



# ASILE

Global Asylum  
Governance and  
the European  
Union's Role

Borders, money,  
and a B&B -  
Policy drivers on the  
Global Compact on  
Refugees in Serbia

October 2022

Julian M. Lehmann  
GPPI



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement n° 870787. This document reflects only the author's view and the Commission is not responsible for any use that may be made of the information it contains.



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## Abstract

Although the United Nations Global Compact on Refugees (GCR) has elaborated a clear set of shared policy objectives on addressing forced displacement, it is less evident how these objectives are best to be achieved politically. Using a lens of “political responsibility” for policies, this paper studies domestic and international policy actors, and their roles and interests for explaining policies relevant to the GCR in the Republic of Serbia since 2018. It does so by looking at selected policy developments in two overarching areas of the GCR: “reception and admission” (including access to territory, reception arrangements, and asylum procedures) and “meeting needs and supporting communities” (including access to the labour market and integration). We suggest that the GCR’s policy guidance may be best framed theoretically as an additional constraint to be considered in asylum governance. Past literature theorises that such constraints by international regimes, policy emulation, or interdependence can cause convergence pressure in policies across countries. In Serbia, however, the GCR itself did not have a constraining effect in practice. Conversely, constraints and convergence pressures were created by the restrictive policies of EU neighbour states on border control, as well as (to a more limited extent) the EU accession process. Where there are indications that Serbia has made progress towards a nationally-owned policy of service-provision and inclusion, domestic and foreign policy considerations have interplayed with either external (namely EU) financial support; legislative reform facilitated and accompanied by EU institutions; or favourable policies by neighbour countries. The case of Serbia shows how effective outside support for GCR implementation would require not only more faithful, consistent action towards the principles of technical and financial responsibility-sharing, but also a clearer understanding of the political economy in host countries’ governments, and of potential levers of reform.



## 1. Introduction<sup>1</sup>

With the adoption of the United Nations Global Compact on Refugees (GCR; “the Compact”) in 2018,<sup>2</sup> member states of the United Nations, a large number of international organisations, civil society, and other stakeholders have forged a new consensus on policy objectives in addressing forced displacement.<sup>3</sup> Meanwhile, given the Compact’s non-binding nature, it is less evident how these shared objections can be achieved politically; that is, how the necessary buy-in and action by relevant actors can be facilitated. The text of the GCR is inconclusive. There is a principle inherent in the GCR that requires a wide array of national, inter- and transnational stakeholders to align and work together in support of a host country that has ownership and leadership.<sup>4</sup> Consistent with that principle, the GCR also points to three elements conducive to implementation: “the mobilization of political will, a broadened base of support, and arrangements that facilitate more equitable, sustained and predictable contributions among States and other relevant stakeholders.” However, to what extent do these elements reflect the reality of what drives, or does not drive, policy outcomes relevant for the GCR; that is, policies on the reception and inclusion of asylum seekers and refugees, in a specific country context? In the following, this question is explored through the case of the Republic of Serbia since 2018.

In addressing this question, the paper departs from the notion of *responsibility allocation*, so as to facilitate cross-disciplinary dialogue in a research project on the European Union’s wider role in the emerging international regime on refugee protection. Responsibility is understood to encompass legal (state or individual responsibility for a wrongful act), financial, and political dimensions. We choose to focus on the latter. We understand political responsibility to denote the link between policy outcomes on one hand, and individuals, institutions, and processes on the other hand. In multi-level governance structures,<sup>5</sup> policymaking authority is typically distributed across such structures rather than falling on individual authorities alone.<sup>6</sup> In consequence, political responsibility for GCR implementation is, first and foremost, a lens of analysis that helps to circumscribe the scope of relevant domestic and international actors, as well as their different and potentially conflicting roles and interests. Second, it is a notion that also helps to pinpoint issues of democratic political accountability, given that feedback for policy outcomes can best be directed when both policies and those responsible for policy outcomes are clear.

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<sup>1</sup> Research for this article was supported by funding from the EU’s Horizon 2020 programme for the project *Global Asylum Governance and the European Union’s Role* (ASILE), under grant agreement 870787. The author is grateful to all key informants interviewed, and for comments provided by the ASILE reviewers. Research is current as of September 2022. All URLs included were last accessed on 17 October 2022.

<sup>2</sup> UN General Assembly, A/73/12 (Part II).

<sup>3</sup> The GCR contains the following objectives: (i) ease pressures on host countries; (ii) enhance refugee self-reliance; (iii) expand access to third country solutions; and (iv) support conditions in countries of origin for return in safety and dignity. In para. 20 and following, the Compact specifies areas to which stakeholders may “channel support.”

<sup>4</sup> Reference to nexus in various other documents.

<sup>5</sup> Indicatively, see Cutler, F. (2004). “Government Responsibility and Electoral Accountability in Federations.”

*Publius*, 34(2): 19–38; Anderson, C. (2006). “Economic Voting and Multi-Level Governance: An Individual-Level Analysis.” *American Journal of Political Science*, 50(2): 449–63.

<sup>6</sup> Rittberger, B., Schwarzenbeck, H., and Zangl, B. (2017). “Where Does the Buck Stop? Explaining Public Responsibility Attributions in Complex International Institutions.” *Journal of Common Market Studies*, 55: 909–24.



Empirical accounts of migration policymaking in single countries have typically combined different theories of determinants of migration policymaking: the bottom-up role of domestic socio-economic interests; foreign policy interests; conflicting interests in state institutions; and constraints by international norms.<sup>7</sup> As Natter concludes based on reviewing country-focused research, “Ultimately, most immigration policies – regardless of the political system in place – are likely determined by the dialectic between interests, institutions, and ideas evolving at the intersection of domestic and international spheres. The crux is to specify the dynamics between factors and the relative weight of each of them.”<sup>8</sup> In reference to previous scholarship, we suggest that the GCR’s policy goals and guidance can be framed theoretically as an additional international constraint to be considered in asylum governance (see section 3 for justification). Thus, past research has pointed to external constraints limiting a government’s “room to manoeuvre,” thereby creating convergence pressure for different facets of policy to become more similar across countries.<sup>9</sup> Research has theorised that convergence effects in asylum policy may be created, among other ways, by regional or global regimes, by mutual learning, and interdependence of countries’ policies.<sup>10</sup> There also is qualitative and quantitative evidence on a coincidence between greater favourability on asylum in EU countries, and policy emulation of EU asylum law,<sup>11</sup> which is shaped by local efforts of “adaptation, resistance, or rejection.”<sup>12</sup>

Serbia is chosen as a crucial case for the dynamics of convergence and emulation given the presence of various presumed conducive ingredients (most likely case): First, in the more recent past, Serbia has become the central theatre on the “Balkan route.” Between 2015 and 2016 in particular, most migration from Greece to North Macedonia, as well as from Bulgaria, northwards into Hungary and Croatia, passed through Serbia.<sup>13</sup> In that short period, Serbia facilitated movement by issuing temporary permits and offering registered migrants transportation to its northern border, initially to the Serbian–Hungarian border and then (following the border closure and construction of a fence in Hungary) to the Serbian–Croatian border.<sup>14</sup> In October 2015, following a joint meeting convened by the EU Commission president, the leaders of Western Balkan countries and

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<sup>7</sup> See Natter, K. (2018). “Rethinking Immigration Policy Theory beyond ‘Western Liberal Democracies.’” *Comparative Migration Studies* 6, Article No. 4; building, among others, on Bonjour, S. (2011). “The Power and Morals of Policy Makers: Reassessing the Control Gap Debate.” *International Migration Review*, 45(1): 89–122; Boswell, C. (2007). “Theorizing Migration Policy: Is There a Third Way?” *International Migration Review*, 41(1): 75–100; Castles, S. (2004). “The Factors that Make and Unmake Migration Policies.” *International Migration Review*, 38(3): 852–84; Meyers, E. (2000). “Theories of International Immigration Policy: A Comparative Analysis.” *International Migration Review*, 34(4): 1245–82.

<sup>8</sup> Natter, K. (2018).

<sup>9</sup> Schultz, C., Lutz, P., and Simon, S. (2021). “Explaining the Immigration Policy Mix: Countries’ Relative Openness to Asylum and Labour Migration.” *European Journal of Political Research*, 60: 763–84.

<sup>10</sup> Ibid.

<sup>11</sup> Lambert, H., McAdam, J., and Fullerton, M. (eds.) (2013). *The Global Reach of European Refugee Law*. Cambridge University Press.

<sup>12</sup> These terms are used in a systematic review by Brumat, L., Geddes, A., and Petrachin, A. (2022). “Making Sense of the Global: A Systematic Review of Globalizing and Localizing Dynamics in Refugee Governance.” *Journal of Refugee Studies*, 35(2): 827–48.

<sup>13</sup> Abikova, J. and Piotrowicz, W. (2021). “Shaping the Balkan Corridor: Development and Changes in the Migration Route 2015–16.” *International Migration*, 59(5): 248–65.

<sup>14</sup> Beznec, B., Speer, M., and Stojić Mitrović, M. (2016). “Governing the Balkan Route: Macedonia, Serbia, and the European Border Regime.” Rosa Luxemburg Stiftung Southeast Europe, Research Paper Series 5. [https://www.rosalux.de/fileadmin/rls\\_uploads/pdfs/engl/Governing\\_the\\_Balkan\\_Route.pdf](https://www.rosalux.de/fileadmin/rls_uploads/pdfs/engl/Governing_the_Balkan_Route.pdf)



a number of EU states agreed on common measures that would address the movement of migrants and refugees, including limiting secondary movement and the end of state-sponsored transit.<sup>15</sup> After the restrictive border practices – including pushbacks and border closures in Croatia and Hungary – rendered onward movement increasingly difficult, the “formalized”<sup>16</sup> and government-facilitated transit corridor ceased to exist in 2016.<sup>17</sup>

While restrictive practices by Serbian neighbour countries have significantly impacted the scope and forms of migration in and through Serbia, the presence of migrants and refugees as well as their movement through the country remain very significant to date. Although there are no precise numbers on arrivals,<sup>18</sup> and the actual number of new arrivals is likely lower than the most recent official reports,<sup>19</sup> official statistics accurately point to an increase in numbers in recent years. This has been particularly visible in summer 2022, when the number of new arrivals almost tripled compared to the first seven months of 2021, rising to 45,308.<sup>20</sup> Several observers have noted that the (anticipated) global consequences on food security of Russia’s war against Ukraine have affected peoples’ calculations regarding whether to leave, raising the number of arrivals throughout the EU.<sup>21</sup> What is more, Serbia’s visa free regime with a number of source countries for migration has (marginally) contributed to increased migration, and sparked alert by both the EU Commission and individual member states.<sup>22</sup>

Second, prompted both by its geographic position and its candidate status for EU membership, Serbia is of particular strategic importance for the EU as a cooperation partner to manage migration.<sup>23</sup> Since 2016, Serbia and the EU have been in accession negotiations on the Chapter relevant for migration and asylum (Chapter 24: Justice, freedom and security).<sup>24</sup> As part of the accession process, the EU is acting as Serbia’s single biggest donor, with migration having become one of the most important fields of assistance during the events of the Syrian refugee crisis.<sup>25</sup> The EU has also (adequately or not) framed some of the funding instruments from which Serbia has benefited as a means of implementing the GCR’s principle of burden- and responsibility sharing.<sup>26</sup>

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<sup>15</sup> European Union. (25 October 2015). “Leaders' Meeting on Refugee Flows along the Western Balkans Route: Leaders' Statement.”, 25 October 2015, [www.refworld.org/docid/563216cb4.html](http://www.refworld.org/docid/563216cb4.html).

