

# ILLYRIUS



**SAPIENZA**  
UNIVERSITÀ DI ROMA  
Centro di Ricerca e Cooperazione  
con l'Eurasia, il Mediterraneo  
e l'Africa Sub-sahariana



**ISSN 2225-2894**

**International Scientific Review / n. 14 / (I-2020)**

*Scientific Review / Revistë Shkencore / Rivista Scientifica*

**SPECIAL EDITION**

***“EU-WESTERN BALKANS COOPERATION ON JUSTICE AND HOME AFFAIRS”***

**ESSAYS**

*edited by*

*Teresa Russo, Anna Oriolo, Gaspare Dalia*



**Scientific Directors:**

*Ersi Bozheku – Giorgio Spangher*

*In collaboration with*



**Albanian National Group  
Collective Members of Kosovo**

**Roma – Tirana – Prishtina**

*Price: 7 euro*



# Illyrius

## International Scientific Review – ISSN 2225-2894

*Scientific Review / Revistë Shkencore / Rivista scientifica*

### Scientific Committee / Këshilli Shkencor / Comitato Scientifico

**Prof. Antonello Biagini**

*Professore Ordinario di Storia dell'Europa Orientale, "Sapienza" Università di Roma – Prorettore per gli Affari Generali, "Sapienza" Università di Roma*

**Prof. Dr. Avv. Alfonso M. Stile**

*Professore Emerito di Diritto Penale, "Sapienza" Università di Roma / Presidente Onorario dell' "Association Internationale de Droit Pénal" – Albanian National Group and Collective Members of Kosovo, united in AIDP – Albanian People Group*

**Prof. Dr. Giorgio Spangher**

*Professore Emerito di Diritto Processuale Penale, "Sapienza" Università di Roma / Già-Presidente della Facoltà di Giurisprudenza – "Sapienza" Università di Roma*

**Prof. Dr. Avv. Antonio Fiorella**

*Professore Ordinario di Diritto Penale, "Sapienza" Università di Roma*

**Prof. Dr. Avv. Andrea Castaldo**

*Professore Ordinario di Diritto Penale, l'Università di Salerno*

**Prof. Dr. Avv. Enrico Mezzetti**

*Professore Ordinario di Diritto Penale, Università degli Studi Roma Tre*

**Prof. Dr. Avv. Adelmo Manna**

*Professore Ordinario di Diritto penale, Università degli Studi di Foggia*

**Prof. Dr. Avv. Francesco Fimmanò**

*Professore Ordinario di diritto commerciale, Università del Molise*

**Prof. Dr. Avv. Lorenzo Picotti**

*Professore Ordinario di Diritto Penale, Università degli Studi di Verona / Vice-Presidente dell' "Association Internationale de Droit Pénal" – Gruppo italiano*

**Prof. Dr. Francesco Viganò**

*Professore Ordinario di Diritto Penale, Università Statale di Milano*

**Prof. Dr. Antonella Marandola**

*Professore Ordinario di Diritto Processuale Penale, Università LUM Jean Monnet di Bari*

**Prof. Dr. Avv. Giulio De Simone**

*Professore Ordinario di Diritto Penale presso l'Università del Salento*

**Prof. Dr. Nicola Pisani**

*Professore Ordinario di Diritto penale presso l'Università degli Studi di Teramo*

**Prof. Dr. Giovanni Cimbalo**

*Professore Ordinario di Diritto Ecclesiastico presso l'Università di Bologna Alma Mater Studiorum*

**Prof.assoc. Dr. Avv. Marco Gambardella**

*Professore Associato di Diritto Penale, "Sapienza" Università di Roma*

**Prof.assoc. Dr. Luigi Cornacchia**

*Professore Associato di Diritto Penale presso l'Università del Salento*

**Prof.assoc. Dr. Cristiano Cupelli**

*Professore Associato di Diritto Penale, presso l'Università degli Studi Tor Vergata di Roma*

**Prof.assoc. Dr. Avv. Nicola Selvaggi**

*Professore Associato di Diritto penale presso l'Università Mediterranea di Reggio Calabria*

**Prof.assoc. Dr. Angelo Lalli**

*Professore Associato di Diritto Amministrativo presso "Sapienza" Università di Roma*

**Dr. Pasquale Bronzo**

*Professore Associato di Diritto Processuale Penale, "Sapienza" Università di Roma*

**Prof.assoc. Dr. Federica Botti**

*Professore Associato di Diritto Ecclesiastico presso l'Università di Bologna Alma Mater Studiorum*

**Prof. assoc. Dr. Avv. Ersi Bozheku**

*Professore Associato di diritto penale – Università di Tirana / Ricercatore, Professore Aggregato di Diritto Penale presso l'Università degli Studi eCampus / Direttore Esecutivo del Centro Studi, alta Formazione e Ricerca Italo-Albanese del CEMAS "Sapienza" Università di Roma*

**Prof.straord. Avv. Giuseppe Saccone**

*Professore Straordinari di Diritto Processuale Penale presso la Facoltà di Giurisprudenza dell'Università "Pegaso" di Napoli / Ricercatore di Diritto Processuale Penale, Università "Pegaso" di Napoli*

**Prof.straord. Dr. Marco Margarita**

*Professore Straordinario di Diritto Tributario presso l'Università degli Studi eCampus*

**Prof.straord. Dr. Roberto Russo**

*Professore Straordinario di Diritto Costituzionale presso l'Università degli Studi eCampus*

**Prof.aggr. Dr. Avv. Giovanni Stile**

*Professore Straordinario di "Economia e Criminalità" presso la Facoltà di Studi Politici "Jean Monnet" della Seconda Università degli Studi di Napoli / Ricercatore di Diritto Penale, Seconda Università degli Studi di Napoli*

**Prof.aggr. Dr. Roberto Flor**

*Professore Aggregato di diritto penale dell'Economia presso la Facoltà di Giurisprudenza dell'Università di Verona/ Ricercatore di Diritto Penale, Università di Verona*

**Prof.aggr. Dr. Simone Manfredi**

*Ricercatore, Professore Aggregato di Economia Aziendale nell'Università degli Studi di Cassino e del Lazio Meridionale*

**Prof. aggr. Dr. Andrea Carteny,**

*Ricercatore. Professore Aggregato di di Storia Europa Orientale, "Sapienza" Università di Roma / Direttore del CEMAS Sapienza Università di Roma*

**Prof. aggr. Dr. Marco Cilento**

*Ricercatore. Direttore del Corso di Laurea in Cooperazione Internazionale e Sviluppo, Sapienza Università di Roma*

**Dr. Gabriele Natalizia**

*Ricercator. Professore Aggregatoe di Scienza Politica alla Link University – Roma*

**Dr. Redi Shtino**

*Vice Ministro dell'Istruzione della Repubblica d'Albania*

**Cons. Luca Ramacci**

*Consigliere presso la Suprema Corte di Cassazione*

**Cons. Eugenio Selvaggi**

*Sostituto Procuratore Generale presso la Suprema Corte di Cassazione*

**Cons. Francesco Brugaletta**

*Magistrato del Tribunale Amministrativo Regionale (T.A.R.) di Catania / Presidente di Sezione della Commissione Tributaria*

**Cons. Rosario Aitala**

*Magistrato.. Consigliere del Ministro degli Esteri per le aree di crisi e la criminalità internazionale*

**Cons. Luigi Pacifici**

*Magistrato. Sostituto Procuratore della Repubblica presso il Tribunale di Tivoli*

**Cons. Valerio De Gioia**

*Magistrato. Giudice presso la Prima Sezione Penale del Tribunale di Roma.*

## **Added Members / Antar Shtesë / Membri Aggiunti**

### **Prof. Dr. Ismet Elezi**

*Emeritorius Professor of Criminal Law, University of Tirana / Honorary President of "Association Internationale de Droit Pénal" – Albanian National Group and Collective Members of Kosovo, united in AIDP – Albanian People Group*

### **Prof. Dr. Artan Hoxha**

*Full Professor of Criminal Procedure Law, Dean of Faculty of Law, University of Tirana*

