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EDITORIAL

Triggering Irregular Migration in the Name of Combating It: Family Reunification for Beneficiaries of Subsidiary Protection under Attack[1]

Ralf Roßkopf[2]

Migration continues to dominate political discourse and elections in Europe – and thus also political action (see already Roßkopf, 2024a). Even before the election to the European Parliament on July 9, 2025, the uniform protection of the EU's external borders against irregular migration was the most important political issue for 49% of respondents (Seidl, 2024). For the Austrian parliamentary elections on September 29, 2024, immigration was the most important topic for 22% of the Austrian population and one of the most important topics for 56% (OTS, 2024). At the beginning of January 2025, migration was still considered the most important topic in the election campaign for the German Bundestag, with 37% agreement. After several people with a migrant background carried out deadly attacks in Germany and Austria within just a few weeks, the topic, together with internal security, seemed to gain even further importance. When the new Trump administration in the U.S. then raised doubts about its loyalty to the NATO alliance, the topic of migration (26%) was apparently overshadowed by a general need for peace and security (45%) (ZDFheute, 2025).

In the immediate aftermath of a knife attack in which a rejected asylum seeker, who was required to leave the country, killed a two-year-old boy and a 41-year-old man and injured three others, the conservative faction of the Christian Democratic Union (CDU) and Christian Social Union (CSU), supported by other opposition parties, won a vote in the Bundestag on January 29, 2025, calling on the federal government to turn away asylum seekers at the German borders (cf. on the legal issues Roßkopf, 2024b). Two days later, on January 31, 2025, it narrowly failed (Deutscher Bundestag, n.d.) with a 2024 bill to "end family reunification for those entitled to subsidiary protection until further notice" under the guise of "limiting the illegal influx of third-country nationals" (Deutscher Bundestag, 2024) [translation by the author].After the election, the two CDU and CSU successfully conducted exploratory negotiations with the Social Democratic Party of Germany (SPD) and decided to suspend family reunification for those entitled to subsidiary protection (CDU et al., 2025). They are currently conducting coalition negotiations based on this.

The new governing coalition in Austria has also included a provision in its coalition agreement to halt family reunification with immediate effect, albeit "temporarily and in

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[2] Dr. Ralf Roßkopf is editor-in-chief of *QRP* and a professor of law in the Faculty Applied Social Sciences at the Technical University of Applied Sciences Würzburg-Schweinfurt, Germany.

accordance with Art. 8 ECHR" [translation by the author]. Both proposals are introduced in the context and under the guise of combating irregular migration.

The proposed measures are politically contradictory, however. They are directed against a group of people who are actually seeking to join their family members through the regular immigration channels. These individuals have been recognized as requiring protection and are legally residing in the European Union with the appropriate residence permits. Ending the possibility of regular family reunification will in fact in many cases lead to people resorting to irregular migration routes to enter the EU. This fuels human smuggling on dangerous routes. All too often this will end fatally.

It should be noted that, following a temporary suspension of family reunification for refugees with subsidiary protection from 2016-2018 (Bick, 2018), the law in Germany has only allowed a maximum of 12,000 family reunifications per year since 2018 (Section 36a of the Residence Act), of which more than 60% were minors in 2024 (InfoMigrants, 2025). In Austria, a flat-rate statutory waiting period of three years after the granting of protection status already applies (Art. 35 para. 2 Asylum Act).

However, there are limits under human and fundamental rights. The European Convention on Human Rights (Art. 8 ECHR) protects the family unit, as does the German Basic Law (Art. 6 GG). In Austria, the European Convention on Human Rights has constitutional status. This requires a balancing of interests. Previous temporary suspensions of family reunification with persons entitled to subsidiary protection in Germany and Austria in the context of the influx of Syrian refugees in particular had already been challenged as unlawful due to inadequacies in this regard and in particular with regard to the principle of the best interests of the child (Roßkopf, 2018).

In the meantime, the European Court of Human Rights has summarized its case law in its judgment of 9/7/2021, M.A. v. Denmark, No. 6687/18, and specified it with regard to persons entitled to subsidiary protection. The requirements for legislators and administrations can be summarized as follows:

1. Formal requirements:
   a. Sufficient flexibility, speed and effectiveness
   b. Permissibility of general waiting periods:
      i. Up to two years: possible
      ii. Beyond two years: Interest in family reunification carries more weight
      iii. Three years or more: hardly justifiable for beneficiaries of subsidiary protection
   c. Introduction of the possibility of case-by-case examination and consideration of interests
2. Substantive requirements:
   a. Principle of the best interests of the child shall have priority in all decisions
   b. Knowledge of the migration plan that entails separation at the time of marriage
   c. Secured means of subsistence in the host country
   d. Bonds with the host country
   e. Possibility of maintaining family unity in the country of origin
   f. Need for protection of beneficiaries of subsidiary protection, taking into account the values of the ECHR (in particular (Art. 3 ECHR)
   g. Burden of migration and political sensitivity for the host country

In conclusion, the considerations regarding the suspension of family reunification for beneficiaries of subsidiary protection do not at all contribute to the fight against irregular migration. On the contrary, they will turn the effort to restore family unity from the realm of regularity into that of irregularity. They affect a relatively small recognized group in need for protection that is also particularly vulnerable. A suspension of family reunification for more than two years will generally be difficult to justify. It will hardly be justifiable for a period of three years or more. Any shorter suspension period of less than two years must give those affected the opportunity to assert an overriding interest in reunification on a case-by-case basis.

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RESEARCH ARTICLES

Temporary Protection in the EU:
A Legal Analysis of Labor Market Impact[1]

Tamara Kortukova[2]

Abstract

This article examines the multifaceted impact of the Temporary Protection Directive (TPD) on the European Union (EU) labor market following the displacement of beneficiaries of temporary protection (BTPs) due to the 2022 Russian full-scale war against Ukraine. It analyzes how the TPD has facilitated labor market access for BTPs while also highlighting critical challenges, including underemployment, labor exploitation, and the need for further efforts to ensure consistent and equitable access to employment opportunities across all EU Member States. The analysis explores key factors influencing BTPs' labor market integration, such as their skills, qualifications, and the crucial need for effective recognition of professional qualifications across the EU.

The article emphasizes the importance of a long-term vision for the integration of BTPs. It advocates for a transition towards more durable, and predictable legal statuses beyond the temporary protection framework, addressing the limitations of the current EU framework.

Furthermore, the article examines the evolving situation in Ukraine and discusses the future of temporary protection, by considering the need for flexible and responsive policies that address the changing needs of BTPs. Finally, the paper acknowledges the crucial role of Ukrainian BTPs in Ukraine's post-war recovery and emphasizes the importance of creating conditions that facilitate safe, voluntary, and dignified returns for those who choose to return to their homeland.

Key Words:

Temporary Protection Directive; labor market integration; right to work; recognition of qualifications; human capital; Ukraine

1   Introduction

Ukraine, a state situated at the heart of Europe (according to some definitions, the center of Europe is located near the Ukrainian village of Dilove in the Zakarpattia region) (Zombory, 2018), has a long history of defending its freedom against non-democratic, totalitarian regimes, particularly Russia. Today, Ukraine strives to uphold European values

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[2] Dr. Tamara Kortukova is an associate professor in the Department of International Civil and Commercial Law at the State University of Trade and Economics, Kyiv, Ukraine, and team member of the Jean Monnet Chair in EU Single Market Law.

while continuing to resist Russia's unprovoked aggression, which began in 2014 and escalated into a full-scale invasion in 2022.

The Russian aggression against Ukraine has had catastrophic humanitarian consequences, significantly impacting the lives of millions. Thousands of Ukrainian civilians and soldiers have been killed in the war, including many women and children (Statista, 2025). Russian forces have deliberately targeted critical infrastructure, such as power plants, water treatment facilities, and transportation networks. The destruction of infrastructure and the disruption of trade have further exacerbated the economic crisis. The Russian war against Ukraine has disrupted food production and distribution, leading to food shortages and price increases (Kortukova, 2023).

However, this article will focus on the millions of people who have been forced to flee from their homes to seek safety. As of late 2024, over 4.6 million individuals (ICC, n.d.) were officially registered as internally displaced persons (IDPs) within Ukraine, making it one of the ten countries most affected by internal displacement globally (IDMC, 2024). As of late 2024, 4.2 million persons fleeing Ukraine as a consequence of the Russian war of aggression, had temporary protection status in EU countries (Eurostat, 2024). Russia's full-scale invasion has triggered a humanitarian catastrophe, forcing millions to abandon their homes and seek refuge due to the constant shelling of civilian areas and the widespread destruction of cities and towns.

Amidst the large-scale humanitarian crisis, the European Union (EU) has demonstrated unprecedented solidarity, both with Ukraine and within the Union itself (Kortukova & Yemets, 2024). For the first time in its history, the EU has activated the Temporary Protection Directive (TPD) (Directive 2001/55/EC, 2021), implementing a range of supportive measures for beneficiaries of temporary protection (BTPs) in Member States, including the right to residence, employment, and social assistance. The legal basis for the common system of temporary protection in the EU is Article 78 para. 2 lit.c of the Treaty on the Functioning of the European Union (TFEU), which provides the legal foundation for the EU to take measures in cases of mass influx.

This unprecedented step, however, has significantly politicized the migration debate within the EU. As highlighted by Roßkopf (2024), the influx of Ukrainian refugees has intensified national and European discourses, impacting elections, government formations, and policy decisions.

The activation of the TPD can be viewed through the lens of rational-choice institutionalism. According to Thym (2022) EU institutions demonstrated a smart and pragmatic response by activating the TPD. As argued by scholars like Trauner and Wolff (2024) in the face of a massive refugee influx, EU institutions, recognizing the potential for social and political instability within Member States, opted for the TPD as the most pragmatic solution. This decision reflects a pragmatic approach to crisis management, prioritizing collective action and coordinated responses within the EU framework.

The swift and coordinated activation of the TPD demonstrated the potential for effective collective action within the EU. However, some challenges remain, including addressing potential integration challenges, ensuring the long-term sustainability of the response, the intended duration of temporary protection, rights of BTPs, which has been subject to extensive scholarly and judicial debate.

This article specifically analyzes the impact of the TPD on the EU labor market, examining the challenges and opportunities presented by the integration of BTPs into the workforce.

2   Results

The EU has long been a significant destination for Ukrainian workers. Before the full-scale war against Ukraine, an estimated 3 million Ukrainians were employed in EU countries, with Poland being the primary destination. This is evidenced by the high number of work permit applications, with approximately 1.3 million Ukrainians applying for work permits in Poland alone in 2020 (IOM, 2021).

The Russian aggression against Ukraine, starting in 2014 and escalating in 2022 has led to a significant influx of forced migrants, who have been granted temporary protection status by the EU. One of the advantages for BTPs is their expedited access to the labor market compared to asylum seekers. While asylum seekers typically face a waiting period before being authorized to work, the TPD allows beneficiaries to enter the workforce more quickly, often immediately or shortly after their arrival. This immediate access to employment plays a crucial role in their economic independence and social integration within host countries (Kortukova et al., 2022).

As a result, the influx of BTPs has had a notable impact on the Euro area labor market. In 2022, the labor force experienced an estimated increase of 0.3% to 0.5% due to their arrival. This impact is likely to intensify in the next years as the war continues (Botelho & Hägele, 2023).

This influx is particularly significant given the broader demographic trends within the EU. Aging populations, driven by increasing life expectancy and declining birth rates, pose significant challenges to social security systems and healthcare. Low fertility rates persist across many Member States, influenced by factors such as delayed childbearing, economic uncertainties, and changing societal norms (Eurostat, 2023). Consequently, migration plays a crucial role in mitigating the effects of these demographic shifts.

The BTPs are characterized by a unique demographic profile, with a significant female majority. This demographic composition is largely attributable to martial law restrictions in Ukraine, which prevent most men of conscription age from leaving the country. Consequently, the majority of BTPs are women and children, often accompanied by elderly dependents (OECD, 2024). This specific demographic composition has significant implications for the labor market integration of BTPs. A large proportion of the population comprises women of working age, many of whom may be seeking employment while also caring for children or elderly relatives.

According to the report of the International Organization of Migration, Ukrainian refugees demonstrate a high level of economic activity worldwide, with 66% of working-age individuals (18-64) employed (IOM, 2023). Within the EU the integration into the workforce varies across countries. For example, in Estonia and Lithuania, a significant portion of working-age BTPs have found employment, with rates around 55% and 50% respectively. However, labor market integration presents challenges. In Ireland, where BTPs constitute 1.3%, only 20.7% of working-age BTPs reported employment income in 2023 (Botelho & Hägele, 2023). This disparity highlights the need for targeted support measures to facilitate the successful integration of BTPs into the labor market across the EU.

While the short-term fiscal implications of Ukrainian migration may pose challenges for some European countries, the IMF projects a positive long-term impact, contingent upon the successful integration of Ukrainian migrants into the labor market (Bird & Amaglobeli, 2022). This positive outlook is also supported by evidence from Poland, where Ukrainian migrants have made substantial tax contributions, estimated at 10 billion Polish złoty (approximately $2.4 billion) by the Center for Migration Research at the University of Warsaw (Ukrainian World Congress, 2022).

2.1 Right to work for BTP under EU LAW

Article 12 cl. 1 of the TPD grants beneficiaries the right to work:

> The Member States shall authorize, for a period not exceeding that of temporary protection, persons enjoying temporary protection to engage in employed or self-employed activities, subject to rules applicable to the profession, as well as in activities such as educational opportunities for adults, vocational training and practical workplace experience.

However, the implementation of this article varies across Member States. While the EU law establishes a common framework for this policy across Member States, Member States retain considerable discretion in their interpretation and application, leading to diverse national approaches in practice.

The Explanatory Memorandum (Proposal for a Council Decision granting temporary protection to displaced persons from Ukraine and amending Council Decision (EU) 2022/382) to the TPD, underscores that its implementation should prioritize the protection of fundamental rights while enabling Member States to effectively manage the integration of displaced persons. This necessitates a balanced approach that ensures both the protection of beneficiaries and the effective functioning of host societies.

The TPD grants beneficiaries the right to work, but the extent of this right is not explicitly defined within the Directive itself. This necessitates an interpretation of the TPD within the broader legal framework of the EU, including the Charter of Fundamental Rights (adopted 7/12/2000, entered into force 1/12/2009, 2000/C 364/01, 2000 CFR).

Inter alia, Article 15 para. 3 of the Charter provides that nationals of third countries who are authorized to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union. This article enshrines the principle of equal treatment for non-EU nationals and EU citizens regarding working conditions. This principle emphasizes equivalence rather than absolute equality, recognizing that some minor differences may be justifiable. Crucially, it safeguards against the exploitation of non-EU workers through the importation of cheap labor that could undermine established labor standards within the host country.

This provision aims to ensure that all workers, regardless of their nationality, have access to fair and equitable working conditions. It serves to prevent situations where non-EU nationals are subjected to lower wages, poorer working conditions, or discriminatory practices compared to their EU citizen counterparts. By upholding the principle of equivalent treatment, the Charter of Fundamental Rights seeks to promote social justice, and to ensure a level playing field for all workers within the EU labor market.

The right to work, as enshrined in the Charter of Fundamental Rights, is intrinsically linked to the right to fair and just working conditions, as outlined in Article 31 of the Charter. This connection has gained significant prominence in recent case law.

In the *Bauer* case (Judgment of 6/11/2018, C-569/16 and C-570/16), the Court of Justice of the European Union (CJEU) significantly shifted its approach by recognizing for the first time the horizontal direct effect of Article 31 para. 2 of the Charter of Fundamental Rights. This landmark decision is notable because it involved a dispute between a worker and their employer, marking a departure from the *Egenberger* case (CJEU, Judgment of 17/4/2018, C-414/16), where the right to paid annual leave was considered applicable only in vertical relationships between individuals and public authorities.

The *Bauer* judgment signifies a crucial development in the application of the Charter, expanding the scope of its direct effect to encompass horizontal relationships between private parties. This has significant implications for the enforcement of fundamental rights within the EU, empowering individuals to directly rely on Charter provisions in their interactions with private entities. Moreover, the *Bauer* judgment further clarified the *Dominguez* case (CJEU, Judgment of 24/1/2012, C-282/10), which had previously established that the entitlement of every worker to paid annual leave constitutes a "particularly important principle of European Union social law" (para. 16). The *Bauer* judgment significantly strengthened this position by emphasizing that paid leave is not only a provision enshrined in the Charter, but also an "essential principle of EU social law" (para. 39).

The *Max Planck* case (CJEU, Judgment of 6/11/2018, C-684/16) involved an employee who accumulated 51 days of unused annual leave. The CJEU was asked whether an employee is entitled to be paid in lieu of unused leave. The Court turned to Article 31 para. 2 of the Charter, affirming that the right to paid annual leave is mandatory and unconditional. It emphasized that this right is an "essential principle of EU social law" (para. 69), derived from both EU and international instruments. The Court concluded that national legislation contrary to this principle must be disapplied.

Furthermore, any failure to protect workers against unlawful dismissal, contrary to Article 30 of the Charter, can be considered a breach of Article 15. The right to protection from unjustified dismissal is essential for the effective exercise of the right to work. Firstly, dismissal directly deprives an individual of the ability to pursue their chosen occupation. Secondly, dismissal without good cause significantly diminishes the quality of the chosen work and undermines the individual's ability to maintain their chosen employment.

The Charter of Fundamental Rights plays a crucial role in safeguarding the rights of all workers within the EU, including BTPs. The *Bauer* judgment, along with other landmark rulings, has significantly strengthened the application and enforceability of the Charter, ensuring a higher level of protection for workers' rights and promoting social justice within the European Union.

Through its provisions and evolving jurisprudence, the Charter of Fundamental Rights provides a dynamic legal framework for protecting, *inter alia*, the rights of working BTPs. This framework, encompassing fair and just working conditions, paid leave, and protection from unjustified dismissal, is essential for their successful integration into the EU labor market and their overall social and economic well-being.

A significant majority of Member States have taken steps to facilitate the labor market integration of BTPs, *inter alia*, by minimizing the need for separate work permits, reflecting a general consensus on the importance of facilitating their labor market integration. For

instance, in France (Decree of 1 April 2022 on the right to work of beneficiaries of temporary protection), and Bulgaria, no specific work authorization is required.

However, notable variations exist in national implementations. For example, in Austria BTPs require a separate work permit which can only be requested by an employer, that place an employee in the dependent position (Gahleitner-Gertz, 2022). In contrast, Sweden requires only registration with the Swedish Tax Agency before employment.

In Germany, a special document called a "fictitious certificate" is needed to gain access to social benefits and work for the time between their application for a residence permit and its issuance. Many non-Ukrainians seeking temporary protection did not automatically receive this certificate, making it hard for them to find jobs. For example, there were court decisions about whether a letter from the government to the federal states with general guidelines, which was suggesting treating the case of BTPs accordingly was binding. A Regional Administrative Court confirmed that and ordered the government to issue the certificate (Administrative Court Aachen, Decision of 26/8/2022, 8 L 527/22). However, the Higher Administrative Court of Baden Wurttemberg disagreed, denying the letter had binding character. Additionally, the Court held in the individual case that the applicant, a Nigerian citizen, would have to prove that he qualifies as BTP for not being able to safely return to his home country to be eligible for the certificate and the right to work (Decision of 26/10/2022, 11 S 1467/22).

It highlights that while progress has been made in facilitating the labor market integration of BTPs, further efforts are needed to ensure consistent and equitable access to employment opportunities across all Member States. This includes harmonizing national approaches, addressing administrative challenges, and providing adequate support services to facilitate the successful integration of BTPs into the labor market.

For example, to improve the efficiency and consistency of the temporary protection system for the BTPs across the EU, it is crucial to establish common EU-wide standards and procedures for issuing documents confirming the status. This would ensure consistent information across Member States and facilitate smoother movement and access to the labor market within the EU.

It is also important to develop a secure, shared database for all individuals granted temporary protection status. This database would allow for real-time information sharing between Member States, improving data accuracy, preventing fraud, and enabling better coordination of support services.

2.2 Recognition of Qualifications

Effective labor market integration for non-EU nationals under temporary protection hinges on the timely and efficient recognition of their qualifications. While the right to work is crucial, without proper recognition, many are forced to accept underemployment, hindering their full economic and social participation.

While BTPs have demonstrated successful integration into the labor market, they are disproportionately affected by overqualification (Caselli et al., 2024). Despite over a third of BTPs currently being employed, a significant proportion are underemployed, working in positions below their pre-displacement skill level, according to a UNHCR report (UNHCR, 2023). Factors such as difficulties in obtaining professional recognition for their qualifications, a lack of decent work opportunities, limited language proficiency and skills

mismatches, constitute more significant barriers to full labor market integration. Consequently, a substantial proportion of BTPs seek employment in sectors that do not necessitate formal qualification verification, such as low-skilled or entry-level positions (Caselli et al., 2024).

For example, in Croatia the recognition of medical diplomas can take up to two years. This lengthy process, coupled with high costs associated with document translations and court interpreters, poses significant financial burdens. Some medical professionals have resorted to low-skilled jobs while awaiting qualification recognition. In Ireland, similar challenges have been observed, exacerbated by the inadequacy of existing language training programs, which fail to address the specific linguistic needs of medical professionals (Eurofound, 2024). These mismatches lead to underemployment, frustration, and a sense of wasted potential.

Good practices showed that several countries have temporarily waived qualification recognition requirements for BTPs in order to facilitate their labor market integration. For example, Latvia allows Ukrainian health professionals to practice under supervision up to one year. The German state of Saxony employs Ukrainian teachers who pass an initial assessment on probation. Some countries allow Ukrainian professionals to work at lower levels within their professions while they complete the full qualification recognition process (Desiderio & Hooper, 2023).

At the same time, the EU's 2021-2027 Action Plan on Integration and Inclusion emphasizes the importance of swift and equitable procedures for recognizing foreign qualifications. This is crucial for non-EU nationals under temporary protection, as their ability to access skilled employment is directly linked to the timely and effective recognition of their professional credentials.

In 2021, the European Parliament passed a resolution urging the EU to establish rules that facilitate the swift, equitable, and streamlined recognition of qualifications for migrant workers across all Member States (European Parliament, 2021).

In Letta's report (2024) "Much more than a market" it was mentioned that the extension of automatic recognition of professional qualifications and a comprehensive review of the need for and extent of professional regulation are crucial for facilitating labor mobility and addressing persistent labor shortages. In this context, it is imperative to enhance the capacity for effective labor market analysis to ensure a better alignment of workforce supply and demand (Letta, 2024).

Similarly, the Draghi (2024) report also emphasizes the need for a more streamlined framework for the recognition of professional qualifications within the EU. Access to many professions is regulated by Member States, requiring specific qualifications and several key challenges remain. Determining the necessity of regulating entry into specific professions, establishing effective and fair mechanisms for recognizing foreign qualifications, and streamlining occupational licensing procedures are still unresolved policy issues (Draghi, 2024).

Commission Recommendation (EU) 2022/554 outlines the importance of recognizing professional qualifications for individuals fleeing the war in Ukraine (Commission Recommendation (EU) 2022/554). For regulated professions, such as medicine, law, or teaching, individuals with temporary protection status must typically have their

qualifications formally recognized in the host Member State. This process varies across Member States and may involve specific procedures and assessments. Conversely, employment in non-regulated occupations generally does not require formal qualification recognition. The Recommendation emphasizes the need for a supportive framework to facilitate the labor market integration of all displaced persons. This includes minimizing bureaucratic barriers, providing guidance and support services, and addressing any potential obstacles to their professional advancement. In 2023, the European Commission issued a recommendation emphasizing the need for Member States to actively work towards reducing obstacles that hinder the recognition of skills and qualifications, thereby facilitating legal migration (European Commission, 2023). Currently, the recognition of professional qualifications for BTPs presents varying approaches across EU Member States. For example, in Germany, the Federal Recognition Act governs the recognition process, with timelines for evaluation typically ranging from three to four months. While the focus has been on streamlining procedures, no dedicated accelerated pathways for BTPs have been introduced.

Similarly, Denmark and Austria have not implemented specific accelerated recognition procedures for BTPs. Austria, however, has expanded the scope of its Law on Recognition and Assessment of Qualifications to include displaced persons from Ukraine, emphasizing the right to an assessment rather than automatic recognition. Poland has implemented more proactive measures, including exemptions from submitting original diplomas and streamlined procedures for specific professions. The Act of 12 March 2022 facilitates recognition for professionals, including simplified procedures, reduced fees, and expedited processing. Romania allows Ukrainian citizens to work for 12 months without formal qualification recognition, relying on an affidavit of qualifications. While this provides immediate labor market access, it may present long-term challenges for career progression and accessing certain professions that require formal qualification recognition (OECD, 2023).

To mitigate the underutilization of skilled BTPs and facilitate their smooth labor market integration, the implementation of structured internship programs is crucial. These programs should provide BTPs with valuable opportunities to showcase their skills and gain practical work experience within the host country. Concurrently, robust language training programs, ideally incorporating a mentorship component, should be offered. A team leader can effectively mentor a small group of BTPs, guiding them through the integration process while simultaneously enhancing their language proficiency.

It is also essential to implement comprehensive programs focused on the successful integration of skilled BTPs into the host country's labor market. These programs should include providing guidance on navigating the local job market, accessing essential services, and overcoming barriers, as well as offering intensive language courses that emphasize industry-specific vocabulary to enhance communication and employability (Litzkow, 2024).

2.2 Labor Exploitation

Some of the challenges faced by BTPs include labor exploitation and poor working conditions. Despite the EU providing a broad range of rights and support for BTPs, there have been cases of labor exploitation. This highlights the challenges of effectively protecting vulnerable individuals during times of mass displacement.

A confluence of factors, including difficulties in obtaining professional recognition, limited access to decent employment, language barriers, and skills mismatches, often forces BTPs into low-skilled jobs where exploitative practices are more common (Litzkow, 2024).

Further evidence of this alarming trend emerges from surveys conducted in Berlin, Bern, and Warsaw. These surveys reveal a concerning prevalence of labor law violations, with many BTPs reporting experiences of deception, underpayment, non-payment for work, and unsafe or strenuous working conditions (Litzkow, 2024).

Adding to this complex issue is the limited understanding of labor laws and rights among BTPs. This lack of knowledge significantly hinders their ability to protect themselves from exploitation and trafficking. Furthermore, a distrust of authority can prevent BTPs from seeking remedy or reporting abuse, leaving them trapped in exploitative situations (Litzkow, 2024).

Addressing this issue requires a multi-faceted approach. This includes strengthening labor inspections and raising awareness among BTPs about their rights and available support mechanisms. For instance, in Poland, new control measures were announced by the Labor Inspection in March 2022 to supervise whether working condition standards in workplaces hiring displaced persons from Ukraine were observed (European Labour Authority, 2023). The National Labor Inspectorate in Italy issued a circular on 8 March 2022, urging local inspectorates to give priority to regularizing the labor relations and status of displaced persons from Ukraine. Legislative initiatives in this regard have also been undertaken in Romania. The Portuguese labor inspectorate implemented a campaign of inspections to companies to monitor the situation of Ukrainian workers (European Labour Authority, 2023).

3   Quo Vadis

The TPD has played a crucial role in providing immediate protection and support to BTPs. However, the long-term implications of this unprecedented humanitarian crisis require careful consideration and ongoing efforts to ensure the successful integration of BTPs into EU societies while supporting Ukraine's post-war recovery.

3.1   The Future of Temporary Protection for BTPs in the EU

The TPD has likely contributed to the increase in the overall population of the EU. While the long-term demographic impact is difficult to quantify precisely, the influx of BTPs has undoubtedly contributed to a more diverse and dynamic population within the EU.

However, it is important to note that the long-term demographic impact of temporary protection on the EU remains uncertain. While the eventual return of many BTPs to Ukraine is likely, a significant portion may choose to remain in EU Member States, particularly those who have successfully integrated into the labor market and have established social networks. This could have long-term implications for the demographic composition and future labor force of EU countries. Factors such as access to education and work, family reunification, and the evolving security situation in Ukraine will significantly influence the likelihood of long-term integration and, consequently, the demographic impact of the TPD on the EU.

The future of temporary protection for BTPs is uncertain despite the recent extension of the directive until March 4, 2026, by the Council Implementing Decision (EU) 2024/1836

of 25 June 2024. This extension, following the initial implementation through Implementing Decision (EU) 2022/382, provides crucial temporary relief, but long-term solutions must be explored.

Two conditions could be defined under which temporary protection shall come to an end, based on Article 6 of the TPD, *inter alia*: automatic termination and termination by Council Decision.

Temporary protection automatically ends when the maximum duration is reached. This duration is initially set at one year, with the possibility of extensions, resulting in a maximum of three years.

Temporary protection can be terminated at any time by a decision of the Council, when adopted by a qualified majority. This decision must be based on a proposal from the European Commission, which considers any requests submitted by Member States. This termination requires a determination that the situation in the country of origin has improved to the point where the safe and durable return of those granted temporary protection is possible. This return must be ensured with due respect for human rights, fundamental freedoms, and the Member States' obligations regarding *non-refoulement* (the principle of not returning individuals to a country where they face a risk of persecution or other serious harm).

The European Commission defines "safe and durable return" as the return of displaced persons in a secure and dignified manner to a stable environment where their life and freedom are not at risk due to factors such as race, religion, nationality, or political affiliation, and where they will not face torture, inhuman, or degrading treatment (Commission of the European Communities, 2000).

The ongoing war against Ukraine presents significant obstacles to the safe and durable return of those granted temporary protection in the EU. Widespread destruction of infrastructure, including homes, schools, and hospitals, coupled with ongoing hostilities and the threat of further escalation, create a volatile and unpredictable environment. This is why, as the war continues, many BTPs may face prolonged displacement and are unable to return home.

This necessitates a reassessment of the current framework and a proactive approach to long-term integration. Moreover, the abrupt cessation of temporary protection could overwhelm national asylum systems with a surge of applications for international protection, potentially hindering efficient processing and creating logistical challenges (Proposal for a Council Implementing Decision extending temporary protection as introduced by Implementing Decision [EU] 2022/382, 2024).

In a significant ruling, the CJEU in the joined cases C-244/24 and C-290/24 Kaduna delivered a landmark judgment (19/12/2024). This judgment provided crucial clarifications on the duration and termination of temporary protection, particularly for individuals who qualify for protection under optional categories.

The Dutch authorities initially extended temporary protection beyond the scope of the TPD to include individuals who did not strictly meet the eligibility criteria. However, they subsequently narrowed this scope. The CJEU ruled that Member States retain the discretion to withdraw such extended protection before the end of the temporary protection period granted under EU law. However, it emphasized that individuals whose

optional protection is withdrawn cannot be subject to return measures while that optional protection remains in effect.

In the analysis of Joined Cases C-244/24 and C-290/24, Ciğer (2024) observed that both the Advocate-General's Opinion and the CJEU's Judgment tacitly acknowledge the extension of temporary protection for BTPs until 2026 without any critical examination of its legality under Article 4 of the TPD and EU law. According to Ciğer, this omission in both the Advocate-General's Opinion and the Court's Judgment is significant. The lack of legal scrutiny suggests a potential avenue for future legal challenges before the CJEU to address the legality of this extended protection period (Ciğer, 2024).

In any case, ensuring a sustainable and dignified future for BTPs requires ongoing dialogue and cooperation among the EU Member States, international organizations and Ukraine. This dialogue must prioritize individual needs, evolving circumstances on the ground, and the overarching goal of supporting the safe and inclusive integration of BTPs into European societies. The future of temporary protection in the EU will depend on a confluence of factors, including the evolving situation in Ukraine, the continued solidarity and cooperation among Member States, and the EU's capacity to adapt its policies and mechanisms to effectively address the challenges of large-scale displacement.

Another critical challenge for the EU presents the transition from the current temporary protection regime for BTPs to other legal statuses. As the initial protection period nears its conclusion, ensuring a smooth and predictable transition towards sustainable pathways for long-term residence and continued access to rights, including the right to work, is paramount. However, following the activation of the TPD several Member States exhibit uncertainties regarding the transition pathways available to BTPs upon the expiration of temporary protection. This lack of clarity can create legal uncertainty and hinder the long-term integration of BPTs (European Labour Authority, 2023).

Ciğer (2023) proposes several pathways for Ukrainians to remain in the EU after the expiration of temporary protection, including access to international protection, access to long-term resident status, and access to citizenship.

The large-scale displacement of Ukrainians presented a significant challenge to the EU asylum system. The unprecedented number of individual applications could place a considerable strain on existing resources and procedures.

Secondly, the Long-Term Residents Directive presents a significant barrier to the long-term stay of Ukrainian refugees. The Directive, in its current form, does not explicitly cover individuals granted temporary protection. Consequently, Ukrainian refugees cannot currently apply for long-term resident status, and the time spent under temporary protection is not counted towards the five-year residency requirement.

However, the European Commission's recent proposal to recast the Directive offers a potential pathway forward. This proposal aims to improve access to long-term resident status by allowing third-country nationals to cumulate residence periods across different Member States and by clarifying that all periods of legal residence, including those under temporary protection, should be fully counted towards the residency requirement.

Thirdly, Ukrainians should be also eligible to apply for resident permits in Member States based on various grounds, including employment, education, and family reunification, at least after the expiration of their temporary protection status (Ciğer, 2023).

3.2   Rebuilding Ukraine: Addressing the Demographic Challenges of War

The Russian invasion has had a devastating impact on Ukraine's demographic landscape. The war against Ukraine has exacerbated many challenges, such as that of a declining population due to factors including depopulation, high mortality rates and low birth rates, as well as population ageing. The war has also triggered mass displacement, with millions of Ukrainians forced to flee their homes, leading to depopulation in heavily impacted regions and disrupting social and economic structures. The destruction of critical infrastructure, including homes and essential services, has further compounded this displacement.

The loss of human capital has been substantial. The displacement of skilled professionals, from doctors and teachers to engineers and IT specialists, has created significant gaps in critical sectors and threatens to hinder Ukraine's post-war recovery. The displacement of large segments of the population, particularly younger and more economically active individuals, has altered the age and gender composition of affected communities, impacting long-term development.

