

**МЕЃУНАРОДНА НАУЧНА КОНФЕРЕНЦИЈА**

**РЕФОРМИ НА БЕЗБЕДНОСНИОТ СИСТЕМ КАКО  
ПРЕДУСЛОВ ЗА ЕВРО - АТЛАНТСКИ  
ИНТЕГРАЦИИ**



**INTERNATIONAL SCIENTIFIC CONFERENCE**

**SECURITY SYSTEM REFORMS AS PRECONDITION  
FOR EURO-ATLANTIC INTEGRATIONS**

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**TRAFFICKING IN HUMAN BEINGS VS. MIGRANT  
SMUGGLING: THEORETICAL AND PRACTICAL  
DISCOURSE ANALYSIS WITHIN MIXED MIGRANT FLOWS  
IN THE REPUBLIC OF MACEDONIA**

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**Background:** Mixed migration flows on the Balkan Route in the period 2014-2016, as many times in the history of the Balkans, has highlighted the significance of migrations as a demographic and security threat, but also as a phenomenon associated with the operation of the local and transnational crime groups.

The terminology used in referring to migration, has imposed the need to differentiate the key terms related to migration and associated vulnerabilities to victimization, which proved to be crucial for defining the approaches of relevant stakeholders in handling and dealing with criminal offenses and the provision of humanitarian, legal and social services. In this context, the most specific are the vulnerable categories of migrant/refugees – victims of trafficking in human beings and migrants who suffered rights violations in the context of migrant smuggling.

The differentiation between the trafficking in human beings (THB) and smuggling of migrants (U.S. Department of State, 2017; (OECD, 2015, p.2) is still a key challenge for both the frontline governmental and non-governmental actors and processing further the acts of crime.

The paper theorizes the challenges and barriers coming from the understanding of the THB by the frontline workers, gaps in understanding the difference between victims of THB and smuggled migrants, and underlines the need for enhancing the capacities of the frontline workers to detect and process the acts of THB in the mixed migration flows.

**Methods:** The paper uses the data collected through interviews for the purposes of the Assessment Report aimed to SAFFER project and titled “Challenges in the identification and the protection of vulnerable individuals and victims of gender based violence and trafficking in human beings in the context of the current migration crisis”. The interviews were conducted in three MARRI participants in the summer, 2017. Sources of data in Macedonia were governmental professionals and CSO field workers who acted as first line responders in the mixed migration flow, as well as THB sensitive physical environment in transit/reception/asylum centers. Total of five interviews were conducted in Macedonia, out of which two with professionals from governmental institutions and three with frontline CSO workers. Data collection was conducted in the period June-July 2017. Document analysis as a data collection technique was applied to relevant reports and publications issued by (inter)governmental entities (UN agencies, Ministry of Interior, National Commission for Combating Human Trafficking and Illegal Migration and MARRI Regional Center), CSOs and individual papers.

**Results:** The paper suggests recommendations for building the institutional capacities of the frontline governmental and non-governmental actors for detection and processing the acts of THB in the premises where persons in transit are accommodated.

**Conclusion:** The paper uses academic critical approach, taking into consideration the readiness of frontline workers to understand better the terminology and capacities to identify and how to further proceed the acts of THB where the persons in transits are involved.

**Key words:** *Balkan Route, Republic of Macedonia trafficking in human beings, migrants, frontline workers.*

## **Introduction**

The Balkan represents a traditional route for the migrants on their way to the developed part of Europe. The Balkan Route, as an integral part of the Eastern Mediterranean route, made the Balkans significant for Europe in dealing with the migrant crisis. The large number of migrants which flooded Europe between the end of 2014 and the first quarter of 2016, tested the governmental and non-governmental capacities of the countries along the route to cope with the crisis.

The total number of arrivals on the Macedonian-Greek border was 694,679 in 2015, with a daily flow of 5,000-10,000 persons. In the period from June 19<sup>th</sup>, 2015 to December 30<sup>th</sup>, 2015, a total of 384,481 certificates<sup>79</sup> were issued to the foreign nationals, 207,398 of which were male, 65,076 were female, 93,892 were children accompanying the certificate holder and another 18,115 children who were travelling without a parent, to whom a certificate has been issued for the expressed intention for submitting a request for recognition of the right to asylum. In the period from January 1<sup>st</sup> to March 8<sup>th</sup>, 2016, 89,623 migrants expressed an intention for asylum, while the daily flow was limited to 3,000 persons (for refugees from the war zones only) and the Macedonian police prevented 35,177 persons crossing into Macedonia from Greece after the formal closure of the Balkan route (Pavlovski and Popovska-Aleksandrovska, 2017).

