

Gender, Migration and intercultural Interaction
in South-East Europe
(www.gemic.eu)

Policy Analysis Report (WP3)

Former Yugoslav Republic of Macedonia

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Grant Agreement no. 216065



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Introduction: Policy Context

Migration trends have profound consequences on the demographic and socioeconomic conditions of any country. Analysis and assessment of migration trends of the Republic of Macedonia are very difficult because of limited sources of data. To monitor the migration trends, there are several data sources that use different definitions and methodological approaches, and therefore the comparability and the scope of data on migration are limited. According to the available data, the Republic of Macedonia could be recognized as a country with significant emigration, brain drain and short-term labour migration.¹

Most of the data regarding highly skilled labour emigration from the Republic of Macedonia can be found in certain projects or studies. The data in this category is very poor and does not reflect the real situation in the country. The negative impact of emigration from the country affects the whole process of transition. In the last decade, 12000 to 15000 young, educated, and highly skilled persons emigrated. In the Republic of Macedonia, there is no consistent emigration policy, including policies on highly skilled labour. In recent times, the Government has made efforts to apply a comprehensive and systematic migration policy and to take proper actions in adopting the relevant legislation. The Law on Foreigners was formally adopted in February 2006, envisaged for 31 March 2007, but has apparently been delayed to 2008. The new law regulates and develops the EU minimum standards on many migration issues. A new Law on Employment was enforced in 2007. It deals with the details related to foreign nationals residing and working on the territory.² As a standard, EU legislation reflects the peculiarities of the Macedonian society, and improves the national legal system.

Despite severe constraints on traveling (visa regimes in the majority of countries of destination) there is a permanent flow of emigrants.³ This is not a new tendency, as experience of living in the former Yugoslavia allowed for higher internal migration across that country. Business and private relations still existed after the break up of Yugoslavia facilitating migration flows to the countries in the region. Macedonians have also migrated to other countries and the most popular destinations are Germany, Australia, Switzerland, Italy, USA, and Canada. The poor economic performance during the 1990s, the Kosovo crisis and the 2001 internal security crisis increased the number of emigrants and asylum seekers.

According to the official data of the Statistical Office collected by the Ministry of Internal Affairs, the net flow of international migration is positive, which means that due to immigration the population of Macedonia should be growing. The sample which is limited to the citizens of Macedonia confirms this trend: for the past years Macedonians were mostly coming back instead of emigrating. The exception is the period from 2005 to 2007 when emigration of Macedonians increased. Still, these are not big figures – the outflow in 2005 was equal to 758 persons only. It should be stressed that these figures are probably non representative of the actual flows although there is a legal obligation to register in case of emigration/ immigration. However it is possible to leave the country or to come back without

¹. United Nations, 2008, *Measuring Population Movement and Integration in a Globalized World*, Economic Commission For Europe, Economic And Social Council, , Ece/Ces/2008/23

². Ibid.

³. Markiewicz Malgorzata, 2006, *Migration and Remittances in Macedonia*, Canter for Economic Analyses (CEA), October, Skopje.

fulfilling this obligation. So those who get work at the country of destination and decide to stay there are not counted. Migration flows are constrained by visa regulations – Macedonians need visa for almost all countries with the exception of some former Yugoslav countries and the former Soviet Union countries. Moreover, the visa costs, which are substantial in relation to the level of incomes, may set important limitations on legal emigration.

Granting candidate status to Macedonia the EU set many conditions concerning migration. It is demanded to reduce illegal migration flows, ensure safe return of illegal migrants, and build capacity to better manage migration. It is necessary to develop a central database for all aliens covering asylum, migration, and visas. As for migration, the EU commission stressed that 2002 population census did not cover registration of emigrants and immigrants hampering the determination of net migration. To some extent this gap is covered by the Labor Force Survey conducted regularly.

An important part of European integration is the process of harmonizing legislation of the Republic of Macedonia with that of the EU. To this end, the Macedonian government adopts a National Program for the Approximation of Legislation (in partnership with EU) every year, which, among other things, earmarks the EU directives to be incorporated into the Macedonian legislation within a given timeframe. It must be noted, however, that such efforts are usually made without a clear understanding of underlying policies. EU directives are incorporated into acts of law, but these laws are perceived as policies *per se* and not as instruments for accomplishing a given goal. In consequence, laws do not produce the desired results. From the EU directives constituting the subject of this report, the government of the Republic of Macedonia has incorporated those addressing the issues of equal pay and equal treatment of women and men. The other EU directives in question are at different stages of the same process: some are in the translation phase and some have already been submitted to the appropriate ministries. Therefore, the findings of this report concerning EU directives already fully incorporated into Macedonian legislation are presented in more detail and greater depth than findings on EU directives not yet incorporated into Macedonia's legal order, and tilt toward offering recommendations and guidance, rather than solid facts, on how to integrate them into Macedonian legislation.⁴

1. Gender in Migration Policies

One aspect of migration policy that is often ignored but is a consequence of the multidimensional nature of the issue, is the bureaucratic nature of the process. Rarely is migration policy the responsibility of a single government ministry or department. Thus, to speak of "migration policy" as if it were a homogeneous and uncontested entity is deceptive: the temptation exists to essentialize it into unity that obscures intrinsic tensions and contradictions.⁵

According to the new **Law on Foreigners** article 8: "The Assembly of the Republic of Macedonia shall, upon proposal of the Government of

⁴ Friscik Jasminka, Dimova Lidija, 2006, *On the Road to the EU: Monitoring Equal Opportunities for Women and Men in Macedonia*, OSI/Network Women's Program.

