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## The Process of Implementing the Idea of Refugee Resettlement as a Permanent Solution to the Global Refugee Protection regime (1921–1946)

### [Wdrażanie idei przesiedlenia uchodźców jako stałego rozwiązania w globalnym systemie ochrony uchodźców (1921–1946)]

#### Abstrakt

We współczesnych debatach istnieje wiele podejść do rozwiązywania problemów milionów uchodźców i osób ubiegających się o azyl. Wysoki Komisarz Narodów Zjednoczonych ds. Uchodźców wyróżnia trzy trwałe rozwiązania kwestii uchodźczej. Pierwszym z nich jest dobrowolna repatriacja, drugim lokalna integracja, a ostatnim przesiedlenie do kraju trzeciego, gdy powrót do domu lub pozostanie w kraju przyjmującym nie są możliwe. Celem niniejszego artykułu jest próba odpowiedzi na dwa ogólne pytania. Po pierwsze: w jakich okolicznościach społeczność międzynarodowa włączyła koncepcję przesiedlenia do rozwijającego się systemu ochrony międzynarodowej w latach 1921–1946? Po drugie: czy operacjonalizacja tej koncepcji pozwala uznać przesiedlenia za realny i skuteczny instrument współczesnego modelu międzynarodowej ochrony uchodźców, a w szczególności za środek służący osiągnięciu trwałych rozwiązań sytuacji uchodźczych?

W badaniu wykorzystano metodę historycznoprawną. Pozwoliła ona na ustalenie, jakie wydarzenia historyczne odegrały kluczową rolę w rozwoju instytucji przesiedleń, jakie elementy danej rzeczywistości polityczno-ustrojowej determinowały jej model normatywny i sposób stosowania oraz jaki kształt instytucja ta przybrała w historycznych punktach zwrotnych – takich jak pierwsza i druga wojna światowa, a także zimna wojna. Powyższe ustalenia opierają się na stanowiskach prezentowanych przez wiodące międzynarodowe organizacje humanitarne zajmujące się problemem uchodźczym i sposobami sobie z nim radzenia. Należały do nich: komisje i komitety Ligi Narodów oraz Międzyrządowy Komitet ds. Uchodźców, następnie zaś Administracja Narodów Zjednoczonych ds. Pomocy i Odbudowy oraz Międzynarodowa Organizacja Uchodźców.

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Artykuł podzielony jest na dwie części. Pierwsza obejmuje okres Ligi Narodów i najwcześniejsze próby wdrożenia idei przesiedleń jako trwałego rozwiązania trudnej sytuacji uchodźców; druga dotyczy inicjatyw mających na celu rozwiązanie problemu uchodźców i wysiedleńców po zakończeniu drugiej wojny światowej.

**Słowa kluczowe:** przesiedlenia, trwałe rozwiązania, Liga Narodów, Międzyrządowy Komitet ds. Uchodźców, Organizacja Narodów Zjednoczonych, Administracja Narodów Zjednoczonych ds. Pomocy i Rehabilitacji, Komisja Przygotowawcza Międzynarodowej Organizacji Uchodźców, Międzynarodowa Organizacja Uchodźców, Wysoki Komisarz Narodów Zjednoczonych ds. Uchodźców.

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## Introduction

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The refugee resettlement mechanism is well-established in the international refugee protection system. At the United Nations (UN) level, the United Nations High Commissioner for Refugees (UNHCR) coordinates the activities undertaken under this mechanism. These include, among other things, the identification of refugees, firstly in the context of their country of origin, then their transfer from the country where they have sought asylum (country of asylum) to a third country that has agreed to accept them (country of resettlement). For several years, three countries of origin have occupied the first places: Syria, the Democratic Republic of Congo and Afghanistan (4821). Turkey is the leading country, in terms of asylum, followed by Malaysia and Lebanon. Countries of resettlement, on the other hand, are primarily the United States, followed by Germany and Sweden.

Three main functions of resettlement are identified, namely as a vital protection tool to meet the specific needs of refugees whose fundamental rights are at risk in the country where they seek asylum, then as a tool to provide refugees with a durable solution to their situation, with this durable solution being achieved through the right of permanent residence and consequently the naturalisation of the refugee in the country of resettlement. Its achievement is the objective of the protective function of resettlement, as it is for the other two mechanisms of durable solutions, namely voluntary

repatriation and local integration.<sup>1</sup> These two resettlement functions refer to its humanitarian individual dimension, commonly referred to as the humanitarian pathway.<sup>2</sup> But resettlement also has a third function and a humanitarian inter-state dimension, namely as a mechanism for burden- and responsibility-sharing, as a tangible mechanism for burden- and responsibility-sharing within refugeeism.<sup>3</sup> In this case, the aim is to relieve the burden on states that receive large numbers of refugees as a result of migration crises and which consequently bear a disproportionate burden of providing them with protection and assistance.

Despite longstanding multi-directional efforts, the need to resettle refugees has become a permanent feature of their international protection, the scale of which is steadily increasing. In 2022, UNHCR estimated global resettlement needs to be 1.44 million people.<sup>4</sup>

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### **League of Nations agencies and the Intergovernmental Committee on Refugees**

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As we begin our analysis of the title issue, it is essential to emphasise that international law does not obligate states to provide resettlement to refugees or any other form of a durable solution.<sup>5</sup> Consistently, states' participation in international refugee resettlement programmes has always been, and remains, voluntary, which has determined the largely discretionary nature of their decisions to engage in such programmes. Nevertheless, over the years, states have begun recognising the refugee 'problem' and attempted to ad-

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<sup>1</sup> UNHCR, Resettlement and Complementary Pathways Service, Division of International Protection, What is Refugee Resettlement? October 2020; available at: What is Refugee Resettlement? October 2020 [accessed: 12.09.2022].

<sup>2</sup> UNHCR, Humanitarian pathways, available at: <https://www.unhcr.org/humanitarian-pathways.html> [last accessed: 24.08.2022]; European Commission, Commission Recommendation of 23.9.2020 on legal pathways to protection in the EU: promoting resettlement, humanitarian admission and other complementary pathways, Brussels, 23.9.2020, C(2020) 6467 final; see also: UN Network on Migration, Regular Pathways for Admission and Stay for Migrants in Situations of Vulnerability. Guidance Note (2021), available at: <https://www.ohchr.org/en/migration/migrants-vulnerable-situations> [last accessed: 30.08.2022].

<sup>3</sup> UNHCR, Annual Report to United Nations General Assembly, Global Compact on Refugees A/73/12 (Part II), para 90; see also UNHCR, Resettlement Handbook (complete publication) 2011.

<sup>4</sup> UNHCR, Resettlement Data; available at: <https://www.unhcr.org/resettlement-data.html> [accessed: 29.08.2022].

