

## THE HUMANITARIAN ROLE OF THE INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM) AND PERSPECTIVE COOPERATION WITH SERBIA

Nela BOSNIĆ\*

*Abstract:* The Second World War left severe consequences for humanity, such as a huge number of refugees and displaced persons, especially in Europe. However, due to the divide in Europe between two economic and ideological blocks, there was no consensus to form an international organization for migration nor a specialized UN agency for migration. The highest achievement in that regard was the creation of the Provisional Intergovernmental Committee for the Movement of Migrants from Europe (PICMME) at the end of 1951. During the first ten years of its operations, the Committee has organized the relocation of more than 11 million refugees. Thereafter, this body has changed its name several times, and in 1989 it received its current name. The International Organization for Migration (IOM) quickly expanded its activities to all the continents. Toward the end of 2016, the IOM received the status of a “member of the UN system or a UN related organization”. Therefore, it has crossed the several-decade long Rubicon of separation from the UN as the head international organization. From that moment onwards, the issues of migration, refugees, asylum seekers, and displaced persons were no longer within the exclusive jurisdiction of countries but the UN as a universal world organization. Moreover, even though it has been proclaimed a non-normative organization, the IOM has succeeded in creating a number of standards in this field. At the same time, it has become the umbrella organization and the main UN instrument for solving migration issues and shaping policy in the field. Its role and competencies have significantly expanded and altered. It is increasingly becoming a norm-setter, an institution that creates norms for a specific and emerging public law

---

\* MSc in Economics, Adviser for FX Matters and Foreign Credit Relations, National Bank of Serbia Belgrade. E-mail: [nela.bosnic@gmail.com](mailto:nela.bosnic@gmail.com)

discipline – International Migration Law. The office of the IOM in Belgrade was established in 1992, whereas Serbia became a formal member of this organization in 2001 and has been developing very comprehensive cooperation with it ever since.

*Keywords:* International Organization for Migration, Global Compact for Safe, UN, Serbia, International Migration Law.

## INTRODUCTION

### **Migration as a natural phenomenon or a bugbear**

The history of mankind, to a large extent, is the history of migration. Human civilization has spread and developed through migration. Since prehistoric times, people have been leaving their habitats and establishing new ones. They did it sometimes in search of food, shelter from the bad weather, or to protect themselves from the beasts. Occasionally, they would seize the habitats of other groups. There is no continent, state or nation that to a greater or lesser extent has not experienced migratory movements, migration of population, ethnic mixing, or even forced expulsions. Regardless of the causes, circumstances, and consequences of people's mobility, migrations have brought material, cultural, spiritual, and many other forms of exchange, permeation, and intertwining over a long period of time. In general, migrations contributed to the overall growth and progress of civilization. Unfortunately, in the period of wars, migration was followed by causalities, regression, and suffering. Therefore, migration should be understood as a natural phenomenon, inherent in humans and other beings. One of the distinguished legal theorists and philosophers, Immanuel Kant, wrote at the end of the 18th century that the right to visit belonged to everyone because all people jointly own the planet Earth and, hence, "no one has more right to be in one place than the others". But since the territory is limited, people have to get used to tolerating each other and living next to each other. (Kant, 1795, p. 8). Of course, at that time, the concept of migration was not yet in use, but the concept of hospitality was. "It becomes clear that the sources of international law concerning international migration...do, in large part, fall in line with the notion of migration as natural human behavior and therefore absolute natural law" (Ernst, 2016, pp. 5. 27). Contrary to the approach that considers migration as a natural process, there is a viewpoint that considers (contemporary) migration as a problem or abnormality. Despite the fact that the free movement of persons represents the cornerstone of universal human rights,

a negative attitude towards migration has strengthened in the 21st century. The media, scholars, and politicians, who speak of migrants as persons who endanger other nations and pose a threat to peace and stability in the world, have contributed to the fear of migration. In line with this narrative, a new term, “crimmigration”, was coined to reflect the process of gradual criminalization of immigration law since 2006 (Stumpf, 2006, p. 376). Until the middle of the 20th century, people moved freely from country to country and migrated from one continent to another. Without the existence of unlimited mobility, it is hard to believe that the United States of America, Australia, and even the European Union would have reached the current level of development (Bosnić et al., 2017). But soon after the Second World War, the process of migration faced restrictions on both immigration and emigration. The rise of the ideological and political “iron curtain” between the East and the West made migration highly difficult for a few decades. An upheaval occurred in 1989. With the fall of the Berlin Wall, the mobility of people was restored and freedom of movement was proclaimed as one of the greatest values (*acquis communautaire*) of the European Union. However, new barriers to migration have gradually begun to grow. Consequently, 30 years later, there are more than 60 border fences around the world. Wire fences along the state borders were raised in the EU countries such as Slovenia (towards Croatia), Hungary (towards Serbia), Greece, and Bulgaria (towards Turkey), and Poland (towards Belarus), while the US constructed both iron and concrete walls towards Mexico. Similar walls were built between Denmark and Germany, Argentina and Paraguay, Uzbekistan and Afghanistan, South Africa and Mozambique, Kuwait and Iraq, Botswana and Zimbabwe, Saudi Arabia and Yemen. In the north of Africa, there are two completely closed Spanish immigrant enclaves – the cities of Melilla and Ceuta. The list does not end here. In addition to fences, migrants were occasionally restrained by police, the army, navy, and militant groups. Hostility towards migrants has become the focal point of some political parties in different countries. Some EU member countries showed a significant degree of inhospitality towards migrants, although in the 16th century the Europeans were the first conquerors of South and North America, and later Asia and Africa. Their expeditions caused a lot of suffering to the native population. Until the end of the 19th century, Europeans were the most numerous migrants worldwide. Over time, they imposed their own culture, languages, religion, education, habits, a system of governance, and lifestyle by various means on many nations living far from Europe. Hence, it is absurd that they fear the contemporary migrations from Asia, Africa, and Latin America could suppress the culture, customs,

