

Roma at Macedonian Borders

Simonida Kacarska
Angel Mojsovski

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Preface

This analysis was prepared under the Project entitled *Combating Barriers for Exit: Macedonian Roma at the Borders*, implemented by the European Policy Institute in Skopje and the KHAM NGO from Delchevo. The Project's main objective is to contribute to changing the public discourse, founded on policies and practices that portray Roma as a threat to the visa-free regime for Macedonia. The Project examines how the visa liberalization process has contributed to shaping and applying policies, which limit the freedom of movement of the Roma in the case of Macedonia.

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Introduction

Following the long negotiation process taking place in 2009 and in 2010 between the European Commission and Western Balkan countries (with the exception of Kosovo), Macedonia, Montenegro, Serbia, Albania and Bosnia and Herzegovina were placed on the so-called white list of visa-free travel to the European Union (EU).¹ The re-established freedom of travel for citizens of these countries (with the exception of Albania) almost two decades after the EU introduced the visa regime was welcomed as a significant success in the Region. In addition, the visa liberalization was pointed out as a successful example of EU's policy of conditionality, visa liberalization being one of the most attractive rewards the EU could offer.²

Immediately after the introduction of the visa-free travel the number of asylum seekers coming from the Republic of Macedonia and from the Republic of Serbia and going to EU Member-States having longer asylum procedures, such as Sweden, Germany, and Belgium rose significantly.³ Faced with an increased workload for their administrations, these EU Member-States exerted their influence on the Western Balkan countries demanding that they undertake activities to reduce the number of asylum seekers, and they introduced protection clauses envisaging suspension of the visa liberalization.⁴ According to sources in EU Member-States, the largest number of asylum seekers were persons belonging to the Roma and to the Albanian communities, but as time passed the focus was on the first mentioned community, as it will be shown below.⁵

The authorities in Western Balkan countries responded by enhancing the border controls and by preventing their own nationals to cross the state borders on grounds of suspicions that such nationals were potential asylum seekers.⁶ The number of people prevented from crossing the borders of their own country on grounds of suspicions that they

¹ 2001. Council Regulation (EC) No. 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. (EC) No. 539/2001. Official Journal of the European Communities.

² GRABBE, H., KNAUS, G. & KORSKI, D. 2010. Beyond wait-and-see: the way forward for EU Balkan policy. Available at: http://ecfr.3cdn.net/904dfdc93d6cd42972_vem6iv3c0.pdf [Accessed 20 December 2011].

³ UNHCR 2011. Asylum Levels and Trends in Industrialized Countries 2010-Statistical overview of asylum applications lodged in Europe and selected non-European countries. Geneva: UNHCR.

⁴ For analysis purposes see Kacarska S. Europeanization Through Mobility: Visa Liberalisation and Citizenship Regimes in the Western Balkans CITSEE Working Paper 2012/21 (Edinburgh: University of Edinburgh, 2012).

⁵ European Stability Initiative (2013) "Saving visa-free travel: Visa, asylum, and the EU roadmap policy" ESI Discussion Paper.

⁶ There were such practices in the Republic of Serbia, but this is not the subject of this analysis. For a review of all Balkan countries regarding this issue see Kacarska S. Europeanization Through Mobility: Visa Liberalisation and Citizenship Regimes in the Western Balkans CITSEE Working Paper 2012/21 (Edinburgh: University of Edinburgh, 2012).

are potential asylum seekers has been widely reported by national and European bodies.⁷ According to the Ministry of the Interior of the Republic of Macedonia, 15,590 people were returned from the border in the course of 2012 and 2013.⁸ Most of the people returned were Roma, as confirmed by US State Department Human Rights Reports and by domestic sources.⁹ Such measures were strongly criticized by national and international human rights defenders. In 2012, the former Council of Europe Commissioner for Human Rights, Thomas Hammarberg, stated that “it is the minorities, and in particular the Roma, who have become targeted (....) on the basis of “profiling”. The result is another layer of discrimination against this minority.”¹⁰ Hammarberg furthermore underlined the overall European dimension of the problem stating that “the increase in asylum applications in some countries is a symptom rather than the core problem. It represents another sign that Europe has failed to break the cycle of anti-Gypsyism, discrimination and marginalisation of Roma populations. It should be seen as a reminder that serious action is overdue.”¹¹

Despite such strong criticism, the practice of preventing Roma from exiting the country continued, and in doing so, the border police relied on verbal orders and a written telegram of the Ministry of the Interior.¹² While executing the order to conduct strict controls, border police officers do not issue any documents, based on which the person who has been denied to cross the border could file a complaint, as a legal remedy against such a decision. In addition, the public discourse is focused on the notion that the visa-exempt status may be withdrawn because of Roma going out of the country and applying for asylum.¹³ Until mid 2014, first instance courts in Macedonia established discrimination and violation of the right to equality by

⁷ European Commission (2011) Second Report on the post-visa liberalisation monitoring for the Western Balkan countries in accordance with the Commission Statement of 8 November 2010. Commission Staff Working Paper Brussels, European Commission, European Commission ((2015). Fifth report on the post-visa liberalisation monitoring for the Western Balkan countries in accordance with the Commission Statement of 8 November 2010. Commission Staff Working Paper Brussels, European Commission

⁸ Statement by the Spokesperson of the Ministry of the Interior, Marija Jakovlevska for BIRN, See (Ajđini, B. Discrimination: Seal for Returning Macedonian Roma) Ајдини, Б., Дискриминација: печат за враќање на македонските Роми, Призма, 26 June 2014. Available at: <http://tinyurl.com/qftqfs3>.

⁹ Ibid. Also see US STATE DEPARTMENT, 2012. Human rights Report for Republic of Macedonia 2012 <http://www.state.gov/documents/organization/186589.pdf>

¹⁰ Hammarberg, T. (2011) “The right to leave one’s country should be applied without discrimination”. Available at: http://commissioner.cws.coe.int/tiki-view_blog_post.php?blogId=1&postId=193

¹¹ Ibid.

¹² Telegram of the Ministry of the Interior the text of which was quoted in the judgment in the case No. XXVIII П4-1228/13 of the Skopje 2 First Instance Court, according to the legal opinion of the Macedonian Young Lawyers Association, available at: <http://tinyurl.com/hrzxpqa>

¹³ See Marusic, S. J. EU Threat to Visa Regime Worries Macedonia, Balkan Investigative Reporting Network, 21 May 2013, available at: <http://www.balkaninsight.com/en/article/fresh-bid-to-reassess-balkan-visa-free-regime>. For analysis of the media discourse see Демири, М., Живот до граница - известувањето на македонските медиуми за Ромите и визната либерализација, Институт за европска политика, (DEMIRI, M. Life to the Border- Reporting by Macedonian Media Outlets about Roma, and the Visa Liberalization, European Policy Institute) available at: http://epi.org.mk/docs/Zivot%20do%20granica%20-%20Izvestuvanjeto%20na%20mediumite%20za%20Romite%20i%20vizna%20lib_MK.pdf

the Ministry of the Interior, whose employees had prevented Roma in 5 different cases from exiting the country. In one of the five cases, the judgment was enforceable as of the moment of the rendering of the judgment.¹⁴ In 2016, for the first time the Ministry of the Interior spoke publicly about this practice, stating that discrimination of Roma at border crossing points could not be allowed and underlining that there were 41 pending proceedings against discrimination in exiting the country.¹⁵ However, this statement was issued in exceptional political circumstances, in which the Minister of the Interior was appointed upon the proposal of the opposition and such a statement could not be considered as an (unequivocal) indicator of a change in the state policy in this respect.

While this discriminatory practice has been analyzed in the context of public policies and in the context of pertinent case law,¹⁶ experiences of persons returned from Macedonian borders have been neglected in the hitherto researches. This study is designed to bridge that gap by pursuing the following two goals: first, to analyze the EU and national level measures by which the Roma are identified as potential asylum seekers and second to elaborate this issue from the perspective of persons returned from the border and their experiences.

This study has the following structure: in the next part the methodology is explained, including methods used to collect and analyse data. The next two parts of this study analyze the issue of asylum seekers in EU documents and measures undertaken by national authorities. Furthermore, findings are presented from the thematic analysis of interviews with Roma who have been prevented from exiting the country in the last five years on grounds of suspicions that they are/have been unfounded asylum seekers. In the end, the study presents the conclusions and recommendations for policy makers.

