

ANTIMIGRATION RHETORIC AND XENOPHOBIA TOWARDS MIGRANTS IN NORTH MACEDONIA

OLGA KOSHEVALISKA*, ANA NIKODINOVSKA KRSTEVSKA**
AND ELENA MAKSIMOVA***

1. Introduction to xenophobia against migrants

Xenophobia is most commonly defined as ‘fear of the stranger’.¹ It can also be defined in a broader manner as “attitudes, prejudices and behavior that reject, exclude and often vilify persons, based on the perception that they are outsiders or foreigners to the community, society or national identity.”² Xenophobia basically is presented as irrational hatred towards foreigners and all their values, customs and habits. Xenophobia develops revolt and hatred of everything that is foreign and unknown, and can be aimed at someone’s faith, habits, anthropological or facial features and it is followed by hostile behavior, with a series of gestures, usually expressed through hate speech, hate crime, refusing foreigners to socially integrate in the new society, sharing xenophobic content in the media.³

According to Bashkurti (2020), all definitions for xenophobia rotate

* University Goce Delcev – Stip.

** University Goce Delcev – Stip.

*** University Goce Delcev – Stip.

¹ See M. Peterie & D. Neil, “Xenophobia towards asylum seekers: A survey of social theories, Special issue – Asylum Seekers in the Global Context of Xenophobia”, *Journal of Sociology* 2020, Vol. 56(1) 23-35.

² S. Deardorff Miller: “Xenophobia toward Refugees and Other Forced Migrants”, *World Refugee Council Research Paper* No. 5 — September 2018, p.5.; also, O. Yakushko: “Xenophobia: Understanding the Roots and Consequences of Negative Attitudes toward Immigrants” *Educational Psychology Papers and Publications*, 1-2009, University of Nebraska-Lincoln. <http://digitalcommons.unl.edu/edpsychpapers/90/>, and ILO, IOM and OHCHR. 2001. “International Migration, Racism, Discrimination and Xenophobia.” Discussion Paper prepared by the ILO, IOM and OHCHR for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, www2.ohchr.org/english/issues/migration/taskforce/docs/wcar.pdf.

³ See A. Cvetanovska, “Current challenges for the integration of refugees, migrants and asylum seekers followed by discrimination, xenophobia and hate crimes”, *Macedonian Young Lawyer Association*, 2020.

around the consideration of xenophobia as a set of “emotional, psychological and ideological conditions that include hatred, fear and enmity between different ethno-cultural, national, political, religious, racial groups that together contribute to the deterioration of relations between people, religious communities, ethnic and cultural minorities, different social categories, interest groups, families, neighbors, and even ordinary individuals of different origins.”

U.N. Secretary-General Ban Ki-moon in 2016 said in the report to the United Nations General Assembly:

*“Xenophobic and racist responses to refugees and migrants seem to be reaching new levels of stridency, frequency and public acceptance.”*⁴

Article 2.1 of the Additional Protocol to the Convention on Cybercrime,⁵ states that “*racist and xenophobic material*” means any written material, any image or any other representation of ideas or theories, which advocates, promotes, or incites hatred, discrimination or violence, against any individual or group of individuals, based on race, color, descent or national or ethnic origin, as well as religion if used as a pretext for any of these factors.

As Miller (2020) says “*those who study forced migration and those who advocate for solutions to forced migration spend little time studying xenophobia*” and therefore the purpose of this paper is to fill in that gap.

This paper thus first explores the definition of xenophobia in the context of migration of asylum in the Balkans with special emphasis on North Macedonia, and then examines its phenomenology by analyze the abuse of the migrant crisis in North Macedonia, the creation of the so-called anti-migration rhetoric, xenophobic outbursts of individuals,

⁴ E. Wulfhorst, U.N. to campaign against xenophobia, racism in dealing with refugees, Thomson Reuters Foundation, available at <https://www.reuters.com/article/us-un-refugees-responsibility-idUSKCN0Y109X> [accessed on 17.08.2022], also in United Nations General Assembly 2016. In safety and dignity: addressing large movements of refugees and migrants: Report of the Secretary-General. A/70/59, April 21. https://refugeesmigrants.un.org/sites/default/files/in_safety_and_dignity__addressing_large_movements_of_refugees_and_migrants.pdf.

⁵ Additional Protocol to the Convention on Cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems, available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/189.htm>.

groups, and even formal movements. Will give a short preview of the criminal legal framework and the state's punitive policy for such impermissible behavior. At the end, we will also consider the initiatives carried out to combat or prevent xenophobia in North Macedonia and provide some lessons and recommendations that emerge from the research on xenophobia.

2. Xenophobia in the Balkans, an old – new phenomenon

The solidarity is not new for the Balkans, especially after the collapse of Yugoslavia and the “*welcoming*” of refugees from states “*in war*”. There is a general opinion that public displays of openly xenophobic and racist rhetoric started from this period. Somehow, patriotism and nationalism started to be used in order to legitimize intolerant xenophobic and racist rhetoric, intoxicated narrative for nationalism and beliefs that one's own nation-state or group is superior to others. If racism was typical for the previous century, then can xenophobia be the ‘hallmark’ for this one? One may ask: is xenophobia the new racism?