and way of life of modern Europe (Bosnić et al., 2017). Many countries from which migrants are coming now to Europe were previously subject to the process of “Europeanization”. The enormous spread of the Spanish and English languages and of Christianity is the result of European expansion. Finally, European art, music, literature, philosophy, ethics, and culture are so embedded around the world that their influence is dominant. A long time ago, economists proved that migration contributed to the growth and welfare of human society. They raised the question of what would happen to the world if migration stopped. The UN “Agenda 2030” warns that sustainable development can be achieved only in the event that the current level of the working-age population is preserved. Europeans should be concerned about the fact that their population is constantly ageing and the percentage of the working-age population is decreasing. Then how will it be possible to preserve the present level of development in highly developed countries? There are only two ways: to open the door to migrants or to extend the working lives of the population. Do migrants really represent a *bugbear* for the modern world, as the leading world media are arguing? According to the UN, it is quite the opposite. Neither the percentage of migrants nor their growth is dramatically higher than that of the world population. The percentage of migrants rises slowly and gradually. In 2022, only 3.6 percent, or 282 million of the world’s population, is living outside their country of birth. The data indicated in Table 1 convincingly demystify migration and prove that the media hysteria, which has shaken the world, is absolutely unfounded.

Table 1 – International Migrants 1970–2022.

<b>Year</b>	<b>Number of international migrants</b>	<b>Migrants as a % of the world population</b>
1970	84 460 125	2,3
1975	90 368 010	2,2
1980	101 983 149	2,3
1985	113 206 691	2,3
1990	152 986 157	2,9
1995	161 289 976	2,8

<b>Year</b>	<b>Number of international migrants</b>	<b>Migrants as a % of the world population</b>
2000	173 230 585	2,8
2005	191 446 828	2,9
2010	220 983 187	3,2
2015	247 958 644	3,4
2020	280 598 105	3,6
2022 (estimation)	281 900 000	3,6

[Source: IOM-WMR 2022, pp. 24, 40]

The number of migrants began to increase slightly at the beginning of the 21st century, while the two most significant waves of migration occurred in 2015 and 2021. Truly speaking, contemporary migration was triggered by conflicts, but still, almost two-thirds of migrants are labor migrants in their search for employment. The first internal conflict of the 21st century erupted in 2001 in North Macedonia, but the strongest ones were the Western countries' coalition attacks against the Taliban in Afghanistan and, later, an intervention in Sudan as part of an international "war on terror" declared by the United States of America. Over the next two decades, there were wars in North Africa (Ivory Coast, Darfur in Sudan, Chad, Somalia, Libya), in the Caucasus (Georgia-South Ossetia, Nagorno-Karabakh), in Eastern Europe (the Crimean War), in the Middle East (Lebanon, Palestine), and in Central Asia (Iraq, Pakistan, Syria). The latest conflict broke out in February 2022 in Ukraine and is ongoing.

All these wars have instigated people from conflict zones, especially from Central Asia, the Middle East, and North Africa, to leave their homes. Most of them stayed in the same region or moved to neighboring countries, while the minority embarked on a long journey. Unlike traditional migration, which was focused on a specific country, modern migration encompasses all continents and impacts several countries, regardless of their level of development, degree of liberalization, or the nature of their regimes of power. Hence, it seems that the 21st century will remain marked as the "century of migration". The global effects of modern migration, its causes and consequences, have influenced migration management policies to become an important area of public policy at the national, regional, and

international levels. Such a development demanded a strengthening of the role and significance of the International Organization for Migration in international relations, particularly within the United Nations system.

## **INTERNATIONAL STANDARDS, MECHANISMS AND INSTITUTIONS FOR MIGRANTS' PROTECTION**

### **From individual to a common approach to migration**

In conjunction with the changes in the nature, causes, and characteristics of migration throughout history, changes in the viewpoints, policies, and laws regarding migration have occurred. Governments today perceive migration as a special phenomenon, strictly keep records of all migrants, research possible social, economic, and political effects of migration, and tend to regulate these processes. Simultaneously, they are shaping their own migration policies and appropriate working and social environment for the acceptance or rejection of migrants, mainly in line with their national interests. The Westphalian concept of state sovereignty (proclaimed in 1648) still prevails when it comes to migration. For that reason, when the need for the working population or specifically qualified workers is urgent, governments open the borders and invite migrants to enter, but in another period they close the borders and prohibit entry of migrants. Sometimes they even resort to the refoulement of migrants. Yet it seems that the phase of solely individual approach to migration surpassed its maxim by the end of the 20th century. We have been witness to the gradual penetration of a new, common, and integrated approach to migration in recent years. The very first initiative was undertaken after the end of World War II. Europe was flooded with refugees, and the issue of their settlement and transportation got on the political agenda of the main powers. To solve this problem, twelve West-oriented countries agreed in 1951 to form a provisional intergovernmental mechanism (predecessor of the IOM) tasked with the transportation of refugees. In that way, during the next decade, some 11 million refugees were moved out of Europe. However, the construction and design of the future institutions for migration were carried out slowly and with numerous controversies. Initially, assistance through the PICMME was limited to those individuals who left their homes prior to December 1951 and came from Western European capitalist countries. Apart from the World War II refugees, the other categories of migrants and vulnerable groups were neglected (i.e., economic emigrants, internally

