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Refugees and the right to work

Report¹

Committee on Migration, Refugees and Displaced Persons

Rapporteur: Mr Christopher CHOPE, United Kingdom, European Democrat Group

Summary

In accordance with international law, it is common practice in most member States of the Council of Europe to grant refugees the right to work; asylum seekers are usually granted the same right after a certain length of time has elapsed.

Successful employment of asylum seekers and refugees is beneficial to host societies, in that the State has fewer costs providing social assistance, and societies are more likely to be cohesive, as employment is linked to other areas of integration. Access to the labour market is also important to the individual because it helps reinstate a sense of self-worth, is crucial to human dignity, facilitates recovery from trauma and encourages financial independence.

Yet a gap remains between the legal right of refugees to take up employment and their successful integration into host societies' labour markets. Furthermore, States need to ensure that asylum seekers are allowed to work if there is to be any delay in dealing with their asylum applications. Refugees need not only the legal authorisation to work but they must also be able to execute this right. In order to ensure this, it is important to reduce legal, administrative and practical barriers to participation in the labour market, such as restrictions on work permits. They also need to promote integration programmes, including language classes and courses on how to access the labour market.

1. Reference to committee: [Doc. 12933](#), Reference 3878 of 25 June 2012.



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A. Draft resolution²

1. The right to work is a fundamental right, well-established in international law, without which other rights are often meaningless. It is essential for realising other human rights and to preserve human dignity; it enables individuals and their families to maintain livelihoods, receive income, and contribute to development and recognition in the community.
2. For asylum seekers and refugees (including those with subsidiary protection) the right to work is particularly important as it can enhance their sense of dignity, self-respect and self-worth, and brings with it independence and financial self-sufficiency. Employment is also, more broadly, a crucial facet of integration and can help them recover from often traumatic experiences.
3. Granting these people the right to work and enabling their access to the labour market is also beneficial to the societies in which they live and, where appropriate, the societies to which they return. The majority of these people are of working age and bring knowledge, skills and training with them. Allowing and enabling them to work reduces the likelihood of them taking up informal employment or becoming dependent on State support.
4. The right to work is granted in numerous international and regional legal instruments, including the European Social Charter (ETS No. 35). While the right to work for refugees is granted under the 1951 United Nations Convention on the Status of Refugees, the right to work for asylum seekers is usually only provided for after a certain period of time. Under the European Union's Reception Conditions Directive 2013/33/EU, member States must grant the right to work to asylum seekers after nine months of waiting for a decision on their application.
5. Among member States of the Council of Europe, it is common practice to grant the right to work to refugees. Asylum seekers are usually also granted the right to work, although not immediately and often with restrictions such as secondary access to the labour market after other migrants and nationals.
6. Many barriers exist, however, which prevent refugees and asylum seekers from taking full advantage of the right to work. These include problems linked to insufficient language skills, lack of knowledge of the labour market, lack of training and work experience, and problems related to the recognition of qualifications and experience.
7. It makes sound economic and social sense to allow asylum seekers to work and to provide refugees with access to the labour market. The cost to the State will clearly be less if asylum seekers and refugees are employed rather than dependent on State support. Employment also contributes to a more cohesive society by encouraging and improving contacts between refugees, asylum seekers and the local community.
8. The Parliamentary Assembly considers that, taking into account international obligations and the existing European legal framework, member States should do more to ensure that refugees – including people with subsidiary protection – and asylum seekers gain access to and are better integrated into the labour market. More specifically, the Assembly recommends that member States:
 - 8.1. remove all legal and administrative barriers which prevent refugees from having full access to the labour market and ensure that they enjoy the right to work, including by removing restrictions such as the need for a work permit, onerous bureaucratic procedures and secondary access to the labour market after nationals;
 - 8.2. speed up asylum procedures and provide asylum seekers with access to the labour market pending the outcome of a decision on their status, taking into account that this will benefit the asylum seeker, the host country or country of return at the end of the process;
 - 8.3. develop policies and dedicate resources to support individuals in the transition from the asylum system to mainstream integration services. This should include providing language classes (general and vocational), work experience, vocational training, classes to develop knowledge of the labour market and on how to apply for jobs, and individualised employment “plans of action”;
 - 8.4. simplify procedures for the recognition and certification of foreign qualifications and experience;
 - 8.5. work with employers' associations and employers, trade unions and the private and voluntary sector to develop placement programmes for refugees and asylum seekers which can help them become established in the labour market and become self-sufficient and financially independent;

2. Draft resolution adopted unanimously by the committee on 13 March 2014.

- 8.6. encourage the diversification of employment opportunities for refugees by, for example, providing support for own enterprise initiatives;
- 8.7. encourage more research and monitoring regarding the needs of refugees and asylum seekers in member States' labour markets to better understand the gap in employment rates between refugees, other migrants and nationals and to develop policies to close this gap;
- 8.8. share examples of good practice in the integration of refugees and asylum seekers into the labour market and encourage cross-national learning from this.