¹⁴ See Macedonian Young Lawyers Association: "The Basic Court Skopje 2 Rendered The First Judgment In Republic Of Macedonia Which Determinates Discrimination", 29 May 2014, available at: <http://www.myla.org.mk/index.php/en/news/135-press-release-29-05-2014>

¹⁵ Ministry of the Interior, Press Releases 2 November 2016. Spasovski: The discrimination of Roma at border crossing points cannot be allowed, available at: <http://mvr.gov.mk/vest/2894>

¹⁶ See ИНСТИТУТ ЗА ЕВРОПСКА ПОЛИТИКА & КХАМ, 2016 година. Право на еднаквост и слобода на движење на границите: искуства од давање правна помош. (EUROPEAN POLICY INSTITUTE & КХАМ, 2016. Right to Equality and Freedom of Movement at Borders: Experiences in Providing Legal Assistance) Available at: http://epi.org.mk/docs/Sloboda%20na%20dvizenje%20-%20iskustva%20od%20pravna%20pomosh_MK.pdf

Methodology

This study is founded on qualitative analysis of documents and interviews with stakeholders. The methodology was designed for the needs of the Project and was debated at a methodological workshop, as an activity under the project *Combating Barriers for Exit: Macedonian Roma at Borders*.¹⁷ The analysis was prepared based on: desk research, interviews with Roma returned from the border, and interviews with representatives of in-line institutions. Thus, the study combines information from official documents, academic literature and findings from previous researches, as well as legislation and case law. It also takes into consideration positions of representatives of institutions and persons directly affected by policies researched under this analysis.

The desk research analyzed official documents, including European Commission reports on the post-visa liberalization monitoring, FRONTEX reports and studies of the visa liberalization process at the regional level. The aim of analyzing the documents is to track the manner in which the European Commission and national authorities frame this issue and recommend relevant policies. In addition, EU documents published consecutively in a five-year period enable to follow how this issue has developed, enabling as well to assess the (in)consistency in treating this issue.

Under this analysis there were semi-structured interviews conducted with two groups of respondents: Roma returned from border crossing points and stakeholders- representatives of the Ministry of Foreign Affairs, Ministry of Labour and Social Policy and the Ombudsman's Office. This combination of respondents enabled analysis of views of persons that are mostly affected by the researched public policies, as well as analysis of views of policy makers, i.e. stakeholders that are able to directly influence relevant policies.

In the first group, there were 53 semi-structured interviews with Roma returned from border crossing points of Macedonia. 30 respondents were women, 23 were men, all coming from 19 municipalities throughout the country¹⁸ (for a detailed review see Annex 1). Three researchers were recruited to conduct the interviews, who underwent a joint training on fieldwork, ethics, and methodology and were monitored by the research team.¹⁹ The interviews were recorded, transcribed, and processed with a qualitative thematic analysis. The goal of the interviews was to examine the experiences of persons belonging to the Roma community in crossing the borders of the Republic of Macedonia. The interviews shed light on the perspective

¹⁷ The Workshop of the project team and of a group of organizations and representatives of the academic community was held in March 2016.

¹⁸ Bitola, Gostivar, Vinica, Debar, Kichevo, Kochani, Kumanovo, Prilep, Tetovo, Shtip, Shuto Orizari, Centar, Chair, Gjorche Petrov, Gazi Baba, Veles, Delchevo and Pehchevo. Although this was not part of the initial plan, there were also 3 interviews conducted in Berovo.

¹⁹ A methodology expert who prepared the methodology for the baseline study provided the training.

of those who have been directly affected by discrimination at border crossing points. By applying such an approach, the analysis supplements hitherto researches, which have been focused on policies, legislation, and cases.²⁰

The second group of respondents consists of representatives of institutions involved in returning Roma from the borders, including representatives of the Ministry of the Interior, Ministry of Foreign Affairs, and representatives of the Ombudsman's Office. EPI representatives conducted the interviews in the period from May to June 2016. Their views are included in the analysis in light of the key role these institutions play in designing national policies and in the dialogue with EU representatives. The interviews were recorded, transcribed, and analyzed using a qualitative thematic analysis.

In addition, there were two focus groups organized in two cities in the Republic of Macedonia – in Skopje on 3 June and in Bitola on 7 June 2016, having 18 participants in total, 9 in each of the two cities. The participants were selected from the population at large in the two cities and were invited to participate using the existing EPI database of potential respondents, combined with the snowball sampling method. The fundamental parameters were observed, such as gender, ethnic composition of the population, age, education degree and profession (if employed) in order to reflect the structure of the population in the cities. The aim of the focus groups was to establish whether there is a general public opinion that Roma are potential asylum seekers considering the comprehensive nature of the measures applied by state institutions.

Post-Visa Liberalization Seen Through the Official EU Documents or How the Roma Became Asylum Seekers

The official monitoring of the visa liberalization by the European Commission was introduced following a decision of the Justice and Home Affairs Council of 8 November 2010.²¹ At the EU level, a Steering Committee of the monitoring mechanism was established, chaired by the Commission, while its members include representatives of FRONTEX, EUROPOL, the

²⁰ See for example Институт за европска политика и КХАМ, 2016 година. Право на еднаквост и слобода на движење на границите: искуства од давање правна помош. (European Policy Institute & КХАМ, 2016. Right to Equality and Freedom of Movement at Borders: Experiences in Providing Legal Assistance) Available at: http://epi.org.mk/docs/Sloboda%20na%20dvizenje%20-%20iskustva%20od%20pravna%20pomosh_MK.pdf; Македонско здружение на млади правници, 2016 година. Студија на случај: X. X. против Министерството за внатрешни работи на Република Македонија, Проект на УСАИД за заштита на човековите права (Macedonian Young Lawyers Association, 2016 Case study X.X. versus the Ministry of the Interior of the Republic of Macedonia, USAID Project for Human Rights Protection <http://tinyurl.com/hj6jne5>

²¹ COUNCIL OF THE EUROPEAN UNION EN 15848/10 PRESSE 291 PR CO 31 PRESS RELEASE 3043rd Council meeting Justice and Home Affairs Brussels, 8 and 9 November 2010, available at: https://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/117609.pdf

incumbent and the incoming country holding the EU Presidency and the Police Cooperation Convention for Southeast Europe Secretariat. The Steering Committee has established two areas of work: continuing the assessment of the measures implemented by the Western Balkan countries to fulfil the benchmarks under the visa liberalization dialogue and a mechanism for reporting and preventing abuse of visa liberalization. Under this mechanism in the period from May 2011 to February 2015, 5 reports were published monitoring the visa liberalization situation.²²

The ethnic and geographic distribution of asylum seekers was presented already in the first European Commission Report on the post-visa liberalization monitoring for the Western Balkans. In the first Report of 2011, the Commission assessed that **“as regards the ethnic background and geographical distribution, an estimated 80% of all asylum seekers from Serbia and the Macedonia were Roma (Romani speaking).”**²³ Their main reason for leaving their country of origin is economic, based on false perceptions of financial advantages that they will acquire by requesting asylum in certain Member States.²⁴ In the second Report of December 2011, the Commission established a common *profile* of asylum seekers, which was defined in the second half of 2011.²⁵ According to the Commission *the vast majority of the claims stems from persons belonging to the Roma minority, who often arrive with their families.*²⁶ In the same Report, the Commission notes that “Between 22 August and 18 September 2011 the share of citizens of Roma origin is as follows: 100% for Albania, 100% for Montenegro, 92% for Serbia, 88% for Bosnia and Herzegovina and 71% for Macedonia.”²⁷

In the following years, FRONTEX confirmed the profile by pursuing the following measures: Improved method of profiling of persons likely to abuse asylum in the EU: this includes identifying municipalities from where the most failed asylum seekers come from. Such updated analysis is delivered monthly to all Regional Centres for Border Affairs, as well as to all border-crossing points.²⁸ Similarly, in all its Reports published between 2011 and 2013, the European Commission underlined that the majority of the asylum seekers were Roma. In its last, i.e. 2015 Report, the European Commission did not make reference to the ethnic

²² According to interviewed representatives of the institutions, the pressure on the authorities subsided with the start of the refugee crisis at the beginning of 2015, when the last report on post visa liberalization monitoring was published. The number of applications filed with the Ombudsman on this ground has also been reduced.

²³ EUROPEAN COMMISSION 2011a. On the post-visa liberalisation monitoring for the Western Balkan countries in accordance with the Commission Statement of 8 November 2010. *Commission Staff Working Paper* Brussels: European Commission.

²⁴ Ibid.

²⁵ EUROPEAN COMMISSION 2011b. Second report on the post-visa liberalisation monitoring for the Western Balkan countries in accordance with the Commission Statement of 8 November 2010. *Commission Staff Working Paper* Brussels: European Commission.