The mixed migration flow in the Balkans has opened many issues related to the risks that migrants, especially vulnerable groups face on their way to the final destination, the problems and sufferings of migrants, costs of services, their contact with governmental and non-governmental institutions, the local population and the criminal groups. In particular, an emphasis is placed on the response and approaches of governmental institutions and (I)CSOs in relation to upholding and protection of human rights and freedoms, especially in terms of the right to asylum, freedom of movement and the right to dignity, safety and life, and obtaining humanitarian assistance, protection and other types of services.

The massive migrant flows have reduced the already limited capacities of the state authorities to deal with (transnational) crime whose intensiveness and scope have sparked within the migrant crisis. The institutional approach especially refers to the capacities of the law enforcement services, coordination entities and other state and non-state service providers, related to the detection of THB related acts.

In addition to the EU engagement (thorough DG ECHO, Frontex and other forms of engagement), many other international key stakeholders working in the field of crisis

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<sup>79</sup> The migrants need to register in the police station at the Gevgelija railway station or in the reception/transit centers located on this side of the border. There they can obtain papers (certificates) which allow them 72 hours to cross the country.

management and humanitarian action (such as UNHCR, IOM, UNICEF, UNFPA and the Red Cross) contributed significantly. They supported local and national stakeholders and CSOs in providing services, as well as in the facilitated implementation of international law and procedures and finding appropriate operational and regulatory solutions for different topics concerning all categories of persons in transit - migrants, refugees and asylum-seekers. Significant impact in supporting infrastructure development and providing humanitarian, social, legal and health services is also provided by several ICSOs, such as the Danish Refugee Council (DRC), Catholic Relief Services (CRS), Jesuit Relief Services (JRC), OXFAM, Save the Children, SOS Children Village, and many others (Mircheva & Rajkovchevski, 2017: 16-17). Following the structure of the frontline institutions and their staff present on the spot, they dominate quantitatively over the staff deployed by the national and local state stakeholders. Moreover, according to their mandate and role, most of those frontline workers have immediate contact with persons in transit accommodated in the transit, shelter and other types of accommodation premises.

Hence, taking into account the number, structure and rate of the vulnerable groups within mixed migrant flows, it is expected that understanding and actions for recognizing acts of trafficking in human beings by the frontline workers are crucial in the whole complex situation in which many migrants spend part of their time at the locations where the frontline workers perform their duties.

In addition to defining THB, the paper addresses the differences between THB and migrant smuggling, but the focus is on understanding the THB (terminology, elements of the work and the legal framework) and the developed skills for their recognition and detection by the frontline workers, directly working with persons in transit within the accommodation centers in the Republic of Macedonia.

### **1. Definition of THB and correlation with other types of crime**

From the frontline workers perspective, being skilled for THB detection among the persons in transit and being familiar with the summary of the standard operative procedures developed by the national authorities, is preconditioned by knowledge of the definition of THB and similar phenomena.

The definition of THB provided in the Council of Europe Convention on Action against Trafficking in Human Beings, states:

*“Trafficking in human beings shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs” (Art. 4(a)).*

It is necessary that the trafficking in human beings is distinguished from migrant smuggling. The latter is the subject of a separate protocol to the United Nations Convention against Transnational Organized Crime (Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Crime). While the aim of migrant smuggling is the unlawful cross-border transport in order to obtain, directly or indirectly, a financial or other material benefit, the purpose of trafficking in human beings is exploitation. Furthermore, trafficking in human beings does not necessarily involve a transnational element; it can exist at national level

(Par.7 of Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings, 2005). A key difference is that victims of trafficking are considered victims of a crime under international law; smuggled migrants are not—they pay smugglers to facilitate their movement. However, smuggled migrants may suffer rights violations by their smugglers. Thus, better awareness of the distinctions between human trafficking and migrant smuggling can potentially improve victim protection and avoid the re-exploitation of victims (U.S. Department of State, 2017).

Some examples support the clarification and distinguishing of both terms.

*THB's example:* A recruiter deceived Marie into taking a job overseas in a restaurant, promising her a salary she could not pass up and helping her obtain a visa to work in the destination country. Upon arrival, her new “boss” told her she that there was no job in a restaurant and that she would still have to pay off the cost of finding her the job and transporting her to the country. He forced her to engage in prostitution and threatened Marie that he would tell her family what she was doing if she did not continue until she paid off her so-called debt. Marie is a trafficking victim: fraud, coercion, and force were used to subject her to sex trafficking.