### **Prof. Dr. Altin Shegani**

*Full Professor of Criminal Law, ex-Dean of Law Faculty, University of Tirana*

### **Prof. Dr. Skender Kaçupi**

*Full Professor of Criminal Law, ex-Dean of Faculty of Law, University of Tirana*

### **Prof. Dr. Kudret Cela**

*Full Professor of Criminal Law, ex-Dean of Faculty of Law, University of Tirana*

### **Prof. Dr. Sokol Mengjesi**

*Full Professor of Criminal Law, Faculty of Law, University of Tirana*

### **Prof. Assoc. Mirela Bogdani**

*Associate Professor of Human Rights, Faculty of Law, University of Tirana*

### **Dr. Erjon Muharremaj**

*Docent of International Criminal Law, Faculty of Law, University of Tirana*

### **Prof. Dr. Ragip Halili**

*Full Professor of Criminology and Victimology, University of Prishtina - Kosovo*

### **Prof. Dr. Bajram Ukaj**

*Full Professor of Criminal Law, Dean of Law Faculty, University of Prishtina – Kosovo / Honorary President of "Association Internationale de Droit Pénal" – Albanian National Group and Collective Members of Kosovo, united in AIDP – Albanian People Group*

### **Prof. Dr. Mejdi Bektashi**

*Full Professor of Economics, Vice-Dean of Law Faculty, University of Prishtina – Kosovo*

### **Prof. Assistant Avni Puka**

*Assistant Professor of Criminal Law, University of Prishtina – Kosovo / Vice-president of "Association Internationale de Droit Pénal" – Albanian National Group and Collective Members of Kosovo, united in AIDP – Albanian People Group / Executive Director of International Institute of Legal and Criminal Studies - IILCS*

## **Scientific Directors / Drejtues shkencorë / Direttori Scientifici**

*Ersi Bozheku – Giorgio Spangher*

## **Responsabile Amministrativo / Përgjegjës Administrativ / Administrative Responsible**

*Avni Puka*

# ISSN 2225-2894

*This review is published twice-yearly and adopts a **double blind peer review** procedure for evaluation and acceptance.*

*Kjo revistë del në shtyp me një frekuencë semestrale dhe përdor procedurat e vlerësimit dhe të pranimit **double blind peer review***

*Rivista avente periodicità semestrale che si avvale della procedura di valutazione e accettazione **double blind peer review***



# Illyrius

**International Scientific Review – ISSN 2225-2894**

*Scientific Review / Revistë Shkencore / Rivista scientifica*

n. 14/ (I-2020)

## EU-WESTERN BALKANS COOPERATION ON JUSTICE AND HOME AFFAIRS

ESSAYS

*edited by*

TERESA RUSSO, ANNA ORIOLO, GASPARE DALIA





This Special Issue collects some of the essays of the Jean Monnet Module “*EU-Western Balkans Cooperation on Justice and Home Affairs*” (EUWEB) admitted to financing by the European Commission for the period 2019-2022. It is edited by: Teresa Russo (Coordinator of the EUWEB Module), Anna Oriolo and Gaspare Dalia (Key Staff Members of the EUWEB Module).

### ***Comitato di redazione***

*Stefano Busillo*

*Emanuele Vannata*



## INDEX

*Preface* XVII

*Biographical Notes* XXIII

*Essays* XXVII

*Paolo Bargiacchi*

**La nuova metodologia del processo di adesione  
all'Unione europea dei Balcani occidentali** 3

(The Revised Enlargement Methodology for the Western  
Balkans)

*Eldisa Cirogu*

**The Role of Migration and Diaspora in Shaping the  
Albanian Identity in the Western Balkans** 33

(Il ruolo della migrazione e della diaspora nel modellare  
l'identità albanese nei Balcani occidentali)

*Gaspare Dalia*

**Riconoscimento delle sentenze penali straniere e  
giusto processo: le forme di cooperazione e assistenza  
giudiziaria tra “fiducia” interstatuale ed effettiva  
reciprocità** 55

(Recognition of Foreign Criminal Judgments and Due Process: Forms of Cooperation and Judicial Assistance between Inter-State "Trust" and Effective Reciprocity)

*Erjon Hitaj, Arjan Vasjari*

**Balcani occidentali ed Unione europea. Riflessioni sui  
“criteri di Berlino”**

**95**

(Western Balkans and European Union. Some Reflections on the “Berlin Criteria”)

*Ana Nikodinovska Krstevska*

**Legislazione nazionale, integrazione europea e  
cooperazione internazionale in materia di asilo e  
migrazione nella Macedonia del Nord**

**113**

(National Legislation, European Integration and International Cooperation on Asylum and Migration in the North Macedonia)

*Elena Maksimova*

**Criminal and Criminological Aspects of Trafficking in  
Human Beings and Other Crimes related to the  
Foreigner's Illegal Status in the Republic of  
Macedonia**

**131**

(Aspetti criminali e criminologici della tratta di esseri umani e altri crimini legati allo status illegale degli stranieri nella Repubblica di Macedonia)

*Elena Melfi*

**Il fenomeno migratorio minorile in Europa e la tutela  
dei minori stranieri non accompagnati nel sistema  
italiano** **167**

(Juvenile Migration Phenomenon in Europe and the  
Protection of Foreign Unaccompanied Minors in the Italian  
System)

*Niuton Mulleti*

**Linkages between the European Union's Common  
Foreign and Security Policy & Justice and Home  
Affairs: The Case of the EULEX Mission in Kosovo** **193**

(Collegamenti tra la politica estera e di sicurezza comune e la  
giustizia e gli affari interni dell'Unione europea: il caso della  
missione EULEX in Kosovo)

*Anna Oriolo*

**Crimini transnazionali, interessi finanziari e Procura  
europea** **223**

(Transnational Crimes, Financial Interests and the European  
Public Prosecutor's Office)

*Massimo Panebianco*

**Lo stato globale nell'era della crisi post-Covid19** **249**

(The Global State in the Era of the Post-Covid19 Crisis)

*Ioannis F. Papageorgiou*

**L'asilo dopo il 2015: l'impatto della crisi dei migranti  
sulle politiche di asilo nell'Unione europea ed in  
Grecia** **267**

(Asylum after 2015: The Refugee Crisis Impact on the  
Asylum Policies in the EU and Greece)

*Valentina Ranaldi*

**Il ruolo dell'Agenzia europea della guardia di frontiera  
e costiera (FRONTEX) nella gestione delle frontiere  
esterne dell'Unione europea: gli accordi di  
cooperazione con i Paesi dei Balcani Occidentali** **295**

(The Role of the European Border and Coast Guard Agency  
(FRONTEX) in the Management of the European Union's  
External Borders: Cooperation Agreements with the  
Countries of the Western Balkans)

*Teresa Russo*

**EU-Western Balkans Cooperation: Is There Any Model  
of Integration?** **313**

(La Cooperazione UE-Balcani occidentali: esiste qualche  
modello di integrazione?)

*Augusto Sinagra*

**Politica monetaria, libera concorrenza e  
immigrazione: necessità di cambiare o è la fine  
dell'Unione europea** **333**

(Monetary Policy, Free Competition and Immigration: Need to Change or It Is the End of the European Union)

*Ismail Tafani*

**L'integrazione dei Balcani occidentali nell'Unione europea tra gli sforzi per il consolidamento dello stato di diritto e le continue illusioni** 355

(The Integration of the Western Balkans into the European Union between the Efforts to Consolidate the Rule of Law and the Ongoing Illusions)

*Alessandro Tomaselli*

**Circolazione delle sentenze e principio del *ne bis in idem* nello spazio giuridico europeo** 385

(Circulation of Judgments and *Ne Bis in Idem* Principle in the European Legal Area)

*Anna Lucia Valvo*

**Sulla necessità di una riforma democratica delle istituzioni dell'Unione europea** 417

(On the Need for a Democratic Reform of the Institutions of the European Union)

### ***Young Researchers***

*Stefano Busillo*

**Libertà di circolazione dei cittadini minori nell'Unione europea, "sostenibilità finanziaria" e diritto di soggiorno "derivato" al genitore extracomunitario: le *guidelines* della Corte di Giustizia nel caso *Bajratari*** 429