In the Balkans, the phenomenon of xenophobia has been present on different grounds. In the ‘90s for Bosnia-Herzegovina and the Serb community in Republika Srpska there was typical ethno-xenophobia which can also be seen in the case of the Serbs in Croatia; in Montenegro xenophobia was/is based on religion and the church dispute with Serbia,⁶ xenophobia can be felt between Serbia and Kosovo in the xenophobic political narrative, etc. and thus can pose new dangers if it is not considered and treated with the apparent attention and care.⁷ According to Bashkurti,

‘the Balkans are still suffering from problematic relations between the states. When these relations are compounded by historical recurrences, inferiority complex or superiority, from mixed and

⁶ See Samir Kajosevic, Serbian Church, Montenegro Govt to Discuss Disputed Religion Law, available at <https://balkaninsight.com/2020/03/10/serbian-church-montenegro-govt-to-discuss-disputed-religion-law/> [last accessed on 18.08.2022].

⁷ Dea Bashkurti, The Balkans: Old Xenophobia, New Threats, in Eurasia Review, available at <https://www.eurasiareview.com/07112020-the-balkans-old-xenophobia-new-threats-oped/> [last accessed on 18.08.2022].

*complex prejudices they take the form of state xenophobia. This form of xenophobia causes states to feel complex fears, hatred, and pathological hostility between them. This xenophobia originates primarily from xenophobia between peoples, is transmitted to state levels, is transmitted between states, and re-emerges widely as a deteriorating relationship between peoples.*⁸

In Slovenia, in the 1990s, during the war in Bosnia and Hercegovina, the position of the Slovenian public notably changed from initial welcoming mood of solidarity to growing dissatisfaction in the society. According to Bajt&Pajnik “Stirred by ill-informed, intolerant, and biased media reports, it was not long before the prevalent xenophobic rhetoric began cautioning the Slovenes against the ‘refugee tide’. Analyses of public rhetoric in the early 1990s hence showed that the refugees were reduced to “a problem” and a threat to the Slovene society.”⁹

Xenophobic displays continued to be a part of the public discourse in the Balkans, especially with the start of the migrant crisis and were directed towards migrants, refugees, and asylum seekers from more distant places. The reason for the escalation of the intolerant public attitudes and xenophobic media discourse was the identification of migrants, refugees, and asylum seekers as criminalized “*illegals*”, since the media reports had focused on undocumented migrants, refugees and asylum seekers “*caught*” crossing the border without documents or caught during a police action of interception of smuggling migrants or so on. But later the media started to move in a very dangerous direction presenting the migrants, refugees, and asylum seekers as the next criminals at large – bullies, terrorist, sexual offenders, painting a picture that societies with large number of migrants, refugees and asylum seekers will be the next in line for threats to the public safety, national security, national identity, violence etc.¹⁰

⁸ For this phenomenon see the article Ethnic Hate Speech and Narratives of Divide in the Western Balkans from the Media Diversity Institute, available at <https://www.media-diversity.org/ethnic-hate-speech-and-narratives-of-divide-in-the-western-balkans/> [last accessed on 17.08.2022].

⁹ See V. Bajt, M. Pajnik, “Current challenges to migrant integration: Xenophobia and racism The case of Slovenia, a project brief in Prospects for Integration of Migrants from »Third countries« and their Labour Market Situations: Towards Policies and Act”, 2010, p. 2.

¹⁰ See the article on the portal ‘justice.rs’ with the headline ‘Explosions, rape, and

Xenophobia in the context of the migrant's crisis was not typical only for the Balkans, it was also present in the other EU countries, especially when preparing integration plans for migrants, refugees, and asylum seekers in the countries along the route. For instance, in Romania the spread of xenophobia started in the same manner as in Balkan countries – by frightening the natives with the introduction of quotas for construction of camps for migrants and refugees. Even though the number of migrants, refugees and asylum seekers in Romania is low, still the public opinion toward migrants is extremely negative. It is argued that migrants, refugees, and asylum seekers going to take jobs from the native population, depress wages and put pressure on public services. State aid to migrants, refugees and asylum seekers is considered as unfair towards the native population because of the generous aid allowance that each asylum seeker receives per year.¹¹

In Italy,¹² the xenophobic content is mainly regarding the future employment of the migrants, refugees and asylum seekers and the opinion that it is unfair to give migrants, refugees and asylum seekers an advantage over the local population.¹³ In Greece, with the emergence of Golden Dawn

killings – migrants hevean on the north of Europe, available at <https://pravda.rs/2015/8/21/eksplozije-silovanja-ubistva-ovo-je-migrantski-raj-na-severu-evrope-video/> [last accessed on 19.08.2022]

