



FAKULTET ZA PRAVO, BEZBEDNOST I MENADŽMENT  
"KONSTANTIN VELIKI", NIŠ  
UNIVERZITET "UNION-NIKOLA TESLA" U BEOGRADU

ISTAKNUTI TEMATSKI ZBORNIK RADOVA  
VODEĆEG NACIONALNOG ZNAČAJA

# PRAVNI I BEZBEDNOSNI ASPEKTI MIGRACIJA I POSLEDICE MIGRANTSKE KRIZE "CONSTANTIN MAGNUS, NAISSUS 2017"

KNJIGA II

PROCEEDINGS

NAUČNA KONFERENCIJA SA MEĐUNARODNIM UČEŠĆEM

Glavni i odgovorni urednik  
Prof. dr Ivan Kostadinović

Niš, 2017.



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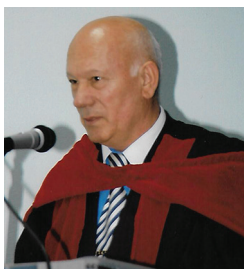
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## UVOD

Druga po redu naučna konferencija sa međunarodnim učešćem CONSTANTIN MAGNUS, NAISSUS 2017. Fakulteta za pravo, bezbednost i menadžment „Konstantin Veliki“ u Nišu organizovana je 2017. godine kao izraz strategije Republike Srbije-naše zemlje, i razvoja naučne misli na temu „Pravni i bezbednosni aspekti migracija i posledice migrantske krize“.

Konferencija ima uporište u misiji Fakulteta po pitanju migracije i bezbednosti sa aspekta migracija i posledice migrantske krize gde se ova tema istražuje teorijski i empirijski u cilju efikasnijeg delovanja u budućnosti kada su u pitanju migranti sa aspekta migracije i migranata. Osnovna ideja je da naša akademska stvarnost da svoj puni doprinos ovom savremenom fenomenu.

Ova visokoškolska ustanova je u neprestanom procesu svog razvoja i unapređivanja još od samih početaka rada pre više od 10 godina kao Visoka strukovna škola, koja je pre dve godine transformisana u visokoškolsku ustanovu akademskih studija.

Aktivnom saradnjom i partnerstvom sa relevantnim domaćim i stranim institucijama, Fakultet za pravo, bezbednost i menadžment „Konstantin Veliki“ u Nišu nastoji da se uključi u evropski prostor baveći se ovom temom, kao i da visokim stepenom organizovanosti i kvaliteta rada ispolji svoju odgovornost i zauzme prepoznatljivo mesto u procesu razvoja znanja i formiranju stručnjaka potrebnih za uključivanje zemlje u međunarodne ekonomske i društvene tokove. Fakultet ima sporazume o saradnji sa preko 100 ustanova, preduzeća i lokalnih zajednica, koje čine mrežu za povezivanje teorijskih i praktičnih znanja. Realizujući ovu Konferenciju Fakultet omogućava platformu za dalje širenje i intenziviranje te saradnje.

Zadatak ove Međunarodne konferencije jeste da svojim sadržajem pokreće značajna pitanja i ima ambiciju i cilj pokretanja inicijative ka mobilizaciji čitavog društva, svakog pojedinca, a naročito kompetentne i odgovorne organizacije i institucije u Srbiji, Evropi i svetu. Osnovna poruka naše Međunarodne konferencije jeste permanentno praćenje bezbednosti sa aspekta migracije, kako bi se iznašli adekvatni odgovori i izbegle neželjene posledice.

Istovremeno, objavljivanje Zbornika radova sa ove Konferencije, omogućava nastavnicima Fakulteta da svoja naučna istraživanja i teorijske analize uporede i razmenjuju sa drugim naučnicima i stručnjacima iz ove oblasti i da podstaknu dalja istraživanja u oblasti prava, bezbednosti i menadžmenta. Nadamo se da će ova konferencija postati tradicionalna i da će svake sledeće godine imati sve više kvalitetnih radova.

Prof. emeritus dr Andon Kostadinović,  
Dekan Fakulteta

Prof. emeritus dr Svetolik Kostadinović,  
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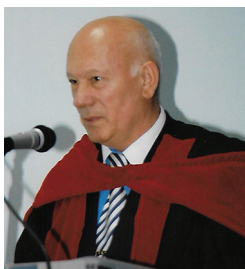
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*Svetolik Kostadinović<sup>1</sup>*

## **MIGRATIONS, HUMAN RIGHTS AND TERRORISM – CHALLENGES OF THE 21ST CENTURY**

### **Introduction**

Migrations were present in entire history of mankind. Sometimes they occurred as a result of conquests and lately due to political persecution, poverty and search for better life and war destructions. While in the past century, there mainly were caused by poverty in some countries and political reasons, which caused the issue of asylees, the latest wave of migrations is a consequence of war destructions in the Near East and in Africa.

Refugee crisis, that Europe faces with in recent years, as well as our country which is on the path of mass migrations from the Near East towards developed West-European countries, has caused many discussions in politics and the media. Most frequently, this problem is put into a security framework and in that sense the threats of this event are observed. This is the greatest wave of refugees from the Second World War, although although even after the decomposition of Yugoslavia, Europe was faced with the problem of almost a million of refugees, but that wave was not followed by a wave of terrorist attacks and a confrontation with different religion and lifestyle of refugees. Refugee crisis, caused by wars wars in Arabic countries, therefore puts the issue of security to the fore. This situation is often set as a security threat and the issue of manipulation of the politicians and the media in the aspect of generating fear from the mutual enemy.

It is not disputable that the migrations are the greatest challenge of the 21st century and that they change the demographic image of many countries. The issue of migrations is particularly stressed in Europe, but it is not significantly less in many countries of the world, particularly those that border with countries where wars are in progress. In June 2015., the Office of United Nations High Commissioner for Refugees (UNHCR) has published the report titled “Global trends: forced displacement in 2014.”, in which it was concluded that 59.5 million people were displaced on force throughout the world as a result of the persecution, general violence or violation of human rights. Therefore, it is stressed that it is the highest level of displacement ever recorded. If 59,5 million would belong to one people, that would be 24th greatest nation in the world.<sup>2</sup> Such a level of displacement carries different economic, social, religious and security challenges.

### **Migrations and terrorism**

In recent years, migrations were the greatest from Islamic countries and they occur simultaneously with the escalation of terrorist attacks caused by Islamic extremism and, for that reason, they are very often mentioned as a cause and a favourable circumstance for that terrorism. While terrorism in the last century has carried ideological features, today's terrorism carries a religious mark. Islamic terrorists openly attack contemporary

<sup>1</sup> Prof. dr Svetolik Kostadinović, Fakultet za pravo, bezbednost i menadžment “Konstantin Veliki”, Niš

<sup>2</sup> The UNHCR Global Trends 2014 Report, <http://www.viewsoftheworld.net/?p=4541>

civilizations of mainly Christian countries and they define their activities as "Jihad" or religious fight of Islam against Christianity. Therefore, migrations from Islamic countries cause doubt in the accompanying conquest of Islam under the cover of migrations. This simplified observation of cause and effect relations is neglected when it is about two processes that basically have only the same causes: destruction of state systems in Arabic countries („Arabic spring“) in the name of democracy and human freedoms, which created the conditions for releasing a "ghost from the bottle" in the form of Islamic extremism. It is quite clear that behind the export of democracy and human freedoms to the countries that have stressed culture of power and live for centuries in hierarchically regulated systems, there are economic interests of a several developed countries, i.e. their war industry and multinational companies. Both migrations and terrorism have the same cause: new form of struggle for the resources and domination in the world which has caused war conflicts, civil wars, persecution of ethnical and religious minorities, poverty, climate changes, despair and widely-present corruption. The consequences are different: migrations change demographic image of the world, jeopardize religious and national uniformity and threaten social, religious and cultural disbalance, which can jeopardize the stability of immigration countries and terrorism directly jeopardizes human lives, civilizations, customs and culture of many developed Christian countries. Both events jeopardize proclaimed freedom of movement, tolerance and multiculturalism that were difficult to develop, thus creating xenophobias. After the fall of Berlin Wall, Europe has initiated a unique project of demolition of barriers and offers freedom of movement to the citizens, without any obstacle. Twenty-five years later, Europe asks basic questions regarding its future. To what extent should the human rights, the foundation of European project, be denied in order to improve national and regional security? Can crucial European principles of democracy, peace, unity and economic freedom withstand the inflow of the million of people that come from different political, social and economic environments? The answer to this question is not simple and Europe stumbles on it for several years now, confirming the complexity of the issue. This only shows how the migrations of refugees are a complex, not only security, but also political, economic and humanitarian problem. We can even observe the issue of main human rights, primarily the right to life, in the shadow of fear from security threats. In the article published in the journal *The Europaen Sting* (<https://europeansting.com>, January 2017) it is pointed out: Crisis of migrants has shown us how it is easy for the people to lose their humanity. Forgetting that the migrants are desperate people who need humanitarian aid, we allowed them to die at our borders and live in camps under very difficult conditions. Ignoring the size of this problem, it was also allowed for even 4.690 people to drown in the Mediterranean in 2016. Because the situation is mainly observed through security threats and the essence of the problem is neglected, and that would be a humanitarian disaster.<sup>3</sup>

Mass migrations towards Europe have great economic consequences to the countries of origin as well. Since the trend of migrations, caused by the decomposition of state systems, primarily in Arabic countries with civil wars in progress, is continued in the same pace, we can expect chain problems in the countries of origin, such as the loss of precious human resources: young and highly-educated people who have the funds for the trip and a chance to get a job in developed countries.

The problem of migrations is not only the issue of immigration countries most of them move towards, but the issue of adjoining and transition country is much greater, they are poor themselves and they are to fight with hundreds of thousands – sometimes millions – of people who need food, health care, place to live, education, jobs and language courses, everything that is provided to their citizens. Transition countries must meet the needs of migrants and they are faced with the great challenge of accommodation,

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<sup>3</sup> Lizzy Morgan is a Medsin-UK's director of finance. She is currently undertaking an MA in Humanitarian and Conflict Response in Manchester, taking a break from her medical degree at the University of Leeds.

transport and coordination of unpredictable flows of people with adjoining countries. On this path, despair, hunger and the cold arise different asocial and criminal urges with migrants as possible solutions for survival.

Security aspects of refugee crisis include direct and indirect security problems. Direct refer to the potential infiltration of terrorists in refugee columns and indirect refer to possible conflicts between migrants and right-wing domicile groups, the occurrence of smuggling and other illegal events, the issues of integration into a completely different culture, the issue of isolation of the younger generations due to unfamiliarity with the language, non-integration into school system and religious differences, which are a suitable ground for the recruitment of young migrants for terrorist attacks in the name of religion, as a personal resistance to the society that did not accept them.

However, the facts show that terrorists come from the families that have been in west-European countries for a long period (the first wave of refugees) and that haven't integrated themselves into those communities, but they remained isolated and susceptible to the impacts of fundamentalist Islamic religious perceptions through religious organizations and institutions, which abuse the religion and the right to freedom of religious confession and recruit young and dissatisfied migrants. It is not disputable that those organizations are in an open war with Christian world and that they use new strategies of infiltrating the terrorists into the communities of countries in which they perform terrorist attacks, so it is very difficult to distinguish an ordinary migrant from a terrorist and each migrant can be a terrorist. Today's failure to integrate the refugees and migrants provides a fertile ground for the terrorism tomorrow.<sup>4</sup>

However, the facts change the perspectives of relatedness between migrants and terrorism: Migration is not the cause of the increased terrorist threat in Europe, according to many analysts of this phenomena. But, the inflow of refugees to European Union, particularly in Germany, causes great concerns for security. This is even greater after a series of terrorist attacks, whose start was in Paris in November 2015. However, the analysis of facts shows that there is almost a negligible percentage of migrants involved in terrorist attacks (from 0,02 to 0,002 %).<sup>5</sup>

However, this does not lessens other different threats that migrant crisis carries along: smuggling, crime, xenophobia, diversity of religion, customs, culture and lifestyle, possibility to integrate into monolithic societies, etc. The changes in the structure of population create fear and xenophobia of domestic population, which is also a frequent cause of conflicts and destabilization of society. Therefore, as the only acceptable solution appears the control of the flow and scope of migrations, not only in European Union, but also in transition countries as well.

### **Migrations and human rights**

Kompleksnost migrantskog, a posebno izbegličkog problema, izražena je i kroz pravnuThe complexity of migrant, and particularly refugee problem, is expressed through law regulation in this field. Here, different types of rights are confronted: international law regulation, national laws and Convention on Human Rights. This was particularly expressed in some critical situations, such as taking drastic measures to stop the migrants on the border with Hungary, which Zeid Ra'ad Al Hussein, the UN Commissioner for Human Rights commented as illegal acts. Hungarian authorities have undertaken the measures to prevent entering the country, arrest, mass returning of refugees with using disproportional force against migrants and refugees, as well as attacks on journalists and video documentation. Some of these actions are clearly defined as violations of international law.<sup>6</sup> On the other hand, the president of Hungary, Viktor Orban referred

4 Sam Mullins: Terrorism and Massmigration, Per Concordiam, Journal of European Security and Defense Issues, Volume 7, Issue 1, 2016

5 Per Concordiam, Journal of European Security and Defense Issues, Volume 7, Issue 1, 2016.

6 Melina Lito (2016) International human rights accords Protect migrants from discrimination, Per Concordiam, Journal of European Security and Defense Issues, Volume 7, Issue 1, 2016

to the right to protect national identity and culture, which is considered jeopardized by this wave of refugees. He clearly stated that Hungary is a Catholic country and that numerous Islamic refugees can jeopardize the national identity. Similar attitudes were also presented by many other European countries, and in recent days you could even hear a question based on which regulation did the Germany allow the entrance of almost a million of refugees from Arabic countries.

When we talk about law regulation of migrations, we cannot neglect the fact the migrants are different, primarily in the aspect of motives for leaving their countries. It is certainly not the same thing whether someone left the country voluntarily in order to provide a better standard of living for himself and his family, whether he is politically persecuted and seeks protection and asylum, or leaves the country because there is a war in progress and human life is jeopardized. Let's not forget that those wars in Arabic countries are caused by destruction of legitimate government systems in the name of democracy, creation of chaos and anarchy, in which the fundamentalist Islamic "ghost from the bottle" was released.

Having this in mind, a series of questions regarding law regulations and law protection of migrants was initiated lately, as well as questions regarding the duties of countries that migrants enter by the international law, not neglecting the question and what this means for security sector. The question is whether some country should take as a priority the national security or the right of migrant to escape from the violence and conflicts in his country of origin?

This discussion takes into consideration the rights of migrants to move freely, including the reasons of joining the families, obligations of country not to apply the discrimination based on colour, race and other factors, recommendations not to make differences between the citizens according to the state of birth and right of refugees to be returned to the country from which they were persecuted. All those rights are in valid regulations limited by jeopardizing national security. While the security bodies must deal with issues that are caused by the problems of rapid and mass flow of migrants and refugees, including not only terrorism, but also transnational organizational criminal, such as human trafficking and different forms of smuggling, undertaken security measured must not violate the rights and responsibilities determined in international regulations on migrations.

The majority of international regulations that refer to migrants has occurred in the last decades in the era of globalization within International Office of Migration (IOM) and they result from the right of migrants as human rights based on Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), International human rights accords Protect migrants from discrimination, the Convention relating to the Status of Refugees (1951 Refugee Convention), the International Convention on the Elimination of Racial Discrimination (ICERD), the Convention of the Rights of the Child (CRC) and the Convention against Torture). All these documents come from the national sovereignty as the top right of the country to sovereignty and territorial integrity. Thus, International Office of Migration – IOM stresses that "state sovereignty is a traditional starting point in the consideration of international migration laws. States have the jurisdiction over their territory and population. They can decide who can and who can't enter their territory. The states can secure their borders and determine the conditions for entrance and stay, as well as deportation."<sup>7</sup> This, however, does not mean that countries don't have to respect international conventions and ratified agreements regarding this issue, as well as many other issues. On the contrary, UN International Convention on Human Rights<sup>8</sup> guarantees the right to people to leave their country in case their security is jeopardized and obliges the UN member countries to respect the rights of people within their territory, without

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<sup>7</sup> Ibid, pp. 55

<sup>8</sup> International Covenant on Civil and Political Rights. Adopted by the General Assembly of the United Nations on 19 December 1966.

making any differences among people, based on race, colour, gender, language, religion, political or other belief, national or social origin, property, birth or based on any other status.<sup>9</sup> Therefore, the countries can nullify and constrain proclaimed basic human rights.

Serbia, as well, as a country on a migrant route, is obliged to carefully observe the problems of refugees in the light of international obligations and adjust its legislation and practice, which it is obliged to by the Chapter 24 in the EU accession negotiations.<sup>10</sup>

According to the Convention on Refugees from 1951<sup>11</sup>, unlike the migrants who voluntarily leave their country of origin, a refugee is a person forced to leave his/her country based on well-established fear from persecution or lack of protection. According to this Convention, when a refugee enters a country without a permission, that country „will not pronounce a sentence due to illegal entrance or stay“ but it will give refugees a chance to „prove“ the reason for leaving their country. When a person asked for a status of refugee, countries cannot constrain the freedom of movement, except the cases when a refugee has temporary stay approved. In addition, the countries will not legitimately throw out a refugee from their territories, except due to the issues of national security or public order. Precisely this attitude can be a cover for generating the security risk from the refugees.

### Security and migrant crisis

Certain rights that refer to migrants do not have to be mutually exclusive. Therefore, we should not forget that most refugees are the victims of war, terror and persecution. More than 800.000 people who came from Turkey to Greek islands in 2015, 57% are Syrians. The other 33% come from Afghanistan and Iraq.

They precisely run from terrorist groups in countries which do not control their territories. They precisely run away from terrorist groups in the countries that do not control their territories. Europe is not far and they look for a refuge there under the rule of law. According to Geneva Convention on Refugees, all the EU member countries have obliged themselves to provide protection to the refugees. The challenge is in the reconciliation of the need to protect the refugees and the need for security and national identity of the citizens of European countries. This requires a greater organization of state bodies on registration of refugees and exchange of data, with a simultaneously increased security and police work. The problem is in the fact that terrorists often use stolen documents of refugees.

Statistical data point out that almost insignificant number of refugees have taken part in terrorist actions in recent years. According to the study of Information Center for Asylum and Refugees in Great Britain, before the year 1990, a relatively small number of Algerians have lived in Britain, but up to the year 2004, the estimated number was raised to 25.000 - 30.000. At the same time, the data point out that only 44 Algerians with a certain security level were involved in terrorist activities in Great Britain in the period from 1980. and 2013. It is about less than 0,2% of British-Algerian population. Similar data are also mentioned regarding the Somalis born in the USA up to the year 2010, only 36 of them were involved with terrorism up to 2013, which is 0,04 %. If these examples would be representative, we can expect that much less than 1% of the current wave of refugees would be involved with terrorism, i.e. 0,04%.<sup>12</sup> And in addition, we should not ignore the potential terrorist danger from refugees. In support to the caution regarding this issue, there is a statement of Holger Munch, the Chief of German Federal Police, who pointed to the problem of recruitment of refugees by the radical Islamism,

9 Мирослава Јелачић: Šta možemo da očekujemo u oblasti azila i migracija u okviru pregovora o Poglavlju 24 (pravda, слобода и безбедност), <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

10 [http://www.bezbednost.org/upload/document/sta\\_mozemo\\_da\\_ocekujemo\\_u\\_oblasti\\_azila\\_i\\_migracij.pdf](http://www.bezbednost.org/upload/document/sta_mozemo_da_ocekujemo_u_oblasti_azila_i_migracij.pdf)

11 1951 Refugee Convention, <http://www.unhcr.org/4ca34be29.pdf>

12 Per Concordiam, Journal of European Security and Defense Issues, Volume 7, Issue 1, 2016



mentioning the reports on "about 40 contact attempts to register young refugees." Stressing the potential risk, he stresses the danger "that the young people whose hopes are not met in Germany join terrorist groups and, accepting their ideologies, they could be radicalized and commit terrorism."<sup>13</sup> That means that population of refugees can be especially sensitive to radicalization and recruitment for terrorism, having in mind their essentially marginalized and difficult situation in countries where they have come with great expectations, especially in regard to domicile population. Unfortunately, and ironically to some point, the level of risk is worsened by the activities of right-wing extremists, who are responsible for the increasing number of violent attacks to refugees. Such a procedures directly encourage the approach "Us against them" promoted by Jihad recruits as well.

On the other hand, the greatest number of terrorists were born or they have citizenship in the USA and countries of Western Europe. This is a signal that terrorists are mainly recruited from the second generation of refugees or asylees. This is a population in which there are so-called "sleepers" recruited for the spreading of Jihad terrorism, which is provided by social networks. Organizers of terrorism manipulate religious and national feelings of the young, poverty, dissatisfaction by their life conditions compared to domicile peers, even adventure urges of domicile population. Very frequently, there are also the threats and blackmails towards family members who remained in countries of origin. It is known as the tactic of "Trojan horse", which is most frequently used in the war of Islamic fundamentalists against Christian Western countries.

In addition, it is obvious that the majority of Jihad terrorists who work in Western countries have not come as refugees. In contribution to such an attitude, there is an information that only 15% of Jihadists who were active as the terrorists in Great Britain up to 2013, arrived as asylees and refugees. In the USA, it is only 5%. This clearly points out that "refugees-terrorists" are the minority. Therefore, it is noticed that 48% of British and 61% of American Jihadists come from abroad, i.e. they are not born in those countries.<sup>14</sup> Terrorists who come from abroad have greater chances to enter a Western country using a valid visa as citizens of the USA or Western Europe. Many future Jihad terrorists moved as children with their families or some other legitimate manner. The data point out that the majority of terrorists live for several years in Western countries before they are included in terrorist activities (about 2 50 5 years on average). This confirms the assumption that a relatively small number of Jihad terrorists have entered the countries of Western Europe as refugees with the intention to perform the acts of terrorism. Instead, there are by far greater chances to be radicalized while living in some Western country and they were born there as well, in the greatest number. All in all, we can state that although mass migrations and terrorism are really related, refugees terrorists are an insignificant minority of Jihad terrorists in Western countries. The refugees are usually not involved in terrorism prior to the arrival to some Western country.

On the other hand, we must bear in mind about 30.000 of Jihad fighters from about 100 countries who have, due to different reasons (religious, material, adventure) found their way to the conflict zone and indoctrinated by Islamic terrorism they have become a terrorist danger after returning to their countries.

In spite of the hysteria regarding the security threats from the refugees, the proofs of it are scarce and there are enough reasons to believe that jihadists and right-wing politicians enlarge the danger for realization of own interests. However, the analysis of the problem mentioned shows that the danger should not be ignored and that it latently lurks in the future if the problem of refugees isn't treated in an appropriate manner.

First of all, refugees are human beings with a right to life, existence, freedom, education of children and meeting other human needs. This complex problem should be

<sup>13</sup> DATA/Documents/Migracije/Migration crisis how big a security threat it is – The European Sting - Critical News & Insights on European Politics, Economy, Foreign Affairs, Business & Technology - europeansting.com.htm

<sup>14</sup> Sam Mullins: Terrorism and Massmigration Per Concordiam, Journal of European Security and Defense Issues, Volume 7, Issue 1, 2016.

solved in a multidimensional manner. It implies their careful integration in immigrant countries, but simultaneously both political and economic activity of the centers of global power to create conditions for their return.

From the perspective of struggle against terrorism, there is a clear need to improve the processing and classification of information on the refugees after their departure, to improve the possibility for the verification of falsified passports and access to databases of Interpol. In addition, transit and moving of refugees must be monitored and channelled more efficiently.

Improved exchange of information is therefore the greatest and the most important anti-terrorist priority. The second task for security services refers to monitoring and interference of refugees recruitment activities, information exchange with the suspects for terrorism, monitoring of the travelling of Western citizens to war zones, cancellation of passports when it is required and strengthening of border control, everything balanced with the need not to endanger civil freedoms.

In the same manner, it is required to keep an eye on right-wing extremists, protect the refugees from their attacks and sanction their actions. In the combination, these measures will reduce the risk of radicalization and recruitment of terrorists among the refugees in the countries that have taken them, as well as efficient provision of social, health, information and other services required for the integration. It is very important for those information to be submitted to all the relevant participants, including politicians, security services, and especially the media and public.

### **Summary**

Refugee crisis and migrations caused primarily by the destruction of regime in many Arabic countries of the Near East and Africa are a great challenge for European countries. This form of migrations is distinguished from all the previous ones and the Europe and the world are not quite ready for the new challenges regarding this complex issue.

Special significance of this refugee crisis is in the context of security because it takes place simultaneously with the announced “Jihad” of Islamic fundamentalists from refugees’ countries of origin towards Europe and their tactics of performing terrorist attacks known as “Trojan horse” which uses migrants and recruits terrorists “sleepers” from those circles. This makes the struggle against terrorism more difficult and related the issue of terrorism to migrants.

Refugee crisis in recent years does not only affect the developed European countries, but also other countries that are on a migrant route and creates numerous social, as well as security issues in those countries, which are themselves poor in the economic aspect, i.e. politically unstable.

Struggle against terrorism is thus made more difficult, having in mind that in the context of this complex phenomena, numerous security problems and human rights clash, i.e. different forms of law: international, national and human rights. Careful adjustment of all these laws, cooperation between the countries and global solving of the problem of refugees are the priorities of the countries that are affected by this issue, as well as contemporary world as a whole.

All in all, previous findings and experiences with the issue of migrations suggest that, although mass migrations and terrorism are not directly related, refugees-terrorists are exceptions that confirm the rule, and we must take into consideration the security threat.

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Vihren Bouzov<sup>1</sup>

## EFFECTIVE MANAGEMENT OF FORCED MIGRATION – SOCIETAL SECURITY ASPECTS

### Abstract

*The illegal migration crisis exposes real shortcomings of the EU migration system and of integration capacity. In this paper we will try to find answers of two questions of crucial importance for our countries in the South-Eastern Europe. How could be possible to manage illegal migration from the poor countries effectively – to break the road of migrants by force, to allocate them through quotas or to create conditions for their return home? The second issue concerns the perspectives for overcoming of some negative demographic trends in the South-Eastern countries by managing the return of their own migrants from the West. The data are very disturbing: during the past 25 years, nearly 20 million people (5,5 % of the whole population of Central and Eastern Europe) are estimated to have left the region! It is a real demographic catastrophe! The two aspects of management of migration are very important in the context of the societal security – the ability of society to withstand threats and to survive in a complex security environment. We need to define priority for our countries! Is it possible to integrate illiterate and aggressive illegal migrants, searching for good life in the rich countries or to develop new effective return policies to attract our active and young people back to our countries?*

*Key words: illegal migration, migration crisis, return policies, management of migration flows*

### Rezime

*Kriza nezakonite migracije otkriva stvarne nedostatke sistema migracije EU i kapaciteta za integraciju. U ovom radu ćemo pokušati pronaći odgovore na dva pitanja od presudnog značaja za naše zemlje u Jugoistočnoj Evropi. Kako bi se moglo efikasno upravljati ilegalnom migracijom iz siromašnih zemalja - da se slomi put migranata silom, da se dodaju kvote, ili da se stvore uslovi za njihov povratak kući? Drugo pitanje se odnosi na perspektive za prevazilaženje nekih negativnih demografskih trendova u zemljama jugoistočne Evrope kroz upravljanje povratkom svojih migranata sa Zapada. Podaci su veoma zabrinjavajući: tokom proteklih 25 godina procenjuje se da je skoro 20 miliona ljudi (5,5% celokupne populacije u Centralnoj i Istočnoj Evropi) napustilo region! To je prava demografska katastrofa! Dva aspekta upravljanja migracijama su veoma važna u kontekstu društvene sigurnosti - sposobnost društva da izdrži pretnje i da preživi u složenom bezbjednosnom okruženju. Moramo odrediti prioritet za naše države! Dali je moguće integritirati nepismene i agresivne ilegalne migrante, tražiti dobar život u bogatim zemljama ili razviti nove efektivne politike vraćanja kako bi naše aktivne i*

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*mlade ljude povratili u naše zemlje?*

*Ključne reči: ilegalna migracija, kriza migracija, politika vraćanja, upravljanje migracionim tokovima*

### **The Dilemma for Effective Migration Management**

Migration has taken a strategic place at the center stage in the policy and security debates in Europe today. There is no doubt that at present there is a crisis in the EU and it caused by the forced migration flows in 2015-2016 years. It was the worst such crisis since the World War II. In 2015 and 2016 more than 2,3 million illegal crossings were detected by Frontex, the EU border surveillance agency.<sup>2</sup>

The crisis exposes real shortcomings of the EU migration system and of integration capacity. This is a crisis of administrative capacities for border protection, for migrant's registration, timely consideration of their applications and a crisis of efforts to build an effective system for their integration. In the period 2015-2016 more than 2,5 million applied for the asylum in the EU. The EU tries to combat this by reforming the EU asylum rules and creating a fairer system of distributing asylum seekers among the EU-countries, as well as strengthening the EU-border control and managing controlling irregular immigration.

This is also an unprecedented crisis of security and of the idea for European solidarity and common values. There is a discussion about the collapse of the liberal cosmopolitanism as a result of illegal migration flows.<sup>3</sup> The aggressive elites of the rich West are assigned to the Balkans as a 'sanitary cordon' against refugee flows. This is done through the quotas policy imposed by Germany and the maintenance of regional conflicts in the Middle East and North Africa. The liberal extremism, which opened Europe's door for the migrants, is one of the reasons for the growth of terrorist attacks.

The crisis will not be solved without an analysis of the determinant factors. In this paper we will try to find answers of two questions of crucial importance for our countries. How could be possible to manage illegal migration from the poor countries effectively – to break the road of migrants by force, to allocate them though quotas or to create conditions for their return home? The false hope of the present-existing EU elite that this invasion will reduce the labour costs is about to fail. It leads to budget and security problems and creates Islamophobia, political and ethnic conflicts.

The second issue concerns the perspectives for overcoming of some negative demographic trends in the South-Eastern countries by managing the return of their own migrants from the West. The data are very disturbing: during the past 25 years, nearly 20 million people (5,5 % of the whole population of Central and Eastern Europe) are estimated to have left the region! It is a real demographic catastrophe! By the end of 2012, South-Eastern Europe "had experienced the largest outflows, amounting to about 16% of the early 1990's population". At the same time this emigration lowered the population growth in sending countries, in the majority of cases worsening the already negative demographic trends. These emigrants generally have been younger than the populations they left behind and better qualified<sup>4</sup>. Many active people were driven to the West, after the forced blockade of the process of modernization in the Eastern Europe and the transition of our countries to a peripheral capitalism. Some leaders of rich countries in the EU are aggressive populists (Macron) and do not want our workers on their labour market.

The two aspects of management of migration are very important in the context

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2 Europe's Migration Crisis – In: News. European Parliament (<http://www.europarl.europa.eu/news/en/headlines/society/20170629STO78631/europe-s-migration-crisis>)

3 Bouzov, V. 2015. Globalization and Cosmopolitanism: Some Challenges – in: Dialogue and Universalism N 2, pp.236-244

4 IMF Staff Discussion Note, 2016, Emigration and its Economic Impact on Eastern Europe, July 2016, International Monetary Fund, pp.8-11;

of the societal security – the ability of society to withstand threats and to survive in a complex security environment. We need to define priority for our countries! Is it possible to integrate illiterate and aggressive illegal migrants, searching for good life in the rich countries or to develop new effective return policies to attract our active and young people back to our countries? To search for impossible integration of 2,5 million new illegal migrants or to make efforts to attract for return more than 20 million active and well qualified people? The negative demographic trends in our countries can not be compensated by a false integration of the illegal migrants. These are the two most important security aspects of the effective management of migration and we need to give a priority to the latter. Successful solution of migration issues in the first context is only possible with the collective efforts of the rich countries and especially – the superpowers. It is necessary to end the military conflicts and all ‘humanitarian’ interventions that generate forced migration.

### **The Forced Migration Crisis of the EU – Perspectives for the Balkans**

The present dominant tendency of economization and securitization of forced migration to our region (the Balkans and the Europe as a whole) is a result of the war against global terrorism and ‘humanitarian’ interventions after 11/9 and is associated with the continued social and economic crisis of the Western world.

The politicians of the rich elite, corporate agents and the global media today are trying to replace the humanist culture of peace and tolerance with an aristocratic anti-culture of fundamental divisions (West-East, Christianity-Islam and rich countries-poor countries), aggression and hatred for the victims of forced migration. This is a result of the war against global terrorism after 11/9 and it is associated with the continuing social and economic crisis of the Western world. The crisis with the terrorist attack against the yellow French magazine Charlie Hebdo, which has published provocative caricatures against Islam, was another confirmation of the present existing and deepening process of internal war and the fundamental division of the West. It is a consequence of the brutal capitalist expansion, which reached a new peak after the Cold War era.

The present-day capitalism could not provide normal living conditions to humankind at least at the level of elites and the people of the rich countries. Moreover, the world today is increasingly divided by regional and civil wars, by violent conflict redistribution of resources bringing huge misery for people, state destruction and forced migration floods. Global injustice, wars and poverty forces millions of people to search for better living conditions, work and better life chances in rich countries. This migration is stimulated by the criminal business of traffickers of human beings, weapons and drugs. It is also a mechanism for returning fighters after their crimes in Syria and other countries.

The growth of forced migration is a global process. How we could define it? There is a continuing trend of its growth by leaps and bounds. In 2013 Delgado Wise classified four types of forced migration:

- Migration due to violence, conflict, and catastrophe (43 million refugees)
- Smuggling and trafficking of persons (2.45 million victims)
- Migration due to dispossession, exclusion, and unemployment (72 million migrants)
- Migration due to over-qualification and lack of opportunities (25.9 million migrants)<sup>5</sup>

Now, there are more than 200 million forced migrants in the world: one could say that this chaotic process of displacement of huge masses of people looks like a rematch of the people from the peripheral countries for the inverted structure of our imbalanced and confused world. Forced migrants are innocent victims of conflicts in an

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<sup>5</sup> Delgado Wise, R. (2013), The migration and labor question today: Imperialism, Unequal development, and Forced Migration, *Monthly Review*, Volume 64, Issue 09;

unjust social and political order, with military aggressions, civil wars, tyrannical regimes and ethnic tension generated by them. The response of the rich West is a politicization of migration as a threat to security on the basis of inventing a connection with global terrorism and organized crime. It is true that this relationship has been modeled by the Western policy of conflict-lightening. Corporate agents such as business organizations and globalist NGOs receive huge profits from the illegal carriage of people from the poor countries from Africa and the Middle East to Europe. This is a part of the technology of the controlled chaos through which the EU is about to be removed from the global economic competition.

Especially in its nationalist expression, the response of the Western elite to the invasion of the forced migration becomes more and more hysterical, mostly in the context of the deepening social and economic crisis of the 'welfare state'. The Western nationalism as a degenerate successor to the Western imperialism from the first ages of the capitalist expansion imperceptibly becomes a very influential trend in the developed countries defining their policy as regards the rest of the world. A good symbol of this policy are the 'Schengen barriers' still impregnable for Romania and Bulgaria and the statements of some Western leaders (Merkel, Sarkozy) for the failure of the multiculturalism. There are real facts to justify the thesis that the EU policy on refugees and asylum seekers focuses on measures for their rejection of the territory of the rich countries. The aggressive elites of the rich West are assigned to the Balkans as a sanitary cordon against the refugee flows.

In 2016, 362,753 people fled to the EU by crossing the Mediterranean. Of these 5,022 are reported missing or dead<sup>6</sup>. There are authors who are talking for 30 000 victims in the Mediterranean. According to the German magazine *Der Spiegel* and the information of the UNHCR for the year 2013, more than 50 million people left their homes, which is a record data since the Second World War!<sup>7</sup> According to the UNCHR Global Trends Reports in the end of 2016 year forced migrants are 65,6 million – they has grown substantially since 1997 when they have been 33,9 million people. 20 people are newly displaced every minute of the day. At the beginning of the crisis it was an uncontested fact that 9 out of 10 immigrants are accepted by developing countries. Now we know that 84% of forced migrants has been hosted by developing countries.<sup>8</sup> Therefore, the claim that the refugees are in fact economic refugees to the rich West, is doubtful.

After the end of The 'Cold War' the world did not become a safer place to live in, altogether. Geopolitical confrontation and intensive fight for natural resources and control over main trade roads and markets are now widespread and the number of regional conflicts keeps on growing, too.

All levels of security are interrelated on a global scale: the problems of security concern personal level and worldwide level of it. The threats to personal security of the forced migrants are at the same time threats to the global security of humankind. We can not leave unnoticed their suffering. Hence, the development of a global system of adequate management and streamlining of migration flows and elimination of causes and negative consequences of forced migration is at the same time a global, a collective and an individual responsibility of every citizen on our planet and of humankind as a whole.

In the last 20 years the USA and the West handily destroyed through military aggressions, support for Islamist movements and intelligence operations like "the Arab Spring" the timid attempts of modernization of the Arab and Islamic world – Iran, Lebanon, Afghanistan, Iraq, Tunis, Egypt, Libya, Syria. Everywhere the violent "democratisation"

6 Europe's Migration Crisis – In: News. European Parliament (<http://www.europarl.europa.eu/news/en/headlines/society/20170629STO78631/europe-s-migration-crisis>)

7 Kak ES se prevurna v neprevzemaema krepost za bejancite [How the EU has become an impregnable fortress for the refugees] – in: *Sega* N 219, September 2014 (<http://www.segabg.com/article.php?id=718078>)

8 UNCHR, Global Trends: Forced Displacement in 2016 – In: <http://www.unhcr.org/globaltrends2016/>

has left monsters in place of the secular governments: impoverished countries, internal civil wars and tyrannical regimes... All these sinister processes became possible after the end of the Two Camps confrontations – the Third World lost its support from the Soviet Union and the socialist countries. The West lost its strong competitor: there was no need to present itself for a knight of freedom... It has turned in freedom of conquest of natural resources! Finally, the faithful allies of the West against Russia and Syria – the jihadists – have designed their Islamic State (ISIS): a new challenge to the false “world of freedom”. It is on the agenda of its elimination after the decisive intervention of the coalition of Russia, Iran, Iraq, Turkey and Syria.

At present the major superpowers recognize each other as leading competitors in the distribution of markets, especially arms markets, natural resources and worldwide influence – we are entering a new era of global confrontation without ideological prejudices, illusions and masks. The main battlefields of this confrontation are the regions of the Middle East and the Post-Soviet scope. The US strategy includes closure of Russia with its military bases and forces, enlargement of NATO to its borders and detention in the Asian space. The threat from Russia is a major incentive for the arms industry, transfer of arms and soldiers worldwide. No less important are the ambitions of the US and the EU to remove the Russian energy projects to import gas to Europe and to build nuclear factories. There are similar plans for the Chinese projects for economic and transport corridors. For this reason, FYROM has been also destabilized. The world enters in a new “Cold war” period with escalation of tensions in different directions – USA – Russia, China and Iran, NATO and Russia.

The system of international security inherited from the first Cold war era is unable to overcome regional conflicts and to parry off new threats to humankind. The alternatives are: unipolar world with a monopoly of forcefully-imposed solution to global conflicts, or multi-polar world, based on balance of power and consensus in the common interest of security, respect for the interests of every individual country and social values. The present-day global political confrontation between the West and the East in our days is a manifestation of the rivalry between these two alternatives. The situation in the world continues to be imbalanced, with long standing conflicts in it and unprecedented huge differences in wealth distribution.

In this situation of a global crisis we are faced up with a process of securitization and economization of forced migration caused by the collective fear of global terrorism – to mention here its attacks in the U.S., France, Belgium, England, Spain and Russia. Another determining factor in this context is the existing global social and economic crisis in the wake of which the number of nationalist and anti-immigrant political parties in Europe is nowadays growing dramatically.

The response of the rich West is a politicization of migration as a threat to security on the basis of inventing a connection with global terrorism and organized crime. It is only part of the truth – there are corporate agents and aggressive countries supporting terrorism and searching for benefits from the control of the migration flows.

Especially in its nationalist expression this response becomes more and more hysterical in the period of the deepening social and economic crisis of the ‘welfare state’. The Western nationalism as a degenerate successor of the Western imperialism from the first ages of the capitalist expansion imperceptibly become a very influential trend in the developed countries defining their policy as regards the rest of the world. A good symbol of this policy are the ‘Schengen barriers’ still impregnable for Romania and Bulgaria and the statements of some Western leaders (Merkel, Sarkozy) for the failure of the multiculturalism.

People from the host countries need a new culture of peace and tolerance in treatment of refugees. The global corporate media are enemies of the peace culture. They spread monstrous lies: the refugees seek to rich countries to benefit from their social system and describe them as terrorists and criminals.

At present, we can remember what J. Huysmans said 8 years ago, because his



words are becoming more and more relevant:

“One of the striking characteristics of the contemporary discourse on migration in the European Union is the contrast between a negative portrayal of asylum seekers and illegal immigrants and talk about the necessity of increased economic migration to support growth and welfare provisions. Despite the obvious difference between repressive and permissive migration policy that plays out in this contrast, both policy positions share a desire to control population dynamics for the purpose of optimizing a society’s ‘well being’ by keeping the unwanted out and integrate the needed into the labour market. Illegal immigration represents an existential danger in this view not because it threatens a society’s wealth or stability but because it represents a challenge to its functional integrity, i.e. its capacity to control the method of shaping this wealth... This section introduced the idea that security framing structures existential situations by means of distributing fear and trust. – concludes Huysmans - Different from teaching moral and civil values, increasing social cohesion by means of security practice arranges social relations through the construction and circulation of fear. Fear is not simply an emotion that security framing instigates in social relations. It is first of all an organizing principle that renders social relations as fearful. An important characteristic of this principle is that it arranges social relations by objectifying an epistemological fear of the unknown through the identification of existential dangers.” The “distribution of fear and trust” became a tool for administration of social inclusion and exclusion and for assimilation of immigrants.<sup>9</sup>

There are real facts to justify the thesis that the EU policy on refugees and asylum seekers focuses on measures for their rejection of the territory of the rich countries. The aggressive elites of the rich West are assigned to the Balkans as a sanitary cordon against refugee flows. The EU is becoming now a fortress against the refugees with the help of the activity of the organization Frontex strictly guarding its borders and a common system for registration of refugee prints (Eurodac). According to the Dublin Convention (2004) each member-country which detects an immigrant with a legal status received in another country is obliged to return him to the first country. Following this corrupted mechanism, the Balkan countries become a concierge or a “cordon sanitaire” of the EU! The rich countries of the EU require us to accept the refugee flow from the Arab countries and Africa without restrictions on the basis of quotas. This is hypocrisy in action!

The deal of the EU and Turkey from March 2016 could be considered as positive. It is a good example of an effective policy because the migratory pressure has been successfully reduced. In Turkey there are about 2,5 million migrants, but their efforts to get to the rich countries across the Balkans have been limited.

We can conclude that the EU investments in security and border protection do not produce a desired result. This is due to a lack of political will to protect the sovereignty of European countries and their citizens. With the migrants flow to these countries enter terrorists and warriors who must be held accountable for their crimes in Syria and Iraq. They are trained by the secret services and are potential terrorist attackers.

The integration of the majority of forced migrants turns out to be impossible. They come with the attitude of enjoying the social system and do not making efforts for training and work. The model of multiculturalism established in the rich EU-countries is doomed to an initial error. Immigrants can not be integrated without building a culture of respect for the culture and the symbolic order of the host countries (values, norms). Migrants are left to live in ghettos and are subjected to a socially exclusive system of social life.

Let us put make some recommendations here for improvement of the management of the illegal migration crisis and its accompanying threats – terrorism, social exclusion, organized crime, racism and ethnic tensions.

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<sup>9</sup> Huysmans, J. 2006, *The Politics of Insecurity. Fear, Migration and Asylum in the EU*, UK: Routledge, pp.47-50;

1. Limitation of the temporary status of illegal migrants and refugees until the end of military conflicts in their countries and their rapid readmission on the basis of legal agreements with Syria, Iraq, Libya. There are many peaceful regions in these countries, where the refugees from these wars can return.
2. Continuation of the deal with Turkey and fulfillment of the EU commitments.
3. Rebuilding of destroyed countries that can not restrict illegal migrants – Libya, Syria.
4. Establishment of new accommodation places in Africa with the EU support.
5. Eradicating the conditions for the successful business of smugglers, including NGO facilitators and some other corporate agents supporting the process.
6. Blocking the illegal migration across the Mediterranean Sea.
7. Selection and deprivation of humanitarian status of the illegal migrants by real refugees.
8. Investigation and punishment for the crimes of all returning jihadist fighters from Syria, Iraq and other conflict zones: they are a ready army for terrorist attacks.
9. Limitations of the funding of the illegal migration, terrorism and radical preachers in the European cities – declaring Salafism as unwanted.

The implementation of all these measures requires a political will. But Europe has no choice to stop the crisis.

### **South-Eastern Europe in Searching for Return Policies**

Our countries are obliged to find new development policies – alternative to neoliberal models. Our lost intellectual and social potential expelled in the West must be attracted and used for the growth. This great social change can only happen in the context of the present collapse of the neoliberal globalism and creation of a multi-polar world. The neoliberal globalism has turned our countries into dependent second-class food markets deprived of promising high-yielding productions. They need policies of re-industrialization and stopping the flow of profits in the hands of foreign corporations. Ordinary people, not elites - should benefit from the advantages of the process of globalization. The latter is a source of crises, striving for attainment of unlimited power. Crises augment the wealth of certain people and widen the gap of global poverty.

It is necessary to deny the egoism of our own subterranean capitalism. It is not able to generate economic growth – only profits in banks. If our oligarchs do not want to pay decent wages of our skilled workers they could expect for penalties and nationalization for breaches of privatization contacts.

Our countries need to develop new policies to look for investments in priority areas – high technologies, energy and transport projects, new trade roads. The integration to the EU could be considered as complementary to cooperation with the new players – the BRIC-S countries, Asian countries and our neighbors. It is time to propose an increasing in the cross-border cooperation within the Balkan region. Countries like Bulgaria, Serbia, Romania, Albania, Greece and Turkey have more common interests to meet the threats than controversies and conflicts.

Our migrants in the West are rather driven by bad material conditions in our countries in the period of the violent suspension of the modernization process at the beginning of the 90ties. The improvement of living conditions requires the eradication of corruption, building of a state of law and creation of a fair labor market.

A rational policy of economic and social growth could be based on some successful world models with a state regulation – China, Vietnam. The present-existing integration of our business oligarchy with the politicians must be rejected. We need to use the full potential of the state as an instrument for growth and new policies for promising investments. Our migrants in the West must be engaged in initiatives to revive our plundered countries.

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## GEOPOLITIČKI UZROCI I POSLJEDICE MIGRANTSKE KRIZE SA POSEBNIM OSVRTOM NA SIGURNOSNE IZAZOVE ZA EVROPSKU UNIJU I NJENE DRŽAVE ČLANICE

### Rezime

*Predmet analize ovog rada su aktuelni uzroci i posljedice migrantske krize te izazovi, rizici i prijetnje koji su nastali usljed najveće migracije stanovništva sa kojom se suočava Evropa u svojoj novijoj istoriji.*

*Naime, Evropa se u posljednjih nekoliko godina tačnije nakon Arapskog proljeća 2011. godine, suočava sa velikim brojem migranata koji su krenuli od Bliskog istoka i Afrike ka zemljama Evropske unije. Cilj rada je da ukaže na aktuelne sigurnosne rizike i probleme sa kojima se suočavaju države Evropske unije u kontekstu migrantske krize. Pojedine države Evrope kao i neke od država članica Evropske unije različito reaguju po pitanju migrantske krize i različito se odnose prema izbjeglicama.*

*U tom smislu, pojedine države kao što je npr. Njemačka primila je veliki broj izbjeglica, Srbija i Hrvatska su države koje su migrantima pružila nesmetan prolazak na putu do njihovog krajnjeg odredišta, Mađarska i Slovenija su države koje su podigle zidove na granicama i postavile bodljikavu žicu kako bi zabranile i spriječile ulazak migranata, dok su države Višegradske grupe poput Poljske i Češka odbile da prime određeni broj migranata i time ispune dogovorene EU kvote.*

*Ključne riječi: migrantska kriza, Evropa, sigurnosni izazovi, rizici i prijetnje*

## GEOPOLITICAL CAUSES AND CONSEQUENCES OF MIGRANT CRISIS WITH A SPECIAL EMPHASIS ON SECURITY CHALLENGES FOR THE EUROPEAN UNION AND ITS MEMBER STATE

### Abstract

*The subject of analysis in this paper iscauses and eftermaths of migration crisis as well as challenges, risks and threats arising from the largest migration of poples in Europe'srecent history. Namely, Europe has recently been faced with a large number of migrants who have started their way from the Middle East and Africa to the EU after the Arab spring in 2011. The aim of this paper is to highlight the current security risks and problems faced by EU in the context of migration crisis. Some European countries as well as some EU member states react differently in terms of migrant crisis and they take different stands towards the refugees. In this sense, some countries such as Germany received a large number of refugees, Serbia and Croatia are countries which have*

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*offered migrants unimpeded passage on the way to their final destination, Hungary and Slovenia are the countries that have raised the walls at their borders and set up barbed wire to prohibit and prevent the entry of migrants, while countries of the Visegrad group such as Poland and the Czech Republic are states that have refused to accept a certain number of migrants, that represented the EU agreed quotas.*

*Key words: migrant crisis, Europe, security challenges, risks and threats*

## Uvod

Arapsko proljeće, previranja u sjevernoafričkim i bliskoistočnim državama te rat u Siriji počeli su 2011. godine, da bi svoju eskalaciju doživjeli u posljednje dvije godine. Sve to, navelo je veliki broj ljudi da utočište potraže u nekoj drugoj državi. U tom smislu, tokom 2015. godine, a posebno tokom početka 2016. godine Evropa se suočavala sa velikim brojem izbjeglica koji su napustili svoje države i sa Bliskog istoka krenuli ka Evropi u potrazi za boljim uslovima za život.