B. Explanatory memorandum by Mr Chope, rapporteur

1. Introduction

1. There are nearly 3 million refugees in the member States of the Council of Europe and a large proportion of them are of working age.³ Although it is common practice that refugees legally have the right to work, there remains a significant employment gap between refugees and nationals in most countries. Unlike refugees, State practice states that asylum seekers are largely not allowed to work as soon as they arrive in a host country, or have to wait for the final decision on their application or a set time period to elapse.

2. The lack of labour market integration of refugees and asylum seekers may force them to seek employment in unregulated, dangerous, degrading and exploitative conditions, which in turn can expose them to other risks including that of sexual and gender-based violence or human trafficking, and interfere with a wider range of human rights. This is not only costly for the individuals but also for their host societies who have to provide benefits and support. Instead, granting the right to work and integration into the labour market as soon as possible, is advantageous for both host societies and refugees and asylum seekers.

3. In this report, the main focus will be on refugees, but it is impossible to talk about refugees⁴ without including persons with subsidiary protection and also touching on the issue of asylum seekers and their right to work.⁵

4. There are many reasons for higher rates of unemployment amongst refugees – also known as the “refugee gap”⁶ – and much can be done to facilitate their integration into the labour market. New strategies to address this gap need to focus on individual employability on the one hand and personal and structural barriers to the labour market on the other.

5. For host societies, facilitating their early and ongoing access to the labour market – legally and in practice – will prevent them from lengthy dependence on public finances. The same argument applies for persons with subsidiary protection and asylum seekers.

2. Understanding the importance of the right to work

6. The right to work is given to all, in many international human rights instruments, including the Universal Declaration on Human Rights 1948, and as such is one of the fundamental human rights, and this means that everyone should have the right to engage in productive employment and should not be prevented from doing so. The right to work is strongly linked to property and a minimum standard of living, as well as economic freedom. Employment is important because it provides the individual with income, independence, social status and recognition.

“Without the right to work, all other rights are meaningless.”

Professor Louis Henkin, US delegate at the drafting of the 1951 Convention relating to the Status of Refugees

2.1. For refugees

7. It is important for refugees to have the right to work for a number of reasons. Many studies have shown that being in employment enhances their dignity and self-respect.⁷ Work can give hope, satisfaction and re-establish their sense of self-worth. Employment is also important in terms of integration, as the workplace offers important opportunities for “positive socialization and for the development of resourcefulness”.⁸ With income and independence, comes greater financial self-sufficiency and decreasing economic deprivation, often seen in poor housing.

3. www.unhcr.org/statistics/populationdatabase.

4. According to the Refugee Convention, a refugee is a person who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country”.

5. An asylum seeker is someone who has applied for asylum and is waiting for a decision from the State or the Office of the United Nations High Commissioner for Refugees (UNHCR).

6. Connor P. (2010), Explaining the Refugee Gap: Economic Outcomes of Refugees versus Other Immigrants. *Journal of Refugee Studies*, Vol. 23(3); see also Ott E., (2013), The labour market integration of resettled refugees. PDES/2013/16. Geneva: UNHCR.

7. UNHCR, 2001, Reception of Asylum Seekers; and Frykman, 2012.

8. UNHCR, 2007, Note on the Integration of Refugees in the European Union.

8. All of these aspects have an overall positive effect on their health and well-being, especially their mental health, and can be an important aspect for their recovery from traumatic experiences. In this respect, the UNHCR's Executive Committee has argued that promoting self-reliance from an early stage will enhance the sustainability of future durable solutions for refugees.

9. Furthermore, access to the labour market can facilitate refugees' return and reintegration into their countries of origin, through the financial independence and work skills that they acquire.

