



QRP

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Editorial

Safe, Orderly and Regular Migration: Humanitarian Pathways¹

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In the last issue of the QRP, Vol. 62 No. 4 (2023), the contributions of the 68th International Conference of the Association for the Study of the World Refugee Problem (AWR) was published on the topic “Safe, Orderly and Regular Migration: Pathways and Perspectives” together with the announcement of a follow-up conference in 2024.

Therefore, you will find in this edition a call for papers for the 69th International Conference of the Association for the Study of the World Refugee Problem (AWR), with the main theme of “Safe, Orderly and Regular Migration: Humanitarian Pathways”. The editorial board is grateful to Friedensau Adventist University in Friedensau, Saxony-Anhalt, who accepted to host the upcoming conference.

The editorial board invites academics, practitioners and all other interested persons to contribute to this interdisciplinary and international discourse by sending their abstract.

To protect refugees and support host communities, the 2018 Global Compact on Refugees (A/73/12 [Part II], adopted by GA Resolution A/Res/73/151), sees resettlement and complementary pathways for admission to third countries as part of the solution. The envisioned outcome of the conference is an analysis of the current status and role of these humanitarian pathways – whether they be publicly, privately or public-privately sponsored. Potentials, limitations and pitfalls will be discussed. Best practice will be shown together with failed endeavours. Their relation and effects on the right for individual refugee, subsidiary or complementary protection will be debated, especially between attempts for stricter migration control and humanitarian access.

Sadly, due to the ongoing refugee emergencies in Afghanistan, DR Congo, the Horn of Africa, Rohingya, Syria, Sudan, Ukraine, Venezuela (United Nations High Commissioner for Refugees [UNHCR], n.d.) and other countries, with increasing numbers of persons fleeing their home countries, this year’s topic of the conference is of increased interest and relevance.

While there are arguments about – and from – political leaders using refugees to cause “migration waves” (Braw, 2022) to destabilize countries without directly using military force, there are also other voices like Volker Türk, the UNHCR protection chief in 2017, who argues that the protection of refugees and state security are “compatible goals” (Türk, 2017). A prompt registration and efficient determination of refugee status could facilitate their integration into the labour market and the education system and their access to

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social services, including access to language courses, while at the same time preventing exclusion and marginalization (Türk, 2017). According to him destabilization could be prevented through “a solutions-oriented approach to the current magnitude, scope, and complexity of forced displacement in the world, including its security and law enforcement dimensions” by “predictable and equitable responsibility-sharing arrangements” and “a cooperative framework requir[ing] proper systems for the reception of arrivals and their referral to appropriate processes” (Türk, 2017).

For that reason, politicians should include and implement academic findings, involve practitioners and act within the humanitarian legal framework to help refugees and to stabilize national security at the same time.

In this edition, there are contributions at the intersections of social work and law, research and education as well as a comparative analysis of major refugee populations in one and the same host country. This is complemented by a review of recent jurisdiction and developments. The aim is offering a platform for politicians, practitioners and academics to develop new perspectives and encouraging all of them to walk on a path towards peaceful conflict resolution options and re-establish trustful and responsible relationships.

But first of all, the Presidency of AWR German Section would like to draw the readers' attention to its current resolution on the Middle East Conflict, Simchat Torah Massacre and Gaza War.

References

- Braw, E. (2022, July 18). *Russia is taking advantage of the invasion-stirred migration crisis: As food problems worsen, new refugees head for Europe*. Foreign Policy. <https://foreignpolicy.com/2022/07/18/russia-ukraine-war-migration-food-crisis-putin/>
- Office of the High Commissioner for Refugees. (n.d). *Ongoing Emergencies*. Retrieved March 14, 2024, from <https://www.unhcr.org/emergencies/ongoing-emergencies>
- Türk, V. (2017, April 5). *Open briefing to United Nations Security Council Counter-Terrorism Committee*. UNHCR. <https://www.unhcr.org/publications/open-briefing-uk-ns-security-council-counter-terrorism-committee>

AWR Updates

Middle East Conflict, Simchat Torah Massacre and Gaza War: AWR Resolution of 12 March 2024

AWR German Section, Presidency

The Presidency of the Association for the Study of the World Refugee Problem – German Section (AWR), adopted the following resolution on 12 March 2024 related to the Middle East Conflict, the Simchat Torah Massacre of 7 October 2023 and the ongoing Gaza War 2023/2024 since:

AWR bemoans

1. the Middle East conflict that has been smouldering for over 75 decades and, as a result, wars, death, displacement protracted over generations, flight, suffering, occupation, terror, insecurity, non-fulfilment of the Palestinians' right to self-determination and the settlement sprawl of the Palestinian autonomous territories in violation of international law.
2. the Simchat Torah massacre in which Hamas and other armed groups according to the UN (based upon numbers provided by the Israeli government) killed more than 1,200 people in Israel, injured several thousand others, took around 240 hostages, of whom around 134 are still abducted on 12 March 2024, and as a result of which Israel continues to face shelling from Gaza, Lebanon, Syria and Yemen.
3. the ongoing war in Gaza, which, as of 12 March 2024, according to the UN (based upon numbers provided by the Ministry of Health or the Government Media Office in Gaza) has killed over 31,000 people and injured almost 73,000, displacing approximately 1.7 million people, destroying over 60% of the housing units in Gaza in whole or in part, leaving 2.2 million Gazans in a state of crisis, emergency or catastrophic levels of food insecurity.
4. a border regime that exposes hundreds of thousands of people, crammed together in a confined space, unprotected and with no means of escape, to armed attacks and a humanitarian catastrophe caused by a blockade of available aid right across the border.
5. the accelerated construction of settlements and the increasing violence of settlers against Palestinians in the West Bank.
6. the inability of the United Nations Security Council and the international community to put a stop to this.

AWR demands

1. an immediate ceasefire.
2. the unconditional release of all hostages.

3. the opening of all available border entries for humanitarian, medical and psychosocial aid, as well as unhindered access of international relief and aid organisations as demanded by humanitarian law.
4. the reconstruction of the infrastructure of the Gaza Strip.
5. the start of determined negotiations, led and supervised by the international community (including neighbouring states, the UN, the EU, and the U.S.) on a final solution to the Middle East conflict and the realization of self-determination for the Palestinian people, until this is achieved.
6. an international investigation into the actions of all parties to the conflict with respect to crimes under international law.
7. if necessary, a robust mandate from the U.N. Security Council to enforce the demands above.
8. strengthening the United Nations in their capacities for conflict prevention and solution, as well as respect for their resolutions, decisions, judgements and the existing universal human rights framework.

Call for Papers for AWR's 69th International Conference: Safe, Orderly and Regular Migration – Humanitarian Pathways, Friedensau Adventist University, Germany, 23-25 Sept. 2024 Organising Committee

The organizers announce a call for papers for the international conference "Safe, Orderly and Regular Migration: Humanitarian Pathways" (69th AWR Conference) at Friedensau Adventist University, Friedensau, Germany, 23-25/9/2024. Find all details and the draft programme on the conference website: <https://www.thh-friedensau.de/sorm2024>.

1 Conference

The 2024 "SORM Conference" on Humanitarian Pathways is a two-day multidisciplinary scientific international conference hosted by the Friedensau Adventist University (FAU) in cooperation with the Association for the Study of the World Refugee Problem (AWR), the Technische Hochschule Nürnberg Georg Simon Ohm (Ohm), the Technical University Würzburg-Schweinfurt, the University of Applied Sciences Magdeburg-Stendal (h2) and the German Jordanian University (GJU).

Streamed hybrid for a global audience, speakers are expected to contribute physically. The conference is structured in two main sessions: (1) State sponsored humanitarian pathways; (2) Community sponsored humanitarian pathways. All accepted and submitted papers are supposed to be published in the double-blind peer-reviewed Quarterly on Refugee Problems – AWR Bulletin (QRP; <https://ejournals.bibliothek.thws.de/grp/index>). The event also offers an attractive side programme.

2 Objectives

To protect refugees and support host communities, the 2018 Global Compact on Refugees (A/73/12 [Part II], adopted by GA Resolution A/Res/73/151), sees resettlement and complementary pathways for admission to third countries as part of the solution. The envisioned outcome of the conference is an analysis of the current status and role of these humanitarian pathways – might they be publicly, privately or public-privately sponsored. Potentials, limitations and pitfalls will be discussed. Best practice will be shown together with failed. Their relation and effects on the right for individual refugee, subsidiary or complementary protection will be debated, especially in light of attempts for stricter migration control in turn for broadening discretionary humanitarian access.

This conference aims to bring together leading experts, policymakers, practitioners, and scholars from diverse disciplines to explore innovative and practical solutions to promote safe, orderly and regular migration through humanitarian pathways. In the tradition of AWR as the oldest research association in the field, the conference aims at fostering interdisciplinary (social sciences, political sciences, psychology, pedagogics, law, etc.) and intersectional dialogue, deepening our understanding and emphasizing human rights, international and public-private cooperation.

3 Subject

Humanitarian pathways are complementary. Asylum, refugee protection and human rights-based subsidiary respectively complementary protection typically require forced migrants to take irregular and risky journeys to reach the territory or jurisdiction of safe countries. Even then often lengthy asylum procedures with uncertain outcome increase the hardship, many times under deterrent living conditions. Humanitarian pathways allow for safe, orderly and regular migration. Upon admission, they grant a stable legal status from day one. They are accompanied by pre-departure and post arrival services as well as a welcoming reception in a dignified environment. Community sponsorship supplementing public admission programmes extend outreach and widen chances for protection even further.

This, however, is at the expense of trading the right to admission for discretionary models – which is not to be seen critical as long as legal protection and humanitarian pathways are considered alternatives. It becomes crucial and debatable, though, when humanitarian pathways become a trade-off for strict migration management limiting arrivals in potential asylum countries and therefore its legal obligations for protection. It would be aggravated if States retreat further in light of privately sponsored admission leading to a privatizing of protection. The conference's contributions and discussions will be framed by these poles.

4 Partners

- Friedensau Adventist University (FAU), Germany
- Association for the Study of the World Refugee Problem (AWR)
- Technische Hochschule Georg Simon Ohm (Ohm), Germany
- Technical University Würzburg-Schweinfurt (THWS), Germany
- University of Applied Sciences Magdeburg-Stendal (h2), Germany
- German Jordanian University (GJU), Jordan

5 Scientific Committee

- Prof. Dr. Sahar Al-Makhamreh, German Jordanian University, Jordan
- Prof. Dr. Markus Babo, Catholic University of Applied Sciences Munich, Germany
- Prof. Dr. Simone Emmert, LL.M.Eur., Technical University of Nuremberg Georg Simon Ohm, Germany
- Dr. Friedegard Föltz, Friedensau Adventist University, Germany
- Dr. Reká Friedery, CSS, Hungarian Academy for Excellence, Hungary
- Prof. Dr. Christine Hildebrandt, German Jordanian University, Jordan
- Prof. Dr. Ralf Roßkopf, Technical University of Applied Sciences Würzburg-Schweinfurt, Germany
- Prof. Dr. Uzoma Okoye, University of Nigeria Nsukka, Nigeria
- Prof. Dr. Albrecht Weber, University Osnabrück, Germany

6 Themes

Contributions should cover one of the following main themes and subthemes from their SORM perspective:

1. State sponsored humanitarian pathways

- resettlement, humanitarian admission, humanitarian visa, mass influx directive
- national schemes
- regional and international cooperation
- pre-departure and post arrival services
- relationship to ordinary legal protection
- etc.

2. Community sponsored humanitarian pathways

- concepts
- projects
- evaluation and critics
- legal framework
- relationship to international protection
- etc.

7 Submissions of Proposals

7.1 *Proposals for the Scientific Part*

You can submit either an individual oral paper presentation, panel or workshop proposal (all sessions, framing several related contributions will be assigned 90 minutes each) for a single-blind review:

- Categories of proposals:
 - Single paper proposal (timeslot for each paper: 20 min., plus 10 min. discussion)
 - Panel proposal (timeslot for each panel: 90 min. incl. discussion)
 - Workshop proposal online form (timeslot for each workshop: 90 min.)
- Your proposal submission needs to contain:
 - Names and email addresses of the presenters or primary organizer and the co-organizer (if available, we prefer two presenters or organizers in case of unforeseen circumstances)
 - The proposed title of the paper, panel or workshop proposal
 - The matching conference topics
 - A 400-500-word abstract of your paper for the conference programme (problem and background, methodology, analysis, results, as far as applicable)

7.2 *Proposals for the Collaboration Pitch*

The conference will provide a slot where you could introduce yourself, your institution and your interest in collaboration in the fields of teaching, research or knowledge transfer. This is meant to offer a matchmaking platform for future scientific cooperation.

- Your proposal submission needs to contain:
 - Name(s) and email address(es) of the pitcher(s)
 - The proposed title for your pitch
 - Filled pitching template for your pitch (<https://www.thh-friedensau.de/sorm2024>)

7.3 Submissions and Deadlines

- Submission of proposals (abstracts):
 - Extended deadline: **31 March 2024**
 - Submission to: ralf.rosskopf@thws.de
 - Single-blind review (two reviewers) for contributions for the scientific part
 - Extended acceptance/rejection letters: until **30 April 2024**
- Submission of presentations for the conference:
 - Deadline: **15 September 2024**
 - Submission to: ralf.rosskopf@thws.de
- Submission for articles for publication:
 - Deadline: **5 January 2025** (unless otherwise approved in advance, only papers meeting the deadline will be accepted)
 - Papers need to meet the author guidelines to be accepted (see <https://ejournals.bibliothek.thws.de/grp/about/submissions>)
 - Submission to: <https://ejournals.bibliothek.thws.de/grp/about/submissions>

Research Articles

Jordan's Response to Hosting Syrian and Palestinian Refugees: A Comparative Analytical Framework¹

Mina Ghanem², Bader Al-Madi³, Salah Alsalman⁴

Abstract

Various political, economic, social, and legal challenges develop and accumulate in Jordan due to its hosting of refugees, such as their unemployment, health, education, documentation, and dependency on international support. Considering the significant role Jordan plays in peacekeeping and refugee assistance, this study aims to understand the impact that Palestinian and Syrian refugees have had on the Jordanian community in a comparative way. Based on a systematic literature review and a systematic thinking approach, an analytical framework was developed to analyze each case and understand Jordan's situation with both refugee groups over several years. It can be concluded that the impact of both groups has been imposed on the host community on different levels: political, economic, social, and legal. The results indicate the occurrence of complications and ramifications due to the hosting process, which overwhelms Jordan's capacities and thus brings its ability to face any potential crisis into question. On another note, this emphasizes the importance and the need for international support. The researcher recommends that policy makers in the international community commit to supporting and monitoring Jordan's efforts with refugees.

Key Words:

Syrian refugees, Palestinian refugees, Jordan, hosting community, comparative study

1 Introduction

Jordan has a significant history of granting refuge to those who have been persecuted. (Francis, 2015) Regional migration patterns have affected the country, particularly in the previous six decades. Refugees and migrants have arrived in waves since soon after the creation of the Kingdom, causing repetitive shifts in Jordan's political, economic, and social situation, resulting in a fast population increase and changes in the population's

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and society's composition.

Although Jordan is not a part of the 1951 Convention relating to the Status of Refugees, it has established an open-door policy towards refugees. Jordan has the third-largest population of Syrian refugees registered with the United Nations High Commissioner for Refugees (UNHCR). The bulk of the population lives in cities, while others are primarily concentrated in camps. At the same time, Jordan is considered to be the first host of Palestinian refugees in the world. Each of these massive influxes has impacted the host community differently based on the respective circumstances.

This study aims to analyze the impact of Syrian and Palestinian refugees on Jordan's political, economic, and social status by comparing the experiences of both groups via an in-depth analysis using grey literature to extend the scope and include more relevant studies, resulting in a more comprehensive overview of the current situation. The following two subsections will provide a background on the Jordanian context of hosting refugees and on the demographics of the Palestinian and Syrian refugees in Jordan.

1.1 The Jordanian Context of Hosting Refugees

Jordan, thought to be a resource-poor kingdom, has been considered a safe haven for refugees since its early beginning, as it has the third-largest population of Syrian refugees and is considered the first refuge for Palestinians. Taking the history of Jordan hosting refugees since 1948 into account draws a clearer image of the economic burden on the Jordanian government's shoulders. Rising unemployment rates, higher food prices, a lack of adequate health services, reduced subsidies, and a substantial demand for these necessities among both citizens and refugees have led to an increase in government spending and budget deficits. Despite being surrounded by chaotic political situations in Palestine, Syria, Iraq and the Sinai Peninsula, Jordan seeks to maintain peace and stability, while being in the eye of the Arab cyclone (Comolet, 2014). Unlike other countries, Jordan has avoided large-scale regime change rallies, maintains a strong military for regional balance, and acts as a reliable ally for global powers. It hosts refugees from Palestine, Iraq, and Syria, serves as an intermediary in regional conflicts, and provides skilled Jordanian workers to fill positions in the Gulf, all contributing to its relative stability and strategic importance in the Middle East.

Jordan responds to refugees in agreement with the Jordanian government's Memorandum of Understanding with the United Nations High Commissioner for Refugees (UNHCR), which was signed in 1998 (United Nations High Commissioner for Refugees, 1997) and lays out the rights and duties of refugees in Jordan. Likewise, refugees are treated in accordance with the Foreigners and Residence Law of 1973, which permits refugees to stay in Jordan until they are able to return to their home country or be resettled in a third country (United Nations High Commissioner for Refugees, n.d.).

A number of internal and external motives and pressures affect the country's policies for dealing with influxes of refugees. For example, the 1951 Geneva Refugee Convention affected the perception and protection policies for Palestinian refugees, as it excluded Palestinians from repatriation by excluding refugees who are under protection and assistance of any U.N. agency other than UNHCR. Although Jordan had no obligation, as it did not sign the Convention, its policy toward welcoming Palestinians was positive. Political integration symbolled by citizenship was a clear proof of this policy (Al Husseini, 2013). The Kingdom has played an active role in not only helping refugees obtain their essential

needs and services, but also in building their resilience and future. The Jordan Compact signed at the London Conference in 2016 aims to transform the humanitarian aid response into a development opportunity in education, investment, and job creation for both Jordanian and Syrian refugees. Such a compact, under the supervision of the host country, brings together the international humanitarian and development partners to reach more effective results and to mitigate the challenges faced (Barbelet et al., 2018). However, Jordan has both benefited from and been burdened by the Syrian refugee crisis, as it has received significant help for refugee services. Moreover, one of the results of the Syrian influx of refugees was the establishment of the Global Concessional Financing Facility (GCFF). Host countries, like Jordan, leveraged the Syrian refugee crisis by getting the international community to establish such a facility, which helped Jordan in securing concessional loans (Global Concessional Financing Facility, 2019).

1.2 The Demographics of Palestinian and Syrian Refugees in Jordan

According to Jordan's 2018 Labor Force Survey (LFS), the majority of Syrian refugees in Jordan are under the age of 30, with children under the age of 15 accounting for nearly half of the Syrian refugee population. When the data is broken down by gender, there are no notable differences, with males accounting for around 50.5 percent of the total Syrian refugee population.

For a variety of reasons, including identification, politics, and census criteria, estimating the demographics of Palestinians in Jordan is challenging. Nevertheless, because Palestinians in Jordan have the right to the Jordanian citizenship (see table 1: Status of non-refugee Jordanians, Palestinian-Jordanians, Palestinians in the West Bank and Gaza, and Syrian refugees), the number of Palestinians in Jordan cannot be determined through a population census. According to the official surveys and statistics by the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA), Jordan has the highest proportion of Palestinian refugees in UNRWA's operational zones, and the population is described as young, productive, and educated (Al Husseini, 2013). However, going back to 1949, Palestinians arriving in Jordan worked mainly in agricultural activities, cultivating crops and animal farming. Besides farming, a small percentage of Palestinians were educated and worked to improve education among the country. Women's roles at that time were confined to household activities and cultivating plants.

Jordan hosts 720,000 refugees and asylum seekers registered with UNHCR (United Nations High Commissioner for Refugees, 2024). However, the actual number is estimated at around 1.3 million when those not registered are taken into account (ACAPAS, 2024). On the other hand, Jordan currently hosts 2,307,011 registered refugees. Palestinian refugees, the largest number of Palestinian refugees of all UNRWA operational fields (United Nations Relief and Works Agency for Palestinian Refugees in the Near East, n.d. -d). Most, but not all, have full citizenship. Additionally, there are thousands of Palestinians not registered with UNRWA, and it is challenging to accurately tally their numbers. Moreover, over 17,000 Palestinian refugees from Syria also live in Jordan after the Syrian war (Medical Aid for Palestinians, 2016).

2 Literature Review

This section of the study will be a thorough review of the related literature on the issues of contextual factors; the political, economic and social impacts; and the legal situation of

the Syrian and Palestinian refugees in Jordan. Accordingly, the topics of Syrian and Palestinian refugees will be discussed separately.

2.1 Syria

Syria's civil war has caused a massive inflow of Syrian refugees into neighboring countries and beyond. Jordan has welcomed a significant number of Syrian refugees, potentially bringing the overall number to 1.3 million (ACAPAS, 2024). Most of these Syrian refugees live outside of camps, mainly in Amman and northern governorates (United Nations High Commissioner for Refugees, 2024). Nowadays, after over 12 years of the brutal crisis in Syria, the situation is still complex and unpredictable, and the conflict is ongoing in numerous places.

Following the Arab Spring uprisings in the late 2010s, gunfire occurred in Syria in March 2011, ushering in a brutal civil war. Protests against the Al-Assad regime demanded an end to his authoritarian practices. The Syrian government used violence to suppress such acts, which led to the expansion of opposition, causing an extraordinary civil war (Yacoubian, 2021).

The cultural and linguistic similarities, along with the tribal connections and family ties between Syrians and Jordanians, have made it easier for Syrian refugees to integrate into Jordanian society, and the Jordanian military has kept itself from incursions into Syrian territory. Jordan first took a welcoming approach to Syrian refugees (2011-2013), but after the terrorist activities in Syria, including the horrifying execution of the Jordanian pilot Muath Al Kasasbeh by ISIS, Jordan closed its two official entry points with Syria once they came under the control of the armed opposition: the Daraa border crossing in October 2013 and the Nassib border crossing in April 2015 (Fallah et al., 2021).

Moreover, the Jordan Response Plan (JRP) has been continuously implemented to respond for Syrian refugees' needs since 2015, reflecting Jordan's exemplary situation as a host country. JRP is a nationally owned and led plan of the Jordanian government, which started in 2015 as a bridge between resilience and needed services for Syrian refugees. It urges better support, for both Syrian refugees and the host community, in education, environment, health, livelihoods, shelter, and transportation (Francis, 2015). Other JRPs were followed, including the JRP 2020-2022 (The Hashemite Kingdom of Jordan/Ministry of Planning and International Cooperation, n.d. -a) and its COVID-related update, the JRP 2021 (The Hashemite Kingdom of Jordan/Ministry of Planning and International Cooperation., n.d. -b).

2.1.1 Political Impact

Kirui & Mwaruvie (2012), Salehya (2008) and Gleditsch (2006) suggest that the influx of refugees evokes a strained political relationship between receiving and sending countries. The inflow of refugees shapes several types of conflicts within receiving states. The arrival of refugees contributes to various conflicts within host countries, such as tensions with the host government as refugees often organize groups to oppose their home country or government. Additionally, conflicts arise between refugees and host communities due to the competitive relationship between refugees and locals, particularly when refugees receive superior (and free) services compared to citizens. In addition, civil wars in neighboring countries extend the tension to receiving countries, especially when camps are close to the borders of two countries. However, Jordan's experience with Palestinian

and Iraqi refugees has a key role in building Jordan's Syrian refugee policy.

Jordan's policy focuses on forming alliances with a diverse range of players while avoiding escalating hostilities with both neighboring and far-flung countries. For instance, despite the fact that much of the international community continues to isolate Syria, Jordan has established trading relations with it. Even though the Caesar Syria Civilian Protection Act, a policy of the United States that diplomatic and coercive economic means should be utilized to compel the government of Bashar Al-Assad to halt its murderous attacks on the Syrian people and to support a transition to a government in Syria that respects the rule of law, human rights, and peaceful co-existence with its neighbors (Madouni & Derradji, 2020), restricts business with Syria, the Jordanian-Syrian Free Zone was reopened in December 2021 (The Jordan Times, 2021).

According to Weiner (1992), the impact of refugee presence varies according to three factors: First, the legitimate nature of the existing system, as the political background of host countries has a significant impact on the settlement of refugees. Second, the degree to which ethnic groups are utilized in political activity, because utilizing refugees as ethnic tools may escalate conflicts in host nations. And finally, the host countries' leaders' tactics to sustain power, as while conflict creates refugees, refugees themselves may also cause conflict.

It is asserted that poverty, unemployment, and a poor quality of life make refugees and internally displaced people more likely to join radical and terrorist groups (Haider, 2014). Criminal threats continue to jeopardize Jordan's security, and the Jordanian government continues to address all border violations and other crimes such as smuggling and drug trafficking. However, since Jordan's environment as a host country was supportive and protective toward Syrian refugees, refugees helped in preventing and minimizing terrorist acts.

2.1.2 *Economic Impact*

In general, the negative and positive economic impact of refugees in host countries is still controversial. Salehyan (2008) argues that civil conflicts in neighboring states result in adverse repercussions. In the case of Syrian refugees in Jordan, the economic burden is intensified due to the poor conditions, and refugees competing with the citizens for public services, job opportunities, and natural resources. Additionally, the probability of health problems increases due to sanitation problems and infectious diseases among refugees.

Jordan and Syria's economic relationship is mutual, and due to the Syrian civil war, Jordan's economic growth and infrastructure has been affected, causing an imbalance of resources. Its fragile economy makes Jordan more vulnerable to the impact of an extreme influx of refugees (Luck, 2016). Additionally, Jordan lost its main financial trade route and transportation networks, which resulted in finding more expensive alternatives thus affecting the local prices. In order to lessen the negative impact of such a phenomenon, Jordanian citizens were forced to pay additional taxes. The Central Bank of Jordan (2016) said that there was a 42% increase in taxes after the Syrian crisis. On the one hand, the effect of the Syrian conflict on the region raised investors' fears and doubts; however, on the other hand, Syrian refugees who are investors and owners of economic activities moved their capitals to Jordan (Luck, 2016). Consequently, Jordan's foreign investment has been harmed less than other economic tiers.

Employment-wise, most Jordanians perceive that Syrian refugees have increased the unemployment rate and have deteriorated working conditions (ACAPS, 2016). Since 2016, Jordan has provided limited worker rights to Syrian refugees in five sectors, including agriculture, construction, manufacturing, food and beverage services, as well as wholesale and retail trade (Barbelet et al., 2018). Syrians were not officially allowed to work until 2016, when the European Union (EU) and Jordan, as an annex to EU-Jordan Partnership Priorities, signed the EU-Jordan Compact (Almasri 2021), which includes humanitarian relief and macro-financial support, as well as trade concessions from the EU (European Commission, 2019). Refugees interested in working outside of camps have to obtain work permits, but such permits are not required in the Al Za'atari and Azraq camps.

As for education, Jordan has opened 98 additional double-shifted schools to alleviate pressures on classroom size (IMPACT, 2014). Furthermore, there are vocational training possibilities available within the Al Za'atri and Azraq refugee camps, which are primarily administered by the Norwegian Refugee Council (NRC) and UNICEF through four training centers. However, Syrian families encounter a number of challenges in enrolling and keeping all of their children in school. Distance to school, availability of seats in a school, financial and economic barriers, missed education, and so on are examples of social, economic, and educational impediments.

Jordan's network of health-care centers was also affected by the inflow of Syrian refugees. These facilities are experiencing overcrowding and a shortage of medicines and immunizations. Jordan's whole healthcare system is under pressure, financially and in terms of service capacity (Alshoubaki & Harris, 2018). In Jordan, Syrian refugees registered with the UN can receive free medical care for acute and infectious diseases from a variety of nonprofits operating in the camps. However, unregistered Syrian refugees must pay for medical care and supplies. Outside the camps, refugees in Jordan can receive healthcare like the non-insured Jordanian in hospitals and medical facilities run by the Ministry of Health, and UNHCR is ramping up refugee use of public health services.

The Jordanian housing market was also negatively affected by the Syrian influx, resulting in a surge in rental prices. As it became inevitable that the influx would only grow, the UNHCR and Jordan's government rushed to open the Al Za'atari refugee camp in July 2012. By August, the town's population had grown rapidly. Al Za'atari has now developed into one of the region's most densely populated areas, with 80,000 inhabitants, previously 120,000 (Carlisle, 2022). It is Jordan's fourth-largest 'city' and was once considered the second-largest camp in the world, and now is considered the world's fourth-largest refugee camp (World Food Program USA, 2023). To ease pressure on Al Za'atari camp, Azraq camp was opened in 2014 to become a home for 38,063 Syrian refugees (United Nations High Commissioner for Refugees, 2021a). Many international partners, governmental partners, and non-governmental organizations (NGOs) are working together to coordinate services inside the camps.

2.1.3 Social Impact

There is a potential effect on the social and cultural structure of the host communities resulting from hosting refugees who might have different values, traditions, or social norms (Fajth et al., 2019). In parallel, host communities may have some social barriers such as racism which definitely creates social tension between the host communities and

refugees. However, as in the case of Syrian refugees, sociocultural tension is diminished when refugees and host communities share the same culture, religion, and language because they are homogeneous, and the opportunity for social integration is high (United Nations High Commissioner for Refugees, 2007). Despite this, strained social relationships between citizens and refugees may occur from the competition surrounding the offered services, limited job opportunities, housing, public services, and inequalities among them. The population pressure created by Syrian refugees' existence entails demographic changes accompanied by unhealthy social practices such as child labor, violation of law, and underage marriage.

2.1.4 Legal Situation

Under the direction of Jordan's government and based on the 1998 Memorandum of Understanding, UNHCR manages the refugee response in a joint effort involving donors, UN agencies, international and national NGOs, community-based groups, refugees, and host communities. "Currently eight sectors provide support within the Jordan refugee response" (United Nations High Commissioner for Refugees, 2021b). Few extensive studies have been undertaken in Jordan to provide a full knowledge of the key drivers of host community tensions. The multi-sectoral REACH assessment intended to identify where tensions have emerged in northern Jordan as a result of the Syrian refugee crisis, and how they could be alleviated through social cohesion and resilience programs, in order to close this information gap (UNICEF, UNHCR, & British Embassy Amman, 2014).

On 13 January 2013, the government established a department for Syrian refugee camps affairs which was later modified and renamed "Syrian Refugee Affairs Directorate" (United Nations High Commissioner for Refugees, 2013). This directorate is responsible for coordinating refugee aid initiatives between the Jordanian government and foreign and local NGOs and organizations, as well as donor support. In February 2016, at an international donor conference in London, the international community agreed to increase external support for public and private sector job creation. Donors agreed to fund job-creation initiatives and to urge municipalities and communities in their own countries to collaborate more closely with authorities and communities in refugee-hosting nations. As a result, Jordan established a vision for mutual obligations and responsibilities with the international community, as well as the creation of 200,000 work possibilities in Jordan for Syrian nationals (European Parliament, 2017).

In the case of Syria, all refugees in Jordan must have a valid Ministry of Interior (MOI) card from the area in which they are residing. A valid MOI card is required to use government services, particularly those related to health and education. In addition, refugees must have a UNHCR asylum seeker certificate in order to receive many of the services and support offered by humanitarian organizations. It is worth noting that the Jordanian government decided to make it easier for Syrian investors to come to Jordan by allowing the Jordan Investment Board to grant them ID cards (JIB), as the Syrian investments help improve the Jordanian economy (ILO, 2015).

2.2 Palestine

Following the events of 1948, when the international community recognized Israel as an independent state, the Palestinian diaspora began, as many Palestinians fled to neighboring countries. Jordan hosts various Palestinian refugee groups, mainly due to the phenomenon of the Jordanian annexation of the West Bank and disengagement from it in

1988 (Al Hussein, 2013).

Palestine was assigned and promised to be a home for Jews through the Belfour Declaration in 1917. Jews started to settle in Palestine from all over the world, and their presence was intensified after World War II. The UN General Assembly Resolution 181 of November 1947, which gave the proposed Jewish state 56 percent of Palestine's area, including most of the Arab land, was the driving force behind the involuntary displacement of the Palestinian populations. Both wars, 1948 and 1967, resulted in large numbers of refugees. UNRWA has defined a Palestine refugee as "persons whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948, and who lost both home and means of livelihood as a result of the 1948 War." (United Nations Relief and Works Agency for Palestine Refugees in the Near East, n.d. -d). This definition excludes those displaced by any other conflict, including the Six Day war in 1967, who are unable to receive UNRWA assistance because they do not match UNRWA's definition of a refugee.

Between 1948 and 1967, Jordan received waves of Palestinian refugees, and thirteen refugee camps were established to accommodate the influx of refugees. The DPA (Department of Palestinian Affairs) recognizes and considers all of them, although UNRWA recognizes just ten of them (Tawil, 2009).

2.2.1 Political Impact

Jordan's political legitimacy is based on the foundations of east Jordanian identity. The prospect of Jordan becoming an alternate country for Palestinians has loomed big in Jordan's political psychology since its inception.

