

## ADJUSTMENT OF REGULATIONS IN THE REPUBLIC OF NORTHERN MACEDONIA WITH EU REGULATIONS WITH SPECIAL REVIEW ON IMMIGRATION AND ASYLUM RIGHTS

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### ABSTRACT

The Republic of North Macedonia, as the central part of the Balkan Peninsula, plays an important role in the transit of people, goods and services. Taking advantage of this position represents a great challenge. A recent example for this is the immigration crisis and activation of immigration transit routes. The legislation of the Republic of North Macedonia, especially the Law on Asylum and temporary protection is regulating all issues that outcome from the crisis. A right to an asylum is an international protection which the Republic of North Macedonia is offering to individuals with acknowledges immigrant status, i.e. individuals who have a justified fear for their own life and persecution from their home countries based on various factors. The law is balanced with international norms based on procedures of gaining and abolition of the right to asylum and subsidiary protection, as well as determining rights and obligations that outcome from the acquired status. This work is elaborating the main characteristics of the compliance process of Republic of North Macedonia regulations with the European Union in the context of immigration and asylum rights. The objective of this work is to present the progress and difficulties during the compliance process of the regulations of the Republic of North Macedonia with the EU, with the aim to provide direct conclusions about improvement of certain regulations.

**Keywords:** European Union, the Republic of North Macedonia, immigration, asylum, readmission.

### INTRODUCTORY REMARKS

After proclamation of independency in January of year 1991, Former Yugoslav Republic of Macedonia highlighted its membership to the EU as one of its strategic interests. In realization of this duty, the Republic of North Macedonia identified itself as a reliable partner and an ally of the European Union and it went through few phases in its relation with the EU, in the context of approaching and integration. The European Union, on the 15 January 1992, founded the Arbitration commission, which was led by the president of the Constitution Court of France, Robert Badinter. The Commission concluded that the Republic of North Macedonia fulfils all conditions for international recognition and its' name doesn't represent a territorial threat. However, because Greece was opposed to recognize the Republic of Macedonia under its constitutional name, the process of international recognition and establishment of diplomatic relations with the EU was postponed. Full diplomatic relations between the Republic of Macedonia and the EU were established in December of year 1995, when the Macedonian Mission to the EU was established.

The European Commission established a new framework in year 1999, in which it developed a cooperation of the EU with so-called Western Balkans countries (Republic of Macedonia, Albania, Bosnia and Herzegovina, Serbia, Montenegro and Croatia), which was called the

Process of stabilization and association. On the 22<sup>nd</sup> of March of year 2004, in Dublin, the Republic of Ireland, the Government of the Republic of Macedonia applied for its' membership in the EU, by confirming the continuous and clear political commitment for accession to the Union.

On its' summit in Brussels, on the 17<sup>th</sup> of December of year 2005, the European Council decided to award Republic of Macedonia with the candidate status to the EU. Since then, at the end of every year, the European Commission is publishing regular reports about the progress of the Republic of North Macedonia. On the 30<sup>th</sup> of November of year 2007, the European Council on its meeting adopted a decision about visa liberalization for the citizens of the Republic of Macedonia. The agreement for relief of visas and readmission with the EU came to force on the 1<sup>st</sup> of January of year 2008. On the 19<sup>th</sup> of December of year 2009, the European Council adopted the decision for visa liberalisation of the citizens of the Republic of North Macedonia. The European Parliament, on its session on the 10<sup>th</sup> of February of year 2010, adopted the Resolution on the Report of progress of the Republic of North Macedonia in 2009, requesting from the European Council to adopt the recommendation of the European Commission without any further delay and adopt the decision to start negotiations for accession with the Republic of North Macedonia, with the remark that the clear perspective for EU membership is the main motivational force for reforms in the country of great significance and political stability and the EU is the mutual aim of the political actors and ethnical groups in the Republic of North Macedonia.<sup>1</sup>

