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FORMS OF ILLEGAL AND FORCED MIGRATION
IN THE REPUBLIC OF MACEDONIA
ОБЛИЦИ НА НЕЛЕГАЛНА И ПРИСИЛНА МИГРАЦИЈА
ВО РЕПУБЛИКА МАКЕДОНИЈА
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ABSTRACT

Long transition process as well as the long process of political stabilization of the country, had extremely worsen the situation in the country and created a "free" space for the development of new "modern" threats and challenges to peace and stability in the Republic of Macedonia. In the contemporary context, the safety of citizens is not just a matter of external threats to national sovereignty and territorial integrity of the state, but also implies building a society that effectively works. Forms presented below of illegal and forced migration, represent only part of a wider range of unconventional threats to international peace and stability that don't recognize limitations, that are transnational and increasingly operate without respect for national borders.

As a serious threat to peace and stability of the Republic of Macedonia, illegal and forced migrations represent a challenge of the first order and priority for both national and regional security. Accordingly, in the context of preserving, improving and promoting peace and stability in the Republic of Macedonia, of exceptionally importance is the presentation of their real and fair view.

This article is an attempt to present some of the forms of illegal and forced migration that are present today, and that seriously endanger the peace and stability of the Republic of Macedonia.

Key words: unconventional threats, illegal and forced migration, security, peace, stability.

АПСТРАКТ

Долготрајниот транзициски процес како и долготрајниот процес на политичка стабилизација на земјата, крајно ја влошија состојбата во државата и создадоа „слободен“ простор за развој на нови „современи“ закани и предизвици по мирот и стабилноста на Република Македонија. Во современ контекст, безбедноста на граѓаните не претставува само прашање на надворешни закани по националниот суверенитет и територијалниот интегритет на државата, туку подразбира и градење општество кое

ефикасно функционира. Подолу презентираниите облици на нелегална и присилна миграција претставуваат само еден дел од пошироката лепеза неконвенционални закани по мирот и стабилноста на Република Македонија кои не признаваат ограничувања, транснационални се, и функционираат без почитување на државните граници. Како сериозна закана за мирот и стабилноста на Република Македонија, нелегалните и присилни миграции претставуваат предизвик како за националната, така и за регионалната безбедност од прв ред и приоритет. Оттука, во контекст на зачувување, подобрување и унапредување на мирот и стабилноста на Република Македонија, од исклучително голема важност претставува прикажувањето на една реална и објективна слика за нив.

Во трудот е направен обид да се презентираат дел од облиците на нелегална и присилна миграција кои денес се присутни, и кои сериозно го загрозуваат мирот и стабилноста на Република Македонија.

Клучни зборови: неконвенционални закани, нелегална и присилна миграција, безбедност, мир, стабилност

INTRODUCTION

In last few decades, worldwide migration of people takes place with variable size and intensity which registered significant and continuous growth. Statistics show that today, more than 220 million people, meaning, more than three percent of the world's population lives outside the country in which they were born. Their scope is bigger than ever. And more importantly, the growth trend of migration is expected to continue in the coming decades. This conclusion applies also when it comes to only illegal and forced migrations.

In the Universal Declaration of Fundamental Rights clearly states that every citizen has the right to leave any country, including his own country, but to return again in the State in which he previously lived. Despite the declarative support, most of the countries of the world, especially economically more developed states, using different mechanisms, this "basic human right" successfully suspended. It essentially means that the legal process of migration of people becomes limited and conditional, which of course does not correspond to its postulates and indirectly forces citizens, in his absence, to "use" the illegal way of migrating.

Given the foreground sensitive socio-political situation in which today is the Republic of Macedonia, it is almost certain that the search for security, a better life and prosperity, initiated mainly by economic and political instability, but also from religious and

national intolerance citizens, constitute the basic reasons for the migration of its citizens. Considering the offered, in this paper is generated attempt to better understanding of the issues associated with those forms of illegal and forced migrations that at this point in the Republic of Macedonia can be found.

