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Asylum Seekers' Labor Rights in the Republic of Serbia

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INTRODUCTION

Theatre director, writer and poet Jenifer Toksvig wrote *What They Took With Them* in 2015, inspired by stories and first-hand testimonies from refugees forced to flee their homes and the items they took with them.

„Wallet (empty), wallet, wallet, money, coins, pennies. Torch, whistle, laser pointer - seen more clearly out at sea. Three bags. One bag. Rucksack. Trunk. Yellow plastic bag for papers, sellotaped till waterproof and yellow cards for refugees, and national ID. Army service record and an information booklet from the government. Diploma: electronics. Certificate from high school. Passport, if you've got one you can take. Expensive one-way ticket: fake. Flag. National flag. Flash drive, laptop, phone. [...] Housekeys. Housekeys. Housekeys. Notebook and pen. We have suffered so much. I want to study so that I can become someone again. Painkillers, painkillers, painkillers, sea sickness tablets. Walking stick, walking stick, white cane or crutches. Wheelchair. Syringes, to use in an emergency. Bandages, bandages, toiletries, toothpaste. Toothbrush, and toothpaste, nail clipper, comb. Shampoo and hair gel. Barber equipment and sunscreen and ointment for sunburns and tablets for son's epilepsy: one every day.“¹

My thesis discusses the labor rights of asylum seekers in the Republic of Serbia. My interest in migration began back in 2015/2016 when I volunteered for a domestic NGO situated near the former railway station, at the peak of the so-called refugee crisis. The topic of labor came to my attention at a later stage, as I was working, once again, with asylum seekers in Serbia and visited, with them, the National Employment Service several times. This was around the same time as the adoption of the Amendments to the Foreign Nationals Employment Act, which would facilitate their labor market integration.

Bridging theory and practice, I divide the thesis into three parts. Part 1 is dedicated to theory. In this part, I discuss different approaches to analyzing the topic and explain how and why I chose the methods for analysis. I discuss the nature of labor rights, asylum, migration and community, different sources of protection, and so on. Part 2 is dedicated to the national context. I analyze the protection of labor rights of asylum seekers in the Republic of Serbia.

¹ „What they took with them“ UNHCR, available at: <https://www.unhcr.org/uk/what-they-took-them>

Here, I show how labor rights protection works (or does not work) in practice. I analyze the different elements that influence labor market integration in Serbia. The picture would not be complete if I left out the voices of the actors that influence it. That is why Part 3 is dedicated to interviews: one with an asylum seeker, one with a representative of the non-governmental sector, and one with a state representative.

PART 1

1. METHODOLOGICAL FRAMEWORK

1. 1. Statement of the problem

When the Republic of Serbia adopted its first Asylum Act back in 2008, lawmakers did not include any provisions to protect asylum seekers' labor rights. The first step toward securing these rights was the adoption of the Foreign Nationals Employment Act in 2014, followed by the Foreigners Act and the Asylum and Temporary Protection Act in 2018. The most recent amendments to the Foreign Nationals Employment Act and the Foreigners Act represent significant progress in securing the labor rights of asylum seekers in Serbia. In brief, the amendments reduced the period asylum seekers in Serbia must wait before having access to the labor market from 9 to 6 months and simplified the process for asylum seekers to obtain these rights. This research focuses on the realization of labor rights for asylum seekers in Serbia. Specifically, I will analyze the enablers and barriers to realizing asylum seekers' labor rights in Serbia.

1. 2. Methodology

Hundreds of thousands of migrants and refugees from Africa and the Middle East flooded the island of Lampedusa in 2011 after the Arab Spring. Waves of demonstrations that began in Tunisia spread to neighboring countries and led to the fall of governments in Tunisia, Libya, and Yemen. The number of refugees from the Middle East rose to over 5 million in March 2017. According to the United Nations High Commissioner for Refugees, as of May 2023, more than 110 million people have been forcibly displaced worldwide as a result of persecution, conflict, violence, or human rights violations. By the end of 2022, Europe had hosted one in three refugees worldwide, or 36%. The number of refugees hosted in Europe rose from 7 million at the end of 2021 to 12,4 million at the end of 2022.²

Quantitative methods reduce people to numbers. However, the issue I am dealing with is unquantifiable. That is why the research method must be qualitative. A qualitative approach enables me to explore questions such as: a) what human rights are, b) what meaning people

² „Refugee Statistics,“ USA for UNHCR, <https://www.unrefugees.org/refugee-facts/statistics/>

attribute to social phenomena, and c) how they make sense of the world. The study aims to describe a social phenomenon. More specifically, it aims to understand the factors that enable or hinder labor market integration of asylum seekers in Serbia. Achieving this requires understanding the nature of labor rights (which is open to interpretation), examining the Serbian asylum system and its effectiveness (which can be highly subjective), and ultimately evaluating it (which can also be highly subjective).

This, however, poses a significant challenge. A qualitative theory can help explain the *what* and *why* of a phenomenon, but it might struggle to answer the *so-what* part of the question. While qualitative research can indeed provide a rich, in-depth understanding of a social phenomenon, the question is whether these insights can be applied beyond this unique situation. Since these findings are not empirically tested, what guarantees does one have of a correlation between the variables? Finally, if a qualitative recount of a social phenomenon, such as fleeing war or persecution, provides us with an understanding of said phenomenon, what can it tell us about its broader impact, its potential for change, and so on?

Given the constraints of a qualitative approach, where empirical validation is not an option, I must underpin it with a testable framework. A normative approach has its merits on a theoretical level, but it is not useful on its own in our socially complex reality, at least not without a more testable backdrop to underpin and support it. I find such support in an institutional framework.

An institutional approach shifts the focus from introspective accounts to examining the rules, norms and roles that shape social action. By focusing on the formal rules, it addresses the dimensions of our socially complex reality that qualitative approaches cannot fully explore. Such an integrative approach provides me with sufficient leeway to keep the discussion on the labor rights of asylum seekers in the Republic of Serbia as open to interpretation as possible, while maintaining academic rigidity.

To empirically test the hypotheses, I will refer to Ortlieb and Knappert's cross-country comparative perspective, which sets up a set of parameters for successful labor market integration of refugees. There are three sets of factors that bolster the labor market integration

of refugees: 1) regulative factors, 2) cognitive factors, and 3) normative factors.³ Apart from theorizing about the nature of labor rights and social justice, Ortleb and Knappert's analysis forms the theoretical backbone of my thesis. To this end, I introduce the so-called Ortleb-Knappert Test. The Ortleb-Knappert Test aims to see how these dimensions interact to create the conditions for labor market integration of refugees.

As mentioned, the picture is not complete without the voices of the actors who make up the process. The three groups are: asylum seekers, civil society, and the State. For this reason, I am conducting three short interviews: one with a representative of each of the three groups.

The asylum seeker's perspective is the most important one, as they are the ones being most directly affected by labor market integration policies, which is what my text is essentially about.

Asylum seekers are not the only actors in the process of their labor market integration. The state, with its laws, regulations, and judges, plays an important part too. State bodies and authorities have the final say in an asylum procedure. This is why it is important to hear their views on labor market integration.

Many different non-governmental organizations aid asylum seekers on their journey to successful labor market integration in Serbia. A voice of the civil sector provides not only a fresh perspective, but also a counter-balance to the state's point of view.

1.3. Research question and hypotheses

The main research question is: How effectively does the Republic of Serbia protect the labor rights of asylum seekers?

Asylum seekers in Serbia face various *enablers* and *barriers* to labor market integration. Integration is achieved through the joint forces of governmental and non-governmental aid. The Constitution, for example, stipulates that everyone shall have the right to work and to

³ Renate Ortleb and Lenne Knappert, "Labor Market Integration of refugees: An institutional country-comparative perspective," *Journal of International Management*, 29(2), 101016, (2023): p. 5

choose their occupation freely, and the Asylum Act, as well as the Foreign Nationals Employment Act, regulate this matter further.

The migration system in Serbia is not efficient on its own, so it utilizes the capacity of non-governmental organizations and civil society to provide services in accordance with the law and international standards. In some European countries, civil society organizations play a significant role in the migration system, particularly in providing services. Civil society and non-governmental organizations play a huge part in the integration of asylum seekers in the Republic of Serbia.

Asylum seekers need support in exercising their labor rights. This can come in the form of institutional aid and, where institutional aid is lacking, from civil society organizations, non-governmental organizations, and the private sector. The first general hypothesis is formulated as follows:

H1: Asylum seekers in the Republic of Serbia have various enablers at their disposal in exercising their labor rights

Asylum seekers in Serbia can expect institutional aid in exercising their labor rights. The Constitution of the Republic of Serbia stipulates that everyone shall have the right to work.⁴ The labor rights of asylum seekers are further provided by the Asylum and Temporary Protection Act and the Foreign Nationals Employment Act. Institutional aid is envisioned, among others, through the Decree on the Manner of Involving Persons Granted Asylum in Social, Cultural and Economic Life. The Decree envisions the inclusion of asylum seekers to be achieved through, among others, assistance in accessing the labor market.⁵ To conclude:

H1a: Asylum seekers have various institutional enablers to exercise labor rights in Serbia.

⁴ Constitution of the Republic of Serbia, Article 60, available at: <https://www.paragraf.rs/propisi/constitution-of-the-republic-of-serbia.html>

⁵ Decree on the Manner of Involving Persons Granted Asylum in Social, Cultural and Economic Life, Article 1, available at: https://kirs.gov.rs/media/uploads/Uredba_o_nacinu_ukljucivanja_u_drustveni_kulturni_i_privredni_zivot_lica_kojima_je_odobreno_pravo_na_azil.pdf

As mentioned, the migration system in Serbia is insufficient on its own, so it utilizes the capacity of civil society organizations to provide services in accordance with established standards. There is always some kind of dialogue between public institutions and civil society organizations regarding support for asylum seekers. The United Nations High Commissioner for Refugees (UNHCR), the UN's refugee agency, works closely with the Commissariat for Refugees and Migration of the Republic of Serbia (CRM), the Ministry of Labor, Employment, Veteran and Social Affairs (MoLEVSA), the National Employment Service (NES), and other state bodies and authorities. To conclude:

H1b: Different public and private stakeholders are engaged in dialogue to support asylum seekers in the Republic of Serbia.

The UNHCR plays a significant role in enabling people in need of international protection around the globe to exercise their human rights (and, in this context, their labor rights). The UNHCR does this through cooperation with the competent state bodies and authorities, the civil and the private sector. The Belgrade Center for Human Rights (BCHR), the Center for Research and Social Development IDEAS, and other civil society and non-governmental organizations, offer free legal assistance to asylum seekers. Many more international organizations are operating in Serbia, such as the Red Cross of the Republic of Serbia and Catholic Relief Services, an international humanitarian agency of the Catholic community. To conclude:

H1c: International and local non-governmental organizations and civil society organizations play an important role in enabling asylum seekers to exercise their labor rights in Serbia.

The private sector also plays a unique role in labor market integration. There are numerous instances of social entrepreneurship and internships for asylum seekers. For example, in 2021, Ikea launched the „Refugee Internship Program,“ a three-month internship in cooperation with the UNHCR.⁶ Another example is *Pizza Laganizza*, a pizza restaurant in the heart of Belgrade

⁶ „Podrška izbeglicama – nove saradnje dobrodošle, uključujući privatni sektor,“ UNHCR Srbija, available at: <https://www.unhcr.org/rs/19743-podrska-izbeglicama-nove-saradnje-dobrodosle-ukljucujuci-privatni-sektor.html>

that employs asylum seekers, refugees, and displaced persons.⁷ Yet another example is *Women on the Way*, „a social start-up that creates unique design while employing women refugees in Serbia.“⁸ There are many more. To conclude:

H1d: The private sector plays a significant role as an enabler for asylum seekers in exercising their labor rights in Serbia.

While asylum seekers have various enablers to exercise their labor rights, they also face considerable barriers. Asylum seekers have to gather the proper documents and apply for asylum. This is no easy feat. The process is long and expensive. The law is not on their side either, as they are barred from entering the labor market for a considerable length of time. The location of reception centers in remote areas where unemployment rates are already high hinders their integration. The second general hypothesis can be formulated as follows:

H2: Asylum seekers in the Republic of Serbia face various barriers to exercising their labor rights.

The asylum procedure is, primarily, a legal process. Asylum seekers must apply for asylum and go to their designated asylum center, where they are to wait at least six months, which tends to be longer, before they can be legally permitted to work in Serbia. Even though the Amendments to the Foreigners Act and the Foreign Nationals Employment Act made the process of obtaining a work permit easier, obtaining such a permit is still a serious barrier. There are concerns that Serbian lawmakers did not focus enough on labor rights, and that the Constitution does not pay sufficient attention to this category of rights.⁹ The first special hypothesis regarding barriers can be formulated as follows:

H2a: Asylum seekers face various legal barriers in exercising their labor rights.

⁷ “Pizza Laganizza - Pizzeria, the Working Space for Refugees and Asylum Seekers,” Global Compact on Refugees, available at: <https://globalcompactrefugees.org/good-practices/pizza-laganizza-pizzeria-working-space-refugees-and-asylum-seekers>

⁸ Women on the way, available at: <https://womenontheway.co/about-us/>

⁹ Mario Reljanović, „Pravo na rad u Ustavu Republike Srbije,“ *Constitutio Lex Superior: Sećanje na profesora Pavla Nikolića*, ed. Oliver Nikolić, Vladimir Čolović (2021), 253-257

Asylum seekers also face administrative barriers in exercising their labor rights in Serbia. As mentioned above, they ought to obtain various kinds of documents and pay administrative taxes. Furthermore, asylum seekers in Serbia are restricted from accessing the labor market immediately upon arrival. Until recently, asylum seekers could not be legally employed for 9 months after submitting an asylum application. The recent Amendments have shortened this period to 6 months, but this is still a lot. This inevitably forces some asylum seekers to seek employment in the so-called “grey market,” making them more likely to fall victim to exploitation. The second special hypothesis regarding barriers to labor market integration can be formulated as follows:

H2b: Asylum seekers face various administrative barriers in exercising their labor rights.

Socioeconomic factors can act as a significant barrier to exercising labor rights. Exercising labor rights as a foreigner has a lot to do with the economic interests, goals and policies of a state. On the one hand, Serbia is not facing a large number of asylum seekers, as is the case with some other European countries. On the other hand, as the Belgrade Center for Human Rights points out, there is a general shortage of labor in the Republic of Serbia. It certainly does not help that 4 out of 7 Asylum Centers, i.e. Tutin, Sjenica, Vranje, and Bogovođa, are located in remote areas, where unemployment rates are already high. The third special hypothesis regarding barriers to exercising labor rights can be formulated as follows:

H2c: Asylum seekers face various socioeconomic barriers in exercising their labor rights.

2. LITERATURE REVIEW

Instead of the usual broad-to-narrow approach to literature review, starting with a broader context and narrowing it down to a single problem, which is like building a pyramid, I am flipping the switch to a narrow-to-broad approach. This approach, which can be thought of as an inverted pyramid, can be more effective for several key reasons.

Primarily, it allows me to build a focused and precise argument from the ground up and build outwards. Such an approach establishes the relevance of my work early on. By prioritizing

issue over context, I answer the implicit question: *Why are you telling me this?* The context that follows becomes the *why* behind the problem.

Secondly, when I start from the narrowest point, every piece of literature I introduce must follow from the previous one. This not only provides for a clear structure but also gives me more „creative control“ over the whole process.

Thirdly, it shows I have mastered the topic I am exploring. By starting with a definition of the main issue, I demonstrate not only my understanding of the issue itself but also my grasp of how it fits into the broader context. Moreover, I cannot discuss the broader implications of a topic or issue if I am not familiar with its core elements in the first place.

2.1. The nature of labor rights

To paraphrase American poet Raymond Carver: What do we talk about when we talk about labor rights? According to Virginia Mantouvalou, labor rights are: „entitlements that relate specifically to the role of being a worker. Some of these rights are exercised individually and others collectively. They can include a right to work in a job freely chosen, a right to fair working conditions, which may encompass issues as diverse as a just wage or protection of privacy; a right to be protected from arbitrary and unjustified dismissal; a right to belong to and be represented by a trade union; a right to strike. These rights may be based on different foundations, such as freedom, dignity or capability.“¹⁰

Mantouvalou contends that there are three distinct ways to view labor rights as human rights. These are: a) the positivist approach, b) the instrumentalist approach, and c) the normative approach.

The positivist approach links labor rights to human rights based on their inclusion in legal instruments. But which rights, *specifically*, are labor rights? Those mentioned in the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and

¹⁰ Virginia Mantouvalou, „Are Labour Rights Human Rights,“ in *European Labour Law Journal*, Volume 3, No. (2012) 2: 152

Cultural Rights (IESCR), or the Declaration of the International Labor Organization? A positivist would not know.¹¹

The instrumentalist approach recognizes rights as such if they are promoted by state and international institutions or civil society organizations. In this way, the question of the nature of labor rights as human rights becomes an empirical one, and if the action to promote said rights is successful, it will be recognized and endorsed as a human right. Failing to do so will lead to abandoning said rights as human rights.¹²

The normative approach does not necessarily engage with positive law but examines this issue as a matter of moral truth. The normative approach examines what a human right is, and assesses, given this definition, whether certain labor rights are human rights. Mantouvalou argues that if labor rights are human rights, then certain standards of their protection must apply. If courts fail to protect labor rights, or if constitutions, or treaties, fail to incorporate them, then „the law should change in order to comply with human rights as normative standards.“¹³

Mantouvalou takes the normative approach. This understanding of labor rights speaks to me, and it will be the understanding upon which I will build my framework upwards. This, however, poses a challenge. As mentioned, a normative framework has its merits in explaining how things ought to be, but might struggle to answer the *so what* part of the question adequately. To show the relevance of normative theory, one must examine the alternatives and compare them.