²⁶ Ibid.

²⁷ Ibid.

²⁸ FRONTEX 2014. Western Balkans Annual Risk Analysis 2014. Available at: http://frontex.europa.eu/assets/Publications/Risk_Analysis/WB_ARA_2014.pdf

background of asylum seekers and focused on measures for better integration of Roma in the Western Balkan countries.²⁹

In 2012, the German Federal Office for Migration and Refugees made controversial statements according to which 80% to 90% of the asylum seekers from the Western Balkans were Roma defining them as *false* asylum seekers or as economic refugees.³⁰ Such figures were quoted in the UNHCR Report on Asylum Trends based on information from the German Federal Office for Migration and Refugees, which claimed that 92% of all asylum applicants in Germany originate from Serbia and Kosovo and are of Roma origin.³¹ Such claims were supported with official statements of the German Federal Ministry of the Interior, in which there were calls that the massive inflow of Serbian and Macedonian citizens has to be stopped immediately (underlined by the authors), which fed the aggressive rhetoric of the media.³²

In addition, in 2010, in its first Western Balkans Annual Risk Analysis, FRONTEX registered increase in the number of unfounded asylum applications and largely attributed this “to ethnic Albanian or Roma community members from Serbia and the Republic of Macedonia, travelling legally to the mentioned EU Member States and citing socio-economical reasons for their asylum claims.”³³ All FRONTEX Risk Analysis Reports issued in the period between 2011 and 2014 established abuse of the visa-free regime by citizens of Western Balkan countries. Furthermore, in its 2014 Western Balkans Annual Risk Analysis, FRONTEX identified two key migrations risks: the movement of illegal migrants entering the EU by crossing the Greek-Turkish border and abuse of the visa free travel by nationals of Western Balkan countries.³⁴

The analysis of the above referred to documents leads to the conclusion that in their reports and documents EU Member-States, the European Commission, and FRONTEX emphasize Roma as asylum seekers, and as a consequence, as it can be seen in the next part of this study, the national level measures are focused on the Roma, too.

²⁹ EUROPEAN COMMISSION 2015. Fifth report on the post-visa liberalisation monitoring for the Western Balkan countries in accordance with the Commission Statement of 8 November 2010. *Commission Staff Working Paper* Brussels: European Commission available at http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20150225_5th_post-visa_liberalisation_report_with_western_balkan_countries_en.pdf

³⁰ HEUSER, H. 2014. Blitzverfahren - German Asylum Procedures for Roma from Western Balkan Countries. *Roma Rights: Going Nowhere? Western Balkan Roma and EU Visa Liberalisation*, 1.

³¹ See UNHCR 2013. Asylum Levels and Trends in Industrialized Countries – 2012, available at: <http://www.unhcr.org/5149b81e9.html>, footnote 14.

³² HEUSER, H. 2014. Blitzverfahren - German Asylum Procedures for Roma from Western Balkan Countries. *Roma Rights: Going Nowhere? Western Balkan Roma and EU Visa Liberalisation*, 1.

³³ FRONTEX 2010. Western Balkans Annual Risk Analysis 2010. Available at: http://frontex.europa.eu/assets/Attachments_News/wb_ara_.pdf.

³⁴ FRONTEX 2014, Western Balkans Annual Risk Analysis 2014.

National Measures Following the Visa Liberalization or What the Republic of Macedonia has Undertaken

With a view to responding to demands of the EU and of EU Member-States, the Republic of Macedonia established a nation-wide High Visa Liberalization Monitoring Committee, having as members representatives of in-line ministries, such as the Ministry of Labour and Social Policy, the Ministry of the Interior, the Ministry of Foreign Affairs and the Minister without Portfolio in charge of the Roma Strategy.³⁵ The existence of this body has been confirmed on a number of occasions in statements by official representatives of the Republic of Macedonia and in the interviews conducted for the purposes of this analysis.³⁶ On the other hand, in the interview conducted for the purposes of this analysis, the representative of the Ombudsman's Office called this body an informal body, since there was no legal document for its establishment, while the measures implemented refer to decisions of this body.³⁷ Furthermore, the representative of the Ombudsman's Office underlined that "on a number of occasions the conclusions of this body have been mentioned, despite the fact that the legal grounds for its operation have not been stated anywhere."³⁸

The above referred to *undertaken measures* consist of information campaigns, controls of travel agencies, legislative amendments (which were later proclaimed as unconstitutional, see below) and enhanced controls of passengers upon exit from the country. The information campaigns envisage, *inter alia*, visits to Roma settlements with the aim of explaining the goal of visa liberalization. According to information available on the website of the Government, already in October 2011, such explanations consisted of statements such as the following: "according to him (the Minister without Portfolio), the Roma community (emphasis added) should be aware that there are no possibilities to migrate to West European countries and that attempts to do so will mean incurring damages to themselves, but also to Macedonia with the threat of Macedonia losing the visa liberalization."³⁹ A number of similar statements can be

³⁵ Its existence has been confirmed in public statements and in the interviews with representatives of the institutions.

³⁶ See for example the address of the Deputy Minister of the Interior at the ES-Western Balkans in Tirana, available at: <http://www.mia.mk/mk/Inside/RenderSingleNews/33/131867183> [last accessed on 20 December 2016]. Also see: Press Release by the Cabinet of the Minister without Portfolio, 2011 Minister Mustafa participates in public debates in Shuto Orizari and in Prilep on the topic of *Stop for the abuse of visa liberalization* available at: <http://www.mbr-ds.gov.mk/?q=node/151> [last accessed on 20 December 2016].

³⁷ Interview with a representative of the Ombudsman's Office, August 2016.

³⁸ Interview with a representative of the Ombudsman's Office, August 2016.

³⁹ Minister Mustafa participates in public debates in Shuto Orizari and in Prilep on the topic of *Stop for the abuse of visa liberalization*, 5 October 2011, Prilep, available at: <http://www.mbr-ds.gov.mk/?q=node/151> [last accessed on 20 December 2016].

found in the media outlets and are intended for and focused on settlements inhabited by persons belonging to the Roma community.⁴⁰

Second, in the first half of 2010, there were announcements for additional **controls of travel agencies** in order to prevent organized transportation of *potential asylum seekers*. This is when the first headlines appeared in media outlets reporting about suspicions and investigations by the Ministry of the Interior of travel agencies.⁴¹ The Spokesperson of the Ministry of the Interior, Marija Jakovlevska, underlined that the authorities had undertaken a number of measures against so-called travel agencies, which organize passenger transport to Brussels or to other European capitals.⁴² In 2012, media outlets reported about the high number of controls conducted by inspectors in travel agencies, which were under suspicion, while closing some of them.⁴³ In addition, in its post-visa liberalization monitoring reports, the European Commission reported about measures undertaken with respect to travel agencies.⁴⁴

Third, the **Amendments to the Law on Travel Documents of Nationals of the Republic of Macedonia**, adopted in 2011, additionally limited the freedom of movement. According to the said amendments, nationals who have been deported or returned from another country are to be impounded their travel documents for a one-year period.⁴⁵ Processing the motion filed by the KHAM NGO for assessment of the constitutionality of Articles 37 and 38 of the said Law, on 25 June 2014, the Constitutional Court of the Republic of Macedonia adjudicated that the said articles were unconstitutional and thus annulled and made void the disputed articles of the Law.⁴⁶ However, the European Roma Rights Centre has documented 75 cases of passports being impounded from Roma deported from EU Member-States as failed asylum seekers, and this Centre has information about additional 155 similar cases.⁴⁷

⁴⁰ See for example the address of the Deputy Minister of the Interior at the ES-Western Balkans in Tirana. Available at: <http://www.mia.mk/mk/Inside/RenderSingleNews/33/131867183> [last accessed on 20 December 2016].

⁴¹ МВР сомнични 8 агенции, Вечер, 14.20.2010 година (The MOI is suspecting 8 travel agencies, Vecer daily), available at: <http://vecer.mk/makedonija/mvr-somnichni-osum-agencii> [last accessed on 1 December 2016].

⁴² Statement by the Spokesperson of the Ministry of the Interior, Marija Jakovlevska for BIRN, See (Ajđini, B. Discrimination: Seal for Returning Macedonian Roma) Ајдини, Б., Дискриминација: печат за враќање на македонските Роми, Призма, 26.6.2014 June 1.6.2016. Available at: <http://tinyurl.com/qftqfs3> [last accessed on 1 June 2016]

⁴³ Блажевска, К. Македонските азиланти чукаат на отворена врата. (Blazhevaska, K. Macedonian Asylum Seekers are Knocking on an Open Door) [last accessed on 1 October 2016]

⁴⁴ EUROPEAN COMMISSION 2011b. Second report on the post-visa liberalisation monitoring for the Western Balkan countries in accordance with the Commission Statement of 8 November 2010. *Commission Staff Working Paper* Brussels: European Commission.