displaced persons, asylum seekers, stateless persons, women left without husbands, children left without parents, etc.). In addition, the protection did not cover refugees from the so-called Socialist bloc. The founders were not interested in entrusting responsibility to the United Nations or a specialized agency to deal with migrations as a whole. The provisional mechanism was transformed into an organization (although with few members) for the first time in 1989, but remained outside the UN for another 27 years. Two waves of contemporary migration, the first one in 2015 and the second one in 2021, further strengthened a new approach to migration. Within a very short period of time, the international migration management policy came into the focus of the European Union and the United Nations activities. Globalization of migration has greatly contributed to such a development. Trade, financial, media, technological, and cultural connectivity and interdependence have changed the world. Many values, rules, and institutions of traditional societies have been redefined. Erosion of the state sovereignty and the gelatinization of borders are underway, together with the softening of the national laws and an increase in foreign interference in internal affairs. The rise of global corporations, the strengthening of supranational political institutions, and the continuous revolution of IC technologies have created a political environment that is favorable for migration. The spread of COVID-19 slowed migration but did not stop it. Contrary to the individual approach, the international migration management policy brought into focus the creation of a system and mechanisms for a sustainable and regulated influx of migrants, which will be controlled, directed, and well-balanced with the needs of both recipient countries and countries of origin. In such a way, illegal migration, violent incursions, and terrorist threats should be eliminated. The foundations for such a policy were already laid down at the regional level (EU, OAS, AU), in line with the resolutions and declarations of the UN, UNHCR, IOM, ILO, and others. Thus, individual interests become shaped and harmonized through collective and cooperative policy, for the benefit of all three parties – countries of origin, countries of transit, and countries of destination.

### **The emergence, role and transformation of the IOM**

The IOM was founded in 1951 as a specific temporary institution with a narrow and limited mandate. Actually, it has evolved from the provisional intergovernmental committee (*Provisional Intergovernmental Committee for the Movement of Migrants from Europe – PICRME*), tasked with assisting the relocation and accommodation of European migrants escaping from the

Second World War disaster. This task was limited by time (migrations up to 1951), territory (only migrants from the Western European countries) and in a political sense (migrants from *democratic societies*). In 1952, the notion “provisional” was removed from its name (*Intergovernmental Committee for European Migration* – ICEM). Then, in 1980, the attribute “European” was also deleted from its name, but the task remained unchanged. The current name, the IOM, was adopted in 1989 along with other fundamental changes (*Intergovernmental Committee for Migration* – ICM). Thus, after 38 years of existence, the temporary regional service for refugees was proclaimed as a permanent international organization of a general character, with the ambition to encompass all categories of migrants. Although previously limited to technical tasks, the IOM was a politicized organization from the very beginning, closely associated with the leadership of the United States of America and with a homogeneous group of developed, “white and capitalist Western countries”. The IOM additionally excluded the newly independent countries in Asia or Africa (Pecoud, 2018, p. 1624). The legal platform for such a relocation of (Western) European refugees was established through the *Geneva Convention Relating to the Status of Refugees* from 1951. The Convention was supplemented in 1967 by the *New York Refugee Protocol*, which facilitated the obtaining of refugee status and removed previous temporal, geographical, and political restrictions. Although a consolidated international regime for migration was not established in 1951, history shows that migration has been on the agenda of other international organizations for a long time (Parsanoglou & Tsitselikis, 2015, p. 13).<sup>1</sup>

The Provisional Committee for Refugees has long been on the margins of the public interest and would probably fade away in silence if the Soviet intervention in Hungary in 1956, and later in Czechoslovakia in 1968, had not provided it with a new impetus. Its reanimation was additionally instigated by the civil war in Yugoslavia (1991-1995) and the NATO aggression against the FRY in 1999, which caused mass migration. But none of these conflicts influenced the IOM to such an extent as the contemporary waves of migration, which had their peaks in 2015 and 2021. They led to the significant expansion and transformation not only of the role but also of the competences and capacities of the organization. Until these recent migration

---

<sup>1</sup> As early as 1927, Albert Thomas, who was the first director of the International Labor Organization, wrote about a need to form a supreme supranational body that would rationally and impartially control and direct migrations in the world.



