Written evidence submitted by the International Organisation for Migration (IOM) (CHA0063)

Introduction

1. Established in 1951, the International Organization for Migration (IOM) is the United Nations (UN) Migration Agency since its integration in 2016 as a Related Organization of the UN.[1] In its role as coordinator and secretariat of the UN Network on Migration, IOM supports the implementation, follow-up, and review of the Global Compact for Safe, Orderly and Regular Migration[2] (GCM) - the first inter-governmentally negotiated agreement, prepared under the auspices of the UN, covering all dimensions of international migration in a holistic and comprehensive manner. The UK is a signatory to the GCM as well as the Global Compact on Refugees (GCR)[3] Both Compacts cross reference each other in relation to protecting the rights of migrants and refugees (Preamble 4).

2. IOM supports migrants[4] across the world and helps governments develop effective responses to the shifting dynamics of migration. The Organization operates in the humanitarian, peace and development spheres, providing support in emergency situations, developing the resilience of people on the move, including displaced persons, and building capacity within governments to manage the multiple dimensions and impacts of human mobility.

3. We welcome the opportunity to contribute a Written Statement to the Home Affairs Select Committee Inquiry into Channel crossings, migration, and asylum-seeking routes through the EU. The Written Statement is organised in three parts. We start by outlining the legal frameworks and international obligations on maritime crossings and in relation to extraterritorial processing also known as offshore processing. We then briefly explore the movements of people along the Mediterranean routes and the vulnerabilities and exploitation that migrants, including unaccompanied children, experience along these routes. This is followed by a brief section on the existing mechanisms of State solidarity and responsibility sharing such as the Dublin system, and the measures that the UK can take to continue to protect safe and legal routes. We conclude with recommendations for expanding and creating new safe and legal routes into the UK and facilitating humane approaches to migration management.

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[1] IOM became a related organization on the United Nations in 2016: https://www.iom.int/news/iom-becomes-related-organization-un

[2] The Global Compact for Safe, Orderly and Regular Migration (GCM): https://www.iom.int/global-compact-migration

[3] The Global Compact on Refugees: UNHCR - The Global Compact on Refugees

[4] Who is a Migrant?: https://www.iom.int/who-is-a-migrant#:~:text=IOM%20Definition%20of%20%E2%80%9CMigran%20t%E2%80%9D%20An%20umbrella%20term%2C d%20for%20a%20variety%20of%20reasons

Legal Frameworks and State Obligations on Maritime Crossings including Disembarkation Arrangements and Extraterritorial Processing

4. IOM advocates, the need to <u>prioritize saving life along migration routes</u>. This is in line with existing UN conventions, International and regional Human Rights frameworks, Maritime and Refugee Laws. The GCM Objective[5] 8 "<u>Save lives and establish coordinated international efforts on missing migrants</u>" also calls on the following recommendation: "*a. Develop procedures and agreements on search and rescue of migrants, with the primary objective of protecting migrants' right to life, that uphold the prohibition of collective expulsion, guarantee due process and individual assessments, enhance reception and assistance capacities, and ensure that the provision of assistance of an exclusively humanitarian nature for migrants is not considered unlawful;*"

5. At the regional level, the European Court of Human Rights has clarified on a number of occasions that pushbacks of persons at sea constitutes a violation of Article 4 of the Additional Protocol No. 4 to the European Convention on Human Rights, to which the United Kingdom is a party.[6] In the context of these applications, the Court has equally clarified that individuals need to have genuine and effective possibility, as part of relevant procedures, to submit arguments against their expulsion which in turn require examination in an appropriate manner by the authorities of the respondent State.[7]

6. On this basis, IOM works with several Governments and in the European context with the EU on promoting orderly and humane solutions to irregular maritime migration and its dangers. With *over 20,000 deaths recorded* in the Mediterranean Sea since 2014, IOM has called jointly with UNHCR for <u>predictable disembarkation and subsequent processing</u> of persons rescued at sea[8]. IOM stresses that State-led search-and-rescue on maritime routes to Europe are urgently needed, in line with existing international obligations and frameworks, and saving lives must remain the international community's priority. With over 17,000 people *missing* in the Mediterranean alone <u>it is vital to establish coordinated international efforts on missing migrants including providing information to families</u> and prioritizing international cooperation to ensure that the wishes of grieving families are respected,

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[5] Global Compact for Safe, Orderly and Regular Migration:
https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195
[6] See for example: Hirsi Jamaa and Others vs. Italy in 2012 (ECtHR, application no. 27765/09) or more recently in 2015 Sharifi and Others vs. Italy and Greece (Application No. 16643/09).
[7] See for example: Khlaifia and Others vs Italy (Application No. 16483/12).
[8] IOM-UNHCR Proposal to the European Union for a Regional Cooperative Arrangement Ensuring Predictable Disembarkation and Subsequent Processing of Persons Rescued at Sea: https://www.iom.int/news/iom-unhcr-proposal-european-union-regional-cooperative-arrangement-ensuring-predictable

and the remains of deceased migrants are treated in a dignified, respectful and proper manner.

