens of the countries where they were being welcomed because of the shortage of labour.

<sup>132</sup> Report of the UNHCR, UNGAOR, 12<sup>th</sup> Session, Supplement No. 11 (A/3585/Rev.1), para. 6.

<sup>133</sup> Report of the UNHCR, UNGAOR, 13<sup>th</sup> Session, Supplement No. 11 (A/3828/Rev.1), para. 25; see also n. 128 *supra*.

<sup>134</sup> Up to 1 May 1957, 4,470 Hungarian refugees had been repatriated from Austria, 2,222 from Yugoslavia, and an estimated 2,800 from countries of second asylum, UN doc. A/3585/Rev.1, para. 18.

<sup>135</sup> A Dutch historian commented as follows on the Dutch contribution: “In spite of all its public emotional display, the Dutch government actually behaved like a tight book-keeper. The number of Hungarian refugees accepted in the Netherlands was low compared with other West European countries. The costs had to be covered by charitable organisations as far as possible and state expenditure had to remain minimal. The Dutch government preferred refugees who could play a useful role in Dutch society [...]”, D. Hellema, “The Relevance and Irrelevance of Dutch Anti-Communism: The Netherlands and the Hungarian Revolution, 1956-7”, 30 *Journal of Contemporary History* 1995, 169-186 at 181.

<sup>136</sup> Colville 2006, *loc. cit. supra*, at 10. On easing the American public into accepting such a large number of refugees as permanent residents, a public-relations campaign was organised to ensure positive press, see Bon Tempo, 2008, *op. cit. supra*, at 75-81 (“The Campaign to Sell Hungarian Refugees as Americans”).

<sup>137</sup> United Nations, *The Exodus from Hungary*, 1957 at 7.

<sup>138</sup> UN doc. A/3464, para. 18 sub (I).

<sup>139</sup> United Nations, *The Exodus from Hungary*, 1957 at 7.

total number of states in the world – measured in terms of states members of the United Nations – in those years: 80 in 1956, 82 in 1957 and 1958, and 99 in 1960.<sup>140</sup> This is particularly so when this number of resettlement states is compared to the current number of states offering resettlement places, to wit, 26 out of 193 member states of the United Nations.<sup>141</sup>

Austria had not only been relieved physically but also financially. The expenditures it incurred by the end of 1957, estimated to amount to 12,200,000 USD, were fully covered by contributions from other governments through the Secretary-General, UNHCR or directly.<sup>142</sup>

## VII. Final Observations

Austria was clearly overwhelmed. It was faced with a mass influx,<sup>143</sup> and had insufficient capacity to accommodate the refugees who entered the country. It felt it could not handle the influx alone, and it consequently asked, almost from the outset, not just for financial help but particularly for resettlement or relocation of the refugees from Austria to other states. Resettlement places were offered, and, certainly compared to contemporary numbers, by a large number of states. Although UNHCR had been given a coordinating role, it seems this role did not include attempts to resettle refugees on the basis of a particular – principled – distributive mechanism.<sup>144</sup> In that respect UNHCR merely echoed the Austrian calls for more resettlement places:

“The sudden new influx of refugees from Hungary, however, is straining to the limit the available resources at the disposal of the Austrian Government. There are, in the opinion of this Office, two main methods by which Austria may be helped in this sudden emergency. The first is financial assistance to Austria from those other countries in the world which are situated in a more favourable geographical position. The second, which would in fact be an even more effective means in the present circumstances, would be for most of these refugees, when screened, to be transferred to other countries which are willing to give them asylum”.<sup>145</sup>

These observations were followed by an appeal addressed to all potentially interested governments:<sup>146</sup>

“I would, therefore, appeal to your Government not only to give financial assistance to Austria in this emergency, but also to grant temporary asylum in your country to the greatest possible number of political refugees from Hungary”.<sup>147</sup>

Czechoslovakia thought UNHCR showed a regrettable tendency to give urgent priority to what it called “ten-day” refugees while relegating to the background the refugees in Europe and the Middle East who had lived in appalling conditions for years.<sup>148</sup>

<sup>140</sup> [www.un.org/en/members/growth.shtml#1950](http://www.un.org/en/members/growth.shtml#1950).

<sup>141</sup> UNHCR Projected Global Resettlement Needs 2013, July 2012 at 7.