⁵ Skeldon Ronald, Migration And The Policy Process, http://www.hku.hk/cupem/home/SRT/2223_March_Conference_Papers/Skeldon_paper.pdf

the Republic of Macedonia, bring a resolution on migration policy specifying situations, problems as well as measures to be undertaken in the field of migration". However the Government of the former Yugoslav Republic of Macedonia does not have yet a specialized Agency with the role of migration management, but different ministries cover different migration issues.⁶

The new laws on migration, regulates and develops the EU minimum standards on: entry and admission; stay and residence; expulsion and voluntary return; irregular migration; trafficking in human beings and migration statistics and data protection.⁷

A new **Law on Employment of Foreigners was enforced** (April 2007) is on the line with the EU Acquis and follows the Migration Strategy. It deals with the details regarding the regularization of the status of the foreign nationals residing and working in the territory of the former Yugoslav Republic of Macedonia.⁸

– **Law on Movement and Residence of Aliens** ("Official Gazette of the Republic of Macedonia," Nos. 36/92, 66/92, 26/93 and 45/02), which regulates: the entry of aliens, visas, residence of aliens, travel and other documents for aliens, sojourn and residence of aliens, records of aliens and offences against aliens;

A new **Law on Employment of Foreigners was enforced** (April 2007) is on the line with the EU Acquis and follows the Migration Strategy. It deals with the details regarding the regularization of the status of the foreign nationals residing and working in the territory of the former Yugoslav Republic of Macedonia.⁹

The Government of the former Yugoslav Republic of Macedonia has formally adopted the **Law on Foreigners** (in February 2006; its enforcement was envisaged for the 31st of March 2007 but has apparently been delayed to 2008). With this act the country aligned its migration legislation with the EU Acquis.

– **Rulebook on the Manner of Issuing Travel and Other Documents and Visas to Aliens and the Form of The Documents and Visas** ("Official Gazette of the Republic of Macedonia," No. 75/93), defines in detail the procedure envisaged in the aforementioned Law: issuing travel and other documents to foreigners, issuing visas, residence permits, the contents of the records and the manner of their keeping, the form and contents of all prescribed forms;

– **Guideline on the Manner of Issuing Travel Documents and Visas to aliens** by the Diplomatic and Consular Missions of the Republic of Macedonia Abroad and on the Manner of Keeping Records of Issued Travel Documents and Visas to Aliens ("Official Gazette of the Republic of Macedonia," No. 10/98), which elaborates the detailed procedure and conditions

⁶ International Organization for migration 2007, The Former Yugoslav Republic of Macedonia Migration Profile, (IOM), Ljubljana, September., p.29

⁷ EU Model Alignment Strategy on Migration, Macedonia - 15th of December 2005, Brussels. The EU Alignment strategy for Macedonia was produced within the framework of a CARDS Regional Programme on the "Establishment of EU compatible legal, regulatory and institutional frameworks in the fields of Asylum, Migration and Visa matters" (CARDS AMV). The strategy obligates the former Yugoslav Republic of Macedonia to implement the minimum standards in the following areas for the period of the next 2 years

⁸ The Former Yugoslav Republic of Macedonia Migration Profile, International Organization for migration (IOM), Ljubljana, September 2007., p.31

⁹ The Former Yugoslav Republic of Macedonia Migration Profile, International Organization for migration (IOM), Ljubljana, September 2007., p.31

for issuing visas and travel documents, the forms for the visa/travel document application and records on the issued visas/travel documents.

In addition to the aforementioned regulations, migration is also regulated by bilateral agreements. The Republic of Macedonia signed readmission agreements with a number of countries. In the context of migration, the National Action Plan on Migration and Asylum (NAP) of the Republic of Macedonia is of a special importance. **The National Action Plan on Migration and Asylum of the Republic of Macedonia** represents a strategic document adopted on 9 December 2002, prepared by the State Team composed of representatives of the Republic of Macedonia, Sweden (leading country), Denmark, Norway and Bulgaria, and representatives of the Office of the High Commission for Refugees of the UN, the IOM and the International Migration Policy Centre. The National Action Plan entails a review of the present situation and elaborates what needs to be done in terms of legislation, as well as the plans and projects in the fields of asylum, then migration, readmission policy, border control, information-telecommunication aspects of the migration and 80/288 asylum fields, integration and citizenship and regional cooperation.

Temporary residence permits may be renewed for no longer than one year, upon application filed by the foreigner prior to the expiry of the current temporary residence permit. The temporary residence renewal grounds are the same as the grounds upon which the permit has been initially issued or previously renewed. The foreigner shall be refused a temporary residence permit or renewal of the temporary residence permits if:

- There are no grounds to issue the permit (non-existence of the above mentioned grounds);
 - He/she does not possess subsistence means;
 - He/she has entered in the Republic of Macedonia in breach of the provisions on entry set forth in the Law on Movement and Residence of Aliens;
 - He/she has been expelled (following a court procedure) or has been withdrawn residence in the Republic of Macedonia for the duration of the measures;
 - He/she is entered in the records of the competent bodies as an international offender or one in respect of whom there is reasonable suspicion that he/she comes to the Republic of Macedonia with the intention of performing terrorist or other criminal offences;
 - He/she has provided false personal data or false information about the purpose of the travelling or residence, in the visa application or upon entry into the Republic of Macedonia, or he/she has used forged documents;
 - He/she does not possess documents based on which his/her identity can be established;
- and
- If he/she comes from an area where there are contagious diseases and does not have evidence of immunisation.

The foreigner has the right to file an appeal to the Second Instance Commission for administrative procedure in the field of Judiciary, Internal Affairs, State Administration, Local Self-government and Religion within the Government of the Republic of Macedonia, against the decision refusing temporary residence permit, within 15 days from the receipt of the decision.