<sup>5</sup> G. Goodwin-Gill & J. McAdam, *The Refugee in International Law*, Oxford 2007, pp. 489 and 490.

dress it.<sup>6</sup> It has led to an increased role for nation-states and the importance of regulating border crossings, taking up employment or being able to stay longer in other countries. For this reason, providing some status to enable movement and work has become more critical. These measures reflected the perception by states and the League of Nations (League, LN)<sup>7</sup> of the refugee issue primarily in terms of nationality and ethnicity and the labour productivity and economic needs of the host countries.<sup>8</sup> This approach was evident in the League's actions towards Russian refugees and others towards other groups, including displaced Armenians.<sup>9</sup> This approach was primarily based on the 'perception of refugees as impoverished economic migrants'<sup>10</sup> and the belief that the solution to their 'problem' must enable them to become self-sufficient, thereby minimising the need to organise costly humanitarian aid programmes. In other words, the answer to the refugees' 'problem' was reduced to the productivity of wage workers. These goals were achieved by allowing refugees to join more significant economic migration flows.<sup>11</sup> However, with the Great Economic Crisis (1929–1933) and the rise of nationalist sentiment in Europe, the ineffectiveness of these solutions became increasingly apparent.<sup>12</sup>

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### Agencies of the League of Nations (1921–1946)

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The involvement of the League of Nations in refugee affairs meant the internationalisation of the refugee 'problem', as it had become so severe as to require collective international attention beyond the isolated efforts of individual states of refuge or asylum.<sup>13</sup> Two general reasons for this situ-

<sup>6</sup> Putting the word 'problem' in inverted commas stems from my objection to reducing the issue of refugees and displaced persons to a problem, i.e., to a situation in which something is not going as it should or as one would like it to, and action is required to bring about a change in this state' (see the Grand Dictionary of the Polish Language, available at: <https://wsjp.pl/haslo/podglad/4643/problem/4154943/do-rozwiazania> [accessed: 19.07.2023]).

<sup>7</sup> The legal basis for its functioning was the Pact of the League of Nations as part one of the Treaty of Versailles. It was signed on 28.06.1919 and entered into force on 10.01.1920.

<sup>8</sup> K. Long, *When Refugees Stopped Being Migrants: Movement, Labour and Humanitarian Protection*, „Migration Studies” 2013, 1(1), p. 11.

<sup>9</sup> M. Bradley et al., *Whither the Refugees? International Organisations and 'Solutions' to Displacement, 1921–1960*, „Refugee Survey Quarterly” 2022, 41, p. 169.

<sup>10</sup> K. Long, *When Refugees Stopped Being Migrants*, p. 11.

<sup>11</sup> *Ibid.*

<sup>12</sup> M. Bradley et al., *Whither the Refugees? ...*, p. 170.

<sup>13</sup> P. Gatrell, *The Making of the Modern Refugee*, Oxford 2013, pp. 89–117; M. Bradley et al., *Whither the Refugees?*, p. 167.

ation can be identified. Essentially, it resulted from the new and changed nature of international warfare, then from the disintegration of the old empires in Europe and the Balkans and the emergence of nation-states that were often hostile to minorities and stateless people,<sup>14</sup> and then from the drive to physically eliminate the former ruling classes and political opposition.<sup>15</sup> Although war has always generated a certain number of refugees, it was only due to the Great War that entire communities became victims.<sup>16</sup> Consequently, both enemy civilians and enemy armed forces became military targets. The abandonment of the distinction between combatants (those entitled to military action) and non-combatants generated vast numbers of refugees who sought to escape the mass violence at all costs.<sup>17</sup>

The second reason for the mass refugee movements at the beginning of the 20th century was the rise, strengthening and expansion of the newly established states in Europe. Under the strain of internal tensions and conflicts, the multinational empires of the Habsburgs, Romanovs, Ottomans and Hohenzollerns disintegrated, shifting from imperial social and political orders to nation-states. When the Great War accelerated the disintegration of these multi-ethnic empires into nation-states, multitudes of people were deprived of citizenship in the new nation-states based on their language, ethnicity or religious affiliation. The governments of the new states in Austria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland and Yugoslavia sought to break with the old order and simultaneously consolidate their power by creating culturally and politically homogeneous societies. Massive repatriation of the population, unabated violence and the genocide of Armenians by the Turks accompanied this.<sup>18</sup> The Balkan wars and the disintegration of the ethnically heterogeneous Ottoman Empire into a series of more homogeneous nation-states led to a massive influx of people into the Balkans. The growing hostility between

<sup>14</sup> Between 1919 and 1922, more than 20 wars were fought in the middle of Europe, most of them triggered by national antagonisms in the new states. See A. Stempin, *World War I: Europe's Armageddon*; available at: <https://www.rp.pl/historia/art9563351-i-wojna-swiatowa-armagedon-europy> [accessed: 21.07.2023].

<sup>15</sup> According to estimates, 12% of the pre-revolutionary Russian nobility and aristocracy remained in Bolshevik Russia in 1921. The remainder were killed or fled the country.

<sup>16</sup> G. Loescher, *Beyond Charity: International Cooperation and the Global Refugee Crisis Beyond Charity: International Cooperation and the Global Refugee Crisis*, London 1993, p. 34.

<sup>17</sup> The Great War claimed 15 million lives, including 5 million civilians.

<sup>18</sup> Between 1914 and 1919, between 500,000 and 1 million Armenians lost their lives; those who survived fled to Soviet Armenia, Syria and other areas of Europe and the Middle East.

Turkey and Greece eventually led to the outbreak of war in 1922, which displaced millions more Greek and Armenian refugees from Anatolia.

Add to the chaos in south-eastern Europe and Asia Minor the great waves of refugees caused by the collapse of Tsarist Russia, the Russian Civil War, the Russo-Polish War and the Soviet famine of 1921–1923.<sup>19</sup> These cataclysms displaced between 1 and 2 million people from the former Russian Empire.<sup>20</sup> Among them were people whom the Bolsheviks saw as opponents of the revolution; there were soldiers from the defeated white Russian army,<sup>21</sup> civilians fleeing the confusion and famine caused by the revolution and civil war, ethnic Russians fleeing independent Poland and the Baltic states, and Russian Jews who faced persecution.<sup>22</sup> These events resulted in Europe's most significant population movement in modern times. Moreover, in the early 1920s, the Bolsheviks deprived many citizens of the former Russian Empire of citizenship through decrees.<sup>23</sup> Once again, therefore, many Russians left their country and wandered on the European continent. Due to their lack of national identity documents, they were the cause of severe inter-state disputes. Their very population, their practical exile from their homeland and their long years of wandering meant that their collective fate in the twentieth century was qualitatively different from that of other groups exiled due to earlier political or religious turmoil.<sup>24</sup>

<sup>19</sup> Between 1921 and 1923, the famine affected some 25 million inhabitants of Soviet Russia/the USSR, leading to the death of some 5 million of them. See R. Wojna, *Skutki społeczne, gospodarcze i polityczne nieurodzajów lat 1921–1922 w republikach radzieckich*, „*Studia z dziejów Rosji i Europy Środkowo-Wschodniej*” 1983, pp. 103–135; available at: [https://rcin.org.pl/Content/44534/PDF/WA303\\_58396\\_A453-SzDZ-R-18\\_Wojna.pdf](https://rcin.org.pl/Content/44534/PDF/WA303_58396_A453-SzDZ-R-18_Wojna.pdf) [accessed: 18.07.2023].

<sup>20</sup> These were Russians who fled mainly to Germany and France, but also to countries in remote parts of the world, including China in the east and North American countries in the west.

<sup>21</sup> “White Russian Army” is a collective term for the political movements and armed forces active during the Russian Civil War between 1917 and 1923, fighting against the Bolsheviks and the movements supporting them, aiming to restore the previous economic and political system.