7. When it comes to <u>post-disembarkation, responsible processing should lead to rapid and effective differentiated solutions</u> for those seeking international protection, and those whose specific needs may require some form of temporary protection and assistance. More specifically, IOM advocates that people not in need of international protection, but who nonetheless find themselves in a vulnerable situation justifying permission to remain on a temporary basis have access to tailored responses. For example, permission to remain has been accorded to separated and unaccompanied children; victims of trafficking; migrants with serious health conditions; and survivors of abuse or trauma, for the duration of treatment, pending recovery.

8. At the same time, with a view to maintain the integrity of the asylum system, IOM considers that people with no claim to international protection or specific needs and who are not otherwise eligible to stay in the country of disembarkation could be returned to their country of origin, with a preference for voluntary return and reintegration[9]. Those who wish to return to their country of origin should benefit from safe and dignified voluntary return assistance and support for sustainable reintegration. IOM advocates that returns should always be carried out in safety and dignity in full compliance with international and regional refugee and human rights laws. Additionally, efforts to address human smuggling and trafficking must be reinvigorated, including measures to ensure protection and/or referrals for victims of trafficking and ensuring the effective prosecution of those involved in / or facilitating human trafficking or smuggling, in line with GCM[10] Objectives 9 and 10.

IOM in general does not support extraterritorial processing[11] which poses numerous legal, ethical, and operational challenges and can contravene international norms and standards while putting migrants' rights and dignity at stake. IOM encourages maintaining policy dialogues on alternatives to offshore processing, including alternatives to detentions and decriminalization of irregular migration in line with the GCM[12] *Obj. 10. g and Obj. 13* and where appropriate, offering solutions to individuals and families who wish to return to their home countries.

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[9] Since 2012 IOM has provided Assisted Voluntary Return and Reintegration assistance to non-refugees to 96 individuals from Nauru and 538 individuals from PNG/Manus. However, it might be useful to note that the overwhelming majority voluntarily departed prior to 2015. It might further be useful to note that the reintegration grant has increased over the years, without a significant impact on the number of returns.
[10] Global Compact for Safe, Orderly and Regular Migration:
https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195

(CHA0063)

10. IOM considers that the principle of *non-refoulement* for any migrant (with or without a legitimate claim for asylum) must apply in all circumstances and believes that extra- territorial processing (without clarifying the legal basis for such arrangements) can endanger this principle. For these reasons IOM has publicly stated[13] in 2017, that "it is not appropriate to consider Libya a safe third country nor to establish extraterritorial processing of asylum-seekers in North Africa." This is a position that still holds true today. In general, 'offshoring' of asylum and migration policies treats the symptoms instead of addressing the longer-term issues and the wider range of structural problems driving refugees and migrants from their homes in the first place.

Maritime Crossings and Migration on the Mediterranean Routes: Arrivals to Europe and the UK

11. Border crossings using maritime routes has become a complex situation over the past several years, requiring a comprehensive and multidimensional response by the international community. IOM through the Displacement Tracking Matrix (DTM) tracks and monitors displacement and population mobility with an aim to contribute to a better understanding of migration dynamics and profiles of migrants traveling along the Mediterranean.

12. Data gathered from DTM reports on arrivals along the Eastern, Central and Western Mediterranean routes. As of November 2020, the Central Mediterranean route alone saw close to 33,000 arrivals registered since January 2020 making this the most frequently used route in terms of arrivals to Europe, though the number of arrivals on irregular maritime routes remains far lower than previous years. The Central Mediterranean route representing 41% of all registered arrivals to Europe (Italy and Malta) is followed closely by 40% arrivals though the Western Mediterranean Route and the Western African Atlantic Route (Spain). The remaining 19 % crossed the Eastern Mediterranean (Greece and Bulgaria).