After Israel seized control of the West Bank in 1967, Palestinian fighters known as 'al-fedayeen' relocated to Jordan and intensified attacks on Israel and Israeli-occupied territory, and Jordan found itself forced to deal with the PLO inside its territory. Supported by the joint victory of the 'Alkaramah battle' against Israel, the PLO strength in Jordan grew, and their political interference in internal issues increased, causing tension and clashes with the Jordanian government, which later led to a war (Aruri, 1985). After a short period of the expulsion of the PLO from Jordan, led by King Hussein, Jordan launched a plan for a federative relationship between the east and the west banks. According to the plan, an independent Palestinian area in the West Bank, which would include Arab Jerusalem and the Gaza Strip, and an autonomous Jordanian region in the East Bank were to create a federation (Nevo & Pappé, 1994). Jordan and the West Bank's administrative separation was announced in a royal speech in 1988 (Brand, 1995). As a result, 1.5 million Palestinians who held Jordanian passports became citizens of Palestine.

2.2.2 Economic Impact

Palestinian citizenship has had a significant impact on all resources, services, and infrastructure since it gave each Palestinian the same political and civil rights as Jordanians. Some claim that Palestinian refugees were awarded citizenship in order to better contribute to the country's development (Human Rights Watch, 2010).

As Palestinian refugees make up a significant part of Jordan's population (Chen, 2009), they hence are a vital piece of the country's economic structure in terms of products and services output. Palestinian refugees, who were mostly aid beneficiaries with no connection to the local labor market when they arrived in the aftermath of the 1948 and

1967 wars, are now deeply integrated into Jordanian working life. Palestinian refugees who were not awarded Jordanian citizenship were given a temporary passport upon arrival, which is renewed at the decision of the government. Such groups, and a huge number of refugees in general, lack access to reliable employment opportunities.

Regarding education, The Ministry of Education was responsible for creating a curriculum system for both government schools and UNRWA schools, which were established in December 1949 to meet the needs of Palestinian refugees throughout the country (Jaber, 2023). Palestinian refugees both inside and outside of camps are allowed to attend government schools, UNRWA's schools, or private ones once they can demonstrate that they are living in a camp. However, they are treated as foreigners and must pay their tuition in foreign currency; therefore, the majority find it challenging to enroll at Jordanian universities.

The gap between inside-camp refugees and outside-camp refugees in relation to education is quite noticeable. This can be linked to the economic situation of families inside and outside of camps. While most of the families try to finish their basic schooling level, the attainment of post-secondary level education differs from one place to another. Nowadays, after 74 years of Palestinian presence in Jordan, there are about 169 schools run by UNRWA (UNRWA, n.d. -b). Palestinian refugees can also be enrolled in all other government schools and the private ones just like any Jordanian.

Jordan is well-known in the Arab world for its medical clinics, and medical tourism has become a popular attraction for the country. Healthcare for Palestinian refugees is provided by UNRWA in collaboration with the Jordanian Ministry of Health, whereas Palestinian refugees who have obtained Jordanian nationality have the same rights as Jordanians, including healthcare. One common form of insurance for Palestinian outside-camp refugees is the Civil Insurance Program (CIP). University insurance, Royal Medical Services, and private health insurance are other forms of insurance in which Palestinian refugees are enrolled. The use of healthcare services varies between inside-camps refugees and outside-camps refugees. Inside-camp refugees tend to use available UNRWA's services and clinics because they can easily access such clinics, as well as the affordability of such services. Whereas outside-camps refugees are more likely to head for government clinics or private hospitals in case of emergency, depending on the type of insurance they have and financial abilities (Tiltneš & Zhang, 2013).

Palestinian refugees in Jordan reside inside camps as well as in Jordanian cities and towns. When the Palestinian influx started in Jordan, their shelters used to be tents inside camps. Later on, the UNRWA and the DPA started to build more suitable shelters to meet refugees' needs. Nowadays, most Palestinian refugees are outside camps like other Jordanian citizens who live in apartments or own their dwellings. The housing inside camps is described to be small and low standard, with environmental and economic challenges causing the rent prices to be lower than outside the camps (Tiltneš & Zang, 2013). Conversely, housing outside of camps can be described to be diverse, with lower challenges and higher rents. In terms of ownership, the only people who lack ownership rights are those who have temporary passports. They must seek a ministerial council for permission and include a local Jordanian partner in any property they own (El-Abed, 2009). As for camps, there are three unauthorized Palestinian camps in Jordan in addition to the 10 UNRWA-managed or 'official' camps: Madaba, Prince Hassan (Nasser), and Sukhneh.

2.2.3 Social Impact

Refugees from Palestine who fled to Jordan have found ease with socially integrating and being part of the society, as they share the same language and similar societal norms. For example, Palestinian refugees outside-camp are not fundamentally distinct from Jordanians in their marriage traditions. Between the 1960s and 1970s, Palestinians had faced some challenges with integrating in the society due mainly to some political reasons. For example, they faced some discrimination in the recruitment and rewards strategies (Al Hussein & Bocco, 2009). However, the majority of Palestinians in Jordan are now fully integrated. They represent a cross-section of Jordanian society in terms of socioeconomic status. Palestinian refugees with Jordanian citizenship, in particular, enjoy the same rights and responsibilities as Jordanians. Despite integrating into society, earning employment and property, and comprising the majority of Jordan's middle class, Palestinians have maintained their Palestinian identity and their claim to one day return to their homeland (Brand, 1995).

2.2.4 Legal Situation

UNRWA, established in 1949, had the opportunity to identify who can be considered a displaced person (refugee). The need to limit UNRWA aid recipients led to the creation of the definition.

“UNHCR’s mandate covers Palestinians who are refugees within the meaning of the 1951 Refugee Convention, which could include Palestine refugees as defined by UNRWA. UNHCR normally takes up the case of Palestinian refugees only when they are outside UNRWA’s area of operations” (UNRWA, 2007).

UNRWA was responsible for the social development of refugees after the Jordanian government took over the physical part of the improvement process in the refugee camps. It tried various social betterment ideas to promote the mental health, awareness, and self-esteem of the inhabitants in order to evoke decision-making skills, as well as create independent people who are able to deal with their environmental challenges.

After the west and east banks were united and the Kingdom’s laws were unified, Palestinian refugees were considered Jordanian citizens. The 1954 law conditions identified Jordanian citizen as

“[a]ny person who, not being Jewish, possessed Palestinian nationality before 15 May 1948 and was a regular resident in the Hashemite Kingdom of Jordan between 20 December 1949 and 16 February 1954” (The Kingdom of Jordan, 1954).

Therefore, many Palestinians hold the Jordanian nationality on this basis. Palestinians who came to Jordan after 1954 were not granted citizenship, such as refugees in the Gaza Camp.

Initially, Jordan did not record the number of Palestinians who were displaced in 1967 since they merely migrated from the West Bank to the East Bank of Jordan. But when the Jordanian Ministry of Occupied Territories of Displaced Persons requested for registration in the 1970s, 240,000 displaced people responded. The majority of them were registered with UNRWA, meaning they had been displaced twice (The Hashemite Kingdom of Jordan, 2001). Jordanian citizenship is held by 96% of Palestinian refugees living outside the camps (Tiltne & Zhang, 2013). Moreover, almost all non-citizens have a Jordanian temporary passport, with no national number, to ease their movement and their socio-

economic status. Palestinian refugees who came to Jordan after 1967 from Gaza were not given citizenship due to political reasons between Jordan, Egypt, and Israel.

3 Methodology

This study used a systematic literature review to collect data, which is going to describe a series of past events to understand the present and anticipate the future. This method consists of many steps, such as formulating the idea, developing a research question, clarifying the validity and reliability of the data, developing an outline, and, finally, collecting the data. The data collected throughout this approach depends on the data synthesis: accept or reject data and reconcile conflicting evidence to produce an issue paper.

In this study, a systematic literature review is used to analyze the situation based on major contextual factors (political, economic, social, and legal), providing supportive information concerning the impact of Palestinian and Syrian refugees on Jordan. The goal of a systematic literature review is to provide a knowledge base, which will assist in directing the study and conducting a research gap analysis.

3.1 Search Strategy

Systematic reviews of refugee studies and refugee reports are utilized to assemble the scientific evidence and integrate the analytical facts to assess the impact of Syrian and Palestinian refugees on Jordan's hosting communities. Major databases such as the UNHCR portal, ProQuest, the United Nations refugee agency's database, the Jordan MOPIC database, the Central Bank of Jordan database, and official news agencies are employed.

3.2 Framework

A Systems Thinking Approach aims to discover the behaviors of a complex system (a whole society). It examines the system's components and the relationship between such components at all levels (Carey et al., 2015). In this study, the aim of using such an analytical framework is to enable and help Jordanian policymakers in assembling information from previous studies and past experiences, comparing Jordan's situation when hosting Palestinians and Syrians to anticipate Jordan's ability of coping with any possible crisis in the region.

This analytical framework was developed based on the following steps (Alshoubaki, & Harris, 2018):

- *Step one:* Develop a framework based on the contextual factors that influence the overall impact of a receiving state's acceptance of refugees. To build the analytical framework, political, economic, social and legal aspects were analyzed.
- *Step two:* Identify the design of the framework considering a Systems Thinking Approach. A systematic review will be used to provide a comprehensive summary of existing literature on the topic, while including gray literature will be used to help capture additional sources that may not be found in traditional databases (Newman & Gough, 2020). The literature was diverse, including articles, humanitarian agency studies, governmental reports, and official news regarding Syrian and Palestinian refugees.

- *Step three*: Analyze, synthesize and compare the content of all literature reviews. The analysis process entails the dividing of the components of a complex phenomenon to facilitate understanding, while the synthesis process is the combination of all the components of a phenomenon to shape a comprehensible form of a case that is subject to a study (Ritchey, 1991). A comparison between past events, and their breakdown leads to an analysis of Jordan's current situation and future possibilities.
- *Step four*: Form conclusions from the collected and analyzed data to provide a comprehensive image and reference through giving recommendations to be taken into account in case of any similar events in the future.

4 Discussion

4.1 Comparison

The impact of refugee groups on host communities has always been an issue, which might lead to serious complications. One specific example of the impact of Syrian refugees on Jordanian host communities is the strain on the country's healthcare system. Jordan's healthcare infrastructure has struggled to accommodate the increased demand for medical services due to the influx of refugees. Hospitals and clinics, especially those located in close proximity to refugee camps, have faced challenges in providing timely and adequate healthcare to both Jordanian citizens and Syrian refugees. This strain has resulted in longer waiting times for medical appointments, overcrowded facilities, and shortages of essential medical supplies and personnel. The majority of previous studies focus on refugees' situations in the host countries without highlighting the political, economic, social, and legal impacts occurring in the host community. Due to its geographical location, Jordan was the first refuge for Palestinians in 1948 and was a source of survival for Syrians in 2011. In parallel, Jordan's stability is a top priority; therefore, the government's abilities to help refugees is refrained to multiple economic political factors.

The time difference between the Palestinian and Syrian crises affects the whole hosting process. Each period of time has its own background, challenges, and possibilities based on certain factors such as the status of the economy, political stability, and international support. From one side, the Syrian crisis's political implications on Jordan were fewer than those of the Palestinian case. Therefore, Jordan's strategy toward other refugee groups extrapolated from its approach with the Palestinian refugee crisis. The Syrian crisis experienced external interference from other countries and militias on the Syrian-Jordanian borders, which required a political and military response, especially after the terrorist attacks. However, Jordan has kept itself away from any incursion into Syrian territory (Francis, 2015). In contrast, the Palestinian-Israeli issue occurred shortly after the Kingdom's independence. At that time, Jordan had no experience dealing with refugees, and many internal political threats occurred. As mentioned previously, the PLO tried to interfere in the internal affairs, imposing a state within a state and causing a real conflict, which resulted in the expulsion of the PLO along with the death of many Palestinians (Tristram, 2019).

Unsurprisingly, after long periods of displacement, refugees will seek ways to be engaged in the political life. The difference between Syrian refugees and Palestinian in this case is due to their legal status and documentation. Since King Hussein aimed to integrate Palestinian Jordanians into the Jordanian state structure, the majority of Palestinians

obtained nationality and ID numbers, allowing them to take part in political life (Al Hussein, 2013). On the other hand, Syrian refugees in Jordan are not allowed to participate in any matter of politics. Jordan has welcomed Syrian refugees without having the obligation to do so, as it did not sign the 1951 Convention or any refugee-related convention. Therefore, the possibility of Syrian refugees becoming part of the Jordanian fabric is difficult due to various reasons, primarily political and economic ones.

In terms of political status and relations, and due to its supportive and protective environment toward refugees, Jordan remains a stable country despite the surrounding violent events and conflicts in the region, looking to refugees as an opportunity for the Kingdom's development. However, Jordan's economy and infrastructure was deeply injured by hosting large influxes of refugees. The high demands for public services and infrastructure resulting from the refugee influxes have put a spoke in the Jordanian development wheel. As a result, labor markets have become more competitive and tensions between refugees and their host communities have escalated (Alshoubaki & Harris, 2018).

It is vital to understand the development of the international community and the impact of media to see the underlying differences between the Syrian and Palestinian refugees' journeys inside Jordan. Back in the 1950s, the UN organizations were few, and international community involvement was limited compared to the current situation. The Palestinian case was mainly adopted by the UNRWA, with the help of the UNHCR outside UNRWA's area of operations. At that time, the role of the press was limited, there were no social media campaigns, and there was an absence of CBOs and NGOs.

The Syrian crisis, taking place 63 years after the Palestinian one, would certainly experience great differences in terms of media press, as well as international support impacts. For instance, UNHCR co-chairs eight different UN agencies and INGOs, providing support for Syrian refugees in various sectors. Such agencies collaborate with NGOs and CBOs to reach more refugees and vulnerable groups. Additionally, as a result of Jordan's previous experiences hosting refugees, the development of refugee response plans, and assessment frameworks to help targeting refugees' needs was easier. Furthermore, the media press development helped in promoting refugee voices and revealing the real image of human rights violations, which assisted in raising funds and sympathy toward refugees worldwide (McCann et al., 2023).

Over time, the circumstances have shifted for Syrian and Palestinian refugees as a result of reduced funding, which stems from political tensions and the emergence of additional crises globally. This decrease affects refugees' situation in Jordan, the citizens of the host country, as well as communities' infrastructure intensively for many reasons. Jordan's limited resources and poor economic situation comes at the forefront of these reasons. Jordan suffers from water scarcity, which is considered to be a life threat for all its inhabitants, due to the rapid growth of its population (Francis, 2015). Moreover, refugees' different perceptions of water use overwhelmed the already drained water resource, causing the threat to become a more pressing. Jordan's geographic location has also affected its situation; sharing borders with both Palestine and Syria intensified the security threats and affected the Jordanian import-export trade. The historical relationship between Jordan and Palestine comes from the religious value of Jerusalem, as well as the agricultural trading between them. Some Palestinians used to work in Jordan and go back to their homes at the end of the day and vice versa. On the other hand, Syria was a main

trade route between Jordan and Europe, whereas Jordan was its link with the Gulf in return. These relationships reflect how deep the existence of refugees affects the Jordanian community and economy (Francis, 2015).

When comparing the economic impact of Palestinian and Syrian refugees on Jordan, it is essential to understand and analyze each group's documentation and legal status first. Such analysis will help in understanding each group's rights, obligations, access to services, and the impact they can impose on the Jordanian economic structure. As categorized below, Palestinians entering Jordan on several programs, the unification of the two banks in 1950 as well as the Jordanian disengagement from the West Bank in 1988, affected the legal status they obtained. Table 1 below clarifies the status of Jordanians, Palestinian-Jordanians, Palestinians from the West Bank and Gaza, and Syrian refugees.

As shown in the mentioned Table 1 below, the differences are not confined between Syrian and Palestinian refugees, they even occur between the different groups of Palestinian refugees. It can be noticed that the political involvement of Palestinians who obtained the Jordanian passport with ID number is the same as non-refugee Jordanians, whereas Syrian refugees have no access to political participation. Therefore, it is normal for Palestinian refugees to have a greater impact on the political level than that of Syrian refugees. However, due to political and security reasons, some Palestinian refugee groups do not have such access, such as those residing in the West Bank and those who came from Gaza.

The employment impact of Palestinian and Syrian refugees varies according to several factors. In 1948, the Jordanian economic infrastructure was in the establishment phase, and the employment sectors were mainly agricultural, having work collaborations with Palestinians. When Palestinian refugees came to Jordan, many of them had already built connections with the labor market through trades, others sought for any possible opportunity because there were no official legal restrictions for work opportunities at that time. On the other hand, Syrian refugees entered Jordan shortly after the global financial crisis 2008. The economic infrastructure and sectors were in the recovery phase, suffering from many challenges. The Syrian refugees' existence made the scenario much harder and put the Jordanian government in a precarious situation with high demands for basic life needs and high unemployment rates, thus overstretching the resources (Francis, 2015).

While the majority of Palestinian refugees were granted full employment rights, Jordan maintained restrictions to the employment access of Syrian refugees in order to prevent escalating tensions between citizens and refugee groups. Eventually, the Syrian crisis became protracted, and the refugees' needs for employment appeared to be more pressing, causing more challenges for the Jordanian government. Yet, Jordan's burdened economy needed external international support to embed such a group into the labor market through various programs. The employment impact of Syrian refugees is visible through the increased rates of unemployment from 12.9% in 2011 to 16.85% in 2019 (O'Neill, 2024). This increase cannot be solely attributed to the presence of Syrian refugees in Jordan. While it's true that the influx of refugees has added pressure to the labor market, there are various other contributing factors to consider. These include the overall increase in population, regional conflicts impacting economic stability, and potential decreases in funding or investment in job creation initiatives. Additionally, Syrian

refugees often have limited access to formal employment opportunities and may engage in informal or low-skilled labor that may not be captured in official unemployment statistics. Therefore, while the presence of Syrian refugees may contribute to shifts in the labor market dynamics, it is essential to consider the broader context and multiple factors influencing unemployment rates in Jordan.

Table 1. Status of Non-refugee Jordanians, Palestinian-Jordanians, Palestinians in the West Bank and Gaza, and Syrian Refugees

	Non-Refugee Jordanians	Jordanian- Palestinians			Palestinians of Gaza	Syrian Refugees
		Refugees of 1948	Refugees of 1967			
Residence	Permanent residency in Jordan	Permanent residency in Jordan	Permanent residency in Jordan	Permanent residency in the West Bank	Permanent residency in Jordan	Residency in Jordan under conditions for investor card holder / Mol card holders
Passport	Five-year passport with national ID number	Five-year passport with national ID number	Five-year passport with national ID number	Five-year passport without national ID number	Two-year temporary passport	No Jordanian passport, Mol cards
Card of Crossing	-	-	Yellow Card / family reunification	Green Card	Blue Card in case of family reunification	-
Political Rights	Full access	Full access	Full access	No access	No access	No access
Employment	Full access	Full access	Full access	Need a work permit	Need a work permit	Limited work permits within specific fields
Education	Public services	Public and UNRWA services	Public and UNRWA services	University education payment in foreign fees	University education payment in foreign fees	Public and UNHCR services (for Mol card holder and UNHCR asylum seeker certificate)
Healthcare	Public services	Public and UNRWA services	Public and UNRWA services	As uninsured Jordanian	UNRWA services	As uninsured Jordanian and UNHCR services (for Mol card holder and UNHCR asylum seeker certificate)
Ownership	Freedom of ownership	Freedom of ownership	Freedom of ownership	Ownership with the approval of a ministerial council under partnership conditions	Ownership with the approval of a ministerial council under partnership conditions	Under conditions for investor card holder

Taking into consideration the Jordanian economic background and the limited resources, the deficit Jordan faces is reflected through their absolute necessity for international support. This can be clearly viewed through having the UNRWA as an essential body supporting all the needs of Palestinian refugees, as well as the UNHCR and other INGOs providing services for Syrian refugees. Education, shelters, healthcare, and all other complementary services are provided for both refugee groups as a result of a joint effort between the Jordanian governmental bodies and the international support organizations.

4.2 Neglected Population Group

Despite all the efforts by Jordan and the international community, there is a neglected group which is considered to be stateless with minimal access to their rights and even their basic needs. This group has suffered from conflicts and wars twice: once when they were forced to leave their home (Palestine) and settle in a neighboring country (Syria), and the second time when they were forced to leave Syria after the civil war in 2011, seeking refuge away from death. In Jordan, the border has been closed to Palestinians from Syria. The difficulties Palestinians confront when attempting to leave Syria enhance their vulnerability in the Syrian crisis.

Palestinian refugees from Syria (PRS) are one of the most vulnerable populations in the Syrian conflict. As it was claimed that their camps were hiding 'terrorists', they were attacked and blasted, causing many of them to be internally displaced or seek safety in surrounding countries (Al-Khatib, 2021). In early 2013, Jordan's government began a policy of blocking entrance to Palestinians escaping the Syrian conflict. This prevented the flow of Palestinian refugees from Syria into Jordan, aggravating the extreme vulnerability of Palestinians seeking asylum in Syria, as well as those who made it into Jordan (Medical Aid for Palestinians, 2016).

Non-admission and refoulement rates for Palestinian refugees from Syria have been extraordinarily high, suggesting an explicitly political dimension to Jordan's refugee policy (Abu Moghli, et al., 2015). The Syrian crisis has wreaked havoc on the Palestinian community in Syria, which now faces new challenges in post-conflict Syria in terms of reintegrating back into society. The number of Palestinian refugees displaced from Syria registering with UNRWA in Jordan is projected to approach 20,000 by the end of 2014 (United Nations Relief and Works Agency for Palestine Refugees in the Near East, n.d. -a). Through the emergency response, UNRWA provides them with relief and social and protection services. They also access UNRWA education and health services, overwhelming the existing capacities of the agency as the numbers grow.

The PLO and Jordan's leadership have a long history of animosity, but there are other reasons at play in Jordan's systemic marginalization against PRS (Kassim, 1997). To begin with, Jordanian authorities are unwilling to open its borders to more PRS or grant them any rights, fearing that they may choose to stay in Jordan rather than return to Syria. Jordan has long been concerned about being utilized as a Palestinian alternative homeland. The protection situation for PRS in Jordan is worse than it is for other Palestinian refugees. This is related to the practice of refoulement and the very restrictive state policies they encounter, which raises the question of whether they should have a specialized protection system.

4.3 Right to Return

Normally, the host community's situation plays a crucial role in enforcing refugees to think of returning. In Jordan, due to the limited natural resources. The economic implications cause social tensions or political involvement, and that economic deterioration can have an indirect influence on the ecology and natural resources, potentially causing social instability.

Since the Jaber/Nassib border crossing reopened in mid-October of 2018, around 20,000 Syrian refugees have returned to Syria, with around 14,000 returning in 2019. (Turnbull, 2019). Furthermore, 25,000 refugees chose voluntary repatriation in the first eight months of 2021. The number of refugees returning to Syria is likely to remain stable. According to a United Nations High Commissioner for Refugees (2023) return intention poll, conducted in May 2023, 40% of Syrians aspire to return one day, while just a tiny percentage intend to return within the next twelve months (1.1 percent). While many Syrian refugees in Jordan prefer not to return to Syria because of the threat of conscription for Syrian men, as well as the lack of opportunities and services, those who have returned have done so mostly for family reasons or just to see their homeland. In short, although Syrian refugees have many reasons to be back home, the journey is still perilous.

However, this is not the case for Palestinian refugees. According to own observation, the majority of them became Jordanian citizens a long time ago; others are integrated in the society but wish to return home one day, and Palestinians in diaspora all over the world always express their right to go back, to self-determination, to Palestinian nationality, and to civil and religious rights. Palestinians' sense of belonging to Palestine has not been diminished by the fact that they hold Jordanian passports. The Right of Return is at the core of the political instability of the area, particularly in Jordan, the nation with the most registered refugees. Israel has denied Palestinians the right to return to their homes and lands since their expulsion in 1948; therefore, even if they may desire to improve their social and economic situations by integrating and flourishing elsewhere, they sometimes do not want to be misunderstood as having consented to plans that attempt to erase their identity and belonging with the justification that they have found alternate homes.

5 Conclusion

Jordan's current situation and capacity can be seen through its experiences. All political, economic, social, and legal dimensions play a crucial role in evaluating the situation. The discussion has shown the importance of understanding the legal situation of each group as it plays a key role in refugees' integration process, rights, obligations, and accessibility to services. In other words, refugees' legal situation affects the political, economic, and social dimensions of the host country since the legal status determines the level of involvement and local integration in the different sectors in the host country.

The massive influx of refugees has put tremendous strain on Jordan's economy, which has pushed the Jordanian government to amend labor laws to tackle such issues. Moreover, the existence of such groups led to the high demand for various public services, such as education, shelter, and healthcare. Jordan's economic situation was deeply affected by both influxes in different ways. While Palestinian refugees mainly had full access to services and had a positive impact on the labor market at that time helping Jordan's economic growth, this was not the case for Syrians in 2011, except for those who

invested in their capitals.

When comparing Palestinian and Syrian refugees' status and their impact on Jordan, differences arise. From one side, the period in which each crisis took place, the political reasons behind each crisis, the international community and media role, the host's abilities and capacities, the political situation in the region, the legal situation, and so the possibility of return for each group are different. However, some similarities are apparent, such as the high demand for public services, including shelter, healthcare, education, and camps. Additionally, Syrian and Palestinian people share similar religions, social ties, and language with Jordanians, which was reflected throughout their integration process. It can be noticed that Jordan has maintained open channels of communication with all involved parties in both Palestinian and Syrian cases. Jordan's government seems to be a key player in the peace process, placing its security and stability above all other issues.

The historical precedent of Palestinian refugees in Jordan played a significant role in local perceptions of Syrian-Jordanian ties. As these elements combined under rising socio-economic strain and political uncertainty, relationships between Syrians and Jordanians in all areas indicated an alarming tendency to take the form of a negative slide toward escalating conflict due to such factors. However, Syrians and Jordanians, with the help of the government and various organizations, managed to overcome the negative cycle and reframe refugee-host community relations toward social cohesiveness. From another side, Palestinian refugees, after 74 years of displacement, have found their way to being part of the Jordanian social fabric. However, the presence of refugees in Jordanian host communities highlights the potential social ramifications of refugees to society, even if they share essential cultural principles. The strain on the population, differences in origin, and diversity in customs are too much for the host communities to handle.

Jordan is considered a role-model country in hosting refugees despite its vulnerable resources and abilities. It maintains peace and stability within its borders regardless of the external instabilities and risks. However, Jordan needs constant support and commitment from the international community for its efforts not to be futile and to improve – if possible – its services for both local and refugee communities, along with monitoring these efforts to make sure that it is on the right track. Otherwise, Jordan will be forced to marginalize either refugees or its citizens in an effort to prioritize its obligations to the different communities on its land.

Jordan has long viewed refugee influxes as possibilities for the country's growth. This dynamic must be recognized by the international community, which must emphasize the integration of national development aid and humanitarian aid in its response to the Syrian refugee crisis, which will benefit both host communities and refugees. If the international assistance includes capacity-building programs, the ability of Jordanian municipal actors to provide services to its citizens and Syrian refugees will be improved (Francis, 2015). International donors and humanitarian implementers must provide targeted aid that can strengthen local systems of governance in Jordan.

Some more general recommendations can be derived from the findings of this comparative study and summarized for policy makers, researchers and the international community:

1. Policy Makers:

- Develop comprehensive policies that address the legal status and integration process of refugees, considering their rights, obligations, and access to services.
- Foster open and transparent channels of communication with all involved parties, including international organizations and the local community, to effectively manage refugee crises and promote peace and stability.

2. Researchers:

- Conduct further research to understand the socio-economic and political factors influencing refugee-host community relations and identify strategies for fostering social cohesiveness.
- Explore the long-term impacts of refugee influxes on host communities, including potential social ramifications and challenges related to cultural differences.
- Explore the sense of belonging and identity crisis that refugees in host countries might face.
- Evaluate the effectiveness of existing policies and programs aimed at supporting refugees and host communities and identify areas for improvement.

3. International Community:

- Monitor and evaluate the impact of international assistance to ensure that it is effectively meeting the needs of both host communities and refugees, and adjust strategies as needed.

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Can Joint Mobility Projects at Universities Promote Safe Transitions for Refugees?

The Experience of Jordanian Social Work Students¹

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Abstract

This critical case study examines the experiences of social work students who engaged in an international joint mobility project, facilitated through collaboration between four universities. The paper focuses on their participation in mobility projects and the integration of research findings in the development of evidence-based practices. The projects focused on the safe transition of female refugees to new lives in the host country of Jordan. The overarching aim of this paper is twofold: first, to assist student social workers in developing and refining a multicultural understanding of the cultural context influencing the lives of refugee women and second, to teach student social workers how to advocate for the needs of refugee women. This paper seeks to provide evidence-based social work practices for those working with refugee women locally and internationally. Data was collected using four methods: questionnaires, semi-structured interviews with humanitarian and social workers, student social worker diaries, and focus group discussions. Findings suggest that engaging in mobility projects enhances intercultural skills, such as cultural competency, sensitivity, self-awareness, and adherence to the principle of "do no harm". Furthermore, students emerged as valuable resources for their colleagues, emphasizing the importance of a foundation of cultural understanding in work

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done to support female refugees. Culturally competent training practices for social workers, along with better tools to understand patient challenges, improved the quality-of-life focused outcomes for refugee women. Additionally, students concluded that their involvement in mobility projects significantly contributed to their professional growth, underscoring the need to prioritize the development of social work teaching and practice, both nationally and internationally.

Key Words:

mobility program, social work, refugee women, student project, Jordan

1 Introduction

Due to Jordan's political stability compared with neighboring countries, Jordan hosts more than 2 million Palestine refugees and more than 1.3 million Syrian refugees. These figures qualify Jordan to be the second largest refugee host country per capita at global level. (World Health Organization, 2020).

In 2022 there were 760,000 officially registered asylum seekers in Jordan, with Syrians representing the majority at 670,000. This figure also includes refugees from Iraq, Somalia, and Sudan. The influx of refugees following the Syrian Civil War have placed substantial demands on essential services such as food, shelter, education, and healthcare, straining communities comprised of underserved and vulnerable individuals (CARE Jordan, 2023). Jordan, a nation with a 22.3% unemployment rate (third quarter of 2023), is categorized by the World Bank as a lower-middle-income country, and it receives aid from various international agencies. In this context, the large influx of refugees from Syria therefore has increased the burden of responsibility of both the state and relief groups, creating tension within the social and political sphere. Amidst the changing socio-political landscape, CARE Jordan (2023) has identified newly emerging vulnerabilities, particularly for female-headed households, such as gender-based violence and social isolation, which have facilitated the change in social structures and hierarchies. This has prompted the involvement of social workers and other humanitarian actors to ensure the safety of women, children, and other marginalized people.

The 2022 Vulnerability Assessment Framework study conducted by the UNHCR identified increasing rates of family debt and a 10% income loss by individual workers, suggesting a decline in economic conditions for both Syrian and non-Syrian households in Jordan. The assessment further highlighted a small but notable proportion of refugees experiencing worsening access to healthcare, food, education, and adequate living conditions – these individuals reported fears about having to resort to unsafe means of survival such as working illegally or withdrawing children from school for labor, further exacerbating tensions within the family unit (UNHCR, 2022). Of note, these challenges mirror those faced by less privileged Jordanians, especially after the COVID-19 pandemic.

Accordingly, there has been increasing calls on government and humanitarian institutions, academia, and frontline workers to respond to the evolving needs of both refugees and the local population. Attempts to address these needs through social protection and humanitarian assistance programs have been developed and implemented with a positive response from social workers. (AlMakhamreh & Hutchinson, 2018).

Jordan, a highly educated nation, invests significantly in the institution of education. Education is generally perceived as a family responsibility and recognized accordingly as a crucial instrument for national development and the enhancement of familial welfare (World Economic Forum, 2020). Notably, female literacy in the country ranks among the highest in the region, at an impressive 97.8%. Approximately 53% of Jordanian women pursue higher education at either community colleges or universities (World Economic Forum, 2017). Simultaneously, the family structure traditionally serves as a vital safety net, at times differentially ascribing gendered emotional and economic responsibilities (AlMakhamreh, 2017).

The structure of Syrian families as well as associated gender norms, attitudes, and practices are molded by an array of factors, including but not limited to socioeconomic factors, religious socialization, and political climate (Marcus & Harper, 2015). The onset of Syria's civil war and ensuing forced displacement led to many Syrian men either staying behind, dying, or developing severe health conditions or disabilities. Consequently, Syrian women, particularly those in prolonged refugee situations, have been compelled to assume new roles within their families and communities (Al-Ali & Pratt, 2009; Le Masson, 2016; CARE Jordan, 2018; United Nations, 2019).

Syrian and Arab family structures and gender norms are deeply influenced by patriarchal culture (Joseph, 1996; Women's Refugee Commission, 2019). In Syrian families, women are traditionally perceived as daughters, wives, and mothers before being recognized as potential societal contributors. Consequently, more conservative families may deem girls' education as unnecessary (CARE Jordan, 2018). In the Syrian society, once a woman marries, she becomes financially reliant on, and linked to, her husband's family. This typically results in the transference of her financial responsibility from one male-led family to another. The husband, bearing the responsibility of the family's finances, wields substantial power and influence over the women in his family. With the men typically representing the household in interactions with extended family and the community, male financial dominance is further reinforced by societal dominance (Joseph, 1996; Nasser Eddin, 2011).