(Freedom of Movement of Minor Citizens in EU, "Financial Sustainability" and Non-EU Parents' Derivative Right of Residence: CJEU Guidelines in the *Bajratari* Case)

*Emanuele Vannata*

**Le condizioni materiali di accoglienza per i richiedenti protezione internazionale e la tutela dell'interesse superiore del minore nella giurisprudenza della Corte di Giustizia: a margine del caso *Haqbin*** 459

(Material Reception Conditions for the Applicants of International Protection and the Safeguard of the Best Interest of the Child in the Court of Justice's Case-law: At the Edges of *Haqbin* Case)

### ***Student Research and Report Writing***

*Elisa Et-hemaj*

**Albania and the Fight against Money Laundering** 485  
(L'Albania e la lotta contro il riciclaggio)

**Western Balkans Stabilization and EU Enlargement:  
A Selection of Documents**

*Ilenia Orsola Conte, Bonaventura Gargano, Simona Medici,  
Giovanna Naddeo, Francesco Potenza, Mariarosaria Rispoli,  
Sandra Schiavo*

**521**

**CRIMINAL AND CRIMINOLOGICAL ASPECTS OF TRAFFICKING  
IN HUMAN BEINGS AND OTHER CRIMES RELATED TO THE  
FOREIGNER'S ILLEGAL STATUS IN THE REPUBLIC OF  
MACEDONIA**

*Elena Maksimova\**

**Abstract**

*This article focuses on the criminal and criminological aspects of trafficking in human beings and other crimes related to the foreigner's illegal status in the Republic of Macedonia.*

*In particular, smuggling of migrants is a crime against the state and itself it is not a violation of human rights, but it can be associated with a number of human rights risks, especially when it comes to the most vulnerable categories of migrants. Migrants that are smuggled can easily become victims of violence, abuse and exploitation, especially if they face violent smugglers and are unable or unwilling to seek protection from the state institutions in which they find themselves. In the context of smuggling, migrants can be victims of crimes such as extortion, kidnapping and gender-based violence. In addition, their human rights may be jeopardized by measures to prevent irregular migration, as well as strict measures against smuggling of migrants.*

---

\*Assistant Professor of Criminal Law and Criminology – Faculty of Law, University “Goce Delčev” of Štip (Republic of North Macedonia).

*Although the migration movements have lowered, they continue over Macedonia's borders and along the so-called Western Balkan migratory route.*

**Keywords:** *borders; human trafficking; migration; North Macedonia; Western Balkan route.*

SUMMARY: 1. Introduction. – 2. Criminological aspects of Human Trafficking and Smuggling Migrants in Time of the Crisis. – 3. The Involved Actors. – 3.1. About the Perpetrators. – 3.2. About the Victims. – 3.3. About the Ways and Routes. – 3.4. Statistics. – 4. Legal and Institutional Framework. – 5. Conclusions and Recommendations.

## **1. Introduction**

This crisis has exerted a particularly high pressure on Macedonia, as the country has limited resources to cope with such high influx. Although the migration movements have lowered, they continue over Macedonia's borders and along the so-called Western Balkan migratory route. Its Southern border remains an attractive route for irregular crossings and migrant smuggling. This is particularly due to different reasons: country location on the Eastern Mediterranean route towards EU Member States (members and non-members of the Schengen zone); geostrategic position

of the country on the Western Balkans sub-route; a well-developed road infrastructure and fewer border crossings to pass<sup>1</sup>.

Mixed migration flows that are affecting the entire region from 2015 onwards, have led to significant operational challenges in dealing with crimes that have arisen along the way. Among those who travel on these routes, often are people from different profiles and with different needs. Many of them are smuggled migrants that easily can be subjected to various abuses by organized criminal structures that deal with their smuggling. Since the migrant crisis occurred, there has been a serious danger of irregular migrants to become victims of physical violence, threats, unlawful deprivation of liberty, fraud, robbery and extortion. These are in fact the most common crimes that had been reported by irregular migrants to civil society organizations in Macedonia, but almost without exception migrants do not decide to file criminal charges against the perpetrators of the crimes in order to avoid further detention on the territory of Macedonia. For these reasons, the detection of other crimes committed by smugglers and traffickers in a number of cases is limited in obtaining information from victims of migrant smuggling and trafficking after discovering a case of smuggling and suppression of criminal groups.

Smuggling of migrants is a crime against the state and itself it is not a violation of human rights, but it can be associated with a number of human rights risks, especially when it comes to the most vulnerable categories of migrants. Migrants that are smuggled can easily become victims of violence, abuse and exploitation, especially if they face violent smugglers and are unable or unwilling to seek protection from the state

---

<sup>1</sup> Republic of North Macedonia EU for improved border and migration management capabilities in North Macedonia, Instrument for Pre-Accession Assistance (IPA II) 2014-2020; Action Document (North Macedonia) IPA II – 2020, p. 4.

institutions in which they find themselves. In the context of smuggling, migrants can be victims of crimes such as extortion, kidnapping and gender-based violence. In addition, their human rights may be jeopardized by measures to prevent irregular migration, as well as strict measures against smuggling of migrants.

Smuggled migrants along the Western European route are exposed to similar conditions as traditionally identified victims of human trafficking and also potential victims of human trafficking. Emotional and physical traumas occur in these cases too, and many of them are exposed to human rights abuses. Migrants, who often initially agreed to be smuggled, were later exploited by their smugglers and their organization, so migrant smuggling cases easily transform into cases of human trafficking. The institutions themselves, in fact, often cross this fluid boundary between these two crimes and identify the crime as smuggling instead of human trafficking. Moreover, the lack of contribution of the victims themselves for the investigation of crime, give no time for them to be recognized as a real victim of human trafficking. They do not linger on the territory for a proper amount of time so they can get this status. The main difference between these crimes is that the smuggling of migrants is done with a single goal - to get migrants to their destination in exchange for money. Meanwhile, human trafficking means further exploitation of the victims. However, the fluidity of the border between these crimes is also contributed by the fact that many migrants are being held hostage and then forced to extort money from families already housed in Europe, which gives a whole new dimension to human trafficking. As well as the fact that the initial consent for smuggling given by the migrant is irrelevant if further exploitation occurs.

With the arrival of almost one million people in crisis areas in need of humanitarian assistance, in 2015 and 2016 the Republic of Macedonia and the countries of the region faced a massive influx of refugees and migrants exceeding the existing capacity for reception, accommodation and management. with the new situation. During the period in which the European Union applied the principle of "open borders", most refugees and migrants used the country's territory for transit to Western and Northern Europe. For these reasons, in addition to the need to provide humanitarian assistance, there is a need to introduce mechanisms and procedures that will ensure efficient and safe transit. In coordination with the states along the so-called "Balkan route" there have been introduced procedures that enabled proper registration and facilitated transit of refugees and migrants. In early March 2016, a change in EU policies also imposed the closure of borders along the Balkan route. The transit of refugees and migrants continued through illegal routes with reduced intensity, but with an increased risk of violation of the freedoms and rights of transit persons as mentioned. In the new situation, refugees and migrants were forced to sleep outdoors without access to basic health care, at the risk of becoming victims of violence, exploitation or other forms of abuse by organized crime groups involved in migrant smuggling and human trafficking.

The first decision on declaring a crisis situation along the southern border with Greece and the northern border with Serbia, due to the increased number of entries and transit of migrants across the territory, was passed in August 2015 for a period of one month, after which it was extended five times. The final decision on declaring a crisis situation was valid up to 31 December 2018. In October 2018, the Government of the

Republic of Macedonia submitted a proposal to the Assembly for the extension of the deadline for dealing with the crisis situation until 30 June 2019 what was adopted on 9 November 2018.

## **2. Criminological Aspects of Human Trafficking and Smuggling Migrants in Time of the Crisis**

*“Identifying victims efficiently and at an early stage is the first step towards making sure they are treated as ‘rights holders’, have access to their rights and can exercise them effectively, which includes receiving appropriate assistance and protection”*

*(European Commission, 2017)*

Since 2015 large number of migrants and refugees crossed through the Balkans. The number was high in 2016, fell a bit in 2017 and got high again in 2018. It was high in 2019 and it has not changed during the first half of 2020. Macedonia’s geographical location had an enormous contribution for the large flow of immigrants. As a non - EU member, bordering with EU members – Greece on the south and Bulgaria on the east, Macedonia was on the way of the route used by many migrants and refugees who were seeking to reach Northern and Western European countries. So, our anti trafficking framework was and still is under serious pressure, conceptually and practically, as well as in some other countries in the region<sup>2</sup>.