The Institute of Demography and Quality of Life Problems of the National Academy of Sciences of Ukraine has projected a significant population decline, potentially reaching 28.9 million by 2041 and 25.2 million by 2051, if current trends continue. However, these projections are subject to significant uncertainty due to the ongoing nature of the conflict and the evolving humanitarian situation. Accurately forecasting future population trends is further complicated by the lack of reliable demographic data from temporarily occupied territories, making it difficult to assess the full extent of population losses and displacement (Cabinet of Ministers of Ukraine, 2024).

That is why, the return of BTPs to their homeland is crucial for the economic recovery of Ukraine, as it would contribute significantly to filling critical labor shortages, boost productivity and innovation, mitigate the demographic challenges facing Ukraine and help reverse the "brain drain" that has occurred since the start of the war, ensuring that Ukraine retains its human capital for future development.

However, in the context of BTPs, the principle of *non-refoulement* remains paramount. This principle prohibits the return of any person to a country where they face a serious risk of persecution, torture, or other forms of irreparable harm. This principle applies to all individuals, regardless of their migration status, and is enshrined in various international and regional human rights instruments, including the 1951 Refugee Convention (Convention relating to the Status of Refugees, adopted 28/07/1951, entered into force 22/04/1954), and the European Convention on Human Rights (The Convention for the Protection of Human Rights and Fundamental Freedoms, adopted 4/11/1950, entered into force 3/10/1953).

Returning BTPs to a country where they would face active hostilities, ongoing violence, or a risk of persecution would constitute a clear violation of the principle of *non-refoulement*. According to a January 2024 report by the Center for Economic Strategy, a key factor preventing the return of many Ukrainian refugees is security concerns. The ongoing war, including the threat of continued hostilities and the ongoing impact of the war, remains a significant barrier to return for a large portion of the displaced population (Center for Economic Strategy, 2024).

It is important to emphasize that the return must be voluntary and based on the individual circumstances and choices of BTPs. The conditions for return must be safe and sustainable, with adequate security, access to essential services, and opportunities for reintegration. Efforts should also focus on supporting the successful reintegration of returning BTPs, including providing access to employment, housing, education, and social services. By prioritizing the safety, security, and well-being of returning BTPs and providing comprehensive support for their reintegration, Ukraine can facilitate a sustainable and dignified return for those who choose to rebuild their lives in their homeland.

However, the biggest challenge is that Russia's continued aggression and military actions against Ukraine directly impede safe and sustainable returns. The constant threat of shelling, missile attacks, and the presence of Russian forces in occupied territories create an environment of fear and insecurity that discourages BTPs from returning. Russia's deliberate targeting of critical infrastructure, such as energy, water, and transportation systems, hinders the ability of BTPs to return and reintegrate. The destruction of homes, schools, and hospitals makes it impossible for many to return to their previous lives as well.

It is crucial to understand that Russia's actions directly contribute to the displacement of Ukrainians and create significant obstacles to their safe and sustainable return. Ending the war and establishing a lasting peace are essential preconditions for the voluntary and dignified return of all BTPs.

4   Conclusion

The influx of Ukrainian refugees has significantly impacted the EU labor market, presenting both challenges and opportunities. The activation of temporary protection has had a significant impact on the demographic landscape of the EU. By providing a pathway for safe and legal entry and residence, the TPD has mitigated the potential for irregular migration and eased the burden on national asylum systems. This has contributed to a more orderly and predictable influx of refugees, allowing host countries to better plan and allocate resources for their integration.

The activation of TPD has facilitated the labor market entry, with many BTPs demonstrating high levels of economic activity. However, disparities in integration outcomes exist across Member States, highlighting the need for targeted support measures.

The successful integration of Ukrainian refugees into the EU labor market requires a coordinated and comprehensive approach. Harmonizing national approaches to temporary protection by establishing common EU-wide standards and procedures for issuing documents will enhance efficiency and consistency across Member States. Furthermore, developing a secure, shared database for all individuals granted temporary protection status is crucial for improving data accuracy, preventing fraud, and enabling better coordination of support services. It is also essential to simplify administrative processes, including work permit applications that allow BTPs to quickly access the labor market and to contribute to the economy.

Importantly, the successful labor market integration of BTPs hinges on the effective recognition of their professional qualifications. However, significant disparities exist across EU Member States in the speed and efficiency of the recognition process. While

some countries have implemented measures to streamline qualification recognition for BTPs, such as temporary exemptions and expedited procedures, many challenges remain. These include lengthy processing times, high costs associated with recognition procedures, and limited access to accelerated pathways for specific professions.

To facilitate the swift and efficient labor market integration of BTPs, the implementation of temporary exemptions from certain qualification recognition requirements must be considered. This could include allowing BTPs to practice their professions under supervision. For example, allowing BTPs professionals to practice under the supervision of licensed professionals within their respective fields. Also, it could be important to implement probationary periods. Employing BTPs on a probationary basis allows them to demonstrate their skills and competencies while fulfilling remaining qualification requirements.

Cases of labor exploitation, including underpayment, long working hours, and unsafe working conditions, have been reported, highlighting the need for stronger enforcement of labor laws and improved protection mechanisms for vulnerable workers.

TPD has provided crucial support for BTPs, but its future and the long-term integration of this population remain uncertain. The continued extension of the TPD highlights the need for a long-term vision for the integration of BTPs. While the TPD has provided necessary short-term relief, a transition towards more durable and predictable legal statuses is crucial. This requires addressing the limitations of the current Long-Term Residents Directive, which includes ensuring that periods of temporary protection are counted towards long-term residence requirements.

At the same time, mass displacement, driven by the ongoing war against Ukraine and the destruction of critical infrastructure, has led to significant depopulation in many regions and disrupted social and economic structures. The loss of human capital, particularly among skilled professionals, poses a significant threat to Ukraine's post-war recovery. This is why the return of Ukrainian BTPs is crucial for the country's economic and social recovery. However, the ongoing war, including the continued threat of hostilities and the destruction of critical infrastructure, presents significant obstacles to safe and sustainable returns. Russia's continued aggression directly impedes the return of BTPs and creates an environment of fear and insecurity. It is crucial to emphasize that any return must be entirely voluntary and based on the individual circumstances and choices of each BTP.

While discussions surrounding a ceasefire are ongoing, the issue remains highly complex and uncertain. Though the nature of a ceasefire is paramount, a durable and stable agreement is essential, contrasting sharply with fragile, temporary truces. The Khasavyurt Accord, for instance, exemplifies the dangers of unreliable ceasefires, ultimately leading to the Second Chechen War and exacerbated consequences. Regardless, a sustained peace would necessitate the reevaluation of temporary protection. In such a scenario, diverse legal statuses within the EU would be required, accommodating individual circumstances. This could include transitions to long-term residency, alternative forms of protection, or facilitated returns to Ukraine.

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Safe Third Countries and Safe Countries of Origin: Safety Assessment and Implementation for Refugees Seeking Protection in Greece[1]

Zacharoula Katsigianni[2] & Eleni Koutsouraki[3]

Abstract

The concepts of safe third country and safe country of origin are widely used by the Member States of the European Union to limit their obligations towards refugees under international law. Greece has designated Türkiye, Albania and North Macedonia as safe third countries and has designated sixteen countries as safe countries of origin. This article examines the safety assessment regarding third countries and countries of origin and their application in the Greek asylum system. It is based on international and European law, the jurisprudence of the Court of Justice of the European Union and the European Court of Human Rights paired with desktop research on human rights situations in the designated safe countries. It further explores the implications of these mechanisms for refugee protection. The study raises concerns about the access to a fair and effective asylum procedure and most importantly about the respect of the principle of non-refoulement. Many are left in limbo, neither receiving protection in Greece nor being effectively readmitted to the designated safe third country. Many are forced to return to countries designated as safe, possibly without protection and in fear of persecution/re-persecution and ill-treatment upon return. This situation places the former in a precarious legal and social position, undermining fundamental rights such as access to asylum, healthcare, housing and employment. The latter are also placed in a position that could entail serious consequences for their rights and a real and concrete risk of treatment in violation of the 1951 Convention Relating to the Status of Refugees, the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union and the international human rights instruments.

Key Words:

Safe third country; safe country of origin; Greece; refugees; human rights

1   Introduction

By committing to international treaties, including those relating to human rights law, States have assumed additional responsibilities and obligations to safeguard certain

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[2] Ms. Zacharoula Katsigianni is a PhD candidate in the Department of Social Work at the Hellenic Mediterranean University, Heraklion Crete, Greece, and attorney-at-law. She is the corresponding author of this article.
[3] Dr. Eleni Koutsouraki is an Assistant Professor of refugee protection, law and rights in the Euro-Mediterranean area in the Department of Social Work at the Hellenic Mediterranean University, Heraklion Crete, Greece, and member of the Laboratory of Social Research and Social Work (SoRSoW).

rights both for citizens and non-citizens within their territory and under their jurisdiction (Hirsch, 2017: 51). However, in order to be released from those responsibilities and obligations, developed States have increasingly adopted strategies to restrict access to asylum. Among others, they use externalization approaches and measures for migration management (Osso, 2023: 278, Feller, 2006: 510, 528), disclaiming responsibility for those in need of international protection (Moreno-Lax, 2015: 664). It is thus argued that the recognition of refugees depends, in practice, not only on the legal definition of "refugee" but, mainly, on the institutional mechanisms applied for the status determination (Costello, Nalule & Ozkul, 2020).

Safe third country mechanisms emerged in individual European States' practices (Denmark, Switzerland, Belgium, and Germany) since the mid-1980s and in the 1990s (Moreno-Lax, 2015, Costello, 2016). Then, they spread quickly in other continents (Hurwitz, 2009). These concepts were politically endorsed at European Union (EU) level by the Council Resolutions of 30 November 1992 (London Resolutions), before being adopted by the first legally binding supranational text regulating their application, i.e. the Council Directive 2005/85/EC of 1 Dec 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status.

The Member States of the European Union (EU) tend to use the safe country concepts as part of the policies to shift the responsibility for the protection of refugees to countries outside the EU. In this context, some countries are considered *a priori* safe and their nationals not in need of international protection (safe countries of origin). It is also assumed that asylum seekers could have been granted or can be granted protection in a third (i.e non-EU) country and should therefore not obtain protection in the EU country where they apply for asylum (safe third countries). Both concepts seem to be used with a view to reduce the granting of protection within the EU (ECRE, 2024: 93).

It is worth noting that the 1951 Convention relating to the Status of Refugees (Refugee Convention) "neither expressly authorizes nor prohibits reliance on protection elsewhere policies" (Foster, 2007: 237). The main question that arises, therefore, is whether and under what conditions a Member State, that is a party to the Refugee Convention and to international human rights instruments, can legitimately rely on the safe country concepts and transfer a refugee to a safe third country or to a safe country of origin.

According to the Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) (APD), safe third country refers to a country that can be considered safe for applicants who are not nationals of that third country, when all the following criteria are met: In that third country, (a) their life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion, (b) there is no serious harm as defined in Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), (c) the principle of *non-refoulement* in accordance with the Geneva Convention is respected, (d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected and (e) there is a possibility to request refugee status and,

if found to be a refugee, to receive protection in accordance with the Geneva Convention (Art. 38 para. 1 APD).

It is also assessed whether the applicants have a connection to this third country based on which it would be reasonable for them to return there (Art. 38 para. 2 subpara. (a) APD). In addition, it is examined whether the country can be considered safe taking into consideration the particular circumstances of the applicants (Art. 38 para. 2 subpara. (c) APD). Under this concept, applications for international protection can be rejected as "inadmissible" without being examined on the merits, i.e. the competent authorities do not examine and assess the fear of persecution that refugees face in their country of origin. Instead, they examine whether a third country is a safe country for them. As Goodwin-Gill & McAdam (2007) highlight, States have attempted to justify this practice based on the migration versus protection argument. By virtue of this argument an asylum-seeker who is genuinely fleeing persecution will seek protection in the first safe country he or she enters, while any secondary movement will be for the sole purpose of migration (Lambert, 2012).

A country is considered a safe country of origin for its nationals and the stateless persons who were formerly habitually residents there, if, based on the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive 2011/95/EU. Additionally, it must be demonstrated that there is no occurrence of torture or inhuman or degrading treatment or punishment, nor any threat arising from indiscriminate violence in situations of international or internal armed conflict (Annex I and recital 42 APD). It should be noted that the concept of safe country of origin is the only safe country concept for which an examination of the substance of the application is made.

The concept of a safe country of origin raises a presumption of safety for countries of origin designated as safe by Member States. This designation is based on the assumption that there is generally and consistently no risk of persecution or mistreatment, and that individuals can seek and obtain effective protection in these countries. Consequently, it is the applicants who bear the burden of rebutting the presumption of safety and the burden of proof that a country cannot be considered as a safe country of origin (Art. 36 para. 1 APD). According to the jurisprudence of the Court of Justice of the European Union (CJEU), the applicants must submit overriding reasons relating to their individual situation in order to rebut the *"presumption of adequate protection in the country of origin"* (CJEU, Judgment of 4/10/2024, CV v. Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky, No. C-406/22, para. 47; CJEU, Judgment of 25/7/2018, A v. Migrationsverket, C-404/17, para. 25). In cases of non-submission of serious reasons, the application may be rejected as (manifestly) unfounded (Art. 32 para 2 APD).

The Pact of Migration and Asylum, which was adopted in May 2024 (European Commission, 2024), after eight years of negotiations, seems to endorse and further develop these practices in the broader context of externalisation policies (Cassarino & Marin, 2022, Roßkopf, 2024). The reform of the Common European Asylum System (CEAS), agreed upon by the European Parliament and the Council, aims not only to limit the entry of third-country nationals to the EU, but also to expand the definitions of the safe third country and safe country of origin. In addition, it accelerates asylum procedures for applicants arriving from safe countries and requires that these applicants remain close to

the external borders, thus, facilitating their removal from the European territory to countries considered safe.

Furthermore, the Pact offers the possibility of establishing a common EU list of safe third countries and safe countries of origin in addition to national lists. Such policies result in the restriction of access to fundamental rights and safeguards (ECRE, 2015). At the same time, the solidarity mechanism depends on quasi-permanent negotiations among Member States and focuses on returns to third countries rather than responsibility sharing for refugee protection. In the context of the Pact, the notion of safe third country has taken on a pivotal role to the CEAS reform. Its definition has been broadened, while standards have been lowered, allowing States to more easily dismiss asylum claims without conducting an examination of the merits (RSA, 2024, p. 20). The expansion of the safe third country concept is clearly reflected in Art. 57, 59 and 60 of the Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (APR).

According to the APR, a third country can be considered safe if it provides "effective protection" as set out in Art. 59(d) in conjunction with Art. 57 of the APR, instead of "protection in accordance with the Geneva Convention" as set out in Art. 38 para. 1 subpara. (e) of the APD. Furthermore, a country can be designated as a safe third country both at Union and national level "with exceptions for specific parts of its territory or clearly identifiable categories of persons" (Art. 59 para. 2 APR). Compared to the APD, the APR provides for the possibility of applying the safe third country concept "in relation to a specific applicant where the country has not been designated as safe third country at Union or national level" if the safety criteria set out in Article 59 para. 1 APR are met for this applicant (Art. 59 para. 4 subpara. (b) APR). Another provision introduced by the APR that broadens the definition of a safe third country is the presumption of a country's safety on the sole basis of agreement between the Union and a third country. Under this provision, it is sufficient for a third country to provide assurances that "migrants admitted under that agreement will be protected in accordance with the relevant international standards and in full respect of the principle of non-refoulement" (Art. 59 para. 7 APR). In addition, Art. 60 of the APR allows the designation of third countries as safe at EU level through an EU list of designated safe countries in parallel with national lists.

Like the case of safe third countries, the APR introduces new provisions aimed at broadening the application of the safe country of origin concept. In particular, it is provided for that "[t]he designation of a third country as a safe country of origin both at [EU] and national level may be made with exceptions for specific parts of its territory or clearly identifiable categories of persons" (Art. 61 para. 2 and recital 80 APR). Another explicit attempt to extend the application of the safe country of origin concept is the possibility of establishing EU lists of safe countries of origin alongside the Member States' national lists (Art. 62 para. 1 APR). Under APR, the accelerated procedure, also applied in safe countries of origin cases, is rendered mandatory (Art. 42 para. 1 APR), unlike APD which is optional. It should be also pointed out that there is a serious overlap between the concept of safe country of origin and the case of applicants who are nationals or, in the case of stateless persons, former habitual residents of a third country "for which the proportion of decisions [...] is, according to the latest available yearly Union-wide average Eurostat data, 20 % or lower" (Art. 42 para.1 subpara. (j) APR).

This paper is part of the ongoing PhD research "Safe Third Countries, Safe Countries of Origin and the Risks for Refugees Seeking Protection in Greece". The aim of this research is to examine the consequences of the implementation of the safe third country and safe country of origin mechanisms by the Greek authorities on the rights of refugees. The risks that application of these safe country concepts entails for those refugees who remain in Greece without protection and access to rights are also examined. In this framework, the research examines secondary sources and the views of professionals on the field of refugee protection and refugees themselves regarding (a) the risks that refugees would face if forcibly returned to their countries of origin or to third countries considered as safe, (b) the risks faced by refugees whose applications are rejected under the safe third country and safe country of origin mechanisms, but who are not returned there and remain in Greece and, (c) the risks faced by refugees who try to avoid being subject to these mechanisms, either before or after their arrival in Greece.

The present paper examines the EU legislative standards regarding the safe third country and safe country of origin concepts, the jurisprudence of the European Court of Human Rights (ECHR) and the CJEU, and the implementation of the safe country concepts in the Greek asylum system. It also reviews the human rights situation in the countries designated as safe by Greece, with a view to present the possible violations of refugees' rights in case of return.

2   Safety Assessment Regarding Third Countries and Countries of Origin

When the practice of safe countries of origin emerged in Europe, 35 years ago, Professor Goodwin-Gill stressed that international standards and rules of transparency must govern the status determination procedure. More precisely, he pointed out that country of origin information (COI) is of paramount importance, while the standards for gathering and verifying such information constitute a key to risk assessment. He concluded that "[a]fter all, there's no lack of information", as media, non-governmental organizations, the United Nations working groups and rapporteurs, as well as governments themselves conduct their own research based on reliable information (Goodwin-Gill, 1992: 249).

Today, it is the duty of States to seek all relevant generally available information on the situation in third countries and countries of origin they consider safe. As the ECHR has held, "[g]eneral deficiencies well documented in authoritative reports, notably of the UNHCR, Council of Europe and EU bodies are in principle considered to have been known" by States deciding on applications for international protection (ECHR, Judgment of 21/11/2019, Ilias and Ahmed v. Hungary [GC], No. 47287/15, para. 141; Judgment of 15/9/2022, O.M. and D.S. v. Ukraine, No. 18603/12, para. 84. See also *mutatis mutandis,* Judgment of 21/1/2011, M.S.S. v. Belgium and Greece [GC], No. 30696/09, paras. 346-350; Judgment of 23/3/2016, F.G. v. Sweden [GC], No. 43611/11 paras. 125-127).

The APD explicitly states that decisions on applications for international protection are taken after an appropriate examination (Art. 10 para. 3 APD). To that end, Member States shall ensure, inter alia, that decisions are based on "*precise and up-to-date information*". Furthermore, they must be

> "obtained from various sources, such as EASO and UNHCR and relevant international human
> rights organisations, as to the general situation prevailing in the countries of origin of applicants

and, where necessary, in countries through which they have transited" (Art. 10 para. 3 subpara. (b) and recital 48 APD).

This unconditional obligation for Member States to base their assessment on accurate and up-to-date information on the general situation in the "safe" countries is also confirmed by the case law of the ECHR and the CJEU, to be analyzed below.

Member States must also provide asylum seekers with access to the information used to make decisions regarding their applications for international protection (Art. 12 para. 1 subpara. (d) APD). For applicants whose applications are assessed under the safe third country concept, access to the information considered and taken into account by the examining authorities is crucial for them to exercise their right to an effective remedy. This access allows them to challenge both the application of the safe third country concept – on the grounds that a country is not safe in their particular circumstances – and the existence of a connection between them and that country (Art. 38 para. 2, subpara. (c) APD).

2.1   The Meaning of Up-to-Date Information and Reliable Sources

According to the APD, Member States should conduct regular reviews of the situation in safe countries based on "up-to-date information" to "ensure the correct application of the safe country concepts" (Recital 48 and Art. 10 para. 3 subpara (b) APD).

Regarding safe third countries, according to the case law of the CJEU, Article 38 para. 2 subpara (b) of the APD requires Member States to adopt in national law "rules on the methodology by which the competent authorities satisfy themselves that the safe third country concept may be applied to a particular country or to a particular applicant" (CJEU, Judgment of 14/5/2020, FMS and Others v. Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság and Országos Idegenrendészeti Főigazgatóság [GC]; Joined cases Nos. C-924/19 PPU and C-925/19 PPU, para. 158; Judgment of 19/3/2020, LH v. Bevándorlási és Menekültügyi Hivata, No. C-564/18, paras. 48 and 49). According to the ECHR, such methodology should include, an "up-to-date assessment, notably, of the accessibility and functioning of the receiving country's asylum system and the safeguards it affords in practice" (ECHR, Ilias and Ahmed, para. 141).

Regarding safe countries of origin, "[i]t has long been recognized that the assessment of the presumed safe situation in a country of origin should be based on a wide range of sources of information" (Vogelaar, 2021: 107). Member States should assess the level of protection against persecution or ill-treatment based on

> "(a) the relevant laws and regulations provisions of the country and the manner of their application; (b) the observance of the rights and freedoms provided for in the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant for Civil and Political Rights and/or the United Nations Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention; (c) the respect of the *non-refoulement* principle according to the Geneva Convention; and (d) the provision of a system of effective remedies against the violation of these rights and freedoms" (Annex I APD).

This is because the "designation of a third country as a safe country of origin […] cannot establish an absolute guarantee of safety for nationals of that country" (Recital 42 APD). Similarly, such an assessment must be based on "up-to-date information" (Recitals 39, 48 and Art. 10, para. 3 subpara. (b) APD). The CJEU ruled in its judgment C-756/21 that

the determining authorities must obtain, inter alia, *"up-to-date information concerning all the relevant facts as regards the general situation prevailing in the country of origin of an applicant for asylum and international protection"* (CJEU, Judgment of 29/6/23, X v International Protection Appeals Tribunal and Others (Attentat au Pakistan), No. C-756/21, para. 61).

For the assessment of safety, information on third countries and countries of origin must not only be up-to-date but must be also obtained from reliable sources. EU law provides that Member States, to ensure the correct application of the safe country concepts, should consider and rely on reliable sources "including in particular information from other Member States, EASO, UNHCR, the Council of Europe and other relevant international organisations" (Recitals 48, 39, Art. 10, para. 3 subpara. (b) and Art. 37 para. 3 APD). According to the ECHR, to evaluate a country's safety, due consideration must be given to the wide range of reports from various sources and the consistency of the nature of the information reported (ECHR, Judgment of 6/6/2013, Mohammed v. Austria, No. 2283/12, paras. 97-102; Judgment of 5/12/2013, Sharifi v. Austria, No. 60104/08, para. 34; M.S.S., paras. 347-348; F.G., para. 117).

The CJEU, based on Article 35 of the 1951 Refugee Convention, has highlighted the reliability and significance of the reports of the United Nations High Commissioner for Refugees (UNHCR) (CJEU, Judgment of 16/1/2024, WS v. Intervyuirasht organ na Darzhavna agentsia za bezhantsite pri Ministerskia savet, No. C-621/21, para. 38; Judgment of 12/1/2023, P.I. v. Migracijos departamentas prie Lietuvos Respublikos vidaus reikalų ministerijos, No. C-280/21, para. 27). Nevertheless, apart from the reports, "notably of the UNHCR, Council of Europe and EU bodies" it has been also acknowledged the "importance to the information contained in recent reports from independent international human rights protection associations [...] or governmental sources" demonstrating the situation in a particular country (ECHR, Judgment of 28/2/2008, Saadi v. Italy [GC], 37201/06, para.131; Judgment of 15/11/1996, Chahal v. The United Kingdom [GC], No. 22414/93, paras. 99-100; Judgment of 26/4/2005, Müslim v. Turkey, No. 53566/99, para. 67; Judgment of Said v. The Netherlands, No. 2345/02, para. 54; Judgment of 20/2/2007, Al-Moayad v. Germany, No. 35865/03, paras. 65-66).

2.2 The Accession to International Treaties and the Role of Diplomatic Assurances

According to the CJEU, the fact that a Member State of the EU or a third country has ratified international conventions "cannot result in the application of a conclusive presumption that the State observes those conventions" (CJEU, Judgment of 21/12/2011, N.S. v. United Kingdom and M.E. v. Ireland [GC], Joined Cases Nos. C-411-10 and C-493/10, para. 103). Similarly, the ECHR observes that

> "the existence of domestic laws and accession to international treaties guaranteeing respect for fundamental rights in principle are not in themselves sufficient to ensure adequate protection against the risk of ill-treatment where [...] reliable sources have reported practices resorted to or tolerated by the authorities which are manifestly contrary to the principles of the Convention" (ECHR, Saadi, para. 147).

It has been also affirmed that the expelling State cannot merely assume that the asylum seeker will be treated in accordance with the standards of the European Convention on Human Rights in the receiving third country; on the contrary, it must first verify how the

authorities of that country apply its asylum legislation in practice (ECHR, M.S.S., para. 359; Ilias and Ahmed, para. 141).

Concerning diplomatic assurances provided by third countries, according to the ECHR, they "are not in themselves sufficient to ensure adequate protection against the risk of ill-treatment". Therefore, it is necessary to assess whether these assurances offer sufficient protection against ill-treatment in practice (ECHR, Judgement of 17/1/2012, Othman (Abu Qatada) v. The United Kingdom, No. 8139/09, para. 187). The "quality of assurances" should be also examined with regard, inter alia, to the following factors: "whether the assurances are specific or are general and vague", "who has given the assurances and whether that person can bind the receiving State", "the length and strength of bilateral relations between the sending and receiving States", "whether compliance with the assurances can be objectively verified through diplomatic or other monitoring mechanisms", "whether there is an effective system of protection against torture in the receiving State", "whether it is willing to investigate allegations of torture and to punish those responsible", "whether the applicant has previously been ill-treated in the receiving State" and "whether the reliability of the assurances has been examined by the domestic courts of the sending/Contracting State" (ECHR, Othman, para. 189).

2.3 Individual Assessment Regarding Safe Third Countries and Countries of Origin

Decisions on the admissibility or not of an application of international protection based on the safe third country concept and on the returns to safe third countries should be implemented and regulated in accordance with higher safeguards and standards. A rigorous scrutiny of claims alleging possible violations of Convention rights, and thorough assessment on the conditions in the safe third country concerned is required, as these cases involve third countries not bound by the EU *acquis* and relevant standards on examination and judicial mechanisms. This is confirmed by the established case law of the ECHR, which requires a thorough assessment of whether there are substantial grounds for believing that an applicant, if expelled, would be in danger of being subjected to torture or inhuman or degrading treatment or punishment in violation of Article 3 of the European Convention on Human Rights (ECHR, Chahal, para. 96; M.K. and Others, para. 179). This assessment involves a rigorous examination by the relevant domestic authorities and, subsequently, by the Court, of the conditions in the receiving country in light of Article 3 standards of the Convention (ECHR, Ilias and Ahmed, para. 127; Judgement of 4/2/2005, Mamatkulov and Askarov v. Turkey [GC], Nos. 46827/99 and 46951/99, para. 67).

The Strasbourg Court has clarified that in case of non-examination of applications for international protection on the merits, as in the case of the safe third countries, the primary concern is whether the individuals will have access to a fair and adequate asylum procedure in the receiving third country protecting them from refoulement. This approach is based on the assumption that it is the duty of the third country to examine the asylum application on the merits (ECHR, Judgment of 23/7/2020, M.K. and Others v. Poland, Nos. 40503/17, 42902/17 and 43643/1723, paras. 172-173). In addition, the expelling State, seeking to transfer an applicant to a third country, should also evaluate any alleged risk of treatment contravening Art. 3 that arises, for instance, from detention conditions or the general living situation of asylum seekers in the receiving third country (ECHR, Ilias and Ahmed, para. 131). If it is found that the existing guarantees in this regard are inadequate, Art. 3 of the European Convention on Human Rights imposes an obligation

not to return the asylum seeker to the third country in question (ECHR, Ilias and Ahmed, para. 134; M.K. and Others, para. 173).

The ECHR, also, places great importance to the existence of effective guarantees against arbitrary *refoulement* of asylum seekers. Hence, in cases of expulsion it should be examined whether there are effective guarantees to protect applicants from being arbitrarily returned, either directly or indirectly, to the country from which they have fled without proper examination of their cases (ECHR, Ilias and Ahmed, para. 133; Judgment of 23/7/2020, M.K. and Others, para. 167; M.S.S., para. 286; Müslim, paras. 72-76). This is since "the expulsion of an alien by a Contracting State may give rise to an issue under Article 3" of the European Convention on Human Rights. In such cases, States are obliged not to return the applicants to the countries concerned (ECHR, M.K. and Others, para. 168; Saadi, paras. 124-125; F.G., paras. 110-111, Ilias and Ahmed, para. 126; Judgment of 7/7/1989, Soering v. The United Kingdom, No. 14038/88, paras. 90-91; Judgment of 30/10/1991, Vilvarajah and Others v. The United Kingdom, Nos. 13163/87; 13164/87; 13165/87; 13447/87; 13448/87, para. 103; Judgment of 11/7/2000, Jabari v. Turkey, No. 40035/98, para. 38; Judgment of 11/1/2007, Salah Sheekh v. The Netherlands, No. 1948/04, para. 135; Judgment of 29/4/97, H.L.R. v. France [GC], No. 24573/94, para. 34). Since protection against the treatment prohibited by Article 3 is absolute, there can be no derogation from that rule (ECHR, Saadi, para. 138).

Regarding safe countries of origin, it is stressed that declaring by law a country as safe "does not relieve the extraditing State from conducting an individual risk assessment" (ECHR, Judgment of 7/12/2017, D.L. v. Austria, No. 34999/16, para. 59, CJEU, Opinion of Advocate General of 30/5/2024, CV v. Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky, C-406-22, para. 53). As a general rule, when an application for asylum is examined under the safe country of origin concept, it is the responsibility of the persons seeking international protection in a Contracting State to promptly submit their application for asylum, accompanied by supporting arguments. They also have to establish that there are substantial grounds for believing that, if returned to their country of origin, they would be exposed to a real and specific risk of being subjected to treatment prohibited by Art. 3 of the European Convention on Human Rights (ECHR, M.K. and Others, para. 170; F.G. para. 125; Judgment of 27/10/2020, M.A. v. Belgium, No. 19656/18, para. 81). On the other hand, it becomes the Government's responsibility to dispel any doubts if the applicant provides such evidence (ECHR, M.A., para. 79). Hence, "if a Contracting State is made aware of facts relating to a specific individual that could expose him to a risk of ill-treatment" upon return to the country in question, the obligations of the States under Art. 2 and 3 of the Convention require the authorities to assess that risk on their own motion. This is particularly important when the national authorities have been made aware that the asylum seeker may belong to a group that is systematically subjected to ill-treatment, and there is credible evidence both of the existence of such ill-treatment and of the individual's membership of that group (ECHR, M.A., para. 81.; F.G., para. 127).

The assessment of the risk on the State's own motion is also required in cases of asylum claims which are based on a widely recognized general risk, especially when information about that risk can be readily obtained from numerous sources (ECHR, F.G., para. 126). It has been also established that since the asylum-seekers often find themselves in particularly vulnerable circumstances, they must be given the benefit of the doubt when evaluating the credibility of their claims and any supporting documents, considering both

the general situation in the country of origin and the personal circumstances (ECHR, M.K. and Others, para. 170; Vilvarajah and Others, para. 108; M.A., para. 81; F.G., para. 127). Concerning the assessment of the general situation in the country under examination, the national authorities have full access to information. For this reason, it is the States which bear the burden having to establish ex officio the general situation in the country in question (ECHR, M.A., para. 82).

3   Implementation of Safe Country Concepts in the Greek Asylum System

Law no. 4939/2022 "Ratification of a Code of reception, international protection of third-country nationals and stateless persons and temporary protection in cases of mass influx of displaced persons" (Greek Asylum Code) provides for the possibility of establishing a list of safe third countries through a Joint Ministerial Decision (JMD) (Art. 91 para. 3 Greek Asylum Code). In June 2021, the first national list was introduced, designating Türkiye as a safe third country for asylum seekers from Syria, Afghanistan, Somalia, Pakistan and Bangladesh without providing any legal reasoning [JMD 42799/2021 "Designation of third countries as safe and establishment of national list pursuant to Art. 86 L. 4636/2019 (Α΄ 169)"]. On the very same year, December 2021, Albania and North Macedonia were included in the list of safe third countries for all applicants for international protection who enter Greek territory from its borders with these two countries [JMD 458568/15.12.2021, "Amendment of no 42799/03.06.2021 Joint Ministerial Decision of the Minister of Foreign Affairs and the Minister of Migration and Asylum "Designation of third countries as safe and establishment of national list pursuant to Art. 86 L. 4636/2019 (Α΄ 169)"]. Subsequently, the national list of safe third countries was renewed in December 2022 [JMD 734214/2022 "Designation of third countries as safe and establishment of national list pursuant to Art. 91 of Law No. 4939/2022 (A' 111)"].

At the time of writing, Greece still considers Türkiye, Albania and North Macedonia as safe third countries for the applicants of international protection [JMD 538595/12.12.2023, "Designation of third countries as safe and establishment of national list pursuant to Art. 91 of L. 4939/2022 (A' 111)"]. It is worth noting that two out of the five nationalities for which Türkiye is considered as a safe third country are among those with the highest recognition rate of international protection: Afghanistan (1st instance: 86% / 2nd instance: 32%) and Syria (1st instance: 64% and 2nd instance: 10%) (Ministry of Migration and Asylum, Report A, 2023).