Residence may be withdrawn on grounds of a temporary residence permit (or on grounds of issued visa or on valid travel document of a country with which a visa free regime is into force) if:

- This is required by reasons of protecting the security and defence of the Republic of Macedonia;
- If he/she refuses to fulfil decisions of the state authorities;
- He/she repeatedly seriously violates the constitutional and legal order, public peace and order, or the security of the state border of the Republic of Macedonia;
- He/she violates the provisions set forth in the Law on Movement and Residence of Aliens;
- In the visa application or upon entry in the territory of the Republic of Macedonia he/she has presented false personal data or false information about the purpose of the stay or is using forged documents;
- She/he has been convicted for a crime to an imprisonment of at least three months by a foreign court or a court in the Republic of Macedonia;
- He/she no longer has subsistence means, while the subsistence means in the course of the stay in the Republic of Macedonia are not otherwise provided for; and
- On grounds of protecting the health of citizens.

In issuing the decision withdrawing residence the following is also taken into consideration: the length of the residence in the Republic of Macedonia, his/her personal, economic, and other ties in the Republic of Macedonia and the ensuing consequences of the applied measure for him/her and his/her family.

1.1. Migration

According to European Commission, good progress can be reported in the field of **migration**.¹⁰ Implementing legislation to the **Law on employment of foreigners** was adopted and **The Law on aliens** and the associated implementing legislation entered into force. The readmission agreement with the European Community entered into force. As the number of returned people rose compared with the previous year, efforts should be put into integration of readmitted persons. **Secondary legislation on migration policy and an integration policy plan are still lacking.** A readmission agreement was signed with Bosnia and Herzegovina, bringing the number of readmission agreements with non-EU Member States to five. Readmission agreements were concluded with Moldova and Ukraine and are being negotiated with Serbia and Montenegro. In the course of 2007 the border police detected 1,085 illegal crossings (compared with 3,302 over the previous reporting period) and prevented 1,919 illegal attempts to cross the green border.

The Law on employment of foreigners and the Law on aliens are not yet being fully implemented. Administrative capacity improved, but remains unsatisfactory. Staffing levels at the Ministry of Labour and Social Policy are still insufficient. In this area the country is advanced.

1.2. Asylum

There has been further progress in the area of **asylum**. The new reception centre is operational. The first steps have been taken to develop the central database for aliens, covering asylum, migration and visas. However, asylum procedures are not yet fully in line with European standards. The identity documents stipulated in the implementing legislation were still not being issued to people covered by the law. The decision-making procedures

¹⁰ Commission of The European Communities. **The Republic of Macedonia 2008 Progress Report**. Brussels, 05.11.2008 Sec(2008) 2695 Final

and appeals system require further improvement. Amendments to the Law on asylum and temporary protection, notably in the area of subsidiary protection, have yet to be enacted. The authorities have still not fully taken over from the international community responsibility for providing financial and material assistance for asylum-seekers. There is still a lack of properly trained staff, proper equipment and adequate budgetary support. In this area, legislative alignment is advanced and development of the administrative capacity is well on track.

1.3. Visa Policy

Further progress has been made in the area of **visa policy**. The Law on aliens and the implementing legislation regulating issuance and processing of visas entered into force. Visas are no longer issued at the borders, save in exceptional cases. An agreement on a visa-free regime with Albania was ratified by parliament. Visas for citizens of Albania will be issued at the borders until the agreement enters into force. A visa facilitation agreement with the EC entered into force, and a visa liberalisation dialogue with the EU was launched. Bilateral visa facilitation agreements were signed with Norway and Russia. New biometric passports and temporary and permanent residence permits are being issued in line with international security standards. High-quality travel and identity documents have begun to be delivered. A new visa sticker has been developed, based on the Schengen visa model. A national IT visa management system and a visa centre are in operation. The relevant staff are undergoing the necessary training. However, the administrative capacity of the Department for consular affairs needs to be strengthened, especially its human and budgetary resources. Visa provisions are still not fully aligned with the EU negative list. Preparations in this area are well advanced.

1.4. External borders and schengen

There has been progress in the area of **external borders and Schengen**. The integrated border management strategy and action plan were almost fully implemented. **The Law on State border** surveillance and the related implementing legislation are being implemented. The process of border demarcation with Kosovo is almost complete. International cooperation is established at all levels and contacts have been established with FRONTEX with a view to concluding a working arrangement.

The national border management coordination centre assumed its functions and is partially operational. Improvements have been made to the planning and conducting of training for border police, but there is still too much variation in the level and sorts of training that the different border officers receive. An overall strategy on human resource management for the border police has not yet been adopted and an in depth analysis of the staffing situation is lacking. The data communication network for the border crossing points (BCPs) is still only partially operational. The main database and software to connect the BCPs to this database, which would permit effective border control in line with Schengen criteria, are still lacking.

The first steps have been taken to develop the database. Some of the premises and offices, especially of the small BCPs and border police stations, remain in dilapidated condition and are not adequately equipped. Although BCPs generally seem to have enough equipment for checking documents, added value will be derived only if proper use is made of the equipment in combination with profiling. More attention should be paid to profiling by the border police

at the road border crossing points and to providing them with risk information to combat illegal migration effectively. The budgetary support is unsatisfactory. In this area the country is advanced.

The most significant manifestation of the problem of illegal migrations in Macedonia, is the issue of human trafficking. Trafficking of human beings as one of the forms of illegal migration in the Republic of Macedonia is demonstrating a strong gender orientation.