While some, like Mantouvalou, contend that labor rights are human rights, others, like Pavlović, argue that labor rights hardly meet the criteria of human rights, given that many of them are not truly imperative. Namely, the right to work does not guarantee the right to employment, but merely the right to seek employment. Labor rights are, he continues, neither universally recognized as such nor are their norms strict enough. Finally, labor rights evolve

¹¹ *Ibid*, 152-155

¹² *Ibid*, 156-162

¹³ *Ibid*, 163-171

over time, while human rights are universal and timeless. The content and degree to which labor rights are realized change in line with the socio-economic development of a country.¹⁴

This position is taken by Collins. Per Collins, labor rights do not have some of the main characteristics of a human right. This line of argument concerns itself with applicability and universality. While labor rights have, indeed, found their way into legal documents, this is a response to socioeconomic conditions rather than a philosophical commitment. Even liberal theories, despite their potential justification, fall short due to their individualistic approach, which overlooks collective rights, such as the right to strike or engage in collective bargaining.¹⁵

The four key takeaways are that: a) labor rights do not present such a compelling moral imperative, b) labor rights do not apply to everyone or universally, but only to those in a working relationship, c) they are not „strict enough,“ in the sense that what will be regarded as fair pay or a reasonable holiday may vary based on what society can afford, whereas respect for human dignity must have a minimum standard, and d) human rights are universal and timeless, whereas labor rights may evolve over time.¹⁶

As mentioned above, this line of argument concerns itself with applicability and universality, and, in more ways than it cares to admit, aligns itself with the positivist and instrumentalist approaches. As Mantouvalou clearly points out, positivists recognize labor rights if they are included in legal documents — while Collins contends that labor rights have, indeed, found their way into legal documents, even though this does not make them human rights for some reason. Collins also states that what will be regarded as fair pay or a reasonable holiday may vary based on what society can afford, which echoes the instrumentalist point of view that human rights are recognized as such if the state, international institutions, or civil society promotes them. Finally, the understanding that labor rights have found their way into legal

¹⁴ Dejan Pavlović, “Утицај Европског суда за људска права на заштиту људских права радника у Србији” in *Српска политичка мисао*, no. 2 (2017), p. 283

¹⁵ Hugh Collins, „Theories of Rights as Justification for Labour Law“ in *The Idea of Labour Law*, (Oxford University Press, 2011), 137-155

¹⁶ *Ibid*, 142-143

documents *as a response to* socioeconomic conditions, posits him with the instrumentalists once again.

Moving away from the dispute on the nature of labor rights, one author takes a different approach. Most literature discusses the benefits and drawbacks of a normative approach to labor rights, but not whether human rights can provide an adequate normative foundation for labor law in the first place. Moreover, it is often unclear what philosophical conception of human rights is being used in the literature. Atkinson seeks to find out.¹⁷

Political theories of human rights might struggle to provide appropriate philosophical foundations for labor law. Firstly, if labor law has foundations in political theories of human rights, it must play the same political function as human rights, but labor law has its own distinct functions. Secondly, one can argue that political theories of human rights do not provide arguments for determining what counts as a human right.¹⁸

Naturalistic theories might be better suited to provide moral foundations. However, the issue with this type of theory is that it views human rights in a way that they do not necessarily have direct implications for labor law itself. This, writes Atkinson, can be easily connected with theories that see human rights as protecting essential aspects of well-being. While there are many ways in which naturalistic theories can have legal implications, it must be noted that these do not automatically follow from the idea that labor rights are human rights.¹⁹

This brings me back to my original stance that labor rights are ultimately human rights, but it also raises a fundamental question about the nature of a right. Legally speaking, rights have legal implications; they are powers and privileges granted and protected by a legal system. Philosophically, however, rights do not necessarily have to have direct legal implications. Human rights, from a philosophical perspective, are moral claims about how things ought to be. According to Collins, these rights should be granted to all human beings by virtue of their

¹⁷ Joe Atkinson, „Human rights as foundations for labour law,“ in: *Philosophical Foundations of Labour Law*, ed: Hue Collins, Gillian Lester, Virginia Mantouvalou (Oxford University Press, 2018), p. 6

¹⁸ *Ibid*, 6-15

¹⁹ *Ibid*, 15-23

humanity. The fact that human rights lack a specific legal framework or governing law does not diminish their status as human rights.

2.2. Citizenship and belonging

In a 2003 article in the *Borderlands Journal*, McMaster analyzes the tension between citizenship and human rights. Per McMaster, citizenship determines who is included and excluded from a nation. Asylum seekers often lack legal, political, or social identity, and are labeled as outsiders. Though asylum seekers are, indeed, willing to expand their identities to achieve the sense of belonging that comes with being a citizen, they are often left excluded, labeled as the ‘other’ and as not belonging. For asylum seekers, who can not exercise their rights, social citizenship is crucial for maintaining their basic human rights.²⁰

As McMaster points out, one of the most influential theories of citizenship was written by T. H. Marshall in 1949. According to Marshall, being a citizen means being treated as a full and equal member of society. There are three elements to citizenship: civil, political, and social. All people are free and, in theory, capable of enjoying human rights.²¹ That is, except when these rights are withheld or violated, which is what happens in the case of asylum seekers.

Returning to McMaster, civil and political rights are considered „negative“ rights, meaning that the state is required to refrain from meddling in them, whereas social, economic and cultural rights impose „positive“ obligations on states. Social rights are meant to give the formal status of citizenship a material basis, but asylum seekers „are denied rights until citizenship has been confirmed, and this is a violation of their human rights. The long-term detention of asylum-seekers in camps throughout the world, including Australia, is an act of exclusionary politics based on notions of citizenship, identity and belonging, or in this case ‘not belonging.’“²² McMaster writes that in liberal democracies, citizenship is based on two

²⁰ Don McMaster, „Asylum seekers and the politics of citizenship,“ in *Borderlands Journal*, vol 2, no 1. Adelaide 2003, web archive

²¹ T. H. Marshall, Tom Bottomore, *Citizenship and Social Class*, (Pluto Press), 1992, p.10

²² McMaster, „Asylum seekers and the politics of citizenship,“ web archive

distinct ideas: the right to vote and the right to work. Granting social rights to this category of people would „allow an appropriate and humane method of managing asylum seekers.“²³

2.3 Integration

At a 2022 Conference, human rights lawyer and recipient of the Nansen Award, Nikola Kovačević stated that granting asylum seekers the right to work right away would be a game-changer for this category of people. To fully grasp the implications of such an approach, one must look at other countries and their responses to labor integration. *Migrants and Refugees in Europe* by Baglioni and Calò does exactly that. The book compares legal frameworks, welfare regimes, labor market integration policies, the role of civil society organizations, the barriers and enablers, as well as the policy dimension of labor integration in seven different countries (The Czech Republic, Denmark, Finland, Greece, Italy, the United Kingdom, and Switzerland).²⁴

The first chapter discusses the impact of migrants, asylum seekers and refugees on the labor force, as well as their integration into the labor market. The chapter finds that migrants, asylum seekers and refugees will significantly improve the labor force of the economies of the host country. Research suggests that, regarding foreign employment, Switzerland ranks highest, followed by Italy, the United Kingdom and Greece, while Finland and the Czech Republic rank last. Age also plays a significant role, as does gender. Further research suggests that Switzerland and Greece have the highest labor-absorbing capacity in all sectors.²⁵

Among the various factors paramount to labor integration is the legal framework. To fully understand the Serbian case and the debates surrounding it, one must compare it with other cases. Veronica Federico analyzes the legal frameworks of the abovementioned seven countries.

²³ *Ibid*

²⁴ Simone Baglioni and Francesca Calò, ed., *Migrants and Refugees in Europe: Work Integration in Comparative Perspective* (Bristol: Policy Press, 2023), p. 3

²⁵ Christos Bagavos et al. „What do the numbers say about migration in European economies“ in *Migrants and Refugees in Europe: Work Integration in Comparative Perspective*, ed. S. Baglioni and F. Calò (Bristol: Policy Press, 2023), p. 12-30

Research suggests that foreign nationals are captured into legal categories that are ill-suited to favor their integration into society. Furthermore, such statuses hinder the fundamental human rights of this category of people. Asylum seekers experience time-related limitations in all countries except, until recently, Greece, where they could work as soon as they lodged their application. Now there is a six-month time limitation, as well as in Denmark. In Italy, asylum seekers can enter the labor market within 60 days, in Switzerland, after three months, and in the United Kingdom and the Czech Republic only after a year. In Finland, asylum seekers can start working after three months of lodging an application if they travel with the proper documents, or after five months if they do not possess such documents. In Denmark, asylum seekers are excluded from recognition of qualifications, whereas in Italy, they have to provide formal evidence. Language courses are compulsory for forced migrants in Denmark; for refugees and beneficiaries of subsidiary protection in Finland, and in Italy, some reception centers impose a duty on language course attendance. Vocational training for asylum seekers is only available in Denmark, while in the United Kingdom, it is offered to refugees, but not asylum seekers.²⁶

Writing on welfare regimes in Europe, Lillie, Bontenbal and Ndmo point out that Italy and Greece have inadequately developed policy frameworks to meet the challenges of migration. Large economic sectors are dependent on migrant labor working informally. Non-governmental organizations play a big role in the implementation of integration policy. The Czech migration regime is based almost entirely on ensuring a fully commodified and exploitable source of labor for its overheated labor market, and offers the weakest level of support for migrant integration. Non-governmental organizations have a significant role in offering integration services, such as legal counseling and language courses. The United Kingdom is similar in that anti-immigrant hostility is combined with an economic need for migrants. In contrast, labor market integration in Nordic countries is organized in a more top-

²⁶ Veronica Federico, „Legal Frameworks,“ in *Migrants and Refugees in Europe: Work Integration in Comparative Perspective*, ed. S. Baglioni and F. Calò (Bristol: Policy Press, 2023), p. 38-52

down manner with state actors taking centre stage, while non-governmental organizations are involved in their implementation.²⁷

By providing language courses and offering social, legal and administrative guidance, civil society organizations play an important role in the labor integration of asylum seekers. Numerato, Čada and Hořeni point out that civil society organizations often benefit from state financial and expert support, but also from horizontal networks with other civil society actors, which can serve as an important language resource. Civil society organizations foster social entrepreneurship. Furthermore, civil society organizations often offer a more personalized approach and broader networking capacity, and can support migrants both socially and culturally. On the other side, civil society can only do so much, and then there is the issue of their economic dependence. Additionally, civil society organizations can suffer from low participation of the very category they are meant to help, leading to what the authors describe as a ‘CSOs’ professional bubble.’ The capacity of civil society organizations can further be hindered by bureaucratization and institutionalization.²⁸

Social partners are a crucial component in labor market integration, and as Baglioni, Montgomery and Calò point out, in some cases, social partners are, along with political actors and institutions, well-established bargainers and negotiators on issues such as wages, working hours, employer/worker’s rights etc. In other countries, social partners occupy a less central position. But regardless of the influence and power they have in their societies, unions, employers’ organisations, and cooperatives or social enterprises are the social and economic actors through which migrants can gain employment.²⁹

Delving into everyday experiences of a range of migrants and hearing their voices, Isaakyan, Baglioni and Triandafyllidou discuss „how newcomers exercise agency to seize opportunities

²⁷ Nathan Lillie, Iona Bontenbal and Quivine Ndmoo, „Welfare regimes and labour market integration policies in Europe,“ in *Migrants and Refugees in Europe: Work Integration in Comparative Perspective*, ed. S. Baglioni and F. Calò (Bristol: Policy Press, 2023), p. 55-77

²⁸ Dino Numerato, Karel Čada and Karina Hořeni, „Civil society organisations and labour market integration: enablers in seven European countries,“ in *Migrants and Refugees in Europe: Work Integration in Comparative Perspective*, ed. S. Baglioni and F. Calò (Bristol: Policy Press, 2023), p. 83-98

²⁹ Simone Baglioni, Tom Montgomery and Francesca Calò, „Social partners: barriers and enablers,“ in *Migrants and Refugees in Europe: Work Integration in Comparative Perspective*, ed. S. Baglioni and F. Calò (Bristol: Policy Press, 2023), p. 101-117

offered by their country of settlement and mitigate the effect of the turbulent social, political and economic circumstances they are often met with.”³⁰ The chapter shows that the course of labor market integration does not often run smoothly. Specific events may disrupt or support it, depending on the circumstances and the migrants’ reaction to them. Labor market integration, the authors conclude, is a dynamic process.

2.4. Asylum, migration and community

Written way back in 2007, *Asylum, Migration and Community* by Sales still captures the complexities of the immigration policy in the twenty-first century. Even though the book does not concern itself with labor rights specifically, it perfectly summarizes the dualism between the needs (for protection) of refugees on one hand, and those of the host country on the other. Additionally, the book covers some other aspects of the asylum-migration-community nexus often found scattered around in other works.

Sales points out that immigration policy is concerned with exclusion and inclusion, and in an era of globalization and declining national power, it is central to constructions of national identity.³¹ Moreover, universal human rights, such as the right to asylum, are embodied in international treaties, but it is nation-states themselves that implement them.

As Sales points out, „[h]uman rights law is based on the freedom of individuals to move, but no state is compelled to accept specific migrants.”³² This naturally brings up the question of who is allowed to enter the country and under what circumstances. In the context of increased selectivity, irregular migration has become a major component of contemporary migration. It is a product of policies that deny entry, residence, or employment to certain categories of people. This includes what Sales calls “clandestine” border crossers.³³

³⁰ Simone Baglioni and Francesca Calò, ed., *Migrants and Refugees in Europe: Work Integration in Comparative Perspective* (Bristol: Policy Press, 2023), p. 8

³¹ Rosemary Sales, *Understanding Immigration and Refugee Policy: Contradictions and Continuities* (Bristol, Bristol: University Press, 2007), 3

³² *Ibid*, p. 13

³³ *Ibid*, p. 38

Refugees lose control over important elements of their lives, many spending time in refugee camps, often in protracted exile, unable either to return or to start a new life. Citing Sciortino, Sales writes that immigration policy is shaped without those subjected to its regulation, as migrants are by definition outside the polity, either physically beyond its borders or without the right to participate in the political process.³⁴

Immigration controls in Britain were introduced with the 1905 Aliens Act, which stated ‘that an alien had no claim to be received, or to remain, but could enter only as the interest of the state dictated.’ World War I saw an increase in immigration control with the passing of the Aliens Restriction Act of 1914, which distinguished between ‘friendly’ and ‘enemy’ aliens, and included powers to remove or restrain the movements of the latter. Conversely, as Sales points out, the British Nationality and Status of Aliens Act confirmed the common status of nationals across the empire and the *ius soli* principle of nationality. Emigration was encouraged through the 1922 Empire Settlement Act in order to maintain the British population of the empire.³⁵

British policy-making in the post-war period was dominated by the conflicting imperatives of attempting to maintain her superpower status through reconstructing her relations with the Commonwealth and the need for labor to help in post-war reconstruction. Simultaneously, as Sales points out, under Conservative leadership, the post-war period saw a diminution in the rights of citizens from the New Commonwealth.³⁶

Asylum reception also depended on foreign policy. For example, Hungarians escaping communism in 1956 were Europeans and therefore welcome, while the Vietnamese arriving in the 1970s were dispersed around the country to avoid concentrations of ethnic communities, but Chilean refugees were rejected by the Conservative government and accepted by Labor, and Bosnian refugees faced no opposition. As Sales rightfully points out, the trajectory of

³⁴ *Ibid*, p. 99

³⁵ *Ibid*, p. 131-136

³⁶ *Ibid*, p. 136-144

asylum policy in Britain has treated asylum seekers with suspicion, as a risk to society rather than people themselves at risk.³⁷

Britain's managed migration policy was seen as an attempt to modernize its immigration policy. Labour initially attempted to promote a more progressive agenda, recognizing migrants' contributions to economic and social life and cultural enrichment, but by 2005, the emphasis was on Britain's interests. What's more, in 2006, Home Secretary John Reid called on the public to report rogue bosses who employ illegal immigrants. In reality, however, nothing happened to them. Labour supported a business-friendly environment. The opening up of labor migration presented a wide range of opportunities to migrant workers but selectivity in the entry and rights of labor migrants meant that the impact has been uneven. Different categories of people were also treated differently. The government introduced the Highly Skilled Migrant Programme, built on qualification-based points that allowed those who met the criteria to enter the labor market, while also giving out work permits to foreigners if no local person is available, or replacing unskilled immigrants from outside Europe with workers from accession states.³⁸

The current systems of immigration and refugee policy are often based on a narrow range of policy objectives, such as border control, labor market management and social cohesion. As a result, these systems fail to consider the broader social, political, and economic factors that influence migration patterns. A more comprehensive and nuanced understanding of migration is needed to develop more effective immigration and refugee policies.

This book shows the complexity of migration policy. Although it does not address the labor rights of people in need of international protection, it serves as a good example of what the Ortlieb-Knappert Test encompasses. A complete breakdown of Serbia's migration policy exceeds the scope of my thesis, but an evaluation of key institutional variables within that policy, such as the role of the private sector and civil society organizations, demonstrates whether the institutional environment, supported by cognitive and normative dimensions, effectively supports the rights of people in need of international protection.

³⁷ *Ibid*, p. 144-152

³⁸ *Ibid*, p. 152-172

2.5. Rethinking refugee policy

In a 2015 article, Betts writes that the global refugee regime encompasses the rules, norms, principles and decision-making procedures that govern a state's response to refugees. The refugee regime comprises two sets of obligations: asylum and burden-sharing. We have ethical commitments to each other, and especially towards those in need, writes Betts, and poses the following question: „Are the 1.2 million refugees in Lebanon, a small country with a population of just over 4 million, too many? Are the few hundred thousand asylum seekers that Europe has taken in this year, who in theory could be divided among twenty-eight European Union member states, too many? What criteria would one need to use to determine what a 'fair share' of refugees means for a given state?“³⁹

When states fail to protect the fundamental human rights of their citizens, they are forced to flee their homes. It is the international community's role to ensure that those rights are respected. The challenge, however, writes Betts, is that States might argue that taking in refugees imposes economic, political and social costs and might opt to free-ride on the provision of protection by other countries. This is why international refugee law exists – to create a set of norms that countries have to follow regarding refugees.⁴⁰

In their seminal 2017 book, *Refugee: Rethinking Refugee Policy in A Changing World*, Betts and Collier argue that the time for rethinking the refugee system is long overdue. This has largely to do with refugee law, the UNHCR, the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, etc. Another set of reasons has to do with burden-sharing, moral duties, shared common humanity and solidarity. Indeed, humanitarian aid undermines dignity and autonomy. Long-term encampment is a denial of human rights and a waste of humanity – refugees have skills, talents, and aspirations. Why then, the authors wonder, not give them labor rights? Employment is critical to integration.⁴¹

³⁹ Alexander Betts, „The normative terrain of the global refugee regime,“ in *Ethics & International Affairs* 29.4 (2015): 365

⁴⁰ *Ibid.*, 363

⁴¹ Alexander Betts, Paul Collier, *Refuge: Rethinking Refugee Policy in a Changing World* (Oxford: Oxford University Press, 2017)

2.6. Interdisciplinary approach

To use another metaphor, I am not painting a fruit basket on a table with clearly visible fruits that anyone can count, point at, and recognize. I am painting a landscape with many different little details. There is going to have to be a house, but there are maybe some people who are walking towards that house. Who are they? To understand the full scope of an issue, one must include the voices that shape it.