¹¹ See the report: Legal framework, societal responses, and good practices to counter online hate speech against migrants and refugees comparative report. The report provides the most recent data and trends from 7 EU Member States (Bulgaria, Croatia, Czech Republic, Greece, Italy, Romania, UK-before Brexit), hereafter *Comparative Report for the legal framework, societal responses, and good practices to counter online hate speech against migrants and refugees*. Based on the national studies and reports, the current report draws meaningful correlations between incidents of hate speech and developments on national and EU level. It looks at the scope and effectiveness of the existing legislative framework and related regulations such as media codes of ethics. Download available at https://ec.europa.eu/migrant-integration/library-document/legal-framework-societal-responses-and-good-practices-counter-online-hate-speech_en [last accessed on 18.08.2022]

¹² According to the *Comparative Report for the legal framework, societal responses, and good practices to counter online hate speech against migrants and refugees* [see footnote no.11], 'the social, economic, political and cultural public scene of recent years has been strongly characterized by xenophobic and racist manifestations. Various factors account for this situation; they range from underlying ideological, cultural or political concepts (idea of superiority of race, territorial invasion or otherwise) to causality connections, linked to economic factors.' p. 20.

¹³ See the *Comparative Report for the legal framework, societal responses, and good practices to counter online hate speech against migrants and refugees*.

(far-right/neo-Nazi) political party, started the aggravation of the problem of racism, xenophobia and hate speech especially towards migrants, refugees and asylum seekers. In Bulgaria, a person who called himself a self-proclaimed “*hunter of migrants*”, even bought two tanks - armored vehicles¹⁴ in order to hunt down migrants and patrol the inaccessible areas around his home city - Yambol near the border with Turkey.¹⁵ This individual on several occasions had open calls for violence towards migrants. The Helsinki Committee in Bulgaria,¹⁶ repeatedly reported about this issue and condemned this person’s actions.¹⁷

Intolerant discourse in the media or from politicians can lead to increased racist sentiments towards migrants, refugees and asylum seekers and other minorities, including in the form of scapegoating in times of economic crisis. ODIHR’s annual reporting on hate crime in the OSCE area¹⁸ has demonstrated that racist attacks can take a range of forms, targeting people from diverse groups across the region. Violent attacks by groups of perpetrators against migrants and ethnic minorities, as well as damage to businesses and property owned by or associated with established ethnic communities are common features of xenophobic hate crime.

3. Xenophobic hate crime towards migrants, refugees, and asylum seekers – case of North Macedonia

North Macedonia is a multi-ethnic society where people belonging

¹⁴ See news report “Bulgarian bought two tanks to hunt down migrants, on Kanal 5 available at <https://kanal5.com.mk/bugarin-kupil-tenk-da-lovi-migranti-niz-bugarija/a256687> [last accessed on 07.08.2022].

¹⁵ See news report ‘Bulgaria’s vigilante migrant ‘hunter’ on BBC available <https://www.bbc.com/news/magazine-35919068> [last accessed on 19.08.2022].

¹⁶ See Bulgarian Helsinki Committee of the Bulgarian Helsinki Committee Concerning Bulgaria for Consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 92nd Session, p.7. available at https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/BGR/INT_CERD_NGO_BGR_27032_E.pdf [last accessed on 20.08.2022].

¹⁷ The Helsinki Committee has asked prosecutors to investigate Valev, pointing out that he bragged on national television about committing half a dozen crimes: assault and battery, making death threats, unlawful detention, inciting ethnic hatred and inciting ethnic violence.

¹⁸ See OSCE, ODIHR reports by states and years available at <https://hatecrime.osce.org/racist-and-xenophobic-hate-crime>.

to different religions and ethnicities live, with a rich multicultural, multi-religious and multilingual heritage and as such, it should have an extraordinary capacity for tolerance and coexistence between different nationalities and ethnicities. This was typical for North Macedonia during the few refugee crises, back in the '90s.¹⁹

In fact, in North Macedonia, multi-ethnic coexistence of different ethnics such as Albanians, Bosnians, Roma population, Serbs, Turks etc. have been living with ethnic Macedonians for decades. But after the war in Kosovo and the great refugee crisis that overwhelmed Macedonia with the temporary housing of over 350,000 refugees from Kosovo, as well as the migrant crisis from 2015 onwards, this multi-ethnicity began to generate problems, mainly related to intolerance towards different ethnicities, which led to a paradoxical situation – a multiethnic society being xenophobic at the same time. And especially, in times of war, when every state must show solidarity for innocent civilians, intolerance is the least needed.

In events like this, the media plays an extremely important role. They can appear as promoters and protectors of human rights and controllers of the government's actions in the compliance of the obligations undertaken in accordance with international agreements, or as promoters of xenophobia and hatred. A very widespread way of sowing fear is to disseminate and spread stories in which what is written is given as 'the holy truth' or certainty even though it can neither be verified nor proven. The feeling of danger is first emphasized by uncritical transmission of statements and contents different from what is their essence.²⁰

With the beginning of the migrant crisis, many sensationalist headlines and claims have appeared that only aim to cause fear in the population and encourage the spread of hate speech, hate crime, encouragement of racial, religious, and other discrimination, xenophobia on social networks towards migrants, refugees and asylum seekers who transit through the country. The migrant crisis was and still is being used as a tool to shift blame, score political points in elections or in a

¹⁹ See O. Kosevaliska, and A. Nikodinovska Krstevska, *Migration and Asylum Policy System: the case of Republic of Macedonia*. In: Migration and asylum policies systems. Challenges and perspectives, Editoriale Scientifica, Napoli, 2020, pp. 109-129.