*Migrant smuggling's example:* Encountering tremendous violence in his conflict-torn home country, Amir was introduced to a man who told him he could get him to another country for a \$1,000 fee. The man insisted he would get Amir there safely by boat. Amir paid him for the travel and once in the new country, he never saw the other man again. There was no force, fraud, or coercion, and Amir was not subjected to forced labour or forced to engage in commercial sex acts. Amir was smuggled and is not a victim of trafficking (U.S. Department of State, 2017).

Crimes of THB violate human rights of those trafficked, most commonly the right to personal autonomy, the right not to be held in slavery or servitude, the right to liberty and security of persons, the right to be free from cruel or inhumane treatment, the right to safe and healthy working conditions, and the right to freedom of movement. For example, a pre-determined fee for entering a country illegally can – once the border crossing has been completed – be raised to an amount that the migrant cannot afford. In order to pay off this increased fee, and under threats from the smuggler to report the migrant's illegal border entry to the authorities, the migrant can end up in a situation of forced labour or sexual exploitation, making this person a victim of trafficking (OECD, 2015: 2).

The way in which the frontline workers understand the acts of THB and migrant smuggling could result in an inappropriate approach toward potential and presumed victims of both types of crime. If the understanding and detection of THB acts is mixed with migrant smuggling, detected trafficking victims may not receive the protection, services, or legal redress to which they are entitled and may be vulnerable to being re-exploited.

Visible progress in the area of regulation of national legislation and strategic documents in the area can be a strong indicator of the presence of trafficking in human beings within the migrant flows in the Republic of Macedonia, but in the same time it shows the way how the country adapts its legal framework according to the international standards and guidelines proposed by the relevant international entities working in the area of THB.

Following the international standards of the legislative regarding THB, the National Commission publishes its Annual Report, as an official governmental document. In the last report (National Commission for Combating Human Trafficking and Illegal Migration, 2017), it encompasses the advancements in adopting the appropriate strategic

documents: the National Strategy and National Action Plan against Trafficking in Human Beings for 2017-2020 and the Inter-institutional Training Plan for 2016-2017. The Training Plan refers to training on different thematic standard operating procedures<sup>80</sup> (SOPs) and training on indicators for identification of THB victims within mixed migration flows, as an integral part of the thematic SOPs.

## **2. Sources of identification of THB victims and acts**

The data of relevant national and international bodies indicate that there is still trafficking in the Republic of Macedonia, and the migrant crisis is only an accelerator of human trafficking crimes among the share of local criminal groups and their connection with transnational groups whose actions with trafficking can only be polemized.

According to the statistics presented in the Annual Report (National Commission for Combating Human Trafficking and Illegal Migration, 2017), out of 125 identified potential THB victims in 2016, 120 are migrants. 86 potential THB victims among migrants were identified by local CSOs, of whom 25 were children. The majority or 120 identified potential THB victims were detected as victims of trafficking committed outside of and before their entering the Republic of Macedonia.

The study on *Vulnerability and Exploitation along the Balkan Route* pointed out on types of exploitation in Macedonia and Serbia,

*“Labor exploitation has been documented amongst male and female migrants/refugees (adults and children) in Greece, Turkey and Macedonia and some cases constituted human trafficking. [...] both Serbia and Macedonia have documented cases of migrants/refugees being exploited as factory workers, agricultural workers, tailors, carpenters, mechanics and street sellers”* (Brunovskis & Surtees, 2017:16). The same source on *Vulnerability and Exploitation along the Balkan Route* contains details about sexual and physical abuse of women and girls migrants in Macedonia by migrant smugglers. In some cases, as noted by Brunovskis & Surtees, *“rape and sexual assault were part of a larger scheme to extort money from families to pay for onward travel”* (2017:16-17).

As set out in a REACH Report on *Migration to Europe through the Western Balkans*, focusing on Macedonia and Serbia:

*“The introduction of border closures and incoherent migration policies across the Western Balkans has further increased the vulnerability of people in transit. People who continue to travel despite new restrictions have been forced to take illegal routes, exposing these individuals to increasing levels of personal risk including physical violence, trafficking and exploitation. Hundreds have been left stranded along the migration route in Greece, FYRoM and Serbia as a result of new policies, who face an uncertain future—unable to move forward, yet reluctant and often incapable of returning home without assistance”* (REACH, 2016: 4).