O'Neill advocates for an interdisciplinary approach that uses critical social theory, participatory methods and arts-based research to understand the complexities of asylum, migration, and community. Adopting a holistic perspective is essential to address the challenges faced by these communities. By incorporating their voices and perspectives, one can gain a deeper understanding of their experiences.

The conceptual framework is embedded in the Frankfurt School. O'Neill argues that participatory methodologies offer „potential research methods that promote recognition, participation and inclusion in the production of knowledge and public policy. Such methodologies are also instrumental in helping to create spaces for these issues to be raised and dialogue to take place.”⁴² Quoting Castles, O'Neill points out that migration policies fail because policymakers refuse to see migration as a dynamic social process linked to broader patterns of social transformation. Ministers and bureaucrats still see migration as something that can be turned on and off like a tap through laws or policies.⁴³ For this reason, O'Neill wants to explore possibilities for researching the asylum-migration-community nexus using critical theory that engages in meaning-making and living experiences of the people situated in the asylum-migration-community nexus. The author introduces the concept of ethnomimesis to express the combination of ethnographic, participatory research with participants, and mimetic representations of lived experience using art forms, poetry, and film as sensory modes of representation and analysis. Such an approach aims to better interpret social issues, such as 1) migration, 2) the experiences of new arrivals, and 3) to facilitate the production of

⁴² Maggie O'Neil, *Asylum, Migration and Community* (Bristol: Bristol University Press, 2010), p. 21

⁴³ *Ibid.*, p. 94

new knowledge.⁴⁴ Crucially, as O'Neill points out, the importance of empathy, of relational connectedness, of working *with* people experiencing forced migration, not on or for them, cannot be overestimated.⁴⁵ The impact of such a participatory approach is manifold. If conducted ethically, it can enable the coming into voice for marginalised people (without reducing them to versions of ourselves); enlighten and inform; raise awareness; make visible people's experiences and ideas for change (for example, the visual arts can say so much more than words alone and can reach a wider audience); and feed into social policy.⁴⁶

2.7. Legal sources for labor rights protection

Reljanović analyzes the Constitutional right to work in the Republic of Serbia. He begins by stating that the right to work is one of the basic economic rights.⁴⁷ The right to work appears in the second part of the Constitution of the Republic of Serbia, which concerns itself with human rights and minority rights. The Constitution states that „[r]ight to work shall be guaranteed in accordance with the law.“ Furthermore, „[e]veryone shall have the right to choose his occupation freely. All work places shall be available to everyone under equal conditions. All work places shall be available to everyone under equal conditions. Everyone shall have the right to respect of his person at work, safe and healthy working conditions, necessary protection at work, limited working hours, daily and weekly interval for rest, paid annual holiday, fair remuneration for work done and legal protection in case of termination of working relations.“⁴⁸ Reljanović points out the complexity of this right. While the freedom to choose occupations freely and under equal opportunity is a fundamental element of the internationally accepted human right to work, the third article goes into specifics of what is considered a labor right in Serbia.⁴⁹

⁴⁴ *Ibid.*, p. 99-100

⁴⁵ *Ibid.*, 101

⁴⁶ *Ibid.*, p. 105

⁴⁷ Reljanović, „Pravo na rad u Ustavu Republike Srbije,“ p. 253

⁴⁸ The Constitution of the Republic of Serbia, Article 60, available at: <https://www.paragraf.rs/propsi/constitution-of-the-republic-of-serbia.html>

⁴⁹ Reljanović, „Pravo na rad u Ustavu Republike Srbije,“ p. 256

Reljanović points out that, according to the letter of the law, the right to work is an individual right, i.e., it consists of components that workers enjoy individually; this is not the case, as collective workers' rights are defined in other Articles down the line in the Serbian Constitution.⁵⁰ Reljanović argues that lawmakers had not focused on labor rights and that the Constitution does not pay sufficient attention to this category of rights. The right to work is solidly regulated. However, some key components are missing or unclear. The terminology creates confusion, but this is, primarily, a consequence of the way labor is regulated in the Labor Act.⁵¹

Raičević analyzes the 1951 Convention, providing a good overview not only of international protection in general, but also of Articles 17—19 relating to labor rights of people in need of international protection.

Article 17 recognizes the right to work in accordance with the most favorable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment. This, Raičević argues, is a compromise solution, as Article 17 does not guarantee employment. Rather, it merely guarantees the right of refugees to seek employment and not be discriminated against. States were not ready to make equal refugees and their own citizens, but they also did not want to apply the unfavorable „ordinary residents status.“⁵²

Article 18 stipulates that States shall accord a refugee treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances. This means, as Raičević points out, that with this right, the „ordinary foreigner standard“ was applied. The Article stipulates the right to work in the following areas: agriculture, industry, handicrafts and commerce. Treatment as favorable as possible, notes

⁵⁰ *Ibid*, p. 257

⁵¹ *Ibid*, p. 259-260

⁵² Nebojša Raičević, *Zaštita izbeglica u međunarodnom pravu* (Niš, Pravni Fakultet Univerziteta u Nišu, 2018), p. 280-282

Ristanović, means States should accord refugees some benefits that other foreign nationals lack.⁵³

Article 19 of the Convention stipulates that States shall accord refugees who are desirous of practicing a liberal profession, treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances. The Convention does not stipulate what such professions are, but Ristanović elaborates how this includes lawyers, doctors, dentists, veterinarians, engineers, architects, and nowadays accountants, pharmacists, artists, and translators as well. The „ordinary foreigner standard“ means that refugees can only engage in those liberal professions that foreigners can generally engage in in the country of refuge.⁵⁴

2.8. Labor rights of foreign nationals (and asylum seekers)

On the employment of foreign nationals, Ljubinka Kovačević argues that exercising labor rights as a foreign national has a lot to do with the economic interests, goals, and policies of a state. In this regard, it is important to mention the measures aimed at protecting the foreign worker, his dignity, and the prevention of his exploitation.⁵⁵ Kovačević emphasizes that, while foreign nationals should be afforded equal treatment to domestic workers, this does not imply the complete equalization of their position. „Namely, the regime of equal treatment is not incompatible with establishing certain special conditions that foreigners must fulfill to establish an employment relationship.“⁵⁶ These conditions include issuing different kinds of permits and licences that limit the presence of foreign nationals on their territory, work and stay permits, not to be confused with authorization to employ a foreigner, etc.

On the enablers and barriers to the effective realization of refugees' labor rights, Kovačević writes that, in principle, everyone has the right to earn a living by choosing a freely chosen

⁵³ *Ibid.*, p. 277-278

⁵⁴ *Ibid.*, p. 284-285

⁵⁵ Ljubinka Kovačević, „Zapošljavanje radnika migranata – pretpostavke, uslovi i ograničenja,“ in *Strani pravni život* 64, br 2 (2020): p. 6

⁵⁶ *Ibid.*, p. 7

occupation. However, people in need of international protection often have difficulties exercising this right.

Kovačević writes that the need for security is one of the most important human needs. The content of security is very broad, but one of its most significant aspects is economic security, as it relates to the individual's ability to provide means for his support and the support of his family. „An individual can secure those means by exercising two basic economic rights: the right to property and/or the right to work.“⁵⁷ To understand the conditions for the effective fulfillment of this right, it is important to emphasize the principle of non-discrimination, confirmed by all international legal instruments.⁵⁸ This means that asylum seekers can not be discriminated against.

As Kovačević points out, the right-bearer, in the sense of the provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR), is any person located in the territory of a contracting state of the Covenant. And even though the ICESCR does not specifically state how this principle relates to foreigners, the Committee on Economic, Social and Cultural Rights states that rights guaranteed by the ICESCR apply to both domestic and foreign nationals. Furthermore, the International Convention on the Elimination of All Forms of Racial Discrimination affirms that equality before the law, regardless of race, skin color, national or ethnic origin should be ensured in terms of enjoying the right to work, free choice of employment, just and favorable working conditions and protection against unemployment. Furthermore, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families affirms the right of all migrant workers to enjoy human rights, regardless of their legal status. According to the provisions of the Convention, all migrants, including subjects of irregular migration, must be treated the same as domestic workers, in terms of employment conditions, wages and other working conditions.⁵⁹

⁵⁷ Ljubinka Kovačević, „Uslovi i prepreke za delotvorno ostvarivanje prava izbeglica na rad - međunarodni pravni standardo,“ in *Sedam decenija pravne zaštite izbeglica* (Beograd: Beogradski Centar za Ljudska Prava, 2021), p. 100

⁵⁸ *Ibid*, 101

⁵⁹ *Ibid*, 101-104

Kovačević stresses that the right to fair and favorable working conditions, accorded by standards of international law, and mainly by the International Convention Relating to the Status of Refugees, includes all aspects of labor rights protection, including but not limited to the right to a fair salary, the right to limited working hours, and paid vacation. Additionally, the standard extends to some special rights, such as the right of refugees to, like domestic citizens, enjoy benefits related to overtime work, as well as restrictions related to work from home, opportunities for internships and training, and so on.⁶⁰ Once again, Kovačević writes that everyone has the right to earn a living by choosing a freely chosen occupation. People in need of international protection often have difficulties exercising this right. As of 2019, 70% of refugees live in countries that restrict access to work.⁶¹

2.9. National context of asylum and of labor rights protection

The national context consists of Serbia's response to the emergence of asylum seekers at its borders, their accommodation and protection, its approach to protecting the labor rights of all individuals, regardless of status, and the protection of the labor rights of asylum seekers.

I very vividly remember volunteering for a local NGO situated near the former central train station in 2015. I was an 18-year-old boy with a passion for history and politics, who wanted to experience first-hand the topics he was so passionate about. I took the first chance I was offered by my much older and more experienced colleagues to visit the park where newly arrived asylum seekers would settle. What I saw impacted me deeply: hundreds of people, some sleeping in tents or on mattresses, some just sitting in plastic chairs, others walking around, conversing with each other in their native languages.

⁶⁰ *Ibid*, 113

⁶¹ *Ibid*, 122

Some of the newspaper headlines from that time include: *Syrian Refugee Crisis: Why has it become so bad*,⁶² *Syria's refugee crisis in numbers*,⁶³ and, for example, *Mediterranean migrants: Hundreds feared dead after boat capsizes*.⁶⁴

Returning to the Serbian case, as Čekerevac, Perišić and Tanasijević point out, the first stakeholder in the social welfare system that a migrant comes into contact with is the Commisariat for Refugees and Migration of the Republic of Serbia (CRM).⁶⁵ The CRM is tasked with the recognition, registration and integration of refugees, keeping records of their responsibilities and so on. However, as the authors point out, not all migrants are accommodated in the designated CRM centers, as they are well over capacity, so the CRM resorted to renting out private houses for their accommodation. This, however, was still not enough, as there were still up to a thousand migrants in the barracks behind the former bus station, as well as in squats near Subotica, a small town on the Serbian-Hungarian border. Furthermore, institutional support is provided by the Center for Social Work (CSW), the backbone of the social welfare system in Serbia. Civil society stakeholders are diverse and offer a wide array of services, such as legal support, psychosocial support, educational and psychological support.⁶⁶

As Čekerevac, Perišić and Tanasijević rightfully point out, the Commisariat for Refugees and Migration faces its biggest challenge in accommodating the migrant population. Moreover, „[i]n the event of an impossibility to accommodate migrants, this would mean the breaching of their legal right to accommodation.“⁶⁷ To add insult to injury, according to available data,

⁶² Patric Kingsley, „Syrian Refugee Crisis: Why has it become so bad?“ *The Guardian*, 04. 09. 2015, <https://www.theguardian.com/world/2015/sep/04/syrian-refugee-crisis-why-has-it-become-so-bad>

⁶³ „Syria's refugee crisis in numbers“ Amnesty International, 04.09. 2015, <https://www.amnesty.org/en/latest/news/2015/09/syrias-refugee-crisis-in-numbers/>

⁶⁴ „Mediterranean migrants: Hundreds feared dead after boat capsizes,“ *BBC*, 19. 04. 2015, <https://www.bbc.com/news/world-europe-32371348>

⁶⁵ Ana Čekerevac, Natalija Perišić, and Jelena Tanasijević, „Social Services for Migrants: The Case of Serbia,“ in *„Hrvatska i komparativna javna uprava – Croatian and Comparative Public Administration,“* Volume 18, No: 1, (2018): p. 110-111

⁶⁶ *Ibid.*, p. 111-115

⁶⁷ *Ibid.*, p. 115

the number of migrants referred to the Centers for Social Work is negligible compared to the number of migrants who entered and left the country. The authors also find that employees of the Centers for Social Work lack competencies in dealing with the issue. They do not know, for example, the difference between the rights that belong to irregular migrants, as opposed to asylum seekers, those who have obtained asylum, and those who are Serbian citizens.⁶⁸

On a positive note, when it comes to the field of migration, there is always some kind of dialogue between public institutions and civil society organizations. As the authors point out, „non-governmental organisations have been managing the process with the Commissariat, the Department of the Interior and other public stakeholders on an equal footing.“ At the local level, this cooperation includes migrant protection, social welfare, education, health care and the police. At the national level, continuous cooperation has been developed with the Commissariat for Migration and Refugees and the competent ministries.⁶⁹

The Republic of Serbia has played, and continues to play, a key role in the so-called Western Balkan route. After its official closure in 2016, the number of migrants in Serbia dwindled, but the length of their stay increased. This forced a policy change from a rapid response and crisis intervention to integration and social inclusion. As Perišić rightfully points out, when discussing migration flows through Serbia, one can not avoid pointing out: a) the post-transit and post-conflict characteristic of the Serbian society, b) the weak mechanisms for social inclusion, c) the demographic situation in Serbia, and d) Serbia’s aspirations towards EU membership.⁷⁰

One of the main reasons for the popularity of the Western Balkan route was the rapid transit through Serbia and North Macedonia. Both countries saw themselves as transit countries only,⁷¹ so at first they offered free bus or rail transport from the north of Greece to Germany in

⁶⁸ *Ibid.*, p. 116

⁶⁹ *Ibid.*, p. 118

⁷⁰ Natalija Perišić „The Western-Balkan Migration Route: The Impact of Serbia’s Candidacy to the European Union on Its Positions during the Migration Crisis,“ in „*Politička revija*“, Volume 58, No.4 (2018), p. 90

⁷¹ *Ibid.*, p. 94

a matter of days. The two countries felt that they were not responsible for the migrant ‘crisis,’ and thus felt unobliged to look for solutions, but did just enough to facilitate them.⁷²

The notion felt especially true in the context of Chancellor Merkel’s „*wir schaffen das*“ („we can do it“) speech, which encouraged the two countries to provide an easy passage of asylum seekers through their territory. The Western Balkan Route had two flows. Migrants would go through Greece, North Macedonia and Serbia, and onwards to Hungary. When Hungary erected a wall along its border, Serbia started redirecting migrants to Croatia and Slovenia, which resulted in bilateral tensions with Croatia. EU member states started throwing around the rhetoric of keeping asylum seekers out of their backyards, creating a so-called domino effect: as each country would fortify its borders, the next one would amp up border controls. The Western Balkan Route closed in March 2016 when the EU signed a deal with Turkey to allow migrants who illegally entered Greece to be sent back to the former, in exchange for visa liberalization.⁷³

Another unavoidable topic regarding the national context is democratic governance. As Pavlović points out, the key shield against absolute state power are human rights guarantees, which are ideally found in the highest legal act of a given legal order. Although measuring democratic governance with a scale is somewhat ungrateful, it is, however, necessary for keeping track of its development. As of 2015, the Republic of Serbia was a consolidated democracy. This, as Pavlović explains, means that it has not yet crossed the threshold of no return, and that an order in which democracy and constitutional liberalism are combined has yet to be established.⁷⁴ Regarding labor rights protection, Serbia is riddled with systematic violations of labor rights, weak and politicized labor syndicates, various complications for disabled persons, a lack of social dialogue, etc.⁷⁵

⁷² *Ibid.*, p. 97

⁷³ *Ibid.*, p. 94-96

⁷⁴ Dejan Pavlović. “Утицај Европског суда за људска права на заштиту људских права радника у Србији.” in *Српска политичка мисао*, no. 2 (2017), p. 284-286

⁷⁵ *Ibid.*, p. 288-289

Regarding the labor rights of foreign nationals (including asylum seekers) in Serbia, the key legal document is the Foreign Nationals Employment Act, which entered into force in 2014 and was amended in August 2023. It stipulates that: „a foreign national getting employed, i.e. temporarily employed in the Republic in accordance with this Act, has equal rights and obligations in respect to work, employment and self-employment as the citizens of the Republic, if the conditions established by law are met.“⁷⁶ However, as Perišić and Marković point out, the Act is not fully in compliance with the principle of equality. The amendments were introduced as an attempt at harmonization with the EU aquis and to streamline the previously complex procedures for the employment of foreign nationals. As the authors point out, novelties to the Foreign Nationals Employment Act include a single work and stay permit, as well as the National Employment Service (NES) assessing an immigrant’s eligibility for employment as a necessary precondition for employment. The introduction of a single permit superseded the norms that differentiated as many as seven types of work permits. The amendments also enable asylum seekers and persons granted subsidiary protection access to the labor market 6 months after applying for asylum, instead of the previously prescribed 9 months. As Perišić and Marković point out, this novelty brings Serbia more in line with EU standards and is a good step forward, but more active labor market integration measures are needed to truly facilitate this process.⁷⁷

2.10. Institutional framework

In a 2023 article in the *Journal of International Management*, Ortlieb and Knappert point out that employment is a key aspect of social integration. They conceptualize successful labor market integration of refugees as a process that involves both refugees and other actors. The first stage comprises the period between arrival in the host country and seeking asylum. The second stage consists of the person being recognized as a refugee and granted the proper

⁷⁶ Foreign Nationals Employment Act, Article 4, available at: http://demo.paragraf.rs/demo/combined/Old/t/t2023_09/EN_008_2023_003.htm

⁷⁷ Natalija Perišić and Violeta Marković, (forthcoming) „In Search of Labor Market Opportunities for Immigrants in Serbia: Migration Policy Ambitions and Labor Market Realities“, in *Tirana Observatory*, p. 3-4.

documents to enter the labor market of the host country. The final stage refers to inclusion at work, after the person has either taken up employment or started their own business.⁷⁸

Ortlieb and Knappert go on to explain how all signatory parties to the 1951 Convention Relating to the Status of Refugees, and its 1967 Protocol, have pledged to protect people in need of international protection, but go about it in different ways. This is where the three aforementioned factors come into play.