The process of joining the European Union implies application of appropriate previous defined and accepted standards in numerous fields, especially in the field of procedures of the authorities. The EU doesn't have the authority to impose requests upon states candidates for accession which would be unacceptable for the country, however it can request from the country to adopt certain standards and good adopted practices in the application of reforms of its administrative capacities.<sup>2</sup>

An important precondition in the accession process is adoption of the pre-accession strategy, which is designed to prepare the country for future membership. The pre-accession strategy includes numerous documents and mechanisms, like accession agreements, agreements on stabilization and association, economic agreements and conventions, European partnerships, co-financing by international financial institutions, cooperation in EU programmes, work of EU agencies, adoption of the national program for coordination with the European legislation and reports on progress in accordance with the political dialogue. The first step in the negotiation process is the so-called Screening, namely the analytical review and adjustment of the country with the EU legislation. The Screening implements thematic chapters, and based on a positive report about finalization of the Screening for every chapter, the negotiation process is opened further. Prior to the Screening, negotiation standpoints of the country candidate are reviewed.<sup>3</sup>

## IMIGRATION AND ASYLUM RIGHTS

Adjustment of legislation of the Republic of North Macedonia with the legal frame of the EU represents approximation of settlements of the national legislation with legal regulations of

<sup>1</sup> <https://www.sobranie.mk/r-makedonija-na-pat-kon-eu.nspix>

<sup>2</sup> Dapčević-Marković, Ljiljana, *Evropski standardi statusa državnih službenika*, Pravne Teme, year. 4, number. 7, p.193. [https://www.academia.edu/31118144/EVROPSKI\\_STANDARDI\\_STATUSA\\_DRZAVNIH\\_SLUZBENIKA](https://www.academia.edu/31118144/EVROPSKI_STANDARDI_STATUSA_DRZAVNIH_SLUZBENIKA)

<sup>3</sup> Хекер Б., *Европско кривично право*, Датапонс, Скопје, 2010. p.110-115.

the EU. In the frame of adjustment and unification of EU rights, realization of unique freedom, security and justice area should be provided, as well as a unique market where economic and other functions of the Union are done without obstructions. The obligation of legislation adjustment of the Republic of North Macedonia with legal regulations of the EU consisted in article 68 of the Agreement for stabilization and association. The adoption of the new Rules of Procedure of the Assembly of the Republic of North Macedonia in July of year 2008, article 135 is foreseeing that any draft law that is adjusted, has to contain information about the source acts, number and date of the original acts of the European Union, as well as a Declaration of adjustment. Also, when these draft laws enter the parliamentary procedure, they are being marked with the flag of the European Union, as a mark that distinguishes them from other draft laws.<sup>4</sup>

As a part of laws and regulations that were of great importance in the adjustment process of legislative regulations adjustment of the Republic of North Macedonia with the EU, is the legal systematization on immigration, along with the right of asylum. The territory of the Republic of North Macedonia was the arena of few immigration crises since the beginning of the nineties of the twentieth century. Although the Republic of Macedonia managed to avoid military actions, the ethnic clash of year 1999, which was the outcome from the fall of SFR Yugoslavia, however, caused approximately two million dislocated people because of the clashes and 32,000 immigrants entered the territory of the Republic of North Macedonia. These immigrants, who mostly migrated from Bosnia and Herzegovina and Croatia, got a humanitarian protection from the Ministry of defence, Ministry of Interior and the Ministry of labour and Social Politics. On the 2<sup>nd</sup> of March year 1999, the Government of the Republic of North Macedonia recognized the status of immigrants as immigrants, and in that manner it offered them realization of the right to a temporary humanitarian support.<sup>5</sup> After that, in year 1999, the Kosovo crisis broke and a great number of the population from Kosovo entered the territory of the Republic of North Macedonia. Also, during the armed conflict in year 2001, on the territory of the Republic of North Macedonia, a certain number of the population left their homes and moved to other towns and cities in Macedonia. In short terms, the Republic of North Macedonia had experience in systematization and organization of temporary dislocated persons and immigrants. The return of migrated and moved persons, crossing borders and other immigration issues were a part of the daily agenda of the process of stabilization and association. The strategy of the European Union for accession of Western Balkans countries also had a dedicated financing program. Until year 2006, the European Union means for the Western Balkans countries were awarded through the Community Assistance for Reconstruction Development and Stabilisation (CARDS) programme, which aimed financial support of Western Balkans countries in the process of stabilization and association. Return of immigrants was one of the four main objectives of this programme.