²⁰ See M. Najcevska report "Refugees, Migrants and xenophobia in Macedonian media" available at <https://www.radiomof.mk/begalci-migranti-i-ksenofobija-vomakedonskite-mediumi/> [last accessed on 20.08.2022].

campaign, create conspiracy theories which of course leads to causing racial, religious, and other discrimination - conducts that are incriminated with the Criminal Code.²¹

4. Xenophobia camouflaged as journalism

Right after the big peak of migrants, refugees and asylum seekers transiting through North Macedonia in 2015, the sensationalist headlines started, which were supposed to cause fear and trembling among the local population and inflame tension that leads to non-acceptance of the migrants, refugees, and potential asylum seekers. Initially, journalistic texts began, behind which there was no journalistic research, but mere downloading of questionable content from even more questionable sources.²² This behavior continued with tense status posts in the social media (Facebook, Twitter etc.) that were shared and comment in the same manner, by big number of supporters.²³ In most of the media there were headlines in which xenophobia and especially islamophobia was directly encouraged. In this context headlines titled as “Migrants showed their teeth: ‘Instead of churches, there will be mosques here,’ ‘Ahmed from Libya who arrived in Serbia: Instead of churches in Europe, minarets will be seen. That will be our revenge!”, “Photo: Is this the real picture of the migrants from Syria.” A step further was made by placing the migrants directly in the context of terrorism. In this sense, headlines like “Terrorists among migrants: ISIS commander entered Greece, transiting through Macedonia as a migrant!”, “Terrorism is the most serious threat in the world - Macedonia is ready”. The article “4,000 terrorists used the refugee routes” on one portal ends with a direct threat to the migrants, refugees and asylum seekers or a

²¹ See Article 418 from the Criminal Code of North Macedonia, Official Gazette, No.

²² See Jugoslava Dukovska review on the text ‘Explosions, rape, murder, these are the peaceful migrants in the heaven for migrants Malmö, Sweden’ written for the project Vistinomer – check of facts, [Proekt na USAID za zajaknuvanje na mediumite vo Makedonija- Komponenta Servis za proverka na fakti od mediumite implementirana od Metamorfozis.]

²³ See reported status on Facebook by one university professor in Law available on <https://www.govornaomraza.mk/reports/view/943> online site for reporting hate speech.

direct call for an active attack by the citizens²⁴ which crosses the line from xenophobic hate speech to xenophobic hate crime.

Such articles were leading to mislead conclusions that namely showed that the rate of crime is increasing in places where migrants, refugees and asylum seekers have settled, and that their settlement represents a serious security risk not only for the local population, but also for the national security in general. As such an example we single out the headline for Malmö, Sweden, for which there was a news report entitled '*Explosions, Rapes, Murders these are the "peaceful" migrants in the migrant haven Malmö, Sweden.*' The first sentence of the article is "video report of Russia Today (RT) in just three minutes will capture the situation in the migrants haven of Malmö, Sweden, where explosions, robberies, Kalashnikov shootings, rapes and hand grenades have become daily activities after the arrival of migrants from Syria." The text continues with seriously terrifying misleading content in which it is said that "this will happen throughout whole Europe, if the settlement of migrants doesn't stop immediately".²⁵ The further frightening of the local population was with the sensationalistic headlines about building camps for migrants, refugees and asylum seekers that escalated with unlawful organizing referendum in several municipalities.

5. Building refugee camps

On the eve of the 2017 local elections in North Macedonia, in order to create a tense atmosphere, the opposition party VMRO-DPMNE accused the ruling party of building refugee camps and housing as many as from 150 to 200,000 migrants, refugees and asylum seekers.²⁶ In

²⁴ See M. Najcevska research on Refugees, migrants and xenophobia in mass media in Macedonia, available at <https://www.radiomof.mk/begalci-migranti-i-ksenofobija-vo-makedonskite-mediumi/>. Conducted within the USAID Project for strengthening the media in Macedonia, Service for check of facts in media.

²⁵ See the portal Justice.rs and the news report 'Explosions, Rapes, Murders in the migrant haven Malmö, Sweden available at <https://pravda.rs/2015/8/21/eksplozije-silovanja-ubistva-ovo-je-migrantski-raj-na-severu-evrope-video/> but also broadcasted and shared by many Macedonian online portals including national news agencies and websites on official TV channels.