13. Migrants' exposure to violence, abuse, exploitation, human trafficking, and other forms of violations of their rights is well documented along the migration routes[14]. The frequency

and scale of violence and abuses suffered by migrants on the journey, particularly in Libya, has been well documented in UN reports, practitioners and academia (OHCHR and USMIL, 2016, Amnesty International, 2016; IOM, 2017; Council of Europe, 2019). There are different challenges associated to how organized criminal groups use smuggling routes while endangering the lives of migrants. There are risks associated with how migrants are exposed to violence, exploitation and/or abuse, including those who are victims of trafficking through these journeys.
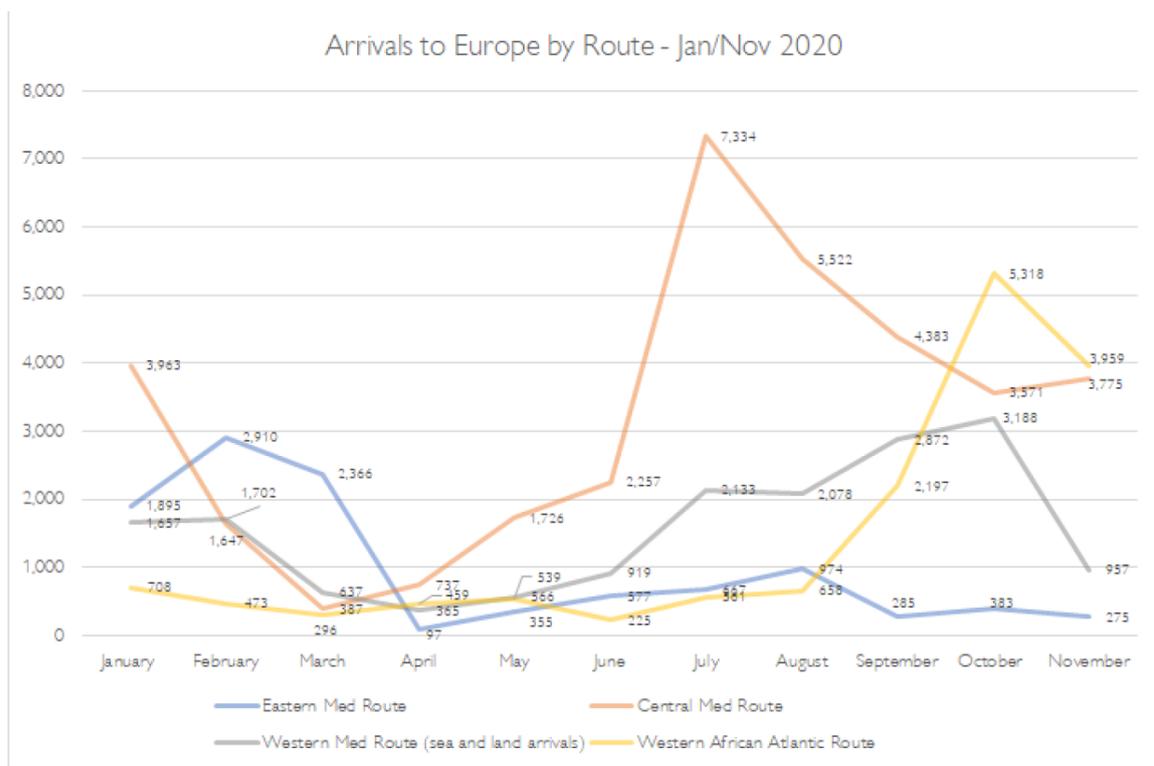
Source: DTM and relevant national authorities

14. IOM as part of DTM has conducted individual surveys[15] in countries along the Mediterranean routes on questions relating to exploitation and abuse (having worked without payment, having been forced to work, having been held against their will, having been offered an arranged marriage) as well as questions on physical violence (beatings, burnings, stabbings and bullet wounds, use of electric wires, deprivation of food and water, etc.).

15. Analysis of this survey data suggests that younger and male respondents are more vulnerable to direct experiences of unpaid and forced work, and of being held against their will. Although women were less likely than men to report forced or unpaid work or to be held against their will, indirect experiences of sexual violence with accounts of observed threats and perpetrated violence on others suggest that it is essential not to overlook the specific types of violence and abuse most commonly reported by women and girls.

16. Longer journeys are systematically associated with more stops, different modes of transportation at each leg and increased chances of finding oneself in need of more money to be able to move forward. The need to earn and save money along the journey puts migrants at risk of becoming victims of exploitative labour conditions and of having more dangerous travel arrangements, especially in countries bordering Europe. Time spent in travel also depends on unforeseen stops, such as various forms of detention-like conditions, being forced to stay in a confined space to extract labour or money before being allowed to move again.