flows, the IOM had long been overshadowed by two other international organizations that were directly incorporated into the UN's activities: the UN High Commissioner for Refugees and the International Labor Organization. It was only in 2016 that the IOM came out of their shadow and stepped over the wall that was separating it from the UN. On the basis of a special agreement with the United Nations, the IOM was designated as its *related organization*. From that moment, the IOM has been presenting itself as a "UN migration agency", but to tell the truth, it has not reached full membership status within the UN. Its position and status remain ambivalent. Some of the contradictions from the past are still reflected in the IOM's practice: (1) The technical nature of the IOM's work is in contrast with its embeddedness in a political environment, marked by a specific understanding of how migration (and societies at large) should be governed; (2) For a very long time, the emphasis on operational work (rather than on political/normative guidance) has been keeping up with the IOM's reputation as an efficient, results-oriented, cost-effective, and flexible organization, in a way that resembles the functioning of an enterprise rather than a UN agency; (3) The IOM's voluntarily broad mandate based on an extensive definition of "migrants" enables the organization to encompass a wide range of situations, well beyond the narrow categories that characterize other IOs (refugees for the UNHCR, migrant workers for the ILO) (Pécoud, 2018, p. 1625). The majority of the above-listed peculiarities contribute to a certain degree to the overlapping and rivalry between these three organizations. In 1951, the IOM had 23 members (16 states that founded it and seven more that joined it). Half a century later, in 2000 to be precise, the IOM reached 76 members, and then in 2016, the membership "exploded" to 166. Today, it has 174 members, eight observers, nine regional centers, and offices in over 150 countries. In addition, its annual budget exceeded two billion dollars, and the total number of employees reached 13,800. Such an expansion would make the IOM the third international organization in terms of the number of employees (Bradly, 2021, p. 254).

Undoubtedly, the IOM has grown into the most important international organization in the field of migration, aimed at the promotion of humane and orderly migration. According to the Statute, the IOM provides services and advice to governments and migrants and deals with the promotion of international cooperation in this area. Its fieldwork is dedicated to the search for practical solutions to migration issues and the provision of urgent humanitarian assistance to all migrants, including refugees and internally displaced persons. From the point of view of migration management, the IOM's activities and attention are focused on the four main areas: (1)

Migration and Development; (2) Facilitating Migration; (3) Regulating Migration; and (4) (Preventing) Forced Migration. The wide range of activities performed by the IOM includes fostering political debates, shaping guidelines on migration, collecting relevant information, promoting the international migration law, annual reporting on migration trends, monitoring of implementation of the *Global Compact for Migration's* goals, conducting research on countries' protection of migrants' rights and their health, providing help to women and children who are migrants, etc.

### **International standards for the protection of migrants**

International protection of migrants has several interconnected aspects, two of which are always at the forefront: the legal aspect and the institutional aspect. Given that each country (government) has the sovereign right to decide whether it will admit or reject a foreigner's entry into its territory, national law has priority in migrant protection. Provisions that refer to migration are usually enacted in the Law on Foreigners, the Migration Law, the Law on Internal Security, the Labor Law, and partly in a number of other laws, by-laws, and regulations (on health care, education, employment, etc.). At the international level, the protection of migrants is not regulated by an umbrella document of a comprehensive nature and with clearly defined rights and obligations, sanctions, and a competent judicial body. That is probably the reason why there is no agreement among scholars on whether the International Migration Law already exists or represents only a theoretical construction. Due to the unwillingness of states to create a comprehensive legally binding international document on migration (agreement, resolution, convention, treaty, etc.), the potential rights and obligations regarding migration are only described by the soft law terminology and expressed through political declaration, which sounds high-minded and convincingly, but does not obligate. International standards, which refer to migrants, are partly incorporated into different documents within the framework of humanitarian law but are too general. Since the implementation of such standards is a matter of national competence, there are huge differences and inequalities among countries in the implementation of these standards for all categories of migrants. Given that migrants represent a very diverse group (legal-illegal, domestic-foreign, asylum seekers, stateless persons, displaced persons, refugees, etc.), international harmonization of their rights and protection is a matter of the uncertain future. After the termination of the Second World War refugees' resettlement, the issue of migration was pushed aside for a quite long time

and the question of the international migration law received little attention from scientific researchers. In addition, scholars were discouraged by the fact that potential provisions which could be included in international migration law were spread out in numerous subsystems of international public law, mainly in international human rights law, and often were inconsistent, uncoordinated, or of ambivalent meaning. The *Universal Declaration of Human Rights* (1948) is the initial international proclamation and source of the creation of standards that should be applicable to migrants as well. It guarantees the right to life, liberty and security, the prohibition of slavery and torture and other inhumane treatment, the prohibition of discrimination, the prohibition of arbitrary arrest, detention and expulsion, the right to a fair trial, the right to private and family life, the freedom of movement, the right to citizenship, the right to marriage and family formation, the right to property, the freedom of religion, expression, assembly and association, as well as political rights. This declaration established guarantees to the right of asylum at the international level for the first time. The *Geneva Convention Relating to the Status of Refugees* (1951), with its 1967 Protocol, prescribed a protection regime for only one category of migrants, those who fled due to the circumstances of the war. The UNHCR was entrusted with monitoring the implementation of this Convention and the protection of refugees. The Convention establishes the following principles of protection: Prohibition of violent return and expulsion, Non-discrimination, Confidentiality and data protection, Family unity, Impunity for illegal entry or stay, Protection of persons with disabilities, Gender provisions, Respect for the rule of law and Provision of legal protection. The *Convention on the Elimination of All Forms of Racial Discrimination* (1965) established standards of conduct and obligations of states in this regard, stating, among other things, the need to protect migrants. States parties are obliged to ensure such immigration policies that do not result in discrimination based on race, color, origin, nationality or religion, and to provide protection to non-citizens against racial or ethnic profiling and stereotypes. The *International Covenant on Civil and Political Rights* (1966 and entered into force in 1976) has established individual and collective rights and certain measures for monitoring and observance. The standards prescribed therein apply to all human beings, including all categories of migrants. The *International Covenant on Economic, Social and Cultural Rights* (which was adopted and entered into force at the same time as the previous document) also included migrants in its regime of general protection. The *Convention on the Elimination of All Forms of Discrimination against Women* (entered into force in 1981) covered the protection of migrant