<sup>22</sup> Cf. M. Silber, *Anti-Jewish violence during World War I and the Revolution (1914–1921)*. Esej bibliograficzny [in] K. Kijak, A. Markowski, K. Zieliński, *Pogromy Żydów na ziemiach polskich w XIX i XX wieku*, vol. 3, Warszawa 2019, pp. 63–92; available at: [https://rcin.org.pl/ihpan/Content/133939/WA303\\_166102\\_III4367-3\\_Silber.pdf](https://rcin.org.pl/ihpan/Content/133939/WA303_166102_III4367-3_Silber.pdf) [accessed: 18.07.2023].

<sup>23</sup> These are the Decree of the Council of People's Commissars of the RSFSR of 28.10.1921, on the deprivation of the right of citizenship of certain categories of persons located abroad and the Decree of the All-Russian Central Executive Committee of 15.12.1921, on the deprivation of the right of citizenship of certain categories of persons located abroad. As a result of these decrees, Russian refugees became stateless. See D. Gafarowski, *The issue of solving the problem of Russian refugees in the activity of the League of Nations in the years 1921–1930*, „*Archives of Emigration Studies – Sketches – Documents*”, Toruń 2013, 1 (18), p. 40.

<sup>24</sup> G. Loescher, *Beyond Charity...*, pp. 34–36.



As noted, after the Great War, refugee movements became a source of inter-state tensions, and the ability of individual governments to mitigate them far exceeded their capacity. In this context, the first international organisations promoting the protection and resettlement of refugees emerged.

The first agency to be established by the League for this purpose was the High Commissioner for Refugees of the League of Nations, headed by Fridtjof Nansen as High Commissioner for Refugees.<sup>25</sup> The High Commissioner's original mandate covering Russian refugees was extended to include Armenian refugees in 1923. Initially, the High Commissioner provided refugees with material assistance and legal and political protection. In 1924, the International Labour Organisation took over responsibility for material aid to refugees, but five years later, it returned this function to the High Commissioner. Meanwhile, as the refugee 'problem' expanded, the High Commissioner's mandate was extended to include Assyrians, Assyrian-Chaldeans and Turkish refugees. However, following the death of F. Nansen in May 1930 and the subsequent abolition of the office of High Commissioner, responsibility for the protection of refugees was taken over by the League Secretariat. The duty to provide material assistance was entrusted to the Nansen International Office for Refugees (1931–1938), which had autonomous status from the League of Nations.<sup>26</sup>

Subsequently, due to the wave of refugees from Germany after the National Socialists came to power, the League established the Office of the High Commissioner for Refugees from Germany (1933–1938). This office, whose mandate was later extended to refugees from Austria and the Sudetenland, was subsequently dissolved and replaced by the Office of the High Commissioner of the League of Nations for Refugees, based in London.

This diversity of structures should not be linked to the lack of a general assumption underlying these League initiatives. Moreover, it was essentially worked out in 1921 and was relatively maintained until the end. Thus, the 'problem' of refugees was regarded as a temporary and singular prob-

<sup>25</sup> The Office was created by a decision of the League Council of 27.06.1921. See A. Grahl-Madsen, *The League of Nations and the refugees* [in] *The League of Nations in retrospect / La Société des Nations: rétrospective*, A. Angenendt (ed.), 3 in the series United Nations Library, Geneva: Series E, Guides and studies, Berlin, New York 2010, pp. 358–368.

<sup>26</sup> *Statutes of Nansen International Office for Refugees as Approved by the Council on January 19th, 1931*, „League of Nations, Official Journal”, February 1931, pp. 309–311.

lem and, as such, was not combined with other similar problems. Subsequently, it was assumed to be managed through *ad hoc* solutions tailored to the specific characteristics of a particular group, defined mainly based on ethnicity and nationality.

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### Intergovernmental Committee on Refugees (1938–1947)

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The above assumption is confirmed by establishing the Intergovernmental Committee on Refugees to the increase in forced migration of Jews and political enemies of the Third Reich.<sup>27</sup>

However, the League did not decide to set up this Committee. Still, it resulted from an international conference convened at the initiative of US President Franklin D. Roosevelt, the subject of which was the position of refugees from annexed Austria and Germany. It occurred in the French resort of Évian-les-Bains, and the proceedings were scheduled for 6–15.07.1938. Delegates from thirty-two countries took part, and – albeit in a different role – many aid organisations.<sup>28</sup> The convening of the conference was the result of a specific political situation, determined by the increasingly worrying immigration crisis in Europe, to which the international community was unable to respond effectively. However, the conference was to be held with full respect for national immigration restrictions and the refugee reception rules of the participating states. This situation could not be changed by aid organisations, private entities and associations of various kinds, which, although they took several initiatives, were practically helpless in the face of the persecution of the Jews and, thus, the increasing scale of their forced emigration.<sup>29</sup> Also powerless was James G. McDonald, appointed in October 1933 by the League of Nations, as the High Commissioner for Refugees (Jewish and Other) coming from Germany. Among his tasks was to ‘negotiate and direct the international cooperation’ necessary to solve the ‘economic, financial and

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<sup>27</sup> T. R. Sjoberg, *The Powers and the Persecuted: The Refugee Problem and the Intergovernmental Committee on Refugees (IGCR) 1938–1947*, Lund 1992.

<sup>28</sup> In addition, several countries, including Poland and Romania, sent their observers.

<sup>29</sup> An example is the decree on the immediate expulsion of all Polish Jews from the Third Reich, dated 26.10.1938. See S. Pietrzykowski, *Polenaktion, czyli deportacja Żydów pochodzenia polskiego z Niemiec do Polski (28–29 October 1938) – relacja Zyndela Grynszpana*, accessed at: <https://przystanekhistoria.pl/> [accessed 26.06.2023].



social problem' of refugees from Germany. McDonald held the position for more than two years. He resigned his post as early as December 1935, concluding that 'conditions in Germany which create refugees have developed so disastrously that a reconsideration of the whole situation by the League of Nations is necessary'.<sup>30</sup>

Under these circumstances, the convening of the conference and the subsequent establishment of the IGCR can be considered a success. However, its actions did not improve the situation of political refugees from Nazi Germany.<sup>31</sup> In doing so, it should be stressed that in committing the IGCR to organise this resettlement, its originators did not indicate which countries were to accept these refugees.<sup>32</sup> Meanwhile, countries were reluctant to agree to such a solution,<sup>33</sup> leaving the IGCR facing a chronic shortage of places where refugees could settle. The fulfilment of the statutory task, therefore, posed a considerable challenge for the IGCR.

It may be added that the scope of the IGCR's mandate and, in general, the determination of the means of resettlement of Jews from the areas affected by hostilities and of enabling those in territories occupied by the Third Reich to escape was the subject of an Anglo-American conference held in Bermuda, 19–29.04.1943. As is well known, the talks did not produce the expected results, and the meeting failed.<sup>34</sup>

The IGCR eventually ceased its activities in 1947, and its tasks were taken over by the International Refugee Organisation (IRO).<sup>35</sup> Nevertheless, in

<sup>30</sup> See Letter of Resignation of James G. McDonald, High Commissioner for Refugees (Jewish and Other) Coming from Germany. Printed materials. Library of Congress Online Catalog (1,481,124) [accessed: 23.06.2023].