Marital status and age significantly influence the roles men and women play in their families and the way that the community perceives their family unit (CARE Jordan, 2018). Increased female entrance into the workforce has elicited mixed feelings among women, with some expressing guilt or remorse for not dedicating enough time to their families, while others report feelings of empowerment or recognition from their families and communities (Culcasi, 2019; Cazabat, 2019). As Syrian women have become integrated within their host communities, they have been able to sway gender roles, grow in their autonomy, and access greater opportunities for education and community engagement with Jordanians (Almakhamreh et al., 2020). Despite advancement in opportunity, expectations of traditional familial responsibility are maintained, introducing tension between the idea of the modern woman and the customary maternal figure (Nasser Eddin, 2011).

In Jordan, efforts to professionalize social work are advancing, supported by the government and academia (AlMakhamreh & Sullivan, 2013; Almakhamreh, 2022). Since the introduction of social work education in 1965, there has been significant progress; by 2020, three universities offered degrees at the Bachelor's and Master's levels. A pivotal

alliance, formed in 2023, is enhancing the field through rigorous training and accreditation standards. This collaboration includes the Ministry of Social Development, universities, and the Northern Ireland Cooperation Overseas. Additionally, a unified curriculum has been established, approved by the Accreditation and Quality Assurance Commission for Higher Education Institutions. The Social Work Law, ratified in May 2023, further underpins these advancements.

The Ministry of Higher Education's 2020 strategy promotes the practical application of social work theory and encourages cultural exchange between Eastern and Western universities (Ministry of Higher Education and Scientific Research [MOHD], n.d.). Local initiatives are also bolstering professional competencies within the social workforce. Addressing unemployment, social workers are pivotal in creating programs that empower female refugees economically, offering comprehensive career services and culturally sensitive training. This approach is vital for both service success and workplace skill development (Al-Makhamreh et al., 2012; MacIntyre & Paul, 2013).

Academics and social work students in Jordan have actively contributed to community development through field placements, research, and consultation. They seek to engage in international projects to highlight social work's crucial role and publish their findings. Notably, research acknowledges that over 84% of refugees live in urban areas and integrate into society (CARE Jordan, 2023). Students and scholars are dedicated to enhancing social work practices with refugees, involving themselves in international projects, and reinforcing the profession's evidence base with focused research (Almakhamreh, 2022). They prioritize developing gender-sensitive practices, especially for services aimed at refugee women. The mobility project not only facilitates research but also significantly improves the skills, knowledge, and experience of social work students.

International mobility projects are vital for developing the skills needed in humanitarian work, especially in serving marginalized communities. These projects enhance multicultural competence and professional growth by exposing participants to diverse educational and work settings, fostering intercultural communication and creativity, and breaking down stereotypes (Teichler, 2017; Patelarou et al., 2022). Such experiences are essential in social work education (MacIntyre & Paul, 2013; Webber et al., 2014).

These projects encourage cultural exchanges and balanced partnerships, which are fundamental for effective communication between students, academics, and partner universities (Mustafa, 2009). Allmosa (2014) highlights universities' roles in bridging cultural gaps across various societies, emphasizing the humanities and social sciences as means to collaborate and share knowledge, particularly in diverse religious and ethnic settings (Patarlou et al., 2022). Moreover, UNESCO projects promote intercultural understanding through such international experiences.

The goal of these projects is to enable academic collaboration on practical social work projects with refugees across four universities, with each institution conducting research in its context (Allmosa, 2014; Sarhan, 2019). Jordan's mobility project, supported by the German Academic Exchange Service (DAAD), began in 2019 with a focus on "Social Integration of Refugees, taking Cultural Aspects into Account." This support allows social work departments to engage in international exchanges, enhancing the knowledge of refugee needs among students and professors. DAAD also facilitates participation by covering travel and accommodation costs (Moriarty et al., 2015).

This paper focuses on the valuable insights gained by social work students participating in an international mobility project serving Syrian refugee women. It draws on evidence from their field notes and focus group discussions held eleven months after the project's end. The main aim is to show how social work students can become significant repositories of knowledge, contributing to capacity building throughout their education and training. The support from the international mobility project was instrumental in enhancing their awareness of both their internal experiences and the external environment.

2 Methodology

2.1 Project Phases

The two-year Jordanian mobility project, titled "Social Work and Organizational Development," represents a collaborative effort among several institutions. These include the Social Work department at the Princess Rahmah University College, part of AlBalqa Applied University in Al-Salt, Jordan; the Magdeburg-Stendal University of Applied Sciences in Germany; the Neubrandenburg University of Applied Sciences in Germany; and the An-Najah National University in Palestine. This program marked the inaugural international mobility project undertaken by the Social Work department at AlBalqa Applied University. The university's international office provided guidelines for the project's announcement and selection of student participants. The project aimed to engage second- and third-year students, aged 19 and 20, proficient in English. Parental consent, particularly for female students, considering Jordan's conservative society, was a prerequisite for overseas travel. The project employed a culturally sensitive approach to foster trust within the participants' families. The funding agency determined the participant count: three female students from AlBalqa Applied University, one student assistant from the German Jordanian University and two professors from AlBalqa University and the German Jordanian University. The following research focuses on this group.

The collaboration involved seven distinct phases, each with a clearly defined time course:

- Phase 1: The initial phase entailed a meeting among the four collaborating universities – two German, one Palestinian, and one Jordanian. An-Najah University was chosen to host the meeting. However, due to visa restrictions faced by the Jordanian team, the meeting was conducted online via Skype. The teams discussed the main project guidelines, confirmed flight dates, and defined students' roles and focus topics for the project.
- Phase 2: This phase involved the establishment of a group network. The students created a WhatsApp group that included themselves, the three professors, and a social work post-graduate research assistant from a public university in Jordan experienced in working with refugee communities. The post-graduate student was included to provide an opportunity for them to grow research and team management skills. An engineering student was included for scientific project administration and for interdisciplinary collaboration.
- Phase 3: This phase concentrated on student capacity building, featuring intensive workshops, discussions, training sessions, and orientation about social work with refugees.

- Phase 4: This phase encompassed data collection through interviews. The students and research assistants collated data from 107 female refugees, conducted literature reviews, and underwent intensive meetings with professors to discuss challenges and evaluate the research process.
- Phase 5: This phase involved exchange visits, with the Jordanian students visiting Germany and facilitating several university-based workshops at the Magdeburg-Stendal University. The participating Jordanian professors assessed the daily meetings, visited local institutions, engaged with social work professionals, and facilitated cultural sensitivity trainings.
- Phase 6: This phase entailed a joint conference in Jordan attended by German student and faculty participants, social work students and faculty in Jordan, and the Syrian refugee women served by the work (Sarhan, 2019).
- Phase 7: A focus group eleven months after the completion of the mobility project was held over zoom with all participating students and faculty.

2.2 Target Population and Data Quality

This research prioritized the experiences of Syrian refugee women and social-work students during the mobility project. According to the UNHCR's (n.d.) 2020 Operational Portal Refugee Situations in Jordan, approximately half of the Syrian refugees in Jordan are women, with the majority residing in Al-Salt, one of the most populous cities in Jordan. Al-Salt, located within the Al-Balqa governorate, has a population of 491,709, with around 20,000 being Syrian refugees. Despite the significant percentage of displaced individuals in the city's population, limited research has been conducted on the resettled Syrian refugees in Al-Salt. The study aimed to assess the impact of displacement on women's familial roles, the services offered to refugee women in the host community, and the challenges encountered during the delivery of social work interventions with women. This study utilized a strengths-based approach for the students and a host community-based approach for the refugees (AlMakhamreh et al., 2015).

The primary focus of the study was to understand the experiences of social work students when working in international projects, and how their experiences provide evidence to support the practice of social work in the refugee field. The university's network and research supervisors facilitated access to data from local community organizations and the social development office. A formal letter from the dean's office was used to secure access to the data. The team conducted face-to-face visits with local refugee advocacy and support organizations, explaining the rationale behind requested information as well as its guaranteed confidentiality. To gather descriptive information, the local community center facilitated connections to refugee women, who joined the study using informed consent. Some refugee women invited their friends or relatives to participate. The chosen urban city, Al-Salt, has fewer refugees per capita than other cities of Jordan; however, it does have a low socioeconomic status and does not receive adequate attention for services from national or international funds. This permitted the team the ability to conduct research in small groups with primarily underserved individuals.

Triangulation methods were employed to collect data for the research, including questionnaires and interviews with refugee women, as well as in-depth interviews with workers and policymakers. Qualitative data was also collected from participant students

through field diaries documenting their experiences, and after eleven months of commencing the project, a follow-up focus group was conducted with the same students.

The present study employed an exploratory design and integrated both quantitative and qualitative methodologies, tested and revised by expert professionals and academics. A total of 107 Syrian women, aged between 17 to 80 years and residing in Al-Salt, comprised the population sample. It was a purposive sample accessed through the community centers, but also through utilizing the snowball sampling technique. The questionnaire covered a range of topics that included, but were not limited to, closed and open-ended inquiries regarding the women's experiences in Syria and Jordan. Prior to participation in the study, both verbal and written consent were obtained from the participants. They were reassured of the confidentiality of their details and informed about their right to disengage from the study at any point.

To achieve a 70% confidence level, denoted as T2, the study assumes a variance (ρ) of the main estimate at 50% and a margin of error (E) also set at 50%. The collected raw quantitative data was initially input into the KoboToolbox (2020), an open-source platform designed by the Harvard Humanitarian Initiative. This platform, a suite of tools for data collection and analysis, is specifically engineered for disaster relief and humanitarian crises, ensuring superior data quality along with streamlining data collection and recording processes.

2.3 Refugee Women

Following completion of the questionnaires, qualitative data was collected through in-depth interviews (Boyce & Neale, 2006). This method was deemed most appropriate and culturally sensitive for gaining insights into the personal experiences of both the recipients and the stakeholders involved in the delivery of NGO support to refugee women (Bryman, 2001). Interviews were conducted with seven Syrian women, four Jordanian social workers, and two members of the Jordanian parliament.

The data collected was organized and analyzed by the researchers. Given the native language proficiency of the researchers, the qualitative data did not necessitate systematic or formal translation. The thematic analysis of qualitative data was conducted using coding based on higher-order concepts and major themes to organize and pinpoint key results (Darlington & Scott, 2002; Braun & Clarke, 2006). The researchers primarily sought to understand the underlying meaning of the articulated experiences (Rapport, 2004).

The participants were informed about the purpose and nature of the research, clarifying that it had no connection with the UNHCR or any governmental body in order to reduce the power dynamic between the researchers and the participants. Particular attention has been paid to ensure that the results are presented in a way that does not stigmatize underprivileged communities (Rapport, 2004).

2.4 Students

To understand the impact of these experiences on students' professional development, students were asked to maintain a diary detailing their experiences related to social work knowledge. A follow-up focus group discussion was held with the three students and the

student assistant during the mobilities 2019 and 2020 as well as eleven months after the completion of the mobility project.

Social work students underwent training in conducting research with vulnerable populations and had regular meetings with their supervisors. This approach helped them stay vigilant about their roles and maintain neutral positions as researchers. The process of ascertaining profound significance was closely monitored by the academic supervisor throughout the research stages of analysis, transcription, and interpretation. To ensure validity, the supervisors, along with the researchers, made sure that the study accurately and faithfully captured the cases it intended to investigate. At every stage, it was assured that data analysis was grounded in credible evidence, and findings were a faithful representation of the research topic, thus maintaining the integrity and trustworthiness of the research findings.

3 Findings

The findings below attribute specific themes from the students' experiences and reflections from the mobility project, showcasing their development and growth in the practice of social work. The quotes following the themes were obtained from student reflections from diaries and focus groups as well as faculty focus groups.

3.1 Developing Self-Awareness :

"Interviewing refugees and immersing myself in their environment was a first for me. This close interaction underscored the importance of withholding judgment as a person, and a social worker" (student, diary, 2019).

"Upon returning to Jordan, I recognized a significant change in myself and my learning priorities. This newfound self-confidence and perspective had a positive impact on my personal development and vision for the future" (student, focus group, 2019).

"I realized that an individual's religious practice, or lack thereof, doesn't define their moral character. Mutual respect and acceptance are crucial, irrespective of personal beliefs" (student, focus group, 2019).

"It was a profound international experience. My perspective towards Germany and Western society evolved significantly, and I gained a clearer understanding of local and international social work" (student, focus group, 2019).

3.2 Building Professional Skills:

"The mobility program enhanced my research ability and facilitated my own comparison and reflection. I gained a deeper understanding of myself and cultivated empathy for the experiences of my project colleagues" (student, diary, 2019).

"The refugee women in Germany had different experiences navigating their resettlement than the women living in Jordan, despite having led similar lives prior to displacement. I changed how I engaged in small talk with the women after realizing the differences" (student, focus group, 2023).

"I observed the differences in principle application between Jordan and Germany, gaining a crucial insight: the necessity of respecting cultural sensitivity" (student, focus group, 2019).

"We honed our social work skills and developed greater awareness of our emotions and ideas, while learning a great deal about female refugees" (student, diary, 2019).

"I understood the importance of ethical conduct, confidentiality, and accepting individuals as they are, not as I believe they should be" (student, focus group, 2019).

3.3 Building Cross-Cultural Bridges in Social Work Practice between Germany and Jordan:

"My involvement in the mobility program was invaluable. I had scant knowledge of regional or international social work. The workshops in Germany and Jordan enlightened me about the intricacies of refugee aid" (student, focus group, 2023).

"Engaging with German students has broadened my understanding of our society and others, particularly from a Western perspective" (student, focus group, 2019).

"International social workers must strive to understand and avoid misjudging collective cultures to fully grasp family issues, marital problems, and children's socialization" (student, focus group, 2019).

"Before visiting Germany, I harbored fears and negative expectations about the Germans' attitude towards non-native speakers and their respect for Arabs and Muslims. The reality was a pleasant surprise, debunking these stereotypes. The welcoming nature of the German students we encountered, with whom we remain friends and in contact, was eye-opening" (student, focus group, 2019).

"I now work in a completely field but have been able to build relationships with clients in Germany because of my experiences getting to learn about German people during the mobility project. I do not think I would be working with German people now without the international experience" (student, focus group, 2023).

"Visiting Germany deepened my comprehension of the refugee situation and the specific international interventions required. I gained insights into policy, community, and school systems and issues related to refugee livelihoods" (student, focus group, 2020).

3.4 Long-Term Impact on Student Experiences:

"It was great providing the students with direct experience in using the methodological process, particularly in a new environment that challenged them" (faculty, focus group, 2023).

"I still reflect on the lessons I learned during the project now as I work in a refugee camp. I learned directly about how different women navigate gender-based inequalities, and how to elevate them in ways that meet their needs. I also conduct my own research now, that has been successfully used to increase funding for child protective services and people with disabilities" (student, focus group, 2023).

"I bring my strong cultural humility, that I grew during the mobility project, to all of the professional and personal experiences I have" (Student, focus group, 2023).

"This experience has facilitated my personal and professional growth as a social worker and as a gender equality advocate outside of my professional work" (Student, focus group, 2023).

3.5 Language Barriers and Navigating Gender-Cultural Dynamics:

"Working across linguistic barriers and cultural norms was initially daunting and exhausting, but it ultimately concluded on a positive note" (Student, focus group, 2019).

"Sometimes I felt stress about potentially behaving culturally inappropriately" (Student, focus group, 2019).

Quantitative and qualitative data from the questionnaires with social workers and Syrian refugee women also highlighted themes that provide insight into their lived experiences and the impact of social workers. The questionnaire revealed that half of the participating Syrian refugee women in Al-Salt, Jordan face challenges associated with traditional Syrian gender roles. The majority of the participants hailed from Daraa (48%). The quotes following the themes below were obtained from student reflections from diaries and focus groups as well as quotes from social workers and Syrian refugee women.

3.6 Traditional Gender Roles:

“Most women are controlled by the culture of their patriarchal society” (social worker).

“Even though they had to assume traditionally male responsibilities within their households, they were still expected to fulfill their conventional roles, often with limited resources” (social worker).

“I have a full-time job without my husband's support with household tasks and childcare. This causes a great deal of stress” (Syrian refugee woman).

3.7 Access to Social Services:

According to the descriptive study, 70% of participants revealed a lack of knowledge on where to receive services.

“We raised awareness of the need to increase certain services; some women could not read or write” (social worker).

“Some women lack knowledge about the services provided in some centers. Social workers must do more work on advertising these services” (student, diary, 2019).

“They know about the services their relative or friends or neighbor told them about” (student, diary, 2019).

67% complained about the distance to service providers.

“Some women live far away from our organization. We used to reimburse them for transportation fees, but can't anymore because of lack of funding” (social worker).

“The woman was late to the sessions, explaining she did not have the money to travel to the community center, given how far away from her home it is” (student, diary, 2019).

3.8 Opportunities for Safe Transitions:

The majority of the respondents (93%) disclosed they were the primary income providers for their families with about 67% of the wives suggested that they have had an increased participation in family decision-making since their arrival in Jordan.

“Despite these cultural constraints, many participants reported contributing more to their families' incomes in Jordan than in Syria, due to male family members' illness or absence” (social worker).

“I am the mother and the father at the same time; I have become the breadwinner for my family, and I fulfill many of my husband's responsibilities” (Syrian refugee woman).

“We do needs assessments and offer trainings to empower the livelihood of Syrian women” (social worker).

3.9 Tailoring the Role of Social Workers with Refugee Women:

Concerning the role of social workers, most respondents (78%) reported having case management sessions with them.

“We assist the refugees with their psychological well-being” (social worker).

“They have training on gender violence, fighting early marriage cases and working with oppressed people” (student diary, 2019).

“We offer refugee women training for income-generating opportunities and empowerment, to support their goals to join the labor force. But we need more to increased access to income-generating opportunities” (social worker).

“We need more support for programming targeting women refugees in Al-Salt, such as parenting, training, English language lessons, and vocational training” (social worker).

3.10 Professional Challenges for Social Workers:

“I found it hard to work with cases of violence” (social worker).

“I struggle when dealing with children experiencing sensitive issues like sexual harassment” (social worker).

“We lack training and knowledge to adequately work with vulnerable children” (social worker).

4 Discussion

This article delves into the experiences of social work students involved in mobility research projects, facilitated by collaborations with two universities from Germany and one from Palestine. It critically examines the perspectives from social work students, social workers, faculty, and Syrian refugee women to explore the growth of social work students and the challenges facing Syrian refugee women in Al Salt, Jordan.

According to the findings, the students’ immersive engagement with Syrian refugee women through the international mobility project has deeply influenced their self-awareness. In general, social work students enroll at their universities at a young age because of the nature of Jordanian society in which families tend to be cautious of the influence of social experience. As a result, gaining self-awareness is foundational, as it ensures culturally sensitive social work practice. The realization of withholding judgment, acknowledging diverse perspectives, and fostering mutual respect aligns with the core values of social work. This attunement to personal biases and prejudices is crucial for effective engagement with vulnerable populations.

Along with self-awareness, students honed their professional skills. Not only were students exposed to more than the required 400 field training hours during their teaching program, but they were able to gain an international perspective in social work by viewing refugee integration in a new setting. The exposure to diverse cultural contexts allowed them to refine their research abilities and facilitated comparative reflections. Understanding the unique experiences of refugee women in different settings underscores the significance of cultural sensitivity in social work interventions. The acquired skills of empathy and nuanced observation contribute to a more comprehensive and effective social work practice.

In addition, one of the critical outcomes of the international mobility projects was the ability to build cross-cultural connections between Germany and Jordan. The exposure to regional and international social work dynamics has broadened students' understanding of refugee aid intricacies. However, it can be argued that student reflections and findings, which emphasize understanding and avoiding misjudgements based on collective cultures, aligns with the need for developing culturally competent social work practice. There is a necessity of informed cross-cultural practices to address complex issues related to family dynamics and cultural nuances.

The integration of cultural humility into professional and personal experiences reflects a commitment to ongoing growth and awareness. Students commented on how they now better understand women's empowerment and the changing dynamics of gender roles. The ability to navigate gender-based inequalities and contribute to research that influences funding for essential services showcases the enduring influence of mobility projects on students' professional trajectories.

The findings also helped build structure on how to improve the preparatory social work students undergo for an international mobility project. Along with an orientation, it is important to continuously offer training sessions for social work students and professionals, focusing on cultural competency, including language proficiency, understanding diverse cultural norms, and addressing stereotypes to enhance effective cross-cultural engagement.

Challenges faced by students, such as language barriers and navigating gender-cultural dynamics, can take a toll on students. Building resilience for social work students to overcome these barriers is needed through cross-cultural collaborations, trainings, and a thorough understanding of the complexities of social work practice. However, the positive outcomes underscore the adaptability and perseverance cultivated through international experiences. The importance of such mobility projects proved to be fertile grounds for learning and teaching about local and international refugee-related issues and their impact on host communities. Through university workshops and meetings, students deepened their cultural awareness and built a mutual understanding around ethical aspects of social work.

The findings of this study provide valuable insights into the multifaceted role of social workers in supporting Syrian refugee women. From addressing traditional gender roles to offering mental health support, social workers emerge as integral contributors to the well-being of refugee communities. The emphasis on tailoring interventions to specific needs and engaging in case management sessions aligns with the person-in-environment approach, emphasizing the importance of understanding individual experiences within broader social contexts. Social workers can support Syrian women in Al-Salt, and more broadly, all refugee women, by enhancing their awareness of refugee rights, conducting informational sessions about available psychosocial support services, and connecting them to resources providing vocational and parenting training, emergency cash assistance, and English language lessons. They can also aid in obtaining work permits and connecting them to income-generating opportunities.

As case managers, social workers offer extensive support, ranging from assisting refugees with their psychological well-being and helping them join the labor force, to providing the necessary tools to deal with situations of violence or oppression. Based on the findings,

social workers in Al-Salt are tasked with addressing key social issues that these female refugees face, including early marriage, workplace harassment, and domestic violence. In acknowledging women's resilience, it is crucial for social work interventions to understand that these women possess an inherent strength. The research indicates the importance of promoting women's engagement in income generation through the provision of trainings and workshops. This not only enhances women's status and decision-making roles but also ensures that refugee women have secure transit routes, safe spaces, and resources necessary to build a life free from violence and poverty post-conflict. Social workers should strive to bridge the gap between humanitarian and developmental interventions, with a focus on bolstering Syrian women's inherent resilience and autonomy, while simultaneously addressing their immediate needs.

Although social workers play an essential role in uplifting the underprivileged, it is important to recognize the professional challenges faced by social workers, including difficulties in handling cases of violence and sensitive issues involving children. This acknowledgement underscores the importance of continuous professional development to enhance the capacity of social workers in dealing with complex and sensitive cases. Specialized training for social workers to handle cases of violence and sensitive issues involving children should be developed and encouraged to mitigate the stress faced by social workers.

The study highlights the importance of developing intercultural competencies through community-based interventions among social workers. The findings have implications not just for local practice, but can also be leveraged to enhance international social work practice. The study advocates for international and local learning experiences to understand diverse cultures. The results encompass various theoretical frameworks such as the gender-sensitive approach, the familial approach, the refugee-host community focused approach, the human rights approach, and the strengths-based approach.

The study also consisted of some limitations. The relatively small sample size of students, professors, and refugees could have posed a barrier in gaining additional nuances of the lived experience. Another limitation is that participants were restricted to students who took part in the project, encompassing individuals from different academic years. All participants were females, and the lower number of males can be attributed to their decision not to apply for the research, primarily due to language barriers, given that English proficiency was a requirement for such mobility projects. It is worth highlighting that this study was the first of its kind at AlBalqa University, making it challenging to approach social work students who have had exposure to international mobility projects.

This research does not support the exclusion of men from social work interventions, as this could inadvertently harm women or lead to negative consequences. The study strongly advocates for culturally sensitive competencies in social work practice within the host community, as this could significantly reduce conflict within Syrian families. Implementing family-based and individual interventions could enhance the safe transition for women refugees to enjoy a healthy well-being and environment, and future research will include perspectives from Syrian men on safe transition and integration.

Moreover, future research should encourage the interdisciplinary collaboration between social workers and professionals from diverse fields. By utilizing community networks and

leveraging technology for information dissemination, barriers such as illiteracy can be overcome. This can also help provide a holistic approach to addressing the multifaceted challenges faced by Syrian refugee women, including health, education, gender equality, and employment.

International mobility projects have been shown to have a transformative impact on students' self-awareness, professional skills, and their ability to navigate challenges in social work practice. By including a sample that addressed the long-term impact of international mobility projects on students, this study found sustained personal and professional growth. Such student-focused mobility projects can be instrumental in assessing how a social work curriculum equips its students to interact with sensitive and marginalized groups at an international level (Shaw et al., 2006; Shaw & Funk, 2019; Mullen et al., 2008; Gray & Schubert, 2012; Moriarty et al., 2015). Social work programs should continue advancing such mobility projects to bolster unique educational opportunities, not only for students but also for their professors.

5 Conclusion

Mobility projects, as evidenced by the research presented, have proven to be robust platforms for nurturing students' social work capacities and skills. They offer valuable insights into international and local social work practices with female refugees, thereby enhancing students' understanding of the role of social work. These transformative experiences have not only enriched students' self-awareness and professional skills but have also bridged cultural gaps in social work practice. The research underscores the importance of fostering cultural humility, adapting to challenges, and tailoring interventions to the unique needs of refugee populations.

Drawing on data analysis from social workers and female refugees, we strongly recommend advanced training for social workers in gender-based approaches, life skills, family approaches, mental health, and psychosocial considerations. Additionally, supporting social workers with their self-care and well-being is essential, along with bolstering their reflective skills to enhance self-awareness when working with female refugees. Social workers play a pivotal role in supporting Syrian refugee women, addressing gender roles, providing access to services, and navigating challenges with sensitivity. The identified challenges, including language barriers and dealing with culturally sensitive issues, emphasize the ongoing need for training and support to enhance the effectiveness of social work practice.

This article advocates for the incorporation of a strength-based approach and the refugee-host community approach in the training and practice of social work students. International mobility projects and the experience of information exchange significantly contribute to the professional development of social workers. These projects create an enriching learning environment where students can better understand their own – as well as others' – cultural values and contribute to the development of social work practice. This study sheds light on the often-overlooked perspective of students as part of a host community, indirectly influencing our understanding of how to enhance social cohesion and interpret refugees' viewpoints. The implications of this study extend to fostering greater self-awareness in both national and international social work practice and developing intercultural competencies. More broadly, it enhances the effectiveness of

social work practice in diverse and multicultural settings, especially in facilitating safe transitions for women refugees.

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“I felt that there is Justice”: Potentials and Limits of Social Work with Syrian Survivors of Atrocity Crimes in Their Fight for Transitional Justice in German National Courts¹

Yolanda Weidmann²

Abstract

The purpose of this study is to examine the available support structures for Syrian survivors of atrocity crimes who participate in universal jurisdiction trials in Germany and to discuss the need for improvement. The study is based on the following research question: “How can social work support survivors of atrocity crimes in their fight for transitional justice in German national courts?” Expert interviews were conducted and analysed according to the grounded theory method. Codes and categories were developed from the data collected in the interviews. The major findings of the study are divided into six categories. Syrian survivors experience severe stress in their daily lives; social work can function as a support structure to reduce stress. Social work can empower Syrian survivors to participate in the criminal justice process. Specialised survivor support structures received positive feedback whilst general support services for the criminal justice system lack resources and expert knowledge to support the specific group of Syrian survivors of atrocity crimes. NGOs working with Syrian survivors that follow a survivor-centred approach were described as supportive. Since the criminal justice system, however, is not perceived as survivor-centred, stress for Syrian survivors is increased. Social work can advocate and promote a survivor-centred approach. On a national level, social work can advocate for the rights of survivors and refugees in Germany. Social work can offer political education programs and provide spaces for discussions about justice and human rights for Syrians. On an international level, social work can fight for accountability of the Syrian regime and human rights in Syria. However, social work has to reflect on and address severe shortcomings in their accessibility for Syrian survivors, such as lacking language accessibility and lacking expert knowledge on atrocity crimes.

Key Words:

Syria, atrocity crimes, universal jurisdiction, transitional justice, victim support

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1 Introduction

This paper seeks to critically examine the support structures for Syrian survivors of atrocity crimes who fight for justice in German national courts. According to the Syrian Network for Human Rights (SNHR, 2023b) the Syrian government is forcefully trying to oppress any opposition and create an atmosphere of fear and obedience. Many Syrians have fled to European countries, which opens new opportunities for international jurisdiction and justice outside of Syria. Since Germany is a country within Europe that comparatively hosts a large number of Syrian refugees, it has an important role in the fight for justice (Buckley-Zistel, 2020). This paper discusses which systems and structures are in place to support Syrian survivors of atrocity crimes and shed light on the specific role of social work within these support structures. It aims to examine the social work structures that enable and empower Syrian survivors and witnesses of atrocity crimes to participate in the fight for justice. It examines whether the support structures are effective and sufficient. Lacking support structures will be criticized, and what is needed in the social work practice to fulfil the role of a human rights profession will be pointed out. Furthermore, it will show which structures would be needed to provide guidance and support in the German justice system and enable survivors to actively participate in the criminal justice procedure.

2 Literature Review

2.1 Atrocity Crimes in Syria

The Rome Statute defines a range of atrocities that are the most serious crimes of concern to the international community as a whole (Art. 5). The particular offenses falling under this scope are specified as the crime of genocide, crimes against humanity, war crimes and the crime of aggression (Art. 5). These listed violations fall under the jurisdiction of the International Criminal Court (ICC). The ICC has the ability to exercise its jurisdiction against states that are a Party of the Rome Statute (Art. 12 Para. 1). The list of the harm that the Syrian regime has caused is long and incomplete, as much happens in secrecy. However, Syria is not Party of the Rome Statute and cannot be prosecuted by the ICC (Koleva & Vigh 2021).

2.1.1 Attacks against Civilians

Reports state that the Syrian army is directing military operations against unarmed people, causing severe physical damage and huge amounts of people to lose their lives, not sparing especially vulnerable societal groups such as children or refugees.³ The government is intentionally destroying access to vital resources. In addition, health institutions are under attack (United Nations General Assembly [UNGA], 2022).

³ A recent success of two researchers revealed a “standout piece of evidence in the case against the Syrian leader” (Chulov, 2022: para. 5). A digital recording shows mass executions of civilians in the “Damascus suburb of Tadamon” (Chulov, 2022: para. 2) in 2013. They had covered eyes and were killed through shootings. The shootings were organized by the army in a way that the victims would fall into a mass grave, which was later burned. The recording also shows how some of the victims were fooled and ridiculed prior to their death. The researchers also managed to identify the perpetrator that is shown on the recording, which offers new hopes for future accountability (Chulov, 2022). It is presumed that these actions are ongoing, systematic and widespread (UN, 2022).

Furthermore, in the past, the military attacked people with “deadly chemical weapons” (United Nations [UN], 2020: para. 1).

2.1.2 *Arbitrary Detention and Torture*

According to the UN, the Syrian regime is using “widespread and systematic arbitrary imprisonment and unlawful detention practices and is responsible for violations of the right to life” (UNGA, 2021: 22) against political opponents. High numbers of prisoners are “forcibly disappeared” (European Center for Constitutional and Human Rights [ECCHR], 2023: 7) to scare the society, oppress resistance and enact revenge against requests of freedom. The UN states that the specific amount is unidentified, but there are estimations that more than one hundred thousand are hidden in custody without others knowing about their fate. People of all ages and genders are imprisoned and suffer from degrading conditions and violence. A huge majority of prisoners are denied legal support or a fair trial. Countless people have lost their lives in prison due to ongoing brutal violence. Deadly sicknesses occur due to the “inhuman living conditions,” such as “overcrowding, lack of food and unclean drinking water” (UNGA, 2021: 9). Those released from prison described

“horrific methods of torture (...); they include administering electric shocks, burning body parts, pulling out nails and teeth, mock executions, folding detainees into a car tyre (dulab) and crucifying or suspending individuals from one or two limbs for prolonged periods (shabeh), often in combination with severe beating with various tools such as sticks or cables” (UNGA, 2021: 9).

Aside from these violations against prisoners’ bodies, they are also violated psychologically in many different ways (UNGA, 2021).

2.1.3 *Sexual and Gender Based Violence (SGBV)*

SGBV in Syria can happen at various governmental institutions by official governmental staff or unofficial governmental workers against victims of all ages or genders. SGBV in Syria is “widespread and systematic” (Human Rights Watch [HRW], 2020: 21). It is used as a “weapon of war” (Lawyers and Doctors for Human Rights [LDHR], 2019: 4) to stay in power, punish disobedience and destroy resistance. SGBV is used to pressure prisoners into statements of guilt or break their will, to “dehumanize and humiliate” (HRW, 2020: 13) and to underline the position of subordination of prisoners. The Syrian regime is trying to destroy male prisoners’ “sense of masculinity or manhood” (HRW, 2020: 13). It also extensively imprisons female relatives of political prisoners as a way of “punishing the revolution” (Seif & Nassif, 2020: 16). Knowing about societal structures, they purposefully use sexual violence against female relatives carried out in front of the prisoners to shatter them completely. Female prisoners live with the constant fear of sexual violence, which causes massive emotional stress (Seif & Nassif, 2020).