A newly formed collection of international institutions and international organisations, with internal, operational definitions of trafficking, has shifted the understanding of human trafficking. The presence of international organisations such as the Organization for Security and Co-operation in Europe (OSCE) and the IOM has pressed states and non-governmental organisations to redefine their attitudes to migration, smuggling, and prostitution. By the end of the nineties, police took over operations aimed at discovering organised groups behind this criminal activity. The aim of their actions was to identify the organisational networks for trafficking, their internal structure, channels of illegal migration, and the domestic and international connections of crime groups.¹¹

However, the Macedonian legal framework did not have provisions to care for the victims of trafficking. Traffickers could be established as mediators in the prostitution business, and victims as illegal immigrants. Given that Macedonian legislation does not deem prostitution a criminal act, female immigrants, who had a valid residence status in the country, but were involved in prostitution, were expelled from the country for violating public order. It is because prostitution in the Macedonian legal system in part is regarded as violating public order. Although the fight against trafficking in women has been carried out with all available means, these have been revealed as non-efficient and discriminatory. There was no appropriate distinction between trafficking in and smuggling human beings.

It was precisely this distinction that was made possible by the Palermo "UN Convention against Transnational Organized Crime" in 2000, and its Protocols on human trafficking and the smuggling of immigrants. The Republic of Macedonia, as a signatory of this Convention, has taken on the obligation to build on the wording of the Convention in its legislation, resulting in the passing of a special provision of the Criminal Code entitled "Trafficking in human beings" Article 418a (2002). The national programme for the fight against human trafficking and illegal immigration (2002) is a document that conceptualises the phenomenon of trafficking in human beings by determining the priorities in a wide range of areas such as legislation, social policy, outlining various preventive measures in the fight against human trafficking. However, the approach to describing and fighting the phenomenon of human trafficking remains an exclusive issue of the fight against organised crime, and is still less an issue of human rights protection.

The difficulties in anti-trafficking in women result not only from the global approach, but are also of a conceptual nature. One of the key differences between smuggling and trafficking is that immigration can be a voluntary decision made by a person to leave a country of residence, while smuggling is illegal entry into a country, which is a crime against the state, rather than a crime against a person as well. Human trafficking is a crime against a person because, unlike smuggling, it excludes the principle of voluntary decision, although an

¹¹. Badarevski Bobi, 2006, 'Critical Discourse Analysis of the Trafficking in Women in Print Media in Macedonia: A Gender Perspective', in: Nirman Moranjak Bamburac, Tarik Jusic, Adla Isanovic (eds.) *Stereotyping: Representation of Women In Print Media In South East Europe*. Sarajevo: Mediacentar

element of acquiescence may be present. Coercion, exploitation, and abuse of powerlessness comprise the essence of trafficking in people regardless of the immigration status of a person - whether legal or illegal - and regardless of the motivation and activities of the immigrant, even if these entail prostitution.

These problems determine the situation of trafficking in women. There is no unified data on the number and scale of trafficked persons, especially women and children in Macedonia, broken down according to whether the country was entered in transit or as destination. Based on the number of processed victims in the Shelter centre within the Ministry of Interior, formed in cooperation with the IOM, unofficial estimates reveal that over 5000 women are victims of trafficking in Macedonia. This estimate is also warranted by the information that, between 2003 and 2004, 12,000 people were deported from Macedonia to their countries of origin. It is impossible to determine which of these were victims of human trafficking and which were illegal immigrants. A similar situation is present today: the authorities only report on the number of trafficked people and illegal immigrants identified by an internal methodology inaccessible to the wider public. The results of such an approach are detrimental to the treatment of victims of human trafficking, to preventive activities and to legal aspects of the fight against trafficking. Conceptualised as a problem of prostitution, the logic of trafficking in women in the context of sexual exploitation identifies the victims of trafficking as accomplices in the phenomenon. The immigration of women who are aware that they are entering into the sex industry in the territory of Macedonia is a stumbling block for experts and authorities in the assessment of their status as victims. To the notion of an innocent victim that lies at the core of the concept of trafficking in women is now opposed the victim who enters into the system of trafficking, using it for her own immigration or economic aims. This poses a question as to how to recognise the true victim of trafficking in women. The logic in unofficial discussions goes along the following lines: Unless in clear cases, some women may be more naive than others, but far from all are innocent victims. Incredulity in relation to the innocence of victims results in the conceptualisation of aware female immigrants and aware female sex workers.

In the context of the trafficking in women as an immigration issue, the conceptualisation remains similar. The logic at work here is that women cannot willingly immigrate or, if they do so, then they are solely and exclusively involved in the field of sexual exploitation, rather than in economic migration. Although the statistical figures on smuggling human beings reveal that women immigrate illegally due to a wide range of causes, this is not an issue for the Macedonian authorities. The prevention campaigns focus predominantly on immigration. If nobody seems to be what they truly are, meaning that a friend, a lover or relatives are all potential pimps involved in the trafficking net, then it is best to stay at home - such is the overall message of all these campaigns.

1.5. National Legal Framework on Trafficking in human beings

Trafficking in human beings as a separate criminal act was criminalised with the adoption of the Law on changes and amendments to the Criminal Code of the Republic of Macedonia. The scope of making trafficking in human beings (Article 418-a) a law has been redefined in 2004, encompassing recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation, either within or outside a country. The purpose of exploitation includes prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery and servitude or removal of organs. The revisions introduce

stricter punishment for the perpetrators of the crime, as well as confiscation of the means used for committing the crime.