The Greek Asylum Code also provides for the possibility of establishing a national list of safe countries of origin through JMD (Art. 92 para. 5 Greek Asylum Code). The first list of safe countries of origin was published in December 2019 (JMD 1302/20.12.2019, "Establishment of national list of countries of origin designated as safe pursuant to Art. 87 para. 5 L. 4636/2019") designating 12 countries as safe countries of origin. These countries were the following: Albania, Algeria, Armenia, Gambia, Georgia, Ghana, India, Morocco, Senegal, Togo, Tunisia and Ukraine. This list was extended in January 2021, including Pakistan and Bangladesh [JMD 778/2021, "Establishment of national list of countries of origin designated as safe pursuant to Art. 87 para. 5 L. 4636/2019 (Α΄ 169)"]. In February 2022, Benin, Egypt and Nepal were also considered as safe countries of origin [JMD 78391/2022, "Establishment of national list of countries of origin designated as safe pursuant to Art. 87 para. 5 L. 4636/2019 (Α΄ 169)"]. In November 2022, the national

list of safe countries of origin was renewed. Ukraine was removed from the list [JMD 708368/24939/2022 "Establishment of national list of countries of origin designated as safe pursuant to Article 92 para. 5 L. 4939/2022 (Α´ 111)"]. At the time of writing the following 16 countries are considered to be safe: Albania, Algeria, Armenia, Gambia, Georgia, Ghana, India, Morocco, Bangladesh, Pakistan, Benin, Senegal, Togo, Tunisia, Egypt and Nepal [JMD 527235/2023 "Establishment of national list of countries of origin designated as safe pursuant to Art. 92 para. 5 L. 4939/2022 (Α´ 111)"]. The way the Greek authorities implement the safe country concepts is described below.

3.1   Rejection of Asylum Application on the Safe Third Country Ground

The systematic application of the safe third country concept by the Greek authorities has led to the rejection of a large number of applications for international protection as inadmissible. This is predominantly the case for third country nationals entering Greece via Türkiye. According to the statistics provided by the Ministry of Migration and Asylum on June 10, 2024, in response to a parliamentary question, during 2023, 3,360 first instance inadmissibility decisions were issued concerning nationals from Syria, Afghanistan, Somalia, Bangladesh and Pakistan who entered via Türkiye (Syria: 1,460, Afghanistan: 730, Somalia: 848, Pakistan: 242, Bangladesh: 51, Palestine: 29), while 61 applications of third country nationals who entered Greece via North Macedonia (India: 32, Nepal: 15, Cuba: 8, Albania: 2, Türkiye: 2, Kosovo: 2) and 23 via Albania (Egypt: 8, Nepal: 4, Bangladesh: 3, Iran: 3, Kosovo: 2, Syria: 1, Morocco:,1, Pakistan: 1, Algeria: 1) were dismissed at first instance as inadmissible on the basis of the safe third country concept (Asylum Service, Reply to parliamentary question, 2024). At second instance, during 2023, the Appeals Committees issued 1,319 inadmissibility decisions on the basis of the safe third country concept, of which 1,237 decisions concerned Türkiye, 57 North Macedonia and 25 Albania (Greek Ministry of Migration and Asylum, 2023). Following the rejection of the initial applications as inadmissible, 994 subsequent applications were lodged throughout 2023, almost exclusively by nationals originating from Afghanistan, Pakistan, Syria, Somalia, Bangladesh for whom Türkiye is considered a safe third country (Asylum Service, Reply to parliamentary question, 2024).

A large majority of Syrians, Afghans, Somalis, Pakistanis and Bangladeshis who entered Greece via Türkiye have their applications rejected as inadmissible and are ordered to return to the latter, despite the suspension of readmissions since March 2020 and the clear lack of such prospect (European Commission, 2023: 53). The legality of the national list designating Türkiye as safe third country (JMD 42799/2021, as amended by JMD 458568/15.12.2021) and of the application of the safe third country concept vis-à-vis Türkiye was challenged before the Greek Council of State. The Plenary of the Court referred questions to the CJEU for a preliminary ruling

> "with regard to the influence on the legality of the national list of the fact that, for a long period of time (over 20 months), Turkey refuses the readmission of applicants for international protection and it does not appear that the possibility of changing this position in the foreseeable future has been explored" (Greek Council of State, Judgment of 3/2/23, No. 177/2023).

Specifically, the Luxembourg Court has been requested to clarify whether under Art. 38 of the APD, read in light of Art. 18 of the EU Charter of Fundamental Rights on the right to asylum, the assessment of possibility of readmission should be made: upon: (i) designation of a third country as generally safe; (ii) rejection of the individual asylum application; or (iii) execution of the decision of return to the third country.

The CJEU ruled that

“where it is established that the third country designated as generally safe by a Member State does not in fact admit or readmit the applicants for international protection concerned, that Member State cannot reject their applications for international protection as inadmissible” (CJEU, Judgment of 4/10/2024, Somateio ‘Elliniko Symvoulio gia tous Prosfyges’ and others v. Ypourgos Exoterikon, Ypourgos Metanastefsis kai Asylou. No. C-134/23, para. 55).

However, it clarified that

“Article 38 of Directive 2013/32, read in the light of Article 18 of the Charter, must be interpreted as not precluding legislation of a Member State classifying a third country as generally safe for certain categories of applicants for international protection where, despite the legal obligation to which it is subject, that third country has generally suspended the admission or readmission of those applicants to its territory and there is no foreseeable prospect of a change in that position” (para. 56).

However, despite the CJEU ruling, which is binding on the Greek authorities, at the time of writing applications for international protection are still being rejected on the basis of the safe third country concept (GCR, 2024).

3.2   Rejection of Asylum Applications and Revocation of Protection Status on the Safe Country of Origin Ground

The concept of safe country of origin constitutes the main ground for rejecting, as manifestly unfounded, the applications for international protection of nationals/stateless persons coming from the above-mentioned 16 countries designated as safe countries of origin in the Greek legislation. It is also a ground for dismissal of applications for renewal of residence permits from recognised refugees in Greece. In 2023, a total of 5,164 manifestly unfounded decisions were issued by the Asylum Service at first instance. The majority of these rejection decisions (i.e.: 5,128) concerned applicants whose applications were examined under the safe country of origin concept (Pakistan: 1,631, Egypt: 1,050, Bangladesh: 522, Albania: 503, India: 485, Georgia: 404, Nepal: 202, Morocco: 122, Ghana: 58, Gambia: 41, Algeria: 25, Armenia: 35, Senegal: 26, Togo: 16, Tunisia: 8) (Asylum Service, Reply to parliamentary question, 2024). At second instance, the Appeals Committees issued 3,442 manifestly unfounded decisions on the safe country of origin ground (Greek Ministry of Migration and Asylum, 2023).

Beneficiaries of international protection, originating from countries considered as safe, also have their status revoked after many years of legal residence in Greece, merely because their countries are included in the relevant national list. It is noteworthy that two parallel systems are in operation for beneficiaries of international protection in Greece. For those who applied for international protection before 7 June 2013, the competent examining authority (including for the renewal of residence permits and the revocation of international protection status) is the Headquarters of the Hellenic Police of the Ministry of Civil Protection. For those who applied for international protection after that date, the competent authority is the Asylum Service of the Ministry of Migration and Asylum. Unlike the Asylum Service, the Headquarters of the Hellenic Police, in violation of the right to a prior hearing and the right to an effective remedy, does not allow beneficiaries of international protection to present their claims relating to their individual circumstances in order to rebut the presumption of adequate protection in the country of origin.

Rejection decisions rely only on the national lists of safe countries of origin without individualized assessment (AIDA, 2024, p. 254). Moreover, although both the Asylum Service and the Headquarters of the Hellenic Police are subject to the same legal framework regarding the obligation to provide free legal aid at second instance, beneficiaries of international protection under the jurisdiction of the Headquarters of the Hellenic Police are excluded from this right. In particular, the Register of Lawyers which has been established to provide free legal aid to asylum seekers at second instance in Greece is subject to the Asylum Service of the Ministry of Migration and Asylum. Hence, only the asylum seekers for whom the competent authority is the Asylum Service benefit from the right to free legal aid. Contrarily, there is no such Register at the Headquarters of the Hellenic Police. No free legal aid, is therefore, provided to them to challenge the safe country of origin concept in relation to their individual circumstances, in breach of the right to an effective remedy enshrined in international, EU and national law.

3.3   Lack of Safety Assessment in Safe-Country Lists and Individual Decisions

According to Art. 91 para. 3 of the Greek Asylum Code, the following information is considered for the adoption of the JMDs designating third countries as safe third countries and establishing national lists: domestic legislative regime of the third countries, bilateral or multilateral transnational agreements or agreements between the third countries and the European Union, as well as the internal practice in these countries. The information must be "up-to-date and come from credible sources of information" (Art. 91 para. 3 Greek Asylum Code). In particular, from official national and foreign diplomatic sources, the European Union Agency for Asylum (EUAA), the legislation of other Member States in relation to the concept of safe third countries, the Council of Europe and the United Nations High Commissioner for Refugees (UNHCR). The same applies to the safe countries of origin. Specifically, the designation of countries of origin as safe and the establishment of national lists through JMDs must also be based on "up-to-date" information, obtained from "credible sources", in particular from those listed above (Art. 92 para. 5 Greek Asylum Code).

However, all JMDs so far fail to provide any legal reasoning as to why and on the basis of which information the countries designated as safe third countries and safe countries of origin are considered as such, in violation of Art. 12 para. 1 subpara. (d) of the APD pursuant to which the applicants must have access to the information taken into consideration for the purpose of taking a decision on their application. They do not contain any information whatsoever but only refer to unpublished Opinions of the Head of the Asylum Service, which in turn refer to unpublished annexes. Such annexes include country information notes of the Asylum Service's Procedures and Training Service. Nevertheless, neither the Opinions nor the annexes make any assessment of the countries' information, which is necessary to reach an informed conclusion that the designated safe third countries and safe countries of origin meet the safety criteria as set out in the APD. Furthermore, the applicants for international protection are denied access to this information and ultimately to their right to an effective remedy.

In addition, most of the rejection decisions under both concepts are identical and are not based on up-to-date information. In the case of Türkiye, the decisions refer to outdated diplomatic assurances provided in 2016 for Syrian nationals. It is noteworthy that the first instance decisions rejecting the applications of Afghans, Somalis, Bangladeshis and Pakistanis as inadmissible are based, inter alia, on the above-mentioned diplomatic

assurances, which are not only outdated but, most importantly, concern only Syrian nationals (AIDA, 2025: 161-164; RSA, 2024: 3, 26). Consequently, the applications of international protection are rejected without a rigorous and thorough assessment of the conditions in the countries considered as safe and without individualized assessment by the administrative authorities.

4 Human Rights Situation in the Countries Considered as Safe by Greece

Apart from the non-compliance with international and European standards, the implementation of safe country concepts in the Greek asylum system should also be examined regarding substantial safeguards in third countries and countries of origin considered as safe. Below are discussed the results of desk research of 195 sources (available in the Annex) published in 2023 until September 2024 by international organisations (i.e. European Union, Council of Europe, United Nations), the USA government, and non-governmental organisations, such as Amnesty International, Human Rights Watch, Freedom House, Refugee Support Aegean, European Council on Refugees and Exiles, International Rescue Committee and others. 34 sources were studied regarding safe third countries and 161 regarding safe countries of origin. The violations of human rights presented in this chapter are those which appear in most of the reports. They have been divided into three different categories regarding safe third countries (access to asylum, restrictions on freedom of movement and inadequate services regarding social rights) and two categories regarding safe countries of origin (violations of vulnerable groups' rights and violations of civil rights). All the reports are included in the Annex of this article.

4.1 Violations of Asylum-seekers' Rights in Safe Third Countries

Reported violations of persons in need of international protection in the three countries – Albania, North Macedonia and Tu̇rkiye – considered as safe by Greece focus on barriers in access to asylum, restrictions on freedom of movement and inadequate services regarding social rights. Precisely, persons of concern wishing to apply for international protection in Tu̇rkiye are totally denied access in many provinces. They also face severe difficulties in having their application registered in the rest of the country. In Albania, apart from reported forced returns without any access to asylum procedure, data is also alarming for those who manage to submit asylum applications. In the first eight months of 2023, only 11 first instance decisions were issued, granting subsidiary protection to nationals of Afghanistan, Iraq, and the Syrian Arab Republic. According to the reports, North Macedonia seems to generally respect the right to seek asylum. However, recognition rate remains extremely low, with two persons (one from Afghanistan and one from Morocco) being granted subsidiary protection in 2023.

Restriction to freedom of movement in Tu̇rkiye include travel restrictions preventing refugees from travelling out of the provinces in which they are registered, unless they manage to obtain a special permit. In Albania, persons granted international protection are not provided with travel documents, while North Macedonia applies measures limiting freedom of movement of asylum-seekers. The latter is also reported to impose detention on children at the Reception Centre for Foreigners Gazi Baba. Regarding social rights and access to services, persons in need of international protection face significant challenges in Tu̇rkiye. These challenges include homelessness or substandard housing conditions,

ineffective access to formal employment and lack of children's access to education. In Albania, reported challenges focus on difficulties in accessing social care and services, while there is lack of separate facilities for unaccompanied minors. In North Macedonia**,** there is no provision for accommodation of unaccompanied minors. Moreover, identity documents often do not contain personal identification numbers, thus limiting access to services, including education and social welfare programs.

4.2 Human Rights Violations in Safe Countries of Origin

In the 16 countries considered as safe by Greece -Albania, Algeria, Armenia, Gambia, Georgia, Ghana, India, Morocco, Bangladesh, Pakistan, Benin, Senegal, Togo, Tunisia, Egypt and Nepal- there are serious violations of human rights according to the reports. The analysis of sources shows two main categories of such violations. The first concerns persons belonging to vulnerable groups, i.e. women, children, LGBTQ+ and persons with disabilities. The second includes violations of civil rights, mostly lack of freedom of expression, religious belief, association (combined with inacceptable working conditions) and imposition of torture. In the first category, none of the safe countries of origin is found to be totally safe for vulnerable groups. In the second category, only two countries are found to be safe regarding freedom of expression and seven regarding freedom of religious belief. Eleven countries do not respect the freedom of association, while working conditions are found to be inacceptable in all the 16 countries. Only three countries appear not to impose torture.

Table 1: Violations of women's rights in countries of origin considered as safe by Greece

Country	Rape / Domestic Violence / Sexual Harassement	Non - Criminalisation of marital rape	Female Genital Mutilation / Cutting (FGM/C)	Forced Marriage	Education	Employment	Trafficking	Prohibition / Criminalisation of Abortion
Albania	☑	☐	☐	☐	☐	☑	☑	☐
Algeria	☑	☑	☑	☐	☐	☑	☑	☐
Armenia	☑	☐	☐	☐	☑	☑	☑	☐
Bangladesh	☑	☑	☐	☑	☐	☑	☑	☐
Benin	☑	☐	☑	☐	☐	☑	☑	☐
Egypt	☑	☐	☑	☐	☐	☑	☐	☐
Gambia	☑	☑	☑	☐	☑	☑	☑	☐
Georgia	☑	☐	☐	☐	☐	☑	☐	☐
Ghana	☑	☐	☑	☐	☑	☑	☑	☐
India	☑	☑	☑	☑	☑	☑	☑	☑
Morocco	☑	☑	☐	☐	☑	☑	☐	☑
Nepal	☑	☐	☐	☑	☐	☑	☑	☐
Pakistan	☑	☐	☐	☑	☑	☑	☐	☐
Senegal	☑	☑	☑	☑	☑	☑	☐	☐
Togo	☑	☐	☐	☐	☐	☑	☑	☑
Tunisia	☑	☐	☐	☐	☐	☑	☐	☐

Precisely, the most common violations women's rights include: rape, domestic violence and severe harassment, non-criminalization of marital rape, female genital mutilation/cutting (FGM/C), forced marriage, education, employment, trafficking,

prohibition and criminalization of abortion (indicatively: European Commission, 2024; US Department of State, 2024; Human Rights Watch, 2024; Amnesty International 2024; Freedom House, 2024; UN Human Rights Committee, India, 2024; UN Human Rights Committee, Egypt, 2023; ACCORD, Pakistan and Egypt, 2024) (**Table 1**). Among the most flagrant violations appear the non-criminalisation of marital rape in Bangladesh, when the victim (wife) is over 13 years old (EUAA, Bangladesh, 2024), and in India, when the victim is over 15 (US Department of State, India, 2024; UN Human Rights Committee, India, 2024).

Table 2: Violations of children's rights in countries of origin considered as safe by Greece

Country	Child Marriage	Trafficking	Female Genital Mutilation / Cutting (FGM/C)	Child Labor	Barriers to Education	Malnutrition
Albania	✓	✓	☐	✓	✓	☐
Algeria	☐	✓	✓	✓	✓	☐
Armenia	☐	✓	☐	✓	✓	☐
Bangladesh	✓	✓	☐	✓	✓	✓
Benin	✓	✓	✓	✓	✓	☐
Egypt	✓	✓	✓	✓	✓	☐
Gambia	✓	✓	✓	✓	✓	☐
Georgia	☐	✓	☐	✓	✓	☐
Ghana	✓	✓	✓	✓	✓	☐
India	✓	✓	✓	✓	✓	☐
Morocco	✓	✓	☐	✓	✓	☐
Nepal	✓	✓	☐	✓	✓	✓
Pakistan	✓	✓	☐	✓	✓	☐
Senegal	✓	✓	✓	✓	✓	☐
Togo	✓	✓	☐	✓	✓	☐
Tunisia	✓	✓	☐	✓	✓	☐

In all countries of origin considered as safe, children face barriers to access education. Other most common violations include: child marriage, trafficking, (FGM/C) and child labour (indicatively: UNICEF, 2023; UN Committee on the Rights of the Child, Egypt, 2024; European Commission, 2024; European Commission, Albania, 2023; EUAA, Pakistan, 2024; EUAA, Bangladesh, 2024; US Department of State, 2024; Bureau of International Labor Affairs, 2024) (**Table 2**). Additionally, malnutrition is reported in Nepal (Human Rights Watch, Nepal, 2024) and Bangladesh (EUAA, Bangladesh, 2024).

Table 3: Violations of LGBTQI+ persons in countries of origin considered as safe by Greece

Country	Discrimination	Criminalization
Albania	☑	☐
Algeria	☑	☑
Armenia	☑	☐
Bangladesh	☑	☑
Benin	☑	☐
Egypt	☑	☐
Gambia	☑	☑
Georgia	☑	☐
Ghana	☑	☑
India	☑	☐
Morocco	☑	☑
Nepal	☑	☐
Pakistan	☑	☐
Senegal	☑	☑
Togo	☑	☑
Tunisia	☑	☑

Discrimination against LGBTQI+ persons is prevalent in all safe countries of origin, especially regarding access to healthcare, education, justice, employment and housing, while members of this group experience different types and forms of violence (indicatively: US Department of State, 2024; Freedom House, 2024; Human Rights Watch, 2024; Amnesty International, 2024; ACCORD, Pakistan and Egypt, 2024). Being LGBTQI+ is criminalized in Algeria (Human Rights Watch, Algeria, 2024; Freedom House, Algeria, 2024; US Department of State, Algeria, 2024), Bangladesh (EUAA, 2024), Gambia (US Department of State, Gambia, 2024; Freedom House, Gambia, 2024), Ghana (UN GA, Human Rights Council, Ghana, 2024; UNHCR, Ghana, 2024; US Department of State, Ghana, 2024), Morocco (US Department of State, Morocco, 2024), Senegal (US Department of State, Senegal, 2024), Togo (US Department of State, Togo, 2024) and Tunisia (US Department of State, Tunisia, 2024) (**Table 3**).

Areas of concern for persons with disabilities in all countries include discrimination against people with disabilities regarding access to education, employment, health services, public buildings, and transportation on an equal basis with others. Only Tunisia appears to have made some progress, but still not on an equal basis.

Regarding civil rights violations in countries considered as safe by Greece, restrictions on freedom of expression are imposed in Tunisia, Morocco, Togo, Senegal, Nepal, India, Pakistan, Bangladesh, Gambia, Georgia, Egypt, Benin, Albania and Algeria. Restrictions include unjustified arrests or prosecutions, detention, imprisonment, criminal charges, violence and harassment. This treatment concerns opposition politicians, journalists,

human rights defenders, lawyers, activists, media outlets and other figures, and those perceived as criticizing the Government.

In Algeria, Morocco, Bangladesh, Pakistan, Egypt, India, Togo, Tunisia and Armenia, religious minorities suffer from persecution and interference. Furthermore, in Ghana, despite the fact that religious freedom is constitutionally protected, and the government largely upholds this protection, public schools feature mandatory religious education courses drawing on Christianity and Islam. Muslim students have allegedly been required to participate in Christian prayer sessions and church services in some publicly funded Christian schools. In Senegal there are reported cases of physical and sexual abuse of Daara students by some Quranic teachers.

Algeria, Armenia, Albania, Morocco, Bangladesh, Pakistan, Benin, Gambia, Georgia, Senegal and Egypt impose restriction on the formation of trade unions and prevent certain categories of persons from forming or joining trade unions. Torture, abuse, and rape by law enforcement and security officials have been reported in Bangladesh, Morocco, Pakistan, Benin, Egypt, Georgia, Ghana, India, Nepal, Senegal, Togo, Tunisia and Algeria. It is noteworthy that torture is not recognized and criminalized in India. Furthermore, Ghana, India, Bangladesh, Morocco, Pakistan and Algeria have not abolished death penalty. Enforced disappearances have been documented in India, Bangladesh, Pakistan, Egypt and Nepal. In the same countries unlawful killings have also been reported. Unlawful killings also take place, according to the reports, in Benin, Senegal and Togo.

5   Conclusions

Safe country policies adopted by the EU Member States appear aimed at minimizing their obligations towards refugees. They also entail the risk of circumventing the rights of the latter enshrined in the Refugee Convention and other international human rights instruments (Feller, 2006: 510, 528). These policies reinforce the discriminatory treatment among applicants of international protection based on their origin. This is because the laws and the procedural guarantees are not applied uniformly and equally to all applicants of international protection in breach of international and EU law. The implementation of safe country concepts in the case of Greece raises serious concerns about refugee protection and adherence to international legal obligations. Particular concerns are raised regarding access to a fair and effective asylum procedure, access to effective and durable protection and the risk of non-refoulement.

The findings of the study show that the decisions on applications for international protection of those entering Greece from countries considered as safe or originating from such countries are usually taken without a thorough assessment of the applicants' individual circumstances, the overall human rights situation in the designated safe countries and the risk applicants may face if returned there. Dismissal decisions are frequently based on outdated information and diplomatic assurances. They are also based on information to which applicants do not have access, as the Greek authorities have failed to provide public access to the data used for designating safe countries, violating refugees' right to an effective remedy. The implementation of safe country concepts in Greece, within the broader framework of the EU's asylum policies, highlights significant challenges and shortcomings. These issues undermine the importance of aligning procedures with international due process standards, the meaningful access to international protection and the refugees' rights and protection under international law.

Thus, leaving refugees in a precarious and undocumented status, without access to health care, legal residence, employment and ultimately without protection.

Up-to-date information from credible sources reveals significant and extensive human rights violations in countries deemed safe, further questioning the validity of such designations from the Greek authorities. The application of the safe country concepts in Greece in line with EU and international human rights law is essential in order not to jeopardize access to protection for persons in need of international protection. These findings, also, highlight the need to revise how safe country concepts are applied not only at national, but also at EU level. It should be reconsidered whether the concepts are consistent with human rights principles, comply with international and EU legal standards, respect international obligations, and guarantee fair treatment of all asylum seekers. A more equitable responsibility-sharing mechanism within the EU, prioritizing refugee protection over the externalisation of responsibilities, is essential to address these challenges.

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| QRP

Woes and Challenges of the U.S. Resettlement Program: Dismantlement, Operation Allies Welcome and United for Ukraine [1]

Barbara Franz[2]

Abstract

The United States has welcomed 117,000 Afghans and approximately 270,000 Ukrainians since the early 2020s. Comparing the Afghans' resettlement program Operation Allies Welcome, and the program in support of Ukrainians' settlement United for Ukraine, the author focuses on the recent history of refugee resettlement policy in the U.S. During the Trump administration (2016-2020) the federal resettlement program was largely dismantled. The Biden administration (2021-2025) infused the program with cash and increased the refugee ceiling from initially 15,000 to 125,000 annually but also emphasized a strong preference for private sponsorship programs. In this time period, immigrants became a signifier for what is wrong with the country and especially with the U.S. federal government. Applying Arlie Hochschild's framework to the broader public deciphers the deeper meaning behind the rising wave of xenophobia in the country. The swelling anti-immigrant sentiments, in connection with an increasing NGO-ization and dramatic privatization of refugee resettlement, has led to a racialized preference embedded in the U.S. immigration system that favored Ukrainians over Afghans. This article's methodology is based on a critical analysis comparing the Biden and Trump administrations' refugee and asylum policies. The article itself stresses the existing racial hierarchies as evidenced in U.S. refugee resettlement policies and concludes with a number of recommendations for reforms.

Key Words:

Resettlement; Operation Allies Welcome; United for Ukraine; Ukraine; Aghanistan; U.S.A.

1   Introduction

This paper focuses on two individual U.S. resettlement programs: Operation Allies Welcome (OAW) – the 2021-22 resettlement program for Afghans in the United States – and United For Ukraine (U4U) – a program designed to aid Ukrainians who fled the Russia-Ukraine war to come to the United States. The former was implemented in October 2021, about 10 months after the Biden administration had taken over a Refugee Resettlement Program (RRP) that had been largely demolished by the first Trump administration. In order to successfully run two large resettlement schemes at the same time, drastic structural changes would have needed to be implemented. The Biden administration missed the opportunity to do so.

Overall, it appears that the Biden administration ramped up the annual numbers of refugees accepted for resettlement and opened a number of other short-term venues, especially humanitarian parole, without engaging in any major structural changes and adjustments that would allow for a successful government-led resettlement process.[3] Instead, the heaviest burden for the resettlement within the public-private RRP was transferred from the federal government and the ten key service providers to churches, local NGOs and individuals – the private component of the partnership. Much of the financial, psychological and social responsibilities for refugees' adjustments has always relied on the work of NGOs and private individuals. This paper, however, shows that under Biden this responsibility shifted almost completely onto the shoulders of private groups and individuals. In addition, this paper demonstrates how differently the two programs – OAW and U4U – dealt with Afghan and Ukrainian refugees, respectively. The final part of the paper demonstrates, through a comparison of these two refugee cohorts' experiences, the racialized preferences embedded in the U.S. immigration system that favored Ukrainians over Afghans. This underlying racial basis explains both the nature and speed of the U.S. response.

2   The Numbers and Methodology

The United States has welcomed 117,000 Afghans since its hasty troop withdrawal from Afghanistan in August of 2021 (DoS, 2023). Many more Afghan citizens have attempted to come to the U.S. but have been unsuccessful. Since the commencement of U4U in 2022, about 270,000 Ukrainians have arrived in the US.[4]

This paper is based on a literature review of three kinds of sources: 1) the most recent writings on the structural changes of U.S. refugee resettlement and their aftermath, especially by Daniel Beers, Tazreena Sajjad, Julian Montalvo, Jeanne Batalova, Alex Nowrasteh, Stan Veuger, Kristina Campbell, and Tara Watson; 2) studies published by the Office of Inspector General, Center for Migration Studies of New York and Refugee Council USA; and 3) a broad review of the news published about the two resettlement schemes and their ramification for Afghan and Ukrainian refugees under various U.S. protections. Furthermore, a comprehensive review was conducted of policy statements pertaining to OAW and U4U by the departments and agencies involved with these programs, such as the Congressional Research Center (CRC), Department of Homeland Security (DHS), Department of State (DoS), and Office of Refugee Resettlement ORR). The nascent theoretical contribution of this article – in brief, that there is a significant new development in the neoliberal state toward total privatization of federal services – builds upon the well-known critical literature about the NGO-ization of federal assistance, especially the works of William Davis, Aziz Choudry and Dip Kapoor and Arundhati Roy. This paper is part of a

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[3] I include under the term resettlement not only the formal resettlement policy but all other policies dealing with other residence categories of Afghans and Ukrainians, including P-2, humanitarian parole, and TPS.

[4] The NGO *People in Need* (2024) summarizes the resettlement process in the following way: "Approximately 270,000 Ukrainians who fled to the U.S. have been granted either Temporary Protected Status or (for those who arrived after April 1, 2022) a special humanitarian visa granted under the Uniting For Ukraine (U4U) program. The basic principle of the U4U visa, which is valid for a period of two years, is to unite individuals with families already legally residing in the U.S. This sponsorship role can be taken on by relatives or friends of applicants, as well as volunteers from the general public."

larger project about NGO work in refugee assistance in the greater New York and New Jersey area, based on participatory observation and interviews conducted between 2020 and 2022 with volunteers and Board Members of six local NGOs. However, the focus of this article is on two small non-religious neighborhood NGOs in New Jersey: Refugee Assistance Partners (RAP) in Scotch Plains, and One World One Love in Summit. Two qualitative semi-structured but open-ended interviews, conducted via Zoom, are cited extensively in this article. All interviews focused specifically on the organizations' projects and other work done for and with the Afghan refugee cohort in the region and the handicaps and difficulties that this group faced in the first year of OAW.

This article embraces feminist research methods because, as a methodology, feminism engenders the researcher to take sides. Feminists reject the notion that a researcher can be neutral or that research can ever be embarked upon for a politically neutral motive. Instead, feminists raise critical questions concerning the problems of reproducing power relations in fieldwork and the inevitability of the researcher's subjectivity. They, therefore, automatically are "taking sides". As Diane Wolf puts it, "any truly feminist research must involve some kind of change through activism and consciousness-raising" (Wolf, 1996, p. 5). Feminist methodology also demands that research not be undertaken for its own sake but rather to counter oppression (Barrett, 1996) and to actively improve life circumstances of exploited and underprivileged cohorts. My own position clearly is on the side of treating refugees with compassion and support, regardless of the color of their skin or their countries of origin.

3   The Trump Effect

The two resettlement efforts have had particular challenges, one of which is that America's established RRP had been all but dismantled by the Trump administration. Setting the stage for this, the first Trump administration engaged in fear-mongering. Trump himself claimed, for example, that Somali refugees were "joining ISIS and spreading their extremist views all over our country" (Jacobs & Yuhas, 2016), that "terrorist groups have sought to infiltrate several nations through refugee programs", (Executive Order 13780, cited in Beers, 2020), and that immigrants were "invading" white America (Campbell, 2019). In addition, the administration appointed refugee skeptics at the highest levels of government as political advisors and agency directors, e.g., the architect of the "zero tolerance" policy and the "Muslim ban", Stephen Miller, became a senior presidential advisor, and Kiersten Nielsen, who implemented the forcible family separation at the border policy, became the head of the DHS. The Trump government also sharply reduced the flow of refugees to the U.S. until, with the implementation of Title 42 during the pandemic, refugee resettlement and asylum came to a complete halt.

Starting in January 2017, in addition to halting refugee arrivals, the Trump administration downwardly adjusted the 2017 refugee admissions ceiling from 110,000 to a then-historic low of 50,000 (Executive Order 13769). The number of refugees admitted fell further in the following years. These and other refugee numbers that are usually cited indicate the ceilings for various fiscal years, not the number of people who are actually resettled. The ceilings are usually higher than the actual number of people who are resettled; for example, in the fiscal year (FY) 2021, the U.S. dropped its admission number to 18,000, but only 11,000 refugees were actually admitted. Led by people like Stephen Miller in the Trump administration, this decline was a result of a concerted policy effort to eradicate refugee admission.

This was not conceived as a temporary measure but rather as the beginning of the dismantling of the program at large. In addition to drastically slashing the numbers of refugees accepted for resettlement, the first Trump administration did everything in its power to disrupt the resettlement infrastructure, such as: adding layers of bureaucracy by issuing executive orders (which were challenged in court but frequently stayed through preliminary injunctions (Allyn, 2020); allowing states and smaller localities to veto resettlement (Executive Order 13888); and blatantly disregarding the legislative mandate to confer with congressional leaders ahead of issuing a new presidential determination on arrivals (Office of Sen. Dick Durbin, 2020). Consequentially and due to the subsequent low arrival numbers (DoS, 2021), local resettlement NGOs faced major setbacks and closures, disrupting their ability to provide services for the resettled population and even further handicapping their ability to accept new refugees.

A number of procedural steps were taken by the Trump administration that caused additional disruption to the work being done by institutions, such as RRP actors, that were tasked with managing the resettlement of refugees (Beers, 2020). For example, vacancies were not refilled; this led to staffing shortages which was then followed by budget cuts. Other measures, such as "extreme vetting" of refugees, resulted in much longer wait times for refugee applicants and an ever-increasing backlog at federal agencies. The government's antagonistic pressure toward non-profit NGOs affiliated with the resettlement process resulted in resignations and the reallocation of resources. Three years into Trump's first four-year term, many positions – nearly 75% of the vacancies at the State Department and Health and Human Services, 50% of those at the Justice Department, and two-thirds of the Senate-confirmed posts at the DHS – were not filled (Beers, 2020). Bob Carey, who had been director of the Office of Refugee Resettlement under President Obama, claimed that the system was being managed to fail (Hoffmann, 2018).

Internal staffing shortfalls at various departments severely reduced agencies' abilities to conduct their services. Only a skeletal staff remained at USCIS, DHS's division that screened and adjudicated asylum and refugee applications, by 2018 (Aziza, 2018). As a result, worldwide visits by the Refugee Affairs Division in order to evaluate refugee cases were drastically reduced in frequency and duration (Hoffman, 2018). Thus, by 2020, the backlog of cases faced by the agency grew, with more than 200,000 refugees awaiting interviews with officers of the USCIS, and the delays resulting in the expiration of time-sensitive components such as medical exams (Beers 2020, pp. 28-29). Adam Clark, director of World Relief, Durham, observed: "When there aren't enough people abroad to interview and process the cases, there is no way to keep the stream of vetted refugees coming […] The pipeline has dried up" (Aziza, 2018).

As the number of admitted refugees dropped, the Trump administration's budget cuts touched "nearly every facet of refugee assistance – from overseas emergency relief, to refugee screening and processing, to social service assistance for newly arrived refugees" (Beers 2020, p. 30). Essential social service programs upon which new refugees relied, in areas such as healthcare and housing, were cut by the White House in the fiscal year 2019 (Parrott et al., 2018). The administration consolidated foreign aid in the fiscal year 2020, decreasing refugee and humanitarian assistance from $9.6 billion to $6 billion, a drop of nearly 40% (Beers, 2020, CRS, 2020), and reduced the budget by 90% for the Bureau of Population, Refugees and Migration, which directly manages the United States

Refugee Assistance Program (USRAP) and is a major funder for refugee assistance around the world (Oswald, 2019). Of course, the effects of these cuts were felt by non-profit NGOs that fund refugee support services and provide financial support to local resettlement offices.