²⁶ See the interview with the former Minister of labor and social affairs, Mila

several municipalities, a procedure was started for a referendum in which citizens were supposed to declare that they are against accepting migrants, refugees and asylum seekers and building refugee camps. The referendums should have taken place on the same date, time, and place together with the local elections, that clearly showed that the migrant crisis was misused for political purposes. The “Budenje” [Awakening] movement was the main organizer of this referendum in Bitola and Prilep, and in the membership of this informal group there were even representatives from the municipality, from the opposition party.²⁷ After the local elections, this myth of settlement of migrants, refugees and asylum seekers was dispelled, but it showed how easy it is to polarize the population to show xenophobia and how much the migrant crisis is misused for political points and goals. Referendums against the settlement of migrants, refugees and asylum seekers were considered as a dirty election campaign,²⁸ and the Constitutional Court passed decisions in which the legality of the decisions to call a referendum made by the Council of the Municipality of Radovish, Negotino, Gjorce Petrov, Veles, Gazi Baba, Bitola, Kavadarci, Karposh, Prilep, Ohrid, Kochani and Shtip was considered as unlawful.²⁹

Carovska available at: <https://sdk.mk/index.php/dopisna-mrezha/vmro-dpmne-lazhe-shiri-ksenofobija-reche-tsarovska-koja-nenajavena-dojde-vo-bitolskiot-sovet-srede-raspravata-za-referendum-protiv-begaltsi/> [last accessed on 19.08.2022].

²⁷ See Xenophobic and antirefugee initiative is collecting signatures in Bitola and Prilep, available at <https://glasnik.mk/ksenofobicna-i-antibegalska-inicijativa-sobira-potpisi-vo-bitola-i-vo-prilep/>.

²⁸ See Civil Media article ‘Referendum – a dirty prelection campaign available at <https://civilmedia.mk/referendumite-protiv-begalcite-vaalkana-predizborna-kampanja/>.

²⁹ The reason for making such a decision is Article 22 of the Law on Local Self-Government that does not give authority to the municipalities to decide on issues related to migrants and their settlement. See decisions of the Constitutional court У.бп.118/2017-1, У.бп.126/2017-1, У.бп.131/2017-1 У.бп.120/2017-1, У.бп.128/2017, У.бп.102/2017-1 и У.бп.121/2017-1, У.бп.124/2017-1, У.бп.119/2017-1, У.бп.122/2017-1, У.бп.125/2017-1, У.бп.127/2017-1, У.бп.130/2017-1, У.бп.123/2017-1, У.бп.129/2017-1. Also see news report ‘There will be no referendum for the migrants on the day of the local elections, Radio Slobodna Evropa, available at <https://www.slobodnaevropa.mk/a/28751192.htm> [last accessed on 20.08.2022].

6. Strategy for the integration of refugees and migrants for the period 2017-2027

At that time, the draft of the Proposal for the Strategy for the Integration of Refugees and Migrants in the Republic of Macedonia 2017-2027³⁰ was presented and caused a storm of xenophobic statements and hate speech, that culminated with the start of the aforementioned organization of referendum against the settlement of these persons in several municipalities in the country. The Strategy provides the migrants, refugees and asylum seekers should be welcomed in the host country without giving up their own cultural identity, social differences, as well as human rights and human dignity. The promotion of fundamental rights, non-discrimination, and equal opportunities for all are the key to a successful integration process, it is stated in the Strategy. The responsible institutions considered that local integration would be a long-term solution that refers to permanent accommodation of migrants, refugees, and asylum seekers in host communities in countries of asylum. But the Proposal of the Strategy was not 'welcomed' in many of the municipalities. According to the Macedonian Young Lawyers Association (hereafter MYLA),³¹ an NGOs that provides free legal aid for refugees and asylums seekers, 'the statements of most of the municipalities are "on the line of xenophobia". Most of the municipalities have identical, that is, negative attitudes about the proposal, and as arguments they stated that *'Macedonia should stay transit country for migrants and that the municipalities do not have spatial, financial, and infrastructural conditions to respond to the measures provided in the Strategy.'*

7. The temporary accommodation of Afghans in North Macedonia

The humanitarian crisis in Afghanistan and the Macedonian government's announcement of temporary acceptance of refugees from

³⁰ Strategy for integration of migrants and refugees in Macedonia for the period of 2017-2027, Ministry of labor and social policy of Macedonia available at <http://www.mtsp.gov.mk/content/pdf/strategii>.

³¹ MYLA official web site <https://myla.org.mk/en/home-english/>.

this country was also followed by hate speech and attempts to spread xenophobia among citizens.³² After the announcement that North Macedonia will accept refugees from Afghanistan who worked for international organizations, the xenophobic outbursts of both citizens and supporters or members of certain political parties, again started with xenophobic content on social media. Instead of “welcome” to the people of Afghanistan, they sent messages like

*“Macedonia is one of the poorest countries in Europe, in a situation like this, it is good to see an example of solidarity from richer countries than our Macedonia, they should be the example for showing values, accepting refugees from Afghanistan, and not by patting them on the back. Then let’s think about whether and who will pay for this...”*³³