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> This is due to diverging methodologies between relevant entities collecting data, and because of the underreporting of a share of the population of transit. See Kovačević, N. (2022). “Country Report: Serbia.” Asylum Information Database.2022, available at [https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-SR\\_2021update.pdf](https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-SR_2021update.pdf)

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Braw, E. (18 July 2022). “Russia Is Taking Advantage of the Invasion-Stirred Migration Crisis.” *Foreign Policy*. <https://foreignpolicy.com/2022/07/18/russia-ukraine-war-migration-food-crisis-putin/>.

<sup>22</sup> Lynch, S. and Barigazzi, J. (14 October 2022). “EU Fumes that Serbia is Fanning New Migrant Route.” *Politico*.

<sup>23</sup> For example, Council of the EU. (12 May 2020). “Presidency Discussion Paper: Strengthening Migration Management Capacities in the Western Balkans.” Doc 7896/20.

<sup>24</sup> Council of the EU. (18 July 2016). “Third Meeting of the Accession Conference with Serbia at Ministerial Level.” Press Release. 6, <https://www.consilium.europa.eu/en/press/press-releases/2016/07/18/fac-serbia-accession-conference/>.

<sup>25</sup> For that evolution, see the Evaluation of Sector Approach under the Instrument for Pre-Accession Assistance (IPA) cycle II, compared with the IPA II cycle (2007–2014), [https://ec.europa.eu/neighbourhood-enlargement/system/files/2019-01/23914\\_rep\\_serbia.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2019-01/23914_rep_serbia.pdf).

<sup>26</sup> See Global Refugee Forum Pledge Dashboard (No date). “EU Contribution to Burden and Responsibility Sharing.” <https://globalcompactrefugees.org/pledges-contributions>



## 2. Approach, data sources, and analysis

Excellent accounts of Serbia's institutional setup, as well as the law and practice of its asylum policy, have been produced over the past decade, including on problematic issues such as compliance with international or European law and the implementation of domestic standards in different areas.<sup>27</sup> Given its emphasis on political responsibility for GCR implementation, this paper does not seek to deliver a comprehensive review of what the documented issues imply for GCR implementation, nor to deliver a "verdict" on the extent to which Serbia is or is not implementing the GCR. Instead, to enable a more in-depth analysis of the drivers behind more recent policy outcomes relevant for the GCR, the paper proceeds in two steps. First, it looks at Serbia's pledges in the Global Refugee Forum (the key mechanisms for policy commitments under the GCR), enquiring to what extent these pledges create concrete policy guidance. Second, concluding that policy guidance under the pledges is limited, the paper focuses on selected *policy developments* involving some level of change relevant to the GCR since 2018. It does so by focusing on two overarching areas of the GCR, namely "reception and admission" (including access to territory, reception arrangements, registration and asylum procedures), and "meeting needs" (including access to services and integration). The initial paragraphs on these respective areas outline what the GCR requires *strictu sensu*; that is, leaving aside questions of compliance with binding international legal standards that the GCR is aligned with.

Instances of presumed policy developments and shifts have initially been identified through document research and have then been validated through key informant interviews.<sup>28</sup> Interviewees have thereby been asked to provide other examples of developments and shifts they perceive as (more) meaningful, in the areas of access to territory, reception and admission, procedures, and integration. For the examples selected in this way, the paper traces involved political actors, their roles and interests, exploring how these are distributed across the domestic and the international sphere. The analysis relies on document review and semi-structured interviews with 16 key informants in Serbia conducted between July and August (n=14), and in September and October 2022 (n=2). In one additional instance, written input was provided. The key informants represent government institutions (Serbian government, EU institutions, and other government institutions), international organisations, civil society, academia, and journalism. Interviews were conducted under condition of anonymity/non-attribution of

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<sup>27</sup> Compiled in particular by the Belgrade Centre for Human Rights and the Asylum Information Database of the European Council on Refugees and Exiles. See Belgrade Centre for Human Rights (2022). "Right to Asylum in the Republic of Serbia 2021". For an overview of actors and instruments relevant for GCR implementation, see also Djurovic, O., Djurovic, R., and Spijkerboer, T. (19 April 2022). "Serbia Country Report." ASILE, [https://www.asileproject.eu/wp-content/uploads/2022/08/D5.2\\_WP5-Serbia-Country-Report-Final.pdf](https://www.asileproject.eu/wp-content/uploads/2022/08/D5.2_WP5-Serbia-Country-Report-Final.pdf); Problematic issues have also been addressed, among others, by joint agency annual reports on refugees and migrants in Serbia. For the latest edition, see UNHCR, HCIT, and CRPC (December 2021). "Between Closed Borders 2020–21.", <https://data.unhcr.org/en/documents/details/90361>. See also the resources of the Asylum Protection Center/Centar za zaštitu i pomoć tražiocima azila (APC/CZA), including regular updates on access to territory, and practice reports on protection-related themes, <https://www.azilsrbija.rs/category/publications/?lang=en>.

<sup>28</sup> This has relied primarily on the AIDA reports (see n. 28 above) as well as Serbian and international media coverage of asylum in Serbia.



statements.<sup>29</sup> When referring to the interviews, the paper does so generically (“informant”/“interviewee”).<sup>30</sup>

### 3. The scope of policy guidance of the GCR for Serbia

The GCR is, at the outset, a policy guideline for protracted refugee situations, as well as for refugee movements that are “large-scale.” However, deliberations around the GCR show that this scope is being interpreted rather broadly, and that the Compact is becoming a policy guideline for addressing refugee displacement more broadly. At the Global Refugee Forum (GRF), the Compact’s main tool for sharing political and financial commitments, numerous states that have signed the GCR and which host refugees have made pledges, even in the absence of protracted situations and when confronted with comparatively few arrivals,<sup>31</sup> or when *de-facto* functioning primarily as a transit rather than destination country (Serbia being one of them).

At the first GRF in 2019, Serbia was highlighted by the UNHCR as a good practice example for its participation in the Regional Housing Programme (providing housing solutions and supporting access to services for vulnerable populations displaced during the 1991–1995 Yugoslav wars),<sup>32</sup> and it made pledges for implementing the GCR as a host and transit country. Pledges relate to preparedness for and coordination of mass influx events, and for meeting the needs of asylum seekers and refugees present in Serbia: access to the national primary education system; monitoring/evaluation of integration policies for individuals who have been granted international protection; and mechanisms of funding allocation to support refugee integration, including national funding disbursed to cities and municipalities. With the exception of the pledge on education, the thematic emphasis of the pledges mirrors the portfolio of the Serbian government entity formally reporting on GCR implementation, the Commissariat for Refugees and Migration (*Komesarijat za izbeglice i migracije: KIRS*). KIRS, an independent government institution, is responsible, among other things, for data collection and analysis relevant for migration management, for providing reception for asylum seekers and temporary protection to those whose asylum status has been recognised, and partly for integration programmes.

Serbia’s pledges are perceived by several informants – including from within government – to align with existing practice rather than inducing policy shifts, to reflect initiatives that had been planned anyway (and though the GRF get a different visibility in respective domestic institutions), or to be framed in such a way that ongoing government work can be presented as progress towards pledge fulfilment.<sup>33</sup> While there are several positive developments in respect to issues covered by the pledges, and in respect to the GCR

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<sup>29</sup> Codes/single letters used to refer to single informants bear no relation to the individual’s initials.

<sup>30</sup> Given the sensitivity of some observations and the limited number of people with knowledge of specific decisions and challenges, not all observations could be triangulated across different sources. Where necessary to highlight presumed veracity even without triangulation, the paper gives additional, generic descriptions of the type of interviewee (e.g., “government,” “interlocutor with insights into [...]”).

<sup>31</sup> In comparison to major or even mid-sized refugee populations, such as in Austria or Sweden.

<sup>32</sup> Other partner countries include Bosnia and Herzegovina; Croatia; and Montenegro. See Regional Housing Programme, <http://regionalthousingprogramme.org/>.

<sup>33</sup> Informants X; D; Z.



approach more generally (see section on “meeting needs and supporting communities” below), no interviewed informant attributed these developments to the Serbian government acting on its GCR pledges. Within the government, one informant was more cautious, highlighting that it was too early to say whether the pledges had implications for policy.<sup>34</sup>

Implementation of the GCR does not stop at pledges and their follow-up, however. At the global level, the Compact has become a general policy yardstick for how to address forced displacement, defining several areas in need of support by all stakeholders, including: immediate, safe reception arrangements; ensuring identification and registration; assessing refugee status or “complementary” protection needs;<sup>35</sup> promoting inclusion into national services, and access to jobs and livelihoods.<sup>36</sup> This builds on the New York Declaration for Refugees and Migrants, which paved the way for the GCR in the UN General Assembly, and outlines how a comprehensive refugee response should normally appear.<sup>37</sup> Thus, in the following, selected examples of policy developments are explored in the GCR areas “reception and admission” and “meeting needs and supporting communities.”

## 4. Political responsibility for selected policy developments relating to the GCR area “reception and admission”

### 4.1. Access to territory and non-refoulement: The border fence between Serbia and North Macedonia

Although the GCR’s programme of action makes no specific reference to access to territory, the GCR “is grounded in the international refugee protection regime, centred on the cardinal principle of *non-refoulement*, and at the core of which is the 1951 Convention and its 1967 Protocol.” Indeed, putting in practice a GCR approach is predicated on access to territory, and has also been reflected in some GCR policy commitments made by host states.<sup>38</sup>

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<sup>34</sup> Informant B.

<sup>35</sup> Complementary protection typically refers to a form of protection granted by a host state for people who do not have refugee status, but who face a real risk of serious human rights harm barring return, including generalised violence (as opposed to refugee status, where a serious human rights harm has to be linked to one of the grounds enumerated in the 1951 Convention relating to the status of refugees – race, religion, nationality, political opinion, or membership of a particular social group). The term is used interchangeably with “subsidiary protection.”