<sup>142</sup> *United Nations Yearbook 1959* at 233.

<sup>143</sup> See *infra*.

<sup>144</sup> See n. 38 *supra*.

<sup>145</sup> Letter of Deputy High Commissioner Read of 6 November 1956, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118.

<sup>146</sup> Letter of UNHCR (Director Pagès) of 6 December 1956, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118. This one was obviously addressed to the Netherlands government.

<sup>147</sup> Letter of Deputy High Commissioner Read of 6 November 1956, Nationaal Archief, Ministerie van Buitenlandse Zaken, 1955-1964, inventarisnummer 12775 Hulp aan Hongaarse vluchtelingen. Algemeen Deel. 2.05.118.



In view of the contemporary scarcity of resettlement places – as well as the comparable lack of resettlement places regarding many World War II refugees who at that time still lingered in camps in Germany and Austria – the question arises as to why those calls for resettlement places were answered. Quite likely, this prompt generosity may be explained by a mixture of motives. Guilt is one of them. The uprising had been encouraged by the West, and many had thought the West would come to the rescue, which it did not.<sup>149</sup> In that respect the situation resembles the call addressed to the Kurds and Shi'ites in Iraq, decades later, to rise against Saddam Hussein: when they rose, they were left to their own devices too. However, whereas the Hungarian refugees were offered resettlement places, the Iraqi refugees were forcibly returned to what was euphemistically labelled a 'safe haven' in Northern Iraq.<sup>150</sup> A second motive is an ideological one – the Hungarian refugees were often referred to as 'freedom fighters' – for which the explanation of the Dominican Republic that offered to admit twenty thousand Hungarians is illustrative:

"This action by the Government of the Dominican Republic follows logically from its permanent policy of opening its doors to all who have suffered the persecutions of communism".<sup>151</sup>

Another and related motive is 'intelligence',<sup>152</sup> as the refugees could provide the West with information about life behind the Iron Curtain. American and Canadian intelligence officials initially tried to elicit the desired information from the refugees in Austria, thus embarrassing Austria, which wanted to remain neutral. Hungarian refugees who were relocated to the United States, for instance, were received in camp Kilmer in New Jersey and debriefed.<sup>153</sup> Economic need is another motive: states were in need of labour. That may explain why the Hungarians, the majority of whom were young, could easily be resettled, while the 'old' – World War II – refugees, that is, the 'hard core' of old and infirm or highly qualified refugees

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<sup>148</sup> UNGAOR, 11<sup>th</sup> Session, Third Committee, 692<sup>nd</sup> Meeting, 26 November 1956, para. 5. Many states expressed concern about the fate of the 'old' refugees, see UNGAOR, 11<sup>th</sup> Session, 587<sup>th</sup> Plenary Meeting, 21 November 1956, para. 97 (New Zealand, cautioning against the Hungarian situation obscuring or overshadowing the plight of refugees in the Middle East and Europe who had been waiting for years); UNGAOR, Third Committee, 11<sup>th</sup> Session, 692<sup>nd</sup> Meeting, 26 November 1956, para. 10 (Colombia), and para. 14 (Yugoslavia); in a similar vein, Denmark, UNGAOR, 11<sup>th</sup> Session, Third Committee, 691<sup>st</sup> Meeting, 26 November 1956, para. 17; Colombia, UNGAOR, 11<sup>th</sup> Session, Third Committee, 692<sup>nd</sup> Meeting, 26 November 1956, para. 10; Yugoslavia, *ibid.*, para. 14.

<sup>149</sup> G. Bischof, "The Collapse of Liberation Rhetoric: The Eisenhower Administration and the 1956 Hungarian Crisis", 20 *Hungarian Studies* 2006, 51-63; "And there was also, most probably, a feeling of guilt. The Hungarians had risen up. They had heard themselves applauded and encouraged on western radio stations such as Radio Free Europe, Voice of America and the BBC. Many believed the West had promised to come to Hungary's aid", Colville, 2006, *loc. cit. supra*, at 6; Michener, 1957, *op. cit. supra*, at 233-238; L. Borhi, "Liberation or Inaction? The United States and Hungary in 1956", in E.A. Schmidl (ed.), *Die Ungarnkrise 1956 und Österreich*, 2003, 129-145; G. Loescher, J.A. Scanlan, *Calculated Kindness. Refugees and America's Half-Open Door, 1945 to the present*, 1986 at 52, 54.