However, without any doubt, the greatest challenge in the context of immigration for the Republic of North Macedonia was the irregular immigration of migrants that were coming from the war zones in Syria, and were migrating via Macedonia towards Western Europe. Through this route, during June of year 2015 to year 2016, approximately one million of citizens from third countries were transported, which was a challenge for the whole state system, beginning from institutions capacity, field coordination, protection of human rights and the rule of law. After the official route closure in March of year 2016, there are no legal

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<sup>4</sup> <https://www.sobranie.mk/delovnik-na-sobranieto-na-republika-makedonija-precisten-tekst.nspix>

<sup>5</sup> UNHCR, Europe Desk, Collection of regional strategic presentations for the 38th meeting of the committee (6-9 March year 2007).

opportunities for transition of those individuals to western European countries, and the only way to do it is the irregular way, however the police are trying to stop those movements with its full capacity.<sup>6</sup>

Besides international mechanisms for protection of human rights that are applied on all human beings, in relation with returnees, during recent years special policies and legal documents are developed, which regulate certain standards applied in various situations of return, whether they regard a voluntary or a forced return. Some of the most important are the following ones:

- EU Directive on Returns
- European Convention on Human Rights (ECHR)
- Council of Europe Guidelines on Forced Return
- Recommendations of the Committee for the Prevention of Torture
- UNHCR's ExCom Conclusion 96 (LIV) on the Return of Persons not in Need of International Protection (Conclusion 96 (LIV) of UNHCR on return of persons that don't need international protection).

European countries constantly find mechanisms for organizing mutual return flights and mutual recognition for deportation and legal mechanisms that regulate these situations. As an EU agency, Frontex has the mandate when it comes to returns.<sup>7</sup> The EU provides significant means to support countries in their efforts to move people from their territories. The most important legal instrument that regulates those returns is the "Directive on mutual standards and procedures in EU state members for return of citizens from third countries who reside illegally".<sup>8</sup> Mutual rules for many fields that are important for the process of return are established through this directive. It is foreseeing that every citizen from a third country that doesn't have the right to remain (i.e. they don't have a visa or the visa is expired, expired residence permit, deprived residence permit, a negative final decision on an asylum request...). This directive is not applicable on persons who are in the middle of process of gaining asylum. An illegal residence is defined as residence on the territory of a member country by a citizen from a third country who doesn't fulfil the conditions of entry and residence in the member country. Besides that, it is needed to assure that this Directive is not applied on regulations and obligations of the Geneva Convention on immigration status.<sup>9</sup>

The control itself and removal of migrations have a small impact on preventing irregular movements, especially in cases when the will and motivation of people are high. Measures of return have to be a part of a wider spectrum of politics that are related to managing migrations. According to EU legislation, member countries have to provide a timeline for the person to voluntarily leave the country before they apply forced migration. Persons that don't

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<sup>6</sup> The official statement of the Ministry of Interior was as follows: "Since the 8th of March 2016, after EU country members closed the Western balkan route until the 12th of may 2016, 11,803 migrants were found, all of them illegally trying to cross the macedonia-greek border, so they were returned to Greece. All attempts of illegal entry to the Republic of Macedonia is prevented by the police and army joined by foreign policemen, who are allocated along the border line:

<http://www.utinski.mk/default.asp?ItemID=A01820A3C391E547B8F949571603E4A7>

<sup>7</sup> Frontex missions and tasks <http://frontex.europa.eu/about-frontex/mission-and-tasks/>

<sup>8</sup> DIRECTIVE 2008/115/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:en:PDF>.