MIGRATIONS

Migrations are complex demographic variables and they may manifest as a permanent process when people constantly, for a longer period move in one, or from one country to another, or as a mass exodus that is, when for a short period of time large populations move in within one or outside that country. About migrations, there are a number of definitions, but given their complexity, does not exist a single and generally accepted one that would have contained all their elements and features.

Term migration comes from the latin word - migratio meaning moving or relocation, and essentially represent any change in the place of residence of individuals or small and larger groups of people. In other words, the term migration means any geographical displacement of the population and the establishing of a new temporary or permanent residence. They even can be defined as permanently changing people's place of residence, its relocation due to realization and meet different kind of activities or interests (Talevski, 2004). On the other hand, if you take into consideration the normative aspect of this phenomenon (especially important for this paper), it is quite certain that the migration of people would be define as a movement of people in one or from one country to another, and this movement (migration) may be voluntary or involuntary, that is can be legal (lawful) or illegal (unlawfully).

Due to the impact of a number of different factors, migrations represent very complex multi-factorial social processes. In the literature there are a number of attempts to separate the most important factors. One of them, which define the influence of the factors for migration, is the "gravity model". Analogue to the natural gravitational field, migration as a process is affected by two types of factors (factors that push and factors that attract) that are closely connected with the place or country where population migrate in or out:

Given the foreground the complexity of migration, as well as the causal factor on the migration process itself, we can almost certainly conclude that, migrations from pure type do not exist. Most often they are complex migrations that are a combination of several different types of migrations. Given the fact that the scientific literature lacks of precisely differentiated and appropriate classification of the types, below elaborated types of migrations, for the development of which used different sources, however, show a certain division (typology) of this complex phenomenon.

FORMS OF ILLEGAL AND FORCED MIGRATION IN MACEDONIA

Illegal and forced migration in the Republic of Macedonia in the last two decades, are taking up one of the priority areas when it comes to maintaining peace and stability in the country.

Reasons which led to it are the logical consequences of the conflict in the dissolution of the former SFR Yugoslavia in 1991, Kosovo's post-conflict situation and the refugee crisis of 1999, and the transition period that resulted as a conflict in Macedonia in the 2001. Even today, more

than twenty years since the establishment of the independent Republic of Macedonia, illegal and forced migrations of all kinds and shapes represent one of bitter questions for overcoming, because basically they reduce trust in institutions, and encourage the corruption and crime, threatening with it even the whole process of stabilization of the country. When analyzing the forms of illegal and forced migration in the Republic of Macedonia, the basis would only represent the characteristics - illegally migrating, and the existence of a certain kind of enforcement in the process of migrating.

INTELLECTUAL MIGRATION

As "intellectual migration" denote all the migrations of people who relate mainly on migration of highly educated staff, made under the influence of any reason and no matter what factor had caused them. Intellectual migration, or migration of highly educated personnel, mainly takes place due to economic reasons (long-term unemployment), but also influenced by the attractive factors of the country in which are migrating (getting a job in the field, certifications for professional skills, good conditions for scientific research work, etc..). Characteristic example of this type of migration is migration of medical staff (pharmacists and physicians). Although the health sector in the Republic of Macedonia had a shortage of about 500 physicians, and in particular the shortage of doctors specialists in certain areas, however these higher education profiles in the recent years massively decide to leave and look for jobs in another country. Their most common destination are Western European countries, and in particular the Republic of Germany, Austria, and often Slovenia and Croatia. Information show that in 2010, Drug chamber in Macedonia acquired the

documents they need to work abroad for 86 doctors, in 2011 the same thing did 121 physician and in the first half of 2012, 30 physicians. This situation is confirmed by the Embassy of the Republic of Germany in the Republic of Macedonia. According to official reports of the embassy, working visas for physicians in Germany since the beginning of 2010 to the first half of 2012 received 60 doctors (in 2010 issued 20 visas, in 2011 35, and in the first half of 2012 5 visas were issued).

