## Table of Contents

1	Introduction			
1.1	Resettlement in the EU context 1			
1.2	US resettlement policy as point of reference 2			
1.3	Relevance of the topic 2			
	Methodology and structure			
2	The concept of refugee resettlement entrenched in international and EU law			
2.1	Respo	nsibility sharing through resettlement	27	
	2.1.1	Responsibility sharing at the international level: left to the discretion of states	28	
	2.1.2	Responsibility sharing at the EU level: mandatory relocation failed	30	
	2.1.3	Preliminary conclusion	32	
2.2		ing resettlement	33	
	2.2.1 2.2.2 2.2.3	The United Nations High Commissioner for Refugees The European Union The United States of America Preliminary conclusion	33 40 43 44	
2.3	Historical background and development of resettlement (with focus on the US)  4			
		The beginning of systematic and organized resettlement	44	
		Resettlement under the UNHCR	47	
	2.3.3	Adjustments in US immigration law	48	
		The Hungarian exodus	49	
		Towards a more diverse US immigration policy	5	
		The mechanized resettlement of Vietnamese	52	
		The 1980 Refugee Act	54	
		The disintegration of Yugoslavia	54	
	2.3.9	The decade of voluntary repatriation and		
		reconceptualization of resettlement	55	
	2.3.10	Convention Plus	57	



	2.3.11 The terrorist attacks of 9/11			58
	2.3.12	Harmor	nization efforts	58
	2.3.13 Regained recognition of resettlement			59
	2.3.14 The 2015-2016 refugee crisis			60
	2.3.15	The Tru	mp administration	61
	2.3.16	Afghan	mass displacement and the revival of parole	
		power		64
			ts towards private sponsorship	66
	2.3.18	Prelimi	nary conclusion	67
2.4	Functions of and motives behind resettlement			69
	2.4.1	Functio	ns	70
		US mot		72
		EU mot		74
	2.4.4	Prelimi	nary conclusion	75
2.5	Actors	in the r	esettlement process	77
		States		77
	2.5.2		Nations High Commissioner for Refugees	79
			Legal basis, mandate and funding	79
		-	The UNHCR and the US	81
			The UNHCR and the EU	82
			Criticism and shortfalls	83
	2.5.3		on-state actors	84
			Voluntary resettlement agencies in the US	85
		2.5.3.2	From state-orientation to greater NGO-	
			involvement in Europe	87
	2.5.4		ment beneficiaries	89
		2.5.4.1	Refugee and subsidiary protection status in the	0.0
		2542	EU US of control of the	90
			US refugee definition	92
	255		Climate migrants	93
	2.3.3	Prenmi	nary conclusion	94
3	The in	ternatio	nal law framework for resettlement	95
3.1	The re	levant h	uman rights and refugee law framework	95
3.2	Extraterritorial application			96
			ritorial application of human rights	97
			Legal standard	98

			regional courts and UN Treaty bodies	100	
	3.2.2 Extraterritorial application of refugee law				
		.3 Preliminary conclusion		111	
3.3	Substantive rights			111	
	3.3.1	Non-re	foulement	111	
		3.3.1.1	Human rights	115	
			3.3.1.1.1 Art 3 para 1 CAT	115	
			3.3.1.1.2 Arts 6 and 7 ICCPR	117	
			3.3.1.1.3 Art 37 lit a CRC	119	
			3.3.1.1.4 Arts 2 and 3 ECHR	120	
		3.3.1.2	Refugee law	123	
		3.3.1.3	Concluding remarks	125	
	3.3.2	Right to	o leave and to seek asylum	127	
		3.3.2.1	Human rights	127	
		3.3.2.2	Refugee law	130	
		3.3.2.3	Concluding remarks on the right to leave and to		
			seek asylum	132	
	3.3.3	Procedi	ural rights	132	
			Human rights	132	
		3.3.3.2	Refugee law	134	
			Concluding remarks	134	
	3.3.4	Non-di	scrimination	135	
		3.3.4.1	Human rights	136	
			Refugee law	140	
			Concluding remarks	140	
	3.3.5	Recepti	on conditions	141	
			Human rights	142	
			Refugee law	144	
			Concluding remarks	145	
	3.3.6	Naturalization		145	
			Human rights	146	
			Refugee law	147	
			Concluding remarks	148	
	3.3.7	Prelimi	nary conclusion	148	
3.4	Responsibility for internationally wrongful conduct in relation				
	to resettlement policies 150				