Veliki broj migranata, čini se da je u velikoj mjeri iznenadio Evropu i različite države Evrope, koje ova pojava pogađa. Naime, jasno je da nisu sve države podjednako opterećene i ugrožene migrantskom krizom. U tom smislu, neke su samo države tranzita, gdje migranti nemaju namjeru da se zadržavaju, dok su druge, kao npr. Njemačka, Austrija, Švedska i Danska krajnje odredište. Upravo iz različitih uloga pojedinih država Evrope tokom migrantske krize, različiti su i njihovi odgovori na nastalu situaciju. Drugim riječima, migrantska kriza ne utiče na sve države podjednako, pa samim tim, države i različito reaguju. Pojedine države kao što su Mađarska i Slovenija su na svojim granicama podigli zidove i zabranile ulazak izbjeglica, dok su Poljska, Slovačka i Češka odbile da prihvate određeni broj migranata.

Pojava sve većeg broja migranata u Evropi, kao i različiti i nejedinstveni stavovi država, koje su pogođene migrantskom krizom, po pitanju prihvatanja izbjeglica, svakako predstavlja veliki izazov za Evropu. Čini se da je Evropska unija pred velikim izazovom jer se pribjegli kršenju jednog od njenih osnovnih načela, a to je otvorenost granica. Takođe, ako se ovome dodaju teroristički napadi u Parizu i Briselu koji se povezuju sa migrantima iz Sirije, Avganistana i Jemena, složenost situacije se može dodatno sagledati. Nakon tih terorističkih napada, gotovo nijedna država Evrope ne želi izbjeglice unutar svojih granica, dok se istovremeno porast krajnje desnice dovodi u tjesnu korelaciju sa pomenutim događajima.

## Istorijski pogled na sigurnosne izazove u Evropi

Sigurnosni izazovi, rizici i prijetnje tokom istorije u Evropi su bili različiti. Sve do završetka drugog svjetskog rata ugrožavanje sigurnosti se uglavnom manifestovalo kroz različita ratna dešavanja. Nakon Drugog svjetskog rata pitanje sigurnosti u Evropi postaje sve aktuelnije i osniva se veliki broj međunarodnih organizacije čiji je osnovni cilj očuvanje mira i sigurnosti. Tadašnja osnovna ideja postizanja tj. ponovnog uspostavljanja sigurnosti isključivo se zasnivala na smanjenju međudržavnih tenzija koje su nastale između sovjetskog i američkog bloka tokom perioda hladnog rata.

Stvaranjem Evropske unije, raspadom SSSR-a i pozicioniranjem SAD-a kao dominantne svjetske sile, sigurnosne okolnosti u Evropi su se promijenile i to u smislu da od sredine devedesetih godina ratno ugrožavanje sigurnosti na prostoru Evrope, ako se ne uzme u razmatranje ratni raspad SFRJ, se ne smatra za moguće, što nikako ne znači da ne postoje mnogi sigurnosni izazovi unutar svake države.

U posljednje vrijeme Evropska unija kao i države aspirantive za članstvu u EU se suočavaju sa različitim sigurnosnim izazovima. Naime, kao što smo i napomenuli, tokom istorije najveći sigurnosni izazovi koji su pogađali države i stanovništvo bili su ratovi i ratna dešavanja, dok je danas situacija mnogo drugačija.

Prema tome, glavni oblici ugrožavanja sigurnosti nisu više ratovi i ratna dešavanja, već različiti oblici kriminala, odnosno organizovani kriminal i terorizam. Ovo nam potvrđuju i posljednja dešavanja u Evropi. Teroristički napadi se vrše iz različitih pobuda, te ih je usljed toga teško predvidjeti i spriječiti. Takođe, u svijetu se pojavljuje sve veći broj terorističkih organizacija, koje nastaju iz različitih pobuda, ideologija i ciljeva. Sve ovo dodatno otežava borbu protiv ove pojave. Osnovni cilj terorista prilikom izvođenja terorističkog napada jeste širenje straha i panike, kroz ubijanje i ranjavanje civilnog stanovništva, a sve to da bi se prenijela poruka i ukazalo na zahtjeve koje terorističke organizacije stavljaju pred vladu određene države ili međunarodne organizacije.

## **Uzroci izbjegličkog/migrantskog vala: Neuspjela tranzicija u tzv. Arapskom proljeću**

### **Radne migracije prije izbjegličkog vala**

Postojeća izbjeglička kriza predstavlja sinergija ranijih radnih migracija iz nerazvijenih dijelova Mediteranskog bazena prema EU i bijega od ratom uzrokovane nesigurnosti u dijelu arapskih zemalja Mediterana i Podсахarske Afrike. Migracija iz arapskog dijela Mediterana prema EU postojala je i prije Arapskog proljeća, tj. i prije 2011. godine. Za sve ove zemlje karakterističan je veliki prirodni priraštaj. U razdoblju od 1980. do 2010. godine sve su udvostručile svoje stanovništvo, dakle veliki je procenat mladog i nezaposlenog stanovništva. Spori privredni rast praćen znatnim tehnološkim zaostajanjem za EU, unatoč rudnom bogatstvu rezultirao je iznadprosječnom nezaposlenošću mladih i prije prevrata u Arapskom proljeću. Nezaposlenost mladih u prosjeku je veća od 25%, uz primjere Egipta i Tunisa sa 30% nezaposlenoga mladog stanovništva. Uzme li se u obzir činjenica da je javni sektor bio i ostao glavni poslodavac, većina mladih bez političkih veza nije mogla osigurati egzistenciju te je redovno migrirala prema mediteranskim članicama EU.

### **Uloga EU u pokretanju Arapskog proljeća**

Izbjeglička kriza potencirana je ratovima i prevratima u arapskim zemljama Mediterana, ali i nedorečenim intervencijama zapadnih zemalja u slamanju tamošnjih diktatorskih režima u Arapskom proljeću. Iako se u većini arapskih zemalja nije dogodilo ništa posebno osim smjene pojedinih ministara ili izmjena nekih zakona (u vezi sa subvencioniranjem hrane ili goriva), veći protesti, prevrati i sukobi zahvatili su Tunis, Libiju, Egipat, Siriju, Jemen i Bahrein.

Evropska unija je posredno potaknula te procese. S jedne strane, stanje privrede u arapskim zemljama Mediterana pogoršano je nakon 2008. godine stagnacijom i krizom u EU, zbog pada izvoza na tržište EU, koje je bilo i ostalo glavno tržište mediteranskih i arapskih država. S druge strane, stanje je dodatno pogoršavano višedecenijskim zahtjevima EU za reformama po mjerilima Evropske unije, po načelu "više za više", tj. više reformi sistema po ukusu EU (makar i mimo realnih potreba dotične zemlje) za više trgovinske razmjene s EU, što je bio de facto revolucionarni program, jer bi se tom logikom najveći stepen integracije s EU postigao kroz potpunu promjenu državnih sistema i režima. Takođe, liberalizacije na domaćem tržištu, u skladu sa sporazumom o slobodnoj trgovini s EU (FTA) i privredne reforme na kojima je EU insistirala, praćene redukcijom socijalnih mjera, samo su otežale stanje u zemljama istoka i juga Mediterana. Praksa državnog subvencioniranja hrane i goriva postala je teško održiva posebno nakon 2008., što je bio jedan od generatora protesta, uz korupciju i nesposobnost vladajućih krugova da se nose s ekonomskim stanjem. Protesti protiv arapskih diktatora dočekani su u početku sa simpatijama u EU, ali bez jasnih ciljeva u tim procesima, odnosno bez uviđanja mogućih neželjenih ishoda tranzicijskih procesa. Poučan je primjer Libije, gdje su novonastale opozicione oružane formacije imale zračnu podršku

NATO članica, u prvom redu Francuske, u borbi protiv snaga Muammara al-Gaddafija. No nakon urušavanja Gaddafijevog režima nije bilo adekvatne podrške EU u izgradnji nove vlasti i novih društveno-ekonomskih odnosa, te je Libija završila u sukobima naoružanih opozicionih frakcija, postala prostor za ubacivanje snaga ISIL-a i ključna tačka nestabilnosti u Sjevernoj Africi. Slično je bilo i u Tunisu, Egiptu i Siriji.

### **Loše definisana tranzicija u Arapskom proljeću**

Nije, naravno, sporno da su režimi u Tunisu, Egiptu, Libiji, Siriji i Jemenu trebali korjenite promjene, odnosno uvođenje višeg stepena demokratije. No uvođenje demokratije u državama bez jake demokratske tradicije obično znači višedecenijski proces izgradnje novog političko-pravnog i ekonomskog sistema, što je očito iz tranzicijskih procesa u Istočnoj Evropi nakon 1989. Očigledno je kako na početku tranzicijskog procesa moraju postojati organizovane političke snage koje će ga sprovesti, jer iako je početak tog procesa obično spontan – uzrokovan nekim događajem ili protestom, tok tranzicijskog procesa nikada nije, niti može biti spontan, nego ga moraju voditi organizovani politički subjekti. Takođe, potrebno je osigurati najširi međustranački konsenzus o ciljevima i smjeru promjena političko-pravnog i ekonomskog sistema.

Poželjno je i upoznavanje građana – birača s osnovnim pojmovima demokratije: od smisla višestranačkog sistema i uloge stranaka, preko načela zakonodavne, izvršne i sudske vlasti, do uloge medija i civilnog društva. Svega toga nije bilo u procesima Arapskog proljeća od 2011. godine do danas.

### **Razlog uspona islamista**

S druge strane, indikativno je da je u svim tranzicijama Arapskog proljeća sekularna opozicija "gurnuta u stranu", te su u centar političkih zbivanja postepeno dospjeli islamisti. Prije prevrata u Tunisu, Egiptu, Libiji, Siriji i Jemenu na vlasti su bile "sekularne" diktature, ali je Islam i tada bio inkorporisan u osnovama njihovih ustava. Uprkos postojanju sekularne opozicije, ključna opoziciona snaga u tim zemljama decenijama su bili i ostali razni islamistički pokreti i stranke, koji su bili meta progona režima. Smatra se da se ti pokreti upravo zato i doživljavani u javnosti kao jedina "prava" beskompromisna opozicija režimu, što je garantovalo kontinuiran priliv novih članove i simpatizera. Uprkos višedecenijskom progonu, Muslimansko bratstvo u Egiptu i srodne organizacije u Tunisu i Siriji nakon početka tranzicije preuzele su primat jer su bile najbolje organizovane (u svakom slučaju bolje organizovane i s većom bazom birača nego tek nedavno nastale stranke ili pokreti), ali i zato što je njihova populistička kampanja bila uspješnija. Jer lakše je populistički zagovarati tradicionalno prepoznatu, etnički čistu arapsku državu uređenu po šerijatskim pravilima, nego se zalagati za višetničku sekularnu višestranačku demokratiju, sličniju zapadnim modelima.

### **Uloga stranih faktora**

Za tranzicije u Arapskom proljeću posebno je karakteristično uplitanje stranih faktora, s vlastitim ciljevima i interesima. Tako je NATO intervencija pomogla pri rušenju Gaddafija u Libiji, dok je prilikom podržavanja strana u višegodišnjem sirijskom građanskom ratu Rusija, Iran i libanski Hezbollah na strani al Assada, a Turska, Katar i Saudijska Arabija na strani opozicionog Sirijskog nacionalnog vijeća (SNC). Shodno tome, opstanak režima al-Assada ili malo vjerovatni dolazak na vlast opozicionog SNC-a više zavise o dogovoru stranih faktora, nego li sirijskog naroda. Takođe, u vjerski i klanski podijeljenome Jemenu u toku je vojna intervencija Saudijske Arabije i drugih arapskih država, kako bi se slomio blok opozicije okupljene oko tamošnje šijitske manjine. U Egiptu su Turska i Katar bili otvoreno na strani Mohameda Morsija

i njegovog Muslimanskog bratstva, za razliku od Saudijske Arabije koja se svrstala uz vojni režim.

### **Arapsko proljeće kao okidač Migrantske krize**

Iz svih navedenih razloga tranzicijski su procesi Arapskog proljeća u spomenutim zemljama završili u trajnoj nestabilnosti, odnosno u građanskim ratovima, uz prateći kolaps ekonomija i socijalnih službi. Umjesto preuređenja države i njene uprave prema demokratskim standardima u Libiji, Siriji i Jemenu došlo je do razgradnje i raspada države. Tranzicija u ovim zemljama, za razliku od Istočne Europe, nije bila postepeni proces s ciljem sveukupne izgradnje novog demokratskog društva nego nedorečeni prevrat s jakom tendencijom prema uspostavi islamističkih teokratskih diktatura. U pravilu, padom diktatura nije se u arapskim zemljama uspio uspostaviti kvalitetan demokratski diskurs i sigurnosni sistem, što je za posljedicu imalo još veću nesigurnost građana u tim zemljama. Država iz koje dolazi najveći broj izbjeglica je Sirija, gdje se odvija sukob raznih grupa s različitim interesima i zonama utjecaja. Na drugom mjestu je Libija, ne toliko po broju Libijaca – izbjeglica, koliko kao polazna tačka za prekomorski izbjeglički val na Mediteranu, kojeg čine raznolike grupe izbjeglica iz Podсахarske Afrike i Bliskog istoka.

### **Migrantska kriza-sigurnosni izazovi, rizici i prijetnje**

Obzirom da je sigurnost jedna od osnovnih ljudskih potreba uz nju neodvojivo ide i unapređenje vrijednosti pojedinaca, nacija, a samim tim i afirmacija globalnih vrijednosti koje moraju nesmetano da se razvijaju, ispoljavaju i unaprjeđuju. Međutim, kako se u posljednjih nekoliko godina Evropa suočava sa najvećom izbjegličkom krizom u svojoj novijoj historiji, u velikoj mjeri je i osjećaj sigurnosti u državama koje se pogođene migrantskom krizom, smanjen. Prema tome, migrantska kriza sa sobom povlači i određene sigurnosne reperkusije.

Prethodnih godina između četiri i pet miliona migranata je godišnje pristizalo na evropske tlo, a pri tom broj nelegalnih prelazaka granice je varirao između 30% i 50%. Migranti sa sobom neminovno donose i povećanje opasnosti po domaće stanovništvo od zaraznih bolesti, kriminala i terorizma. Dakle, veliki broj migranata svakako sa sobom povlači sigurnosne izazove, rizike i prijetnje u različitim životnim sferama. Shodno tome sigurnosni izazovi usljed migrantske krize mogu se sagledati kroz političku, ekonomsku, društvenu, kao i kulturnu sigurnost države i njenog stanovništva.

Kako su usljed migrantske krize određene države podigle zidove na granicama i postavile bodljikavu žicu, te tim ugrozile i jedan od osnovnih postulata Evropske unije (slobodno kretanje ljudi), u određenoj mjeri možemo sagledati i ugrožavanje političke sigurnosti usljed migrantske krize. Naime, migrantska kriza predstavlja veliki izazov za Evropsku uniju. Nakon dugog perioda zbunjenosti, u kojem su neke članice radile šta su i kako su htjele u pogledu migrantske krize, države članice Evropske unije su tek 23. septembra 2015. održale prvi samit o migracijama, i to samit neformalne prirode. Sve ovo dokazuje da migrantska kriza utiče i na političku stabilnost i bezbjednost pojedinih država u Evropi. Takođe, sukob koji je nastao između zemlje članice EU tj. Hrvatske i zemlje kandidata za članstvu u EU tj. Srbije po pitanju zatvaranja granica, predstavlja još jedan vid ugrožavanja političke sigurnosti država koje migrantska kriza pogađa i zahlađenja odnosa između dvije države.

Pored toga, migrantsku krizu možemo sagledati i kroz prijetnju životnom stilu i kulturi države prijema. Osim toga što se migranti vezuju za činjenicu da doprinose porastu kriminala i ostalih društvenih problema, ilegalni migranti ponekad se opisuju kao ekonomski migranti koji traže azil kako bi iskoristili državne socijalne pogodnosti ili kako bi preoteli posao lokalnom stanovništvu (ekonomska sigurnost). Jasno je da je najveći broj izbjeglica sa Bliskog istoka u bijegu od rata i u potrazi za boljim uslovima



života. To svakako potvrđuje i činjenica da se oni uglavnom ne zadržavaju u siromašnijim i slabije razvijenim državama, već nastoje da dođu do Njemačke kao države koja predstavlja najveću ekonomsku silu u Evropi i državu sa izdašnom socijalnom pomoći. Takođe, izbjeglice nastoje da dođu i do Danske, Austrije i ostalih država Evrope koje su poznate po niskoj stopi nezaposlenosti i dobrim socijalnim programima. Stoga, pojedine države Evrope i njeni stanovnici dolazak velikog broja izbjeglica posmatraju sa aspekta ekonomske sigurnosti i bezbjednosti. Svjesni su da je dolazak velikog broja izbjeglica u njihovoj državi i prilika poslodavcima za angažovanjem jeftine radne snage. To za domicijelno stanovništvo svakako predstavlja i manju mogućnost za zaposlenjem kao i manje plaćen posao.

Konačno, dolazak migranata iz iste etničke ili vjerske grupe može se smatrati uzrokom promjene u rasnoj strukturi države i slabljenja njenog kulturnog identiteta. Naime, jasno je da je veliki broj migranata muslimanske vjeroispovjesti, što kada je riječ o Evropi i evropskom stanovništvu, može dovesti do određenih kulturoloških promjena. Međutim i pored tih demografskih, a samim tim i kulturoloških promjena, Evropa svakako strepi i od islamističkog terorizma. Posljednjih godina u terorističkim napadima dominira religijski faktor i to najviše islamski, a kao cilj se prepoznaje da se kroz vjersko nasilje žele ostvariti panislamistički ciljevi. Na zapadu, grupe i pojedinci koji pribjegavaju terorizmu su motivisani određenim nacionalnim ciljevima i interesima, dok je u islamskim zemljama terorizam dodatno motivisan i islamskom ideologijom koja se manifestuje nadnacionalno. Takođe, posljednjih godina svjedoci smo čestih sigurnosnih pritisaka na potencijalne mete od mogućih terorističkih napada. Upravo ovi oblici sigurnosnih izazova posljednjih godina u znatnoj mjeri dovode u pitanje upravo nivo postignute sigurnosti u evropskim zemljama, usljed čega se istovremeno nameće pitanje da li postojeći mehanizmi zaštite počevši od zakonodavnih regulativa pa preko fizičkih i sigurnosnih mjera, mogu da predstavljaju dovoljnu zaštitu. Sa dolaskom velikog broja migranata iz zemalja u kojima se vode građanski ratovi i u kojima su situirane razne terorističke grupacije raste rizik od terorizma u zemljama kroz koje migranti prolaze, a naročito u onim u kojima se zadržavaju. Pravilo je da što se duže zadržavaju i rizik biva veći, a najveći je u onim zemljama u kojima trajno ostaju, pogotovu ukoliko te zemlje poput Francuske učestvuju u bombardovanju ili u nekom drugom tipu vojnih operacija u zemljama iz kojih migranti stižu.

Pojedini podaci ukazuju da je sa migrantima u Evropu ušlo i više hiljada terorista (neki izvori navode da se radi o 4000 terorista). U slučaju da su navedeni podaci tačni, Evropa se susreće sa do sada neviđenim sigurnosnim izazovom, koji se neće moći lako prevazići.

Uvažavajući prethodno navedeno, valja napomenuti da je posljednjih godina broj terorističkih napada u zemljama Evrope (a najviše u zemljama Evropske unije) u stalnom porastu. To nam svjedoče i napadi koji su se desili u posljednjih nekoliko godina u Parizu i Briselu, a koji se vezuju sa migrantsku krizu.

### **Uspun desnice u Evropi kao posljedica migrantske krize**

Razloge zašto radikalna desnica u Europi postaje sve popularnija, sigurno treba tražiti i u posljedicama migrantske krize tj. u valu izbjeglica koje posljednjih godina pristižu na evropske tlo. Nesposobnost tradicionalnih stranaka da odgovore na postojeće probleme sa kojima se Evropska unije suočava radikalizovala je biračko tijelo. Tako danas u većini evropskih zemalja imamo radikalno desnu stranku koja je važan politički akter. Prema tome, Evropa je danas suočena s ozbiljnom uzročno-posljedičnom krizom koja prjeti da naruši njen spoljni i unutrašnji kredibilitet. Velik broj imigranata i izbjeglica svakodnevno dolazi pred granicu EU. Kao što je spomenuto, postojeće elite našle su se nespremljene u takvoj situaciji. EU je u toku prošle godine donijela niz odluka i mjera za sprječavanje daljnjeg produbljivanja krize, međutim treba napomenuti kako su takve mjere došle sa zakašnjenjem. Radikalno desne stranke vrtoglavo su brzinom dobile

na popularnosti upravo s početkom izbjegličke krize. Iako je problem imigracije jedno od važnih pitanja u većini evropskih zemalja, u posljednje dvije godine ono u mnogim zemljama zadobiva status najvažnijeg pitanja. Veza između imigracije i terorizma sve više i više postaje svakodnevna pojava. Takva situacija stvara strah u društvu koje strance sve više gleda kao problem. Radikalna desnica svojom anti-imigrantskom retorikom uspjela je zadobiti široku podršku. Zemlje u kojima su nedavno održani izbori pokazuju velik porast popularnosti radikalne desnice kao npr. u Danskoj, Švicarskoj, Francuskoj. S tim u vezi bitno je naglasiti da je prema istraživanjima, rezultat referendum u Veljoj Britaniji o istupanju iz članstva u EU u velikoj mjeri plod straha Britanaca od nekontrolisanog priliva migranata. Prema tome, očigledno je kako je upravo izbjeglička kriza odigrala veliku ulogu u naglom rastu popularnosti radikalno desnih stranaka i pokreta. Naime, iako velik broj migranata već decenijama dolazi u evropske zemlje, tek je izbjeglička kriza pokazala koliko ozbiljan problem mogu uzrokovati nekontrolisane imigracije. Shodno tome, pokazalo se kako je migrantska kriza u tijesnoj korelaciji sa uspjehom radikalno desnih stranaka a poznato je da većina njih ne gleda blagonaklono na budućnosti Evropske unije. S tim u vezi ukoliko se trend jačanja desnice u Evropskoj uniji nastavi budućnost Evropske unije bi mogla biti veoma neizvjesna a čak se ne isključuje mogućnost i ponovnih teritorijalnih sporova između država članica.

### Umjesto zaključka

Autori su saglasni da su evropske države imale različite pristupe kako migrantskoj krizi cjelini tako i samom odnosu prema izbjeglicama. Njemačka predstavlja državu koja je "raširenih ruku" primila veliki broj izbjeglica, Srbija i Hrvatska su države koje su migrantima pružila nesmetan prolazak na putu do njihovog krajnjeg odredišta, Mađarska i Slovenija su države koje su podigle zidove na granicama i postavile bodljikavu žicu kako bi zabranile i spriječile ulazak migranata, dok su države članice Višegradske grupe poput Poljske i Češke odbile da prime određeni broj migranata koji je predstavljao predviđenu EU kvotu.

Dakle, očigledno je da države Evrope, pa i države članice Evropske unije preduzimaju različite mjere po pitanju migranata. Takođe veliki broj migranata pored političkih i sigurnosnih izazova pred Evropu postavlja i izazove koji se ogledaju u ekonomskoj, kulturološkoj kao i u društvenoj sveri koja se, prije svega, ogleda u porastu raznih oblika kriminaliteta a posebno terorizma.

Posljednjih godina, usljed migrantske krize sa kojom se suočavaju zemlje Evrope, pojedine informacije ukazuju da je oko milion migranata podnijelo zahtjev za azil. Najveći broj migranata je u Evropu došao pomorskim putem dok je znatno manji broj došao kopnom. U rascjepu između proklamovanih evropskih vrijednosti sa jedne strane i ugroženosti i nesigurnosti sa druge, načinjeni su humani koraci koji su imali nehumane posljedice, pri čemu se misli na već izvršene terorističke napade, ali i na mogućnost novih, kao i na ostale sigurnosne rizike koji idu u korak sa izbjegličkom krizom. Takođe jačanje popularnosti krajnje desnice diljem Evrope se dovodi u korelaciju sa izbjegličkom krizom.

Shodno tome, neophodno je sve više raditi na prevenciji i pokušati u što većoj mjeri smanjiti eventualne posljedice. Tu se prije svega misli na preventivno djelovanje u smislu spriječavanja terorističkih napada, jer oni svakako imaju najveće negativne posljedice.

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## **ECOLOGICAL SAFETY AND QUALITY OF LIFE OF REFUGEES AND DISPLACED PERSONS**

### **Abstract**

*The problem of refugees and displaced persons is one of the key problems of contemporary civilization. War conflicts, natural disasters, poor economic conditions have led to mass migrations of the population, hoping to find security, peace and a quality life in some other country. By coming to another country, migrants face many problems: health, economic, socio-ecological, and so on. Certain countries cannot receive a large number of emigrants because of their poor economic situation. Because of this borders are closed, iron curtains are placed and tormented, hungry and sick from a long road are left cut off, some of them lay their lives there without seeing the promised land.*

*Serbia is hit by millions of people who left their countries (Iraq, Iran, Syria and other countries) and went to Europe seeking salvation and security from torture that they survived in their own countries. Migration cannot stop in Serbia even though certain countries are closing their borders for asylum seekers. Families who wanted to stay in Serbia were allowed to stay. Migrants who do not want to stay in Serbia are provided with food, health care and temporary collective accommodation.*

*Key words: security, economic situation, refugees, emigrants, migrants, migration*

### **Introduction**

Modern political and social changes at the end of this century had a number of important political consequences, both positive and destructive, determining the fate of individuals, groups, classes and even entire nations. One of these negative and reactive consequences is violent and forced migration, the change of places of residence from one social community to another, from one state to another, and even from one continent to another. The emergence or intensification of these processes resulted primarily in the problems of the care for families of refugees and displaced persons and providing them with security and quality of life.

The problem of refugees and displaced persons has become one of the key universal problems of contemporary civilization, and therefore its urgent but systematic resolution is required.

In the context of the problem of the care for families of refugees and displaced persons, simultaneously there are problems of growing environmental pollution, which badly affects the successful implementation of the bioreproductive function of the family,

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especially the families of refugees and displaced persons. Naturally, these problems are more pronounced in the form of an urban family, while the rural family is under a relatively minor impact of these destructive factors, although the problem appears in the global aspect, because even the rural family is not protected from some global factors.<sup>5</sup>

The causes of refugee movements can be different (among other things, persecutions, armed conflicts, violent human rights violations combined with strong demographic pressure), all under conditions of general misery and exhaustion of the environment. The vast majority of the world's total number of refugees is found in developing countries, which are least able to take over the burden of the refugee population due to their own population pressure and weak economies. These developing countries often have the highest degree of environmental pollution due to the import of dirty technology or war destruction in which chemicals are used.

Leaving the land of birth, of ancestors, leaving family, friends, home and property behind is always the last thing anyone could choose. Escaping involves risk taking and represents a traumatic experience with uncertain consequences. The displacement of a human being means the abandonment of everything that is known to him - work, family, friends, neighbors, language and culture, rights and obligations - all that gave the person identity and sense of belonging to one community. In the new country refugee will always be alone, and the lack of contact with people can become unbearable: it can lead to dehumanization or serious disturbance of psychological integrity.

Refugee families come from an endangered social environment. Some spend a longer period of time in prison, usually exposed to torture, some spending years in camps living in a situation of total uncertainty and concern. If they go to the country with specific refugee programs, they expect to be as safe as possible in the host country. Upon the arrival, a refugee family with recognized refugee status has the same wishes as those who come without a recognized refugee status. For the acceptance of refugee and refugee families, as well as for those who are permitted to remain without a real refugee status, attention must be focused on: planning their future, their material situation, their psychological condition, their family situation and quality of life.

Their position will depend on the way they are received (accepted):

- whether they are a complete family or not,
- whether they had traumatic experiences,
- whether they belonged to a minority (persecuted) in their country,
- whether they had certain goals - to integrate or try to return home if possible and to live with packed bags. To integrate into a society in a new country probably means to be constantly accompanied by problems.<sup>6</sup>

In defining the concept of refugees, we must adhere to some basic elements such as:

- justified fear,
- persecution, this implies everything from constant police supervision and harassment by arrest, to imprisonment without trial, harassment of relatives,

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<sup>5</sup> Global factors such as nuclear disasters in Japan (Hiroshima, Nagasaki in 1945 and March 12, 2011, Fukushima – Fukushima-Daiichi, when Japan announced the seventh degree nuclear disaster catastrophe with over 20,000 dead, making Fukushima practically equal to the Chernobyl disaster in 1986, when it happened in the former USSR, NATO bombing of the Federal Republic of Serbia), ever decaying ozone layer etc. have affected the consequences of radioactive radiation multiplying primarily on anthropological-genetic factors in terms of the birth of children with degenerative changes, the increase in malignancies in all populations, the increase in infant mortality and population in general in our country and in the world, and many other long-term negative consequences. Therefore, there is a correlation between the infant mortality rate, the population and the level of ecological pollution of the human environment.

<sup>6</sup> Refugees are not only physically displaced, but mostly emotional and psychologically injured by experience before, during or after escape. Displaced against their will left everything behind. Any connection and continuity that once made the identity had disappeared, causing a loss of stability and continuity. Refugees are deprived of their previous identity and introduced into a new or partial identity. All this is worsened by the fact that "half of the 15 million refugees in the world are children, a quarter are women, and many are elderly." – Yugoslav Red Cross, Refugees and asylum seekers, Institute for Social Policy, Belgrade, 1993, p6.

- and physical or psychological torture,
- racial, religious, national reasons, membership of a particular social group or political belief,
- living outside the country of origin<sup>7</sup>.

“A refugee is a person who, as a result of political events and because of the justified fear of persecution, because of race, religion, nationality, membership in a social group or political belief, is outside of his country and is unable to, or because of fear, does not wish to use the protection of that country, or a stateless person who is outside the country of his permanent residence and who, as a result of these events cannot or because of fear, does not wish to return to it”<sup>8</sup>.

Unlike refugees, the term “asylum seeker” means “a person who leaves his country with the intention of applying for asylum and who has not been granted refugee status by the government to which the request is addressed”.<sup>9</sup> An asylum seeker who has been refused refugee status may be assigned a transitional status called “humanitarian survival permit”.

An emigrant is a person who moves from a country whose nationality he has for political, national, racial or religious reasons, while the immigrant is a person who moves in a new environment for a long time.

The emigrant is a person who moves from his own country for economic, family or other non-political reasons. When from immigrant social environment, temporary migrants return to their original environment, they represent remigrants (this process is called remigration).

A person recognized as a refugee has a number of specific rights:

- not to be returned to the country of origin,
- right to travel document and other rights,<sup>10</sup>
- immediate assistance or protection measures if necessary,
- help finding a lasting solution (local integration or relocation).

The care of refugee families depends primarily on the possibilities and the way of their accommodation, whether it is a collective accommodation (refugee camps, campsites, tents, hotels motels, etc.) or family accommodation. The quality of life<sup>11</sup> depends primarily on this factor, and therefore the quality of the environment<sup>12</sup> in which the refugees are located.

Political repression, imprisonment, torture, persecutions, violence and war<sup>13</sup> that

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7 Same, p3.

8 Convencion Relating to the Status of Refugees, Geneva, 28 July 1951, as in „Collection of International Instruments Concerning Refugees“, UHCR, Geneva 1979.

9 Refugees and asylum seekers, Yugoslav Red Cross and Institute for Social Policy, Belgrade, 1993, p11.

10 The rights listed in the 1951 Convention and the 1967 Protocol or the rights prescribed by general international law in countries that did not prescribe these documents.

11 The concept of quality of life can be analyzed from a variety of aspects, such as “satisfying the needs of man during a period of time” (T. Logoteti and R. Kantor) or “achieving the well-being of a personality, satisfaction or dissatisfaction with life, happiness or misfortune” (Delku and S. Bourke) – look in Danilo Ž. Marković, Social Ecology, Institute for Publishing Textbooks and Teaching Resources, Belgrade, 1991, p106.

12 “The concept of the quality of the human environment in the most general sense implies a relatively stable spatial and temporal determination of the human environment with a greater struggle of interrelated factors from the four basic areas: the natural and the real resources of the activities and processes in the environment, the means and measures for achieving environmental policy and the influence of the human environment on social development “ – Same, p108.

13 The war and political violence category have always been interesting for political researchers from Plato and Aristotle, through Makiavelli to the present day. Given the many definitions and allegations of this category, whether it is glorified or criticized, of those vulgar ones, war is only a continuation of politics by other violent means, to subtle ones if it can be said, as it is (H. Arent) that war “is the true father of the new world order, to those theories about its inevitability in biological understanding.” The war among nations is as inevitable as is the struggle for survival among living beings. “Wars lead to the survival of the most capable”. – I. Gumplowicz, Der Rassenkampf, Innsbruck. Also, these terms were also dealt with by Yugoslav authors such as Dragan Simeunovic, Political Violence, Workers press, Belgrade, 1989

have occurred in recent years in the former Yugoslavia (and in the world, Afghanistan, Iraq, Iran and other countries) are detrimental to the entire society, causing social crises. These crises destroy normal social networks and lead to an unbalanced situation within the family, which are mostly manifested with refugee families.

The needs of refugees are changing and needs assessment can be a complex and time-consuming process that is dependent on the urgency of the situation, the research of problems and resources, the size of the population and the methods used to collect information, the availability of persons, etc. The quality of man's life depends on these needs. In order to be able to talk about the quality of life, we need to improve the economic standard of all people (refugees, domestic population), and again the quality of life also includes the ecological aspect, and the ecological situation is very bad because the environment is contaminated with various dangerous substances (biological, chemical, radiological), therefore future generations will also have bad life quality, and that side of living ours and the politicians all around the world fail to see because they do not have developed ecological consciousness. Only a man with a highly developed ecological awareness<sup>14</sup> can protect, preserve and improve the environment, and thus raise the quality of life for all people. However, "we still live in a deeply divided world"<sup>15</sup> where profit plays a major role. The great powers trample everything in their way, and for money and power they even destroy flora and fauna. They lead dirty war with forbidden means, the consequences of which will be felt by future generations.

The quality of life is determined by numerous factors in social development: "the level of development of productive forces, the character of social relations and the system of distribution of social power, the degree of democratization in the realization of human rights and freedoms, the level of satisfaction of human needs, Hence the quality of life has different dimensions and there are different indicators and methods of its measurement (economic, sociological)."<sup>16</sup> We can talk about the quality of life when all factors are met: sociological, economic and environmental.

From a sociological point of view, quality of life implies an appropriate workplace in the society, satisfying the needs for education, culture, entertainment, politics, affirmation and more.

The economic aspect of quality of life implies satisfying all material needs.

The ecological aspect implies that a person lives in a healthy natural and social environment. The man should have: "clean air, quality drinking water, comfortable and hygienic environment, pleasant microclimate, space rich in living organisms".<sup>17</sup>

Quality of life means the relationship between the individual and his living and social environment. "In an eco-friendly environment and a tolerant, better organized and acceptable social environment, better quality of life is maintained"<sup>18</sup>.

From these definitions of the quality of life we can conclude that in a country that is affected by economic, political and ecological crisis, we can not talk about the quality of life because all the criteria of quality of life are not met. We can talk about quality of life and how and how to improve it.

### **Problems of the care of families of refugees and displaced persons in the world**

The number of forcefully displaced people in the world reached the figure of 65.3 million at the end of 2015, according to a UNHCR report of June 20, 2016, which is an increase of 5.8 million people over a period of twelve months. This is the first time in

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14 See, Dragica Ilić, Social ecology for students of the Faculty of Teacher Education, Faculty of Teacher Education in Vranje, Vranje, 2013, p 39

15 Ljubiša, Mitrović, Sociological Experiments, Unigraf, Nis, 2013, p147.

16 Ljubiša, Mitrović, Modern Society, Institute for Political Studies, Belgrade, 1996, p247.

17 Dragica Ilić, Contribution of environmental ecology to environmental protection, Faculty of Teacher Education in Vranje, Vranje, 2006, p32.

18 Mara Đukanović, Ecological Challenge, ELIT, Belgrade, 1991, p278.



history that the number of displaced persons has exceeded 60 million. Of this number, 21.3 million have a refugee status (1.8 million more than 2014), 40.8 million people are internally displaced (an increase of 2.6 million in relation to the year before) and at the end of 2015, 3.2 million people awaited a response to an asylum application in one of the developed countries of the world.

When these figures are compared with a total population of 7.3 billion people on the planet, this means that one of 113 people around the world is either asylee, internally displaced or refugee.

There are more forcibly displaced people than UK residents, and the UNHCR data shows that 24 people are displaced every minute, which makes about 34,000 people every day. "More and more people are displaced due to war and persecution, which is worrying in itself, but factors that jeopardize refugees also multiply," said UN High Commissioner for Refugees Filippo Grandi. Every year, the frightening number of refugees and migrants dies at sea. People fleeing from war encounter closed borders on land.

UNHCR figures show that 54% of refugees come from three countries: Syria (4.9 million), Afghanistan (2.7 million), and Somalia (1.1 million). In Africa, the largest number of refugees is located - 4.4 million of those who fled Somalia, South Sudan, Sudan, Congo and the Central African Republic. Next is Europe with just under 4.4 million, an increase of 1.3 million compared to the end of 2014. The largest number of refugees is located in Turkey - 2.5 million, most of which are from Syria and Iraq. In Germany, there are 316,000 refugees, Russia 314,500, France 273,100, Sweden 169,500 and Great Britain 123,100 refugees. 3.8 million of refugees were housed in Asia and the Pacific region at the end of last year, with 746,800 people in Africa. Most refugees received Turkey, Russia and Tanzania. Among them there are 946,800 Syrians who have been granted temporary protection in this country. With 149,600 Russia is second in receiving new refugees last year, all of which are from Ukraine and granted temporary protection.

After the escalation of violence in Burundi, 221,600 people were forced to leave their home, and more than 123,000 of them sought refuge in Tanzania, resulting in the country's third highest admission of new refugees.

Out of Syria, about 4.9 million people have been evacuated in 120 countries around the world. Syria is in the first place when it comes to countries of origin of refugees. Second place is Afghanistan with 2.7 million refugees around the world. Somalia is the third placed country of refugee descent - 1.11 million; South Sudan is the fourth with 778,000 refugees, followed by Sudan and Congo.

Dramatically large numbers of people risked their lives in 2015 crossing the Mediterranean in search of a better life. More than a million refugees arrived in Europe. Of that, 850 thousand arrived by ships to Greece from Turkey. On this path, 3,770 people lost their lives. From the total number of arrived refugees half are from Syria, 215 from Afghanistan and 9% from Iraq. In 38 European countries more than 2 million asylum requests have been submitted, which is three times more than a year earlier. Of that, EU member states received 1.2 million requests.

According to data collected by the UNHCR, the children accounted for 51% of the world's refugees during 2015. What is worrying is that many minors were separated from their parents or have traveled alone. In total, there were 98,400 asylum applications filed by juveniles without accompanying adults and children separated from their families. This is the largest number ever recorded by the UNHCR, and it tragically shows that forced displacement around the world disproportionately affects young lives.

Serbia is the first country in Europe to have the highest number of refugees in the world in the last 18 years.

Serbia has 57,000 refugees, 41,800 of whom are from Croatia and 15,300 from Bosnia and Herzegovina, while the number of internally displaced persons from Kosovo is 210,000. 95% of them decided to stay in Serbia and face unemployment

and unresolved housing issues. The unemployment rate among the refugees is 30%, while 40% live as a tenant. There are 29 collective centers in Serbia, 11 in Kosovo and Metohija, where there are 2,400 people. There are two collective centers in Krnjaca and Kaludjerica. The head of the UNHCR Representative in Serbia, Eduardo Arboleda, said that "after more than 15 years of the refugee crisis in the Balkans, donor fatigue is now felt, and that there is less and less money for solving the problem of refugees and internally displaced persons."

For European countries, the most important groups of migrant populations are:

- hidden or illegal workers whose entry may or may not be sanctioned by the authorities of the receiving country,
- asylum seekers crossing the border seeking a status based on political discrimination and refugees in accordance with the provisions of the 1951 United Nations Convention relating to refugees.

The phase of European migration movements since the 1990s from the former Yugoslavia is characterized by the wave of displaced persons, which includes the mass movement of minorities created overnight within the quarreling nations<sup>19</sup>. East-West migration is the result of the action of several factors of socio-economic and political nature. Its flows have been accelerated since 1989 when the "Iron Curtain" was broken. It is manifested in several ways, starting with migrants who illegally enter the receiving country, through asylum seekers, refugees to immigrants. Economic factors and ethnic conflicts are the main generator of modern migration. Ethnic conflicts and the issue of minority rights are becoming evident precisely in countries facing economic hardship. The West should expect increased flows of asylum seekers and refugees as long as these problems are in the focus of actuality, as some parts of Europe can hardly be isolated. The most favorable solution for mass migration is that they are prevented before they start, primarily through economic programs, and not some other restrictive measures. There are at least two possible solutions to alleviate mass migration problems on the East-West route. These are preventively restrictive measures. European countries have already applied a policy of restrictive measures since the mid-1970s, which has not yielded some spectacular results.

The policy of "closed borders" by Western countries will not provide a solution. Refugees are largely beyond the scope of migration-related measures. Many refugees are not refugees in the context of the 1991 Refugee Convention and the 1967 Protocol. This is evident from the data that only about 5% of the total number of asylum seekers receive refugee status.

In Africa Organization of African Unity (OAU) adopted a Convention in 1969 in which the term refugee is expanded to "any person who, for reasons of external aggression, occupation, foreign domination or events that seriously violates public order in the part or entire country of origin, is obliged to leave a permanent place of residence in order to find refuge elsewhere outside the country of origin or citizenship"<sup>20</sup>.

On December 10, 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights, where Articles 13 and 14 of the Declaration relate to refugee status and refugee rights<sup>21</sup>.

The Universal Declaration of Human Rights also includes:

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<sup>19</sup> In Yugoslavia, over a million people have been displaced since the secession of Croatia from Slovenia.

Out of the former Yugoslavia (from Croatia and Slovenia), around 250,000 people found shelter abroad.

<sup>20</sup> OAU Convention of 10 September 1969. governing the specific aspects of refugee problems in Africa, as in „Collection of International Instruments Concerning Refugees“, UNHCR, Geneva, 1979, p159.

<sup>21</sup> Article 13 reads:

- everyone has the right to freedom of movement and residence within the borders of each state,
- everyone has the right to leave the territory of any country including his own, and to return to his own country.

Article 14 reads:

- everyone has the right to seek and enjoy asylum from persecution in other countries,
- this right must be recognized in the event of persecution arising from a crime of a non-political nature or a work contrary to the purposes and principles of the United Nations.



- freedom from torture or cruel, inhuman or degrading treatment or punishment,
- freedom from slavery,
- respecting personality before the law,
- freedom of thought, conscience and religion,
- freedom from arbitrary arrest and detention,
- freedom from arbitrary interference in privacy, family and home life<sup>22</sup>.

The United Nations Convention on Refugees of 1951 and the 1967 Refugee Protocol remain the only instruments of international law governing the exercise of these rights.

### **Population migration through Serbia to Europe 2015 - 2016**

Serbia has been hit by millions of people who have left their countries (Iraq, Syria and other countries) and have gone to Europe seeking rescue from torture that they have survived in their own countries. Migration can not be stopped in Serbia, although some countries close the border for the asylum seekers.

The streets of Belgrade are flooded with the Syrian and the Iraqi people lying in the parks exhausted from walking. The Commissariat for Refugees issued a warning stating that if the International Community does not help, Belgrade will not be able to cope with the influx of so many people.

According to MUP data (November 6, 2015), 1,652 entered Serbia, and 1,494 of them were registered in the the reception center in Presevo, while 158 refugees came to Serbia from Bulgaria. On the same day, 4,570 refugees went from Serbia to Croatia.

From the beginning of 2015 in Serbia, a total of 363,852 refugee/migrants have been registered, and the largest number of refugees by month was recorded in October 180,307, almost 6,000 a day.

Number of migrants and refugees from war-affected areas entering Serbia from Bulgaria on December 2nd 2015 has doubled. Earlier from Bulgaria into Serbia entered around 100 refugees/migrants and now that number has passed 200. According to UNHCR data, 3.248 refugees and migrants entered Serbia, out of which 2.862 came from Macedonia and 422 from Bulgaria<sup>23</sup>.

There are 2,066 refugees and migrants from Serbia to Croatia. This means that the total number of people registered in Serbia since the beginning of the year is 488,395. In reception centers of Serbia there are 194 people.

On the border of Serbia and Macedonia, from the Macedonian side there are people who are not from Syria, Afghanistan and Iraq, but from Somalia, Bangladesh, Morocco and other countries.

In the period from 1998 to 2008, 7,705 different housing solutions for refugees were provided:

- 3,805 housing units were built without a legal basis for the transition of the apartment to the ownership of the user,
- 3,349 packages of building materials were distributed,
- 631 rural households were purchased and
- 20 prefabricated houses were donated.

In order to solve housing issues and economic maintenance of users since 2008 almost EUR 60 million were collected, out of which EUR 33.8 million was from EU funds, EUR 22.5 million from Republic of Serbia budget, EUR 12.4 million from UNHCR budget, EUR 2.4 million from BPRM and 450.000 from the Government of Federal Republic of Germany.

In the period from 2008 to 2013, assistance in the form of housing solutions was provided for a total of 13,483 families of refugees and internally displaced persons,

<sup>22</sup> Universal Deklaration of Human Rights adopted and proclaimed by the United Nations General Assembly resolution 217 A (III) of 10 december 1943

<sup>23</sup> Mirjana Milenkovski said from the UNHCR office, 02. 12. 2015

through:

- Construction of 1.078 housing units for social housing.
- Funds were allocated for the distribution of 4,933 packages of building materials.
- Purchase of 1,166 households.
- Donation and installation of 403 prefabricated houses.

Since 2001, the European Union has donated more than EUR 74 million to solve the issue of refugees and internally displaced persons, including the construction of housing units and prefabricated houses for social housing, the donation of economic empowerment packages and the provision of free legal aid.

In the period from 2008 to 2014, EUR 33.8 million were allocated from the EU funds, which were spent on solving the housing needs of users of collective centers, as well as the families of refugees and internally displaced persons accommodated in inadequate private accommodation.

In June 2016, the number of refugees in the Republic of Serbia amounted to 29,457 persons (20,334 from the Republic of Croatia and 9,080 from Bosnia and Herzegovina). More than 20,000 people came from Kosovo and Metohija.

The adoption of the Law on Asylum ("Official Gazette of the Republic of Serbia" No. 109/2007) has created a prerequisite for the Republic of Serbia to join the implementation of the policy that the countries of the European Union lead towards asylum seekers, which was one of the criteria in the process of accession to the European Union.

Asylum Centers are part of the Commissariat, as a separate organization, in the sense of the Law on State Administration and the Law on Civil Servants.

The Commissariat for Refugees and Migration has strengthened the capacities, provided adequate infrastructure and implemented asylum legislation in accordance with international standards and provided adequate accommodation and basic living conditions for asylum seekers until the final decision on the asylum application was made.

In order to fulfill its obligations, the Government of the Republic of Serbia adopted the Strategy for Reintegration of Returnees under the Readmission Agreement on February 13, 2009 ("Official Gazette of Republic of Serbia" No. 15/09). An Action Plan for Implementation of the Strategy of Reintegration of Returnees under the Readmission Agreement for 2009 and 2010 was also adopted.

The Council for the Integration of Returnees under the Readmission Agreement was established on October 23, 2008 ("Official Gazette of the Republic of Serbia", No. 99/08). The Council Decision established the Strategy Implementation Team as well. According to the Reintegration Strategy of Returnees based on the Readmission Agreement, the Commissariat for Refugees and Migration has the task of coordinating and organizing primary acceptance and cooperation with the receiving communities and is responsible for the operational implementation of the planned activities on the ground, and for the successful reintegration of returnees to prevent human trafficking and promoting the principle of positive discrimination.

With juvenile unaccompanied migrants in the ZVDO in Belgrade, individual and group psychological counseling is organized regularly in order to adapt quickly and effectively to the situation in which they are located, to solve the current problems, to deal with the difficult and traumatic experience, but also to continue their normal psychological development, which is often impaired by the overall experience of refugees<sup>24</sup>.

Lawyers of the Center for Protection and Assistance to Asylum Seekers (APC / CZA) regularly provide legal assistance to asylum seekers in all asylum centers in the country, among others, to persons accommodated in asylum centers in Sjenica and Tutin. Often, asylum seekers from Iraq seek asylum because of the fear of persecution by the

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<sup>24</sup> Center for protection and assistance of asylum seekers, Belgrade, 03. 06. 2016

Islamic state, or because of the fear of persecution because of their nationality/ethnicity, as some as Kurds were direct targets of members of the Islamic state.

Also, lawyers of the Center for Protection of Assistance to Asylum Seekers (APC / CZA) daily visit the Asylum Center in Krnjaca, where they provide information and legal assistance to asylum seekers within their regular activities. In this way, asylum seekers are acquainted with the asylum procedure in the Republic of Serbia and receive the necessary information about their rights and obligations during the asylum procedure.

In the asylum center in Krnjaca, people come and go every day. Some of them are rushing towards Europe, staying only one or two nights, some staying a few days to somehow recover and wait for friends and family members, and then go on together, while others are considering or have already decided to try to build their life in Serbia. They brought with them the experience of war, hiding, separation from the family, and the death of close people.

We hope that people on this planet will become more humane, more conscious, more moral, that there will be no more war, suffering and pain, that they will realize that human life is worth a lot and that it is necessary to think about the life of all people, regardless of nationality and race, which is worthy of a man at this time when science and technique is considered to have reached its peak. We need to use science and technology humanely in order to preserve the life of both plant and animal, in order to preserve a healthy population of people so that there would not be any witnesses that we existed on this planet. Nuclear, chemical and biological warfare can lead to the disappearance of life on Earth.

### **Conclusion**

The number of forcefully displaced people in the world reached the figure of 65.3 million at the end of 2015, according to a UNHCR report of June 20, 2016, which is an increase of 5.8 million people over a period of twelve months. This is the first time in history that the number of displaced persons has exceeded 60 million. Of this number, 21.3 million have a refugee status (1.8 million more than 2014), 40.8 million people are internally displaced (an increase of 2.6 million in relation to the year before) and at the end of 2015, 3.2 million people awaited a response to an asylum application in one of the developed countries of the world.