3.1 Xenophobic Language Signifies Anti-government and Anti-establishment Sentiments

3.1.1 Fear-mongering

The administration used fear-mongering in many public statements, e.g., in a Tweet in 2015 Trump stated: "Refugees from Syria are now pouring into our great country. Who knows who they are – some could be ISIS. Is our president insane?" (Trump, 2015). Later Trump would call migrants "animals" and "not human."[5] In his 2024 re-election campaign, he claimed that Haitian refugees were eating their neighbors' cats and dogs, and that he would initiate a massive deportation campaign once elected (Blake, 2024). To be sure, this xenophobic rhetoric not only encouraged public scapegoating and racism but also increased the levels of anti-immigrant sentiments substantially in the wider American public (as shown by e.g., Campbell, 2014 and Goodfellow, 2020). Trump's rhetoric closely follows Orban's multiple years-long public anti-immigrant campaigns in Hungary (Bíró-Nagy, 2022). This is even more disturbing because America has historically been a rather open and tolerant pro-immigrant country.

3.1.2 Public Perceptions and Misperceptions: Unfairness and Public Grievances

Anti-immigrant language represents more than just a rise of xenophobia in public sentiment. Xenophobic language is part of a deeper ideological and cultural script that expresses massive distrust of the federal government and American elites. In *Strangers in Their Own Land* (2016), Arlie Russell Hochschild analyzes the perplexing political paradox expressed by residents in the heart of "cancer alley" around Lake Charles, Louisiana: They understand that the chemical and oil companies have destroyed their environment and sometimes their lives, but they continue to be avid defenders of free market capitalism while at the same time expressing extreme hostility against specifically regulating big industries and the federal government in general. Hochschild's study focuses on the emotional and ideological roots of conservative, right-wing political views, particularly as she analyses government distrust, environmental degradation, and economic inequality. Through interviews and observations, she paints a portrait of a group of people who feel alienated from the larger political system and left behind by societal changes despite their hard work and sense of personal responsibility. Hochschild calls the emotional and ideological logic underlying the residents' explanations that rest on apparent contradictions – e.g., citizens' resentment of environmental regulations that threaten the oil and gas industries despite the fact that chemical and oil factories have destroyed their health and lives – the "deep story" of the people she studies: a metaphorical narrative that explains their sense of injustice and frustration. In this deep story, people feel they have been unfairly left behind, as others – particularly immigrants, minorities and elites – have been granted special advantages, such as government benefits or wealth, while they themselves struggle in a system that seems rigged against them.

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[5] https://www.youtube.com/watch?v=DcTMV4KHnuo

Immigration plays a central role in shaping the worldview of Hochschild's interviewees, despite the fact that the region of study in Luisiana, does not host many migrants. Hochschild's study emphasizes that the citizens' attitudes toward immigrants are intertwined with broader themes of race, economic insecurity, cultural identity, and, most significantly, a sense of fairness and justice. Citizens view the arrival of immigrants – especially those from Latin America and other non-European countries – as a threat to their sense of social and economic order.

Many express frustrations that immigrants seem to be receiving preferential treatment through government programs, such as welfare or healthcare, which they believe should be reserved for "Americans" or people who have paid into the system through taxes.[6] In addition to "abusing the system", many of the white working-class conservatives with whom Hochschild spoke were especially concerned that migrants from Latin America are "taking jobs" from white Americans. Thus, immigration is frequently tied to both welfarism and racial stereotypes about Mexicans and other Central Americans. In today's U.S., migrants have become the symbolic signifier for people who are seen as exploiting the welfare system and, at the same time, stealing jobs. Therefore, many of Hochschild's interviewees are staunch supporters of conservative, anti-immigration policies, such as stronger border enforcement, deportation of undocumented immigrants, and the construction of a border wall between the U.S. and Mexico.[7]

The idea of "unfairness" is central to their grievances. Many of these Americans feel that they have worked hard and followed the rules but that migrants are being given benefits that they, in their view, have not earned. This contributes to a sense of being "left behind" or "cheated", especially when it comes to government programs that immigrants are perceived to take advantage of, without contributing in the same way. This frustration is also connected to broader feelings of being overlooked by the government and political elites, who are believed to prioritize the needs of immigrants (and others, including African-Americans, LGBTQ individuals, trans-people, feminists, etc.) over their own. Thus, as Hochschild has shown, many conservative, working-class white Americans feel that the government has turned away from the country's citizens and instead encourages immigrants and other minorities to jump the line.

This explains why, for many of the people described in *Strangers in Their Own Land* and the majority of Trump voters, a rigid anti-immigrants' stance has become a major signifier in their political ideology. To be sure, the right-wing establishment used xenophobia as a tool to consolidate the conservative sentiment by striking fears about the loss of American identity, values, and sovereignty. During the 2024 presidential race, the Trump campaign successfully framed this issue not just as a policy but as an existential question about the future of the country.

3.2   Enforcement over Judicial Process

Regardless of which administration was in power, the major emphasis has always been on enforcement of immigration rules at the borders and elsewhere. Since the creation of DHS in 2003, Immigration and Customs Enforcement (ICE) spending has nearly tripled

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[6] There is no difference in the American imagination between immigrants and refugee.

[7] These views are often amplified by political elites, media figures, and organizations that frame immigration as a threat to national security and economic stability.

from $3.3 billion to $9.6 billion in FY 2024 (American Immigration Council, 2024). Much of this funding has gone to increasing the agency's ability to hold immigrants in detention around the country, to electronically monitor noncitizens on "alternatives to detention", and to carry out deportations. Since 2003, the budget of Customs and Border Patrol, which includes both the Border Patrol and operations at ports of entry, has also more than tripled, rising from $5.9 billion in FY 2003 to a high of $19.6 billion in FY 2024 (American Immigration Council, 2024). Adjusted for inflation, this is an increase of 144%. While pouring hundreds of billions of dollars into immigration enforcement over the last two decades, Congress has often failed to provide similar funding infusions to the immigration court system. Taken together, from FY 2003 through 2024, Congress has spent $24 on ICE and Border Patrol for every $1 spent on the immigration court system. Over that 22-year period, Congress spent $11.65 billion on the immigration courts – $3.5 billion less than the Trump administration spent on border walls alone (ibid).

The Trump administration tried to get rid of refugee resettlement NGO offices, based on the rationale that the number of refugees was decreasing. Upon the slashing in 2018 of refugee admissions and associated funding, the State Department revoked federal authorization for NGO offices expected to resettle fewer than 100 refugees annually (Rosenberg, 2018). In subsequent years, as the number of accepted refugees continued to drop dramatically, there was further forced downsizing. By the summer of 2019, budgetary constraints associated with the plummeting number of refugee arrivals had already caused the permanent closure or indefinite suspension of operations of nearly a third – more than 100 out of 325 – of the country's local resettlement offices across the nation (RCUSA, 2019). Overall, the organizational capacity of refugee resettlement agencies had decreased by an estimated 50-80%, depending on region (RCUSA, 2019). This loss of institutional memory, expert knowledge, and institutional capacity had dramatic consequences, and forced many agencies to reinvent the wheel in 2020.

This was the situation when the Biden administration took office. During the four years prior to the election of President Joe Biden, the RRP had been largely dismantled and become barely functional. The Biden government, however, made few real proactive federal efforts to restore the RRP. Among the most important ones was Biden's executive order revoking the Trump rule that had permitted states to opt out of the resettlement program. The Biden administration also encouraged expedited refugee processing without sacrificing security and increased the number of trips by the DHS ("circuit rides") to interview refugees around the world who were seeking to resettle in the U.S., resulting in the DHS conducting 91,000 interviews in FY 2023, more than twice the number done in FY 2022 (Appleby, 2024). However, the Biden administration neither actively sought to increase federal refugee resettlement agencies' funding, nor to increase federal funding for individual refugees during their resettlement.

In order to restore the USRAP, the Center for Migration Studies and the Refugee Council USA (2021) conducted a study in 2020 that recommended necessary improvements: the provision of sufficient funding to the refugee resettlement agencies to restore their infrastructure and rebuild their capacity; raising the ceiling on refugee admissions each year, with the capacity of the agencies; and increasing public involvement in welcoming refugees to the United States. The Biden administration indeed increased the funding for refugee resettlement agencies from Trump's $300 million to $1 billion, according to annual budgetary reports by the Congressional Research Services (2020, 2022). Biden

also swiftly increased the annual ceiling for resettlement to 125,000 cases. This number, however, had symbolic value rather than actual implications because ceilings were never reached. In order to address the need for new alternative programs to prepare and expand system capacity to handle the expected significant increase in the inflow of refugees, the Biden administration implemented programs that rested almost exclusively on private sponsors. With a lack of federal initiative, the Biden administration encouraged further the NGO-ization of these basic government functions. It also provided a policy setting that boosted volunteerism and private sponsorship and, with that, encouraged public selectivity in supporting specific categories of refugees. These developments increased the number of major challenges for the 117,000 Afghan refugees who had begun entering the country late in 2021.[8]

4   NGO-ization of the Refugee Resettlement: A Theoretical Perspective

Refugee resettlement in the U.S. has always been a public-private enterprise. Since its inception in 1980, the refugee resettlement program has been co-sponsored and supported by private entities such as churches and other, often non-religious, NGOs. One of the ten principal refugee resettlement agencies, for example, Church World Service, provides the initial transportation and relocation services to refugees once they arrive in the U.S.; prior to their basic dismantlement under Trump, these organizations were the logistical hubs for resettlement in the country. Funded by both individual donors and the federal government, these national agencies outsource much of the day-to-day work, e.g., the furnishing of apartments to local affiliates, which are often small NGOs and churches.

Thus, historically, these organizations should be considered non-governmental, but they were never clearly juxtaposed to the government. Instead, historically, the resettlement system has consisted of a complex interwoven structure of private and public, religious and non-religious, and federal and local agencies and players. Theorists (Roy, 2011, Korolczuk, 2016, Choudry & Kapoor, 2013) emphasize that most NGOs have historically been agents of and for change. They often were considered critical of governments, holding them to account and calling out bad behavior. However, in recent times, NGOs have moved away from activist roles and increasingly are taking on roles that had previously been performed by the government, e.g., they are becoming service providers for segments of the population. In order to remain afloat, NGOs increasingly do work that had traditionally been seen as the government's responsibility. They also get into longer-term relationships with government agencies at various levels. Choudry and Kapoor (2013) have shown that this fosters not only a steady stream of income to NGOs, but also a change in their ideological orientation. Once their employees get paid by the government, they become less critical of said government and, instead, become a functional arm of the government. This so-called third sector is "less a space within which organizations begin life and then die than a space through which they pass" (Hildebrandt, 2024). Like any other organization, NGOs must adapt to survive, and many survived quite nicely. For example, Horace Campbell (2024) argues:

> "During the nineties military journals such as Parameters honed the discussion of the planning for the increased engagement of international NGO's and by the end of the 20th century the big international NGO's [like] Care, Catholic Relief Services, Save The Children, World Vision, and

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[8] I refer to all Afghans who entered and sought to enter the U.S. as refugees, despite the fact that they held different visa and residence status.

> Medicins Sans Frontieres (MSF) were acting like major international corporations doing subcontracting work for the US military."

Focusing on post-colonialism, Arundhati Roy (2014) explains that NGOs frequently "give the impression" that they are filling the vacuum created by a retreating nation-state. She emphasizes that "they are [doing so], but in a materially inconsequential way." Instead, Roy continues:

> "Their real contribution is that they defuse political anger and dole out as aid or benevolence what people ought to have by right. They alter the public psyche. They turn people into dependent victims and blunt the edges of political resistance. NGOs form a sort of buffer between the sarkar and public. Between Empire and its subjects. They have become the arbitrators, the interpreters, the facilitators."

Recently, Hoare (2024) has argued that the NGO-ization of society described by Roy as a feature of empire and colonialism, has come home to the West. In the West, it has begun to replace citizens' traditional party-affiliation with their affiliation with NGOs. As outlined above, rather than representing government-critical powers, these NGOs are now run by a professional managerial class dependent on government pay. While constructed as an explicitly "participatory" feature of modern society, Hoare (2024) argues that the term "participation" has been emptied of any meaningful content. He argues that, with NGO-ization, "political decision-making [...] is evoked, but stage-managed in such a way that any binding decision-making remains absent." Similar to online activism, much individual NGO involvement in today's U.S. has become a farce, distorting and poorly imitating real political activism and participation in the streets and at the ballot boxes.

David Harvey (2005, p. 177) contends that "the rise of advocacy groups and NGOs has [...] accompanied the neoliberal turn and increased spectacularly since 1980 or so." NGOs have become key features of the society's welfare structure, in which neoliberal programs force the state away from providing economic aid to the poor and other such public assistance programs. As Harvey puts it, "this amounts to privatization by NGO" (2005, p. 177). Thus, these critical authors claim that NGOs function as the "Trojan Horses of neoliberalism".

For very small grass-roots NGOs such as those discussed in this paper, however, this is rarely the case. Organizations such as RAP and One Love rely exclusively on fundraising to finance their operations. Their allegiance is to the local community rather than the state or federal government. It is exceptionally rare that one of these organizations slides into a contractor role; this would only happen if the NGO received a major grant or substantial federal or state funding. None of the grassroots NGOs that are the focus of this paper receive major federal grants or other such funding.

These small local NGOs are by no means unique: In northern New Jersey, dozens of similar organizations work with refugees. So, although it is true, as outlined above, that many NGOs have taken over state functions, which results in privatization of these functions, it is not true that all NGOs are the neoliberal state's "favoured institutional form", as claimed by Kamat (2013), or that sooner or later all NGOs turn into the state's contractors. However, Ismail & Kamat (2018) have shown that, by simply doing their job and aiding those most marginalized and in need, the structural position of NGOs aids in the neutralization of opposition and disagreement: the very function of NGOs plays into the survival of the neoliberal nation-state.

As Klees (1998: 50) has argued:

> "[…] The strength of NGOs is their ability to work closely with local communities and to develop innovative programs that fit with local needs and context. Most NGO staff I know recognize that it is government that must bring such programs to large-scale. Many NGOs have also recognized that governments, especially during the last three decades, have not been bringing such programs to scale. As a result, some NGOs have begun a new activity: lobbying the State for large-scale social change."

Other NGOs, however, have expanded into fundraising in order to support their programs autonomously without governmental funds. Already quite inadequate social services have been further reduced under neoliberalism, which leaves no remaining room for a greater (meaningful) participation in governance processes that is essential to challenge inequalities (Klees, 1998, p. 51). With more people than ever joining the ranks of the excluded and exploited, small NGOs seek to adjust to new worsening circumstances. For example, Welcome Home in Jersey City, initially focused exclusively on refugee resettlement, but opened its doors for homeless individuals and others in need during the Covid pandemic.

> Perhaps because of the peculiar situation in which they find themselves, small local NGOs "consistently run the most interesting, innovative social programs with a commitment to grassroots participation and social justice, to which some of the most committed social activists volunteer" (Klees, 1998, p. 49).

As RAP and One World show, at their best, NGOs act as progressive elements in a neoliberal world empowering individuals and communities to "face, resist, and transform" (ibid, p. 49) the existing unequal relations.

5   Biden's Legacy-Consequences of U.S. Withdrawal from Afghanistan

In July 2021, the Biden administration announced that after twenty years, the United States' military mission in Afghanistan would conclude in August of that year. This announcement was in line with the Trump administration's Afghanistan policies. It was the first Trump administration that had negotiated the U.S. troop withdrawal with the Taliban. As part of the United States–Taliban deal, the Trump administration had agreed to reduce U.S. forces from 13,000 to 8,600 troops by July 2020, followed by a complete withdrawal by May 1, 2021 (DoS, 2020a).

The U.S. evacuation of Afghan refugees in 2021 was the largest U.S. evacuation effort since the 1975 Operation New Life, when approximately 130,000 Vietnamese refugees were evacuated to Guam after the fall of Saigon (Bankston & Zhou, 2021). Yet, the chaotic withdrawal and evacuation left behind more than 78,000 special immigrant visa (SIV) applicants who had served with the U.S. military and who were left behind in Taliban-run Afghanistan while waiting for their visas to be processed (Staffieri et al., 2022). During the final days of U.S. military presence, the Taliban rapidly gained control of large parts of the country, killing civilians in their path and forcing many people to flee their homes for safety. As the U.S. military departed the country, some Afghans managed to get to the U.S. but many more were left behind in danger and had to seek entry to the U.S. via other means.

5.1 The Afghan Placement and Assistance Program

The Afghan Placement and Assistance Program (APA) is the name of the overall program designed to regulate Afghan entry to U.S. territory. It includes a number of visa venues for Afghans, including the Special Immigrant Visa (SIV) and humanitarian parole.

5.1.1 Special Immigrant Visa

The most well-known program in APA is the SIV: It grants residence to those Afghans who

> "took significant risks to support American military and civilian personnel in Afghanistan employed by or on behalf of the U.S. government in Afghanistan or our coalition forces, or are a family member of someone who did" (DHS, 2024).

Afghans were eligible for an SIV if they worked for the U.S. government or military for at least 12 months. These SIV recipients had to undergo rigorous screening and vetting processes abroad before receiving the visa and moving to the U.S. Roughly 40,000 of the Afghans who entered the country within OAW hold SIV status.

5.1.2 Priority-2

The second option in APA was Priority 2 program (P-2) refugee admission, intended initially for the thousands of Afghans stranded in their country and increasingly at risk from persecution by the Taliban. This category technically included lawyers, journalists, NGO workers, graduates from the American University of Afghanistan, women and human rights activists, ethnic minorities, those who worked with the former Afghan administration and its military, and those who have families in the United States and therefore qualify for immigration to the United States (Adib & Effron 2021, Banville, 2021, BBC World News 2021, Kumar 2022, Siddique, 2022, Staancati & Donati, 2021). The P-2 program thus was intended for those Afghans who did not meet the SIV's 12-month service requirement. Thousands of these individuals have remained stranded in Afghanistan, increasingly at risk of persecution by the Taliban. They include lawyers, journalists, NGO workers, women and human rights activists. Many of these individuals would technically qualify for the P-2 designated status (DoS, 2021).

However, because the U.S. does not have diplomatic representation in Afghanistan today, all individuals who believe they could receive SIV or P-2 visas have to travel to a third country to contact a U.S. embassy, U.S.-based NGO, or U.S.-based media organization, and initiate processing (PRM, 2022). Processing is currently not feasible in Afghanistan, Iran, North Korea, Syria, and Yemen. Given the costs of travel, the border closures, and the many logistical challenges of refugee management facing neighboring countries, acquiring a P-2 visa remains an impossibility for most. SIV and P-2 holders are eligible for employment authorization, certain public benefits and permanent legal status in the U.S., but SIV applicants needed to prove that they had demonstrated "faithful and valuable service to the U.S. government" (DoD, no date).

Once in the U.S. both SIV and P-2 recipients benefitted from those national resettlement program features, which provided families and individuals initial relocation services for 30 to 90 days after their arrival to the U.S. (PRM, 2022a). Small NGOs, such as Hearts & Homes for Refugees and Neighbors for Refugees, often located in suburban areas, frequently sought out SIV recipients in order to help them and their families resettle in often wealthier communities, e.g., in Morris County or the Hudson Valley.

5.1.3 Benefits of SIV and P2 Programs

Small regional NGOs usually rent and furnish apartments for refugee families, provide refugee families with groceries, and aid with transportation to health care appointments, schools, and so forth. A one-time per capita payment of $2,275 is provided to the regional resettlement agency with which the NGO works (PRM, 2022a), of which $1,225 is available to fund critical direct assistance needs such as basic necessities, including rent, food, clothing, and furniture, during this initial adjustment period in the new communities. The services provided include assistance with enrollment in English language classes and schools, cultural orientation, job placement, and referral to other social, medical, and employment services for which the refugee is eligible. The total amount of $2,275 minus $1,225 agency costs means each refugee receives $1,050 (Alex, 2022).

The SIV recipients are the cohort of Afghans best known by the public. In general, of all Afghans who arrived in the U.S., SIV recipients have received the most generous public and private support, not the least, because many have personal connections to American military personnel (Myers, 2024). Again, those Afghans who received SIV and P-2 status were admitted as lawful permanent residents to the USA with a clear pathway to a green card and citizenship.

The third status available for Afghans with urgent humanitarian needs was humanitarian parole. While this status is purported to provide a faster application process, it is a temporary status and does not offer some of the benefits provided by the SIV and P-2, including a path to permanent legal status.

5.1.4 Afghans' Humanitarian Parole

As a matter of fact, most Afghan nationals who arrived as part of the evacuation effort were paroled into the U.S. on a case-by-case basis for humanitarian reasons. Parole is best understood as a "non-status" (Refugees International, 2022): When parole is issued, there is none of the official vetting of the parolee and subsequent admission for entry that US law requires. "Parole" in this case means only that the decision about her legal status will be delayed until a future date.

Unlike the other two residence permits, parolees do not have a pathway to obtain a green card and the permission for them to be in the U.S. is only temporary (Montalvo & Batalova, 2024). In spite of repeated attempts, Congress has again and again declined to pass legislation that would allow Afghan parolees to apply for permanent legal status. Instead, the DHS has expanded the two-year residence rights if the parolee reapplied for re-parole. The uncertainty surrounding the insecure status of the parolee and her family members – not unlike what Deferred Action for Childhood Arrivals (DACA) recipients experience – is extreme in the sense that, although it shields the parolee from deportation at least temporarily, it does not provide a pathway forward, e.g., through visas, in-state college tuition, etc., and instead keeps the parolee in a state of permanent limbo.

5.1.5 Applying for Humanitarian Parole from Abroad

Still, being paroled into the country and receiving a (temporary two-year) residence permit is not the worst possible situation in which an Afghan can find herself. In contrast to many other immigrants and refugees, e.g., from Haiti, U.S. Customs and Border Protection (CBP) did parole into the country those Afghans who managed to reach American ports of entry prior to October 1, 2022, when OAW was terminated. Thousands of other Afghans who

could not reach United States territory were forced to apply for humanitarian parole through the traditional way of submitting applications with U.S. Citizenship and Immigration Services (USCIS) from abroad (American Immigration Council, 2023). The vast majority of these applications submitted from abroad were denied.

5.2   Afghans in Morris Country, NJ: One World One Love and RAP

Within OAW, One World One Love (One World) has worked closely with other regional NGOs, such as RAP, Welcome Home Jersey City, Hearts & Homes for Refugees, and the NJ Coalition for Afghans, and refugee resettlement agencies, such as the IRC, in order facilitate the Afghan refugee resettlement in the region. The organization's flexibility and choice of projects is typical for a small local NGO.

Initially, organizations such as One World did a large number of supply drives to Fort Dix in South Jersey where a large number of Afghans were housed for the first months after their arrival. Among other things that they urgently needed were winter clothes, boots and toys for children. Hearts & Homes organized a makeup drive for Afghan women refugees stuck in the military installation, and One World contributed substantially to this drive. In addition, Cynthia Thek, a member of the board of One World, emphasizes that in the spring of 2022, the NGO's apartment set-up team went into overdrive – furnishing, cleaning, and equipping about 50 apartments especially in Union, Essex, Bergen, and Hudson counties.[9] Thus, in New Jersey the Afghan resettlement process relied largely on volunteer work and the creativity of individual NGOs such as the makeup drive.

Thek explained that a number of Afghan families became impatient with life on the base and departed from the military facilities without the support of a refugee resettlement agency. These, and a number of other Afghans who decided to move to New Jersey in order to connect with friends and family who live there, became part of One World's client base. These families in particular, Thek states, seemed to have more problems adjusting than did those who remained within the government/NGO resettlement framework.

Thek stresses that the workload for the volunteers at One World was extremely high in the initial six months, which resulted in some refugee families simply taking "their check [and] doing it on their own." That means that these Afghans decided that they did not want to wait in lines in the refugee resettlement agency and instead took the allocated money and looked for housing and work on their own. Eventually, many of those who initially stayed without NGO support, did seek help at One World and other local NGOs. In addition, certain federal agencies, such as the Department of Agriculture, were slow in servicing the Afghans, which resulted in long delays for food stamps. Thek explains that in her experience, she found that the New Jersey state government and county governments' programs reacted faster than did the federal government.

Humanitarian NGOs like RAP and One World aid in the resettlement process of refugees who have been placed by resettlement agencies in the central and northern New Jersey region. In the initial six months of Afghan refugee resettlement RAP, for example, worked with eight Afghan families, consisting of a total of 40 individuals. Because of secondary migration of families from other U.S. regions to New Jersey, RAP's total client base in this time period was about 20 families.[10] At that time RAP's volunteer base consisted of 50 to

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[9] Zoom interview June 22, 2022.
[10] Zoom Interview with Jill Segulin, June 30, 2022.

55 people total, many of whom volunteered their time to work in fundraising, editing, grant writing, advocacy work, and direct support work. Twenty volunteers worked in the field as family advocacy teams. These teams represented the direct contact point of the refugees and their families to the NGO. The team members provided crucial adjustment help through tutoring in English language and practical skills, job searches, and in-person aid, e.g., grocery shopping. Despite the width of services provided, Jill Segulin, a member of the Board of Directors of RAP, explained that, for her as a volunteer, the most heartwarming experience was to see individual Afghans and entire families overcome their trauma and connect with Americans.

However, for Afghan refugees, this may have been a rather rare experience. A number of volunteers I spoke with believe that Afghans were less likely than other U.S. newcomers to be proficient in English, and the Afghans had lower educational attainment and lower participation in the labor force. Years after their arrival, Afghans on humanitarian parole continue to face significant challenges in accessing housing, adequate medical care, and access to food (Niemeyer & Davis, 2021). Both small NGOs and larger regional resettlement agencies were sometimes unable to provide sufficient support due to a lack of funding and limited staff (Al-Arshani, 2022). Afghans are much more likely to live in poverty and tend to be significantly younger than either the native-born or the overall foreign-born population (Al-Arshani, 2022). In August 2024, the Afghan Adjustment Act – a bill that would provide a pathway to lawful permanent residence for Afghans currently on parole after additional vetting – was reintroduced for the second time in Congress but failed to pass for a second time.[11] Since the second Trump administration has entered office in January 2024, the act is dead, and Afghan parolees are in danger of being deported once their protection expires.

5.3   Ukrainians in the U.S.

Following the Russian invasion of Ukraine in February 2022, the swift humanitarian response by the United States to Ukrainian refugees was exemplary.[12] Some observers (e.g., Sajjad, 2022, pp. 191-92) argue that in some respects, America's response to this crisis represented a return to the traditional Cold War geopolitics when foreign policy interests shaped U.S. refugee policy. The U.S. government expressed strong solidarity with Ukraine and its people and swiftly committed to a number of measures that dramatically opened Ukrainians' access to U.S. protections: The main programs under U4U were humanitarian parole and Temporary Protection Status (TPS). Other immediate measures included the temporary easing of U.S.-Mexico border regulations for their entry, and the creation of a multifaceted process to welcome those who were newly displaced, simultaneously using many of the humanitarian measures available to the federal government, which allowed for relatively smooth and fast access to U.S. territory for Ukrainians.

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[11] Under the bill, Afghans who arrived in the U.S. in or after 2021 would be able to apply for permanent residency either through the expanded Special Immigrant Visa program or by directly adjusting their status within two years of arriving (Norman & Martin 2024).

[12] As in the Afghan case, I call all Ukrainians leaving their country during this time refugees.

5.3.1 Ukrainian Parolees: Exceptional Access to U.S.

The Biden administration lifted Title 42 restrictions, but for Ukrainians only. Released on March 11, 2022, a DHS memo states that Section 265 of U.S. Code Title 42 would not apply to Ukrainians seeking entry into the country (AILA, 2022). Title 42 was the emergency regulation issued on March 20, 2020, by the first Trump administration to prohibit the entry into the U.S. of individuals assessed to be potential vectors of communicable diseases, such as COVID-19 (American Immigration Council, 2021). Section 265 allowed the CBP to prohibit persons from entering U.S. territory who potentially pose a health risk to the American population. The obscure measure, initially part of the Public Health Act of 1944, practically sealed the southern border, blocked land entry for most migrants, and halted migration into the country through southern ports of entry. The measure created a large backlog of people seeking entry to the U.S. in northern Mexico (Franz, 2022a). Therefore, Title 42 and a number of other measures, such as the Remain in Mexico Program, made the region one of the most dangerous places on the continent, with thousands of people stranded for many months in sub-standard living conditions in Northern Mexico, exposed to burglars, rape, drug dealing, and other crimes. Until Biden terminated the policy, Title 42 stopped all asylum applications at that border from March 2020 until May 12, 2023, for everyone – except Ukrainians. Starting in March 2022, Ukrainians were permitted to enter the country through the southern border more than a year prior to the termination of the policy.

By October 2024, U.S. immigration officials had approved more than 236,000 cases under the U4U program, according to the DHS (CBS News, 2024). As of the end of March 2024, more than 187,000 Ukrainians had arrived in the U.S. with the U4U program and another 350,000 Ukrainian individuals have arrived in the U.S. outside of this program, mainly through temporary visas, according to DHS (CBS News, 2024). Although these numbers are largely estimates, the key point is that, whether as a student, a humanitarian parolee, or a TPS recipient, during the past two years, a Ukrainian could seek and did receive American protection.

In contrast to the OAW and most other historic refugee acceptance schemes for displaced Ukrainians, the State Department and the DHS sought to actively bolster pathways to come to the U.S. Indeed, in its *Report to Congress*, the DHS (2024, p. 3) spelled out that it actively:

> "led an effort to create a novel and orderly welcome of certain Ukrainian citizens, and their Ukrainian and non-Ukrainian immediate family members, who had a United States-based supporter who agreed to provide them with financial support for the duration of the parole period."

While the authors of the statement above may or may not have intentionally emphasized the uniqueness and newness of the swift and orderly process of welcoming refugees, U4U had already allowed for the smooth processing of more than 200,000 Ukrainians. Similarly, the program was announced on April 21, 2022, and, with unprecedented speed, the implementation began four days later, on April 25, 2022 (DHS, 2022, Federal Register, 2022).

5.3.2 U4U's and Its Neoliberal Features

U4U provides Ukrainians with the ability to request advance authorization to travel to a U.S. port of entry and seek a discretionary grant of parole for a period of up to 2 years.[13] The program stipulates that, in order to be eligible for U4U, Ukrainians need to have a sponsor who can support them once they enter the U.S. (Ainsley & Bacalao, 2022).

Initially, the entire program rested on this sponsor feature, which in many ways exemplifies the federal government's withdrawal, in terms of financial and civic responsibility, from the refugee resettlement process. This feature illustrates in many ways the pinnacle of the neoliberal state, with its elimination of all social and financial responsibility for people in need. The program's broad public acceptance and the eagerness of individual sponsors to step up and fund Ukrainian refugees demonstrates both the citizens' acceptance of the abolition of most rudimentary American welfare programs and the humanitarian altruism of the American population, especially toward white Europeans. Indeed, in everyday modern American life, the neoliberal rationale remains deeply engrained and, as William Davis (2016) argues, reveals how austerity and social policies have become punitive in nature.

Nevertheless, American citizens and denizens reacted euphorically to the possibility of sponsoring people fleeing Ukraine. By 2023, more than 200,000 private individuals had applied to sponsor Ukrainians fleeing the war. Of those, more than 30,000 came from the New York-New Jersey-Pennsylvania area (Murray, 2023). Non-profit agencies, such as Welcome.us, linked private U.S. sponsors with Ukrainians. Welcome.us, "essentially provides an online platform in order to connect potential sponsors with Ukrainians who seek to come to the U.S." (Murray, 2023). In 2023, Welcome.us made about 1,300 pairings between U.S. sponsors and Ukrainians (Murray, 2023).

The catch for Ukrainians who wanted to relocate to the U.S. was to find a private sponsor while still in Ukraine or in Europe. Once they had a sponsor, their authorization to travel to the U.S. was given almost automatically. An interesting feature included in the initial U4U program was the immediate expulsion of those who crossed the border without this prior authorization: Ukrainians who crossed the U.S. border without prior travel authorization were not only expelled forcibly, but they also forfeited their future eligibility for humanitarian parole. The 98% decline in spontaneous Ukrainian border crossings between April and May of 2022 suggests the program succeeded by offering a more predictable and organized channel of entry (Nowrasteh, Veuger, & Watson, 2023).

Initially, Biden had promised with U4U to accept 100,000 Ukrainians; as explained above, the program initially relied in its entirety on private sponsorship (Jordan, Kanno-Youngs & Shear, 2022). For U4U recipients, being paroled into the country did not reduce their options. Instead, these parolees maintained the option to apply for asylum within the first year of residence (Beers, 2023). They could also apply for TPS if they entered U.S. territory before April 11, 2022. This does not mean that entering the U.S. was easy for them; it did include a number of hurdles for the newly arrived Ukrainians, at least during the early days of the program.

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[13] Parole is considered on a case-by-case basis at the discretion of the Secretary of Homeland Security for urgent humanitarian reasons or significant public benefit, according to the Immigration and Nationality Act (INA) sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).

Although the parolees were granted legal entry, they were not given any guarantee of further assistance. Because they did not hold an official status, they could not access public benefits such as food stamps and cash assistance (Beers, 2023). In addition, since CBP agents at the border admitted them as parolees rather than as refugees resettled through the ORR, U4U recipients at first were not eligible to receive ORR-funded assistance from refugee-serving agencies (ibid). They were entirely dependent on the benevolence and financial support of their private sponsors. However, like all parolees, Ukrainians could apply immediately for temporary work authorization. Ukrainians, like the Afghan parolees, felt themselves to be left in a precarious state of legal limbo. Unlike the Afghans, for the first couple of months, Ukrainians could not receive basic benefits, e.g., Medicaid or food stamps.

Within weeks, however, this was remedied when the Additional Ukraine Supplemental Appropriations Act, 2022 (AUSAA) passed. The Policy Letter 22-13 (ORR, 2022) informed the ORR that as of May 21, 2022, Ukrainian humanitarian parolees were eligible for ORR benefits and services, including Temporary Assistance for Needy Families, Medicaid, Supplemental Nutrition Assistance Program, Supplemental Security Income, resettlement assistance, and other benefits available to refugees.