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<sup>80</sup> SOPs for Treatment of Victims of Trafficking in Human Beings (National Commission for Combating Human Trafficking and Illegal Migration, 2010); SOPs for dealing with vulnerable categories of foreign nationals (National Commission for Combating Human Trafficking and Illegal Migration, 2016); SOPs for dealing with unaccompanied and separated children - foreigners (National Commission for Combating Human Trafficking and Illegal Migration, 2015); Indicators for Identification of Victims of THB (2014); and General Indicators for First/Preliminary Identification of Presumed and Potential Victims of THB in cases of mixed migration flows (May 2016). The abovementioned SOPs are available in Macedonian, Albanian and English, while the indicators are in Macedonian only.

The Republic of Macedonia is ranked in the TIER 2 group of states in the latest US *Trafficking in Persons Report* (US Department of State, 2017). According to this report:

*“Migrants and refugees, particularly women and unaccompanied minors, traveling or being smuggled through Macedonia are vulnerable to trafficking [...]. Traffickers frequently bribe police and labor inspectors. Police have been investigated and convicted for complicity in human trafficking”* (US Department of State, 2017: 260) and: *“The government prosecuted and convicted the fewest number of traffickers ever reported. The government did not award any grants to anti-trafficking NGOs as it had done in past years and discontinued its partnership with NGOs that provided support services at the government-run shelter”* (US Department of State, 2017: 258).

The Council of Europe (CoE) informs about progress in combating THB, evaluation visits and follow-ups by the CoE's Group of Experts on Action against Trafficking in Human Beings - GRETA (Council of Europe, 28 February 2017). In the latest GRETA's report as of 2018, as an issue for immediate action, the national authorities are urged,

*“to take additional steps to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention; ...to improve the assistance for victims of trafficking;... to improve the identification of, and assistance to, child victims of trafficking;... to review the legislation in order to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in law;.. to facilitate and guarantee effective access to compensation to victims of THB;... to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities;... and to ensure that THB cases are investigated proactively, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions”* (GRETA, 2018: 42-43).

According to the Frontex Annual Risk Analysis for 2017, *“many irregular migrants become victims of forced labor or sexual exploitation at some stage during their journey to the EU. This particularly affects migrants travelling on the Central Mediterranean route via Libya and, to a much lesser extent, those migrating along the Eastern Mediterranean route”* (Frontex, 2017:27).

*“[...] humanitarian and protection actors struggle to access those in need of assistance, while law enforcement agencies lean towards blanket criminalization of all involved, including those who might have been exploited themselves* (IOM, 2015; EU Agency for Fundamental Rights (FRA), 2014, as quoted in MMP, 2017: 1). In addition, the same source predicts, *“in the absence of adequate safe, regular and legal migration pathways from the Middle East to Europe, smuggling is likely to continue, making it essential to mitigate the risk of people forced to move irregularly becoming exposed to exploitation and trafficking”* (MMP, 2017: 1).

*“There are no provisions [in Macedonia] prohibiting the detention of minors (accompanied or unaccompanied), elderly people, women or trafficked persons”* (Global Detention Project, 2017: 4).

Although in some cases, the media inform about police interventions and operations against groups of human traffickers, the information are rarely related to human trafficking within migrant flows (Lambrechts, 28 April 2015).

### 3. Practical issues

It is a fact that the statistics and reports of the relevant national and international bodies and organizations indicate that it is necessary to work on the mitigation of THB related criminal offenses, immediately with frontline workers working on the ground. This in particular concerns the development of the skills of those persons involved in the daily communication with migrants and the improvement of the measures for more efficient inter-agency cooperation. As the expectations regarding the efficiency in detection and processing of THB offenses within the migration flows should not be directed only to frontline workers, it is necessary to build a holistic and systematic multi-agency approach, with appropriate involvement of the civil sector and the academic community. It especially refers to the training and improvement of the inter-agency cooperation and coordination through data sharing.

From an **organizational** point, the competences for coordination and management of the premises for migrants in transit are under the authority of the central and partially local government. According to the mandate and defined “in-house” rules, the work of the local and international CSO stakeholders is generally focused on mitigation and response to the humanitarian dimension of the crisis, and less on identification and processing of THB cases.

**Definition, forms of THB and distinguishing between THB and migrant smuggling.** The recent field research, conducted for the purposes of the project implemented in MARRI (Migration, Asylum, Refugees Regional Initiative) Participants and referring to cases of THB and gender based violence within the migrant crisis, identifies several key anomalies ensuing from the work of the frontline workers (Mircheva & Rajkovchevski, 2017: 43-45). The report takes into consideration those countries from the region that had introduced THB as a criminal offence in their national legislation before more than a decade, accompanied by a number of policy documents and trainings. Thus, the basic presumption is that the interviewees (mainly frontline workers in the transit, asylum and detention centres) are well informed and have sound understanding of the elements and forms of THB. They demonstrated limited ability to identify and differentiate elements of THB and its various forms, as an issue that is particularly important in the process of identification and protection of potential victims/survivors.