<sup>150</sup> Cf. M.Y.A. Zieck, *UNHCR and Voluntary Repatriation of Refugees, A Legal Analysis*, The Hague, 1997, Ch. 7, in particular, paras. 7.1.1 and 7.2.2.

<sup>151</sup> Reply of the Dominican Republic in response to the appeal of the Secretary-General of 15 November to governments for contributions in support of relief to Hungary, UN doc. A/3405, 30 November 1956, para. 12.

<sup>152</sup> J. Granville, "Of Spies, Refugees and Hostile Propaganda: How Austria dealt with the Hungarian Crisis of 1956", 91 *History* 2006, 62-90 at 76. (Budapest sent Hungarians to spy on Hungarian refugees in Austria, J. Granville, "Austria's Report Card on Neutrality during the Hungarian Crisis of 1956", 56 *Australian Journal of Politics and History* 2010, 173-190 at 181.)

<sup>153</sup> See G.E. Coriden, CSI Report on Hungarian Refugees [originally confidential but approved for release 1994 CIA historical review program, 2 July 96], available at [www.cia.gov/library/center-for-the-study-of-intelligence/kent-csi/vol2no1/html/](http://www.cia.gov/library/center-for-the-study-of-intelligence/kent-csi/vol2no1/html/).

(feared as competitors in the domestic labour market) could not. In summary, it would seem that the key to this massive resettlement was the coercion buried in the words ‘Austria cannot do it alone’ coupled with the presence of conditions that were conducive to resettlement.

The experience of a ‘mass influx’ induced Austria to immediately call for help. Half a century later, the notion of ‘mass influx’ has turned into the key that may trigger a regime of ‘temporary protection’ in Europe.<sup>154</sup> The relevant Temporary Protection Directive establishes minimum standards for giving temporary protection in the event of mass influx, and seeks to promote a balance of effort between member states in receiving and bearing the consequences of receiving such persons.<sup>155</sup>

The Directive defines a ‘mass influx’ merely as a large number of displaced persons who come from a specific country or geographical area.<sup>156</sup> UNHCR, commenting on this directive, observes that what constitutes a mass or large-scale influx cannot be defined in absolute terms, but must be defined in relation to the resources of the receiving country.<sup>157</sup> The expression should be understood, UNHCR elaborated, as referring to a significant number of arrivals in a country, over a short time period, of persons from the same home country who have been displaced under circumstances indicating that members of the group would qualify for international protection, and for whom, due to their numbers, individual refugee status determination is procedurally impractical.<sup>158</sup>

A mass influx may justify the form of protection laid down in the Directive, which is also meant to promote a balance of effort between the member states. As regards ‘solidarity’,<sup>159</sup> that is, relieving the state experiencing a mass influx, the Temporary Protection Directive appears to be rather non-committal in the sense that actual sharing seems to have been made dependent on a (voluntary) declaration regarding capacity to receive people and, by virtue of Article 25, any additional reception capacity member states make available (“Member States may indicate additional reception capacity ...”).<sup>160</sup> Considering the past, particularly the quota system Austria had suggested, Austria’s interpretation of the envisaged solidarity in the Temporary Protection Directive is worth quoting:

“*The Austrian delegation* interprets the Community solidarity referred to in Article 25 of this Directive as meaning an equal sharing of the burden between all Member States in the event of a mass influx. When announcing its actual reception capacity in the event of such an influx, Austria will therefore take into consideration the number of displaced persons to be received in proportion to the total population of Austria, and will compare that to the corresponding proportions in the other Member States in order to ensure that the burden is shared equally between all the EU Member States”.<sup>161</sup>

<sup>154</sup> Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (hereafter: Temporary Protection Directive).

<sup>155</sup> Art. 1, Temporary Protection Directive.

<sup>156</sup> Art. 2 sub (d), Temporary Protection Directive.

<sup>157</sup> UNHCR, UNHCR Annotated Comments on Council Directive 2001/55/EC of 20 July 2001, 19 May 2003; cf. the Italian observations made in 1957, n. 54 *supra* and accompanying text.