But the lesson was already learned, so the statements in the press started to be more subtle, precautionary, discreet, since the Helsinki Committee, NGO’s and Public Prosecutions Office started reporting and investigating such behavior. Since the start of the punitive response of the competent authorities regarding xenophobia, discrimination, hate speech etc. the open calls for hatred, unacceptance, violence towards migrants, refugees, asylum seekers started to decrease.³⁴

8. Xenophobic content about refugees from Ukraine

A Facebook post (which at the time of writing of this article has been removed) shared an informative text about the decisions taken by the Macedonian Government to help Ukraine, but with a xenophobic

³² See Aleksandar Nikolik Pisarev article ‘It is unnatural and shameful for Macedonian society to show xenophobia’ for Civil Media available at <https://civilmedia.mk/neprirodno-e-i-sramno-e-makedonskoto-opshtestvo-da-pokazhuva-ksenofobija/> [last accessed on 18.08.2022].

³³ Facebook Statement of Hristijan Mickovski, the leader of the political party VPRO-DPMNE, available at <https://www.slobodnaevropa.mk/>.

³⁴ Such an example was the prosecution of one journalist for hate speech and xenophobia on national grounds towards Greece population. See the article ‘Journalist charged with hate speech and xenophobia’ available at <https://kanal5.com.mk/novinar-so-obvinenie-za-govor-na-omraza-i-ksenofobija/a352625> [last accessed on 20.08.2022]

and sensationalist headline for which it is uncertain how it was made and for which there is no real support with evidence and represents spread of xenophobia and intolerance. The post claimed that the Albanians in North Macedonia are in fear because the country will receive Orthodox refugees³⁵ is beyond any logic and the only purpose of such claims is to cause discord in society and spread panic on social networks.³⁶ A post with this title has anti-immigrant rhetoric and incites ethnic and religious intolerance. At the same time, the text itself says absolutely nothing of what is claimed in the title, nor is there any confirmation that the Albanians are really in fear.

9. Criminal legislation for preventing and punishing xenophobic hate crime

North Macedonia amended its Criminal Code, introducing the hate crime as a separate crime, in order to bring its national law closer to EU law, to clarify the provisions on hate crimes and expand the grounds for protection in practice. Since, 2018 hate crime has been defined with the amendments of the Code in 2018 as follows:

“Crime of hate explicitly foreseen by the provisions of this Code, shall be considered the crime against a natural person or a legal entity and associated persons thereto or a property which is committed wholly or partially due to a real or speculative (imaginary, assumptive) characteristic or association of the person and relates to the race, skin color, nationality, ethnic origin, religion or conviction, mental or bodily disability, sex, gender identity, sexual orientation and political conviction”³⁷.

The OSCE (Office for Democratic Institutions и Human Rights,

³⁵See news report available at <https://mkdpress.site/archives/> [last accessed on 20.08.2022].

³⁶ See portal Vistinomer <https://vistinomer.mk/>.

³⁷ Article 122, ph.42 in Criminal Code (“Official Gazette of the Republic of Macedonia” no. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015, 226/2015, 97/2017 and 248/18.

ODIHR) indicates the following motivations (biases) for committing hate crime:³⁸ racism and xenophobia, prejudice against Roma and Sinti, anti-Semitism, Islamophobia, prejudice against Christians and members of other religions (Hinduism, Jehovah witnesses, Buddhism, Baha'i, etc.), as well as members of other groups (women, transgender people etc.). The motivation to perform a crime is subjective and therefore it is difficult to be sure and prove that the crime was committed with hatred. Therefore, it is necessary to prove the presence of objective factors, which would lead a reasonable person to think that the crime is motivated by prejudice.³⁹

Furthermore, the bias motive of hatred is provided in over 20 incriminations such as murder, rape, (severe) bodily injury, coercion, unlawful deprivation of liberty, approving or justifying genocide, crimes against humanity or war crime, causing hatred, discord, or intolerance on national, racial, religious or any other discriminatory grounds etc.

As for xenophobia, racism, discrimination – these acts have been incriminated for longer period but with the amendments in 2018 they finally have the content that is in line with the ratified international instruments. In this manner, according to Article 394-d from the Criminal Code, the incrimination 'Spreading racist and xenophobic material via information system' prescribes that:

“(1) Whosoever via a computer system spreads in the public racist and xenophobic written material, photo or other representation of an idea or theory helping, promoting or stimulating hatred, discrimination or violence, regardless against which person or group, based on sex, race, skin color, class, membership in a marginalized group, ethnic background, language, nationality, social background, religious belief, other types of beliefs, education, political affiliation, personal or social condition, mental or physical disability, age, family or marital status, property status, health condition, or any other ground foreseen by law or ratified international agreement, shall be sentenced to imprisonment of one to five years.

(2) The sentence referred to in paragraph (1) of this Article shall be also imposed against whosoever commits the crime via other public information means.

³⁸ See Jasmina Dimitrieva, Decisions of the ECHR with commentary: hate speech and hate crime, OSCE, available at <https://www.osce.org/files/f/documents/d/f/337176.pdf>.