5.3.3 Temporary Protection

On March 3, 2022, the DHS extended Temporary Protection to include Ukrainians who had been in the country since March 1, 2022 (CRS, 2024). Dating back to 1990, the intention of the TPS program was to protect from deportation those foreign citizens residing in the U.S. for whom conditions in their country of origin were deemed unsafe for return, typically due to war, natural disaster or political instability. As of March 31, 2024, a total of approximately 863,880 foreign nationals from 16 countries were covered by TPS (Beers, 2023). TPS provides protection, for up to 18 months at a time, to citizens from TPS-designated countries. Like humanitarian parole, it is not a legally recognized immigration status and does not provide any pathway to permanent residency. However, TPS eligibility may be renewed indefinitely when dangerous conditions persist. As of March 31, 2024, 50,205 Ukrainian citizens were covered by TPS (CRS, 2024).

TPS holders are also ineligible for public assistance and are given no guarantee for how long they can remain in the U.S. Although the DHS renewed TPS eligibility for Ukrainians for an additional 18 months, extending the program through April 19, 2025, it is not clear what will happen to the Ukrainian TPS holders after that date (USCIS, 2023). In short, TPS holders have found themselves in a similarly precarious position to those who hold humanitarian parole.

For Ukrainians, access to short term U.S. protection was easier to achieve, cheaper, and faster than it was for Afghans. However, Ukrainians experienced a similar limbo in terms of status insecurity – most of them hold temporary visas and face the same structural limitations that Afghans experience in the U.S.

6 Comparison

6.1 Access and Processing

Ukrainians arrived at the Southern U.S. border using airline flights from Europe to Mexico. Their experience remains drastically different from the routes that thousands of other

asylum-seekers, including Afghans and migrants were forced to take to reach the U.S. southern border every year. For the vast majority of people from the Global South, the routes to reach the United States include the Darien Gap – a 1.42 million-acre jungle on the border between Panama and Colombia, which is recognized as one of the most dangerous routes in the world – and the treacherous Sonoran Desert, which covers large parts of Arizona, California and northwestern Mexico (Sajjad 2022, p. 196). Along the Sonoran Desert route, those on foot frequently face the deadly consequences of U.S. policies such as "Prevention Through Deterrence," which has weaponized the desert environment to make it even more inhospitable to migrant mobility (VoA, 2022).

The memo exempting Ukrainians from the Title 42 ban on entering U.S. territory meant that Ukrainians arriving in Mexico City or Cancún as tourists were free to travel across Mexico and cross the U.S. Southern border as soon as they arrived there. As word quickly spread on social media about the arrival of Ukrainians in Tijuana, a loose volunteer coalition, largely from Eastern European churches in the western U.S., worked closely with U.S. and Mexican officials to build an extensive and efficient system of support (Sajjad, 2021, p. 198). Erika Pinheiro, a Tijuana, Mexico-based immigrant attorney, told *Democracy Now* (2022 cited in Franz, 2022a) that Ukrainians' flights from Europe to Mexico City or Cancún and then to Tijuana were being paid for by American citizens and church groups. These volunteers picked up the Ukrainian refugees at the airport and coordinated with CBP to permit their speedy processing and parole into the U.S. Ukrainian arrivals at the Tijuana airport were directed by volunteers to a makeshift lounge in the terminal with a sign reading, "Only for Ukrainian Refugees", to register to enter the United States (VoA, 2022). U.S. officials assisted Ukrainians to a specific pedestrian crossing in San Diego that was temporarily closed to the public (VoA, 2022). The Tijuana government allowed Ukrainians to sleep inside a sports complex – while Central Americans and others who had arrived in Tijuana in their bid to seek asylum in the U.S. were forced to sleep outside of the compound in tents (Flores, 2022). Tijuana officials also offered Ukrainians resources for clean housing, paid for internet access, and cleared bus stations of homeless Mexicans to make room for Ukrainians (Sajjad 2021, p. 198).

Up to 1,000 Ukrainians were processed each day, most of them through San Diego's San Ysidro Port of Entry, where border officials for years have claimed they lacked the daily capacity to process even 30 asylum seekers (Echavarri, 2022). Many other asylum seekers have been waiting for years in deplorable conditions at this port, many of them after having suffered rape, attempted kidnappings, and assaults while staying there. These people were likely in awe, watching the efficiency with which the Ukrainians were granted entry. The same rules did not apply to them (Franz, 2022a). As Erica Pinheiro (2022) explains: "If a Honduran even tries to approach border officials, they will be arrested and detained in a Mexican immigration prison for even attempting to seek safety in the United States." In many cases, the Ukrainian refugees were escorted to meet border officials by U.S. citizens who drove them in their personal minivans and cars. There is nothing wrong with that per se, but an American citizen would likely be arrested and imprisoned for smuggling if they attempted to extend the same courtesy to Haitian asylum-seekers and drove them to the border checkpoint (Franz, 2022a). According to TRAC Immigration, by May 2022, 95% of Ukrainians without necessary paperwork were paroled into the U.S. based on discretionary authority that the border patrol is allowed to exercise. Only 92 individual Ukrainians out of a total of 20,994 arrivals were turned away (TRAC Immigration, 2022). In contrast, only 11% of non-Ukrainian arrivals, including from Haiti,

El Salvador, the Philippines, Myanmar and other conflict-impacted countries with credible fear claims and the intention to seek asylum, were granted parole (TRAC Immigration, 2022).

In an OIG report (2023) the State Department estimates that, as of April 2023, more than 840,000 principal SIV applicants and family members remained in Afghanistan. Thus, the backlog is enormous. During the period in which OAW was active, from October 2021 to October 2022, those Afghans who managed to get themselves to a U.S. port of entry were paroled into the country (CBS News, 2022). However, the vast majority of Afghans did not receive travel aid from American sources and thus was not able to make the trip and did not make it to an official point of entry. To be sure, many Ukrainians did successfully enter U.S. territory because their trips were sponsored by American churches and private individuals. In order to submit their application form online, each individual Afghan applicant had to pay $575 (Reveal News, 2022). This means this family of six paid $3,450 for their complete application package. Rough estimations place the average monthly income in Kabul at 30,000 Afghani, which is $425 (408 Euros) (Timecap, 2024). Thus, this sum was a major hurdle for applying for parole in the U.S.

In contrast, Ukrainians who submitted their parole application from abroad applied for free. Indeed, U.S. immigration officials approved more than 236,000 cases under the U4U program, according to the DHS. The DHS put an online application system in place in April 2022 that allowed Ukrainians to gain legal authorization to fly to U.S. airports and enter U.S. territory without paying any fees. Within one month, by the end of April, 2022, the system had granted 6,000 Ukrainians access to U.S. territory (NBC, 2022a). It functioned perfectly. Since the start of the Russian invasion, another 350,000 Ukrainians arrived in the U.S. outside of the government sponsorship process, mainly through temporary visas, according to DHS (NBC, 2022a). There does not seem to be a substantial backlog of Ukrainians seeking visas to enter the U.S.

All the while, major DHS mismanagement quickly turned the humanitarian parole program from abroad for Afghans into a deep quagmire. Najib Aminy (2022) showed that, by August 2022, the DHS had decided only five percent of the 66,000 applications submitted. Of these 123 decisions, 95% were denied (Aminy, 2022)). The DHS, however, made $20 million with the program before it was discontinued (Wolf & Vanderlip, 2023). While making millions of dollars, the DHS turned the program into a farce, financially exploiting thousands of Afghans while, in the end, rendering no decision or a negative decision for the vast majority of applicants.

Indeed, in order to receive parole from abroad, the Afghan applicants had to show that they had experienced a threat of "individualized harm" which lawyers familiar with these provisions claim is a much more difficult criterium to prove than the harm criteria in U.S. asylum law (USCIS, 2024). Basically, the individual applicant would have to have her name published in the *New York Times* or another reputable source as being persecuted by the Taliban in order to receive status under the criterium individualized harm.

In October 2022, OAW was morphed into Operation Enduring Welcome, a program focused on traditional refugee resettlement (CBS News, 2022a). At the same time, and within six months of the beginning of the crisis in February 2022, the DHS had approved humanitarian parole for 68,000 Ukrainians whose application fees were waved (Reveal News, 2022). U4U has been suspended in accordance with the executive order

"Protecting Our Borders" signed on January 20, 2025, at the beginning of Trump's second term in office.

Overall, the initial official response to Afghans in need of protection was burdened with administrative hurdles and mismanagement. The response to the Ukrainian refugee crisis was swift and in tandem with a groundswell of public support: American citizens held prayer services and rallies, shipped humanitarian assistance, expressed solidarity through public displays of Ukrainian flags outside their homes and on social media platforms, and stepped up to be private sponsors for Ukrainian arrivals (Sajjad, 194).

6.2 Sponsorship

On the one hand private sponsorship, especially by long-term military friends and partners of Afghans was possible, but individual sponsors rarely managed to complete the cumbersome process successfully and bring their sponsees to the U.S. On the other hand, in early June 2022, more than 45,000 Americans submitted applications to become principal private sponsors for Ukrainian individuals and families (Montoya-Galvez, 2022). Based on the number of applications by private sponsors and case approvals, the Ukrainian resettlement program quickly became one of U.S. history's largest official private refugee sponsorship initiatives.

Initially, U4U did not provide any government assistance for the individual sponsors and families, and for the Ukrainians themselves. However, as outlined above, with the passage of the 2022 AUSAA Ukrainians in the U4U program and other Ukrainian parolees who came outside of this program became eligible for federal ORR benefits. The majority of the estimated 350,000 Ukrainians (CBS News, 2024) who arrived outside of the program lacked the resources of large relief organizations, e.g., language and job training that are typically provided by federal resettlement agencies. Instead, the process was largely driven by individuals and churches, e.g., California's Sacramento County-based Spring of Life, a Ukrainian church that matched hundreds of Ukrainian families with American hosts (NBC News, 2022). Private volunteers took on the responsibility of aiding Ukrainians in order to get their state IDs and driver's licenses, look for affordable housing, find ESL courses and schools for children, help with applications for work visas, and so forth (Ibid).

In contrast to the reception and sponsorship of many non-white refugees, the American public has been quite supportive of the government's efforts to aid Ukrainians. Immigration reform is one of the key political demands in the country today based on the claim that immigration is "out of control" and that the border needs to be fixed (Nowrasteh, 2021). As public opinion polls show, this statement, however, refers mainly to non-white, non-European immigrants. In a 2022 Gallup poll, 78% of Americans expressed support for the entry of up to 100,000 Ukrainians (Saad, 2022). A YouGov poll of 1,500 Americans taken in early March 2022 showed that 54% of Americans were in favor of admitting Ukrainians. In contrast, only 42% approved of accepting Afghans (The Economist/YouGov Poll, 2022). Thus, the majority of the U.S. population seemingly wants their country to remain a white nation.

7 Conclusion

Although U.S. acceptance of refugees and asylum-seekers has historically been shaped by geopolitics, domestic advocacy for welcoming certain groups of refugees, and waves of nativism and xenophobia, the stark contrast between the Afghan and Ukrainian cases

reflects the established racialized hierarchies that determine the limits of United States', and more broadly Western, compassion, for people in crisis (Sajjad 2022, p. 192). The disintegrated refugee resettlement system that the Trump administration handed to the Biden administration, and the consequently created "cheap" fixes – largely based on private sponsorship rather than federal government aid – reinforced these hierarchies.

The success of the initial response by the U.S. to the war in Ukraine, which included creating multiple pathways for entry and the largest private sponsorship program for refugees in the country's history, was based to a large extent on the overwhelmingly warm reception of the American public. It offers a sharp contrast to the structurally unequal and often violent ways in which many Afghans and other refugees and especially asylum-seekers are regularly dealt with at the U.S. border and in the country's immigration system.

While geopolitical calculations offer one explanation as to why the U.S. has made the decision to accept large numbers of Ukrainians, domestic strong public advocacy for Ukrainians, the overall level of public support for Ukraine, as well as the free and smooth online application process, and the preferential treatment of Ukrainians at the border, demonstrate that contrasts to Afghan and other non-European refugees are not accidental. Rather, they draw attention to long-established racialized patterns of reception and rejection that have historically defined the U.S. immigration system (Sajjad, 2022, p. 200). Refugee resettlement and responsibility in the U.S. shifted almost completely from the federal government and the ten principal large resettlement agencies to private groups and individuals. It is thus not surprising that popular biases expressed in the broad public reflect upon refugee selection, reception and sponsorship.

In order to make the process more fair, a future administration could waive the application fee and adjust the requirements for Afghan P-2 and humanitarian parole applications, so that stranded Afghans facing danger from the Taliban can swiftly apply for admission to the United States. The substantial back-log for SIV (as well as P-2) applications keeps the applicants in limbo and often exposed to danger. The federal government could also accept the specific demands of the AfghanEvac coalition to support Afghan evacuees. The government could also have facilitated and simplified the reunification of Afghans with family members left behind in their Taliban-controlled country. The repeated failure to pass the Afghan Adjustment Act has a number of ripple effects for the Afghans in the country. Had the bill passed it would have given permanency and protection to many Afghans whose status are, and will continue to be, in legal limbo under the new Trump administration. The same, however, is also true for the vast majority of Ukrainians in the country who hold humanitarian parole or TPS status. The U.S. government could make the asylum system more fair and equitable, starting by ensuring access to effective legal representation and interpretation for all applicants.

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Social Work with Refugees in Germany – Already Established or in Tatters?
The Survey of Professionals in Saxony 2017, 2020, 2023[1]

Claudia Jerzak[2] and Bernard Wagner[3]

Abstract

Social work with refugees is not an entirely new field of activity. However, it has experienced an enormous expansion since 2015/2016 due to culminating refugee dynamics, and it has developed from a marginal, largely unnoticed niche existence to a visible and indispensable field of work in immigration societies, such as Germany. In Saxony, a German federal state, the field has become increasingly professionalized due to corresponding governmental guidelines and funding, lobbying by welfare organisations, and scientific monitoring. Through three standardized Saxony-wide online surveys of professionals (2017, 2020 and 2023), the project "Scientific Monitoring of Social Work with Refugees in Saxony", based at the University of Applied Sciences for Social Work, Education and Nursing Dresden between 2016-2023, has attempted to empirically measure and describe the field of action. Central topics were the tasks of social work with refugees, the working conditions, and cooperations. Of nearly 250 professionals across Saxony, around 60% commented on the respective topics of employment relationship, target groups, working and general conditions (including staffing ratios, racism, accommodation situation, language mediation), tasks, networking and cooperation, standards and standardization.

This article presents and discusses results of the three surveys conducted in Saxony. In the 2023 survey "General social assistance and advice", "Cooperation and networking", and "Support with visits to authorities" are the most frequent regular tasks and can be described as the core of social work with refugees. 42% of social workers work on the basis of professional standards. Regarding subsidiarity, a slight increase in those employed by public providers and a significant increase in those employed by private providers since 2020 is to be noted. The proportion of permanent employment rose from 31% (2017) to 38% (2020) and again to 56% (2023). The frequently demanded staffing ratios of 1:50 or 1:80 are only achieved in exceptional cases. We recommend regular funding, the definition of qualitative professional standards, minimum staffing ratio of 1:60, as well as fixed staff. Furthermore, we recommend establishing modular in-service training programmes to ensure the quality of counselling, strengthen multi-professional

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[2] Claudia Jerzak had been a research assistant in the Scientific Monitoring and Competence Centre for Social Work with Refugees and Migrants in Saxony (https://lafast-sachsen.net/) at the University of Applied Sciences for Social Work, Education and Nursing, Dresden, Germany, Dresden, Germany, from 2016-2024.

[3] Bernhard Wagner had been Project Manager of Scientific Monitoring in the Scientific Monitoring and Competence Centre for Social Work with Refugees and Migrants in Saxony (https://lafast-sachsen.net/) at the University of Applied Sciences for Social Work, Education and Nursing Dresden, Germany, from 2016-2024.

teams and recognise the long-standing commitment of career changers. Beyond that, the principle of subsidiarity for refugee and migration social work has to be established legally.

Key Words:

Social work; refugees; tasks; standards; subsidiarity; staffing ratio; Germany

1 Introduction to the Field of Social Work with Refugees

Since the 1990s, social work with refugees has developed into an important field of work, as is the case with migration social work in general. Migrant social work includes various fields of social work, such as counselling services for special target groups including children, young people, families, women, mothers, senior citizens, LGBTQI+. Further, it branches into projects for education, work, language support, sponsorship and mentoring, culture, sport, anti-discrimination, etc. In Germany, the counselling services include the migration counselling centres for adult immigrants (Migrationsberatung für erwachsene Zuwanderer – MBE) and youth migration services (Jugendmigrationsdienste – JMD), both of which have been funded by the federal government since 2005. Social work with refugees, on the other hand, has been legally regulated and funded at state level in some federal states as a third specialised migration service since 2015. As a result of the inconsistent funding, social work with refugees often goes unnoticed in professional discourse (e.g. Müller, 2023). Survey works that deal with current practical and theoretical issues of refugee social work in their entirety are an exception (e.g. Gemende et al., 2022), and even overview works on refugee research only grant social work a marginal position (e.g. Scharrer et al., 2023). Nevertheless, scientific research and theorising did not develop before the increase in numbers of refugees arriving in Germany in the mid-2010s, and the associated change in the political addressing of flight (cf. Hammerschmidt et al., 2021; Scherr & Breit, 2023). The topic was also neglected in the older standard works on social work (e.g. Otto & Thiersch, 2011; Thole, 2010), treated too descriptively for further academic discussion, or only dealt with subgroups mentioned above, especially with unaccompanied minors or since 2022 with Ukrainian refugees (e.g. Boll et al., 2023), or with specific fields such as culture or sports. The professional discourse therefore hardly ever addresses the profile of social work with refugees itself, but instead is dominated by topics such as working relationships, habitus and the role of professionals between advocacy, othering and stigmatisation (e.g. Schmitt, 2023; Vogler, 2022), interculturality (e.g. Spetsmann-Kunkel & Frieters-Reermann, 2013), psychosocial counselling (e.g. Brandmaier et al., 2023), or more generally by asylum politics as a framing condition for social work (e.g. Scherr & Breit 2023). The questions in the surveys of professionals in Saxony, led by the Scientific Monitoring at EHS Dresden, resulted precisely from this vacancy in the professional discourse, from the new establishment and attempt to describe and sharpen the profile of this specialised migration service (see in particular Chapter 3, "Tasks of Social Work with Refugees"). Social work theory has foreseen these problems as structural. The perpetual search for standards of practice reflects social work theory by the definition, that standardization of social work is a process of negotiations, standards have no claim to be unambiguous and definitive, and ambivalence and uncertainty are professionally legitimised (see Hansen, 2010; Herriger & Kähler, 2003) (see Chapter 6, "Standards of Social Work with Refugees").

Social work with refugees is defined here as a counselling service for people who have experienced flight and applied for asylum in Germany, and who have generally only been staying in a municipality for a relatively short time after being allocated to a federal state according to the so-called Königstein Key. The number of applications has remained on a high level since 2014. In 2024, a total of 229,751 people applied for asylum in Germany. Compared to 2023, this represents a decrease of 30.2%. In the same period, the Federal Office for Migration and Refugees (BAMF) decided on 301,350 initial and subsequent applications, with an overall protection rate of 44.4% (BAMF, 2024). According to BAMF (2024), just under 11,300 people applied for asylum in Saxony in 2024. This was more than 5,000 less than in 2023, meaning that Saxony accounted for 4.9% of all asylum applications in Germany. Most asylum seekers came from Syria, Afghanistan and Turkey, in line with the national average (BAMF, 2024) (see Chapter 4, "Target Groups of Social Work with Refugees"). Over the past 10 years, new strategies have been developed in Saxony for refugees and a wider range of migrants, both as a target group for migration social work and with regard to integration policy measures:

> "More than 40 per cent of people with a migration background in Saxony have only moved to Germany in the last ten years; around 21 per cent have only lived here for less than five years. The proportion of people who have immigrated in the last five years is therefore almost twice as high in Saxony as in the rest of Germany (10.7 %)" (Wohlfarth & Wittlif 2024, p. 9; translation by the authors).

While social work responsibilities are generally based on social legislation, social work with refugees is primarily defined in terms of integration policy, depending on the federal state. Social work with refugees is carried out by the local authorities themselves or by independent welfare organisations. It is offered to refugees living both in accommodation centres and in flats. Refugee social work is aimed at refugees who are asylum seekers in an ongoing application process, rejected asylum seekers, or those with a residence permit who receive municipal support. A switch to migration counselling for adults (MBE) is only envisaged if refugees have a high probability of obtaining a residence permit.

Considering the most important goals of refugee social work, the breadth of the tasks to be accomplished is obvious (see Chapter 3, "Tasks of Social Work with Refugees"). These goals can generally be summarised as:

- strengthening the local integration, especially social inclusion and social participation of newly arrived refugees;
- stimulating dialogue between refugees and citizens in the social space in order to promote diversity and tolerance and to help maintain social peace in the community;
- helping to shape the political, legal and social framework, especially in the context of refugees and asylum, by highlighting grievances and inequality.

In social work, the discussion about its universal competence is primarily linked to its orientation towards everyday life, subjective needs and perspectives (see Galuske & Müller, 2002; Thiersch, 1993). Therefore, social work is forced to cooperate with other authorities, particularly with regard to education, labour and the personal economic situation (cf. Müller, 2012), but also to the necessary limitation of the fundamentally delimited field of work. Overall responsibility, differentiation from and cooperation with regular services play a major role in the development of specialised migration services (cf. Schirilla, 2016). For this reason, the Scientific Monitoring Project asked the social workers

in Saxony about the quality and frequency of cooperation with institutional stakeholders and their satisfaction (see Chapter 3, "Tasks of Social Work with Refugees").

Social work with refugees has experienced an enormous expansion since 2015/2016 due to culminating refugee dynamics, and it has developed from a marginal, largely unnoticed niche existence to a visible and indispensable field of work in an immigration society. The federal system of the Federal Republic of Germany results in different regional regulations for refugee social work (Flüchtlingssozialarbeit – FSA) or migration social work (Migrationssozialarbeit – MSA). The federal states have created various laws and/or guidelines regulating social work with refugees as well as various integration services (Hammerschmidt et al., 2021; Starke, 2022). In the federal state of Saxony, the corresponding tasks were long conceived as a voluntary structure. Since 2015, the "Social Care for Refugees" and "Integrative Measures" guidelines issued by the Saxon state government have enabled the field to become increasingly professionalized (see Directive Social Care for Refugees, 2018; Directive Integrative Measures, 2023)

The long-established refugee admission laws of the federal states usually only deal with the organization of accommodation for refugees. There are hardly any in-depth regulations on social work services for refugees or psychosocial support and counselling in these laws. Since 2014, Baden-Württemberg has been the first federal state to lay down guidelines in its Refugee Reception Act (Flüchtlingsaufnahmegesetz – FlüAG) for the implementation of qualified social and procedural counselling during the initial reception as well as the identification of particularly vulnerable persons (cf. Landesrecht BW, 2013). Furthermore, this law requires the lower reception authorities to guarantee appropriate social work with refugees, as well as school attendance for children and "that basic German language skills can be acquired free of charge" (see above §§ 12, 13 FlüAG). In 2016, the federal state of Brandenburg created a similarly detailed state reception law (Landesaufnahmegesetz – LAufnG) with regard to the implementation of social work with migrants. A Thuringian Refugee Reception Act (Thüringisches Flüchtlingsaufnahmegesetz – ThürFlüAG) came into force in 1998, but has only laid down standards for accommodation and social work since 2010 with the Thuringian Community Accommodation and Social Care Ordinance (cf. Freistaat Thüringen, 2018). In North Rhine-Westphalia, a counselling structure has been in place since 1996, which has been continuously revised and developed over the last 25 years.

According to Article 28 para. 2 of the Basic Law, the 294 administrative districts in Germany as well as the independent cities and municipalities, are regional authorities with local self-government (cf. Ritgen, 2018). Therefore, they have to develop their own integration concepts regarding refugees and must decide whether to outsource social work to independent welfare organisations (see Frank & Vandamme, 2017; Gesemann, 2020).

In recent years, there have been repeated calls from independent providers, welfare organizations and social work interest groups to transfer the social work with refugees to free and independent providers in accordance with the principle of subsidiarity (cf. Evangelische Hochschule Dresden, 2020). The reason given is that this is the only way to provide fundamentally independent advice:

> "The trust of many refugees in state institutions has been permanently damaged due to their previous experiences. For this reason, this task should be transferred to non-profit, independent providers or non-governmental organizations within the framework of subsidiarity. It is

independent of state agencies and local authority services, voluntary and open-ended. Due to the state's obligation to create reception conditions with a qualified counseling and support structure, refugee social work must be financed by the state" (Diakonie Deutschland 2014, p. 6; translated by the authors).

Employing refugee social workers directly at the district offices or even directly at the immigration authorities harbours a high risk of role conflicts, as the logics of action of administration and social work are fundamentally different, and thus, the required activities can fundamentally contradict the professional ethos and professional self-image of social work. For social work with refugees, this is particularly evident when expectations contrary to the mandate are placed on the professionals, for example that they provide 'administrative assistance' for the police, provide information on suspected countries of origin, report absences from accommodation, pass on addresses of residents who have gone into hiding or participate in age assessments or deportations (see also Alice Salomon Hochschule Berlin, 2016).

Only a few federal states stipulate the principle of subsidiarity in the implementation of FSA/MSA (e.g. Brandenburg's LAufnG). The presented surveys have asked about subsidiarity (see Chapter 7, "Subsidiarity at Municipal Level") at all survey dates and can describe developments on this basis. In Saxony, the prerequisites for the necessary expansion and conversion of independent providers were quickly provided in 2015/2016 through the Directives "Social Care for Refugees" and "Integrative Measures" of the Saxon state government, but only through project funding that had to be applied each year. However, implementation took place in the ten administrative districts and three independent cities. The decision as to whether refugee social work was awarded to independent or private providers was made by the local authorities. The public providers at least had to restructure the responsible departments in the district and city administrations. However, it was predominantly the welfare associations and other independent providers that had to implement new concepts and teams for refugee social work on an ad hoc basis. These included a number of actors who had not previously been involved in migration-related social work. In many cases, the situation was inevitably characterized by improvisation and actionism. The providers lacked an overarching networking and exchange platform.

To support them, the project "Scientific Monitoring of Social Work with Refugees in Saxony" was established at the University of Applied Sciences for Social Work, Education and Nursing Dresden in 2016. Since 2021, the project has been further developed into the Competence Centre Social Work with Refugees and Migrants (Landesfachstelle FSA/MSA – LaFaSt). The Competence Centre has contributed to the further professionalization of social work with refugees and migrants in Saxony as an interface between science and practice. It addressed professionals as well as organizations, (supra) regional associations and networks with interface functions or in cooperation with the social work with refugees, decision-makers for the design of refugee social work, civil society and the addressees of refugee social work in the context of their concerns.

The tasks of the Competence Centre were divided into four areas of work (LaFaSt, n.d.):

(1) platform for (institutionalized) communication and cooperation between professionals and providers of refugee and migrant social work in Saxony;
(2) further development of professional standards and contribution to the professionalization of practice;

(3) empirical analyses and scientific monitoring;

(4) public relations and committee work.

In order to help intensify communication and cooperation between all stakeholders involved in working with refugees, the Competence Centre created spaces for discourse and contributed to the institutionalization of communication and cooperation structures by organizing regular workshops and specialist exchange formats. The further development of professional standards was one of the main tasks of the Competence Centre. This could only be done in cooperation with the refugee and migrant social work stakeholders in Saxony and by incorporating impulses from outside and from current scientific findings. The Competence Centre was active by providing conceptual advice, organizational support and the publication and dissemination of the concepts developed. Scientific research and empirical surveys within and outside of Saxony remain the task of the Competence Centre. The findings were incorporated as input into the exchange with practitioners and thus contributed to their qualification. The Competence Centre used methods of action research as a link between researching practice and changing the field of practice. For the purposes of connecting the stakeholders, ensuring transparency and facilitating the transportation of needs and solutions in the subject area, the Competence Centre designed active public relations work.

This utilisation of social work as a means of welfare state refugee policy resulted in an increase in staff positions and funding for social work providers. It was a process in which institutional structures and professional practices initially had to take place in many cases without a specific scientific foundation and without the possibility of recourse to specific specialised practical experience (cf. Scherr & Breit, 2023). In the following years, accompanying research made it possible to publish handbooks on racism-critical and human rights-oriented social work with refugees (e.g. Hartwig et al., 2018; Kunz & Ottersbach, 2017; Prasad, 2018; Scherr & Yüksel, 2016; Staub-Bernasconi, 2019), which emphasise the ethical foundations of the profession, but only touch on the problems faced by practitioners: the profile of social work with refugees itself, as well as tasks, networking and cooperation, standards, staffing ratios, racism, accommodation situation, and language mediation. While Scherr and Breit (2023) merely focused on the basic problem of uncertain residence, which leads to problems of target setting and places the help process on a precarious basis, on which the working alliance between refugee clients and social workers is in constant danger of failing, a key determinant from the view of practitioners is the staffing ratio (cf. Sand, 2022), complemented by alternating financing, subsidiarity and training programmes (cf. Landesarbeitsgemeinschaft Flüchtlings- & Migrationssozialarbeit in Sachsen, 2020; Liga Sachsen, 2017). The professional and theoretical foundation of the practice has reached the limits of the politically set framework conditions. Representatives of the practitioners, such as welfare associations and FSA's self-organisation LAG FSA/MSA, therefore demanded that the standards mentioned be enshrined in law – and failed during the adoption of the Saxon Integration and Participation Act in the last session of the State Parliament before the end of the legislative period in 2024 (Sächsische Staatskanzlei, 2024). The Saxon Integration and Participation Act contains only two sentences on refugee social work, despite vehement demands from welfare organizations and other interest groups in the participation process of the Ministry of Social Affairs: "The integration authorities can provide social advice and support to refugees assigned to them and advice on voluntary return. Refugee social work provides refugees with orientation in their new life situation and supports them in coping

with everyday life" (Sächsische Staatskanzlei, 2024). The interest groups therefore continue to rely on scientific findings to justify their demands.

Through three standardized but exploratory state-wide online surveys of professionals (2017, 2020 and 2023), the project "Scientific Monitoring of Social Work with Refugees in Saxony" has attempted to empirically measure and describe the field of action – and to give answers to these discussions in the field. The central questions were:

- What tasks arise (see Chapter 3, "Tasks of Social Work with Refugees")?
- What are the working conditions like (see Chapter 8, "Key Working Conditions")?
- How does social work with refugees cope with the (professional, political and social) framework conditions?

Of nearly 250 professionals across Saxony, around 60% each commented on the respective topics of employment relationship, target groups, working and general conditions, tasks, networking and cooperation, standards and standardization. This article presents and discusses the results of the three surveys in Saxony.

2   Methodology

The first survey was conducted in June 2017. At that time, the field of refugee social work in Saxony was still rather vague. The aim of the state-wide standardized survey was to generate the first reliable data on the practice and situation of refugee social work in the state of Saxony. This provided an initial snapshot of the working and general conditions, as well as tasks and experiences in an unexplored field of action, even though the Competence Centre has conducted numerous guided interviews with refugees, social workers and political and administrative representatives, workshops and symposia since 2016 (Gemende et al., 2017, 2018, 2020, 2022).

We were able to repeat this survey largely identically in 2020 and 2023. In terms of overall design, we are therefore dealing with a repeat survey (trend study) (cf. Scherer & Naab, 2013). These are "repeated cross-sections" (Schnell, 2019, p. 58), not a panel study that would make it possible to identify changes in individuals. Only "changes between the total number of respondents, i.e. changes in the aggregate statistics" (Schnell, 2019, p. 59) can be determined. In this respect, it cannot be ultimately clarified whether changes in the results between the three surveys really mean changes in the objective circumstances or, for example, a change in the composition of the population of skilled workers in the meantime, which changed significantly between 2017 and 2020 and then again until 2023, in particular due to high mobility in the workforce.

The empirical approach to the field of action is confronted with considerable hurdles. These result from the diffuse population due to the field of action, which on the one hand is still in the process of being created, and on the other hand is already subject to permanent changes, including partial shrinking processes, the fact that it is not always possible to reach the target group, the resulting "coverage error" (Groves et al., 2009, p. 87), as a result of which the sample population is likely to deviate slightly from the population as a whole, and the high non-response rate.

We are dealing with a diffuse population. There is not always a clear demarcation between the tasks performed and the qualifications of the employees: Those who are categorised as social workers with refugees by one provider may not be by another.

All three surveys were conducted online. We were familiar with the providers due to our project work. We wrote to them asking them to forward the questionnaire with closed and open questions to their employees. With a response of 154 usable questionnaires almost exactly the same number of people were reached in 2023 as in 2020 (155) and slightly more in each of the two repeat surveys than in 2017, when 130 respondents answered. Although we are likely to have potentially reached almost 100% of the population via the organisations, only just under half of the potential respondents replied. According to our calculations based on the available data from the administrative districts and independent cities, we are likely to have achieved a response rate of around 50% of the population - a very good rate.

3   Tasks of Social Work with Refugees

Based on practical experience and service descriptions, the LaFaSt has distilled and summarized around 25 task clusters in the social work with refugees and repeatedly asked the professionals about the scope of their work in these clusters. This task profile is intended to allow statements to be made about which tasks and activities can be counted as core tasks in working with refugees – and thus support a definition and self-conception. In the 2023 survey "General social assistance and counselling", "Cooperation and networking" and "Support with visits to authorities" are the most common regular tasks.