This Law introduced two new articles: Smuggling of migrants (Article 418-b) and organising a group or encouraging the commission of the offence of human trafficking and smuggling of migrants (Article 418-c). A new Law for witness protection was also adopted in 2005. Prostitution is not a criminal act, but an administrative offence. Mediation in conducting prostitution (Article 191) provides sanctions against a person who recruits, instigates, stimulates, or entices another to prostitution, or a person who, in any kind of way, participates in turning over a person to another, for the purposes of prostitution.

The Government of the Republic of Macedonia in order to contribute to the development of bilateral relations, has signed and ratified Agreements of Cooperation in the fight against terrorism, organised crime, illegal trafficking of narcotic drugs, psychotropic substances and precursors, illegal migration and other criminal acts with: Albania, Bulgaria, Serbia and Montenegro, Romania, Slovenia, France, the Ukraine, the Swiss Confederation, and the Kingdom of Norway. The aim of these agreements is to enhance cooperation in the prevention and prosecution of organised crime. These agreements establish direct communication between the Ministers of Interior/Police of contracting parties. On the basis of the above mentioned agreements, the following documents were also signed: Protocol on Defining Directions and Modes of Cooperation in the Field of Border Crossing Control and Prevention of Illegal Migration between the Ministry of Interior of the Republic of Macedonia and the relevant ministries of the Republic of Bulgaria, Albania, and Greece. Cross border cooperation with neighbouring countries is based on concluded bilateral/international agreements regulating specific areas of cooperation. Furthermore, joint bodies are established for cooperation in specific areas of interest.¹²

The programs in place at the shelter for trafficked women and girls are accepted only by victims who are ready to go back to their country of origin, while trafficked women who do not want to take part in the International Organization for Migration program have no other option but to be deported. One cannot identify the internally trafficked women and children in the state, although there are indications that they exist in the country. Close to 70% of the trafficked women from South - Eastern Europe may not or will not go back to their country of origin due to fears of condemnation, prosecution, and lack of trust in the local authorities'

¹². Cooperation with neighbouring countries is also maintained through various regular, as well as ad hoc meetings, where discussions take place and solutions proposed for various kinds of problems that might appear in the border cooperation. In particular, cooperation with neighbouring countries can be outlined as follows: A Stabilization and Association Agreement has been signed between the Republic of Macedonia and the European Union. At the First Meeting of the Stabilization and Association Council, the issue was raised of signing a bilateral Readmission agreement with the EC. It should also be noted that the Republic of Macedonia has signed Readmission Agreements with the following states: the Republic of Albania; the Republic of Bulgaria; the Italian Republic; the Swiss Confederation; the Republic of Slovenia; the French Republic; the Slovak Republic; the Republic of Croatia; Romania; the Federal Republic of Germany and Hungary. The National Programme for combating trafficking in human beings and illegal migration is currently the basic anti-trafficking policy document. It expresses Macedonia's compliance with the principles of the Palermo Protocol, and its purpose is to develop and implement a national campaign. The National Programme, adopted in 2002, is composed of six parts: legal activities; preventive actions; assistance and support to victims of trafficking in human beings; repatriation and reintegration of victims³³; training of staff and coordination of the activities by the United for Combating Trafficking in Human Beings (under the Department of criminal police of the Ministry of Internal Affairs), as well as, the National Commission and the Secretariat for Combating Trafficking in Human Beings and Illegal Migration in the Republic of Macedonia. In this context, the Strategy for Combating Trafficking in Human Beings and Illegal Migration, as well as, the National Action Plan, has been adopted by the Government on 21.03.2006.

capacity to ensure proper protection. Women victims of trafficking should be allowed to remain on the territory of the Republic of Macedonia if they meet certain requirements. The right to seek asylum and to initiate the procedure is one of the tools that a woman victim of violence may use, in case of a fear of prosecution following the return to the country of origin. The Ministry of Interior has so far registered no application for asylum submitted by a woman victim of trafficking.

In 2001, the IOM and the Government signed an agreement for the police to provide information about all female illegal migrants. The identification and referral system for trafficked women operates within the framework of this agreement. The police identify women and girls who might be trafficked and transfer them to the Transit centre - a shelter for victims of trafficking in Skopje. The findings of the OSCE field missions suggest that not all women are brought to the shelter (Transit Center). Moreover, as the shelter takes only those victims who are willing to return in their country of origin, trafficked women who do not want to take part in the IOM program have no choice but to be deported. Internally trafficked women and children are not identified at all.”¹³

Since 2005, the National Referral Mechanism for the victims of trafficking in human beings (NRM) Office has functioned successfully within the Ministry of Labour and Social Policy. It was established as a part of the project realized by the Ministry and the National Commission to Combat Trafficking in Human Beings and illegal migration, in cooperation with the OSCE mission in the Republic of Macedonia. The Centres for social work, the local institutions, NGO's, the Association of the social workers' organizations as well as the municipal commissions for gender were included in this project. The NRM Office for the victims of trafficking in human beings promotes a good practice of democratic establishment of institutions by means of enhancing and coordinating the relations between the state institutions and civil society. Moreover, it informs the public and the state bodies that the concept of the human trafficking should be changed, so that it should be considered as a flagrant harassment of human rights. The Centres for social work are directly involved in all activities in the social protection for prevention and reducing the human trafficking on a local basis.¹⁴

2. Migration in Policies of Gender Equality

¹³. UNICEF, UNHCR, and OSCE/ODIHR, 2003,), *Report: Trafficking in Human Beings in South-eastern Europe* (with the administrative support of UNDP for Bosnia and Herzegovina),

¹⁴. For the purpose of a more successful functioning of the National Referral Mechanism for victims of trafficking in human beings, an analysis has been conducted, containing recommendations for amendments and modifications to the following laws:

Criminal Code Of The RM (Official Gazette of the RM numbers 37/96 80/99, 4/02, 43/03 and 19/04); Criminal Procedure Law of the RM (Official Gazette of the RM numbers 4/90 74/04 and revised text 15/2005); Law On Family (Official Gazette of the RM number 80/92, 9/96 and 83/04; revised text - Official Gazette of the RM number 83/04) and Amendments And Modifications To The Law On Family (Official Gazette of the RM number 33/06); Law On Social Protection (Official Gazette of the RM number 50/97, 6/2000, 17/03, 62/05 and 111/05) Revised Text (Official Gazette of the RM no. 21/06); Law On Child Protection (Official Gazette of the RM no. 98/2000, 17/2003, 65/2004 and 113/2005); and, Law On Free Access To Information Of Public Character (Official Gazette of the RM no. 13 as of 01.09.2006).

Although in the current Law on Equal Opportunities of Women and Men, prohibition of discrimination is present as a part of the text of the law,¹⁵ in Macedonia, there are neither separate laws on anti - discrimination, nor a separate law on gender equality. In most laws, with the exception of the areas of education and labor relations, there are no provisions against gender discrimination. Even in those parts in which there is a ban on discrimination, there are no penalty provisions for failures to abide by the banning provisions. The only institutional mechanism of the state (the Department for Promotion of Gender Equality within the Ministry of Labor and Social Policy)- which should aim at the realization and exercise of the rights of women in a fashion equal to men - is not regulated by law. Prostitution, as a real phenomenon in the country, is mainly treated as an individual problem and less as a socially triggered phenomenon, and receives no treatment of a priority in society. The state fails to undertake special measures for the education of women in relation to the health and safety risks arising from prostitution.

3. Intercultural interaction as a policy objective

A basic insight into the structure of Macedonian society will reveal the main ethnic and cultural cleavages within it. According to last census of population, carried out in 2002, Macedonia has 2,022,547 citizens, 1,297,982 (64.17%) of whom are Macedonians, 509,083 (25.17%) are Albanians, 77,959 (3.85%) are Turks, 53,879 (2.66%) are Roma, 9,695 (0.47%) are Vlach, 35,939 (1.77%) are Serbs, 17,018 (0.84%) are Bosniaks, by their free self-declared ethnicity, while 20,993 (1.03%) have declared that they belong to other than the above mentioned ethnical groups (State Statistical Office, 2005: 34). This ethnical structure of the Macedonian society, in great extent overlaps with its linguistic structure, having in mind that the members of these ethnic groups have mainly preserved their native languages. The languages of the ethnic minorities are spoken not merely in every-day communication, but also in the media: independent radio, tv stations and online media in Albanian and Romani languages, plus guaranteed hours in Turkish, Serbian, Vlach, Romani on the Second Channel on the National Television (MTV).

The ethnic composition of the Macedonian society reflects its religious structure, where vast majority of ethnic Macedonians, Serbs and Vlach declare themselves as Orthodox Christians, while most of Albanians, Turks, Roma and Bosniaks declare themselves as Muslims.

These ethno-cultural differences are recognized by the Constitution of the Republic of Macedonia. In its Preamble, "the citizens of the Republic of Macedonia, the Macedonian people, as well as citizens living within its borders, which are part of the Albanian people, Turkish people, Vlach people, Roma people, Serbian people, Bosniak people and others" are declared as "equal in their rights and obligations towards the common good - the Republic of Macedonia." By its policy commitment of unreservedly recognizing and affirming the ethno-cultural differences of its citizens (and thereby equality of the ethno-cultural groups), the Macedonian state strictly follows the political model of multiculturalism, which defines "the demand for recognition" and "identity" as its central issues¹⁶. Hence, the Macedonian

¹⁵ 'Law on Equal Opportunities of Women and Men,' *Official Gazette* 66/06, May 2006

¹⁶ Атанасов, Петар (2003) *Мултикултурализмот како теорија, политика и практика*, Skopje: Euro-Balkan Press; Taylor, Charles et al. (1994), *Multiculturalism: Examining the Politics of Recognition*. Princeton: Princeton University Press

multicultural model engages into a continuous effort of reflecting ethno-cultural difference in the public sphere on at least four major points. At the point of expression and development of the ethno-cultural identities in the public sphere, the Constitution of the Republic of Macedonia "guaranties protection of ethnic, cultural, linguistic and religious identity of all communities."

At the point of education, the Constitution guaranties the rights for education in communities' native languages in primary and secondary schools, and also the rights of the members of those communities to establish "cultural, artistic and educational institutions, as well as scientific and other societies in order to preserve, tend and develop their identity" (Constitution, Article 48: 3, 4).

At the point of reflection of the composition of the society within the composition of state institutions, the Constitution of the Republic of Macedonia declares the "appropriate and fair representation of citizens belonging to all communities within the institutions of state authority and other public institutions on all levels" as one of the "basic values of the constitutional order in the Republic of Macedonia" (Constitution, Article 8: 2).

The last point, the reflection of the linguistic identity within the state's institution, has not been fully resolved yet. The Constitution of the Republic of Macedonia declares the Macedonian language and its Cyrillic alphabet as the official language on "whole territory of the Republic of Macedonia and in its international relations" (Constitution, Article 7: 1). Besides the Macedonian language, Constitution stipulates, under specific conditions listed in Article 7, as an official language "any other language spoken by at least 20% of the population."