<sup>36</sup> For the emergence of this approach in the context of past efforts to link different forms of assistance, see Harild, N., “Keeping the Promise: The Role of Bilateral Development Partners in Responding to Forced Displacement.” DANIDA Evaluation Annex 1 – Global Displacement Humanitarian Development Nexus: Lessons Learned, [https://um.dk/en/danida/results/eval/eval\\_reports/humanitarian-development-nexus-work-20200902t162320](https://um.dk/en/danida/results/eval/eval_reports/humanitarian-development-nexus-work-20200902t162320).

<sup>37</sup> New York Declaration, 3 October 2016, A/Res/71/1, paras. 4-8.

<sup>38</sup> For example, by Bangladesh – see Osborn, C.; Wall, P. (2021). “The Global Compact on Refugees Three Years On: Navigating barriers and maximising incentives in support of refugees and host



In respect to access to territory, one of the most outstanding policy developments is the construction of a wire fence by Serbian authorities in the municipality of Preševo at the border with North Macedonia, decided in early 2020,<sup>39</sup> launched in mid-2020, and continuing until the first half of 2021. At the very least, the construction marks a shift in that Serbian president Aleksandar Vučić had claimed in 2015 that Serbia would *not* build a fence.<sup>40</sup> There are different perceptions, meanwhile, on the extent to which building the fence also marks a shift in practice in respect to asylum seekers' access to territory. Several sources have pointed out that the fence's geographic position means it is important, that the construction may signal more restrictive practice in the future,<sup>41</sup> or that it already contributes to increased pushbacks.<sup>42</sup> Other informants from an international organisation have highlighted that the fence – which currently is a strip of several kilometres only – is too short to substantially affect access to territory.<sup>43</sup>

Indeed, the fence needs to be seen in the context of the wider practice at the border, as an additional instrument in line with past policy.<sup>44</sup> Document research and interviews predominantly suggest that pushbacks are systemic (that is, deliberate policy occurring frequently).<sup>45</sup> First, the Serbian Ministry of Interior (MOI) reported that an aggregate 120,000 foreign nationals have been denied access to Serbia since 2016 (among which an unknown share are presumed to be pushbacks).<sup>46</sup> Second, the December 2020 Constitutional Court decision on pushbacks by the Serbian border police can be seen as proof of the practice, and the lack of domestic political or legal consequences of that decision as indicative of pushbacks being deliberate policy.<sup>47</sup> Meanwhile, exact numbers on pushbacks at the border with Macedonia are unclear. Civil society and international organisations consistently attribute falling numbers reported by the UNHCR to a lack of

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countries". DRC, IRC, NRC,

<https://www.rescue.org/sites/default/files/document/6324/ircdrcnrcjointreportv4final.pdf>.

<sup>39</sup> Stojanović, M. (24 August 2022). "Na granici Srbije i Makedonije "niče" ograda preko privatnih oranica i livada." *N1*. <https://rs.n1info.com/vesti/a632775-na-granici-srbije-i-makedonije-nice-ograda-preko-privatnih-oranica-i-livada/>.

<sup>40</sup> He stated it would achieve nothing but to slow migration: *RTRS* (28 January 2016). "Vučić: Ograde mogu samo da uspore migraciju." <https://lat.rtrs.tv/vijesti/vijest.php?id=185787>, stating it would achieve nothing but slowing migration

<sup>41</sup> Informant U; A; APC/CZA (2021). "Migracije na Jugu Srbije - Monitoring izveštaj o pushbackovima i stanju u prihvatnim centrima na jugu Srbije." <https://www.azilsrbija.rs/wp-content/uploads/2021/12/Monitoring-Jug-Srbija-jan-jun-2021f.pdf>

<sup>42</sup> Vučković, B. (18 August 2020). "Srbija diže žičanu ogradu na granici sa Severnom Makedonijom." *Radio Free Europe*. <https://www.slobodnaevropa.org/a/srbija-dize-zicanu-ogradu-na-granici-sa-severnom-makedonijom/30789825.html>

<sup>43</sup> Informant X; D.

<sup>44</sup> Ibid.

<sup>45</sup> Two informants (I; A) asserted that access to territory was very much possible for asylum seekers, and had even improved through capacity-building efforts. A number of informants pointed out that an assessment of the scope of pushbacks necessarily prompts a comparison with Serbia's neighbour states, and that the conduct of Serbian authorities is widely seen as less restrictive and violent (on conduct in neighbour states, see below, section 3.2). Informants V; Y; *Danas* (18 December 2021). "Đurović: Negativna retorika prema migrantima u Srbiji neprestano raste od 2020. Godine."

<https://www.danas.rs/vesti/drustvo/djurovic-negativna-retorika-prema-migrantima-u-srbiji-neprestano-raste-od-2020-godine/>

<sup>46</sup> Kovačević, N. (2022).

<sup>47</sup> Informant A.



monitoring capacity and data on entry points in southern Serbia,<sup>48</sup> with shifting routes to Kosovo a contributing factor.<sup>49</sup>

Political responsibility<sup>50</sup> for the decision to build a fence is multi-faceted across ministry and sub-ministry levels of the Serbian central government, but is indirectly tied to the policies of Serbia's EU neighbour states. Considerations on rendering Serbia's reception response more manageable, a preference for restriction of movement amid pressures by neighbour countries' restrictive policies, overshadow weak constraints posed by the GCR, as shown in the following.

There has been very little government communication on the decision-making over the fence,<sup>51</sup> and both media and civil society requests for document release, information on considerations, costs, and origins of funding have been rejected. Meanwhile, formal political competence for border control is with the Serbian MOI and its subordinate Serbian Border Police. Prior to the construction of the fence, the Serbian Border Police had conducted two (not publicly released) studies detailing potential measures for additional border control.<sup>52</sup> The studies also outline the option of a wire fence with North Macedonia.<sup>53</sup> Within government, the decision to actually build the fence was taken some time before March 2020, which is when the affected municipal government first learned of the decision through informal channels.<sup>54</sup> In April 2020, the Serbian government adopted a Regulation on measures during the Covid-19-related state of emergency. Among other things, the Regulation allowed for the temporary nationalisation of land adjacent to the North Macedonian and Bulgarian border lines, thereby providing the legal basis for the construction of the fence.<sup>55</sup> The levels of central government involved in the decision could not be ascertained through interviews.

There is no clear evidence on the formal or informal involvement of EU institutions. Press reports have quoted the chairman of the municipality of Preševo stating that the decision on the fence had – according to his government informants – been taken “in consultation”<sup>56</sup> and in “agreement with the EU.”<sup>57</sup> The EU Commission has stated that EU funds have not been used and that there had been no joint accord or agreement on the construction of the fence.<sup>58</sup> At the same time, despite criticism by Commissioner Ylva

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<sup>48</sup> Informants A; C; X. Y.

<sup>49</sup> Karaj, V., Likmeta, B., and Shala, B. (2 December 2021). “The Eagle’s Nest: Migrants, Refugees Tread New Balkan Route.” <https://balkaninsight.com/2021/12/02/the-eagles-nest-migrants-refugees-tread-new-balkan-route/>.

<sup>50</sup> See introduction; the link between policy outcomes on one hand, and individuals, institutions, and processes on the other hand.

<sup>51</sup> See Djurovic; Djurovic, Spijkerboer (2022), stating, as per an interview source, that partners present in the Government’s Working Group on Mixed Migration Flows were not informed about the construction of the fence.

<sup>52</sup> Vučković, B. and Cvetković, D. (25 September 2020). “Žičana ograda već do graničnog prelaza Srbije i Severne Makedonije, detalji ‘strogo poverljivi’.”, <https://www.slobodnaevropa.org/a/severna-makedonija-srbija-granica-zicana-ograda-postavljena-strogo-poverljivo/30857508.html>.

<sup>53</sup> Ibid.

<sup>54</sup> Martens, M. (25 August 2020). “Die Einzäunung des Balkans.” *Frankfurter Allgemeine Zeitung*, <https://www.faz.net/aktuell/politik/ausland/wie-sich-der-balkan-an-den-fluechtlingsrouten-einzaeunt-16919152.html>.

<sup>55</sup> Vučković, B. and Cvetković, D. (25 September 2020).

<sup>56</sup> Martens, M. (25 August 2020).

<sup>57</sup> Vučković, B. and Cvetković, D. (25 September 2020).

<sup>58</sup> *Vesti* (20 August 2020). “EU: Izgradnja ograde između Srbije i Severne Makedonije nije dogovorena.”



Johansson on *refoulement* practices by other member states and the Commission's infringement proceedings against Hungary,<sup>59</sup> EU institutions have not been critical of the practice at the southern Serbian border, or of other EU member states that had normalised fences and pushbacks.<sup>60</sup> What is more, access to territory is also not assessed in progress monitoring of the EU accession process.<sup>61</sup> Finally, in the ongoing discussions on the new cycle of pre-accession funding for Serbia, the EU Commission is sending the message that, among other things, Serbia needs to beef up border management.<sup>62</sup>

Beyond EU institutions, other international actors entered the picture due to the interdependence of Serbian policymaking with that of other countries along the Balkan route. Such interdependence has been well documented in past research on the consequences of border closures in Hungary, which were a key factor prompting Serbia to drastically change its response to migrant arrivals in 2016, from facilitation of movement to securing borders and restricting entry,<sup>63</sup> after the adoption of the Western Balkans Route Leaders' statement.<sup>64</sup>

In 2020, the decision to build a fence occurred after Turkey had announced, in February 2020, that it would no longer stop refugees moving onward.<sup>65</sup> In early March, Aleksandar Vučić was quoted saying, "No one will unnecessarily enter Serbia. [...] We will certainly not be a parking lot for migrants. If someone is really thinking of sending 100,000, 150,000, or 200,000 people to Serbia, he's wrong, that won't happen."<sup>66</sup> Controlling the number of people entering Serbia is also reflected in government communication on the fence. According to the MOI, studies conducted by the border police identify measures for "high-risk points of endangering the state border, in terms of suppressing illegal migration and other forms of cross-border crime."<sup>67</sup> In non-public conversation, the MOI has also pointed to security concerns at a border strip where it purported that arms and drug traffic is particularly high.<sup>68</sup> The Ministry of Finance, in turn, in a decision on

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<https://rs.n1info.com/vesti/a631659-eu-izgradnja-ograde-izmedju-srbije-i-severne-makedonije-nije-dogovorena/>

<sup>59</sup> See for example, European Commission (20 October 2021). "Commissioner Johansson's Speech at the Plenary Debate on Pushbacks at the EU External Border," [https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/commissioner-johanssons-speech-plenary-debate-pushbacks-eu-external-border\\_en](https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/commissioner-johanssons-speech-plenary-debate-pushbacks-eu-external-border_en). Stating that, on Romania, "My services have been in touch with the Romanian authorities. The Romanian Minister is taking these allegations very seriously and has ordered an investigation. He is ready to take disciplinary measures or initiate criminal proceedings if the investigation concludes on wrongdoings."