---

<sup>2</sup> A. BRUNOVKIS, R. SURTEES, *Identifying trafficked migrants and refugees along the Balkan route. Exploring the boundaries of exploitation, vulnerability and risk*, in *Crime, Law and Social Change*, 72, 2019, pp. 73–86.

The vulnerabilities experienced by people travelling along the Balkan route include: lack of legal status; language barriers and inability to communicate with authorities along the route; lack of knowledge about rights and assistance; lack of resources; inadequacy or lack of humanitarian aid for some categories of migrants and refugees; risk of exploitation and abuse in work situations and threats to personal safety and exposure to violence and abuses within the family or community (Brunovskis & Surtees, 2017)<sup>3</sup>.

The link between restrictive migration policies and migrants' vulnerability to trafficking and exploitation has also been pointed out by other sources. The UNODC Global Report on Trafficking in Persons 2016 notes that many trafficking cases “*start with people eager to migrate but with no other option than to rely on someone who they believe will facilitate their irregular migration into a better life*” (UNODC, 2016: 60). In particular, the Global Report notes that the lack of regular migration and family reunification channels leaves no other option for people fleeing conflict and persecution but to make “*dangerous migration decisions*”, often exposing them to the risk of being trafficked and exploited on route or in destination countries.

In practice the boundaries between smuggling and trafficking are often blurred, mostly because of they are influenced by the same political and socioeconomic factors. Also in Macedonia especially, many interviewees working directly with migrants reported many suspicious cases among the migrants, but since most of the people in question left the country shortly after detection, and frontline responders focused on the

---

<sup>3</sup> R. FLORIN, C. HEALY, *Trafficking along migration routes to Europe, bringing the gap between migration, asylum and anti-trafficking*, International Centre for Migration Policy Development, 2018, p.16.

orderly registration and transit of migrants and not on their personal stories - as well as not being sufficiently trained to quickly spot the indicators -, such potential indications of trafficking and exploitation remain anecdotal. Frontline responders preferred to pay attention to other more “visible” vulnerabilities, such as children travelling alone, pregnant women, people in need of medical assistance and elderly people<sup>4</sup>. So, many of the cases are not recognized at all, due to the lack of attention to human trafficking among the migrants. This can easily lead to lack of resourced for identification, and then to lack of the statistics on the human trafficking among migrants. And continuously, this leads to lack of evidence for the crime of human trafficking that in the end, again end to the lack of attention. So, it is kind of a viscous circle of statistics on trafficking in human beings.

In Republic of Macedonia, the lack of legal channels for movement across borders is recognized as a primary factor exposing migrants, refugees and UASC travelling to Europe to various kinds of risks, including trafficking and exploitation. In Republic of Macedonia, the police identify presumed victims of trafficking among migrants only as a side effect of counter-smuggling operations. According to the National Police, the police rely on raids against smugglers, such as in the villages of Lojane and Vaksince (close to the Serbian border, where many migrants and UASC reside) in order to identify presumed trafficking cases. While such raids do yield results, as evidenced by 32 presumed trafficking cases identified in 2016 and 12 cases in 2017, the result of a police raid organized in these two villages, they are organized only rarely, once or twice a year (MK9). In this context, the absence of a proactive approach,

---

<sup>4</sup> *Ibidem*, p. 55.

with the specific purpose of identifying victims of trafficking, remains a barrier to further identification.

According to Triandafyllidou and Maroukis<sup>5</sup>, there are three ways in which smuggled migrants can become victims of trafficking and exploitation:

- migrants are trafficked and exploited in destination countries, as they are obliged to repay the price of their trip;
- migrants are trafficked for the purpose of sexual exploitation, forced labor or drug smuggling in transit, often by smugglers who became traffickers when restrictions made the border crossing more difficult; or
- the need of migrants in transit, and particularly stranded migrants, to find ways to cover their basic needs and finance their onward journey may make them vulnerable to trafficking and exploitation, as migrants may chose voluntarily to work and only later realize that they are being exploited.

So, because smuggling can easily become a human trafficking case, it is important to analyze their criminological aspects, in order to prevent them, and make a strategic for proper combat.

### **3. The Involved Actors**

#### *3.1. About the Perpetrators*

---

<sup>5</sup> A. TRIANDAFYLLIDOU, T. MAROUKIS, *Migrant smuggling: Irregular migration from Asia and Africa to Europe*, 2012.

In the period after borders were closed, countries in the region have faced serious challenges in tackling irregular migration and combating organized crime groups interested in smuggling migrants and trafficking in human beings. With the support of the EU and the international community, Macedonia has made efforts to strengthen its capacity in line with the new conditions. Many refugees who have entered the country illegally become victims of smugglers, but also a victims of acts of hatred. The Helsinki Committee registered more than 30 incidents of robbery. Robbery attacks have similar characteristics, that is the victims are either offered fake transportation or are intercepted, after which the perpetrators threaten them with a serious threat or deception that they are police officers, with cold steel (but sometimes firearms, as well as electric batons). attack, injure and rob<sup>6</sup>.

However, despite tightened border security measures and increased controls across the country, irregular migration did not stop, and smugglers were rapidly rebuilding their routes. The lack of adequate staff and the technical unpreparedness of the institutions were evident, as well as the corruption in a certain part. The period following the crackdown on migrant smuggling and human trafficking intensified, resulting in an increased number of detected cases that led to a court. However, intensive activities by organized crime groups involved in migrant smuggling and human trafficking across the country are still noticeable. For these reasons, the State Department in its annual reports on human trafficking for 2016, 2017 and 2018 ranked Macedonia in the second rank of countries

---

<sup>6</sup> Helsinki Committee for Human Rights, *Refugee rights: National and international standards versus the situation on the ground*, 2017.

Tier 2, i.e. countries that do not fully meet the minimum standards for the elimination of trafficking in human beings.

Migrant smuggling and human trafficking are carried out by organized crime groups with local logistical support in most cases. The smuggling of migrants also includes members of criminal groups from refugee and migrant countries of origin, primarily Afghanistan and Pakistan, which are part of larger organizations operating at the regional level. Criminal groups use modern communication and surveillance equipment, and there is a reasonable suspicion that they are cooperating with members of the police. Due to the modern equipment and methods used by criminal groups, as well as the local support they receive, the authorities face difficulties in dealing with the smuggling of migrants and human trafficking and the suppression of criminal groups<sup>7</sup>. A strong logistics is used by the organizers to carry out criminal activities support, which consists in changing trucks and passenger vehicles or vans more often, use of rental vehicles, frequent change of license plates or license plates of others vehicles, prior mentioned use of internet applications such as Viber, WhatsApp, Messenger, through which they communicate with each other.

Most smugglers are adult males, but women involved in migrant smuggling have also been identified<sup>8</sup>.

Criminal groups interested in smuggling migrants have a vertical structure. On the top there are main organizers, under which comes traffic organizers. Down on the pyramid are the members, with a clearly

---

<sup>7</sup> Macedonian Young Lawyers Association (MYLA), *Human trafficking and smuggling migrants in North Macedonia - Report*, 2019.

<sup>8</sup> Annual Report of the National Combating Commission for human trafficking and illegal migration for 2016.

defined role for each member of the group: a robber, a cleaner, a transporter, contractors and so on.

The person who has the role of *robber* in the group is obliged to accept the migrants after their illegal entry into country.

The persons who have the role of *cleaners* in the criminal group have the task to identify possible police patrols, controls or to sit on the route of the vehicles and to inform the other members of the criminal group about it. For this purpose, members use mobile applications to make Internet calls and instant messaging and mobile applications that determine GPS coordinates. Based on the reports received by police patrols, the vehicles transporting the migrants changed or aligned the direction of movement. It is suspected that some of the criminal groups also cooperate with certain police officers who receive timely information about police patrols, controls and ambushes. Based on the actions taken so far to detect and suppress criminal groups for smuggling of migrants, it can be concluded that the smuggling of migrants from Greece to the territory of Macedonia begins with a previous agreement with criminal groups from the Republic of Greece, which jointly plans how many migrants will be illegally transferred to the territory of Macedonia, at what time, in what way and in what place they will be accepted. The migrants who were taken near the border with Greece, in most cases were transported to the border villages of the Municipality of Lipkovo-Lojane and Vaksince, where an irregular crossing of the border between Macedonia and Serbia was organized, in order to continue to European Union countries<sup>9</sup>.