17. As is evidenced above migrants making their way across Europe to the UK are likely have experienced multiple vulnerabilities and exploitation along their journey. The clandestine nature of their journey coupled with the dependence on irregular maritime crossings to reach the UK highlights the lack of and need for safe, regular and legal routes. Figures provided by the Home Office to the Select Committee on 3 September 2020 show that 5,000 migrants had crossed the channel by boat in 2020.[16] According to figures collated by the BBC, the UK has received over 8,000 migrants crossing the channel by boat from France in 2020 compared to the 1,840 known to have made the 21-mile trip last year.[17] The drivers for the increase in channel crossings from France to the UK in 2020 have been attributed to limited land and air options resulting from reinforced border controls instituted due to COVID 19. The lack of safe, legal routes has contributed in part to at least 116 migrant deaths in the Channel or on UK territory since 2014, and an additional 73 lives lost attempting to reach the UK from Calais, France during the same period. The Institute for Race Relations estimate that 294 people have died trying to cross by vehicle, tunnel, and boat since 1999[18].

18. Along the Central Mediterranean Route, 4,923 children arrived in Italy by sea as of 31 October 2020. Three quarters (76%) of them reported to be unaccompanied. As of the

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[16] https://committees.parliament.uk/oralevidence/793/default/

end of October, more than 6,000 unaccompanied migrant children are reported to be accommodated in Italy. Also, 563 children arrived in Malta by sea as of the end of October 2020, of whom 316 were reported to be unaccompanied. In Spain, 870 children were reported to have arrived between January and June 2020, with 38 per cent of them being unaccompanied. As of mid-2020, between 11,000 and 12,000 unaccompanied migrant children are reported to be in reception facilities in Spain. In Greece, some 3,340 children arrived by land and by sea between January and June 2020, including 391 (12%) unaccompanied children. Figures provided by Kent County Council show that between 1 January and 17 August 2020 (the date which the Kent Intake Unit reaches full accommodation capacity), 450 unaccompanied asylum-seeking children came into their care – the highest level since 2015. The council currently has 960 care leavers of unaccompanied asylum-seeking child background also. While the overwhelming majority of those arriving in 2020 were aged 16 or 17, the months of June – August saw 20% of those arriving being under the age of 16 – the majority of whom were 15 years old.[19] The Association of Directors of Children's Services (ACDS) also reported higher levels of mental health needs and trauma suffered by the unaccompanied children arriving because of the journeys they have taken.[20]

19. In light of the vulnerabilities and needs of migrants and refugees, including children undertaking oftentimes dangerous maritime journeys, a comprehensive response to Channel crossings is required. This should focus on building the capacity of national and international law enforcement authorities to tackle criminal networks involved in human trafficking and migrants' smuggling in countries of origin, transit and destination, particularly through facilitating data collection at the borders and data sharing agreements among government, while at the same time upholding highest protection and assistance standards for the individuals that have become subject to those networks.[21] Maritime movements in 2020 have shown that refugees and migrants continue to undertake dangerous journeys enduring exploitation and abuse seeking the services of smugglers to access safety and protection in the absence of credible legal alternatives. While international law enforcement cooperation is essential, more also needs to be done in parallel to undermine the smuggling business model by reducing the demand with awareness raising and safe, regular alternatives for migrants and would-be migrants. Without demand-reduction, smuggling will prove resilient and new routes or sub-routes are likely to emerge or expand. The ebb and flow of maritime crossings and migration on the Mediterranean routes requires that States along the route – origin, transit and destination alike - act in solidarity through instituting migration policies and systems that ensure the protection of the human rights of all refugees and migrants irrespective of their status.

State Solidarity and Responsibility Sharing in Europe: The Dublin Regulation, Relocation Mechanisms and the Dubs Scheme.

20. To date, the Dublin Regulation remains the only Europe-wide coordination mechanism when it comes to the distribution of asylum seekers across the region and sharing responsibility with countries of first arrival in terms of the processing of their asylum applications. However, with a view of the identified shortcomings of the Dublin Regulation in contributing to enhanced solidarity and responsibility sharing among European Union (EU) Member States, a new framework for solidarity and responsibility sharing in Europe has recently been published by the European Commission in the form of the EU Pact on Migration and Asylum[22] and its related proposals.