2.2 **Transnational Justice**

According to Mihr et al. (2018), there is no universal scientific definition of transitional justice. The UN defines transitional justice as “the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation” (United Nations Security Council [UNSC], 2004: 4). Thereby, the UNSC (2004) specifies that “judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-

seeking, institutional reform, vetting and dismissals” (4) can be useful instruments. Transitional justice, however, has the bigger objective “to reconstruct the human and material capital of societies that have experienced mass atrocities” (Stauffer, 2014: 5273). Transitional justice has the goal of achieving accountability for atrocities and building a new legal and political system. According to Stauffer (2014), transitional justice has to be “restorative”, meaning that it should deal with “the revitalization of community and collective harmony after a breach of violence” (5274). Transitional justice is therefore not only concerned with penalty but also with a groundbreaking change in society. It tries to “heal the harms of victims, rehabilitate offenders, and reintegrate both of them into community networks of support as a safeguard of justice” (Stauffer, 2014: 5274).

In the context of Syria, there are ongoing, huge-scale human rights violations (SNHR 2023a). Accountability for atrocity crimes is essential to prevent further harm (Kroker 2019). Syrians need to be an active part of the transitional justice process to ensure that solutions are adequate for their life world and the Syrian context. Trials are important to show Syrians that the regimes’ atrocities do not stay unpunished. However, the trials are not perceived as sufficient for transitional justice for Syria, as they happen abroad under foreign rule while atrocities in Syria are ongoing. Instead of being the only source of justice, they should have a supplementary function. The trials cannot fulfil the parts of reparations, societal forgiveness, reconciliation, and conflict resolution that are essential for transitional justice and ongoing peace. The different Syrian societal and ethnic groups would need to be open-minded towards and involved in a process of deciding on the specific instruments to create transitional justice (Syrian Centre for Media and Freedom of Expression [SCM], n.d.).

2.3 Universal Jurisdiction

Universal jurisdiction is “based on the universal recognition of human rights and evokes ideals of justice, impartiality and fairness which are in turn related to, though not dependent upon, the preservation of peace on a global scale” (Hesenov, 2012: 277). The common idea of universal jurisdiction follows the principle of Article 5 of the Rome Statute to prosecute the most serious crimes of concern to the international community as a whole. With universal jurisdiction, states can prosecute crimes that have such a gravity that they have to be persecuted out of moral reasons, even if they did not happen on the national grounds of a state or have no connection to the state’s citizens. Acts that fall under the scope of universal jurisdiction are the crimes defined in the Rome Statute of the International Criminal Court (Hesenov, 2012). Universal jurisdiction enables German authorities to “investigate and prosecute serious international crimes, as long as they are of such gravity that they can be considered crimes against humanity” (SCM, 2022: 38). This means that atrocity crimes can be dealt with at German courts even if they have no connection to Germany. Since Germany has given refuge to numerous Syrians, it has a special function in participating in justice and accountability seeking attempts. With regard to atrocity crimes in Syria, Germany is the first country that used universal jurisdiction against former members of the regime and created accountability for crimes. There is a lack of awareness within the Syrian communities in Germany about the principle of universal jurisdiction and its implications for justice and accountability. Since Syrians could not perceive justice in a dictatorship, they have little trust in authorities and criminal justice processes. Activists try to mobilize and enable their communities to actively seek justice and make use of the possibility of universal jurisdiction (Buckley-Zistel, 2020).

Kroker (2019) predicts that universal jurisdiction cases and atrocity crimes will become a standard procedure for local courts. He demands that they need to receive the necessary funds and staff to deal with this huge task.

The first trial in Germany regarding atrocity crimes in Syria, often called the Al-Khatib trial, took place in Koblenz and ended with a “historic Syrian torture verdict” (Deutsche Welle, 2021). The Syria Justice and Accountability Centre (SJAC, 2022) states that the Al-Khatib trial is “the first trial to see the introduction of the Caesar-Files, the photos of dead prisoners smuggled out of Syria by a defecting soldier” (9), which was additionally special for transitional justice for Syria. It showed the context of systematic oppression by the Syrian regime in which those crimes took place (Koleva & Vigh, 2021). The trial has a “symbolic effect” and gives “some form of recognition to victims” (Stokke, 2021: 60). It is a sign that atrocities will not be endorsed and go unpunished forever. However, the conflict in Syria is continuing. In addition, many Syrians fear what the future in Europe will bring them as asylum laws get steadily more exclusive and send-backs to Syria are publicly discussed (Koleva & Vigh, 2021).

The trial itself was challenging for those testifying at court, speaking out of the position of an affected party in the conflict. Trial reports state that witnesses were showing reactions of severe emotional stress while testifying. Witnesses themselves pointed out that some things they have seen or survived are unspeakable. Especially with regard to sexual violence, cultural stigma creates an environment in which it is extremely difficult to speak up about what survivors have been through (ECCHR, 2021)⁴. Taking part in the trials includes a “high risk of re-traumatization” while at the same time “measures to reduce this risk during investigations and in court are often not apparent and difficult to access” (SJAC, 2022: 2). Literature suggests that Syrian survivors lack information about the possibility to receive psychological support at court (Streiff & Skaf, 2021). Adding to that, being a part of the trial might come along with safety concerns for oneself and loved ones, increasing psychological stress (SJAC, 2022). Some Syrians are too afraid of possible actions of revenge by the regime and therefore decide to refuse to be part of the trials. Their fear is not unreasonable, as some people received threatening messages, or their relatives in Syria were harmed. This led some witnesses to testify anonymously (ECCHR,

⁴ Many stay silent about sexual violence to protect their status and prevent exclusion from their community. They fear that the knowledge that they have experienced sexual violence would make them lose their acceptance, strength and role in the community or family. Some stay silent as an attempt to forget, as if it was not real if no one speaks about it. If males address the incidents in prison, sexual violence is often dismissed within other types of torment. As a result, sexual violence against males is not accurately presented in statistics. More dramatically, survivors of sexual violence do not receive the needed support. The mental health of survivors is negatively affected even years after the incidents. Some survivors struggle with severe mental illnesses caused by their experiences. Many had somatic problems stemming from sexual violence (HRW, 2020). Some acts of torture destroyed survivors’ reproductive ability. Overall, sexual violence can influence survivors negatively for a long time. It has consequences on the way survivors interact in their social lives (LDHR, 2019). In the Syrian context, female survivors of sexual violence have to deal with perceived loss of “honor and sexual chastity” (Seif & Nassif, 2020: 30). A former detainee has described that “the man comes out of detention as a hero, while the woman comes out full of shame and disgrace” (Seif & Nassif, 2020: 36). For this reason, it is more secure for female survivors to keep quiet about the violations they faced. Otherwise, they might face stigmatization, exclusion or even murder by their families that consider them a disgrace (Seif & Nassif, 2020).

2021). A lack of translation services is hindering Syrian survivors' and the Syrian civil society's ability to participate actively in the trials. Information in Arabic was only available through the engagement of trial monitoring and translation by human rights organizations (SJAC, 2022). However, the trial paved a way for further criminal justice cases for Syrian atrocity crimes to come (Stokke, 2021).

Moafak D. was convicted in February 2023 for "serious war crimes as well as four counts of murder and two counts of attempted murder" and received "life imprisonment" (Taz Online, 2023: para.1) without the opportunity of early release due to the special severity of the crimes. The convict was a member of an armed group fighting for the Syrian regime. Moafak D. has purposefully attacked people with a missile while they were gathering to collect vital donations by a UN aid agency (El-Hitami, 2023b).⁵ The Moafak D. trial did not have a great audience or media coverage. However, it is the "first to investigate the regime's brutal practice of besieging and starving parts of the population to punish them for their opposition" (El-Hitami, 2023b: para.1).

In Hessen, a case is still ongoing against a person that worked as a doctor for the Syrian regime. The defendant, Alaa M., is allegedly responsible of "acts of torture in a prison of the military intelligence service as well as in military prisons in Homs and Damascus" (von Hein, 2022: para.1). Therefore, the trial will also investigate how the governmental health sector is involved in atrocity crimes (SJAC, 2021). The trial has received broad media coverage and is of global importance (Ordentliche Gerichtsbarkeit Hessen, 2022).

Last year Ahmad H. was arrested in Germany because he is "strongly suspected of having committed crimes against humanity and war crimes through torture and enslavement" as a member of a group working for the Syrian regime (Generalbundesanwalt, 2023: para 2).

2.4 Support Systems

Finnin (2020) states that survivors have an important role in universal jurisdiction trials against atrocity crimes. Survivors are witnesses that can shed light on incidents that happened in a distant location that cannot be investigated with other means by the authorities of universal jurisdiction. Often in such cases, it was the survivor's initiative that led to investigations. Apart from being a witness, often survivors are also politically active and play a connecting role between other potential witnesses and the criminal justice organs. Witnesses give insider perspectives on the setting in which atrocities were carried out and how they affect their society. Therefore, it is crucial to understand and value the importance of witnesses and support their wellbeing in criminal justice procedures (Finnin, 2020). In Germany, survivors are protected by the Directive 2012/29/EU, the so-called EU Victims' Rights Directive. In its recital under point (9), the Directive points out that its goal is to guarantee that survivors are protected from secondary and repeat victimisation, from intimidation and from retaliation and to ensure that victims of crimes receive appropriate information, support and protection and are able to participate in criminal proceedings. The Directive mentions in the introduction that the situation of survivors of

⁵ Syrian survivors criticize that Moafak D. is not additionally charged for crimes according to § 7 CCAIL. The regime and its accomplices intentionally and strategically deprived the residents of the area of the incident of food. Former convictions proved these standardized strategies by the Syrian government. As these actions were not on trial, the conviction falls short to create justice for the immense hardships the survivors experienced through years of deprivation (El-Hitami, 2023a).

grave crimes shall be duly considered and suggests “special protection measures” (57). Their interviews should be held in specialised spaces and by professionals trained for that purpose, and survivors can request to be questioned by a person of the same gender (Art. 23 Para. 2).

3 Methodology

This study is based on a qualitative research approach. Nine qualitative, semi-structured interviews were conducted between November 2022 and April 2023. Two of the participants are Syrian survivors that participated in different stages of the criminal justice process. Two participants are Syrian survivors that participated in a trial as witnesses but are also active as legal professionals in the case building process. Three interview partners are Syrians that work in different NGOs in the area of legal case building and justice for atrocity crimes in Syria. One interview was conducted with a Syrian trial monitor of the Al-Khatib trial. One interview partner is a German member of an NGO working for justice and healing for torture survivors. The collected data was then analysed based on the “Grounded Theory Method” (Bryant, 2014: 116).

4 Results and Analysis

4.1 Stress Reduction

The findings show that Syrian survivors experience severe stress in their daily lives in Germany. Many suffer from sleeping problems and nightmares. Survivors report that they are overwhelmed with daily life struggles:

“[I]n Arabic there is a saying that says that in one hand you cannot carry two watermelons [...]. Maybe I can say that, yes, I was carrying ten watermelons in one hand every day” (IP2).⁶

Survivors are worried that their stress is negatively impacting their family structure. In particular, survivors that are still in the asylum process or accommodated in refugee camps experience stressors like trauma, migration, life in diaspora and face additional hurdles such as accessing the healthcare system, lacking language abilities, being dependent on social services, dealing with bureaucracy, or needing legal support. Survivors underlined the immense pressure they receive from German authorities to function within German society:

“He cannot work and learn the language. He is tired. His mental health is not good [...] he tries to integrate into society but he is not successful. He is tired from trying” (IP8).

Stress in their daily lives and added psychological stress connected to their participation in the criminal justice process reduces the ability to study German, creating a feeling of speechlessness and reducing access to social and psychological support structures. Survivors find themselves in a limbo in which they cannot learn German because of their stress but cannot access stress-reducing services because of their lacking German skills. Survivors are pressured to function and integrate whilst their experience as survivors hinders them from achieving these goals. They feel that they do not receive enough support in this situation. Specialised programs for individual learning, beyond institutionalised and inflexible offers that do not meet survivors’ needs, could enhance survivors’ chances of success at language learning. Social work can connect survivors with

⁶ Translated by the researcher.

such offers and, if unavailable, advocate for their establishment. Survivors expressed that their pain as survivors of severe atrocity crimes is not recognized by the German authorities and society:

“I am Syrian, I am a victim! Jobcenter. Money. Finding work. Learning German. But nevertheless, I made it! [...] I did not come to Germany for work and money. I came ehm, I came to survive, in order not to die” (IP2).⁷

The lack of acknowledgement of their pain and struggle aggravates their stress. Stress hinders survivors from processing trauma and starting a healing process. They demand understanding for their specific life circumstances as survivors of grave atrocity crimes. Some survivors are incapable of receiving citizenship, which would grant more rights and security, because they fail to fulfil requirements due to high stress:

“There are families that have psychological problems. These problems don’t let people integrate into society. They struggle to learn the language. But the problem is that Germany wants to you to learn the language. But they cannot do that. He is stuck. The requirements to get the citizenship, is language and work. There has to be exceptions for these people” (IP8).

This can further have negative consequences on their future in Germany and their access to rights.⁸

They express a lack of information with regard to the social support system. Some Syrian survivors do not know where they can find support for their daily life problems. Even though some appreciate that the German social system has much to offer, they are overwhelmed by the complicated bureaucracy that is often attached to support services. Survivors and NGOs stated that social work could be supportive regarding reducing stress of daily life problems:

“Social work can [...] help them to do that, in their family, in their life to find job, to deal with their situation, legal situation, residence [...] for those specifically who have trauma from torture” (IP3).

The immense stress of the trial is not being taken into account by the German authorities. Social work can function as a mediator between survivors and German authorities by explaining hardships and advocating for understanding and stress reduction. Survivors also mentioned that they would feel supported by receiving appreciation for their fight for

⁷ Translated by the researcher.

⁸ The “lack of citizenship means a lack of political rights, participation, the lack of rights and lack of resources and governmental protection” (Azimipour, 2023: 45) meaning that for many non-citizens, naturalization becomes the obvious choice for a decent existence. Azimipour criticized the bureaucratic naturalization process in Germany that is, among other things, based on productivity. One has to have a stable and adequate income to be eligible for German citizenship. This automatically excludes people that receive social support services or work in precarious conditions and receive a low income. Receiving German citizenship is also connected to efforts of assimilation, causing constant pressure for non-citizens to fulfil the imaginary requirements of a German culture. Additionally, language knowledge is a requirement for naturalization. Azimipour criticises that these implementations are based on a racist perception of belonging and should be replaced by a “consequent implementation of human rights that guarantee that the fundamental needs of every person are not based on personal documents but rather on the universal right to have rights” (Azimipour, 2023: 47).

justice. Survivors and NGOs expressed that social work can be supportive by reducing the everyday stress. This would enable survivors to heal:

“[W]hen everyday life is easier, dealing with your trauma and the experiences that you have can have its place and when you have a lot of everyday stressors you cannot have the space to kind of actually talk about what happened to you, process it and be able to have a life” (IP6).

When the described daily life stressors are reduced, survivors have more capacities to concentrate on participation in the criminal justice process. Therefore, stress reduction is important to overcome impunity of criminals and fight for transitional justice.

Participation in the criminal justice process causes severe stress for Syrian survivors because of fear and lack of protection. Syrian survivors fear that participation could have negative effects on their legal status in Germany; they fear being sent back to Syria. Syrians are afraid to participate in a trial against atrocity crimes committed in Syria when their resident status is uncertain:

“[M]ost Syrians received subsidiary protection and that does not grant the same protection, the same legal protection than the refugee status. That is also another reason why many are reacting a bit reluctant and say that it is great that the trials exist, but I prefer not to be part of it, who knows what could happen to me and my family” (IP9).

Furthermore, survivors described fear that their participation as witnesses in the criminal justice process has life threatening consequences for their families in Germany or abroad. Survivors do not feel safe from Syrian intelligence agencies in Germany. As the Syrian regime is still in power, they fear revenge actions as punishment for their participation. Families of survivors are also afraid, which causes problems within the family system and adds stress:

“I dealt with this trial for two years. I always had to talk to my family and convince them. And eh, several testimonies and talk to the lawyer [...]. That was very exhausting” (IP2).⁹

Adding on fear, survivors experienced a lack of protection. They were afraid to testify at court and wanted to stay anonymous which was not always guaranteed. Survivors wish for the German criminal justice system to take that into account and react more flexibly to their individual protection needs. However, this has not been put into practice in ongoing trials. This fear causes some to refrain from participating in criminal justice procedures. Syrians come from a dictatorship and mostly have no trust towards criminal justice entities, which decreases their motivation to participate in trials. Others decide against participation due to hardships of their trauma and fear of re-traumatization. Another reason for the lack of participation is the lack of information and connection to the criminal justice system. Furthermore, bureaucracy is dis-encouraging survivors to take part as witnesses. As a consequence of the named reasons to refrain from participating in the criminal justice process, criminals are not persecuted and impunity is ongoing. The knowledge that accused perpetrators are located in Europe and walking around freely adds to the fear and stress of the interviewed survivors.

Survivors that decide to participate as witnesses in the criminal justice process experience a lack of support and the feeling of being alone. Not all survivors have the resources to understand the justice system and their rights. The legal system is not very accessible. Survivors lack legal knowledge of and a connection with the criminal justice system.

⁹ Translated by the researcher.

Interview partners described that some witnesses in the trial came unprepared, lacked information, did not know the support structures and were faced with severe stress during their testimonies. From the interviews, it became clear that survivors wish to receive psychological support for themselves and their families. They express their need for specialised emotional and psychological support: “You know, we need more clinics available to help the victims for free, or have funding for that” (IP3). NGOs also see a huge need and high demand for specialised psychological support, which causes long waiting times. In addition, the support structures are not sufficiently geographically distributed, so not all Syrian survivors are able to find support in their local area. Survivors also struggle to access the existing psychological support offers because of language difficulties:

“Witnesses that still have psychological problems because of their time in prison, and still are not able to move on alone, maybe cannot ask for support in German, because they cannot speak German well” (IP4).

However, there is a fundamental lack of psychological support offers in Arabic. Translation in a therapy setting is not perceived as a satisfying substitute for therapy in their mother tongue. They also experience that psychologists lack contextual knowledge of their situation as Syrian survivors of atrocity crimes. They feel that therapeutic offers are not effective and sufficient due to language and cultural differences. One survivor expressed that Western psychological methods cannot deal with the amount of pain or the intensity of trauma experienced by Syrians and felt almost ridiculed by practical suggestions by German psychologists. Survivors also struggle with societal stigma connected to psychological support. They are afraid that receiving psychological support reduces the credibility of their testimony. NGOs stated that as a result of lacking psychological support, many survivors have not processed their trauma. Survivors and NGOs mention that the hardest part of participation in the criminal justice process is often the initial police interview prior to the actual trial. This is often the first time that they have to recall traumatic memories of the atrocities they experienced. Survivors needed more emotional support prior, during and after the police interview. Even though survivors wished to be supported by a person of trust, they were not allowed to be accompanied to police interviews for procedural reasons. A person of trust can give confidence and strength:

“[W]hen I went to the police, my girlfriend accompanied me. She helped me there. They did not allow her to come inside, because of data protection, but it really helped that she accompanied me.” (IP1).¹⁰

Especially after the police interview, survivors lack support because they are left alone with their memories and feelings. Survivors end up with nightmares, depression and other psychological reactions in response to their testimony and feel left alone without anyone to support them in dealing with these issues. Furthermore, many survivors are not mentally prepared for the emotional part of the testimony at court while being confronted with the perpetrator:

“[I]t was really difficult. Honestly really hard. I spoke for more than eight hours, and I was sometimes emotional, not factual. It was really difficult also that the criminal, the criminal is in front of me, in the same room, and I am facing him” (IP2).¹¹

¹⁰ Translated by the researcher.

¹¹ Translated by the researcher.

Even though survivors were trying to be strong during their testimony, many felt that the experience was so intense that they got emotional during their testimony at court and needed to be calmed down. Survivors were confronted with their perpetrator for the first time after the atrocities and were overwhelmed by emotions. That confrontation was re-traumatizing for some of them. In general, survivors felt that testifying was very hard because they have to remember things that happened a long time ago, that might also be hidden away in their memory to deal with the traumatic experience. Survivors are under extreme pressure before, during and after their testimony at court. The stress and re-traumatization sometimes make it hard to remember details and sometimes cause contradictions with initial police interviews. This can aggravate their stress, because they then feel that they are accused of lying and fear legal consequences. Insecurity about the personal testimony can cause further stress. Survivors question whether their testimony was impactful or powerful enough:

“I was emotional and then [...] after the session, it was more than ten days, I stayed more than ten days without sleeping. Yes, I always think to myself ‘what did I say?’” (IP2).¹²

4.2 The Need for a Survivor-Centred Approach

The universal jurisdiction trials that happened so far were not perceived as survivor-centred. Emotional care for witnesses was treated like an afterthought and mostly important in the context of enabling witnesses to testify and bring evidence. Survivors experienced fear while participating in the criminal justice process. This negatively affected their participation. Some interviewees stated that the criminal justice process is lacking accessibility and that the system does not empower survivors or encourage them to participate and speak up. The trial should be for the Syrian survivors:

“[I]t’s their case, so it’s about them having their agency over everything that they say and also having the agency to consent to what is going to happen with the speech” (IP6).

Survivors do not want to be generalized as victims. Their individual experiences have to be acknowledged and respected. Some survivors, for example, have a strong family support system. Since they have this resource and feel stable, they do not need additional support. These individual situations and choices need to be respected. Service providers should not assume that all survivors need or want support. Support should never be imposed on survivors but rather carefully offered. Survivors are the driving factors of cases, and they should be able to make well-informed decisions and be involved in every step of the criminal justice and social support process. The interviewed NGOs claim that the criminal justice process should be more focused on the needs of survivors. They demand a survivor-centred approach: “put the survivors first and in the centre of this trial” (IP5). Syrian survivors felt most supported by NGOs that are engaged in Syrian matters and that follow a survivor-centred approach. The organisations prepare and inform survivors prior to the trial, answer questions, offer support during the criminal justice process and update them on important information. Connections to these NGOs were viewed as important resources in the fight for justice. Being supported by them raised survivors’ confidence. Survivors felt supported and safe in their interaction with NGOs and their work and by knowing that they are not alone in this difficult situation: “being surrounded with people is a support” (IP5). NGOs working on case-building with survivors and fighting for justice are trained for the special context of atrocity crimes. They take it

¹² Translated by the researcher.

seriously to establish a connection of trust with survivors and make sure that they are comfortable. At the same time, they have experience in conducting and documenting testimonies. NGOs gained experience in dealing with the Syrian community from the first universal jurisdiction trials and continue to improve their work. Generally, justice was described as a long process that requires strength and patience. Sometimes cases cannot be brought to court because of lacking evidence, but NGOs continue to advocate for their cases. Apart from their legal expertise, they are also trained to reduce stress during a testimony and prevent re-traumatization. They talk with survivors about the psychological effects of testifying and being confronted with the perpetrator and explain physical reactions, while respecting survivors' agency:

“So this is one of the aspects we do, kind of remind the persons that we might kind of encounter different feelings, nightmares, that might be very difficult or hard for you, you can stop at any time you want, we can pause, we can even not take the testimony at all if you feel like it's a lot for you to take, we can as well leave the whole account if you don't want it to happen” (IP6).

NGOs working in the field assess whether survivors are able to testify and if there is a need for psychological support. They inform them about psychological support options, provide guidance and work on referring survivors to existing institutions. Survivors often reach out to these NGOs with requests for social support. NGOs are motivated to support and are equipped with the specific contextual knowledge. However, the organisations cannot provide support, as they lack funding to provide social support service staff, psychological care or special aftercare programs. NGOs that work with Syrian survivors created collaborations and networks with specialised and general psychological support services or medical facilities that have free services to refer survivors according to their needs and enhance access to psychological support. However, the connection to social work practice is lacking:

“So, I think legal professionals as well have to be trained by social workers to be able, I mean bringing the social aspect to it” (IP6).

This leaves room for creating a network with relevant support services. Such a network could also improve knowledge exchange between social work practitioners and legal professionals, which can be useful in discussing legal, social and emotional aspects of survivors' situations from different perspectives and bundling resources.

A collaboration could lead to mutual trainings with regard to social work support and legal support. Such a knowledge transfer can enhance survivors' experiences within legal and social support structures. NGOs take over a lot of important tasks such as spreading information about trials in a multilingual and easily accessible way. However, they experience a lack of appreciation for their work, which is shown by a lack of funding. Social work could support NGOs with financial resources and appreciation.

Since survivors that participated in the study experienced a lack of information and access, survivors request improved information dissemination and easier access to support offers. A specific demand is the development and distribution of a low-threshold information sheet in Arabic about the criminal justice system and psychological and social support offers to enhance information and access for survivors. For stress reduction throughout the criminal justice process, social work could develop a low-threshold contact point:

“So maybe there are criminals in Germany, there are people [...] that want to report them at court, but because it is difficult and because he does not know it and the police is very bureaucratic and such things [...] so the issue is very difficult. So there has to be someone helping him or an office [...] a number“ (IP1).¹³

This could decrease the feeling of being lost and disconnected to social and psychological support and the criminal justice system. Those that have a contact person feel more confident to participate in the criminal justice process. A contact point should accompany the survivor provide guidance about the criminal justice system and inform them about and connect them to social and psychological support structures. Some survivors mentioned that, to reduce stress, they would have wanted emotional support from a person of trust during the interviews. NGOs also agree that this could enhance the testimony:

“[H]aving maybe a social worker at a testimony that is being taking for a person to feel comfortable and to feel that there is someone that is supporting you know the aspects of my life who can be there to support me afterwards“ (IP6).

Survivors need emotional support following the trial sessions, as also the direct confrontation with the perpetrator can be highly stressful. Since the testimony at court is emotional and triggers many feelings, survivors need time to process. They feel vulnerable after testifying and need someone to talk to and calm them down, reflect on the experience at court and spend time with instead of being alone with their feelings. Aftercare extends to the direct support immediately after the police interview or trial but also includes being available for the period following the testimony. Survivors profit the most out of long term-aftercare. Partly, these needs are met by social work within psychosocial trial support. NGOs perceive psychosocial trial support as a helpful option for some survivors. Survivors receiving psychosocial trial support were comforted by the general presence of the psychosocial support worker and calming physical contact. Psychosocial trial support is perceived as a useful support offer to prepare survivors, accompany them to interviews and especially to provide optional aftercare following interviews in which survivors have to recollect traumatic memories. To be effective, psychosocial trial support would need to be more easily accessible. This includes the availability of services in Arabic, contextual knowledge and un-bureaucratic access. Survivors also wish for this service to be easy accessible starting from the first participation in the criminal justice process, such as the police interview. At the same time, the offers would need to be on a long-term basis so that survivors can build trust and a relationship and receive sufficient aftercare. The interviewed Syrian survivors were not familiar with available support systems like online platforms, leaflets or general victim support.

NGOs suggest the development of psychological support programs that are specialised for Syrian survivors of atrocity crimes and match their needs regarding language, cultural sensitivity and context expertise. A specific suggestion is the establishment of specialised treatment courses for Syrian survivors and their families:

“A treatment centre. To have distance, to relax. Or a place where there is therapy. A place where is support. Also healthy food and a calm space. Medical and healthy. For the people that are tired and have problems. I want this for the families of victims, I want this for myself“ (IP8).

¹³ Translated by the researcher.

The vision is a specialised treatment course or centre with therapeutic support in Arabic, connected to social support, art therapy, physiotherapy, and sport offers. Funding could not be achieved for this idea so far; however, such treatments could be a way to reach compensation and reparations that involve medical, mental health and social aspects. Social work can provide support by activating existing networks and advocating for the development and funding of these psychological support programs while highlighting their meaning for transitional justice. Social work could criticize the “lacking systems of protection for survivors and victims” (IP6). Social work can advocate for a survivor-centred approach that is based on sensitivity

Lack of protection and fear can be overcome by appropriate protection measures. One example would be the opportunity for witnesses to testify anonymously which would increase comfort and the willingness to participate. Social work can advocate for protection measures and support survivors in their demands to testify anonymously.

IP9 stresses that social workers need to focus on the individual situation of survivors and work on individual solutions for justice and acknowledgement:

“[O]ne has to find a very individual approach on what means acknowledgement and justice for the respective individual based on the four pillars of truth, justice, compensation, and political actions that it never happens again” (IP9).¹⁴

Interview partners explained that sometimes survivors may not want to take legal steps against atrocity crimes or participate in the criminal justice system. Therefore, social workers have to find individual solutions for survivors for acknowledgement and justice:

“To make sure that the person receives a kind of acknowledgement, that is possible through showing people that we are at your side, we believe you, we make sure that you receive a documentation of torture concerning the Istanbul protocol and have evidence” (IP9).¹⁵

These individual solutions can have a different form and character regarding the respective needs of the individual survivor. Acknowledgement can take place on a broad spectrum. It could mean to collect evidence of atrocities or evidence of resistance. Social workers have the task of being creative, finding customized ways to make Syrian survivors feel acknowledged and finding measures of healing that lead to alternative justice.

4.3 Empowerment of Syrian Survivors

NGOs think about empowerment of survivors on an individual level as an important aspect within the fight for justice: “With a strong survivor, empowered survivor we can fight impunity” (IP5). Without appropriate support and safety, survivors are often not capable of facing their trauma. For survivors of SGBV, empowerment is a particularly important key factor to enable participation in a criminal justice process. Female survivors of SGBV are perceived as more vulnerable and in need of additional support:

“[T]hey have an additional layer as women in Syria not to trust the justice system that always systematically worked against them” (IP6).

¹⁴ Translated by the researcher.

¹⁵ Translated by the researcher.

They face societal stigma, which can hinder them in seeking support and in speaking up and participating in the criminal justice process, which upholds impunity of criminals. Female survivors of SGBV have more hurdles to speaking up publicly:

“So still any survivor has to think about the price that they would pay and the consequences they would pay, especially when they are not supported from the family” (IP5).

The criminal justice system and social work need to focus on vulnerable groups and provide appropriate support and protection to enable survivors to feel safe enough to speak up. Speaking up is painful and survivors need time to slowly face their trauma and be ready for participation in the criminal justice process: “To admit things, it also needs time” (IP5). Therefore, they need specialised long-term support, financial support and a safe environment and shelter. Social work can support and strengthen these resources and self-help strategies. Social work can offer spaces and programs for survivors for exploration and expression through creativity and artistry. Social work can advocate against societal stigma and create an environment that is safe in which survivors can open up, receive support and fight for justice. IP6 describes what social work can do: “reducing the stigma, fighting the stigma, campaigning against it is also something social work can do” (IP6).

Apart from individual empowerment, there are also measures that empower on a community level, decreasing impunity and supporting Syrian survivors. IP9 elaborates that increased information spreading can enhance access to justice and suggests a campaign to raise awareness of universal jurisdiction and the German Code of Crimes against International Law. Social work can advocate for increased information spreading campaigns by German authorities but also incorporate information spreading about universal jurisdiction in social work practice. IP9 expressed that acknowledging experienced pain is an important aspect. NGOs create meetings to connect survivors in which they could exchange their stories and experiences in a safe space:

“to let people talk about their experiences, to let people tell their stories and to be heard, and to talk with one another, and to be empowered by one another” (IP6).

Survivors felt heard and understood in the exchange with others that share their situation and reached individual and collective healing: “people can share the pain” (IP8). Having such a space to heal was empowering for some survivors. Such exchange creates a new narrative for Syrian survivors. IP6 describes that this “gives back agency to the community over the experiences that they went through” (IP6). Social work can provide support by providing safe spaces for exchange and empowerment. Syrians that lost family members and loved ones suffered tremendously. Social work can engage with Syrian communities and offer opportunities to exchange about their individual and collective pain and grieving in a safe space:

“The families can come together and talk. They share their stories together. Maybe paint, do theatre. There are many activities we can do in a group. The people would understand each other, they have the same pain” (IP8).

Social work could support Syrian communities in creating spaces of memorial for lost loved ones, in order to have a space to honour victims and allow families to grieve and mourn. Social work can create spaces by advocating for improved legislation and raising funds. Social work can network with Syrian NGOs that play an important role in community mobilization through information spreading and by connecting survivors with the criminal

justice system, which encourages survivors and advocates to participate in universal jurisdiction trials.

4.4 Advocacy

4.4.1 *Advocacy for Enhanced Protections of Refugees*

Asylum seekers and refugees often live in unstable and unprotected situations in Germany, and many feel overwhelmed by daily life struggles. Furthermore, refugees and asylum seekers have less rights than citizens:

“Basically a lot of survivors and victims of human rights atrocities came to Europe. In different ways and they stayed in the reception centres or in refugee accommodations [...], they are people who in addition of the experience that they suffered from they also found themselves in places where they have less rights” (IP6).