Some of the perpetrators, members of the organized group, are police officers, who, beside internet applications, gave the coordinates to the

---

<sup>9</sup> MYLA, *Report 2019*, cit., pp. 27-28.

group about position of the police patrols. For example, an organized channel for smuggling of migrants was cut off, which included 21 people, including a police officer from Stip. The organized group for smuggling of migrants was established in May 2018, and committed the crime continuously until February 2019. According to the prosecution, they also cooperated with members of a criminal group from Greece. Migrants were coming from Afghanistan, Pakistan, Bangladesh, Iraq and other countries in the Middle East, and the perpetrators charged between 150 and 300 euros per person.

A serious problem in combating smugglers is the occurrence migrants by guidelines obtained by smugglers themselves to illegally cross the border between Greece and Macedonia, after which with vehicles without license plates or with rented vehicles are taken over by smugglers. Thereby, there were cases in which the person who was supposed to transport the migrants, after the received the money went in an unknown direction, leaving the migrants in the vehicle.

### *3.2. About the Victims*

Victim identification is crucial to the successful investigation of trafficking in human beings and their proper treatment. But the very low recorded number of identified cases of trafficking and exploitation among migrants using the Balkan route (especially Serbia and Macedonia) suggests that the identification and referral of presumed trafficking victims is problematic. While observing a dramatic increase in the number of asylum applications, in 2016 GRETA experts noted that *“the Asylum Office lacked capacity to process these asylum applications and to detect*

*possible victims of trafficking among asylum seekers*". Because of the thin line of recognition of two major crimes that are done towards migrants – human trafficking and smuggling migrants, there has been a permanent confusion, especially with a proper previous recognition of the crime. This conflation is described as problematic and is said that can jeopardize the proper identification and assistance of victims of trafficking, as government authorities may focus on the identification of smuggling offences at the expense of the identification and protection of victims of trafficking.<sup>10</sup> Republic of Macedonia, in 2016, has developed specific *"Indicators for Initial/Preliminary Identification of Presumed and Potential Victims of Trafficking in Human Beings in the Context of Mixed Migration Flows"* As a risk groups where Presumed victims of trafficking in human beings (PVoT)<sup>11</sup>, potential victims (PoVoT)<sup>12</sup> or victims of human trafficking may be identified are: woman and girls who travel alone, pregnant women who travel alone, unaccompanied and separated children, adults who travel alone and elderly and disabled people who travel alone. Formally, according to Macedonia's law, they can be identified by police officers from Ministry of Interior, social workers from Center of social work, representatives from civil society organization and other institutions and organizations at border crossing, during irregular entry to the country as part of smuggling, during their stay at the centers, and also inside the territory on the grounds of a lawful or unlawful entry

---

<sup>10</sup> A. BRUNOVKIS, R. SURTEES, *op. cit.*; A. TRIANDAFYLLIDOU, T. MAROUKIS, *op. cit.*; R. FLORIN, C. HEALY, *op. cit.*, p. 20.

<sup>11</sup> Cases in a state of vulnerability in which at least one or more elements that constitute the criminal offense THB, as provided in Art. 418a and 418g of the Criminal Code of Macedonia, which are not immediately visible, but given the specific circumstances of the case, there is a reasonable suspicion that the person is, or could be, a victim of trafficking in human beings

<sup>12</sup> Potential victim of THB is a person identified prior to being exploited and showing strong indicators of being in the process of THB.

and stay. As a general indicators or initial identification of potential victim or presumed victim are given age, gender, country of origin, personal documents, transport, evidence of abuse. There is an exhaustive list of Indicators related to the behavior of PVoT or PoVoT when coming in contact with the authorities during transportation/reception/transfer. For final identification of VoT, there are given direct/concrete indicators for identification of adults and children VoT.

When it comes to profiling victims of illegal smuggling or trafficking, we can conclude that the largest number them, in the period 2016-2018 year originated from Afghanistan, Pakistan, Syria, Iraq, Iran and Morocco. Other irregular migrants that have been reported in large numbers from other countries almost without exception originated in Asia and Africa. The closure of the border along the Balkan route meant that great outrage number of women with children and unaccompanied children are stuck in states along the route. On the day of closing the borders, on the territory of Macedonia in the reception-transit centers and in their immediate vicinity there were a total of 1,024 refugees. Almost all of them were at high risk of becoming victims of migrant smuggling, and many of them had multiple risk factors to become victims of human trafficking.

In 2016, 121 potential victims of human trafficking were identified among irregular migrants - including 44 children; while in 2017, from 75 potential victims of human trafficking, 46 were adult male persons, 9 women and 20 children. This gender composition of the identified potential victims of human trafficking among irregular migrants on the one hand is due to the fact that the most common irregular migrants transiting through the territory of Macedonia in the period 2016-2019 are

adult males, but from the other hand, it shows that in addition to women and the unaccompanied children as particularly vulnerable categories for whom there is a high risk to appear as victims of human trafficking, all irregular migrants may be victims of human trafficking (male too)<sup>13</sup>.

According to IOM & UNICEF study from 2017, some specific factors render children and youth more acutely vulnerable to trafficking and exploitation, including: travelling alone; having a lower level of education; and how long they travel (the longer the journey, the more likely they are to suffer exploitation)<sup>14</sup>.

Debt is considered as one of the key indicators for trafficking and exploitation. Extortion of additional funds, threatening to hurt the other members of the families if they do not pay the amounts, they ask for...are very common ways of committing the crime of smuggling that can easily be identified as human trafficking. In many cases, there also is sexual and psychological harassment by smugglers or other group members, specifically of women and unaccompanied children: *“There are anecdotal cases of extortion of money by the smugglers, especially in the villages Vaksince and Lojane. There are also stories of smugglers offering their services in exchange for sex with travelling women”* <sup>15</sup>. According to the Centre for Social Affairs of the Ministry of Labor, many migrants hosted at the center reported that they were either exploited in the country of origin (sexual exploitation, domestic servitude, forced marriage), or in the country of transit, for example, labor exploitation in factories in Turkey or in seasonal work in Greece. Unconfirmed cases were reported of: *“smugglers who separated a child from the family because of a debt for the*

---

<sup>13</sup> MYLA, *Report 2019*, cit., p. 40.

<sup>14</sup> R. FLORIN, C. HEALY, *op. cit.*, p. 17.

<sup>15</sup> R. FLORIN, C. HEALY, *op. cit.*, p. 61.

*smuggling services. The family continued, but the smugglers kept the child until the money was transferred to their accounts*". According to the same study, migrants told professionals in that they were forced to participate in migrant smuggling activities when residing in camps along their journey: *"There was a young man coming from Iraq, who was residing in the center for asylum seekers in Skopje for a longer period. We later realized that he was engaged in smuggling activities - as an intermediary between the asylum seekers and the smugglers"*. In the course of 2018, the refugees and migrants transiting the country were mostly men, while there were fewer women and children. Vulnerable groups mostly consisted of unaccompanied children and a smaller number of pregnant women. Unlike the previous years of the refugee crisis, there were almost no elderly people or persons with disabilities. According to the countries of origin, there were individuals and groups from various countries transiting at different times of the year, including the following: Afghanistan, Iran, Algeria, Pakistan, and Iraq as the most prevalent, and in less frequent cases, refugees and migrants came from Morocco, India, Bangladesh, and Palestine<sup>16</sup>.

Identification and referral procedures for vulnerable categories of foreigners (VCFN), first-level identification of vulnerable groups in general, including victims of trafficking, should be conducted immediately upon initial contact with and reception of migrants entering the country, via either an official or informal border crossing. First-level identification should be carried out by trained professionals from the Ministry of Interior, Border Police representatives, Ministry of Labor and Social

---

<sup>16</sup> Helsinki Committee for Human Rights of the Republic of Macedonia, *Help on the route - Annual report for 2018 - The rights of refugees, migrants and asylum seekers in the Republic of Macedonia*, 2018.