³⁹ *Ibid.*

(3) Whosoever commits the crime from paragraphs (1) and (2) of this Article by abusing his position or authorization or if those crimes resulted in disorder and violence against people or in property damage of greater extent, he shall be sentenced to imprisonment of one to ten year.

From the beginning of the migrant crisis there have been”.

In Article 417 of the Criminal Code defines the Racial or other discrimination in the following manner:

“(1) Whosoever based on the difference in sex, race, skin color, class, membership in a marginalized group, ethnic background, language, nationality, social background, religious belief, other types of beliefs, education, political affiliation, personal or social condition, mental or physical disability, age, family or marital status, property status, health condition, or any other ground foreseen by law or ratified international agreement, violates the basic human rights and freedoms acknowledged by the international community, shall be sentenced to imprisonment of six months to five years.

(2) The sentence referred to in paragraph 1 shall also be imposed to whosoever prosecutes organizations or individuals because of their efforts for equality of the people.

(3) Whosoever spreads ideas about the superiority of one race over another, or who advocates racial hate, or instigates racial discrimination, shall be sentenced to imprisonment of six months to three years”.

“Causing hatred, discord, or intolerance on national, racial, religious or any other discriminatory grounds” is also a special incrimination in the Criminal code,⁴⁰ and the bias motivation of the perpetrator could involve status of a foreigner (different nationality, ethnics, religion, social background, etc.).

Xenophobic hate crime against refugees, migrants and asylum seekers is widespread and we believe that they are often victims of hate crimes and especially xenophobia. Due to the lack of information, or the lack of reporting xenophobia from migrants, refugees, asylum seekers, and above all fear and mistrust in the institutions we believe that there

⁴⁰ Article 319 from the Criminal Code of North Macedonia.

are far too many cases than the official ones, which contributes to the deepening of the problem and failure to undertake meaningful actions by state institutions. According to the reported data from the police for 2020, there are only 13 cases of racist and xenophobic hate crime in 2020, 23 in 2019 and 33 in 2018. The presented data for racist and xenophobic hate crime is for all victims and not exceptional for migrants, refugees, and asylum seekers as victims since there is no data for the victim's foreign status.

Report data for year	Bias Motivation	Type of Crime	Recorded by Police
2020	Racist and xenophobic hate crime	Incitement to violence	1
2020	Racist and xenophobic hate crime	Damage to property	1
2020	Racist and xenophobic hate crime	Unspecified	11
2019	Racist and xenophobic hate crime	Incitement to violence	2
2019	Racist and xenophobic hate crime	Unspecified	21
2018	Unspecified	Unspecified	33
2017	No available data	No available data	
2016	Unspecified	Unspecified	2
2015	Unspecified	Unspecified	5

Table no. 1 Racist and xenophobic hate crime in North Macedonia, reported by the police for 2015-2020, Source of data: OSCE available data on <https://hatecrime.osce.org/north-macedonia>.

According to other sources⁴¹ that collect data for racism and xenophobic hate crime, for 2020 there are 86 cases of racism and xenophobic hate crime, 134 for 2019 and 71 for 2018, 33 for 2017, 16 for 2016 and 32 for 2015. From the comparison of Table no.1 and 2 we can see a great disproportion in the numbers of reported cases by the police, on one hand, and by the other sources, on the other.⁴²

⁴¹ Macedonian Helsinki Committee for Human Rights (MHC), OSCE Mission to Skopje, Macedonian-Bulgarian Friendship (MBP), Balkanski Horizonti, etc.

⁴² There are reports, analyzes and other publications available that give preview in num-

Reported by other sources: Macedonian Helsinki Committee for Human Rights (MHC), OSCE Mission to Skopje, Macedonian-Bulgarian Friendship (MBP), Balkanski Horizonti, UNHCR.								
Bias Motivation	Type of Crime	2020	2019	2018	2017	2016	2015	
Racist and xenophobic hate crime	Violent attacks against people	75	121	62	27	13	31	
Racist and xenophobic hate crime	Damage to property	3	5	9	5	3	1	
Racist and xenophobic hate crime	Treats	9	8		1	/	/	

Table no. 2 Racist and xenophobic hate crime in North Macedonia, reported by the police for 2015-2020, Source of data: OSCE available data on <https://hatecrime.osce.org/north-macedonia>.