<sup>31</sup> During this period, the term Jewish refugees was avoided by speaking of political refugees. In this way, it was wished to prevent protests from the Third Reich against interference in its internal affairs, but also from countries which, although willing to participate in the conference, whose citizens showed increasing hostility towards Jewish immigrants. See K. Czechowska, *The Évian Conference in July 1938: An attempt to help Jewish refugees from Germany and Austria?*; available at: <https://ipn.gov.pl/pl/historia-z-ipn/161240,Kinga-Czechowska-Konferencja-w-vian-w-lipcu-1938-r-Probna-pomocy-uchodzcom-zydows.html> [accessed: 22.06.2023].

<sup>32</sup> An expression of the pragmatics developed at Évian can be seen in the unsuccessful escape attempt made by 937 people, 930 of them of Jewish origin, in May 1939 from the Third Reich to Cuba, aboard the German cruise ship MS St Louis.

<sup>33</sup> J. C. Hathaway, *The Evolution of Refugee Status in International Law: 1920–1950*, „International & Comparative Law Quarterly” 2008, 33 (2), p. 348.

<sup>34</sup> The timing of the conference coincided with the outbreak of the Warsaw Ghetto Uprising; see *The Bermuda Conference (April 19–29, 1943)*, People & Events; available at: <https://archive.is/20130503084137/http://www.pbs.org/wgbh/amex/holocaust/peoplevents/pandeAMEX89.htm> [accessed: 26.06.2023].

<sup>35</sup> UN, *Constitution of the International Refugee Organization*, 15 December 1946; Entry into force: 20 August 1948; United Nations, Treaty Series, 18, p. 3; available at: <https://www.refworld.org/docid/3ae6b37810.html> [last accessed: 12.09.2022].

the interim, the United Nations Relief and Rehabilitation Administration (UNRRA) was established to undertake, albeit to a limited extent and outside its mandate, resettlement activities from refugee and displaced persons camps.

## **United Nations**

### **United Nations Relief and Reconstruction Administration (1943–1947)**

UNRRA was established by the Agreement establishing the United Nations Relief and Rehabilitation Administration (UNRRA Agreement) of 9.11.1943.<sup>36</sup> Its mandate was to provide humanitarian aid and support post-war reconstruction in its member states. Implementing these tasks was the first ‘transition from war to peace’ stage.<sup>37</sup> While the objective of humanitarian aid was to ‘keep people alive’, reconstruction aimed to ‘help people restore their economies’.<sup>38</sup> From the point of view of the issue under consideration, it is not so much UNRRA’s ‘relief and reconstruction’ activities that are of crucial importance but those that were undertaken to address the vast and highly complex post-war refugee and displacement crisis in Europe.<sup>39</sup> Characteristically, this crisis is often referred to as a refugee and displacement crisis, although the UNRRA agreement lacks definitions of both refugee and displaced person (DP; dips).

In line with the guiding slogan “victims of war must be brought home”<sup>40</sup> of the UNRRA agreement, this crisis was to be overcome by repatriation.<sup>41</sup> Indeed, by the end of 1945, UNRRA managed to repatriate

<sup>36</sup> Text of the agreement available at: <https://www.jewishvirtuallibrary.org/agreement-for-united-nations-relief-and-rehabilitation-administration-november-1943> [accessed: 29.06.2023].

<sup>37</sup> See Article I, paragraph 2 a-b-c of the UNRRA Agreement.

<sup>38</sup> See [https://www.cvce.eu/content/publication/2017/5/10/99178db2-e7f0-4298-88b2-38a4dd1ecb25/publishable\\_en.pdf](https://www.cvce.eu/content/publication/2017/5/10/99178db2-e7f0-4298-88b2-38a4dd1ecb25/publishable_en.pdf) [accessed: 29.06.2023].

<sup>39</sup> According to estimates, between 10 and 12 million people were victims of this crisis – S. K. Knapton, *Occupiers, Humanitarian Workers, and Polish Displaced Persons in British-Occupied Germany*, London 2023, p. 2.

<sup>40</sup> See Article I, paragraph 2(a) of the UNRRA Agreement.

<sup>41</sup> See the Preamble of the UNRRA Agreement. See also E. Reut-Nicolussi, *Displaced Persons and International Law*, „Recueil des Cours de l’Academie de Droit International” 1948, 73(II), p. 42.

around 6 million DPs. However, in the winter of 1945/1946, the number of returns fell sharply and eventually, around one million DPs decided not to return to their countries of origin. It was generally the case for Jewish Holocaust survivors and Baltic, Ukrainian and Polish DPs.<sup>42</sup> They formed a specific collective that was called ‘the Last Million’.<sup>43</sup>

UNRRA’s response to the firm resistance of DPs to the practice of their return was forced repatriation,<sup>44</sup> which violates the principle of individual freedom and the right to asylum.<sup>45</sup> The status of DPs, who, as sworn enemies of communist regimes, had reason to fear severe persecution if repatriated, was identical under international law to that of ‘old’ refugees, i.e. those under the protection of the League of Nations.<sup>46</sup>

UNRRA’s decision to forcibly repatriate was partly for political and financial reasons. For the former grounds, the Agreement Relating to Prisoners of War and Civilians Liberated by Forces Operating Under Soviet Command and Forces Operating Under United States of America Command<sup>47</sup> was crucial. According to it, all citizens of the Allied Powers were to be repatriated to their home countries, with the Soviet Union insisting that refugees from the American, British and French occupation zones who were, or at some point had been, Soviet citizens be sent back to the Soviet Union.<sup>48</sup>

The financial arguments for forced repatriation stemmed from the high cost of maintaining the displaced persons camps and to which food, necessary equipment, accommodation and medical care were provided. These actions demonstrated that the Western Allies and UNRRA recognised the need for a certain standard of living in the camps. It was a significant change from the inter-war period when international attention focused

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<sup>42</sup> With regard to the repatriation of Polish DPs, the decline in repatriation is confirmed by the research of, *inter alia*, K. Kersten. See K. Kersten, *Repatriacja ludności polskiej po II wojnie światowej* (Historical Study), Wrocław – Warszawa – Kraków – Gdańsk 1974, p. 213.

<sup>43</sup> They included: Armenians, Poles, Latvians, Lithuanians, Estonians, Yugoslavs, Jews, Greeks, Russians, Ukrainians, Hungarians, Czechoslovaks and Belarusians.

<sup>44</sup> J. Reinisch, *We Shall Rebuild Anew a Powerful Nation: UNRRA, Internationalism and National Reconstruction in Poland*, „Journal of Contemporary History”, 2008, 43(3), p. 469; M. Bradley et al., *Whither the Refugees?*, pp. 176–178.

<sup>45</sup> J. Reinisch, *We Shall Rebuild Anew a Powerful Nation*, p. 453; M. Bradley et al., *Whither the Refugees?*, p. 176.

<sup>46</sup> E. Reut-Nicolussi, *Displaced Persons and International Law*, p. 43.

<sup>47</sup> The agreement was signed on 11.02.1945; available at [https://avalon.law.yale.edu/20th\\_century/sov007.asp](https://avalon.law.yale.edu/20th_century/sov007.asp) [accessed: 03.07.2023].