Policy (MLSP) representatives (social workers) or the responsible personnel of the transit centers or the Centre for Asylum Seekers. Outside reception facilities, identification can be carried out by anyone - an authorized officer of a state institution, a representative of a civil society or international organization, or a Macedonian citizen. NGO representatives coordinated by Open Gate also tried to identify potential trafficked people inside and outside two transit centers close to the borders with Serbia and Greece (in Tabanovce and Gevgelija). Formal identification of vulnerable categories of people, is conducted either by the MLSP Centers for Social Work or trained professionals from the Border Police Directorate at the Ministry of Interior. The formal identification of trafficking cases among these vulnerable groups, according to the SOPs for the treatment of victims of human trafficking, is conducted by the Unit for Combating Human Trafficking and Smuggling of Migrants within Ministry of Interior or the Office of the NRM/Centre for Social Work. The protection and rehabilitation of victims of trafficking is coordinated by the Office of the NRM, within the MLSP, in collaboration with Centers for Social Work and NGOs.

### *3.3. About the Ways and Routes*

Smuggled migrants and smugglers avoid state control borders, migration regulations and visa requirements most commonly through main ways:

- a) avoiding marked border crossings; or
- b) fraud of the representatives of the border controls .

Avoiding marked border crossings is done when smuggled migrants are hiding in vehicles traveling in the legal border traffic. Migrants have

been found hidden and in car seats and truck tires. And also, smugglers are transporting migrants on foot across the 'green border' belts.

The fraud of border officials is done by using false documents (by replacing the image in a passport or replacing it several pages of the same) - abuse of tourist or other legal visas, false stamps, using stolen passports and incomplete visas etc.

Once they cross the border, smuggled migrants can be escorted to a safe house or other place of meeting where they wait before being taken to the next part of their journey<sup>17</sup>.

The use of illegal smuggling becomes the norm instead of the exception, when temporary migration regimes restrict certain individuals from crossing the border in a legal and safe manner<sup>18</sup>. In the period of the open borders, the main transit route for migrants and refugees passed through Macedonia as one of the main transit territories.

Refugees and migrants entered the reception and transit center Vinojug, Gevgelija, which was located next to the border with Greece. After registration and a short stay in the center, the refugees headed to the Tabanovce reception and transit center, from where they crossed the border with Serbia near the village Miratovac. In most cases, refugees and migrants from there headed to the village Horgos in northeastern Serbia, from where they crossed the border with Hungary, and in a smaller number of cases with Croatia.

Migrants who were allowed to enter the country at the Idomeni (Greece)/ Gevgelija (Macedonia) border crossing, received their

---

<sup>17</sup> J. KALAČ, *Criminal-Legal Aspect of Smuggling Migrants in Republic of Macedonia*, 2016.

<sup>18</sup> J. CARLING, A.T. GALLAGHER, *RMMS Discussion paper no. 2: Above the definitions, Global Migration and the Nexus of Smuggling - Smuggling, Regional Secretariat for Mixed Migration*, Nairobi, 2015, p.3.

registration document at the Gevgelija reception center. From Gevgelija, migrants were mostly continuing their transit directly to the Macedonian-Serbian border at the Tabanovce reception center. People travel by bus, train, or taxi and must pay for their journey. Some of the migrants had to walk several kilometers from Tabanovce to Miratovac, the transit camp on the Serbian side of the border, along a path with muddy sections and two streams with no bridges.

Following the closure of the border along the Balkan Route in March 2016, smugglers were rapidly rebuilding migrant smuggling routes in the region. A significant part of the migration flows was directed through Albania and Bosnia and Herzegovina to Croatia, as well as from Bulgaria, through Serbia to Croatia. However, due to the geographical location of Macedonia, despite the strengthened measures to control the border with Greece, some migrants continued to irregularly transit through Macedonian's territory, mostly organized by criminal groups involved in smuggling migrants.

The most common routes for smuggling migrants from Greece to Macedonia pass near the village Moin, west of the Vardar River, as well as the villages of Stojakovo and Selemli east of the Vardar River. The Bogorodica border crossing point is used for smuggling of migrants in passenger and freight vehicles, and there have been cases of smuggling of migrants in the passenger and freight trains at the Gevgelija railway border crossing. For illegal crossings of migrants, smugglers also use Mount Belasica, from where migrants are transported to the Dojran area. Due to the increased security measures on the green border, there has been a trend of increasing attempts to smuggle migrants through official border crossings using passenger or freight vehicles.

In the course of 2016, the transit centers 5 in Vinojug, Gevgelija (RTC Vinojug) and Tabanovce, Kumanovo (the RTC Tabanovce) were spontaneously renamed to “reception-transit” centers (RTC), with no official decision, but the same was evident in the written correspondence between the institutions. In 2018 they continued to function on the previously established principles. Compared to 2017, this year has been characterized by an increasing influx of unregulated migrants and refugees who are trying to reach their desired destination by crossing the border illegally and through smuggling routes – over 18,000 unregulated migrants have been registered by field observers working in the areas of Lojane, Vaksince, Lipkovo, and Gevgelija<sup>19</sup>. This year a change of route and the use of new routes for illegal crossings was noticed - through the “Adriatic Creative Route” - Greece, Albania, CG, BiH and Croatia. More than 80% of all illegal transit was done by trying to cross the Macedonian border with Greece, from migrant and refugees from Pakistan, Afghanistan, Iran, India, Syria, Iraq, mostly through a bus and train station in Gevgelija, through villages along the “Friendship Highway”, and the Dojran, Kavadarci-Agrarian border line. and the Bitola region - with lower intensity. The increased patrols led migrants to change the route for illegal entry and headed through Strumica, Radovish, Sveti Nikole.

For illegal crossings on the border between Macedonia and Serbia, the most common routes of irregular migration and smuggling of migrants pass through the region of the municipality of Lipkovo – green border near the village of Lojane towards the village of Miratovac in Serbia, as well as the area around the village Tabanovce, municipality of

---

<sup>19</sup> Data obtained from the monthly reports of the Macedonian Red Cross.

Kumanovo<sup>20</sup>. There has been also an increase of attempts for illegal crossings on the northern border with Serbia, due to visa-free regime that Serbia has introduced for people from Iran and India - migrants arrived in Belgrade by plane from Istanbul or Iran, and then smugglers are transported to Presevo, Bujanovac and Miratovica, from where smugglers from Macedonia take them. The smugglers take away their personal documents and organized to transport them to the village Lojane. From there they get directions for further travel to Gevgelija and then to Greece. Some of the migrants are organized to be taken to Gevgelija and for some of them are bought bus tickets to Strumica and Gevgelija. Serbia is abolishing visa liberalization, so from mid-October to December 2018 - there has been a decline in these migrants. Migrants that use this route were discovered near Tabanovska river, Miratovacki road as well as the surroundings of Kumanovo and Skopje.

Year 2019 brought new fear of repeating the 2015 scenario. At the beginning of the year there has been some police actions about smuggling migrants. One criminal group, with 14 members, organized the smuggling of 400 migrants, originating from Afghanistan, Pakistan, Iraq, Bangladesh and other countries in the Middle and Middle East, who previously resided in the territory of the Republic of Greece, including there were also children, in the period from March 2019 until October 2019, gaining significant illegal property gain of about 150,000 to 200,000 euros. After the migrants on the territory of the Republic of Macedonia were transferred illegally from the territory of the Republic of Greece, through the so-called "Green border" in the vicinity of Gevgelija and

---

<sup>20</sup> S. CVEJIC, S. KITANOV, *Mapping of Crime Migrants in the Region of Forgotten Balkans*, International Organization for Migration-IOM, 2017.