However the Macedonian multicultural model needs to be problematized with regard to at least two critical flaws it contains: 1) civic and ethnic rights coincide almost entirely, so that it seems that the collective rights always already obscure those of the individual citizens; education, media and other forms of cultural life (e.g. Associations of writers, theater) of different ethnic communities in their respective languages introduce an inherent cultural split into the society as whole producing a situation where the different ethnic communities live in parallel worlds barely touching one another (except through their political representatives in the Parliament).

In spite of the nominal and collective ethno-cultural equality Roma community is the one which is most ostensibly subject to cultural and social exclusion.¹⁷

Macedonia is a multicultural state as stipulated by the state's Constitution.¹⁸ Issues of nationalism, multiculturalism, and gender need to remain a central point in research agendas of gender/feminist explorations in the country. The Macedonian feminist scene, or to be more precise, the intellectual scene that deals with gender matters is mute when the relation of multiculturalism and gender topics is concerned. Until now, with the exception of a study, published as part of the essay collection *Gender Studies Research* published by Euro-Balkan

¹⁷ The European Commission against Racism and Intolerance (ECRI), 2005, Third report on "The Former Yugoslav Republic of Macedonia", http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/the_former_yugoslav_republic_of_macedonia/The_Former_Yugoslav_Republic_of_Macedonia_CB_3.pdf

¹⁸ The model of a multicultural state reflected in the legal and public policy system is presented in Work Package 2 Macedonia.

Press, there isn't a text that explicitly deals with multiculturalism and gender issues. The lack of theoretical debate on multicultural issues contributes to the continued existence of a crisis in the women's movement in Macedonia. The divide that exists between non-governmental organisations of women coming from various ethnicities when certain political and social issues are concerned completely reveals the multicultural nature of the situation. The negligence and the lack of support of those who are eager to research and explore the multicultural aspects of gender relations is also evident in the lack of the gender/feminist perspective of multiculturalism at the most eminent gathering of the intellectual elite organized by the Open Society Institute.¹⁹

With respect to the current theoretical and research practice regarding multicultural issues, the situation is complicated. The theoretical production of multiculturalism, stemming from the Anglo-Saxon intellectual environment is conservative in Macedonian intellectual circles. On the other hand, Macedonian intellectuals are becoming more and more discontented with the appropriateness and applicability of the analytical and methodological approaches explicated in the mentioned literature. As Branislav Sarkanjac notes in the text "Multiculturalism in Macedonia," "here, multiculturalism is a part of the grand problem of outer theory for inner practice. There is almost no inner theory"²⁰

The main idea of the criticism of multiculturalism can be depicted with one potential scenario. As part of the cultural difference of a national community, the gender, i.e. the gender culture of that community bears the characteristic features that determine gender relations and experiences. Usually, the male members of the community are in the position to determine and articulate the beliefs and the interests of the group. In such conditions, group rights can be antifeminist and anti-liberal. They limit the rights and capacities of women, or in a broader context, they limit the individual rights and liberties of the members of a given community in a substantial way, requiring them to respect group beliefs and norms.

Marriages of minors in the Debar region are just part of the many practices and traditions that can be defended as elements of the cultural identity of a certain ethno-cultural community, and therefore promoted as multicultural requirements for the preservation of cultural identity. The lack of public and confidential information on the "discriminating" cultural practices of the communities recognised in the Constitution of the Republic of Macedonia, limit us to the "oral statements" of the victims of such practices. Despite the obviousness of gender discrimination based on cultural identity, the Republic of Macedonia remains silent. How to recognise the legitimate requirements of communities from the ones the consequence of which are discriminating effects should be the primary focus of multicultural, feminist studies.

The concept of multiculturalism as an analytical tool, i.e. a methodological strategy in the research of gender and gender issues is not spared of difficulties. With the help of this concept, we could reconstruct gender identities and detect gender determining practices, relations, and acts that are not defined in the same manner within another cultural environment. On the other hand, brought to critical consequences, multiculturalism appears

¹⁹. Badarevski Bobi, 2006, 'Multiculture, Multiculturalism, Feminism,' *"Identities": Journal for Politics, Gender and Culture*, Vol. 5 No. 2, 65-94

²⁰. Sarkanjac Branislav, 2005, 'Мултикултурализмот во Македонија (Multiculturalism in Macedonia), in Мултикултурализмот во Македонија: Модел во настанување (Multiculturalism in Macedonia : Model of origination) , Скопје: ФОСИМ

as scepticism, and even as nihilism in respect of gender understood as a legitimising instance of gender inspired activism.

It seems as though such use and meaning of the concept of multiculturalism is inappropriate as a research strategy that satisfies our needs. Namely, current connotations of the concept of multiculturalism refer to a theory and activism related to promoting the rights of national minorities and cultural groups as political categories. Within feminist theory, multiculturalism appears as a theoretical position that analyses the cultural factor in the determination of gender relations and identities.

Conclusion:

Analysis and assessment of migration trends of the Republic of Macedonia are very difficult because of limited sources of data. Most migration-related instruments and regulations in R. Macedonia are not gender specific. There is no gender perspective in policy formulation and programme design that can contribute in creating gender sensitive policies and migration related instruments. Mainstreaming a gender perspective in migration policy context is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes.²¹ However, the new laws on migration, regulates and develops the EU minimum standards on: entry and admission; stay and residence; expulsion and voluntary return; irregular migration; trafficking in human beings and migration statistics and data protection

The most significant manifestation of the problem of illegal migrations in Macedonia, is the issue of human trafficking. The actual anti-trafficking policy is neither gender sensitive nor human rights based. For example, the human rights based approach is only mentioned in the context of 'Capacity building,' and there is no reference to 'human rights' in the Action Plan, where this strategic objective is further elaborated. Women's human rights were not explicitly referred to in the Strategy and in the Action Plan. However, a local NGO, in its Shadow Report on the implementation of CEDAW, revealed several issues concerning the violation of human rights of victims of trafficking.²² Although the National Programme envisages a number of preventive activities, the majority of prevention and awareness projects were implemented by NGOs, while the government has been only providing non-pecuniary support.