2.2. For society

10. A large proportion of refugees are of working age (18 to 59) and allowing this population to access legal employment can benefit host societies in a number of ways. Refugees usually bring knowledge, skills and training with them, and can help fill gaps in the labour market. If refugees work, this also means that they are paying taxes and buying goods and services, further increasing host countries' revenues. It is important to note that the same benefits apply if refugees eventually return (repatriate) to their country of origin.⁹

11. If asylum seekers and refugees do not have the right to work, there is a high risk that they will either enter informal employment, or are dependent on reception assistance and lengthy State support. Both outcomes are undesirable for member States. This is one of many reasons why the UNHCR argues that it is a good practice to grant a temporary work permit to asylum seekers after they have resided in the country for six months.

12. Employment is an important aspect of integration, facilitating social contacts between refugees and members of the host society, recognising that integration is a two-way process.

3. What is the basis for the right to work under international law?

13. "Numerous international and regional human rights instruments, as well as many national constitutions, protect the right to work."¹⁰ The main international and regional legal instruments on the right to work are the 1951 United Nations Convention on the Status of Refugees (Articles 17, 18 and 19), the International Covenant on Economic, Social and Cultural Rights, the European Social Charter (ETS No. 35), the European Convention on the Legal Status of Migrant Workers (ETS No. 93), and the ILO Migration for Employment (Revised) (No. 97) and Migrant Workers (Supplementary Provisions) (1975) (No. 143) Conventions.¹¹

14. Closely tied to the right to work and in order to achieve this right, individuals should also be able to access appropriate vocational training and have their diplomas recognised.

15. Furthermore, the Refugee Convention contains three provisions relating to the right to work. Article 18 grants both refugees and asylum seekers the right to self-employment; whereas Article 17, on wage-earning employment, stipulates that this right is extended to those *lawfully* staying, which has caused some controversy because some argue that this does not include asylum seekers. For the UNHCR, "a lawful stay would also include asylum seekers in a State where the asylum procedure is unduly prolonged".¹² Article 19 governs the recognition of certificates in the liberal professions.¹³

16. In addition, there are a range of linked rights relating to conditions at work. These include the standard of treatment – which should, according to Article 24 of the 1951 Convention, be the same as that accorded to nationals – wages, social security, working conditions, benefits, taxation, pensions and so on.¹⁴

17. There remains some disagreement over the extent to which these related rights at work apply to refugees and asylum seekers. The Michigan Guidelines,¹⁵ however, argue for a dynamic and liberal interpretation of the right to work, "in light of changing circumstances" and to "best protect the individual rights-bearer".

9. Arnold-Fernández E.E. and Pollock S. (2013), "Refugees' rights to work", *Forced Migration Review* 44, and Ott E. (2013), "The labour market integration of resettled refugees", PDES/2013/16 Geneva: UNHCR.

10. Michigan Guidelines on the Right to Work, 31 *Michigan Journal of International Law* 289 (2010).

11. See the Michigan Guidelines for a more comprehensive list of relevant international conventions.

12. UNHCR/Council of Europe (2012), "Conference Report: Joint UNHCR/Council of Europe Colloquium on the Right to Work for Refugees" under the auspices of the Albanian Chairmanship of the Committee of Ministers, 27 September 2012, Strasbourg, France.

13. For commentary on Articles 17, 18 and 19, see Edwards A., "Article 17", "Article 18", "Article 19", in Zimmermann A. (ed.), *The 1951 Convention relating to the Status of Refugees and its 1967 Protocol: A Commentary*, Oxford University Press, 2011, pp. 951-972, 973-981 and 983-990, respectively.

14. See in particular the European Convention on the Legal Status of Migrant Workers.

“At the core of the right to work is freedom to gain a living by work freely chosen or accepted. This right entails access to the labour market, as well as the ability to participate in self-employment and the liberal professions. In most human rights instruments, this freedom is expressed as a universal entitlement, and is protected on a non-discriminatory basis.”

The Michigan Guidelines, 2009

18. The rights at work are also protected by several international standards, in particular by the eight “fundamental” International Labour Organization (ILO) conventions. There are four principal values underpinning these: 1) freedom of association and collective bargaining; 2) elimination of forced or compulsory labour; 3) abolition of child labour; and 4) elimination of discrimination.