21. IOM welcomes the recent proposals made in the EU Pact which foresee an overhaul to the existing Dublin Framework. On the one hand, this includes an expansion of possibilities for family reunion for unaccompanied children as well as other individuals with family members in a country participating in the system; on the other hand, the proposals include a predictable and sustainable solidarity mechanism which includes the possibility for relocation (alongside other forms of solidarity), not only for asylum seekers but also – under certain conditions - individuals subject to disembarkations and recognized refugees.

22. The Dublin III Regulation (EU Regulation No. 604/2013) is a vital legal pathway for those who are not physically in the UK and wish to claim asylum in the UK via family reunion. As we fast approach the end of the Transition period, the powers afforded by Common European Asylum System (CEAS) will soon cease to apply and the UK will soon be out of the Dublin system. While it was encouraging to see that the United Kingdom proposed an agreement with the European Union on the Transfer of Unaccompanied Asylum- Seeking Children[23], the fact that this was rejected by the EU means that <u>the UK must take urgent action to protect pathways to family reunion.</u> Failure to do so will mean that family reunification options will effectively shrink, as they would purely rest within part 8[24] and part 11[25] of the UK Immigration Rules which only allow parents with refugee status or humanitarian protection to sponsor their children (this commitment only covers

separated children) and other refugees and people seeking asylum would not be eligible. IOM recommends that UK domestic legislation replicates the significant opportunities for families to reunite that the Dublin III Regulation currently offers.

23. While separated children are currently eligible to join relatives who have refugee status of humanitarian protection in accordance with paragraphs 319X – 319XB of part 8 of the immigration rules[26] the restrictive qualifying criteria regarding no recourse to public funds (NRPF) and the application fee should be reconsidered. Children should have the right to join their extended family members in the UK if they have refugee or humanitarian protection when it is the best interests of the child and without any extra requirements.

24. UK legislation should mirror Article 9 of the Dublin III Regulation[27] and allow children who have been granted refugee status in the UK to be joined by their family members. Part 11 of current UK immigration rules[28] does not allow this. Nor does it allow family members to join their relative (spouse/partner or minor children) if the relative has refugee or humanitarian status in the UK, regardless of whether the family was previously formed in the country of origin, which is allowed under Article 9 of Dublin III.[30]

25. Under current UK domestic legislation, an under-18-year-old unmarried child can join their parents in the UK if the parents have refugee or humanitarian status.[31] However, if a person has naturalised as a British citizen, after previously having refugee or humanitarian protection status in the UK, this person is ineligible for UK family reunion. This means that they are unable to bring their children, dependent children over the age of 18 or other dependent relatives (sibling, parent, aunt of grandparent) to the UK. IOM recommends that the UK allows such individuals to be able to sponsor their children (as they can while holding refugee status) and their dependent family members. The application fee of £3520, rigorous evidential requirements and restrictive qualifying criteria[32] such as knowledge of English or adequate maintenance funds are the current reality for those

lodged in one of the Member States by a third-country national or a stateless person (recast): https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:EN:PDF

[31] Immigration Rules part 8: family members - Family members (paragraphs A277 to 319Y): https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-8-family-members

[32] The UK's refugee family reunion rules: a "comprehensive framework"?: http://researchbriefings.files.parliament.uk/documents/CBP-7511/CBP-7511.pdf

applying under UK immigration rules and these should not obstruct a family's chance to live together.

26. The prospective end to family reunion under the Dublin Regulation comes at the same time as the recent closure of the Dubs scheme, introduced following the Dubs Amendment under s.67 of the UK Immigration Act 2016 and the only safe and legal route to the UK for unaccompanied child refugees in the EU who do not have family in the UK. In recent months, the numbers of unaccompanied children crossing the Channel irregularly has increased. Although it is not possible to show a direct correlation between the closure of the Dubs Scheme and the increase in crossings, the rise in numbers of children risking their lives in dinghies shows that the need for an equivalent scheme to the Dubs scheme remains as pressing as ever.

Expanding Safe and Legal routes to the UK

27. Predictable transfer mechanisms, such as the Dubs scheme remain an important element of regional responsibility sharing. For the individual children who were transferred under the Dubs scheme it offered a vital route to safety, and an alternative to seeking other dangerous routes into the UK. Children transferred from Italy and Greece to the UK under the Dubs scheme felt that the presence of a strong diaspora community in the UK would support them to settle in, while at the same time helping them maintain emotional ties with their country/ community of origin [33]. Children described feeling "happy" and "blessed" grateful for "having a fresh new start" and "meeting their goals for the future". Many of them said that they would have not missed this chance and would do their best to build a successful life in the UK. NGO partners in France also reported that the Dubs Scheme offered children a safe and legal route to UK ensuring that they did not try to cross the channel irregularly.