⁴⁵ Law Amending and Supplementing the Law on Travel Documents of Nationals of the Republic of Macedonia, Official Gazette of the Republic of Macedonia No. 135/2011.

⁴⁶ Constitutional Court of the Republic of Macedonia, Ruling of the Constitutional Court, website of the Constitutional Court, <http://www.ustavensud.mk/domino/WEBSUD.nsf/ffc0feee91d7bd9ac1256d280038c474/20e4ff2a9c9e1265c1257d150029ab27?OpenDocument>

⁴⁷ EUROPEAN ROMA RIGHTS CENTRE 2015. Written Comments for Consideration by the Committee on the Elimination of the Racial Discrimination at its 87th session (3 - 28 August 2015).

The last group of measures consists of enhanced controls upon exit from the country, which in fact is the focus of this research and has been most comprehensively considered. Enhanced controls are based on a telegram sent by the Ministry of the Interior to the relevant services and it orders that *“controls upon exit from the territory of the Republic of Macedonia of organized groups of citizens, potential asylum seekers, are to be enhanced, especially in light of provisions of Article 15 of the Law on Border Control (Official Gazette of the Republic of Macedonia No. 171, dated 30 December 2010).”*⁴⁸ In the practice, this measure implied that the border police would conduct **stricter controls upon exit**. According to the Report of the Council of Europe Commissioner for Human Rights, from December 2009 until the end of November 2012, about 7,000 Macedonian citizens were not allowed to leave the country, and the Commissioner underlined that Roma were clearly disproportionately affected by the exit control measures.⁴⁹ The measure of preventing exit from the country is also observed by the European Commission and by FRONTEX. In its December 2011 Report, the European Commission underlined that *“the number of citizens of the Western Balkan countries who were identified while attempting to leave their countries without meeting the requirements for entering the Schengen area gradually increased.”*⁵⁰ In its reports, FRONTEX states that the number rose to 6,700 leading to a 41 % increase in exit refusals in 2013, compared to 2012.⁵¹ This measure is also mentioned in United States Department of State human rights reports, in which it is stated that from April to October, 2011 more than 1,500 Macedonia citizens, mostly Roma, were refused exit from the country on the basis of being potential asylum seekers in the EU.⁵² According to the US Department of State, from 2012 through April, border authorities denied exit to 8,322 persons.⁵³ The European Roma Rights Centre has confirmed that 90% of the cases show that only Roma were asked for evidence to justify why they were travelling in cases when Roma and non-Roma were travelling together.⁵⁴ A total number of 15,590 citizens

⁴⁸ Telegram of the Ministry of the Interior, the text of which was quoted in the judgment in the case No. XXVIII П4-1228/13 of the Skopje 2 First Instance Court, according to the legal opinion of the Macedonian Young Lawyers Association, available at: <http://tinyurl.com/hrzxpqa>

⁴⁹ Council of Europe Commissioner for Human Rights, Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to the former Yugoslav Republic of Macedonia, from 26 to 29 November 2012, website of the Council of Europe, available at <https://wcd.coe.int/ViewDoc.jsp?p=&id=2052823&direct=true>

⁵⁰ EUROPEAN COMMISSION 2011b. Second report on the post-visa liberalisation monitoring for the Western Balkan countries in accordance with the Commission Statement of 8 November 2010. *Commission Staff Working Paper* Brussels: European Commission.

⁵¹ EUROPEAN COMMISSION 2015. Fifth report on the post-visa liberalisation monitoring for the Western Balkan countries in accordance with the Commission Statement of 8 November 2010. *Commission Staff Working Paper* Brussels: European Commission. available at http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20150225_5th_post-visa_liberalisation_report_with_western_balkan_countries_en.pdf

⁵² US STATE DEPARTMENT, 2012. Human rights Report for Republic of Macedonia 2012, available at: <http://www.state.gov/documents/organization/186589.pdf>

⁵³ US STATE DEPARTMENT, 2013. Human rights Report for Republic of Macedonia 2013, available at: <http://www.state.gov/documents/organization/220516.pdf>

⁵⁴ EUROPEAN ROMA RIGHTS CENTRE 2015. Written Comments for Consideration by the Committee on the Elimination of the Racial Discrimination at its 87th session (033 - 28 August 2015).

were denied exit in 2012 and 2013,⁵⁵ of whom according to data presented above and according to the situation testing conducted in the Republic of Macedonia it can be reasonably presumed that the majority were Roma.⁵⁶

In its Annual Reports, starting with the 2012 Annual Report until presently, the Ombudsman's Office has strongly criticized such a practice. Processing applications against discrimination at border crossing points and against limiting the right to freedom of movement filed by citizens belonging to the Roma ethnic community, the Ombudsman's Office has established a discriminatory practice against the Roma by the Ministry of the Interior. The Ombudsman repeated the same conclusion establishing a discriminatory practice by the Ministry of the Interior in four consecutive annual reports, i.e. those published in the period from 2012 to 2015.⁵⁷

In addition, there were proceedings instituted with Macedonian courts against the unconstitutionality and illegality of denying the right to exit the country to Roma men and women.⁵⁸ According to information of the KHAM NGO from Delchevo, EPI's partner in this Project, thus far there have been 9 final judgments establishing discrimination and 2 final judgments in which no discrimination has been established. In all these cases, the plaintiffs were Roma who were denied the right to exit the country.⁵⁹ Furthermore, at the time of

⁵⁵ Statement by the Spokesperson of the Ministry of the Interior, Marija Jakovlevska for BIRN, See (Ajđini, B. Discrimination: Seal for Returning Macedonian Roma) Ајдини, Б., Дискриминација: печат за враќање на македонските Роми, Призма, 26 June 2014. Available at: <http://tinyurl.com/qftqfs3>.

⁵⁶ The Helsinki Committee for Human Rights of the Republic of Macedonia conducted a situation testing at border crossing points in order to collect evidence for the serious reasonable suspicions that there is racial profiling of Roma, i.e. that there is a discriminatory practice against the Roma ethnic community, and not only against individual Roma. Situation testing is a method used in cases of discrimination in which it is difficult to collect facts and evidence and which are difficult to be proven. This situation testing involved five testers in all: three Roma, one Macedonian (control tester), and one Albanian (control tester). The situation testing was individual and was repeated twice. The situation testing proved that border police officers conduct racial profiling at border crossing points, i.e. the situation testing proved that only Roma are told to get off the bus, only Roma are requested to present documents for they intended stay abroad (for example letter of support), only Roma are requested to provide evidence of how much money they have with them. Based on the results of the situation testing, but also taking into consideration all previous cases, analyses and reports, legal proceedings were instituted against the MoI and the court was petitioned to establish discrimination against the Roma ethnic community. The court proceedings in this case are still pending.

⁵⁷ Ombudsman's Office of the Republic of Macedonia, 2012 Annual Report of the Ombudsman's Office, webpage of the Ombudsman's Office, <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2012/GI-2012.pdf>; Ombudsman's Office of the Republic of Macedonia, 2013 Annual Report of the Ombudsman's Office, webpage of the Ombudsman's Office, <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2013.pdf>; Ombudsman's Office of the Republic of Macedonia, 2014 Annual Report of the Ombudsman's Office, webpage of the Ombudsman's Office, <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2014/GI%202014.pdf>; Ombudsman's Office of the Republic of Macedonia 2015 Annual Report of the Ombudsman's Office, webpage of the Ombudsman's Office, http://ombudsman.mk/upload/Godisni%20izvestai/GI-2015/GI_2015-za_pecat.pdf

⁵⁸ Институт За Европска Политика & КХАМ, Право на еднаквост и слобода на движење на границите: искуства од давање правна помош. (European Policy Institute & KHAM, 2016. Right to Equality and Freedom of Movement at Borders: Experiences in Providing Legal Assistance) Available at: http://epi.org.mk/docs/Sloboda%20na%20dvizenje%20-%20iskustva%20od%20pravna%20pomosh_MK.pdf.