19. The European Social Charter covers the right to work and, in Article 1, lays down a series of obligations, including efforts to create jobs, placement and training activities, prohibiting discrimination, and guaranteeing the protection of persons against forced labour, servitude and slavery. Under Article 1.1, States undertake to accept, as one of their primary aims and responsibilities, the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment. The European Committee of Social Rights considers this to be an obligation of means and States must pursue an economic policy conducive to creating and preserving jobs, and they must take adequate measures to assist unemployed persons in finding or qualifying for a job. Article 1.2 of the Charter guarantees to workers the right to earn their living in an occupation freely entered upon and has been interpreted by the Committee as implying the prohibition of all forms of discrimination in employment, the prohibition of forced labour, and also the prohibition of practices interfering with workers’ right to earn their living in an occupation freely entered upon. States must grant refugees treatment as favourable as possible, according to the 1951 Geneva Convention on the Status of Refugees, and in any case not less favourable than required under the Convention. It is unclear at the moment to what extent Article 1 applies to asylum seekers. However, certain aspects are so fundamentally linked to human dignity (such as the prohibition of forced labour) that they would be applicable to asylum seekers in accordance with the European Committee of Social Rights’ interpretation.

20. Under the asylum *acquis*, the European Union has adopted several measures over the last decade that relate to refugees’ right to take up employment. Article 26, for example, of the Asylum Qualification Directive¹⁶ (revised, 2011¹⁷) gives all refugees and those with subsidiary protection full access to the labour market on terms equivalent to those of nationals, and to employment-related educational opportunities. Moreover, Article 28 ensures that the qualifications of refugees are treated equally with those of nationals within the existing framework, but also requests that refugees have the opportunity to take an assessment to prove their qualifications should it not be possible to provide documentary evidence of their training.¹⁸

21. The other main instrument is Article 15 of the Reception Conditions Directive¹⁹ (revised) which states that asylum seekers must be given the right to work after nine months of waiting for status determination. However, this directive also allows for labour market tests, putting asylum seekers behind nationals and legally residing third country nationals in the queue for work.

22. Beyond these directives, the “Commission encourages Member States to grant access to [the] labour market to asylum seekers as early and as broadly as possible, in order to encourage their integration and self-sufficiency”.²⁰

15. The most comprehensive source bringing together all international and regional legal instruments on the right to work for refugees and asylum seekers is the Michigan Guidelines. These were developed by the Colloquium on Challenges in International Refugee Law at the Michigan Law School, bringing together leading academic experts from around the world.

16. Directive 2011/95/EU (Previously Directive 2004/83/EC) of the European Parliament and of the Council, 13 December 2011, on standards for the qualification of third country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, Official Journal of the European Union, L 337, Vol. 54, 20 December 2011, p. 9.

17. The United Kingdom and Ireland do not participate in the recast of the Directive and will continue to apply the old Directive, while Denmark does not participate at all (Mole N., 2013, “Family Migration and Access to Social and Economic Rights under the Legal Regimes of the EU and the Council of Europe”, IMPACIM. Oxford: COMPAS).

18. Directive 2011/95/EU (Previously Directive 2004/83/EC).

19. Directive 2013/33/EU of the European Parliament and the Council of 26 June 2013 on laying down standard for the reception of applicants for international protection (recast), Official Journal of the European Union, L 180/96, 29 June 2013. This revised version will apply at the latest by July 2015. Until then, Directive 2003/9/CE applies, which grants asylum seekers access to the labour market within a maximum time limit of 12 months.

20. European Parliament (2013), Notice to Members – Petition 1690/2012, by Regine Schlacht (Austrian), on vocational training for asylum-seekers.

4. What is the law and practice amongst member States of the Council of Europe?

4.1. The current situation in member States

23. It is beyond the scope of this report to provide a full overview of the law and practice with regard to the right to work for refugees and asylum seekers in all 47 member States of the Council of Europe. However, I will illustrate some of the different ways that member States have applied the right to work, first for asylum seekers, and then for refugees, and identify some overall trends.²¹

24. The implementation of the revised²² European Union Reception Directive should help to standardise the right to work for asylum seekers across European Union States.²³ The directive was developed to establish common standards of living for asylum applicants, providing them with certain necessities that guarantee them a dignified standard of living.²⁴ The directive gives asylum seekers the right to work after nine months, whether they have received a decision on their application or not. Finland, Spain and Sweden grant asylum seekers the right to work earlier than nine months. Lithuania does not allow asylum seekers to work, however the application procedure is not meant to exceed six months, which means it is in keeping with the European Union Reception Directive.