<sup>9</sup> Refugee convention <http://www.unhcr.org/1951-refugee-convention.html>

need international protection should be treated in a humane manner and by fully respecting their human rights and dignity. If needed, any use of force should be proportional.<sup>10</sup>

The following guarantees have to be considered prior to any return: a voluntary return before a forced return, provision of a voluntary return, a safe and dignified return, family reunion, usage of detention in the process of return, length of usage of detention, conditions in detention centres, detaining children and families in the return process, a right to a legal aid and advise, procedural guarantees related to the return etc.

### **The right of temporary protection and asylum in the Republic of North Macedonia**

The constitutional declared right to an asylum in the legislation of the Republic of North Macedonia, guaranteed by the Republic for foreigners and persons without citizenship prosecuted because of democratic belief and acting (article 29, paragraph 2 of the Constitution), is regulated by the Law on asylum and temporary protection.<sup>11</sup> Integration in the European Union represents a clear and unequivocal strategic interest and priority objective of the Republic of North Macedonia, towards its full membership in the European Union. One of the basic requests for integration of the Republic of North Macedonia in the European Union is the adjustment of the national legislation with the legislation of the European Union. In that context, a new law on international and temporary protection is adopted, in accordance with European regulations, respectively with asylum or the law of international protection.<sup>12</sup>

The Law<sup>13</sup> is adjusted with the European directives in the area of asylum, respectively the international protection:

1. DIRECTIVE 2011/95 / EU of the European parliament and assembly on the 13<sup>th</sup> of December year 2011, on standards that have to be fulfilled by persons from third countries or persons without citizenship, in order to be qualified as users of international protection, an equal status for migrants or persons that don't have the right to subsidiary protection and the content of permitted protection;
2. DIRECTIVE 2013/32 / EU OF THE EUROPEAN PARLIAMENT AND ASSEMBLY on the 26<sup>th</sup> of June year 2013, on mutual procedure of awarding and revoking international protection;

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<sup>10</sup> According to UNHCR, a safe return is a return done under the following circumstances: Legal security (like amnesty or other guarantees of personal security, integrity, protection from discrimination and guarantee that after the return they will not be punished or prosecuted), physical and material security. The concept of a dignified return implies elements of return in which returnees won't be exposed to any physical or psychological abuse, they will be fully informed about the conditions of their return and they will have sufficient time to prepare and they will not be furtherly separated from other members of their family. Protection Policy Paper The return of persons found not to be in need of international protection to their countries of origin: UNHCR's role. <http://www.refworld.org/docid/4cea23c62.html>

<sup>11</sup> <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

<sup>12</sup> The Concerned Draft of the law was prepared by the inter-ministrial workgroup, made of representatives of all authorized institutions (The Ministry of internal and the Ministry of labour and social politics), who also possess authorizations in the procedure and the integration of the applicant for acknowledgement of asylum rights seeker, in partnership with the UNHCR desk in Skopje, as well as a professional consultancy support through TAIEX (Technical Assistance and Information Exchange Instrument), the Euro instrument of the SKAT commission. A draft of the law is forwarded to the European commission in Brussels for an opinion and also all its' objections are included, <https://www.pravdiko.mk/predlozhen-zakon-za-megunarodna-i-privremena-zashtita/>.

<sup>13</sup> [www.akt.mk/zakon-za-mefunardna-i-privremena-zash/](http://www.akt.mk/zakon-za-mefunardna-i-privremena-zash/)

3. DIRECTIVE OF THE EUROPEAN PARLIAMENT AND ASSEMBLY 2013/33 / EU on the 26<sup>th</sup> of June year 2013, on establishment of a standard for acceptance of the applicant request for international protection, and
4. DIRECTIVE OF THE EUROPEAN PARLIAMENT 2001/55 OF THE EUROPEAN PARLIAMENT on the 20<sup>th</sup> of July year 2013, on minimum standards for providing temporary protection in a case of a massive influx of immigrants who can't go back to their home country and establishment of a balance between activities of member countries for receiving immigrants and consequences of those activities.<sup>14</sup>