In the first stage, or arrival, the two key regulatory aspects that determine the success of labor market integration are 1) asylum law, and 2) various aspects of labor law and labor market access. Some countries have strict immigration laws, while others adopt a more lenient approach. As Ortlieb and Knappert rightfully point out, the extent to which labor market integration while waiting for asylum is possible varies from country to country.⁷⁹

The cognitive component in this stage entails shared knowledge and cognitive frames that can influence the labor market integration of refugees. The three components are: 1) categorizing refugees as people in need of international protection, 2) knowledge about effective practices of asylum procedures, and 3) language training opportunities. This is the phase in which judges decide on the asylum application. Their decisions can be swayed by opinions and societally shared stereotypes about asylum seekers. No less important is the fact that asylum procedures can take a lot of time.⁸⁰ The Asylum Office, which is the competent authority for reviewing asylum applications in the Republic of Serbia, has a deadline of three months to decide upon the application. This period may be expanded up to 9 months, which means asylum seekers can wait for a decision on their stay for up to a year. In the first five months of 2025, only one person got asylum in the Republic of Serbia.⁸¹

⁷⁸ Renatte Ortlieb and Lenne Knappert, „ Labor Market Integration of refugees: An institutional country-comparative perspective,“ p. 4

⁷⁹ *Ibid*, p.6

⁸⁰ *Ibid*, p. 7

⁸¹ Beta, “U Srbiji za pet meseci odobren samo jedan zahtev za azil” *NI*, 20. jun, 2023, <https://n1info.rs/vesti/u-srbiji-za-pet-meseci-odobren-samo-jedan-zahtev-za-azil/>

The normative dimension, i.e., what people perceive as “good” or “bad,” plays a significant role in labor market integration. As Ortlieb and Knappert rightfully point out, social norms influence whether judges will use the law for more restrictive or generous decisions.⁸²

The next stage begins when the person seeking refuge has been granted asylum, as well as the proper documents to enter the labor market. The key regulatory aspects in this stage are: 1) laws regulating labor market access, 2) anti-discrimination laws, and 3) laws concerning education and vocational training. The cognitive component of this stage consists of 1) recognizing that refugees can make a valuable contribution to the workforce, 2) assessment of their knowledge, skills and abilities, and 3) training and counseling facilities. The normative factor includes 1) norms and values concerning refugee employability and 2) refugee employment as an element of social responsibility.⁸³

To put this into perspective, the most recent Amendments to the Foreign Nationals Employment Act and the Foreigners Act cut the time asylum seekers in Serbia have to spend without access to the labor market from nine to six months, and simplify the procedure for asylum seekers to obtain these kinds of rights.

As mentioned above, there is always a dialogue between public institutions and the non-governmental sector. Where institutional aid is lacking, non-governmental and civil society organizations jump in to help provide the required standard of refugee protection. There are numerous instances of social entrepreneurship and internships for asylum seekers.

The final stage is what sets Ortlieb and Knappert apart from the rest: workplace inclusion. In this stage, it is all about feeling safe at work, having the same advancement opportunities as their colleagues and feeling and behaving like a citizen. This stage is about anti-discrimination laws, about diversity and inclusion. Most importantly, the pair goes as far as suggesting dissolving the refugee category. „Being trapped in the refugee category not only hinders their

⁸² *Ibid*, p. 6-8

⁸³ *Ibid*, p. 8-10

professional advancement, but can also limit their sense of belonging and thus their potential for inclusion.”⁸⁴

3. THE PHILOSOPHICAL AND LEGAL FRAMEWORK

Protecting asylum seekers’ labor rights can be approached in two ways. The first, or the normative framework, does not engage with positive law. Rather, it examines the issue as a matter of *moral truth* and aims to answer questions like what constitutes a human right in the first place and whether labor rights qualify as human rights. The second, or the *legalistic* method, involves analyzing the legal framework for their protection. This method explores answers to questions regarding international and domestic legal instruments, to what courts, governments, civil society organizations and non-governmental organizations have to say about labor rights, particularly *labor rights of people in need of international protection*. The legal framework consists of international instruments that safeguard the rights of asylum seekers in general, those that specifically mention the right to work, and national legislation.

3.1. The philosophical framework

Protecting asylum seekers’ labor rights can be approached in two ways. The first, or the *legalistic* method, involves analyzing the legal framework for their protection. This method explores answers to questions regarding international and domestic legal instruments, to what courts, governments, civil society organizations and non-governmental organizations have to say about labor rights, particularly *labor rights of people in need of international protection*. The legal framework consists of international instruments that safeguard the rights of asylum seekers in general, those that specifically mention the right to work, and national legislation. The second approach is a normative one and does not engage with positive law. Rather, it examines the issue as a matter of *moral truth* and it aims to answer questions like what constitutes a human right in the first place and whether labor rights qualify as human rights.

As mentioned, the normative approach to protecting asylum seekers’ labor rights does not necessarily engage with positive law. Rather, it examines the issue as a matter of *moral truth*

⁸⁴ *Ibid*, p. 11

and aims to answer questions like what is a human right in the first place and are labor rights human rights or not.

3.1.1 Human rights

What is a human right? As John Stuart Mill (J. S. Mill) has said: „[w]en we call anything a person’s right, we mean that he has a valid claim on society to protect him in the possession of it, either by the force of law, or by that of education and opinion.“⁸⁵ There are two main ways to determine whether something is „a person’s right,“ i.e., a *human* right.

To reiterate, the main division is between political and naturalistic approaches. Political theories view human rights as a post-war phenomenon. These theories define human rights as norms that have a political function in the domestic or international arena. In contrast, naturalistic theories view human rights as the modern equivalents of natural rights, and define them as moral rights held in virtue of humanity with no inherent political function.

I am inclined to use the term *human rights* in the latter, i.e., naturalistic, rather than political sense. This, however, poses a challenge. What is the value of something being considered a right if, as J. S. Mill previously pointed out, it is not protected, either by the force of law, or that of education and opinion? This is where legal instruments „enter the stage.“

The Universal Declaration of Human Rights was adopted by the United Nations just before midnight on December 10, 1948, outlining the basic political, civil, economic, social and cultural rights for all. All members recognized the importance of social and economic rights. However, it was believed that economic, social and cultural rights differ in nature from civil and political rights. Civil and political rights were considered to belong to „negative“ rights, i.e., the state is required to refrain from meddling in them, whereas social, economic and cultural rights were seen as imposing „positive“ obligations on states. This has led to the adoption of the ICESCR in 1966.

3.1.2 Labor rights

Turning to Mantouvalou, the normative approach does not necessarily engage with positive law but examines this issue as a matter of moral truth. Several arguments can be made from

⁸⁵ J. S. Mill, *Utilitarianism*, ed. Mary Warnock, Glasgow, 1979 (1861), p. 309.

this point of view. Most importantly, if courts fail to protect labor rights, or if human rights treaties and Constitutions fail to incorporate them, the law should change in the direction of said human rights.⁸⁶

Second, human rights are accorded to everyone by virtue of humanity and are, thus, non-negotiable. Per Mantouvalou, a key debate on labor law centers around its purpose of promoting the workers' dignity on the one hand, and economic efficiency on the other. By accepting that labor rights are human rights, labor rights become immune to arguments of economic efficiency.⁸⁷

Third, understanding labor rights as human rights has some serious implications on the scope of said rights. In many court decisions, the ruling has been that labor rights are tied to citizenship, or residence, so on this view, anyone who lacks the status also lacks the right. By accepting labor rights as human rights, this view is put into question.⁸⁸

Lastly, accepting that human rights are human rights adds a layer of protection when considering „the waiver of rights.“ As Mantouvalou points out, „[a] key concern for this field of study is the inequality of bargaining power between the employer and the worker.“ What this means is that the employment contract is oftentimes drafted by the employer and given to the employee without much negotiation. This means it can include unfair working conditions to which the employee would not have agreed if it weren't for the power imbalance and economic dependency.⁸⁹

Collins refutes the idea that labor rights are human rights. Drawing from liberal theories, he argues that labor rights simply do not have some of the main characteristics of a human right. While labor rights have, indeed, found their way into legal documents, this is a response to socioeconomic conditions rather than a philosophical commitment. The four key takeaways are that: a) labor rights do not present such a compelling moral imperative, b) labor rights do

⁸⁶ *Ibid.* p. 171

⁸⁷ *Ibid*

⁸⁸ *Ibid*

⁸⁹ *Ibid*

not apply to everyone or universally, but only to those in a working relationship, c) they are not „strict enough,“ in the sense that what will be regarded as fair pay or reasonable holiday may vary based on what society can afford, whereas respect for human dignity must have a minimum standard, and d) human rights are universal and timeless, whereas labor rights may evolve over time.⁹⁰

The fact that labor rights have found their way into legal documents for socioeconomic rather than philosophical reasons is not *really* an argument. It is a false dichotomy. The Treaty of Versailles, writes Collins, which gave birth to the International Labor Organization, was not merely concerned with a cessation of war, but sought to address the cause of war, which the drafters thought lay in economic competition between states, to which the solution was to ensure more social justice for workers. At the end of the Second World War, the Universal Declaration included the earlier declarations and labor standards, and elevated them to the status of basic human rights. The historical explanation, per Collins, reveals that, at least in their origins, labor rights were not regarded as universal.⁹¹

Philosophical ideas about justice can, indeed, drive social movements, which in turn lead to socioeconomic change. Conversely, socioeconomic conditions can prompt new philosophical reflections. The statement that labor rights have found their way into legal documents for socioeconomic rather than philosophical reasons disregards the creative process from idea to reality. The phrase „rather than“ gives the impression that socioeconomic reasons and philosophical reasons are mutually exclusive.

Firstly, Collins claims that labor rights are not human rights because they are not as strong moral claims. He claims that the universal human rights to dignity and freedom do not have the same weight as the right to remuneration and a fair holiday. The issue here seems to be that dignity and freedom do not belong to the same category of rights as the right to remuneration and a fair holiday. In reality, however, the two sets of rights are inseparable. As mentioned, Kovačević writes that the need for security is one of the most important human needs. Economic security relates to the individual's ability to provide means for his support and the

⁹⁰ Hugh Collins, „Theories of Rights as Justification for Labour Law,“ 142-143

⁹¹ *Ibid*, p. 143

support of his family. If dignity is to be understood as the state or quality of being worthy of honor and respect, a person must be fairly compensated for their work, which includes rest. At the same time, fair compensation is the most tangible acknowledgement of dignity. A person cannot exercise their right to freedom and dignity if they work in an unsafe working environment or are ill-treated at work.

At the same time, as Mantouvalou rightfully points out: „it may be said that the right to deny the Holocaust, which has been recognised as an aspect of freedom of expression, is not a claim of great moral urgency — and in fact is of less importance if compared to a right to paid holidays that is used as an example of a non-urgent labour right.“⁹²

Secondly, Collins argues that labor rights are not universal human rights because they only apply to those in work-like relationships. At the same time, basic human rights are accorded to everyone by virtue of their humanity. It could be that Collins' views stem from his positionality as a labor law scholar and professor at the London School of Economics and Political Science. As such, he is a salaried employee with a defined set of labor rights. His position, therefore, is that he is deserving of labor rights. This position leaves me with two possible scenarios. Either there are two exact replicas of Hugh Collins, which is like something from a science fiction movie, and not very likely, or the second, more likely scenario, which is that labor rights do, indeed, apply to everyone.

In the first scenario, one of the two Collinses, the professor, has a clear and logical claim to labor rights, while the other figure, the legal scholar, simultaneously promotes a system that would deny those same rights to anyone not in his specific position. The second, more likely scenario, is that labor rights do, indeed, apply to everyone. This is the only conclusion that remains consistent with the universal principles that an expert like Collins would normally champion.

In reality, the applicability of certain rights depends on the context. For example, the right to vote only applies to citizens of a country, but the right to form a trade union mainly applies to those who are employed. Most importantly, to return to the starting point, the right to a dignified life is accorded to everyone by virtue of their humanity. While most people go about

⁹² Virginia Mantouvalou, „Are Labour rights human rights,“ p. 165

their day not needing to point out to everyone else that they have the right to a dignified life, the case is a bit different for asylum seekers. Take, for example, the principle of non-refoulement, according to which States should not extradite foreign nationals to countries where they may be subjected to torture. The fact that a right only belongs to a specific group does not make it any less universal. It means that this human right comes into effect when a person is in a particular situation.

The third argument, or the „non-strictness“ argument, does not make much sense either. According to this argument, „it seems likely that what will be regarded as fair pay and a reasonable holiday must depend to a considerable extent on what the relevant society can afford.“⁹³ The „non-strictness“ argument is misleading. Some nations are, indeed, wealthier than others. Five US dollars would buy me significantly more goods and services in, for example, India, compared to the United States, which has to do with something called Purchasing Power Parity. And if security equals economic security equals dignity, as Kovačević pointed out, then the right to dignity and freedom will, indeed, depend on what a society can afford. But that does not make it any less a fundamental human right. The fact that some labor rights may face difficulties in their implementation does not make them any less of a human right. What it does mean, however, is that for a right to be called a human right, certain standards must be met.

The last argument — that human rights are universal and timeless moral laws, whereas labor rights may evolve over time — is the strangest of them all. Yes, labor rights can evolve depending on „the system of production, the forms of work, and the division of labour.“⁹⁴ While the principles of human rights are, indeed, universal, their interpretation has evolved. Even our understanding of what it means to live a fulfilling and dignified life has shifted through the years. For example, in Ancient Greece, it was considered totally normal to have slaves. In the Middle Ages, women were burned at the stake, and people were put to the guillotine well into the late 1800s, while some countries have not even abolished the death penalty. Like other rights, labor rights are a response to the changing social and economic

⁹³ Hugh Collins, „Theories of Rights as Justification for Labour Law,“ p. 142

⁹⁴ Ibid

realities. As the nature of work evolves, so too do the rights necessary to protect workers. The evolving nature of labor rights does not diminish their universality.

3.1.3 Labor rights of asylum seekers

Therefore, as I mentioned earlier, if the State, whose responsibility it is to protect the fundamental human rights of its citizens, fails to do so or is unwilling to do so, and a person is at risk of suffering grave human rights violations, it is the international community's role to ensure that those are respected. This is the UNHCR's main role. But, per Betts and Collier, „despite the fancy international edifice of agencies, and the warm glow of media attention around them, *most* of the world's refugees receive virtually no material assistance at all from any of them.“ Moreover, there is almost universal non-compliance with the socioeconomic rights of refugees, specified in the Convention, and most of them have restricted access to work.⁹⁵

The right to work, i.e., access to the labor market, plays a significant role in socioeconomic integration and inclusion of a society, and especially for people in need of international protection. But for decades, forced migration has been observed through the lens of security. This has rendered talks of the integration of refugees „not probable,“ to say the least. As Baglioni and Calò point out, „integration has become a policy taboo in some European countries following the peak in requests for asylum in 2015, and the instrumental use of migration by political entrepreneurs across the continent since the so-called ‘refugee crisis.’“⁹⁶ Still, thousands of men, women and children continue to arrive in Europe. Both Baglioni and Calò, and Betts and Collier, argue that the international framework for dealing with asylum and migration needs to be revisited.

Integration is not just a process that happens overnight, or with a snap of the fingers. It is a long and tumultuous process and a key step to a dignified life for asylum seekers, and employment can be critical to it. Granting asylum seekers and refugees access to the labor market facilitates their integration. Not only that, but if allowed to work, asylum seekers can

⁹⁵ Alexander Betts, Paul Collier, *Refuge: Rethinking Refugee Policy in a Changing World* (Oxford: Oxford University Press, 2017), p. 7

⁹⁶ Simone Baglioni and Francesca Calò, ed., *Migrants and Refugees in Europe: Work Integration in Comparative Perspective* (Bristol: Policy Press, 2023), p. 1

make macroeconomic contributions to the host society. They have skills, talents, and aspirations. They are not just, as Betts and Collier point out, „passive objects of our pity.“⁹⁷ *Everyone* has the right to dignity and freedom, by virtue of their humanity, to paraphrase Collins, who fails to recognize that labor rights are human rights.

To return to the „non-strictness“ argument, the fact that some rights may face serious difficulties in implementation does not make them any less of a human right. What it does mean, however, is that for a right to be called a human right, certain *standards* must be met. Work is not just a source of income. As people around the world spend half of their waking hours working or commuting to and from work, they perform a variety of social interactions. On the way to work, they might stop to buy coffee at their favorite coffee shop, enjoy a walk through the park, or listen to a talented girl on the violin. On the way back, they might bump into an old friend or do groceries. Work provides social opportunities. This is an example of the right to a dignified life. Can asylum seekers enjoy this right?

Everyone has the right to a free choice of employment to earn a living. However, people in need of international protection often have difficulties exercising this right. As of 2019, 70% of refugees live in countries that restrict access to work.⁹⁸ A significant number of receiving states restrict freedom of movement and access to the labor market. Furthermore, exercising labor rights as a foreign national has, as Kovačević points out, a lot to do with the economic interests, goals, and policies of a state.⁹⁹

3.1.4. Examples of successful labor market integration of refugees

Hundreds of thousands of migrants and refugees from Africa and the Middle East flooded the island of Lampedusa in 2011 after the Arab Spring. Waves of demonstrations that began in Tunisia, triggered by the public self-immolation of street vendor Mohamed Bouazizi spread to neighboring countries and led to the fall of governments in Tunisia, Libya, and Yemen. The

⁹⁷ Alexander Betts and Paul Collier, *Refuge: Rethinking Refugee Policy in a Changing World* p. 143

⁹⁸ *70 Years Protecting People Forced to Flee. Virtual Conference on the 70th Anniversary of the Founding of the Office of the United Nations High Commissioner for Refugees, 18th-27th January 2021: Conference Report* (University of Essex, Chelmsford, 2021), p. 6.