Dojran, with the help of guides were taken to previously determined and agreed locations. From these locations, the members of the group accepted the migrants with passenger and freight vehicles and transported them to locations near the villages of Marvinci, the village of Fourka, Bogdanci, Udovo and Demir Kapija. From there, migrants were accepted and transported to previously agreed locations on the highway Kumanovo - "Tabanovce", from where they were accepted by other persons - their criminal associates and taken to the Kumanovo villages Vaksince and Lojane, where they were temporarily housed and sheltered in buildings. and aides to the criminal group, and then smuggled across the northern border to EU countries. Associates in the organized crime group were also a candidate for police officer, and a police officer, in order to receive notifications of possible deployment of police patrols, checks or seizures. In the first half of the year there has been an increase (compared with first half of 2018) of irregular border migration. Most irregular migrant detections at the Southern border were recorded in the area of Bogorodica, which still remains the most frequently used corridor. Furthermore, given the increased surveillance measures at the borders between North Macedonia and Greece (and Greece and Albania), there is a risk that irregular flows might be fragmented and might continue through the Southwestern part of the country (Prespa and Ohrid region)<sup>21</sup>. The geographical terrain in this region is mainly mountainous, with two natural lakes (Ohrid and Prespa), so the fear of using the blue border for criminal activities arose. According to the statistics of Ministry of interior, the main route for smuggling of migrants is Corridor 10: Gevgelija-Veles-

---

<sup>21</sup> Republic of North Macedonia EU for improved border and migration management capabilities in North Macedonia, cit., p.4.

Skopje, where for transporting migrants are used roads in Kumanovo, Strumica and the Stip region, i.e. the stretch from Gevgelija and Dojran to Kumanovo, to the border with Serbia. At the end of the year, the regional road has also been used as a road Valandovo-Strumica, Strumica-Radovish and Stip-Sveti Nikole as part of the route for transport of migrants to Kumanovo and Skopje<sup>22</sup>.

This year, year 2020, although not done yet, and already has several world difficulties, is not spared from criminal acts towards migrants and refugees too. In February in truck stopped during a routine check near the southeastern town of Valandovo, located close to North Macedonia's border with Greece and Bulgaria, had been find 53 migrants who are suspected to be victims of human trafficking. The police identified the driver as a 43-year-old man from Macedonia, who will now be facing human trafficking charges. 37 of the migrants found inside the vehicle came from Afghanistan, 12 were Pakistanis, 2 were Indians, 1 was Iraqi, and 1 Egyptian. So, we can conclude that Balkan route remains popular. The migrants were transferred to detention centers in the North Macedonian capital of Skopje and the border town Gevgelija. They are believed to have entered Macedonia illegally from Greece and are expected to be deported back there. Also, several months ago were filing charges in a separate case against a German man and an Italian woman suspected of smuggling migrants. They allegedly attempted to smuggle three men into the country from Greece this month in a car with German license plates. In another case latter 36 migrants who entered illegally from neighboring Greece were found in a truck during a routine check. Police officers reportedly stopped the truck near the southern town of

---

<sup>22</sup> Annual Report of the Ministry of interior 2019-2020.

Strumica the previous day. They said the three-dozen people in the vehicle included 21 Syrians, 9 Afghans, 3 Pakistanis, 2 Iraqis, and 1 person from Cameroon.

### *3.4. Statistics*

In 2016, 108 cases of attempted smuggling of 1961 migrants. Prosecution measures have been taken against 123 perpetrators of 80 crimes of smuggling of migrants<sup>23</sup>. 19 of them are foreign nationals. Most migrants originating in Afghanistan, followed by individuals with originating in Pakistan and Syria. According to the data of the Basic Court Skopje 1, Skopje, in 2016 83 cases were completed and 99 people were convicted, of which 96 males and 3 females.

For 2017 there is no official evidence of criminal procedure for the crime human trafficking. Statistics show that detected cases of attempted of smuggling migrants have a declining trend and positive results have been achieved in combating of an organized crime group, which is part of an international criminal network, led by foreign migrants from the Middle East. In the 2017-19 period cases have been detected in an attempt to smuggle 212 migrants , and 36 perpetrators have been charged with 13 crimes of "Migrant smuggling". In relation to the perpetrators, 88% are Macedonian citizens (mostly from Skopje and surrounding areas villages, as well as from the Veles and Gevgelija region), and the rest are

---

<sup>23</sup> Annual report of the Ministry of interior for 2018, 2019.

foreign nationals<sup>24</sup>. In 2017, 97 potential victims of human trafficking were identified by the institutions, 75 of whom were migrants<sup>25</sup>.

Just like in 2017, no human trafficking crimes were registered in 2018. Trafficking in children is present, but not related with migration flows. This year, the National Unit for Combating Migration Smuggling and Trafficking in Human Beings has started operating in order to more effectively deal with the smuggling of migrants. In 2018, the detected cases increased by 200%. 58 attempts to smuggle 891 migrants were detected. Criminal prosecution measures have been taken against 62 people for 44 crimes. 85.5% are Macedonians, the remaining 5 are Bulgarian citizens, 3 are Afghan citizens and one is a Pakistani citizen. Three organized criminal groups have been suppressed: a four-member group using the "green belt" from Greece to Macedonia, a second made up of two Macedonians and an unknown Greek national transporting migrants from Greece through the Kumanovo-Lipkovo region to Serbia and a nine-member group such as part of an international organized network involved in a visa-free operation for the United States and Canada<sup>26</sup>.

Registered criminal offenses of providing services when crossing the territory of the state by local criminal groups and individuals last year recorded a positive trend of increase by 11.4% compared to 2018. During 2019, there were discovered 81 cases of smuggling of migrants, for which criminal prosecution measures have been taken against 96 persons for committed 49 criminal acts "smuggling of migrants", 89.6% of them are

---

<sup>24</sup> *Ibidem*.

<sup>25</sup> Annual Report of the National Commission for Combating Trafficking in Human Beings and Illegal Migration for 2017, Skopje, 2018.

<sup>26</sup> Annual report of the Ministry of interior for 2018-2019.

Macedonian citizens, and the other ten are three Kosovo and Pakistani and one Indian, Nepali, Turkish and Bulgarian citizen. Significant results have been achieved in the field of smuggling of migrants, i.e. four organized criminal groups were cut off which involved 43 members acted. Two of the groups, one 21-member and one of 14-members, operated nationally and were involved in organizing smuggling groups of illegal migrants originating from the countries of the Middle East, from territory of Greece, through the territory of Macedonia towards Serbia, and from there to EU countries. The other two criminal groups are made up of a smaller number of members (five-member and three-member criminal group) and were detected during smuggling migrants<sup>27</sup>. The cases prevented the smuggling of a total of 1,529 migrants, whose number also has a positive upward trend of 71.6% compared to last year. According to the structure, 43.5% of smuggled migrants are from Pakistan, and in the top three countries are migrants from Afghanistan with 28.2% and Bangladeshi migrants with 14.3%.

In the first three weeks of January 2020, a total of 1,365 migrants had entered the country illegally. Due to the closure of the borders after the entry into force of government measures and decisions to combat and prevent the epidemic of COVID-19, the decline in the number of illegal migrants trying to enter our country was evident. Thus, for the months of March, April and May this year, 3047 migrants were detected and caught, which is twice less than the same period last year. For the period from the beginning of this month until June 9, 878 illegal migrants were detected and caught, which is twice as much as in the same period last year, and from this number - 680 illegal migrants were detected and caught by the

---

<sup>27</sup> Annual report of the Ministry of interior for 2019-2020

police officers from the Police Station for border control "Bogoroditsa". Regarding the criminal acts, Deputy Minister of Interior Slavjanka Petrovska, emphasized in her statement for the media, that excellent results are noted, pointing out the last of the cases of preventing smuggling of migrants – in June, when an organized transit of 142 illegal migrants was discovered and prevented, and that was tried to be done by using a truck with Bulgarian license plates. During the first ten days of this month, four crimes for smuggling of migrants have already been committed, in which 186 illegal migrants were detected.