<sup>60</sup> Informant A; Pointing out how those engaging in pushbacks have been praised by central and Western EU states for doing so, for example, Nehammer of Austria: *Politika* (8 October 2021). "Nehamer oštro kritikuje EU zbog politike migracija."

<https://www.politika.rs/sr/clanak/489321/Nehamer-ostro-kritikuje-EU-zbog-politike-migracija>.

<sup>61</sup> European Commission (October 2021). "Serbia 2021 Report." SWD(2021) 288 final, [https://neighbourhood-enlargement.ec.europa.eu/serbia-report-2021\\_en](https://neighbourhood-enlargement.ec.europa.eu/serbia-report-2021_en).

<sup>62</sup> Informant E.

<sup>63</sup> Beznec, B., Speer, M., and Stojić Mitrović, M. (2016).

<sup>64</sup> European Union. (25 October 2015).

<sup>65</sup> *Deutsche Welle* (28 February 2020). "Turkey Will Not Stop Refugees 'Who Want to go to Europe'." <https://www.dw.com/en/turkey-will-not-stop-refugees-who-want-to-go-to-europe/a-52568981>

<sup>66</sup> *Anadolu Agency* (4 March 2020). "Serbia Not a 'Parking Lot' for Migrants, Says President." <https://www.aa.com.tr/en/europe/serbia-not-a-parking-lot-for-migrants-says-president/1754836>.

<sup>67</sup> Vučković, B. and Cvetković, D. (25 September 2020).

<sup>68</sup> Informants X; D.



compensation for affected private land owners, stated that building the fence aligns with efforts to prevent a potential “mass unauthorized crossing” of the border.<sup>69</sup>

Similar to 2016, the interdependence of Serbia’s asylum policy is also visible in relation to countries “upstream” on the migration route. The then head of KIRS, Vladimir Cucić, stated in 2020 that the aim of the fence was to slow down arrivals to the European Union and that the construction was a “late reaction” to comparable responses in neighbour states.<sup>70</sup> Several informants took the view that Serbia’s approach continues to be influenced by the policy preferences, border policies, and practices of its neighbour states, including in particular collective expulsions into Serbia. According to UNHCR numbers, the number of people subject to expulsion to Serbia has increased dramatically in recent years, from 10,555 in 2019 to 27,233 in 2021.<sup>71</sup> The vast majority of these reported cases (93 percent) are expulsions from the EU member states Romania and Hungary. The increase in numbers is commonly ascribed to increased border crossings out of Serbia, following a drop caused by the Covid-19 pandemic and related travel and border restrictions.<sup>72</sup>

Among the external actors standing out in influencing Serbian policy is Hungary, which entertains a strategic partnership with Serbia. For Serbia, a key sign of that partnership is Fidesz’s unquestioning support of Serbia’s EU membership, amidst criticism of Serbia’s progress towards the EU accession criteria.<sup>73</sup> For Hungary in turn (and in contrast), some analysts have argued a key consideration in supporting Serbia’s membership bid was to push the external border – and border control – further southward.<sup>74</sup> The priority-setting is also reflected in more recent agreements, including a “protocol and methodology about

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<sup>69</sup> Vučković, B. (18 August 2020).

<sup>70</sup> Lekić, B. (2020). “Pushback and Dangerous Games,” <https://bit.ly/368F1kK>, at min. 36:14. Brendon Production; cited by Kovačević, N. (2022).

<sup>71</sup> This number is derived from the monthly statistical snapshots of UNHCR Serbia, see <https://data.unhcr.org>

<sup>72</sup> Informant Y; X.

<sup>73</sup> For example, following the latest report by the European Parliament Committee on Foreign Affairs: *Hungary Today* (15 June 2022). “Fidesz MEP: EP Sends ‘Patronizing Messages’ to Serbia.”

<https://hungarytoday.hu/fidesz-mep-ep-sends-patronizing-messages-to-serbia/>. Support for membership is also visible in the Commission, where Hungarian enlargement Commissioner Olivér Várhelyi has been criticised for “playing down democracy concerns.” See Bayer, L. and Wanat, Z. (5 October 2021). “Olivér Várhelyi: Europe’s Under-Fire Gatekeeper.” *Politico*. <https://www.politico.eu/article/oliver-varhelyi-eu-commissioner-enlargement-western-balkans-serbia-human-rights-democracy-rule-of-law/>.

<sup>74</sup> Lukić, F. (5 September 2021). “Stručnjaci: Buntovnici iz EU uz Srbiju iz interesa, biće više štete nego koristi.” *N1*, <https://rs.n1info.com/vesti/strucnjaci-buntovnici-iz-eu-uz-srbiju-iz-interesa-bice-vise-stete-nego-koristi/>. See also Čačić, D. (9 September 2021). “Vucic and Orban Formalise Their ‘Special Relationship.’” *Euractiv*, <https://www.euractiv.com/section/enlargement/news/vucic-and-orban-formalise-their-special-relationship/> citing Vladimir Međak, vice-president of the NGO European Movement in Serbia, saying that “One of Budapest’s motives for advocating Serbia’s membership in the EU is certainly the fact that Hungary would no longer have the EU external border in its south, said Međak, and assessed that policy as ‘practical, highly rational and logical.’”

Hungarian president Orban himself has pointed to unspecified “geopolitical” reasons, security and “identity.” *N1* (1 September 2021). “Hungary’s Orban Says Serbia is ‘Crucial for European Security and Identity.’” <https://rs.n1info.com/english/news/hungarys-orban-says-serbia-is-crucial-for-european-security-and-identity/>. In October 2022, Orban made remarks suggesting his preference to locate the external border between Serbia and North Macedonia. *Der Standard* (3 October 2022).

“[Migrationsgipfel: Nehammer will polizeiliche Zusammenarbeit mit Ungarn ausweiten.](https://www.derstandard.at/story/2000139622653/migrationsgipfel-nehammer-will-polizeiliche-zusammenarbeit-mit-ungarn-ausweiten)” <https://www.derstandard.at/story/2000139622653/migrationsgipfel-nehammer-trifft-in-budapest-auf-orban-undvucic>.



mixed patrols along their common border” signed in September 2021,<sup>75</sup> and a July 2022 Hungarian–Serbian cooperation agreement on border control.<sup>76</sup> In October 2022, Hungarian President Viktor Orbán, during a joint meeting with Serbia’s Alexandar Vučić and Austrian Minister of Interior Karl Nehammer, stated that the three countries would like to see the “line of defense against irregular migration” pushed southward to the border between Serbia and Macedonia.<sup>77</sup> More specifically on the fence, although there is no evidence of a formal role or contribution from Hungary (or, for that matter, any other state) in the construction, there is active, increasing,<sup>78</sup> collaboration at the Northern Macedonian border between the Serbian border police and the border police of EU states, including Hungary.<sup>79</sup> In fact, the majority of all EU member states’ bilateral support in the Western Balkans (expert assistance, equipment, and financial assistance) has been for border management and combating smuggling (54 percent), with reception and asylum playing a minor role (14 percent of all bilateral support).<sup>80</sup>

In sum, consistent with past policy shifts on access to territory, political responsibility for the fence’s construction belongs to higher levels of Serbian government, intertwined with the responsibility of Serbia’s neighbour states, given pushback policies and policy preferences for limiting access to territory. Such “negative” convergence pressure (that is, convergence pressures which have a potentially detrimental effect on GCR implementation) overshadow relatively weaker constraints posed by the EU accession process and by the non-binding GCR itself.

## 4.2 Reception arrangements: NGO and UN agency phase-out/handover of service provision

The GCR is more explicit on reception arrangements than it is on access to territory, requiring stakeholders to jointly support host states’ response measures on “reception and transit areas sensitive to age, gender, disability, and other specific needs,” and the provision of “basic humanitarian assistance and essential services.”<sup>81</sup> Like in other areas, the GCR approach thus requires sharing “burdens,” with international actors contributing to nationally-led responses, predicated on the inclusion of asylum seekers and refugees in, ideally, national planning, budgets, and national systems of service provision.

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<sup>75</sup> Republic of Serbia, Ministry of Foreign Affairs (6 April 2022). “True Friendship and Concrete Results of Cooperation between Serbia and Hungary.” [Press Release](https://www.mfa.gov.rs/en/press-service/statements/true-friendship-and-concrete-results-cooperation-between-serbia-and-hungary), <https://www.mfa.gov.rs/en/press-service/statements/true-friendship-and-concrete-results-cooperation-between-serbia-and-hungary>

<sup>76</sup> *Danas* (4 July 2022). “Susret ministara u Subotici: Mađarska četvrti najvažniji trgovinski partner Srbije.”, <https://www.danas.rs/vesti/politika/susret-ministara-u-subotici-madarska-cetvrti-najvazniji-trgovinski-partner-srbije/>

<sup>77</sup> *Der Standard* (3 October 2022).

<sup>78</sup> *Ibid.* In the October 2022 Budapest meeting, it was agreed to intensify collaboration so as to “ease migration pressure” on the border between Serbia and Macedonia.

<sup>79</sup> Asylum Protection Center (January–June 2021), <https://www.azilsrbija.rs/wp-content/uploads/2021/12/Monitoring-lug-Srbija-jan-jun-2021f.pdf>.

<sup>80</sup> Council of the EU. (12 May 2020).

<sup>81</sup> GCR, para. 54–55.



Serbian reception arrangements have remained largely unchanged in recent years. Serbia provides an official reception capacity of some 5,500 places,<sup>82</sup> with KIRS being responsible for providing immediate reception arrangements. Asylum seekers (and more generally foreigners transiting the country irregularly) are referred by the Serbian border police and MOI to 12 *Reception-Transit Centres*.<sup>83</sup> People who express an intention to lodge an asylum application are subsequently referred to (and are obliged to report to) one of the seven KIRS-run *Asylum Centres*, which are reception facilities in which the Asylum Office – Serbia's national refugee status determination department under the MOI – conducts the asylum procedure.<sup>84</sup> Given a low number of asylum requests, the number of people staying in Asylum Centres is significantly lower than the number of people in Reception-Transit Facilities (see below on asylum procedures). People staying in Reception-Transit Centres or the Asylum Centres are eligible for accommodation, food, clothing, and a cash allowance. Healthcare eligibility is extended to everyone registered and primary healthcare either provided by medical teams based in the Asylum Centres or local public health centres.<sup>85</sup> Although the system is relatively elaborate,<sup>86</sup> numerous issues remain on reception conditions, access to asylum procedures in the centres, and access to services.<sup>87</sup>

An important development relevant to the GCR has been the gradual retreat of international non-governmental and governmental organisations, and the handover of service provision to KIRS and Serbian line ministries in both Refugee Transit Centres (RTCs) and Asylum Centres. Although formal political and legal responsibility had always been with the Serbian government, non-governmental organisations and UN agencies had provided basic services in all key sectors. Following the large influx of refugees after 2015, these actors played an important role in mitigating the crisis situation. As funding decreased and the situation stabilized, NGOs and international agencies partly disengaged.<sup>88</sup> While agencies such as the UN Children's Fund (UNICEF) continue to strengthen national systems and NGOs continue to provide support,<sup>89</sup> particularly in the area of protection, most service delivery in the centres has, since 2020, been assumed by the respective government institutions. A comparison of operational partners in the reception facilities demonstrates that throughout the majority of facilities, NGO and UN

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<sup>82</sup> Numbers differ across sources, with official Serbian sources pointing to 6,000 places, while others point out that the realistic number is considerably lower, given that most places are suitable for short-term stays only. Informant A.