Represented as neutral and objective in relation to the discrimination of women, the political and media discourse in Macedonia is greatly burdened by negative discrimination. Given that trafficking in women encompasses the issue of illegal migration, smuggling and/or prostitution, the lack of gender awareness in the discourse also relates to these topics. Discursive discrimination is both implicit and explicit in the texts treating this phenomenon.

²¹ Mainstreaming a gender perspective into all policies and programmes in the United Nations system, ECOSOC Resolution 2007/33, www.un.org/ecosoc/docs/2007/Resolution%202007-33.pdf

²² ESSE (Association for emancipation, solidarity and equality of women in R. M., 2006, *CEDAW Shadow Report*, Skopje

The implicit political and media discrimination entails non-critical acceptance of the representation of trafficking in women and the accompanying phenomena, and is characterized in particular by a lack of gender sensitivity in representations, particularly those coming from the police and security sources. The other aspect of the implicit discursive discrimination is the shift in and the production of new stereotypes about women at the point when the author of the discourse (a written text, a newspaper article) explicitly undoes or deconstructs certain stereotypes. The example of this phenomenon can be gleaned in the descriptions of immigrant men as possessing an active, courageous, and adventurous spirit, while immigrant women are portrayed as innocent, passive, irrational and who, precisely for being so, become victims of trafficking. Contrasted to the approach based on security and investigative perspectives, which focus on state security, the gender perspective focuses on the phenomenon of trafficking in women as an issue of gender and sexual discrimination and gender based violence. The issues of human rights violations are placed as the source of this type of criminal activity in the gender perspective: the approach based on human rights is gender sensitive. The discrimination of women based on gender is primarily an infringement of human rights.

In summarizing the wider Macedonian discourse on trafficking in women, we can map out a model: it is about a vulnerable woman who is incapable of making rational decisions on her actions and behavior. Her decisions and agreements can have no validity. Her independence from the household and family is not recommended because of male sexual unruliness. Any attempt she makes to alleviate poverty is through prostitution, which means that she does not even own her body. She is uneducated and immoral. However, the very ability to understand this discourse lies in its discriminatory and sexist premises. The established stereotypes about women are nothing more than this. It is precisely these stereotypes that create the policies for fighting and preventing trafficking in women as well as the political and media discourse. 'Manuals for journalists and politicians are mere compendia of the wider discursive practices of these implied stereotypes. Their structure is no different from the structure of manuals for judges and prosecutors. The textual practice of writing news items, articles and reports on trafficking in women resemble one another, and there is no need to read all of them: what is portrayed is a helpless victim forced to enter prostitution by an organised group of traffickers in women.

Although discrimination does not strictly affect only women, the problem of demands for group rights for the preservation of the cultural identity is that in most cases they concern those cultural practices that repress women more than they do men. So, if this is indeed so, then we may freely ask the question of how it is possible for multiculturalism and the friendly inclined *feminism* to fall into that kind of trap? Does that mean that the doctrine of multiculturalism is conservative or even discriminating in respect of gender relations?

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ANNEX1:

International legal framework in place relevant to migration

The former Yugoslav Republic of Macedonia has signed the following treaties:

1. The Universal Declaration of Human Rights (UDHR)
2. The International Covenant on Civil and Political Rights (ICCPR) - succession on 18.01.1994
4. The Vienna Convention on Consular Relations- succession on 17.11.1991
5. The International Covenant on Economic, Social and Cultural Rights (ICESCR) -succession on 18.01.1994
6. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) - succession on 18.01.1994
8. The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women- ratification on 17.10.2003
9. The International Convention on the Elimination of All Forms of Racial Discrimination (CERD) - succession on 18.01.1994
10. The Convention on the Rights of the Child (CRC) - succession on 02.12.1993
11. The Convention concerning Migration for Employment (Revised) (No.97) – succession on 17.11.1991
12. The Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No.143) – Treaty succession on 17.11.1991
13. The Convention concerning Forced or Compulsory Labour (No.29) - succession on 17.11.1991
14. Abolition of Forced Labour (No.105) - ratification on 15.07.2003
15. The Discrimination (Employment and Occupation) Convention (No.100) – succession on 17.11.1991

16. The Equal Remuneration Convention (No.100) - succession on 17.11.1991
17. The 1951 UN Convention Relating to the Status of Refugees- 19.01.1994
18. The Protocol Relating to the Status of Refugees- succession on 18.01.1994
19. The Convention Relating to the Status of Stateless Persons - succession on 18.01.1994
20. The Protocol Relating to a Certain Case of Statelessness - succession on 18.01.1994
21. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially
22. Women and Children - ratification on 12.01.2005
25. The Protocol against the Smuggling of Migrants by Land, Sea and Air - signature on 12.12.2000
23. The International Convention for the Suppression of the Traffic in Women and Children- succession on 18.01.1994
24. The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Sex Work of Others- signature on 12.12.2000
25. The United Nations Convention Against Trans-national Organized Crime- ratified on 12.01.2005
26. The Hague Convention 28 on Civil aspects of International Child Abduction succession on 01.12.1991
27. The ILO 182 Convention on the Worst Forms of Child Labour- ratification on 30.05.2002
28. The European Convention on Human Rights (ECHR) - ratification on 10.04.1997
29. The European Social Charter- ratified 31.03.2005