Survivors that have asylum seeker status have to live in refugee accommodations where they are not protected from re-traumatization and stress. Furthermore, they fear for their futures because being sent back to Syria would mean a threat to their lives. Survivors with the status of subsidiary protection are forced to provide valid Syrian identity documents.¹⁶ These documents can only be received from the Syrian embassy, so survivors find themselves in a moral dilemma. Survivors are forced to endanger themselves by visiting the Syrian embassy and additionally fund the dictatorship that has severely harmed them in order to receive a passport; otherwise, they experience insecure living conditions and less rights in Germany with the constant pressure to obtain the requested documents.¹⁷ This issue aggravates stress:

“[H]ow is it possible that my brother has to renew his passport from the government that killed his brothers?” (IP8).¹⁸

Social work can raise awareness amongst German authorities about the hardships that this practice upholds for Syrians and how this system financially supports the Syrian regime. Social work can advocate against the requirement to provide Syrian documents for subsidiary protection status holders. Social work can also support Syrian activists that already fight for those matters with resources or media outreach. Social work can support

¹⁶ § 48 AufenthG states that foreigners are obliged to obtain passports or travel documents and submit them to the immigration authorities. According to § 5 AufenthV, foreigners can receive a German substitute passport if they cannot otherwise obtain a passport of their country of origin without facing unreasonable hardship. However, the German authorities do not recognize general unreasonable hardship and request individual proof of an existing unreasonable hardship, which is impossible in many cases. Furthermore, most Syrians receive subsidiary protection and legally claim against that decision. They are afraid that visiting Syrian institutions can have a negative influence on their claim (Moghdeb, 2020).

¹⁷ Syrian travel documents are among the most expensive ones globally and mostly have to be renewed in an every-two-years rhythm. It is assumed that the Syrian government has already received more than €1,000,000 through this process (Moghdeb, 2020). Many Syrians resist the pressure of the German immigration authorities and refuse to visit the Syrian embassy, even though this is connected with disadvantages to their residency, work permits and mobility (Moghdeb 2020). Activists are fighting for the recognition of unreasonable hardship in order to end the obligation to provide Syrian passports to the immigration authorities. They fight against the bureaucratic obligation to financially support or interact with Syrian institutions (about:change, n.d.).

¹⁸ Translated by the researcher.

survivors using advocacy approaches to fight for the change of refugee regulations and the adjustment of governmental approaches for refugee accommodation like decentralised refugee accommodation, for specialised psychological support and for protection from re-traumatization. Social work can question existing inequalities and legal restrictions to ensure that refugees can access human rights. The social work profession can advocate for the enhancement of naturalization laws to decrease hurdles in accessing citizenship.

4.4.2 *Advocacy against Atrocities of the Syrian Regime*

The interviewed survivors and NGOs mostly believed that achieved universal jurisdiction outcomes are not enough to achieve transitional justice. Syrians were the driving factor that pushed for universal jurisdiction of atrocity crimes in German courts. The interviewees are satisfied with the convictions and that systematic crimes committed by the Syrian regime were discussed publicly. Nevertheless, they did not feel that the convictions were sufficient. Instead of punishing individual criminals, they want accountability for the entire regime: "Not this small criminal, just the small criminals, we need to bring the regime to international trial" (IP8). IP7 mentioned that justice is not possible anyway because the convicted criminals will never feel the horrors of Syrian detainees in a German prison where they will probably still be treated like humans and have rights (IP7). Some also question whether universal jurisdiction is the right choice:

"The justice process should be done in Syria. For them to have that experience. Because they should be the one who are strategizing their cases and why they are doing their cases. They are the ones who are having these conversations with one another" (IP6).

The interviewed Syrian survivors and NGOs have strong feelings towards the Syrian revolution. They have witnessed and experienced severe atrocities and stood up for justice and political change. Witnessing atrocity crimes has fired their active fight for political change, freedom, democracy and human rights in Syria. However, they are disappointed and think that Syria was left alone: "The international community, they did not assume their responsibility for Syria. We took over this mission" (IP2). Social work can lobby and advocate for political change in Syria and create pressure on the international community to take responsibility. Social work can raise awareness about these matters and actively advocate against normalizations of a relationship with Assad and deportations to Syria. IP9 describes the meaning of advocacy for survivors:

"[T]he fight for justice can heal, the hope for justice can heal. And if we offer people, let us fight together, let us be loud together, let us do something together, that already makes a great difference" (IP9).¹⁹

Advocating for justice, accountability and peace is therefore an important factor of acknowledgement and transitional justice, which leads to the conclusion that social work can engage in these fields to support Syrian survivors. Survivors and NGOs pointed out that the situation of Syrian survivors has similarities to other survivors from e.g. Ukraine or Iran. Survivors and NGOs share solidarity with survivors from other countries and hope for information spreading in more relevant languages and the political will for justice and accountability: "Our goal is justice for everyone, for all victims, not only the Syrian victims, but also for Ukrainian victims" (IP2). Positive change has been witnessed with regard to

¹⁹ Translated by the researcher.

information spreading about opportunities for Ukrainian survivors to report atrocities. Social work can increase these efforts, spread informative material and enhance access to justice for survivors of atrocity crimes. Nevertheless, it has been criticized that justice attempts are highly dependent on political will. This means that justice is accessible for survivors from certain countries whilst others are excluded from justice. Social work can show solidarity with all survivors, regardless of their heritage and fight for accountability and justice.

4.5 Discussing Justice and Healing

Most of the interviewed survivors had positive thoughts and feelings regarding the trials. They were in positive disbelief about being able to testify against a member of the Syrian regime and had good experiences in court. They enjoyed being able to speak, sharing their story and being heard. Even though it was painful to talk about traumatic moments in their lives, it was also satisfying to tell their stories and take a little piece of justice. Survivors felt acknowledged for their pain when they talked about their stories. Even though the testimony was physically and emotionally exhausting, it was also healing, as it was a moment of release to let memories free. For some survivors, these positive feelings last until today. It was important for them that they were treated with kindness and humanity. It was a new and positive experience to feel eye to eye to a judge or police officer, be treated equally and have human rights:

“Honestly that was very nice and exceptional for me. It was very nice. I felt that there is justice. And the judge brought me water. And the judge gave me the feeling to be a human being” (IP2).²⁰

Survivors described that their experiences in the criminal justice process in Germany are the very opposite of the treatment received in Syria by justice authorities. They said that they experienced justice and human rights for the first time in their lives. The trials had a special meaning for IP5 because they:

“Let people again feel that human rights are something real. Human rights are something real, it's not just a slogan or something to talk about, but to work for it and to fight for it” (IP5).

IP2 described that whilst he was in the position of the victim, he was also empowered by being a plaintiff and fighting actively for justice. Survivors mentioned that even though the confrontation with the perpetrator was difficult, it was also empowering to experience the change of roles of being a free person whilst the perpetrator is being tried in court. They feel pride for participating in creating justice, doing something really meaningful and being part of a historical trial:

“Never [...] it did not exist that someone tortures you and then you can report him [...] so it is something new. Something new that is good” (IP1).²¹

Love and pain that is felt in relation to deceased family members were important driving factors to participate as witnesses. Survivors have hope that the trials will lead to more convictions, more justice and political change in Syria. Survivors felt a moral obligation connected to their testimony. They testified in the name of all victims, for their individual and collective suffering, for all of humanity. It gave them meaning and strength for their testimony and helped them in overcoming fear:

²⁰ Translated by the researcher.

²¹ Translated by the researcher.

“This trial made history. And we did something for the victims. Not only for my brother. For all victims. When I spoke in court, this is what I felt. That I spoke for all victims. I am a victim myself, because I have been in prison, too. I know what it means what I am doing [...]. If there is someone that speaks in his name and raises his voice” (IP2).²²

Some aspects of the German criminal justice system, however, were critiqued and made people question whether universal jurisdiction is the right tool for transitional justice. The German legal system is faced with challenges of finding evidence and lacking context. Translation at court was criticized by survivors. The translators were not Syrian and did not know the specific context, which created translation mistakes. The lack of translation is preventing Syrians from accessing the criminal justice process. As a consequence, some do not relate to the trials:

“Starting with the language that the court hearing is held within. We are not the ones who are meant within the work” (IP6).

The lack of translation for the public creates a lack of identification with the trials. Although Syrians worldwide are interested in the trials, they cannot understand the trials and are excluded from the justice experience:

“you do not translate your court hearing. You systematically do not allow the access of Syrians within these courts. So you do not allow the conversation. That is a very very very valuable one” (IP6).

A lack of translation services prevents Syrians from experiencing justice and creating a new narrative of justice. It discourages the participation of civil society in the transitional justice process even though including communities is a crucial aspect:

“So you see a city in Berlin that has a very high amount of Syrians. You go to Moafak D. court hearing, and I go to every each one of them and I see no one. Survivors are there, giving their testimony but there is no one. There is no community backing them up. There is no one witnessing this moment. Because it is not ours. This is how they think. So for them to relate more to it, for them to have these conversations, that can transform their thinking, this needs to be in Arabic” (IP6).

NGOs did not observe positive changes regarding translation at ongoing trials. Instead, NGOs feel obliged to take over the task of translation, information dissemination and awareness raising for the Syrian communities. Therefore, some believe that the trials should have taken place in Syria. As the precondition for establishing such a dialogue is translation, social work can advocate for outreach programs by courts and for the translation of the criminal justice process.

Interview partners critiqued that German justice is perpetrator driven, meaning that Germany convicts perpetrators of atrocity crimes out of security concerns, to create safety for citizens and morality. However, Germany is not aiming at transforming society, building a new Syria or changing the political agenda of the Syrian regime. The trials are important because they prove systematic and strategic atrocity crimes of the Syrian regime but Syrians wanted such trials to take place in Syria because they are essential to forming a new justice system that could prevent future atrocity crimes. The universal jurisdiction trials in Germany have shortcomings:

²² Translated by the researcher.

“So basically to transform, to make sure that this crime won’t happen again you need to transform the thinking of people about these crimes and about the rights. Their rights. And about their understanding of what being a citizen means. What is happening in Germany does not provide that. Because A: refugees – survivors and victims who are in most of the cases refugees – are not citizens with all the rights. They do not practise the citizenship. And ergo they don’t understand what the right to have a right²³ means. Ergo you are not working to build up the human factor and build the country. You are working to build up a case that punishes a perpetrator and you keep your countries safe” (IP6).

Within the trials, Syrians were able to create a legal proof of atrocities committed by the Syrian regime. They created a Syrian story of collective pain but also resistance:

“[T]he narrative of the Syrian people, the narrative of the revolution that we as a Syrian civilians, we were just fighting for the main basic human rights that we deserve. And we were just faced with all this brutality and being killed in jail and everywhere with all kind of weapons and torture and everywhere” (IP5).

This narrative is important for the transformation of Syrian society. Monuments or museums and acts of remembrance can be used to stabilize such a narrative. In connection with the narrative of survival, resistance and accountability of Syrians, discussions about human rights are essential for the transformative justice process:

“This is what happened with Koblenz, you start opening a topic of what is justice for me? What does it mean to seek justice? What does this concept mean? Something that for a German citizen might be a given, because they lived under that and they understand what it means. But for a Syrian who never had the right to have right because they lived under a dictatorship is a very interesting conversation to have” (IP6).

As Syrians were systematically deprived of human rights, such discussions can have an empowering effect and are an important step towards justice. Social work can provide safe spaces to initiate discussions about justice. Social work can support Syrians with programs that focus on the issue of human rights and transform people’s thinking:

“The role of social work at that stage would be supporting people to understand what it means to have a right to have a right and basically having the right to have a right is not a concept that we as Syrians ever had in Syria” (IP6).

²³ IP6 referenced Hannah Arendt’s concept of “the right to have rights” (Benhabib, 2004: 50). It means the “right to belong legally to a state and have one’s human status (and all that that implies) be guaranteed by its laws” (Cotter, 2005: 110) which is “the right to belong to a political community” (108). This thought is based on the situation in which refugees find themselves in their place of refuge. Benhabib (2004) explains that the “stateless were deprived not only of their citizenship rights; they were deprived of any human rights” (50). They have become persons without shelter, work and influence. This separates them from nationals of the country of their refuge: “The rights of citizens are exclusive and conditional since they only apply to those who legally belong to a nationstate” (Cotter, 2005: 97). Refugees are excluded from this privilege of rights which shows a contradiction within human rights which “would be available to everyone without conditions by virtue of membership in the human race” (Cotter, 2005: 97). Instead, the enforcement of rights is dependent on the willingness of respective nation states. Added to that, countries can deny access to naturalization processes and belonging, upholding refugees’ situations of rightlessness (Cotter, 2005).

4.6 Shortcomings of Social Work in Supporting Syrian Survivors of Atrocity Crimes

Some interview partners assessed that social work is fighting in a system that is not supporting refugees or does not prioritise their safety. Social work is in a difficult and powerless situation within the German system and cannot offer safety for survivors:

“It is unsafe, and you have to be transparent [...] and then social workers find themselves working within systems that does not provide the safety to people” (IP6).

Apart from social work’s powerlessness in the German system, there is more critique or doubts that social work can provide effective support for Syrian survivors. Some survivors perceived that they were treated in a patronizing way by social workers without receiving understanding of their individual life situation. Survivors feel that existing social work offers do not match their needs. Services are rarely offered in Arabic and cultural differences are perceived as a barrier to understanding and receiving support. The lack of language and contextual knowledge of the situation of Syrian survivors of atrocity crimes creates hurdles in accessing services. Survivors do not believe that German social workers could understand the collective or individual suffering and pain of Syrians. Hence, they doubt that social work can offer appropriate and sufficient solutions for their situation. IP7 believed that German social workers learned to solve German problems but that they are not equipped to deal with Syrian problems. Survivors questioned not only “how” but rather “if” social work can support Syrian survivors of atrocity crimes. Critiques were also brought up against psychosocial trial support as a specialised field of social work. Some survivors did not believe that psychosocial trial support offered by German social workers could be a useful tool for Syrian survivors because social workers lack connection, availability, contextual knowledge and language skills. If psychosocial trial supporters would enhance their accessibility and offer long-term services that are based on trust and relationship building, and support survivors from the very beginning of participation in the criminal justice process as well as provide aftercare, it might be a supportive option for Syrian survivors.

Specialised support services for survivors of torture or refugees are mainly focused on psychological stabilization but not specifically on legal support. This creates a gap in the support system for the specific group of Syrian survivors. Collaborations between general and specialised support services, police and courts could enhance support structures. Specially trained social workers with expert knowledge of the Syrian context and language skills were envisioned as a support opportunity by the interview partners. Support should be available easily and quickly to be successful though. Survivors’ agency and consent have to be of the utmost importance throughout any social work interaction. Furthermore, stronger collaborations, mutual training and knowledge exchange between general and specialised support services with police, court and legal support were envisioned as a way to enhance survivors’ support systems by raising sensitivity to their situation. As some interview partners did not have a broad understanding of social work and what the profession is about, social work should enhance its professional representation and outreach towards society to be more approachable as a support service.

5 Limitations and Further Research

The research is lacking perspectives and expertise of professionals in the field of general victim support and psychosocial trial support as no participants from these fields could be recruited. Furthermore, the research outcome is mostly focused on experiences made in

the Al-Khatib trial. This creates room for further research from different trials and other perspectives. All of the Syrian survivors that participated as witnesses in trials are male, so the research lacks female views outside of personal expertise. The interview questions did not specifically address questions of class, queerness or disability; these topics are therefore lacking in the research outcome. Further research would be necessary to discuss these important issues. The research questions did not specifically focus on monetary reparations for Syrian survivors. Generally, victims in Germany seem to have hurdles to receive compensation; however, research is lacking (Weisser Ring, 2024: para 3). Therefore, research on the accessibility of compensation for victims generally, and Syrian survivors specifically, would be necessary. Forgiveness and reconciliation are essential for transitional justice and sustainable peace (Ottendörfer, 2018). These topics were not specifically addressed and could be examined in future research projects. According to Hochstätter (2023), there is a general lack of research in the field of victimology and support measures. Further research in that field is necessary to enhance support systems for Syrian survivors. Research on survivors' resilience, strength to survive and strength to fight against an oppressive system is lacking but would be an opportunity to show acknowledgement. This research project focuses on the situation of Syrian survivors, but research on survivors of atrocity crimes in other countries, and their understanding of transitional justice and experiences in the criminal justice process, could be an interesting point of comparison. Similarly, as justice and accountability processes for atrocity crimes in Syria take place in other countries as well²⁴, research on the situation of Syrian survivors and support structures there could be valuable in order to compare approaches, identify successful interventions and expand knowledge exchange.

6 Conclusion

This paper aims at contributing to discussions about transitional justice and universal jurisdiction with a focus on the situation of Syrian survivors participating in the criminal justice process. The perceptions of Syrian survivors and NGOs that are involved in the justice process about the outcomes of universal jurisdiction trials in Germany were studied. The findings add specific implications for social work practice to enhance support for Syrian survivors and enable them to participate in the criminal justice process. The profession can support Syrian survivors by reducing daily life stressors and thereby enable them to participate in the criminal justice process and fight against impunity. A survivor-centred approach that is focused on survivors' needs is of utmost importance for social work practice and the criminal justice system. Social work can advocate for the rights of survivors within the criminal justice process and demand a survivor-centred approach including information, translation, protection and psychological support. The main driver

²⁴ Similar cases exist in other European countries (Buckley-Zistel, 2020). Also, European countries started to investigate or convict their own nationals with regard to actions that enable or support atrocity crimes in Syria (Kroker, 2019). At the French Criminal Court, France has started a trial against Jamil Hassan and two other high state officials, Ali Mamlouk and Abdel Salam Mahmoud, who allegedly committed severe atrocity crimes. The trials will be held on French territory without the presence of the accused (International Federation for Human Rights, 2023). The Dutch investigation team for international crime located a Syrian person last year that allegedly was part of a group investigating civilians for the Syrian government and committed "torture, complicity in torture as a crime against humanity and complicity in various forms of sexual violence as a crime against humanity" (Openbaar Ministerie, 2023).

needs to be the acknowledgement of survivor experiences. Social work can provide support in creating alternative justice solutions according to the individual needs of survivors. Furthermore, social work can empower survivors individually so that they are strong enough to fight against impunity. Social work can create group empowerment spaces for families to mourn and heal. Social work can advocate for adjustments in German refugee regulations to reduce fear, enhance protection and enable survivors to participate in the criminal justice process. On an international level, social work can advocate against normalizations of the Syrian regime and for intensified involvement of international organizations and efforts for peace. Social work can support families of the detained and advocate for their release and against torture and arbitrary detention. Social work has to reflect on shortcomings and intensify accessibility for Syrian survivors through enhanced language access and expert knowledge in the context of atrocity crimes in Syria. In addition, networks and cooperation between the police, judiciary and social work should be intensified to encourage mutual training. As universal jurisdiction trials in Germany are ongoing, continuous reflection and research is needed to support Syrian survivors of atrocity crimes in their fight for accountability, acknowledgement, transitional justice and peace.

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Jurisdiction

The Order of the International Court of Justice on the Gaza War: Significance and Limitations¹

Ralf Roßkopf²

Expectations and fears were high (Wintour, 2024): Would the International Court of Justice (ICJ) put an end to the Israeli military operation in the Gaza Strip – a reaction to the Simchat Torah Massacre? Would legal means (be able to) stop violence and suffering as well as the looming conflagration? Would Israel be denied self-defense or the population of Gaza denied humanitarian protection? ICJ, Order of 26/1/2024, South Africa v. Israel, General List No. 192, demonstrates the importance and limits of jurisdiction and the danger of its misinterpretation and disregard. It did not stop the fighting. It required compliance with the 1948 Genocide Convention and humanitarian relief, yet it lacks effective enforcement mechanisms. More important is an internationally coordinated and guarded political approach for an immediate truce and a durable solution.

Key Words:

International Court of Justice, Gaza, Israel, South Africa, Order

1 Context

The ICJ summarises the context of the decision:

“On 7 October 2023, Hamas and other armed groups present in the Gaza Strip carried out an attack in Israel, killing more than 1,200 persons, injuring thousands and abducting some 240 people, many of whom continue to be held hostage. Following this attack, Israel launched a large-scale military operation in Gaza, by land, air and sea, which is causing massive civilian casualties, extensive destruction of civilian infrastructure and the displacement of the overwhelming majority of the population in Gaza” (ICJ, 2024a: para. 13).

At the time of the Court's decision, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) estimated 25,700 Palestinians had been killed and 63,000 injured, more than 360,000 housing units destroyed, and 1.7 million people displaced (ICJ, 2024a: para 46). The shelling of Israel by Hamas is also continuing. Israel claims to be resorting to self-defence. The casualty figures for both parties to the conflict are continuously updated by OCHA (OCHA, n.d.).

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The wider context is the Middle East conflict. At the end of the 19th century, Jews immigrated to then Ottoman Palestine seeking protection from persecution in Europe at a historically and religiously familiar site (Krämer, 2015: 121-151). The experience of the murder of around 6 million Jewish people by Nazi Germany between 1933 and 1945 (United States Holocaust Memorial Museum, 2023) accelerated immigration. In 1881, there were around 442,000 Arabs and 13,000-20,000 Jews living in Palestine (Johannsen, 2017: 16); by 1947, there were around 1.4 million Arabs and 600,000 Jews. Struggles over land and resources, contradictory British promises to Arabs (Husain-McMahon correspondence 1915-1916) and Jews (Balfour Declaration 1917) of independence and a homeland in Palestine (Schneer, 2011) contributed to violence between the population groups as well as between them and the British Mandate (Johannsen, 2017: 14-16). In the course of the British withdrawal, the United Nations General Assembly (UNGA) presented a partition plan in 1947 (UNGA, 1947), which provided for an Arab state with 42.88% and a Jewish state with 56.47% ownership of the territory as well as an international zone in Jerusalem (Johannsen, 2017: 20). While the Jewish side largely accepted the plan as favourable and made it the basis for the proclamation of the new state of Israel, it was rejected by the Arab population and the Arab states as a colonial project directed against the indigenous population (Albanese & Takkenberg, L., 2020: 28-29). The result was armed conflict (Johannsen, 2017: 21-44), flight and expulsion (Albanese & Takkenberg, 2020: 35-36), occupation, and terrorism. The peace process of the 1990s (Johannsen, 2017: 45-76), which was based on mutual recognition in the 1993 Declaration of Principles on Interim Self Government (DOP) (UNGA & United Nations Security Council [UNSC], 1993) and aimed for a two-state solution, failed by the early 2000s, if not earlier. The minimal autonomy achieved for Palestine was eroded by the power struggle between the secular Palestine Liberation Organization (PLO) and radical Islamists, respectively Hamas, for supremacy in the Palestinian territories, ongoing Israeli urban sprawl, the construction of the wall, and asymmetric power relationships (Johannsen, 2017: 67). The international community largely neglected the conflict in the hope of a normalisation process of Israel's relations with the Arab states, from which the Palestinians were excluded (Ephron, 2020).

The United Nations addressed the conflict in numerous resolutions. UN General Assembly Resolution 194 (III) of 11 December 1948 (UNGA, 1948) requests that

"refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest possible date and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible."

UN Security Council Resolution 242 (1967) (UNSC, 1967) calls on Israel to withdraw from the occupied territories. In its Advisory Opinion of 9 July 2004 (ICJ, 2004), the International Court of Justice considered the Israeli settlements in the occupied territories (including East Jerusalem) to be in violation of international law (ICJ, 2024a: para. 120) and the construction of the wall on the West Bank, together with previous measures, to be a violation of the Palestinian people's right to self-determination, international humanitarian law and the Human Rights Covenants (ICJ, 2024a: paras. 122-137).

It is these connections that UN Secretary-General António Guterres (2023) referred to on 9 October 2023 with his controversial statement that "[t]his most recent violence does

not come in a vacuum. The reality is that it grows out of a long-standing conflict, with a 56-year long occupation and no political end in sight.”

2 Decision

Against this backdrop, South Africa filed an application with the ICJ instituting proceedings against Israel for alleged violations of the Genocide Convention on 29 December 2023 (ICJ, 2024a: para. 1). Due to the expected length of the main proceedings, South Africa also applied for the adoption of provisional measures (Art. 41 ICJ Statute, Art. 73-75 ICJ Rules of Procedure). These were aimed, inter alia, at ordering the immediate cessation of the Israeli military operation; requiring Israel from acts prohibited under the Genocide Convention; ensuring the prevention of displacement and forced resettlement; guaranteeing access to food and water, humanitarian aid and medical care, as well as Palestinian life in Gaza; establishing a ban on the destruction of evidence; and instituting a reporting requirement to the ICJ (ICJ, 2024a: para. 11).

The ICJ Order of 26 January 2024 is limited solely to these provisional proceedings. Therefore, no final decision was required, but only a decision on the capability of falling within the jurisdiction for the main proceedings (ICJ, 2024a: paras. 15, 30) and the plausibility of South Africa's rights to be protected in the main proceedings (ICJ, 2024: paras. 35, 36). In the present case, these rights relate to the assertion of compliance with the Genocide Convention in favour of the Palestinians (ICJ, 2024a: para. 43). The Convention imposes an obligation to prevent and punish the crime of genocide (Art. I). According to Art. II, this is understood to mean

"any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group."

Art. III extends criminal liability beyond genocide (a) to conspiracy to commit genocide (b), direct and public incitement to commit genocide (c), attempt (d), and complicity (e).

The Court first recognises Palestinians as a national, ethnic, racial or religious group (ICJ, 2024a: para 45). Relying on the effects of the military strikes described above (ICJ, 2024a: para. 46) as well as publicly available testimonies and reports (ICJ, 2024a: paras. 47-53), the Court concludes that at least some of the asserted rights are plausible (ICJ, 2024a: para. 54). In support of the requisite intent to destroy, the Court refers to a series of statements by senior Israeli officials that exacerbate the conflict in dehumanising language, speaking of “human animals” to be destroyed (Minister Gallant), or of an entire nation that is responsible, knowledgeable and involved, that could have defended itself against Hamas, and that is having its backbones broken now (President Herzog). Calls to “[a]ll the civilian population in [G]aza” to leave immediately, and that “they” would not receive a drop of water or a single battery “until they leave the world” (Minister Katz) are referred to (ICJ, 2024a: paras. 51-53). It was disputed within the Court whether the conclusion could be based on this alone, contrary to the strict standards of previous decisions regarding the proof, specifically the plausibility of intent, and despite Israeli

protective measures for the population of Gaza (Sebutinde, 2024: paras. 17-23; Barak, 2024: paras. 39-41).

Finally, the ICJ recognises a sufficient connection to the requested measures (ICJ, 2024a: para. 59), the risk of irreparable damage and the urgency of a provisional order. In this respect, it refers to the “extreme vulnerability” of the population of the Gaza Strip, the “catastrophic humanitarian situation” and Israel's inadequate countermeasures (ICJ, 2024a: paras. 65-74).

The ICJ (2024: para. 86), therefore, orders Israel to

1. take all measures within its power to prevent the commission of all acts prohibited by Art. II of the Genocide Convention;
2. ensure with immediate effect that its military does not commit any of these prohibited acts;
3. take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip;
4. take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life in the Gaza Strip;
5. take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of relevant acts;
6. submit a report to the Court on all measures taken to give effect to the order within one month.

The Court also emphasises that Hamas and other armed groups are also bound by international humanitarian law and demands the immediate and unconditional release of the abducted hostages (ICJ, 2024a: para. 85).

A request by South Africa for additional provisional measures was answered by the ICJ by referring to the order already taken requesting full compliance by Israel “including by ensuring the safety and security of the Palestinians in the Gaza Strip” (ICJ, 2024b).

3 Impact

The request for an immediate end to the military operation was not granted. The first two orders merely repeat obligations under the Genocide Convention, as ad hoc Judge Barak points out in his separate opinion, too (Barak, 2024: para. 43). At first sight, the fifth order seems to be of little significance given the extent of the destruction and the isolation of the Gaza Strip but might serve as a powerful tool for potentially shifting the burden of proof in the main proceedings.

The Court itself has no enforcement mechanisms. Implementation depends on compliance by Israel and pressure from the international community. International reactions to the Court's decision do not show any immediate effects: While Israel appears outraged and unimpressed, relying on self-defence and pointing to its protective measures (warnings ahead of military actions, flight corridors, zoning in safer and contested zones, etc.), the international community in general supports it, but no concrete implementation measures can be discerned (Al Jazeera, 2024). Instead, the UN is being discredited on the basis of Israeli intelligence allegations of the following day that local UNRWA staff

might be linked to Hamas and some even to the Simchat Torah Massacre. Important donor countries temporarily suspended funding to the aid organisation (Bergman, & Kingsley, 2024; Williams & Tétrault-Farber, 2024), which was criticised by NGOs as an irresponsible move, worsening the humanitarian situation (Kim, 2024).

All of this shows the limitations of jurisdiction (if not the law) during ongoing military conflicts. The accusation of genocide, however, is a sharp sword in the long term. Genocide has so far been neither confirmed nor dispelled. It can be prosecuted not only by the International Criminal Court (Art. 5 ICC Rome Statute), but also by states in accordance with the principle of universal jurisdiction. Germany has enshrined criminal liability in the German International Criminal Code (§ 6 VStGB) and is a pioneer in several proceedings (Amos, 2022). At the latest since the issuing of the arrest warrant against Putin (Khan KC, 2023), it should be clear that proceedings do not stop at high representatives of states.

Complicity in genocide is a criminal offence, too (Art. III lit. e Genocide Convention). On 1 March 2024, the Republic of Nicaragua has instituted proceedings against the Federal Republic of Germany before the International Court of Justice for alleged violations by Germany of its obligations deriving from the Genocide Convention, the Geneva Conventions of 1949 and their Additional Protocols, "intransgressible principles of international humanitarian law" and other norms of general international law in relation to the Occupied Palestinian Territory, particularly the Gaza Strip, and asked for provisional measures. While a conviction seems to be unlikely, the international community is well advised to constantly reflect on the development of the conflict and its own role in it.

All the more irritating is the participation of 11 Israeli ministers and 15 members of parliament in a "Covenant of Victory and Renewal of Settlement" just two days after the ICJ ruling, in which Police Minister Itamar Ben-Gvir called for the resettlement of the Gaza Strip and the northern West Bank as well as "encouragement" for the voluntary emigration of Palestinians, and Communications Minister Shlomo Karhi even presented coercion for encouraged voluntary emigration as legitimate (Sharon, 2024).

There is no hope for an acute judicial resolution of the conflict. The judgement in the main case might take years. This means that the international community's political efforts to fulfil its collective responsibility in the Middle East conflict must be all the greater. This requires a clear vision and attitude towards a final and just settlement as well as appropriate measures in this regard. Germany must fulfil its own historical responsibility for Israelis and Palestinians alike, the latter's self-determination, life chances and human rights have been curtailed for more than seven decades as an indirect consequence i.a. of the Holocaust.

The binding resolutions of the UN General Assembly 194 (III) (UNGA, 1948) and the UN Security Council 242 (1967) (UNSC, 1967), which were recognised by the parties to the conflict in the DOPs (UNGA & UNSC, 1993), should be the crucial yardstick for everyone. The acute fighting has to be immediately stopped; hostages released; humanitarian aid delivered; mediation initiated; trust built; Arab States included; terrorist groups disarmed; rehabilitation, reconstruction and reconciliation started; the peace process revived; a framework and timeline for negotiations aiming at a two-state solution laid out. Collaborative initiatives like *A Land For All* and the *Holy Land Confederation* (Husseini et al., 2022), calling for two confederate states in one homeland – whether joined by Jordan

as a third partner or not (Ben-Meir, 2022) – seem to be the most realistic and ambitious option on the table. Setbacks are to be expected, while any progress has to be firmly defended against expected attacks from different sides. This calls for a robust international mandate from the UN Security Council. Anyone should know by now: There will be no living in peace and security in the region if the conflict drags on.

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European Jurisdiction on Refugee and Complementary Protection:

July to December 2023¹

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This compilation of case law samples, summarizes and refers to jurisdiction of international relevance for the application of legal standards in the field of refugee and complementary protection by the European Court of Justice (ECJ) and the European Court of Human Rights (ECtHR) in the period July to December 2023.

1. European Court of Justice

1.1 ECJ, Judgment of 6/7/2023 - C-8/22 XXX (Belgium), C663/21 AA (Austria) and C-402/22 M.A. (Netherlands): On the clarification of the terms "particularly serious criminal offence" and "danger to the general public" in the case of revocation or refusal of refugee status

Third-country nationals who have been convicted of a particularly serious criminal offence can lose their refugee status. However, according to EU law, this only applies if they also pose a danger to the general public in the Member State in which they are staying.

In C-8/22, XXX was deprived of refugee status after being convicted of aggravated theft and intentional homicide with the aim of facilitating a theft.

In C-663/21, AA was stripped of his refugee status by Austria after he was convicted of assault, dangerous and threatening behaviour, destruction of property belonging to others and unauthorised handling of drugs and drug trafficking.

In C-402/22, M.A.'s application for international protection was rejected after he had been convicted of three completed sexual assaults, one attempted sexual assault and the theft of a mobile phone.