<sup>83</sup> For an official profiling of the centres, including location, capacity, and provided services, see Commissariat for Refugees and Migration, <https://kirs.gov.rs/lat/azil/profil-centara>

<sup>84</sup> Kovačević, N. (2022).

<sup>85</sup> On practical challenges of access, see below, note 90.

<sup>86</sup> This statement accounts for the build-up of reception capacity over the past 10 years and the reception systems of other non-EU countries in the region, but is not to make a claim regarding the quality of accommodation in light of guidance by the EU Asylum Agency or the minimum standards under the EU Procedures Directive (Directive 2013/32/E of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180/60).

<sup>87</sup> Kovačević, N. (2022).

<sup>88</sup> Informant Z; S; R; M.

<sup>89</sup> Djurovic, O., Djurovic, R., and Spijkerboer, T. (19 April 2022), p. 89.



agency partners have been phased out, to the benefit of respective line ministries and government agencies, particularly in the sectors of Health (Ministry of Health); Water, Sanitation and Hygiene (KIRS); Food; Non-Food Items (both KIRS; with some support from Ministry of Defense facilities), and to a lesser extent in Education (Ministry of Education).<sup>90</sup>

It is beyond the scope of this report, meanwhile, to assess the handover's effect on the quality of service delivery.<sup>91</sup> None of the interlocutors questioned on the provision of services through KIRS and Serbian line ministries perceived controversy in the leadership of these government entities. An NGO interlocutor involved in the process highlighted that the line ministries' involved were very much willing to take over.<sup>92</sup> At the same time, as one government interlocutor stated, the government would be welcoming back any NGO or international agency working operationally, and decreasing its own funding and management burden.<sup>93</sup>

Multiple informants pointed to the distribution of resources between funds stemming from the EU and bilateral partners (through the Serbian national budget or through project-implementing partners) and funds provided by the Serbian state without EU or bilateral support.<sup>94</sup> Although the exact distribution cannot be ascertained, it is clear that the EU has footed the overwhelming majority of necessary financial resources for reception arrangements through pre-accession funds. Under the funding cycle II (2014–2020, effectively prolonged until 2022) of the EU Instrument for Pre-Accession Assistance (IPA), Serbia has received some 40 million EUR in the field of migration and asylum.<sup>95</sup> This included allocations financing the staffing, management, and service provision of

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<sup>90</sup> See sectoral responsibilities at Commissariat for Refugees and Migration, <https://kirs.gov.rs/lat/azil/profil-centara>.

<sup>91</sup> Suffice to say, challenges remain for basic service availability in practice, such as in health. Note that eligibility does not equal availability of services for all those in need. Availability of services differs between the centres; specialised treatments may be difficult to obtain, and people who – for a number of reasons – are present in Serbia outside the official reception system, have unmet needs. For example, Protector of Citizens of the Republic of Serbia (2021). “[National Report on the Situation of Human Rights of Migrants at the Borders – Serbia](https://npm.lis.rs/attachments/article/466/Serbian-National-Report.pdf).” <https://npm.lis.rs/attachments/article/466/Serbian-National-Report.pdf>; Asylum Protection Center (2022). “Health Care for Irregular Migrants, Asylum Seekers and Refugees in Serbia During the Covid-19 Pandemic.” <https://www.azilsrbija.rs/wp-content/uploads/2022/07/HEALTH-CARE-FOR-IRREGULAR-MIGRANTS-ASYLUM-SEEKERS-AND-REFUGEES-IN-SERBIA-DURING-THE-COVID-19-PANDEMIC-1.pdf>; Gligorijević, Jovana (20 June 2022) “Svetski dan izbeglica: Zaboravljeni, mučeni i odbačeni.” *Vreme*, <https://www.vreme.com/kolumna/na-proputovanju-kroz-srbiju-zaboravljeni-muceni-i-odbaceni/>. Continuous service quality and the coordination of different state actors and responsibilities is also deemed challenging in respect to protection, including the identification of people with particular vulnerabilities, such as victims of violence or unaccompanied minors, and their support. Informants S; I; B. On unaccompanied minors, see Centar za zaštitu i pomoć tražiocima azila (APC/CZA) i Centar za istraživanje javnih politika (CIJP) (2018). “Smeštaj maloletnika bez pratnje u Srbiji.” <https://www.azilsrbija.rs/wp-content/uploads/2022/02/Brief-2018-Smestaj-maloletnika.pdf>. Meanwhile, there is insufficient evidence to attribute these issues to the handover process.

<sup>92</sup> Informant S; Z.

<sup>93</sup> Informant Z.

<sup>94</sup> Informants U; A.

<sup>95</sup> For an overview of funding instruments, see Djurovic, O., Djurovic, R., and Spijkerboer, T. (19 April 2022).



government-run facilities, including accommodation, reception services; information provision; identification of vulnerable cases; referral; hygiene; transportation costs for using public services in education and health; and the cost of healthcare services in public facilities.<sup>96</sup> The majority of these latter allocations have been disbursed to KIRS, which in the institutional makeup of Serbian asylum policy has thereby become the biggest and most important institution, despite not being a ministry.<sup>97</sup>

Funding by EU and bilateral partners has been, according to several interlocutors, a key driver not only for investment in the public reception system but also an important ingredient in its communication on migration, designed to assure the general public, and aspiring anti-migrant groups in particular,<sup>98</sup> that Serbia's financial costs were minimal. The then head of KIRS, Vladimir Cucić, in early 2020 even went as far as claiming that until 2022 Serbia had funding for reception "absolutely secured" and that "the migrants' stay will not cost the citizens of Serbia a single Dinar."<sup>99</sup>

There are also few examples only of steps taken in the Serbian government towards transitioning funding sources from EU funding instruments to the national budget.<sup>100</sup> Such efforts have been encouraged by the EU Commission,<sup>101</sup> but have not yet been a hard requirement for receiving IPA funding.<sup>102</sup> One government interlocutor voiced the expectation that, were EU funding to end, government-run reception facilities would have to close for lack of funding (and political will to provide it).<sup>103</sup> Even regarding EU funding, meanwhile, interests within the Serbian government are not uniform. For the new cycle of IPA starting in 2022 (IPA III), the Serbian ministry formally in charge, the Ministry of European Integration, has not made a request in the area of migration and asylum. This

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<sup>96</sup> European Commission (2019). "Annex to the Commission Implementing Decision Adopting a Special Measure as Regards Strengthening the Response Capacity of the Republic of Serbia to Manage Effectively Mixed Migration Flows." [https://ec.europa.eu/neighbourhood-enlargement/system/files/2019-11/c\\_2019\\_7077\\_f1\\_annex\\_en\\_v1\\_p1\\_1043932\\_0.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2019-11/c_2019_7077_f1_annex_en_v1_p1_1043932_0.pdf)

<sup>97</sup> One interview partner highlighted a major difference in staff size, with KIRS having grown to hire some 400 staff throughout the country. Interviewee X.

<sup>98</sup> Migration has been adopted as a topic by right-wing groups in particular during the Syrian displacement crisis. Watchdogs observe that far-right threats have increased: Stojanovic, M. (11 February 2022). "Islamism in Serbia Fading, Far-Right Extremism Growing Warn NGOs." <https://balkaninsight.com/2022/02/11/islamism-in-serbia-fading-far-right-extremism-growing-ngos-warn/>; *Balkan Insight*; Vucic, M. (21 September 2021). "Hate, Lies, and Vigilantes: 'Anti-Vaxxer' Brigade Plays with Fire." *Balkan Insight*, <https://balkaninsight.com/2021/09/21/hate-lies-and-vigilantes-serbian-anti-vaxxer-brigade-plays-with-fire/>.

<sup>99</sup> *Danas* (2 January 2020). "Cucić: Nema pogoršanja nivoa bezbednosti zbog prisustva velikog broja migranata." <https://www.danas.rs/vesti/drustvo/cucic-nema-pogorsanja-nivoa-bezbednosti-zbog-prisustva-velikog-broja-migranata/>.

<sup>100</sup> In particular, the Ministry of Health makes an allocation to the benefit of asylum seekers in the health insurance fund. In one other line ministry, discussions are still ongoing. Informants E; B.

<sup>101</sup> The Evaluation of Sector Approach under IPA II noted that certain funding modalities had contributed to an adaptation of the national budget, but has not differentiated between different sectors: "outside of SBS and MAP, there was no consistent evidence to suggest that IPA II was encouraging a medium term budgetary perspective." See European Commission (October 2018). "Evaluation of Sector Approach under IPA II."

[http://www.evropa.gov.rs/Documents/Home/DACU/12/193/SA\\_IPA\\_II\\_eval\\_Vol\\_1\\_final\\_on\\_19\\_March.pdf](http://www.evropa.gov.rs/Documents/Home/DACU/12/193/SA_IPA_II_eval_Vol_1_final_on_19_March.pdf)

<sup>102</sup> Informant V.

<sup>103</sup> Informant E.



appears to have been a political decision taken against self-interest of those government institutions in charge of service delivery, including KIRS and respective line ministries.<sup>104</sup> On the interests of KIRS, a mixed picture emerged. Some interlocutors praised KIRS commitment to improving reception arrangements.<sup>105</sup> However, other sources have been more critical, pointing to a self-interest given the “business” that reception has become, a lack of efficiency,<sup>106</sup> or allegations of embezzlement and other misconduct.<sup>107</sup> Likewise, a mixed picture emerged of interests in the MOI, which is seen to have improved the capacity of the Asylum Office,<sup>108</sup> but is also reported to at least be aware of, and tolerate, the activities of some smuggling groups.<sup>109</sup> Rather than through the roles and interests of involved line ministries, the decision not to apply for national IPA funding is said to be rooted in a conviction and decision “above” line ministry level that IPA funds should be used for Serbia’s own population first.<sup>110</sup> This view stands in notable contrast to the assumptions in the GCR that mechanisms of support will propel a response in line with the GCR approach of longer-term national ownership and shared “burdens.” The EU Commission has reacted to the Serbian government position by unilaterally deciding to allocate regional IPA funds to migration and asylum in Serbia (amounting to some 60 million EUR), so as to ensure a seamless provision of services.<sup>111</sup>

A further factor that propels the *status quo* of uncontroversial (EU-funded) national service provision in the reception centres is Serbia’s current position as a transit country rather than a country of destination. Migrants and refugees duration of stay is short, even for those who officially register, and lodge an application for asylum: according to KIRS, it is 23 days.<sup>112</sup> As one Serbian NGO representative put it, rather than the much-repeated phrase of a “parking lot,” Serbia has “become a temporary bed and breakfast accommodation in which refugees and migrants enter, stop, rest, spend the night, self-serve and continue their journey as soon as they have mastered the logistics of further border crossing.”<sup>113</sup> Multiple informants point to a gap in progress between areas in line with the *Leitmotiv* of Serbia as transit country, and those that are not. In particular, they observe differences between service provision in reception arrangements on one hand (in which Serbia has made progress), and the asylum procedure and long-term integration prospects on the other hand (where many observe a stalemate).<sup>114</sup>

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<sup>104</sup> Informant E.