Through the law on asylum and temporary protection, the conditions and procedure for rewarding and revoking the right of a stranger or a person without citizenship (foreigner) who is seeking admission of asylum in the Republic of North Macedonia are regulated, as well as the rights and duties of asylum seekers and persons liable for asylum in the Republic of North Macedonia. Also, through this law, conditions under which the Republic of North Macedonia can approve a temporary protection are approved, as well as the rights and obligations of persons who are under temporary protection.<sup>15</sup> Under the asylum right, the law implies international protection, which the Republic of North Macedonia is offering under the conditions and procedures foreseen by this law, to persons who have been admitted the status of an immigrant (an immigrant according to the Convention on immigrant status from year 1951 and the Protocol on immigrant status from year 1967) and a person under subsidiary protection.<sup>16</sup> In the frame of this law, categories of persons are defined according to generally adopted norms of classification, so terms can be regulated in an appropriate and efficient manner. According to that, an approved immigrant is a foreigner who, after his request is studied, it is confirmed that he fulfils the conditions admitted by Convention 156, respectively a person which is justified out of their fear from prosecution because of his race, religion, nationality or affiliation to a certain social group or political qualification, located outside their home country, but they can and don't want to enjoy protection because of the above named reasons. The same counts for persons without citizenship about who references are directed in the country of their residence.<sup>17</sup> Whereas, a person under subsidiary protection is a person who is a foreigner and doesn't have an approved status of an immigrant, and the relevant country, in this context the Republic of North Macedonia will approve the right to an asylum and that person will be allowed to stay on his territory. It is allowed because there is a real chance that, if the person returns to their home country, they will face the possibility to suffer serious injuries.<sup>18</sup>

The procedure for obtaining asylum in the Republic of North Macedonia is without any doubt in accordance with the principals of the continental European law and norms of international organizations and global bodies.<sup>19</sup> In the procedure for admission of the right to asylum, the

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<sup>14</sup> <https://www.pravdiko.mk/predlozhen-zakon-za-megunarodna-i-privremena-zashtita/>

<sup>15</sup> Article 1, Law on asylum and temporary protection. [www.akt.mk/закон-за-меѓународна-и-привремена-заш/](http://www.akt.mk/закон-за-меѓународна-и-привремена-заш/)

<sup>16</sup> Article 2, Law on asylum and temporary protection.

<sup>17</sup> Article 4, Law on asylum and temporary protection.

<sup>18</sup> Article 4-a, Law on asylum and temporary protection, where serious injuries include: death or execution; torture or inhumane or humiliating acting or punishment, serious death and violence threats towards individuals or civilians, in a situation of an international or internal armed conflict.

<sup>19</sup> Official Newspaper of the RM, nr.38/05, along with changes and ammendments from year 2008, 2011 and 2018.

Asylum Department<sup>20</sup> will inform the asylum seekers in a written and oral manner, in a language that is considered as understandable to them, with a deadline that is not exceeding more than 15 days since the day of submission of the asylum request, about:

- a) The manner of flow of the procedure for asylum admission;
- b) Rights and obligations of asylum seekers;
- c) Possible consequences if they don't perform their duties and don't cooperate with the authorities;
- d) Conditions for acceptance of rights for legal help;
- e) The right to contact an official for legal help, a representative of the High Commissariat for immigrants in all phases of the procedure and wherever immigrants are located.<sup>21</sup>

The procedure itself has several possibilities to refuse the asylum request. Some of the most common reasons for refusing requests are the following<sup>22</sup>: Non-existence of a real fear from prosecution in the home country, existence of justified reasons for their refusal<sup>23</sup>, if the prosecution<sup>24</sup> is limited to a certain area of the country of their home country, or if they are without a citizenship of the country of their permanent residence, and there is a possibility of an efficient protection in the other part of the country

The Syrian crisis offers a review of the megalomania of the problem which affects immigration waves and international public. Through the prism of asylum system of certain countries, as well as regional and world organizations, a readiness to work on given problems of this type is reflected. However, this crisis has revealed to a large extent that the Republic of North Macedonia isn't ready enough to cope with it in an efficient manner. Namely, it was needed to amend certain parts of the Asylum law, in order to keep the humane principles and efficiency of procedures, by respecting the applicant of the claim, those who need help and protection.