The ECJ ruled that it cannot be concluded, solely on the basis of a final conviction, that the convicted person poses a real, present and substantial threat to a "fundamental interest of the community" of the MS in which he or she resides. The conviction must always relate to an offence that is of "exceptional gravity" and "one of the offences which most seriously affect the legal order of the society concerned". In Article 14(4)(b) of the Return Directive (conviction for a particularly serious criminal offence), the term "particularly serious criminal offence" must be interpreted as meaning that it covers a criminal offence which, by virtue of its specific characteristics, is exceptionally serious because it is one of the offences which most seriously affects the legal order of the

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Community. In order to assess whether an offence is of such seriousness, account must be taken, inter alia, of the nature of the offence, the penalty provided for and imposed for that offence, aggravating or mitigating circumstances, whether the offence was committed intentionally, the nature and extent of the damage caused and the procedure used to punish it. Several less serious offences should not be added together to form one serious offence. Rather, there must be at least one offence that is extremely serious as such. In addition, the competent authority must assess all the circumstances of the case in each individual case.

It cannot be assumed that if one of the two conditions is fulfilled, it is sufficient to state that the other is also fulfilled. The existence of a danger to the general public of a MS in which third-country nationals are present cannot be considered proven merely by the fact that the person has been convicted of a particularly serious criminal offence. Rather, the authorities must prove that the danger posed by the third-country national is actual, present and sufficiently serious and that the withdrawal of refugee status is a measure that is proportionate to this danger.

If these requirements are met, an MS can – but does not have to – revoke refugee status.

With regard to proportionality, the ECJ ruled (C-663/21) that authorities are not obliged to examine whether the public interest outweighs the third-country national's interest in protection when taking into account the extent and nature of the measures to which he would be exposed after being returned to his country of origin. However, a balance must be struck between the risk to the public interest and the right to protection of refugees. Possible consequences of repatriation must be taken into account in this decision. Art. 5 Return Directive precludes a return decision if it is established that deportation to the intended country is ruled out indefinitely due to the principle of non-refoulement.

1.2 ECJ, Judgment of 29/6/2023 - C-829/21 T.E. and C-129/22 - E.F. (829/21 - referral Hess. VGH; 129/22 - referral VG Darmstadt): On the conditions for the extension of a right of residence granted to third-country nationals with long-term residence status pursuant to Art. 22(1)(b) Directive 2003/109 in the version of Directive 2011/51/EU

T.E., a Ghanaian national, travelled to Germany with a long-term EU residence permit issued in Italy and was granted a one-year residence permit. She gave birth to R.U. The child suffered from a heart defect, forcing T.E. to give up her job. An extension of her residence permit was refused on the grounds that her livelihood was not secure. She was asked to leave Germany. In the course of the proceedings, the authorities argued that it was no longer possible to grant her a residence permit as T.E. had not been in Italy for more than six years and therefore no longer had long-term resident status.

The second case concerned E.F., a Pakistani national who also travelled to Germany with a long-term EU residence permit issued in Italy and was granted a one-year residence permit. His extension was refused because his long-term residence authorisation could not be maintained after he had not been in Italy for more than six years.

The ECJ ruled that Art. 22(1)(b) of Directive 2003/109 as amended by Directive 2011/51/EU (Directive on long-term residents) must be interpreted as meaning that a Member State may refuse to renew a residence permit that it has issued to a third-country national in accordance with Chapter III of Directive 2011/51/EU if the third-country

national has not resided for six years in the territory of the first Member State that issued the residence permit to him/her in accordance with Art. 9(4)(2) and this Member State has not made use of the option provided for in Art. 9(4)(3). The six-year period ends at the latest on the day on which the application for renewal of the residence permit was submitted in the second MS. However, the third-country national must have previously been requested to provide evidence of his/her presence in the state that issued the long-term residence permit during the six-year period.

The Court then held that the second subparagraph of Article 9(4) and Article 22(1)(b) of Directive 2011/51/EU must be interpreted as meaning that those provisions have been correctly transposed into national law by a second Member State which has transposed them by means of two separate provisions, where the first provision lays down the ground for the loss of the right to be granted long-term resident status within the meaning of Article 9(4) and the second provides, without expressly referring to one of the grounds for the loss of that right, that a residence permit shall be withdrawn in accordance with the provisions of Chapter III if the third-country national is no longer entitled to retain his or her long-term resident status in the MS that issued it.

Finally, the ECJ ruled that Article 15(4)(2) of the Directive must be interpreted as meaning that the Member State in which the third-country national has applied for a residence permit in accordance with the provisions of Chapter III or for the renewal of such a permit cannot reject this application on the grounds that the third-country national has not submitted documents with the application showing that he has adequate accommodation if that Member State has not implemented this provision.

1.3 Advocate General Collins, Opinion of 13/7/2023 - C-646/21 - K. L. v. Netherlands (pending): Are Westernised young women/Iraqis a social group?

In September 2015, the applicants left Iraq together with their father, mother and aunt. On 7 November 2015, they applied for international protection in the Netherlands. The applicants were 10 and 12 years old at the time. On 31 July 2018, the Council of State finally rejected the applications. On 4 April 2019, the applicants submitted subsequent applications for international protection. These were rejected as manifestly unfounded on 21 December 2020. They appealed against the decisions to the referring court. The court held an oral hearing on 17 June 2021. The applicants were now 15 and 17 years old and had been living in the Netherlands continuously for five years and seven and a half months.

During this time in Dutch society, they experienced that gender equality is a value and adopted the values, norms and behaviour of their Dutch peers. In their follow-up applications, they claimed that if they were to return to Iraq, they would not be able to adapt to the values, norms and behaviours there because women and girls would not be granted the freedoms they enjoy in the Netherlands. In the Netherlands, they had become aware of the freedom they have as girls to make their own life choices. They pointed out that, as in the Netherlands, they wanted to continue to decide for themselves whether they have contact with boys, whether they play sports, whether they study, whether – and whom – they marry and whether they want to work outside the home. They also wanted to decide for themselves what political and religious opinions to hold and be able to express these in public. As they would have to renounce these values, norms and behaviours if

they returned to Iraq, they needed international protection. The Secretary of State for Justice rejected the applications as manifestly unfounded.

The referring court wishes to know whether third-country nationals in the applicants' situation, who have lived in an MS for a significant part of their identity-forming life, may be entitled to international protection because they are members of a particular social group within the meaning of Article 10(1)(d) of Directive 2011/95/EU and how the best interests of the child should be taken into account when examining such applications.

Advocate General Collins comments on this in his Opinion: In order to determine whether a group in a country of origin has a clearly delineated identity because it is regarded as different by the surrounding society, MS are obliged under Art. 4 of Directive 2011/95 to take into account all facts relating to the country of origin which are relevant at the time of the decision on an application for international protection, including the laws and regulations of the country of origin and the manner in which they are applied, as well as any relevant evidence presented by the applicant for international protection.

- a group consisting of women and girls who share a belief in gender equality has a distinct identity in the country of origin if, when they express that belief by way of statements or conduct, they are perceived by society in that country as transgressing social mores;
- it is unnecessary for a shared belief in gender equality to have a religious or political basis.

Directive 2011/95 in conjunction with Art. 24(2) and Art. 51(1) of the Charter of Fundamental Rights of the European Union (CFR) must be interpreted in such a way that

- a national practice whereby a decision-maker, when carrying out the substantive assessment of an application for international protection or a subsequent application for international protection, does not take into account, as a primary consideration, the best interests of the child, or weighs up the best interests of the child without first determining, in each procedure, what the best interests of the child are, is incompatible with EU law;
- the methodology and procedure for determining the best interests of the child are matters for the Member States to establish, taking full account of the principle of effectiveness;
- harm that a minor has suffered as a result of his or her long stay in a Member State is irrelevant to a decision as to whether to grant a subsequent application for international protection when that long stay in a Member State is the result of decisions of the minor's parents or guardians to exhaust the legal remedies available to challenge the rejection of the initial application and to lodge a subsequent application for international protection.

1.4 Advocate General Emiliou, Opinion of 7/9/2023 - C-216/22 - A.A. v. Germany - Opinion GA Emiliou (referral Administrative Court Sigmaringen 23/3/2022 - pending): Can an ECJ decision be a "new element" for a subsequent application?

The Syrian national A.A. had been granted subsidiary protection in Germany, but his second asylum application was rejected by the BAMF on the grounds that an ECJ judgement does not constitute a new element that changes the position of an asylum seeker, as is required for the examination of a subsequent application on the merits. In

its unusually detailed preliminary question, the Administrative Court asks the ECJ to clarify the interpretation of the term "new element" within the meaning of Art. 33 para. 2 letter d and Art. 40 of Directive 2013/32 as well as the scope of the legal remedy that an applicant can lodge against the official decision to reject a subsequent application as inadmissible:

- (1) (a) Is a national provision which considers a subsequent application admissible only if the factual or legal position on which the original rejection decision was based has subsequently changed in favour of the applicant compatible with Article 33(2)(d) and Article 40(2) of Directive [2013/32]?
- (b) Do Article 33(2)(d) and Article 40(2) of Directive [2013/32] preclude a national provision that does not treat a decision of the [Court] as a "new element"[,] "new circumstance" or "new finding" if the decision does not establish the incompatibility of a national provision with EU law but is limited to the interpretation of EU law? What conditions, if any, apply in order for a [decision] of the [Court] which merely interprets EU law to be taken into account as a "new element"[,] "new circumstance" or "new finding"?
- (2) If Questions (1)(a) and [(b)] are answered in the affirmative: must Article 33(2)(d) and Article 40(2) of Directive [2013/32] be interpreted as meaning that a judgment of the [Court] which has ruled that there is a strong presumption that a refusal to do military service under the conditions set out in Article 9(2)(e) of Directive [2011/95] is linked to one of the five grounds listed in Article 10 of that directive must be taken into account as a "new element"[,] "new circumstance" or "new finding"?
- (3) (a) Must Article 46(1)(a)(ii) of Directive [2013/32] be interpreted as meaning that the judicial remedy against an inadmissibility decision taken by the determining authority within the meaning of Article 33(2)(d) and Article 40(5) of [that directive] is limited to examining whether the determining authority has correctly concluded that the conditions for the subsequent application for asylum to be considered inadmissible... have been met?
- (b) If Question 3(a) is answered in the negative: must Article 46(1)(a)(ii) of Directive [2013/32] be interpreted as meaning that the judicial remedy against an inadmissibility decision also covers the examination of whether the conditions for the grant of international protection within the meaning of Article 2(b) of Directive [2011/95] have been met if the [national] court finds, after conducting its own examination, that the conditions for rejection of the subsequent application for asylum as inadmissible are not met?
- (c) If Question 3(b) is answered in the affirmative: does such a decision by the [national] court require that the applicant [first be] granted the special procedural guarantees [provided for in] the third sentence of Article 40(3) [of Directive 2013/32] in conjunction with the rules in Chapter II of [that directive]? May [that] court conduct that procedure itself or must it delegate it to the determining authority, where necessary after suspending the court proceedings? Can the applicant waive compliance with those procedural guarantees?

Advocate General Emiliou replies to this in his Opinion:

"New" is a "factor" on which the previous decision could not yet be based and which significantly increases the likelihood that the application will be successful on the merits. The term can therefore also be applied to an ECJ judgement that results in a change in the interpretation of the national provisions on which the final decision on the asylum application is based.

On the third question regarding effective legal remedies and the scope of judicial review of an appeal against a decision declaring a subsequent application inadmissible, he referred to the procedural autonomy of the MS and the Alheto judgement. The MS are free to provide that national courts do not judge a subsequent application on its merits. If national courts are allowed to make such an assessment instead of the authority, this must be done in accordance with the procedural guarantees of Directive 2013/32.

1.5 ECJ, Judgment of 21/9/2023 - C-143/22 - ADDE and Others v. France: On the applicability of the Return Directive after the introduction of internal border controls

The background to the preliminary enquiry is a French regulation that allows authorities to refuse entry to third-country nationals at internal borders where checks are temporarily being carried out again due to a "serious threat to public order or internal security" in France. Several organisations, including lawyers, had filed a complaint against this order. They allege a violation of the Return Directive (2008/115/EC), according to which illegally resident third-country nationals must be issued a return decision with a deadline for voluntary departure. Forced deportation is only a last resort.

According to the ECJ, the Return Directive applies to any third-country national who has entered the territory of a Member State without fulfilling the conditions for entry or residence there. This also applies if the person concerned has already entered the territory before crossing a border crossing point where such controls take place. The Directive must always be applied if a third-country national has entered the country illegally – i.e. even if they are apprehended at a border crossing point located on the territory of the controlling EU state. Although entry may be refused in accordance with the Schengen Borders Code, the requirements of the Return Directive must be complied with – even if the refusal of entry remains ineffective as a result. The situation is different at the EU's external borders. There, illegally entering third-country nationals could exceptionally be excluded from the scope of the Return Directive.

1.6 ECJ, Judgment of 21/9/2023 – C-568/21 – E. and S. v. Netherlands: Is a diplomatic identity card under the Vienna Convention a residence permit within the meaning of Art. 2(l) Dublin III Regulation?

E. and S. and their minor children are third-country nationals. E. was a member of his country's diplomatic mission in MS X and lived there with his wife and children. During their stay, the Ministry of Foreign Affairs of this MS issued them diplomatic identity cards. The family left MS X and applied for international protection in the Netherlands. On 31 July 2019, the State Secretary determined that MS X was responsible for examining these applications in accordance with Art. 12(2) of the Dublin III Regulation, as the diplomatic identity cards issued by the authorities of this MS were residence permits. The Netherlands and MS X are parties to the Vienna Convention. MS X granted the applications for admission on 25 September 2019. In a decision dated 29 January 2020, the Dutch State Secretary refused to examine the applications for international protection because MS X was responsible for examining them.

E. and S. appealed against these decisions: MS X was not responsible for examining their applications, as its authorities had never issued them a residence permit. Their right of residence arose directly from their diplomatic status under the Vienna Convention. In its judgement of 20 March 2020, the court upheld the claim. The State Secretary lodged an appeal: the diplomatic identity cards issued by MS X were residence permits within the meaning of Art. 2(l) Dublin III Regulation and were still valid at the time of the application for international protection in the Netherlands.

The ECJ ruled that a diplomatic passport issued by a MS on the basis of the Vienna Convention on Diplomatic Relations is a residence permit within the meaning of Art. 2(l) Dublin III Regulation.

1.7 ECJ, Judgment of 21/9/2023 – C-151/22 – S. and A. v. Netherlands: On the interpretation of the term "political opinion"

Ms. S. and Mr. A., Sudanese nationals, had applied for asylum due to political activities in the Netherlands against the Sudanese government and the resulting risk of return. Their applications were rejected because their actions did not constitute political opinion within the meaning of 10(1)(e) Directive 2011/95/EU (Qualification Directive). The Dutch Council of State then asked the ECJ to interpret what the term "political opinion" within the meaning of the Directive encompasses.

The ECJ clarified that the wording of Art. 10(1)(e) and (2) of Directive 2011/95/EU indicates that the term "political opinion" and "political character" must be interpreted broadly. The views, ideas or convictions of an asylum seeker do not have to include a specific conviction, nor do they have to be so deeply rooted that they cannot refrain from expressing them in their country of origin. The grounds of persecution based on "religion" and "political opinion" are intended to promote the application of fundamental rights and must therefore be taken into account alongside Art. 10 and 11 CFR. Only a broad interpretation of the term "political opinion" is suitable for achieving this goal. Opinions, ideas or beliefs can also fall under the term "political opinion" or "political characteristic" if they have not yet aroused the negative interest of potential persecutors in the country of origin.

On the further question of whether Art. 4(3)-(5) of Directive 2011/95/EU should be interpreted as meaning that the authorities must take into account the degree of political convictions of a third-country national and the extent to which they are so deeply rooted, as well as whether a third-country national cannot refrain from expressing them, the ECJ ruled: It follows from the provisions that the MS are obliged to carry out a comprehensive and thorough examination of all relevant circumstances relating to the particular personal situation of a third-country national and the general context of the country of origin. The degree of conviction of political opinions and whether he/she engages in activities to promote these opinions are just as important as the risk that these actions have attracted the negative interests of the actors of possible persecution.

For the existence of a "political opinion", it is sufficient to claim to express or to have expressed the respective opinion/attitude. When assessing whether the fear of persecution on the grounds of political opinion is well-founded, the authorities of the MS must take into account whether the political opinion has attracted or could attract the unfavourable attention of potential persecutors in the country of origin due to the degree of conviction or any activities carried out to promote this conviction. There is no

requirement that the conviction be so deeply rooted as to make it unavoidable for the branch to express it and thus expose himself to the risk of persecution.

1.8 ECJ, Order of 27/9/2023 - C-58/23 – Abboudnam v. Slovenia: A time limit of three days after rejection of the asylum application as manifestly unfounded is contrary to EU law

In the light of Article 47 CFR, Article 46(4) of Directive 2013/32 precludes a national provision that provides for a time limit of three days – including public holidays and non-working days – for lodging a judicial appeal against a decision issued under the accelerated procedure rejecting an application for international protection as manifestly unfounded, since such a time limit may prevent the effective exercise of the rights guaranteed in Article 12(1)(b) and (2) and Articles 22 and 23 of the Directive.

Comment by Wittmann, Higher Administrative Court of Baden-Württemberg: The decision does not directly affect the German asylum procedure, as Section 36(3) cl. 1 and Section 34a(2) cl. 1 AsylG provide for an application and action deadline of one week in cases of rejection of applications as manifestly unfounded (as well as individual cases of rejection as inadmissible) and the German procedural law excludes a deadline expiry on weekends or public holidays (§ 57[2] VwGO in conjunction with § 222[2] ZPO).

However, the ECJ bases its decision primarily on the possibility of the effective utilisation of procedural guarantees under EU law, which it spells out in para. 29 et seq. Among other things, it takes into account the fact that the Ministry of the Interior did not provide the applicant's authorised representative with an interpreter during the appeal period at issue in the main proceedings. He also points out that the guarantees to be observed in judicial proceedings also include the use of an interpreter so that the persons concerned can present their case to the competent authorities. However, it does not explain in more detail whether this right must also be guaranteed at the expense of the public authorities in proceedings to prepare an action or an application for urgent legal protection – as provided for in Article 12(1)(b) of Directive 2013/32, at least for administrative proceedings. The decision, which is very succinct at this point and also issued in the order procedure pursuant to Art. 99 of the Rules of Procedure of the Court of Justice – i.e. as a supposedly clear-cut case – does not provide an answer to this, but may harbour considerable explosive potential.

1.9 ECJ, Judgment of 5/10/2023 – C-294/22 – OFPRA v. S.W.: On the discontinuation of the protection of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)

Art. 12(1) lit. a, cl. 2 of Directive 2011/95/EU must be interpreted as meaning that the protection or assistance provided by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) is to be regarded as no longer granted if the organisation is unable to guarantee a stateless person of Palestinian origin to whom that protection or assistance applies access to medical care and treatment, without which there is a real and immediate threat to his life or a real risk of serious, rapid and irreversible deterioration in his state of health or a significant shortening of his life expectancy. It is for the national court to assess the existence of such a risk.

1.10 Attorney General de la Tour, Opinion of 19/10/2023 – C 352/22 – on the reference for a preliminary ruling from the OLG Hamm (pending): Under EU law, a Member State is not bound by the decision of another Member State on the recognition of refugee status within the meaning of the Refugee Convention. Asylum and extradition proceedings are to be assessed independently of each other

A Turkish national was recognised as a refugee by Italian authorities in 2010. He had been in Germany since 2019 but was in custody pending extradition for criminal offences committed. The Higher Regional Court took the view that asylum and extradition proceedings should be assessed independently of each other and that there was therefore no obstacle to extradition, even if the refugee status recognised in Italy was still valid until 2030.

Attorney General de la Tour confirmed this but pointed out that in order to guarantee the principle of non-refoulement (Art. 18, 19[2] CFR), the MS must extensively examine whether the person is at real risk of being subjected to treatment prohibited under the Charter of Fundamental Rights in the country of destination. The decision of another Member State that has recognised refugee status must be given particular weight in this regard.

Under EU law, a Member State is not bound by the decision of another Member State to recognise refugee status within the meaning of the Refugee Convention. At the current stage of its development, EU law does not provide for a principle according to which MS mutually recognise decisions on the granting of refugee status.

Attorney General de la Tour points out that the legal question concerns three other pending referral proceedings of the German Federal Administrative Court (C-753/22), the German Administrative Court Stuttgart (C-288/23, El-Baheer) and the Dutch Raad van State (C-551/23, Cassen).

1.11 Attorney General de la Tour, Opinion 9/11/2023 – C-608/22 and C-609/22 – (pending): On the group persecution of Afghan women through the cumulative effect of the measures taken by the Taliban regime (Question from the Federal Office for Immigration and Asylum Austria and Others)

Discriminatory measures by the Taliban regime against Afghan women can jeopardise their physical or psychological integrity as well as pose more direct threats to their lives due to their cumulative effect and the severity of the associated deprivations.

Due to their deliberate and systematic application and their cumulative effect, the measures bear witness to the establishment of a social organisation based on a system of exclusion and oppression of girls and women. They are to be excluded from civil society and denied the right to a dignified and decent life in their country of origin. Girls and women are flagrantly and persistently denied their most basic human rights because of their gender. They are deprived of their identity and their daily lives are made unbearable. The accumulation of discriminatory acts and measures by the Taliban against girls and women in Afghanistan is – according to the Attorney General – persecution. Such acts could jeopardise their physical or psychological integrity just as much as more direct threats to their lives due to the seriousness of the deprivations involved.

The measures against girls and women are applied solely on the basis of their presence in the country without regard to their identity or personal situation. Although it is possible that a woman is not affected by one or more of the measures due to particular circumstances, she continues to be subjected to restrictions and deprivations which, considered individually or collectively, reach the level of severity required to be considered persecution. There is nothing to prevent a MS from taking the view that it is not necessary to prove that the applicant is affected on the basis of distinguishing characteristics other than her sex (ECJ, press release no. 172/2023 of 9/11/2023).

1.12 ECJ, Judgement of 9/11/2023 – C-125/22 – X., Y. and others v. Netherlands: Requirements for determining and individualising the risk of "serious harm" in the case of subsidiary protection

On 28 January 2018, X and Y, a married couple with Libyan nationality, applied for international protection, also on behalf of their six minor children. They claimed that if they returned to Libya, they would be at risk of suffering "serious harm" within the meaning of Art. 15 lit. b and/or lit. c of Directive 2011/95 (Qualification Directive). To this end, they referred both to their personal situation and to the general situation in Libya, in particular the extent of the violence and the resulting humanitarian situation. X further submitted that he had worked as a bodyguard for high-ranking politicians from 2012 to June 2017, including two prime ministers, a deputy prime minister and several ministers. He claimed that he was shot at outside of his working hours and was hit in the head and injured by a bullet fragment on his left cheek. He was subsequently threatened in telephone conversations that took place about five months and one to two years after he was shot. He suspected those responsible for these acts but could not prove it. He also stated that his brother had told him that militias were trying to seize a piece of land he had inherited from his father and had threatened to kill anyone who stood in their way. Finally, X explained that his departure from Libya was also due to the difficult living conditions in Tripoli, in particular the lack of fuel, drinking water and electricity.

Y based her application for international protection on the fear arising from X's personal experience and the generally insecure situation in Libya, which had also caused her health problems.

On 24 December 2020, the Secretary of State rejected the applications for international protection as unfounded because the applicants had no reason to fear serious harm within the meaning of Art. 15(b) of the Directive 2011/95. The alleged threats were not credible. X also failed to prove that the shooting of which he was the victim was specifically directed against him or that there was a connection between this violence and his professional activity as a bodyguard. On the question of whether a dangerous situation such as that is covered by Art. 15(c) of Directive 2011/95, it is not necessary to assess the general security situation in Libya. The applicant did not have to fear serious harm within the meaning of Art. 15. X and Y brought an action against the decisions before the competent District Court in The Hague. The court referred questions on the interpretation of Art. 15 Directive 2011/95 to the ECJ. The latter ruled:

1. Article 15 of Directive 2011/95/EU (Qualification Directive as amended) must be interpreted as meaning that, for the purpose of determining whether an applicant for international protection is eligible for subsidiary protection, the competent national authority must examine all relevant evidence relating both to the individual situation

and personal circumstances of the applicant and to the general situation in the country of origin before determining what type of serious harm may be demonstrated on the basis of that evidence.

2. Article 15(c) of Directive 2011/95 must be interpreted as meaning that, in assessing whether there is a real risk of suffering serious harm, as defined in the provision, the competent national authority must be able to take into account evidence of the applicant's individual situation and personal circumstances other than the mere fact that he comes from a territory of a particular country in which, within the meaning of the judgment of the ECtHR of 17 July 2008, *NA. v. United Kingdom* (CE:ECHR:2008:0717JUD002590407, § 115), the "most extreme cases of generalised violence" occur.
3. Article 15(b) of Directive 2011/95 must be interpreted as meaning that the intensity of the arbitrary violence in the applicant's country of origin cannot weaken the requirement of individualisation of the serious harm defined in that provision.

1.13 ECJ, Judgement of 23/11/2023 - C-374/22 - XXX v. Belgium: No obligation under EU law to grant derived refugee protection

XXX, a Guinean national, came to Belgium in 2007 and applied for international protection, which was rejected. He then submitted two further applications in 2010 and 2011, which the Belgian authorities did not consider. On 29 January 2019, he submitted a fourth application for international protection, stating that he was the father of two children born in Belgium in 2016 and 2018, who had been recognised as refugees there, as had their mother. After this fourth application was rejected as inadmissible, XXX lodged an appeal with the Council for Aliens' Disputes, which rejected it in a decision dated 17 April 2020. The Belgian court hearing the appeal in cassation had doubts as to whether Article 23 of Directive 2011/95 applied to XXX's situation, as XXX claimed, since it follows from Article 2(j) of Directive 2011/95 that family members of a beneficiary of international protection are covered by that directive "provided that the family already existed in the country of origin". According to XXX's statements, however, his family had not yet existed in his country of origin, but had only been established in Belgium.

The ECJ ruled: Art. 23 of Directive 2011/95/EU (Qualification Directive) must be interpreted as meaning that MS are not obliged to grant the parent of a child recognised as a refugee in one MS the right to international protection in another MS.

The ECJ thus confirms its previous case law, according to which the granting of derived international protection for family members provided for in Section 26 Asylum Act, for example, is permissible under EU law, but not mandatory. A Member State may limit itself to granting family members without their own protection status the benefits provided for in Art. 24 et seq. of Directive 2011/95/EU for relatives of recognised beneficiaries of protection (including residence permit, access to medical care, etc.) in the respective context.

(See also: German Federal Administrative Court, decision of 15/11/2023 - 1 C 7.22: third-country national family members of a child born after leaving the country of persecution, who was granted refugee status in Germany, are not entitled to refugee status under § 26 AsylG even if the marital partnership of the parents or the entire family, with the exception of the parent, already existed in the country of persecution).

1.14 ECJ, Judgement of 30/11/2023 – C-228/21, C-254/21, C-297/21, C-315/21 and C-328/21 – joined cases D. G. et al. v. Italy: Information, consultation and examination obligations in the Dublin III procedure

These cases concern five applicants who were in Italy and had previously submitted applications for international protection in Slovenia, Finland, Sweden and Germany. They had lodged appeals against the Italian transfer decisions. The MS in which the initial applications had been made had previously agreed to take them back in accordance with the Dublin III Regulation.

The ECJ ruled that information and consultation obligations under the Dublin III Regulation must also be observed when a new application is submitted in another MS. However, while a breach of the obligation to be heard generally leads to the cancellation of a transfer decision and can only be cured in court proceedings if the hearing held there meets the requirements of Art. 5 of the Dublin III Regulation, the effects of a breach of the obligation to provide information depend on whether the person concerned was actually deprived of the opportunity to put forward their arguments so that the administrative procedure could have led to a different outcome (causality requirement).

A court of the requesting MS that has to rule on an appeal lodged against a transfer decision may only examine a violation of the prohibition of *refoulement* in the destination state if the asylum procedure and the reception conditions for applicants for international protection in the requested MS have systemic weaknesses. For this purpose, it is not sufficient that the authorities and courts of the requesting MS on the one hand and the authorities and courts of the requested MS on the other hand hold different views on the interpretation of the substantive conditions for international protection.

The common information sheet pursuant to Art. 4 Dublin III Regulation in connection with applications for international protection and situations concerning readmission procedures must be applied. The same obligation to provide information applies to the personal interview in accordance with Art. 5 of the Dublin III Regulation in the case of readmission procedures. In the event of a breach of this obligation, a national court is responsible for assessing the legality of the transfer decision. It could declare it null and void if the person concerned was prevented from presenting their arguments due to a lack of information or a lack of a personal interview.

The ECJ also examined whether national courts should examine the risk of indirect *refoulement* in a requested MS that has rejected an application for international protection. The aim of the Dublin III Regulation is to establish a clear and effective method for determining the MS responsible and to prevent secondary movements. Therefore, national courts are barred from carrying out a substantive examination of the risk of *refoulement*. They must assume that the asylum authority of the responsible MS has properly assessed the risk of *refoulement* in accordance with Art. 19 CFREU and that the applicant has effective legal remedies to challenge the authority's decisions in accordance with Art. 47 CFREU. Art. 3 para. 1 and 2 in conjunction with Art. 27 Dublin III Regulation must be interpreted in light of Art. 4, 19 and 47 CFREU in such a way that the national court may not examine whether there is a risk of a violation of the principle of non-*refoulement* in the requested MS if there are no systemic deficiencies in the asylum procedure and reception conditions of this MS. Differences of opinion between the

authorities and courts of the requesting and requested MS on the interpretation of the substantive conditions for international protection are not systemic deficiencies.

With regard to the function of Art. 17 Dublin III Regulation, if a national court does not agree with the assessment of the requested MS, the ECJ emphasised the optional and discretionary nature of Art. 17, stating that it is up to the MS to determine the circumstances in which they make use of the possibility to examine an application for international protection even if they are not responsible (self-referral). A court of the requesting MS is not obliged under Art. 17 to declare the MS responsible if it does not agree with the assessment of the risk of refoulement of the person concerned and cannot force the requesting MS to examine an application for international protection on the basis of Art. 17 on the grounds that there is a risk of a breach of the principle of non-refoulement in the requested MS, unless there are systemic deficiencies in the asylum procedure or reception conditions in the requested MS.

2. European Court of Human Rights

2.1 ECtHR, Judgement of 11/7/2023 – 61365/16 – S.E. v. Serbia: Art. 2 Prot. No. 4 violated because Serbia did not issue travel documents to a recognised refugee whose passport had expired

S.E., a Syrian national, was granted refugee status in Serbia. After his Syrian passport expired, he applied for a travel document for refugees. He was then informed that a travel document could not be issued as the Minister of the Interior had not yet issued subsidiary regulations for this. In 2022, S.E. obtained a Syrian passport and used it to leave Serbia.

The Serbian Asylum Act recognises the individual right of a recognised refugee to be issued a travel document and obliges the Minister of Interior to adopt subsidiary legislation to ensure its implementation. S.E.'s claim therefore arose from domestic legislation intended to implement the obligations under the Refugee Convention. Serbia had also failed to demonstrate that it had made efforts to act in accordance with the rule of law and to take appropriate regulatory and operational measures to implement and thus eliminate the structural problem. Serbia had thus deprived H.E. of his right to leave the country for seven years in a way that amounted to an interference within the meaning of Art. 2 Prot. No. 4, because no travel documents for refugees were issued due to the lack of subsidiary regulations for the implementation of the Asylum Act.

2.2 ECtHR, Judgement of 13/7/2023 - 4677/20 - A.A. v. Sweden: Art. 2 and 3 not violated because Libyan did not prove threat

The Libyan national A.A. applied for asylum in Sweden and initially claimed that he was being threatened by the Libyan mafia. He submitted a second asylum application on the grounds that he was on a wanted list in Libya and that he would be at risk of abuse if he was returned because he had worked for the Gaddafi regime. Both applications were rejected.

The ECtHR recognised that Libya was in breach of human rights and international humanitarian law and that the general situation was serious and unstable. However, it could not be established that the generalised violence was so extreme that there was a real risk of ill-treatment for any person returning to Libya. There is therefore no reason to doubt Sweden's conclusions, which were drawn after a thorough examination with regard

to the complainant's personal circumstances. His oral statements were vague. They lacked detail and coherence. He was unable to provide written evidence of arrest warrants against him. Therefore, his statements were not credible. He had failed to substantiate his alleged connection to the Gaddafi regime and the arrest warrant against him in Libya and thus his need for international protection. His deportation did not violate Articles 2 and 3, as the case was thoroughly examined in Sweden.

2.3 ECtHR, Judgement of 18/7/2023 – 49255/22 – Camara v. Belgium: Art. 6 violated by systematic refusal of Belgian authorities to implement national court judgements to accommodate a Guinean asylum seeker

The complainant, Mr. Camara, a Guinean national, applied for international protection in Belgium. Fedasil, the Federal Agency for the Reception of Asylum Seekers, informed him that he could not be accommodated in a Belgian reception centre because the network of reception centres was overloaded. He then lodged a complaint with the labour court in Brussels, which ordered Fedasil to provide accommodation on pain of a fine. The judgement became final on 29 August 2022, but the complainant was only admitted to a reception centre on 4 November 2022. He was forced to live on the street for that long. The ECtHR initially issued a provisional measure in accordance with Art. 39, which was cancelled after the placement had taken place.