<sup>105</sup> Informants X; D; I.

<sup>106</sup> Informant A.

<sup>107</sup> *Danas* (16 January 2022). “[Medenica: Srbija nije potrošila ni dinar na migrante:](https://www.danas.rs/vesti/drustvo/medenica/)” <https://www.danas.rs/vesti/drustvo/medenica/>; Djurovic, O., Djurovic, R., and Spijkerboer, T. (19 April 2022), p. 63–4.

<sup>108</sup> Informants R; H. There was also an alternative view – Informant U.

<sup>109</sup> Dragojlo, S. (22 June 2022). “With Police Connections, Serbian-Syrian Translator Turned People-Smuggler.” *Balkan Insight*. <https://balkaninsight.com/2022/06/22/with-police-connections-serbian-syrian-translator-turned-people-smuggler/>

<sup>110</sup> Informants X; G; V.

<sup>111</sup> Informant E.

<sup>112</sup> *Danas* (5 May 2022). “Cucić: U Srbiji između 5.500 i 6.000 migranata.” <https://www.danas.rs/vesti/drustvo/cucic-u-srbiji-izmedju-5-500-i-6-000-migranata/>

<sup>113</sup> Info Park director Gordan Paunović, cited in Gligorijević, J. (20 June 2022).

<sup>114</sup> See also below in the section on asylum procedures and integration.



The reality of transit is also perceived to explain, in part, Serbia's acquiescence vis à vis pushbacks from EU neighbour countries, despite their direct implications for its reception system. Not only do these practices affect the number of people in Serbian reception facilities, with Hungary pushing even people to Serbia that have not entered Hungary from Serbia.<sup>115</sup> Multiple informants with insights into operational challenges in reception centres also stated that peoples' protection and health needs are exacerbated by the brutality of border control in the neighbour states.<sup>116</sup> Several informants shared the view that the Serbian Border Police is not involved operationally, and that officers have an ambiguous view on it welcoming the policies,<sup>117</sup> partly because it means having to document that it is not responsible for physical ill-treatment.<sup>118</sup> Politically, meanwhile, these actions are not contentious within the Serbian government. Multiple interviewees with insights into internal government debates stated that, to their knowledge, the border practices are discussed but neither problematised internally, nor criticised in private conversations with neighbour countries.<sup>119</sup> KIRS acquiesced to the practice, effectively becoming the governmental gate-keeper by compiling lists of people in reception centres willing to enter Hungary (the so-called "Hungarian Waiting List") that were communicated by migrant community leaders to Hungarian border police, so as to enter transit zones in Hungary.<sup>120</sup> The Serbian government has also made a conscious decision not to address pushbacks in media communication, meaning that the topic is absent from public debate.<sup>121</sup> Interviewees agreeing to comment on the matter consistently held the view that Serbia entertains informal bilateral agreements with some EU neighbour states on tolerating the pushback practices.<sup>122</sup> The approach is ascribed to strategic considerations on entertaining good bilateral relationships with key EU partners, to the fact that similar practices have occurred in Serbia, and to the fact that pushbacks have not fundamentally changed the dynamic of Serbia being used almost exclusively for transit.<sup>123</sup>

In sum, and leaving the ongoing problems in the reception system aside, Serbia has gradually moved towards more nationally-owned reception arrangements (a prerequisite of the GCR). Political responsibility for that trend falls on involved line ministries and indirectly on the EU delegation and the EU Commission's involved Directorates-General (DG), including the DG for Neighbourhood and Enlargement Negotiations (DG NEAR). The trend has been made possible with the financial support of EU Pre-Accession Assistance. Serbian government leadership takes a rather conflicting stance, however, illustrating

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<sup>115</sup> Informants A, Y, V, C.

<sup>116</sup> Informants R; H.

<sup>117</sup> Informants X; V.

<sup>118</sup> Informant V.

<sup>119</sup> Informants X; G.

<sup>120</sup> Djurovic, O., Djurovic, R., and Spijkerboer, T. (19 April 2022), p. 27–9.

<sup>121</sup> Informant Y.

<sup>122</sup> Informants A; X; G; Y; U; C.

<sup>123</sup> Informant G; Informant A.



some of the limits of financial support mechanisms as a way to promote, in the longer term, the political and financial investment of the host country.

### 4.3 Registration, asylum procedures: The 2018 Serbian Law on Asylum and Temporary Protection, 2021/22 draft amendments

Grounded in the “international refugee protection regime,” the GCR outlines that “Mechanisms for the fair and efficient determination of individual international protection claims provide an opportunity for States to duly determine the status of those on their territory in accordance with their applicable international and regional obligations.”<sup>124</sup> Hence, while the GCR does not provide policy guidance on asylum procedures, it is predicated on the principle that refugees’ have a distinct status under international law, which is the source of individual rights and state obligations. A refugee response in line with a GCR approach will, for that matter, be grounded on individual or group-based status assessment and supported through relevant stakeholders like the UNHCR and government or non-government experts.<sup>125</sup>

The Serbian system of registration and asylum procedures has been marked above all by continuity. The formal process has been regulated by a new Serbian Law on Asylum and Temporary Protection (LATP) since June 2018:<sup>126</sup> The Police/Border Police issue a registration certificate to those who express, on Serbian territory or at border crossings, an intention to submit an asylum application (2,306 registration certificates were issued in 2021).<sup>127</sup> Following the expression of intention, individuals need to lodge the application within a certain timeframe (175 asylum applications were lodged in 2021). The submission of an asylum application formally initiates the asylum procedure, which is conducted by the Asylum Office, a department under the responsibility of the MOI, followed by a potential administrative and judicial appeal component, under the auspices of the MOI’s Asylum Commission and administrative courts respectively.<sup>128</sup>

The 2018 Serbian Law on Asylum and Temporary Protection brought about several noteworthy changes, including the introduction of delays for the asylum procedure, revised rules on the restriction of asylum seekers’ freedom of movement, and a reformed application of the Safe Third Country concept. That concept in particular had impacted outcomes in status determination: prior to the 2018 LATP, the Asylum Office was obliged to assess circumstances barring return only in relation to the country of origin, which in most instances resulted in an automatic rejection of asylum applications on the

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<sup>124</sup> GCR para. 61.

<sup>125</sup> Ibid, mentioning the UNHCR’s Asylum Capacity Support Group.

<sup>126</sup> Pending applications were processed under the preceding law until 2019; see Kovačević, N. (2022).

<sup>127</sup> Ibid.

<sup>128</sup> Ibid.



procedural ground that applicants could obtain protection in transit countries.<sup>129</sup> The 2018 LAMP has aligned the criteria on the application of the concept with EU asylum law, requiring a substantive review of the quality of protection in other countries rather than an automatic application. The adoption of the law is consistently ascribed to the harmonisation calendar of the EU accession process, with a draft law presented to parliament in 2017.<sup>130</sup> IPA-funded capacity development initiatives have supported legislative reform.<sup>131</sup> These efforts are clearly in line with the GCR approach; they exceed the support mechanisms explicitly mentioned in the GCR on status determination.<sup>132</sup>

Although political responsibility for legislative reform primarily lies with the main Serbian line ministries (namely the MOI for the LAMP), the EU is ascribed – through the accession process and its capacity development efforts – a much stronger role than in the other examples discussed in this paper. For example, the EU's strategic, country-level evaluation of its cooperation with Serbia over the period 2012–2018 noted that the general capacity development reality during that time was to “deliver reform” rather than “building national authorities' capacities for designing and managing reform itself.”<sup>133</sup> Interviewees representing Serbia's bilateral or multilateral partners stated that their efforts in capacity development, but also their cooperation with government institutions, had been hampered by high staff turnover, and a mismatch between technical staff on one hand and less invested political leadership on the other hand.<sup>134</sup>

Meanwhile, the reform of the LAMP is an illustrative case of political responsibility for GCR implementation, not so much because of the occurrence of legislative reform, but because these reforms are not considered to have led to significant improvements in the asylum procedure. Indeed, recognition rates have rather fallen over recent years,<sup>135</sup> and so have the number of asylum decisions taken. In 2021, 114 decisions were taken, including 10 inadmissible (safe third country or subsequent application), 14 positive decisions (granting refugee status or subsidiary protection), 39 negative decisions, and 51 discontinued after asylum seekers onward movement.<sup>136</sup> The low number of positive

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<sup>129</sup> Belgrade Centre for Human Rights (January–June 2019). “Right to Asylum in the Republic of Serbia.” Periodic Report, p. 64.

<sup>130</sup> The same is true for 2022 draft amendments to the LAMP, as well as the Law on Foreigners, the LAMP, and the Law on Employment of Foreigners, which were part of the legislative calendar of the Revised Action Plan of Chapter 24, available at [http://www.mup.gov.rs/wps/wcm/connect/9be2669f-e783-4911-9471-7f20ae6145ce/Revised+AP24\\_worksheet.pdf?MOD=AJPERES&CVID=nbua4H](http://www.mup.gov.rs/wps/wcm/connect/9be2669f-e783-4911-9471-7f20ae6145ce/Revised+AP24_worksheet.pdf?MOD=AJPERES&CVID=nbua4H).

<sup>131</sup> Djurovic, O., Djurovic, R., and Spijkerboer, T. (19 April 2022).

<sup>132</sup> GCR, para. 62.

<sup>133</sup> European Commission (2021). “Follow-Up Action Plan of the Strategic, Country-Level Evaluation of the EU's Cooperation with Serbia over the Period 2012–2018.” ARES(2021)5187840.