When these figures are compared with a total population of 7.3 billion people on the planet, this means that one of 113 people around the world is either asylee, internally displaced or refugee.

There are more and more displaced people due to war and persecution, which is worrisome by itself, but factors that jeopardize refugees also multiply. Every year, the frightening number of refugees and migrants dies at sea. People fleeing from war encounter closed borders on land.

Data show that 54% of refugees come from three countries: Syria (4.9 million), Afghanistan (2.7 million), and Somalia (1.1 million).

According to data collected by the UNHCR, the children accounted for 51% of the world's refugees during 2015. What is worrying is that many minors were separated from their parents or have traveled alone. In total, there were 98,400 asylum applications filed by juveniles without accompanying adults and children separated from their families. This is the largest number ever recorded by the UNHCR, and it tragically shows that forced displacement around the world disproportionately affects young lives.

Although in a difficult economic situation, Serbia has not forgotten that refugees are people as well and has helped them to re-establish the social structures of the mechanism for fighting and normalizing everyday life.

They were given socio-medical care (health) at the highest level, provided food and clothing assistance.

One of the key problems, as a significant part of the refugee population, is the

problem of refugee children, their psycho-social adaptation and rehabilitation in the new environment and the continuation of education.

The previous experience in the acceptance and care of refugees has shown that special facilities/settlements should be built for refugees, such as the settlements built in Kovin, Jagodina in the village of Varna near Šabac, Čačak, Bujanovac and Preševo. For future generations in the event of the need to accept refugees, society must have ready special facilities in order to protect both society and nature from the socio-ecological consequences of the migrations.

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## **CIVIL WAR IN SYRIA AND THE ISLAMIC STATE AS MISCELLANEOUS MIGRANT CRISIS - DEVELOPMENT STUDY**

### **Abstract**

*For the last five decades the Assad family is in power in Syria, namely Hafez who took over the military invasion and after him his successor Bashar al Asad. The Islamic state, the largest terrorist organization in the history of human society, operates in this country and its surroundings. The author considers the developmental function of these subjects, which are the essential causes of the current migrant crisis. The Syria's civil war, as an attractive phenomenon of the present day, has primarily religious and political connotations with crucial significance of foreign factors. This conflict, the controversial ruling nomenclature and the criminal act of ISIS, the current Islamic Caliphate, initiated a direct confrontation between the United States of America and the Russian Federation, or their allies in this region. The obligation of relevant international community factors is to eliminate all forms of terrorism, to cease conflicts in this part of the world and to deprive the current migration processes in the most humane way.*

*Key words: Syria, Bashar al Asad, civil war, Islamic state, religion, terrorism, migrant crisis;*

## **GRAĐANSKI RAT U SIRIJI I ISLAMSKA DRŽAVA KAO UZROČNICI MIGRANTSKE KRIZE - STUDIJA RAZVOJA**

### **Rezime**

*Poslednjih pet decenija na vlasti u Siriji nalazi se porodica Asad, Hafez koji je preuzeo presto vojnim pučem i njegov naslednik Bašar al Asad. Na sceni u ovoj zemlji i okruženju deluje Islamska država, najveća teroristička organizacija u istoriji ljudskog društva. Autor razmatra razvojno funkcionisanje navedenih subjekata, koji predstavljaju esencijalne uzročnike aktuelne migrantske krize. Građanski rat u Siriji, kao izuzetno atraktivan fenomen današnjice, ima prvenstveno religijske i političke konotacije sa značajnim uplivom inostranih činilaca. Taj konflikt, kontroverze vladajuće nomenklature i zločinačko delovanje ISIS, sadašnje ID, inicirali su direktnu konfrontaciju SAD i Ruske Federacije, odnosno njihovih saveznika na posmatranom području. Obaveza relevantnih faktora međunarodne zajednice je da eliminišu sve oblike terorizma, obustave sukobe u ovom delu sveta i na najhumaniji način razreše sadašnje migracione procese.*

*Ključne reči: Sirija, Bašar al Asad, građanski rat, Islamska država, religija, terorizam, migrantska kriza.*

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## **Introduction**

By analyzing Syrian war and its consequences, for our scientific research the most important component is political – religious conflict. Therefore the focus will be on the relations between Alawite and The Muslim brotherhood of Syria and Iran. These factors had dominant role in status analysis of Syria up until 2011, when the situation took a turn for the worse. Since the beginning of the turmoil, the opponents of the regime exclusively depended on assistance from the side and the intervention of international elements; it became necessary that these “newly established” partnerships be studied in order to gain insight into the overall picture.

Since 2000, the son of former President Hafiz al-Assad has been in power in Syria. Hafiz came to power almost three decades ago through military coup. Instabilities caused by said coup were presented as a revolution whose goal was to make national unity, economic and religious equality, looking at the Ba`ath party ideals. The difference between current and previous regime in Syria is that the current President Bashar al – Assad did not partake in his father’s revolution and does not belong to the core that took the power thirty years ago.

We will further clarify previously defined and formed positions. Firstly, the main point we are trying to prove is that the Syria conflict is primarily based on religious intolerance between suniits and alavits. Therefore it is enough for our analysis to take into the account the centuries of previous experience in relations of these two confessions in conjunction with the current religious-political situation. Secondly, forming partnerships with warring factions is base on different interest: religious, political, economic, military etc. the situation is most often such that there is a conjunction between more of said interests, so it is more relevant earlier division between those that support current regime and those that support the opposition. In our opinion the course that Syria will take if it comes to the leadership change is not uncertain in long term. The only uncertain thing is the way the next government will transition into power and when. This conclusion is based upon the events in Egypt and Afghanistan, which will be analyzed in later chapter.

It can be said that the country that Bashar inherited is currently in some sort of identity crisis. The situation is justified by the fact that Syria was a long term leading country in pan-Arabism and today has `only` Iran left as a potential strategic partner. Bearing in mind the current situation in Syria, whose territory is heavily under war, it is hard to guess which countries would want to create partner relations. The more important question would be with which of the warring factions one should form such relations considering ever growing international control of current regime, opposed to very uncertain course of Syria if the rebels take over. We think it is for the best to present the helpers of current regime on one side, and the helpers of the opposition on the other, and then analyze direct and indirect relations that are present.

The riots that shook the Middle East have created open opportunities for the birth of new and the revival of old organizations. Islamic state has managed to surpass them all and it controls big territory of Syria and Iraq, in which 10 million people lives. Organization, self-proclaimed a state, threatens the humanity today, both with its great numbers and financial power. The leaders of Islamic state are former members of the notorious terrorist organization Al-Qaeda. In ideology there are small differences between Islamic state and other radical Jihadist movements. The only difference is that it put itself independent from the others. Islamic state has created a turmoil in which it managed to pull regional and global powers, determining the rules of behavior. This organization is impossible to ignore because it exists as a territorial entity. It is not clear if Islamic state will survive because it is under attack of American aviation which is trying to make a coalition force in order to attack them and conquer them.<sup>2</sup>

<sup>2</sup> Nešković, S., Religious and Political Determinants of War in Syria, International Conference “Contemporary Philosophy - Problems, Trends and Perspectives”, Bulgarian Academy of Sciences, Polish Academy of Sciences, Czech Academy of Sciences, Romanian Academy of Sciences, Slovak Academy of Sciences, University of Liege, Belgium, Varna, Bulgaria, 28 August - 02 September 2017, pp 63



All these events have created 'Arab spring' and the biggest crisis in Arab countries which made the population of those countries to look for better life in other places. Europe as a final destination, and Balkans as way station, is hit by the biggest refugee crisis since the World War II. The main issue is who and where will take care of refugees, as well as who will follow their movements. Some countries have openly said they do not want refugees on their territory, while the others are uninterested and do not understand the seriousness of the situation nor its far-reaching consequences. European Union is not in the position to react properly to the refugee crisis due to the different opinions of member states. But in the near future there will be a necessity to react effectively and resolve the problem at its root.

### Civil war in Syria-roots and consequences

After the government change in Egypt, meaning the departure of Hosni Mubarak as a head of state, it is noticeable a shift towards the Islamization of society. In 2012 on presidential election in Egypt the victor was Mohammad Morsi supported by Muslim Brotherhood. It is not a political party but a movement that advocates the use of Islamic ideals in all the levels of society. Brotherhood's will on said elections was represented by the Party for Freedom and Justice. The official website of this organization states that its primary goal is the application of the Sharia Law in both public and social affairs, and after that to unite all the Islamic states and free them from foreign imperialism. One of the most interesting moments of presidential campaign was the presentation of Mohammad Morsi by the famous Muslim alim Safvat Hegazi. He is most famous for his many intriguing and inflammatory statements about Israel and the relationship between Muslims and infidels. Hegazi said that Morsi will free Palestine and that the new capitol instead of Meka or Medina will be Jerusalem in which the Muslim will be free to pray. That was just one of many statements against the Israel which clearly alludes to a conflict between Muslims and Jews over the Al-Aqsa mosque.<sup>3</sup>

For our analysis the conclusions taken from previously mentioned cases are very important. Political program of the Party for Freedom and Justice only looks like democratic programs, because the party's goal is the application of Islamic ideals that are in a contradiction with democracy. This party won the election only due to the Muslim Brotherhood support which fights for the use of Sharia Law in all the aspects of the society. From the non-Muslim point of view the application of Sharia Law is certainly discriminatory and nondemocratic because it is contradictory to the principles of equality from Human Rights Charter. In line with the outcome of the election, it is noted that the proclaimed ideals were greeted with great enthusiasm, which is an indicator of the state of consciousness among voters in the elections in Egypt 2012. It is hard to respond to a question which of the warring factions in Middle East is in the right, because every religion claims the exclusive right that its view of the world and justice is the only correct one. For our paper it is more important to see what potential consequences can arise from such a situation, rather than answering said question.

Similar situation was Afghanistan intervention, whose goal was to take down Taliban regime and to establish democracy. Since the intervention start it was clear that Taliban fighters and their allies had no chance against the most sophisticated battle technique and experienced soldiers of USA and their allies. The key issue of states in the Middle East, which are under the occupying forces, is the fact that these nations will never accept power that is incompatible with the teaching of Islam.

Beside the two already mentioned, there is a third infamous example of establishing democracy after forcefully changing the dictatorship regime – Iraq. After taking down Saddam Hussein from power and trying to establish democratic relations, Iraq has found

<sup>3</sup> Al-Aqsa (arabic: *الجامع الاقصى* Al-Masjid Al-Aqsa) – the mosque in the Old town in Jerusalem and one of the most famous Muslim holy places. Literal translation from the Arabic the name of this mosque is 'the furthest mosque.' taken from: [https://sr.wikipedia.org/sr/%D0%90%D0%B\\_%D0%90%D0%BA%D1%81%D0%B0](https://sr.wikipedia.org/sr/%D0%90%D0%B_%D0%90%D0%BA%D1%81%D0%B0) seen on: 11.07.2017.

itself in a situation where conflicts between the Shiite and Sunni militia continue. These three examples clearly show that the religious component of the conflict is the dominant one. However, we must take the political and economic factors into the account, as a behavior motivator, but one must understand the fact that these two spheres are integral parts of Islam.

In the period after the 'Arab spring', in Syria after the riots, similar to those that hit Egypt and Tunisia, the civil war continued. Through the relations between the Muslim Brotherhood as a representative on Sunni majority and regime in Syria we will show the religious component of the conflict. The Muslim Brotherhood of Syria was founded by Dr Mustafa Sibai in the period of 1945-1946 as a power that was supposed to stand up to French colonial government. Of course that wasn't its only goal because the Brotherhood advocated all the activities that worked in favor of Islam. As such the Brotherhood advocated forming of state based on Islam, as well as a fight against nationalism and secularity as anti Islamic.<sup>4</sup> At the time in Syria the dominant role was held by Ba'ath party. It is clear that they and the Brotherhood were in conflict from the very beginning. The official animosity escalated in 1964 when the Ba'ath party made the Muslim Brotherhood illegal, and their leader Isam al-Atar was banished from country. After that the conflicts have started and the 1970s were marked by hardening the relations. The cause this time was the new Syrian Constitution which left out an important part that the Brotherhood insisted upon. That is that the official religious of the Head of State must be Islam. The next offence president Assad inflicted towards the Brotherhood was the printing of Quran with his picture on the front page, popularly known as Assad's Quran. The end of 1970s and the beginning of 1980s have brought the most intense relationship aggravation between the Sunni and Alawite. The Muslim Brotherhood joined the attack on the artillery school in Aleppo in 1979 which led to the death of 83 cadets that were part of Alawite community. The government reacted immediately with full scale attack that included heavy machinery. There is a data that there were between 1000 and 2000 killed and around 8000 arrested. The conflict climax happened in the city Hami, which is still considered the biggest stronghold of Sunni and the adversaries of the current government. After the Brotherhood members ambushed the regular army in 1981, the regime sent Special Forces to take care of the rebels. After the assassination of the Egyptian president, all over Damascus you could see fliers with a threat that the president Assad awaits the same fate. A year after that the conflict started that turned into the most intense repression that the government of an Arab country have every lead against their own people. The cause for government intervention was the armed attack of Brotherhood members against government and party officials. The adversary of Islam, Assad used all available armament. To justify in front of his people for all the bloody events, the president accused the Brotherhood for being an instrument of American and Israeli policies against Syria. After a statement like this he had to look for new allies with similar interests. He found them in Palestinian fighters of Islamic Jihad (Sunni) and Lebanese Hezbollah (Shiite).

Successors of power in Iran and Syria, Ayatollah Ali Hamnen and Bashar al-Assad, have continued the policy of their predecessors. Throughout 1990s Syria was a mediator for many conflicts between Iran and Arab world, expressing support to Shiite partners. Partnership between Shiite forces does not go in favor with Muslim brotherhood as the only opposing fraction. Closeness inside Shiite block, or 'Hamnei's party' as the alliance of Iran, Syria and Hezbollah is called, can be seen based on the events in 2006. That year the soldiers of Hezbollah kidnapped two Israeli soldiers, which later lead to military actions on the territory of Lebanon. The Muslim Brotherhood considered that these events were not random but actually a part of Shiite plan to destabilize Lebanon, take down the legitimate government and force veleyat – e faqih.<sup>5</sup> During 2008 the

<sup>4</sup> Talhamy, Y., „The Syrian Muslim Brothers and the Syrian – Iranian Relationship“, Middle East Journal, p.565.

<sup>5</sup> Veleyat – e faqih is a doctrine and the type of ruling in which the ruling the community of believers falls to the most educated theologian, since the line of Imam is cut at 12th successor. In practice, in Iran

Brotherhood send a letter to the members of Arabian summit held in Damascus in which they complained about the repression against Syrian people by the Assad regime. A year later the elections were held on which Hezbollah did not achieve expected victory. One opinion is that the defeat was a consequence of Hezbollah soldiers using weapons against their own people. The other opinion is that West influenced the results of the election.

Last few years<sup>6</sup> it was possible to notice the change in behavior in both the government in Damascus and the Muslim Brotherhood of Syria. Attitude and the behavior of both relatively softened as a consequence of events that followed presidential election in Iran. The more pleasant relations of Jordan and Saudi Arabia towards the government in Damascus caused dissatisfaction with the Muslim Brotherhood, since the help for them comes from these sources. This politic is a result of USA trying to isolate Iran from their allies. As for the Brotherhood, after thirty years of conflict with the government, they tried to move towards to manifest reconciliation with the government. Since the Brotherhood was outlawed, it was forced to act from abroad which weakened its contact with Syrian people considerably. Before the series of protests started, the Brotherhood doctrine was never directly against President Assad, rather against `adversaries of Islam`.

Partner relations of Syria and Iran began in 1970s when the Syrian people offered sanctuary to the opposition of then shah of Iran. Homeini then refused Assad's offer and went to London where he stayed until the revolution began in 1979. In the beginning, the Muslim Brotherhood saw the Islam revolution in Iran with benevolence, but soon changed its opinion because in that revolution they saw the total rebellion against secular world that repressed their right to live by Islamic ideals. The Brotherhood saw the danger for Sunni majority should it come to the strengthening of relations between two Shiite leaders. That has lead to the parting of ways. In Iraq-Iran war, Syria stood by Iran unlike most of Arab world. This fact is really important for our paper because it shows the religious character of these two countries partnership.<sup>7</sup> Iran `repaid` Syria by condemning the actions of the Brotherhood and accusing them for conspiratorial actions against their country with cooperation of Israel and USA. The leaders of the Brotherhood did not stay indebted to the Iranians, so Said Hava, one of the leading ideologists, wrote in his book that the Sunni are the members of the real Muslim community.<sup>8</sup> Hava also expressed disappointment with Iranian revolution and criticized Homeini's attitude. He said that Homeini and Shiite community were greater threat for Muslim world than Western forces. In his opinion the goal of 1979 Muslim revolution was the attempt for the whole Muslim world to be turned into Shiite.

By opposing the Israel and the American invasion of Iraq Damascus government put itself in unenviable position. That fact is additionally complicated by the surroundings of Syria because they do not have any influential allies, and with the Lebanon conflict they confronted the most powerful Arab country – Saudi Arabia.<sup>9</sup> By showing the most important events in the recent Syrian history we have made an introduction for analysis of the events that followed March 15th 2011 when the demonstrations started in Syria.

Same as with the countries of North Africa, in March 2011 the series of demonstrations against President Assad's regime and the Ba`ath party started and reached

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after the revolution Ayatollah Homeini held that funtion, while today it is held by Ali Hamnen – Martin Richard C., *Encyclopedia of islam and muslim world*, MacMillan Reference USA, Thomson Gale, New York, 2004. Pdf edition, p. 722.

6 Period before the beginning of demonstrations and civil war in Syria

7 As we have said already, in Syria there is Alawite community in power. This community is accepted as a part of Shiite community that is a majority in Iran. If we take into consideration that the nature of government of president Assad and Imam Homeini is near absolute, we think it better to speak of partner relations between the leaderships of these countries, rather than closeness between their people. The attitude of the Muslim Brotherhood of Syria towards the Iranian Shiites will be further explained by which we will try to describe this relationship in the simplest way possible.

8 Talhamy, Y., „The Muslim Brotherhood Reborn“, *The Syrian Uprising*, Middle East Quarterly, Spring 2012, pp.33-40

9 Hinnebusch, R., „Modern Syrian Politics“, *History compass* 6/1, Journal Compilation, Blackwell Publishing, 2008, p.277.

the proportions of civil war. Several months prior there were tensions starting from 'Arab spring', and whose ideas spread to dissatisfied people of Syria. There are many reasons for dissatisfaction among the people (political, economic, social and religious), but for us in this paper the most important is to answer if religious reasons were responsible and to what extent for Syrian crisis. The more serious protests followed in March as the opposition apparently united against common enemy. Soon the conflicts escalated and there were first victims both with demonstrators and forces of law, so both sides used the situation to strengthen their positions and to mobilize around them. Instead of conflict stopping then, it became even bigger. The most massive demonstration throughout the entire country followed to joint prayer on March 25th 2011. Religious officials' statements from that period confirm the thesis that the conflict was multidimensional and that each faction is trying to achieve its goals. Sheik Jusuf al-Karadavi from Qatar said: 'Today the revolution train reached its destined station, Syrian border. It is impossible for Syria to separate itself from the history of Arab nation'. The second statement came from Sheik Adnan al-Arur in which he called the young people to join the revolution and follow Egypt's example by enduring the violence without retaliating.<sup>10</sup> These two statements only confirm previously mentioned stands that Islam as a religion is inseparable from the state and that eventual synthesis of secular society and religion like this one is impossible. As the time passed so did the rebellion spread and number of demonstrators on the streets was ever growing. In March and April there were many casualties on both sides and the conflicts between the rebels and government forces were fought in Dara, Laticia, Tartus, Baniyas, Homs and certain parts of Damascus. Realizing that the situation is getting drastically complicated, the president Assad decisively started implementing reforms he had previously promised. In this period the salaries have increased, part of political prisoners were set free, previously illegal wearing of niqab was allowed again.

In the continuation of our paper, we will look at the conflicting sides, classify them and give a brief analysis of the motives and actions of each of them. Before presenting them we will briefly classify the forces that are taking part in the conflict. On the side of current government of Syria there are:

- The Syrian Army with its special services,
- Shabiha,
- Foreign fighters: Hezbollah and Kuds forces

Against them there are:

- Free Syrian Army (FSA),
- Autonomous units,
- Foreign fighters: Jihad fighters and mercenaries.

The two sides direct their activities and policies towards religious instruction, and the motive for their activities may be to gain a particular religious group for some other purposes, to lessen the influence of another religious group, or to use a religion as a motivator for non-religious goals and can thus be given religious legitimacy.

Pro-regime forces are mostly made from regular army of Republic of Syria and paramilitary units called Shabiha.<sup>11</sup> This group was formed by the previous president Hafiz al-Assad's regime with the goal of secretly profiting from smuggling to Lebanon. After Bashar took power these groups were disbanded, but they reappeared after the protests started in Syria. Shabiha members used the tactic of 'burned earth' which is forbidden by Geneva protocol. According to the reports, their fighters carried out 'cleanses' of Sunni villages with the goal of forming stable strongholds for the fight against the rebels. At first these news can be seen as a report on Alawite crimes against innocent Sunni civilians. Even if we do not take this news as a completely true, it is clear that this is a religious conflict. As for the command over Shabiha there are no coherent

<sup>10</sup> Fassih, F., „Troops Open Fire Syrian Protesters“, The Wall Street Journal, 25 March 2011.

<sup>11</sup> Loosely translated, 'shabiha' means renegades or bandits. In Syrian conflict this term is used for armed groups that do not wear uniforms or any regular military markings. They are fighting for the regime of the president Assad although there are those groups that call themselves the same but are actually units of robbers.



reports. According to one report it is commanded by close relatives of the president Assad – Fevaz and Munser. According to the other source, Mahmud Merhi, chief of Arabian organization for human rights, says that Shabiha acts without any organization and that businessmen from both sides pay criminal groups to protect their own interests. Based on these data, we can conclude that Shabiha is an ally to the Damascus regime. This is strengthened by the reports on the conflicts with Free Syrian Army (FSA) and the demonstrators. Secondly, the reports say that the attacks of Shabiha are mostly aimed towards Sunni part of the population, and that the executors are most often their compatriots Alawite – Shiite, which without a doubt shows that the Syrian conflict is basically religious in nature.

On the other hand, Free Syrian Army (FSA) represents main armed group that fights against government forces and Shabiha. FSA is formed by the members of Syrian army that deserted for different reasons and joined the rebels. Until December 7th 2012 the leader of the group was Colonel Rid al-Assad, and after the meeting in Antalya the command over FSA was taken by Brigadier General Salim Idris. Rid al-Assad stated that the primary and the only goal of this organization is to take down president Bashar al-Assad from power. FSA has many allies abroad. Some of them, such as USA, Great Britain and Turkey, only give logistical support, while Saudi Arabia and Qatar decided to help FSA more directly by giving monetary donations for weapon acquisition. Foreign fighters mostly enter Syria through the Turkish territory. That is the reason why the biggest rebel strongholds are in far north near the Turkish border. Gulf States lead the negotiations on the armament of FSA. After those negotiations, the Kuwait Parliament voted on the resources meant for the rebel armament. That is the first official case that one country directly supported FSA. In July 2012 in the USA was formed nongovernmental organization – Syrian support group that was green-lit to finance FSA.<sup>12</sup> Foggier part in relations between opposition forces is the relation of FSA towards Islamists. Even though they have a common enemy, the goals of both sides are diametrically opposed. FSA wants to take down current regime and states no plans for after the war. On the other hand, the Islamists do not work together, rather as individuals or smaller battle units, and their goal is to propagate and spread Islam. One of the FSA commanders said that this organization is fighting for the Islam against secular government and Ba'ath party, explaining that it is a fight for all the faiths and denominations in Syria – Christian, Sunni, Alawite etc.<sup>13</sup> As for the relation towards Christians, the FSA official stance is that they are fighting against regime so there is no danger for the members of this religious group. However, according to the report from Vatican state media Agenzia Fides, 20% of Homs Christian population was banished by the FSA, more precisely Faruk brigade. Based on everything said we can form following statements about the FSA activity and the activity of units fighting with them:

- There are elements of FSA that propagate and fight for Islam, against secular regime. Fight for Islam against secular regime is key form of fundamentalism since Islam does not allow separation of religion from state, nor any other sphere.
- Even though FSA condemns organizations that are inspired by the idea of armed Jihad, they are forced to cooperate with them because they are materially, technically and numerically inferior compared to regular Syrian army.
- Most members of FSA are Sunni, while Jihad fighting units are all members of this confession.
- We think that this siding based on religious affiliation could probably lead to retaliation of victors towards the defeated after the conflicts end. This stand is based on the following premises – both sides committed great number of

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<sup>12</sup> US Authorizes Financial Support to Free Syrian Army, <http://yalibnan.com/2012/07/28/us-authorizes-financial-support-to-free-syrian-army/> seen on 14.07.2017.

<sup>13</sup> Syria's slide towards civil war, <http://www.bbc.co.uk/new/world-middle-east-16984219> seen on 10.07.2017.

crimes so it is implausible for them to respect human rights after the fighting ends.

- Even though FSA does not support Islamist forces they are forced to play both sides in order to fulfill their goals. They are fighting against regime in order for the current al-Assad government to be replaced by the democracy. That suits the paradigm that the leading Euro-Atlantic countries have, and at the same time creates conditions for strengthening the Islamic movement by eliminating secular elements that outlawed that movement. However, only Saudi Arabia and Qatar are directly helping the fight against the regime, and both countries are an absolute monarchy, which clearly shows that we cannot talk about the democracy as it is in the West.

Based on everything said, it seems that the Alawite community is trapped on all sides and that the change of government is inevitable. Best possible scenario is that Alawite will be in the same position as in 1970s. In order to avoid the animosity between the confessions, the only possible solution was pan-Arabism. The ultimate reach of that idea was forming of UAR which lasted until 1961. After the Israeli defeat in Six-day war, it came to significant ideological changes in countries that were close to the idea. Pan-Arabism was slowly changed with the idea of nationalism as well as Islamism.

As for the foreign fighters in Syria, according to the US intelligence data they are not partaking that much. The numbers are rising as the pressure against the president Assad's regime rises. Important fact is that the Jihad fighters throughout the world are well connected through many channels that allow for them to move from one battlefield to the next. For the needs of our paper it is necessary to analyze to which extent the Jihad ideology can be carried into the effect, and what the eventual consequences of those actions on Syrian people and the events in the region could be. In order to succeed it is necessary to look at the situation in the surrounding countries, possibility of 'export' of volunteers into Syria and the potential of Al-Qaeda and similar organizations in the region. Jordan is an important area for foreign fighters due to its closeness to Syria, and due to the presence of Islamic Jihad ideologists that are advocating the fighter insertion, such as Abu Mohammad al-Tahivi.<sup>14</sup> As for Iraq, data suggests that the networks of tribal and other militant groups offered their help with transferring fighters into Syria. That help is mostly focused towards FSA as a main organization that fights the regime, and less towards the Jihad fighters. Lebanon veterans that fought against Muammar Gaddafi changed the location and some reports say that some of them are hired to fight against Al-Assad. The important fact is that the Lebanon veterans are transferred into Syria mostly through Turkey where the base of FSA used to be. This data shows that these fighters are most likely helping the FSA efforts, rather than Jihad organizations.

Participation of Islamic extremists in the war for them has completely different character. Same as in the other countries that were hit by the 'Arab spring', the Jihadists unanimously called for the overthrowing of Al-Assad's regime. Unlike the other countries, characteristic for Syria is the presence of extremist organizations in its vicinity. Jihad fighters in their activities are lead by their ideology that can be interpreted as – fighting for the Islam welfare through armed warfare. This characterization is rather general but points to the following facts:

- It is about the activities inspired by the Islamic teachings – that does not meant that Islam teaches that the killing is good, but it is possible to find parts of religious books that can, in certain way, give legitimacy to the armed Jihad.
- The final goal is for Islam to be spread onto entire humanity, because Islam represents the only true way for a man to fulfill himself completely, by worshipping his maker.
- Armed fight is basically the most effective way for the Jihad ideology to be carried into the effect, seeing as the opponents are physically being destroyed or intimidated to the point where they do not resist any more.

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<sup>14</sup> Al-Samadi, T., „Jordan's Jihadists Divided Over Jihad in Syria“, al-Hayat, February 17, 2012.



Very interesting is the relation of Jihad fighters towards the other forces that are fighting against the same enemy. For now there are no indications on conflicts within the opposition, but there are concerns among Jihad ideologists due to nationalistic approach and readiness of FSA to cooperate with international non-Islamic elements, especially with USA and Great Britain which are often called modern crusaders in extremist circles. One of the key problems that the modern society faces is the idea of the 'holy war', the idea was considered to be part of the past. As for the European civilization, the religion is mostly separated from the state and the religious tolerance ideal has reached great heights. Due to that there is no mention about 'holy war' for any ideal, not even the biggest Christian sanctities in the Middle East. On the other hand, due to the Islam nature being closely knit with the community, should the community find itself in a problem the goal of Islam is to defend it or attack, where such activity would be religiously legitimate. That religious legitimacy, for acting against others, is the basis of Jihad holy war. Both sides think that their fight is the just one, and the legitimacy is found in different religious books, in their national doctrines and strategies. Even though they share similar view of the world and partake in unique fight for Islam, we can say there are huge differences among the Jihadist concerning organization and methodology in Syrian conflict. First conflict is about organizing the units in the field. One side advocates the use of smaller units, while the other side advocates the use of bigger and more powerful formations. Be it as it may, the presence of Jihadist complicates Syrian crisis as it increases the possibility for conflict to get more intensive religious component, even though the FSA and the regime are trying to make the conflict seem secular. The presence of this element undoubtedly splits the opposition into those that advocate democratic system and those where the individual religious component is stronger so they wish for an Islamic state to be formed. USA is reluctant to join the conflict due to the presence of Al-Qaeda and their allies which are all anti-American and propagate global Jihad. Al-Qaeda has rather powerful stronghold near Syria, in Iraq, so its actions are easier than in other situations when it is needed to act against organized antiterrorist or border agency. Danger from Al-Qaeda actions is more present than in any other country hit by 'Arab spring'. The main reason for this fear lies in the fact that the Syrian territory was used as a front door for terrorists while the Iraq war was going on. Also, diplomats in their reports state the cases of dozens of Jihadists transferring to Syria from Iraq.

Arab spring` greatly influenced a large part of Muslim world. Lebanon, Syria and Egypt were great importers of Soviet-Russian armament. With Iraq and Jordan it can be said that these countries imported certain military doctrine with the armament, doctrine that is completely inseparable from state ideology. Pan-Arabism is the movement that pointed these countries towards each other. As it is known almost all colonial powers were in the group of West European countries. Therefore, after the liberation from the colonial control the intensive anti-western sentiment appeared, and relevant countries again gathered by the suppressed Islamic ideas. Second thesis that demands attention is if West is trying to turn the Muslim world against Russia and China. Games is played by using series of military coups to take down regimes that worked with Russia, in order for the Russian influence to diminish or erase completely and to provoke Moscow into reacting, at least by vetoing.<sup>15</sup>

Patron organization ISI is not at its peak as it was several years ago, but was still able to import fighters from Syria to Iraq. There are very few direct evidences on the presence of ISI elements on the battlefields in Syria, but they are not enough for a real estimate. Fishman says that ISI has great capacities to intellectually support Jihad in Syria. This organization denies the existence of the border between Iraq and Syria because they consider it a consequence of Sykes-Picot Agreement from 1916. This data is important because it can be used as an argument for confronting the Alawite minority

<sup>15</sup> Nešković, S., Religious and Political Determinants of War in Syria, International Conference "Contemporary Philosophy - Problems, Trends and Perspectives", Bulgarian Academy of Sciences, Polish Academy of Sciences, Czech Academy of Sciences, Romanian Academy of Sciences, Slovak Academy of Sciences, University of Liege, Belgium, Varna, Bulgaria, 28 August - 02 September 2017, pp 55

within Jihad.

JN, after its foundation on January 23rd 2012, in a year has managed to assemble nearly one tenth of total forces fighting against the regime. This organization today uses the name Al-Nusra Front. It is estimated that they have between six and ten thousand fighters which are believed to be 'the most aggressive and the most successful hand of rebel forces'.

By presenting active participants and their allies in the Syrian civil war, we have tried to prove the hypothesis on the goals of the conflict. Our hypothesis is that the conflicting sides are primarily aligned according to the religious denominations of Islam. Two blocks are formed, one being pro-Sunni and the other pro-Shiite. One block is made of opposition forces – religiously neutral FSA with extremist Jihad forces (parts of Al-Qaeda and JN fighters). Opposition allies are surrounding, mostly Sunni, countries led by Saudi Arabia and Qatar. Their goal is to take down the 'repressive' regime and secular Ba'ath party and to establish the system inspired by Islam. Very important organization that gathers Sunni population is the Muslim Brotherhood of Syria. Second part of the opposition block is made by relatively secular elements, mostly Free Syrian Army. The FSA bases their activity on pro-Western values, since it is considerably dependant on the support from there.

Pro-Shiite block made by the Syrian Army, Shabiha and their helpers, is trying to bide its time and is probably hoping to defeat the rebels before the critical mass is created which would lead to NATO intervention. Pro-Shiite forces are trying to strengthen their 'axis' from Lebanon to Iran and integrated like that oppose the possibility for an equivalent of 'Arab spring' to happen on this territory. Media often accused Iran of wanting to export its own revolution to countries that have significant Shiite population. Such a scenario could cause big shifts on international scale. That way the anti-imperialistic sentiment with these countries population would strengthen. That would mean the weakening of American influence in the entire region, intensifying the conflict between Sunni and Shiite and the increase of activities among terrorist organizations which would have safe heaven on these territories. Iran revolution is primarily inspired by the religion, and the spread of its ideas would have unimaginable consequences on the global scale.

Considering previous conditions and factors we can conclude that militant Islamist organizations have all the requirements to actively work on the territory of Syria, that they have resources to join the opposition forces in the armed conflict and to try and achieve their goals. Primary goal of these organizations comes from the very ideological basis, which is to create Islamic state on the territory of Syria in which the Sheria Law will be upheld. In order to achieve something like that it is necessary to eliminate all the secular elements which are in opposition with Islamic values. We think that this situation development doesn't suit most of the big players in Syrian conflict. The victory if radical Islam would lead to a similar situation that happened in Afghanistan when the Taliban took over power. For many reasons this scenario is not likely to happen, but cannot be ignored in any case because it could cause much greater consequences on global security.

### **Islamic state**

Rebellion as a social phenomenon is more seriously explored after the Second World War. Today, the general division into classical and modern rebellion can be accepted. Classical rebellion is used to describe revolutionary warfare, which is also known as the war for national liberation of various colonized nations from 1944 to the early 1980s. Classical rebellion is described as a rebellious movement that attempts to gain control of the state, its part, or to break away from the existing state.

On the other hand, modern rebellion has a new transnational character. Their strategy is to "exist", that is more rebellion of resistance, than revolutionary rebellion, and one of the main challenges, risks and threats to the security of every country, and even the region. The biggest success and most attention, of all modern rebel movements,

has the rebel organization of Islamic State.

The Islamic State is proud of Abu Musab al-Zarqawi, who they claim to be its founder. He was a local Jordanian terrorist leader who inspired followers to action on the basis of anti-state and anti-fascist ideology. Zarqawi tried to unite several groups that had the same inspiration as him, forming the Mujahedeen Shura Council in 2005. Following the death of the president of that council during 2006 air strike, the organization continued to live under the new leader Abu Hamiz al-Mujahir. He expanded his influence and thus formed the "Islamic State of Iraq". In the coming years, Abu Omar al-Baghdadi comes to the forefront of the organization, which continues the policy of gathering anti-fascist Muslims. After al-Baghdadi died in 2010, he was replaced by Abu Bakr al-Baghdadi, which was a surprise to all other members, but his organizational skills, knowledge of the Iraqi army recommended him first as head of the main advisory body "Shura Council", and later for the first man of the organization. In addition to the leader, this organization also has two councils responsible for military and administrative arrangements. The first council is the Shura Council, which consists of nine to eleven members advising leaders in military and other administrative matters. The second council is the Sharia Council, the most powerful body of the organization with six members, which is directly overseen by Abu Bakr. In addition to these two most important councils, there are also lower level councils: military, media, territorial and financial.

Islamic State is a child of war with Iraq in 2003, and 2006 decision for it to present itself as a state has led to far-reaching consequences. Since then IS advocates functional management over conquered territories as well as the control over all the aspects of society. The biggest responsibility for that lies with the leader of 'cabinet of ministers', and as the need arises the responsibility can be transferred to certain ministries. On the territories 'ruled' by the Islamic State it is paramount to follow the Sharia Law. In the case of breaking these rules the punishment system *ukubat* is used. On the list of forbidden things, beside the consumption of alcohol, drugs and tobacco, there is also the listening to non-Islamic music, gambling and gender mixing.<sup>16</sup>

At the beginning of the conflict of rebels and government in Syria, the Islamic State did not allow its branches in Syria to act, but ordered them to keep aside. When the situation escalated, it was decided that a few members would start with actions in Syria.<sup>17</sup> On July 29, 2014, the Islamic State proclaimed a caliphate after the rapid conquest of the territory. The basic aim of this action was to prove the ultimate victory over other terrorist groups that have until then competed for the same fighters and resources. All of this led to a worldwide interest in organizing and respect among the extremists, and as a result, support from salafist organizations from countries with the largest Muslim communities in the world began coming in as a result. However, the problem that arose after this kind of support is the surprising influx of fighters, as more than 15,000 fighters joined the organization in a short time.

After 2011, the rapid spread of the Islamic State on both sides of the Syrian-Iraqi border helped the organization transition from a terrorist organization to a rebellious organization. As the organization grew, so did the number of operational activities, and in 2013 more than 9,000 combat activities were carried out. These changes demanded new leaders with different skills, as ordinary terrorists could not plan, coordinate and carry out such activities. The organization proved to be tactically and strategically very adaptable, as by the end of 2011 it acted as an extremely violent criminal-terrorist group, and after that it became capable of running synchronized attacks in populated areas, while finally slipping power in eastern and northern Syria did not allow it to expand its activities across the border.

Even after the formation of an international coalition to fight the Islamic state,

<sup>16</sup> Lečić, B., op citat.p. 12.

<sup>17</sup> Nešković, S., Religious and Political Determinants of War in Syria, International Conference "Contemporary Philosophy - Problems, Trends and Perspectives", Bulgarian Academy of Sciences, Polish Academy of Sciences, Czech Academy of Sciences, Romanian Academy of Sciences, Slovak Academy of Sciences, University of Liege, Belgium, Varna, Bulgaria, 28 August - 02 September 2017, pp 41

since August 2014, the Islamic State has not changed its strategic goals. Its basic goal remains to expand the territory and consolidate power in the existing territory. The challenge faced by the Islamic State is finding an option that would replace totalitarian rule with a low level of tolerance. Conquering of the territories is carried out through the use of different instruments, primarily violence which creates fear, panic, unrest and vacuum into which the Islamic State inserts itself and brings the illusion of order and justice. Current goal of IS members is not the conquering of compact and big territory. That is the goal for several future generations when they try to achieve the final project that started with the creation of Caliphate. Most of the public condemned the creation of self-proclaimed caliphate without the consent and the consulting of the majority of Muslim population. And the practice of violence in order to achieve their goals is seen as the usurpation and the behavior that places millions of people as hostages of Islamic State.<sup>18</sup> The forming of this organization was helped by numerous regional and global factors, both in military and financial way, trying to strengthen certain fractions within Syrian opposition in order to protect and fulfill their own interests. The arrival of money and the people on those territories escalated in 2014 by creating the strongest military power which exploded in the face of those that made possible their creation. Atrocities done by the Islamic State closely resemble those done during the war in Syria, when there was inadequate reaction of global and regional powers and conflict wasn't stopped which consequently lead to the creation of the Islamic State.

The organization was originally funded by sponsors, but it has now outgrown that level of costs and donations, and turned to other ways of income. Donation revenues are now reduced to a minimum of only 5% of total revenues of Islamic State. The main source of revenue The Islamic State has from oil, taxes, tolls, revenues from captured factories that have continued to produce, criminal activities. The total wealth is estimated at \$ 1.3 billion to \$ 2 billion. Expenses for maintaining the state of war, including maintenance of equipment, awards for successful operations, pay for fighters, and benefits for the families of fallen soldiers are growing every day.

The main revenue, in addition to robbery, comes from oil trading and collection of taxes from large companies that are allowed to do business and individuals who are allowed to stay and live in their homes, but with a tax of \$ 720 a month per adult male member. The latest estimates say that IS daily produces between 30,000 and 80,000 barrels of oil, which if sold at extremely low prices from 25 to 50 dollars per barrel, yields \$ 2-4 million a day. In addition to these sources of income, one of the more important is the toll fee of \$ 400 for camels, while for smaller vehicles and cars it is \$ 50-100 for passage through the Islamic State.

The data on the operations of the Islamic state are certainly not completely reliable and accurate, but there are many different sources of income, so the loss of a single funding source is bearable for the organization and will not pose any major problem. The biggest blow and loss of money would be in preventing oil trade, due to the huge inflow of money, due to crude oil refined products that are needed to move an enormous number of vehicles used by the Islamic State. This organization is currently functioning well not because of a well-established system, but because of the huge inflow of money it has at its disposal.

In the contemporary world, media and combat activities are considered equal. So the Islamic state has its own special section dealing with the media. It is very organized and plans its activities, primarily to win support through electronic media. Electronic media often balances between terrible scenes designed to demoralize enemies and encouraging images where the vision of a better and brighter future is offered. The basic tactic of the media of the Islamic state is the use of social networks, which means that there is not only one source of information, but that everyone in the world can make

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<sup>18</sup> Ažinović, V., „Islamic State – atypical global threat as a result of typical international relations“, Democracy and security in Southeast Europe, Atlantic initiative, Sarajevo yr.5, no.1/2, november-december, 2014. pp.3-7.



publicly available some content on its behalf, followed by comments and opinions on them. The results are numerically measurable, so the term “ISIS” was used 4.1 million times in the course of just one month on the Internet.

And media control works two-way, because it does not control only what will be published, but also what is seen by the people of the Islamic State. In the occupied territory, access to the media is limited and controlled. In addition to the “selected” information on an occupied territory, it is almost impossible to find information from a resident of the Islamic state.

Before the self-proclaimed “caliphate” in 2014, the Islamic State had control ranging from Aleppo in northern Syria to the city of Mosul in Iraq. On both sides of the Syrian-Iraqi border under the rule of this organization lived about six million inhabitants. The territory is divided into 18 provinces headed by the governor, under whom the structure of the top of the organization is mirrored. In conquering the territory, the Islamic state was guided by the principle of first conquering territories with weaker opponents, regardless of religious, tribal and other affiliation, as well as to first conquer parts of the territories that are rich in natural resources.

In the future, the survival of the Islamic state depends on the maintenance of the agreements reached and the internal division within the organization. It has learned a lot from the mistakes of the governments of Syria and Iraq. It does not base its rule on political theory that it will be better, but it constantly and free of charge shares the spoils with the citizens. Thus, in each of the eighteen provinces, there are administrative sections that care about security, an equal distribution of resources, and, together with tribal leaders, decide on everyday life. This way, the Islamic State offers its citizens a different future, a practical, predictable and clear future, which is diametrically opposed to the political promises offered by the Syrian and Iraqi governments.

The Islamic State draws legitimacy for its actions from a religion based on the extremist interpretation of Islam and that the unity in the world that existed at the beginning of Islam must be restored. Islam is used as a means of motivation, but also control. Whoever opposes the rule is considered to be an unbeliever and is accounted for by the religious police and courts implementing the Sharia law. Then the educational system is established, which serves to approach salafistic and tafiristic views of Islam. The educational system does not have the role of training individuals for specific callings or jobs. Its only task is to ensure that the next generations are indoctrinated and accept the salafistic interpretation of Islam. The paradox in the work of the IS is reflected in the fact that most members do not have the basic knowledge of Islam, but accept the absolutist authority justifying the murder as a legal provision.

Although the Islamic state has great publicity, there is very little information about this organization and its leadership. This organization had a sudden success, in a short time it transitioned from terrorism through rebellion to prototype state, but it is also threatened by the possibility of disappearing. Regardless of these indicators, it continues to exist and there are many reasons for this. Analyzing the environment in which it located and works, facts are found that certainly go hand in hand with the survival of the Islamic State. The first of these factors is the deep division of Islam in the Middle East. The split into Sunni and Shiites has existed since the 1979 Iranian Revolution. Regardless of the damage done by the Islamic State to the entire region, the states on both sides of this division consider it to be a lesser evil than the rival becoming regionally dominant.

The second factor is that residents have distrust of their governments, regardless of which state they belong to. For a long time, the ruling coalition in most of the countries in the region used repression and did not ask citizens for opinion, which is beneficial to the recruitment of fighters and the justification of the existence of an organization such as the Islamic State.

The third factor relates to the US-led international coalition, which is made by 60 states partners in the fight against the practice and goals of the Islamic State, which it uses to prove the Western struggle against its independence and religion.

The fourth factor is the fact that little is done in terms of disrupting the positive picture that the Islamic State creates about itself among the current and potential entities that support it.

The fifth factor is that fighters fighting the existing regime in Syria or Iraq do not have the option of joining another organization, since no other is effective or strong as the Islamic State.<sup>19</sup>

And the last identified factor for the survival of the Islamic State is that nothing specifically has been done in the region to impose a change in the situation and finally halt the cultural, religious and educational stagnation that is evident and irreplaceable in the Middle East.

The Islamic State has succeeded in expanding and surviving thanks to the widespread social media that enables the spread of ideas through the interaction of people. The thirst for change has allowed the Islamic State to grow and develop. But now, when it comes to survival, the citizens must be offered something new, so without the new idea and vision the Islamic State will not be able to survive. And if this organization should disappear, the question is what political consequences will remain after it. There is no going back, because the movements of sociological and political action have changed in the Middle East. At the moment, it is not possible to predict in what direction the Islamic state will continue to move.

### **Migrant crisis**

Armed conflicts currently ongoing in the weakened countries of the Middle East have forced millions of people to move from those areas. Among them are the people fleeing the war-torn Syria and northern Iraq, and also economic migrants. The common thread for these groups is that they left their countries in search for better and safer life. The number of migrants that are looking for the asylum in the EU, since the "Arab spring", has reached 1.2 million in 2015. The main characteristics are as follows: Macedonia has allowed the transit through its territory which made the Balkan route very attractive; the second characteristic is based on the perception of migrants, after the German Chancellor's statement that the migrants will not be returned.<sup>20</sup> After the main entry point – Macedonian border, the entries from Bulgaria started being noted during summer months.<sup>21</sup> The Balkan route has changed its course of movement. Only the entry point remained constant. Changes are also noted on the exit routs. In the first months migrant flows were recorded only at the Hungarian border, but in the last few months the border of the Republic of Croatia was the dominant one.<sup>22</sup> The enormous influx of migrants has caused the largest crisis in Europe to date. The largest number of migrants arrived from Syria (around 350 000), double than the number that came from Afghanistan. The final haven was sought in the most developed EU countries: Germany, France, Sweden, Austria, etc. However, most of them settled in Germany since the policy conducted by Angela Merkel is the policy of open borders and acceptance of refugees.

Under the conditions of the migrant crisis, accountability and assistance to migrants has fallen on numerous organizations and civil societies that had to deal with problems. By providing direct help, raising awareness, demonstrating solidarity with "people on the move", organizations were trying to make up for what the state and the international community did not respond to.

Even before "Arab spring" there were migrations into European countries. All

<sup>19</sup> Barret R., *The Islamic State, The Soufan group*, November 2014.

<sup>20</sup> A look over horizon: Facing the migrant and refugee crisis, Belgrade fund for political exceptionality, 2016.

<sup>21</sup> Nešković, S., „Foreign Policy Orientation and Security of the Western Balkans“, Thematic Collective Book, Vol. 2, *New Challenges to the Balkan Security*, Veliko Turnovo, St. Cyril and Methodius University, 2016, pp. 16.

<sup>22</sup> Nešković, S., „Southeastern Europe Security and Concepts of Relevant International Actors“, Thematic Collective Book New, Vol. 1, *Challenges to the Balkan Security*, Veliko Turnovo, St. Cyril and Methodius University, 2014, pp. 15



these countries have high population growth. The number of young and unemployed has risen between 1980 and 2010. We should not neglect the fact that this figure is far greater after the conflict in the Middle East, when the refugee crisis is intensified by upheavals in Arab countries and the interventions by the Western powers in breaking up the dictatorial regimes in the `Arab spring`. The largest number of refugees belongs to the Sunni group, which attacked regime forces, among which can easily be some FSA fighters. According to their analysis UNHCR states several reasons for migrant crisis. First is the loss of hope. Syrian people completely lost hope that the situation in their country will change for the better. The second reason is the increase in poverty. Refugees claim that the cost of living has risen and that they could not afford even basic things. The third reason is the lack of employment because there are no real jobs which make refugees work illegally. The next reason for seeking refuge in Europe is lack of health and social protection. Programs for helping the refugees in neighboring countries are often faced with the lack of resources.<sup>23</sup>

There are currently two diametrically opposed visions of the migrant crisis, first being `Merkel vision` and the second `Orban vision`. The first advocates the openness of the borders of the European Union, opposes any closure and denial of migrants. Merkel further states that there must not be bad behavior towards migrants in order to prevent their arrival. She thinks that the problem needs to be solved at EU level, and that it starts from resolving the problems at the root and preserving the external borders. On the other hand, Orban believes that the refugee crisis is a massive invasion, stating that the number of refugees will increase, and that they have grown up in another religion and culture that is different from the European identity, which is at the root of Christianity. The key thing that we must not neglect is the war that produces refugees, especially when they themselves bear the responsibility for these wars. Many European countries supported the wars in Afghanistan, Iraq and Syria, which caused mass exoduses of the population, some of whom sought shelter in Europe.<sup>24</sup>

Refugee crisis and security risks for EU are certainly evident. It is necessary to intensify the debates in EU and to find solution to represent the common stance for EU countries, which will reduce the gap between the existing systems of international assistance to refugees.<sup>25</sup> In order to understand the refugee crisis and resolve the refugee phenomenon in Europe in the best possible way, it is very important to understand and substantiate the character of wars in the Middle East. If we simply understand the war in Syria as a "civil war," then the refugee crisis imposes on Europe as an external problem that needs to be solved by regulatory measures. However if we conceive the war as caused by NATO's attempts to overthrow the dictatorial regime, then European responsibility should be seriously examined not only for war but also for the crisis itself. It is quite a misconception that the civil war has nothing to do with Europe, and that the Middle Eastern peoples pose a threat to Europe and that their arrival must be prevented at all costs, and not work towards the ending of the war in Syria.