### **Schengen regulations**

In Schengen, a small town in Luxembourg, negotiations between Belgium, France, Luxembourg, Netherlands and Germany about a gradual creation of space without internal borders took place. The named countries signed an agreement about intergovernmental cooperation in June of year 1985, known in history as the Schengen agreement. Five years later, in June of 1990, signatory countries also signed a convention for implementation of the Schengen agreement.

The substantial objectives of this Convention were:

- Removal of border control between signatory countries;
- Introduction of mutual external borders;
- Creation of a unique immigration politics;
- Adoption of new procedures so these objectives could be implemented;

Whereas, the procedures include:

- Introduction of mechanisms for the control of mutual external borders;
- Introduction of standards for issuing visas;
- Introduction of tight cooperation with authorities responsible for border control.

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<sup>20</sup> Asylum Department of the Ministry of Interior of the Republic of North Macedonia.

<sup>21</sup> Article 18, Law on asylum and temporary protection.

<sup>22</sup> Article 29, Law on asylum and temporary protection.

<sup>23</sup> Article 6, Law on asylum and temporary protection.

<sup>24</sup> Article 4, Law on asylum and temporary protection.

The Schengen system, through which all EU members, except of Britain and Ireland, as well as Iceland, Lichtenstein, Norway and Switzerland, made preconditions for opening of their internal borders, and thus removed the control of internal borders.<sup>25</sup>

The Schengen zone guarantees free movement to more than 400 million of citizens of the European Union, but also many other citizens that are not members of the EU, businessmen, tourists and other people who legally enter the territory of the European Union. If there is a serious threat for the public security or the internal security, a Schengen state can, in special circumstances, re-establish a control of its internal borders within a limited timeline of maximum thirty days. If controls of that type are re-established, other Schengen countries, the European Parliament and Commission, as well as the wider public must be informed. Regulations of the Schengen agreement remove checks on internal borders of the Union and increase control on its external borders, in accordance with a set of rules. These rules are covering few areas:

- a mutual set of rules that are applied on those who are crossing the external borders fo the European union, including types of special visas and a way in which the control of external borders should be carried out;
- adjustment of requests for entry and visa application for a short stay 9up to 3 months);
- Improvement of police cooperation;
- Increase of cooperation in the field of judiciary;
- Introduction and development of the Schengen information system (SIS);
- Documents needed for travel to Europe.

Accession to the Schengen area isn't a political decision only. Previously, countries have to fulfil certain conditions, like preparedness and ability:

- take over the responsibility for the control of external borders in the name of other countries that are part of the Schengen area, as well as issuing unique Schengen visas;
- cooperation with executive authorities of other Schengen countries in order to provide a high level of security, having in mind that the border control between the Schengen countries is removed;
- application of the Schengen set of rules (so-called "Schengen acquis"), like the rules that are concerning control of land, water and air borders, issuing visas, police cooperation and protection of personal data;
- join and use the Schengen information system.

The Republic of North Macedonia, along with the Republic of Serbia and Montenegro, on the 19th of December 2009, got a liberalization of the visa regime with EU countries. Liberalization of the visa regime allowed Macedonian citizens travel to 25 out of 27 EU member countries (except Great Britain and Ireland) and three other European countries – Norway, Switzerland and Ireland, as well as Bulgaria and Romania, although they don't do it, but they are a part of the Schengen area. The visa-free system doesn't mean a possibility of unlimited stay or work in EU countries. Macedonian citizens will be released from short stay type "C" visas, up to 90 days for tourist visits within 6 months, or up to 180 days within one calendar year. Any longer stay in the EU will require a "D" visa, which is also applicable for studying or working stay in the Union and it can be taken in the embassy of the destination country.<sup>26</sup>

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<sup>25</sup> Крег Пол, Бурка Де Грејн, Право на ЕУ: текстови, случаи и материјали, Магор, 2010. p. 87.