There is no consensus on the tasks and responsibilities between the independent "contractor" and public "client" providers of refugee social work. State-wide guidelines, namely the Saxonian Refugee Reception Act (Sächsisches Flüchtlingsaufnahmegesetz - SächsFlüAG, 2018), Directive Social Care for Refugees (2018), and the Saxonian Integration and Participation Act (Sächsisches Integrations- und Teilhabegesetz – SITG, 2024) only set the framework. It is up to the districts and independent cities as the "lower accommodation authorities" to define the tasks of social work with refugees, record them in service descriptions and then commission independent providers with the implementation or carry out social work with refugees themselves (see Lehr & Gemende, 2022). These municipal service descriptions vary. The decisive factors in each case are the basic local understanding of migration policy, political guidelines, regional circumstances and the division of labour among the various providers in the field. In some cases, welfare organizations were able to help shape these service descriptions. In recent years, professional associations of independent organizations, among others, have attempted to implement a certain basic understanding or "standards" for this field of action through corresponding recommendations (see AWO Bundesverband 2018; Deutscher Caritasverband e.V., 2016; Alice Salomon Hochschule Berlin 2016; Landesarbeitsgemeinschaft Flüchtlings- & Migrationssozialarbeit in Sachsen, 2020; Liga Sachsen, 2017). However, a consensual canon for a description of tasks for refugee social work is not in sight.

We analysed and summarised tasks from practical experience and service descriptions. In order to determine the relevance of the various possible tasks in the day-to-day practice of social work with refugees, we presented the respondents with a list of numerous items and asked them to use a five-point scale to assess "to what extent you personally deal with the following content in your work". This is intended to create a rough task profile that at least allows statements to be made about which tasks or activities can be counted

among the core tasks in working with refugees in terms of the frequency with which they actually occur.

In the 2023 survey "general social assistance and advice", "cooperation with offices and authorities; networking" and "support with visits to authorities" were identified as the most frequent regular tasks. These results correspond with the challenges that accompany the development of specialised migration services, i.e. the differentiation from and cooperation with regular services (Schirilla, 2016). 92% of respondents are "very often/always" or "fairly often" involved in these tasks. Measured by the frequency of mentions, these three tasks can rightly be described as the core of social work with refugees. These were already the most frequently mentioned tasks in the two previous surveys (fig. 1).

Figure 1: Frequency of tasks to be completed in social work with refugees (in %)
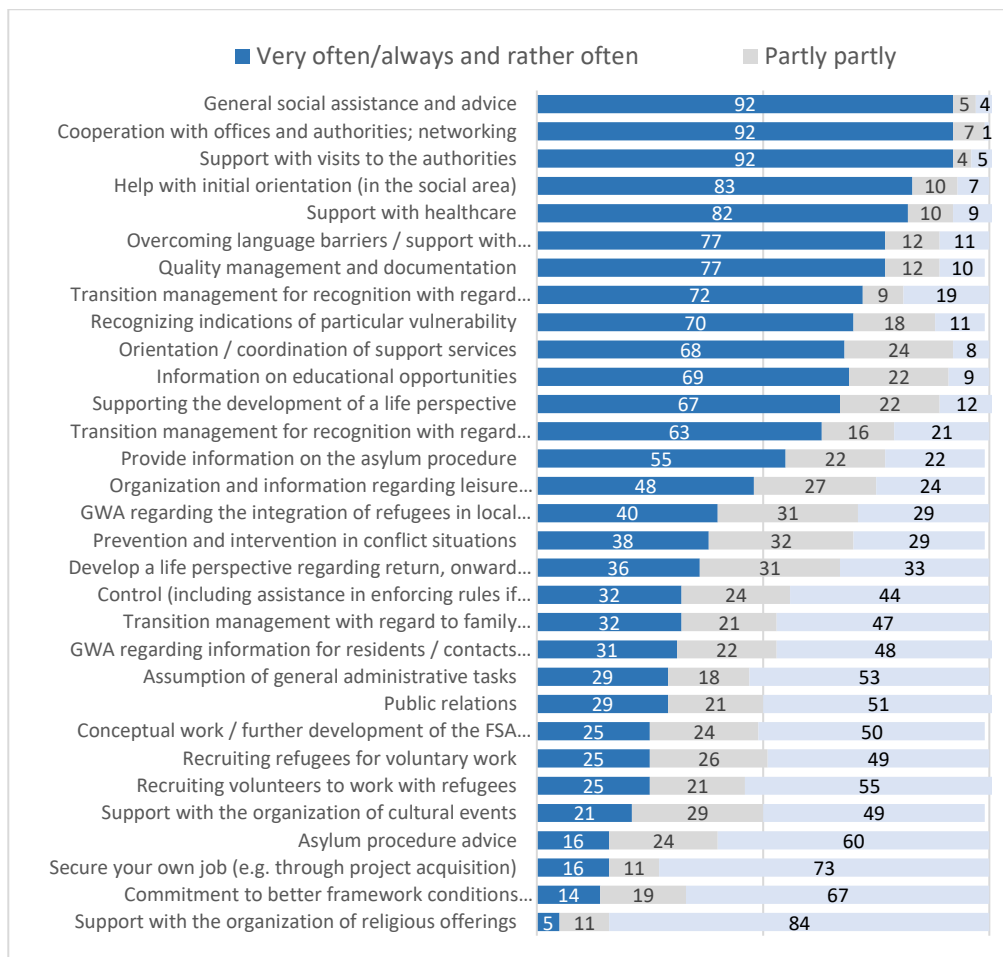
Surveillance is a controversial area of responsibility in practice. According to the self-image of social work, monitoring clients/addressees is not justifiable. In 2023, 32% of the

practitioners surveyed still described monitoring as "frequent/very frequent". At the same time, however, 44% rarely or never carried out checks. In 2017, as in 2020, 41% of the professionals surveyed stated that this task was one of their (very) frequent tasks. This may reflect a professionalization of the understanding of the role of refugee social work. As this survey includes practitioners with very different qualifications or functions, the response behaviour is also analysed in terms of professional qualifications; for example, only 9% of professionals with a degree in social work perform monitoring tasks "very frequently", while 23% of their colleagues without a relevant degree do so.

The tension between help and monitoring is reproduced in refugee social work in the often conflicting tasks assigned to public and private organizations. Going beyond human rights-focussed publications (e.g. Hartwig et al., 2018; Kunz & Ottersbach, 2017; Prasad, 2017; Scherr & Yüksel, 2016; Staub-Bernasconi, 2019), our results show that this general tension characterises refugee social work in particular. Social work as a "human rights profession" is challenged here in the context of refugees and asylum. This potentially applies in particular to social work with refugees staff who are employed directly by public agencies, as conflicts between the roles of social work are exacerbated here for structural reasons. On the other hand, it may detract from the image of the socially committed social worker that "campaigning for better framework conditions" is almost at the bottom of the list of perceived tasks. For only 14% of respondents, this commitment in the sense of a "political mandate" of social work is still one of the (rather) frequently performed tasks; in 2020, it was still significantly higher at 24% (also in 2017 at 20%).

4   Target Groups of Social Work with Refugees

The question on the characterization of the target groups in the current work with refugees revealed an almost universal responsibility of the respondents. Almost all of them work with tolerated refugees, and also with refugees who have been living here for some time (93% in each case). More than half of our interviewees even work with unaccompanied minors who have reached the age of majority (fig. 2).

Figure 2: "Do you currently (June 2023) work with ..." (multiple answers)
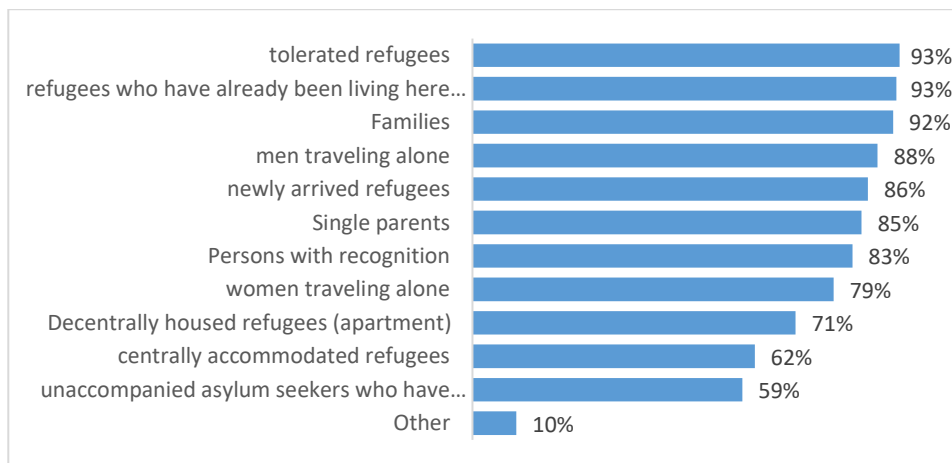
Where do the refugees come from? In response to the questionnaire's request "Please indicate the (predominant) nationalities of the target groups of your work", we received a total of 875 responses. Of course, the following table should not be confused with a statistically valid indication of the actual countries of origin of the refugees arriving in Saxony. The information – which is certainly by no means complete – merely shows which nationalities or origins the practitioners were dealing with in the social work with refugees' field of action in June 2023. It is striking that people from Ukraine were "only" the fifth most frequently mentioned in spring 2023, but that Georgia and Russia were mentioned almost as frequently. Palestine was only mentioned six times as a region of origin – this is likely to change in future surveys due to the recent Middle East war since 2023 (fig. 3).

Figure 3: "Please indicate which nationalities the target groups of your work (predominantly) have!"

(Predominant) nationalities or regions of origin of the refugees	Number of respondents (n=154) who provided this information
Syria	122
Afghanistan	104
Venezuela	84
Iraq	78
Ukraine (including "third-country nationals from Ukraine")	52
Georgia	44
Iran	40
Russia/Russian Federation (5 times with the addition "Chechnya")	39
Pakistan	34
Turkey	33
Lebanon	30
Libya	24
India	21
Somalia	17
Cameroon	16
Eritrea	15
Nigeria	13
Tunisia	12
Chechnya (partly as "Russian Federation/Chechnya")	10
Morocco	7
Each was stated six times: Algeria, Albania, Vietnam, Palestine/Palestinian Territories	(24)
Each was stated four times: Ethiopia, Kosovo, *African region/African countries*	(12)
Each was stated three times: "Maghreb states" (Algeria, Libya, Morocco, Mauritania and Tunisia), Myanmar, North Macedonia	(9)
Each was stated twice: Bulgaria, Romania, Kurdistan, *North Africa, Arab region, Stateless*	(12)
Each was stated once: Armenia, Bosnia, Brazil, Cuba, Gambia, Ghana, Greece, Italy, Jordan, Kenya, Macedonia, Pakistan, Peru, Poland, South Sudan, Czech Republic, Hungary, Belarus, Western Balkans, Unknown, Stateless, Eastern Europe, Other Asian Countries, "Mixed"	(23)

5 Social Work with Refugees in Rural and Urban Areas

If we assign the 2023 sample to different location classes (from large city to village/rural region) it is noticeable that the shift from rural areas and small towns towards large cities, which was still evident in 2017, has not continued in our data (with regard to the environment in which they work) (fig. 4). In 2023, almost 55% of respondents work exclusively in large cities or their immediate surroundings, 38% exclusively in small towns or rural regions and 8% in both types of regions. In our opinion, the urbanization trend of recent years has resulted from the fact that after initial accommodation in villages or small towns, refugees predominantly try to move to larger cities (Gemende et al., 2020). The extent to which this trend has now come to an end remains to be seen.

Both in terms of the working conditions of the professionals surveyed and with regard to the structural contextual conditions in the field of action, there are certainly differences between the metropolitan and the small-town/rural environment. Some of these are already mentioned here:

Figure 4: Respondents by location class 2017, 2020 and 2023 (multiple answers*)
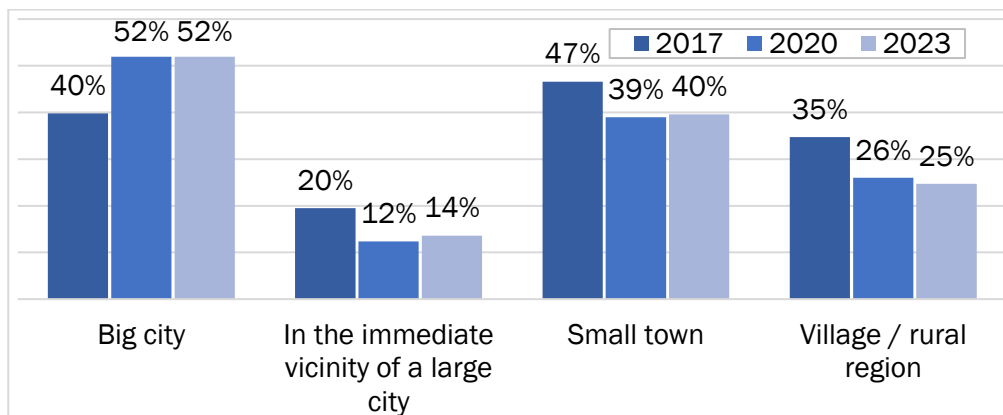
* Since many respondents assigned themselves to several location classes, the sum of the answers is over 100%.

Of the eight indicators relating to the employment relationships and working conditions of social work with refugees staff (see section 5), at least three items point to advantages for employees in rural areas: for example, the remuneration, material resources and the amount of available workspace were rated as significantly more favourable by respondents in small towns and rural areas than by their colleagues from the metropolitan working environment. Only when it comes to the question of sufficient time for documentation and reports do the conditions in the metropolitan area appear to be slightly better.

Furthermore, overall, rather minor differences between the settlement types also tend to arise with regard to questions of appreciation and hostility towards social work with refugees and its clientele (see section 6). It goes without saying that some infrastructural conditions, such as the availability of affordable housing (rural areas have a clear

advantage) or accessibility by public transport (urban areas have a clear advantage), vary considerably.

6   Standards of Social Work with Refugees

Although standardization efforts in the context of social work are otherwise predominantly viewed critically, as they are often pursued in the context of neoliberal efforts to economize social work, in the field of social work with refugees we frequently encounter the hope that many things would improve if certain standards were developed. Aware of the vagueness of the concept of standards and the very different interpretations of the topic, we asked professionals in the field of social work with refugees in Saxony in 2017, 2020 and 2023 whether their organizations have standards for working with refugees. In 2020, this figure was 38%, while three years earlier, just under half of respondents were still oriented towards standards (see fig. 5). The proportion of respondents who answered in the affirmative rose again to around 42% in 2023.

Figure 5: "Does your organization have uniform standards for working with refugees?" (2017, 2020 and 2023, in %)
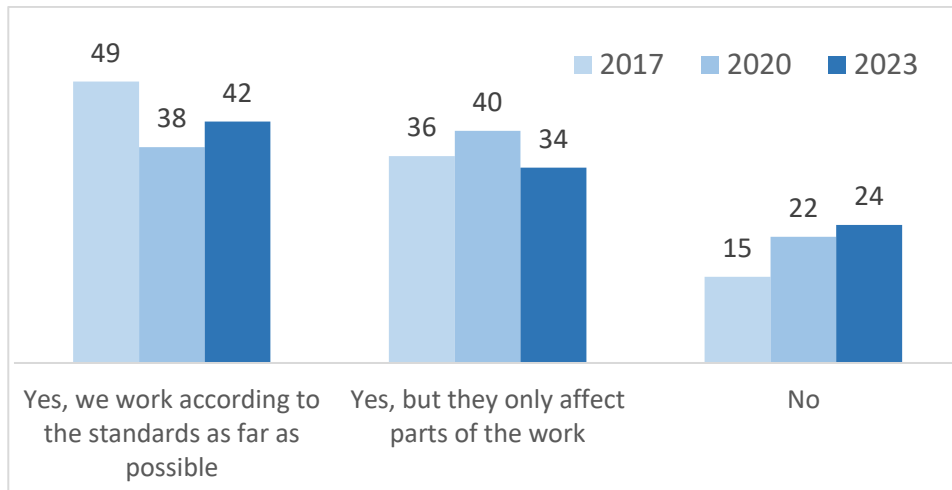

During the constitutive phase of refugee social work from 2015/2016 onwards, the call for "standards" was clearly audible from the onset (cf. Liga Sachsen, 2017). A lot was and is expected of standards: they are seen as a necessary basis for assessing state funding, as an orientation aid for professionals in a still unknown field of work, as an important vehicle for professionalizing the work, but also as an instrument for comparability and "accountability" of the tasks performed – the latter, of course, mainly on the part of the public providers or administrations at the responsible municipalities.

Standardization is generally viewed critically in social work. They are often promoted in the context of neoliberal efforts to economize social work. However, they are no substitute for interaction-sensitive or person-centred individual case work (Schilling, 2017). Even the "wild", difficult to "tame" problems of social work (Gaitanides, 2000, p. 129) cannot be overcome with standards. In its monitoring of refugee social work since 2016, the Competence Centre for Social Work with Refugees has observed ongoing standardization efforts on the part of providers and professionals.

While there are no significant differences between the employees of independent, non-profit and public providers when it comes to the question of attitudes towards standards or the desire for them in the social work with refugees, the answers of the two groups differ in that the independent providers (47%) now tend to work "as far as possible" according to standards, more often than the public providers (38%). In 2020, this difference was still converse. The employees surveyed at private, commercial providers stand out here, with just under half stating that they do not work according to standards at all (fig. 6).

Figure 6: "Does your organization (employer) have uniform standards for working with refugees?" by type of organization (2023; in%)
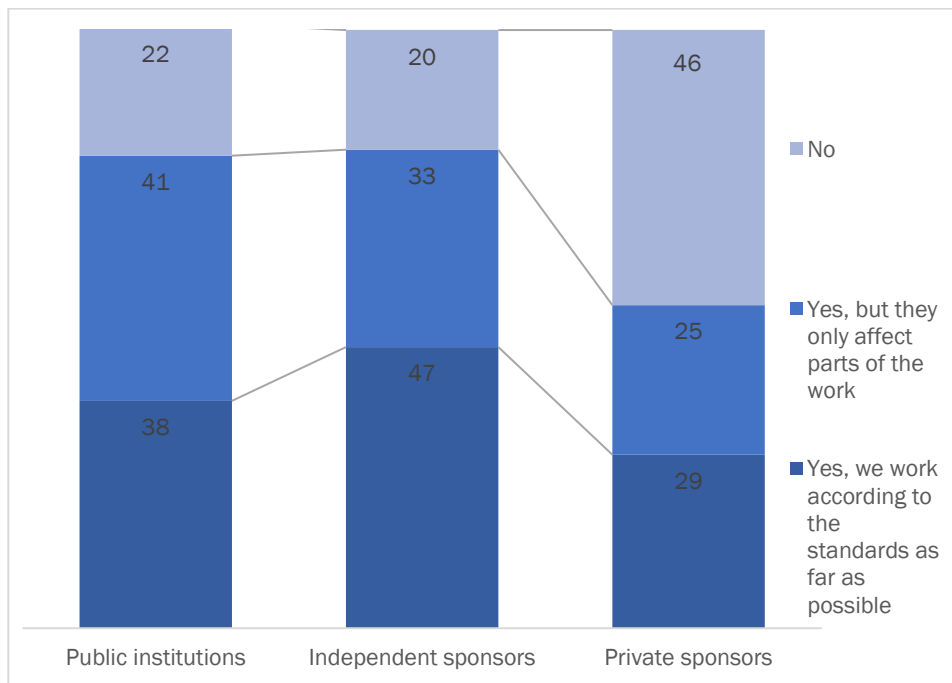
In view of the heterogeneity of the target group for social work with refugees and its "universal responsibility" in its tasks, the discussion of professional standards continues. This is a must, as the development of standards is an ongoing process. In addition, successful social work with refugees must always be case-dependent and can vary greatly depending on the concept of the provider and other (e.g. regional) characteristics.

With the open question "In which areas of your work with refugees do you think standards would be helpful?", we asked professionals in Saxony to name relevant work content. From the practitioners' perspective, key areas of work that can be standardized are the counselling setting (confidential, independent) and the content of counselling (areas of responsibility, delimitation), the qualification of staff (training and further education) and instruments/methods of social work in general (supervision, collegial case counselling, anamnesis, empowerment, documentation, etc.). Standards are also required with regard to the guarantee of language mediation, the accommodation (equipment standards), the initial interviews, transition management, securing financing.

The following aspects are considered standardizable:

- Types of assistance or advisory service (office and/or outreach)

- Facilities such as regular office hours, own workplace
- Staff qualifications, general objectives and areas of responsibility
- Appropriate supervision ratio
- Provision of translation services
- Time for collegial case consultation
- Training and further education, networking, professional exchange

On the other hand, the professionals named areas in which their work cannot be regulated or standardized: the requirements with regard to complex, individual life situations and the various needs and thus counselling and support mandates of the target group, as well as the type of counselling, specific counselling content and the counselling time required. Specific advice content required individual scope for action. In addition, individual case decisions are named that require individual assessments and evaluations. This also includes relational work with the recipients, as well as dealing with psychosocial challenges. However, regional differences in the implementation of social work with refugees also defy standardization.

The following aspects are considered non-standardizable:

- The professional positioning of the social work with refugees with its respective theoretical and methodological concepts
- Processes, consulting procedures
- Type and duration of consultations
- Extent of support (e.g. how long after arrival people need support from FSA/MSA)
- Concrete target action and methodical target achievement in individual cases, especially by means of advice, cooperation and division of labour with other systems
- Flexibility in dealing with individual problems and abilities of the target group

Here is an insight into the qualitative reasons given by the interviewees as to why standardization is not so easy - and thus into everyday working life:

"Organization of advice - How many clients do we advise per day? What topics do we cover and where do we refer to other agencies/experts? How do we encourage clients to become independent and when do clients have to be able to do something themselves? At what point do we hand clients over or, if necessary, refuse further advice in special cases? Standardized individual procedures/processes - dealing with clients in mental crises/suicidal thoughts, working with victims of domestic violence and child endangerment; would offer security, especially for newcomers to the profession, and reassurance for those involved that they have considered everything important (legal certainty)"

"Especially with regard to one's own attitude towards the client value-based (orientation towards human dignity, transparency, eye level, empowerment, resource orientation); standardization of the counselling process insofar as the need is formulated in a kind of anamnesis process (problem assessment); this can be used to measure again and again how the counselling is going and when the process is completed; regular case presentations in the context of collegial case discussions in order to be open to impulses from outside"

When asked in which areas of social work with refugees' standards are not useful or where standardization is not possible, some basic characteristics of working with refugees are addressed and some misunderstandings regarding the possibility of defining clear standards are focused on:

"We can't give support to all clients in the same way. Everyone has to be seen as a person with their own ideas and needs in order to do justice to the advisory mandate."

"The course of a counselling session and the course of a help process. These are too different. The way in which interventions are used can also hardly be predetermined."

"The type of accommodation must be taken into account. Standards cannot apply equally to tents and houses everywhere."

"Very standardized statistics (we only have a limited number of assistance needs that we are supposed to record statistically, but the clients' problems are often very individual)."

"In the determination of times that a consultation on topic X, an accompaniment to appointment Y, a conversation about Z should take. If, for example, a period of 10 minutes is set for the handover and explanation of a benefit notification in accordance with the AsylBLG [Asylum Seeker Benefit Act], this may or may not be sufficient. The integration of a person into the first labour market can be successful within 3 months or 3 years - here too, time limits are not very useful."

"I have the forms from the authorities in front of me every day, which I can't fill out with the residents' information. I often finagle and press the residents' concerns and information into these papers and we keep our fingers crossed that they are understood at the other end."

Some structural guidelines for ensuring the ability to work and the quality in social work with refugees can therefore be determined. Standardization of social work is a process of negotiations. Standards have no claim to be unambiguous and definitive, and ambivalence and uncertainty are professionally legitimised (see Hansen, 2010; Herriger & Kähler, 2003; Schilling, 2017). These should also be reflected in legal regulations or administrative provisions. However, they should be geared towards not hindering action that is appropriate to the situation and flexible.

In order to gain an impression of the "standards" or requirements and characteristics of work with refugees at the local organizations, respondents were presented with a longer list of selected items (fig. 7). The practice described by our interviewees in 2023 offers almost Saxony-wide coverage with some social work "self-evident features" (such as regular availability, office hours, team consultation). However, it also lacks a great deal that can be described as prerequisites – and in this sense as "standards" – of professional social work with refugees. To put it negatively, around 10% of respondents are lacking suitable work tools, the opportunity for collegial case consultation, further education and training opportunities or professional exchange/networking. Around 20% are lacking rooms for one-to-one meetings, a concept, supervision and a workplace that can be used alone.

Figure 7: "Please indicate whether the conditions listed below are present in your current daily work or whether you have them!" (2017, 2020 and 2023; in %)
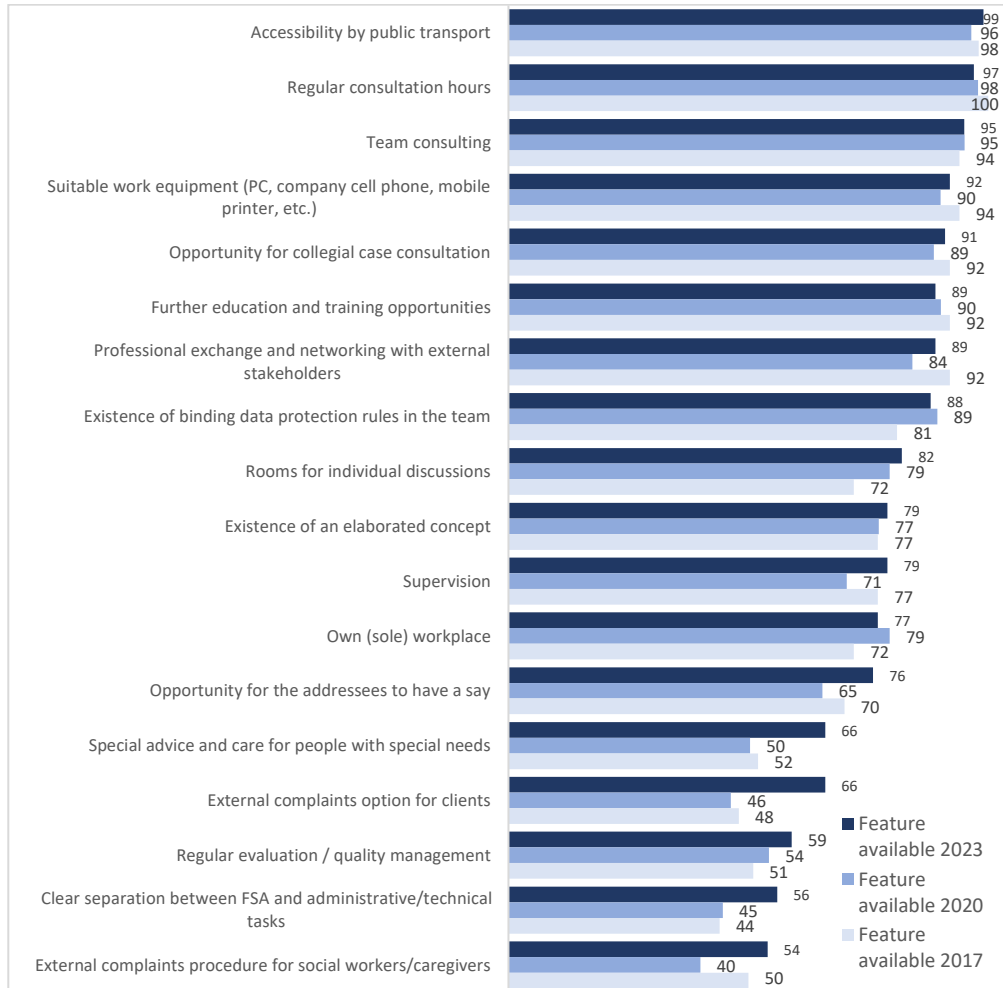
In 2023, we also asked about the extent to which five key skills are considered to be present in refugee social work. In each case, 90% or more of the respondents were convinced that they have "to a high degree" or "predominantly" counselling skills and intercultural skills; at the same time, these two skills were seen as the most important characteristics in their current daily work (mean values 1.2 and 1.3 on a scale of 5 from 1 = very important to 5 = completely unimportant). Knowledge of social and asylum law and, in particular, sufficient language skills were rated much less frequently, but still predominantly as being present (fig. 8).

More than 40% of respondents do not even have a regular evaluation or quality management system. Finally, there is also a clear lack of external complaints mechanisms for clients and, in particular, for professionals themselves.

Compared to the 2020 survey, the frequencies in 2023 have increased significantly for four items: supervision, the clear separation between social work with refugees and administrative or technical tasks, the external complaints option for clients and special advice and care for people with special needs. Only the presence of binding data protection rules in the team is significantly lower than in 2020, at 5%. Beyond that, only slight or no changes can be observed compared to 2020. We can therefore speak of a certain consolidation here, even though many things that were taken for granted are not yet a matter of course in many places (fig. 6).

Figure 8: To what extent are the competencies listed below present in your current daily work?
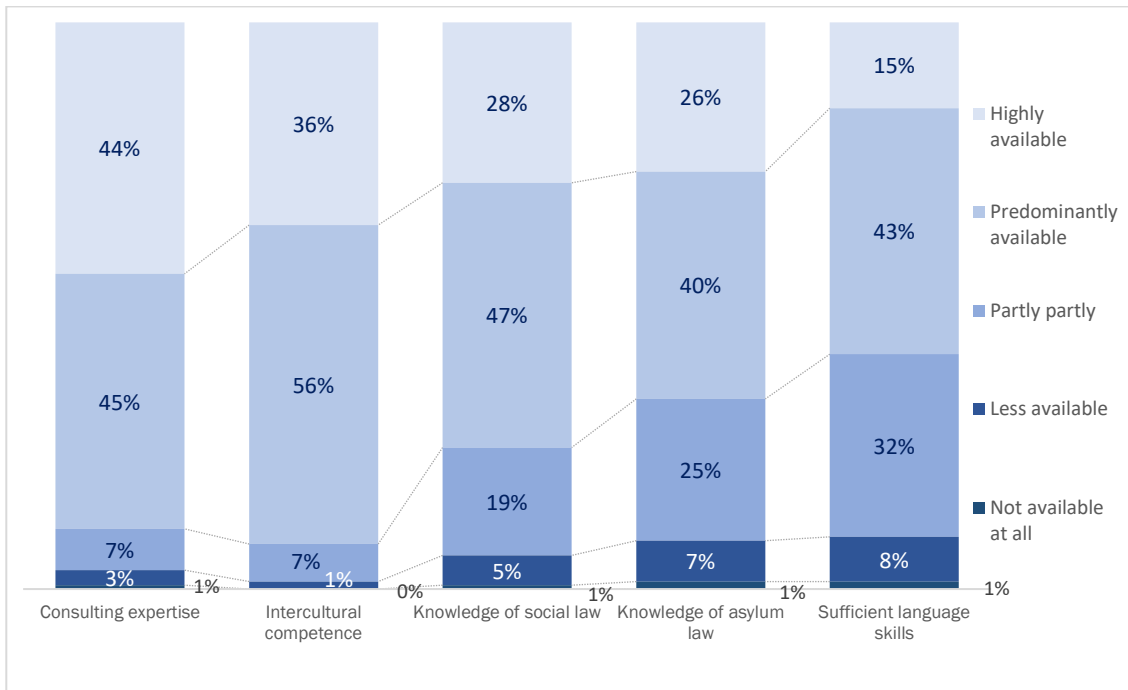
7   Subsidiarity at Municipal Level

The vast majority of our respondents are still employed by non-profit organizations, with 58% working there in 2023. However, this quota was still 71% in 2020 (and 68% in 2017). In addition to a slight increase in those employed directly by public executing agencies, we note a significant increase in those employed by private-commercial providers since 2020 (fig. 9).

Against the backdrop of the debate about the subsidiarity principle (see Evangelische Hochschule Dresden, 2020) in refugee social work that has repeatedly flared up in Saxony in recent years, it can at least be noted here that, measured in terms of the number of employees, the non-profit providers actually seem to be on the retreat, at least in our sample, although they naturally still make up the majority of employees. In the meantime, a considerable proportion of tasks are apparently being carried out by private-commercial providers.

Whether this is a survey effect or whether the trend that emerges here reflects real shifts in the field of action cannot be decided on the basis of our data. However, it remains a question to be pursued further, especially as this is about the basic structures of the provider landscape.

Figure 9: Respondents by type of institution in 2017, 2020 and 2023 (in %)
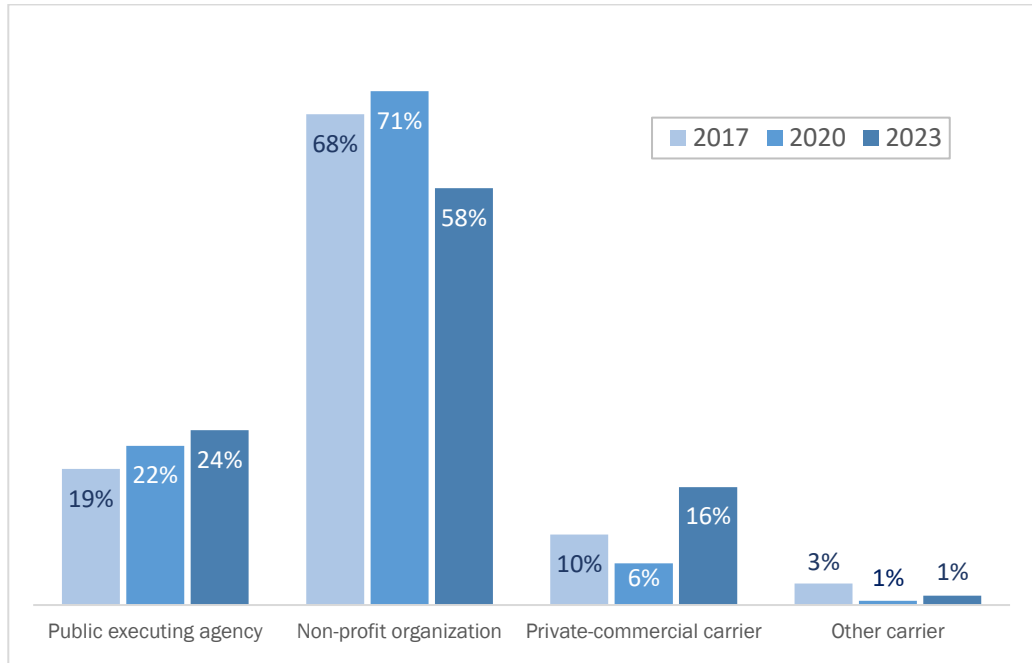
8   Key Working Conditions

In our first repeat survey in 2020, we found that the results for the two survey periods of 2017 and 2020 were surprisingly consistent in terms of the assessment of working conditions. This has now changed. The assessment has deteriorated noticeably for five of the eight items. This applies to the appropriateness of staffing ratios, remuneration, time for documentation and reports, equipment at the workplace and personal freedom at work. The assessments with regard to training and further education opportunities and the available premises have remained roughly the same, only the support from management is now rated slightly better than in 2020.