3.4.1 Responsibility for complicity with the country of (first)

refuge

3.2.1.2 Relevant ECtHR case law, decisions of other

	3.4.2	Responsibility for and in connection with international			
		organizations	156		
		3.4.2.1 Dual attribution	161		
		3.4.2.2 Derivative responsibility	162		
	3.4.3	Attribution of conduct of other non-state actors and			
		private actors	166		
	3.4.4	Preliminary conclusion	168		
4	Resett	lement to the EU	170		
4.1	EU co	mpetence and its limits	170		
	4.1.1	Rules of competence	174		
		4.1.1.1 Centralized assessment	175		
		4.1.1.2 Extraterritorial processing	178		
		4.1.1.3 Cooperation with third countries	179		
	4.1.2	Principles governing the exercise of EU competences	181		
		4.1.2.1 Solidarity and fair sharing of responsibility	181		
		4.1.2.2 A policy in accordance with international refugee			
		law and international and European human			
		rights	187		
		4.1.2.3 Consistency	191		
	4.1.3	Preliminary conclusion	194		
4.2		tion of an EU resettlement policy	194		
	4.2.1	Intergovernmental rapprochement by three Conventions 1			
		First attempts on solidarity and responsibility sharing	198 200		
		0 1			
		Protection in the region			
	4.2.5	Proposal for extraterritorial processing and third-country			
		partnerships	204		
		A Joint EU Resettlement Program	205		
		Global Approach to Migration and Mobility (GAMM)	206		
		The Lisbon Treaty, mutual trust, and Dublin III	207		
		The 2015 European Resettlement Scheme	208		
		EU-Turkey Statement	210		
	4.2.11	The Proposal for a Union Resettlement Framework	213		
		4.2.11.1 The legal nature of the Proposal	214		
		4.2.11.2 Resettlement definition	215		
		4.2.11.3 Criteria to determine countries of (first) refuge	215		
	1212	4.2.11.4 Eligibility criteria Current resettlement policy	216		
	4.2.12	Current resertiement policy	218		

	4.2.13 Preliminary conclusion			
4.3	Institutional involvement in resettlement			
	4.3.1	Support through funding	223	
		Support through agencies	226	
		Accountability and legal protection	232	
		Preliminary conclusion	235	
4.4	1.4 Analysis: Status quo of EU resettlement			
		Resettlement processing – national or EU level? Implementation of the principle of solidarity and fair sharing of responsibilities – discretion or mandatory	236	
		quota?	237	
	4.4.3	A comprehensive CEAS – protection or migration		
		management tool?	238	
_	Tr.I	1	243	
5	I ne re	e resettlement process		
5.1	European and US resettlement practice in comparison			
5.2	5.2 Selection		244	
	5.2.1 Selection procedures and practices of the UNHCR and			
		EUMS	244	
	5.2.2	US procedure and practice	251	
	5.2.3	Analysis	255	
		5.2.3.1 Referral entities	256	
		5.2.3.2 Status determination	257	
		5.2.3.3 Resettlement of prioritized groups	259	
		5.2.3.4 Family reunification	260	
		5.2.3.5 Potential to integrate	265	
		5.2.3.6 Firm resettlement	268	
		5.2.3.7 Exclusion grounds	269	
		5.2.3.8 Security screening and health checks	270	
		5.2.3.9 Right to appeal the selection decision	272	
		5.2.3.10 Resettlement contract	273	
	5.2.4	Preliminary conclusion	274	
5.3	Pre-departure, arrival and placement		275	
		Programs of EUMS	276	
		US program and practice	279	
	5.3.3	Analysis	281	

5.3.3.1 Pre-departure orientation5.3.3.2 Placement

		5.3.3.3	Cooperation with local governments and	
			receiving communities	286
		5.3.3.4	Reception conditions	288
	5.3.4	Prelimi	inary conclusion	288
5.4	Long-term integration and naturalization			289
	5.4.1	EU law	and practice of EUMS	290
	5.4.2	US law	and practice	297
	5.4.3	Analysi	s	304
		5.4.3.1	Temporary approach versus long-term	
			integration	304
		5.4.3.2	Economic benefits	305
		5.4.3.3	Harmonization of permanent residence status	307
		5.4.3.4	Naturalization	309
		5.4.3.5	Re-resettlement	309
	5.4.4	Prelimi	nary conclusion	311
6	Concl	usion		312
Bib	liograp	hy		319