<sup>26</sup> [https://www.sobranie.mk/2009-22384934-c14f-43d4-8c77-fbbeff538163-ns\\_article-makedonija-dobi-vizna-liberalizacija.nspx](https://www.sobranie.mk/2009-22384934-c14f-43d4-8c77-fbbeff538163-ns_article-makedonija-dobi-vizna-liberalizacija.nspx)



Led by a daily agenda and activities of authorized institutions, there is no doubt that the Republic of North Macedonia weighs to fulfil political and economic criteria, plus eight additional conditions, including: enforcement of judiciary reforms, fight against corruption, solving the name dispute of the country and solving the democratic deficit and economic development, a well-performed elections and dialogue with the opposition etc., to become a full member of the EU.

### **Agreement on Readmission of the Republic of North Macedonia with the EU**

Readmission is a voluntary or forced return of persons who are residing illegally on a territory of a country in their origin countries. In most cases, it is about declined asylum seekers, however there are some different cases. "Agreement between the European Union and the Republic of North Macedonia on the readmission of persons residing without authorisation", which is the right name of the agreement that defines the readmission process, defines the rights and obligations of signatory countries in small details. It is mentioned in it that it is signed "with the will to establish a quick and functional procedure of identification, as well as safe and regular return of persons who don't fulfil the conditions for entry, residency or moving to the territory of North Macedonia or some member country of the European Union, as well as easing the transit for these persons.

Agreements on readmission are international agreement that regulate the procedure of return and acceptance of persons who don't fulfil the conditions of entry or residence on the territory of another country. When the foreign citizen enters or finds himself on the territory of the Republic of North Macedonia against the legal regulations for entry and residence in the country, the authorities, the Ministry of Interior, based on signed agreements on readmission, applies a request for re-acceptance from their own countries. Mutually, countries that the Republic of North Macedonia has signed agreement on readmission (generally it is all EU countries), can request a re-acceptance of citizens of the Republic of Macedonia who will find themselves illegally on a foreign territory. To prevent illegal migrations from the Republic of North Macedonia, as a candidate country for membership in the European Union, North Macedonia is obliged to sign individual agreements on readmission with EU countries, as well as to sharpen the visa regime towards most developing countries.

The agreement of the Republic of North Macedonia on readmission came to force on the 1st of January 2008, and after that, the Republic of North Macedonia signed individual agreements with EU member countries and also the Republic of Serbia, that was followed by adoption of laws for ratification of the agreement on readmission in the parliament.<sup>27</sup> Agreements on readmission with EU members are important because they include the problem of immigrants who pass through Macedonia. The Republic of North Macedonia is the first country, which is not a full EU member, through which migrants from eastern countries are passing. This problem is even more sensitive after the fact that Turkey had opened its borders to the migrants, which would represent an additional problem for the Republic of North Macedonia.

While waiting for a global solvation of immigration problems, a more complete reorganization of the field is needed, to be able to provide a response in a case of a difficult scenario for Macedonia, which is reopening of the Balkan route and provide unobstructed transit through the territory. The Republic of North Macedonia, as a part of the Balkan migration road, mustn't be left alone nor be left to carry the complete load, especially if it is

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<sup>27</sup> Official Newspaper of the Republic of Macedonia, International agreements, year LXIII, nr. 43, 5 April 2007.

"forced" to open immigration camps in which it will forcibly close migrants on its territory, so they could later carry on towards some of their final destinations.

Another crucial problem are the agreements on readmission according to which immigrants would return to the first country where they were registered. And these countries are the Republic of Serbia and the Republic of North Macedonia. The spokesperson of the European Union, Natasha Berto, on the 21st of September 2015 confirmed that "for relations with asylum seekers who come from third countries, there are agreements on readmission which EU member countries have done with Serbia. Based on the agreement on readmission, persons who didn't get asylum, they could return to the countries where they were transported!"<sup>28</sup> According to EU regulations on asylum in Dublin, asylum seekers must be registered in the first country of their arrival. In Europe, it is Greece, a member country of the European Union and a part of the Schengen area. However, if Hungary, due to the agreement on readmission starts returning the immigrants to Serbia, and Serbia also because of the same agreement returns them to Macedonia, in that case Macedonia would become the concentration centre for immigrants, which would represent a serious problem for Macedonia, as the Republic of North Macedonia hasn't signed an agreement on readmission with Greece.