<https://ec.europa.eu/neighbourhood-enlargement/system/files/2021-09/Serbia%20Eval%20-%20Follow-up%20Action%20Plan%20Final.pdf>

<sup>134</sup> Informants E; I. In this regard, see also the monitoring of the EU Regional Trust Fund in Response to the Syrian Crisis, where Serbia's progress is reported as weakest on the advocacy indicator. This tracks initiatives promoting stakeholder dialogue at regional and national level, and training with authorities from different government levels: Particip Consortium (March 2021). “EU Regional Trust Fund in Response to the Syrian Crisis.” See [https://ec.europa.eu/trustfund-syria-region/system/files/2021-05/8th\\_RR%20EUTF%20Syria-FINAL.pdf](https://ec.europa.eu/trustfund-syria-region/system/files/2021-05/8th_RR%20EUTF%20Syria-FINAL.pdf)

<sup>135</sup> Recognition was 30 percent in 2019, 27 percent in 2020, and 24 percent in 2021.

<sup>136</sup> Kovačević, N. (2022).



decisions contributes to a large number of people without legal status.<sup>137</sup> One factor affecting a low number of positive decision appears to be the onward movement of people who have lodged asylum applications, which is propelled, among other reasons, by the Asylum Office's failure to respect the procedure's required delays,<sup>138</sup> as well as the quality of decision-making. Informants have also pointed to a lack of judicial and Commission reviews of asylum decisions,<sup>139</sup> and to ongoing issues of capacity in the Asylum Office.<sup>140</sup>

Beyond these points, several informants felt that low recognition rates resulted from deliberate policy.<sup>141</sup> This is because other challenges in the asylum procedure are perceived to be easily solvable, if desired by political leadership. In particular, this includes instances of inadequate information provided to asylum seekers, of obstruction to accessing legal assistance, a general failure to budget for interpretation, and the failure to use tools elaborated for supporting authorities in conducting procedures like remote interpretation.<sup>142</sup> Again, a “transit-bingo” is apparent, in which transit is both a *justification* for a lack of progress on access to procedures and solutions, and a *policy direction* to the facilitate onward movement. The 2022 decision to grant Ukrainians temporary protection (see section 5.2.) is seen as an additional indication that Serbia could very well grant more people status if it wanted to.<sup>143</sup> In consequence, interlocutors do not expect major changes through the revision of the LATP, even as positively as draft amendments on the law are assessed.<sup>144</sup>

Both the first phase of the accession process on Chapter 24 since 2015 (which had focused on foundational aspects of the asylum system, including reception capacity and basic alignment of the legal *acquis*) and the 2020 revised Action Plan on Chapter 24 foresee recognition rates of asylum application as an impact indicator or interim benchmark,<sup>145</sup> with the revised plan specifying that recognition rates should be “comparable to the EU average.”<sup>146</sup> While progress on asylum is discussed as part of the regular EU–Serbia policy exchange, both the breadth of issues covered in Chapter 24 and a general lack of political attention to migration and asylum mean that legislative approximations have not yet translated to shifting policy.<sup>147</sup> Whether emphasis on asylum recognition will be a political

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<sup>137</sup> Informants V; I.

<sup>138</sup> Informants C; I.

<sup>139</sup> Informants E; T

<sup>140</sup> Informants R; H; T. Three interviews compared the current level of capacity with the baseline of several years ago, arguing that capacity had greatly improved. Informants R; H; T.

<sup>141</sup> Informants I; Y; C; U.

<sup>142</sup> Informant I; Kovačević, N. (2022); Belgrade Centre for Human Rights (2021).

<sup>143</sup> Informants I; Y; C; U.

<sup>144</sup> Jelačić Kojić, M., Grujičić, G., and Unijat, J. (28 May 2022 ). “Comments on the Working Versions of Draft Laws Amending the Law on Foreigners, the Law on Asylum and Temporary Protection and the Law on Employment of Foreigners.” <https://preugovor.org/Amendments/1759/Comments-on-the-Working-Versions-of-Draft-Laws.shtml>; Informants A; U; Y.

<sup>145</sup> The revised action plan is available from the Republic of Serbia, Ministry of the Interior (2020), [shorturl.at/loCR4](http://shorturl.at/loCR4)

<sup>146</sup> Ibid.

<sup>147</sup> Informants, G; E.



priority for the EU going forward is also questionable. One interlocutor pointed to the limited leverage of the EU.<sup>148</sup> While several interview partners with insights into discussions between the EU and Serbia noted a certain frustration by EU partners funding transit without solutions, they expected to see changes rather in the approach towards reception.<sup>149</sup> Thus, as part of the part of the upcoming IPA funding cycle, the EU is set to request Serbia to more clearly distinguish service provision between asylum seekers and other migrants, as part of an effort to move away from a reception system sponsoring transit.<sup>150</sup>

In sum, the EU has been, in line with a GCR approach, strongly invested in legislative reform and capacity development as part of the accession process. This investment has been the driving force behind convergence of the LATP with EU asylum law. The practical effect of legislative changes has been limited, however, as conflicting policy interests between the Serbian government and EU actors have impeded political ownership and leadership of reform.

## 5. Political responsibility for selected policy developments in the GCR area “meeting needs and supporting communities”

### 5.1. Access to employment: 2022 draft legal amendments on access to employment

Enhancing refugee self-reliance is one of the four objectives of the GCR. Specifically, the GCR points to states and other stakeholders contributing “resources and expertise to promote economic opportunities, decent work, job creation and entrepreneurship programmes for host community members and refugees, including women, young adults, older persons and persons with disabilities.”<sup>151</sup>

With reference primarily to the transit character of migration, the Serbian government has so far refrained from undertaking major efforts facilitating integration of migrants and refugees, in both law and practice.<sup>152</sup> Access to the labour market is regarded as one of the most challenging issues hampering the local integration of asylum seekers and refugees in Serbia. In particular, asylum seekers can only obtain a work permit nine months after they have lodged their application for asylum, if their asylum application has

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<sup>148</sup> Informant E.

<sup>149</sup> Informants E; V.

<sup>150</sup> Informant E.

<sup>151</sup> GCR para. 70.

<sup>152</sup> For example, based on focus group discussions with affected populations: Centar za zaštitu i pomoć tražiocima azila (APC/CZA); Centar za istraživanje javnih politika (CIJP) (2017/2018). “Integracija migranata, tražilaca azila i izbeglica u Srbiji.” <https://www.azilsrbija.rs/wp-content/uploads/2022/02/Brief-2018-Integracija.pdf>.



not been decided, a rule that mirrors the minimum standard in EU law.<sup>153</sup> The rule effectively applies to the majority of asylum seekers, given the length of the procedure. Issued work permits are valid for six months (renewable), with the processing time for the permit subtracted from that period.<sup>154</sup> Multiple interviewees perceived the waiting period as a primary reason discouraging asylum applications in Serbia (as opposed to lodging an application elsewhere),<sup>155</sup> alongside expectation from migrants and refugees that there are more favourable economic prospects in EU countries. People whose refugee or subsidiary protection status<sup>156</sup> has been recognised formally have full access to the labour market, although access can still be difficult in practice.<sup>157</sup>

In 2022, in line with the EU accession's legislative calendar, draft laws amending the LAMP, the Serbian Law on Foreigners, and the Law on Employment of Foreigners (LEF) were compiled by KIRS and the respective reporting ministries, namely the MOI and the Ministry of Labour, Employment, Veteran and Social Policy.<sup>158</sup> The draft amendments, which are not official, foresee asylum seekers' earlier access to the labour market.<sup>159</sup> Given the formation of a new government, revised amendments are not to be expected to be tabled to parliament before late-2022.

Whether the reform will actually occur remains uncertain, as the current unofficial drafts may not consistently reflect the position of all relevant government stakeholders.<sup>160</sup> However, a number of interviewees expressed confidence that the reform would take place, even if it would be at odds with the facilitation of transit as a key driver of Serbian asylum policy. The reason why reforms are forthcoming now could not be fully ascertained. Contributing factors could be delays in the legislative reform calendar – according to one government informant, there had been previous attempts at reform hampered by changes in government<sup>161</sup> – but also shifting domestic policy interests. According to the perception of one interviewee dealing with Serbian government counterparts, the Serbian government had demonstrated “relative excitement” and “proactivity” on a number of integration-related themes some two years ago, which subsequently faded – the portrayed position of government representatives was that the numbers of asylum seekers and refugees staying in Serbia was simply too small to initiate bureaucratic work processes that would ultimately benefit only a double-digit number of

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<sup>153</sup> Article 15(1) of the Reception Conditions Directive (Recast).

<sup>154</sup> Kovačević, N. (2022).

<sup>155</sup> Also Kovačević, N. (2022), p. 140.

<sup>156</sup> For the distinction of the term, see note 35.

<sup>157</sup> For example, with recommendations mirroring key challenges: Centar za zaštitu i pomoć tražiocima azila (APC/CZA) (2019). “Recommendations in the field of employment of asylum seekers and persons who have been granted asylum 01.07.-31.12.2019.” <https://www.azilsrbija.rs/preporuke-u-oblasti-zaposljavanja-trazilaca-azila-i-lica-koja-su-dobila-azil-01-07-31-12-2019/?lang=en>.

<sup>158</sup> At the time of writing in summer 2022, these draft laws are not published yet.

<sup>159</sup> Informants E; V; Z.

<sup>160</sup> Two interlocutors remained sceptical as to whether the reform will actually occur. Informant A; U. On this, see also Kovačević, N. (2022), mentioning other factors, the lack of a specialised state authority to provide support in accessing the labour market.

<sup>161</sup> Informant Z.



people.<sup>162</sup> More recently, however, there has again been greater interest in questions of refugee self-reliance.<sup>163</sup> Indeed, several interlocutors have stated that a real shift of discourse could be to frame the arrival of migrants and refugees in light of Serbia's own demographic challenges and youth emigration.<sup>164</sup> For more than a decade, Serbia has been a country of negative net migration.<sup>165</sup> Although migration is now close to net-zero, youth emigration remains high and birth rates low, contributing to unfavourable demographic outlooks.<sup>166</sup> Such approach would require a substantial policy shift on the recognition of asylum applications, and/or a certain shift of focus away from economic inclusion through refugee and subsidiary protection status towards legal solutions for those falling outside procedures.

## 5.2. Temporary protection for people fleeing Ukraine

Following the 2022 war against Ukraine, more than 60,000 people have fled Ukraine to Serbia in the first half of the year, with some 12,000 remaining (number current as of July 2022). On 18 March 2022, the Serbian government adopted a decree on the eligibility of people fleeing Ukraine for temporary protection in Serbia, including citizens of Ukraine and their family members; asylum seekers, refugees, and beneficiaries of international protection; and foreign nationals with temporary or long-term residency permits in Ukraine who cannot return to their country of origin.<sup>167</sup> Temporary protection regularises the stay of people fleeing Ukraine, their access to basic services, and access to the labour market. Like in the EU, which had taken a decision on temporary protection only some two weeks before,<sup>168</sup> this marks the first time the instrument of temporary protection has been used.

Like in the EU, Serbia's decision stands in contrast to the approach taken and rules applying in the asylum system generally, but particularly in respect to access to services and employment. First, regarding legal status, while there had initially been criticism that Ukrainians did not receive their ID cards from the Asylum Offices quickly enough,<sup>169</sup>

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<sup>162</sup> Informants X; D.