women in the social, cultural, economic, political and civil spheres, as well as in every other field of life and work. *The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984) proclaimed a general ban on such treatment of human beings, protecting all categories of migrants. A similar level of general protection, which includes migrants, was enacted as a standard in *the Convention on the Rights of the Child* (1989), *the Convention on the Rights of Persons with Disabilities* (2006), and *the Convention for the Protection of All Persons from Enforced Disappearance* (2006), as well as some other conventions. At the UN Summit in September 2016, the so-called *New York Declaration on Refugees and Migrants* was launched as the latest political platform in a long series of general documents. Due to the large discrepancy among countries, the maximum that could be achieved at the Summit was a decision to begin with the drafting of the *Global Compact on Migration*. By adopting the NY Declaration on refugees, participating countries committed themselves to the principles of general human rights protection, regardless of the refugees' status, approved their access to education not later than a few months upon arrival at the destination country, especially children, and introduced prevention and punishment of sexual and gender violence. They further supported the countries of immigration, criticized the practice of detaining children up to the moment of determining their status, condemned the xenophobia against refugees and migrants and encouraged the campaigns to combat these phenomena, committed to strengthening the positive contributions that migrants make to the economic and social development of their countries, as well as to improve humanitarian and financial assistance to the most affected migrants. In the middle of 2018, during the international conference in the Moroccan city of Marrakesh, the text of the international agreement titled "*The Global Compact for Safe, Orderly and Regulated Migration*" was harmonized and adopted. This document was accepted as the UN General Assembly Resolution later on. So far, it is the most important international document, which refers to the protection of all categories of migrants and surpasses all previous in terms of comprehensiveness. Along with the universal, three regional systems of human rights protection have been developed: American, European, and African. Each of them contains a list of standards for protection, which generally apply to migrants as well. Besides the protection at the normative level, migrants, refugees, and asylum seekers are provided with protection both at the international political and institutional levels. The most prominent institutions that cultivate and advocate comprehensive methods of migration treatment are the United Nations, the UN High Commissioner for Refugees (UNHCR), the

International Labor Organization (ILO), the International Organization for Migration (IOM), and many other organizations, institutions, and entities with less recognizable names.

## THE FRAMEWORK AND NATURE OF THE UN - IOM RELATIONS

From the legal point of view, the IOM is an intergovernmental organization, based in Geneva, with specific knowledge and expert skills, authentic status, a dense network of subsidiaries, and a twofold source of financing. It defines itself as a “leading international organization in the field of migration”, which is both an independent organization and a part of the UN system. The determination that the IOM is a *part of the UN system* was made in 2016, upon adoption of a special resolution by the UN General Assembly, which legalized the *Agreement on Relations between the United Nations and the IOM*. A similar provision did not exist in the Statute of the IOM, but after 2016, such a determination as “a part of the UN system” was constantly present on the front page of the IOM website and its handbooks, reviews, surveys, and other documents.<sup>2</sup> The Agreement on Relations was concluded with the intention of ensuring better coordination between the UN agencies and the IOM in dealing with migration, but without affecting the competence of the UNHCR with regard to refugees and the International Labor Organization with regard to migrant workers. This Agreement, after many years of the IOM’s separation from the UN, established a formal relationship and a close cooperation between the two international institutions. In that way, the IOM “has passed the Rubicon” and became an organization related to the United Nations. However, it should be noted that the UN Charter does not define the term “UN system”, nor is it clear what is understood by it. Regardless of this deficiency, the UN website on its front page dedicated to the UN system states that, in addition to the United Nations and its subsidiary bodies, it consists of the following group of institutions: a) Funds and Programs (quoted 6), b) UN Specialized Agencies (quoted 15), c) Other Entities and Bodies (quoted 9) and c) Related Organizations (quoted 7) (UN System website, 2022). However, the schematic presentation of the UN System, in the appendix, does not match this classification either by name or number (UN System, Charter, 2020, p. 1). Despite these differences in explanation of the UN System, in both cases, the IOM is classified within “related organizations”. Yet, the problem arises

---

<sup>2</sup> Original title of the foundation act is: *Constitution*.

from the fact that the notion of a related organization does not exist in the UN Charter. The UN Charter in Article 57 prescribes that various specialized organizations, established by inter-governmental agreement in the economic, social, cultural, educational, health, and related fields and having wide international responsibilities as defined in their basic instruments, shall be brought into relationship with the United Nations, in accordance with Article 63. But that article requires the specialized agencies to first sign an agreement with the UN Economic and Social Council, which will then be approved by the General Assembly. The Council (ECOSOC) may coordinate the activities of the specialized agencies through consultations with and recommendations to such agencies and through recommendations to the General Assembly and the members of the United Nations. From the legal point of view, the UN-IOM Agreement *stricto sensu* does not adhere to the wording of Article 57 and other relevant Charter provisions. The IOM was not established as a specialized agency, nor does its Constitution (statute) set out any responsibility that refers to the refugees' transportation or the provision of consulting services to the governments. The request that the IOM initially sign an agreement with the ECOSOC has never been fulfilled. Additionally, the IOM was not obliged to submit its reports to the ECOSOC or to receive its recommendations. Finally, the Agreement did not assign the UN responsibilities to the IOM in the field of migration. The responsibilities stayed with the UN. The UN is looking at the IOM as "an essential contributor in the field of human mobility" and an "organization with a global leading role in the field of migration", but not as an agency. The UN clearly declares that only the IOM member countries, within its Resolution 1309, consider the IOM "the global leading agency for migration". This missing link between the IOM as a contributor and the IOM as an agency, which refers to the unattainable status of the IOM, the IOM Director tried to compensate after the signing of the Agreement by stating that "the UN now has a UN Migration Agency" (Bradly, 2021, p. 252). Basically, the text of the UN-IOM Agreement largely imitates a typical agreement signed between a UN specialized agency and the ECOSOC, which is subject to the UN General Assembly approval, but there is one crucial difference. It is about the IOM's position as a new UN family member. The UN-IOM Agreement determines the IOM as an "independent, autonomous, and non-normative international organization", which means that the IOM has no ambition to prescribe international norms and legally binding commitments.<sup>3</sup> The degree of