⁵⁹ Ibid.

preparation of this Study, the Minister of the Interior stated that the discrimination of Roma at border crossing points could not be allowed, underlining that there were 41 pending proceedings against discrimination upon exit from the country.⁶⁰

This practice and the role of the European Commission and of Member-States in respect of this practice were confirmed in interviews conducted for the purposes of this study with representatives of the Ministry of Foreign Affairs, the Ministry of Labour and Social Policy and the Ombudsman's Office. The representative of the Ministry of Foreign Affairs underlined that in the period from 2011 to 2015, the Macedonian authorities were under strong political pressure to reduce the number of potential asylum seekers coming from the country.⁶¹ In the same interview, it was confirmed that at high-level meetings, representatives of the European Commission and of EU Member-States actively used the threat of suspending the visa-free regime. The representative of the Ministry of Labour and Social Policy confirmed this and emphasized that at meetings with representatives of the European Commission elaborating this issue, they were under significant pressure to limit the freedom of Roma to leave the country, since they were presumed to be potential asylum seekers.⁶² This respondent explained that "despite the fact that we, as representatives of the institutions, objected to the pressure to reduce the number of asylum application by preventing the exit from the country, this was an issue regarding which were not allowed any chance of negotiating."⁶³ The representative of the Ombudsman's Office, which is the only institution in the Republic of Macedonia which has recognized and condemned the discrimination of Roma at border crossing points, underlined that authorities of the Republic of Macedonia "refer to certain demands from Brussels and from EU Member-States, such as Germany, France, which were affected by the largest number of asylum seekers at certain points in time, as well as Switzerland, but all these demands were made informally."⁶⁴ The turning point in the national level situation was the statement of the Minister of the Interior of October 2016, who *recognized* this practice, emphasizing that discrimination against the Roma at border crossing points *could not be allowed*.⁶⁵ Yet this is the first step towards resolving this problem and it has to be mentioned that the statement was made in exceptional circumstances as described above in this analysis. In addition, the Minister's statement came at a period when the pressure from the European Commission regarding this issue significantly subsided, as underscored by respondents. This is confirmed by

⁶⁰ Ministry of the Interior, Press Releases 2 November 2016. Spasovski: The Discrimination of Roma at border crossing points cannot be allowed, available at: <http://mvr.gov.mk/vest/2894>

⁶¹ Interview with a representative of the Ministry of Foreign Affairs, June 2016.

⁶² Interview with a representative of the Ministry of Labour and Social Policy, May 2016.

⁶³ Ibid.

⁶⁴ Interview with a representative of the Ombudsman's Office, August 2016. The formal recommendation for fulfilment of measures for reducing the number of asylum seekers was in fact a letter sent from Belgium to the European Commission. See SOMMO, L. 2011. EU Proposes Mechanism to Suspend Visa-Free Regime *Balkan Insight* [Online]. Available at: <http://www.balkaninsight.com/en/article/eu-proposes-mechanism-to-suspend-visa-free-regime>.

⁶⁵ Ministry of the Interior, Press Releases 2 November 2016. Spasovski: The discrimination of Roma at border crossing points cannot be allowed, available at: <http://mvr.gov.mk/vest/2894>

the decision of the Commission not to prepare any monitoring reports as of February 2015, i.e. as of the start of the refugee crisis that dominated EU's agenda and the asylum policies of EU Member-States. However, Serbia is a case in point proving that this issue could reoccur on the agenda in some form or another. Hence, Serbia is required to "continue to take preventive measures against unfounded asylum requests by its citizens in EU Member States". This is a conditional benchmark necessary to be fulfilled in order to close Chapter 24 in the accession negotiations with the EU.⁶⁶ Considering the new approach of the European Union of leaving this Chapter open until the conclusion of negotiations, it can be expected that this issue will reoccur on the agenda even after the current cessation of any pressure regarding this issue.

Analysis of Interviews with Roma Who Were Denied Exit at Border Crossing Points of the Republic of Macedonia

The first two parts of this study explain the context of the issue of returning Roma from Macedonian borders by analyzing documents of the European Commission relating to this issue, and elaborating upon measures undertaken by the state authorities. This, third part of the study presents an analysis of interviews with Roma citizens who were prevented from exiting the country in the last five years on grounds of suspicions that they could be unfounded asylum seekers. The bellow analysis presents the respondents with pseudonyms, and as already mentioned, information about the border crossing from which they were returned and the date of the interview is presented in Annex 1. The analysis is divided into 6 thematic units, identified according to the contents of the interviews: the *otherness* of the Roma at Macedonian borders, preparations and reasons for travel, the attitude and the reactions to the attitude of the border police, their next attempts to cross the border and the appeal of respondents to equality. By presenting the personal experiences of the Roma who were prevented from leaving the territory of the Republic of Macedonia, this study fills a gap in the hitherto researches of this issue, which are mainly focused on the legal analysis and on measures undertaken by state authorities.

"We are not human beings": The Otherness of Roma at Macedonian Borders

Almost all Roma men and women who were returned from the border, and were part of this research, feel rejected, and consider that they were discriminated against and treated as second-class citizens, which creates with them the sense that they do not belong to their own country. All respondents underlined the difference in their treatment at border crossing points compared to the treatment of other citizens who belong to other ethnic communities or as Ismet notices *"As soon as they see us at the border.... Oh no, you don't! Go back! You are Roma! Scram!"*

⁶⁶ European Union Common Position, Chapter 24: Justice, freedom and security Conference on Accession to the European Union - Serbia, Brussels, 8.7.2016. Available at: <http://data.consilium.europa.eu/doc/document/AD-21-2016-INIT/en/pdf>

According to the respondents, the colour of skin, the clothes, the name, and surname are the key factors in banning Roma to cross the Macedonian borders.⁶⁷ The profiling by the border police is very clearly illustrated by Dzenana's experience:

"Their conduct was vey bad; they were aggressive with the Roma. Of course, when Roma travel by bus, and I will speak for myself personally, I was in a tracksuit; I have a bit darker skin and when they see Roma like this, not dressed up, not all tidied up, they humiliate us."

The discriminatory and humiliating attitude towards Roma at Macedonian borders can be seen in Rasim's experience:

*"And we, we were immediately questioned, they took us out of the car and it is shameful for you, people are looking at you as you argue with the police. Everybody can see that you are questioned, that you are ill treated, they make photocopies of everything, they act crazy as if we are criminals to be arrested and locked up".*⁶⁸

Similarly, Dzulizar explains how he felt when he was denied exit from the country:

"Uneasy, offended... I don't know...Then you say to yourself, OK I do everything by the book in this country and then I am worth nothing. I am not equal with the others."

Those respondents who were able to leave the country make comparisons with other countries where they stayed and conclude that their own country does not ensure them their fundamental rights as the country does for other ethnic communities living in the country, especially for the two dominant ethnic communities - the Macedonians and the Albanians. One of them is Kenan, who says:

"Of all the countries, we, the Roma, are discriminated the most in Macedonia. You get me? You go to a doctor, the same thing happens. You seat, wait for your appointment, somebody comes out sees you and –"Ah you, you seat there." Well, wait a minute mister, this not how things are done in Germany."

The findings of the focus groups, which consisted of persons who do not belong to the Roma community, organized under this research, emphasize the deeply rooted stereotypes about the Roma. For example, there are sayings such as *"You lie like a Gypsy! What's up Gypsy? You steal as all Gypsies do!"*⁶⁹

⁶⁷ This was confirmed in the discussions with lawyers of Roma who were denied exit at the border conducted in course of the implementation of this Project.

⁶⁸ The statement of Elvis supports this: "This means that we are isolated. Pure discrimination only against the Roma. So as soon as they see in the ID or passport that we are Roma then they already know that they are supposed to return us." In addition, Kjazima says: "Everybody was allowed to go; only we, two Roma women, were thrown out like garbage."

⁶⁹ Statement of participants in the focus group discussions held in Skopje on 2 June 2016.

The way the Roma are dehumanized, i.e. treated is if they are not human beings additionally contributes to and in some way provides legitimacy to the degrading treatment of Roma when they try to cross the Macedonian borders. In fact, some of the interviews show utter violation of the human dignity by denying a person to be a human being, as it can be seen below:

"All Roma want to leave this country, since here in Macedonia we are not treated as human beings, we are treated worse than cattle" Dzenana

"We, the Roma, we are like closed in a cage here." Doan.

Similarly, Ismet explains: *"I don't get what these people are doing; so they see us as if we were nothing, as if we were not human beings, they don't see us as people."*

Such an inhumane attitude results in Roma being at the margins of society, faced with prejudices and stereotypes. One of those stereotypes is that all Roma steal and are lazy, which paints them as if they were useless members of this society, a stereotype confirmed during the discussions in the focus groups in the course of this Project.