The ECtHR emphasised that this was not an isolated case. Rather, it revealed the systematic failure of Belgian authorities to implement final court decisions on the reception of applicants for international protection. While recognising Belgium's difficult situation due to the increase in the number of applications for international protection, it could not accept that the time taken by Belgian authorities to enforce a court order for the protection of human dignity was reasonable. On the contrary, this systematic failure had placed a heavy burden on the work of national courts and the ECtHR. Belgium had not "only" implemented the judgement with a delay, but had evidently systematically refused to comply with national court decisions. The principle of legal certainty had thus been disregarded and Article 6(1) violated. Systematic failure by states could also be a violation of Art. 34. According to Art. 46, it is the responsibility of Belgium to take appropriate measures to end the poor administrative practice.

Judges Krenč and Derencinović argued in dissenting opinions that Article 3 was also violated.

The applicant claimed financial compensation in the amount of the penalty payment that Fedasil had been ordered to pay by the Labour Court. However, the ECtHR held that the finding of a violation of Article 6 constituted sufficient just satisfaction.

Following this decision, 1,350 similar complaints were deleted from the ECtHR register.

Addendum, 13/09/2023: The Belgian Council of State suspended the decision of the Secretary of State not to provide accommodation to single male asylum seekers (judgement no. 257.300). Several NGOs had previously objected to the unpublished decision of the Secretary of State for Asylum and Migration to exclude single male asylum seekers from reception as part of an urgent procedure. The Council of State ruled that the emergency procedure was justified as the Secretary of State had not demonstrated that male asylum seekers could be received anywhere besides in the network of the Federal Agency for the Reception of Asylum Seekers (FEDASIL). They are thus exposed to the risk

of finding themselves in a situation of destitution, which is seriously detrimental to their interests. Art. 3 of the National Reception Act stipulates that every asylum seeker has the right to reception in order to lead a dignified life and that reception means material assistance granted in accordance with this Act or social assistance granted by the public social action centres. Article 6(1) also states that material assistance applies to "any" asylum seeker from the moment the asylum application is made and can be claimed throughout the asylum procedure. The Council of State therefore found that the contested decision violated these provisions and ordered its suspension.

2.4 ECtHR, Judgement of 29/8/2023 – 21768/19 – Ghadamian v. Switzerland: Article 8 violated by the refusal to legalise the complainant's residence in Switzerland

The complainant Ghadamian, an Iranian national, was born in Iran in 1940, came to Switzerland legally at the age of 29, lived there with a residence permit until 2002 and worked as a radiologist. He started a family (two sons from a marriage that lasted from 1971 to 1989) and developed strong social ties to Switzerland. Between 1988 and 2004, he was sentenced to a total of five years in prison for various criminal offences (including forgery, threats and property offences, which he considered to be connected to his divorce). One of the convictions was linked to an expulsion order.

In 2000, he received an expulsion order, which he did not comply with. When it became legally binding in 2002, his stay became unlawful, which led to him being sentenced to prison again. Even after serving his sentence, he remained in Switzerland and in 2008 applied for his deportation to be cancelled and for a residence permit to be issued. Both were rejected. Two subsequent applications for a residence permit for pensioners were also rejected: the Swiss government referred to his criminal offences, his long period of irregular residence (more than 14 years) and references to a family in Iran. At the time of the ECtHR judgement, the complainant was 83 years old and in good health. He continued to reside in Switzerland irregularly but economically independent. He has lived there for 54 years, 33 of them legally. His two adult sons also live in Switzerland with their families, but no relationship of dependency between the complainant and them was established. The Swiss government saw no obligation to issue a residence permit in accordance with Art. 8.

The ECtHR ruled that the refusal to legalise the complainant's residence in Switzerland violated his right to private life (Art. 8). Although he could not invoke a right to family life, he could invoke his private life. When weighing up the interests, the ECtHR confirmed the state's interest in protecting public order, which was based on the complainant's criminal convictions. However, the complainant had not been charged with any serious criminal offences after 2006; there had only been convictions in connection with his irregular stay and for a minor theft in 2016. The complainant had also acted in "bad faith" because he did not comply with the deportation order and continued to reside in the country illegally. However, the expulsion efforts of the Swiss authorities had primarily consisted of the delivery of the expulsion order and house searches in search of the complainant's passport. There were also practical difficulties in forcibly deporting the complainant to Iran because the government had no access to his passport. Nevertheless, it remained doubtful whether the state had taken all possible measures to gain access to the complainant's passport and deport him.

With regard to the interests of the complainant, the ECtHR emphasises the "obviously very long" duration of a 54-year stay but adds that the entire duration of the stay cannot be given the same weight as the years in which he held a residence permit. However, since he had built up his private life mainly during his legal residence, these years were of considerable weight. In addition, he had spent most of his life in Switzerland, integrated himself into Swiss society, contributed to the "monde du travail" through his work as a radiologist and built up pension entitlements. With regard to the possibility of leading a private life in Iran, the ECtHR states that it is "indisputable" that a return to Iran would be extremely complicated, despite his physical and economic independence. He would be separated from his children and grandchildren. He has no living siblings in Iran.

The Swiss courts had given too much weight to the general interest and had not sufficiently taken into account the individual particularities of the case. Switzerland had therefore exceeded its discretionary powers. It was not necessary to examine whether there was also a violation of Art. 13 in conjunction with Art. 8.

2.5 ECtHR, Judgement of 31/8/2023 - 70583/17 - M.A. v. Italy: Art. 3 violated because a minor with a history of abuse and specific mental impairments was placed in an adult centre

M.A., a Ghanaian national, arrived in Italy as a minor in October 2016 and was placed in a reception centre for adults. In September 2017, the ECtHR issued a provisional measure under Article 39 after the complainant requested to be transferred to a centre with appropriate reception conditions for minors. In December 2017, she was granted international protection due to the forced marriage and abuse she had suffered in Ghana.

The ECtHR examined Article 3 and emphasised that authorities must exercise particular vigilance when dealing with vulnerable persons and grant them increased protection. The complainant had disclosed her history of sexual abuse shortly after her arrival and repeated it to a psychologist and a mediator. The police headquarters were aware of this history due to the asylum application. The authorities therefore knew that the complainant was particularly vulnerable. The applicant's representative had also made four requests to the prefecture, the police headquarters and the Red Cross to transfer the complainant to a suitable centre. Her situation had only improved after the ECtHR's provisional measure. Her treatment by the competent authorities reached the level of severity required to apply Article 3. The continued stay in the centre and the continued failure of the authorities to act with regard to her situation and needs as a vulnerable minor violated Article 3 (EUR 6,500 compensation for non-material damage).

2.6 ECtHR, Judgement of 5/9/2023 – Noorzae (44810/20) and Sharifi (31434/21) v. Denmark: Art. 8 violated by expulsion orders and entry bans for Afghan settled migrants who were convicted of criminal offences as juveniles

Two Afghan applicants had entered Denmark as children and were sentenced to prison as minors and adults for criminal offences. They received deportation orders with a twelve-year re-entry ban.

Noorzae argued that he could not be deported as he had undergone therapy and had resumed his studies to become an educator. Sharifi argued that his girlfriend was pregnant, they had known each other since 2017 and were living together.

The ECtHR examined whether expulsion orders and entry bans interfere with private life in a proportionate manner. In the Noorzae case, it emphasised that the previous convictions did not indicate that he posed a general threat to public order, that he had not received any previous warnings of possible expulsion and that he had attempted to reintegrate into Danish society. In addition, a relatively lenient sentence had been imposed. He had very strong ties to Denmark, whereas there were no such ties to Afghanistan, as he came to Denmark at a very young age and had resided there legally for about 18 years.

With regard to Sharifi, the ECtHR repeated a similar argument with the difference that there were no recent criminal convictions and that the complainant had been lawfully resident in Denmark for around 16 years. Both expulsion orders and re-entry bans were therefore disproportionate and violated Art. 8.

2.7 ECtHR, Judgement of 7/9/2023 - Compaoré v. France: Art. 3 violated because diplomatic assurances after military coup in Burkina Faso were not reassessed before extradition of a Burkinabe national

The complainant, a Burkinabe national, is the brother of the former President of Burkina Faso. The complainant was investigated for the murder of journalists in 1998. The investigation was initially closed, but resumed in 2015 and an international arrest warrant was issued. The complainant was arrested in France as a result. Burkina Faso requested his extradition and gave assurances. The complainant's appeals in France were dismissed, but the ECtHR issued interim measures to suspend his extradition, referring to two military coups in 2022, whereby the second government suspended the constitutional order.

The ECtHR found that the initial stages of France's examination of the assurances were appropriate and thorough. However, given the radically different political context in Burkina Faso, these could not continue to be considered valid. Measures taken by the current regime violated Article 3 and the assurances given by the previous government had not been confirmed by the second transitional government. Therefore, the reliability of the assurances, on which France relied exclusively in its argumentation, was in question. The fact that France had not taken into account the new political and constitutional context in Burkina Faso, in particular that the assurances were given by a previous government before the coup d'état, did not enable France to adequately assess the risk of Compaoré being treated in violation of Article 3. Therefore, if the extradition order were enforced, France would be in breach of the procedural part of Article 3.

2.8 ECtHR, Judgement of 14/9/2023 - 48139/16 and 7077/15 - M.N. and A.A. v. Hungary: Article 5 violated because Afghan and Algerian asylum seekers were unlawfully detained without evidence that they did not cooperate with the authorities

An Afghan and an Algerian national applied for asylum in Hungary and were detained due to the risk of absconding, as their identities had to be clarified, they had no financial means and had no contacts in Hungary. With regard to M.N., the ECtHR found that the complainant initially wanted to travel on to Finland or Germany, but that deportation orders were then issued during the proceedings, which were cancelled by domestic courts that ordered the asylum authority to conduct new proceedings. M.N.'s detention was

terminated after about five months, as the authorities realised that the reasons had ceased to exist.

A.A. was remanded in custody for using a forged passport. In addition, his application was motivated by financial interests and he had entered Hungary illegally – according to the authorities. However, they were already aware of his identification details when he applied for asylum.

The ECtHR disagreed with Hungary's argument that the detention had served to prevent unauthorised entry or had been ordered with a view to possible deportation. Both complainants were granted residence permits on humanitarian grounds while the proceedings were ongoing. The deportation order against M.N. was not enforceable. According to the ECtHR, detention may not be ordered simply because asylum has been applied for. There were also no indications that the complainants were not cooperating with the authorities. The grounds for detention "clarification of identity" and "risk of absconding" had not been sufficiently individualised. With regard to A.A., the court also noted that he had submitted a birth certificate to the authorities. A financial motivation for his application was neither proven nor relevant. The fact that he had entered Hungary unlawfully could not in itself justify detention. Hungary had violated Art. 5 para. 1 through these measures.

2.9 ECtHR, Judgement of 14/9/2023 – 44646/17 – Diakité v. Italy: Art. 8 violated because the age of a minor was not carefully checked and he was placed in an adult centre (despite presenting a birth certificate)

On arrival in Italy, an Ivorian adolescent presented his birth certificate and declared that he was a minor. Nevertheless, he was placed in a reception centre for adults because a medical report claimed that his bone age corresponded to that of a person aged at least eighteen. Around five months later, he was transferred to a centre for minors after a medical examination revealed that he was between 17 and 18 years old. A guardian was appointed. The complainant applied for asylum, which was later granted.

The ECtHR found that although the complainant presented his birth certificate to the authorities, he was initially placed in a centre for adults on the basis of an X-ray examination and only transferred to a centre for minors at the request of his representative. Although he had already proved that he was a minor on arrival, he had not benefited from the minimum procedural guarantees for minors. However, the presumption of minority is an integral part of the protection of the right to respect for the private life of an unaccompanied alien who declares himself to be a minor. Italy violated Article 8 because it did not act with due diligence and did not fulfil its obligation to guarantee the complainant's right to respect for his private life.

2.10 ECtHR, Judgement of 5/10/2023 – 16127/20 – E.F. v. Greece: Articles 3 and 13 violated as the condition of an HIV-positive asylum seeker in the Lesbos camp was not prevented from deteriorating and no effective remedy was available to her

The complainant, a Cameroonian national, was accommodated in the Moria and Polykastro camps in 2019/20. She fled Cameroon to escape persecution and sexual abuse. She was HIV-positive and stated that she informed the Greek authorities of this immediately upon her arrival. Her condition deteriorated rapidly as she still did not receive antiretroviral treatment.

At one stage in Polykastros, she suffered from severe symptoms related to her HIV diagnosis, including a fainting spell, after which she was hospitalised. She also complained about poor living conditions in the Moria and Polykastros camps (no bed linen; no mattress; no provision of food according to her health situation; no hot water, which meant that she could not wash her clothes or go to the toilet because this was forbidden for African women).

Nevertheless, the ECtHR ruled that the complaint regarding the living conditions was inadmissible because the complainant had not provided sufficiently detailed information.

2.11 ECtHR, Judgement of 5.10.2023 – 58680/18 – M.A. and Others v. Hungary: Art. 3, 5(1) and 5(4) violated due to inadequate living conditions and de facto detention of an Afghan family

An Afghan family of five (parents and three children aged four months, eight and ten years) spent over three months in the Röszke transit zone on the border with Serbia. The family now lives in Germany. All of the complainants claimed that their rights under Article 3 had been violated, inter alia due to the poor conditions in the container in which they were accommodated (all five of them in 13 m² of space), heat, deterioration of their mental state, rapid weight loss of the children and poor quality and quantity of food. Furthermore, Article 5(1) and (4) had been violated because the more than three-month placement was a de facto deprivation of liberty.

The ECtHR referred, inter alia, to its judgement in *R.R. and Others v. Hungary* (no. 36037/17). The material circumstances underlying the complaint under Article 5(1) and (4) were similar to those in *R.R. and Others*. Accordingly, there had been a violation. With regard to the children, Hungary had violated Art. 3, but the threshold for a violation of Art. 3 was not reached with regard to the parents. EUR 11,000 was awarded for the non-material damage.

2.12 ECtHR, Judgement of 5.10.2023 – 53272/17 – P.S. and A.M. v. Hungary: Articles 3, 5(1) and 5(4) violated due to unreasonable conditions and detention of Iraqi nationals at the Serbian border

The complainants, an Iraqi mother and her daughter (born in 2012), spent four months in the Tompa transit zone at the Serbian border. They had fled Iraq because they had been physically abused by their husband/father. They complained about the degrading and inhuman conditions in Tompa and the length of their detention in accordance with Art. 3, 5 para. 1 and 5 para. 4.

The poor mental state of the adult complainant was not disputed by either side. However, the Hungarian government claimed that appropriate psychological support had been provided by ordering a medical examination, repeatedly prescribing sedatives and transferring her and her daughter to an open reception centre. The ECtHR ruled that the complainant had not received adequate care. The conditions of detention and the associated constraints and insecurities had caused her considerable psychological suffering, of which the authorities must have been aware. Article 3 had been violated.

With regard to Art. 5(1) and 5(4), the ECtHR ruled that the material conditions were functionally identical to those in the case *R.R. and Others v. Hungary*, and consequently found a violation of these rights.

2.13 ECtHR, Judgement of 5.10.2023 – 53528/19 – O.Q. v. Hungary: Articles 3, 5(1) and 5(4) violated because a Syrian asylum seeker was detained for eight months and repeatedly deprived of food

O.Q., a Syrian national, applied for asylum in the Tompa transit zone in July 2018. His application was deemed inadmissible by the Hungarian authorities and he was placed in a separate section of the centre. He complained under Art. 3, 5(1) and (4) about deliberate withholding of food by the Hungarian authorities, which occurred twice and lasted at least three days each time. He also complained about the detention period of eight months and inadequate conditions in Tompa.

The ECtHR examined the claim with reference to previous case law (e.g. R.R. and Others v. Hungary, W.O. and Others v. Hungary) and initially focused on food deprivation. This violated Art. 3. Furthermore, it ruled that since a stay of less than four months in the transit centre had already been regarded as a violation of Art. 5 in the case of R.R. and Others, Art. 5(1) and 5(4) had also been violated here by the eight-month placement.

2.14 ECtHR, Judgement of 5/10/2023 – 37967/18 – Shazad v. Hungary: Article 3 violated due to forcible return to Serbia (12 persons) and lack of investigation into the incident

The Pakistani complainant and eleven other people were arrested in Hungary by a joint Slovakian-Hungarian squadron on Hungarian territory, driven back to the Serbian border and ordered to cross it. They were beaten with metal rods and batons, slapped and kicked. The complainant lost consciousness and suffered two head wounds of 10 cm and 4 cm, which required stitches, as well as considerable blood loss and extensive, severe bruising. He unsuccessfully sought legal redress in the Hungarian legal system. Complaints included inadequate treatment by Hungarian border guards and an inadequate investigation into the incident.

The ECtHR ruled that Hungary had not conducted a proper procedure to investigate the incident. The complainant was neither heard nor was a forensic medical examination carried out. The Hungarian explanations for the complainant's documented injuries did not appear plausible. There was also no indication that the use of force was necessary. Rather, the Hungarian border guards had violated the procedural rights under Article 3. Hungary's assertion that the complainant's injuries could have been caused by other members of the group he was in or by the Serbian police was "extremely unconvincing". The complaint of a violation of Article 3 was therefore also substantiated in its material aspect.

2.15 ECtHR, Judgement of 12/10/2023 – 56417/19 and 44245/20 – S.S. and Others v. Hungary: Art. 3 and Protocol No. 4 violated due to "pushback" of Yemeni and Afghan families across the Serbian border

A Yemeni family of seven and an Afghan family of three left their countries of origin by plane and landed in Budapest with forged travel documents. As a result, the Hungarian authorities initiated criminal proceedings against some of the applicants. All of them received information in languages they could understand and were taken to the Serbian border.

The complainants claimed a violation of Art. 4 Protocol No. 4 as well as Art. 3 in the procedural part, as the authorities had not examined whether they should have been granted access to an asylum procedure.

The ECtHR examined whether the individual circumstances of the family members were taken into account. In the case of the Yemeni family, for example, one complainant had Down syndrome and another had physical health problems that could not be treated in Yemen. The ECtHR ruled that Hungary had violated domestic law because it did not provide a basis for deportation and did not give the complainants an effective opportunity to present arguments against their deportation to Serbia, but instead deported them immediately. The complaint pursuant to Art. 4 Protocol No. 4 was therefore well-founded. Art. 3 was also violated because no assessment was made with regard to the protection of the essential rights of the complainants after crossing the border and because the order to enter and stay in Serbia was unlawful.

2.16 ECtHR, Judgement of 17/10/2023 – 12427/22 – A.D. v. Malta: Articles 3, 5(1) and 13 violated by detention of an Ivorian minor in Malta

An Ivorian national arrived in Malta irregularly by boat from Libya as a minor at the end of 2021. Although he claimed to be 17 years old upon arrival, he was categorised as 19 years old by Maltese authorities during the age assessment – carried out without legal representation or a guardian – and was arrested and detained in various detention facilities for 225 days, with the authorities citing "health reasons". He had limited access to water, medical care and psychological support and was unable to communicate in French (the only language he speaks). He complained about the gruelling conditions during the winter months, the extremely limited clothing and hygiene options and the lack of outdoor and prayer spaces. He was also isolated in a shipping container for 120 days, during which time his mental state deteriorated and he often contemplated suicide. His complaint was based on Article 3 because of his treatment in Malta, Article 5(1) because his stay amounted to de facto deprivation of liberty, and Article 13 because there was no effective remedy.

The ECtHR found that the Maltese authorities had repeatedly failed to keep accurate records of who he was detained by and that he was still a minor at the time. The Court criticised his isolation detention as well as his detention with adults and the living conditions in Maltese detention centres in general. The detention of people in centres such as "China House" for health reasons violates the principles of human rights and must be stopped. The ECtHR ruled that Malta had violated Articles 3, 13 and 5(1) in two cases. It also recommended that Malta take all necessary measures to ensure that the law is effectively applied in practice and that vulnerable persons are not detained, as well as to limit detention periods so that they are related to the reason for detention, in appropriate places and in appropriate conditions.

2.17 ECtHR, Judgement of 24/10/2023 – 23048/19 – A.M.A. v. Netherlands: Article 3 violated because risk of ill-treatment in Bahrain was not assessed

A Bahraini national had fled to the Netherlands via Iran. He applied for asylum there as he feared mistreatment and persecution by the Bahraini authorities due to his religious beliefs and political activities. His brother had been recognised as a refugee in Germany.

During his stay in the Netherlands, Dutch immigration officials questioned him several times because his account was sometimes considered incoherent and implausible. He was due to be deported but did not want to comply as he feared arrest on arrival. He was allowed to lodge an appeal as part of a "last-minute procedure", but this did not prevent his deportation to Bahrain. In Bahrain he was arrested, convicted and stripped of his citizenship (later restored). He was still in custody and on hunger strike in the summer of 2023.

The complainant alleges that the Dutch authorities failed to carry out an adequate assessment of the risk of torture in the event of his return to Bahrain in the context of the "last-minute procedure", contrary to the provisions of Article 3. Furthermore, he considers Article 13 to have been violated because he had no effective remedy.

The ECtHR ruled that the Dutch immigration authorities had regarded the objection as a mere means of delaying deportation and had not attached sufficient value to the evidence submitted by the complainant. It is permissible to oppose repeated and/or clearly abusive or manifestly unfounded applications for asylum. However, given the absolute nature of Art. 3, such difficulties do not release a state from its obligations under Art. 3. In this case, the Netherlands had violated Art. 3. It was not necessary to examine Art. 13. The complainant was awarded non-material damages in the amount of EUR 50,000.

2.18 ECtHR, Judgement of 16/11/2023 – 18911/17, 18941/17 and 18959/17 – A.E. and Others v. Italy: Violation of Art. 3 and 5 by mistreatment of Sudanese migrants

The complainants, four Sudanese nationals, had reached the southern Italian coast by boat. They were taken to various hotspots and subjected to an expulsion procedure. When they were arrested, their belongings were confiscated and they were forced to undress completely and then remain naked for ten minutes without any justification. The conditions were described as inadequate given the heat and there were insufficient food and water supplies. In addition, some detainees had to take a 15-hour bus journey to be deported, while others were forced onto an airplane, beaten and tied up. No investigation was ever initiated against these victims of physical violence. The complainants claimed a violation of Art. 3, 5(1)(f) and 5(2) and (4).

The ECtHR was convinced of the veracity of the complainant's recollections regarding the material circumstances of her arrest and the bus transfer, as well as the violent (uninvestigated) behaviour of the police officers. Article 3 had thus been violated in substantive and procedural terms. The fact that the complainants did not know where they were going when they were on the bus, were not allowed to leave either of the two centres and were not given any information about the legal basis for their detention proves that they were unjustly deprived of their liberty. Article 5(1)(f), (2) and (4) were thus violated. The complaints regarding Art. 3, 8 and 13 were dismissed. Each complainant was awarded between EUR 8,000 and EUR 10,000 as non-material damages.

2.19 ECtHR, Judgement of 16/11/2023 – 18787/17 – W.A. and Others v. Italy: No violation of Art. 3 due to doubts about identity and contradictory information

The complainants, five Sudanese nationals, claimed that after their deportation they were at risk of suffering treatment contrary to Article 3 due to their dissident behaviour. All of them have since been deported to Niger, Egypt or Sudan. Prior to this, they had all been rescued by the Italian navy, transferred for identification and processing and detained at

police stations for several days. All of them stated that they had not received any information about international protection. After their deportation, the complainants were banned from re-entering Italy for five years.

The first of the five complainants presented the most comprehensive evidence of his refugee status in Niger and, according to the Belgian police's expert report on facial comparison, was the person who most closely matched one of the persons who had been deported to Sudan during the specified period. His application was therefore the only one that was not rejected by the court. He complained that the Italian authorities had not properly examined his claim that he had been treated contrary to Article 3 when he was deported to Sudan. Furthermore, he was subjected to collective expulsion in violation of Art. 4 Prot. no. 4.

The court found several inconsistencies in the complainant's account: confirmed by his signature, he had indicated that he did not intend to apply for international protection and that, contrary to his claims, he had access to a legal representative and an interpreter. The fact that he obtained refugee status in Niger was not proof that Italian authorities did not provide him with guarantees of protection against arbitrary refoulement. It was only after he had submitted the application to the ECtHR that he claimed to belong to a tribe that was being persecuted by Sudanese authorities. Therefore – according to the ECtHR – the Italian authorities did not have this information at the time of their decision. The Court thus found no violation of Art. 3 ECHR and declared the application inadmissible.

2.20 ECtHR, Judgement of 16/11/2023 – 3571/17 – Sadio v. Italy: Violation of Art. 3 and 13 for Malian national due to eight-month placement in the Cona reception centre (5th Section ECtHR as Committee)

The complainant argued that the reception conditions in the facility violated Article 3 due to overcrowding, lack of heating and hot water, lack of medical and psychological care, lack of access to legal counselling, and too few staff and translators. He submitted photos as well as reports and a parliamentary question on the facility in Cona. There was also no effective legal remedy to complain about the living conditions in court, which he considered a violation of Art. 13.

The ECtHR referred to its previous judgements in Darboe and Camara v. Italy and saw no significant difference in terms of material living conditions compared to the Sadio case. It ruled unanimously that the length of stay and the living conditions in the centre violated Article 3. As the Italian government had failed to introduce an effective remedy to challenge the conditions in Cona, Article 13 had also been violated.

2.21 ECtHR, Interim Measures of 28/11/2023 – 40788/23 – I.A. v. France: Interim injunction against deportation/extradition of a recognised refugee to Russia

A refugee recognised for political persecution in Chechnya applied for a temporary suspension of his deportation from France to Russia. The ECtHR granted the application with a provisional suspension: an irreparable impairment of the rights under Art. 2 and 3 could not be ruled out with sufficient certainty in view of the continued refugee status and a request for extradition expressed by the Russian Federation (press release).

2.22 ECtHR, Judgement of 30/11/2023 – 16771/23 – Kamaras v. Hungary: Violation of Art. 6 due to unreasonable duration of proceedings

An Iranian national and his 9-year-old son were detained in the Röske transit zone for 17 months between December 2018 and May 2020, father and son in two separate sectors of the transit zone. Two separate proceedings were also conducted, one in relation to the asylum applications and another in relation to their expulsion on different legal grounds. The ECtHR did not see sufficient justification for this procedure. The reasonableness of the duration of the proceedings had to be assessed in light of the circumstances of the case and taking into account the following criteria: Complexity of the case, behaviour of the complainant and the competent authorities and what was at stake for the complainant in the litigation (see *Frydlender v. France* [GC], no. 30979/96, para. 43). In the comparable case of *Gazsó v. Hungary*, no. 48322/12, 16 July 2015, a violation of Article 6 had already been found in relation to the duration of the proceedings. The examination of the material in the proceedings pending here had not revealed any facts or arguments that could have justified the overall duration of the proceedings at a national level. It was excessively long and did not fulfil the criterion of a reasonable period of time. This constituted a violation of Art. 6(1). The complainants were awarded compensation in the amount of EUR 17,500.

2.23 ECtHR, Judgement of 5/12/2023 – 30919/20 – H.A. v. UK: No violation of Art. 3 with regard to the return of a Palestinian applicant to Lebanon

The complainant, a stateless person of Palestinian origin, was born in the Ein El-Hilweh refugee camp in Lebanon and lived there before fleeing to the UK following fighting and targeted recruitment attempts by paramilitary groups in the camp. His asylum application was rejected. He argued that if he was deported to Lebanon, he would be at risk of treatment contrary to Article 3.

The ECtHR based its decision on the finding of the court of first instance that there would be no risk upon his return to Lebanon and examined whether there was now material that could lead to the conclusion that his deportation to Lebanon would entail a risk of treatment contrary to Article 3. He referred to an EASO report on the recruitment of young Palestinians in refugee camps in Lebanon. The report stated that there was no information on the consequences faced by persons who resist recruitment by Fatah in Lebanon. Therefore, it did not support the complainant's argument that his refusal to be recruited would expose him to the risk of serious harm within the meaning of Article 3. Rather, the material does not call into question the conclusion of the court of first instance that there is no evidence of the risk of serious harm upon return as alleged by the complainant. In the case of his deportation to Lebanon, there was therefore no violation of Art. 3.

NEWS & NOTES

Developments in Refugee Politics and Law: July to December 2023¹

Holger Hoffmann²

Abstract

This is a compilation of news and notes of relevance for the field of migration.

1. Activities of the EU Institutions in favour of “Integrated European Border Management” and the “Reform” of the CEAS

1.1 Decisions of the EU Interior Ministers of 4 October 2023

On 4 October 2023, the EU interior ministers adopted the *Regulation on crisis and force majeure situations in the area of migration and asylum*. It is based on the draft of the New Pact on Asylum from September 2020 and further tightens the rules for asylum procedures at the external borders beyond those of the agreement reached in June. This includes the more flexible and far-reaching application of border procedures. Cases of "instrumentalisation" of migrants are also to be regulated by the regulation.

Some details: In the event of a crisis, asylum seekers can be accommodated in "detention-like" conditions for not just 12, but 20 weeks until a decision is made on their application.

It could be months before they are deported from the camp.

The group of people detained in the camps can be expanded in the event of a crisis: in "normal cases", asylum seekers from countries with a recognition rate of less than 20% are affected. This threshold can be increased to a recognition rate of up to 75%.

Extended grounds for detention:

- Presumption of immersion is sufficient.
- If migrants are "instrumentalised" by other states to weaken the EU, they can all be detained.

These "exceptional rules" are intended to be used in the event of a crisis in which an MS experiences an "exceptional" increase in migrants. Such a crisis cannot be declared by an individual state, but only by the EU Council of Ministers with a qualified majority. Before it decides, the "external border states" must prove that all measures they can take themselves have been exhausted.

¹ This work is licensed under a Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License and was accepted for publication on 14/03/2024. Quotes have been translated (back) into English from German sources.

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There is no exception for families with children. It was only agreed that their procedures at the external borders would be prioritised. Further deviations from the admission conditions in accordance with the EU Reception Directive are not possible. One German fear: exemptions could incentivise the transfer of large numbers of unregistered refugees to Germany.

German Federal Minister of the Interior Faeser saw a need for further changes but agreed to the compromise draft presented by the Spanish Presidency after an intervention by Chancellor Scholz.

Above all, the Italian government wanted to judge the work of private sea rescuers as "instrumentalisation" and punish them. It considers sea rescue to be a "pull factor" that encourages refugees to travel across the Mediterranean. Italian Foreign Minister Trajani said that although his country was not at war with sea rescuers, Italy should not be the country where all NGO ships bring people ashore. Until that point, Foreign Minister Baerbock was of the opinion that voluntary sea rescuers had a life-saving task in the Mediterranean and therefore deserved the support of the German government.

On 27 November 2023, the draft report on the legislative proposal on the "instrumentalisation of migrants" was discussed in the EP's Committee on Civil Liberties, Justice and Home Affairs (LIBE). The rapporteur Patryk Jaki explained that instrumentalisation could not only come from states, but also from non-state actors. Humanitarian aid operations should only be exempt if they are "not aimed at destabilising the EU or a MS". It remained unclear how often the determination of a situation of instrumentalisation and the procedural deviations based on it may be extended in favour of the MS.

On 3 October 2023, the European Parliamentary Research Service (EPRS) published an impact assessment on the proposed regulation on "instrumentalisation". In it, the proposal is criticised as incompatible with EU primary law, as the deviations from the (new) Asylum Procedures Regulation and the recast of the Reception Directive raise rule of law concerns. The concept of "instrumentalisation" lacks legal clarity, the planned deviations from the provisions of the Asylum Procedures Regulation and the Reception Directive represent serious interventions in the fundamental rights and procedural guarantees of applicants and the set goal of counteracting destabilisation of the MS through a special emergency procedure is not achieved by the proposal. The report was prepared at the request of the EU Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE), as the EU Commission had failed to include an impact assessment with its proposal.

The EU Council of Ministers was not prepared to make any concessions to the Parliament's negotiating position. A discussion paper from the Spanish Council Presidency dated 5 December entitled "Towards a final compromise on the Pact on Migration and Asylum" states that the core of the Council's mandates must be retained. It then lists several elements of the Council's general approaches that Parliament has agreed to. It is further argued that it was very difficult for the MS to reach an agreement; therefore, the Council's position must be accepted in its entirety. It was decided that there will be a screening regulation in which a binding procedure will be defined. The scope of the new monitoring mechanism should be limited to the screening procedure itself, which the Council is in favour of. The parliamentary proposal to extend the monitoring to the situation at the

borders in the broad sense was not adopted. Austria and the Czech Republic agreed to this, but are calling for further tightening. Bulgaria, Malta, Lithuania and Slovakia abstained from the vote for various reasons.