Contemporary intellectual migration, gain on difficulty because of the increased potential of the intellectual migration. In efforts to identify potential intellectual emigration there are only two surveys of migration intentions of students in their final years and teaching academics of several faculties of the University "Ss. Cyril and Methodius "in Skopje¹². They were conducted in 1994 and 2003 at the Faculty of Electrical Engineering (ETF), Mechanical (MF) and the Faculty of Natural Sciences and Mathematics (PMF) and they covered 120 or 305 students from the fourth year. At the same faculties in 2003 were interviewed 59 people, scientific workers. These faculties were chosen because they could produce staff that relatively easy find employment abroad. The results of these studies have shown that migration

intentions of students of the mentioned faculties are highly expressed. In 1994 three-quarters of students ETF (76%), MF (77%) and Mathematics (75%) said they are considering or planning to leave the country. In 2003 the value of this indicator is even higher because 86.8% of the students of the ETF and MF and 79.2% of PMF said they are considering or planning to go abroad. The same indicator for all students surveyed in the two mentioned years is 75.8% and 84.9%. Research has shown that in the Republic of Macedonia also the situation regarding migration intentions of young academic/scientific staff is alarming. In fact, 55.9% of respondents said that they consider, and 10.2% said they plan to leave the country.

MIGRATION OF REFUGEES

The term "refugee migrations" represents all migrating people (usually a group of people) in another country, which occur when the country of migration is affected by a crisis (war, weather, drought, starvation, etc.), and later, when conditions stabilize, they organized return to the country from where migrated.

Despite the fact that the Republic of Macedonia managed to avoid military actions of the 1999 military conflict that erupted with disintegration of former SFR Yugoslavia, however, from two million people that were displaced during the conflict, about 32,000

¹² In 1994 by the department of Informatics at the Macedonian Academy of Arts and Sciences, and in 2004 by the Institute of Economics in Skopje within the project "Migration of highly educated and professional staff - Causes and Consequences," funded by the Ministry of education and Science.

refugees entered the territory of the Republic of Macedonia. These refugees, mostly escaped from the territories of Bosnia and Herzegovina and Croatia, received humanitarian protection by the Ministry of Internal Affairs and Ministry of Labor and Social Policy of the Republic of Macedonia. By the end of the war in the former SFR Yugoslavia, thousands of refugees and internally displaced persons have returned to their homes again. However, contrary to the goals of the Sarajevo Declaration of January 2005, which was supposed to immediately and as soon as possible find long-term solutions for all displaced persons, even today, there are still unresolved issues that represent obstacles to their return. The total number of evicted people during the Kosovo crisis, starting from March 24, 1999 (the NATO bombing of Yugoslavia) until the end of June 1999, when after the adoption of UN Resolution mediation of international forces in Kosovo, under the NATO command was signed Peace Agreement between General

Jackson and part of Serbian generals, amounted to 379,523 persons. From this number, 92,100 people were transferred to third countries, 154,989 people were placed in Albanian families in the Republic of Macedonia, while, 112,434 refugees were placed in nine camps built specifically for them at the beginning of the Kosovo crisis.

As a result, tensions between ethnic Macedonians and ethnic Albanians living in Macedonia, which escalated into violent conflict in 2001 (Mitrevska and others, 2009), 76,046 people from areas affected by the conflict in the quest for personal safety and security had moved to other areas in the country. Of these, 72,134 people were placed in families, while 3912 entities found accommodation in 21 shelters. According to the new procedure for the population census in the Republic of Macedonia in 2006 there were 755 entities (256 families) which are still considered as internally displaced people. Of these, 331 were of Macedonian origin, 234 ethnic Serbs, 111 Roma, 62 Albanians and 17 Bosniaks. Of these people, 302 persons (83 families) were placed in families, and the other 452 people (173 families) in reception centers in Kumanovo, Tetovo and Skopje. Today, twelve years later, because of the large number of open questions, the process of reconstruction of houses in areas affected by conflict has not yet been fully completed.