The grave economic situation, unemployment, bad living conditions evidently contribute to Roma setting off to search for a better life. In transitional states with fragile job markets, evolving health and education systems and under-resourced social structures, minorities tend to experience financial, social, and health-related problems in a more pronounced way than the majority population,⁷⁰ or as Ramadan says:

"If things were good here in the country, nobody would leave. How can these people live? If there were jobs, if there were other things, they would be here at home. No one is crazy to go abroad just like that - to leave the home, to leave the family and just go. No one leaves these things. Everybody would stay home."

The respondents have doubts and do not trust the state and state institutions. In conditions when they are in the greatest need, the respondents feel abandoned by the state apparatus and according to Bajram *"Who can I ask for help, when there is no one there, I am just a Roma and there goes nothing...."* These people have lost all trust in the state to the degree that they do believe that even if they have all the required documents they will be again returned from border crossing points, as Gjulnaz says, remembering her unpleasant experiences: *"My son tells me "Mom let me sent you a letter of support" and I say "My son, you can send me an essay, it will be worthless, there is no respect for us Roma here."⁷¹*

⁷⁰ EUROPEAN ASYLUM SUPPORT OFFICE. 2013 Asylum applicants from the Western Balkans comparative analysis of trends, Push-Pull factors and responses. Available at: <http://easo.europa.eu/wp-content/uploads/EASO-Report-Western-Balkans.pdf>.

⁷¹ The same is confirmed by Ali, Gjulnaz, Elma and Tefik.

Despite the fact that the state is making efforts to integrate the Roma,⁷² they still face numerous obstacles in exercising their fundamental rights in a number of areas such as employment, education, health care, social protection and housing.⁷³ The essential problem that this community is still facing is the systemic discrimination against the Roma in all areas of society.⁷⁴ As Ferihan says:

"I think that there is too much discrimination, not only at border crossing points, but everywhere around us, at the doctor's, in shops- if a poor person comes into the shop the salesperson immediately thinks this person will steal- people avoid standing close to Roma even in buses, they don't employ Roma. Do you know how many young people have high school diplomas or even university diplomas and do not work and just seat at home."

Before Departure: Preparations and Anticipation

Roma women and men participating in this research most often travelled to visit their families or for tourism purposes. The text bellow describes the process of preparation, the desire to see one's closest ones, and the bitter experience at the border:

"What happened? A "miracle" happened. We have been preparing for five hears. I haven't seen my son- he did not come either, he has little children. C'mon son, come home, I say and then he says "I cannot come this year Mom, next year"; well not next year and not the year after that... I am a mother I couldn't take it any more. We saved some money with my husband and we borrowed from here and there to collect 500 Euros to show at the border. We went there and then the customs officers or how they are called police officers came up on the bus, I don't know, I haven't travelled before this. We gave our passports and then the police officer came back and said "C'mon you two old people get off the bus!" I was so afraid. What are they going to do to us? I started shaking." What's the matter son? I asked. "Do you have a letter of support?" Well, I am going to my son's; I'm not going to be an asylum seeker at my age. I'm going to see my grandchildren; I have three grandchildren, a daughter-in-law, a son. How could I know that I need that document or not, we are old people. We have money, we have 500

⁷² Republic of Macedonia Ministry Of Labour And Social Policy, Strategy for the Roma in the Republic of Macedonia, Skopje: 2005 Available at: http://www.mtsp.gov.mk/WBStorage/Files/strategija_romi.pdf

⁷³ Eminovska, E., and Milevska – Kostova N. Report on the Condition of Housing and Health in Roma Community in Republic of Macedonia. Report. Humanitarian and Charitable Roma Association "Mesečina" Gostivar. Gostivar, 2007. Available at: http://habitat.org.mk/doc/health_en.pdf For assessment of the implementation of the Strategy for the Roma in the Republic of Macedonia see: Helsinki Committee of the Republic of Macedonia, 2014. Analysis: Between Implementing and the Reality of the National Strategy for Inclusion of the Roma- Decade of the Roma 2005-2015, available at : http://www.mhc.org.mk/system/uploads/redactor_assets/documents/629/Romi_Analiza_Helsinki.pdf [last accessed on 12 December 2015]

⁷⁴ Decade of Roma inclusion secretariat foundation Roma Inclusion Index 2015, September 2015, available at: http://www.romadecade.org/cms/upload/file/9810_file1_roma-inclusion-index-2015-s.pdf

Euros. *"Get off the bus, stay there aside!" Why are you doing this? Have you no respect for us because we are Roma? Don't do this son, please let me go, I must see my children, I can't stand it any more."* Gjlnaz

Most of the respondents had already been informed that Roma were being returned from the borders; they got the information from their close ones and from friends. However, there are examples of respondents that have experienced warnings from the police not to even think of asking for asylum or as Erdzan explains: *"The police came here in the mosque, three or four times, I don't know how many times; the police came to the mosque, and they warned us."*

In an effort to avoid being returned from the border, almost all respondents prepared all the documents they thought were necessary, such as letter of support, biometric passport, money, return tickets, remembering with joy Ferihan explains:

*"We got ready, we got new passports, none of the three of us had a passport, our passports were all expired. We bought everything we need, we bought the tickets and we had the certificates from our children's school confirming that they were regular pupils, since we went 10 days before the end of the school year, we got a letter of support, my brother-in-law sent us some money."*⁷⁵

Some of them, such as Elma, went as far as acquiring health care documents:

"Let me tell you one more thing. I went to the Health Insurance Fund and asked for a certificate; since I was going to travel to visit my son, I asked for a certificate that I am a diabetic, just in case anything happens to me while I am there."

Some of the respondents, especially the older ones, could not believe that there was even a possibility that they would be denied exit, since they saw no grounds to be returned, or as Reshat says:

"Well you know, there was talk that people were being returned, family people and younger people, not pensioners. You know what I mean? So there is no logic in returning old people. Are they going to become asylum seekers at their age?"

Some of them, such as Kjazima, have waited for a favourable period for a long time and got ready for the travel outside the country with great joy and pleasure, just to see their plans and dreams trampled:

"I was so happy because I was going to see my daughter. I haven't seen her in 10 years. I had such a desire to go, I was so happy. My daughter has two children. I bought presents for my grandchildren, for my daughter, she was pregnant before I was supposed to travel. I wanted to help her with the two children, when she delivers the

⁷⁵ Nevrija confirms the same.

third child. I was not there for her at those times, the borders were closed. Now the borders are open so I decided to go. I wanted to give this third baby a bath like a grandmother should. But nothing of that came to pass. In the end, I got up crying and I went home, feeling tense. But what can you do?"

In most of the cases, the respondents were well prepared before they left the country, carrying with them the basic documents, such as biometric passports, letters of support, insurance. Yet the border police returned them from the border.

The Attitude of the Border Police

Large number of the respondents spoke of the inappropriate attitude of the border police officers, mostly demonstrated as suspicions and accusing. Thus, respondents underline that they were accused that they were lying about their intentions and reasons for the travel. One of the main reasons or justifications that made the authorities to suspect that these people were potential asylum seekers was the non-possession of a letter of support and the officers without any hesitation took them off the busses, vehicles or in the case of the Alexander the Great Airport, they did not allow them to board the airplane, as Bajramsha confirms:

"Get down and go! Don't argue with me anymore. I can't do anything."

Even in cases in which the respondents had a letter of support or other required documents, they were returned without any specific explanation. Such is the example of Emir, who says:

"So I had it (the letter of support) both in the Italian and I did the translation (of the letter of support) with a Notary in the Macedonian. If you don't do it, it's no good, so I'm not stupid. And they told me "No, no, no, boy! It's not valid, you must go back." So that's it. One reason - not valid. And there is a seal here, a signature from the man, everything. There was even a seal of the "comuna" (municipality) from Italy which issues the letter of support, a signature of the employee, everything. But they just told me "It's not valid."⁷⁶

Another reason, according to the testimony of Medina, quoted by the police officers was the size of the luggage that these people carried with them:

"She reacted immediately. The first thing she told me that I was lying. I asked why I would lie. She said she saw too much luggage, so she couldn't believe that I would be staying there only two weeks. But I explained about the luggage- there were presents inside and only a few pieces of clothing for me while I stay there."