28. Important initiatives for enhanced responsibility sharing in the EU as a region include schemes such as the voluntary relocation schemes from Greece which focus on the relocation of unaccompanied children or families of asylum seekers as well as recognized refugees that find themselves in particularly vulnerable situations. IOM recalls that countries like Norway, Switzerland or Serbia, without prejudice to the fact that these countries are not EU Member States, have expressed their willingness to contribute to this voluntary relocation scheme and to provide a

sustainable solution for the individuals concerned. In this context, IOM invites the United Kingdom to consider joining this

[33] Information based on interviews with children carried out by IOM Italy within the pre-departure activities under the Dubs Scheme (June 2018 - July 2020)

broader group of countries as an expression of solidarity and to offer concrete solutions for the individuals concerned.

29. Refugee Resettlement remains an important solidarity tool with countries of first asylum of persons in need of international protection. Global resettlement needs are larger than ever before, with up to 1,45 million[34] people in need of resettlement support world-wide in 2020. IOM supports UNHCR's 3 Year Strategy which was adopted following the adoption of the Global Compact on Refugees and which calls towards more complementary pathways *in addition to resettlement* for persons in need of international protection.

30. IOM encourages all its Member States to ensure that solidarity measures in the form of resettlement and complementary pathways for refugees are commensurate in scale and scope. In this context, IOM calls for multi-annual resettlement plans and clear roadmaps as these have the potential to enable a more strategic level response from all stakeholders involved.

31. IOM welcomes the resumption of UK Resettlement and encourages the UK to continue its leadership role in offering protection to persons in need through its resettlement programmes. Strengthening routes for family reunification and community sponsorship are vital to securing legal pathways for refugees. IOM remains committed in its support to the UK government to expand its resettlement numbers and recommends that future UK resettlement programmes are global, diverse, and responsive to protection needs, refugees with specific vulnerabilities, and includes emergency quotas.

32. Successful integration remains a benchmark of resettlement and IOM encourages the UK government to advance opportunities for early labour market integration through skills profiling[35], provision of digital literacy training in pre-departure preparations as well as offer language learning opportunities as part of pre-departure orientation as has been mentioned by the Independent Chief Inspector of Borders and Immigration in his report on the Vulnerable Persons Resettlement Scheme[36]. The UK Home office Indicators of Integration Framework 2019 offers tools to design and evaluate refugee and migrant integration and building capacity on its use in planning design and delivery of local integration initiatives is vital to successful integration outcomes for refugees and migrants.

[34] UNHCR Projected Global Resettlement Needs 2020: https://www.unhcr.org/protection/resettlement/5d1384047/projected-global-resettlement-needs-2020.html

[35] Link IT: https://www.resettlement.eu/page/link-it

[36] VPRS_Final_Artwork_revised.pdf (publishing.service.gov.uk)

33. In addition to expanding legal pathways for persons in need of international protection IOM encourages the UK to also consider expanding pathways for regular migration and labour mobility to the UK. The lack of regular opportunities for economic migration is also one of the drivers of the current spontaneous arrivals to Europe. The fifth Objective of the Global Compact encourages States to enhance availability and flexibility of pathways for regular migration: *"We commit to adapt options and pathways for regular migration in a manner that facilitates labour mobility and decent work reflecting demographic and labour market realities, optimizes education opportunities, upholds the right to family life, and responds to the needs of migrants in a situation of vulnerability, with a view to expanding and diversifying availability of pathways for safe, orderly and regular migration."*[37]

34. IOM advocates a comprehensive and humane response to channel crossings that prioritizes saving lives, designing safe and legal routes to the UK particularly for those seeking family reunion, designing bespoke schemes for children such as the recently concluded but highly effective Dubs scheme and expanding the commitment to resettlement through regular and complementary pathways including through community sponsorship. As part of its broader approach to migration management and address domestic labour needs IOM also encourages the UK to expand pathways for regular migration and create labour mobility pathways without prejudice to the importance of legal pathways for persons in need of international protection. Such policy and programmatic interventions would further reinforce UK's commitments within the GCM and GCR as it looks to frame humane policies to address the complexities of managing migration channel crossings and asylum-seeking routes and opening safe and legal pathways to the UK.

December 2020

[37] Global Compact for Safe, Orderly and Regular Migration: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195

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