The statements of the interviewees from Macedonia point to some evident remarks regarding the understanding, identification, mixing of smuggling of persons with THB and other relevant issues. The following quotes are an illustration of the afore-stated:

*“Trafficking in human beings is, in my opinion, a crime punishable by law, where people usually take part by accident, and there is maximum exploitation of the victims involved” (CSO interviewee, male).* It is important to note that some interviewees expressed apparent confusion about THB.

*“There are several forms of trafficking in human beings, but nowadays, I can say it is the smuggling.” (Governmental organization interviewee, male)*

*“Classical trade ...where they are transported for a certain amount of money.” (Governmental organization interviewee, male)*

*“Exploiting them sexually, emotionally, psychologically” (CSO interviewee, male)*

*“There is labour and sexual exploitation, forced begging, organ trafficking...” (Governmental organization interviewee, male)*

Namely, mixing smuggling of persons with THB affects the whole process of identification and protection of the concerned persons, especially when THB is perceived as smuggling. The core element of THB, for the purpose of exploitation of the trafficked

person is missing whatsoever, and the focus is on illegal border crossing. On the other hand, some of the interviewees listed various forms of THB, ranging from labour exploitation, sexual exploitation, slavery, forced begging, organ trafficking, or any other form of exploitation by using threat, force or other forms of coercion or fraud.

**Knowledge about the legal framework, strategic documents and training experience.** Besides understanding the elements and differentiating forms of THB within the process of identification and protection of victims/potential victims, it is necessary to have an optimal extent of knowledge of the national procedures for identification and assistance to THB victims.

All interviewees from Macedonia refer to the Standard Operating Procedures (SOPs) as a referral mechanism that defines the tasks and responsibilities, as well as the cooperation among stakeholders for identification and referral of victims of THB, GBV, unaccompanied minors and vulnerable categories in crisis and emergency situations.

*“The basis for working is standard operational procedures... These are procedures, to say, that are adopted by the Republic of Macedonia, and are a way of working with juvenile persons, unaccompanied persons, victims of trafficking... For gender-based violence.” (Governmental organization interviewee, male)*

*...“there are standard-operating procedures for trafficking in human beings, for unaccompanied minors and another vulnerable categories of people related to gender-based violence.” (CSO interviewee, male)*

The report states:

*All interviewees from Macedonia refer to the Standard Operating Procedures (SOPs) as a referral mechanism that defines the tasks and responsibilities, as well as the cooperation among stakeholders for identification and referral of victims of THB, GBV, unaccompanied minors and vulnerable categories in crisis and emergency situations.*

*With regards to THB related training, most of the interviewees acknowledged that they had received training on THB. In the conducted interviews, the level of training received varies from basic to more specialized training. Some interviewees report that they have undergone several trainings on different aspects related to the identification and assistance to THB victims, and others stated that they had received only basic training.*

## **Conclusion**

The general findings of the sources (assessment reports dominantly) reveal that frontline workers in Macedonia are well informed, trained at all levels and have sound understanding of the elements and forms of THB, but there is still a small number of involved interviewees that are mixing THB with smuggling of persons.

Language and cultural barriers are identified as obstacles to THB identification or reporting, hence an increased presence of interpreters from languages spoken by refugees/migrants (particularly, female interpreters sensitized to the culture and tradition of refugees/migrants) could improve the situation.

Interagency cooperation among (I)CSO, governmental and local institutions is a key factor in detecting and processing THB acts. In this way, a sound cooperation among frontline workers is required and remains a serious challenge. Systemic coordination, nonprofessional attitude of some professionals and insufficient knowledge of the competences of other institutions are listed as key obstacles for efficient cooperation.

Macedonia is a rare country in the region with specific SOPs and indicators developed for identification of THB victims and supposed victims in mixed migration flows. Coordinated referral mechanisms and case management at cross-border level is still



a challenge, but there are not common identification criteria for THB victims on a regional level and only informal communication and co-ordination mechanisms exist on cross-border level. Therefore, the state institutions in the Republic of Macedonia should initiate work on adopting regionally harmonized and comparable indicators for identification of potential or supposed THB victims in the mixed migration flows.

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