Respondents were asked to rate the consistency of the – positively formulated – statements on the key aspects of their employment relationship on a rating scale from 1 (= "agree") to 4 (= "disagree"). Figure 11 first illustrates the changes in the mean values between 2017 and 2020. The higher the mean value, the worse the assessment. Most of the curves show an unmistakable negative trend, most clearly in the case of staffing ratios, remuneration and time for documentation and reports.

Figure 10: Assessment of working conditions in 2017. 2020 and 2023 (mean values on a scale of 1 - 4)
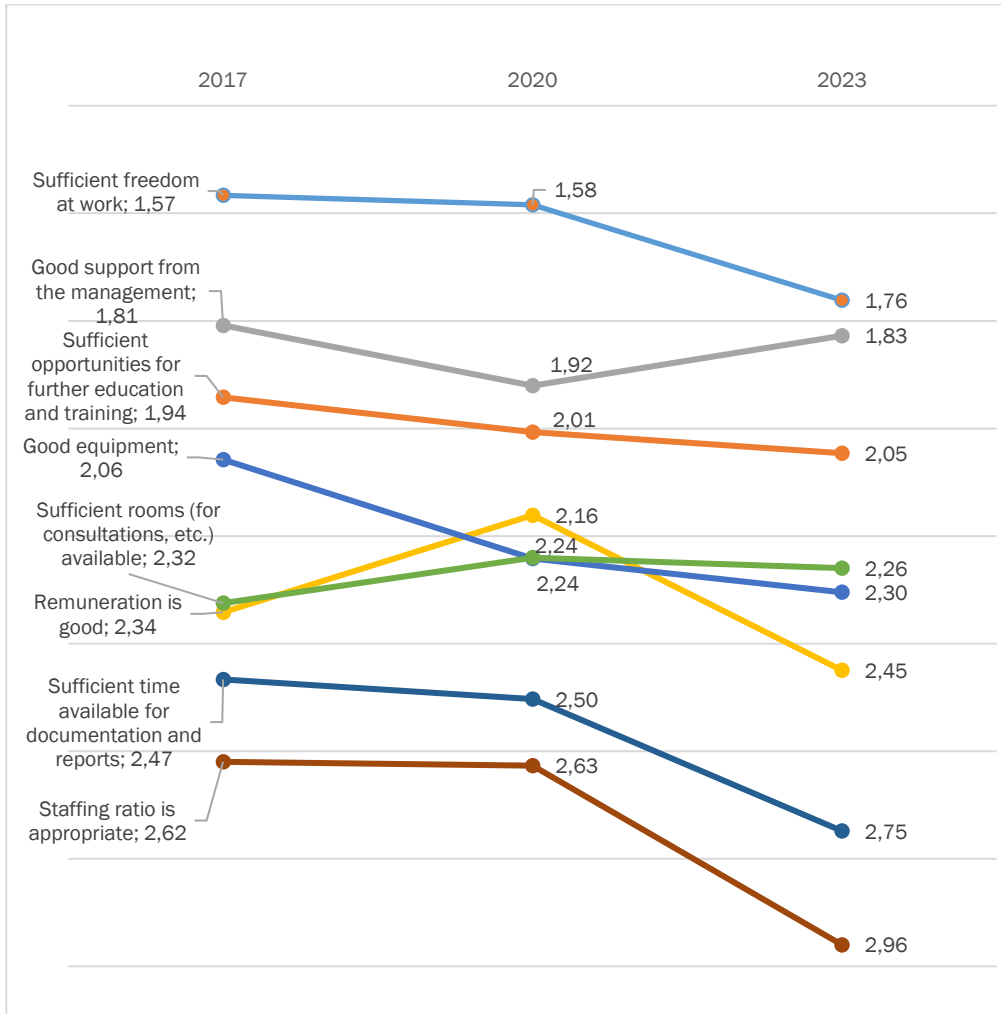
Fig. 11 shows the frequencies of all assessments on the four-point scale mentioned above. First of all, it can be seen that the freedom to work and the support from the management receive the best assessment of all aspects. 46% and 44% respectively agree unconditionally with the positively formulated statement – although agreement with the statement "I have enough freedom in my work" has fallen by 12% since 2020. At the other end of the scale, it can be seen that only seven percent now unconditionally agree with the statement "The staffing ratio (or staffing situation) is completely appropriate". While the assessment of remuneration had initially improved significantly between 2017 and 2020, agreement with the statement "Remuneration is very good" has now fallen significantly again, even below the 2017 figure. It can also be seen that the values for the aspects "material resources", "time for documentation/reports" and "staffing ratio" have deteriorated continuously since 2017.

Figure 11: Assessment of key features of working conditions in 2017, 2020 and 2023 (in %)
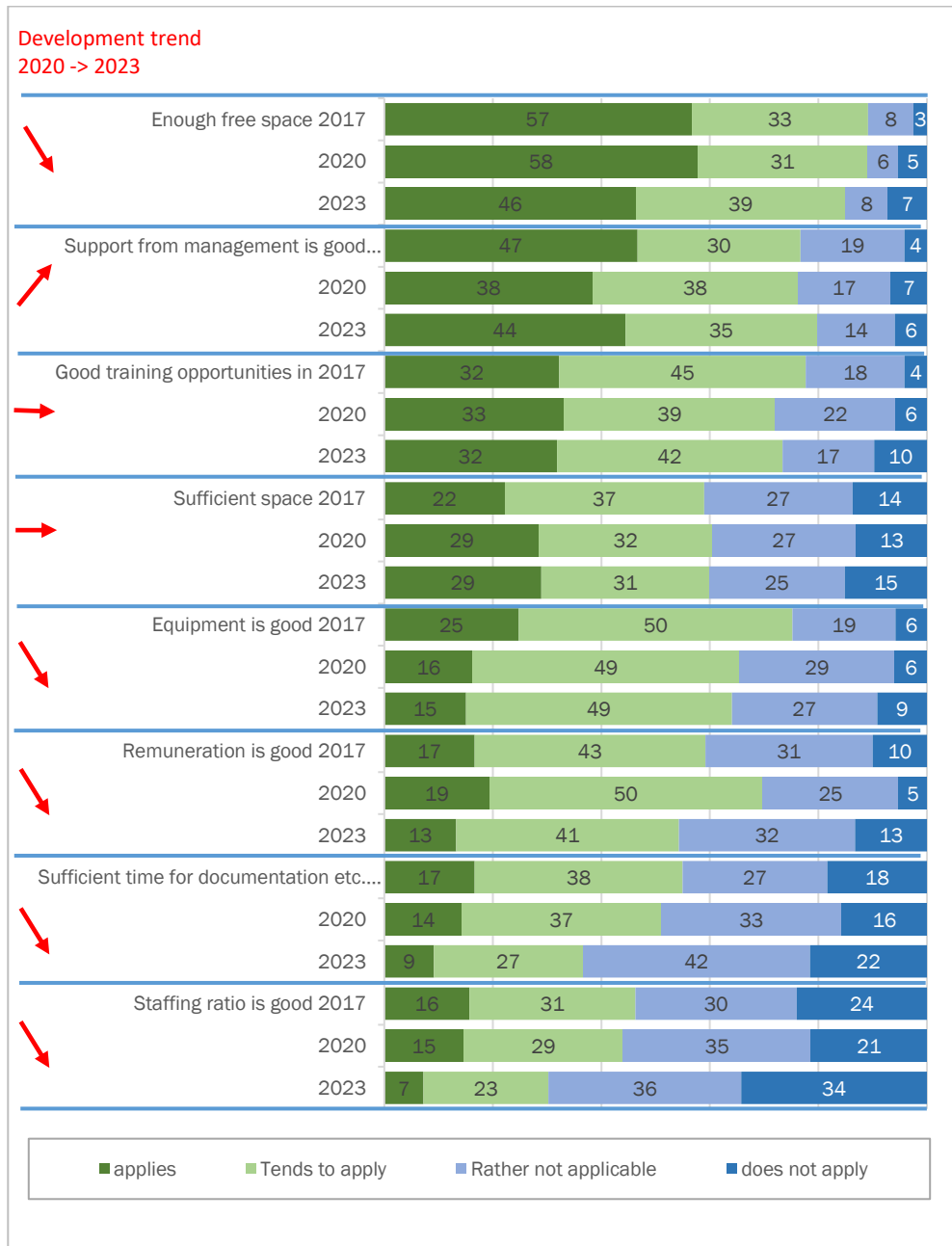
Let's take a more detailed look at three important determinants of working conditions in refugee social work in Saxony: fixed-term contracts, pay and staffing ratios.

8.1   Fixed-Term Contracts: For the First Time, the Majority are Open-ended

A rather encouraging trend can initially be assumed with regard to the significant decline in the proportion of fixed-term employment contracts: the proportion of permanent employment within our sample rose from 31% (2017) to 38% (2020) and now stands at 56% (Fig. 12).

Figure 12: Fixed-term employment contracts 2017, 2020 and 2023 (in %)
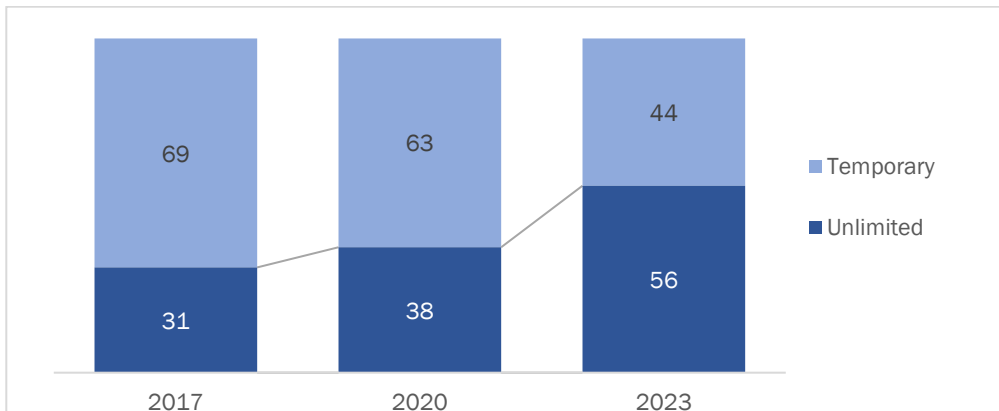
Incidentally, public providers are still well ahead of independent providers here: 62% of employment contracts with public providers are already permanent in 2023 (47% in 2020; 36% in 2017); this proportion is now 51% for independent providers (30% in 2020; 26% in 2017).[4] Among private providers, 68% of respondents are employed on permanent contracts (fig. 13).

Figure 13: Fixed-term employment contracts by type of provider (2023) (in %)

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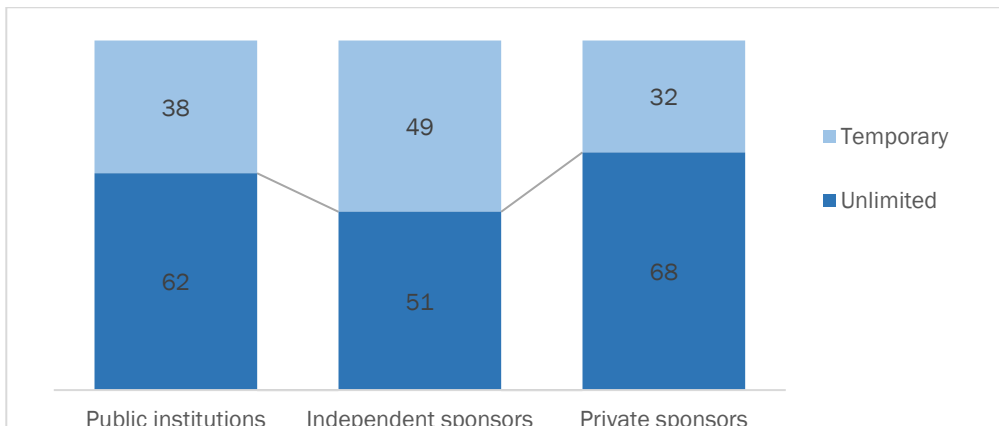
[4] Among the private organizations, only 11% of those surveyed are employed on a temporary basis. However, this figure is based on only nine respondents who are employed by private organizations, so it is therefore only of very limited use.

However, the differences to established fields of social work are of course still enormous: According to Lochner & Möller (2017), only around 10% of employment relationships in the field of educational support are temporary. This once again indicates that the field of social work with refugees is still far from being an established and secure field of work. Beyond the uncertainty caused by the residence status of the clients (cf. Scherr & Breit, 2023), these unstable frame conditions burden the working alliance between refugee clients and social workers.

8.2. Payment: Average, No More and No Less than Elsewhere

The aforementioned significant decline in satisfaction with pay between 2020 and 2023 may primarily be a subjective perception in light of the enormous inflation since 2022. The data on income does not look so bad for the situation in social work. The employment field of refugee social work therefore appears to be able to keep up with the more established fields of social work, at least in terms of the income to be earned.

In this context, we asked about net monthly incomes, as these reflect the reality of life better than gross salaries, despite being difficult to compare. According to our respondents, the arithmetic mean of monthly de facto net incomes in 2023 was EUR 2,040 (median: EUR 2,000), compared to EUR 1,797 (median: EUR 1,800) in 2020. In 2017, the arithmetic mean net income was still EUR 1,569 (median: EUR 1,585).

However, since a considerable proportion of employees do not work full-time, i.e. 40 hours, we have extrapolated the stated de facto incomes to full-time incomes, taking into account the actual hours worked. This gives us fictitious full-time incomes, which are subject to a certain degree of uncertainty and allow us to compare incomes on the basis of an assumed 40-hour position. This fictitious net full-time income in the Saxon Social Work with Refugees amounts to an average of EUR 2,357 in 2023, compared to an average of EUR 2,178 in 2020. The median is €2,300 in 2023 and €2,160 in 2020.

This probably corresponds fairly well to the average income for a full-time position in the field of social work in Saxony, and may even be slightly higher (which in turn is probably related to the high average age of those employed in the field of social work with refugees). We estimate the average monthly net income in the social work sector in the federal state of Saxony on the basis of data from the "Entgeltatlas" of the Federal Employment Agency (Bundesagentur für Arbeit, 2023), with a median gross income of EUR 3,400 to a net income of around EUR 2,200 for a single person without a child of the age of our sample average (41 years), legally insured and not subject to church tax. Figure 15 compares the two values of the de facto income and the fictitious full-time income.

Figure 14: Net monthly income 2020 de facto and calculated on a fictitious full-time position (in %)
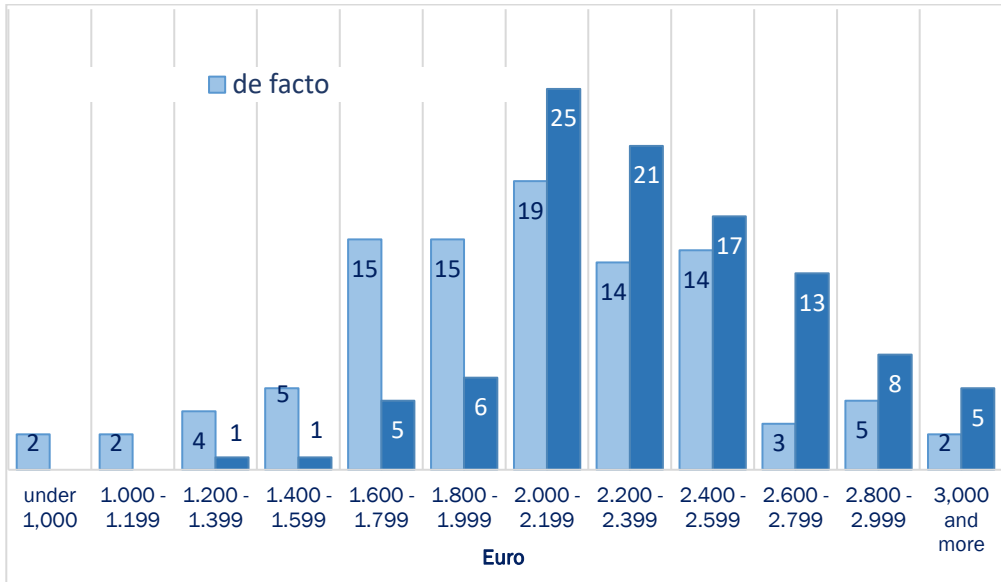
8.3 Staffing Ratio: Only 14 Minutes Per Client Per Week

A key determinant of the working conditions of our interviewees is, of course, the respective staffing ratio (Sand, 2022) under which they have to perform their work. Of all the work characteristics considered, the staffing ratio is rated most critically: 70% of respondents consider the existing staffing ratios to be (rather) inadequate.

However, it should first be noted that in 2023, only 61 (40%) of our 154 respondents stated that they work with a staffing ratio. Only 51 respondents were able to provide precise details. 16 respondents (10%) work according to the specialist-service-hours-principle, a special Dresden regulation. The remaining 77 people (50%) stated "I don't know" or "Does not apply". The following statements therefore relate to the information provided by the 51 respondents who explicitly work with staffing ratios and were able to state this.

According to our interviewees, the arithmetic mean of the staffing ratios stated (actual status) is 1:114 in 2023, which is significantly worse than in 2017 and 2020, when it was still 1:108 and 1:105. The highest ratio reported in 2023 (by an individual case) is 1:400 (in 2020, the highest individual value was still 1:200). The median – i.e. the value from which one half of the sample is below and the other half is above – is 1:110 in 2023. The most common value (mode) in 2023 (see fig. 15) – as in the two previous surveys – is 1:150.

Finally, the mean value of the desired, "ideal" staffing ratio remains unchanged at around 1:60 in all three surveys to date, and at 1:59 in 2023 to be precise. This leads to the conclusion that the ideal value of around 1:60 is well-founded and is viewed as a target value by employees with clear continuity.

Figure 15: Staffing ratio - current status and ideal (mean values 2017, 2020 and 2023)

	What staffing ratio do you currently work with?			What staffing ratio would be ideal in your opinion?		
	2017	2020	2023	2017	2020	2023
Mean value	1:108	1:105	1:114	1:60	1:60	1:59
Median	1:100	1.120	1:100	1:55	1:50	1:50
Mode	1:150	1:150	1:150	1:80	1:50	1:80

Figure 16 below shows all individual responses to the question of the de facto and "ideal" childcare ratio. The wide range of answers is particularly striking.

Figure 16: Staffing ratio - current status and ideal (2023; abs., n = 51)
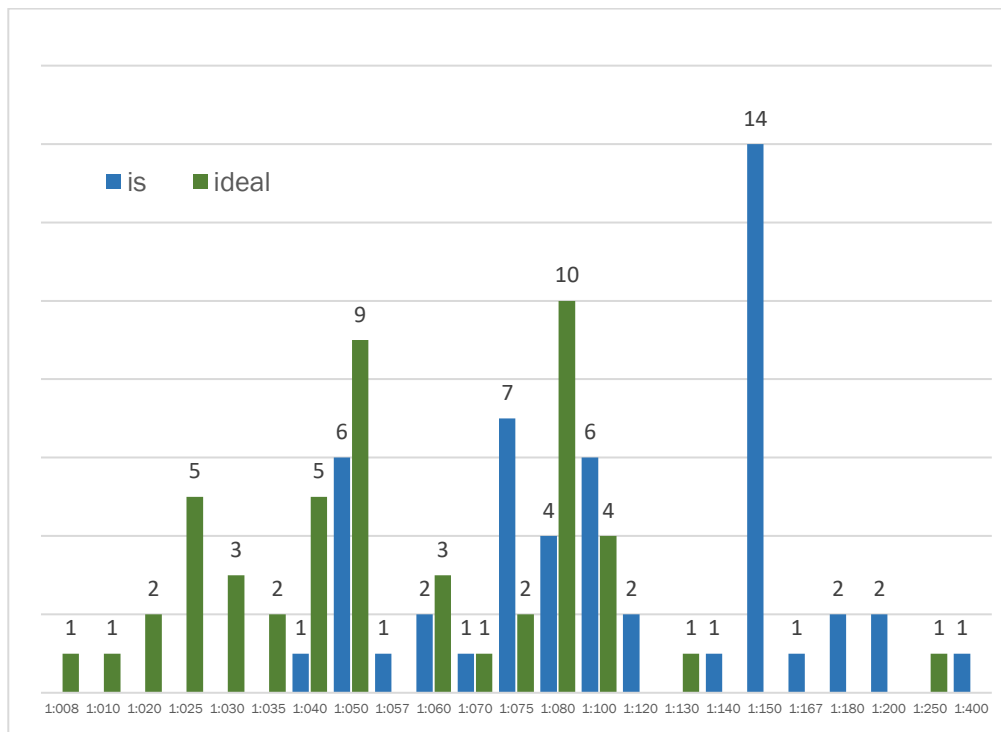
In any case, it should be noted that with the staffing ratios of between 1:100 and 1:150 that are common in practice, qualified social work with refugees seems difficult to achieve, as the majority of professionals concerned emphasize in a wide variety of contexts.

To illustrate the time available when working with certain staffing ratios (which are frequently used in practice), we would like to refer you once again to our rough model calculation (excluding the category "Not applicable") which shows how much time is available per client with three common ratios:

Time per client:

- At a ratio of 1:100, an average of 21 min/week/client
- With a ratio of 1:120, an average of 18 min/week/client
- With a ratio of 1:150, an average of 14 min/week/client

This already includes general time for team consultations, documentation, further training/supervision/exchange of expertise. However, travel times, waiting times at public offices and authorities and time for language mediation (which sometimes doubles the counselling time) must also be deducted.

The frequently demanded ratios of 1:50 (Landesarbeitsgemeinschaft Flüchtlings- & Migrationssozialarbeit in Sachsen, 2020) or 1:80 (Liga Sachsen, 2017) are in fact only achieved in exceptional cases. It seems crucial to differentiate the ratios according to the special needs of the clients and local or municipal circumstances, as demanded by professional associations, but only partially implemented in practice in Saxony to date. Since social work is relational work, staffing ratios of up to 1:10 should also apply for particularly vulnerable groups (Sand, 2022). Finally, the question of the extent to which the staffing ratio implies co-financing of management, assistance and further training as well as financial requirements for material costs should also be clarified.

9 Conclusion

When refugee social work was urgently needed in 2014/2015 due to the massive increase in refugee numbers, the Saxon state government immediately enabled refugee social work and, building on this, its professionalization, with a great deal of creative will. Since these acute challenges, the field of action has become more stable. As an overarching field of action with its own professional self-image, this field has had to and must continue to consolidate and develop.

The dynamics and changes in migration policy (see SVR, 2024) will lead to cuts in refugee social work over the next few years. After negotiating the new Saxon state government coalition at the end of 2024, the motto of migration policy is deterrence – this is reinforced by the tightening of asylum laws currently being prioritised at federal level. The Ministry of Social Affairs announced to continue the Social Care Directive and the Integrative Measures Directive, but with major restrictions. At the local political level, the tightening of the migration policy course corresponds with the AFD's majorities, especially in the districts. As described above, the municipalities are the executive institutions.

They have already shown the effects of this tightening of policy in the past year, such as the reintroduction of payment cards for asylum seekers, which will now be implemented throughout Germany from the start of 2025. In Saxony, several districts took action in the Spring of 2024 and introduced the payment card months earlier despite the additional costs.

Refugee social work is the third specialist migration service alongside the youth migration service and migration counselling for adults. It is a supporting pillar for refugees in Germany, for guidance, advice, support and integration, and should remain the third pillar. If this pillar is dropped, this would have to be compensated for by other advisory services and civil society volunteering.

The same picture applies to all measures to promote integration that were paid for from state funds. Here, too, there are already huge cuts. The question arises: is there a "return to volunteering"? Can the welcome alliances that were formed in 2014/2015 get back to work? And above all, can they fill the void left by the discontinuation of refugee social work?

There is a clear answer to the last question: Volunteering cannot replace any area of social work, because professional social work has knowledge of social and administrative law, for example, as well as skills in counselling work. Social work can also represent clients in dealings with the administration, for example. In rural areas of Saxony, a restrictive approach by the administration towards voluntary work has already become apparent in recent years: voluntary work has been excluded and accompanying clients to official appointments has not been accepted. Social work, on the other hand, has a firmer footing and a legal basis on which it can act much more extensively as a representative of interests.

Instead of toppling this pillar, we recommend the following improvements: Regular funding, the definition of qualitative professional standards and minimum staffing ratio of 1:60, as well as fixed staff, regardless of the current number of people requiring support or counselling. Furthermore, we recommend to establish modular in-service training programmes for social work with refugees at universities or educational institutions. This will ensure the quality of counselling, strengthen multi-professional teams and recognise the long-standing commitment of career changers to social work with refugees. Beyond that, the principle of subsidiarity for refugee and migration social work has to be established legally. The Saxon Participation and Integration Act must guarantee the target group of refugees the right to support and counselling by professionals from an independent organisation. Due to possible conflicts of interest, it can be assumed that this cannot be provided by employees of district offices resp. immigration authorities. An important element in sharpening the self-image as a new specialised migration service is the task description. Social work with refugees must examine the requirements of the immigration and social authorities on a professional basis and reject them if necessary. In particular, the relationship between public and private providers is polarised by the tension between help and monitoring, in which social work sees its mandate called into question. In addition, to further relieve the burden on professionals, providers must continue to develop in tasks that tend to be overloaded, such as for clients with disabilities, addicts, debts, domestic violence, child endangerment, as well as counselling for traumatised and mentally ill people, letters to authorities, job applications and finding accommodation.

Standards should provide certainty of action. The call for them is Janus-faced. On the one hand, standards may enable quality management, rationalise internal organisational structures, increase performance transparency, identify the need for further training among professionals, and increase public legitimacy. However, on the other hand they may also undermine national welfare state models through global competition, economise social work through cost-cutting, simulate measurability through compulsory documentation. Instead, the aim should be for independent and public organisations to negotiate standards together, so that the practical perspective is given high priority.

Part of the standards should be: Objectives and tasks and responsibilities of refugee social work, basic working methods and ethical principles, accessibility for clients, low staffing ratios and socio-educational or social work qualifications of staff.

In Saxony, anti-immigration parties have almost reached a majority in district councils, municipal councils and the state parliament for the local elections in spring 2024 and the state elections in fall 2024. As a result, measures to promote integration are likely to be massively hindered or restricted at municipal and state level in the future. This became apparent in 2023 with the amendment of the Integrative Measures Directive, which now covers fewer areas of funding, for which LaFaSt had to cease its work at the end of January 2024 (see Netzwerk Tolerantes Sachsen, 2024). This was also evident in the Bautzen district council, which decided before the summer break to cut the position of foreigners' representative. Although the Saxon Integration and Participation Act describes integration measures as refugee social work very generally and in a few words ("providing refugees with orientation in their new life situation and supporting them in coping with everyday life"), the first-time application of this new SITG may soon refer the district of Bautzen back to the legal basis. In Saxony, however, these are thin on the ground as a result of the decades-long anti-immigration climate.

This makes it all the more important to set standards based on the experience of practitioners, detailed above. Social work theory has foreseen this necessity to define them and depicted it as a process of negotiations. Nonetheless, from the practitioners' point of view, ambivalence and uncertainty have limits, and the demand is for at least to guarantee equipment standards, to regulate initial interviews and transition management, to secure financing and to support language mediation.

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'Operation Welcome': Humanitarian Pathway and Admission Applied to the Reception of Venezuelan Migrants in Brazil[1]

Maria do Carmo dos Santos Gonçalves[2]

Abstract

This article discusses 'Operation Welcome', a Brazilian government initiative to receive Venezuelan migrants and refugees, which has been managing emergency humanitarian assistance on the border between Brazil and Venezuela since 2018. The study seeks to analyse the dynamics of the reception of Venezuelan migrants through humanitarian assistance, drawing on the theoretical and methodological approach of anthropology on the border. The militarization of humanitarian action emerges as a hybrid perspective of migration control that is shared with NGOs and international agencies working on Operation Welcome in the context of the border analysed. The text suggests that Operation Welcome, by adopting interoperability as a framework for the actions of its actors, favoured the conditioning of the use of force by the State to the principle of social protection, shedding light on the creation of reception systems that are governed by the principle of guarantee and recognition of rights.

Key Words:

1   Introduction

Contemporary migrations in Latin America are a phenomenon marked by increasing transnationality, plurality, and the growth of forced migrations. The number of asylum seekers in the region has faced a considerable increase over the past decade. Among the causes of the growth in the demand for asylum are situations of serious human rights violations, political instability, violence linked to drug cartels, as well as climatic events. This scenario presents a major challenge for national states that must supply adequate reception and integration policies for large flows of migrants and refugees, as is the case of Venezuelans in the region. The UNHCR refugee agency estimates that more than 7.7 million Venezuelans have left since 2014 (UNHCR, 2024). This represents the largest influx of migrants in Latin America's recent history. According to data from the International Traffic System (STI) provided by OBMIGRA (Migration Observatory), between 2017 and 2024, 1,214,145 Venezuelans entered Brazil. The largest influx of Venezuelans entered the country by land, via the border where the city of Pacaraima is located, in the north of Brazil.

In 2018, the Brazilian government created 'Operation Welcome' regulated by Law No. 13.684/2018, which deals with emergency assistance actions to welcome people in

situations of vulnerability resulting from a migratory flow caused by a humanitarian crisis and established the Federal Emergency Assistance Committee. 'Operation Welcome' promoted a strategy of internalisation (voluntary migration from the border to other Brazilian municipalities) of Venezuelan migrants and refugees with the aim of relieving population pressure in the border region and encouraging a process of labour integration in the country. The humanitarian admission mechanism is coordinated by the Brazilian government and has the broad support of the Brazilian Army, as well as the participation of international organisations and civil society.

The present work, using an ethnographical methodological approach, aims to analyse the political and social dynamics that go with the promotion of humanitarian pathways and admissions sponsored by the Brazilian government applied to the reception of Venezuelan migrants through 'Operation Welcome'.

Taking the case of 'Operation Welcome' and considering the novelty of this initiative in the migratory governance scenario in Brazil, we wonder if the government's strategy of implementing 'Operation Welcome' as a response to the humanitarian crisis on Brazil's border with Venezuela could have established a new rationality in the border control and security system. Our hypothesis is that the actions developed by Operation Welcome, by conditioning the border control system to the dynamics of social protection policies, would have inserted, through the perspective of interoperability, a mechanism for acting in crisis contexts in which the state's power of control and exercise of force could be subordinated to a notion of promoting and recognizing the human rights of migrants.

2 Theoretical-Methodological Approach

This article represents an unfolding of the study on borders in Brazil, which began in 2021 in the context of research on migratory dynamics at borders, supported by the Scalabrinians Centre for Migration Studies (CSEM). Throughout the research, the theme of Operation Welcome emerged as an important reality in the context studied and one that could be better explored from the perspective of border studies. In this sense, the theoretical-methodological approach adopted in this study on 'Operation Welcome' follows the perspectives of border anthropology (Silva, 2007). This approach seeks to overcome the idea that ethnicities, nations and borders are isolated units of analysis and seeks to highlight the interactional systems that produce and maintain ethnic and national boundaries to describe the way in which these boundaries gain meaning for the populations that live on or cross the borders (Silva & Baines, 2009). Choosing this perspective of analysis to understand the dynamics inaugurated by 'Operation Welcome' allows us to consider humanitarian care at the border, and its organisation through 'Operation Welcome', as a system that produces and maintains boundaries (ethnic, national, institutional, etc.). From these borders or limits, it is possible to shed light on how the various actors (local population, migrants, government, international organisations, civil society, etc.) whose life stories are marked by the experience of the border, attribute meaning to the processes of humanitarian reception in Brazil. Therefore, by adopting border ethnography, we consider that:

> "The complexity of international border situations as an ethnographic field lies in their potential to elucidate global processes that generate diverse phenomena such as the multifaceting of ethnic and national identities; the multiculturalisation of nationality through the presence of migrant and indigenous populations who reproduce their living conditions through multilocal

processes; the multinationalisation of states through the construction of regional economic blocs, etc." (Silva & Baines, 2009, p. 48)

The case studied, 'Operation Welcome', whose operational base is on the border, points to different phenomena that are intertwined under the aegis of humanitarianism and extend beyond the territory where it takes place. From a political perspective, the border has been increasingly emphasised as a space of dispute, evoking issues of security and sovereignty of the nation-state and its need to impose regulations that strengthen national security. But the border can also be presented as a method, as Mezzadra (2015: 22) states:

> "[...] While many scholars interpret the renewed importance and multiplication of borders as a sign of the return of the nation-state and the purely ideological nature of 'globalisation', Border as Method proposes a completely different theoretical 'cut'. [...] the border is not only understood as a strategic place for research and political intervention, but also as an 'epistemic' point of view in relation to real global processes."

In our study, the territories on the border (the cities of Pacaraima and Boa Vista), where the operational base of 'Operation Welcome' was established, were the favoured places for the research fieldwork. Ethnographic data was collected in three different periods. In 2021, our first field stage in Roraima, we were faced with the context of the border closure due to the COVID-19 SARS pandemic health crisis.[3] During this period, I spent 25 days in Roraima, alternating fieldwork in the cities of Boa Vista and Pacaraima. During my stay, I conducted open-ended and semi-structured interviews with representatives of the civil society network and with migrants assisted by 'Operation Welcome'. I also carried out participant observation in emergency humanitarian actions promoted by civil society institutions, such as food distribution and triage for shelters in Pacaraima. Additionally, I visited spontaneous occupations (spaces on the periphery of the cities of Pacaraima and Boa Vista) occupied by migrants and refugees who had been unable to find accommodation in government shelters. In 2023, I carried out another period of field research, where I was in contact with some of the leaders I had met in the first stage, as well as getting to know other initiatives for the care of migrants that had developed during this period. On this occasion I was able to visit one of the shelters coordinated by 'Operation Welcome' in Boa Vista and learn about the health care services being provided by the army in the Pacaraima and Boa Vista shelters. In Pacaraima, it was possible to cross the border and visit the Venezuelan city of Santa Helena. In 2024, I contacted reserve military personnel who had been actively involved in coordinating the shelter operation, but not all of them agreed to record an in-depth interview. Over the three years of research, 27 interviews were conducted, including migrants, NGO coordinators, and government agents.