---

<sup>3</sup> Article 2, paragraph 3.

independence of the IOM towards the UN is significantly higher than any other agency or organization that has joined the UN family. In this respect, the IOM maintains its own independent sources of funding but will be authorized to use the UN funds. At the same time, the IOM was not deprived of its profitable character or its specific methods of project financing.

### **THE ROLE OF THE IOM IN THE IMPLEMENTATION OF THE GLOBAL COMPACT ON MIGRATION**

The emphasis on the fact that the IOM shall not create international norms (as a non-normative organization) was set with the aim to remove a potential fear that the IOM could challenge the sovereign rights of states to decide to open or close doors for migration. The formulation of the IOM as a “non-normative” is not *per se* of a legal character, but of a political one, of course. Indeed, the IOM did not try to prescribe *legally binding rules* but continued to promote standards and encourage the behavior of countries in the desired direction. As a master of arts in transforming political stances into soft law terminology, the IOM played a key role in drafting and adoption of *the Global Compact for Safe, Orderly and Regulated Migration*. Capabilities and skills, which the IOM demonstrated during the two years of negotiations, were crucial for participants of the Marrakesh international conference to entrust the IOM with the role of secretariat and coordinator of the “UN Migration Network” (Global Compact, 2019, pp. 49-50). As a secretariat, the IOM bears responsibility for further monitoring and implementing the principles written down in the Marrakesh Agreement, which, upon adoption of the Resolution by the General Assembly, were incorporated into the UN document that introduces commitments for the member countries. Despite the absence of provisions that prohibit the inappropriate conduct of states regarding migration and that deal with possible sanctions, the *Global Compact* cannot be considered legally irrelevant. To a certain extent, the *Global Compact* possesses the force of “a soft law” because it was adopted by consensus and expresses the will of a large number of countries. Finally, the possibility that an *ad hoc court* could assess the Marrakesh international agreement as an appropriate basis for interpretation of national immigration law should not be excluded. For the first time in UN history, a body other than the UN Secretariat was given, through the UN GA Resolution adopting the *Global Compact*, the task of being coordinator and leader in the implementation of the UN General Assembly document. Such a novelty raises a lot of other questions and creates new ambivalent situations that need to be explained separately. For

example, it is known that the UN Secretariat must not receive instructions from member states nor be guided by material interests. But the IOM Statute states that this organization receives instructions from the governments and is guided by economic interests, i.e., it operates on a profitable basis. The future will show how this contradiction can be overcome. Although the *Global Compact* was defined as a document that does not represent a legally binding framework for cooperation between states and a document that confirms the primary role of national laws in the field of migration, it is obvious that the IOM's position was strengthened through the *Global Compact*.<sup>4</sup> Relying on the *soft law* wording, the IOM indirectly came into position to further shape, direct, and guide the activities of states in the field of migration management. The joint responsibility of states, common principles and values embedded in all the 23 Compact's goals are articulated in a similar way as the rights and obligations of states are usually defined in international relations. With the adoption of the *Global Compact* in 2018 as the most important international platform for migration management, the majority of initial values from the previous separate documents on migration were sublimated and consolidated in one place. The largest basis for further development in this field of international cooperation was laid down through standards, goals, values, recommendations, and policies of numerous human rights instruments adopted between 1975 and 2000. They also represent the foundation and source of further shaping and construction of International Migration Law as a specific discipline within international public law.

## SERBIA AND THE INTERNATIONAL ORGANIZATION FOR MIGRATION

The IOM office in Belgrade was opened in 1992, soon after the beginning of the civil conflicts within the former SFRY. However, the Republic of Serbia became a member of the IOM in November 2001. Since then, very good cooperation has been established with this organization. The tragic experience of the civil war, which resulted in a large number of refugees

---

<sup>4</sup>The Global Compact is not an international agreement but a kind of joint statement, supported by 152 countries. However, 41 countries did not join it, including the United States of America, Israel, Australia, Argentina, Chile, Switzerland, and nine EU members. Russia put a hold on certain provisions. Croatia is the only former SFRY republic that did not support the Global Compact.