Although a number of countries have already recognized Kosovo as a sovereign independent state, however, the uncertainty of the development of the negotiations between Serbia and Kosovo, as well as unresolved until the end, the status of Kosovo, are a significant hotspot that can potentially lead to a "new" displacement of about 85,000 people who live in Kosovo's ethnically sensitive regions (especially in the northern part of Kosovo). It is indisputable that if it happens, most of them will enter the Republic of Macedonia.

MIGRATION OF ASYLUM SEEKERS

By the term "migration of asylum seekers" are represented all migration (legal or illegal) of individuals or groups of people that submit individual applications for asylum in the country where migrate in order to obtain identical rights as citizens of the country in which they migrate.

In terms of time distance, and given the fact that it is very difficult to follow and record the migration of asylum seekers is best to be considered before and after the facilitating visa regime of the Republic of Macedonia and the European Union. The characteristic period of time before visa facilitation, which recorded massive migration of entities, asylum seekers is connected to the 2001 conflict in Macedonia. According to UNHCR, which was then the only responsible authority for assistance in the process of return of refugees and displaced people from the "conflict in 2001", for the period from early 2001 to early 2006, 8599 citizens of Republic of Macedonia sought asylum in other countries (mostly in the European Union countries). As far as the migration of people - asylum seekers

after visa facilitation, the European Commission's latest report on Republic of Macedonia note that there is an improvement in terms of the visa-free regime of the Republic of Macedonia and the European Union and there has been a decline in the number of asylum seekers from 7550 in 2010 to 5545 in 2011. However, given the increasing number of migrants - asylum seekers (false asylum seekers) in 2012 (according to official data from the Ministry of Interior of the Republic of Macedonia, in the last nine months of 2012, over 6,500 Macedonian citizens were stopped while trying to leave the country) can easily make certain countries, which recorded the largest number of this type of migrants (Germany, Belgium, Luxembourg, Sweden¹³ and the Netherlands) to seek review of the visa-free regime of the Republic of Macedonia and the European Union.

MIGRATION RELATED TO SMUGGLING OF PEOPLE

"Migration related to smuggling of people" refer to all illegal and forced migration of people in particular (transit) country through its territory, often with the support of the people of that country, migrate to another (final) destination country.

13 In Sweden in 2011, a request for asylum lodged 890 Macedonian citizens, but only 0.4%, which is four people, obtained permission to stay in this country. For comparison, is worth pointing out the fact that in Sweden 75% of asylum seekers from Eritrea, as well as 43% of asylum seekers from Iraq were granted residence permits. According to the latest forecast of the Swedish Institute for Migration, next year the total number of asylum seekers in Sweden could be 50,000, which would be the highest level since the war in Bosnia 20 years ago.

Smuggling of persons is mainly characterized with including persons - immigrants who had previously agreed to be the subject of smuggling and ends with the arrival of migrants to their final destination. This means that smuggling is always transnational process and takes place between two or more states. Despite the fact that the Republic of Macedonia has signed the United Nations Refugee Convention of 1951 and its 1967 Protocol, adopted the Law on Asylum and harmonize its own criminal law in accordance with international standards and introduce the same or similar penalty measures for violators, however migrations related to the smuggling of

people are very complex problem for the Republic of Macedonia because at the same time, represent social issue and a criminal act¹⁴.

Due to the drastic violation of human rights and freedoms, the United Nations Protocol relating to this type of migration, as the main aim has their reducing, preventing, or complete suppression.

In Table no. 1 are given recorded criminal acts related to smuggling of people in the Republic of Macedonia for the period 2001 - 2010. It is noticeable that the registered criminal offenses related to the smuggling of people ranging from 21 in 2004 to 36 in 2008. It is recorded a significant reduction (about 30%) of criminal acts related to people smuggling in 2009 (26) 2010 (27), which of course leads to the conclusion that is improving the operation of the relevant institutions of the Republic of Macedonia. Despite significant

¹⁴ The Criminal Law of the Republic of Macedonia smuggling of people is defined as a criminal act. The punitive provisions against the participants in the smuggling of people are regulated in Article 418-b of the Criminal Law of the Republic of Macedonia.

improvement in the last two years, if we follow the trend of this phenomenon (Chart. 1), it can be concluded that has an upper line.