⁹⁹ Ljubinka Kovačević, „Zapošljavanje radnika migranata – pretpostavke, uslovi i ograničenja,“ p. 5

civil wars in Libya and Syria caused a refugee crisis. The number of refugees from the Middle East rose to over 5 million in March 2017. The Syrian refugee crisis remains the world's largest refugee crisis in the world, with more than 14 million people forced to flee their homes.

European governments resorted to what Betts and Collier aptly called unilateral panic decisions. Greece became the main reception country. Hungary built a wall; Italy started *Operation Mare Nostrum*, then subsequently stopped it; Germany opened its doors, hoping other countries would follow suit. Sweden initially opened its doors, but after a change of power, reversed its policy. Denmark closed off its borders as well, just as New Year's celebrations ended in tragedy in Germany and Denmark.

The EU's response — the EU here seen as a single organism — was equally haphazard. As Simentić Popović points out, in May 2015, the European Commission published a legislative proposal aimed at easing the burden on Italy and Greece. After consulting the European Parliament, the Council of Europe adopted Resolution 2015/1523.¹⁰⁰ The idea was to relocate asylum seekers from Greece and Italy to other EU Member States.¹⁰¹ With the formation of the Western Balkan route, the Commission „decided to submit another legislative proposal on September 9th 2015, this time regarding three states – Italy, Greece and Hungary“ or Decision 2015/1601. The decision was adopted by a qualified majority vote – Slovakia, the Czech Republic, Romania and Hungary voted against it, while Finland abstained. This, as Simentić Popović pointed out, signaled that the decision was not devoid of controversies and that implementation. And, indeed, on December 2nd, Slovakia filed the action for annulment of Directive 2015/16018, and Hungary did the same the next day.¹⁰² While Chouchelor Merkel lamented that the lack of cooperation jeopardized the EU's response, French President Nicholas Sarkozy criticized the EU migration plan.

Following the fall of the Ottoman Empire in the First World War, and the subsequent Greek defeat at the hands of the Turkish National Movement in 1922, some 1.2 million Greek

¹⁰⁰ Janja Simentić Popović, „Analysis of the EU Measures Adopted in Response to Migrant Crisis: Principle of Institutional Balance and Typology of Legal Acts in the EU Revisited,“ in *Srpska politička misao*, 14.2 (2016): p. 123

¹⁰¹ *Ibid.*, 123

¹⁰² *Ibid.*, p. 125

Orthodox Christians left Smyrna, modern-day Izmir, for the Greek islands and mainland. Greece called on the League of Nations for assistance, which not only provided immediate relief but also implemented an ambitious resettlement program. The outcome was striking. As Ellie Murard has pointed out, „[f]ormer marshlands were reclaimed and refugees were provided with arable land, livestock and other farm inputs. New houses were built and new schools opened to accommodate the newcomers.“¹⁰³

During the 1960s, comparing development projects for refugees across Burundi, Uganda and Tanzania, Tristram Betts, an Oxfam field director wrote that from road-building to credit unions, to agricultural cooperatives, to integrated provision of health and education services for hosts and refugees, a range of rural-development projects were viewed to be the answer to refugee assistance.¹⁰⁴

Another successful example of shown benefits of giving people in need of international protection the right to work is the American Conference on Central American Refugees (CIREFCA) by the UNHCR and the United Nations Development Fund (UNDP) of 1989. The premise was that an integrated development approach could benefit both refugees and host communities. Adapting from country to country, CIREFCA was generally considered a success: in the Yucatan peninsula, investments in agricultural projects and new schools and hospitals benefited both Mexican hosts and Guatemalan refugees. In Campeche and Quintana Roo, local integration and repatriation were promoted simultaneously from 1996 onwards. These projects provided education, health services, access to markets and sustainable livelihoods.¹⁰⁵

Uganda is yet another example of shown benefits of giving people in need of international protection the right to work. Uganda has allowed refugees the right to work and a significant degree of freedom of movement. It also allows refugees to start businesses and seek employment. As a result, refugees in Uganda have become productive members of their communities. Uganda’s progressive refugee model was formalized through the Self-Reliance

¹⁰³ Murard, Elie „Long-term effects of the 1923 mass refugee inflow on social cohesion in Greece,“ *World Development* 170 (2023): p 1

¹⁰⁴ Betts and Collier, *Refuge: Rethinking Refugee Policy in a Changing World*, p. 146

¹⁰⁵ *Ibid*, p. 147

Strategy, adopted in 1999 with the help of international donors, and further through the 2006 Refugee Act, by the Refugee and Host Empowerment Strategic Framework (ReHOPE) of 2015, as well as the Comprehensive Refugee Response Framework (CRRF), which began in 2017.

3.1.5. Moral obligations towards others

Lastly, I believe people have moral obligations to protect others, especially those more vulnerable than themselves. Simply, everyone has the right to dignity and freedom, fundamental human rights accorded to them by virtue of their humanity. Indeed, the 1951 Convention Relating to the Status of Refugees recognizes that *refugees flee their homes because, due to political reasons, reasons based on discrimination, armed conflict, or other reasons, States are unable to, or unwilling to protect their own citizens*. Their basic human rights have been violated and people have a moral obligation to see those rights restored and respected. Furthermore, as Betts points out, some liberals, drawing on Rawls, suggest that behind the „veil of ignorance,“ we are all potential refugees, and that refugees are ordinary people in extraordinary circumstances. Others, yet, believe that our obligations towards strangers come from the reality of our interconnected world.¹⁰⁶

3.2. The legal framework for refugee protection

If the State, whose responsibility it is to protect the fundamental human rights of its citizens, fails to or is unwilling to do so, and a person is at risk of suffering grave human rights violations, it is the international community’s role to ensure that those rights are respected. The legal framework for the international protection of asylum seekers and refugees is based on three areas of law: international humanitarian law, international human rights law, and international refugee law.

International humanitarian law is the oldest branch of law that makes up the basis for international protection of asylum seekers and refugees. This branch of law provides the standard of protection of persons in an armed conflict. The core instruments of this branch of law are the four Geneva Conventions of 1949 and their two Additional 1977 Protocols. The Geneva Conventions protect persons who do not take part in the fighting (such as civilians,

¹⁰⁶ Alexander Betts, „The normative terrain of the global refugee regime,“ p. 365

medics, and aid workers) and those who can no longer fight (i.e. the wounded, sick and shipwrecked troops, and prisoners of war).

According to international humanitarian law, persons who do not take part in the fighting should be protected by all the provisions of the Fourth Geneva Convention, as well as the Protocol Additional to the Geneva Conventions, relating to the Protection of Victims of International Armed Conflicts (or Protocol 1). During armed conflict, refugees are automatically protected as „civilians not taking an active part in the hostilities.“¹⁰⁷ Article 3 of all four of the Conventions sees to it that these persons are treated fairly, including the prohibition of violence, murder, cruel, humiliating and degrading treatment, and torture.¹⁰⁸ International humanitarian law is intended to ensure human dignity is respected during war times. In practice, human rights during armed conflict are often violated. When the state is unwilling or unable to protect its citizens, they may be forced to flee their homes and seek refuge in another country.

International human rights law is a body of law aimed at promoting and protecting human rights at the international, regional and domestic levels. This branch of law is based on the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Together, these treaties form the so-called International Bill of Human Rights, outlining the basic political, civil, economic, social and cultural rights for all. Other important human rights instruments include the United Nations Convention against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment, the Convention on Action Against Trafficking in Human Beings, and perhaps in this context most importantly, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

The legal framework for international protection of asylum seekers and refugees is tightly related to international human rights law, as human rights law applies to everyone, even

¹⁰⁷ Geneva Convention relative to the Protection of Civilian Persons in Time of War, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/geneva-convention-relative-protection-civilian-persons-time-war>

¹⁰⁸ *Ibid*, Article 3

refugees, regardless of their legal status. States are responsible for protecting the fundamental human rights of their citizens. The framework for international protection of asylum seekers and refugees aims to protect persons who have been forced to flee their countries because their human rights have been violated. Most importantly, Article 14 of the Universal Declaration of Human Rights states that everyone has the right to seek and enjoy asylum.¹⁰⁹

The third area of law that makes up the framework for the protection of asylum seekers and refugees around the globe is international refugee law. The 1951 Convention Relating to the Status of Refugees (The Refugee Convention) and its 1967 Protocol form the cornerstone of international refugee law and are the key legal documents that form the basis for the United Nations High Commissioner for Refugees' work. The 1951 Convention outlines the standards for refugee protection.

According to Article 1 of the Convention, a refugee is any person „[o]wing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.“¹¹⁰ One of the key principles of international refugee law is that of non-refoulment. The principle of non-refoulment guarantees that no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm.¹¹¹ Other important standards include the right to housing, the right to non-discrimination, to decent work, to education and healthcare, and social protection.

States in different parts of the world have developed their own laws and standards that complement the 1951 Refugee Convention and its 1967 Protocol. Such are the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa, by the

¹⁰⁹ Universal Declaration of Human Rights, Article 14, available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

¹¹⁰ Convention Relating to the Status of Refugees, Article 1, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-relating-status-refugees>

¹¹¹ Convention Relating to the Status of Refugees, Article 33

Organization of African Unity (the OAU Convention), or the 2017 Arab Convention on Refugees. In Central and Latin America, inspired by the OAU Convention, the Organization of American States adopted, in 1984, the Cartagena Declaration on Refugees, and in 2001, Asian and African countries adopted the revised Bangkok Principles on the Status and Treatment of Refugees. Perhaps the most important and far-reaching regional development came from the European Union, which adopted, in 1999, the Common European Asylum System.

States are responsible for protecting the fundamental human rights of their citizens. But sometimes, due to political reasons, reasons based on discrimination, armed conflict, or other reasons, States are unable to, or unwilling to do so. This can lead to grave human rights violations, forcing many to flee their homes. This is where the international community steps in. Since refugees are not protected by their own country, it is the international community's role to ensure they are safe and protected.

3.3. The legal framework for labor rights' protection

Asylum seekers' labor rights are a complicated topic. No protection manual prescribes what this type of protection should look like. It is left to the States to decide how to approach this issue. However, there are some general rules and guidelines on exercising labor rights. Those can be found in international instruments and national legislation.

3.3.1. International protection

Some of the most notable international instruments that mention the right to work are the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and standards set out by the International Labor Organization.

Article 23 of the UDHR states that „everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.“¹¹² In similar wording, provisions on labor rights can be found in the International Covenant on Economic, Social and Cultural Rights. Article 6 of the ICESCR

¹¹² UN General Assembly, *The Universal Declaration of Human Rights (UDHR)*. New York: United Nations General Assembly, 1948, para 23., available at: <https://www.un.org/sites/un2.un.org/files/2021/03/udhr.pdf>

recognizes „the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.“¹¹³ The International Labor Organization (ILO) states that all of its Members, even if they have not ratified the ILO Conventions, must respect, promote, and ensure: „a) freedom of association and the effective recognition of the right to collective bargaining, b) the elimination of all forms of forced or compulsory labor, c) the effective abolition of child labor, d) the elimination of discrimination in respect of employment and occupation, and e) a safe and healthy working environment.“¹¹⁴

A fresh development in this sensitive matter comes in the form of a recent ILO publication, titled „ILO strategy on expanding social protection to migrant workers, refugees and their families.“ The ILO Strategy recognizes that all members of society have the right to social security, including migrant workers, refugees, and their families. Member states are encouraged to follow these policy measures: „a) progressively building national social protection systems that are inclusive of migrant workers and refugees, b) ratifying and/or applying relevant international labor standards, c) concluding bilateral/multilateral social security agreements, d) concluding BLAs (bilateral labor migration agreements) with social security provisions, e) setting complementary measures, and f) adopting other unilateral measures.“¹¹⁵

3.3.2. National level

As mentioned, it is left to the States to decide how to approach labor rights protection. Some countries recognize the right to work as a constitutional right. This category of rights is further elaborated in Laws. Such is the case in Serbia, Slovenia, Germany, Italy, Spain, etc.

¹¹³ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 2, article 3, available at: <https://www.ohchr.org/sites/default/files/ceschr.pdf>

¹¹⁴ International Labor Organization, *ILO 1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up*, Article 2, available at: https://www.ilo.org/sites/default/files/2024-04/ILO_1998_Declaration_EN.pdf

¹¹⁵ International Labor Organization, *ILO strategy on extending social protection to migrant workers, refugees, and their families*, p. 6-7, available at: https://www.ilo.org/sites/default/files/wcmstp5/groups/public/@ed_protect/@protrav/@migrant/documents/publication/wcms_910714.pdf

The Constitution of the Republic of Serbia states that „[r]ight to work shall be guaranteed in accordance with the law.“ Furthermore, „[e]veryone shall have the right to choose his occupation freely. All work places shall be available to everyone under equal conditions. Everyone shall have the right to respect of his person at work, safe and healthy working conditions, necessary protection at work, limited working hours, daily and weekly interval for rest, paid annual holiday, fair remuneration for work done and legal protection in case of termination of working relations.“¹¹⁶ Labor rights are further elaborated in Laws, such as the Employment Act or the Foreign Nationals Employment Act.

Other countries, such as Japan, the United States, Canada, the Netherlands, or France, do not explicitly mention labor rights in their Constitutions. They do, however, have robust legal frameworks to protect workers' rights. These come in the form of laws and regulations, collective bargaining agreements, and so on.

The third „model“ of labor rights protection is through collective bargaining. Many Scandinavian countries have strong collective bargaining traditions. For example, per the OECD/AIAS database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts (ICTWSS) in 2019, close to 70% of Danish and 50% of Norwegian employees belonged to a trade union.¹¹⁷

¹¹⁶ The Constitution of the Republic of Serbia, Article 60, available at: <https://www.ustavni.sud.rs/ustav-rs-i-propisi/ustav-republike-srbije>

¹¹⁷ *OECD and AIAS (2021), Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts*. OECD Publishing, Paris, available at: www.oecd.org/employment/ictwss-database.htm.

PART 2

1. ASYLUM SEEKERS IN SERBIA AND THE RIGHT TO WORK

What is the value of a theory if it is not empirically tested? In this part, I steer away from philosophical ideas about labor rights and observe how they are applied in practice. I analyze the labor market integration of asylum seekers in the Republic of Serbia. In other words, I introduce a case study against which I can test what I have just theorized. I find a testable framework in an institutional approach. The variables I will be using are the enablers and barriers to labor market integration in Serbia.

To recapitulate, asylum seekers in the Republic of Serbia face many difficulties in exercising their right to work, but significant steps have been taken to improve their situation. The first step towards realizing asylum seekers' labor rights in Serbia was adopting the Foreign Nationals Employment Act in 2014, followed by the Foreigners Act and the Asylum and Temporary Protection Act in 2018. Still, with those laws in place, asylum seekers could not access the labor market for almost a year upon arrival in Serbia. The situation improved with the Amendments to the Foreigners Act and the Foreign Nationals Employment Act, which both came into force in August 2023. These Amendments envision that asylum seekers in Serbia can start working within six months after lodging an asylum application, without having to formally apply for a personal work permit.

Up until this point, the research question was situated well in the realm of normative theory. Now I must empirically test what I have just theorized.

1.1. Refugee Protection in the Republic of Serbia

1.1.1 International protection

When it comes to the international framework, Serbia has ratified or acceded to almost all universal and regional treaties and conventions related to persons in need of international protection, including the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, the United Nations Convention against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment, as well as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on Action Against Trafficking in

Human Beings. Serbia is also a state party to the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and many others.

This is noteworthy, indeed, because it means people in need of international protection can address and seek help from the Specialized Agencies of the United Nations and the European Union. However, it should be emphasized that the Republic of Serbia has not ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

1.1.2. Domestic sources

Locally, the framework for the asylum system has its roots in the Constitution of the Republic of Serbia. Per Article 57: „Any foreign national with reasonable fear of persecution based on his race, gender, language, religion, national origin or association with some other group, political opinions, shall have the right to asylum in the Republic of Serbia.“¹¹⁸ The right to asylum is further elaborated in the Asylum and Temporary Protection Act, which prescribes: „the status, rights and obligations of asylum seekers and persons who have been granted the right to asylum or temporary protection, the principles, conditions, and procedure for the approval and cessation of the right to asylum or temporary protection, as well as other issues relevant for asylum or temporary protection.“¹¹⁹

1.1.3. Asylum procedure

Upon arrival in Serbia, asylum seekers can express their intent to seek asylum at border crossings, including the immigration offices at *Nikola Tesla* Airport in Belgrade, and *Konstantin Veliki* Airport in Niš. Once officials of the Ministry of Interior, or MoI, have recorded their asylum application, asylum seekers have 72 hours to go to their designated asylum center. Upon arrival at the asylum center, asylum seekers fill out an application for asylum. Within the next 15 days the Asylum Office, which is the competent authority for reviewing asylum applications, issues asylum seekers with personal identity documents. If the Asylum Office fails to facilitate the asylum application by the above-mentioned deadline, the

¹¹⁸ Constitution, Article 57(1), available at: <http://www.ustavni.sud.rs/page/view/139-100028/ustav-republike-srbije>

¹¹⁹ Asylum and Temporary Protection Act, Article 1, available at: https://kirs.gov.rs/media/uploads/Law_on_asylum_and_temporary_prot.pdf

asylum seeker can lodge an application within the following eight days. Finally, the Asylum Office has a legal deadline of three months to decide upon the application. This period may be expanded up to 9 months. This means asylum seekers can wait for a decision on their stay for up to a year.

1.2. Protecting asylum seekers' labor rights in the Republic of Serbia

Everything that was mentioned above sets the stage for the final part, which is the application of theory to practice. In this part, I analyze the effects the laws and practices have on labor market integration in Serbia. First, I write about the positive effects. In brief, the legal framework is adequate. It allows asylum seekers to exercise their labor rights in the Republic of Serbia. The private sector helps too. Non-governmental organizations and civil society institutions play a key role in the migration system of Serbia. On the other side, the laws are unclear or unapplicable. Asylum seekers are not adequately recognized in the employment strategy as a special category of people. Furthermore, there are serious socioeconomic barriers to their labor market integration.

1.3. Enablers of Exercising Labor Rights

What are the enablers of exercising labor rights in the Republic of Serbia? Those are the relevant legal instruments that safeguard the right to asylum and the right to work, as well as good practices of relevant state bodies and authorities, non-governmental organizations, civil society organizations and the private sector.