The biggest problem of the Western countries is that they do not realize that it is a fundamental problem in resolving the cause of the crisis, not solving the problem caused by war conflicts. The EU will have to pay the utmost attention to regulating and controlling migratory pressures and protecting the rights of vulnerable migrants, without compromising the internal security of the Union and individual member states. It is evident that the flow of migrants is not evenly distributed in the EU, as most of them want to go to Germany, which additionally complicates the already complicated situation. If such an influx of population continues, it is likely that border controls will

23 Tadić, J., Dragović, F., Tadić, T., "Migrant and refugee crisis – security risks for EU", *Polic.sigurn.*, year 25 (2016), no.1, Zagreb, pp.14-41.

24 War in Syria and migrant crisis, taken from: <http://pisjournal.com/index.php/item/79-rat-u-siriji-i-evropska-migrantska-kriza>, seen on: 12.07.2017.

25 Nešković, S., „Foreign and Security Policy of European Union and the Position of the Republic of Serbia - Case Study“, Belgrade, CESNA B and Tehnical Faculty of Bor University of Belgrade, 2016. pp. 51.

be reintroduced, which will be performed by states at the national level, which would be one of the worst scenarios, as the whole system of external border control of the EU would thus be questioned. This has shown all the EU's shortcomings in migration movements, where some countries are left alone to cope with the crisis.<sup>26</sup>

The policy of open borders of the German Chancellor is gaining increasing resistance of the public as well as the Visegrad Group (Czech Republic, Slovakia, Hungary and Poland). In the Europe the animosity started brewing with great number of people and the initially friendly attitude is slowly waning. Xenophobia is increasing, further strengthened by the conflicts involving the migrants, shown to the public as the impossibility to assimilate Arab people among European population. Chancellor faces ever growing pressure to impose restrictions on migrant reception.

### **Conclusion**

From the time of the Caliphate to the present day, there is a conflict between Sunni and Alawite in the territory of Syria. The primary reason for their intolerance is the fact that the Alawite religious norm deviates significantly from the Sunni learning. Alawite have always been treated as apostates of Islam who have their own system of beliefs and customs so until the Second World War, they were considered second-class citizens. After that came the equalization before the law, and then the political ascent of the Alawite. With the strengthening of nationalism and pan-Arabism, the opportunity for the Alawite was created through the affiliation with the Arab Socialist Ba'ath party and the Syrian Army. From the very beginning, the Muslim Brotherhood of Syria was the main rival of power. There are at least two reasons for the conflict between the regime and the Brotherhood. The first is that the idea of nationalism and Arab socialism is incompatible with Islamic teaching, and the second is that the Sunni did not want for the country to be ruled by someone they regard as not a Muslim.

Direct evidence that the Syrian conflict has elements of a religious war is the alignment of the allies by a religious affiliation. The side that achieves the power will be able to count on a dominant position in the Middle East. Should the current regime in Damascus be replaced, a homogeneous Sunni bloc will be formed from Turkey, via North Africa, all the way to Pakistan. As far as external actors are concerned, above all of the USA affecting events in Syria and the Middle East, we can conclude that this impact is twofold. On one side are the so-called 'moderate' Muslims who support the idea of democracy and a somewhat secular society, while, on the other hand, are extremists that the US government is pursuing for the propagation and the carrying out of inflammatory ideas. Over the past twenty years, the USA and its allies have participated in a series of military interventions, of which over ninety percent were in Muslim countries. According to the Islamic norm the presence of infidels is not allowed on the territory of dar-al Islam<sup>27</sup> especially if they are performing independent actions and killing the Muslim population. In order not to be branded 'the enemy of Islam', USA is helping the 'pro-democratic' forces in crisis situations, and eventual illegitimate strikes on their goals are counted as a fight against terrorism.

The Islamic State has succeeded in expanding and surviving thanks to the widespread social media that enables the spread of ideas through the interaction of people. The thirst for change has allowed the Islamic State to grow and develop. But now, when it comes to survival, the citizens must be offered something new, so without the new idea and vision the Islamic State will not be able to survive. And if this organization should disappear, the question is what political consequences will remain after it. There is no going back, because the movements of sociological and political action have changed in the Middle East. At the moment, it is not possible to predict in what direction the Islamic

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<sup>26</sup> Ibid., p.41.

<sup>27</sup> Jevtić, M., *Modern jihad as a war*, Nikola Pašić, Belgrade, 3rd edition, 2001. (Dar-al Islam – area which is ruled by Sheria Law)

state will continue to move.

The problems that led to protests and the “Arab spring” are different, mostly socio-economic in nature. The main determinant of this process is the rebellion of the population against its rulers who had long-term mandates and enormous benefits for themselves and their associates, while the ordinary people continued to live with a relatively poor standard. In the period when governments in the Middle East fell, the organization called Islamic State has risen. It attracted and mobilized a large number of young people, primarily thanks to the Western air strikes. The history shows that the Western wars against terrorism have always been a disaster. Even today’s US coalition that fights against the IS will not achieve its ultimate goal of landing a killing blow to terrorism, because in its attacks more civilians are killed than terrorists. The West didn’t learn anything from its previous interventions that did not bring any good to anyone. Their counterproductive policy towards Middle East is still being repeated which leads to strengthening of Islamic State by mobilizing more and more followers not only locally but also in the region. Western interventions have additionally sparked the crisis and made millions of people to leave their countries and look for salvation in the West. That has caused the destabilization of EU, because the European population accepts Arab people with difficulty because they have trouble assimilating into European culture that propagates completely different norms from those they are used to. It is high time for West to question its policy and to solve the causes for the crisis in which they themselves were a part of, and whose consequences are felt by both Arab and European people, since the European continent has no experience of the region receiving immigrants, which can lead to deeper and more persistent factors that may be at work in the foreseeable future.

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## UZROCI I POSLEDICE GLOBALNIH MIGRACIJA U SAVREMENOSTI (SOCIOLOŠKI, GEOPOLITIČKI I BEZBEDONOSNI ASPEKTI)

### Rezime

*U savremenosti smo suočeni sa fenomenom globalnih migracija. Njihovi uzroci, oblici i pravci ispoljavanja, kao i posledice, mogu biti različiti. U radu se čini napor da se sociološki, teorijski problematizuje ovaj višedimenzionalni megafenomen, sa posebnim osvrtom na njegove geopolitičke i bezbednosne aspekte. U fokusu autorove analize su dva vida migracija: a) transnacionalna mobilnost visokoobrazovane radne snage i b) seobe naroda iz ratom zahvaćenih područja ili kao posledica nerazvijenosti i siromaštva.*

*Autor ove pojave posmatra kao vid transnacionalnih i transkontinentalnih migracija i one imaju brojne posledice, kako po zemlje iz kojih migranti odlaze, tako i po zemlje u koje migriraju. Autor ovu pojavu posmatra i kao deo lanca kapitalističke reprodukcije i nejednake razmene rada. Ona je proizvod dominantne neoliberalne strategije razvoja „kapitalizma katastrofe“ koja vlada svetom i koja proizvodi socio-klasne i regionalne nejednakosti, siromaštvo i sukobe. Mapa eksplozije regionalnih sukoba u savremenosti deo je realizacije strategije geopolitike resursa, novog kolonijalizma. Naravno, širenje ratnih sukoba se propagandno legitimiše da se to čini radi odbrane „ljudskih prava“ i širenja demokratije.*

*Autor ukazuje na činjenicu da su u savremenosti i migracije postale deo geopolitičkog inženjeringa masovnog preseljavanja naroda, menjanja demografske, etničke i rasne strukture i identiteta. U pozadini ovih aktuelnih procesa leži i težnja krupnog kapitala za jevtinom radnom snagom. Umesto klasno svesnih radnika, koji drže do svog dostojanstva i svojih socijalnih prava, masovnim migracijama kapital deportuje iz Azije i Afrike, mase novih robova bez klasne svesti, spremnih da se beskonačno eksploatišu na neodređeno vreme od strane nove buržoaske aristokratije, ali i podesne za brojne manipulacije; između ostalog i regrutaciju u strane legionare za buduće ratove u Evropi i svetu.*

*Autor poentira svoj rad: da bez globalne pravde nema globalnog mira. Ali nema ni mira bez nove strategije socijalnog i regionalnog razvoja u službi svih naroda sveta i svakog čoveka.*

*Ključne reči: globalne migracije, društvene nejednakosti, rat, strategija razvoja, mir.*

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*„Ako je demografija sudbina, populaciona kretanja su motor istorije“  
(Semjuel Hantington, Sukob civilizacija,  
CID, Podgorica, 1998: 220)*

*„Živimo u doba raseljavanja.  
Pitanje izbeglica je kolosalni problem“  
(Salman Ruždi)*

*„Prvi i najvažniji od megatrendova u savremenosti je porast stanovništva  
zemlje i sve veća demografska neravnoteža između bogatih i siromašnih zemalja...  
Populacijska eksplozija na jednoj strani planete i tehnološka eksplozija na drugoj nisu  
dobar recept za stabilan međunarodni poredak“  
(Pol Kenedi, priprema za 21. vek, Službeni list, Beograd, 1997: 362-363)*

## **THE CASUSES AND THE CONSEQUENCES OF GLOBAL MIGRATIONS IN THE CONTEMPORARY WORLD (SOCIOLOGICAL, GEOPOLITICAL AND SECURITY ASPECTS)**

### **Abstract**

*The contemporary world is faced with the phenomenon of global migrations. Their causes, forms and paths of development may differ. The paper attempts to sociologically and theoretically problematize this multidimensional megaphenomenon by analysing its geopolitical and security aspects. It focuses on two forms of migrations: a) the transnational mobility of highly-skilled work force, and b) migration of nations from the war-torn areas and migrations because of underdevelopment and poverty.*

*The author views these phenomena as a form of transnational and transcontinental migrations, which have numerous consequences both in the countries of origin and in the countries the migrants end up in. The author also views these phenomena as a part of the chain of capitalist reproduction and unequal division of labour. They are a product of the dominant neoliberal development strategy of the "capitalism of disaster", that currently rules the world and that produces social, class, and regional inequalities, poverty and conflicts. The distribution of escalation of regional conflicts is a part of the realization of the strategy of geopolitics of resources, i.e. of neocolonialism. As expected, the spread of military conflicts gets legitimized by propaganda as a form of "defence of human rights" and democratization.*

*The author points to the fact that in the contemporary world migrations have become a form of geopolitical engineering of mass relocation of nations, of changing the demographic, ethnic and racial structure and identity. Underlying all this is the attempt of the megacapital to secure cheap work force. Instead of class-conscious workers who value their dignity and their social rights, mass migrations spurred by the needs of the megacapital deport masses of people out of Asia and Africa who are essentially new slaves without class consciousness, who are ready to get endlessly exploited for the purposes of the new bourgeois aristocracy, and who can easily be manipulated, including their recruitment for future wars in Europe and in the world.*

*The author makes the point that there can be no global peace without global justice, but that there is also no peace without a new strategy of social and regional development in the service of all nations in the world and of each man.*

*Key words and phrases: global migrations, social inequalities, war, development strategy, peace.*



## Osvrt na migracione talase radne snage u 19. i 20. veku

O našoj savremenosti govorimo kao o nastajućem globalnom dobu, koje karakteriše visok naučno-tehnološki progres, nastanak umreženog globalnog društva, ali i socijalni subrazvoj, deficit solidarnosti. U ovom kontekstu nastaju i brojni globalni problemi, u rasponu od siromaštva i nejednakosti, prostorno regionalnih protivrečnosti u razvoju između “Severa” i “Juga”, preko ekoloških problema i pojave globalnih rizika, do ekspanzije ratnih sukoba, kriminala i terorizma. Među ovim pojavama, koje imaju globalni karakter, kako po uzrocima svog nastanka, tako i po posledicama po čovečanstvo, spadaju i globalne migracije.

Migracije u savremenosti su pojava koja je multifaktorski uzrokovana i proizvodi u socijalnom prostranstvu multifunkcionalno dejstvo različitog karaktera. U tom smislu one su predmet ne samo jedne pojedinačne nauke - bilo demografije, statistike, geografije, sociologije ili ekonomije, već i brojnih drugih nauka. Otuda se zbog njene kompleksne prirode nameće potreba ne samo multidisciplinarnog pristupa, već i transdisciplinarnih istraživanja ovog megafenomena u savremenosti.

Stanovništvo je alfa i omega svake zajednice/društva. Ona je dinamička kategorija, podložna različitim vidovima kretanja. Otuda se u demografiji pravi razlika između socijalne i prostorne mobilnosti stanovništva. Migracije su oblik mehaničke prostorne pokretljivosti stanovništva, koje mogu imati i socijalne implikacije.

Kroz istoriju postojali su različiti vidovi prostorne mobilnosti/odnosno migracija stanovništva. One mogu biti: a) unutrašnje; b) spoljne; v) dobrovoljne ili g) prisilne.

Uzroci spoljnih masovnih migracija mogu biti: a) socijalno-ekonomski; b) politički; v) prirodne katastrofe (delovanje vis majora). Ovi oblici kretanja stanovništva imaju različite socijalne posledice po narod (stanovništvo), prostor, ekonomiju, društvo, kulturu i civilizaciju; ali i po mir i bezbednost sveta.

U tradicionalnom/protomodernom društvu masovne migracije su uglavnom uslovljene prirodnim katastrofama (stihije koje su donosile masovnu glad i bolesti), ali i ratnim pomorima, varvarskim najezdama i inkvizicijama od strane drugih plemena i naroda/stranaca. Ove pojave izražene su kroz masovne seobe naroda sa jednog prostora na drugi.

Sa nastankom industrijalizacije i modernog društva oblici vanekonomske prinude u mobilnosti stanovništva sa jednog prostora na drugi sve više su se smanjivali. Njih je zamenilo dejstvo unutrašnjih ekonomskih faktora socijalne mobilnosti - horizontalne i vertikalne pokretljivosti stanovništva.

Velike istorijske migracije radne snage zabeležene su sa industrijskom revolucijom na relaciji poljoprivreda-industrija, selo-grad. U međunarodnom prostranstvu velike seobe radne snage zabeležene su po otkriću Amerike, a posebno u 19. veku i prvim decenijama 20. veka iz Evrope i drugih kontinenata u Ameriku, posebno u SAD i Australiju i Kanadu. Nakon Drugog svetskog rata najznačajniji region migracije radne snage postala je Zapadna Evropa, u kojoj se useljavalo masovno nezaposleno stanovništvo sa Juga (Jugoistočne Evrope, Srednjeg Istoka, Azije i Afrike).

Međunarodna migracija radne snage tokom 19. i 20. veka odvijala se u nekoliko talasa: a) prvi, tradicionalni-pečalbarski; b) drugi talas politička emigracija; v) treći, industrijaska radna snaga (“plavi okovratnici”); g) četvrti, egzodus stručnjaka (“brain drain”, „odliv mozgova”).

Smer kretanja/mobilnosti radne snage danas je dominantno izražen na relaciji globalni Jug (zemlje svetske periferije i poluperiferije) ka globalnom Severu (visoke industrijske i postindustrijske zemlje svetskog centra). Od kontinentalnog fenomena, migracije su u drugoj polovini 20. i 21. veku postale interkontinentalni globalni fenomen.

## Fenomen globalnih migracija i dijasporičnost sveta u 21. stoleću

Živimo u dinamičnom globalnom svetu. Radikalne promene u njemu uslovljene su usponom novih proizvodnih snaga "trećeg talasa", novim informatičko-komunikacijskim tehnologijama, tj. procesima globalizacije. Na tom fonu nastali su procesi ontološkog umrežavanja svetskog društva, formiranje globalnog tržišta i globalna mobilnost radne snage i svetske populacije.

Dok su snage „drugog talasa“ vezane za industrijalizaciju, omogućile iskorak društva iz feudalne autorhičnosti i internacionalizovale proizvodne snage; danas su nove tehnologije utrle put kretanju radne snage od sekundarnog ka tercijalnom sektoru, formiranju globalnog tržišta bez granica. Na tom fonu nastaju bitne promene u imigracionim tokovima i strukturi radne snage. Pod uticajem ovih procesa nastali su novi fenomeni masovne seobe radne snage, iz industrije u tercijalne delatnosti, sa Juga na Sever (iz zemalja svetske periferije ka zemljama svetskog centra). Takode nastaju radikalne promene u strukturi i profilu nove dijaspore. Umesto "plavih okovratnika"/industrijskih radnika sve više je belih i sivih okovratnika, tj. visokoobrazovnih stručnjaka. O ovoj pojavi istraživači pišu kao o fenomenu egzodusa inteligencije, "odlivu mozgova", "dezerterstvu elita". Sve se više govori o fenomenu globalnih migracija i o dijasporičnosti savremenog sveta.

Svi ovi procesi su predmet istraživanja brojnih nauka i istraživača (socijalnih demografa, ekonomista i sociologa migracije).

U radu razmatramo uzroke i posledice globalne mobilnosti stanovništva, radne snage i njegove posledice po dalji razvoj savremenog društva. U fokusu naše analize su sociološki, geopolitički i bezbedonosni aspekti ove pojave.

### Uzroci i posledice masovnih migracija i tzv. aktuelne migracione krize

Migrantska kriza u savremenosti izraz je, s jedne strane, strukturne krize kapitalističkog načina proizvodnje, koja je na strategiji neoliberalnog globalizma i asimetrične globalizacije proizvela enormne socijalne i regionalne nejednakosti i protivrečnosti, obnavljajući neoimperijalnu ulogu snaga krupnog kapitala u predatorskoj misiji rekolonizacije sveta. Na udaru su se, najpre, našle zemlje u tranziciji (na Balkanu, slučaj SFRJ), a potom zemlje Srednjeg Istoka i Severne Afrike.

Tabela 1. Dubina socijalne polarizacije sveta – kvantitativna slika

	Udeo GPD	Udeo u izvozu	Broj svetskih korisnika Interneta	Telefonske linije	Udeo u patentima
Najbogatijih 20%	86%	82%	93%	74%	95%
Srednja zona	13%	17%	6,5%	24,5%	
Najsiromašnijih 20%	1%	1%	0,2%	1,5%	

Izvor: Pečujlić, 2002: 115.

Na delu je geopolitički inženjering, metodologija podsticanja, usmeravanja i kontrolisanja konflikata na makijavelističkoj strategiji "zavadi, podeli pa vladaj". To je dovelo do importovanja ratova, otvaranje novih konfliktnih zona. Ovakva proizvodnja ratova, pod firmom "borbe za ljudska prava i demokratiju", dovelo je do razaranja brojnih zemalja, devastacije njihovih privreda, razaranja infrastrukture, promene režima, ali i izazivanja građanskih/etničko-religijskih sukoba, i prisilnih masovnih seoba

stanovništva.

Masovne migracije stanovništva iz ratom zahvaćenih regiona na Srednjem Istoku (Avganistan, Irak, Sirija) i Sever Afrike (Libija, ...), koje beže balkanskom rutom ka Evropskoj Uniji, dodatno se usmerava geostrateškim inženjeringom velikih sila (pre svega SAD) na velikoj šahovskoj tabli (Z. Bžežinski), kako bi se ostvarili multiefekti: oslabila Evropa i prisilila na dalji podanički odnos prema SAD (koja uzgred još uvek smatra da je "stara dama" njen protektorat); ali i iz redova mladih izbeglica vremenom formirale nove legije stranaca za Istočni front prema Rusiji i u budućim ratnim sukobima na evroazijskom prostoru.

Ovakvo programirano seljenje stanovništva, pre svega mlađe populacije (a prema geopolitičkim demografskim stratezima postoji više scenarija "O zameni stanovništva", koje su rođene pod pokroviteljstvom Sektora stanovništva odeljenja ekonomije i socijalnih pitanja OUN: po njima se u narednih 50. godina predviđa dolazak oko 230 miliona migranata u EU. Po ovom scenariju dve trećine stanovnika bilo bi migrantskog porekla. Iako neki smatraju da bi se ovakvim prilivom migranata i azilanata poboljšalo demografsko stanje u Evropi; drugi istraživači pak ističu da bi došlo do tihe okupacije Evrope; te da je na delu Sorošev plan deporgacije mase robova iz Afrike bez klasne svesti, koji su spremni da urade sve da bi opstali, a lišeni su klasne svesti i tradicije socijalnih prava... (opširnije videti u: Bek, 2016: 8–14). Kapital traži privremene radnike i migrante, kao rezervnu jeftinu radnu snagu... On želi da svi budemo migranti i nesigurni, iskorišćeni, uvek u pokretu, delokalizovani, atomizirani, bez razvijene klasne svesti i podložni manipulaciji i instrumentalizaciji". O ovom fenomenu posebno piše filozof Dijego Fuzaro u kolumni u "Pečatu"<sup>2</sup>.

Savremena politokratska i tehnokratska elita EU rukovođena interesima krupnog kapitala, nesagledave dugoročne posledice ovakvog prisilnog premeštanja stanovništva. Umesto da se fokusira na primarne uzroke migracija (siromaštvo i rat) i ukaže na savremene proizvođače i korisnike izazivanja ratova i neophodnost njihovog zaustavljanja, kao i ravnopravnog ekonomskog regionalnog razvoja zemalja razvoju, savremena kompradorska pseudoelita pragmatično računa na ekstra profit, koji će ostvariti korišćenjem jeftine radne snage. Pritom se zaboravlja da je problem izbeglica mnogo kompleksan danas nego što je to bio posle Drugog svetskog rata. Nove generacije migranata neće dozvoliti niti da se integrišu akamoli da prihvate asimilaciju u socijaldarvinizovano i atomizirano evropsko društvo. Posledice nove "demografske borbe" pod trbuhom i u srcu EU tek će se dugoročno efektivirati. Njihova bezbedonosna cena može biti preskupa ne samo za EU, već i čitav svet.

Pred prvim masovnim talasom migranata sa bliskog/srednjeg Istoka i Severa Afrike (2015/2016) EU se našla u velikom iskušenju. Na delu je ambivalentno ponašanje u rasponu od empatije do islamofobije/odbojnosti; pa i građenje novih berlinskih zidova (Mađarska). Nastala je unutrašnja rasprava i diferencijacija među članicama EU, na ovom pitanju odnosa prema migrantima. Problem je kompleksan i zahteva celovit pristup i solidarnost svih članica EU. Na ovom pitanju narasta plima otpora snaga desnice i neofašizma prema migrantima i azilantima. No, realno on predstavlja i problem za ekonomiju pojedinih zemalja koje su u stanju recesije i krize. U EU i SAD razmatraju se različite mere za razrešavanje ovog problema: od priznanja azilantskog statusa migrantima, do njihovog deportovanja. Najavljuje se da će SAD do kraja godine vratiti 800.000 migranata u zemlju porekla, a iz Nemačke oko 50.000. Odnos prema migrantima različit je: od empatije u Srbiji, do odbojnosti u susednoj Mađarskoj. Jedan broj migranata i azilanata nalazi se na „nepočin polju“, u statusu apatrida. Drugi se snalaze na svoj način. U vezi stim neki autori ističu: "Ako postoji „zakon migracije“ on se sastoji u tome da kada tok migracije jednom počne, on sam sebe podstiče. Migranti omogućavaju svojim prijateljima i rodbini kod kuće da migriraju, tako što im pružaju informacije o tome kako da migriraju, sredstva koja im to olakšavaju i pomoć u nalaženju

<sup>2</sup> Videti opširnije tekst Dijega Fuzare: "Zbog čega narode Evrope zamenjuju migrantima? Kursisti davolskog plana grofa Kalergija, Pečat, Beograd, broj 482, od 11. avgusta 2017, strana 48-49.

posla i krova nad glavom. Rezultat toga je „globalna migraciona kriza“ (Viner, 1995: 21–28).

Umesto bavljenja posledicama vreme je da se evropske i svetske elite, a pre svega OUN, pozabave pitanjima kako zaustaviti ratne hazardere (pre svih SAD) koji i mimo odluka Saveta bezbednosti, deluju protiv mira i bezbednosti u svetu. A zatim da se izgradi nova strategija regionalnog razvoja u svetu, kojom bi se ublažile enormne razlike i likvidirali problemi siromaštva i nezaposlenosti novih generacija. Time bi se uzročni sindromi migracija sanirali, a deblokirali kanali za nove oblike globalne cirkularne mobilnosti radne snage širom sveta u službi ravnopravnog razvoja i korišćenje blagodati naučno-tehnološkog progressa i globalizacije, od strane svih zemalja i svih naroda u svetu.

Savremene masovne migracije nose sa sobom i moguće bezbedonosne rizike. Savremeni svet suočen je realno sa snagama međunarodnog terorizma. Uz svu predostrožnost ograna kontrole i bezbednosti u svetu, sofisticiranost tehnologije, nove metode subverzivnog delovanja i ideološko i religiozna radikalnost kojom su indoktrinirane pojedine grupe migranata, mogu predstavljati živu buktinju, tempiranu bombu protiv mira i bezbednosti za zemlje u koje ulaze migranti.

Samo u protekle dve godine preko 2 miliona izbeglica je raznim kanalima deportovano u Evropu. Od toga preko jedan milion je u Nemačkoj. Danas na spoljnim granicama EU, iz Afrike i sa Bliskog Istoka, kreće se i pritiska, prema proceni analitičara, oko 100 miliona migranata. Ovo je kolosalan problem, ne samo za EU, već i svet. On se ne može lako razrešiti bez radikalne promene neoliberalne razvojne strategije u svetu, koja danas razara sve institucije socijalne solidarnosti i proizvodi ratove. Na delu je sinteza predatorskog neoliberalizma i unipolarni globalizam koji sledi startegiju geopolitike resursa, kojom se izazivaju ratovi, ruše legalno izabrani režimi i prekravaju politička i ekonomska karta savremenog sveta.

Sve demokratske i napredne snage sveta moraju se udružiti u borbi protiv terorizma ali i snaga rata i asimetrične/antagonističke globalizacije koja deli svet. Umesto takve prakse, neophodno je izgraditi projekat multipolarne socijaldemokratske mondijalizacije sveta: u čijem središtu su kao vrhovni ciljevi/standardi - održivi globalni razvoj, socijalna pravda, sloboda, autentična demokratija naroda za narod, mondijalizacija razumevanja i solidarnosti u svetu. Vreme je da se shvati da bez mira nema razvoja; da bez globalne pravde nema globalnog mira; a bez oboje nema trajnog i održivog humanog razvoja po meri svih naroda i svakog čoveka.

### **Posledice “odliva mozgova” po zemlje perifernog kapitalizma i pledoaje za multipolarni projekat mondijalizacije, čija bi reliazacija omogućila globalnu cirkularnu mobilnost elita znanja u službi ravnornernog razvoja sveta**

Uporedo sa pojavom masovnih, ratom i siromaštvom, izazvanih migracija, u savremenosti smo suočeni sa fenomenom “odliva mozgova”. Ovaj fenomen izraz je procesa globalizacije u sferi obrazovanja, ali i nejednake razmene rada/resursa na savremenom tržištu “sive materije”, na kome postoji snažna konkurencija oličena u “krađi i prekrađi talenata”. Ovo je globalna pojava koja se odvija na relaciji Jug-Sever, nerazvijeni-razvijeni. Već smo ukazali na ontološku stranu ovog procesa, koja je povezana sa usponom novih tehnologija “trećeg talasa” i prevalentnim značajem intelektualnog rada u uslovima naučno-tehnološke i informatičke revolucije u eri globalizacije.

Bolonjska reforma obrazovanja dodatno je podstakla “odliv mozgova” iz ekonomski nerazvijenih zemalja ka zemljama svetskog centra. U starom dobu imperiji se plaćao danak u krvi, kao da se u našem dobu, razvijenim zemljama plaća “danak u pameti”. Naime, ekonomski nerazvijene zemlje još uvek nisu u mogućnosti da zadrže najbolje visokoobrazovne kadrove iz brojnih razloga: visoke nezaposlenosti, niskog životnog standarda, negativne kadrovske selekcije, težnje novih generacija da se usavršavaju u razvijenom svetu, gde su tehnologija rada i obrazovanja na višem standardu. O ovom fenomenu istraživači i publicisti pišu kao o egzodusu inteligencije,

“dezerterstvu elita”. Računa se da danas u svetu na stranim univerzitetima studira oko tri miliona stranih studenata. Istraživači, takođe, pokazuju da je iz zemalja u tranziciji, iz Istočne i Jugoistočne Evrope, otišlo preko milion visokoobrazovnih stručnjaka, mladih istraživača, naučnika. To je značajno oslabilo intelektualni, nacionalni i inovacioni potencijal ovih zemalja ali i moguće aktere brže demokratizacije ovih zemalja. Kao da neokonzervativnoj politokraciji ovih društava odgovara ovaj odliv profesionalnih sposobnih kadrova i mogućih demokratskih boraca; jer time se smanjuje konkurentna sposobnost opozicije tekućim elitama i kompradorskoj buržuaziji koje vladaju ovim društvima.

Neka istraživanja naših sociologa i drugih naučnika pokazuje da je od 1990. godine do danas u svet migriralo preko 300.000, od toga jedna trećina visokoobrazovnih kadrova. Danas se procenjuje da srpski “korpus” dijaspore ima preko 3,5 miliona Srba, a da naša država još uvek nema specijalizovanu naučnu instituciju koja se ovim pitanjima bavi (Božović, 2017: 60).

Novi talas “odliva mozgova” menja strukturu i lik savremene dijaspore u svetu. Na delu je proces intelektualizacije dijaspore: klasične “plave okovratnike” i političke emigrante, sve više zamenjuju različiti profili inteligencije, visokoobrazovnih stručnjaka. Sve to zahteva nov pristup, inoviranu strategiju saradnje sa dijasporom, kako bi se sadašnji gubici (kroz “odliv mozgova”) pretvorili u sutrašnji benefit: uz aktivno korišćenje njihovog usavršenog znanja, za transfer novih tehnologija, za afirmaciju ugleda i odbranu interesa naše zemlje u svetu.

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Balkanskom rutom danas se nalaze u zbegu novi nevoljnici; gonjeni bičem rata i kugom siromaštva; iskorenjeni, prognani da, poput nomada u novim seobama traže nadu i spas za sebe, svoj život i život svojih porodica. Pred tim talasima masovnih kolona migranata-mladih, žena i dece-zastaje dah svakom čoveku. Molitvama svog srca i uma, prizivamo/budimo samilost, emocije empatije za njihove probleme i budućnost.

Srpski narod je narod seoba. Njegova sudbina uslovljena je nizom faktora, ali i geopolitičkim položajem Srbije, zemlje na raskršću civilizacija. Vetrovi mnogih ratova kroz istoriju tukli su ovaj prostor svom snagom svireposti, čupali njegove mladice i uništavali demografski supstrat, zatirale njegove korene. A on se, iznova poput feniksa rađao, snagom svog slobodarskog prkosa i stvaralačkog pregalaštva opstajao.

Upravo iz ovog kolektivnog iskustva našeg naroda ugrađen je u naš etnički i geokulturni kod solidarnost sa onima koji su progonjeni i koji pate. Sa onima koji su iskorenjeni iz zavičaja i nalaze se poput nomada na putu.

Iz te kulture sećanja, mi izvlačimo pouku i poruku borbe protiv svakog socijalnog zla, za solidarnost i za mir među narodima. To čine i nove generacije, držeći do nacionalne etike i dostojanstva da ne obrukaju pretke niti potomke.

Borba za mir danas je ključna pretpostavka borbe za razvoj a bez globalne pravde nema globalnog mira. Balkanskim narodima, kao i svima ostalima u svetu, mir je nasušna potreba da nadoknade zastoje u svojoj tegobnoj često ratom opterećenoj istoriji.

Vreme je da od istorije pravimo kulturni turizam, a ne “cveće zla”, novih nesporazuma, podela i sukoba. Vreme je da kulturu nasilja na Balkanu zameni kultura života, stvaralaštva, zdrave kompeticije, partnerstva za mir i razvoj. Toj novoj borbi za mir i razvoj svoj doprinos pružiće i nove generacije rukovođene Daničićevom maksimum stvaralačkog patriotizma: “da se za otadžbinu može ginuti na svakom poslu!”



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## **TERORIZAM I NACIONALNA BEZBEDNOST U KONTEKSTU MIGRACIONIH PROCESA**

### **Rezime**

*Na pragu novog milenijuma fenomen ilegalnih migracija poprima organizovanije forme i nove sadržaje, čime stvara i nove negativne efekte po bezbednost na nacionalnom i međunarodnom nivou. U tom smislu, dosadašnje metode formalne socijalne kontrole postaju neefikasne, a aktuelne bezbednosne potrebe zahtevaju njihovu reviziju. Kao i drugi složeni društveni fenomeni, migraciona kretanja imaju različite brojne uzroke ali i manifestacije sa različitim posledicama. Posebno široke razmere i forme, migracije dobijaju u modernom svetu, a naj očiti primer je aktuelna migrantska kriza koja se po svom obimu poredi sa onom nakon Drugog svetskog rata. Kao i u većini slučajeva suština velikih migrantskih kriza je sukob geopolitičkih interesa velikih svetskih sila koje određuju tokove međunarodnih dešavanja.*

*Ključne reči: migracije, terorizam, nacionalna bezbednost*

## **TERRORISM AND NATIONAL SECURITY IN THE CONTEXT OF MIGRATION PROCESSES**

### **Abstract**

*At the beginning of the new millennium, the phenomenon of illegal migration takes on more organized forms and new content, creating new negative effects on security at the national and international level. In this regard, the methods of formal social control so far become ineffective, and the current security needs require their revision. Like other complex social phenomena, migration movements have a variety of causes and manifestations with different consequences. Particularly wide-ranging conditions and forms, migrations are gaining in the modern world, and the most obvious example is the current migrant crisis, which is comparable to that after World War II. As in most cases, the essence of major migrant crises is the conflict of geopolitical interests of the great world powers that determine the flows of international events.*

*Key words: migration, terrorism, national security*

### **Uvod**

Najozbiljnija izbeglička kriza koja je nakon Drugog svetskog rata zadesila Evropu proizvodi značajne reperkusije, počev od iscrpljivanja ekonomskih resursa do

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radikalizacije nacionalnih politika što, između ostalog, dovodi do kritičkog napregnuća postratnih institucija nastalih radi očuvanja mira na evropskom kontinentu. Evropska unije se bez ikakve sumnje suočava sa jednom od najvećih kriza od svog nastanka, međutim imajući na umu da se evropski projekat pokazao kao relativno rezistentan u ranijim izazovima, taj uspeh može biti ohrabrujući u predviđanju rešenja za ovo aktuelno pitanje. Aktuelna migrantska kriza može se između ostalog posmatrati i kao posledica sukobljavanja interesa migranata i interesa država koje ih prihvataju. Dok migranti imaju nameru da pronađu bolje mesto za život bežeći od rata ali i siromaštva, države koje ih primaju strahuju od bezbednosnih problema, promene nacionalnog i kulturnog identiteta i eventualnih bolesti koje migranti nose sa sobom.

Modus operandi evropskih institucija i zvaničnika u reagovanju na krizu izazvanu migracijama, kao kulturološko i ideološko opredeljenom formom prekogranične interakcije, pokazalo se kao neadekvatnim. Od Evropske unije se očekivalo da, bez odlaganja, uspostavi sveobuhvatnu migracionu politiku, zasnovanu na doslednom poštovanju ljudskih prava. Takav pristup podrazumeva prepoznavanje međunarodne mobilnosti kao primućstva. Naime, migracija kojom se rukovodi na svrsishodan način, vodeći računa o potrebama i prioritetima svih učesnika, može doneti istinsku korist svim uključenim stranama. Razume se, ishod takvog planiranja umnogome zavisi od dijaloga i saradnje sa državama izvan EU i međunarodnim organizacijama, bez čije pomoći je teško izaći na kraj sa negativnim nuspojavama migracije, kao što su trgovina ljudima i krijumčarenje migranata, kao i eventualna tereoristička delovanja i drugi oblici ugrožavanja nacionalne bezbednosti. To posebno važi za tzv. tranzitne zemlje, kakva je i Republika Srbija.

### **Bezbednosne posledice aktuelne migrantske krize**

U poslednjih nekoliko godina gotovo sve države Evrope suočavaju se sa različitim bezbednosnim pretnjama. Naime, bezbednosni rizici koji su karakterisali prošli vek u mnogome su se promenili. Konkretnije posmatrano, glavni oblici ugrožavanja bezbednosni nisu više ratovi i ratna dešavanja, već različiti oblici organizovanog kriminala i transnacionalni terorizam. Svakako da organizovani kriminal ne poznaje državane granice i bilo koje oblike režima. Dobro organizovane kriminalne grupe „ne poznaju i neprave razliku u naciji i boji kože“, tj. jedini interes im je sticanje velikog profita. S druge strane, svakako da transnacionalni terorizam predstavlja danas jednu od glavnih bezbednosnih pretnji, što potvrđuju i poslednja dešavanja u širom Evrope.

Činjenica je da je bezbednost jedna od najvažnijih i osnovnih ljudskih potreba uz koju neodvojivo ide i unapređenje vrednosti i pojedinca i nacije. Međutim, kako se u poslednjih par godina Evropa suočava sa velikom izbegličkom krizom, u znatnoj meri je osećaj sigurnosti i bezbednosti uzdrman i smanjen, a posebno u delu država koje su pogođene migrantskom krizom. Nesporno je, prema tome, da migraciona kriza sa sobom povlači i određene bezbednosne rizike i posledice. Pri tome se migrantska kriza može sagledavati kroz nekoliko nivoa. Kao prvi nivo može se sagledavati kroz rizike i posledice po nacionalnu bezbednost, zatim ljudsku bezbednost i kao treći nivo, međunarodnu bezbednost<sup>2</sup>.

Velike masovne migracije početkom 2015. godine su uzrokovale krizu i pometnju u oblasti ljudskih, finansijskih i materijalo-tehničkih resursa, ali i u oblasti normativnog okvira za rad organa javnih službi država kroz koje su migranti prolazili. Države Evropske unije u kojima vlada „velika demokratija i poštovanje ljudskih prava i slobode“ odjednom odbijaju prijem izbeglica i tražioca azila, podizaju zidove i postavljaju bodljikavu žicu

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<sup>2</sup> Kada govorimo o nacionalnoj bezbednosti, svakako da je ona mnogo više od fizičke bezbednosti stanovništva, teritorije kao i vlasti nad stanovništvom i teritorijom. Nacionalna bezbednost društva i države, danas obuhvata i njihovo učešće u međunarodnoj i globalnoj bezbednosti. Ovde se govori o zaštićenosti vitalnih vrednosti i interesa koje se ostvaruju kroz funkciju vojnog i civilnog, državnog i nedržavnog sektora nacionalnog sistema bezbednosti, a uz podršku međunarodne saradnje.

na svojim granicama koju brane policijskim kordonima<sup>3</sup>.

Kao primer navedenom mogu se uzeti sledeće mere koje su neke od susednih država preduzele: „Mađarska učvršćuje zidove da bi držala migrante van svojih granica. Bugarska je izgradila 33 km duge i 3 m visoke ograde od bodljikave žice, na granici s Turskom. Španske ograde prema severoistočnim enklavama napravljene su da spreče ulazak migranata u Seutu i Melilu. Velika Britanija ima 3 km bezbednosne ograde ka tunelskom prolazu luke Kale, a zbog 180% više zahteva za azil u prvoj polovini 2015. godine. Austrija je prestala da obrađuje zahteve za azil. Danska je najavila smanjenje naknada za azilante. Francuska policija je sprečila ulazak migranata iz Ventimilje“<sup>4</sup>.

Ovakvo postupanje pojedinih zemalja ima sva obeležja neadekvatnog odgovora državnih organa, odnosno ponovnog stvaranja žrtava od lica koja su već žrtve oružanih konflikata. Ovako represivan i nehuman odnos država prema izbeglicama i azilantima narušava ugled zemlje u međunarodnim odnosima.

Ove masovne migracije izazvale su brojne rasprave i polemike, diskusije i retoričke sukobe u političkim strukturama i u strukturama međunarodnih organizacija. Na primer, politička opozicija u mađarskom parlamentu žestoko se protivila vlastima oko kvota izbeglica koje će biti raspoređene u zemljama članicama Evropske unije, prvenstveno u Mađarskoj. Ovakvi postupci su se dogodili u Nemačkoj, Češkoj, Poljskoj i Francuskoj<sup>5</sup>.

Osim navedenog, migracije utiču i na ekonomsku i finansijsku stabilnost država, jer postoji realni nacionalni strahovi zbog povećanog opterećivanja društvenog bruto proizvoda i državnih budžeta oko troškova izdržavanja i pomoći migrantima. Takođe, posledice masovnih migracija su i destabilizacija postojećih nacionalnih tržišta rada, a zbog masovnog priliva nove radne snage. Pored toga razvijaju se i crna tržišta rada, što dodatno destabilizuje tržište rada, javne finansije i državni budžet.

Svakako da masovne migracije dovode i do povećanja obima kriminala svih vrsta, prvenstveno krijumčarenja migranata, trgovine ljudima i drugih krivičnih dela koja imaju veze sa migracijama, a pre svega falsifikovanje isprava, ilegalno prelaženje državne granice, posredovanje u ilegalnom prelaženju državne granice, otmica, prinuda i drugo. Primera radi „Evropol je krajem januara 2016. godine izdao javno saopštenje u kome se navodi da se više od 10.000 izbegličke dece vodi kao nestalo u Evropi u poslednjih 18–24 meseci, te da postoji opasnost da su postala žrtve trgovine ljudima i eksploatacija“<sup>6</sup>.

Demografske destabilizacije država, takođe su posledice masovne migracije. Naime, procene demografa ukazuju na to da su Evropljani sve stariji i da su potrebe Evropske unije za mladom populacijom, veoma ozbiljne. Reč je o potrebi za oko 42 miliona mladih ljudi do 2020, i čak za oko 257 miliona mladih ljudi do 2060. godine. Iz navedenog se zaključuje da postoji realna potreba za mladim ljudima, koji će u neku ruku podmladiti Evropljane, a jedno od rešenja ovog problema je i prijem migranata.

### **Ekstremizam, terorizam i migrantski procesi**

Pored toga, intenzivne migracije sa Bliskog istoka i Severne Afrike doprinele razvoju evropske ekstremne desnice koja sve više dobija na popularnosti. Povećanje migrantskih zajednica u pojedinim zemljama dovodi i do povećanja ksenofobije i rast ekstremne desnice koja je protiv migranata i zalaže se za jačanje nacionalne države. Dodatni problem u migrantskoj krizi predstavljaju sve učestaliji napadi tzv. Islamske države, među čijim članovima se nalazi veliki broj mladih muslimana odraslih u nekoj od država EU. To ukazuje na dve stvari: prvo, određeni deo muslimanske populacije nije

3 Mijalković S., Petrović I.: Bezbednosni rizici savremenih migracija, Nauka- bezbednost- policija, br.2, Beograd, 2016, str. 5-9

4 Soeren Kern „Velika evropska migraciona kriza“ <http://www.nspm.rs/savremeni-svet/velika-evropska-migraciona-kriza.html>

5 Isto

6 Mijalković S., Petrović I.: Bezbednosni rizici savremenih migracija, Nauka- bezbednost- policija, br.2, Beograd, 2016, str. 5-9

spreman da se integriše u evropsko društvo, odnosno da Evropa nije uložila dovoljno truda da integriše svoje muslimansko stanovništvo. Dolazak migranata arapskog porekla u Evropu ima niz bezbednosnih implikacija, koje ne podrazumevaju samo opasnost od širenja ekstremne desnice već rađaju jedan novi bezbednosni problem, a to je islamistički fundirani terorizam. Francuska i Belgija su među prvim zemljama u Evropi osetile stvarne posledice jedne nove hibridne forme terorizma koji zastupa tzv Islamska država. Kako akcija izaziva reakciju, islamistički terorizam je bio glavni okidač za porast animoziteta prema muslimanima u Francuskoj i intenziviranje popularnosti ekstremne desnice.

Teroristički napadi na Brisel 22. marta 2016. godine iza kojih je stajala tzv Islamska država (ISIS) pokazali su da Evropa nema jasnu i jedinstvenu bezbednosnu strategiju u borbi protiv terorizma. Sadašnjoj Evropi više ne preta samo opasnost od džihadista, već i od ekstremnih desničara jer ekstremizam rađa ekstremizam. Naime, islamistički napadi su samo još više razjarili desničare koji ni po koju cenu ne prihvataju novopridošle migrante što između ostalog utiče i na porast popularnosti ekstremne desnice u Evropi<sup>7</sup>.

Rešenje migrantske krize jeste u tome da je potrebno lečiti uzroke a ne posledice. To bi između ostalog značilo usaglašavanje političkih interesa velikih sila i zajednički rad na uništavanju tzv. Islamske države. Dok se to ne desi Evropa će biti izložena borbi „ekstremizma protiv ekstremizma”, jer će na jednoj strani biti ekstremni desničari, a na drugoj strani takođe ekstremni džihadisti, a kao i obično nedužni civili biće kolateralna šteta.

Mnoge države su se po prvi put uverile u mogućnost fundamentalističke i terorističke infiltracije, ukorenjene u okviru državnih granica i veoma aktivne u polju operativnosti. Najočitiiji primer je Italija, gde je marta 2015. godine otkrivena ćelija islamskih ekstremista koja je ujedno predstavljala vezu između Italije i Balkana. Naime, Odeljenje policije za borbu protiv terorizma, je na kraju duge istrage, uhapsilo dva Albanca i jednog Marokanca italijanskog državljanstva, koji su bili posvećeni regrutaciji kandidovanih boraca i njihovom usmeravanju ka vojsci ISIS. Daljim istraživanjem utvrđeno je postojanje šire terorističke grupe koja je u svom sastavu između ostalog imala imala ofanzivno operativnu grupu i grupu za podršku. To je ukazivalo na konkretnu i realnu opasnost da i Italija može biti ugrožena terorističkim napadom džihadista. Šira analiza navedenog dodaja ukazuje na postojanje tranzitnog prolaza za transport terorista iz Italije u Siriju preko Balkana i obrnuto. Primer Grčke kada je septembra 2015. godine u tokom kontrolisanja mase migranata grčka policija uhapsila komandanta džihadistu Laita al Saleha i Mađarske kada je u novembru 2015. godine uhapšena četvorica migranata, pod pretpostavkom džihadista koji su posedovali eksplozive dok su putovali automobilom ka Budimpešti, ukazuje na složenost migrantske krize i evidentne opasnosti za nacionalnu bezbednost<sup>8</sup>. Da se ne radi samo o jednostavnim izbegličkim i humanitarnim problemima već mnogo više od toga, govori primer Makedonije, kada je jedan dobra deo migranata muslimanske veroispovesti odbio pomoć koju je nudio Crveni krst jer je bila u paketima na kojima je bio krst kao simbol. Iako se radilo o mirnim i nenaoružanim ljudima, ovakav slučaj se mora posmatrati kao značajna i oštra nesuglasica između dve civilizacije, podeljene na različite verske kulture i veroispovesti.

S druge strane, infiltracija terorista-izvršilaca džihadista u migracione tokove postala je stvarnost odnosno ustanovljen podatak i činjenica. Iako su mnogi smatrali da je nemoguće da teroristi pređu migrantsku rutu stvarnost ih je demantovala. Izvršioci ISIS idu migrantskom rutom na osnovu tipa zadatka koji treba da obave a ne na osnovu vremena ili troškova prevoza. S druge strane, ekstremisti iz Evrope koji odluče da pređu u fundamentalizam i odu u džihad, neće imati problema da odu na let koji će ih odvesti

7 Pavličević P.: Rationality in the Phenomen of Terrorism and Counterterrorism Strategy, Nauka i društvo-Science and Society, 1/2015, r. 31-70, dostupno na: [http://media1.naukaidrustvo.org/2015/07/pavlicevic\\_rationality.pdf](http://media1.naukaidrustvo.org/2015/07/pavlicevic_rationality.pdf)

8 Panića Arduino: Balkanska ruta i islamski terorizam, u: Marković Slobodan (ur): Savremeni izazovi međunarodne bezbednosti, Fakultet za pravne i poslovne studije dr Lazar Vrkić i Centar za međunarodne studije Zagreb, Novi Sad, 2017, str. 170-172



d Turske. S druge strane Turska u poslednjih nekoliko godina nije izvela ozbiljne mere bezbednosti i represije u cilju sprečavanja prolaza fundamentalista boraca iz Sirije i u Siriju.

Kada se radi o eventualnim izvršiocima terorističkog akta, iste možemo svrstati u dve grupe. Prvu grupu čine nepoznati izvršioci, u koje se ne može sumnjati, ali koji su u mogućnosti da nadmaše preduzete bezbednosne mere od strane službi bezbednosti. Drugu grupu čine poznata lica, jer se radi o prijavljenim licima koja su poznata bezbednosnim službama, ali koja najverovatnije neće biti u stanju da nadmaše preuzete bezbednosne mere nadležnih službi. Njihove aktivnosti bile bi praćene u zavisnosti od moguće opasnosti. Navedeno je od posebnog značaja jer prva grupa može da iskoristi transportne puteve i putovanja klasičnim rutama. Za bezbednosne službe ova lica su teško prepoznatljiva jer su skrivena među ogromnom masom migranata.