25. Among other Council of Europe member States²⁵ the picture is more mixed. In Armenia, asylum seekers have the right to work and have access to the labour market,²⁶ and in the Ukraine the Constitution also gives all legally resident foreigners the right to work, however the law and its application lack clarity.²⁷ Russia, on the other hand, does not grant the right to work without a work permit to asylum seekers waiting for a decision.²⁸ In Turkey, an “applicant or a conditional refugee may apply for a work permit six months after his or her application”²⁹ and in the Republic of Moldova, “asylum seekers have the right to work, upon request, if the person lacks the necessary means for subsistence”.³⁰

26. However, many member States restrict the kind of access asylum seekers can have to the labour market. For instance, they may not be allowed to be self-employed, they may be restricted to shortage list occupations or certain sectors, or can only be employed subject to a labour market test or survey.³¹ This means that although asylum seekers have the right to work after nine months in most European Union member States, in practice, the likelihood of them being able to exercise this right is much reduced. Some countries do not allow access to the labour market even after the set time-period, if the delay in the process is attributed to the asylum seekers; this is the case in the United Kingdom for instance.

27. As the right to work for refugees is established in the 1951 Refugee Convention, any country that has ratified the convention should give the right to work to refugees. This is generally the common practice among European member States.³² Beyond the Refugee Convention, “the EU also requires Member States to authorise recognised refugees and those with subsidiary protection to work, as soon as status has been granted. The right to work may also be available to persons granted complementary forms or protection”.³³

4.2. Identifying good practices³⁴

28. As the majority of member States grant refugees the right to work, in this section I will explore some examples of good practice, which pro-actively support refugees’ access to and integration in the labour market along with good practices in relation to asylum seekers.

21. This section is mainly based on European Migration Network (EMN) (2013), “Ad-Hoc Query on access to the labour market for asylum seekers”, 9 April 2013.

22. Which becomes valid in July 2015.

23. Denmark, Ireland and the United Kingdom have opted out of this recast. In these countries, asylum seekers are granted the right to work after 12 months, as in the 2003 Directive.

24. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/reception-conditions/index_en.htm.

25. For more detailed information, see the CARIM-East project website: www.carim-east.eu/.

26. Aghababyan P. (2013), “Socio-Economic Rights of Refugees, Asylum Seekers and IDPs in the Republic of Armenia”, MPC: CARIM-East Explanatory Note 13/126.

27. Ukrainian Helsinki Human Rights Union, “Annual Report 2008. Chapter 19: The Rights of Refugees and Asylum Seekers”.

28. UNHCR, Information for Persons who wish to seek asylum in the Russian Federation.

29. Grand National Assembly of Turkey, Law on Foreigners and International Protection, Law No. 6458 04/04/2013.

30. Article 28, Law on Asylum in the Republic of Moldova, No. 270-XVI of 18 February 2008.

31. This means that nationals, other European Union citizens and legally residing third-country nationals take precedence for available positions in the labour market.

32. Edwards A. (2006), “The Right to Work for Refugees and Asylum Seekers: A comparative view”, UNHCR, No. 1.

33. Ibid.

29. Swedish asylum policy allows those who apply for asylum to work immediately and they receive a daily allowance sufficient to pay for clothes, medical care and leisure activities. If their asylum application is successful, refugees are offered free language, culture and labour market integration classes. Due to Sweden's generous welfare system, high employment rates, including for refugees, are necessary.

"If you get a permanent [residency] permit then you know this is where you are going to be, this is where the future is, and then you have a completely different approach to it [Sweden]."

Mikael Ribbenvik, Deputy Director-General of the Swedish Migration Board³⁵

30. Research has shown that such policies help to reduce unemployment among refugees in their first 20 years in Sweden. However, it still needs to be taken into account that the employment rate for refugees lags behind that of natives, essentially for the duration of their time in Sweden³⁶ and varies by country of origin and the age of refugees at the time of arrival.