<sup>163</sup> Informants V; X; D.

<sup>164</sup> Informants G; V; I.

<sup>165</sup> United Nations Population Division (2019). "World Population Prospects 2019 Revision." <https://data.worldbank.org/indicator/SM.POP.NETM?locations=RS>.

<sup>166</sup> Šantić, D. (2020). "Leaving Serbia: Aspirations, Intentions and Drivers of Youth Migration." *Friedrich Ebert Stiftung*. <https://library.fes.de/pdf-files/bueros/belgrad/16219.pdf>.

<sup>167</sup> The decision of 18 March 2022 is available at the Legal Information System, "Одлуку о пружању привремене заштите у Републици Србији расељеним лицима која долазе из Украјине "Службени гласник РС", број 36 од 18. марта 2022.", <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/vlada/odluka/2022/36/1/reg>.

<sup>168</sup> European Union (4 March 2022). "Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection." ST/6846/2022/INIT, *Official Journal of the European Union*, L 71, p. 1–6.

<sup>169</sup> *Beta* (27 April 2022). "АПС: Потребно убрзати дodeljivanje привремене заштите за избеглице из Украјине." <https://beta.rs/vesti/politika-vesti-srbija/162850-apc-potrebno-ubr-zati-dodeljivanje-privremene-zastite-za-izbeglice-iz-ukrajine>



interviewees took the view that access to status was not comparable to that of other nationalities, given the latter's long-lasting asylum procedures.<sup>170</sup> Second, regarding the reception standard, interviewees pointed out that conditions in the Vranje reception centre used for Ukrainians not living in private accommodation are considerably better than those in all other reception centres; it had just been renovated prior to the war.<sup>171</sup> Third, even beyond the absence of a waiting period, access to employment appears to be easier for people with temporary protection status than it is for asylum seekers, refugees, and people with subsidiary status: 183 work permits have been granted at the request of employers, and 46 permits at the request of temporary protection beneficiaries themselves.<sup>172</sup> This number is significant, considering that the total number of asylum seekers who are allowed to work in Serbia is an estimated 100,<sup>173</sup> and that the total number of refugees and beneficiaries of subsidiary protection, including people outside the working age, is just above 5000. Finally, public communication on people fleeing Ukraine has also been different. Early into the response, then-head of KIRS, the head of the EU delegation in Serbia, and the ambassadors/deputy-ambassadors of Finland, Poland, France, and Ukraine visited the reception centre in Vranje to welcome people that fled and to affirm the EU–Serbia cooperation on asylum.<sup>174</sup> In June 2022, Serbian President Aleksandar Vučić visited the same centre, expressing his empathy with those who had fled.<sup>175</sup>

The differences have prompted several interlocutors to illustrate that the Serbian asylum system could improve more quickly towards regularising status and economic inclusion, were there to be political will.<sup>176</sup> Likewise, the Ukraine example shows how EU and neighbour country policies contributed to favourable framework conditions for the Serbian decision. First, the instrument of Temporary Protection exists in the Serbian LAMP as the result of legislative approximation with EU asylum law.<sup>177</sup>

Second, while both international and civil society actors in Serbia have strongly advocated for Serbia to activate temporary protection for displacement from Ukraine, those with direct insight into the decision have stated that it was never controversial. Shortly after the decision by the EU, there had been an internal government discussion on the type of

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<sup>170</sup> Informants R; H.

<sup>171</sup> Informants S; E; D.

<sup>172</sup> Informant B.

<sup>173</sup> Kovačević, N. (2022).

<sup>174</sup> *Danas* (12 April 2022). "U Vranju 41 izbeglica iz Ukrajine: Narod im je pomogao i učinio da se osećaju dobrodošlim." <https://www.danas.rs/vesti/drustvo/u-vranju-41-izbeglica-iz-ukrajine-narod-im-je-pomogao-i-ucinio-da-se-osecaju-dobrodoslim/>.

<sup>175</sup> Pešić, D. (3 June 2022). "Vučić posetio migrante iz Ukrajine smeštene u Centru za azil u Vranju: Delio paketiće, pravio selfije, a bio je i golman." <https://www.danas.rs/vesti/drustvo/vucic-posetio-migrante-iz-ukrajine-smestene-u-centru-za-azil-u-vranju-delio-paketice-pravio-selfije-a-bio-je-i-golman/>.

<sup>176</sup> Informants G; S.

<sup>177</sup> European Union (20 July 2001). "Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing." *Official Journal of the European Union*, L 212: p. 12–23.



protection that Serbia should offer, involving various line ministries and KIRS, with the result that temporary protection would be most apt, as it allows access to the labour market.<sup>178</sup> At that time, it was clear already that going forward, the approach of the EU would be different to that during the Syrian displacement crisis, and that the decision was relatively risk-free for the capacity of Serbia's reception system. For example, the policy of Hungary had shifted, in what has been called "selected empathy" for Ukrainians,<sup>179</sup> as other nationalities have faced continuous violence.<sup>180</sup>

Following the decision on temporary protection, the affected line ministries proceeded to work out the operational details of putting the decision into practice, such as regarding work permits and ID cards. According to one interviewee with direct insight into the process, while the political willingness was there from the beginning, operationalisation was initially slow. Prime Minister Ana Brnabić intervened to speed up the process, demonstrating "a momentum not seen before."<sup>181</sup> That momentum is also ascribed to foreign policy considerations about reconciling traditionally close ties with the Russian government on one hand with EU relations on the other.<sup>182</sup> Indeed, the Serbian government has faced pressure by EU partners to more clearly change its stance, and Serbian politics are moving on a path distancing Serbia from Russia: below the radar of public attention, Serbia has begun to diversify energy sources and has joined in with several EU sanctions against pro-Kremlin individual lawmakers.<sup>183</sup> Media coverage on Russia has become more critical (not least propelled by Putin's reference to Kosovo as a justification for the invasion), and public opinion on the reception of Ukrainians has been very favourable.<sup>184</sup> In light of this, one interviewee called the decision on temporary protection "a quick win with the EU" that was a "no-brainer" for Serbia.<sup>185</sup>

In sum, political responsibility for the decision on temporary protection involves several Serbian line ministries, with political conditions for the decision set by the EU and Serbian foreign policy considerations primarily.

## 6. Conclusion: Political responsibility and asylum governance in Serbia

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<sup>178</sup> Informant B.

<sup>179</sup> *Info Migrants* (3 September 2022). "140,000 Ukrainian refugees in Hungary, Orban changes stance." <https://www.infomigrants.net/en/post/39059/140000-ukrainian-refugees-in-hungary-orban-changes-stance>.

<sup>180</sup> Dragojilo, S. (9 May 2022). "For Refugees on Serbia-Hungary Border, 'the Game' Goes On." <https://balkaninsight.com/2022/05/09/for-refugees-on-serbia-hungary-border-the-game-goes-on/>.

<sup>181</sup> Informant E.

<sup>182</sup> Informants I; F.

<sup>183</sup> Samorukov, M. (10 June 2022). "Last Friend in Europe: How Far Will Russia Go To Preserve Its Alliance with Serbia?" *Carnegie Europe*. <https://carnegieendowment.org/politika/87303>.

<sup>184</sup> Informant Y.

<sup>185</sup> Informant I.



How do the roles and interests of domestic and international policy actors explain policies relevant to the GCR in an individual country-context? Policy developments in the Republic of Serbia over the past four years illustrate how stars need to align for advancements in a national asylum response: where Serbia has made progress towards a nationally-owned policy of service-provision and inclusion, domestic and foreign policy considerations have interplayed with either international financial support mechanisms, legislative reform facilitated by EU institutions, or favourable policies by neighbour countries “upstream” on migration routes. This is most clearly visible in the Serbian government decision of 2022 to grant temporary protection to people fleeing Ukraine, but to some extent also in the gradual progress that is the handover of service provision in reception.

Meanwhile, in most examples, neither domestic nor international actors and their roles and interests are uniform. This is evident, for example, in respect to a longer-term budgetary sustainability perspective on reception (where the use of funds from the national budget is politically desired by the EU and some affected line ministries, but not by other Serbian government entities). It is also evident in legislative reform of one key Serbian asylum law, the LATP (where conflicting policy preferences and lacking ownership in reform have not unlocked the stalemate on asylum procedures). Likewise, the role of the EU delegation and the EU member states is not without friction or contradiction. What the EU, in light of the controversial overhaul of its own asylum system,<sup>186</sup> conflicting messages and vastly inconsistent practice of member states, *really* expects of Serbia remains unclear.

In the political decisions surrounding the policy developments discussed in this paper, the GCR itself neither had a constraining effect nor resulted in convergence of policies. This may be expected for the areas of the GCR where policy guidance is vague (such as on access to territory), but is a more remarkable finding for areas where policy guidance is stronger (such as on inclusion). Conversely, constraints were created by the restrictive policies of EU neighbour states on border control, as well as (to a more limited extent) the EU accession process. There are also indications that in cooperation with Serbia, emphasising refugee and subsidiary protection status as the main pathway to solutions risks missing out on other pathways (e.g., in labour migration), even if they could potentially function as “trailblazers” for progress in the asylum system. This is because the emphasis on asylum is at odds with national policy preferences.

Attempting to be “entirely non-political in nature, including in its implementation,” the GCR tries to square a circle of depoliticising a combined humanitarian and development-

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<sup>186</sup> Here, the screening directive stands out as particularly important, given that it would change the role of external border states by requiring mandatory screening centres. See European Commission (23 September 2020). “Proposal for a Regulation of the European Parliament and of the Council introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817.” Ironically, this would mirror squarely the (currently wrong) message of right-wing groups that Serbia, under agreements with the EU, needs to take care of all refugees arriving in the EU. See Vucic, M. (21 September 2021).



focused response, all the while stating that it will contribute to mobilising the necessary “political will” for implementation. The case of Serbia shows how achieving such political will requires faithful, consistent action towards the GCR’s principles of technical and financial support rather than a “race to the bottom” on protection, but it requires more than that: it also requires clear action and understanding of the domestic political economy and potential levers of reform. In Serbia meanwhile, without top-level political direction and leadership, no clear institutional lever of policy change appears to exist in current asylum governance, with asylum policy otherwise fragmented across KIRS and line ministries without a central coordinating entity. Jointly, the EU and Serbia have an opportunity to change this.



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<sup>187</sup> For publications from news outlets, individual authors are listed first wherever the names are provided by the respective outlet. Otherwise, the publications are listed according to the name of the news outlet. All online publications have last been accessed on 1 October 2022.



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# ASILE PARTNERS



The ASILE project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 870787

## Project Coordinator

### CEPS

1 Place du Congrès, B-1000  
Brussels, Belgium  
[info.asileproject@ceps.eu](mailto:info.asileproject@ceps.eu)

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