<sup>48</sup> The agreement provided for the establishment of concentration points for this purpose, which were to be set up at locations agreed upon between these authorities. See Article 1 sentence 1 of the Yalta Agreement.

more on the ability of refugees or migrants to work and mobility.<sup>49</sup> However, it should be noted that many of these camps were in former concentration and extermination camps and German military camps.<sup>50</sup> Only after UNRRA took over the management of the camps aid organisations allowed into the camps.<sup>51</sup> In addition, DPs could self-organise so that living conditions in the camps improved significantly.<sup>52</sup> However, the costs of maintaining the camps were high, and it was in the authorities' interest to abolish them as soon as possible. It was not done until 1952, although not wholly, as the camp in Föhrenwald was closed in 1957, and Jewish refugees stayed in the camp in Wels (Austria) until 1959.<sup>53</sup>

As of the beginning of October 1945, forced repatriation had essentially ceased.<sup>54</sup> Under these circumstances, UNRRA, despite the lack of a formal mandate to carry out resettlement, eventually decided to organise the resettlement of those DPs who remained in the camps without a clear possibility of resolving their plight, although official repatriation remained its priority. However, contrary to Soviet and Yugoslav demands, UNRRA recognised the DPs' right to refuse repatriation and reaffirmed the international commitment to assist them.<sup>55</sup> Countries of second asylum were mainly Australia, the United States of America, Canada and South American countries and, for Jewish DPs, Palestine/Israel.

<sup>49</sup> UNRRA Preparatory Commission for IRO, File 2/3-11, 1944, UNHCR2, 1945-1948, UNHCR Archives, - Geneva.

<sup>50</sup> Activities related to the care of DPs began before the end of the war, but after the war ended in May 1945, SHAEF (Supreme Command of the Allied Expeditionary Force), with its G-5 Branch (Displaced Persons, Refugees and Welfare Branch), and later the military authorities of the western occupation zones, were still officially responsible for the care of refugees. Conditions in the camps were dramatically harsh during this period. See M. Mazanek-Wilczyńska, Polish roads. The post-war fate of the dipis in Germany, *Deutsche Welle*, 02.08.2020; available at: <https://www.dw.com/pl/polskie-drogi-powojenne-losy-dipis%C3%B3w-w-niemczech/a-54118246> [accessed: 21.07.2023]; Arolsen Archives, Background Information On Displaced Persons Documents, available at: <https://eguide.arolsen-archives.org/en/additional-resources/background-information-on-displaced-persons-documents/> [accessed: 13.07.2023].

<sup>51</sup> Such as the *American Joint Distribution Committee (AJDC)* or, the *Belgian Comité Estonien* and the *American National Committee for Aid to Homeless Armenians*.

<sup>52</sup> UNRRA's slogan was 'help the people to help themselves'. See Arolsen Archives, Background Information On Displaced Persons Documents, available at: <https://eguide.arolsen-archives.org/en/additional-resources/background-information-on-displaced-persons-documents/> [accessed: 13.07.2023].

<sup>53</sup> Wels Displaced Persons Camp, Austria, 1945-1959 (?), available at: <http://www.dpcamps.org/wels.htm> [accessed: 03.07.2023].

<sup>54</sup> It was in response to the numerous suicides committed out of desperation by DPs who did not want to be repatriated. Besides, in February 1946, the UN adopted a resolution prohibiting forcing DPs to return to their country of origin. See *Refugees and Displaced Persons: Resolution of 3 October 1946* (document E/236), E/RES/18 (III).

<sup>55</sup> E. Reut-Nicolussi, *Displaced Persons and International Law*, p. 198.

With the transfer of responsibility from UNRRA to the International Refugee Organisation (IRO) in July 1947, resettlement formally and effectively joined repatriation as an option for DPs. However, taking up this option was difficult as DPs had to meet several requirements and undergo arduous procedures to resettle.<sup>56</sup> In addition, although host countries agreed to accept DPs, they set clear limits on the number and which DPs they would get.

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### International Organization for Refugees (1947–1952)

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The normative basis for creating the IRO was Article 57 of the Charter of the United Nations. In turn, its tasks stemmed from Article 55(b) of the Charter of the United Nations, so its creation was intended to serve one of the UN's primary objectives of addressing international economic, social, cultural and humanitarian problems.<sup>57</sup>

### Preparatory Commission of the International Refugee Organization (1947–1948)

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Nevertheless, the creation of the IRO proved to be a real challenge for the UN. It is because it required negotiations and the search for difficult compromises, which were achieved with a growing awareness of the strengthening division of the Allied States into Eastern and Western Bloc countries, and at the same time with the pressing need to solve the 'problem' of refugees and displaced persons.

The first step towards establishing the IRO was the London meeting of the UNGA on the problem of refugees and displaced persons. It took place from 10 January to 14.02.1946, and one of its outcomes was Resolution 8(I) on the Refugee Problem of 12.02.1946 (Resolution A/45).<sup>58</sup> In this resolution, the UNGA recommended, among other things, the establishment of a special committee to study the problem mentioned above and to prepare a report with an action plan for its solution. Accordingly, on 16.02.1946, the

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<sup>56</sup> For example, the form with the questions that DPs had to answer and that concerned them consisted of four pages.

<sup>57</sup> United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI, available at <https://www.refworld.org/docid/3ae6b3930.html> [accessed: 12.07.2023].

<sup>58</sup> It was appended to the IRO Constitution as its Annex III.

Special Committee on Refugees and Displaced Persons (the Committee) was established.<sup>59</sup> The outcome of the Committee's work was, among other things, a recommendation to set up an international organisation to deal with the "problem" in question. In response, ECOSOC developed a draft constitution for such an organisation and, the UNGA once approved.<sup>60</sup>

The ZO Third Committee carried out further work on this draft. As a result, on the last day of the session, 15 December 1946, the UNGA voted on a resolution to adopt the Constitution of the International Refugee Organization (IRO Constitution),<sup>61</sup> with 31 states voting in favour of the resolution but 18 abstaining and five against.<sup>62</sup> As many as 23 states did not support creating an international organisation to address the 'problem' of refugees and displacement. Abstentions may have signified a lack of interest in the problem of DPs on the part of non-European states,<sup>63</sup> but the votes against expressed both disagreement with the proposed text and, above all, a strong desire to keep the problem of DPs and refugees in general off the international agenda. These latter voices were read in the context of the political-ideological divisions among UN members, all the more so because they were the voices of the emerging Eastern Bloc states headed by the USSR.

Moreover, they were seen as a kind of warning signal from which the Western states deduced that it was doubtful that the minimum number of ratifications or accessions required for the Constitution to enter into force and for the IRO to become operational would be achieved quickly.<sup>64</sup> Accordingly, they signed the Agreement on Interim Measures to be Taken with Respect to Refugees and Displaced Persons (1946 Agreement) on 15.12.1946.<sup>65</sup> The conclusion of this Agreement was further driven by the belief that there was a need to centralise the mechanism for the protection and assistance of refugees and displaced persons under the responsibility of UNRRA and the need to keep the refugee 'problem' on the international agenda. The Agreement entered into force on 31.12.1946 and prompted the

<sup>59</sup> The Committee met in London from 8 April to 1 June; four sub-committees were identified.

<sup>60</sup> It took place on 3.10.1946.

<sup>61</sup> It was done through resolution 62 (I) of 15 December 1946; United Nations, *Constitution of the International Refugee Organization*, 15 December 1946, United Nations, Treaty Series, 18, p. 3, available at: <https://www.refworld.org/docid/3ae6b37810.html> [accessed: 12.07.2023].

<sup>62</sup> José H. Fischel de Andrade, *Brazil and the International Refugee Organization (1946–1952)*, „Refugee Survey Quarterly” 2011, 30 (1), p. 68.