31. Wuppertal (Germany): Participation Network³⁷ is a co-operative effort between local authorities and non-governmental organisations (NGOs), funded by the Federal Ministry of Work and the European Social Fund, to help connect asylum seekers and refugees to the labour market. The project demonstrates high placement results. The model was also replicated in two other cities in Germany. Beyond the clear advantages to the individuals who found work with the help of the Participation Network, was the financial benefit to the city, which was estimated at €577 700 at the end of 2009, €1 200 220 by the end of July 2007 and €3 346 560 by the end of August 2013.³⁸

32. Employability Forum (United Kingdom)³⁹ is an independent organisation promoting the employment of refugees in the United Kingdom. They, *inter alia*, provide tailored language classes, information on accessing the labour market, work experience, volunteering, rights, entitlements and career progression. They also support asylum seekers' transition to the mainstream support system and deal with trauma issues. They run a teacher placement scheme for refugees who were qualified teachers in their country of origin, and have successfully placed refugees in jobs, training and further education programmes, including formal teacher training.⁴⁰

33. EQUAL Programme (EC)⁴¹ was an initiative financed by the European Social Fund (ESF) to support innovative, transnational projects aimed at tackling discrimination and disadvantage in the labour market, including the integration of asylum seekers. Three particular lessons were learnt from the programme. The first was that integration and empowerment of asylum seekers should start upon arrival. The second was that the employment of asylum seekers was an essential part of their integration, and the third was that skills audits can help vulnerable groups to return to the labour market.

4.3. Comparison with the United States

34. It is interesting to note that in the United States, refugees and asylum seekers have the right to work indefinitely and they are allowed to receive social security cards without employment restrictions, on equal terms with American citizens.⁴²

35. Research has shown that this, in itself, is not a guarantee that they can find work. The "New Immigrant Survey" found that their labour market integration depended on a range of factors, which included language ability, level of education, different forms of family support, mental and physical health and the type of residence and neighbourhood in which they lived. Yet even after accounting for these differences, disparity in

34. Many examples of good practice can be found in the Refugee Integration Capacity and Evaluation (RICE) Project, which identifies refugee-specific barriers or facilitators to integration. See study: www.refworld.org/docid/522980604.html.

35. Brenner Y. (2013), "Sweden's refugee policy sets high standard. Despite its housing shortage, Sweden is offering Syrian asylum seekers permanent residence and a chance to resettle", Aljazeera Features.

36. Lundberg, 2013, "Refugees' Employment Integration in Sweden: Cultural Distance and Labor Market Performance", *Review of International Economics*, 21(2), 219-232.

37. www.partizipation-wuppertal.de/.

38. Roddewig-Oudnia C. (2013), «Integration of Refugees in Work – a benefit for all», Webinar, Access to Employment: Connecting Refugees to the Labour Market.

39. www.employabilityforum.co.uk/.

40. Randall B. (2013), «Access to Employment», Webinar, Access to Employment: Connecting Refugees to the Labour Market.

41. http://ec.europa.eu/employment_social/equal_consolidated/activities/etg5.html.

42. Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), "Refugees and Asylees Have the Right to Work", US Department of Justice, Civil Rights Division.

earnings and occupational attainment continued to exist.⁴³ Nonetheless, the study found that the disparity decreased with the length of time spent in the United States and with increases in educational levels. Although little is known about the effectiveness of policies and resources that are invested in refugees' labour market integration, these findings suggest that it is not sufficient to simply give refugees the right to work. Rather, countries must also invest in labour market activation policies specifically designed for refugees.⁴⁴

5. What are the barriers to the right to work and accessing the jobs market?

36. As we have seen, there are many legal instruments that establish the right to work for refugees and asylum seekers, but there also remain many barriers in practice.

37. A key problem is the transition from the asylum system to that of being a recognised refugee. As outlined above, for asylum seekers, the right to work is limited in most member States, meaning that the majority are unable to work and instead rely on social assistance from the State. During this time they mostly do not have access to language classes, other educational or training courses, are unable to take up any work and often live in isolated and poor housing. This situation can last many months (however, it is now limited to nine in European Union member States apart from the countries that have opted out). This means that asylum seekers are unprepared for finding employment once they receive refugee status or subsidiary protection. They are thus unable to gain knowledge of the member States' labour market; they lack self-confidence, and may still be dealing with emotional and mental health issues as a consequence of trauma. As a result, even once they become refugees, they are likely to remain dependent on social support and as such can become a financial burden for cities or municipalities.⁴⁵

38. Other practical barriers that refugees face when seeking employment after their status determination, include problems in attaining the appropriate language levels needed for a specific job, the recognition of their qualifications obtained in their country of origin, and obtaining affordable childcare and housing. Refugees further face barriers from employers who lack familiarity with their situation and, in some case, unconventional job applications.⁴⁶

39. Furthermore, one must also bear in mind that refugees do not start the search for work on an equal footing with nationals. It is therefore essential for member States to take steps to make the right to work meaningful and realisable for them.