	2016	2017	2018	2019
persons prevented from attempt of illegal crossing	127.358	4129	16895	No formal data
cases of smuggling of migrants	108	19	58	81
measures against perpetrators	80	36	62	96
number of smuggled migrants detected	1.961	212	891	1529

#### 4. Legal and institutional framework

The obligation of the state to protect victims of trafficking people and migrants who have been subject to smuggling are contained in all the basic international instruments that regulate it. The Council of Europe Convention on Action against Trafficking in Human Beings stipulates that the victims must be identified and protected by the competent state organs. States also have an obligation to ensure that victims receive legal representation, legal aid and access to specific witness protection mechanisms in accordance with domestic legislation. Anti-smuggling protocol also recognizes and emphasizes the importance of states protecting the rights of migrants by land, water or air. And it stresses the importance of prevention and combating the smuggling of migrants. Macedonia is a signatory to these documents, and, according to thus, its regulations governing this area reflect the obligation of the state to provide adequate protection of victims of human trafficking and smuggled migrants. The process of harmonization of national law has begun in order to fit the framework with international standards in the subject area. Among the more important domestic regulations of this matter are: Criminal Code, the Law on Criminal Procedure, the Law on Foreigners and Law on International and Temporary Protection.

Criminal Code of RM incriminates acts: human trafficking, smuggling migrant, organizing a group and inciting human trafficking and smuggling of migrants, and child trafficking. According to the legal provisions the attempt of human trafficking is punishable, and the consent of the victim of human trafficking for the purpose of exploitation, it is not important for existence of the crime. Each person will be considered a victim which suffered damage, including physical or mental

injury, emotional suffering, material loss or other injury or endangering their rights and interests because of a committed crime. As for the status of victims of smuggling migrants, in the absence of precisely defined legal status, these persons in accordance with the provisions of the Law on Foreigners have status of foreigners residing in the territory illegally of the Republic of Macedonia due to their illegal entry.

The protection and rehabilitation of victims of trafficking is coordinated by the Office of the National Referral Mechanism, within the Ministry of Labor and Social Policy, in collaboration with Centers for Social Work and NGOs. Article 120 and 121 of the Law on Foreigners, regulate the status of the victims of human trafficking, and article 121 guarantees the reflection and recovery period that can last up to two months, with access to protection, assistance and recovery. In this period the victim has to decide either to co-operate throughout this period with the competent authorities involved in the detection of the offenders or return to their country of origin or legal residence. This period can postpone when victims are minors. For victims of human trafficking and for unaccompanied minors can be decided for a temporary residence of up to year, and this period can last longer if is necessary<sup>28</sup>.

The Government of the Republic Macedonia, in 2001, decided to form the National Commission for Combating Trafficking in Human Beings and illegal migration. The National Commission has an inter-institutional composition, i.e. its work includes members of the Ministry of Interior, the Ministry for Labor and Social Policy, the Ministry of Education and Science, Ministry of Health, Ministry of Foreign Affairs, Ministry of Justice, Public Prosecutor's Office and the judiciary. The Commission has

---

<sup>28</sup> *Law on foreigners* in Official Gazette of Republic of Macedonia 97 from 28 May 2018.

the following obligations: to monitor and analyze the situation with human trafficking and illegal migration, to coordinates the activities of the competent institutions and cooperates with international and non-governmental organizations involved in solving problems in the field of human trafficking. Within the commission, there is a Secretariat, as well as a subgroup for combating child trafficking. In 2013, the Commission set up a total of six local commissions to combat human trafficking and illegal migration, which cover Tetovo, Bitola, Stip, Prilep, Veles and Gevgelija municipalities.

Since 2005, the National Mechanism for Referral of Victims of Human Trafficking has been operating in Macedonia. This one mechanism aims to provide adequate identification, assistance and protection of victims of human trafficking, which is based on international standards.

The key operational role in detecting and combating smuggling of migrants and trafficking in the Republic of Macedonia has the Ministry of Interior of the Republic of Northern Macedonia, more precisely the Border Affairs and Migration Department. Within this sector, there is a mobile unit for suppression of cross-border crime and compensatory measures, the competence of which includes covering the territory of Macedonia with mobile teams at the border line.

Competent body for prosecution of perpetrators of crimes smuggling migrants and trafficking in human beings is the Basic Prosecutor's Office for Prosecuting Organized Crime and Corruption.

In order to more effectively conduct investigations and detect organized crime groups involved in smuggling of migrants and human trafficking, by concluding a memorandum on cooperation between the Ministry of Interior and the Basic Public Prosecutor's Office of the

Republic of Northern Macedonia in 2018, the National Unit for Suppression of smuggling of migrants and trafficking in human beings was formed. Five mobile teams also operate in Skopje, Kumanovo, Gevgelija, Bitola and Tetovo with jurisdiction identification of vulnerable and potential categories of persons, victims of human trafficking, which includes representatives of the Ministry of Interior, MLSP and the civil society.

The experiences and challenges of the refugee crisis had their impact on the process of adopting the National Strategy and the National Action Plan to Combat Trafficking in Human Beings and illegal migration for the period 2017-2020. The Government of the Republic of Macedonia is committed to the successful implementation of the strategic goals and activities. The strategy aims to bring the country closer to international standards. The goal of the National Strategy for Combating human trafficking and illegal migration is to encourage increased understanding of new trends and tendencies in this area worldwide, as well as improving coordination mechanisms to deal with this phenomenon. With the new national strategy and the national action plan as priority goals are identified: improved and increased coordination and cooperation between key actors and harmonization of national policies, improved efficiency and effectiveness in implementation of the planned strategic goals, and harmonization with the new policies of the European Union regarding of illegal migration.

Preventing the smuggling of migrants and trafficking people had a notable place in the Action Plan 3-6-9 of the Government of Macedonia. According to the plan, the Government will start negotiations with the European Commission on the Statutory Agreement for the European

Border and Coast Guard Service (FRONTEX), because considers it in the common interest. The plan also provides formation of a special unit ("task force") to combat trafficking in human beings and smuggling of migrants, composed of representatives of the Basic Public Prosecutor's Office for Combating Organized Crime and Corruption and the Ministry of Interior, which as we stated was formed in 2018. The direction of the reforms proposed by the Government of the Republic of Macedonia that are part of the "3-6-9 Plan" arise from the Program for Work of the Government 2017-2020 and it takes into consideration the Przino Political Agreement and follows the recommendations from the high-level meetings with EU representatives, the directions issued from the European Commission within Urgent Reform Priorities (2015), the Recommendations from the Group of High Experts on Systemic Issues on Rule of Law with regard to communications interception (2015), as well as several recommendations issued to the Government in the past few years from the bodies of the Council of Europe (Venice Commission, GRECO), recommendations from OSCE/ODIHR, findings and recommendations in Annual EC Reports, including the HLAD, conclusions from the Ministerial Dialogue on the Program for Economic Reforms, conclusions from regular meetings of the bodies of SAA, the document prepared from group of civic organizations "Proposal for Urgent Democratic Reforms" (Blueprint) and results from consultations with civic society.

## **5. Conclusion and recommendations**

According to what was mentioned in the text, our conclusion and recommendations, briefly, can be put into pros and cons form.

Since the migrant crisis has begun Macedonia is making significant efforts to meet the minimum standards for the elimination of all kinds of crimes that could be done towards the migrants and all kinds of violations of their human rights. The Criminal code has been amended with non-punishment clause for trafficking victims. The resources for victim protection have been increased. Government signed a cooperation agreement with neighborhood countries Kosovo, Montenegro, and Serbia on trafficking issues and conducted joint investigation teams with neighbors in that order. In every way, there has been noticed increasing efforts compared to the previous period in maintaining positive results in dealing with this crisis.

However, it is notable that Macedonia does not fully meet the minimum standards for the elimination of trafficking although is making significant efforts to do so. Corruption and official complicity in trafficking crimes are significant concerns in that matter. There has been maintained an anti-trafficking task force, but task force focused mainly on smuggling migrants and not on human trafficking. Frontline responders are focused on the orderly registration and transit of migrants and not on their personal stories. They are not sufficiently trained to quickly spotting the indicators. Police identify presumed victims of trafficking among migrants only as a side effect of counter-smuggling operations. Also, judges still issue weak sentences for human trafficking cases that occur in the country, below the trafficking statute's minimum penalty. Another problem is that the government did not award grants to anti-trafficking NGOs for four consecutive years, despite relying heavily on their support.

So, this are some of the points that we need to work on as soon as we can, and all the efforts that are done in the past period need to be strengthen in order to get positive results.