Međutim, iz ugla teroriste-izvršioca, problem postaje ozbiljan i kompleksan u drugom slučaju, kada se radi o licima već poznatim organima reda i bezbednosti i koji se nalaze u bazi podataka. U takvim okolnostima transportni put i tradicionalno putovanje se ne pokazuju više ostvarljivim jer je uvećana mogućnost presretanja i praćenja od strane bezbednosnih službi. U određenim terorističkim organizacijama kod kojih je na snazi maksimalna rigoroznost pri primeni glavnih tehnika podele između operativnih terorističkih ćelija, infiltracija ili praćenje čak samo jednog od članova ćelije, mnogo često rizično ograničeno u stvarnosti. Međutim u svakom slučaju dozvoljava proveru nekog određenog sektora terorističkog delovanja.

Ovde se ne možemo otići utisku da u osnovi aktuelne migrantske krize stoji strategija destabilizacije pojedinih evropskih država uz upotrebu oružja masovnih migracija. Premeštanje ogromnih tokova migranata primenjuje se sa ciljem da se Evropska unija dovede u konkretnu nevolju, a koja ne bi bila spremna da primi i nađe mesto u sopstvenoj društvenoj strukturi za ukupan broj migranata.

Za potpuno razumevanje specifičnosti aktuelne migrantske krize značajno je da ključnu ulogu u upravljanju migracionim procesima, ima Turska. Prema podacima UNHCR, Turska je u 2015. godini primila ukupno 1.888.930 migranata i to pretežno iz Sirije (1.700.000).<sup>9</sup> Dskorašnja turska spoljna politika na Srednjem istoku, ostvarila je svoj uticaj i u sukobima u Siriji i Iraku. Prolazak i infiltraciju mnogih terorista-izvršilaca džihadista u Siriju, koji su mogli da pređu tursko-sirijsu granicu snabdeveni oružjem, municijom i vojnom opremom, realizovan je uz saglasnost Ankare. Procenjuje se da je oko 60.000 vojnika džihadista iz celog sveta koji su između 2014. i 2015. godine prošli kroz Tursku i iz grada Batmana stigli u Siriju, u Alep, u Raku i potom u irački grad Mosul. Međutim ovo putovanje iako na prvi pogled izgleda jednostavno imalo je svoje osobenosti. Naime, na istom putovanju mesecima su prolazili kamioni koji su u suprotnom smeru prenosili naftu, izvučenu iz naftnih izvora u Iraku i Siriji pod nadzorom ISIS-a. Naravno, krajnja destinacija bila je Ankara, a islamskog kalifata je od prodaje sirovine turskim posrednicima po konkurentskoj ceni finansirao Islamsku državu (od 7 do 10 miliona dolara dnevno)<sup>10</sup>. Pored toga, nesporno je da Turska ovim putem uvećava svoj geostrateški uticaj na Srednjem istoku. Najzad, Turska je migracione tokove iskoristila u pregovorima sa Evropom a u cilju dobijanja određene finansijske pomoći.

### **Balkanska ruta i Republika Srbija**

Prema podacima Fronteksa, samo 2015. godine oko 850.000 migranata je prešlo balkanskom rutom. To je, previše dugo putovanje sa preko hiljadu kilometara, a iako većina migranata ima zajedničko krajnje odredište kao i oni koji se iskrcavaju na Siciliji, mnogi od njih biraju baš balkansku rutu zbog sopstvene bezbednosti, jer je procenjena

9 Izvor: 2015 UNHCR country operations profile-Turkey, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e48e0fa7f&submit=GO>

10 Panića Arduino: Balkanska ruta i islamski terorizam, u: Marković Slobodan (ur): Savremeni izazovi međunarodne bezbednosti, Fakultet za pravne i poslovne studije dr Lazar Vrkić i Centar za međunarodne studije Zagreb, Novi Sad, 2017, str. 173

stopa smrtnosti oko 0,2%. Pored toga, krajnja poroznost balkanskih granica čini da južna strana Evrope bude potpuno izložena progresivnoj infiltraciji radikalizovanih džihadista. Grčka kriza, zajedno, sa potpunim nedostatkom interesovanja Turske da blokira promet migranata, koji prolazeći kroz njenu teritoriju stižu do južnog Balkana, predstavljali su donekle olakšavajuću okolnost za odlazak ekstremista sa ratnih područja kao i eventualni povratak.

Prema izveštajima međunarodnih snaga na Kosovu (NATO i KFOR) govori se o 900 stranih boraca sa Kosova, zemlji sa najvećim procentom po glavi stanovnika. od navedenog broja, najmanje 120 terorista se vratilo u zemlju nakon što su se borili za Islamsku državu u Siriji i Iraku, od 2011. godine. Ono što treba da zabrine obaveštajne i bezbednosne službe evropskih država jeste eksponencijalni rast broja boraca koji prolaze preko Jadrana kao i činjenica da je ISIS ovlastio ove ljude da se vrate kući. Navedene okolnosti stvaraju dilemu da misija ovih boraca nije završena i da verski fanatizam ne nestaje odjednom. Preko rada obaveštajnih službi može se izvršiti evidencija koja prilaže mogućnost napada nekih meta. Međutim najnoviji teroristički napadi, koji su pogodili Evropu, pokazali su da postojeći način da se spreče napadi Islamske države nije adekvatan. Odbranu od terorističkih napada posebno usložava pojava soft targeta u strategiji napada Islamske države a teroristički napadi korišćenjem motornih vozila u pešačkim zonama su najočitiji primer za to.

Pored toga, na Balkanu su prisutne grupe koje su ideološki vezane za ISIS a naročito u Bosni i Hercegovini, i čija povezanost je široko dokumentovana. Jasan primer navedenog dogodio se u Zvorniku, kada je dvadesetpetogodišnjak Nerdin Ibrić napao policijsku stanicu ubivši jednog policajca i ranivši dvojicu, pre nego što je i on usmrćen. Policija je potom uhapsila Avdulaha Hasanovića, člana grupe vehabija i povratnika iz Sirije, sa kojim se napadač družio poslednjih meseci pre napada. Pored toga, dokaz dubine stepena radikalno islamske infiltracije na Balkanu bilo je hapšenje nekih istaknutih džihadista, u Bosni i Hercegovini, u okviru operacije „Damask“ među kojima se ističe ličnost Huseina Bilala Bosnića, za koga se smatra da je jedan od vođa vehabijske zajednice u Bosni.

### **Zaključak**

Migracije stanovništva iz siromašnih, nerazvijenih, nestabilnih i ugroženih područja ka bogatijim i za život pogodnijim krajevima stare su koliko i čovečanstvo. Migracije u nekim slučajevima mogu biti i poželjne i kao takve podsticane od strane države, uglavnom kada se teži kolonizaciji i kultivisanju slabo naseljenih teritorija, što se u istoriji neretko pravdalo i obraazlagalo težnjama za širenjem civilizacije. Pitanje legalnosti i ilegalnosti migracija tiče se međunarodne bezbednosti, ali i bezbednosti nacionalnih država, što se posebno odnosi na zaštitu njihovih granica, kao i na vođenje računa da im masovnjia doseljavanja stranog življa ne ugroze pravni poredak, unutrašnju stabilnost i druge državne interese. Poslednjih godina se o problemu masovnim prisilnim migracijama iz jednog broja država Azije, Afrike i sa Bliskog Istoka govori u izrazito negativnom kontekstu, pri čemu se taj problem najčešće povezuje sa bezbednosnom pretnjom (islamskog) terorizma.

Iako između ilegalnih migracija i islamskog terorizma postoji veza, evidentno je da njihovo izjednačavanje vodi pojednostavljivanju, pa i delimičnom zamaglivanju problema. Nesumnjivo je da su aktuelnu migrantsku krizu u Evropi, odnosno pojačane prisilne migracije ka najrazvijenijim članicama Evropske unije u najvećoj meri podstakli oružani konflikti, humanitarne katastrofe, progoni i ugrožavanje osnovnih ljudskih prava, te ekspanzija islamskog terorizma u zemljama sa preovlađujućim muslimanskim stanovništvom (ratovi protiv ISIL-a u Siriji i Iraku, oružani sukobi i terorizam u Libiji i Avganistanu). Ipak, uzroci aktuelnih ilegalnih migracija se ne mogu svesti samo na islamski terorizam i ratove. Činjenica je da je godinama prisutan egzodus egzistencijalno ugrožanog stanovništva iz siromašne podsaharske Afrike preko Mediterana ka Zapadnoj

Evropi. Takođe, dugogodišnje ilegalne migracije ka Sjedinjenim Američkim Državama preko meksičko-američke granice za rezultat imaju najave aktuelne administracije SAD o podizanju zida duž državne granice sa Meksikom. Evidentno je da su u navedenim slučajevima uzroci migracija prvenstveno ekonomski i socijalni, a da su ključne bezbednosne pretnje za Sjedinjene Američke Države od imigracije sa područja Latinske Amerike vezane za ekspanziju organizovanog i drugih vidova kriminala.

U pogledu posledica ilegalnih migracija po političku i ekonomsku stabilnost i nacionalnu bezbednost, može se govoriti o tri aspekta:

- za zemlje iz kojih migranti odlaze, to znači njihovo dalje slabljenje i propadanje, jer po pravilu, u egzodus odlaze produktivni delovi stanovništva; ukoliko su uzrok migracija unutrašnji sukobi, posledica su i promene etničke i verske strukture lokalnog življa, cementiranje unutrašnjih podela, urušavanje institucija, jačanje autoritarnih tendencija, te ohrabrivanje ekstremizma i terorizma;

- u državama kroz koje ilegalni migranti tranzitiraju, odnosno u koje na nezakonit način ulaze i u njima neregularno borave, uključujući i Republiku Srbiju, stavljeni su na ozbiljnu probu njihova političku stabilnost i unutrašnju bezbednost (pojačano obezbeđenje i zaštita granica, bezbednosni nadzor ruta kojima se migranti kreću, te uspostavljanje i opskrbu punktova i prihvatilišta u kojima privremeno borave, sprovođenje postupka utvrđivanja izbegličkog statusa i statusa tražilaca azila za veliki broj lica, preventivne antiterorističke mere, borba protiv krijumčarenja ljudi, planiranje i sprovođenje bezbednosnih mera u slučajevima kada migrantima nije dozvoljeno dalje kretanje ka željenoj krajnjoj destinaciji te pokušavaju da ilegalno pređu granicu, rizik od jačanja ksenofobije i konflikata između domaćeg stanovništva i migranata);

- bezbednosne posledice za zemlje destinacije ilegalnih migracija tiču se pre svega: nužnosti pojačane zaštite spoljnih granica Evropske unije, odnosno mera u cilju onemogućavanja nekontrolisanog priliva migranata, što zahteva i preispitivanje nekih odredbi Sengenskog sporazuma i drugih ugovora na nivou Unije; problema koji stvaraju civilizacijske razlike i rizik getoizacije migranata koji se u tim državama naseljavaju; ekonomski troškovi prijema migranata; promene demografske strukture i jačanje unutrašnjeg ekstremizma; opasnosti od rasta svih vidova kriminala i uspostavljanja terorističkih ćelija i „spavača“ na teritoriji ovih zemalja.

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*Sergej Uljanov<sup>1</sup>*

**PEOPLE SMUGGLING AND EXTREMISM  
- INTERACTION OF CAUSES AND COMMON ROOTS -**

*“Hoc nos natura docere non potuit: Semina nobis scientiæ dedit, scientiam non dedit.”*

*- Lucius Annæus Seneca, Epistulæ Morales Ad Lucilium, CXX (4)*

**Abstract**

*The phenomenological relationship between people smuggling and extremism creates the framework of this article. At first, the author perceives the problem of illegal migration as organized criminal activity through analyzing smuggling channels, criminal hotspots and ways of its committing. By identifying the importance of the criminal networks and illicit infrastructure, the author recognizes the phenomenon of oligopoly matters criminal market connections and focuses attention on migrant smuggling financing modes. Hence, he targets the phenomenon of poly-criminality and, within its phenomenological range, establishes interaction of causes and common roots among people smuggling, terrorism and extremism. As the matter of endgame, the author shows the perspective of supposed trends and expected risks of the criminal phenomena. The author's intention in the article is to indicate the existing of reversible phenomenological relationship between people smuggling and extremism through noticing interaction of their causing factors and deriving conditions.*

*Key words: people smuggling, illegal migration, extremism, terrorism, poly-criminality, oligopoly.*

**Rezime**

*Odnos fenomena krijumčarenja ljudi i ekstremizma čini okosnicu ovog rada. Autor, najpre, sagledava problem ilegalne migracije, analizirajući krijumčarske kanale, kriminalna čvorišta ove organizovane kriminalne aktivnosti i načine njenog izvršenja. Određivanjem značaja mreže i infrastrukture kriminalnog miljea, autor uočava pojavu oligopola u odnosima na kriminalnom tržištu i pažnju usmerava na načine finansiranja krijumčarenja ilegalnih migranata. Potom, svoju pažnju usmerava na fenomen polikriminaliteta u čijim pojmovnim okvirima utvrđuje međusobne veze uzroka i korena krijumčarenja ljudi, terorizma i ekstremizma. U završnici rada autor prikazuje perspektivu pretpostavljenog trenda i očekivanog rizika predmetnih kriminalnih fenomena. Autorova težnja u radu je ukazivanje na postojanje reverzibilnog odnosa fenomena krijumčarenja ljudi i ekstremizma, kroz uočavanje uzajamnosti faktora koji ih uzrokuju i okolnosti iz kojih potiču.*

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*Ključne reči: krijumčarenje ljudi, ilegalna migracija, ekstremizam, terorizam, polikriminalitet, oligopol.*

## **Introduction**

To get two particular phenomena compared and connected into relationship, consequently, one deems necessary to identify their causes, as well as their roots. At first glance, the matter of people smuggling drives our attention as a criminal one. Quite differently, extremism as a term per se could be understood as a way of behaving, state of mind, modus vivendi or even demonstration of radical stands and beliefs. Although derives from Roman civil law, old saying of Lucius Iavolenus Priscus:<sup>2</sup> "Omnis definitio in iure civili periculosa est, parum est enim, ut non subverti posset" comes in handy as a warning to be taken into consideration as implemented to this article, essentially. That is the reason that navigates our efforts to analyze routes, criminal hotspots, modi operandi, illicit networks and infrastructure, causes, roots and markets, besides quoting any of definition relates to the scoped phenomena.

It is to be emphasized that following steps are to be taken to let us be introduced to the phenomenon of people smuggling, as guidance needed through the article's roadmap:

1. The criminal networks' structures and strategies to be determined;
2. Financial assets and money flows linked to the illicit activities to be analyzed;
3. The hotspots where criminal networks are active to be identified;
4. The importance and role of poly-criminality to be established;
5. The presence of oligopoly mastered criminal markets to be recognized;
6. Future risks, threats and trends overview to be provided.

As a core issue, we would like to present the influence of extremism to the phenomenological quality of migrants smuggling, in particular through indicating reversible interaction between migration as need, both legal and illegal, and migration as cover for clandestine moving of terrorists started up by extremism and violent radicalization. Thus, the connection between immigrants, social marginalization and extremism as a phony substitute for lost national identity, is one of the milestones in this article. So, illegal migrants potentially targeted by extremism and therefore recruited possibly for terrorist actions, remain as a main category to have our attention. Nevertheless, the organized criminal groups deals with terrorist network encouraged by the degree of corruption. Subsequently, it makes gaps and breaches in the wall of national, regional and international security to the detriment of law enforcement and policing effectiveness. Using the lack of governmental appropriate response as a golden opportunity, organized criminal groups create the routes for illegal migration being at disposal to the cause of terrorist cells, groups and organizations.

Obviously, it is followed by dynamic change of criminal markets having to do with trafficking in illicit goods, drug smuggling, human trafficking in the matter of forced labor and sexual slavery, cybercrime, trading, transporting, logistic services, food industry, misuses in private sector, pharmaceutical crime, illegal selling of wildlife species and money laundering, as well. Actually, we are facing the evolution of organized crime. But let us first explore the phenomenological field of people smuggling as an obstacle sui generis.

## **People Smuggling**

According to the Article 3 of United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air<sup>3</sup> smuggling of migrants shall mean "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal

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<sup>2</sup> Lucius Iavolenus Priscus was an eminent Roman jurist (c. 60 - c.120 AD).

<sup>3</sup> The Protocol supplements the United Nations Convention against Transnational Organized Crime and entered into force on 28th of January, 2004.

entry of a person into a State Party of which the person is not a national or a permanent resident". The same regulation determined illegal entry as "crossing borders without complying with necessary requirements for legal entry into the receiving State". Further, it defined fraudulent travel or identity document like "any travel or identity document" misused as "falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State"; or "improperly used or obtained through misrepresentation, corruption or duress or in any unlawful manner"; or "used by a person other than the rightful holder". At last, it ends up with normative expression of vessel like "any type of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a Government and used, for the time being, only on government non-commercial service".

Hence, the matter of people smuggling has to be connected to:

- Procurement of illegal entry
- Financial or other material gain
- Crossing border into another state
- Misuse of travel or other documents
- Unlawful embarkation and illicit vessel operating

It is pretty obvious that illegal migration is strongly tied up to producing, providing and obtaining of forged documents (e.g. passports, identity cards, various types of refugees' identity or registration documents, seamen's books or passports, birth and citizenship certificates, even driver license, etc.) including false visas and fake border control stamps. Logically, vessels are involved as means of migrants' transportation in clandestine ways.

Though similar to the phenomenon of trafficking in human beings, illegal migration while often undertaken in dangerous or degrading conditions involves migrants who have consented to the smuggling. However, human trafficking have either never consented, or if they initially consented, that consent has been rendered meaningless by the coercive, abusive or deceptive actions of the traffickers. Smuggling ends with the arrival of the migrants at their destination, whereas trafficking considers the ongoing exploitation of the victims in some manner to generate illicit profits to the traffickers. Notwithstanding, people smuggling is always transnational, whereas trafficking in human beings is not. To be more precise, trafficking can occur regardless of whether victims are taken to another country or only moved from one place to another within same country.<sup>4</sup> Finally, people smuggling could be turned to human trafficking in some stages, likewise in transportation and exploitation. Nevertheless, traffickers could pretend smuggling to cover trafficking activities, as in the recruitment phase, especially. Yet, some of the criminal offences are closely related to both smuggling and trafficking in persons, as follows: forgery of documents; corruption; cruel, inhuman or degrading treatment; labor exploration; unlawful confinement; kidnapping; sexual assault; rape; bodily injury; torture; murder; slavery; involuntary servitude; debt bondage; forced marriage; forced abortion and forced pregnancy.

Having in mind huge phenomenological range of people smuggling, we deem necessary to target the issues of smuggling routes, hotspots and ways of travelling to get the clear perception of the criminal phenomenon analyzed.

### **Smuggling Channels**

Since 2014, Europe has faced an explosion regarding the number of illegal migrants arriving from Asia and Africa. These migratory flows intensity reached extreme heights in 2015 and continued as trend in 2016. People smuggling has become the preferred trade of a growing number of criminal networks world-wide which are showing an increasing

<sup>4</sup> This is the case of so-called inner trafficking.

sophistication in regard to move larger numbers of people at higher profits than ever [Polyakov, 2015, p. 239]. Individual criminals as well as large number of criminal networks generate substantial profits from people smuggling or crimes related to the enabling of illegal migration. Changing methods of the people smuggling networks as a response to legislative and law enforcement activities are necessary for the survival of this network. Flexibility is thus one of the main characteristics of transportation and the choice of routes. This means that the routes used by people smugglers may sometimes be simple and direct, at other times circuitous. The time between departure and arrival may thus vary from some days to several months or even years.

To enter Europe, illegal migrants use smuggling channels created as network made of routes by sea, land, or air, which are not new. One of them, very frequent, is for sure Western Mediterranean route leads through territories of Spain and Portugal for more than decade. In 2015, a total of 7.164 illegal border crossings mainly by Guinean, Algerian and Moroccan nationals along this route were reported to Frontex<sup>5</sup> [Joint Europol-INTERPOL Report, 2016, p. 6]. Migrants depart from Maghreb and travel to the Europe by sea transiting the Central Mediterranean route targeting Italy. Arrivals in Italy from Turkey, Greece, Libya and Egypt have increased very much and one can expect this to be continued full-scaled due to better weather conditions, especially. So far, the Central Mediterranean route has been used by African nationals, but may be increasingly used by migrants deriving from the Middle East intending to avoid Turkey, as point of departure. This route is predominantly used by migrants coming from African states. A total of 153.946 illegal entries were detected along this route, back there in 2015.<sup>6</sup> Hygiene is often impossible on board, as no toilet facilities exist. The vessels are mostly insufficiently equipped with drinking water and food. The treatment of the migrants by the crew and guards can be extremely violent and sick people might be thrown overboard.

Leaving Turkey, migrants travel along the South-Eastern route to enter Europe through territories of Greece or Bulgaria by sea, land and air. Due largely to the worsening situation in Syria, the number of migrants travelling on this route increased massively (1.612%) in 2015 compared to the previous year having recorded 885.386 entries, in total [Joint Europol-INTERPOL Report, 2016, p. 6]. Also, migrants smuggled into Europe via the South-Eastern route typically continue travelling along the Balkan route to access Scandinavian countries as destination.

People are smuggled on the Eastern route to enter West Europe along borders of Belarus, Russian Federation, Moldova and Ukraine. In 2015, the number of 1.920 entries is recorded along this route with most migrants from Afghanistan, Syria and Vietnam.<sup>7</sup> Finally, migrants travel along the Nordic route across Russian Federation to enter the Western Europe through territories of Norway and Finland. More than couple of thousands of illegal migrants tried to enter the Schengen area using this route, in 2015 [Joint Europol-INTERPOL Report, 2016, p. 6]. Currently, economic discomfort appears to be the main reason for illegal migration movement throughout the world.

Nevertheless, many of the willing migrants undertake the hazardous travel to their destination country with criminal syndicates' services specialized in people smuggling. These syndicates will arrange everything for the migrants, but at a high price. Very often the travelling conditions are inhumane, the migrants being cramped into trucks or boats and fatal accidents occur quite frequently. After their arrival in their destination country the illegal status of the migrants puts them into the mercy of their smugglers, which often force them for years to work in the illegal labor market to pay off the debts incurred as a result of their transportation. If the migrants are not able to pay, often their relatives in their home countries are forced to pay the debts by the threat of the syndicates to torture

5 The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established in 2004 and renamed as European Border and Coast Guard Agency in 2016.

6 Joint Europol-INTERPOL Report, 2016, p. 6

7 Ibidem

or kill their family members abroad. People smuggling syndicates are still benefiting from weak legislation, huge profits and the relatively low risk of detection, prosecution and arrest compared to other activities of transnational organized crime.

### **Illegal Migration Hotspots**

Hubs offer possibility of transporting infrastructure (e.g. international train stations, airports and service stations for long distance coaches). Thus, they are main locations for people smuggling activities, directing into and beyond the European Union. Smuggling hotspots may also emerge in areas with weak law enforcement controls or no rule of law, as migrant smugglers rely on inappropriate border regime and the corruption of border stuffs, police patrols or naval officials to support their illegal activities. Having diaspora communities along the smuggling channel can also determine the location of hotspot. Although major migrant smuggling hotspots are likely to remain the same in the near future, new ones may emerge in response to fluctuations in migratory flows, changes in policy or law enforcement countermeasures. Undoubtedly, located along the smuggling routes, criminal hotspots drive both migrants and smuggling networks. In and outside the European Union, the geographical data analysis resulted in the establishing of approximately 250 core criminal hotspots, including 170 in and 80 outside the European Union.<sup>8</sup>

In following, some examples from international operational police praxis are given for frequently used criminal hotspots linked to some of most engaged channels for people smuggling. Migrants from the Asian region mainly follow the route transiting territories of Uzbekistan, Kazakhstan, Tajikistan, Kyrgyzstan and Turkmenistan toward Russian Federation and onward. Finally, it leads through Ukraine, Slovakia and Czech Republic to West Europe, and even further to the Great Britain, the United States and Canada.

At the same time, the old Balkan route, from Asian countries through Iran and Turkey and then through Balkan peninsula to Western Europe, is used for migrants smuggling just as well as for the smuggling of illicit goods and drugs or fire arms.

In the summer period, Spain has to challenge the arrival of thousands of illegal immigrants originating from the Sub-Saharan region, in specie. These willing immigrants undertake the hazardous trip to travel from Morocco to Southern Spain by using the narrow Strait of Gibraltar where only 21 km are separating two continents. Many people, travelling in small, inadequate, overcrowded boats, have already drowned in their hopeless efforts to reach European soil.

During the last years, Australia has been facing a large and growing number of illegal immigrants came mostly from the Middle East and South Asia landing at its Western Coasts, targeting Christmas Island located relatively close to the Indonesian archipelago. Most of the refugees originating mainly from the Near East first enter Malaysia, where they are taken to the South before making a short ferry crossing to the Indonesian island of Batam. From there it is not difficult to reach Jakarta and go on to the southern Indonesian islands of Bali, Flores or Lombok where they embark for Australia.

Smuggling migrants into the United States is mostly achieved by putting them on airplanes. Rather, ships with migrants on board are mainly bound for the West Coast. Smuggling networks seem to focus, more frequently, on Central and Latin America where they entertain the necessary links to people smugglers from Mexican criminal network in order to transport the illegal migrants through Mexico to the United States and Canada, subsequently.

South Africa is playing more and more the role of transiting country, but also a targeted one for mostly Asian migrants, particularly for Chinese nationals. Much of this migration seems to be predominantly connected to South East Asian smuggling networks. A vast number of Chinese migrants are travelling to South Africa having

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<sup>8</sup> *Ibid.*, p. 7

forged documents or making questionable journeys to so-called contact territories as of Lesotho, Swaziland or Mozambique. From South Africa they possibly go one with their journey to the United States by aircraft, but also to European countries. Air smuggling from South Africa has existed for several years and it appears that the route is being active again, heavily involving various criminal syndicates.

### **Traveling Modes**

Mainly undocumented migrants and the ones not fitting standards to pass border crossing point, demand fraudulent documents. In Scandinavia and Western Europe, migrants usually take the public transports such as trains and coaches, in which case they either only obtain fraudulent documents just to go through possible security checks aboard trains or do not use facilitation at all. Numerous testimonies of migrants describe how they travelled un-facilitated between Italy and France and made multiple attempts to cross La Manche to the Great Britain on their own before seeking facilitation services.<sup>9</sup>

As the most used way of traveling, overland travel is performed, either to travel to popular departure points or for secondary movements. To cross green borders between countries, sometimes, parts of a journey can be done on foot, usually, limited to short walks. Land transfers are mostly carried out by private vehicles, taxis, coaches, cargo or passenger trains or trucks, with some variations considering the routes. Vehicles used by smugglers are typically registered with license plates different than the country of residency of the owner. The fact allows establishing links between owner and vehicle to be blurred in case of interception by law enforcement. Similarly, rented vehicles tend to derive from a country different to where the illegal activity is ongoing.

Clandestine crossing the sea is used on the South-Eastern migration route through Greece, the Central Mediterranean entry route considering Italy, the South-Western entry route targeting Spain and the illicit crossing of the Red Sea focusing Yemen or the Gulf of Aden, as well. In 2015, means of transport most widely used on short distances was the inflatable lightweight boat commonly known as rubber dinghy [Joint Europol-INTERPOL Report, 2016, p. 9]. She can carry an average of 30 to 40 migrants and measures 8 to 12 meters long, usually.<sup>10</sup> Most often, smugglers do not accompany migrants during the crossing from Turkey to Greece. Illegal migrants are simply instructed on how to maneuver the boats themselves, instead. Cargo ships and fishing boats, as large vessels, may also be engaged on the Central Mediterranean route in combination with rubber dinghies, as unstable and quite vulnerable for shipping in the open sea.

Even though less frequent than other travelling modes, people smuggling by air routes is likely to become more attractive in the future due to increased controls on land and sea routes. In some cases, air travel may be the only transport solution to migrants. Anyway, it is part of a larger facilitation package which considers transport by sea or overland. Customarily, migrants smuggling by air has to do with obtaining of fraudulent documents. These can just be rented out to migrants for use on a portion of the trip. Afterward, the provided documents are to be taken back by the accompanying facilitator, once they enter European Union. Migrants may change these few times during their transportation, as well as the same documents may be used couple of times to facilitate different migrants. People smuggling facilitators might also deal with unusual and complex air routes by booking of return flights for different destinations at the same time, just to increase the certainty of success.

### **Criminal Networks**

Let us exam the structure of migrant smuggling networks. In accordance to

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<sup>9</sup> Ibid., p. 9

<sup>10</sup> Ibidem



information available,<sup>11</sup> it is more likely that people smuggling facilitators and migrant smugglers are organized in loose networks. These are stretched along the illegal migration channels. Hence, the main organizers are mostly non-European Union nationals with the same origin as the migrants. Nevertheless, the controlled criminal networks appear to be composed of both European Union and non-European Union citizens. Further on, facilitators originated outside the European Union are pretty active inside it, having often acquired the nationality of the state where they work or have residence permits. Off the European Union, illegal migrants are typically supported by the facilitators with the same ethnic origin.

How the basic structure of migrant smuggling networks looks like, indeed? It surely includes illicit activities coordinators along a route given. By all means, next role belongs to organizers performing activities locally through established personal contacts. Finally, assisting to organizers of people smuggling network, opportunistic low-level facilitators deal with recruitment of potential illegal migrants. The range of the criminal network is unconditionally defined by the length of smuggling route and risks implied. People smuggling networks members usually work autonomously linked to a certain number of lower-level contacts as a part of their personal network. These contacts are used as scouts, recruiting agents, drivers or vessel crew.

### **Ways of Payment**

When the money is paid by the illegal migrants, it means that fee can be paid beforehand, at each leg of the smuggling channel or upon arrival at targeted country of destination, too. Obviously, one cannot say there is a single pattern in regards to that. Paying in cash and Hawala are most common of various methods of payment. At the same time, both formal and informal remittance channels interface with informal economies and can be used for the commission of offenses ranging from money laundering and tax evasion to fraud and corruption [Passas, 2006, p. 316]. Illegal migrants tend to pay when access their preferred point of migration. So, it seems to be that money is sent from destination country, mainly. Criminal networks based in Iraq, Turkey and other parts of the Middle East and Asia, most widely use Hawala.<sup>12</sup> In order to reimburse the facilitator for their travel or save money for the next leg of the smuggling route, migrants have to spend a couple of weeks or even months in transit hubs.

Having in mind that migrant smuggling is a profitable activity, smugglers need to ensure that they have gotten their assets in a way that gives them opportunity to enjoy the profits of illegal performing. Several money laundering methods are used to place, to lay and to integrate the money depending on the level of sophistication of the networks, into the legitimate financial system. In praxis, smugglers increasingly deal with cash as the primary means of laundering their proceeds. Their couriers are en général used to carry significant amounts of money across borders, either overland like concealed in vehicle parts or using air routes. Sometimes, smugglers and their relatives own legal enterprises such as grocery stores, car dealerships, transport companies or restaurants which can come in handy to launder criminal activities and pretend legitimacy for their income. The criminal proceeds may be invested in legal business, real estate and considering high value goods in both the countries of origin and the country of destination. It is clear enough that smugglers adapt the methods with which they bring proceeds back to their country of origin, rely on the various regulations set up in their country.

Thus, legal business structures are also misused in many ways to facilitate people smuggling. Hence, it is not always clear whether they are being abused or to what extent they are complicit in smuggling activities. Vulnerable sectors or industries include hotels, transport companies, catering, travel agencies, internet cafés, shops and

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<sup>11</sup> Ibid., p. 7

<sup>12</sup> Ibid., p. 8

barbershops.<sup>13</sup> These businesses may be used along the smuggling routes to either enable logistic support to the facilitation activities of the networks (e.g. by providing logistical support) or to launch the very smuggling of illegal migrants.

### **Oligopoly**

Since one criminal network has control over part of a migration route, cooperation among criminal groups is particularly based out-of-greed led by market principles of oligopoly. This is quite different in comparison to out-of-need migrants' tending to search for better life conditions. Also, cooperation can be more than occasional the integral part of an illicit network's legal business enterprising. Even though no conflicts between migrant smuggling networks were reported, the high demand for facilitation services surely results in some degree of competition among criminal groups. Instead of violent competition, it is more likely that a phenomenon of oligopoly masters the smuggling market. Surprisingly, oligopoly dominates in places where the criminal activities are largely concentrated, so that smaller opportunistic illicit networks are to be overtaken by larger one. In esentio, competition increases efficiency, even if oligopoly matters criminal markets and illicit enterprising. It makes us pretty sure that consumers' uncertainty implies that goods are ex ante homogenous, but become differentiated once the consumers have learned their preferences [Bayer, 2010, p. 274].

According to the criminal networks' pattern of doing business, migrants may be targeted for recruitment or, conversely, facilitators might be actively sought out by migrants who are in search of smuggling services.<sup>14</sup> It is self-explanatory enough that recruiters look for to be of the same nationality as illegal migrants. Aside from asylum centers, the recruitment of migrants might take place in a number of locations which are likely to be frequented by migrants.<sup>15</sup> As an important issue, social media are broadly used by recruiters for smuggling illegal migrants, to disseminate information about services, prices and routes considering operative smuggling channel.

Corruption is another boosting factor relates to people smuggling. Categories of civil servants who may be susceptible to corruption include law enforcement and customs officers, who are bribed to let vehicles go through border checks, and naval or military officers who receive payments for every migrant or ship they release [Joint Europol-INTERPOL Report, 2016, p. 8]. Given how lucrative estimates show migrant smuggling to be, it is not difficult to understand why perpetrators of this crime would be willing to part with some of the profits in order to stay in business.<sup>16</sup> A rough estimate of the yearly turnover of migrant smuggling can be produced based on the number of migrants who entered the European Union. In 2015, approximately one million people entered the European Union and most of them were facilitated, and have paid an average of USD 3.200 – 6.500 (EUR 3.000- 6.000) which result in an average turnover of USD 5 to 6 billion in 2015 [Joint Europol-INTERPOL Report, 2016, p. 8].

### **Poly-criminality**

Intelligence led policing shows us growth of poly-criminality linked to people smuggling that has been spotted, recently. It turns out to be that migrant smugglers also deal with trafficking in human beings, document forgery, drug smuggling and property crime, as a matter of fact. Per example, in 2015, over 220 smugglers were identified by Europol as being involved in more than one crime area.<sup>17</sup> Out of these, 22% were linked to drug smuggling, 20% to trafficking in human beings, 20% to property crime and 18%

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13 Ibid., p. 9

14 Ibid., p. 8

15 Ibidem

16 Ibidem

17 Ibid., p. 9

to forgery of documents.<sup>18</sup>

Due to the total of messages exchanged through INTERPOL secured communication channel within a period of last five years, it has been profiled up to three next types of links among migrant smuggling and other illicit activities:

1. First one has to do with kingpins organize people smuggling and adding it to their criminal portfolio.
2. Secondly, the identical criminal network or illegal channel can be used both for people smuggling and for illicit drug trafficking or even smuggling of fake products.
3. Last but not least, there are so-called supportive criminal activities related to migrant smuggling, likewise labor exploitation and document fraud.

It is very import to be noticed the role of geographical perspective, as well. The smuggling channels supposed to be used for facilitating illegal migration are often very close to the routes established for smuggling of weapons, drugs or some other kind of goods. Hence, criminal groups involved in the transport of particular commodity most probably have to do with the same route while using logistical means to transport migrants in clandestine way to pass borders. However, the experienced and well known routes provide a logical possibility and therefore the pattern of criminal groups to get involved in the smuggling several items, simultaneously. Consequently, criminal groups involved in the trafficking of drugs and weapons take their chances to get more profits by involving into smuggling migrants, too. Having in mind that smugglers are familiar with the channel and have countermeasures in place to keep a low profile regarding the attention of law enforcement, using well established routes probably not bring to them any additional risk.

Undoubtedly, some kinds of criminal activities are highly supportive to people smuggling. As un cas flagrant, we highlight the abuse of identity and travel documents. Between 2014 and 2015 the percentage of suspects linked to forgery of documents increased from 3% to 18% [Joint Europol-INTERPOL Report, 2016, p. 10]. Evidently, various types of documents are presumed to be abused in the matter of facilitating illegal migration. It affects predominantly the travel documents (e.g. passports, seamen's book and visas) and identity documents (e.g. ID cards). Nevertheless, potentially targeted are supporting documents (e.g. driving licenses and refugee cards), as well as so-called breeder documents (e.g. birth certificates, marriage records, residence and work permits) and fixtures (e.g. stamps and stickers), too. Thus, documents of certain nationalities enable their holders to access certain benefits and services that would not otherwise be available. Overall, the increased controls and restrictions on travel and entry in some Western European countries will likely fuel the growing demand for fraudulent documents and result in an increase in prices.<sup>19</sup> The criminalization of legal channels is another integral part of people smuggling but it is not systematically connected to illegal migration. Migrants can get tourist visas on their own with no support of a facilitator. Though, once in the European Union, they will likely get in touch with a facilitator willing to obtain documents to legalize status from stage of irregular through temporary visitor to legal resident. Most possible abused legal way to enter European Union is to do it with regular Schengen visas (work, study or tourist) to stay in the Schengen area illegally after their visa expires. The asylum system can also be affected by those illegal migrants who do not fall under the conditions of recognized refugee status, intending to get provided a number of material and financial advantages linked to a temporary residence document. Marriages of convenience are similarly an important modus operandi used to gain unlawful entry to the European Union, and especially to legalize the stay of those remaining unlawfully [Joint Europol-INTERPOL Report, 2016, p. 10]. Literally, illegal migrants are themselves exposed to exploitation by criminal groups and illicit networks both prior to and after their arrival in the European Union. Smuggled

<sup>18</sup> Ibidem

<sup>19</sup> Ibid., p. 10

subjects may be exposed to sexual and labor exploitation, be forced to serve as drug transporter or to participate in the recruitment and smuggling of other migrants. One can challenge an increase of targeting women and minors by traffickers, likewise male adults, who may not be able to cover the financial costs of travel to the European Union member states.

### **Interaction of Causes**

Mutual influences of various types of illegal activities, as we presume, have to be based on interaction of their causes. The strongest predictor of illegal migration is poly-criminality as a cumulative phenomenon ranging the variety of different crimes. The common antecedent could be a pervasive deviant lifestyle and routine activities, opportunism, cognitive impairment, or some combination of these [Workowski, 2003, p. 120]. It is likely that public safety would be better served by targeting those who engage in violence, property offences, drug offences and substance abuse combined.<sup>20</sup>

Being a core issue in our exploring, a solid correlation between people smuggling and extremism considers share and underlying cause as an evidence of a causal connection between these phenomena. As it is noticed in praxis of international operational police cooperation supported by INTEPROL, trafficking in illicit goods has required new black markets. It increases demanding of cheap goods (e.g. pharmaceutical products) and cause smuggling of prescriptions and illicit drugs. Hence, once illicit drug is to be normatively regulated and legalized, subsequently (e.g. cannabis). New black markets appear considering illegal trade of parts of animals, illicit drugs and people smuggling. These criminal markets have been evolving. Because of their dynamic changes and development, they stay out of radar for legislative framework. Thus, implementation of law remains rather slow or inadequate. Organized criminal groups' influences focus on the matter of trade, transport, logistic services and food industry. Collaboration between these groups and service providers from the private sector becomes more and more achieved (e.g. container shipment). Poor regulations and lacuna iuris are source for having opportunities to act mala fide in the private sector. We are pretty sure that analyzed factors are of the most importance for evolution of organized crime matrix.

Accordingly, it enables breaches into legislative framework, creating safe haven for connections and collaboration between organized criminal network and terrorist web. This linking is more improved by corruption, especially if it matters law enforcement. One deems it *raison d'être* of organizing people smuggling routes and using illegal migration channels for clandestine trespassing of terrorists into targeted destination. Then again, profits from the smuggling of migrants have been connected to the funding of other crimes such as arms trafficking and terrorism. Hence, the mass migrants flow into Europe from zones of conflict in 2015. It was one of the most obvious global issues of 2015. A major challenge for global security turns out to be the role of organized criminal networks in people smuggling aiming to exploit vulnerable migrants to get even more profit.

Driven by profiting on criminal markets and enhanced by corruption, the interaction of causes surely exists in the field of so-called emerging crime, represented by people smuggling, document forgery, arms smuggling, drug trafficking and financial crime, in relation to the phenomenon of terrorism shadowed by extremism being fostered through the process of violent radicalization.

### **Common Roots**

After exposing the interaction of causes between phenomena of people smuggling and extremism, we face the question of roots relation of these. Do we have opposite or similar issues to compare? At first glance, these phenomena are quite different in the

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<sup>20</sup> Workowski E.: "Criminal Violence and Drug Use", *Journal of Offender Rehabilitation*, 2003, p. 120

way of being demonstrated, but then again their causes are linked through mainstream of nowadays criminal networking. One has to agree that poverty feeds criminal activity. Poverty also forces migrants to leave their domicile countries for having better living conditions in unknown and uncertain surroundings of destination countries. There is no wonder if some of migrants slip into criminal network as either offenders or victims. Hence, being exposed to such an influence migrants could be matter of recruitment for terrorist purposes. By all means, the process of recruitment will be simplified if followed by indoctrination steered by concept of extremism. So, do we manage to find out the relation between two phenomena? Although the answer is positive, we still miss the connection of their roots. In fact, poverty is strong factor of connecting migrant smuggling with extremism, but it does not prevail as the final solution. To be more precise, extremism is not driven just by the poverty and people smuggling predominantly is. Let us conclude at this stage that poverty enable extremism to affect illegal migrants, just like channel for people smuggling could become in handy for clandestine moving of terrorists.

Now, how can we explain the second or third generation, derives of population once migrated from the Middle East to the Western European countries, needs to leave standardized way of life, go back to their forefathers' lands and join the Islamic State as a terrorist hive? What is the reason for them to leave e.g. Benelux, British, Scandinavian or German way of living for combat zone and mortal danger in Iraq and Syria? After analyzing this kind of reversal migration way or, better says, foreign fighters' migration flow, we have found out that so-called reversal migrants have had different social status.<sup>21</sup> Not everyone was affected by poverty. On the contrary, there has been certain percentage of migrants derives from wellbeing families. So, we exclude poverty as the key factor of making common the roots of people smuggling and extremism.

At next stage, we pay attention to the complexity of terrorism challenge and define it as conditioned by following items:

- Accessibility to Internet used for the cause of promoting the terrorist network, recruiting in the prisons surroundings of petit crimes offenders, mobility of terrorist instructors in drafting and training the reversal migrants.
- Underestimating of terrorist threat
- Geographical distribution in North Africa, the Middle East and Central Asia.
- Sunnis and Shiites conflict
- Rivalry between security services and a lack of mutual trust
- Absence of functional relation between diplomatic and security services
- Short eyed perception of terrorism challenge
- Weakness of security systems in Maghreb (e.g. Tunisia, Libya, Egypt)
- Wahhabism and salafism spreading, especially in Africa
- Availability to terrorist technology on Internet (e.g. terrorist manual)
- Cybercrime
- Dysfunctional protection of informatics systems
- Marginalization of Muslim population in Western European countries
- Lack of efforts to integrate Muslim population into European values

Thus, we notice that last two issues are suitable enough to be affected by extremism and very close to the lost generation of Muslim population residing the outskirts of nowadays cities of Rome, Milan, London, Manchester, Brussels, Amsterdam, Paris, Lyon, Madrid, Barcelona, Berlin, Munich, Vienna, etc. So, the common routes of people smuggling and extremism come out from the fact of accepting or not accepting the way of living in countries immigrated by forefathers couple of decades ago. Individuals from second and third generation of Muslim immigrant families do not feel themselves connected to the e.g. France or Belgium, but because of time discrepancy do not feel as

<sup>21</sup> The author takes into consider INTERPOL's operational reports on the foreign fighters addressed to participants of 43rd and 44th European Regional Conferences of INTEPROL member states, held in Bucharest in 2015 and in Prague in 2016.



Algerian, Libyan, Moroccan, Syrian, Iranian, Iraqi, Afghan, Egyptian, Pakistani, Saudi or Yemeni, too. Seeking for the status in the society they are easy target for influence of extremism masked behind the phony providing of global identity concept offered by Islamic State.

Finally, children and grandchildren of previous migrants become reversal migrants to be smuggled back to their forefathers' lands, but led by extremism as false solution to overpower crucial identity crises, confessional uncertainty and social confusion driven by marginalization and non integration into Western European model of society. To let us get straight to the point, we established the presence of reversible phenomenological relationship between people smuggling and extremism through noticing interaction of their causing factors and deriving conditions.

### **Horizon of Challenges**

Recently, we have experienced many faces of terrorism, but some of modi operandi are particularly brutal and hard to be expected being committed as so-called lone-wolf terrorist attacks. Clearly determining lone-wolf kind of terrorism is rather hard, because of its phenomenological complexity. Anyway, as we deem necessary to present the lone-wolf threat like composite expression of illegal activity driven by extremism, we are to cite next definition of lone-wolf terrorism as: "The deliberate creation and exploitation of fear through violence or threat of violence committed a single actor who pursues political change linked to a formulated ideology, whether his own or that of larger organization, and who does not receive orders, direction, or material support from outside sources" [Alfaro-Gonzalez, et al., 2015, p. 9]. Being expression of violent radicalization led by extremism and done by some of individuals previously smuggled as illegal migrants, these kind of terrorist actions are mostly performed as:

- gun firing at public places with targets not specified
- running over pedestrians by passenger vehicles
- running over pedestrians by truck
- knife stabbing
- throwing explosive devices
- coach hijacking
- stoning
- running over pedestrians by bulldozer

To illustrate more, clear and present, danger of quoted ways of terrorist demonstration of extremism, let us present some of the incidents happened worldwide and caused by lone-wolf attackers:<sup>22</sup>

- On October 20th, 2014, in the Saint-Jean-sur-Richelieu in Canada, the radicalized citizen performed ramming attack. He ran a Canadian soldier down and shot another one.
- On December 12th, 2014, an American citizen was stabbed to death in Abu Dhabi by an attacker apparently targeting a random foreigner;
- On December 20th, 2014, in Joué-lès-Tours, France, a Burundi origin French national attacked the local police station with a knife while shouting Allahu Akbar. He managed to injure three policemen.
- On October 3rd, 2105, a series of knife stabbing around Israel occurred including the Lion's Gate stabbings, this spate of attacks by lone-wolf Palestinians has sometimes been dubbed the so-called Knife Intifada.
- On November 4th, 2015, lone-wolf attacker stabbed and injured four victims with a hunting knife on the campus of the University of California in Merced.
- On December 2nd, 2015, 14 people were killed and 22 injured in an Islamic extremism-inspired mass shooting at San Bernardino in California.

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<sup>22</sup> The cases were addressed to participants of 45th European Regional Conference of INTERPOL member states in 2017, held in Johann im Pongau, Austria.

- On June 12th, 2016, a Muslim American of Afghan descent opened fire in nightclub in Orlando in Florida, killing 49 people and wounding 53 more.
- On July 14th, 2016, lone-wolf attacker drove a truck into crowds celebrating Bastille Day in Nice, France, killing 86 passers-by.
- On November 28th, 2016, a car ramming attack and a mass stabbing occurred at Ohio State University in Columbus injuring 11 victims.
- On January 29th, 2017, a student opened a fire in the Islamic Cultural Center of Quebec City in Canada and killed six worshippers.

### **Anticipated Trends**

According to international operational police cooperation steered by INTERPOL and Europol one can list following trends on people smuggling to be anticipated [Joint Europol-INTERPOL Report, 2016, p. 11]:

1. Overall, an increase in the number of migrants trying to reach the European Union is expected. In Libya alone, around 800, 000 migrants are waiting to travel to the European Union.
2. It is expected that, in 2017, more than 90% of the migrants moving towards the European Union will be facilitated by smugglers. Within Europe an increase and change of facilitation services is likely due to the recent closure of the national borders of several European countries.
3. There will likely be an oligopolization of the criminal market for facilitation where the criminal activities are largely concentrated and larger criminal networks will gradually take over smaller opportunistic networks. This phenomenon is already visible outside the European Union (e.g. in Turkey, Egypt and Libya) and may extend further.
4. Poly-criminality linked to migrant smuggling will further increase. It is expected that document counterfeiting will further increase as a supporting crime; Cases of human exploitation, especially labor exploitation, may increase especially in the countries of destination of migrants; The links between migrant smuggling and other types of crimes will remain stable (e.g. trafficking in human beings, drugs trafficking, smuggling of goods);
5. Forced criminality may increase in the European Union, as migrants may be coerced into criminal activities by their facilitators. Unaccompanied minors may be further victimized, as they may be sexually exploited, forced to commit criminal activities, or else be involved by smugglers in the recruitment of other potential clients.
6. Overall, it is anticipated that the abuse of legal systems for the purpose of status regularization will increase. Irregular migrants who have already entered the European Union may seek to obtain counterfeit breeder documents (such as fake birth certificate or false work permits) in order to acquire residency in the destination country. The demand for identity and travel documents of unlawful origin will increase, possibly with more demand for high-quality counterfeits. The market may also see the expansion of temporary lease or rental of documents which are used by migrants for one trip and sent back to the facilitators for re-use.
7. Major facilitation hotspots will likely remain the same in the foreseeable future. However, new ones may emerge on a provisional basis according to fluctuating flows, policy changes, or law enforcement actions.

### **Future Risks**

Analytical units of INTERPOL and Europol deem next risks as possible in the future period [Joint Europol-INTERPOL Report, 2016, p. 4]:

- More than 90% of the migrants coming to the European Union are facilitated, mostly by members of a criminal network. These numbers are expected to increase in the future in response to control measures taken by countries along the migratory routes.
- Although key migratory routes were identified as main corridors for migrant smuggling, they are fluid and influenced by external factors like border controls and weather conditions. A further diversification of routes is expected as smugglers adapt their services to increased controls and find new ways into the European Union.
- New hotspots may emerge in response to these changes. Facilitators are organized in loosely connected networks, stretched along the migratory routes. More than 250 hotspots for migrant smuggling are identified in and outside the European Union.
- Migrant smuggling is a multi-national business, with suspects originating from more than 100 countries both inside and outside of the European Union. The basic structure of networks includes leaders who loosely coordinate activities along a given route, organizers who manage activities locally through personal contacts, and opportunistic low level facilitators.
- Migrant smuggling is a highly profitable business, entailing low overall costs to run smuggling operations and persisting high demand for services. An estimate of the yearly turnover of migrant smuggling results in an average USD 5 to 6 billion turnover in 2017. The main means of payment remains cash.
- Intelligence collected in recent months suggests that poly-criminality linked to migrant smuggling is increasing: suspects in migrant smuggling cases have previously been recorded in relation to other types of serious crime.
- Migrants who travel to the European Union are potentially vulnerable to be targeted for labor or sexual exploitation as they need to repay their debt to smugglers. It is expected that these types of exploitation will increase in the coming years.
- Terrorists may use migrant smugglers' resources to achieve their goals. There is an increased risk that foreign terrorist fighters may use the migratory flows to (re)enter the European Union.