The victims do not believe that the police can protect them or even that the police are willing to protect them, so in the absence of any institutional support and faith that the perpetrators will be punished, they just seek for safe transit throughout the country. The European Commission's 2019 Country Progress Report stated: "The collection of data on hate speech is not carried out in a systematic way, and an increase in cases of hate crimes has been observed in the database of civil society organizations".⁴³

bers concerning hate speech and hate crime in North Macedonia such as Helsinki Committee for Human Rights, Hate Crimes in the Republic of Macedonia in 2013, available at: <http://shorturl.at/fhATY>, Helsinki Committee for Human Rights, Hate Crimes in the Republic of Macedonia in 2014, available at <http://shorturl.at/mnqL1> Helsinki Committee for Human Rights, Hate Crimes in the Republic of Macedonia in 2015, available at <http://shorturl.at/ATZ> Helsinki Committee for Human Rights, Hate Crimes in the Republic of Macedonia in 2016, available at <http://shorturl.at/tvBC4> Helsinki Committee for Human Rights, Hate Crimes in the Republic of Macedonia in 2017, available at <http://shorturl.at/qN169>, Helsinki Committee for Human Rights, Hate Crimes in the Republic of Macedonia in 2018, available at <http://shorturl.at/dwyIW>. Helsinki Committee for Human Rights, Hate Crimes in the Republic of North Macedonia in 2019, available at <http://shorturl.at/dlyP8>. Also, see Pol Iganski Research on the victimization from hate crimes, OSCE Mission in Skopje, 2019. <https://www.osce.org/files/f/documents/6/5/424199.pdf>.

⁴³ European Commission, North Macedonia Report 2019, Brussels, p. 30.

However, there are some positive aspects of the work in the field of preventing xenophobic hate crime like: in 2015-2016 more than 2,000 police officers have completed training to recognize hate crime; in 2015 'The OSCE Mission to Skopje'⁴⁴ and the 'Academy for Judges and Public Prosecutors' trained a total of 80 judges and prosecutors on identification, processing, and adjudicating hate crimes; improvement of the public prosecutor's office and the judiciary databases by adding an additional option for reporting cases of hate crimes; the forementioned amendments and additions to the Criminal Code adopted in December 2018; improvement in the national collection of data on hate crimes by Ministry of Internal Affairs. A step forward are also the two successful tolls for reporting hate speech and hate crime - the online platforms that facilitate reporting hate speech [<https://www.govornaomraza.mk/main>] and hate crime [<https://zlostorstvaodomraza.com/incidenti/>], on which migrants, refugees, asylum seekers as well as any other victim or person of interest can report hate crime and hate speech.⁴⁵ Still, the general conclusion is that the appropriate and timely recognition and registration of xenophobic hate crimes by police and judicial authorities remain at an unsatisfactory level.

In this context, there is no official data on the filed reports, charges / inditements, and judicial decisions for criminal acts: 'Spreading racist and xenophobic material via information system'⁴⁶ and 'Racial or other discrimination'⁴⁷ and 'Causing hatred, discord or intolerance on national, racial, religious or any other discriminatory grounds' because the State Statistical Office does not keep a separate registration for these crimes and they are listed in the group "other crimes against public order and peace", so a clear separation of exact figures is not possible, and that is a serious gap in the official statistical data system.⁴⁸

⁴⁴ The OSCE Mission commissioned an expert analysis on "Mapping of obstacles to processing hate crimes", which presented a comprehensive perspective on the barriers to the effective identification, investigation, prosecution and adjudication of hate crimes, in order to help prosecutors and judges in successful processing hate crimes.

⁴⁵ See reported hate crimes towards migrants and refugees at <https://zlostorstvaodomraza.com>.

⁴⁶ Article 394-d from the Criminal Code of North Macedonia.

⁴⁷ Article 417 from the Criminal Code of North Macedonia.

⁴⁸ See MakStat base of the State Statistical Office for further information <http://makstat.stat.gov.mk/>.

10. Conclusion

Xenophobic rhetoric in the public discourse can pose a very dangerous threat to democracy and rule of law. As already aforementioned in this paper, xenophobia basically is presented as irrational hatred towards foreigners and all their values, customs, and habits. Any perception of migrants, refugees and asylum seekers as outsiders or foreigners to the community, society, or national identity, or even worse – as a potential terrorist, can and will lead to eventual violation of basic human rights. From the theoretical analysis that we have conducted in this paper we can confirm, without any doubt, the U.N. Secretary-General Ban Ki-moon in 2016 statement “Xenophobic and racist responses to refugees and migrants seem to be reaching new levels of stridency, frequency and public acceptance” is shown to be very accurate in the context of the migrant crisis in the Balkans. In this paper we have tried to define xenophobia in the context of migration and asylum in the Balkans with special emphasis on North Macedonia. We also analyzed the phenomenology of xenophobia and the creation of the so-called anti-migration rhetoric, the xenophobic outbursts of individuals, groups, and even formal movements. From the quantitative analyses that we have conducted for the purpose of this paper, due to the lack of information, or the lack of reporting xenophobia from migrants, refugees, asylum seekers, and above all fear and mistrust in the institutions, we believe that there are far too many cases than the official reported ones, which contributes to the deepening of the problem and failure to undertake meaningful actions by state institutions. We are of the opinion that xenophobia and hate crime towards migrants, refugees, and asylum seekers are not at all isolated cases,⁴⁹ and therefore, the State’s punitive policy for such impermissible behavior should be more severe in order to show that such xenophobic crimes and rhetoric would not be tolerated at all.

⁴⁹ This can be seen from the online platforms that facilitate reporting hate speech [<https://www.govornaomraza.mk/main>] and hate crime [<https://zlostorstvaodomraza.com/incidenti/>].