Problems occur when citizens of other countries are included in the readmission agreement. As there are no agreements on readmission with countries of origin of the migrants (African and Asian countries), the persons are returned to the country from which they have entered the EU. Authorities are usually facing difficulties in this area. Namely, Macedonia signed an agreement with the European Union on readmission, which represents a legal base for readmission and return.

Although the Balkan route was officially closed since March 2016, the Republic of North Macedonia was facing two major challenges. A huge number of illegal immigrants that arrived to the territory of the Republic of Serbia came back to the territory of the Republic of Macedonia informally, without respecting the agreement on readmission. A large number of people are entering the country on daily basis, mostly from its south border with Greece. Although these people were intending to transit to western European countries, the Republic of North Macedonia doesn't have legal mechanisms for a transit of that type, or residence of those persons. According to the Law on foreigners and the Law on border control, the country is obliged to take measures so it could secure the state border and limit the movement of persons who entered in an irregular manner.<sup>29</sup> Every procedure with persons who performed an irregular entry must be in accordance with the national legislature and international standards, and every arbitrary procedure with those categories of persons must be sanctioned. A special accent should be put onto vulnerable categories of persons, victims of human trafficking, especially for minors without accompaniment. According to the Constitution, the Republic of North Macedonia is obliged to offer international protection to persons that are persecuted or are running away from a war, and the capacity of the country is exactly in its ability to determine which of all people in mixed migration movements needs international protection.

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<sup>28</sup> <https://www.kurir.rs/vesti/drustvo/1942239/natasa-berto-eu-moze-da-vraca-izbeglice-u-srbiju>

<sup>29</sup> Камбовски, Владо: *Меѓународно казнено право*, Правен факултет "Јустинијан Први" – Скопје, Просветно дело, Скопје, 1998. p. 67.

## CONCLUSION

After proclamation of its independence in January 1991, Former Yugoslav Republic of Macedonia highlighted EU membership as one of its strategic interests. Through implementation of this obligation, the Republic of North Macedonia identified itself as a reliable partner and an ally of the European Union and went through several phases in its relations with the EU, in the context of rapprochement and integration. In the set of laws and regulations that were of great importance in the process of adjustment of legislature regulations of the Republic of north Macedonia with the EU, and the legal system on immigration and the right to asylum as well. The territory of the Republic of North Macedonia was the arena of few immigration crises since the beginning of the nineties of the twentieth century. However, there is no doubt that the greatest challenge in the context of immigration for the Republic of North Macedonia I the irregular immigration of migrants with origins from Syria, and travel through Macedonia towards Western Europe. Through this route, from June 2015 until 2016, approximately one million citizens of third countries were transported, which was a challenge for the whole state system, starting from institution capacities, coordination on field, protection of human rights and the rule of law. In that context, a new law on international temporary protection adjusted with European regulations is adopted, respectively on asylum or the law on international protection. In the EU integration process, on the 19th of December 2009, the Republic of North Macedonia got a liberalisation of visa regime from EU members. Liberalization of the visa regime allowed Macedonian citizens travel to 25 out of 27 EU member countries (except Great Britain and Ireland) and three other European countries – Norway, Switzerland and Ireland, as well as Bulgaria and Romania, although they don't do it, but they are a part of the Schengen area. The Republic of North Macedonia signed the Agreement of Readmission with EU on the 1st of January 2008. Problems occur when citizens from other countries are included in the agreement on readmission. As there are no agreements on readmission with countries of origin of the immigrants (African and Asian countries), the persons are returned to the country from which they have entered the EU. Usually, authorities are facing difficulties in this area.

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