The respondents even stated that police officers presented political and political party implications and accusations. They were told to talk to their Roma representatives in the ruling

⁷⁶ Erdzan, Kjazima, and Elvis confirm the same.

coalition government: *“Go complain wherever you want. Go to Amdi Bajram, wherever you want. Your people did this!”*- Kenan was told, which emphasizes the imposition of a collective guilt for a potential abolishment of the visa-free regime.⁷⁷ Similarly, Bajramsha was told by the police officers to go to the Roma political representatives: *“Go to Amdi Bajram, complain with him.”*

Regretfully some of the police officers had utterly inhumane attitude, featured with mockery and scorn, as confirmed by Medina:

*“Great shame, insults. So they all mocked us, treated us as criminals, like thieves. Anxiety, it hurts inside. Great shame, we were harassed for half an hour or an hour with the children present there, like criminals carrying drugs.”*⁷⁸

In another case, Kenan says that there were even open threats, such as *“Don’t mess where you shouldn’t be messing!”* they told me *“I’ll lock you all up!”*⁷⁹

However, it is important to underline that not all border police officers had the same attitude. Compared to their colleagues, some of them were decent and acted properly. They even made efforts to help the respondents, giving them advice what to do, how to get out of the “imposed” unfavourable situation. Most of the advices were related to the letter of support and they were told that they would be allowed to leave the country only if they bring with them a letter of support:

“The border police politely explained to us that we can’t travel without a letter of support. They told us “Have them send you a letter of support and there will be no problems, you can go wherever you want. We were ordered not to allow anyone to cross the border if they don’t have a letter of support.” Elizabeta⁸⁰

Reactions to the Attitude of the Border Police

The attitude of the border police officers caused various reactions among the respondents. However, the common denominator for the reactions of the largest number of Roma who participated in the research is the request for an explanation as to why they were denied to cross the border. The respondents consider that border police officers have the duty of giving an explanation about the measure of returning people from the border, but they were faced with a wall of no explanations offered. This can be best seen from the experience of Nevrija: *“Well they should explain everything so that I know what I would need if I decide to*

⁷⁷ The same type of framing of this issue is noticed in the analysis of the media reporting that EPI made under this Project. See Demiri, M. Life to the Border.

⁷⁸ Nuredin and Liza confirm the same.

⁷⁹ Turkijana, Ismet, and Ali confirm the same.

⁸⁰ Severdzan and Gjulizar confirm the same.

*travel again*⁸¹ and this illustrates the specific intention of returning only Roma from the border, i.e. the fact that the target of the returns were the Roma and Roma only.

Such an attitude of the relevant authorities causes different emotional responses, varying from disappointment, feeling humiliated or angry:

"And they don't listen to you. When they don't listen to you, well that's too much. You get this feeling of wanting to just grab him and hit him.... their attitude ... very negative," Elvis.

On the other hand, aware of the injustice that they are suffering, some of the respondents start arguing, seeing this as the only way to deal with the situation, in circumstances when they felt helpless. This is especially true for people who despite the fact that they possessed all required documents, primarily the letter of support, were returned without any explanation, or as Elma explains:

"He sees the letter and then says, "You two must get off," I ask why and he tells me that the letter of support is not translated. I told him "Are you literate or illiterate, who employed you here at the border if you can't read English, a letter of support in English and in German, you should know what the letter of support is for."

However, not all respondents decide to undertake this step, mostly because of fear that fills people at such moments when they decide to keep silent, faced with the possibility of their documents being impounded, of their passport being marked with two black lines, being afraid not to get in any additional trouble with the authorities. *"I ... out fear.... I just kept quiet... I just took my passport..." Kenan*⁸²

Alternatively, they even fall into an extreme and most humiliating situation into which they have been forced – of having to beg for something that is their inherent fundamental human right, such as the freedom of movement:

*"I asked and I asked the police officer that returned me, I went down on my knees, begging him, I told him about the situation, and he told me "Stop praying to me! Start praying to God." Sabri*⁸³

⁸¹ Ramiza, Bajramsha, Rasim, Gjulizar, Kenan and Ali confirm the same.

⁸² The distrust in the police on the part of the Roma has been established in the Strategy for the Roma, and this is confirmed in reports of the Helsinki Committee and of the Ombudsman. See Helsinki Committee of the Republic of Macedonia, 2015. Analysis: Between Implementing and the Reality of the National Strategy for Inclusion of the Roma- Decade of the Roma 2005-2015, Skopje; 2012 Annual Report of the Ombudsman, available at: <http://www.ombudsman.mk/ombudsman/upload/documents/2013/GI-2012.pdf>.

⁸³ Seara, Sabri, Neza, Dzenana, Nuredin, Gjulnaz, and Elizabeta confirm the same.

The reactions of the respondents vary from disappointment to fear, over to rage. The reaction of starting an argument with the officers and asking for an explanation for their acts is quite understandable.

Next Attempts to Cross the Border

For some of the respondents having been denied exit from the country has been a decisive factor in deciding not to attempt to cross the border again, while others have become even more decisive to pursue the matter of exercising their right to freedom of movement to the end, yet others were again returned:

"We were there with him 2 days and we went to the border again so that we have evidence that only Roma are returned from the border. So he was waiting for me near the border crossing point and I went for a third time and again I was returned from the border. There's you evidence that we are discriminated against" Turkijana.

Different from the above stated example of people being again returned, most people who decided to try again to cross the border of the country and go abroad did not face the same problems they had when they first attempted to cross the border. This is owed to the fact that they had ensured previously required documents, such a letter of support, as it is the case of Ramiza:

"After a week I tried again and went by bus. They did not ask me about money, about a letter of support, nothing. I again had the return ticket so I went to my parents we stayed there for a month and we returned back."

There are others, such as Elizabeta, who tried other ways and manners that are not proper, but perhaps were the only way for them to accomplish their goal:

"Yes, I tried again after a several days. Again we went by car with the family and when we reached the border we were asked where we were going and we just gave them our ID's and we told them that we were going to Serbia and we were allowed to cross the border. So we were forced to lie so that they would let us cross the border, otherwise Roma are returned from the border if they say they are going abroad."

Due to the fact that they were returned at the border, a large number of them have not even tried to cross the border again. The major reason for their decision not to try again is the fear on one hand, the fear from being (again) returned (without any justification) and on the other hand the fear of losing money, the amount of which is too much for some people and it is not easy for them to collect so much money again, money that they could use other pressing needs, as Tasim says:

"That's what I'm telling you. You fear that in those five minutes you will lose 200 or 300 Euros, 500 Euros. That's a lot of money. First, you cannot save so much money, let alone

just lose such money in five minutes at the border. Then you think and you say “Why should I go to the border and give 500 Euros. I can use those 500 Euros to buy fire wood, food for the entire month, or I can go somewhere with my wife, or I can buy something for myself. At least I will know how I have spent the money, and I will not be worried that I just lost it. That’s why I haven’t tried to go abroad again.”⁸⁴

This leads to the conclusion that being returned from the border is not the decisive factor in dissuading people in their intention to travel. Yet there is the fear of losing money, which is of decisive importance for most of the respondents. This also shows the selective approach in returning people from the border, since in their repeated attempts to cross the border using the same documents the same people had no problem leaving the country.

Appeal for Equality

The injustice that respondents have faced is a call and an appeal for respect for their rights and the need to enjoy equal treatment as the rest of the citizens. Large number of them know their rights and consider that they have been returned without any legal grounds, i.e. they are informed about the conditions governing the visa-free regime, with the letter of support not being a precondition for a person to be allowed to leave the country. All of them, without any exception, consider that they have been discriminated against as Roma, compared to other ethnic communities and demand that the same rules and laws are applied equally for all, regardless of the ethnic affiliation.

In the interview with Dzenana, one can notice the disappointment when she says, “We don’t ask for much, at least they could improve a bit their attitude towards us, the Roma”⁸⁵ by which she emphasizes the main point that society and the state system have failed them and have left them out. Even more, using repressive mechanisms (of returning them from the border) the already difficult position in which they are is made even worse.

In addition, a call for justice can be noticed. There is an appeal not to equalize everybody, i.e. despite the fact that there are those that will indeed become asylum seekers, yet not all people should be put in the same basket, or as Ali says:

“Everything is known, all who have problems are in the books ... The man at the border has it in writing, he is the one that can press the button, not you... and everything is there. Click, click on the computer and all information comes up. Here are the books, go complain wherever you want. So a mistake. So do something about it. Why should I suffer because of people in the books? It’s not fair, right? Eh! Because of guilty people, those who are innocent suffer. No, I can’t agree with that.”

⁸⁴ Turkijana, Ismet, Elvis, Elma, and Nesrin confirm the same.

⁸⁵ Seara, Sabri, Ismet and Nuran confirm the same.