### **Possible Response**

With the cooperation of international partners, INTERPOL coordinates and supports border-security operations with the aim of disrupting criminals who seek to cross borders using fraudulent documents to conceal their true identity. This is done by extending permanent or temporary access to INTERPOL's databases to airports, sea and land borders, and by drawing on INTERPOL's expertise in forensics, specialized training and investigative skills.

Res facti, INTERPOL launches the Smuggling Training Operation Program (STOP) to target people smuggling, illegal immigration, and cross-border movements of criminals. The program pairs screening operations at major but vulnerable air, sea, and land borders with training of local officers in the use of INTERPOL databases and border control skills.

A certain number of targeted operations and exercises are carried out against specific crimes, including:

- terrorism
- trafficking in drugs, firearms, illicit goods, stolen motor vehicles and stolen vessels
- trafficking in chemical, explosive, nuclear, biological and radiological materials

INTERPOL support national police in tactical deployments in the field, aimed at breaking up the criminal networks behind trafficking in human beings and people smuggling. Operations are preceded by training workshops to ensure that officers on the ground are trained in a range of skills, including specialist interview techniques and the use of specialized equipment. Deployments effectively combine police action with input from a number of different sectors such as customs and environmental officers, non-governmental organizations, officials from the Ministries of Health and Social Affairs, and prosecutors.

The Program, STOP like, supports INTERPOL member countries in border management issues. In particular, STOP aims to detect organized criminal groups that provide stolen or lost travel documents to irregular migrants or individuals involved in organized crime. At the heart of the project is the extension of access for police at strategic border points to INTERPOL's secure global police communications network (known as I-24/7). One can allow officers to check passenger documents against the INTERPOL Stolen and Lost Travel Documents (SLTD) Database. This extended access is backed up by analytical training and operational support. This enhanced infrastructure provides immediate benefits during tactical deployments, along with a lasting legacy of improved operational capacity for the country in question. Starting with a few thousand records from just 10 countries, the SLTD database has grown exponentially. 174 countries contribute to the database which contains more than 68 million records. From January to September 2016 it was searched more than 1.243.000.000 times, resulting in more than 115.000 positive responses.

Ensuring global border security requires INTERPOL to maintain close coordination with a wide range of stakeholders across many different sectors, working together to improve data-sharing capabilities and border management expertise in the field. Contributing to have global safety enhanced, among INTERPOL partners are:

- European Union (EU)
- Europol
- Frontex
- International Air Transport Association (IATA)
- International Civil Aviation Organization (ICAO)
- International Organization for Migration (IOM)
- United Nations Office of Drugs and Crime (UNODC)
- World Customs Organization (WCO)

### **Conclusion**

In our increasingly globalized world, it is easier than ever before for people and goods to cross international borders. This is also the case for criminals. Young men and women travel to conflict zones to join terrorist groups. Smugglers and traffickers take advantage of this increasing flow across borders to hide their cargos of illicit goods and desperate migrants.

In nuce, smuggling of people is a continuously growing phenomenon and the issue of a global nature, not only as a transnational crime, but also as an enormous violation of human rights and a contemporary form of slavery. What is important is that migrants expect to improve their situation through migration, and that they need the assistance of traffickers and other intermediaries to do so [Friebel, Guriev, 2002, p.4]. That is exactly the way how vulnerable category they become, even before they are targeted by influence of extremism through Internet communication or along the route for people smuggling. As de facto demonstration of extremism, terrorism simply means deliberately and violently targeting civilians for political purposes [Richardson, 2006, First Chapter]. If an act does not involve violence or the threat of violence, it is not terrorism.<sup>23</sup> Yet, terrorism is not a new strategy or form of warfare, but its modern

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<sup>23</sup> Richardson L.: What Terrorist Want, 2006, First Chapter

variant possesses a number of novel characteristics that are unique to the contemporary era [Levy, Thomson, 2011, p. 211]. Then again, illegal migrants either are recruited while passing through channel for people smuggling or it happens to the second or third generation of immigrant families already resided in the Western Europe.

The fact of poly-criminality creates criminal markets in the way of oligopoly. That brings additional opportunities to interact causes and mutual relations between people smuggling and other type of criminal activities. Led by extremism while escaping either from poverty or from even wellbeing but marginalized social position, new illegal migrants or grandchildren of the previous ones desperately need the substitute for lost personal, social and confessional identity. Evidently, it is offered constantly by Islamic State as a terrorist web concept boosted up by extremism and violent radicalization. So, both smuggled migrants and reversal migrants, attracted by chance to get global identity in so-called Caliphate, start to play the deadly role of foreign fighters by joining the terrorist networks of ISIS (ISIL or Daesh), Al-Nusra, Boko Haram, Al-Shabaab, Ansaru, Al-Qaeda or some other.

Hence, that is the sure sign of phenomenological connection between people smuggling and extremism, having in mind the established links of their roots which rapidly come into the common relation. Thus, this interaction leads to an endless cycle of hopeless looking for better life in the dead end ruled by extremism and violent radicalism, as well.

Finally, INTERPOL and Europol try to overpower the problem by supporting the effective border security as an essential part of combating transnational crime, likewise people smuggling and terrorism. Although, it looks like extinguishing arson with the glasses of water, it is hard but only way to get the problem controlled in a long-term perspective.

Let us finish our work with saying of esteemed Spanish professor Mr. Fernando Reinares:<sup>24</sup> "Nothing is more dangerous than the crippled thoughts."

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## **THE ROLE OF INTERNATIONAL ORGANIZATIONS IN MIGRATION MANAGEMENT**

### **Abstract**

*As a social phenomenon, migration has been present since ancient times. It occurs in all societies and due to different historical, social and cultural differences, the reaction of individuals and communities to migration can be very different. In a contemporary society that emphasizes mobility and information flow, migrations have become an integral part of life and society. Moreover, their scope and patterns become more and more complex. Given the recent increase in irregular migration to Europe, there is growing interest in developing new ways to collect and analyse data on irregular migration. Migration is today more than ever at the centre of global attention. Main goal of international organizations in this field is to harness the development potential of migration for individual migrants and societies. The Western Balkans region has witnessed a sharp increase in the numbers of mixed migration flows arriving in or transiting through its territory, along the so-called Western Balkan route, in particular Republic of Serbia. Our country is facing a series of political, economic, social and cultural challenges provided in this paper, explaining why Serbia still has a high emigration and low immigration potential, as well as to what extent return to Serbia today is a complex and relative option. In addition to the high numbers, the mixed composition of these flows adds complexity to the task of addressing them effectively and in line with international commitments and standards. This study focuses on relation of international organizations, migrations and national interests of Serbia. Author determines that migrations are, to some extent, challenge for Serbia, not only in terms of increased danger of extremism, but also because of possible outbreak of regional conflicts.*

*Key words: international organizations, migration management, contemporary society, national interests, Republic of Serbia.*

### **Introduction**

The understanding of the complex relationship between migration and social development has changed in the last years, with initiatives from scientific and political circles to view migration comprehensively in the function of development of all the countries included in the migratory chain. Recognising migration as an instrument of development has led to a consensus on the need to include the phenomenon of migration in the development agendas, strategies and plans on global, regional, national and local levels. The United Nations have an important role in the formulation and implementation

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of a broader perspective on the mutual impact of migration and development.<sup>2</sup>

Mainstreaming migration in major economic growth documents and development initiatives is necessary both in the developing and developed worlds, that is to say it is important both for the countries of origin and receiving countries. A broader concept of interdependencies between migration and development is also an integral part of the new UN development agenda "Transforming our world: the 2030 Agenda for Sustainable Development" and the majority of its goals.

Key migration terms used in this paper are in accordance with the definitions provided in the Glossary on Migration published by the International Organization for Migration (IOM). It defines migration in the following way: "The movement of a person or a group of persons, either across an international border, or within a State. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes, including family reunification."<sup>3</sup> For one of the basic terms, migrants, the 1998 United Nations Statistics Department Recommendations qualitative definition is used in addition to the one in the said Glossary, stating this is a person who moves to a country other than his or her usual residence for a period of at least a year (12 months), so that the country of destination effectively becomes his or her new country of usual residence. From the perspective of the country of departure the person will be a long-term emigrant and from that of the country of arrival the person will be a long-term immigrant.

There is no universal theory to explain international migration. Instead of a universal theory, there is a generally accepted belief among researchers in the area that there is a number of complex views related with this phenomenon. We will not consider all concepts, but will provide an overview of two theories relevant for better understanding of the phenomenon of migration and the links between migration on one side, and demographic and socioeconomic development on the other, and consequently, more successful mainstreaming of external migration in different policies in Republic of Serbia. These are the Revised Push and Pull Model by Fassmann and Musil<sup>4</sup> (Fassmann, Musil, 2014) and the Migration Transition Model: from emigration to immigration countries developed by Fassmann and Reeger.<sup>5</sup> The first of the chosen models enables a more complete understanding of the deterministic basis of individual decision on emigration/immigration, and the other of the stages of the migration process in Serbia.<sup>6</sup>

Both selected theoretical concepts, the application of the Revised Push and Pull Model on the macro level and the Migration Transition Model highlight the importance of demographic and socioeconomic characteristics of a population for the phenomenon of emigration/immigration. In addition to classic demographic indicators, research findings supplementing them and results of different population projections, it presents the public opinion relevant to emigration/immigration and different information reflecting the level of development in the Serbian society.

Serbia is facing a number of serious demographic issues. The most important are childbearing far below generation replacement, intensively postponed birth of the first child, depopulation, excessive population ageing and negative migration balance.

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2 Lee, E. S., A theory of migration, *Demography* 3(1), 1966, pp 47-57.

3 Fassmann, H., Melegh, A., Bauer, R., Musil, E., Gruber, K., Migration cycles and transitions in South-East Europe: from emigration to immigration countries, European population Conference, Budapest, 25-28 June 2014.

4 Fassmann, H., K. Gruber & E. Musil (2013 forthcoming), Dynamic Historical Analysis of Longer Term Migratory, Labour Market and Human Capital Processes in the SEEMIG Region. Synthesis Report.

5 Fassmann, H., Melegh, A., Bauer, R., Musil, E., Gruber, K., Migration cycles and transitions in South-East Europe: from emigration to immigration countries, European population Conference, Budapest, 25-28 June 2014.

6 The choice of these two theories as conceptual framework was made based on consulting a comparative overview of international migration theory from multiple sources. In this sense, the conceptual framework for EU project Managing Migration and Its Effects in SEE-Transnational Actions towards Evidence Based Strategies (SEEMIG) was critically analysed.

These are interconnected in various ways. The natural and mechanical components of population development are in relationship through the shared part of the deterministic base and effects (effects of a phenomenon directly impacting a different phenomenon and vice versa), but are also connected through a policy response aimed at improving Serbia's demographic future.

Long-term insufficient number of births is the main driver of depopulation and deep changes in the age structure of the population. In the last intercensal period, 2002–2011, it is estimated that the population of Serbia was reduced by a minimum of 367 and a maximum of 422 thousand, with the migration component contribution between 15% and 26%. The trend of registering negative population growth rate continues. Thus the number of live births in 2014 was by 34.8 thousand less than the number of deaths. Simultaneously, 2014 was the twenty-third year in a row recording negative population growth in Serbia. In relative terms, population growth rate in 2014 was –4.9 per thousand, i.e. it was virtually unchanged in relation to the previous calendar year. Contrary to that, Europe as a whole recorded zero population growth, and Bulgaria with negative rate of around six per thousand was the only among all EU countries to record a lower rate than Serbia.

Considering migration in a historic perspective is important because it seems that the long-standing tradition of emigrating from this area has made it a part of the value system and cultural circle in certain local environments and social structures. It also influenced the establishment of distributed migrant networks that reduce, as was already highlighted, the social, economic and psychological cost of leaving the country on the individual level. Analysing migration tendencies in the past, present and future is particularly important when discussing the demographic effects of migration.

### **Crucial intergovernmental organizations for migration management**

Recent unprecedented movements of people across borders have taken place against the backdrop of globalization. Globalization has altered the psychosocial experience of migrants, creating new opportunities for global actors to engage migrants and their descendants, or “diasporas”, to achieve sustainable development in their countries of origin and heritage. The 21st century migration experience is quite different from that of previous generations: migrants and their descendants have many opportunities to maintain or develop identificational and structural ties to their countries of origin/heritage. Globalization has both catalysed and been shaped by communication innovations, the rise of global media, decreased costs of transportation, and lowered trade and investment barriers. As a result, it is much easier for today's migrants and their descendants to return – both physically and virtually – to their country of origin. It is also easier for them to purchase goods and services and send remittances or goods purchased abroad back home. At the same time, the rise in nongovernmental organizations (NGO's) and transnational social movements associated with globalization have created opportunities for individuals with similar heritage.<sup>7</sup>

The need for multi-agency approach during mass migration has already been stressed, and in addition to the already mentioned national services that have a role in migrant crisis management, there are various international organisations engaged in providing support and assistance to border authorities and migrants and refugees covering a wide range of activities with their mandates. Border police officers should know about these organisations and the type of assistance they provide: International organisation for migration (IOM) provides advising and raising institutional capacities on all aspects of border management, establishing and managing receiving centres, support with registration, profiling, developing data bases on the migrant route, logistical support to migrant transport, setting up information, counselling and referral services,

<sup>7</sup> Sjaastad, L., A. The Costs and Returns of Human Migration, *The Journal of Political Economy*, No 70, 1962, pp 80-93.



assistance with voluntary return of migrants in the countries of origin, if possible and safe. United Nations High Commissioner for Refugees (UNHCR) monitors the implementation of the Asylum Law, represents the interests of refugees/asylum seekers and groups with refugee or asylum seeker status, assistance with voluntary repatriation of refugees, reunification of families separated during the migration process, advisory and logistic support with regard to planning the space of asylum centres and receiving centres and material and technical support. United Nations Children's Fund (UNICEF) is mainly responsible for child protection, especially during armed conflict, developing and implementing children reintegration programmes, family reunification, child recruitment prevention, providing material assistance to children, such as medical aids and vaccination. United Nations Development Programme (UNDP) supports the local government with needs assessment, capacity development and planning coordination, developing strategies to mitigate the consequences of natural disasters and programmes to encourage the use of diplomacy and prevention of violence. United Nations World Food Programme (UNWFP) provides assistance in food for refugees in camps, support for transport, communication and logistics. International Committee of the Red Cross (ICRC) is monitoring the implementation of international and humanitarian law, detention conditions and treatment of persons detained for reasons connected with armed conflict (e.g. internees), reestablishment of family connections for families dispersed during armed conflict.

International Organisation for Migration (IOM) is the leading inter-governmental organization in the field of migration and works closely with governmental, intergovernmental and non-governmental partners. With 162 member states, a further 9 states holding observer status and offices in over 100 countries, IOM is dedicated to promoting humane and orderly migration for the benefit of all. It does so by providing services and advice to governments and migrants. IOM works to help ensure the orderly and humane management of migration, to promote international cooperation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, including refugees and internally displaced people. The IOM Constitution recognizes the link between migration and economic, social and cultural development, as well as to the right of freedom of movement. IOM works in the four broad areas of migration management: Migration and development, Facilitating migration, Regulating migration, Humanitarian migration.<sup>8</sup>

IOM works in the four broad areas of migration management: migration and development, facilitating migration, regulating migration, and addressing forced migration. Cross-cutting activities include the promotion of international migration law, policy debate and guidance, protection of migrants' rights, migration health and the gender dimension of migration.

IOM works closely with governmental, intergovernmental and non-governmental partners. In June 2016, the IOM Council unanimously endorsed the agreement concerning a new close relationship between IOM and the United Nations as a related organization. Approved by the United Nations General Assembly and signed by the IOM Director General and the UN Secretary General on September 19th, the agreement represents a definitive step bringing IOM within the UN family. Created in 1951 out of the upheaval of World War II, IOM has become the lead international organization working on migration issues with over 9,500 employees, 450 offices worldwide and 165 Member States, counting the recent adhesions of the People's Republic of China, the Solomon Islands and Tuvalu in June 2016. Joining the United Nations, IOM enjoys a stronger position to achieve its objectives and address the large movements of migrants and refugees worldwide. Within the United Nations, IOM will be able to better contribute to migration-related processes, and notably assist its Member States in the implementation and follow-up of migration-related goals and targets in the 2030 Agenda for Sustainable Development.

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<sup>8</sup> <https://www.iom.int/world-migration> (06.09.2017)

IOM activities that cut across these areas include the promotion of international migration law, policy debate and guidance, protection of migrants' rights, migration health and the gender dimension of migration. The relationship between countries of origin and their overseas communities is a key to successful development. IOM's goal in this field is to harness the development potential of migration for individual migrants and societies by promoting international policy dialogue, policy-oriented research and programmes that strengthen the administrative and managerial capacity of governments. Programme activities include improving remittance management, building human capital through labour migration programmes, return and reintegration of qualified nationals, capacity-building for governments, and empowerment of migrant women.

Assisted Voluntary Return and reintegration is an area of expertise of IOM, developed more than 20 years ago. In the past decade alone, IOM has assisted more than 1.6 million migrants world-wide to return voluntarily and safely to their home countries. IOM sees Assisted Voluntary Return as an indispensable part of a comprehensive approach to migration management, which combines quick, efficient border management, effective asylum processing and speedy, human return and reintegration. Through the AVR programmes Reintegration assistance provided by IOM Serbia included: cash grants, direct assistance to the returnees (return transportation, secondary transportation), information and referral to social and other services after arrival, housing support, grants disbursement, counselling on the implementation of their individual reintegration projects, possibilities of vocational training courses, help with setting up small businesses (farming, welding shop, sewing business), education (university-level or other courses), school fees for children who return with their parents, employment opportunities or access to employment agencies language classes for children who do not speak/write the language of their parents country of origin. IOM supports on regular basis the host countries (Western European countries) with information concerning: public administration, social welfare, medical care, housing, employment, reintegration and reconstruction assistance and education.

IOM's involvement and approach to trafficking is based on its migration mandate being particularly concerned about those migrants who are, or have been, deceived or coerced into situations of economic exploitation, which occur through forced labour, forced servitude, coercion, debt bondage, or other violations of their fundamental human rights. Another concern associated to trafficking, is the migration management problems for governments of sending, transit and receiving countries. In addressing the challenges of trafficking in women and children, IOM supports programmes to assist and protect, with special emphasis on women and children who are victims of traffickers. Within the broad array of projects implemented in the area of counter trafficking in Serbia, IOM Mission in Belgrade in partnership with the national and international partners, and in close cooperation with the IOM Headquarters, has implemented numerous important initiatives.

In the Western Balkans, IOM provides necessary help to build government capacities in migration management, to strengthen national and regional systems, to manage complex mixed flows and bring migrant reception and identification mechanisms and protection-sensitive procedures up to international standards. This includes identifying vulnerable migrants including victims of trafficking, referring eligible vulnerable individuals for international protection and other assistance, enhancing access to services in reception facilities, including immigration detention centres, as well as promoting the respect for and protection of migrants rights through humanitarian border management (HBM) trainings for front-line border agencies. In Serbia, IOM works to promote adherence to international standards of protection of migrants, especially in the context of crisis and mixed migration flows. Additionally, IOM, in its work with implementing partners in the emergency setting, will continue to monitor and ensure that IOM humanitarian principles are taken into account. In the context of humanitarian emergencies, IOM ensures that capacity-building activities relating to humanitarian

border management include and make necessary reference to migrants rights. IOM works closely with national partners to support systems for the integration of persons who have been granted international protection and on the facilitation of access to the labour market (such as provision of vocational trainings).

### **Security challenges and concepts of irregular migration**

Migration can not only be a problem, but also a security threat to the countries in which they come and through which, as we have recently seen the example of Croatia's behavior towards Serbia and vice versa, can sharply and drastically disrupt the relations between neighboring countries. Historical examples of repression of neighborly relations due to migrants in the Western Balkans are numerous, and contemporary relations due to the same problem are not ideal due to the fact that some countries, did not allow the return of Serb refugees displaced from their homes during the civil war in Yugoslavia during the nineties.<sup>9</sup>

The anomaly is that many countries in our environment who consider themselves democratized to behave extremely undemocratic, not only towards migrants, but, quite unnecessarily, very aggressive towards the states. In the turbulent veins of the great migrant wake, Serbia has distinguished itself from many of its "fully democratized" neighbors by not only overcoming others, even those who through her teeth are intimidating, but intensifying good-used relationships, as a clear proof of her weakness but of the desire for peace and establishing friendship. Every friendship, even politically, is always being built with increased attention, so the state of Serbia goes along this civilized way.

The louder idea is to turn some Western Balkan countries into an accumulative migratory lake that would be covered by migrant flows, which would then be missed in the EU according to its capabilities and needs. This option is in complete opposition to the national interest of Serbia and its economic possibilities. Serbia, due to its relative economic underdevelopment and the high number of unemployed citizens, has no economic and national interest to keep a large number of migrants on their soil. Migrants who succeed to be relatively permanent in some country and even in Serbia can over time become not only a massively criminalized group, but also a powerful informal political factor that strives to influence foreign policy events and the orientation of the host country, even if it is threaten massive violent protests and punish terrorist acts.

An anomaly is therefore expected that, for example, a poor Balkan country like Serbia, which is worthy of its economic recovery under the rules and principles imposed on it by the European Union, begins to suffer an abnormal burden of migration, less so if its neighboring countries (members of the European Union) they raise their walls and push them into a multidimensional crisis from which it will hardly ever be able to emerge if the number of migrants in it has advanced all the levels of social, economic, security and political endurance.

Since it is in the national interest of Serbia that migrants no longer stay there, it should follow the logic of the UNHCR, which is committed to the trials of refugees in Turkey and Greece, and that selected migrants are then directly relocated from these countries to countries of Western Europe. In this way, Serbia would be completely obliterated and spared from all the troubles that brought with it the migrant wave.

The logic and the proposal of the European Union are different, and Serbia, because of its efforts to become its member, has been forced to follow European solutions. Therefore, due to the inability to escape migration, we must fully prepare for the future with as few problems as possible on that plan. What is certainly awaiting is the construction of rules at the regional level, and the more urgent adoption of intergovernmental agreements that will so much relax the tension between the neighbors and create a regional order of

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<sup>9</sup> Simeunovic, D., Migrations as reason for the political anomalies in Europe, Belgrade: NBP Journal of Criministics and Law, 2015, p. 9.

things when it comes to migration, which would undoubtedly reduce the internal social tensions in each of these states.

The smuggling of migrants across international borders on routes traversing land, air and sea continues to undermine migration governance and impedes safe and orderly migration. In numerous parts of the world, migrant smugglers have become an integral part of the irregular migration journey, resulting in enormous profits for criminal smuggling networks while reducing the ability of States to manage their borders and migration programmes. Given that it is often covert in nature, migrant smuggling may only become visible when tragedies occur or emergency humanitarian responses are required. Events involving people drowning or perishing inside trucks regularly capture the media's attention, but these tragedies are likely to be just the tip of the iceberg. Reliance on smugglers makes migrants particularly vulnerable to abuse and exploitation. Migrants who have experienced abuse by smugglers have little effective recourse to justice. In this ever more pressing situation, States are being severely tested in the fulfilment of their responsibilities to protect migrants human rights and manage their borders.

Since the 1980s, irregular migration to Europe has rapidly expanded. The perceived economic advantages, particularly in Western European countries, large-scale conflicts in Asia and the Middle East, the effects of global poverty especially in the south but also increasingly restrictive migration policies barring access to the labour market are some of the many converging factors behind the growth of this rather complex phenomenon. Over the past few years, the political turmoil in the Arab world and in particular the ongoing crisis in the Syrian Arab Republic have further exacerbated the number of undocumented migrants reaching Europe.

The connection between irregular migration and migrant smuggling as a violent and ruthless business is relatively recent and was mainly established in Europe during the first major refugee crisis in the mid-1990s. Up until then, migrant smuggling was neither punished nor treated as an important act of crime as it is today. It even had a positive connotation; a legacy of the heroic acts of smuggling Jews to safety during the World War II. There was also no common policy to combat migrant smuggling.<sup>10</sup>

Since then, European countries have increasingly invested considerable amounts of resources to counter migrant smuggling and punish the offenders. Among the most notable developments was the 2015 adoption of a common Action Plan against Migrant Smuggling, which laid down a comprehensive strategy to this purpose (COM (2015) 285). In the course of 2016, Europe's commitment reached new levels with the deployment of North Atlantic Treaty Organization (NATO) vessels in the Aegean Sea to help crack down criminal networks, in a way literally militarizing the war on smugglers. Even though migrant smuggling is not a recent phenomenon in Europe, understanding its different forms and dynamics remains a complex task. Despite a growing number of studies, knowledge about migrant smuggling is limited to those cases that have actually been detected. Gaining an in-depth understanding of migrant smuggling in Europe entails additional challenges given the particularities of the geopolitical context. Notwithstanding the small size of the continent and the established commitment to a common policy, European countries are in their overwhelming majority still quite divergent in the way they define, understand and counter the crime of migrant smuggling.<sup>11</sup>

During the last decade, irregular migration to and within European continent has typically developed along two main axes: (a) from south to north; and (b) from east to west. Undocumented migrants into Europe have mostly come from developing countries in Asia and Africa, particularly the Syrian Arab Republic, Pakistan, Afghanistan and Iraq, as well as Senegal, Somalia, Nigeria and Morocco. According to Europol – the European Union's law enforcement agency – in recent years, there has also been a persistent flow

<sup>10</sup> Simeunovic, D., Migrations as reason for the political anomalies in Europe, Belgrade: NBP Journal of Criminalistics and Law, 2015, p. 11.

<sup>11</sup> Simeunovic, D., Migrations as reason for the political anomalies in Europe, Belgrade: NBP Journal of Criminalistics and Law, 2015, p. 11.



of irregular migrants from India, Bangladesh, China and Vietnam.<sup>12</sup> The journey of an irregular migrant into Europe typically starts from the European Union's external south and eastern land and sea borders, in particular Greece, Italy, Malta, Spain, and continues towards western and northern European states.

The preferred destinations are Germany, Austria, Sweden and the United Kingdom. There is also evidence of transatlantic irregular migration in particular towards North America; albeit its occurrence seems less common. According to Frontex, there are eight main paths through which unauthorized migrants enter into Europe. Out of those, Frontex reports, smugglers have in recent years made increasing use of three main routes: (a) the so-called Western Mediterranean route, from Morocco to Spain; (b) Central Mediterranean route from Libya to Italy and Malta; and (c) Eastern Mediterranean route, from Turkey to Greece. It should of course be noted that the majority of irregular migrants present in Europe have arrived legally and then overstayed or abused their terms of entry/stay. A smaller percentage has steadily entered through the Eastern land borders to the European Union, via the Russian Federation, Ukraine and the Nordic countries.

### **Perspectives on migration**

Particularly important is the issue of the future of migration, their possible repetition and eventual debilitating, and whether or not new migrations follow after the eventual stoppage of current events. The facts show that although mass migration of the population in modern Europe is experienced as a retrograde and paradoxical novelty and extraordinarily devastating, they are actually a common historical phenomenon that occurs at uneven intervals. In addition to the negative ones, they also have their undisputable positive historical role as the main medium of interaction between different civilizations.<sup>13</sup>

Migration is a reiterative process. This means that if they are artificially interrupted, they tend to renew, continue, and finish. Modern migration, in addition to being caused by standard migration factors, is also an inevitable consequence of globalization of the world and the establishment of the principles of free movement of people, goods and capital in broad international spheres.

According to the UN estimates currently in Europe there are 71 million migrants,<sup>14</sup> belonging to different migrant categories. Asked how many migrants Europe can withstand, logically adds to the question of how planet Earth can endure.

To be able to prospectively address the question of the duration and renewal of migration to European countries in the near future, we need to re-examine the current and future status of the three main push and pull factors that cause migration, namely: demographic explosion in some parts of the world, wars and the possibility of social engineering.

Demographic explosion signifies a huge population growth in a state, region or continent. Today Africa is ahead of this, and a significant increase in population is characteristic for some Asian and Latin American countries. In Africa, in 1950, only 9% of the world's population lived, or 244 million, and today lives a billion and two hundred million people. Therefore, for only half a century, one continent has got one billion more. According to United Nations estimates, the number of people in Africa will reach four billion before 2100. This is contributed by not only rapid population growth, but also significantly improved living and health standards, and consequently extended life expectancy. Of the 21 "super fertile" countries, 19 are in Africa, and two are in Asia. It is predominated by Nigeria, which with its 160 million inhabitants has

<sup>12</sup> <https://www.europol.europa.eu/publications-documents/migrant-smuggling-in-eu> (05.09.2017)

<sup>13</sup> Koslovski, R., Human Migration and the Conceptualization of Pre-Modern World Politics, *International Studies Quarterly*, Volume 46, Number 3, September 2002, p. 375.

<sup>14</sup> UN, Key trends in international migration, Expert Group Meeting on The Post-2015 Era: Implication for the Global Research Agenda on Population Development, New York, 10 April 2015.



long since overrun Russia by the number of inhabitants, where the number of inhabitants is declining. Nigeria will soon have a population of 244 million, or exactly as much as Africa had in the past, and by 2050 the number of Nigerian population will be bigger than US population. By then, the number of indigenous peoples in EU countries will rise by only 13 million.<sup>15</sup>

It is only necessary to determine how much the speed of growth in Africa is influenced by the fact that it is suddenly and radically islamized in recent decades. Christianity as the religion of the white conquerors that is present in Africa is only 100 years old, and continuously withdraws from Islam in the northern, or so-called, the upper half of Africa. With such a large population growth in underdeveloped countries, it is logical to grow unfulfilled social expectations regarding employment and living standards. Although never in the history of mankind has produced as much food as it is today, there is still a growing number of hungry people in the world.

Of the seven billion people, as many as today, 1,5 billion people live in extreme poverty with income below one dollar per capita. Every day, 17,000 children die from hunger on average, but number of born is around 175,000 a day, or two per second. The demand for food, water, space, various natural resources, as well as jobs is growing rapidly. At the same time, the technological revolution is proud to announce that advanced robotics and computerization of production and management dramatically reduce the need for human engagement. The gap between sudden population growth and the diminishing need for engagement of people is slowly turning into a social outbreak with unlucky consequences. Natural resources are touched faster than the foreseeable forecasts. The food needs lead to the recapture of about 13 million hectares of forest per year to increase landfill. According to the 2011 United Nations Population Fund (UNFPA) report, the world will face a deficit of 40 percent of water by 2030.<sup>16</sup>

In the Middle East, rich in oil and poor in water, there is also a dizzying population rise. Syria, for example, had 3.5 million inhabitants in 1950, and today there are about 22 million. For the same period, Yemen's population grew from 4.5 to 25 million, with the prospect of reaching 52 million people by 2050. Since 1950, the population of Egypt has risen from 20 million to almost 85 million. and by the middle of this century the population of Egypt will exceed 125 million.<sup>17</sup> In Europe, despite the inflow of migrants, a drastic drop in the number of residents, only Kosovo and Metohija with their annual growth rate of 0.9% are following the world average of 1.2 %. Between 2015 and 2050, in Europe there will be 63 million more deaths than newborns. The United Nations report entitled "World Outbreaks in the World: Revision 2015" estimates that by 2050, there will be 31 million migrants in Europe but its indigenous population will be reduced by 32 million.<sup>18</sup> By that time in Serbia, the number of inhabitants will be reduced by 17%, primarily Serbs and Hungarians. The rate of growth in Serbia has been steadily negative since 1992, and now the largest increase in Serbia has the Roma. Drastic decline in the number of inhabitants in that period will be recorded by other Balkan countries, notably Bulgaria, but also Croatia.

Therefore, on the one hand, we have a huge and unstoppable increase in Africa and the Middle East, also in the poorest and most fragile parts of the world and, on the other hand, a drastic decline in population in Europe - the richest continent of the world. For migration orientation, it is very important that Africa, the Middle East and Europe are bordered by the sea and vast landmass.

Most migrants, however, come mostly from the Middle East because wars are the most important reason for migration and in the Middle East there has been (and has not yet been completed) the Arab Spring and, worst of all, an increase in the number of

<sup>15</sup> <http://www.un.org/en/development/desa/news/population/2015-report.html> (04.09.2017)

<sup>16</sup> UNFPA Annual report 2016: <http://www.unfpa.org/annual-report> (04.2017)

<sup>17</sup> <http://ec.europa.eu/eurostat/web/population-demography-migration-projections/population-data> (05.09.2017)

<sup>18</sup> According to the following article: <http://www.politika.rs/rubrike/Drustvo/Pad-broja-stanovnika-u-Srbiji-za-17-odsto-do-2050.lt.html> (03. 09. 2017).

simultaneous wars as well as an increase in numbers of terrorist organizations in one area.<sup>19</sup> Before the attack on Iraq there were about 200 terrorists in it, and today in the ranks of the so-called Islamic State there are more than 100,000 fighters. Iraq, Syria and Afghanistan have a single battlefield. Nothing brings so much degree of insecurity to man and his family as a war. It is natural that a man escapes from an accident, especially when it lasts long. For now, besides the best wishes, there is no basis or a way to prevent new war conflicts.

In the 20th century two world peace organizations were created, numerous declarations of peace and war were made, and in the same century they were guided by hundreds of small and large and even two global wars. All of them were followed by larger or smaller undesirable migrations, as well as phenomena related to wars, such as revolutions or political upheaval. For example, after the October Revolution in Russia in 1917 about 50,000 Russian emigrants flew to Serbia. During the World War I, over 280,000 Serbian soldiers and civilians fled to the Greece, bringing with them about 20,000 Austro-Hungarian prisoners captured by the army of the Kingdom of Serbia at the beginning of the war. During the World War II, unwanted migrations occur in Balkans in the form of forceful displacement by the German, Italian and Bulgarian occupiers of Yugoslavia in the face of the ustashi and muslim forces, banishing large number of people.

Current examples of unwanted, war-induced migrations are migrations during the nineties of the last century, and were especially forced to migrate the Serb people from Croatia, Bosnia and Herzegovina and Kosovo and Metohija, focusing mainly on Vojvodina and Serbia as its ethnic mainstream. As these examples can be seen, the motives of politically caused migrations are, though very varied, mainly of ideological nature.

As far as the Near East is concerned, it is difficult to get the existing wars to come to an end. In Syria, the interests of the great powers, the United States and Russia, are absolutely opposed to its future and to one point regarding the need to eradicate vigorous Islamic extremism in the form of so-called "Islamic state of Iraq and Syria". In Afghanistan, no matter how much the US has announced the end, the war is still going on, because it is fuelled by the presence of foreign troops on Afghan soil as well as Islamic extremism. Similar situation is in Iraq. In Yemen, Al Qaeda's power is so great that tomorrow, with little external help, she could take over power. The situation in Jordan is increasingly similar to that in Libya. In addition, Shiite Iran is perceived by the other Islamic countries, as well as by Israel, as the greatest possible opponent with which the war is always possible for principled religious and security reasons.

The artificial inducing of migration has long been known, and today it is the possibility that, alongside the great political and military-intelligence systems, they are increasingly dominating. It is possible to cause seemingly spontaneous mass migrations, to direct their flow or to organize false migrations for purposes of political propaganda, but social engineering in the field of migration may be geared towards organizing legal and desired migration. In this way, it may cause the desired foreign policy or internal political effect, gain significant political, economic, territorial and military benefits or impose great economic damage on the hostile side.

This, each in its own way and with diametrically opposed effects, attests to two migrations that have been on our ground in the last half century - first, organized by the Communist Yugoslav authorities after the World War II, moving about 50,000 families from Bosnia and Herzegovina, Lika, Kordun, Knin and Montenegro to Province of Vojvodina, and the second organized mass migration of Albanians to Kosovo and Metohija during the bombing of Federal Republic of Yugoslavia in 1999. Ultimately, wars leading to this goal can be considered as social engineering. Generally speaking, the possibility of artificial induction of migration is always present and increasing.

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<sup>19</sup> Simeunovic, D., Migrations as reason for the political anomalies in Europe, Belgrade: NBP Journal of Criministics and Law, 2015, p. 13.

## Migration management in Serbia and recommendations for public policy

Over the last few decades, migration management policies have become an important area of public policy at the national and international level. More complex and more detailed regulations, increasingly numerous institutions and policies, mark efforts to manage migration in a more efficient way, both in terms of the desired and regular as well as irregular ones. Migration is also a security challenge for Serbia, not only in terms of increasing the threat of terrorism, but also because of the possibility of outbreaks of regional conflicts and that the biggest of all anomalies would be that the poorest countries of Europe, including Serbia, bear the largest burden of migration.<sup>20</sup>

According to FRONTEX<sup>21</sup>, The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, migration paths are: Western African, Western Mediterranean, Central Mediterranean, Apulia and Calabria trajectories, trails between Albania and Greece, Western Balkans, Eastern Mediterranean and Eastern border trajectories.

During 2014, the number of migrants entering the European Union via the Mediterranean has increased considerably over the previous years. Western Mediterranean routes included 4,552 people, over the central Mediterranean 170,669 and across the Eastern Mediterranean route 77,163 (land route 42,721 persons, by sea 34,442 persons). The increase in migration inflows in 2014 is mainly due to the central Mediterranean route as well as to the maritime route of the Eastern Mediterranean route.

Data from the European Agency for the Management of Operational Cooperation at the External Borders show that in the first ten months of 2015 the number of migrants has increased considerably compared to 2014, especially on the eastern Mediterranean route. According to the European Asylum Support Office data since August 2016, 137,688 international protection applications were reported at EU level, representing the largest number of asylum applications in one month throughout the EU during 2016. This also means that by 17% the number of requests has increased by July this year, but by 8% less than in August 2015, when 149,006 persons applied for international protection in the EU countries. According to previous months, 96% of all candidates apply for the first time applications, while 2% of all requests apply to the claims of unaccompanied minors. According to the latest UNICEF data (October 6, 2016)<sup>22</sup> since 2016 more than 241,930 refugees and migrants are children seeking asylum in Europe. This is three times the number of children arriving by sea from Greece and Italy. Only in September 2016, 2,400 children used psychological and other forms of support, UNICEF representatives said (86,772 children last year). Since the beginning of this year, 121,308 children (including UNICEF data from Turkey) have received basic necessities, primarily clothing and hygiene products, to protect them from different weather conditions.

The number of migrants arriving in Greece had a domino effect on the path of the Western Balkans, so the people who entered the EU - Greece tried to enter Macedonia, Serbia, Hungary and Croatia into Western Europe. This has led to a large number of migrants wishing to re-enter the EU via Hungary's border with Serbia. After Hungary's border crossing with Serbia in September last year, migration flows to Croatia. In the course of 2015, 764,000 illegal border crossings of migrants were recorded in the region, representing an increase of 16 times over 2014. The structure by nationality is as follows: Syrian citizens, then Iraqis and Afghans.

Western Balkans has become an important passage to the EU in 2012, when the restrictions on entry into the Schengen area have been reduced for five Balkan countries - Serbia, Macedonia, Bosnia and Herzegovina, Montenegro and Albania. In 2013, about 20,000 people crossed the borders with Hungary illegally. Almost everyone asked for asylum after the move, encouraged by changes in Hungarian law that allowed asylum

20 Simeunovic, D., Migrations as reason for the political anomalies in Europe, Belgrade: NBP Journal of Criminalistics and Law, 2015, p. 17.

21 <http://frontex.europa.eu/trends-and-routes/migratory-routes-map/> (03.09.2017)

22 UNICEF data for Serbia, FYROM, Slovenia, Croatia and Greece.

seekers to stay in collective centers. In July of that year, the Hungarian authorities adopted amendments to the asylum law and strengthened border controls. Migrant flows from Greece were excluded, but the number grew dramatically again in 2014. One of the reasons was irregular migration of nationals in the region, especially from Kosovo and Metohija, who joined Syrians and Somalia citizens. Upon their arrival in Hungary, they sought asylum and, after their stay in open collective centers, moved to other European Union countries, particularly Austria and Germany, where many resumed applying for asylum.

Creating migration profiles in SEE countries began in 2008, when the International Migration Organization, at the recommendation of the European Commission, began defining migration profiles and prepared the Migration Profile of the Republic of Serbia for 2008 and 2009.<sup>23</sup> For the first time since migration in Serbia, Serbia has independently prepared the Migration Profile for 2010, a document that provided better insight into migration flows and their causes, as well as the Migrant Rights Handbook. In the area of migration management over the past period, a large number of laws and by-laws have been adopted, aligning their content with EU legal acts, such as: Aliens Act ("Official Gazette RS", No. 97/2008) The Asylum Act („Official Gazette RS“, No.109/2007) and the Law on Protection of the State Border („Official Gazette RS“, No.97/2008, 20/2015), Migration Management Act ("Official Gazette“, No.107/2012). In the last decade, various strategies have been adopted to define migration management policies.

The umbrella can be considered the Migration Management Strategy („Official Gazette“, No. 59/2009)<sup>24</sup>, which preceded the Law on Migration Management and which defined key goals and measures in the area of irregular migration and asylum policy. Then, the Strategy for Countering Illegal Migrations in the Republic of Serbia for 2009-2014 was based on the National Program for Integration in the European Union, the adopted Integrated Border Management Strategy in the Republic of Serbia and the current reform processes in the country.

It is stated that the Republic of Serbia is making significant efforts in the field of countering illegal migration, both across and beyond its territory, and is one of the first in the region to establish effective institutional mechanisms for combating trafficking in human beings. With this strategy, the Republic of Serbia establishes a policy in the area of establishing an effective system of countering illegal migration, defines the framework for drafting implementation plans, defines the roles and responsibilities of state entities, identifies strategic goals and identifies the basic directions of action in the process of establishing and achieving long-term sustainability and efficiency of the system of countering illegal migration. Although the development of this framework on an international scale, and in Serbia, motivated by the need to mobilize the population in the best way to develop society, it seems that migration management policies have limited scope.

In the first six months of 2016, 4,551 people expressed their intention to seek asylum in Serbia, only 365 filed for asylum in front of the asylum-seekers, and 98 remained in Serbia until the hearing. Attempts have been suspended in 299 cases, mostly because asylum seekers have in the meantime left Serbia or violated the rules of procedure. Claims of 23 asylum seekers, including most Libyan citizens, have been dropped, and refusals are made in relation to 26 asylum seekers.<sup>25</sup> Also 95% of the intention to seek asylum is expressed in regional police departments and 5% at border crossings. The number of 441 juveniles was expressed by the number of asylum seekers in Serbia, out of which there were five boys and one girl from Afghanistan. Only five persons, after express intentions, entered into a further procedure and lodged an asylum application,

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23 Review of legal and institutional framework for migration management:

[http://www.kirs.gov.rs/docs/migracije/Pregled\\_pravnog\\_i\\_institucionalnog\\_okvira\\_Republike\\_Srbije\\_u\\_oblasti\\_upravljanja\\_migracijama.pdf](http://www.kirs.gov.rs/docs/migracije/Pregled_pravnog_i_institucionalnog_okvira_Republike_Srbije_u_oblasti_upravljanja_migracijama.pdf) (05.09.2017)

24 Migration Management Strategy („Official Gazette RS“, broj 59/09), improves framework for effective migration management in Republic of Serbia.

25 <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2016/09/SRB-FINAL.pdf> (05.09.2017)



and the Asylum Office also conducted 11 hearings.<sup>26</sup>

The current and the importance of migration policy witnesses and data of the International Organization for Migration, according to which last year, 5,400 migrants died or disappeared in an attempt to cross the international border, due to an increased level of forced displacement at the global level. The number of migrants migrated during Europe's migration increased by 15% compared to the previous year - at least 3,770. Between 2014 and 2015, there have been a sudden turnaround in the direction of illegal migration from sea to Europe: about 853,000 entries in Greece compared to almost 154,000 in Italy, compared to 34,400 and 170,100 in 2014. In 2015. Also, the number of voluntary returns of migrants (e.g. unsuccessful asylum seekers and other groups) from EU countries is for the first time larger than the number of forced return (81,681 to 72,473). Finally, public opinion on migration is globally more favorable than usual - with the exception of Europe, in the International Migration Organization's report „How the World Views Migration“.<sup>27</sup>

The recommendations of this paper are meant as a form of support for balanced mainstreaming of the phenomenon of migration in national policies. Recommendations for public policies in Serbia are the following:

Conceptual and strategic: 1) Examine the complex mutual, positive and negative, impacts of migration and development (demographic and socioeconomic); 2) Acknowledge the multidirectional movement aspect within the phenomenon of migration; 3) Adopt a human resource development strategy in Serbia; 4) Define Serbian migratory policy principles; 5) Accept the principle of balanced mainstreaming of the phenomenon of migration in key national development and sector strategic documents; 6) Mainstream the phenomenon of migration in a balanced way in the public policy documents, based on cooperation between the government administration, scientific and research institutions and NGOs; 7) Mainstream the phenomenon of migration in a balanced way in public policy documents based on sound quantitative and qualitative data; 8) Ensure unified coordination of public policies in relation to the phenomenon of migration.

Strengthening institutions: 9) Strengthen the capacities of the Commissariat for Refugees and Migration to mainstream migration in key national development and sector strategic documents; 10) Strengthen the capacities of the Republic Secretariat for Public Policy to ensure public policy coordination in relation to the phenomenon of migration; 11) Strengthen the capacities of the Office for Cooperation with the Diaspora and Serbs in the Region; 12) Strengthen the capacities of institutions producing data on migration and research institutions dealing with migration issues; 13) Strengthen the capacities of NGO's focusing on migrants

Improving data and support to research: 14) Establish a Population Registry; 15) Form and maintain national database on professionals and businesses in the diaspora (mapping, professional profiles and interest in some form of cooperation); 16) Continuously implement research on remittances and profile of recipients and senders of remittances; 17) Provide special project funding for the research on the phenomenon of migration in the function of defining certain public policies.

Remittances and development: 18) Disseminate information on the costs of different options of transferring remittances through formal channels with special emphasis on e-banking; 19) Promote and encourage investment in formal/additional education or establishment of small/home businesses by linking remittances and crediting in cooperation with banks.

Encourage investments in the country of origin: 20) Raise awareness of diaspora about the importance of investing money in investments rather than spending; 21)

26 <http://azil-podrska.com/2016/10/10/izbeglicka-situacija-u-srbiji-u-septembru-2016-godine/> (05.09.2017)

27 „How the World Views Migration“ provides an overview of public attitudes towards immigration globally. Drawing on data from the Gallup World Poll, the report details results from surveys conducted in more than 140 countries between 2012 and 2014.



Establish special financial incentives for diaspora investing in investment projects; 22) Promote the idea of donations among the diaspora and encourage donations through various financial and non-financial incentives; 23) Promote best practices on diaspora investments.

Encourage transnational activities of the diaspora: 24) Inform the professionals and businesses in diaspora on the opportunities and support related to transnational activities; 25) Develop a catalogue of successful examples of transnational activities; 26) Establish contacts with certain members of the diaspora to establish concrete forms of cooperation; 27) Establish a fund to connect diaspora scientists with scientists, institutions and businesses in Serbia; 28) Support transnational entrepreneurship through special financial incentives.

Increase the attractiveness of Serbian universities: 29) Adopt the law on regulated professions; 30) Link the labour market and the educational system in accordance with adopted documents; 31) Cancel the procedure for recognition of diplomas from foreign universities on the Shanghai Ranking; 32) Promote openness of higher education institutions to the employment of returnees and foreigners; 33) Support the Diaspora Virtual University; 34) Establish a fund for the mobility of teachers and students; 35) Set quotas for budget funding of citizens from neighbouring countries; 36) Enable foreigners studying in Serbia to apply for credits or loans preparation for major immigration into Serbia; 37) Create positive climate around immigration, develop tolerance and acceptance of immigrants in Serbia; 38) Establish programmes for integration of returnees and foreigners in order to enable them to fully utilize their potentials.

### **Conclusion**

International migration is a growing phenomenon, both by scope and complexity, pervading nearly all the countries in the world. The relation between migration and development is complex. In recent years, in addition to the topics such as perceiving emigration as an error in a population's development, considering the leaving of highly educated and highly skilled individuals as a loss to the country of origin and a gain for the receiving country and stressing the importance of the influx of cash remittances from abroad, migration is more and more often analysed in the function of socioeconomic development not only of developed but also of developing countries.

Impetus for the new paradigm comes from theoretical considerations of the phenomenon of migration and development, findings of conducted empirical research in various populations, as well as in political circles. The United Nations have an important role in the formulation and implementation of a broader perspective on the mutual impact of migration and development. The International Red Cross and Red Crescent Movement suggests that migration is not seen as a disadvantage, but as an advantage and a sign of adaptability, especially if we take into account the inevitable consequences of climate change. In their opinion, it is necessary to use the full economic and social potential of migration, and to counteract the negative effects, both in the countries of origin and in the countries of arrival.

International Organization for Migration is dedicated to promoting humane and orderly migration for the benefit of all. It does so by providing services and advice to governments and migrants. IOM works to help ensure the orderly and humane management of migration, to promote international cooperation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, be they refugees, displaced persons or other uprooted people. The IOM Constitution gives explicit recognition to the link between migration and economic, social and cultural development, as well as to the right of freedom of movement of persons.

Migration movements represent one of the important qualities of the history of the people in this area. Serbia is traditionally a country of emigration. It still records a

clear negative migration balance. However, there are demographic assumptions, that childbearing crisis and its effects related to population ageing and open depopulation, will not only continue but exacerbate in the time that comes, for the change of migration flows from emigration towards immigration. These changes are not supported by the existing reach of socioeconomic development in Serbia. The country is facing a series of political, economic, social and cultural challenges provided in this study, explaining why Serbia still has a high emigration and low immigration potential, as well as to what extent return to Serbia today is a complex and relative option.