and displaced persons, certainly contributed to that. Between 1990 and 1995, the Republic of Serbia received many refugees and persons expelled from other republics. There is a saying that “Serbian people built a house on the main road”. That is the shortest explanation for why migration was so frequent in the history of Serbia. For different reasons and causes, international migration left a huge impact on the Republic of Serbia and the Serbian people who lived across Yugoslavia and were the greatest national group. The civil war in the SFRY made Serbia both a country of destination for refugees and internally displaced persons and a country of origin for a small number of emigrants to the European Union and the United States of America. During the two mass migration waves to Europe in 2015 and 2021, Serbia demonstrated a high level of understanding and cooperation in helping refugees, providing shelter and medical care to them as well as to other categories of migrants. With its open and humane policy towards migrants, it became a regional leader in the protection of migrants, although it sometimes encountered misunderstandings from some neighboring countries or the European Union members. For international migrants, Serbia was only a country of transition, while Germany and other developed EU members were their main destinations. But Serbia was under pressure to receive and keep a higher number of migrants than its capacity allowed. Despite that, according to the EU plan for refugees’ acceptance in 2015 (EC, 2015, pp. 6-17), and the New Pact from 2020 (EC, 2020, pp. 609), Serbia showed more understanding for such a carefully balanced approach than some highly developed and influential member states of the European Union.<sup>5</sup> The Republic of Serbia belongs to a small group of countries that passed a special *Law on Migration Management*, improved regulations on asylum seekers, expanded possibilities for employment of foreigners, adopted six sectoral oral strategies, allocated substantial funds for migrants’ accommodation, and provided jobs for a significant number of migrants (RS, 2012). According to data from June 2021, all migrants that crossed the territory of Serbia or decided to stay there received a vaccine against COVID-19. There were 3,977 migrants accommodated in the refugee and asylum centers in Serbia, while in the previous period, over 38,000 illegal border crossings were prevented. The main government body for cooperation with the IOM’s Office in Belgrade is the *Commissariat for Refugees and Migration of*

---

<sup>5</sup> The titles of the documents are: *A European Agenda on Migration* and *Migration and Asylum Package: New Pact on Migration and Asylum* (this second document contains 11 documents).

*the Republic of Serbia.* So far, in accordance with the policy, priorities and needs of the Government of Serbia, the IOM has implemented almost 40 different programs in Serbia, from the ones that provided support after the termination of the *state of emergency*, through those combating trafficking, assisting voluntary return, including compensation programs and durable solutions for refugees and internally displaced persons, to those aimed at capacity building in the field of migration management, and others. At this moment, the most significant project, which is in progress, refers to “Strengthening Capacities and Partnerships for Migration Management in Serbia”. It is of great significance due to the fact that Serbia has faced all forms of international migration: external and internal, forced and voluntary, regular and irregular, migration of highly qualified and unskilled workers, immigration and emigration. This diversity poses a number of different but certainly related challenges in modern migration management. In close partnership and coordination with the Ministry of Internal Affairs and the Commissariat for Refugees, the IOM Mission in Serbia has supported national efforts to manage and respond to the challenges that migration brings. The Republic of Serbia has shown its readiness and ability to tackle these challenges in a comprehensive and holistic way, both through specified steps and through innovations in the normative framework of migration management. These activities have been implemented with high respect for European standards and even the broadening of the European Union’s legal framework. At the same time, the national requirements necessary for the transformation of migration into a positive force for the country’s further economic and social development were strictly respected. The work of the IOM in Serbia is characterized by the provision of assistance to vulnerable persons and a strong presence on the ground, which are the basis for a solid and lasting partnership with the governments, as well as with national and local NGOs. Thanks to open dialogue and true partnership, the IOM has accomplished its planned activities in Serbia.<sup>6</sup>

## CONCLUSIONS

Contemporary migration, which marked the first two decades of the 21<sup>st</sup> century and was followed by media exaggerations and selfish approaches of some of the most developed countries in the world, has led to the evolution of the role and position of the IOM in international relations as

---

<sup>6</sup> These assessments are presented on the Commissariat’s website.

well as the proliferation of numerous documents, declarations, resolutions, and platforms concerning migration. So far, none of the international organizations has experienced such a fast breakthrough and transformation as the IOM has. For many decades, the IOM operated in a political shadow, from which it stepped out only when it was asked to help with the transportation of new refugees or provide advisory services to the governments. But in 2016, almost overnight, it evolved into the main instrument of the UN and the leading international organization in the field of migration. From the margins of international affairs, it has arrived at its epicenter. The IOM joined the UN system as a related organization and was entrusted by the UN to coordinate migration policy and migration management at a global level. Given the fact that we live in an epoch of highly developed mobility of the world population, that migration has become more visible than ever before, and knowing that the UN has opted for comprehensive, common, conflict-free, and balanced migration management, it is clear that the importance and role of the IOM on the international scene will continue to grow and strengthen. Its development will flow in two directions. On the one hand, the IOM's influence, tasks, and contributions within the United Nations system will further increase. Thanks to the high degree of independence, specific dual financing system, and decentralized decision-making mechanism, it will have more space for maneuver and an advantage in achieving practical results than any other UN humanitarian or specialized organization. It will continue to articulate, amend, supplement, and elaborate on principles, standards and models of comprehensive, balanced, and cooperative migration management. Consequently, better protection of migrants and further harmonization of migration policies and principles could be expected. Long-lasting and reinforced attention to migration, the gradual redressing of political proclamations into normative clothes, constantly expressing standards of migrants' protection as the governments' commitments and obligations, could open the door for reshaping of the soft law instruments into the hard law provisions. Over the last few decades, international norms have overwhelmed almost all areas of human activity. They have gone far beyond the framework of classical state regulation, thus giving human rights and individual liberties a supranational character. This process gradually encompasses the field of migration. Nothing is surprising in the statement that: "The movement of persons across borders is international in essence: it presupposes a triangular relationship between a migrant, a state of origin, and a state of destination. Migration is, thus, a matter of common interest that cannot be managed on a purely unilateral basis. In the New York