40. However, some legal and administrative barriers also exist, which I have already mentioned, such as the requirement of a work permit (as is the case for asylum seekers in Belgium), or other bureaucratic procedures, and provisions granting priority to nationals over aliens. More specifically, it should however be stated that the 1951 Convention exempts refugees from administrative requirements that they are not able to meet because of their particular situation as refugees (Article 6).

6. Asylum seekers versus refugees and the right to work

41. Notwithstanding that the issue of asylum seekers versus refugees and the right to work has come up throughout the report, I would like to highlight that, while it is clear that refugees will spend a significant amount of time, potentially their entire life, in the country where they are granted refugee status, this is less clear for asylum seekers. If their application is rejected, they will be expected to return to their country of origin unless they receive subsidiary protection, which may nonetheless be time-bound. Therefore many member States argue that it is inappropriate to invest in integration measures for asylum seekers, as long it is unclear whether they will become long-term residents. Some States also argue that allowing asylum seekers the right to work will act as a further pull factor, although there is no strong evidence that this is the case.

42. However, the UNHCR and others argue that having had access to the labour market is beneficial and will facilitate their integration if they stay or their re-integration if they return. Being in a better financial and material position, acquiring new skills, enjoying a better state of health and well-being must surely be for the benefit of the individual and society.

43. Connor P. (2010), op. cit.

44. Ott E. (2013), "The labour market integration of resettled refugees", PDES/2013/16. Geneva: UNHCR.

45. Roddewig-Oudnia C. (2013), op. cit.

46. Randall B. (2013), op. cit.

"Irrespective of the particular right at issue, it makes enormous economic and social sense to allow asylum-seekers, whatever their mode of entry or particular circumstances, to work. Being able to participate as productive members of society is fundamental to individual self-esteem and dignity, and it can equally contribute to improving relations between asylum-seekers and the local community."

Professor Alice Edwards, UNHCR⁴⁷

7. Conclusions and the way forward to help States implement the right to work for refugees and asylum seekers

43. In this report, I have considered the legal basis for the right to work for refugees and asylum seekers in member States, the benefits that access to the labour market brings for individuals and society, and the variety of barriers that are currently preventing refugees and asylum seekers from being able to fully exercise their right to work.

"A policy which promotes self-reliance and reduces the need for prolonged dependence on the country of asylum or international assistance by making available work opportunities, is a policy which is mutually beneficial to refugees and host States regardless of what the durable solution may ultimately be."⁴⁸

Rosa Da Costa, UNHCR

44. It is clear that the right to work forms an important basis for any human being, and is of particular importance to refugees and also asylum seekers. It is important for their recovery from any trauma they may have experienced, to establish financial and economic independence and self-reliance, and to reinstate a sense of self-worth and dignity. For society, granting refugees and asylum seekers the right to work decreases their dependence on State support and reduces the risk that they will become a burden on public funds. Employment is also key for integration more generally. For asylum seekers, if their claim for refugee status is rejected, they are better equipped for the return process.

45. International and regional conventions, as well as certain domestic legal instruments, grant the right to work to refugees, as well as, in a more limited scope, to asylum seekers. The legal framework covers the right to work, conditions at work, as well as social assistance. However, legal, administrative and practical barriers prevent many refugees and asylum seekers from realising their right to work.

46. Member States should therefore aim to reduce these barriers by including faster asylum decisions, supporting the transition of asylum seekers from the asylum system to mainstream integration services, providing greater resources for integration, particularly in relation to language and supporting access to the labour market (covering search for employment and work experience, CV and application writing, recognition of previous qualifications⁴⁹ and relevant and necessary training). It is essential in this respect that there is good co-operation and structures between actors at the national and regional levels and between governments, organisations and host populations. Furthermore, it is also crucial to have effective anti-discrimination legislation in place.

47. Edwards, 2006, "The Right to Work for Refugees and Asylum Seekers: A comparative view", UNHCR, No. 1.

48. UNHCR/Da Costa R. (2006), "Rights of Refugees in the Context of Integration: Legal Standards and Recommendations".

49. "Under the new Asylum Qualification Directive, Member States are obliged to endeavour to facilitate full access for beneficiaries of international protection who cannot provide documentary evidence of their qualification to appropriate schemes for the assessment, validation and accreditation of their prior learning". European Parliament (2013), Notice to Members – Petition 1690/2012, by Regine Schlacht (Austrian), on vocational training for asylum-seekers.