The main limitation when considering the effects of external migration, primarily emigration from Serbia, is that it has not been studied enough. Even so, we can conclude that emigration must have had an impact on the reduced number of permanent residents in Serbia. Emigration did not have only a direct impact on the population size. The impact was also indirect. Serbia directly lost the people who emigrated, but also indirectly their children when they left together and/or those born in a different, foreign country.

In addition to potential benefits related to social remittances, cash remittances coming from emigrants to their connections in Serbia are particularly important. Estimated amount of cash remittances is significant both in absolute and relative terms. The amount of remittances is estimated because a considerable share of this financial transfer arrives into Serbia through informal channels. In addition to this finding, the results of representative research conducted by the Statistical Office of the Republic of Serbia demonstrated that remittances are by far used largely to meet the costs of living and basic needs with regards to investing in the education of recipients, their health, better living space or for starting business which is simultaneously investment in the future of both the individual and their family, and the investment in the human capital and the country's development. However, even when recipients spend remittances for everyday needs, this has wider economic effects in the local community.

With the beginning of the reforms, as well as with the EU accession process, Serbia has been working intensively to create a legal framework for migration management and its alignment with EU definitions, standards and regulations. Key laws have been adopted, including the Migration Management Act, which defines various forms of migration and cites competences and procedures for regulating them, while complying with the EU classification. It should be noted that because of its geographic position, Republic of Serbia is an important area on the transit route of irregular migration flows from Asia Minor, Middle East and Africa, across Greece and the Western Balkans, to EU countries and the Schengen area. Primarily, the percentage of illegal residents in the region is as follows: Serbia 28%, Montenegro 26%, BiH 23% and Macedonia 12% ( according to Eurostat data for the second quarter of 2016). As a transit country, in accordance with the laws and conventions, Serbia's obligation is to prevent irregular migration and provide adequate support to asylum seekers. The limited resources and the intensification of migration flows in recent years make it difficult to fulfill these tasks. Humane treatment of asylum seekers and providing minimum conditions for survival while in Serbia is an obligation and a challenge in the conditions of limited resources.

In terms of determining the duration of actual migrations and the likelihood of their repetition in the near future, it is concluded based on the insight into recent developments on the fires of demographic explosions and wars in the Middle East and Africa, that the demographic explosion in the Middle East and Africa is rising rapidly, that the conflict potential of the Middle East and Africa is still very large, and that there is a small degree of probability that it will be a small chance to calm the existing crisis hotspots in the near future. The direction of these new and current migrations will continue to be developed in continental Europe, because of the maritime and continental border of Europe with Africa and the Middle East, a huge length due to the richness and social order of Europe, as well as the fact that Europe's autochthonous population is shrinking at a rapid pace. In the increase in the number of inhabitants in the past year, 2014, the natural increase was only 14.5%, and the increase due to the influx of migrants over 85%. That the magnetism

of Europe for migrants is far wider than its Middle Eastern and African environment. Under these circumstances, Serbia will most likely remain a transit country, with an increasing tendency for migrants to remain in it, and above all those who have access to Europe are hampered by the status of economic migrants with regard to their country of origin.

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## **ОЦЕЛЯВАНЕ НА ПОЛИЦЕЙСКИТЕ СЛУЖИТЕЛИ ПРИ ДЕЙСТВИЯ В РИСКОВИ СИТУАЦИИ**

### **Резюме**

*В своята високо отговорна работа за изпълнение на законо делегираните им правомощия, полицейските органи попадат в най - разнообразни ситуации, в голяма част от които се застрашават не само съществуващите обществени отношения, живота и здравето на гражданите, но живота и здравето на тях самите.*

*И тъй като полицейските органи са единствените оправомощени за решаването на високорискови ситуации, то им е необходима адекватна защита, която не само ще опази живота и здравето им, но и ще им позволи да приложат най - целесъобразно полицейските си правомощия при изпълнение на служебния си дълг.*

*Всичко това предопределя голямото значение, което трябва да се отдава на личната безопасност при изпълнение на полицейските правомощия.*

*Ключови думи: адекватна защита, рискова ситуация, специални тактики, адекватни поведенчески реакции.*

## **SURVIVAL OF THE POLICE AUTHORITIES DURING HIGH RISK SITUATIONS**

### **Abstract**

*In their highly accountable work to carry out their legally delegated powers, the police authorities face a variety of situations, many of which endanger not only the existing public relations, the life and health of the citizens, but the lives and health of themselves.*

*Since police authorities are the only ones empowered to deal with high-risk situations, they need adequate protection that will not only protect their lives and health, but will also allow them to best apply their police powers while performing their official duties.*

*All this determines the great importance that must be given to personal safety during the implementation of police powers.*

*Key words: Adequate protection, risk situation, special tactics, adequate behavioral responses.*

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В сферата на специализираната практическа полицейска подготовка и обучение основен приоритет трябва да бъде съхраняване и опазване живота и здравето на служителите и гражданите.

Основните принципи на обучение и приложение на процедурите в полицейската дейност се извеждат от международните стандарти и нуждата за реализъм, адаптивност и безопасност.

При адекватна лична защита на полицейския орган той не само ще опази собствения си живот и здраве, което ще му даде възможност да разреши правилно създалата се ситуация, но живота и здравето на случайно попаднали в зоната на действие странични лица, а така също ще му позволи да предотврати разрастването на неблагоприятните последици, произтичащи от създалата се кризисна (рискова) ситуация.

За постигане на горното и за оцеляването на полицейските служители при действия в рискови ситуации е необходимо да се изгради цяла система от дейности и правила, които да им дават предимство в борбата с престъпния контингент и да им осигуряват запазване на здравето и живота.

Полицейските служители трябва да се научат да работят и разчитат не само на късмета, суровия героизъм и щастливото стечение на обстоятелствата.

Успехът трябва да се постига чрез трайни знания, развити умствени способности, ежедневни тренировки и прилагане на специални тактики.

Всичко заучено трябва да се тренира при различни ситуации и различни варианти, през различните части от денонощието и годишни времена, преди да се излезе на улицата.

Продължителните тренировки дават по-голяма увереност в силите и чувството, че вече се познава по-голяма част от възможните ситуации.

Въпреки всичко казано до тук, не бива обаче в полицаите да се насаждат и изграждат убеждения за "недосегаемост". Затова, че те при всички случаи са защитени от законите и дори, че природните закони не важат за тях.

Не бива нито за миг да се допуска самозалъгване, че на тях нищо лошо не може да се случи.

При обучението трябва да се въгълпява на полицаите, че те всеки момент, дори и при най-баналната и рутинна полицейска дейност могат да се изправят срещу неприятелска цев или острието на ножа.

Анализа на съвременните тенденции в проявленията и развитието на престъпността показва, че трябва да се поставят редица нови изисквания към подготовката на полицейските служители.

Това е необходимо, защото престъпниците изпитват все по-малък респект от пазителите на реда и законността и не се замислят твърде дълго преди употребата на сила, включително и оръжие спрямо тях.

Наличието на такава целенасочена агресивност у лицата с престъпно поведение, води до възникването на реални рискови ситуации, които изискват и формиране на адекватни поведенчески реакции при полицаите.

Настоящото изследване не е безусловна инструкция за поведението на полицейските служители. То преди всичко съдържа набор от тактически и психологически подходи за контрол на обстановката и действия за оцеляване при рискова ситуация.

Този набор от средства трябва да е съобразен със:

- изискването на месните закони;
- специалните задачи и тактика на действие на полицейските служители;
- изискванията на старшите инстанции и възложените задачи;
- конкретната оперативно - тактическа обстановка;
- особеностите на личния характер и психически качества;
- професионалната компетентност и подготовка;
- особеностите и възможностите на партньора и колективния характер на



полицейските действия;

Ако полицаят правилно да се ориентира в тази материя и положи усилия да я приложи, обогати и усъвършенства в практиката, ще намали рязко степента на риска за себе си, колегите си и гражданите.

Обстановката през последните години се характеризира с това, че въпреки предприетите мерки, все по-често полицайте попадат в ситуации, непосредствено заплашващи живота им.

В крайна сметка способността на полицаия да контролира ситуацията, гарантира изявата му като професионалист и възможността му да респектира лица извършващи престъпления.

Субективната възможност за контрол върху ситуацията се обуславя от равнището на личният самоконтрол.

Съществен елемент на личния самоконтрол е психичната готовност (нагласа) за един или друг вид поведение.

Съществуват резерви, които биха могли да подпомогнат вземането на правилни решения за действия от полицаия в кризисни ситуации.

Един от пътищата за реализиране на тези резерви е формиране на умения за психична саморегулация и разбиране на мислите и чувствата на лицата извършващи престъпления.

Резултатите от изследването на ежедневната дейност на полицайте, ни дават основание да направим извода, че съществуват фактори, които подпомагат ефективността при изпълнение на служебните задължения.

Такива фактори са:

- Психологичната готовност (настройка) за среща със критична ситуация и нейното решаване.
- Тактическото мислене.
- Вербалната манипулация за сваляне на напрежението и предотвратяване ескалацията на конфликта.
- Физическите умения и подготовка.
- Личното отношение към изпълнението на служебните задължения.

Липсата на необходимата психологична подготовка води до преживяването на относително високо ниво на неувереност или пък рефлектира в необосновано високо самочувствие на "велик полицаи". Редица експерти считат, че разчитането на шанс или късмет в критична ситуация минимизира възможностите на полицаия за контрол върху нея.

Психологичната подготовка на полицаия изисква сериозен анализ, на базата на който да се намали стреса при действия в критични ситуации защото:

- доста често рисковите ситуации се разглеждат схематично и понякога твърде едностранчиво и повърхностно;
- извършва се емоционална, а не рационална преценка на ситуацията;
- реагира се по инерция, което понижава инициативността за овладяване на положението;
- формира се самоизмама - представа за недосегаемост или самоуспокояващо внушение "На мен нищо лошо не може да ми се случи".

Ето защо, за да се постигне оптимална психическа подготовка е необходима целенасочена работа за развитие на саморегулативните механизми, което би позволило на служителите на полицаията:

- да намали до възможния минимум стреса, който възниква при попадането в рискова ситуация;
- да избере оптимална поведенческа тактика, за да предотврати или овладее ситуацията;
- да повиши шансовете за успешно справяне със задачата.

С други думи, полицаят трябва да развие уменията си да владее себе си, за да

може да упражнява контрол върху критичните моменти в служебната си дейност.

Това е особено наложително, защото полицейската сигурност, здраве и живот могат неочаквано да се окажат силно застрашени, тъй като и най-безобидните на вид предмети могат да бъдат използвани за оръжия.

Освен това никой служител не може да предвиди всички заплахи за своята сигурност и да действа достатъчно ефективно.

При действия в критична ситуация винаги ще съществува някаква опасност. Но тази опасност може да бъде чувствително намалена чрез стъпките, които самите полицаи ще предприемат.

Доказано е, че заплахите за полицейската сигурност ще бъдат намалени, ако полицаите предварително се подготвят адекватно за кризисната ситуация, в която ще се намесват.

По време на подготовката за кризисното действие, полицаите трябва:

1. Да се съобразят с предварителният си (натрупан, минал) опит от подобни действия.
2. Да имат готовност, че неочакваното може наистина да се случи.
3. Да си оформят (съставят) подходящ временен план за действие.

Трябва не само да помислят докъде се разпростират кризисни ситуации от типа на тази, за която в момента се подготвят да разрешават и как обикновено са третирали подобни случаи, но също и да си припомнят и преразгледат необичайни минали ситуации от подобен тип. Те може да се случат отново и ако са подготвени, тяхната безопасност се повишава.

Докато обмислят всяка една от алтернативите, трябва да обърнат специално внимание на въпросите за своята сигурност като :

- Какви предмети са били използвани срещу него като оръжие в миналото?
- Какъв тип хора са го атакували, когато не е очаквал това?
- Какво е пропуснал да забележи, да отчете, да направи (или някой друг е пропуснал да направи) и то го е поставило в опасност?

След като действително са обмислили своя минал опит при подобни ситуации и са го използвали в качеството на предварителна подготовка, трябва да си представят заплахите за своята сигурност, които могат да изникнат, дори ако никога преди това не са се сблъскали с тях, тоест да се подготвят, че неочакваното действително може да се случи.

Полезността на подготовката чрез този тип репетиции ще се повиши, ако те са добре запознат с района, в който патрулират и с хората, които го населяват.

Знанието за това кой живее или не живее там, кой работи в даден магазин и кои са пътищата към и от даден обект в този район, може да се окаже много ценна информация за безопасността, ако се наложи намеса по тези места.

С една дума, заслужава си усилията да се познават хората и местата, които съставляват района на действия, преди да възникне ответната необходимост.

Акцентите до тук бяха върху това, какво гражданите ( престъпниците) биха могли да причинят на полицейските служители и как те могат да се подготвят за реакция.

Резултатите от изследването обаче показват, че само част от опасността за служителя идва от гражданите.

Сериозните наранявания и смърт могат да бъдат резултат на събития или верига от реакции, на които полицейските служители слагат начало.

С други думи, те могат да бъдат понякога сериозна заплаха за своята собствена сигурност.

Когато бъдат нападнати, да не се оставят страхът да ги парализира! Да се отбраняват хладнокръвно и упорито!

Това е единствената печеливша тактика, за съжаление, защото в повечето случаи нападението става внезапно за жертвата.

Да не се преодолее шока от изненадата и да блокират от страх е най-лошото,

което може да им се случи. Тогава престъпникът, необезпокояван от нищо, спокойно ще се прицели в неподвижното им тяло и ще стреля, за да ги убие, или най-малкото ще извърши грабеж на оръжието или ценностите, които носят или охраняват.

Ако запазят самообладание обаче, шансовете им са големи. Те са въоръжени! Той, противникът, може и да не предполага това!

Трябва да се има предвид, че конкретната тактика и прилаганите способности и техники ще се подбират в зависимост от конкретната обстановка и ситуация, броя и качествата на противника и неговото въоръжение, а така също и от характера и условията на обкръжаващата среда и пространство.

Решаваща роля ще играят и качествата и уменията на собствените сили и средства. Именно това налага да се направят някои изменения в способите свързани с обучението по стрелкова подготовка.

Класическата стойка за стрелба при обучението трябва да бъде заменена с многовариантни стойки, които осигуряват по-бърза стрелба, по-добро прикритие и по-голяма устойчивост на стрелящите.

Друг момент, който следва да се има предвид, е че в редица случаи, необходимостта от точен "прецизен" изстрел се измества на заден план за сметка на многократното съкращаване на времето за неговото произвеждане.

Не случайно в много от ръководствата по "комбат" стрелба е възприет девизът "Стреляй пръв, за да оживееш! Втори шанс няма".

Изследванията показват, че делът на престрелките над 15 м. е незначителен процент, докато стрелбите от "една ръка разстояние" до 5-8 м. е много голям процент от извършените престрелки.

В редица изследвания, зоната до 7 м., специалистите в тази област я определят като критична зона, като при нея от особена важност е бързината за изваждане на оръжието, неговото насочване и произвеждане на първия изстрел.

Многообразието на кризисните ситуации не изключва моменти, когато участващите в тях могат да изпаднат в по-рядко срещани такива, или в необичайни ситуации, а много често и в ограничени пространства.

Сега съществуващата практика обучението и тренировките по стрелба се водят по кръгове, гръдни и мишени в цял ръст, при които резултатът се отчита по броя на точките събрани от попаденията, в някои случаи без да се отчита времето, не отговаря на изискванията на съвременната оперативна и криминогенна обстановка.

В една реално оперативно-бойна обстановка изходът от схватката (сблъсък) ще се реши преди всичко от бързината на манипулиране с оръжието до изстрела и самото произвеждане на изстрела.

Много често самите обстоятелства ще налагат съчетаване на бойно-полицейските техники за физически контакт, с бързата стрелба по приближаващ се или отдалечаващ се противник.

До голяма степен при избора на тактиката и техниките за намеса трябва да се съобразяваме и с физическите качества на служителите, като: ръст; телосложение; подвижност; издръжливост; сила и др..

Също така съществено влияние оказва и бързината, ловкостта и творческото прилагане на заученото и тренираното.

Технически добре подготвените служители трябва да умеят и да могат да използват разнообразието от техники, които те владеят и да налагат своята тактика още в самото начало на оперативно-бойните действия.

Психическата устойчивост на участниците в оперативно-бойните действия срещу особено опасни престъпници е от особено значение.

Психически устойчивият полицай трябва да разстройва противника със своите тактически умения, физически действия и психическо поведение.

Той трябва да следи постоянно психическото състояние на противника и в зависимост от това да налага своята воля.

Както при изпълнение на рутинните задължения, така и при високо рискови действия и участия в акции и операции, психологическото ниво на готовност, тактическото мислене и планиране имат изключително важно значение.

Това е така защото полицейската дейност е високо рискова професия, която ежедневно има пряк досег с най-опасната част на всяко общество и това е първото ръководно начало, което трябва да се има предвид при определяне нуждата и насоката на полицейското обучение.

Обективният анализ на ситуацията показва, че оперативната обстановка изисква формиране на адекватни поведенчески стратегии на полицаия в рискови ситуации.

Тези стратегии могат да бъдат ефективни, когато са базирани върху изградена цялостна готовност за среща с реалните опасности в борбата с престъпността.

Тази готовност би подготвила полицаите за по-уверени и решителни действия и същевременно в голяма степен би допринесла за тяхната сигурност и оцеляване в ежедневното изпълнение на служебните задачи.

Справянето с една критична ситуация изисква пълна мобилизация на физическия и психическия потенциал на полицаия, но всичко казано до тук не бива да оставя впечатление, че полицаят трябва да мъдрува върху всяка критична ситуация, в която попада.

По принцип, за тактическото мислене е важно всичко научено от полицейския служител като непосредствен и опосредствен опит в полицейската дейност. Не трябва да се забравя също така, че най-ефикасни са решенията, чрез които може незабавно и пряко да се въздейства върху ситуацията.

Познаването на представените способности за развитие на самоконтрола и факторите, подпомагащи тактическото мислене, са възможност за формирането на една по-различна гледна точка към подготовката и самоподготовката на полицейските служители.

Но въпреки всичко казано за личната безопасност и правилните тактически действия, не бива да се забравя, че спазването дори на всички препоръки не гарантира абсолютна сигурност.

Винаги съществува известен риск и затова личната безопасност следва да се разглежда като съставна и неделима част от полицейската тактика.

Не бива обаче да се отива и в другата крайност - посочените правила за лична безопасност да доведат до прекомерна и необоснована предпазливост и по този начин да се затруднят и забавят изпълнението на поставените задачи.

Настоящият доклад може да се възприеме като резултат от обобщения дългогодишен опит, натрупан в ежедневната дейност от служителите на българското Министерство на Вътрешните Работи при действията им както на територията на страната ни, така и при участието им в различни мисии в други страни.

Анализа на този опит показва, как полицейските служители действащи сами, в състава на тактически двойки (Т-2), тактически групи или полицейски подразделения, чрез своето правилно поведение и с използването на предварително тренирани тактически действия, могат да сведат опасностите в ежедневната си дейност до минимум, или да ги предотвратят още в началния им етап.

Много важно условие при реализирането на специализираната полицейска подготовка е спазване на принципа единност, последователност, завършеност и интегрираност на всички видове подготовка, подчинени на тактическия замисъл и логика.

Само при такъв подход ще се завиши процента на безопасност и оцеляване на полицейските служители.

От цялостния анализ на резултатите от изследването, можем да направим извода, че в полицейската дейност безопасността трябва да е абсолютен и постоянен приоритет.

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*Hatidža Beriša<sup>1</sup>, Katarina Jonev<sup>2</sup>*

## UPRAVLJANJE MIGRACIJAMA U REPUBLICI SRBIJI

### Rezime

*Migracije su narasle do obima velikih razmera i predstavljaju veliki izazov za gotovo svaku tranzitnu državu Balkan i zemlje južne Evrope su zbog svog prirodnog geografskog položaja postale jedan od glavnih koridora između Bliskog istoka, severne Afrike i zapadne Evrope. Upravljanja migracijama po svojoj prirodi je multisektorska, samim tim su i za upravljanje ovako složenog procesa neophodni eksperti iz više oblasti. Državni organi R. Srbije pokazali su visok nivo organizovanosti, profesionalizma i humanosti, tokom rešavanja problema prilivom migranata. S obzirom da je R. Srbija kandidat za članstvo u Evropsku uniju i da je proces pregovora o pristupanju otpočeo otvaranjem i usklađivanjem potrebnih poglavlja, efikasno upravljanje migracijama jedan je od uslova od čijeg ispunjenja zavisi pridruživanje R. Srbije Evropskoj uniji. Oblast migracije je pravno i institucionalno uređena u skladu sa potrebnim standardima Evropske unije.*

*Ključne reči: migracija, migranti, Republika Srbija, Strategija, zakonski okvir, Balkan*

## MIGRATION MANAGEMENT IN THE REPUBLIC OF SERBIA

### Abstract

*Migration has risen to a large scale and it became a major challenge for almost every transit country. Because of its natural geographical position, the countries of the Balkans and the southern European countries have become one of the major corridors between the Middle East, North Africa and Western Europe. Migration management is by its very nature multisectoral, and therefore, for the management of such a complex process, experts from more than one area are required. State authorities of Republic of Serbia showed a high level of organization, professionalism and humanity, while solving the problem of influx of migrants. Considering that Serbia is a candidate for membership of the European Union and that the process of accession negotiations has begun with the opening and harmonization of the necessary chapters, efficient migration management is one of the conditions on which the accession of R. is dependent. Serbia to the European Union. The migration area is legally and institutionally regulated in accordance with the necessary standards of the European Union.*

*Key words: migration, migrants, Republic of Serbia, Strategy, legal framework, Balkans*

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## Uvod

Za poslednjih nekoliko godina migrantska izbeglička kriza je znatno intenzivirana. Gotovo sve države na Balkanskom poluostrvu, kao i većina država Evropske unije kroz koje prolaze migranti, suočene su sa fenomenom milionske seobe ljudi iz različitih delova planete, a posebno iz područja koja su zahvaćena ratom. Balkan i zemlje južne Evrope zbog svog prirodnog geografskog položaja postale su jedan od glavnih koridora između Bliskog istoka, severne Afrike i zapadne Evrope. Prema dosadašnjim podacima samo je kroz Republiku Srbiju prošlo blizu milion migranata, sa prognozom eksperata iz ove oblasti, da se navedeni broj znatno uveća u vrlo bliskoj budućnosti.

Migrantska kriza, nastala na prostoru Bliskog Istoka i Severne Afrike, proširila se i na prostor Balkana koji je prevashodno prostor tranzita za zemlje Zapadne Evrope. Republika Srbija se efikasno suočila sa novonastalom situacijom. Vlada Republike Srbije je efikasno preduzela odgovarajuće mere na prihvatu, zbrinjavanju i transportu migranata kroz Srbiju.

Zbog povećanog broja migranata, a na osnovu odluke Vlade Republike Srbije, angažovani su svi elementi sistema bezbednosti i odbrane koji su preduzeli odgovarajuće mere iz svoje nadležnosti. Kako je oblast upravljanja migracijama po svojoj prirodi multisektorska, samim tim su i nadležnosti u ovoj oblasti podeljene između više organa državne uprave. Institucionalni okvir u ovoj oblasti definisan je u skladu sa nadležnostima i propisima koji određeni subjekti sistema bezbednosti odbrane imaju.<sup>3</sup>

## Upravljanje migracijama na nacionalnom nivou

Upravljanje migracijama podrazumeva jasan i uređen sistem koji uspostavlja zakonodavna i izvršna vlast jedne države u skladu sa jasnom migracionom politikom i organizovanim upravljanjem migracionih tokova, praćenjem spoljnih i unutrašnjih migracionih kretanja, kao i sprovođenjem potrebnih aktivnosti radi stavljanja istih u regularne tokove. S obzirom da je Republika Srbija kandidat za članstvo u Evropsku uniju i da je proces pregovora o pristupanju otpočeo otvaranjem i usklađivanjem potrebnih poglavlja, svakako da je i efikasno upravljanje migracijama jedan od uslova od čijeg ispunjavanja zavisi pridruživanje R. Srbije Evropskoj uniji.

Da bi oblast migracije bila pravno i institucionalno uređena u skladu sa potrebnim standardima Evropske unije Vlada R. Srbije je najpre uredila zakonodavni okvir za razvijanje sistema upravljanja migracijama. Zakonodavni okvir je razvijen na platformi međunarodnog prava, a svi ratifikovani-potvrđeni međunarodni ugovori, kao i svi zakoni i druga opšta akta su u saglasnosti sa Ustavom R. Srbije. Od međunarodnih dokumenata najznačajnije su konvencije kojima se uređuju pitanja ljudskih prava i eliminisanje svih oblika diskriminacije, položaj lica bez državljanstva, status izbeglica, ali i borba protiv organizovanog kriminala i terorizma.<sup>4</sup>

## Zakonodavni okvir

Osnovni pravni akt a koji je u vezi sa upravljanjem migracijama je Ustav Republike Srbije<sup>5</sup>. Sadrži više članova koji se odnose na oblast upravljanja migracijama. U delu Ustava koji se bavi ljudskim i manjinskim pravima i slobodama postoji niz odredbi koje su važne za različite kategorije migranata. Republika Srbija je Ustav iz 2006.

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3 Hatidža Beriša i Mile Rakić „Migrantska kriza – studija slučaja Republike Srbije“ [http://kpolisa.com/KP30/KP30-I-3\\_BerisaRacic.pdf](http://kpolisa.com/KP30/KP30-I-3_BerisaRacic.pdf) (pristupljeno 30.04.2017) str. 35-37.

4 Međunarodna organizacija za migracije – Misija u Srbiji, „Osnovi upravljanja migracijama u Republici Srbiji“ (Beograd: Dosije Studio, 2012), [http://www.kirs.gov.rs/docs/migracije/Osnovi\\_upravljanja\\_migracijama\\_u\\_Republici\\_Srbiji.pdf](http://www.kirs.gov.rs/docs/migracije/Osnovi_upravljanja_migracijama_u_Republici_Srbiji.pdf), str. 7-8, (pristupljeno 15.04.2017).

5 Član 17. Ustava bavi se položajem stranaca, kojima se načelno garantuju sva prava koja imaju i domaći državljani, osim izbornog prava propisana čl. 52. st. 1, kao i čl. 39, koji propisuje da se ulazak u zemlju i boravak stranaca u njoj uređuju zakonom i da oni mogu biti proterani (čl. 39. st. 3);

godine donela nakon raspada Savezne Republike Jugoslavije.<sup>6</sup> Gledano po hijerarhiji pravnih akata i pravnoj snazi, odmah posle Ustava slede potvrđeni međunarodni ugovori (multilateralni ili bilateralni), a zatim iza njih slede zakoni i druga opšta akta usklađena sa ustavom, potvrđenim međunarodnim ugovorima i opšteprihvaćenim pravilima međunarodnog prava.<sup>7</sup>

Imajući u vidu da se R. Srbija suočava sa svim vrstama migracija, važan preduslov za uspešno upravljanje migracijama predstavlja formulisanje jasne i određene Strategije za upravljanje migracijama.<sup>8</sup> Strategija je osnova za organizovano upravljanje migracionom politikom i definiše ciljeve u toj oblasti i načelno ima vremenski rok do desetak godina. U skladu sa istom razvija se koordinacija između institucija u sprovođenju nadzora nad spoljnim i unutrašnjim migracionim kretanjima i aktivnostima podsticanja legalnih i suzbijanja nelegalnih migracija kroz: politiku viza, integrisano upravljanje granicom, regulisan boravak stranaca, razvijen mehanizam za integraciju migranata u društvo, politiku zaštite svojih državljana na radu i boravku u inostranstvu, kao i aktivnu politiku zapošljavanja<sup>9</sup>.

Osim Strategije za upravljanje migracijama i ratifikovanih međunarodnih ugovora, neophodni su i domaći pravni akti kojima se oblast migracije uređuje. U R. Srbiji, najznačajniji su: Strategija suprotstavljanja ilegalnim migracijama za period 2009-2014. godine,<sup>10</sup> Zakon o upravljanju migracijama,<sup>11</sup> Zakon o azilu,<sup>12</sup> Zakon o zaštiti državne granice,<sup>13</sup> Zakon o strancima,<sup>14</sup> Zakon o izbeglicama,<sup>15</sup> Zakon o potvrđivanju Sporazuma između Republike Srbije i Evropske zajednice o readmisiji lica koja nezakonito borave,<sup>16</sup> Zakon o potvrđivanju Sporazuma o stabilizaciji i pridruživanju između Evropskih zajednica i njihovih država članica, sa jedne strane, i Republike Srbije, sa druge strane<sup>17</sup> i Krivični zakonik.<sup>18</sup>

Akt kojim se bliže uređuje sprovođenje Strategije za upravljanje migracijama, je Zakon o upravljanju migracijama. Po navedenom zakonu, upravljanje migracijama podrazumeva prikupljanje, analizu, obradu, organizovanje, razmenu, čuvanje i zaštitu podataka relevantnih za upravljanje migracijama, utvrđivanje pokazatelja, podataka relevantnih za upravljanje migracijama, uspostavljanje jedinstvenog sistema i drugih mehanizama razmene podataka u oblasti migracija, utvrđivanje i predlaganje ciljeva i prioriteta migracione politike, predlaganje i preduzimanje mera za sprovođenje migracione politike i koordinaciju organa koji obavljaju poslove vezane za upravljanje migracijama, kao doprinosa ostalim zakonom uspostavljenim mehanizmima u oblasti migracija.<sup>19</sup>

Zakon o azilu je pravni akt koji je u skladu sa pravnim rešenjima koja se primenjuju u državama Evropske unije, uz činjenicu da je R. Srbija u procesu pregovora za pristupanje Evropskoj uniji. Ovim zakonom su uređena pitanja uslova za ostvarivanje prava na ovaj vid međunarodne zaštite, kao procedure za dobijanje i

6 Ustav Republike Srbije, Službeni Glasnik Republike Srbije, br. 98/06

7 Međunarodna organizacija za migracije „Pregled pravnog i institucionalnog okvira Republike Srbije u oblasti upravljanja migracijama“ (Beograd: 2011),

8 Strategija za upravljanje migracijama, Službeni Glasnik Republike Srbije, broj 59/09.

9 Međunarodna organizacija za migracije – Misija u Srbiji, „Osnovi upravljanja migracijama u Republici Srbiji“ (Beograd: Dosije Studio, 2012), [http://www.kirs.gov.rs/docs/migracije/Osnovi\\_upravljanja\\_migracijama\\_u\\_Republici\\_Srbiji.pdf](http://www.kirs.gov.rs/docs/migracije/Osnovi_upravljanja_migracijama_u_Republici_Srbiji.pdf), str. 9, (pristupljeno 09. aprila 2017.).

10 Strategija suprotstavljanja ilegalnim migracijama u Republici Srbiji za period 2009-2014. Službeni Glasnik Republike Srbije, broj 110-530/2009.

11 Zakon o upravljanju migracijama, Službeni Glasnik Republike Srbije, broj 107/2012.

12 Zakon o azilu, Službeni Glasnik Republike Srbije, broj 109/2007.

13 Zakon o strancima, Službeni Glasnik Republike Srbije, broj 97/2008 i 20/2015 - dr. zakon.

14 Isto.

15 Zakon o izbeglicama, Službeni Glasnik Republike Srbije, broj 18/92 i 30/2010, Službeni list SRJ, broj 42/2002

16 Službeni Glasnik Republike Srbije, broj 103/2007

17 Službeni Glasnik Republike Srbije, broj 83/2008

18 Krivični zakonik, Službeni Glasnik Republike Srbije, br. 85/2005, 88/2005 - ispr., 107/2005 - ispr., 72/2009, 111/2009, 121/2012, 104/2013 i 108/2014

19 „Zakon o upravljanju migracijama“, Službeni glasnik R. Srbije, broj 107/2012, član 2, stavovi 4.

prestanak, kao i druga pitanja vezana za status, prava i obaveze azilanata<sup>20</sup>. Pored Zakona o azilu, brojnim podzakonskim aktima - pravilnicima i odlukama je uređeno ovo pitanje. Zakon o zaštiti državne granice<sup>21</sup> je dokument kojim se uređuje „zaštita državne granice, organizacija i način vršenja zaštite iste“. Ovim zakonom je regulisana nadležnost organa koji obavljaju poslove granične kontrole<sup>22</sup> i obezbeđenja državne granice<sup>23</sup>, kao i integrisano upravljanje granicom<sup>24</sup>. Takođe, ovim se zakonom regulišu uslovi i način prelaska državne granice, način, mesta i dužnosti lica koja prelaze državnu granicu<sup>25</sup>, režimi saobraćaja na graničnim prelazima<sup>26</sup>, uslovi za unošenje predmeta u R. Srbiju, posebno oružja, način vršenja obezbeđenja državne granice, način određivanja, obeležavanja i uređivanja državne granice, ostvarivanje međunarodne granične saradnje, način prikupljanja podataka i vođenja evidencija.

Zakon o strancima uređuje pitanja uslova za ulazak i boravak stranaca u R. Srbiji, kao i nadležnost i poslove državnih organa, pri čemu se odredbe ovog zakona ne odnose na strance u procesu odlučivanja o dobijanju azila ili koji su već ostvarili to pravo. Odnosi se i na pitanja u vezi sa strancima koji imaju međunarodnim ugovorima propisane privilegije i imunitete, kao i one koji imaju status izbeglice. Zakon o izbeglicama donet je 1992. godine. Njegova specifičnost je u tome da vrlo usko definiše pojam izbeglice i ograničava ga na lica poreklom sa teritorije bivše SFRJ. U tom smislu nije primenljiv u aktuelnoj migracionoj krizi. Međutim, odredbama ovog zakona je uređena i uloga Komesarijata za izbeglice, te ga je u tom smislu potrebno pomenuti na ovom mestu.<sup>27</sup>

Sporazum između Republike Srbije i Evropske zajednice o readmisiji lica koja nezakonito borave potpisan je u Briselu 18. septembra 2007. godine. Readmisija predstavlja proces bezbednog povratka osoba koje ne ispunjavaju, ili više ne ispunjavaju uslove ulaska, boravka ili nastanjanja na teritoriji određene države. Ovim sporazumom definisane su obaveze R. Srbije i Evropske zajednice u pogledu kruga lica koja podležu readmisiji, i to kako u vezi sa readmisijom sopstvenih državljana, tako i u vezi sa readmisijom državljana trećih država<sup>28</sup> i lica bez državljanstva.<sup>29</sup> Po navedenom

20 „Azil je - pravo na boravak i zaštitu koje ima stranac kome je na osnovu odluke nadležnog organa koji je odlučivao o njegovom zahtevu za azil u Republici Srbiji odobreno utočište ili drugi oblik zaštite predviđen ovim zakonom“ [http://www.propisi.com/migracije-\(upravljanje-migracijama-i-migrantskakriza\).html](http://www.propisi.com/migracije-(upravljanje-migracijama-i-migrantskakriza).html), (pristupljeno 15.03.2017).

21 Zakon o zaštiti državne granice Republike Srbije usvojen 2008. godine predviđa savremeni sistem upravljanja državnom granicom i demilitarizovanu granicu, i omogućava slobodniji protok ljudi i robe, [http://www.propisi.com/migracije-\(upravljanje-migracijama-i-migrantska-kriza\).html](http://www.propisi.com/migracije-(upravljanje-migracijama-i-migrantska-kriza).html), (pristupljeno 15.03.2017).

22 „Granična kontrola je - kontrola lica i putnih isprava, kontrola prevoznog sredstva i kontrola stvari koja se vrši na području graničnog prelaza u vezi sa nameranim prelaskom državne granice ili neposredno nakon što je izvršen prelazak državne granice i druga kontrola u skladu sa zakonom“ [http://www.propisi.com/migracije-\(upravljanje-migracijama-i-migrantska-kriza\).html](http://www.propisi.com/migracije-(upravljanje-migracijama-i-migrantska-kriza).html), (pristupljeno 15.03.2017).

23 „Obezbeđenje državne granice je - skup mera, radnji i ovlašćenja koja se preduzimaju uz državnu granicu, između graničnih prelaza i na graničnim prelazima izvan utvrđenog radnog vremena u cilju sprečavanja nedozvoljenog prelaska državne granice i zaštite njene nepovredivosti“ [http://www.propisi.com/migracije-\(upravljanje-migracijama-i-migrantska-kriza\).html](http://www.propisi.com/migracije-(upravljanje-migracijama-i-migrantska-kriza).html), (pristupljeno 15.03.2017).

24 „Integrisano upravljanje granicom podrazumeva - uređenu saradnju svih službi prisutnih na graničnim prelazima (unutar, između i međunarodnu saradnju) kao i drugih državnih organa i institucija u cilju postizanja otvorenosti granice za kretanje lica i trgovinu i zatvorenosti granica za sve kriminalne i druge aktivnosti koje ugrožavaju stabilnost u regionu“ Isto.

25 „Državna granica je - zamišljena vertikalna ravan koja se graničnom linijom prostire po Zemljinoj površini i odvajaa prostor Republike Srbije, njegov kopneni deo, unutrašnje vode, vazdušni prostor i prostor ispod površine zemlje od prostora susednih država. U smislu kontrole državne granice pod državnom granicom se smatraju i područja graničnih prelaza na aerodromima i pristaništima preko kojih se odvija međunarodni saobraćaj“ Isto

26 „Granični prelaz je - mesto određeno za prelazanje državne granice“ Isto.

27 Međunarodna organizacija za migracije – Misija u Srbiji, „Osnovi upravljanja migracijama u Republici Srbiji“ (Beograd: Dosije Studio, 2012), [http://www.kirs.gov.rs/docs/migracije/Osnovi\\_upravljanja\\_migracijama\\_u\\_Republici\\_Srbiji.pdf](http://www.kirs.gov.rs/docs/migracije/Osnovi_upravljanja_migracijama_u_Republici_Srbiji.pdf), str. 38, (pristupljeno 09.04.2017).

28 „Državljaninom treće zemlje smatra se lice koje nije državljanin ni Republike Srbije, ni Evropske unije“ [http://www.kirs.gov.rs/docs/migracije/Osnovi\\_upravljanja\\_migracijama\\_u\\_Republici\\_Srbiji.pdf](http://www.kirs.gov.rs/docs/migracije/Osnovi_upravljanja_migracijama_u_Republici_Srbiji.pdf), str. 38, (pristupljeno 09.04.2017) str. 49

29 Međunarodna organizacija za migracije – Misija u Srbiji, „Osnovi upravljanja migracijama u Republici



sporazumu, R. Srbija je dužna da prihvati readmisiju državljanina treće zemlje ili lica bez državljanstva, ako to lice poseduje važeću vizu ili dozvolu boravka izdatu od strane R. Srbije, ili ako je direktno i na nezakonit način ušlo na teritoriju Evropske unije nakon što je boravilo ili bilo u tranzitu kroz teritoriju R. Srbije. Ovako definisana odredba po Sporazumu o readmisiji nije povoljna po državu R. Srbiju imajući u vidu aktuelnu migrantsku krizu. Postoji verovatnoća da se po osnovu ovog sporazuma u R. Srbiji vrate sve izbeglice sa prostora zahvaćenog ratnim dejstvima na Bliskom istoku, bez obzira što su u tranzitu prošla i države članica Evropske unije, Bugarsku i Grčku.

Kada je u pitanju Sporazum o stabilizaciji i pridruživanju, isti obuhvata pitanja viza, migracija i azila, i utvrđuje obavezu Republike Srbije da u tim oblastima izgrađuje zakonodavni, institucionalni i proceduralni okvir kompatibilan postojećem okviru članica Evropske unije.<sup>30</sup>

Krivični zakonik Republike Srbije je značajan za suprotstavljanje negativnih pojava ilegalnih migracija, krijumčarenja ljudi, trgovine ljudima i drugih zloupotreba iregularnih migranata od strane organizovanog kriminala, kao i međunarodnog terorizma. Ono što treba posebno istaći, to su sličnosti i suštinske razlike, koje se uglavnom ne razlikuju u široj javnosti, između krivičnih dela nedozvoljen prelaz državne granice i krijumčarenje ljudi (član 350) i trgovina ljudima (član 388). Zbog činjenice da su ova dva krivična dela povezana radnjama izvršenja, često se poistovećuju. Trgovina ljudima podrazumeva transport sa jednog mesta na drugo, i to vrlo često preko državnih granica. Krivično delo iz člana 350 Krivičnog zakonika R. Srbije sadrži u sebi dva oblika kršenja zakona, prvi, nedozvoljen prelaz državne granice, i drugi, omogućavanje drugom nedozvoljeni prelaz državne granice. Prvi oblik je krivično delo samo onda kada se nedozvoljen prelazak državne granice vrši uz upotrebu oružja ili nasilja, a u suprotnom je prekršaj iz člana 65 Zakona o zaštiti državne granice. U tom smislu, ako bi se nasilni pokušaji prelaska državne granice od strane migranata na makedonsko-grčkoj ili državnoj granici između R. Srbije i Mađarske posmatrali odvojeno od humanitarnog konteksta celokupnog migracionog procesa, onda bi se iregularni migranti mogli tretirati kao izvršioc i krivičnih dela.<sup>31</sup> Drugi oblik ovog krivičnog dela je krijumčarenje ljudi koji podrazumeva različite načine pomaganja da se državna granica pređe mimo zakonskih propisa. Od prihvata lica na drugom delu državne granice, ili u unutrašnjosti zemlje, davanja smeštaja i skrivanja takvog lica, do dovođenja do dela državne granice gde se namerava izvršiti neregularan prelazak, kao i same realizacije ilegalnog prelaska. Neophodan uslov za postojanje ovog krivičnog dela je koristoljublje, koje se ispoljava tako što krijumčareno lice plaća uslugu krijumčarenja, što podrazumeva sve vreme prisustvo voljnog momenta kod krijumčarenog lica. Ako se krijumčarenje ljudi (prevoz, skrivanje, ilegalno prebacivanje preko državne granice) vrši s ciljem njihove eksploatacije (radne, seksualne, radi vršenja krivičnih dela, radi oduzimanja ljudskih organa, ili radi korišćenja u oružanim sukobima) onda se tu radi o krivičnom delu - trgovina ljudima (član 388). S obzirom da osnovni oblik tog krivičnog dela čine tri obeležja - radnja, način izvršenja i cilj koji se želi postići, sama eksploatacija kao glavni cilj trgovine ljudima je element razlikovnja trgovine ljudima od krijumčarenja ljudi.<sup>32</sup>

Dakle, zakonodavni okvir je osnovni vid upravljanja migracijama demokratskog društva. Republika Srbija kao kandidat za članstvo u Evropskoj uniji je u velikoj meri uskladila svoje zakone sa Evropskim zakonodavstvom u ovoj oblasti.

Srbiji“ (Beograd: Dosije Studio, 2012), [http://www.kirs.gov.rs/docs/migracije/Osnovi\\_upravljanja\\_migracijama\\_u\\_Republici\\_Srbiji.pdf](http://www.kirs.gov.rs/docs/migracije/Osnovi_upravljanja_migracijama_u_Republici_Srbiji.pdf), Isto, str. 50; (pristupljeno 09.04.2017).

30 Darko M. Marković „Bezbednosni izazovi, rizici i pretnje ilegalnih migracija“ (Doktorska Disertacija, Fakultet bezbednosti, Beograd, 2016) str. 265.

31 Darko M. Marković „Bezbednosni izazovi, rizici i pretnje ilegalnih migracija“ (Doktorska Disertacija, Fakultet bezbednosti, Beograd, 2016) str. 265-268.

32 Isto.

## Institucionalni okvir

Po svojoj prirodi i oblasti u kojima se prožimaju migracije, možemo reći da one imaju multisektorski karakter, odnosno obuhvataju delokrug nadležnosti i poslova kojima se bave više organa državne uprave. Institucionalni okvir u ovoj oblasti definisan je u skladu sa nadležnostima koje nadležni organi državne uprave imaju u oblasti migracija u skladu sa Zakonom o ministarstvima, Zakonom o azilu, Zakonom o strancima, Zakonom o izbeglicama, kao i uredbama, odlukama i strategijama Vlade Republike Srbije iz ove oblasti. Za oblast upravljanje migracijama zbog svoje kompleksnosti nadležna su nekoliko ministarstva. Jedno od najvažnijih, Ministarstvo unutrašnjih poslova zaduženo je za: bezbednost državne granice, kontrolu prelaska granice, kretanja i boravka u graničnom pojasu, boravak stranaca, državljanstvo, prebivalište i boravište građana, lične karte i putne isprave, međunarodnu saradnju u oblasti readmisije, ilegalne migracije, azila i pravno rešavanje u drugostepenom postupku po osnovu propisa o izbeglicama.<sup>33</sup>

S obzirom da je već napomenuto da oblast migracije imaju multisektorski karakter, takođe, važno ministarstvo koje ima svoje nadležnosti u ovoj oblasti je Ministarstvo rada, zapošljavanja i socijalne politike, i ono je zaduženo za: ostvarivanje prava iz radnog odnosa radnika privremeno zaposlenih u inostranstvu, zaštitu građana zaposlenih u inostranstvu, zaključivanje sporazuma o upućivanju zaposlenih na rad u inostranstvo i upućivanje zaposlenih na privremeni rad u inostranstvo, evidencije u oblasti rada i zapošljavanja, antidiskriminacionu politiku, sistem socijalne zaštite, ostvarivanje prava i integraciju izbeglih i raseljenih lica, povratnika po osnovu sporazuma o readmisiji, prvenstveno romskog stanovništva i drugih socijalno ugroženih grupa, učestvovanje u pripremi, zaključivanju i primeni međunarodnih ugovora o socijalnom osiguranju, zapošljavanje u zemlji i inostranstvu i upućivanje nezaposlenih građana na rad u inostranstvo, praćenje stanja i kretanja na tržištu rada u zemlji i inostranstvu, predlaganje i praćenje sprovođenja strategija u oblasti migracija na tržištu rada, zaključivanje ugovora o zapošljavanju sa inostranim poslodavcima i drugih ugovora u vezi sa zapošljavanjem i usaglašavanje sa evropskim zakonodavstvom i standardima iz oblasti zapošljavanja i praćenje primene međunarodnih konvencija.<sup>34</sup> Ministarstvo koje takođe ima delokrug nadležnosti u oblasti upravljanja migracijama je Ministarstvo spoljnih poslova. Zaduzeno je za: zaštitu prava i interesa R. Srbije i njenih državljana i pravnih lica u inostranstvu, izdavanje viza putem diplomatsko-konzularne mreže, uz prethodno pribavljenu odgovarajuću saglasnost Ministarstva unutrašnjih poslova, vođenje evidencije izdatih viza u elektronskoj formi u bazi podataka, odnosno evidencije odbijenih zahteva za izdavanje viza i izdavanje besplatnih putnih dokumenata srpskim državljanima, žrtvama trgovine ljudima, koji su spaseni u inostranstvu.<sup>35</sup> U skladu sa zakonom o ministarstvima, Ministarstvo prosvete, nauke i tehnološkog razvoja zaduzeno je za dopunsko obrazovanje dece domaćih državljana u inostranstvu i nostrifikaciju i ekvivalenciju javnih isprava stečenih u inostranstvu, dok je Ministarstvo zdravlja zaduzeno za učestvovanje u pripremi i sprovođenju međunarodnih sporazuma o obaveznom socijalnom osiguranju i zdravstvenoj zaštiti stranaca.<sup>36</sup>

Pored navedenih ministarstava u oblasti upravljanja migracijama uključen je i Komesarijat za izbeglice koji je zaduzen za: obavljanje stručnih i drugih poslova koji se odnose na zbrinjavanje, povratak i integraciju lica koja su dobila status izbeglice na osnovu Zakona o izbeglicama, utvrđivanje statusa izbeglice i vođenje evidencije izbeglih i interno raseljenih lica, zbrinjavanje izbeglica, usklađivanje pružanja pomoći

33 Međunarodna organizacija za migracije – Misija u Srbiji, „Osnovi upravljanja migracijama u Republici Srbiji“ (Beograd: Dosije Studio, 2012), [http://www.kirs.gov.rs/docs/migracije/Osnovi\\_upravljanja\\_migracijama\\_u\\_Republici\\_Srbiji.pdf](http://www.kirs.gov.rs/docs/migracije/Osnovi_upravljanja_migracijama_u_Republici_Srbiji.pdf), str. 15; (pristupljeno 09.04.2017).

34 Isto, str. 17.

35 Međunarodna organizacija za migracije – Misija u Srbiji, „Osnovi upravljanja migracijama u Republici Srbiji“ (Beograd: Dosije Studio, 2012), [http://www.kirs.gov.rs/docs/migracije/Osnovi\\_upravljanja\\_migracijama\\_u\\_Republici\\_Srbiji.pdf](http://www.kirs.gov.rs/docs/migracije/Osnovi_upravljanja_migracijama_u_Republici_Srbiji.pdf), str. 17; (pristupljeno 09.04.2017).