In conclusion, according to the respondents, the freedom of movement is not a privilege, but a fundamental human right and they consider that everybody should be equal before the laws of the country, or as Seara nicely puts it:

"So all of us should be allowed to go, we are all the same, we all have the right to travel wherever we want. I think the law applies to all who are nationals of Macedonia and who live in Macedonia. If I am Roma this does not mean that I am bound to go abroad to ask for asylum."

This part of the study has presented for the first time the personal experiences of respondents-nationals of the Republic of Macedonia who have been denied exit from the Republic of Macedonia. The main topics identified in the analysis of the interviews are: the *otherness* of the Roma at Macedonian borders, the preparations and reasons for the travel, the attitude and the reaction to the attitude of the border police, the next attempts to cross the border and the call for equality by the respondents. By presenting personal experiences of Roma who have been denied exit from the Republic of Macedonia this study fills the gap that has been evident in the hitherto researches of this issue.

Conclusions and Recommendations

This study has examined the manner in which in the last five years the Roma community has been framed as a *threat* to the visa-free regime of travel to the Schengen zone, examining as well the personal experiences of Roma returned from Macedonian borders. While this discriminatory practice has been analysed from the perspective of public policies, case law and how this issue has been portrayed in the media,⁸⁶ the personal experiences of people returned from Macedonian borders have been neglected in the researches conducted thus far. The study is based on an analysis of documents, interviews with representatives of the Ministries of Foreign Affairs, of Labour and Social Policy and of the Ombudsman's Office. In addition, the study uses data collected with in-depth interviews with 53 Roma men and women who have been denied exit from the Republic of Macedonia in the last years.

The analysis of EU documents relating to the issue of visa liberalizations shows that as of 2010 the European Commission has been monitoring the number of people who have been denied exit from the country, stating that most of the asylum seekers are Roma (except in the 2015 Report). In addition, the national level measures implemented to reduce the number of

⁸⁶ See European Policy Institute & KHAM, 2016. Right to Equality and Freedom of Movement at Borders: Experiences in Providing Legal Assistance Available at: http://epi.org.mk/docs/Sloboda%20na%20dvizenje%20-%20iskustva%20od%20pravna%20pomosh_MK.pdf.

asylum seekers are targeted towards the Roma community as confirmed by the case law, reports of the Ombudsman, reports of international human rights bodies, and the interviews with the stakeholders and the analysis of media reporting on this issue.

The main contribution of this study is made by focusing on **experiences of Roma** who have been denied exit from the Republic of Macedonia. The findings following the analysis of the interviews conducted with Roma returned from the border show that there is a widespread sense of being rejected, discriminated and placed in an inferior position as "second class citizens". Most the interviewed Roma consider that they are treated differently upon exiting the country compared to other citizens of the Republic of Macedonia. They consider that the colour of their skin, their name and surname are the key factors upon which border police officers base their decision not to allow them to cross the borders of the country.

This study has shown that this established practice has been recognized by the institutions in the Republic of Macedonia and by all other relevant bodies working on the protection of rights of national minorities. This discriminatory practice is especially serious, considering the fact that it results in violation of one of the most protected grounds - race- in respect of which universal and European level bodies emphasize that there is no situation in which racial discrimination could be justified. In addition to violations of rights, which has been confirmed by Macedonian courts, this practice also produces the risk of creating the impression and portraying Roma as a threat to the visa-free regime, as it can be evidently seen in the media, and as it has been emphasized in the EPI analysis.⁸⁷ On the other hand, such a practice brings the risk of further distancing the Roma community from the state and state institutions, especially the police.

The following are the key importance **recommendations** deriving from the analysis presented in this study:

Legal framework and its application:

1. Introducing legal grounds requiring issuance of a reasoned decision in writing, which will also contain legal advice in cases in which the border police has not allowed exit from the country;
2. Amendments to the Law on Police with a view to ensuring that every authorized official person carries an official identification card with their name and surname;
3. Ensuring efficient investigation in cases of alleged racial discrimination and racially motivated unlawful conduct by the police to be undertaken by the Sector for Internal Control and Professional Standards at the Ministry of the Interior and by the Public Prosecutor's Office.

⁸⁷ See: Demiri., M., Life to the Border.

Education and public outreach:

1. Education of the Border Police and of the Sector for Internal Control and Professional Standards about the principle of non-discrimination and its application;
2. Raising the awareness about the issue of discrimination of Roma at border crossing points by organizing a scrutiny hearing at the Parliament of the Republic of Macedonia;
3. In their public appearances, representatives of the executive power should refrain from presenting the Roma as (potential) asylum seekers;
4. Education and raising the awareness of the Roma community about their civil rights, including in cases in which they are denied exit outside the borders the Republic of Macedonia.

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Annex 1: List of Interviewed Persons

	Pseudonym	Date of the interview	Border Crossing Point	Gender	Time of being returned
1.	Isnija	4 April 2016	Tabanovce	F	2012/2013
2.	Sebo	18 April 2016	Tabanovce	M	2013/2014
3.	Medina	20 April 2016	/	F	/
4.	Erol	21 April 2016	Delchevo	M	/
5.	Seara	21 April 2016	Delchevo	F	2015
6.	Doan	26 April 2016	Petrovec Airport	M	2016

	Pseudonym	Date of the interview	Border Crossing Point	Gender	Time of being returned
7.	Severdzan	27 April 2016	Petrovec Airport	M	/
8.	Ramiza	27 April 2016	Petrovec Airport	F	2015
9.	Muzo	27 April 2016	Petrovec Airport	M	/
10.	Sabri	2 May 2016		M	2014
11.	Bajramsha	3 May 2016	Petrovec Airport	F	2014
12.	Suarez	3 May 2016	Petrovec (local border crossing point)	M	/
13.	Turkijana	3 May 2016	Petrovec Airport Delchevo Tabanovce	F	
14.	Ismet	4 May 2016	Tabanovce	M	2016
15.	Neza	5 May 2016	Petrovec Airport	F	/
16.	Erdzan	5 May 2016	Petrovec Airport	M	/
17.	Nuran	5 May 2016	/	F	2016
18.	Reshat	5 May 2016	Petrovec Airport	M	2015
19.	Bajram	5 May 2016	Petrovec Airport	M	/
20.	Rasim	6 May 2016	Tabanovce Dojran Tabanovce Delchevo	M	/

	Pseudonym	Date of the interview	Border Crossing Point	Gender	Time of being returned
21.	Kjazima	9 May 2016	/	F	/
22.	Gjulizar	10 May 2016	Tabanovce	F	2013
23.	Suad	13 May 2016	Tabanovce	M	2013
24.	Kenan	13 May 2016	Tabanovce	M	2015
25.	Elvis	13 May 2016	Tabanovce	M	2014
26.	Albert	13 May 2016	Petrovec Airport	M	2014
27.	Dzenana	13 May 2016	/	F	/
28.	Ali	13 May 2016	Tabanovce	M	2015
29.	Nuredin	13 May 2016	Tabanovce	M	2015
30.	Albina	14 May 2016	Petrovec Airport Tabanovce	F	2014
31.	Emir	14 May 2016	Petrovec Airport	M	2015
32.	Gjulnaz	21 May 2016	/	F	/
33.	Elma	21 May 2016	/	F	/
34.	Tefik	22 May 2016		F	
35.	Alisa	24 May 2016	/	F	/

	Pseudonym	Date of the interview	Border Crossing Point	Gender	Time of being returned
36.	Tasim	25 May 2016	Petrovec Airport	M	2016
37.	Emran	29 May 2016	/	F	2011
38.	Elmedina	29 May 2016	Petrovec Airport	F	/
39.	Ferihan	30 May 2016	Tabanovce	F	/
40.	Sara	30 May 2016	/	F	/
41.	Elizabeta	2 June 2016	/	F	2013
42.	Raim	2 June 2016	Tabanovce	M	/
43.	Selim	2 June 2016	Tabanovce	M	2015
44.	Lorensa	4 June 2016		F	
45.	Sanela	4 June 2016	/	F	/
46.	Nevrija	4 June 2016		F	2013
47.	Alina	5 June 2016	/	F	2015
48.	Nesrin	5 June 2016	Tabanovce	F	2013
49.	Shazija	5 June 2016	Petrovec Airport	F	2016
50.	Almina	15 June 2016	/	F	2013

	Pseudonym	Date of the interview	Border Crossing Point	Gender	Time of being returned
51.	Liza	19 June 2016	Petrovec Airport	F	2015
52.	Tair	21 June 2016	Tabanovce	M	2015
53.	Ramadan	27 June 2016	Tabanovce	M	2013