MIGRATION RELATED WITH HUMAN TRAFFICKING

The term "human trafficking" represents all migrations of people (without their consent) in a particular country with the purpose of exploitation and abuse in the country where (without their consent - forced) have migrated (Article 418-a of the Criminal law of the Republic of Macedonia).

Human trafficking is a multidimensional problem that is high on the agenda of the Government

of Macedonia. With the support of European programs of the European institutions (CARDS, Council of Europe, SECI Center, the Stability Pact, the OSCE, ODIHR and UN), the last ten years, the Republic of Macedonia pays particular attention to the fight against this type of crime. Today, in Republic of Macedonia operates a center for acceptance of human trafficking victims, introducing standard operating procedures for handling for all relevant institutions and the non-governmental organizations responsible for the reintegration of victims, fully implement the re-socialization of the victims. Also, in order to comply with European regulation, Macedonia several times changed the Criminal law for offenses related to human trafficking. Apart from the fact that human trafficking is defined as a crime, with recent amendments to the Criminal Law are provided huge penalties for offenders, particularly perpetrators of offenses related to trafficking of minors (minimum prison sentence of eight years).

Unlike smuggling of people, which is basically related to illegal border crossings, trafficking refers to the violation of fundamental human rights through human exploitation within organized crime. Today, this phenomenon is less concerned with issues related to illegal crossings in to and out of a country, and are more concerned with issues related to the protection of victims of trafficking (Popovski and Naumovska, 2008) and their rights, and by taking stringent legal measures to punish participants in the trade.

TRAFFICKING - RELATED MIGRATION OF MINORS

The term "trafficking in minors" refers to all the forced migrations from one country to another (Article 418-d of the Criminal Code of the Republic of Macedonia) by underage persons (under 18 years).

What kind of appearance it is, speaks human trafficking report released by the Ministry of Foreign Affairs of the United States which states that in the course of a year about 600,000 to 800,000 people are victims of human trafficking. Of these, about 70 percent are female and about 50 percent are minors. OSCE reports however, mentions a figure of 1.2 million children (under the age of 18 years, bought or sold to perform domestic work, farm work, work in the mines and in the commercial sex industry, as well as begging or performing minor offenses), that are victims of human trafficking around the world for a period of one year.

In Table.3 are given the data on registered crimes related to trafficking of minors in the Republic of Macedonia for the period 2001 - 2010. It is noticeable that registered traderelated crimes with minors only apply for three years, that is since 2008 when it is introduced a new and separate

criminal act - trade with minors. It is recorded a significant reduction in offenses related to the trafficking of minors so the trend of this phenomenon (Chart. 3) has a downside, which of course leads to the conclusion that significantly improves the work of the competent authorities of the Republic of Macedonia related to the prevention of trafficking with minors.

MIGRATION TO COMMIT CRIMINAL ACTS

"Migrations to commit criminal acts" are a specific kind of migration so as to migrant during the illegal stay in the land in which temporary migrated, perform criminal acts and then return to the country that migrated from (Article 418-c of the Criminal Law of the Republic of Macedonia). This type of migration mainly refers to the frequent cases (fraud, extortion, theft, murder, etc..) When the perpetrators of a crime in the Republic of Macedonia migrated (refuge) through border points in order to avoid being detected and detained, or in case when citizens of neighboring states (Kosovo, Serbia) "illegally" entering the Republic of Macedonia in order to commit a criminal act, and quickly return to the country where they came from to avoid being detected and caught.