1.3.1. Constitution

As mentioned, the right to work plays a significant role in socioeconomic integration and inclusion of a society, especially for people in need of international protection. Article 60 of the Serbian Constitution stipulates that „[e]veryone shall have the right to choose his occupation freely. All workplaces shall be available to everyone under equal circumstances.“ This strongly echoes similar articles in international law, such as Article 26 of the Universal Declaration of Human Rights, which stipulates that „[e]veryone has the right to work, to free

choice of employment, to just and favorable conditions of work and to protection against unemployment.¹²⁰

The Constitution of the Republic of Serbia stipulates: a) that everyone shall have the right to asylum, and that b) all persons will have the right to choose their occupation freely, including asylum seekers. Bearing in mind that legal instruments are key regulatory aspects in determining the success of labor market integration, it can be said that the Constitution of the Republic of Serbia scores a positive mark on the Ortlieb-Knappert Test.

1.3.2. The Foreign Nationals Employment Act

In 2014, Serbian lawmakers adopted the Foreign Nationals Employment Act. This was a significant step forward in protecting the labor rights of asylum seekers, as the Act not only outlined rules for various aspects of the labor rights of foreign workers but also, for the first time, designated asylum seekers as a special category of people. The Foreign National Employment Act was quite restrictive. Article 13 stipulated that: „[a] personal work permit can be issued to a person seeking asylum nine months after submitting an asylum application if the decision on that application was not made without his fault for a period of six months, with the possibility of extension, while the status of the person seeking asylum lasts.“¹²¹ Bear in mind that the Asylum Office had to review the asylum application in the first place (which would take anywhere between three and nine months) before even considering the latter application. This effectively meant asylum seekers could not enter the labor market for almost a year. It should also be noted that asylum seekers had to get a residence permit. All of this would, of course, come at a steep price: a whopping 121 euros in administrative fees, and about 3 euros for lodging the application.¹²²

The situation improved with the recent Amendments to the Foreigners Act and the Foreign Nationals Employment Act, which came into force in 2023. Accordingly, Article 3 of the Foreigners Act and Article 2 of the Foreign Nationals Employment Act stipulate that asylum

¹²⁰ UN General Assembly, *The Universal Declaration of Human Rights (UDHR)*. New York: United Nations General Assembly, 1948, para 23., available at: <https://www.un.org/sites/un2.un.org/files/2021/03/udhr.pdf>

¹²¹ Foreign Nationals Employment Act, Article 13, available at: <http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2014/128/4/reg/20190507>

¹²² Law on Administrative Fees, Fee No. 205, available at: <https://bit.ly/3kXBe0P>

seekers get a single permit for temporary residence and work in Serbia. „Single permit is a permit for temporary residence and work of foreign nationals in the Republic.“¹²³ More importantly, the Act envisions that asylum seekers „whose decision about the asylum application has not been reached without his fault [can apply for a permit] within a period of six months after submission of the application.“¹²⁴

To summarize, the improved Foreign Nationals Employment Act scores both positively and negatively on the Ortlieb-Knappert Test. The positive legislative change shows an effort to lower a significant barrier to labor market integration, creating a more accommodating and welcoming environment. The move facilitates a quicker path to economic independence, scoring positively in all three dimensions. Conversely, the six-month waiting period still represents a significant institutional barrier to labor integration. For the improved Foreign Nationals Employment Act to fully pass the Ortlieb-Knappert Test, an optimal institutional framework should grant asylum seekers the right to work immediately upon arrival or — at least — after 30 to 60 days.

1.3.3. The Decree on the Manner of Involving Persons Granted Asylum in Social, Cultural and Economic Life

The asylum system in Serbia is mainly governed by the Asylum Act and related legislation, such as the Foreigners Act and the Foreign Nationals Employment Act, the Migration Management Act, and the Decree on the Manner of Involving Persons Granted Asylum in Social, Cultural and Economic Life.

Adopted in 2016 and revised in 2018, The Decree envisions the inclusion of asylum seekers to be achieved through full and timely information on rights, opportunities and obligations, learning the Serbian language and getting acquainted with Serbian history, culture and Constitutional order, but also through assistance in accessing education, healthcare and protection, and in the context of this thesis, most importantly, through access to the labor market.¹²⁵ An integration plan is drawn up for each person who has been granted the right to

¹²³ Foreigners Act, Article 3; Foreign National Employment Act, Article 2

¹²⁴ *Foreign Nationals Employment Act*, Article 3, available at: <https://immigratetoserbia.com/wp-content/uploads/2024/01/Foreigners-Employment-Act-SERBIA-2024.pdf>

¹²⁵ Decree on the Manner of Involving Persons Granted Asylum in Social, Cultural and Economic Life, Article 1, available at:

asylum. Article 7 stipulates assistance with: a) obtaining the necessary documents for registration with the National Employment Service, b) initiating the procedure for the recognition of foreign diplomas and certificates, c) provisions of inclusion in additional education, and d) inclusion in measures of active employment policy. The integration plan is adopted for one year. Each plan is based on information about age, gender, education, work experience, and other relevant information.¹²⁶ All of this is to be provided by the SCRM. By 2023, the Commissariat had designed 53 integration plans. It should be noted, however, that even though the Decree on the Manner of Involving Persons Granted Asylum in Social, Cultural and Economic Life *envision*s the Commissariat assisting with labor integration, assistance is, in fact, still solely provided by non-governmental organizations and civil society organizations.

The Decree on the Manner of Involving Persons Granted Asylum in Social, Cultural and Economic Life itself is not badly written. It envisions a comprehensive integration plan. It outlines a detailed process, including individualized plans and an active role of the Commissariat. However, this institutional support is largely absent in practice. The crucial assistance for the integration of asylum seekers is not being provided by the state institution mandated to do so, but rather by non-governmental organizations and civil society. To summarize, on a regulatory level, the Decree scores positively on the Test, but fails at the normative and cognitive dimensions.

1.3.4. A dialogue between the public sector and civil society

The UNHCR works closely with the Serbian Commissariat for Refugees and Migration, the Ministry of Labor, Employment, Veteran and Social Affairs, the National Employment Service, and other state bodies and authorities. The UNHCR helps in the training and capacity building of civil servants of state bodies and authorities and civil society organizations.

To name a few examples, in 2006, the Republic of Serbia passed a Decree to turn a former reception center for refugees from the former Yugoslavia (already under the UNHCR's mandate) into an asylum center. Within the year, the agency reconstructed the facility using

https://kirs.gov.rs/media/uploads/Uredba_o_nacinu_ukljucivanja_u_drustveni_kulturni_i_privredni_zivot_lica_kojima_je_odobreno_pravo_na_azil.pdf

¹²⁶ *Ibid*, Articles 6 - 9

EU funds. The facility was handed over to the Commissariat for Refugees and Migration on December 16, 2008.¹²⁷ In 2021, the Serbian and Italian authorities exchanged experiences related to refugee protection. The mission was facilitated by the UNHCR, the Italian Ministry of Foreign Affairs and International Cooperation, and the Italian Embassy in Serbia.¹²⁸

In April 2024, the UNHCR signed a Letter of Understanding with the Commissariat for Refugees and Migration, further bolstering cooperation between the two Agencies. The Letter of Understanding aims to formalize the long-standing collaboration between the two organizations and further strengthen various aspects of their joint work: improvement of the reception conditions in asylum centers, the implementation of international and domestic standards related to integration, etc.¹²⁹

The Red Cross of Serbia was founded in 1876 by Serbian politician, diplomat and physician Vladan Đorđević. The International Committee of the Red Cross (ICRC) has operated in the Republic of Serbia since the 1990s. In April 2019, in partnership with the Psychological Association Network (PIN), the Red Cross of Serbia hosted a panel on the mental health of refugees,¹³⁰ and in June 2011, Serbia opened an Asylum Center in Bogovođa in a Red Cross facility. Catholic Relief Services, a humanitarian agency of the Catholic Community, started operating in Serbia in the 1990s as a response to the violent breakdown of the former

¹²⁷ Commissariat for Refugees and Migration, *Asylum and Reception Centers*, available at: <https://kirs.gov.rs/eng/asylum/asylum-and-reception-centers>

¹²⁸ UNHCR Serbia, *Authorities of Italy and Serbia Exchange Experiences Related to Refugee Protection*, available at: <https://www.unhcr.org/rs/en/19347-unhcr-authorities-of-italy-and-serbia-exchange-experiences-related-to-refugee-protection.html>

¹²⁹ UNHCR Serbia, *UNHCR and Commissariat for Refugees and Migration of the Republic of Serbia Further Their Cooperation*, April 3, 2024, available at: <https://www.unhcr.org/rs/en/24017-unhcr-scrm-further-their-cooperation.html>

¹³⁰ Red Cross of Serbia, *Mental Health of Refugees and Migrants*, available at: <https://www.redcross.org.rs/en/news/mental-health-of-refugees-and-migrants/>

Yugoslavia. One of their most recent projects envisioned a small pizza restaurant in Belgrade that employs asylum seekers, refugees, and internally displaced persons.¹³¹

The dialogue between the public institutions on the one hand, and non-governmental organizations and civil society on the other, scores both positively and negatively on the Ortlieb-Knappert test. The dialogue scores positively because it represents a functional and collaborative institutional response to labor market integration. Through their direct engagement, non-governmental organizations serve as an institutional underpinning for the integration of asylum seekers. Conversely, the public sector scores negatively on the Ortlieb-Knappert test, as the necessity of heavy reliance on non-state actors is a clear sign that the public institutions are not self-sufficient, and therefore cannot underpin their own normative framework.

1.3.5. The Role of Non-Governmental Organizations and Civil Society Organizations

In June 2021, IKEA SEE (Southeast Europe) started a three-month Refugee Internship Program in partnership with the UNHCR, pledging to provide access to the labor market for over 2500 refugees across 30 countries.¹³² Then in 2023, the two teamed up again to launch the #ForRefugees initiative, a private sector network aimed at mobilizing „the support network of socially responsible companies for persons who were forced to flee their homes and are building their lives from scratch in Serbia.“ The network includes IKEA, the French-Serbian Chamber of Commerce, Inditex, Mercator, ImpactHub Belgrade, Quonnexa Industries, Mona Hospitality Management, and Women on the Way.¹³³ In 2024, the UNHCR signed the abovementioned Letter of Understanding. In March 2025, the UNHCR organized a panel on the economic potential refugees can bring to Serbia. UNHCR representative Soufiane Adjali called on companies to explore new business opportunities by empowering refugees to become economically independent. Echoing Betts and Collier, Acting Assistant to the Commissioner

¹³¹ “Pizza Laganizza - Pizzeria, the Working Space for Refugees and Asylum Seekers,” Global Compact on Refugees, available at: <https://globalcompactrefugees.org/good-practices/pizza-laganizza-pizzeria-working-space-refugees-and-asylum-seekers>

¹³² “Supporting Refugees - more collaboration needed, including the private sector,” UNHCR Serbia, available at: <https://www.unhcr.org/rs/19743-podrska-izbeglicama-nove-saradnje-dobrodosle-ukljucujuci-privatni-sektor.html>

¹³³ “Network of companies #ForRefugees”, available at: <https://www.unhcr.org/rs/en/company-network-for-refugees>

for Refugees and Migration of Serbia Danijela Nadić emphasized that: „[r]efugees bring different skills, experiences and perspectives that can improve business operations and expand into new markets.“¹³⁴

As a partner of the UNHCR, the Belgrade Center for Human Rights (BCHR) has provided asylum seekers with free legal aid since 2012. Their activities include representing asylum seekers in front of competent state bodies and authorities and international institutions, including the European Court of Human Rights. More importantly, their activities include assisting asylum seekers in integrating into Serbian society through support in realizing their economic and social rights. It achieves this with support from the SCRM. As of late, the Belgrade Center for Human Rights has published a report on accessing the labor market in Serbia in 2019, detailing the legal framework, an overview of the actual situation regarding access to the labor market from the refugee’s perspective, and further recommendations on improving the practice.¹³⁵ The agency also produces an overview of the right to asylum every year. In 2021, the agency represented Saliou Saliou, a Cameroonian in finding asylum, who then started working in the aforementioned IKEA program. In 2023, the agency held a roundtable on labor rights for refugees. The workshop aimed to mobilize asylum seekers and refugees who want to join the labor market in Serbia. The workshop concerned itself with business ethics, communication standards, dress code and work attitude, as well as other standards that differ greatly from those in the country of origin of BCHR’s clients.¹³⁶

The Center for Research and Social Development IDEAS, founded in 2014, is a civil society organization dedicated to building a juster, fairer, more inclusive society. After many years of working with asylum seekers and refugees, IDEAS founded the Asylum and Migration Program in 2021. A partner of the UNHCR since 2018, the organization is also a member of

¹³⁴ “UNHCR’s panel: Refugees Open New Business Horizons for the Serbian Economy,” UNHCR Serbia, available at: <https://www.unhcr.org/rs/en/28993-unhcrs-panel-refugees-open-new-business-horizons-for-the-serbian-economy.html>

¹³⁵ Slavica Milojević, *Access to the Right to Work for Migrants in the Republic of Serbia*, The Belgrade Centre for Human Rights, 2019

¹³⁶ “New *Refugees for Refugees* workshop,” Belgrade Center for Human Rights, available at: <http://azil.rs/en/new-refugees-for-refugees-workshop-on-labor-rights/>

the European Council on Refugees and Exiles (ECRE).¹³⁷ The Program Coordinator, Nikola Kovačević, who is also the author of AIDA's (Asylum Information Database) report on the Republic of Serbia, has extensively written about the labor rights of asylum seekers. In February 2022, IDEAS organized a conference on the social and economic integration of refugees. Kovačević stressed that granting asylum seekers access to the labor market is the precondition for their independence and human dignity and that granting them quicker access to the labor market would be a game-changer for this category of people.¹³⁸ In 2023, the coordinator of IDEAS's Refugee Council, Fernando Almeyda Rodriguez, participated in a public debate on the Amendments to the Foreign Nationals Employment Act, where he proposed to abolish the nine-month duration period as a precondition for asylum seekers to apply for a personal work permit.¹³⁹ In 2024, the organization took part in a hearing of the Human Rights Committee on the situation in Serbia.¹⁴⁰ Those are just some of the non-governmental organizations that facilitate labor market integration in Serbia. There are many more.

Non-governmental organizations play a crucial role in providing institutional support to refugees and asylum seekers. Organizations like the United Nations High Commissioner for Refugees, the Belgrade Center for Human Rights and IDEAS are actively engaged in establishing different kinds of programs, providing legal aid and influencing the legal process. Their involvement in creating the institutional framework, successfully translating policy goals into very tangible results, earns them a positive mark on the Ortlieb-Knappert Test.

1.3.6. The private sector

As mentioned, in June 2021, IKEA started a three-month „Refugee Internship Program“ in partnership with the UNHCR, pledging to provide access to the labor market for over 2500

¹³⁷ IDEAS website, available at: <https://ideje.rs/migracije-i-azil/>

¹³⁸ “Supporting Refugees - more collaboration needed, including the private sector,” UNHCR Serbia, available at: <https://www.unhcr.org/rs/en/19755-supporting-refugees-more-collaboration-needed-including-the-private-sector.html>

¹³⁹ “Savet izbeglica predložio ukidanje roka za dobijanje radnih dozvola” available at: <https://ideje.rs/savet-izbeglica-predlozio-ukidanje-roka-za-dobijanje-radnih-dozvola/>

¹⁴⁰ “IDEAS učestvovao na sednici Komiteta za ljudska prava UN-a” available at: <https://ideje.rs/ideas-na-sednici-komiteta-za-ljudska-prava-un-a/>

refugees across 30 countries. Then, in 2023, the two teamed up again to launch the #ForRefugees initiative, under which Cameroonian Saliou Saliou found employment. The furniture giant has made generous donations for refugees across Serbia, including the furnishing of Vranje Asylum Centre and Home for Children without Parental Care „Jovan Jovanović Zmaj.“¹⁴¹

Women on the Way is another example of social entrepreneurship. It is a social start-up that creates unique designs while employing women refugees in Serbia. Their clothes and accessories are uniquely designed and made by women refugees. The products are seen as “an intercultural bridge” between the cultures from which women refugees come and the cultures in which they seek a new life. Woman on the Way explores similarities in traditional motifs and patterns, combines them, and applies them to their products.¹⁴² The start-up was founded by political scientist Katarina Ejodus, who got the idea while researching the needs and challenges of women asylum seekers in Serbia. That is when she met designer and painter Farima Shangolian, an asylum seeker from Iran. In Katarina’s own words: “When I asked for her opinion about my idea, she told me she had already started an informal group of refugee women who paint traditional motifs on jeans and jackets.” That is when they decided to join ideas, and were soon joined by Katarina’s sister, Lola.¹⁴³

In 2019, *Pizza Laganizza*, a small pizzeria in the heart of Belgrade that employs asylum seekers, refugees and displaced persons, opened its doors to the public. The pizzeria was envisioned as a project by the Catholic Relief Services, in partnership with the UNHCR, the Balkan Center for Migration and Human Activities (the BCM), the NGO Atina – Civic Association for Combating Trafficking in Human and Gender-Based Violence, the Belgrade Center for Human Rights, and others. The BCM, with the assistance of UNHCR and The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), organized employment training. The training enables the beneficiaries to widen their skills and improve their position

¹⁴¹ “Private sector supporting refugees,” UNHCR Serbia, available at: <https://www.unhcr.org/rs/en/private-sector>

¹⁴² Women on the way, available at: <https://womenontheway.co/about-us/>

¹⁴³ “More than employment - building a new life and a better society,” UNHCR Serbia, available at: <https://www.unhcr.org/rs/en/21687-more-than-employment.html>

on the job market. In addition to training, the project brings the possibility of long-term employment for the beneficiaries who completed the training and gained the right to work.¹⁴⁴

In 2024, *Ariana Yummy* opened its doors to the public. It is the first restaurant in Belgrade offering authentic Afghan food. Its owner, Kochai Aryubi, fled war-torn Afghanistan for Serbia, where he was granted asylum in 2018. He learned Serbian, and with knowledge of seven other languages, he established a translation agency and began working as a translator and cultural mediator. His wife and child soon joined him in Serbia and not long after, the restaurant opened its doors. Customers can try everything from *bolani*—a savory pastry filled with vegetables, meat, and oriental spices—to *Kabuli palaw*—a Kabul-style pilaf with lamb, almonds, raisins, and vegetables.¹⁴⁵

The private sector passes the Ortlieb-Knappert Test with flying colours.