<sup>63</sup> Only the Czechoslovak Republic and Sweden abstained.

<sup>64</sup> The conditions for the entry into force of the IRO Constitution were set out in Article 18(2).

<sup>65</sup> This was also the day on which the UNGA adopted the IRO Constitution.



immediate creation of the Preparatory Commission of the International Refugee Organization (PCIRO).<sup>66</sup>

Regarding *ratione temporis*, the mandate of the PCIRO was temporary and covered the period from July 1947 to August 1948. The starting date resulted from the liquidation of the IGCR and UNRRA and the takeover of the operational activities of these organisations by the PCIRO on 1.07.1947.<sup>67</sup> This mandate covered DPs who were still in the camps and those DPs who were living outside the camps, including in Germany, Austria, Italy and the Middle East. The PCIRO assumed responsibility for some 900,000 DPs, 350,000 of whom were in the Allied occupation zones and 550,000 in other European countries.<sup>68</sup> Moreover, it also took responsibility for other refugees and displaced persons insofar as they were eligible for resettlement. The IRO Preparatory Commission concluded several multilateral and bilateral intergovernmental agreements for these resettlements.

It is worth mentioning that the Preparatory Commission's mandate also included organising the repatriation of Chinese who had been deported by the Japanese during the war so that they could return to their homes in Singapore, Siam and the Netherlands Indies.<sup>69</sup> Thus, despite its provisional nature, the Preparatory Commission became one of the largest UN agencies (organisations) in existence at the time, both in terms of the size of its organisational structure and the subjective scope of its mandate. The Preparatory Commission met for the first time in Geneva in February 1947. Nevertheless, the fifth session of the PCIRO, held in Geneva (20–31.01.1948), was essential for the analysis to be carried out. One of the motions at this meeting included a proposal to set an end date for the PCIRO's reception of refugees and displaced persons under "care and maintenance."<sup>70</sup> This date was to be 1.02.1948, although it was agreed that

<sup>66</sup> J. H. Fischel de Andrade, *Brazil and the International Refugee Organization...*, p. 70.

<sup>67</sup> *Ibid.*; see also G.S. Goodwin-Gill & J. McAdam, *The Refugee*, p. 424.

<sup>68</sup> The largest group were Poles (approximately 275,000), followed by Jews (200,000), Spaniards (200,000), people from the Baltic countries (190,000), 150,000 Yugoslavs – both Serbs and Croats and 100,000 Ukrainians. Most of them were between 20 and 39 years old, but there were also many children who were born in DP camps after the end of the war. See J. G. Stoessinger, *The Refugee and the World Community*, Minneapolis 1956, pp. 55–58; see also Arolsen Archives, Background Information On Displaced Persons Documents, available at: <https://eguide.arolsen-archives.org/en/additional-resources/background-information-on-displaced-persons-documents/> [accessed: 13.07.2023].

<sup>69</sup> J. H. Fischel de Andrade, *ibid.*

<sup>70</sup> In the literature and documents, the phrase *care and maintenance* was used as a general term for the IRO's tasks vis-à-vis DPs. See, for example, Abba P. Schwartz, *International Refugee Organization*, „The American Jewish Yearbook” 50 (1948–1949/5709), pp. 473–483.

the General Council of IRO would take final decisions on this matter.<sup>71</sup> Until then, the PCIRO decided by resolution to limit new admissions to “care and maintenance” to complex cases. This decision was dictated by financial constraints, which prevented the Organisation from providing indefinite assistance to all who qualified or could qualify for ‘care and maintenance’ and, subsequently, resettlement.<sup>72</sup>

### International Organization for Refugees (1948–1952)

The required number of ratifications of the IRO constitution was reached on 20.08.1948, and thus, the IRO constitution formally entered into force. However, the IRO was not a global organisation and had few members, although many countries supported its activities. In contrast, the Soviet Union, Yugoslavia and the other European Eastern Bloc countries, including Poland, did not join the IRO.<sup>73</sup> The governments of these countries considered that the IRO only protected traitors and served US policy.<sup>74</sup> The IRO thus remained in the hands of Western European states and the United States of America, and any cooperation on refugee issues between the two camps permanently ended.<sup>75</sup>

According to the 1946 UNGA resolution, the IRO was a specialised agency working both with the UN (Article 63 of the UN Charter) through the UN Economic and Social Council Coordination Mechanism (Article 57 of the UN Charter) at the intergovernmental level and through the head of the United Nations System Chief Executives Board for Coordination at the inter-secretariat level.<sup>76</sup>

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<sup>71</sup> It came into being after the ratification of the IRO constitution by two UN members; it was assumed that this would happen in early 1948.

<sup>72</sup> International Refugee Organization, published online by Cambridge University Press: 22 May 2009; available at: <https://www.cambridge.org/core/journals/international-organization/article/abs/international-refugee-organization/462F934CDDD8C757184ED31EC3BA1A04> [accessed: 13.07.2023].

<sup>73</sup> José H. Fischel de Andrade notes that during the drafting of the constitution, several proposals concerning the IRO were made by the governments of the Eastern Bloc countries led by the USSR; although most were rejected, some, in particular those referring to the ‘repatriation of refugees and the speedy return of displaced persons to their places of origin, as well as broad cessation and exclusion clauses, were included in the constitutional text: *Brazil and the International Refugee Organization...* p. 69.

<sup>74</sup> M. R. Marrus, *The Unwanted: European Refugees in the Twentieth Century*, Oxford 1985, pp. 324–342.

<sup>75</sup> C. Ruthström-Ruin, *Beyond Europe: the Globalization of Refugee Aid*, Lund 1993, p. 17.

<sup>76</sup> E. Reut-Nicolussi, *Displaced Persons and International Law*, p. 269.

*Mandat ratione materiae IRO*

The tasks of the IRO were set out in the Constitution, and general statements preceded their enumeration. According to these, genuine refugees and displaced persons, i.e., the total number of persons placed under the IRO's care, constituted an international problem in scope and character. The recognition of refugees as an urgent problem meant that it needed to be addressed as soon as possible, as previous efforts had failed to resolve it. According to Article 2(1) of the Constitution, these appropriate measures were to be repatriation, identification, registration and classification, care and assistance, legal and political protection, transportation and resettlement and re-establishment in countries able and willing to receive persons who were of interest to the Organization.<sup>77</sup> These tasks required significant financial resources, as evidenced by the IRO's budget. The IRO's budget consisted mainly of members' contributions<sup>78</sup>, which would be taken over according to the so-called "appropriate scale."<sup>79</sup> According to this scale, the most significant contributions came from the US government.<sup>80</sup> The IRO's budget was three times that of the UN, and the total number of staff was equivalent to that of the UN. At its busiest in December 1949, 2,800 people from 36 countries worked for the IRO.<sup>81</sup> They formed two departments, namely the Department of Health, Care and Maintenance, providing extensive care to DPs on the ground, and the Department of Repatriation and Resettlement, dealing with the Organisation of the return (repatriation) or resettlement (return) of DPs.<sup>82</sup> The above departments were created with the two core tasks of the IRO in mind. The latter department negotiated with countries and organisations worldwide to organise the reception of refugees. It also collected information on the situation in the DPs' countries of origin to help them decide about their future.

<sup>77</sup> Cf. IRO Constitution, Article 2(1).