Despite the fact that there are no precise data on the number of offenders and the number of this type of crime, we can conclude with certainty that are recorded a number of "serious crimes" (armed robbery Eurostandard Bank the center of Skopje, murder of five people near Lake Smilkovsko etc..) where the perpetrators of these crimes have migrated to neighboring countries.

CONCLUSION

Starting from the constitutional provisions with whom basic human rights and freedom and respect for the generally accepted norms of international law are established as the fundamental principles of the constitutional order, and having regard to the Stabilization and Association Agreement and the United Nations Convention against Transnational Organized Crime, Government of the Republic of Macedonia, reacting decisively to fight illegal and forced migration and wanting to achieve higher levels of efficiency and joint action, in 2001 set up the National Commission for Fight against trafficking with human beings and illegal migration with one goal, to be actively engaged in the international community's efforts to prevent and fight against illegal and forced migration, people smuggling and trafficking, as one of the most severe forms of organized crime.

This committee manages the National Coordinator, and the content works an Office - a body that is responsible for accepting and implementing the decisions of the National Commission that includes representatives of international organizations, nongovernmental organizations, embassies and government bodies. To give special emphasis on improving the protection of trafficking in minors, under the National Commission in 2003 was established subgroup for children - victims of trafficking.

In order to improve the fight against trafficking and forced migration in the period 2009 - 2012, by the proposal of the National Commission for Fight against human trafficking and illegal migration, the Macedonian government adopted:

- o National Strategy for fight against human trafficking and illegal migration in the Republic of Macedonia;
- o National Action Plan for fight against human trafficking and illegal migration in the Republic of Macedonia; and
- o Action Plan to fight child trafficking in the Republic of Macedonia.

They are a result of the need for a different approach of society towards this type of organized crime. Along with the previously adopted documents whose implementation took place from 2006 - 2008, Republic of Macedonia continuously systematize the activities for prevention, protection and prosecution of participants in the illegal and forced migrations in a long time. In accordance with the EU standards and decisions of the Council of Europe for the prevention of trafficking with people and fight against the sexual exploitation of children and child pornography, the Republic of Macedonia developed national action plans for fight against people smuggling, human trafficking and trafficking in minors. Also, in terms of harmonization of criminal legislation with the European Union in 2002 in the Criminal Code of the Republic of Macedonia was introduced Article 418-a (human trafficking), and in 2004 the Criminal Code introduced two new Articles 418-b (smuggling) and a 418-c (organizing group and inciting to commit a criminal offense - trafficking in human beings and smuggling of people) and in 2008 the Criminal Code introduce a further Article 418-d criminal offense - trafficking in minors.

Despite the progress in certain segments, however in front of the competent institutions of the Republic stand a number of open issues that need to be closed. That the situation is not such as we wish, speaks the fact that if we take only the registered crimes related to illegal migration (people smuggling, trafficking in human beings and trafficking in minors) in the period 2001 to 2010 (Table no. 4) we will see that their number does not decrease, but on the contrary, the trend of recorded offenses associated with this type of illegal and forced migrations in the period 2001 to 2010 has upper line (Chart. 4). Seeing according to the data presented, the situation with the other forms of illegal and forced migrations (intellectual migrations, migrations associated with asylum seekers, refugee migrations and migrations associated with conducting criminal acts) is not yet at the required level. Hence, given the scope and dynamics of the presented forms of illegal and forced migration in the Republic of Macedonia, as well as the complexity of the issues in terms of their causal association with socio-economic development of the individual, the state and the society,

and in order to prevent and reduce them, the Republic of Macedonia (among others) have created a unique approach by taking a series of coordinated activities in advance through:

- oEfficient and transparent management of legal migration;
- oRespect for human rights, in accordance with national and international legislation;
- oAdopting and implementing clear and effective procedures aimed at preventing illegal crossings of the border and cross-border crime (Integrated Border Management); and perform
- oContinuous adjustment and harmonization of legislation of the Republic of Macedonia to the procedures in the area of migration and migration policies in

accordance with changes in the laws of the countries of the European Union and international standards.

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