<sup>158</sup> UNHCR, UNHCR Annotated Comments on Council Directive 2001/55/EC of 20 July 2001, 19 May 2003.

<sup>159</sup> Ch. VI, Temporary Protection Directive.

<sup>160</sup> Art. 25, Temporary Protection Directive; cf. UNREF res. no. 4, para. 2, quoted in section IV *supra*.

<sup>161</sup> Council of the European Union, Addendum to the draft minutes, 2368<sup>th</sup> meeting of the Council (budget), 20 July 2001, Brussels, 4 September 2001, 11181/01 ADD 1 LIMITE PV/CONS 44 BUDGET 17.

The Directive has so far not been applied, and beyond Europe, situations of overwhelmed states of refuge have not so far led to relieving those states by means of physical burden-sharing.<sup>162</sup> The Council of Europe Parliamentary Assembly, for instance, has acknowledged that Turkey, Jordan, Lebanon, and Iraq are at present overwhelmed by the influx of Syrian refugees – “the reception capability of these countries has very quickly been overwhelmed following the mass influx of refugees” – but the Assembly merely appeals to the international community to relieve those states financially,<sup>163</sup> not physically by means of resettlement or relocation. UNHCR for that matter, considers it to be premature to look at a large resettlement programme for Syrian refugees as yet.<sup>164</sup>

Unlike contemporary practice where resettlement, or relocation, is – perhaps on account of the scarcity of resettlement places, *i.e.* a number far too small to meaningfully engage in burden-sharing – predominantly used to solve protection problems refugees face in their first country of asylum by means of relocation to a safe second country of asylum,<sup>165</sup> the resettlement or relocation of the Hungarian refugees was much more about solving a problem Austria faced rather than anything else. The use of selection criteria that were extraneous to a need for protection – however defined – was accordingly criticised merely in terms of what their use meant for Austria rather than the refugees concerned. Relieving the country of first asylum was the primary objective, and little or no attention was paid to the legal status and entitlements of those who were relocated. That seems not to have changed over the years.<sup>166</sup> In that respect, one wonders why UNHCR is not considered to have a legitimate concern for the consequences of relocation or resettlement, and as entitled to insist on this concern over the outcome of any resettlement it has assisted or facilitated, similar to its mandate regarding returnees.<sup>167</sup> After all, and unlike voluntary re-establishment in the country of origin with an *animus manendi*, resettlement in a third state does not terminate refugee status; that may only cease when the (resettled) refugee acquires the nationality of that state and enjoys its protection.<sup>168</sup>

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<sup>162</sup> Physical burden-sharing was, obviously, part of the Comprehensive Plan of Action regarding the Indo-Chinese refugees, but it is a moot point whether that was primarily induced by the perceived need to share burdens on account of overwhelmed countries of refuge.

<sup>163</sup> Council of Europe, Parliamentary Assembly, Resolution 1902 (2012), adding that “the international community’s relative silence and inaction with regard to the influx of refugees to neighbouring countries has lasted too long”. In all fairness: Turkey did not until recently ask for help.

<sup>164</sup> It confined itself to calling for resettlement in a number of targeted cases and will consider a more extensive resettlement programme as the crisis goes on, UNHCR, Informal Meeting of the Justice and Home Affairs Council Dublin, 17 March 2013, Remarks by António Guterres, United Nations High Commissioner for Refugees at 4. Germany seems to steer its own course and offered a few days later, on 20 March, to resettle 5,000 Syrian refugees, giving priority to families with several children, minors living alone in the camps in states neighbouring Syria, Christians, and those with relatives in Germany, FOCUS News Agency, “Germany offers to take in 5,000 more Syrian refugees”, 20 March 2013.

<sup>165</sup> Cf. UNHCR’s Resettlement Handbook, 2011, Ch. 5 Protection considerations, and the identification of resettlement needs.

<sup>166</sup> Worth adding is that the Hungarian refugees appear to have had a choice with respect to the resettlement state (a choice that has disappeared since, presumably on account of the scarcity of resettlement places), cf. UN doc. A/3371 at 4; United Nations, *The Exodus from Hungary*, 1957 at 6.

<sup>167</sup> Cf. ExCom Conclusion No. 40 (Voluntary Repatriation) (1985), sub (l).

<sup>168</sup> See Art. 1 C (3), 1951 Convention.