1.4 Barriers to Exercising Labor Rights

As mentioned earlier, in the first five months of 2025, only one person got asylum in the Republic of Serbia.¹⁴⁶ A lot can and should be done to ensure asylum seekers fully enjoy their labor rights in Serbia. The barriers can be described as legal, institutional, socio-economic, and cultural. Asylum seekers must gather the necessary documents and apply for asylum. The process is long and expensive. The law is not on their side either, as they are barred from entering the labor market for a considerable length of time. What's more, 4 out of 7 asylum reception centers are located in remote areas where unemployment rates are already high.

1.4.1. The asylum procedure

According to AIDA's (Asylum Information Database) country report for Serbia, at the end of March 2022, the Asylum Office had 19 staff members, of whom:, 7 out of 12 asylum officers were in charge of the asylum procedure and deciding on applications for international

¹⁴⁴ "Pizza Laganizza - Pizzeria, the Working Space for Refugees and Asylum Seekers," Global Compact on Refugees, available at: <https://globalcompactrefugees.org/good-practices/pizza-laganizza-pizzeria-working-space-refugees-and-asylum-seekers>

¹⁴⁵ "Small Businesses Empower Refugees and Enrich Serbia's Culinary Scene" UNHCR Serbia, available at: <https://www.unhcr.org/rs/en/28449-small-businesses-empower-refugees-and-enrich-serbias-culinary-scene.html>

¹⁴⁶ Beta, "U Srbiji za pet meseci odobren samo jedan zahtev za azil" *NI*, 20. jun, 2023, <https://n1info.rs/vesti/u-srbiji-za-pet-meseci-odobren-samo-jedan-zahtev-za-azil/>

protection in 2021. Two asylum officers were on a maternity leave, and two were not active in the RSDP. All of them have at least 5 years of experience. In March 2022, two asylum officers left the Asylum Office, leaving this body with only 5 operational officers.¹⁴⁷

The numbers show a staggering picture — with only a year in between. In July 2023, there were a total of 3,526 refugees, asylum seekers and migrants in Serbia. Of these, 142 people applied for asylum, and 95 are unaccompanied minors.¹⁴⁸ According to the latest report of the UNHCR, between January and June 2025, 254 persons intended to seek asylum, 69 persons applied for asylum, and only 3 were granted refugee status.¹⁴⁹

As Perišić and Marković point out, the procedure for assessing the labor market in Serbia presents such a barrier that some asylum seekers do not even try applying for asylum, or it forces them into the grey market, further highlighting their vulnerability to human rights violations. Moreover, „there is strong evidence of child labor, especially among the unaccompanied children asylum seekers and migrants in Serbia, who are often involved in hazardous labor and the worst forms of child labor.“¹⁵⁰

The migration system of Serbia fails asylum seekers before they even get sanctuary. The lengthy procedure alone, before refugees even get state protection, let alone access to the labor market, earns it a negative mark on the Ortlieb-Knappert Test.

1.4.2. Constitutional right to work

Whereas the Constitutional right to work scored positively on the Ortlieb-Knappert Test regarding labor market access, it should be noted that its content is not well-regulated. Some key components are missing or create confusion. This is not intentional, but rather the consequence of the way labor is regulated in the Labor Act.

¹⁴⁷ European Union: Court of Justice of the European Union, *Asylum Information Database, National Country Report: Serbia*, May 2021, p. 24, available at: https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-SR_2021update.pdf

¹⁴⁸ Serbia: Statistical snapshot, available at: <https://reporting.unhcr.org/serbia-statistical-snapshot-5402>

¹⁴⁹ Statistical Review, June 2025, Serbia, available at: <https://data.unhcr.org/en/documents/details/117581>

¹⁵⁰ Perišić, N., Marković, V. „In Search of Labor Market Opportunities for Immigrants in Serbia: Migration Policy Ambitions and Labor Market Realities“, p. 8

Reljanović points out that, according to the Constitution, the right to work is an individual right, i.e., it consists of components that workers enjoy individually. This is not the case, as collective workers' rights are defined in other Articles down the line in the Serbian Constitution.¹⁵¹ Reljanović argues that lawmakers hadn't focused on this category of rights, and that the Constitution does not pay sufficient attention to this category of rights. The right to work is solidly regulated. However, as stated above, some key components are missing or unclear. The terminology creates confusion,¹⁵² earning the Constitution a negative spot on the Ortlieb-Knappert Test in this regard.

1.4.3. The Foreign Nationals Employment Act

The first step towards realizing asylum seekers' labor rights in Serbia was adopting the Foreign Nationals Employment Act in 2014. Article 2 of the Foreign National Employment Act stipulates that asylum seekers, persons seeking temporary protection, victims of human trafficking and persons granted subsidiary protection belong to a special category of foreigners.¹⁵³ For foreigners from this category, a personal work permit was issued by the National Employment Service at the request of the applicant. Article 13 of the Foreign Nationals Employment Act stipulated that: „[a] personal work permit can be issued to a person seeking asylum nine months after submitting an asylum application if the decision on that application was not made without his fault for a period of six months.“¹⁵⁴ The situation improved with the recent Amendments to the Foreigners Act and the Foreign Nationals Employment Act, which came into force in 2023. Accordingly, Article 3 of the amended Foreigners Nationals Employment Act stipulates that: „[a] single permit is a permit for temporary residence and work of foreign nationals in the Republic.“¹⁵⁵ These changes are aimed at simplifying and streamlining the process.

¹⁵¹ Reljanović, „Pravo na rad u Ustavu Republike Srbije,“ p. 257

¹⁵² *Ibid*, p. 259-260

¹⁵³ Foreign Nationals Employment Act, Article 2, available at: <https://immigratetoserbia.com/wp-content/uploads/2024/01/Foreigners-Employment-Act-SERBIA-2024.pdf>

¹⁵⁴ *Ibid*, Article 13

¹⁵⁵ Foreigners Act, Article 3; Foreign National Employment Act, Article 2

While these changes earn the Foreign Nationals Employment Act a positive score on the Ortlieb-Knappert Test for their effort to speed up and streamline the process of obtaining the right to work, I argue that six months is a lot of time for asylum seekers to be without labor rights. Moreover, Article 10 of the Foreign Nationals Employment Act stipulates that the National Employment Service assesses the need for foreign workers,¹⁵⁶ which is a serious limitation.

The same Article stipulates that all documents „shall be submitted electronically by the applicant for the issuance of a single permit, through a joint web portal (Single Portal), within the service intended for the issuance of a single permit to a foreign national, in the manner and in accordance with the instructions for using the service intended for issuing a unique permit to a foreign national.“¹⁵⁷ But as Perišić and Marković point out, while the Amendments are, indeed, aimed at streamlining the process, the implementation of these measures was already postponed until February 1st 2024, because the portal was not yet operational. „Based on reports from January 2025, the portal was still not operational in full, the information for prospective immigrants was incomplete or lacking, sometimes outdated and not tailored to any of their specific circumstances.“¹⁵⁸

In principle, everyone has the right to earn a living by picking a freely chosen occupation. However, people in need of international protection often have difficulties exercising this right. From a legal standpoint, the Foreign Nationals Employment Act fails them.

As Kovačević points out, the right-bearer, in the sense of the provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR), is any person located in the territory of a contracting state of the Covenant. And even though the ICESCR does not specifically state how this principle relates to foreigners, the Committee on Economic, Social and Cultural Rights states that rights guaranteed by the ICESCR apply to both domestic and foreign nationals. Furthermore, the International Convention on the Elimination of All Forms of Racial Discrimination affirms that equality before the law, regardless of race, skin color,

¹⁵⁶ Foreign Nationals Employment Act, Article 10

¹⁵⁷ *Ibid*

¹⁵⁸ Natalija Perišić and Violeta Marković, (forthcoming) „In Search of Labor Market Opportunities for Immigrants in Serbia: Migration Policy Ambitions and Labor Market Realities“, Tirana Observatory, p. 8

national or ethnic origin should be ensured in terms of enjoying the right to work, free choice of employment, just and favorable working conditions and protection against unemployment. Furthermore, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families affirms the right of all migrant workers to enjoy human rights, regardless of their legal status. According to the provisions of the Convention, all migrants, including subjects of irregular migration, must be treated the same as domestic workers, in terms of employment conditions, wages and other working conditions.¹⁵⁹ The Foreign Nationals Employment Act fails asylum seekers at the last part, ultimately scoring a negative mark on the Ortlieb-Knappert Test.

1.4.4. Employment Strategy of the Republic of Serbia

The Employment Strategy of the Republic of Serbia starts off quite promising, by stating its goal is to create a stable and sustainable employment growth underpinned by knowledge and decent work.¹⁶⁰ The Employment Strategy lists several legal instruments of relevance to employment, none of which, with the exception of the more general Foreign Nationals Employment Act, specifically mention asylum seekers.¹⁶¹ The Strategy identifies several vulnerable groups whose improvement of their status is to be prioritized within the given time frame, including women and children, persons with disabilities, and Roma.¹⁶² In fact, the word *asylum* is not mentioned once.

As people spend their waking hours working, commuting to and from work and resting from said work, economic security is one of the most important human needs, as it relates to an individual's ability to provide means for his survival. The fulfillment of this right is protected and guaranteed by domestic and international laws and treaties. The Employment Strategy and its Action Plan score a few points on the Ortlieb-Knappert Test by acknowledging both domestic and international legal sources of labor rights protection. Importantly, the Strategy

¹⁵⁹ Ljubinka Kovačević, „Uslovi i prepreke za delotvorno ostvarivanje prava izbeglica ma rad - međunarodni pravni standardo,“ p. 101-104

¹⁶⁰ Employment Strategy of The Republic of Serbia 2021–2026, p. 57, available at: https://socijalnoukljucivanje.gov.rs/wp-content/uploads/2021/08/Strategija_zaposljavanja_u_Republici_Srbiji_2021-2026_engleski.pdf

¹⁶¹ *Ibid.*, 9-12

¹⁶² *Ibid.*, 79-84

and its Action Plan mention the Foreign Nationals Employment Act, which recognizes asylum seekers as a special category. Interestingly, the Strategy fails to mention the Asylum Act.

Exercising labor rights as a foreigner has a lot to do with the economic interests, goals, and policies of a state. While it could be argued that foreign nationals should be afforded equal treatment to domestic workers, this does not imply the complete equalization of their position. „Namely, the regime of equal treatment is not incompatible with establishing certain special conditions that foreigners must fulfill to establish an employment relationship.“¹⁶³ These conditions include issuing different kinds of permits and licences, and so on. It should be noted, however, that asylum seekers are not ordinary foreign nationals. In failing to treat asylum seekers as a vulnerable group whose improvement of their status is to be prioritized within the given time frame, the Employment Strategy ultimately fails the Ortlieb-Knappert Test.

1.4.5. Socioeconomic barriers to labor market integration

According to the letter of the law, asylum seekers should not be discriminated against and should not face serious barriers in accessing the labor market. The reality, however, is quite different.

As reported by the BCHR, in their 2022 annual report on the right to asylum in Serbia, once the National Employment Service „issued them their personal work permits, refugees and asylum seekers found jobs relatively quickly despite the language barrier, the employers' unfamiliarity with refugees' and migrants' right to access the labour market and the undeveloped domestic market. One of the reasons may lie in the fact that there is a general shortage of labour force in the RS.“¹⁶⁴

Indeed, four out of seven Asylum Centers, i.e. Tutin, Sjenica, Vranje and Bogovođa, are located in remote areas, where unemployment rates are already high. Left without much-needed institutional aid, asylum seekers try to find work illegally.

¹⁶³ *Ibid*, p. 7

¹⁶⁴ Belgrade Center for Human Rights, *Right to asylum in the Republic of Serbia 2022* (Belgrade Center for Human Rights, 2022) p. 135

According to the Report on the Work of the Labor Inspectorate, between January and December 2023, labor inspectors identified 5,015 people working „illegally.“¹⁶⁵ The labor inspectors discovered foreign nationals working illegally, with whom the employers did not conclude employment contracts, register them for mandatory social security, or secure work permits in the Republic of Serbia. After inspections and measures taken by labor inspectors, foreign citizens caught working „illegally“ often do not establish a working relationship with the employer but are returned to their home country, and other individuals, also foreign citizens, are hired in their place. During these inspections, labor inspectors found that, out of the total number of foreign nationals found at work, 11% of employers had not previously obtained work permits for their employees in the Republic of Serbia, and 6% did not establish work contracts or register them for mandatory social insurance.¹⁶⁶

1.5 Summary of the Ortlieb-Knappert Test

The Republic of Serbia scores both positively and negatively on the Ortlieb-Knappert Test across different institutional dimensions. The legal framework provides a strong foundation, but its implementation is inconsistent and often relies on the support of non-state actors.

The Constitution scores a positive mark on the Ortlieb-Knappert Test by stipulating the right to asylum and guaranteeing that everyone, including asylum seekers, has the right to choose their occupation freely. The amendments to the Foreign Nationals Employment Act score positively by streamlining the process for obtaining work permits, creating a more accommodating environment.

The dialogue between the public sector and non-state actors earns the Republic of Serbia a positive score, as it represents a functional and collaborative response. Non-governmental organizations and civil society play a crucial role in providing services according to international standards.

¹⁶⁵ Izveštaj o Radu Inspektorata za rad za 2022. godinu, p. 10, available at: <https://www.minrzs.gov.rs/sr/dokumenti/ostalo/izvestaji-o-radu/plan-inspekcijskog-nadzora>

¹⁶⁶ *Ibid.*, p. 27

The private sector scores a positive mark on the cognitive dimension. Through initiatives and social networks, it actively changes the narrative around asylum seekers and provides tangible examples of successful integration.

At the same time, the public sector's institutional framework and implementation fall short in several key areas.

The Decree on the Manner of Involving Persons Granted Asylum is well written and envisions a comprehensive integration plan. However, this institutional support is largely absent in practice. Assistance for the integration of asylum seekers is not being provided by the state institution mandated to do so, but rather by non-governmental organizations and civil society.

Despite the Constitutional declarations regarding asylum seekers, it can be argued that lawmakers haven't focused on this category of rights, and that the Serbian Constitution does not pay sufficient attention to labor rights.

While the amendments to the Foreign Nationals Employment Act are a big improvement, they ultimately fail the Ortlieb-Knappert Test due to the lengthy six-month waiting period for a work permit.

The public sector fails the Ortlieb-Knappert Test because its reliance on non-state actors for the implementation of its policy indicates that it is not self-sufficient to provide those services alone. The lengthy procedure and understaffing of the Asylum Office earn Serbia a negative mark as it fails to provide protection and access to the labor market in a timely manner.

PART 3

1. DIFFERENT POINTS OF VIEW

To return to the painting metaphor, the Republic of Serbia is the canvas — the foundational surface upon which the entire image is laid. Asylum seekers are my raw pigments — the essential, complex and diverse colors that are mixed and applied to create the painting. My brushes are labor rights — the instruments used to apply the paint onto the canvas, to define the edges of freedom, justice and injustice.

1. 1. The Refugee Perspective

I sat down with S.¹⁶⁷, an asylum seeker from India, to talk, via *Zoom*, about her experiences in finding asylum and employment in Serbia.

„I came to Serbia and applied for asylum in 2022, and had my interview in 2023. So, it took one year, as I was busy with the application. I had the interview with my lawyer and the translator, and after that, I waited for my results until December 2023. I got a positive result. Then I tried to find work, which was challenging because of the language, experience, etc. Slowly, NGO Atina helped me get into cooking classes. Soon afterwards, I got a certificate, and I tried to find a job. I applied to various jobs and eventually found a job at a 5-star hotel. I went there for an interview, they accepted me, and I started to work.”

All things considered, this is an example of speedy progress from arrival in Serbia to labor market access. To return to the Ortlieb-Knappert Test, the Asylum Act allowed S. to seek asylum in the Republic of Serbia, and a combination of laws guaranteed she had access to the labor market. What this also shows is how the normative and cognitive dimensions work in practices. The judge presiding over my interviewee’s case could have been swayed by public opinion and social norms. The same opinions might have influenced the employer.

¹⁶⁷ I use only a letter to denote the first of my respondents for reasons of data protection

„The biggest challenge was the language. I applied for jobs, but they required knowledge of language. The second problem was that some employers would say: *We don't want foreigners. We are looking for locals or Europeans.* This is a big challenge.”

This showcases where the system fails asylum seekers and scores negatively on the Ortlieb-Knappert Test. This is a wonderful example of the cognitive frames of the Ortlieb-Knappert Test, which can influence the labor market integration of refugees.

„The NGO Atina has helped me find a job. They held courses, language courses and basic cooking courses. They tried to find us jobs and help us learn the language. They made it easier for us to start somewhere. I did not receive any support from the government. We went and deposited documents to find a job and enter the labor market, but I did not receive any response from the government.”

The only thing that I would like to point out is the fact that my interviewee did not get any support from the government despite the stipulations from the legal framework on integration to be achieved through assistance in accessing the labor market in the Republic of Serbia.¹⁶⁸ The framework is good, but the implementation is lacking. This leaves the regulatory dimension with a negative mark on the Ortlieb-Knappert Test.

„Before I started working, before the employers knew if I would be granted asylum in Serbia, they said: *We will pay you per hour, or We will pay you one day's salary,* you know, it was like that. They did not want to give me a contract, you know, because if they had given me a contract, they would have had to fulfill all the conditions they needed to from the company, so they did not give me a contract. They only gave me one when I showed them documents to prove that I am an asylum seeker. Then they did want to pay my insurance and salary and so on. But before they knew I had a document, they did not want to pay me; they only wanted to pay me per day. The salary is insufficient, really. The salary is very low, and I put in a lot of work, so I expected more. But they said that: *under the law, we can not increase*

¹⁶⁸ Decree on the Manner of Involving Persons Granted Asylum in Social, Cultural and Economic Life, Article 1, available at: https://kirs.gov.rs/media/uploads/Uredba_o_nacinu_ukljucivanja_u_drustveni_kulturni_i_privredni_zivot_lica_kojima_je_odobreno_pravo_na_azil.pdf

the salary a lot, because you are a foreigner and you don't have any experience in Europe. It was like that."