<sup>78</sup> The constitution also provided that neutral countries would transfer to the IRO budget the assets of victims of Nazi actions who had died and left no heirs. In addition, 28,000,000 US dollars were to be made available from part of the proceeds of German assets in neutral countries. Finally, the Allies decided to donate non-monetary gold found in Germany for the reconstruction and resettlement of non-repatriated victims of Nazi actions. See E. Reut-Nicolussi, *Displaced Persons and International Law*, p. 292.

<sup>79</sup> These contributions varied according to the size of the country, the population and the size of the resources.

<sup>80</sup> The IRO Constitution also provided for a procedure for countries applying for membership of the Organisation to support IRO activities.

<sup>81</sup> This figure does not include DPs who supported IRO staff in the camps.

<sup>82</sup> Also called the Resettlement Division.

Moreover, the IRO chartered means of transport, including 30 trains and chartered hundreds of aeroplane seats and 39 ships with a capacity of 37,500 passengers.<sup>83</sup> Thus, IRO's activities changed how refugees were dealt with, as the Organisation not only enabled them to return to their country of origin but also helped them resettle, which meant emigrating.<sup>84</sup> All these measures and activities were aimed at fully realising the IRO's main task: "to bring about a rapid and positive solution to the problem of *bona fide* refugees and displaced persons that is fair and equitable for all those affected."<sup>85</sup>

#### *Mandat ratione personae IRO*

Two specific groups of persons, namely refugees and displaced persons, were the addressees of the IRO activities described. This scope of the IRO's mandate *ratione personae* must be particularly emphasised, as only refugees have been granted international protection. A displaced person could, therefore, be considered a

"a person who, as a result of the actions of the authorities of the Nazi or fascist regimes, or regimes which took sides with them in the Second World War, or quisling or similar regimes which gave them assistance against the United Nations, was deported or was forced to leave his country of nationality or former habitual residence."<sup>86</sup>

Thus, people forced to undertake forced labour or deported for racial, religious or political reasons were considered displaced persons.<sup>87</sup> The definition of a refugee was much more complex. On the one hand, it was specific and narrow, *expressis verbis* covering, for example, Jews,<sup>88</sup> victims of Nazi regimes or the Falangist regime in Spain,<sup>89</sup> or displaced unaccompanied children.<sup>90</sup> On the other hand, however, it was general and broad, covering, for example, people forced to flee because of their race, religion,

<sup>83</sup> M. Moussalli, *The Evolving Functions of the Office of the United Nations High Commission for Refugees* [in] V. Gowlland & K. Samson (eds.), *Problems and Prospects of Refugee Law* (Geneva Workshop, 23–24 May 1991), Geneva 1992, p. 86.

<sup>84</sup> See also Arolsen Archives, *Background Information On Displaced Persons Documents*, available at: <https://eguide.arolsen-archives.org/en/additional-resources/background-information-on-displaced-persons-documents/> [accessed: 13.07.2023].

<sup>85</sup> IRO Constitution, Annex I, *Definitions. General principles*.

<sup>86</sup> IRO Constitution, Annex I, Part I, Section B.

<sup>87</sup> IRO Constitution, Annex I, Part I, Section B.

<sup>88</sup> IRO Constitution, Annex I, Part I, para 3.

<sup>89</sup> IRO Constitution, Annex I, Part I, para 1.

<sup>90</sup> IRO Constitution, Annex I, Part I, para 4 (a)

nationality or political views.<sup>91</sup> The complexity of the definition of a refugee under the IRO Constitution was exacerbated by using the collective approach to the refugee definition that prevailed during the League of Nations period. It included individualised elements that increasingly came to the fore in the UN approach.<sup>92</sup>

The IRO Constitution furthermore showed some changes in the perception of the problems related to displaced persons and how to solve them. Thus, it declared that in the case of displaced persons, “the main task ... is to encourage and support in every possible way their early return to their countries of origin”.<sup>93</sup> The above statement did not, by any means, imply a prohibition on the resettlement of displaced persons but was an additional, albeit non-preferred, solution. Indeed, the IRO Constitution states that:

“genuine refugees and displaced persons should be assisted by international action, either to return to their countries of nationality or previous residence, or to find new homes elsewhere under the conditions provided for in this Constitution; or, in the case of Spanish republicans, to settle temporarily to enable them to return to Spain when a democratic regime replaces the current phalangist regime.”<sup>94</sup>

In presenting repatriation as the preferred solution for displaced persons, the Western Allies did so under pressure from the Soviet Union or Yugoslavia and some of the tensions of the first Cold War period.<sup>95</sup> Nevertheless, they succeeded in partially resisting this pressure; they did so by detailing in the UN Constitution and Resolution A/45 of the UNGA the circumstances in which “persons who have become the subject of the Organization’s interest”<sup>96</sup> had the right to raise a “legitimate objection to their repatriation”, and they had to do so “firmly, completely freely and after receiving full knowledge of the facts, including relevant information from the governments of the countries of which they are nationals or in which they were previously habitually resident.”<sup>97</sup> However, only an objection

<sup>91</sup> IRO Constitution, Annex I, Part I, para 4 (c)

<sup>92</sup> IRO Constitution, Annex I, Part I, Section A.

<sup>93</sup> IRO Constitution, Annex I, *Definitions. General Principles*, para b.

<sup>94</sup> IRO Constitution, preamble, sentence 1.

<sup>95</sup> See *Refugees and Displaced Persons. Report of Third Committee, A/265*, 13 December 1946; available at: <https://www.unhcr.org/publications/refugees-and-displaced-persons-report-third-committee> [accessed: 18.07.2023].

<sup>96</sup> IRO Constitution, Annex I, Part I, Section C, para 1, with some obvious exceptions.

<sup>97</sup> IRO Constitution, Annex I, Part I, Section C, para 1.

that met the constitutional conditions of admissibility was practical. The requirements for effectiveness were grouped into three categories. The first category included an objection for “persecution or fear of persecution based on legitimate grounds of race, religion, nationality or political opinion, provided that such views are not contrary to the principles of the United Nations as set out in the preamble to the UN Charter”. In contrast, the second required the political nature of the objection to be deemed “legitimate” by the Organisation, as set out in paragraph 8(a)(1) of the report of the Third Committee of the General Assembly adopted by the Assembly on 12 February 1946.<sup>98</sup> Finally, the third type of objection could be raised by victims of the Nazi or fascist regimes, regimes that had taken sides with them in the Second World War, or Quisling or similar authorities that had assisted them in their struggle against the United Nations, and persons who had been recognised as refugees before the outbreak of the Second World War, on the grounds of race, religion, nationality or political opinion, and be raised based on compelling family reasons arising from past persecution, or compelling reasons relating to disability or illness.<sup>99</sup>

It means that the IRO and its Constitution went a long way towards affirming the requirement that repatriation be voluntary. Only then could it serve to solve the refugee ‘problem’. Importantly, this requirement was not merely theoretical but was a principle that ultimately guided the IRO’s work on resettlement issues. While the IRO constitution did not explicitly identify the right to choose between repatriation and resettlement as a human rights issue, emerging concerns about respect for human rights and free choice implicitly addressed the IRO’s approach to addressing the refugee ‘problem’, foreshadowing the subsequent framework of durable solutions adopted in the UNCHR mandate.