1.2 The “EU Summits” – 06/10, 14/12 and 15/12/2023

The meeting of the heads of government ended – like the one in June – without a joint declaration on migration policy. In Warsaw, MP Morawiecki and President Duda appeared before the cameras together the day before the summit to announce a "veto" by Poland. There is no such veto under European law, as journalists pointed out. It didn't matter. "We will defend our position and we will defend our borders," said Duda. The then head of government Morawiecki spoke of a "dictate from Berlin and Brussels". Hungary and Poland rejected the overall package. The Prime Minister of Hungary, Viktor Orbán, stated, "legally we are raped" by the majority decision of the Council of Ministers. The admission of refugees must remain voluntary and each MS must decide for itself how countries with high levels of migration are supported. In the future, only the consensus principle should apply to migration policy instead of decisions being made by majority vote. No further willingness to compromise on migration policy could be expected from Hungary or Poland.

The "official" EU summit on 14 and 15 December 2023 did not address migration issues.

1.3 “The Breakthrough” – On the Agreement in the “Trilogue” on 20/12/2023

The so-called "jumbo trilogue" (negotiations between the Council, Commission and Parliament on all elements of the asylum package) initially ended without result on 7 December 2023 and was postponed to 18 December 2023. Then it went "blow by blow":

- a) The Spanish Presidency said that it was time to finally clear up the issue of migration and asylum. So did the Council and the Commission. And the occasionally resistant EU Parliament caved in and went along with it. After all, the European elections in June 2024 are expected to bring a further shift to the right. Then – according to some parliamentarians – nothing will work or it will get even worse. After 18 hours of negotiations on 20 December 2023, EP President Metsola announced on X: "The EU has agreed on a groundbreaking agreement to regulate migration and asylum."

At the beginning of the trilogue, many MEPs gave the impression that the majority would not agree to asylum screening procedures under detention conditions at the external borders – but in the end they did. The extension of border procedures was rejected at the beginning of October and agreed to on 20 December. The EP demanded the age limit of 12 years for detention-type accommodation, but gave up the demand in the negotiations. Contrary to the EP's initial demand, there will be no mandatory distribution of migrants to the MS, even in a crisis. The EP demanded a mandatory, not just a "flexible" solidarity mechanism for the distribution of refugees. The MS, however, prevailed. The EP initially did not accept the concept of "instrumentalisation" due to - justified - significant fundamental rights concerns; but eventually it did. This agreement creates the basis for the adoption of future states of emergency at the external borders, including pushbacks.

- b) The state of affairs - in December 2023

Nothing will change for around 2½ years initially. The "trilogue" between the EU Council, EU Commission and EU Parliament was concluded with the political

agreement of 20 December 2023. The Council and Parliament still have to formally adopt this agreement in the spring. If this happens, the regulations will come into force 24 months later, i.e. in spring 2026.

The "centrepiece" of the changes is deterrence: from 2026, refugees from countries with an EU-wide protection rate of less than 20 % (currently e.g. Turkey, India, Tunisia) may in the future be detained at the EU's external border in so-called asylum centres for 12 weeks. The MS undertake to create 30,000 places in these centres according to a fixed key. As a standard procedure takes twelve weeks, up to 120,000 asylum seekers per year can go through this procedure. In total, they can be detained at the external borders for up to six months, as a new "border deportation procedure" will follow. If there is a "crisis-related mass influx", the asylum check in the border procedure may take up to 18 weeks; they may then be interned for the same length of time in order to "facilitate" their deportation. The required "protection quota" may increase to 50%, meaning that significantly more refugees will be affected. The MS can also apply the border procedure to refugees who have fled via "safe third countries".

The mechanism drafted by the Council remains that states either take on migrants according to a fixed key or pay EUR 20,000 per person into a fund (which does not yet exist) that is intended to benefit overburdened states. It is also possible, for example, to deploy border guards or make payments to third countries with which agreements exist to limit migration.

As a concession to the EP, asylum seekers are allowed to make use of free legal protection throughout the entire procedure. The eminently important practical question of who is able and willing to provide the necessary legal advice in the detention centres and under what conditions, so that around 120,000 people per year can receive legal protection, has not yet been answered. It is therefore unlikely that there will be fair asylum procedures at the external borders.

No exceptions apply to children with their families – because this could be a "pull factor". (However, no one has ever investigated whether this assumption is correct.) It was only stated that applications from families should be processed as a matter of priority and that the EU Commission would monitor compliance with fundamental rights standards. There is an exception for unaccompanied minors: "provided they do not pose a security risk", they may not be detained in camps.

Italy's demand to take action against NGOs and to classify sea rescue as a form of instrumentalization was limited to "hostile" foreign NGOs.

Following the agreement, significantly more non-European third countries can be categorised as "safe" with the aim of deporting refugees there. The 1951 Convention related to the Status of Refugees does not have to apply in the third country, nor does the entire country have to be "safe". If there is a corresponding agreement between the third country and the EU, "safety" should be assumed and thus enable MS to withdraw from refugee protection by classifying neighbouring countries or other states along the flight routes as "safe". People who have fled to Europe can then be deported there without their reasons for fleeing being examined – the EU-Turkey deal sends its regards!

The Dublin III Regulation will be replaced by the "Asylum and Migration Management" Regulation. In terms of content, this will change virtually nothing, as the external border states (Greece, Italy, Spain, etc.) will remain responsible for carrying out asylum (border) procedures. As a "solidarity measure", the reception of people seeking protection will be equated with the construction of fences at the EU's external borders or projects in third countries that serve to prevent flight. It is foreseeable that the system as a whole will become even more bureaucratic than the Dublin Regulation already is.

2 The Situation at the EU's External Borders – July to December 2023

2.1 On the "Outsourcing" of Italian Asylum Procedures to Albania

The Memorandum of Understanding between Italy and Albania, signed on 6 November, could lead to thousands of people rescued in the Mediterranean being transferred to asylum centres in Albania. The text contains very few details about the purpose of the proposed centres and the legal standards and procedures to be applied there. So far, there is only limited information on the scope of the centres and which categories of people will be covered. Statements made by Prime Minister Meloni to the media indicate that a screening process and asylum procedures at the border as well as return procedures will be carried out in the centres.

The establishment of asylum centres on Albanian territory under Italian jurisdiction – a model more akin to the "Australian model" than the agreement between the UK and Rwanda – would have numerous legal implications. The extraterritorial application of the screening process and asylum and return procedures at the border is not permitted. Compliance with procedural guarantees will not be possible. Automatic detention would not be lawful. The relocation of SAR operations to Albania will often constitute a violation of the International Law of the Sea (ILOS). Challenges could only be made under Albanian law, which will continue to apply.

On 13 November, Council of Europe Commissioner for Human Rights Mijatović said: "The Memorandum of Understanding is indicative of the efforts of Council of Europe MS to pursue various models of externalisation of asylum procedures as a possible 'quick fix' to the complex challenges posed by the arrival of refugees, asylum seekers and migrants. However, such measures increase the risk that refugees, asylum seekers and migrants are exposed to human rights violations. The shifting of responsibility across borders by some states incentivises others to do the same, creating the risk of a domino effect that could undermine the European and global system of international protection."

EU Commissioner for Home Affairs, Ylva Johansson, however, stated: "According to the preliminary assessment of our legal service, the memorandum does not violate EU law, but is outside EU law".

The signing of the MoU was criticised by MEPs, Italian NGOs and the political opposition, as well as Albanian experts and residents in the area where the facilities are to be located. An agreement between Albania and Italy must be approved by parliament before it comes into force. MEP Tineke Strik also reacted: "Without knowing the details, the Commissioner concludes that the agreement between Italy and Albania is outside EU law. This encourages all MS to relocate asylum seekers who fall under their responsibility to third countries."

In a press release dated 13 December 2023, the Albanian Constitutional Court announced that it had initiated proceedings to review the constitutionality of the migration deal that the Albanian government agreed to with Italy in November 2023. The agreement provides for Italy to set up reception centres in Albania and carry out asylum procedures there. The proceedings before the Constitutional Court were initiated by members of the Albanian parliament who claim that the provisions of the Albanian constitution were disregarded when the deal was signed. The Constitutional Court will carry out the proceedings in mid-January 2024; until then the ratification of the agreement is suspended.

The German Parliament's Research Service has published documentation on the topic of "Outsourcing asylum procedures": Elaboration of 6 November 2023 - WD 2 - 3000 - 076/23,
<https://www.bundestag.de/resource/blob/982464/c09a3517047f2043960c42bd04be192b/WD-2-076-23-pdf.pdf>

2.2 The Mediterranean Routes

According to the UNHCR, around 186,000 people had arrived in Europe via the Mediterranean by 20 October 2023 (an increase of 83% compared to 2022). More than 2,500 people had died or been reported missing on their way across the Mediterranean (an increase of almost 50% compared to 2022). The crossing is not the only risk: the land route to Libya is also extremely dangerous (see below).

2.2.1 Route Tunisia – Italy – “Partner State Tunisia”

Tunisia is currently the most important route for migrants and refugees in the central Mediterranean. According to the Tunisian National Guard, the Tunisian authorities intercepted almost 70,000 migrants attempting to cross the Mediterranean to Italy in 2023 – more than twice as many as in 2022. The number of departures from the country has risen sharply. The German government and other European countries are therefore trying to curb irregular migration via the transit country and are supporting Tunisia in this endeavour. Europe has pledged 105 million euros for border protection alone.

On 10 June 2023, President Saïed ruled out Tunisia acting "as a border police force for Europe": "We cannot fulfil a role in which we guard their countries". On 11 June, EU Commission President, von der Leyen, travelled to Tunis with the Dutch and Italian heads of government, Rutte and Meloni, to offer President Saïed the prospect of Tunisia's willingness to keep migrants away from Italy "through cooperation with the EU":

- Economic aid totalling 900 million euros;
- 105 million euros for border security (border, search and rescue operations, measures against smugglers and for the return of migrants);
- 150 million euros in budget support for the Tunisian state budget.

German Federal MI Faeser flew to Tunisia on 18 June with the French MI Darmanin and offered so-called "talent partnerships" in order to "offer young Tunisians professional opportunities in the EU".

On 16 July, von der Leyen, Meloni and Rutte signed a declaration of intent to support Tunisia, in which the above-mentioned figures form the basis. This declaration builds on the EU-Tunisia Association Agreement of 1998 and amendments of 29 March 2022,

which also refers to human rights. If an agreement is reached between Tunisia and the IMF, Italy wants to add a further 700 million euros. On 2 October, 60 million was transferred to Tunisia, with a further 67 million to follow.

On 3 October 2023, Saied rejected EU aid and transferred the 60 million euros back: Tunisia did not want handouts. There is speculation that he came under domestic political pressure after the French president declared that, in addition to money and material, the EU wanted to send its own experts to Tunisia to support the coastguard. The EU was thus displaying "colonialist behaviour", according to Tunisia.

Der Spiegel reported on 26 September 2023 that the German Federal Police had been training and supporting Tunisian border guards to a considerable extent for years, despite repeated criticism of their work (cf. Federal government response to a parliamentary question from MP Bünger). Since 2015, the Federal Police has trained a total of 3,395 members of the National Guard and border police – and deployed around 450 German officers for this purpose. More than 1.3 million euros have been spent on travel costs for the training programmes since 2015, around 400,000 euros in 2022 alone. In addition, almost 500,000 euros in support by the BKA (the German FBI) as well as contributions in kind such as boat engines, quads, inflatable boats and night vision devices have been funded since 2015.

At the same time, however, Tunis is being criticised because border guards are said to have abandoned migrants in the desert, with Libyan authorities reporting 27 deaths. In August, German newspapers reported that, in Tunisia, people from sub-Saharan countries had been sent into the desert by the authorities and left without help. There were also pogrom-like attacks after a speech by President Kasai. Refugees repeatedly report that Tunisian coastguards steal the engines of their boats. On 27 November, refugees in Libya published a video showing Tunisian border guards shooting at African migrants from sub-Saharan Africa whose only way to escape the violence is to jump into the sea. An article by Al Jazeera reported on the testimonies of migrants in Tunisia about the increasing violence of the Tunisian police against people staying overnight near Sfax.

The German government says it is monitoring the situation of refugees and migrants in Tunisia "with great concern". It has "condemned" the "abduction of refugees and migrants" to the border areas with Algeria and Libya and has called for these practices to be "stopped and clarified". Cooperation and dialogue were maintained with Tunisia "as a direct European neighbour". During a visit to Tunisia, the Minister of State at the Federal Foreign Office, Keul, urged that "general principles of the rule of law and democratic values" be upheld.

The EU is now stepping up its cooperation with Egyptian authorities. At the end of October, following the tragedies in Gaza, EU Commission President von der Leyen proposed increasing support for Cairo due to the number of migrants, hinting at an agreement that could be similar to the EU-Tunisia deal. The Vice President of the EU Commission, Mr Schinas, stated that the need to engage with Egypt was "even more urgent".

2.2.2 The Situation in the Mediterranean

Meanwhile, people continue to die and go missing in the Mediterranean. According to IOM, almost 3,200 people died or disappeared in the central Mediterranean in 2023.

On 12 November, Civil Fleet reported on the cooperation of numerous NGOs in the rescue of 290 people in the central Mediterranean in a series of rescue operations involving the sea rescue organisations Médecins Sans Frontières and SOS Mediterranee as well as a reconnaissance aircraft from Pilotes Volontaires in cooperation with the NGO hotline Alarm Phone. On 14 November, RESQSHIP reported that their vessel Nadir was escorting an overcrowded boat with 50 people, with one person falling overboard and being rescued by another survivor. The following day, the organisation reported the rescue of a further 50 and 39 people in two separate operations. Alarm Phone continues to report emergencies and declared on 15 November: "Many boats in distress in the Central Mediterranean!" Alarm Phone alerted the authorities to 11 boats. However, the authorities did not respond. On 27 December, Sea-Eye brought 106 shipwrecked people to Brindisi. On 28 December, Sea Watch brought 119 people to Marina di Carara/Tuscany.

2.2.3 Libya

The EU's do-no-harm policy in Libya has been shaken by recent revelations proving that the Libyan armed group Tarek Bin Ziyad (TBZ) carried out towbacks based on information shared by FRONTEX and the Maltese authorities. An investigation by Lighthouse Reports shows that the TBZ is led by Saddam Haftar, the son of eastern Libyan warlord Khalifa Haftar. It is accused of killings, torture, arbitrary detention and enslavement. TBZ has been operating a ship in the central Mediterranean since May 2023 and has since picked up more than 1,000 people off the coasts of Libya and Malta and brought them back to Libya. FRONTEX and the Maltese Armed Forces, who are aware of Haftar's human rights violations, work directly with TBZ by exchanging the coordinates of refugee boats to carry out repatriation operations and prevent arrivals on European shores. Malta and FRONTEX defended this by arguing that the sharing of coordinates was to "help people in distress", although analyses show that there were safer options in all emergencies, e.g. merchant vessels and NGO rescue ships. Refugees reported beatings, abuse and torture by the militia, as well as being shot at by the militia, resulting in deaths. On a boat boarded by the TBZ militia, passports and mobile phones were confiscated and the refugees were taken to a prison in the port, a large hall about 50 metres long, which was already overcrowded with about 600 people.

The attacks on people travelling in Libya continue. On 28 November, the Libyan authorities announced preparations for the deportation of a total of 250 migrants to Chad and Niger as part of the fight against "criminal smuggling networks" in the two African countries. The emergency hotline run by the organisation Refugees in Libya receives more than 100 calls a day from boats in distress as the organisation strives to meet the basic needs of refugees such as food, medicine, etc. IOM reported that the so-called "Libyan Coast Guard" intercepted a total of 105 migrants from 3 to 9 December 2023. According to IOM, 15,383 migrants, including 556 children, were intercepted and returned to Libya from the beginning of the year to the beginning of December 2023. On 16 November, the Italian authorities detained Ocean Viking for 20 days and fined it EUR 3,300 after SOS MEDITERRANEE rescued people in distress in the Libyan search and rescue region of responsibility (SRR). The Libyan authorities did not give any instructions or information about the people left at sea.

The Lighthouse Reports investigation is a blow to the EU Commission's "do no harm in Libya" policy, despite mounting evidence of offences by the so-called Libyan coastguard and claims by EU Home Affairs Commissioner Johansson that the Libyan coastguard is

infiltrated by criminals. Green MEP Tineke Strik said she had sent written questions to the Commissioner for Neighbourhood and Enlargement, Varhelyi, five months ago regarding EU funding for Libya, but he had not yet replied. The director of the Mixed Migration Centre, Bram Frouws, wrote on X that the findings "prove the EU's complicity in supporting illegal retreats of refugees and migrants by Libyan militias."

The organisation Refugees in Libya has published videos of severe torture of migrants held by militias to demand ransom. David Yambio, spokesperson and co-founder of Refugees in Libya, explains: "The videos were sent to us by the traffickers themselves. They use the victims' phones and contact us via our Whatsapp hotline. The traffickers don't use their own phones. They have realised that their captives have no family to turn to for help. That's how we received the first videos. They called us and filmed the torture sessions." A survivor who was rescued by the NGO EMERGENCY in the central Mediterranean explained: "I fled to Sudan and then to Libya, where I was detained for six months. Sometimes they hung us up by our feet or beat us with pipes and rods. While we were screaming, they called our families to send money for our release. My mother had to sell her flat to get me released."

2.2.4 The Situation in Greece (as of 08/12/2023)

The latest figures from the Greek Ministry of Migration show a 42.06% drop in arrivals in October 2023 compared to September. A total of 6,581 migrants arrived in Greece in October compared to 11,470 in the previous month. Greece has received the highest amount of funding for migration in 2023 from the EU Commission. A total of 258.9 million euros in extraordinary funding was disbursed to all MS. Greece received 42.4 million euros of this total amount.

The Greek Ministry of Migration praised its "comprehensive and multi-level strategy" to combat "irregular migration and human trafficking", which has led to the decrease in arrivals, which it also described as "remarkable compared to the increase of the phenomenon in other countries such as Italy, Croatia and also Spain." "Greece has managed to record fewer arrivals than most EU member states in the southern external area of the Schengen zone and to manage them efficiently and safely for asylum seekers and local communities within organised structures, in contrast to what happens in other countries."

In its latest report, MSF repeatedly raised the question of whether the declining number of arrivals is linked to the country's de facto and systematic pushback policy in the Evros and Aegean regions, as well as Greece's systematic refusal and failure to stop pushbacks and violence against migrants at its borders.

On 14 December, six months after the shipwreck off the coast of Pylos that killed more than 500, possibly even more than 700, people, NGOs (including Human Rights Watch [HRW], AI and Refugee Support Aegean) recalled that the Greek investigation into the Greek Coast Guard's response to the Pylos tragedy has made "little significant progress". Vassilis Papadopoulos from the Greek Refugee Council and Irini Gaitanou from Refugee Support Aegean (RSA) – both organisations that have filed a criminal complaint against the coastguard on behalf of more than 40 survivors – pointed to the authorities' attempts to cover up the tragedy and delay an investigation. It was only five months after the shipwreck that the Greek ombudsman launched an investigation into the actions of the Greek coastguard in connection with the accident. According to the 21 survivors

interviewed, the Greek authorities "failed to mobilise adequate resources for a rescue" in the first 15 hours after receiving the first report that the *Adriana* was in their search and rescue area. The survivors said that the authorities were clearly aware of signs of distress such as overcrowding and inadequate food and water supplies, as well as bodies on board and requests for rescue. The NGOs claim that FRONTEX "should have continued its surveillance of the *Adriana* and issued a distress call."

FRONTEX defended its actions by pointing out that "it is the responsibility of the national authorities to coordinate search and rescue measures." FRONTEX did not send out an emergency call because it did not see any "immediate danger to human life." In a BBC interview, Greek MP Mitsotakis responded to a question about the responsibility of the Greek coastguard for the Pylos shipwreck by saying that the authorities were investigating this aspect and that his country's coastguard had "saved tens of thousands of lives at sea" and that "we should be grateful for their work." The EP adopted a resolution calling on FRONTEX to suspend operational activities in Greece due to pushbacks and violence against migrants and refugees, calling on FRONTEX to "be more proactive in protecting fundamental rights" and recommending impact assessments before negotiations with third countries and full cooperation with the Ombudsman's investigation into the Pylos tragedy.

On 11 November, a boat carrying migrants capsized off the coast of Izmir, killing at least five people, according to the Turkish coastguard; a further six were rescued. On 13 November, Alarm Phone reported four people, including one person in urgent need of medical assistance, in distress on the Greek island of Kos. On the same day, another group of 20 people were reported to be in distress. "We immediately informed the Greek Coast Guard, but when we spoke to them on the phone, they refused to acknowledge receipt of the email and hung up," Alarm Phone said, adding, "we received confirmation from the Turkish Coast Guard that they had found the group and brought them back to Turkey." The Alarm Phone hotline reported several incidents of pushback and failure to assist by Greek authorities in early December, such as an incident on 5 December in which the coastguard let a group of 43 people, who were in distress at sea near Lesbos, drift until they reached Turkish waters. On 7 December, 22 people near Lesbos called for help and reported that a military boat was near them. Alarm Phone stated that the military boat "was not providing assistance and was pushing them further away from the coast," despite seeing water entering the refugees' boat. "Turkish authorities confirmed that they found the group, which was pushed back to Turkey. Already in the first week of December, the Greek Coast Guard pushed back 6 groups that had contacted Alarm Phone," the organisation continued. On 11 December, the Turkish Coast Guard announced in a press release that it had rescued a total of 122 migrants who had been pushed back into Turkish territorial waters by the Greek authorities. On 13 December, the hotline published an email sent by a group of 17 people who had been pushed back to Turkey: "We were captured by the Greek Coast Guard near the island of Kos, our boat was destroyed. We were left at sea and are begging for urgent help because we will die of cold."

A new report by Mobile Info Team and Refugee Legal Support documents 19 cases of the experiences of people who applied for asylum after the establishment of the Reception and Identification Services (RICs) in mainland Greece in September 2022. After analysing these experiences, the two organisations note that the new system for registering asylum applications imposes a blanket 25-day de facto detention on asylum seekers, denies them

protection under EU and Greek law and fails to identify those in need of protection. In a joint statement, 26 organisations raised the alarm over the "continued dysfunction of the Greek reception system, which denies asylum seekers and refugees access to rights and services." "On the islands, reception centres (CCACs) remain overcrowded, especially on Kos, where new arrivals are subjected to an informal detention regime until they are registered, without access to a doctor, after medical staff were withdrawn at the end of October. The situation is similar on Samos, where a military doctor was temporarily available to meet the needs of almost 4,000 residents," the press release states. The organisations are calling on the Greek state, with the help of the EU, to "immediately ensure that the needs of all those seeking protection are met and that the long-term sustainability of the reception system is guaranteed" and to end the alternative forms of reception.

The Council of Europe's Committee against Torture (CPT) paid an ad hoc visit to Greece from 21 November to 1 December 2023 to "investigate the treatment of foreign nationals deprived of their liberty under immigration laws." The delegation visited six of the seven detention centres and several police and border guard stations in various regions, as well as three closed controlled-access centres on the Aegean islands of Kos, Lesbos and Samos.

The Greek national news agency EYP described "illegal" migration as the "fourth consecutive threat to the country's security." This threat consists of the "instrumentalisation of the drama of thousands of people in search of a better fate by unscrupulous human traffickers and illegal organised crime rings acting with the connivance, encouragement or cooperation of third parties, both state and non-state," leading to "difficult-to-manage situations with a broader social and deeply human dimension."

On 12 December, 16 organisations, including Fenix Legal Humanitarian Aid and the Greek Refugee Council, sent an open letter to Greek politicians expressing their "deepest concern" about the systematic violations of the rights of people seeking international protection. The organisations called on the authorities to guarantee access to medical care, medication, psychological and psychosocial support and food.

After the "usual verbal disputes" of recent years, Turkish President Erdoğan paid a "landmark visit" to Athens on 7 December 2023. Both countries agreed to establish communication channels between the coastguards in order to tackle the problem of migration. While Greek Prime Minister Mitsotakis stated that the "significant reduction in migration flows in recent times" was the result of "systematic monitoring of sea and land borders" and better cooperation between the police and coast guards of both countries, President Erdoğan spoke of a "new era" in which there is "no problem that cannot be solved between nations," which could be "an example for the world." However, on 11 December, the Turkish coastguard once again accused the Greek coastguard of pushing back migrants.

2.2.5 *Atlantic Route and Spain*

Over 1,000 migrants reached the Canary Islands, which belong to Spain, in one day at the beginning of October. On the island of Hierro, 783 people arrived on a single wooden boat, according to the Red Cross. Almost 100 refugees were counted on Tenerife and 150 on Gran Canaria. This year, the Canary Islands received around 24,000 migrants leading up

to October. This corresponds to an increase of 80% compared to the same period last year. The Canary Islands are the main destination for migrants from Senegal and other African countries trying to reach Spain.

2.3 “Balkan Route”

The latest report by the European Border Violence Monitoring Network examines the development of interoperable biometric databases, similar to Eurodac, in the Western Balkans (“Balkandac” system) and their impact on migration policy and data sharing in the EU. It was noted that “a dangerous paradigm shift in the methods of processing new arrivals in the EU” undermines the right to asylum and increases the outsourcing of responsibility for processing applications to third countries. “The increasing overlap or linking of migration and criminal records databases has the potential to contribute to an increasing unjust criminalisation of people on the move – further exacerbating difficulties in accessing asylum and international protection.”

A new blog by the ASILE project sheds light on the changing landscape of security in Serbia since the presence of FRONTEX officers along the common borders with Hungary and Bulgaria increased. By April 2024, 140 FRONTEX officers will be deployed in Serbia together with other foreign officials, facilitated by bilateral and trilateral agreements with EU MS (including Austria and Germany). Mobile teams from Médecins Sans Frontières (MSF [Doctors Without Borders]) noted an increase in “security measures” aimed at preventing people from reaching the Hungarian border. Local and foreign law enforcement forces interrupted MSF activities providing humanitarian assistance to migrants in informal settlements in northern Serbia, and in one case conducted raids on the settlements that led to the displacement of migrants. According to MSF’s general monitoring data, at least 50 forced evictions took place in informal settlements along the Serbian-Hungarian border region between December 2022 and June 2023, involving the demolition of makeshift camps, the destruction of personal property and the use of violence, harassment and verbal humiliation. Mass evictions by Serbian authorities and harsh conditions in informal settlements have long been documented.

Nešić, Minister for Security, said that an agreement between Bosnia-Herzegovina and FRONTEX should be signed by the end of 2023 in order to achieve “more stability and control.” According to IOM, there were around 500 people in Bosnia-Herzegovina in two reception centres in the Una-Sana canton at the beginning of December 2023. More than 300 refugees are accommodated in the Lipa reception centre, and around 100- 150 more in the Borići centre in Bihać. According to IOM representatives, the centres are not yet at full capacity as most migrants do not stay in the country for long, but continue their journey quickly on their way to Western Europe.

Furthermore, EU Commissioner for Home Affairs, Johansson, confirmed her intention to integrate Bulgaria and Romania into the Schengen area. Austria spoke out against this: Schengen must become better, but not bigger. The Netherlands initially blocked Bulgaria’s accession due to questions about the rule of law. Nevertheless, the 23 Schengen MS then agreed at the end of December to lift checks on persons at air and sea borders for Bulgaria and Romania from the end of March 2024. A decision on the lifting of controls at land borders is to be taken “at a later date”. No date was given. Both countries have been waiting for accession since 2011.

2.4 EU Eastern Borders

In November 2023, the EU Commission allocated 259 million euros from the Border Management and Visa Instrument (BMVI) to projects to "strengthen migration management and security at the EU's external borders." According to the Commission's press release, 141 million euros will be used to install fibre optic cables and software in various member states, including Bulgaria, Lithuania and Hungary, in order to "improve the exchange and processing of data between border posts and command centres." Funds will also be used for the installation of electronic surveillance equipment at border crossings in Bulgaria, Latvia and Lithuania and for the deployment of mobile detection equipment in Bulgaria, Greece and Lithuania. As part of the Asylum, Migration and Integration Fund (AMIF), funds will be made available for the "expansion of reception facilities at the borders and the renovation of existing reception centres in Italy, Latvia, Lithuania and Poland."

Concerns remain about the ongoing pushback and violence against migrants attempting to cross the Belarus-Poland border. The Helsinki Human Rights Foundation in Poland stated that it had observed numerous cases of violence by uniformed officers, e.g., handcuffing people to the radiator of a police station, beating and kicking detained persons on the run.

Finnish Prime Minister Orpo announced on 12 December that Finland would reopen parts of its border with Russia. The announcement came two weeks after Finland closed the border because it accused Moscow of driving migrants and asylum seekers to the border in order to "sow discord" and "take revenge" for Finland's accession to NATO. Although most of the closures remained in place, the Vaalimaa and Niirala crossings were reopened from 14 December until 14 January. Prior to the decision to reopen the border, several organisations, including the UNHCR, had expressed concerns about the rights of migrants. On 11 December, the Council of Europe Commissioner for Human Rights, Mijatović, wrote to the Finnish Interior Minister: "It is crucial that Council of Europe member states respond in a way that fully complies with their human rights obligations, even in difficult situations at their borders." She called for a number of clarifications on measures taken to ensure the protection of human rights and to prevent a humanitarian crisis from developing in the context of deteriorating weather conditions at the border.

3 Children's Rights in the Asylum Procedure – From a Report by Terre des Hommes

On 29 November 2020, Terre des Hommes published the report *In Front of Walls and Behind Bars* on pushbacks and migration detention of children and young people. Taking Hungary, Greece, Bulgaria and Poland as examples, the report highlights the current development of pushbacks and migration detention practices that violate children's rights. The report refers to the experiences and information provided by civil society project partner organisations and points to the shared responsibility of the EU, whose institutions approve and support the behaviour of the member states. As a result of migration detention, which always violates the UN Convention on the Rights of the Child, children and young people often suffer from depression, post-traumatic stress disorder and anxiety. The experience of violence against themselves or relatives and friends in the context of pushbacks is also traumatising for children and young people and often stays with them for the rest of their lives. According to Terre des Hommes, the EU is partly

responsible for the violation of children's rights at Europe's external borders. Numerous examples can be found in the report, such as the European pilot project for border protection in Bulgaria, the EU funding of detention-like facilities in Greece and the role of FRONTEX. In view of the changes to the CEAS, it is to be feared that the existing abuses at the external borders will be further exacerbated by giving violations of the law a European framework. Terre des Hommes calls for "child welfare instead of detention and fair asylum procedures instead of accelerated border procedures."

4 Great Britain

News on the UK's "Rwanda deal" and the consequences of the Supreme Court ruling of 15 November 2023

In its judgment of 15 November 2023, the UK Supreme Court confirmed a decision by the Court of Appeal in which it declared the relocation of asylum procedures to Rwanda provided for in an agreement between the UK and Rwanda (Migration and Economic Development Partnership) to be incompatible with the prohibition of refoulement under the Refugee Convention and the ECHR. The agreement stipulates that asylum seekers who arrive in the UK after crossing the English Channel will be deported to Rwanda, where their asylum applications will be decided by the Rwandan authorities. In return, Rwanda will receive economic benefits based on the existing Migration and Economic Development Partnership (MEDP) between the two countries.

Initially, the Divisional Court of first instance had criticised the application of the agreement to individual cases, but considered the agreement to be lawful in principle. The Supreme Court then confirmed the factual findings of the Court of Appeal, which had relied on statements by the UNHCR on the practical realities of reception conditions and the asylum system in Rwanda, among other things. Based on the generally poor human rights situation in Rwanda and considerable procedural and substantive deficits in the application of the Refugee Convention, the Supreme Court also assumed that there are currently considerable indications that asylum seekers are at risk of violations of the prohibition of refoulement if they are transferred to the Republic of Rwanda.³

Very shortly after the legal defeat, the British government introduced a new bill on 11 December, which was initially approved in two readings: In order to deter migrants, people who have entered the country irregularly are to continue to be sent to Rwanda in the future, without their asylum application being examined and regardless of their origin, and apply for protection there. A return to the UK is not envisaged. Rwanda is defined by law as a safe third country. This contradicts the opinion of the Supreme Court. According to Home Secretary Cleverly, the new treaty with Rwanda, which he signed in early December, has addressed the shortcomings identified by the Supreme Court, with new guarantees and international monitoring for Rwandan asylum procedures. The new text defines Rwanda as a safe third country and prevents the deportation of migrants from Rwanda to countries of origin where they may face persecution. It also provides that legal recourse in the UK, and thus parts of British human rights protection, do not apply to deportation proceedings. To this end, the British Human Rights Act is to be declared inapplicable and not applied in the case of Rwanda. This will ensure "that our plan cannot be stopped," said

³ Read more about the Supreme Court's judgement here:
<https://www.supremecourt.uk/cases/docs/uksc-2023-0093-etC-judgment.pdf>

PM Sunak. "Hardliners" such as former Home Secretary Braverman are calling for further measures, such as withdrawal from the ECHR, in order to prevent legal action before international courts. With the 313 "Ayes", the bill went to the relevant parliamentary committee, where it will be debated and amendments tabled. The House of Lords will then give its opinion, after which it will go back to the House of Commons with or without amendments, where the proposed legislation and amendments will be discussed and voted on at the 3rd reading in January. So far, £240 million has been paid to Rwanda, with a further £50 million to be paid in 2024. 175,000 people are awaiting an initial decision on their application for asylum in the UK.