In this regard, the Republic of Serbia scores not a negative point on the Ortlieb-Knappert test, but a zero (0). To reiterate, the third phase of labor market integration is about workplace inclusion. In this stage, it is about feeling safe at work, having the same advancement opportunities as their colleagues and feeling and behaving like a citizen.

1.2. A civil society perspective

As mentioned, non-governmental organizations and civil society play a big part in Serbia's migration system. This is why their voices, too, must be heard. Nikola Kovačević answered my questions over a phone call.

„It can be safely said that the recent Amendments to the Foreign Nationals Employment Act, which was amended two years ago, have improved the status of asylum seekers. Before that, asylum seekers were allowed to work nine months after lodging their asylum application, but the timeframe is now reduced to six months. There are certain recommendations of international bodies for the protection of human rights that say asylum seekers should be able to enter the labor market immediately, but, if we compare the practice and the EU directives, we can safely assume that these provisions are aligned with the EU Acquis. On the other hand, there are still many obstacles when it comes to the employment of asylum seekers. Asylum seekers are not institutionally recognized as a category that should enjoy any kind of institutional support during the asylum process.”

As Kovačević points out, the overall status of asylum seekers has improved, but there is still room for more. One of the biggest issues is that —as I have also mentioned above— asylum seekers are not adequately recognized by Law.

„Whoever wanted to find a job after six months, needed help to obtain minimal paperwork, which is not a problem, because NGOs usually provide this kind of support, but the bigger issue is their interaction with different state bodies and authorities, such as the National Employment Service, and employers who are not familiar enough with foreign nationals who enjoy the status of asylum seekers.”

This echoes what Čekerevac, Perišić and Tanasijević pointed out already in 2028, that „employees of the Centers for Social Work lack competencies in dealing with the issue. They do not know, for example, the difference between the rights that belong to irregular migrants, as opposed to asylum seekers, those who have obtained asylum, and those who are Serbian citizens.”¹⁶⁹

This highlights the role of non-governmental organizations and civil society, but also that sometimes, good laws do not translate to good practice. The migration system of Serbia does not have the capacity to provide everything according to international standards, so it has to rely on the non-governmental sector.

„Asylum seekers are not entitled to attend language courses during the asylum procedure, so it is very hard for them to access certain positions because of their lack of knowledge of the language. Some companies do not require this, but rather require the knowledge of French, English, or even Spanish. Still, the main problem, the biggest issue, is that the legal framework completely denies any institutional support to asylum seekers accessing the labor market. The legal framework has significantly improved after the bylaw, which now allows asylum seekers, people granted refugee status and subsidiary protection status to obtain the necessary documents, but still, the main stakeholders, or the Commisariat for Refugees and Migration, lack in offering adequate support.”

Kovačević stressed, once again, that labor market integration has improved but that asylum seekers still lack adequate support. Kovačević lists at least three sets of problems that hinder labor market integration.

„There is a lack of adequate support in the Law determining integration, because long-term integration requires access to citizenship. And while it is possible now to get citizenship, practice has shown that no one who was granted asylum and remained in Serbia has gotten citizenship.”

„There are language courses for asylum seekers in Serbia, but the practice has shown that most of them have been discouraged from taking part in this process, so most of them

¹⁶⁹ Ana Čekerevac, Natalija Perišić, and Jelena Tanasijević, „Social Services for Migrants: The Case of Serbia,” p. 116

found their own way, without ever becoming familiar with the Serbian language to an extent that is necessary for a complete and successful integration.”

„The third issue is the economic situation of people who were granted asylum and refugee status. Those refugees and asylum seekers who do not have the capacity to earn a sufficient amount of money to cover the basic costs of life, such as rent. Finding housing, or receiving support for finding housing, in the first year after being granted asylum is very, very low. It cannot even cover the cost of one rent. Also, the condition to obtain financial support by the Commisariat for Refugees and Migration required that you were not allowed to work, so the only way you could access housing in the first year is if you either had a job, which would allow you to cover the costs of food, rent, utilities, etc. Alternatively, if you were not employed, you would receive money from the Commisariat, and you would have to leave the camp, but this money would not be sufficient, so access to adequate housing is a problem.”

Kovačević recommends that asylum seekers should be recognized as a special category of people and adequately aided by state bodies and authorities.

„Asylum seekers should be recognized as a special category of people who enjoy institutional support to access the labor market, which includes obtaining the necessary skills, education, language courses, but also an active participation of the Commisariat for Refugees and Migration, the National Employment Service and other state bodies and authorities.”

Finally, Kovačević points out that the dialogue between state bodies and authorities, and the civil society is decent, but feels that the former is not putting in an effort to actually tackle the issue of migration, but rather resolve individual problems.

„The cooperation between state bodies and authorities and the civil society is decent, but still very limited. The long-standing recommendation implies that state institutions are willing to cooperate, but not to a sufficient extent. Rather, they are willing to cooperate to a level that only resolves individual problems of individual people. The biggest problem when it comes to the Serbian asylum system is that most of the services are covered by NGOs and international donors, so there is no state-established, sustainable system that would allow asylum seekers to rely on the Serbian asylum system. In the context of the donor crisis, which we have had for a year —a year and a half— this problem will not be resolved, but it will only get worse.”

1.3. An institutional perspective

The Commisariat for Refugees and Migration of the Republic of Serbia (CRM) is the main institutional actor in helping asylum seekers obtain their rights in Serbia, so I wanted to know what granting asylum and the right to work looked like from their perspective. Miljan Krstonijević answered my questions via email.

„The application and implementation of new legal provisions of the Foreign Nationals Employment Act, which entered into force on February 1, 2024, significantly influenced the way in which the employment of this group of people is regulated. This included the simplification of procedures, as well as the shortening of the timeframe for asylum seekers’ access to the labor market. More precisely, it is possible for foreign nationals in a single procedure, before one state body, the Ministry of Internal Affairs of the Republic of Serbia, to exercise the right to temporary residence and the right to work at the same time. Also, the deadline for accessing the labor market has been shortened from nine to six months from the moment of submitting the asylum application (as evidenced by certificates of the submitted asylum application, status certificate, or by certificates of the submitted asylum application issued by the Asylum Office of the Ministry of Interior of Serbia), which also brought Serbia closer to EU practice.”

The procedure has, indeed, been simplified, but as it was pointed out, the web portal, which was the only place to submit said documents, did not work properly until recently. The effort cannot be disregarded, but the results are nil. This means that the pointer on the Ortlieb-Knappert Test would go back and forth between a positive and a negative score.

„When it comes to asylum seekers, there are certain challenges to their access to the labor market. One of the main issues is the lack of information on the part of employers when it comes to the rights of asylum seekers and their employment, the lack of awareness and a positive narrative. Ignorance of this category of people as part of the labor force of the labor market of the Republic of Serbia puts this category of people in a marginalized position, i.e., the position of more difficult-to-employ categories. Likewise, one of the main challenges and problems is the language barrier, which often represents a difficulty in the potential employment of the mentioned category of persons.”

Krstonijević acknowledges the challenges of labor market integration of asylum seekers and refugees. Krstonijević elaborates on how the Commissariat is tackling this.

„In addition to the fact that the Commissariat for Refugees and Migrations ensures the material conditions of acceptance for asylum seekers in asylum centers, it also provides support and assistance within the framework of access to the labor market for asylum seekers through various types of activities in cooperation with governmental and non-governmental sector partners, international organizations.”

„Activities that provide support and assistance to asylum seekers in the Republic of Serbia, regarding their participation and inclusion into the labor market as well as their work engagement are mainly reflected through offering specific jobs in cooperation with the UNHCR, free Serbian language classes conducted by civil society organizations in asylum centers, organizing employment fairs and training in collaboration with the National Employment Service (NES), communicating with legal representatives of asylum seekers to protect labor rights, safeguarding against discrimination and labor exploitation, as well as numerous other activities.”

„One of the important activities is the creation of a *Rulebook on career guidance*, which was carried out in cooperation with the Agency for Qualifications and UNHCR, as well as the possibility of recognizing a foreign school certificate in order to continue the educational process or employment in a specialized profession. In this regard, the Commissariat also provides assistance and support in opening bank accounts, which is one of the prerequisites for future employment, not only for asylum seekers but also for persons with approved asylum protection.”

These are great and undoubtedly important steps, but as the saying goes, saving the sweetest for last, my interviewee pointed out the CMR’s future plans, which also include limiting the deadline to three months.

The Commissariat is working on strengthening the cooperation in terms of professional retraining and retraining programs, especially in those areas where there is a shortage of labor. The Commissariat is also working on a model for connecting employers and asylum seekers to facilitate professional cooperation, increased cooperation with local self-governments, and striving for a legal change in the additional shortening of the deadline for accessing the labor

market for asylum seekers from the current six months to three months in order to harmonize the regulations with European practice.

CONCLUSION

This thesis aimed to analyze the enablers and barriers asylum seekers face in exercising their labor rights in the Republic of Serbia. I argued that a lot can and should be done to improve the labor market integration of refugees, but that the picture is not too bleak. Laws and regulations, such as the Constitutional right to work, as well as the right to work as a foreign national, protect labor rights of asylum seekers to some extent, but not all the way.

The Republic of Serbia has, indeed, ratified or acceded to almost all universal and regional treaties and conventions related to persons in need of international protection, but crucially has not ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Amendments to the Foreigners Act and the Foreign Nationals Employment Act are a significant step forward, but still leave a lot of uncertainty for asylum seekers.

As mentioned in the introduction, people migrate. They have been doing it for 1.75 million years. Quantitative methods reduce people to numbers. This research aimed to tell a non-numerical and unquantifiable story. It aimed to describe a social phenomenon. A qualitative approach seemed more suitable, as it enabled me to explore questions in a freer, more philosophical way. Accordingly, the hypotheses were formulated as statements about, rather than predictions on, labor market integration of asylum seekers in the Republic of Serbia. This, however, posed a significant challenge. A qualitative theory can help explain the *what* and *why* of a phenomenon, but it might struggle to answer the *so-what* part of the question. Given the constraints of a qualitative approach, where empirical validation isn't an option, I had to resort to underpinning my work with an institutional framework for academic rigidity.

For this purpose, I introduced the Ortlieb-Knappert Test, named after the duo behind *Labor Market Integration of refugees: An institutional country-comparative perspective*, which outlined three sets of factors for labor market integration. I then tested my hypotheses against these factors.

The study shows that hypotheses H1 (stating that asylum seekers have various enablers in exercising their labor rights) and H2 (stating that asylum seekers face serious barriers in exercising labor rights) are confirmed by the analysis.

Hypothesis H1 posits that asylum seekers in the Republic of Serbia have various enablers at their disposal when exercising their labor rights. These enablers include the country's legal framework, the dialogue and cooperation between public and private stakeholders, and the instrumental role of non-governmental organizations, civil society, and the private sector.

The first special hypothesis, H1a, referring to institutional enablers, is only partly confirmed. While the Constitution provides a strong legal foundation by guaranteeing the right to work for everyone, including asylum seekers and refugees, this institutional support is often absent in practice. The Decree on the Manner of Involving Persons Granted Asylum in Social, Cultural and Economic Life, for example, is well-written, but assistance is mainly provided by non-governmental organizations and civil society rather than the state institution mandated to do so.

The second special hypothesis, H1b, referring to the role of public and private stakeholders, is confirmed by the analysis. The analysis shows that Serbia's migration system is not efficient on its own and therefore uses the capacity of non-governmental organizations to provide services. A key example is the UNHCR's close cooperation with state bodies like the Serbian Commissariat for Refugees and Migration (SCRM) and the Ministry of Labor. This dialogue is further demonstrated by the Serbian authorities exchanging experiences with their Italian counterparts, under the UNHCR's facilitation, and the UNHCR signing a Letter of Understanding with the SCRM to formalize their joint work.

The third special hypothesis, regarding the positive influence of non-governmental organizations and civil society organizations, H1c, is confirmed by the analysis. International and local non-governmental organizations and civil society play a crucial role as enablers for asylum seekers. Several examples highlight their importance. The UNHCR cooperates with both state bodies and authorities, and the private sector, on initiatives, such as the Refugee Internship Program with IKEA. The Belgrade Center for Human Rights (BCHR) provides free legal aid, helps asylum seekers with social and economic rights, and has published reports detailing the legal framework and practical situation. The Center for Research and Social Development IDEAS works on asylum and migration, with its coordinator participating in public debates and hearings to advocate for quicker access to the labor market for asylum seekers. Other organizations, such as the Red Cross of Serbia and Catholic Relief Services, contribute through various projects.

The fourth special hypothesis, regarding the positive influence of the private sector, H1d, is confirmed by the analysis. The private sector is a significant enabler for asylum seekers, particularly through social entrepreneurship and internships. IKEA's „Refugee Internship Program” and the #ForRefugees initiative provide direct access to the labor market. Women on the Way is a social start-up that creates designs while employing women refugees, acting as an “intercultural bridge” between the cultures from which women refugees come and the cultures in which they seek a new life. Pizza Laganizza, a small pizzeria in the heart of Belgrade, employed asylum seekers and displaced persons from the former Yugoslavia. The restaurant Ariana Yummy, owned by a former asylum seeker, demonstrates a successful instance of refugee entrepreneurship.

Hypothesis H2 posits that, despite having certain enablers, asylum seekers in the Republic of Serbia are confronted with considerable obstacles to labor market integration. These barriers span legal, administrative, and socioeconomic dimensions, hindering their ability to fully exercise their labor rights.

The first hypothesis regarding barriers, or H2a, which highlights the legal barriers to labor market integration, is confirmed by the analysis.

The legal framework, while providing a foundation for labor rights, contains provisions that create significant barriers. The Constitution, while stipulating that everyone has the right to work, has been criticized for not paying sufficient attention to this specific category of rights. Most notably, the Foreign Nationals Employment Act, even with its recent amendments to streamline the process, still imposes a six-month waiting period before an asylum seeker can enter the labor market. This prevents asylum seekers from immediately entering the labor market and achieving economic independence.

The second hypothesis, or H2b, which highlights the administrative barriers to labor market integration, is confirmed by the analysis.

Beyond the legal provisions, the administrative process itself presents a big hurdle. The procedure for obtaining the necessary documents and submitting an asylum application is lengthy. A critical factor contributing to these delays is the understaffing of the Asylum Office, which leaves only a small number of officers responsible for reviewing applications.

This institutional inefficiency leads to significant processing delays, effectively hindering an asylum seeker's ability to obtain the necessary legal status to seek employment.

Finally, the analysis confirms hypothesis H2c, which posits that asylum seekers face various socioeconomic barriers in exercising their labor rights.

Despite legal protections, a gap exists between the law and reality, forcing asylum seekers to deal with a number of challenges. Socioeconomic factors outside the legal and administrative spheres pose significant challenges. Four out of seven reception centers in the Republic of Serbia (Tutin, Sjenica, Vranje, and Bogovođa), are located in remote areas where unemployment rates are already high. This geographic isolation severely limits job opportunities for asylum seekers. This, combined with the undeveloped domestic market, the language barrier, and the unfamiliarity of employers with refugees' rights, significantly hinders their ability to find work legally.

As mentioned before, the legal framework for the international protection of asylum seekers and refugees is based on three areas of law: international humanitarian law, international human rights law, and international refugee law. That much is clear. But where things get complicated is that when it comes to labor rights of this category of people, there is no „protection manual“ prescribing what this type of protection should look like. It is left to the States to decide how to approach this issue. Nor is there a systematic overview of this issue at such a scale.

This is not to say that there is no literature on the labor rights of foreign nationals or asylum seekers specifically. To name a few examples, there are the two cited texts by Lj. Kovačević, *Requirements for and Obstacles to the Refugees' Effective Exercise of the Right to Work*, and *Employment of Migrant Workers - Assumptions, Requirements and Limitations*, as well as AIDA's reports on legislative and practice-related developments in asylum procedures, or *Migrants and Refugees in Europe* by Baglioni and Calò, and many more not cited here. The list would, of course, be incomplete without mentioning Ortlieb and Knappert's *Labor Market Integration of refugees*. Yet, as mentioned, there is no systematic overview of the labor rights of asylum seekers in one country at this scale.

My contribution goes in the direction of filling in both a theoretical and an empirical gap. Regarding the first, I have combined normative theory (to point out the importance of labor

rights protection of asylum seekers) with an institutional tool (the Ortlieb-Knappert Test) to measure the legislative and practice-related developments in asylum procedures, coupled with interviews with representatives of each of the three groups that make up the process (to complete the picture). In filling an empirical gap, my contribution is twofold: 1) I have presented an overview of the many aspects of labor rights protection of asylum seekers in the Republic of Serbia, and 2) by doing so, I have provided a potential blueprint for writing a similar report for other countries.

Asylum seekers in Serbia face various difficulties in exercising their right to work, but significant steps have been taken to improve their situation. The first Asylum Act was adopted in 2008, and while it stipulated it would ensure the conditions for the inclusion of refugees in social, cultural and economic life, it did not include any provisions on labor rights. Then, in 2014, Serbia adopted its first Foreign Nationals Employment Act, which designated people in need of international protection as a special category of foreigners. Their situation was further improved with the Foreigners Act and Asylum Act in 2018, amended in August 2023. The Amendments to the Foreigners Act and the Foreign Nationals Employment Act are a significant step forward. The Amendments envision that asylum seekers in the Republic of Serbia can start working six months after lodging an asylum application, without having to formally apply for a personal work permit. While this is, indeed, a significant improvement, six months is still a lot. There are some recommendations to do away with the period entirely. Doing away with the waiting period entirely would help not only asylum seekers but the local economy too, as the private sector would benefit from the extra workforce.

On a positive note, especially when it comes to the field of migration, there is always some kind of dialogue between public institutions and civil society organizations. The migration system of the Republic of Serbia is not efficient alone, as it does not have the capacity, so it uses the capacity of non-governmental organizations and civil society to provide everything according to international standards. International non-governmental organizations, as well as civil society organizations and the private sector, work together to provide opportunities for asylum seekers in Serbia. That's all well and good, but it would only be fair to ask the competent authorities of the state to do their part too.

To conclude my thesis in Toksvig's words:

I escaped with my
children
sister
brother
husband
wife.
With my soul.
With my smile.
With my life.¹⁷⁰

¹⁷⁰ „What they took with them“ UNHCR, available at: <https://www.unhcr.org/uk/what-they-took-them>

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