Thus, in light of the above, the thesis that the IRO’s Constitution favoured repatriation over resettlement to solve the “problem” of those who refused to leave the occupation zones seems debatable.<sup>100</sup> On the other

<sup>98</sup> See Refugees and Displaced Persons. Report of Third Committee, A/265, 13 December 1946; available at: <https://www.unhcr.org/publications/refugees-and-displaced-persons-report-third-committee> [accessed: 18.07.2023].

<sup>99</sup> IRO Constitution, Annex I, Part I, Section C, para 1 (a).

<sup>100</sup> The USSR and the Eastern Bloc states succeeded in introducing some of their ideological proposals into the text – an example among the general principles of the IRP Annex I. *Definitions. General Principles* point (e) states that “The organisation should take care that its assistance is not used by persons for whom it is obvious that they do not wish to return to their countries of origin because they prefer inaction to facing the difficulties of assisting in the reconstruction of their countries, or



hand, the IRO's freedom to carry out the tasks described was limited by the general principle that "the Organization should endeavour to perform its function in such a way as to avoid disrupting friendly relations between peoples."<sup>101</sup> This principle referred primarily to the IRO's actions about persons who refused repatriation to their country of origin.

The IRO was dissolved by Resolution 108, adopted by the IRO General Council at its 101st meeting on 15.02.1952, and effectively ceased its activities on 30.09.1953. It was replaced by the UNHCR, established in Geneva in January 1951 as part of the UN system,<sup>102</sup> and by the Provisional Intergovernmental Committee for the Movement of Migrants from Europe (PICMME). This Committee was created on the initiative of the Belgian and US governments in December 1951 and later transformed into the Intergovernmental Committee for European Migration (ICEM) and, in 1989, into the International Organisation for Migration (IOM) since 2016. IOM has the status of a UN-specialised agency.<sup>103</sup>

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## **Concluding remarks**

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The choice of particular issues in the analysis conducted was subordinated to answering the two fundamental research questions formulated in the introduction, namely to determine what circumstances led the international community to incorporate the concept of resettlement into the emerging regime of international refugee protection between 1921 and 1946, and whether the process of implementation of this concept by the international community makes it possible to qualify resettlement as a viable and effective instrument of the global refugee protection model, and in particular as a means of achieving 'durable solutions to the refugee situation.

Concerning the first question, it seems clear from the analysis that between 1921 and 1946, refugeeism was strongly linked to international and non-international armed conflicts, including, in particular, the cataclysmic

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by persons who intend to settle in other countries for purely economic reasons, thus qualifying as emigrants".

<sup>101</sup> IRO Constitution, Annex I, *Definitions. General Principles* (g).

<sup>102</sup> See. [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=III-2-10&chapter=3&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=III-2-10&chapter=3&clang=_en) [accessed 27.06.2023].

<sup>103</sup> Following the decommissioning of the IRO, the ICEM helped resettle more than 406,000 DPs in South America.

mic events of the two world wars. Its scale made it a global issue as to its nature and scale. It has been confirmed by the IRO Constitution stating that “genuine refugees and displaced persons constitute an urgent problem that is international in scope and character.”<sup>104</sup>

As a result of this significant change, the international community’s political and institutional reorganisation has taken place. Under the auspices of the international organisations, the League of Nations and the UN, it built the institutional framework for a system of international refugee protection, and the topic of international refugee protection became a permanent priority on the agenda of the League of Nations and the UN. It was not a deliberate action but was forced by specific situations. For example, soon after its creation, the League of Nations had to deal with the problem of two million Russians who had been displaced and deprived of their citizenship by Soviet Russia and were looking for a place to live and work in Europe and Asia. Subsequent inter-war developments, particularly in the 1930s, and the resulting influx of refugees led to the expansion of the institutional framework for refugee protection under the auspices of the League of Nations.

However, the UN faced more severe challenges than the League of Nations: an estimated 53 536 000 people were displaced by the Nazis between 1939 and 1945. After the end of hostilities, most of these people returned to their homes or to what was left of them after the turmoil of war. However, it is estimated that more than one million people chose not to return to their country, mainly for political reasons. They are referred to in the literature as the ‘last million’. The dispute between recent allies over resolving the situation of these last DPs has been a ‘repatriation vs. resettlement’ debate, with the latter option considered the preferred option by Western countries and the former by Eastern Bloc countries. It led to both the creation and termination of the IRO.

However, repatriation, which the Eastern Bloc countries managed to enshrine in the IRO constitution as one of the solutions to DPs, was not implemented on a large scale. It should be stressed again that the fact that mass repatriation did not occur was not due to a lack of operational capacity on the part of the IRO but to fundamental differences between the authorities of the various occupation zones in their approach to DPs and their subsequent fate. Besides, the preference for repatriation on the part of the Soviet

<sup>104</sup> IRO Constitution, preamble, sentence 1.

Union had specific objectives, for the authorities of the Soviet occupation zone had a stringent policy towards DPs. Soviet DPs were included in the repatriation procedure quickly and without exception, with liberated prisoners of war and forced labourers not referred to by the Soviets as DPs but as repatriates. Instead of camps for DPs, the Soviet People's Commissariat of Internal Affairs (*Narodnyj komissariat vnutriennich del*, NKVD) set up filtration camps for them, where NKVD officers were tasked with catching people who had collaborated with the Nazis during the war effort. As many as 42% of the repatriates did not pass these checks, and as a result, they were not allowed to return home but were sent to forced labour camps, where thousands died due to the very harsh conditions.

Thus, in answering the second question, it should be noted that implementing the concept of resettlement and considering it as a durable solution was highly complex. It intertwined humanitarian considerations with the political and economic interests of individual states and political-military blocs. Besides, the fact that almost half a million refugees were handed over to UNHCR when the IRO's mandate ended proves that the process in question had to continue and is certainly not closed.

### **Abstract**

There are many approaches to solving the problems of millions of refugees and asylum seekers in current debates. The United Nations High Commissioner for Refugees distinguishes three durable solutions for refugees. The first is voluntary repatriation, the second is local integration, and the third is resettlement in a third country when returning home or remaining in the host country is impossible. The purpose of this article is to attempt to answer two general questions. First, under what circumstances did the international community integrate the resettlement concept into the evolving international protection system between 1921 and 1946? Second, does the operationalisation of the concept allow resettlement to be considered a viable and effective instrument of the contemporary model of international refugee protection and, in particular, as a means of achieving 'durable solutions' to refugee situations?

The research used a historical-legal method. It has made it possible to identify which historical events played a crucial role in the development of the institution of resettlement, which elements of a given political and social reality determined

its normative model and mode of application, or what shape the institution took at ‘historical turning points’ such as the First and Second World Wars or the so-called Cold War. The above findings are based on the positions of the leading international humanitarian organisations on the refugee ‘problem’ and how to deal with it. These included the League of Nations commissions and committees and the Intergovernmental Committee on Refugees, followed by the United Nations Relief and Reconstruction Administration and the International Refugee Organisation. Consistently the article is divided into two parts. The first covers the period of the League of Nations and the first attempts to implement the idea of resettlement as a permanent solution to the plight of refugees; the second deals with initiatives to address the ‘problem’ of refugees and displaced persons after the end of the Second World War.

**Keywords:** resettlement, durable solutions, League of Nations, Intergovernmental Committee on Refugees, United Nations, United Nations Relief and Rehabilitation Administration, Preparatory Commission of the International Refugee Organisation, International Refugee Organisation, the United Nations High Commissioner for Refugees.

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