Declaration for Refugees and Migrants, it is apostrophized that the movement of people across borders is a phenomenon that requires a global approach and solutions. No State can manage such movements on its own" (Chetail, 2019, p. 4). In any case, the foundations for constituting the International Migration Law as a specific scientific discipline or branch of International Law have already been laid. The IOM's future activities will further contribute to such a development. Due to the essential evolution of the IOM's position, its new role in international relations, and features that distinguish it from other organizations, sometimes it is difficult to understand and explain the nature of the IOM. The IOM works closely with the specialized UN agencies and acts as part of the UN system, but it is only a "related" organization, not a full member. The IOM was formed as an intergovernmental organization, but in practice it also functions as a private company, competing for projects and funds with non-governmental organizations. Its partners are both state institutions and civic groups. Its focus is on migration, but it also deals with issues that are completely separate, such as rebuilding affected areas, education of children, and so on. It was founded to carry out migrants' relocation and to help them, but sometimes it works against migrants, especially when it organizes the return of unwanted migrants and prevents the arrival of those who do not have proper documentation. When observed from the outside, it gives an impression of a centralized organization, but it actually works as a network of closely connected field offices, which deal with a wide variety of issues and could easily switch to some other task in line with new circumstances. However, in the current imperfect world, which is dominated by imperfect states, this and such an international organization has strengthened its capacities, expanded its role and become the most influential in the field of migration, both inside and outside the United Nations.

## REFERENCES

- Belgrade center for human rights. (2019). Global Compact for Safe, Orderly and Regular migration, in: Bogdan Krasić (Ed.), *Library Documents no. 17*, Serbia, Belgrade Center for Human Right.
- Bosnić, N., Vasić, D., Vasić, N. (2017). Stability instead of growth rate acceleration - Chine's shift in economic development strategy, in. Radosavljević, Ž. (Ed.). *Pravo, ekonomija i menadžment u savremenim uslovima LEMiMA*. (pp. 533-540). Beograd, Fakultet za poslovne studije i pravo i Fakultet za strateški i operativni menadžment.

- Bosnić, N., Vasić, D., Vasić, N. (2016). Holocaust in the Light of Migrant Crisis in Europe, in: Radosavljević, Ž. (Ed.). *Suffering of Jews, Serbs and Roma and others in the forer Yugoslavia*. Beograd, Fakultet za poslovne studije i pravo
- Bradley □ Megan (2021). Joining the UN Family? *Global Governance: A review of Multilateralism and International Organizations*, (27), pp. 251–274.
- Commissariat for Refugees and Migration of the Republic of Serbia (2022). Retrieved from: <https://kirs.gov.rs/cir/migracije/o-migracijama>. Accessed 15.05.2022.
- Chetail V. (2019). *International Migration Law*, London, Oxford University Press.
- European Commission. (2015, May 13). *A European Agenda on Migration*, Brussels, Belgium; EC COM (2015) 240 final, pp. 6-17.
- European Commission (2020, September 23) *New Pact on Migration and Asylum*, Brussels, Belgium EC COM(2020)609.
- Ernst, M. (2016). International Migration as Absolute Natural Law: An Inquiry into International Migration from the Perspective of Legal Philosophy. *Yonsei Journal of International Studies*, 8 (1). pp. 14-29.
- IOM-World Migration Report 2022. (2021, December 1), in: Marie McAuliffe & Anna Triandafyllidou (eds), Geneva, Publisher: International Organization for Migration.
- Kant, I. (1795). *Perpetual Peace: A Philosophical Sketch*. Retrieved from: [http://fs2.american.edu/dfagel/www/Class%20Readings/Kant/Immanuel%20Kant,%20\\_Perpetual%20Peace\\_.pdf](http://fs2.american.edu/dfagel/www/Class%20Readings/Kant/Immanuel%20Kant,%20_Perpetual%20Peace_.pdf). Accessed 10.05.2022.
- Parsanoglou, D., Tsitselikis, K. (2015). *The Emergence of the -International Regulation of Human Mobility*, International 'Migration Management' in: Lina Venturas (Ed.), *The Early Cold War*. The Intergovernmental Committee for European Migration, Corinth, University of the Peloponnese, pp. 13– 32.
- Pecoud, A. (2018), What do we know about the International Organization for Migration? *Journal of Ethnic and Migration Studies*, 44 (10), pp. 1621-1638.
- Republic of Serbia. (2012, November 8). *The law on Migration Menagamen*, *Official Journal of RS*, (107).
- Stumpf, J. (2006, December). The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power, *American University Law Review*, 56 (2), pp. 367-479.

United Nations. (2000, March 21). *Replacement Migration: Is it A Solution to Declining and Ageing Populations?*, New York, Population Division Department of Economic and Social Affairs, United Nations Secretariat, ESA/P/WP.160.

UN System website. (2022). Retrived from: <https://www.un.org/en/about-us/un-system> Accessed 10.05.2022.

UN System-Chart. (2022). Retrived from: [https://www.un.org/sites/un2.un.org/files/2021/09/un\\_system\\_chart.pdf](https://www.un.org/sites/un2.un.org/files/2021/09/un_system_chart.pdf). Accessed 10.05.2022.