3   'Operation Welcome': Context

The main border of entry for Venezuelan immigrants is in the north of Brazil, in the state of Roraima. The state is in the region called the Brazilian Legal Amazon. The Legal Amazon is a large territorial area defined in 1953 with a view to regional planning and development. It corresponds to about 60% of the Brazilian territory and is home to twenty-

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[3] In relation to the experiences of immigrants and refugees in Pacaraima, during this period there was a worsening of the condition of vulnerability. The pandemic has worsened the precarious conditions of migrants because of restrictions on movement, especially affecting their family dynamics (Gonçalves, 2024).

one million inhabitants (about 12% of the national population), most of whom (70%) live in urban areas. The Legal Amazon includes the states of Northern Brazil (Amazonas, Acre, Amapá, Rondônia, Roraima, Tocantins, and Pará), as well as Mato Grosso and part of Maranhão. According to Carvalho & Domingues (2016), during the twentieth century, the region was the target of developmental policies that resulted in economic growth and deforestation. The Brazilian government, in the 1960s, built roads and encouraged colonization to integrate the Amazon into the national economy. However, development was limited, and the exploitation of natural resources occurred in a disorderly and predatory manner, leading to high rates of deforestation (Carvalho & Domingues, 2016). Roraima is also one of the states where there is a strong presence of indigenous communities. According to the 2022 Demographic Census on indigenous territories in Brazil, the state of Roraima occupies fifth place in the national ranking. The state has 718 indigenous territories, representing 8.38% of the national total. Most of these localities (96%) are in rural areas, while only four percent are in urban areas (IBGE, 2024).

The city of Pacaraima is located on Brazil's border with Venezuela, where regular entry control procedures are carried out. The city was one of the municipalities most impacted by the mass migration of Venezuelans who began to seek Brazil as an alternative to other routes (especially to Colombia). Venezuelan migration to Roraima had been taking place since 2010, but the accelerated growth of these flows was seen from 2016 onwards, starting with the Warao indigenous group from the Amaruco Delta region. In December 2016, the Federal Police tried to deport 455 indigenous people from Boa Vista to Venezuela. However, the interference of several human rights organisations succeeded in suspending the deportation. According to Moreira et al. (2020), this event highlighted the Venezuelan flight, giving visibility to Roraima, and making it one of the focal points of media and government attention on the issue of the evolving migratory 'crisis' on the border.

According to data from the Brazilian Institute of Statistics (IBGE), the municipality of Pacaraima has grown significantly in terms of its resident population over the last decade. The population, which was around 10,448 in 2010, rose to 19,305 in 2022. This growth is partly due to the intensification of migratory flows from Venezuela, as well as the humanitarian response that followed, making the city an important logistical support point for government institutions, humanitarian organisations and NGOs.

'Operation Welcome' was created by a provisional measure (820/2018) as an initiative to address the humanitarian crisis that had built up in the north of the country with the exponential growth in the entry of Venezuelan migrants. The provisional measure was converted into Law No. 13,684, of June 21, 2018, establishing emergency assistance measures for the reception of people in vulnerable situations due to migratory flows caused by humanitarian crises. The purpose of this legislation was to provide emergency assistance to people vulnerable due to humanitarian crises that cause disorderly migratory flows. Social protection measures, understood in the law as a set of public policies to prevent and remedy situations of social vulnerability and personal risk, included health care, access to education, promotion of professional qualification, guarantee of human rights, infrastructure, sanitation, public safety, border control, organization, and mobility. This same law established the Federal Committee for Emergency Assistance[4],

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[4] The Committee is chaired by the Civil House of the Presidency of the Republic and coordinates the intersectoral work of 'Operation Welcome'.

which began to coordinate the actions of 'Operation Welcome'. The committee was established with Decree No. 10,917, of December 29, 2021, and its main objectives are: to articulate actions and projects with the support of the federal, state, and local governments; establish guidelines and priority actions for emergency assistance; supervise the planning and execution of joint actions; propose measures to ensure the necessary resources for the development of emergency assistance actions; establish partnerships with public agencies, private entities, specialists and international organizations; monitor and evaluate the execution of emergency assistance, and prepare semi-annual reports of its activities. 'Operation Welcome' was structured in three areas of activity: border control, institutional reception, and internalization strategy.

'Operation Welcome' created a different flow of migratory regularisation for Venezuelan migrants and asylum seekers. Regarding the legal aspects of migratory regularisation, the Brazilian government has established different regimes to cater for the profiles of Venezuelan migrants, in a context of mass migration that has been ongoing since 2018. In this sense, nationals of Venezuela, but also of Guyana and Suriname, are eligible to apply for a two year temporary residence permit in Brazil. The residence provides the identification document (CRNM – Cartão de Registro Nacional Migratório). After the end of this period, the migrant can apply for an indefinite residence visa. With a residence permit, migrants can have equal and free access to services, programmes and social benefits. They can also travel between Venezuela and Brazil if they have a valid passport. It is important to note that there are differences in this process when it comes to indigenous populations. Venezuela's indigenous peoples can present any document from their country of origin with a photo as a substitute for an identity card or passport, but they are not eligible for the interiorisation strategy.

Although a considerable proportion of Venezuelan migrants migrate for economic reasons and use the possibility of residing in Brazil, there is a portion of this population that seeks refuge in the country. Between 2015 and 2023, Venezuelans accounted for 61% of asylum seekers in Brazil. Brazil's refugee law guarantees access to social policies and entry into the formal labour market. Refugee applicants have access to all the services offered by 'Operation Welcome', differing only in the type of regulatory process.

3.1   The Militarization of Humanitarian Action

According to the IBGE, Brazil has a border strip 15,000 km long, 150 km wide and a total area of 1.4 million km². This extensive border strip covers 11 states and 588 municipalities, of which 432 are entirely within the strip and 156 partially. Two-thirds of the entire length of the border strip is in the north of the country. In this context, the realities of the border towns located in the Legal Amazon were very little known until the crisis that took hold in Roraima with the mass migration of Venezuelans. It is interesting to note that during the same period in 2021 that I was in Pacaraima, I also went to Bomfim, a city located on the border between Brazil and Guyana. Despite being 335 km apart, these cities have very different migration realities. We observed that in Bonfim there were few Venezuelans living in the municipality, and the city was practically empty because of the closure of the border due to the Covid-19 health crisis . The streets were practically deserted, and the city maintained a peaceful appearance, typical of rural regions of Brazil. In Bonfim, there was no overt presence of state control of the border, except for the Federal Police customs post with minimal staff. The contrast between these realities, directly linked to migration dynamics, is striking. At the same time, the

government had already been concerned about the fragility of the state's presence on some borders, whether in terms of addressing the issue of territorial security (combating illegal extraction, human, arms and drug trafficking), or due to the lack of infrastructure to deal with mass migration phenomena.

In the case of Pacaraima, we observed that the economic and social dynamics that were characteristic of the territory before the outbreak of the humanitarian crisis continued to be noticeable, and were being mobilized in parallel with the new reality brought about by migration.

On our second field trip, in 2023, we travelled with a taxi company from Boa Vista to Pacaraima. When we reached the border, we took another taxi to Santa Elena do Uraien, in Venezuelan territory. We observed that there was an intense activity of trade in small goods and services facilitated by taxis that circulated between one side of the border and the other. In addition, the mining activity moved informal workers who often crossed the border. On the way back from Pacaraima to Boa Vista, we travelled with one of these workers who was returning after a period of work in the (illegal) mining in the region. Mining in the region, in addition to the environmental impact on the vegetation with deforestation, had generated serious risks to the health of Indigenous populations in Roraima[5], the impact of its use in the mercury extraction process (Ramos, 2020).

It is worth remembering that in 2010, other small cities in the state of Acre, also in the northern region of the country, became the scene of another major humanitarian crisis linked to the massive migration of Haitians. The cities of Basiléia, Epitaciolandia (on the border with Bolivia) and Assis Brazil (located in the Brazil-Bolivia-Peru tri-border) were heavily impacted by this migratory flow, which served as a warning sign about the weaknesses surrounding the lack of structures, services and local management capable of meeting the demands of receiving large migratory flows in that region. According to an interlocutor of our study, who is currently a member of the Brazilian Army reserve and took an active part in the beginning of the establishment of 'Operation Welcome' on the border, the experience of logistical execution of the operation came, in large part, from an action that became known as 'Operation Amazonlog 17'. This operation was conducted in November 2017 by the Brazilian Army, in partnership with troops from Peru and Colombia, with a focus on training in humanitarian organization and serving communities in the border regions of the three countries (Brazil, Peru, and Colombia). The operation involved the participation of representatives from eighteen countries, as observers, several national institutions, and a force of around 1,200 military personnel. According to the interviewee training activities, such as supplies, health, maintenance, and transportation, inspired the logistical organization of the actions to receive Venezuelan migrants that would be implemented in 2018 in the context of the shelter operation (Interview, Porto Alegre, 2024).

Pacaraima is situated 215 km from the capital, Boa Vista, with stretches of road that are very precarious for vehicle traffic. There is a heavy daily flow of migrants moving between the two cities, as well as of personnel linked to humanitarian agencies and civil society

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[5] The health crisis in the Yanomami Indigenous Land has gained national prominence due to the advance of illegal mining, which has resulted in severe cases of malnutrition and malaria among children and adults. The Bolsonaro government has encouraged mining on protected lands, dismantling inspection agencies and changing public policies to facilitate economic exploitation of the Amazon. On this aspect, see Barreto Filho (2020).

organizations that have settled on the border. The transport is conducted by taxi companies that make this journey for the value of about 20 euros per way. These stations only start the trip with the full number of passengers in the car (from five to seven) and the drivers are organized by cooperatives whose posts have been established close to each other on the main access road to the border post,

It is observed that, in addition to the migrants who enter Brazil and are welcomed in the flow of the Operation Welcome, there is an intense dynamic of movement of people between Pacaraima and Santa Elena, as well as from Pacaraima to Boa Vista. Pacaraima has a small bus station, which in 2021 had a reduced number of trips. There were only two hotels available that charged an average of 10 euros per night and offered modest conditions. The first impact we observed when we walked around the city was the number of people who were homeless. At that time, there was a decision by the federal government that the regulatory processes for the entry of Venezuelans across the border could only be conducted in Pacaraima. It was not possible to enter the country and continue traveling to Boa Vista to do the regularization procedures in the capital. In this context, there were about ten thousand people wandering around the small town. The shelter organized by 'Operation Welcome', as well as the shelters coordinated by civil society organizations, could not accommodate the number of people who continued to arrive. According to data from the International Organization for Migration (IOM,2024), between 2018 and 2024, 681,536 Venezuelans entered the Pacaraima border. Of these, 102,903 have applied for asylum and 221,607 have applied for temporary residence in the country. To be served at the identification post, the migrants underwent a brief screening and received a numbered form that indicated their place in the service queue. This wait could take weeks. Most people crowded around the screening post, along the main access road to the border.

Despite the large flow of people, there was no ostensible presence of security forces in the area. Oliveira (50 years old), a retired lieutenant colonel who coordinated activities in Pacaraima during one of the periods in 2019, reported that one of the characteristics of the army's presence was the fact that the military remained unarmed. The exception was the army police who supported the safety of migrants and aid workers, particularly inside the shelter. "It was a different operation from that of Brazil in Haiti. We were in Brazilian territory and as the first line in the arrival of migrants to the place. It was an unarmed operation" (Interview, Porto Alegre, 2024). The connection made by Oliveira between the participation of the Brazilian armed forces in the Peace Mission in Haiti (2004 to 2017) and unarmed humanitarian action on the border indicates that the experience of humanitarian action comprises a broad spectrum in which personal experiences come into play, as well as the narratives elaborated collectively around the exercise of control and the use of force by state actors.

The militarization of humanitarian actions promoted by 'Operation Welcome' adds a new element to the complex dynamics that the Brazilian State maintains with military organizations at various times and historical contexts in the country.[6] The issue of border securitization has been widely debated in academia, especially about the dynamics that

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[6] We do not intend here to analyse this history or to evaluate the military presence in the historical context of action in the Brazilian Amazon region. There is an extensive and rich literature that has focused on these aspects (Castro, 2006). Our intention is to bring at this point some of the perspectives of military action in the context of "Operation Welcome", with a focus on humanitarian action on the border.

are established between humanitarian reception processes combined with systems of control and even exclusion and/or expulsion of migrants at the borders (Feldman-Bianco, 2015, Domenech, 2015). In this sense, studies have emerged that problematize Brazil's option to place the army as a humanitarian arm for the organization of Venezuelan migrations (Rego & Paiva, 2021). In the case analysed, it is observed that the military presence in the context of the humanitarian response on the border in Pacaraima takes on a hybrid aspect, that is, the control of the border is not exercised in an ostensive way but takes on a shared and diffuse form. The presence of the unarmed army tying up the logistical part, the structure and the ordering of circulation spaces exerts a symbolic power. At the same time, the exercise of overt force is carried out by the security forces that circulate through the spaces (Army Police, Federal Police, civil and local military and special forces such as FICCO).[7] In March 2021, for example, FICCO raided a women's and children's shelter with the determination of the local prosecutor's office to deport the people housed in that space for violating the social distancing guideline imposed by health law in the context of COVID-19. This action took place in a way that was unrelated to the guidelines of humanitarian care based on social protection determined by 'Operation Welcome'.

3.2   Border Control

Control is also exercised by the international humanitarian agencies and civil society organizations themselves, which start to establish flows that are applied to daily processes, such as access to documentation, food, lodging and shelter, entry and exit of spaces. An interesting fact brought up in the interviews is the role of control assumed by the local society itself. Local groups of residents, pressured by the number of people who began to stay temporarily in the city, began to harass not only the migrants, but also state agents, such as the army, who, in that context, were exercising a humanitarian function and not that of repression of the migrants who arrived. According to our interlocutor Oliveira, there was a situation in which a local group held a public demonstration against the presence of migrants calling for the closure of the border for the entry of new migrants and refugees. The group moved from the city centre, passing in front of the shelter where the migrants were, to the border and temporarily prevented the movement of people and cars as a form of protest. Through the loudspeaker of the sound car, which accompanied the demonstration, they accused the army personnel who worked in the shelter of being "the army of Venezuelans" (Interview Oliveira, Porto Alegre, 2024).

The tensions with the local population were described by Ana, coordinator of a shelter for women in Pacaraima, as a "pressure cooker". During our stay in 2021 in Pacaraima, a hostile climate towards migrants was observed on the part of local merchants who complained about the dirty sidewalks. Many people did not have access to bathrooms, nor to shelter, remaining on the sidewalks, which made it difficult, according to them, for customers to circulate and access the establishments, generating economic losses. In 2023, the scenario was a little different. There were still many people on the streets and a large flow of people. However, the establishment of migrants as residents in the city, many of whom are small business owners, helped to reduce tensions. Many Venezuelans who remain in Pacaraima have been absorbed as a workforce by NGOs. Others, like Carlos, have set up small businesses. Carlos is part of a cooperative, supported by the

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[7] FICCO is the acronym that identifies the Integrated Forces to Combat Organized Crime. In 2023, Federal Ordinance No. 427/2023 expanded these forces to other contexts in the national territory.

NGO CARITAS, that has set up the bakery "Padaria San Jose" and has become a meeting and information point for newly arrived Venezuelans.

In the field visits and interviews, it was observed that there is a strong interdependence between the actors involved locally with the actions of the Operation Welcome, even though the conceptual perspectives are different. For one of the service members interviewed, he defines interoperability as the great perspective brought about in the implementation of 'Operation Welcome' that allowed the creation of a complex humanitarian support network (Interview, Porto Alegre, 2024). For Oliveira, none of the state and civilian actors present at the border could have the capacity alone to provide a minimum response to the humanitarian crisis on the border. For NGOs, the ability to conduct actions that complement each other around the objective of welcoming is linked to the capacity for networking. For international organizations, such as UNHCR the theme of interagency cooperation and public and private partnerships encompasses this notion of joint action. In this sense, we observed from this study that the ways in which institutional actors adhered to the process of joint humanitarian action are deeply affected by the institutional culture and the narratives that are elaborated around the role they play in the humanitarian context.

The study allows us to suggest that control over entries, exits, transits and stays at the border is exercised through a set of mechanisms. Legal instruments for regularization and recognition of migratory status, means of travel from Pacaraima to Boa Vista or to other locations in Brazil, pre-defined flows of transit and stay in shelters, are some of the ways in which we verify the exercise of border control in its hybrid form, that is, partly exercised by civilian actors. In this sense, the militarization of the operational logistics of humanitarian action cannot be seen as an isolated unit of analysis, but as part of a complex system that extends beyond the territory where emergency humanitarian care is based.

4   "Hogar de Paso": Transits between Streets and Shelters

The theme of accommodation upon arrival at the border emerges as one of the crucial points in the experiences of migrants and refugees inserted in the flow of 'Operation Welcome'. Difficulties in relation to housing are one of the great challenges in the process of welcoming migrants and in other contexts and realities of the country. According to the IOM report (2024b) one in five dwellings is characterized by overcrowded conditions, with the highest rates in Amazonas (29%) and Roraima (34%). The majority (65%) of the homes surveyed lack at least one household essential, such as kitchen appliances, beds, cleaning supplies, and appliances. "These inadequate living conditions, together with the threat of eviction, affect access to livelihoods, services and basic needs, impacting well-being and quality of life" (IOM, 2024b: 121). Regarding the specific situation of the border, the report indicates that in May 2024, about 1,634 people in Pacaraima and 924 in Boa Vista lived in informal settlements, while 200 people lived on the streets of Boa Vista, with limited access to water, sanitation, and hygiene infrastructure, facing various health and protection risks. Recent data from the population census expose the weaknesses of access to shelter and housing for the Venezuelan migrant population. Roraima concentrates 30.4% of all Venezuelan migrants in Brazil living in shelters, halfway houses, or welfare centres. According to the IBGE, there are 7,331 people living in these structures in Roraima. One of the ways to mitigate precarious conditions, especially access to work and housing in the context of the border, has been the strategy of relocation. Spontaneous

settlements, the way the government identifies self-organized housing spaces by migrants, have become an alternative form to homelessness. In 2021 we found Mr. Jesus in Pacaraima. He came to Brazil in 2014 as a missionary for a Pentecostal church. When the economic and social situation worsened in Venezuela, he decided to move with his family to Roraima. The massive arrival of conationals motivated him to organize a settlement to welcome people who were homeless. The houses were precariously built with scraps of cardboard and wood. According to him, around 420 people have already passed through there. Jesus, named the place *"Vila Esperança"* and says that he has received support from NGOs and the government with basic items and food.

Palma, a Venezuelan who migrated to Brazil in 2019 and settled in Pacaraima, emotionally recounted her experience of living on the streets of Pacaraima until she found shelter in a space organized by an NGO. Her trip to Brazil lasted a month. She faced many difficulties along the way, paying bribes at checkpoints in Venezuela to be able to continue her journey. She arrived in Pacaraima with nothing, went hungry, and, in two months on the streets, developed survival strategies. Considering these experiences, Palma states that "when we pass through here, we are no longer the same" (Interview, Pacaraima, 2021). The harsh experience of being on the streets is shared by thousands of Venezuelans who have passed through Pacaraima and Boa Vista due to the collapse of the local social protection system. The experience of the street was what motivated Palma to stay in the Pacaraima and link up with the NGO that welcomed her to help give shelter to other people who arrive in the same conditions in which she arrived. Some of the migrants who arrive in the country manage to have their request for reception in federally run emergency shelters met, but there is a good margin that, for a variety of reasons, ends up having to be subjected to harsh situations on the street, or submit to extremely precarious housing. Currently, there are seven shelters for Venezuelans in Roraima, five in Boa Vista and two in Pacaraima, with a capacity for more than nine thousand people. One of the shelters in Pacaraima is exclusively for the Warao indigenous people. Ana recalls that the initial intention of the institution she coordinates was to provide support and guidance to pregnant women arriving in Brazil. But the reality of homeless women and children pressured her group to create a shelter for this group.

Hernan, who arrived in Brazil in 2020, despite his engineering background and the assets he had in Venezuela, spent three months sleeping on the streets of Pacaraima until he found shelter. According to him, Pacaraima is a "hogar de paso" (place of passage). People stay in the city waiting for migratory regularization, work, or inclusion in the relocation process. In fact, one of the initiatives linked to Operation Welcome was the promotion of a network of transit houses spread across the country with the purpose of welcoming Venezuelan migrants during the transit process to their destination in the context of the interiorization strategy. The transit homes are part of the federal government's relocation strategy, within the context of 'Operation Welcome'. The flow is coordinated by a subcommittee, linked to the coordination of the Ministry of Social Development, and the homes are managed by civil society. These homes are transit spaces, offering temporary shelter in the transit process between Boa Vista and the chosen destination. Between 2018 and 2024, according to data from the Commission, 143,062 Venezuelans benefited

from the program.[8] The majority (87%) of those relocated by the program travelled in family groups.

In Hernan's case, the experience on the street motivated him to engage as a collaborator in the NGO that promotes a project that provides bathrooms, laundry, showers for the personal cleanliness of people who are still on the streets. Access to minimum survival conditions was described by him as small processes of restitution of one's own condition of dignity. "To have dignity. Being on the street, but having a place to take a shower, brush your teeth, use the toilet" (Interview Hernan, Pacaraima, 2021). He reports that Venezuelan migrants do not use the service exclusively, since they also serve Brazilians in vulnerable situations.

4.1   Interiorization Strategy

Migrants have the option to move to various municipalities in search of new life opportunities and socio-economic inclusion through the interiorization strategy, which is also coordinated by the MDS, with the support of the IOM. The relocation strategy aims to provide support to Venezuelan migrants and refugees by providing temporary shelter and promoting integration in other Brazilian municipalities. According to the Committee that coordinates this activity, the relocation strategy has four modalities of access:

   a. **Institutional**: Leaving shelters in Roraima for shelters in one of the destination cities (government or civil society partner)
   b. **Family Reunification**: Migrants who wish to reunite with their family members who regularly reside in other regions of the country, are willing and able to offer support and housing.
   c. **Social Reunion**: Migrants who wish to meet with individuals with whom they have a bond of friendship or affection, or family members whose relationship cannot be proven through documentation. Recipients must be able to provide for the support and housing of those they take in.

According to data provided by the MDS, in the period from April 2018 to December 2024, the strategy internalized 144,494 Venezuelans, 11% of whom were institutional, 16.8% through job vacancies, 17.8% through family reunions, and 47.5% through social gatherings. The main destinations in Brazil were the southern states of the country (Santa Catarina, Paraná, Rio Grande do Sul, and São Paulo). The issue of the labour market insertion of Venezuelan migrants, through Operation Welcome, is a process that includes, in addition to the challenges of state coordination at all levels of governance, raising awareness among employers about good practices for the inclusion of migrant workers, as well as a monitoring system to avoid situations of labour exploitation.

Although the legislation is clear about the rights of migrants and refugees welcomed by 'Operation Welcome', the challenge in accessing housing reported by several of the research interlocutors indicates the importance of strengthening social policies at the local level and supporting the forms of self-organization of migrant collectives. In the context of our study, it was observed that the gaps regarding the right to housing were, in part, covered by civil society initiatives and, above all, by an extensive network of solidarity among the migrants themselves. In the solidarities, we see a wide range of forms of

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[8] Currently there are 11 houses in the municipalities of Boa Vista, RR; Brasília, DF; Belo Horizonte, MG; Campo Grande, MS; Curitiba, PR; Cuiabá, MT; Porto Velho, RO; Conde, PB; Florianopolis, SC; and Fortaleza, CE.

belonging mobilized, linked to ethnic identities, regional origin, gender, social class, religious beliefs and political-ideological tendencies.

4.2   Socio-economic Integrations Challenges

One of the initiatives of the internalization strategy linked to 'Operation Welcome' is the "Vaga de Emprego Sinalizada" (VES). This initiative relocates migrants and refugees who have been identified for a job opportunity by Brazilian companies from all regions of the country. 'Operation Welcome' supports the selected migrants to travel to the municipality where they will be hired. The companies' backgrounds are checked to prevent situations of labour exploitation. They also receive social support from the company, UN agencies and partner civil society organizations for up to three months.

Work, development and integration are social constructions subject to changes in the way they are understood and, at the same time, are mechanisms of social transformation that mobilize society in general. Every day, hundreds of migrants transit between borders and states in the country, and, in the case analysed here, in search of better living conditions and/or fleeing situations that put their lives at risk. Regardless of their migratory status, their nationality, or the ways in which they are categorized by profiles, they are all bearers of a migratory project that considers insertion into the world of work as a fundamental means for their success. At the same time, in the case studied, we observed that Venezuelan migration and the humanitarian attention that has formed around this flow, has brought positive impacts to the local reality, especially in the economic, social, and cultural fields. Operation Welcome, by receiving resources injected by the Federal Government and UN Agencies, heated up the local economy of Roraima, especially in Pacaraima and Boa Vista. The operation generated direct and indirect jobs, hiring labour for construction, food, security and other services. The demand for local services such as internet, transport and housing stimulated the local economy. Local companies have adapted to meet the logistical needs of the reception operation and the network of institutions that have been set up around humanitarian assistance. The immigrants' skills were improved, facilitating relocation and providing qualified workers for other regions of Brazil.

In 2020, the Getúlio Vargas Foundation (FGV) published a report in which it analysed the economy of Roraima and the flow of Venezuelan migrations, aiming to make this connection between economic development and the need to promote public policies aimed at the integration of migrants more evident. The report describes as a "humanitarian economy" the heating up of the local economy linked to investment in actions to welcome Venezuelan migrants. Regarding socioeconomic integration, the report states that migratory flows bring people of working age and with secondary and higher education levels, increasing the supply of labour force without additional training costs. However, the report states that an economic structure is needed that identifies the skills of these refugees and immigrants to properly allocate them in the labour market, as well as monitoring when this insertion occurs through the relocation strategy.

When we analyse the strategies of 'Operation Welcome' and the complexities involved in the establishment of a humanitarian reception space in the border context, a question that arises is to what extent transit or reception societies (in the case analysed, municipalities and states) are ready to invest in these migration projects and integrate migrants as an effective part of a broader process of national and regional development.

Integration, given its complexity, comprises more than the initial reception, since it requires, among other things, coordinated, planned, and continuous efforts on the part of all levels of government.

Many of the challenges faced by migrants' socio-economic integration initiatives arise from the lack of a more comprehensive and articulated approach to inclusion initiatives. When Venezuelan migrants left their country, they did so based on a personal and/or family migratory project that includes the search for migratory regularization in Brazil and access to the world of work to break the cycle of vulnerability that accompanied them, improve living conditions and return to professional development. Insecurity, violence, precariousness of displacement, slowness and bureaucratization of migratory regularization procedures; lack of affirmative policies for socioeconomic inclusion that facilitate and encourage access to formal work; non-recognition of skills and validation of qualifications that enable entry into qualified jobs; lack of adequate attention to the growing flow of migrant women who encounter numerous barriers to insertion in the labour market (such as lack of childcare, gender violence, and discrimination): These are all frequent obstacles to the process of socioeconomic integration of migrants in the region that are no limited to emergency action at the border.

The informal and precarious insertion of migrants in the labour market persists in the border region. This type of insertion makes migrants more vulnerable to exploitation and dependent on the public security system. In Brazil, violence against migrants in the region has been reinforced by structural racism, xenophobia, and the politicization of the migratory phenomenon during election periods. This scenario causes great damage to local, national, and even regional development.

5   Conclusions

Contemporary migrations are a phenomenon that reflects the period of profound social transformations on a global scale that we are experiencing. These variations include climate change, the advent of innovative technologies such as AIs, new economic and political scenarios, the intensification of conflicts and violent scenarios, among others. In addition to these objective factors, it is possible to say that migrations also incorporate new ways of understanding identities and belongings that are no longer exhausted in territorialized national identities. The way in which subjects come to understand themselves in the globalized world incorporates the ways in which they connect to other people, cultures, ideologies, lifestyles, and territories. In this context, border cities, such as the one analysed here, offer a promising space for research when the perspectives and narratives that the actors who live there and/or transit there build about belonging are incorporated into the studies. It is about how human beings are redefining their experience of belonging to a changing world, in which the experience of building proximity occurs at the same time as seeking one's own survival through movement (spontaneous or forced) between countries and borders.

One of the perspectives that emerged from this study was the notion of interoperability between the various actors who began to act in an articulated manner around humanitarian reception strategies and processes. This perspective does not, for example, invalidate the right to exercise the use of force to guarantee national security and sovereignty, but defines a place with limits (borders) within which the exercise of force can be used. This could be a key to reading the role, for example, of militarization in border

territories where there is an established humanitarian crisis. Our study suggests that the interoperability that governs and articulates the relationships and fields of action of the multiple actors involved in humanitarian care on the Pacaraima border brings another rationality to the process, since it subordinates migratory controls of entry through the border to social protection, organized in a network, as an important part of humanitarian action.

In this context, human mobility can interpose new paradigms that integrate the right to mobility as a prerogative of establishing safe passage. We observed, amid the complex dynamics that were established through 'Operation Welcome', that migration is a 'transnational-cultural' phenomenon, with varied factors. This makes it essential to engage proactively in its governance at all levels, as well as in permanent dialogue with civil society, which plays an important role in the humanitarian assistance process We observed, amid the complex dynamics that were established through 'Operation Welcome', that migration is a 'transnational-cultural' phenomenon, with varied factors. This makes it essential to engage proactively in its governance at all levels, as well as in permanent dialogue with civil society, which plays an important role in the humanitarian assistance process.

In this context, we observe that humanitarian reception initiatives, as in the case of 'Operation Welcome', consistently require a path of connection with the perspectives of sustainable development that include migrants and are based on the concrete commitment to include people in mobility as an effective part of development strategies. The promotion of safe, orderly and regular migration as a principle of governance can be a reality in the region if there is, together with national initiatives, permanent dialogue between states, addressing situations that are relevant to each country and region and that consider not only these migratory flows as a problem, but that seek approaches that bring to light the opportunities that migration creates. We have seen that in the Brazilian case, relocation can only be more effective if there is dialogue, especially between the local levels of government, since this is the level where the objective conditions for the reception and integration of migrants and refugees are established and in which a promising performance of civil society is observed.

Legislation alone is not capable of creating positive integration processes. Cooperation, promoted and fostered by international humanitarian care agencies, has the great challenge of including planned and inclusive migration policies from the local level. The inclusion of local actors could be useful to ensure the inclusion of historically and socially excluded populations, as is the case of Brazilian Indigenous communities in Roraima and Venezuelan Warao migrants. Local involvement favours the development of consensus and the fight against discriminatory and xenophobic narratives. The indigenous populations involved in the migratory flows from Venezuela have remained on the sidelines of inclusion initiatives. In terms of access to housing, for example, we have observed that the few actions taken in relation to the Warao indigenous people have been to place these communities in exclusive shelters, for which there are no other alternatives that respect the specificities of their lifestyle. When we look at the reality of the Warao in other contexts in Brazil, we can see the deep stigmatization that these groups suffer, which leads them to constantly move between temporary spaces. The indigenous issue is undoubtedly one of the great challenges of humanitarian care. Contrary to what we have observed in terms of the development of local economies in the territories where the

structures of Operation Welcome have been installed, the same cannot be said for the Brazilian indigenous communities present in much of the border region.

We have found that the right of movement between Brazil and Venezuela for regular migrants ensures the maintenance of family networks, as well as preventing situations of smuggling and human trafficking in the border region. However, the guarantees of regular and safe transit offered by 'Operation Welcome' are limited to mobility (entry and exit) between the Brazilian border and Venezuela. They do not extend to migration from Brazil to other countries in the region. As such, it is a humanitarian corridor that does not apply to migrants who use Brazil as a transit territory to other countries.

There are deficiencies in the process of accompanying migrants taken in by 'Operation Welcome', especially about follow-up after labour integration and housing. Although the flow between 'Operation Welcome' and the companies offering work is structured, integration and the right to access public policies guaranteed by law are the responsibility of the local governments in the cities of destination. In this sense, labour inclusion does not guarantee a full welcome. At the same time, the model that has been developed for humanitarian reception through Welcome Operation, which is based on the notion of structuring a humanitarian corridor for the regular entry into Brazil of migrants and refugees from Venezuela, can shed light on the question of new humanitarian corridor strategies that allow lives to be safeguarded in the context of fleeing degrading conditions and/or violence.

The establishment of local, national, and regional mechanisms for the participation of civil society in the construction of policies to respond to emergency situations can favour migration governance processes in general. Civil society is a plural, capillary, and highly active actor, which conducts in an expressive diversified way actions that are in constructive interaction with the migration governance efforts of governments at all levels. In the case of 'Operation Welcome', civil society extends through groups with different profiles and that are present in the execution of the simplest actions, such as food delivery, to the most complex ones, which include providing halfway houses, and guidance on migratory regularization. Civil society represents an important asset for states in the process of producing knowledge about the migratory phenomenon, including in the production of data. Much of the information collected and processed by international organizations, such as IOM, at the Pacaraima border relies on the partnership and presence of NGOs in these territories. NGOs have also contributed to the establishment of actions to welcome, accompaniment and integration of Venezuelans (Portuguese workshops, access to information, promotion of cultural activities, etc.), contributing in a decisive way to the order, security, and regularization of these flows. We observed among the migrants interviewed that many of them, like Palma and Hernan, found in civil society institutions a privileged space to exercise their protagonism. Migrants, through associations, act to promote paths of local integration, respect and safeguard human rights, fight discrimination and xenophobia, investing in spaces to promote culture, entrepreneurship, among others.

This regulation represented a significant step forward in terms of action in emergencies and humanitarian reception in Brazil. As it provided for the expansion of important policies in emergency contexts, such as social protection, health care, human rights, mobility, protection of the rights of women, children, adolescents, the elderly, people with

disabilities, the indigenous population, affected traditional communities, and other vulnerable social groups.

The analysis shows that, compared to the humanitarian admission initiatives applied to other national groups in the country, and in the region, the humanitarian reception model of 'Operation Welcome' on the one hand has gaps. At the same time, the model that has been developed from humanitarian reception based on regular humanitarian routes for entry and stay, can be exemplary for the emergence of humanitarian corridors that allow the safeguarding of lives in the context of escape from degrading living conditions and/or structural violence.

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