36 Isto

od strane drugih organa i organizacija u zemlji i inostranstvu, obezbeđenje smeštaja i razmeštaja izbeglica na područja jedinica lokalne samouprave, obezbeđenje pomoći izbeglicama u procesu povratka i reintegracije, rešavanje stambenih potreba izbeglica u skladu sa Zakonom o izbeglicama, obezbeđenje smeštaja tražiocima azila u centru za azil i rukovođenje centrom za azil, obezbeđenje primarnog smeštaja u prenamenjenim kolektivnim centrima za povratnike po osnovu Sporazuma o readmisiji, zbrinjavanje i zaštitu prava interno raseljenih.<sup>37</sup>

Pored nadležnih ministarstava na osnovu odluke Vlade Republike Srbije formirana je i Kancelarija za ljudska i manjinska prava koja imaju deo nadležnosti u oblasti upravljanja migracijama. Zadatak ove kancelarije je da za potrebe Vlade i nadležnih ministarstava obavlja stručne poslove koji se odnose na: zaštitu i unapređenje ljudskih i manjinskih prava (što uključuje prava ugroženih migrantski grupa, kao što su izbegla i raseljena lica, povratnici po sporazumima o readmisiji i azilanti), praćenje usaglašenosti domaćih propisa sa međunarodnim ugovorima i drugim međunarodnopravnim aktima o ljudskim i manjinskim pravima i izmena domaćih propisa, i pružanje pomoći ugroženim migrantskim grupama (posebno kada se radi o povratnicima koji se u zemlju vraćaju na osnovu sporazuma o readmisiji).<sup>38</sup> Osim navedene kancelarije, poslovima upravljanja migracijama se bavi i Kancelarija za saradnju s dijasporom i Srbima u regionu. Ista je zadužena za vršenje dela poslova za potrebe Vlade i nadležnih ministarstava koji se odnose na: praćenje položaja državljana koji žive van R. Srbije, podršku procesu poboljšanja uslova za ostvarivanje biračkog prava, poboljšanje veza iseljenika, informisanje iseljenika i pomoć u procesu uključivanja iseljenika.<sup>39</sup>

Pored navedenih kancelarija Vlada je formirala i Savet za integraciju povratnika po osnovu Sporazuma o readmisiji. Savet je zadužen za: razmatranje i predlaganje mera i aktivnosti za realizaciju prihvata, zbrinjavanja i integracije povratnika, pružanje podrške u utvrđivanju i realizaciji mera na nivou lokalne samouprave za pomoć povratnicima i uspostavljanje okvira u kojem se odvija dijalog između država o pitanjima zaštite i ostvarivanja prava migranata i problema ilegalne migracije.<sup>40</sup> Takođe, Vladino telo je i Savet za borbu protiv trgovine ljudima, zaduženo je za: koordinaciju nacionalne i regionalne aktivnosti za borbu protiv trgovine ljudima, razmatranje izveštaja relevantnih tela međunarodne zajednice o trgovini ljudima i zauzimanje stavova i predlaganje mera za sprovođenje preporuka od strane međunarodnih tela u borbi protiv trgovine ljudima.<sup>41</sup> Savet za suprotstavljanje ilegalnim migracijama formiran je kao zajedničko, interresorno telo koje čine stručnjaci za pojedine oblasti. Zadatak Saveta je da koordinira rad subjekata koji sprovode Strategiju suprotstavljanja ilegalnim migracijama za period 2009–2014. godine, da izveštava Vladu o njenom sprovođenju i eventualnim problemima u vezi sa tim, i da predlaže Vladi mere za njeno revidiranje.<sup>42</sup> Koordinaciono telo za praćenje i upravljanje migracijama svojom aktivnošću obezbeđuje jedinstvenu politiku i usaglašavanje aktivnosti nadležnih ministarstava u oblasti migracije, kroz usmeravanje rada i posebnih organizacija. Stručne, operativne i administrativno-tehničke poslove za Koordinaciono telo obavlja Komesarijat za izbeglice.<sup>43</sup> Komisija za praćenje bezvизnog režima putovanja sa Evropskom unijom zadužena je za razmatranje pitanja koja se odnose na povećanje broja lažnih azilanata u zemljama Evropske unije koji dolaze sa teritorije R. Srbije i predlaganje Vladi razmatranja i donošenja odluka u vezi sa merama

37 Isto

38 Međunarodna organizacija za migracije – Misija u Srbiji, „Osnovi upravljanja migracijama u Republici Srbiji“ (Beograd: Dosije Studio, 2012), [http://www.kirs.gov.rs/docs/migracije/Osnovi\\_upravljanja\\_migracijama\\_u\\_Republici\\_Srbiji.pdf](http://www.kirs.gov.rs/docs/migracije/Osnovi_upravljanja_migracijama_u_Republici_Srbiji.pdf), str. 15; (pristupljeno 09.04.2017) str. 19.

39 Isto.

40 Isto.

41 Međunarodna organizacija za migracije – Misija u Srbiji, „Osnovi upravljanja migracijama u Republici Srbiji“ (Beograd: Dosije Studio, 2012), [http://www.kirs.gov.rs/docs/migracije/Osnovi\\_upravljanja\\_migracijama\\_u\\_Republici\\_Srbiji.pdf](http://www.kirs.gov.rs/docs/migracije/Osnovi_upravljanja_migracijama_u_Republici_Srbiji.pdf), str. 15; (pristupljeno 09.04.2017), str. 21.

42 Isto.

43 Isto.

## Uloga policije u upravljanju migracijama

Osnovni zadatak svake države je da zaštiti svoje granice. Republika Srbija je Zakon o zaštiti državne granice usvojila 2008. godine koji predviđa savremeni sistem upravljanja državnom granicom i demilitarizovanu granicu (granicu koju ne obezbeđuje vojska, već policija) i omogućava slobodniji protok ljudi i robe. Istim zakonom je definisano integrisano upravljanje granicom pod kojom se podrazumeva uređena saradnja svih službi koje su prisutne na graničnim prelazima kao i drugih državnih organa i institucija u cilju postizanja otvorenosti granica za kretanje ljudi i trgovinu kao i zatvorenosti granica za sve kriminalne i drugi aktivnosti koje ugrožavaju stabilnost u regionu. Poslove granične kontrole i obezbeđenja državne granice vrši Ministarstvo unutrašnjih poslova i druge organi državne uprave (carinski organi) s tim da neposredne poslove zaštite državne granice obavlja granična policija, organizaciona jedinica Ministarstva unutrašnjih poslova.<sup>45</sup> Poslove zaštite državne granice, kao poslove regulisanja statusa i kontrole kretanja i boravka stranih državljana na teritoriji R. Srbije, poslove azila, prekograničnog kriminala, iregularnih migracija i readmisije, izvršava Uprava granične policije koja je organizacioni deo Direkcije policije Ministarstva unutrašnjih poslova.<sup>46</sup> Potpuno preuzimanje poslova zaštite državne granice od Ministarstva odbrane, Ministarstvo unutrašnjih poslova preuzelo je tokom 2006. i 2007. godine. Promene koje su se dogodile preuzimanjem potpune kontrole nad državnom granicom od strane MUP-a, odnosile su se na reorganizaciju Uprave granične policije, koja je struktuirana kroz centralni, regionalni i lokalni nivo. Najvažniji nivo je lokalni, gde se izvršavaju poslovi neposredne zaštite državne granice od ilegalnih prelazaka. Osnovne organizacione jedinice lokalnog nivoa su stanice granične policije, čijom se organizacijom rada vrše poslovi iz domena zaštite državne granice od ilegalnih prelazaka. Stanice granične policije su deo takozvane oranzacione šeme regionalnih centara, čiji se poslovi odnose na 60 kontrolu prelaska državne granice, i obezbeđenja državne granice. Stanice granične policije vrše kontrolu prelaska državne granice na graničnim prelazima. U okviru jedne stanice, u zavisnosti od potreba, nalazi se jedna do nekoliko stanica. Po sadašnjoj organizacionoj šemi, Uprava granične policije ima 87 stanica granične policije, od kojih su 85 organizacione jedinice regionalnih centara granične policije, a Stanica granične policije Beograd i Niš su samostalne. Kontrolu prelaska državne granice obavlja 40 stanica granične policije na 89 graničnih prelaza. Od toga je 57 drumskih graničnih prelaza, 14 železničkih, 12 rečna, četiri vazдушna i dva su skelska granična prelaza. S obzirom da se prema ukazanim privrednim, poljoprivrednim, saobraćajnim ili turističkim potrebama, a u skladu sa bilateralnim sporazumima mogu formirati privremeni granični prelazi, broj graničnih prelaza je promenljiv. Od navedenog broja 78 graničnih prelaza imaju status međunarodnih prelaza, dok su ostali namenjeni međudržavnom i pograničnom saobraćaju<sup>47</sup>. Obezbeđenje državne granice između graničnih prelaza je u nadležnosti zasebnih stanica granične policije. Ove stanice ne vrše kontrolu prelaska državne granice na graničnim prelazima, već vrše obezbeđenje državne granice između dva granična prelaza i u neposrednoj blizini prelaza, kako bočno, tako i po dubini državne granice.<sup>48</sup> Na regionalnom nivou, postoji osam regionalnih centara granične policije, čija je nadležnost zasnovana na teritorijalnom principu - prema susednoj državi. Prema svakoj susednoj državi Uprava granične policije ima formiran po jedan regionalni centar, izuzev prema Rumuniji, gde zbog dužine i karakteristika

44 Isto.

45 Međunarodna organizacija za migracije – Misija u Srbiji, „Osnovi upravljanja migracijama u Republici Srbiji“ (Beograd: Dosije Studio, 2012), [http://www.kirs.gov.rs/docs/migracije/Osnovi\\_upravljanja\\_migracijama\\_u\\_Republici\\_Srbiji.pdf](http://www.kirs.gov.rs/docs/migracije/Osnovi_upravljanja_migracijama_u_Republici_Srbiji.pdf), str. 26, (pristupljeno 09.04.2017).

46 Zakon o policiji (Beograd: "Službeni glasnik RS", broj 06/16), čl. 30 st. 1 t. 10.

47 Zakon o zaštiti državne granice (Beograd: Službeni glasnik RS, br. 78/2008), čl. 14 i 15.

48 Uprava granične policije, [http://arhiva.mup.gov.rs/cms\\_lat/direkcija.nsf/granicna-policija.h](http://arhiva.mup.gov.rs/cms_lat/direkcija.nsf/granicna-policija.h) (pristupljeno 29.04.2017).



državne granice postoje dva regionalna centra, čija je zona odgovornosti podeljena na severni i južni deo. Regionalni centar prema Albaniji nije formiran, zbog situacije u AP Kosovo i Metohija, sa kojom postoji administrativna granica, a što bezbednosnu situaciju u R. Srbiji čini još složenijom. Rezolucijom Saveta bezbednosti Ujedinjenih nacija, br. 1244 obezbeđenje državne grnice prema Albaniji je u nadležnost KFOR-a, odnosno međunarodnih snaga koje se nalaze na Kosovu i Metohiji. Regionalni centri granične policije izvršavaju zadatke po linijama rada - kontrola prelaska državne granice, obezbeđenje državne granice i suzbijanje prekograničnog kriminala, ilegalne migracije i trgovine ljudima. Preko stanica granične policije vrši se kontrola prelaska državne granice i obezbeđenje državne granice između graničnih prelaza, a kriminalističko-obaveštajnim poslovima i otkrivanjem krivičnih dela iz oblasti prekograničnog kriminala, ilegalne migracije i trgovine ljudima se bave kriminalistički policajci u okviru posebnih organizacionih jedinica regionalnog centra. Pored navedenog, po sadašnjoj organizaciji, regionalni centri raspolažu mobilnim jedinicama za potrebe cele teritorije i vrše poslove obezbeđenja državne granice kako po dubini, tako i posebnim pregledima na samim graničnim prelazima. Ovakva aktuelna organizaciona rešenja kroz regionalne centre granične policije nisu u dovoljnoj meri funkcionalna, jer regionalni centri nemaju u svojoj organizaciji sve potrebne jedinice logistike, kao što je na primer kriminalistička tehnika (forenzika), a ni materijalne i ljudske resurse za samostalno suprotstavljanje svim vidovima organizovanog kriminala.<sup>49</sup> Na centralnom nivou, rad organizacionih delova u sedištu Uprave granične policije je zasnovan na linijskom principu, a čine ih: Odeljenje za granicu, Odeljenje za strance, Odeljenje za suzbijanje prekograničnog kriminala, ilegalne migracije i trgovine ljudima, Jedinica za procenu ugroženosti, Odsek za međunarodnu saradnju, Kancelarija za azil i Dežurni centar. S obzirom da na centralnom nivou Odeljenje za granice, objedinjuje i vrši nadzor nad poslovima kontrole prelaska državne granice i obezbeđenja državne granice u regionalnim centrima, ovo odeljenje ima najveći obim policijskih poslova u Upravi granične policije. Navedeno odeljenje u svom sastavu ima tri odseka po linijskom principu rada - za kontrolu prelaska državne granice, za obezbeđenje državne granice i za posebne vidove međunarodnog saobraćaja.<sup>50</sup> Nadležnosti Odeljenja za strance su statusna pitanja stranih državljana, što podrazumeva i kontrolu i nadzor nad njihovim kretanjem na teritoriji države, kao i pitanja azila. Kancelarija za azil je formirana u januaru 2015. godine kao civilni organ u okviru Uprave granične policije. Odeljenje za suzbijanje prekograničnog kriminala, ilegalne migracije i trgovine ljudima je formiranjem 2006. godine u svom sastavu imalo tri odseka - za suzbijanje prekograničnog kriminala, za suzbijanje ilegalne migracije i trgovine ljudima, kao i za kriminalističko-obaveštajne poslove. U junu 2015. godine Odsek za kriminalističko-obaveštajne poslove je ukinut i njegovo mesto je zauzeo Odsek za analizu rizika. Ova jedinica se od septembra 2015. godine zove Jedinica za procenu ugroženosti, a osnovni zadatak joj je objedinjavanje statističkih podataka i operativnih saznanja sa regionalnog i lokalnog nivoa, i izrada situacionih izveštaja i analiza rizika. Zadatak dežurnog centra je praćenje zbivanja na državnoj granici, razmenom informacija, putem komunikacije sa dežurnim službama regionalnih centara i stanica granične policije Beograd i Niš. Dežurni centar o svim događajima na državnoj granici izveštava Dežurnog operativnog centara Ministarstva unutrašnjih poslova.<sup>51</sup> Pored navedenih organizacionih delova Uprave granične policije, formirana je i Centralna mobilna jedinica, čije je sedište u Beogradu. Opravdanost formiranja ove mobilne jedinice se pokazala tokom migrantske krize u 2015. i početkom 2016. godine.

Uloga policije u upravljanju migracijama od izuzetnog značaja, imajući u vidu bezbednosne rizike kojima je izložena državna granica. Policijski službenici Uprave granične policije prilikom kontrole prelaska i obezbeđenja državne granice deluju preventivno: otkrivaju krivična dela i prekršaje, lišavaju slobode izvršioce krivičnih

49 Uprava granične policije, [http://arhiva.mup.gov.rs/cms\\_lat/direkcija.nsf/granicna-policija.h](http://arhiva.mup.gov.rs/cms_lat/direkcija.nsf/granicna-policija.h) (pristupljeno 29.04.2017).

50 Isto.

51 Isto.



dela i prekršaja, otkrivaju imovinu stečenu vršenjem krivičnog dela, sprečavaju ilegalne prelaskе državne granice, kao i druge poslove u cilju bezbednosne zaštite života, prava i sloboda građana.

### **Zaključak**

Aktuelna migrantska kriza koja potresa ne samo Evropu, predstavlja posledicu višegodišnjih tenzija i sukoba na Bliskom istoku, u Avganistanu i Severnoj Africi. Tenzije i sukobi na prostorima navedenih država nastali su usled političke i ekonomske nestabilnosti država u regionu, dubokih društvenih i socijalnih protivrečnosti u njima, a praćeni fizičkim nasiljem nad stanovništvom, ratnim zločinima, kršenjem ljudskih prava, uništavanjem materijalnih i kulturnih dobara. Ovako višegodišnji uzroci su doveli do masovne migracije stanovništva sa prostora zahvaćenim sukobom najpre ka susednim državama, a onda prema državama zapadne Evrope kao krajnjem odredištu.

Za razliku od mnogih zemalja, R. Srbija je najhumanije postupala sa migranima, ocena je mnogih zvaničnika država i UNHCR-a. Državni organi R. Srbije pokazali su visok nivo organizovanosti, profesionalizma i humanosti, tokom rešavanja problema prilivom migranata sa područja R. Makedonije i Bugarske i njihovim daljim kretanjem ka Sengenskom prostoru. S obzirom da je R. Srbija kandidat za članstvo u Evropsku uniju i da je proces pregovora o pristupanju otpočeo otvaranjem i usklađivanjem potrebnih poglavlja, efikasno upravljanje migracijama jedan je od uslova od čijeg ispunjenja zavisi pridruživanje R. Srbije Evropskoj uniji.

Oblast migracije je pravno i institucionalno uređena u skladu sa potrebnim standardima Evropske unije. Vlada R. Srbije je najpre uredila zakonodavni okvir za razvijanje sistema upravljanja migracijama. Zakonodavni okvir je razvijen na platformi međunarodnog prava, a svi ratifikovani-potvrđeni međunarodni ugovori, kao i svi zakoni i drugi opšti akti su u saglasnosti sa Ustavom Republike Srbije. Uloga policije u upravljanju migracijama je od izuzetnog značaja, imajući u vidu bezbednosne rizike kojima je izložena državna granica. Još značajnije je zajedničko angažovanje Vojske Srbije i MUP-a u odgovoru na izazove, rizike i pretnje bezbednosti.

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*Danijela Krsić<sup>1</sup>*

## **MIGRATION STUDIES IN HIGHER EDUCATION SYSTEM OF SERBIA**

### **Abstract**

*Having in mind the fact that university education process in Serbia has underwent fundamental changes after the adoption of the Bologna Declaration and the Law on Higher Education in 2005, the objective of this paper is to present, analyse, explain and assess the place and importance of migration in the curricula of the undergraduate (basic), graduate (master) and PhD studies at Serbian state universities (University of Belgrade, University of Novi Sad, University of Kragujevac and University of Nis) and two private universities (John Naisbitt and Singidunum). The author will also assess the state of the migration studies in Serbia, and provide recommendations on how to increase and deepen the knowledge on migration in accordance with the highest European and global standards, as well as offer suggestions for new curricula which can be introduced in the existing study programmes.*

*Key words: migration, studies, higher education, universities, Serbia;*

### **Introduction**

The globalization process, scientific and technological progress, IT revolution, as well as constant striving for a better and safer life, among many other causes, have made the population movements, both internal and across borders, i.e. migration, (with all the related positive and negative dimensions and consequences) an inevitable social phenomenon and subject of various research aimed at understanding the world we are currently living in. Namely, frequency and the volume of migration (within countries, regionally and globally) are higher today than ever before in the human history.

According to the data published by International Organization for Migration (IOM) in December of 2014, “approximately one in seven people today are migrants: 232 million people are international migrants.”<sup>2</sup> More importantly, the number of international migrants increased by 65% (53 million) in the global North and by 34% (24 million) in the global South since the end of the Cold War. If we review the data by countries and the share of migrants in the total population, we can see that, for example, in the Persian Gulf countries it is above 50% (such as 84% in The United Arab Emirates, 74% in Qatar, 60% in Kuwait, and 50% in Bahrain). Australia with 28% and Canada with 21% of migrants in the total population are taking the lead among the so-called traditional destination countries. In the “old” continent - Europe, Sweden is currently the country with the highest share of migrants (16%).

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<sup>2</sup> Rango, M., Global Migration Trends: An Overview, IOM Migration Research Division, Geneva, 2014, <http://mmp.iom.int/sites/default/files/Global-migration-trendsDecember-2014final.pdf> (accessed on 09/01/2017)

With regards to forced migration, according to the annual "UNHCR Global Trends: Forced Displacement in 2014 Report", published on June 18th of this year, there is an evident sudden rise of forced displacements - 59.5 million persons have been forcibly displaced by the end of 2014, in comparison to the 51.2 million in 2013, and 37.5 million from the previous decade. The growth of the number of displaced persons recorded since 2013 has been the highest ever recorded during a course of a single year. The main cause of such an increase in the number of forced migrants was primarily the breakout of the war in Syria in 2011, when this country became the world's largest source country for refugees. In 2014, an average of 42,500 persons per day became refugees, asylum seekers, or IDPs, which constitutes a four-fold increase in a four-year period. Today, one in 122 people in the world is a refugee, IDP or an asylum seeker. If all of them were the citizens of a specific country, it would be the 24th largest country in the world.

According to the data presented in the report, 13.9 million people were displaced only in 2014, or four times more than in 2013. There are 19.5 million refugees in the world (an increase compared to 16.7 million in 2013.), 38.2 million of IDPs (an increase compared to 33.3 million in 2013.), and 1.8 million persons waiting for decision on their requests for asylum (1.2 million in 2013.). The fact that children make one half of the global refugee population is quite alarming. Viewed from the regional perspective, the biggest increase in the number of migrants in 2014 was recorded in Europe (51%) and Asia (31 %), closely followed by Middle East and North Africa with 19%, Sub-Saharan Africa with 17%, and USA with 12% increase in comparison to the previous year. Still, to make things clear, even with such a sudden increase in numbers richer nations continue to host a smaller number of refugees, while the majority of them are hosted by poorer countries. Almost 9 out of 10 refugees (86 %) were received by economically disadvantaged regions and countries. A quarter of refugees were hosted by countries appearing on the UN list of Least Developed Countries.

Republic of Serbia is no exception in the aforementioned processes. Having in mind the turbulent social, political and war-related events that took place in this region during the last two decades, especially the armed conflicts and the deep and comprehensive economic crisis, we shouldn't be surprised by the predictions stating that by 2050 Serbia will be losing 30,000 people per year due to migration. If we take into consideration the internal migration, from smaller cities to Belgrade, or from rural to urban communities, with all the economic, security-related and social consequences of the depopulation of specific regions in Serbia, it becomes clear that migration are one of the most important social, political, economic and security challenges for the Republic of Serbia. The report of the Commissariat for Refugees and Migration of the Republic of Serbia entitled "Migration Profile of the Republic of Serbia for 2014" undoubtedly marks Serbia as both migration and emigration country. According to the Profile data, Serbian diaspora numbers approximately 4 million people in the region and the world.

Also, the steep increase in the number of migrants received by Serbia in this and previous year additionally increases the importance of the migration issue in the hierarchy of challenges faced by our country. According to the data presented on June 19, 2014 on the joint press conference by the Minister of Interior of the Republic of Serbia and the head of the UNHCR Representation in Serbia the number of persons seeking asylum in Serbia has risen from 5,066 in 2013, through 16,490 in 2014, to 28,187 in the period from January 1 to June 20 2014, with more than 9,000 asylum seekers being registered by the police only in the month of May. The majority of refugees are currently taking the so-called "Western Balkans route" from Turkey, via Greece, Macedonia, Serbia and Hungary, in order to join their families or friends in Western European countries.

According to the information published by the press, this number is twice as high because "it is feared that the real number of migrants crossing from Former Yugoslav Republic of Macedonia to Serbia and then Hungary is around 60,000 instead of 30,000 (the period in question is from January to mid-June 2015 - Authors' note) as is recorded



in the official data based on counted individuals”.<sup>3</sup> If we were to add the raising of a barb-wire fence along the Serbian border (as the Hungarian authorities did two years ago), as well as the expected increase of the number of migrants in Serbia, it becomes clear that migration will be one of the most important state and social issues in the years to come.

In order for the Republic of Serbia to successfully respond to the migration challenges and place them under active social and strategic surveillance and guidance, especially with respect to their negative consequences, it is necessary to first raise the levels of knowledge and public awareness about the issue, as well as the awareness of political decision makers on causes, consequences and future trends in population movements.<sup>4</sup>

This paper is divided into four parts. In the first, we will discuss migration as one of the most important challenges and threats to individual, national, regional and global security at the beginning of the 21st century. The second part focuses on the relationship between migration and development. The third part of the study will provide a scan of the position of migration in the curricula and syllabi of the basic, master and PhD studies at universities in our country. The conclusion, beside the assessment of the migration studies in Serbia, will also offer specific recommendations for better inclusion of migration related programmes in academic programmes at Serbian universities.

### **Migration as a global challenge in 21st century**

After the end of the Cold War, with the reduction of the threat of nuclear annihilation and conventional interstate wars, the field of security risks, challenges and threats was filled by much wider and more varied types of threats to human, national, regional and global safety. Although certain changes could have been inferred from theoretical papers published as early as mid-1970's, the full redefining of the notion of security and its key categories and concepts has occurred only two decades ago, with the end of the Cold War era. Many scientific and wider social debates that have been conducted in the security researchers' academic community regarding the precise nature of the field of research and focus of security studies in early 1990s, convincingly indicate their inability to find a precise answer to the question of what should be in the primary focus of discussion on post-Cold War security.

Widening the non-critical research field of security, Ken Booth of the Wales University of Aberystwyth thus emphasizes the notion of “global security” by which he means “the structures and processes connected to institutions, attitudes and behaviours aimed at reducing and eliminating existential and emancipatory threats with a global reach”. In his opinion, “the higher the level of global security, the better options for people everywhere to research their chances for being people instead of only animals”.<sup>5</sup> The cited definition clearly shows that professor Booth divides global security threats into two groups: global existential threats constitute the first, while the so-called “global emancipatory threats” fall in the second. Under global existential threats he means the dangers with a global reach which represent a potential, yet actual risk to continued existence of individuals or groups. Such threats include nuclear weapons, “the climate chaos” (term coined by the World Wildlife Fund) that is endangering water and food security, as well as pandemics. Booth especially highlights that global existential threats imply the survival of nations and groups in face of physical dangers with a global reach, regardless of whether they are or are not specific reference objects marked as targets. Global emancipatory threats, on the other hand, imply freedom from oppression, where the said oppression can take the form of material threats such as hunger and poverty, social threats such as religious and cultural dogmatism, and political threats such as conquest,

3 Collins, Alan, (Ed.), *Modern security studies*, Zagreb: Political Culture, 2010, pp 5 - 6.

4 See: L. V. and V. R. “The number of migrants in Serbia is two times bigger than official“, *Danas daily newspaper*, Friday, 06/26/2015, p.1.

5 Booth, K., *Theory of World Security*, Cambridge University Press, 2007, p. 15.

tyranny, or institutionalised racism. In his opinion, "global emancipatory threats present local challenges to the global advancement of mankind, as well as significant obstacles to political, social and economic ideas and structures that could end oppression".<sup>6</sup>

To illustrate the shifts in understanding of security threats, we chose to provide two examples. One relates to well-known international security manuals (theoretical plane) and key contemporary strategic documents, such as the US National Security Strategy (practical plane). When it comes to manuals, it is enough to glance at the two well-known global textbooks dealing with international security that have been translated to Serbian and Croatian languages in the last couple of years to gain a general understanding of the mentioned issue.<sup>7</sup> For example, Allan Collins' manual contains the three following major chapters: 1) Approaches to security, 2) Deepening and widening of security; and 3) Traditional and non-traditional security.<sup>8</sup> So, it is clear at first glance that the concept of security as an absence of military threats is replaced by a whole spectrum of new security threats, where we now have both new security subjects and objects. If we review the detailed contents, the difference becomes even more pronounced, with sections such as "gender and security", "human security", "social security", "environmental security", "economic security", "terrorism", "HIV/AIDS and security", "transnational crime", "children and war". If we look at the second textbook, edited by Paul Williams, we can see it introduces even more new security threats in the research field of security studies. Along with the traditional theoretical approaches to security such as realism, liberalism or marxism being complemented by feminist, constructivist or critical theory, security threats now include concepts such as poverty, environmental changes, health, international arms trade, private security, transnational organized crime, population movements, and energy security. To put it differently, security is viewed as a much wider issue; absence of threat by use of military force is no longer the main indicator for the assessment of security of an individual, a state, a regional, international or global system.

As far as US National Security Strategies are concerned, if we were to list threats to US national security from president George W. Bush Sr. to Donald Trump, the most evident change is the shift from understanding threats in the classic military sense to the widening of the threat scope to include not only state, but also non-state actors, as well as not only threats posed by military forces, but also other forms of security challenges, risks and threats. So, for example, the National Security Strategy signed by George Herbert Walker Bush, apart from expressing the fear of the future Soviet Union and growing roles of Japan and Germany, also mentions such threats to US national security as mass refugee movements, economic challenges such as sustainable economic growth, global disbalance, debts, trade, and the issues related to technology, energy, environment and space.<sup>9</sup> Apart from that, transnational threats also include weapons of mass destruction, terrorism, economic instability, illicit drugs, refugee flows, and environmental degradation.

When it comes to national security strategies of the Clinton Administration, regional threats and threats against the state, transnational threats, spreading of dangerous technologies, failed states, intelligence collection, threats to health and environment

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6 On redefining of the security concept see more in: Lester Brown, "Redefining National Security," Worldwatch paper 14, Worldwatch Institute, Washington, October 1977., <http://www.worldwatch.org/node/97> (accessed 09/04/2017); Richard Ullman, "Redefining Security," International Security, Vol. 8, No. 1, 1983, pp 129 - 153.; Jessica Tuchman Mathews, "Redefining Security," Foreign Affairs 68, Spring, 1989, pp 162- 177.

7 These are the following textbooks: Allan Collins, Ed., Contemporary Security Studies, Oxford University Press, Oxford, 2007, translated in Croatia in 2010. For the Croatian translation see: Alan Kolins, Suvremene sigurnosne studije, Politička kultura, Zagreb, 2010; and Paul D. Williams, Ed., Security Studies: An Introduction, Routledge, London, 2008. (for the Serbian edition of this book see: Pol. D. Vilijams, (Ur.), Uvod u studije bezbednosti, Službeni Glasnik, Univerzitet u Beogradu, Fakultet bezbednosti, 2012.)

8 Collins, Alan, (Ed.), Modern security studies, Political Culture, Zagreb, 2010, pp 5 - 6.

9 Bergen, Peter, Garrett, Laurie, Report of the Working Group on State Security and Transnational Threats, Princeton Project on National Security, Princeton, 2005, p. 39.

are all listed among threats to US national security. Among transnational threats the strongest emphasis is placed on weapons of mass destruction, terrorism, drugs, human trafficking, cyber security, security of national infrastructures of critical importance, global warming and environmental threats, infectious epidemics. Following the tragic events of 9/11, the US national security strategies developed during the George Walker Bush administration saw the threats to national security in the crossing of radicalism and weapons of mass destruction, as well as in the danger of the so-called weak states. When it comes to transnational threats, they emphasised terrorism, spreading of weapons of mass destruction, but also environmental issues, poverty, epidemics and illiteracy. Obama's national security strategies from 2010 and 2015, which underline the priority of renewal of American power at home and the strengthening of the national economy, also highlight such threats to US national security as cyber security, cosmos, dependency on fossil fuels, climate change and pandemics, failed states, global criminal networks. The 2015 Strategy, apart from classic threats of attack on American soil, against its infrastructures or citizens, also lists risks such as global economic crisis or economic slowdown, spread or use of weapons of mass destruction, large-scale global infection, climate change, failed and weak states and related threats (mass crimes, regional spillage, transnational organized crime).<sup>10</sup> Trump's administration is now preparing the seventeenth national security strategy. All of this clearly shows that nowadays security needs to be viewed in a much more comprehensive manner, and that we need to take into consideration the widest possible scope of threats to man's dignified life and survival on Earth.

### **Migtation and development**

The situation and changes related to international migration as an issue of cooperation in the framework of an international agenda are a relatively new phenomenon on the political stage. Different attempts at establishing cooperation on the issue of people movements were made in the post-World War 2 period, since countries tried to regulate workforce or population flows with different multilateral or bilateral agreements. However, this issue received priority in the UN and international political agenda only during the 1990s, and gained considerable global publicity in 1994, when it unexpectedly appeared as a controversial topic at the Cairo International Conference on Population and Development.

Practically every country in the world is impacted by international migration, whether as origin, transit or destination country, and very often as a combination, or even an example of all three. Thus, a response to challenges posed by international migration should be a joint responsibility.

Generally, migration is viewed as a consequence of development, and mostly as a negative phenomenon causing the shortage of human resources in the countries of origin and threatening security and domestic workforce in destination countries. The previous efforts of the international community were mostly focused on the causes of migration (the so-called push factors) such as poverty, socio-economic instability, population pressure etc. in the so-called origin countries with the goal of preventing/eliminating/stopping the migration flows.

However, while the concern over loss of human resources in the origin countries remains (brain drain), as the understanding of migration has become increasingly more comprehensive during the recent years, governments and other actors have started to view migration as a phenomenon which, if assisted by appropriate policies, might have a development-inducing potential. The governments have been increasingly willing to engage in the process of better understanding the relationship between migration and development, and focusing on promoting positive developmental impact of migration and on alleviating their negative consequences.

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<sup>10</sup> See: National Security Strategy, White House, Washington DC, February 6th 2015, p. 2., [http://www.whitehouse.gov/sites/default/files/docs/2015\\_national\\_security\\_strategy.pdf](http://www.whitehouse.gov/sites/default/files/docs/2015_national_security_strategy.pdf) (02/06/2015.)

Additionally, migration is more and more viewed as a tool for development. If managed in appropriate manner, migration can provide a contribution to both developed and developing countries. It is, hence, of the critical importance for the governments to ensure political and institutional coherence and establish partnerships among different stakeholders in the field of migration and development at national, regional and global levels.

The aging and dwindling population in the bigger part of the developed world is sharply contrasted by the young and swiftly growing populations of the majority of developing countries. Demographic changes expected to bring about the shortage of labour force in the developed countries also cause the rise of demand in specific sectors such as health services. At the same time, many developing countries continue to face challenges related to a surplus of labour force offer at the local labour market. These circumstances, together with the increased population movements caused by globalisation processes, indicate the growing need to find ways to ensure a stronger link between labour force offer and demand, both now and in future. Establishing of appropriate and transparent mechanisms for channelling labour migration into safe, legal, humane and regulated endeavours is necessary in order to maximise the social and human development potential of global workforce migration. The failure of such efforts would not only negatively impact the global economic growth, but would also encourage irregular migration and create favourable conditions for human trafficking and create smuggling networks. The lack of appropriate labour migration policies would also negatively affect jobs which usually require recruitment and movement of global workforce. Actually, workforce mobility is an unfinished business left behind the globalization that we need and have to resolve.

Successful integration of migration in national, regional, and international development policies, as well as in academic curricula, along with the drafting of efficient development policies and programmes, demand an understanding of the complex relationship between migration and development. There is a real need for better data and statistics on migration, especially development affecting migration. Better data on remittances, migrants and migrant networks, as well as workforce markets in countries of origin and destination are of crucial importance.

### **Migration studies in universities**

As we have already indicated in the abstract of this paper, we will review the prevalence of migration issues in the curricula of undergraduate, graduate (master) and PhD studies at Serbian universities. In that goal, we will first take a look at University of Belgrade, then University of Novi Sad, University of Kragujevac and University of Nis. When it comes to private universities, we will investigate the prevalence of migration issue in the curricula of John Naisbitt and Singidunim Universities.

### **Migration studies at University of Belgrade**

In our research on prevalence of scientific study of migration at University of Belgrade, we will review six faculties: Sociology department at Faculty of Philosophy, Faculty of Geography, Faculty of Law, Faculty of Economy, Faculty of Security Studies and Faculty of Political Sciences.<sup>11</sup>

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<sup>11</sup> Although we have limited our research of the position of migration in the University of Belgrade curricula to the six aforementioned faculties, this does not mean that they are not studied in more or less detail at other faculties, but our focus group included only the faculties mentioned above. So, for example, studies at Belgrade University Faculty of Organizational Sciences "include a master course Managing the relationship between the home state and diaspora created with the support of WUS.

## **Migration in the curriculum of the Sociology department of the University Of Belgrade Faculty Of Philosophy**

With regards to migration, students at undergraduate academic sociology studies encounter this topic in their first year on the “Social Demography” course. Namely, social migration is mentioned alongside other important social demography concepts. On their third year, students can choose an elective subject “Modern Economic Migration”.<sup>12</sup> During that course, students are familiarised with the notion and types of migration, refugee and asylum seeker phenomena, forced and economic migration, migration related EU legislation, labour migration in different regions of the world and other important issue in this field.

During undergraduate sociology studies migration is also studied in the framework of the subject “Modern Migration and Challenges of Economic Integration”. This course includes the following areas: “overview of the importance of modern migratory population movements in the context of global social changes and globalization trends, review of migration trends from the aspect of their economic importance and challenges related to economic and wider social integration of migrants in modern societies”.<sup>13</sup>

Students at Master studies will have an opportunity to take the course entitled “Migration and Sustainable Development” in the framework of the “Sustainable Development” module.<sup>14</sup> According to the course syllabus, its subject matter relates to “overview of the importance of modern migratory population movements in the context of global social changes and globalization trends. Within the same module, in the “Economic development” course, students learn about intensive migration from rural to urban areas. Study of migration at this department continues on PhD sociology studies within the subject “Modern Population Challenges”. While taking this course, students study, among other things, “modern migration flows and the related phenomena (brain drain, brain circulation, migration management)”. “Social demography” course, which covers some migration-related issues, is also delivered at PhD level of sociology studies.<sup>15</sup>

## **Migration in the curriculum of the Faculty of Geography**

During undergraduate studies at the Faculty of Geography, in the framework of “Geography” study programme, sophomore students are able to take the subject “Population geography” and cover topics such as “Past population migration spreading of cultural influences of individual nations and civilization zones”, or “Population migration: concept, causes, consequences, migration divisions, methods and techniques of study, examples of population migration in the world and Former Yugoslavia”.

Migration is also studied in the third year of this study programme within the course entitled “Geography of Settlements”, where the students can learn about convergent and divergent daily migration of urban and rural populations. In the study programme “Spatial Planning”, more especially within the sophomore year “Applied Demography” course, students can learn about migration, their volume, causes and consequences. Also, convergent and divergent daily migration of rural population, as well as convergent and divergent migration of urban population is studied in the framework of the third year course “Urban and Rural Geography”. The key study programme, from the aspect of migration, would be “Demography”.

In their first year, the same as in the “Geography” study programme, students encounter the subject “Anthropogeography”, which, among other things, reviews traditional population migration - metanastasis. In the third study year, during the fifth semester, students take the course entitled “Population Migration 1”. The following

12 [http://www.f.bg.ac.rs/sr-lat/sociologija/program\\_studija.php?IDK=3841](http://www.f.bg.ac.rs/sr-lat/sociologija/program_studija.php?IDK=3841) (accessed on 03/09/2017)

13 [http://www.f.bg.ac.rs/files/so\\_SMPEI\\_program\\_2015-03.pdf](http://www.f.bg.ac.rs/files/so_SMPEI_program_2015-03.pdf) (accessed on 08/31/2017)

14 [http://www.f.bg.ac.rs/sr-lat/sociologija/program\\_studija.php?IDK=4351](http://www.f.bg.ac.rs/sr-lat/sociologija/program_studija.php?IDK=4351) (accessed on 09/02/2015)

15 <http://www.f.bg.ac.rs/sociologija/silabusi?IDK=1402> (accessed on 09/02/2017)



teaching units form the theoretical part of this course: "Subject, objective and importance of the studies of population spatial mobility; Types of population spatial mobility; Units, characteristics and source of documentation on population migration; Theoretical approaches to study of internal and external migration in the past and today; Contemporary methodological aspects of the study of internal migration based on census, vital and migration statistics and population registries; Methods and techniques of the study of scope and directions of emigration, immigration and net migration; Metanastasis in the Balkan Peninsula until the early 21 century; Demographic, economic, social, political and cultural determinants of migration as historical phenomena". The exercise classes in the framework of this course cover, among others, the following teaching units: "Current migration statistics, census, population registry and migration poll; Methods for studying population migration; An overview of past population migration studies; First human migration; Migration in prehistory, Migration in the Middle Ages".

In the following, sixth semester of the third study year, undergraduate students can take the course "Population migration 2". Unlike in the case of "Population migration 1", the students in this course, among other things, gain knowledge on modern international population migration, their determinants, social and professional population mobility, global and regional trends in contemporary international population migration and their history from the World War I until the present moment. Special attention is afforded to issues of refugees, irregular migration, smuggling and human trafficking. In the same semester, migration, i.e. the teaching unit "Geopolitical causes and consequences of migration", are also studied within the course "Geopolitics and Population". In the final year of their studies, during the seventh semester, in the framework of the course "Demographic development of Serbia and neighbouring countries 1", the students have the opportunity to study the impact of natural and migration component on population movements, as well as the characteristics of the demographic transition in Serbia; migration: internal and external migration; refugees and other war-affected persons.

There is also, another course "Population projections" which teaches future demographers how to establish hypotheses on migration, how to produce future net migration and distribution by gender/age groups, as well as how to calculate the correction factor of migration impact.<sup>16</sup> The "Workforce and Employment" course deals, among other things, with migration, i.e. spatial and professional mobility of workforce, international workforce migration, and "brain drain".<sup>17</sup> The "Demographic development of Serbia and neighbouring countries 2" course, which can be taken during the eighth semester, i.e. the final year, is a logical continuation of the course "Demographic development of Serbia and neighbouring countries". Within this course, students learn about the impact of natural and migration components on population movement, and the characteristics of the demographic transition in Serbia; migration: internal and external migration; refugees and other war- affected persons. It should be noted that during exercise attached to this course students work on models and methods for mapping population movement types in Republic of Serbia and neighbouring countries.

At the Faculty of Geography, migration is also incorporated in the "Demographic global development" course. This course, taken during the eighth semester of demographics studies, focuses on past and present population migration. If we take into consideration that our country has entered the EU accession process, we can note an especially useful course taught in this semester – "EU population".<sup>18</sup> While learning about different characteristics of the EU population, students also cover migration in EU, as well as depopulation issues.

With regards to Master studies, as is the case with the undergraduate programme, demography studies are far ahead of other study programmes from the aspect of migration analysis. The main course, in this sense, would be "Spatial mobility of population" which is taught in the first semester of the master studies. This subject consists of the following

<sup>16</sup> <http://www.gef.bg.ac.rs/predmeti/projekcije-stanovnistva-2/> (accessed on 03/10/2015)

<sup>17</sup> <http://www.gef.bg.ac.rs/predmeti/radna-snaga-i-zaposlenost/> (accessed on 03/10/2015)

<sup>18</sup> <http://www.gef.bg.ac.rs/predmeti/stanovnistvo-evropske-unije/> (accessed on 03/10/2015)

teaching units: “Typology of internal and international migration; Demographic, economic, social, political, psychological and other determinants of spatial mobility of populations; Methodological basis for study of population migration; Population theories and models; Importance of spatial mobility of population at different regional, global and national levels; Contemporary migration and processes of social development modernization; Transitions and migration in Serbia; Serbia in the international migration system”. The course “Population policies and perspectives” offered in the second semester of demography master studies covers, among other things, population migration policies.<sup>19</sup>

We should note one source in geography PhD studies (officially - Geoscience PhD Studies) - “Theory of demography”. Some of the topics covered by this course are as follows: “Methodology of migration research - challenges of traditional and modern population migration (economic migration, forced migration, daily migration systems, seasonal population movements, etc.); Differentiation of population’s social mobility”. The course “Modern demographic problems and processes” is taught on the second year of PhD studies, and it covers modern migration challenges, refugee issues and “brain drain”. The migration are also covered in the framework of “Methods and techniques of demographic analysis”, which covers, measures, methods and techniques of studying migration phenomena among other topics.

### **Migration in the curriculum of University of Belgrade Faculty of Law**

On the basis of the insight into specific subjects syllabi, it is evident that undergraduate students cover migration basics (primarily the issues of forced migration and right to asylum) in the framework of the “Human rights” course, where they study the Convention relating to the Status of Refugees, right to asylum in the international law, and the position of migrant workers. Migration are also studied in the framework of the course on “International public law”, while internal migration are mostly in the focus of students taking “Sociology”, a mandatory first year course. Apart from these courses, the elective gender studies course dedicates one teaching unit to relevant UN CEDAW practice, with a special focus on women migrants and asylum seekers, while another elective course (“Minority rights”) includes a teaching unit on discrimination based on race, ethnicity and nationality.

It should be mentioned that the Faculty of Law includes a “Legal Clinic for Refugee Law and Asylum”, which is a fourth year course. The following topics are among those studied at the Legal Clinic: Article 1 of the 1951 UN Convention relating to the Status of Refugees; Introduction to international refugee law; Procedure for determining refugee status; Development of asylum legislation; EU - European common asylum policy; protection of women refugees and gender based violence; Protection of refugees at the level of Council of Europe - European Convention on Human Rights and refugees; Serbian regulations relating to asylum and refugees - level of alignment with existing international conventions; The issue of stateless persons and UNHCR mandate; Concept of a safe third country in international and national law; practical examples. “The Legal Clinic for Fight Against Trafficking” also deals with protection against human trafficking through study of relevant international and national legal framework.

In the case of Master studies, the last teaching units in the courses “European Human Rights Law”, as well as “EU Anti-Discrimination Law” (both of them part of European Integration Master Studies which are delivered in English) are dedicated to asylum and migration. However, the main course in that master (viewed from the aspect of migration study) would be “EU Immigration and Asylum Law/Policy”.<sup>20</sup> The following migration-relevant teaching units are covered by this course: Identifying the

<sup>19</sup> <http://www.gef.bg.ac.rs/predmeti/politika-o-stanovnistvu-i-perspektive/> (accessed on 03/10/2015)

<sup>20</sup> <http://www.ekof.bg.ac.rs/wp-content/uploads/2014/05/EKONOMIJA-RADA.pdf> (accessed on 09/10/2017)

concept of migration and the historical overview of right to asylum; Migration causes and their impact on EU enlargement process; The refugee definition and cases falling outside the existing refugee status; Extraterritorial asylum under the EU Law; Migration, human rights and protection; Migrant rights: European normative framework; Migration procedure in the EU; Application of the "the safe third country" concept; Detention and deportation; Refugee protection and the reach of the non-refoulement principle; Migration policy and EU external relations; Irregular migration in Europe; The integration of third country nationals in the EU legal system; Asylum Law in Serbia; The impact of the Lisbon Treaty and the future of the asylum Acquis.

At the regular Master and PhD studies, students learn about the Convention relating to the Status of Refugees and right to asylum primarily during the "International human rights law" course, but the "International public law" course also covers some of the issues in the part related to obligations stemming from Convention on Maritime Law and provision of assistance in case of maritime accidents, while "International legislation" course reviews relevant practice of ECtHR in the field of asylum (position of asylum seekers, asylum procedure. conditions in asylum centres, deportation, extraterritoriality).

### **Migration in the curriculum of the Faculty of Economy**

In the case of undergraduate studies at the University of Belgrade Faculty of Economy, the mere glance at the courses that can be taken during these studies points us to the "Demographic analysis" course, which is the main subject focused on migration at this level of studies. The course syllabus highlights migration as one of the main teaching units. Other issue covered by this course include types, models and analysis of migration, and finally, the vital one - statistical model for calculation of net migration. Migration hypotheses are also produced in the framework of analytical projections. The next course which also partially deals with migration, and is offered at the fourth year, is the "Economy of Labour". Migration issues are the focus of the teaching unit entitled "Labour mobility - fluctuation and migration". The third year course "Economic geography" also partially deals with population, and thus, indirectly, with migration. In the case of Master studies at the Faculty of Economy, and the position of migration in those courses, migration is taught in the framework of the "Population movements" course which belongs to the Demography Module". In the case of PhD studies "these issues (if a need arises) can be incorporated in the "Demography" course, but having in mind the nature of this level of studies, it all depends on what the students wish to review in their theses, so the studies themselves have "individual nature", i.e. if somebody wishes to study especially migration they can gain the necessary relevant information.

### **Migration in the curriculum of Faculty of Security Studies**

Migration is incorporated in the undergraduate studies at this faculty only from the aspect of their impact on security. In sophomore year, the students take the "International relations" course which includes the issue of migration.<sup>21</sup> The situation is similar with the courses "Geopolitics 101, "Defence doctrines" and "Security systems" where migration, although not explicitly mentioned in the syllabi, is de facto covered in class. In the third year, the course "International Public Law" covers, among other things, "the position of the individual in international law: doctrine viewpoint, practice, main universal and regional sources of fundamental human rights, refugees, stateless persons, asylum, and status of minorities".<sup>22</sup> It also covers the basics of international humanitarian law. The "Applied Ethics" course mentions refugees, global poverty and hunger, and these are

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21 <http://www.fb.bg.ac.rs/download/akreditacija/MEDjUNARODNI%20ODNOSI.pdf> (accessed on 09/03/2017)

22 <http://www.fb.bg.ac.rs/download/akreditacija/MEDjUNARODNO%20JAVNO%20PRAVO.pdf> (accessed on 09/03/2017)

all topics relevant to migration research.<sup>23</sup> The “Regional geography” provides a good overview of migration issues at undergraduate studies level.

In the case of Master studies, the most important course would be “Geopolitical perspectives of the modern world”, delivered during the first semester. One of its teaching units covers the topic entitled “Demographic factors in contemporary geopolitical processes” which incorporates migration. Migration is not taught as a specific teaching unit at the level of master studies.

### **Migration in the curriculum of Faculty of Political Sciences**

At the faculty of Political Sciences, migration are primarily studied at the Department of Social Work and Social Policy; more precisely in the framework of international studies, in the third year undergraduate course “International relations” and a PhD course “International relations in early 21st century”. Sophomore students at the Department of International Studies take a course “Legal regulation of international relations” in their second semester, and it deals with social, political and security consequences of migration.<sup>24</sup> In the framework of that course, while working on topics such as “International humanitarian law, Sources of law and conflict qualification, International humanitarian law, Protection of people in armed conflicts/terrorism and international law”, they touch upon migration, primarily forced migration.

Students of the Faculty of Political Sciences have the opportunity to take the “International relations” course during the third year of their studies. Since this course deals with population as an international relations factor, it also mentions the migration issue. However, as we have already mentioned, migration are primarily studied by the students of the Department of Social Work and Social Policy. “Social policy” course, delivered in the sophomore year, includes a teaching unit on population as a factor of Serbian social policy. “Comparative social policies” course is introduced in the third year, and although this course does not explicitly mention migration, its content makes it clear that it covers these issues as well (primarily economic migration). In their fourth year, in the framework of the “EU social policy” course, students have the opportunity to become familiar with the basic characteristics of the EU social policies, including those related to migration. Another very important fourth year course is “Social work with migrants”. This course covers topics such as “Migration causes and effects, Migration policies, Standards and protection of migrant rights, Migration flows in Serbia, Social aspects of workforce migration, Forced migration during armed conflicts, Social issues, social inclusion and integration of migrants (refugees, IDPs, returnees, asylum seekers, migrant families, etc.), Poverty, social risks and social exclusion of vulnerable groups, Rights and challenges related to exercise of those rights, Social work with migrants, Support and assistance programmes for migrants, Counselling, support, violence and conflict prevention”. In the same year students can take the course entitled “Modern social issues” which, among other things, also covers migration, i.e. topics such as Population explosion and depopulation, Refugee phenomenon, Social disorganisation, Organized crime, Human trafficking.

In the case of Master studies, we should mention “Contemporary security theories” which is a part of International Studies Master Programme. This course also touches upon the scientific field of population movement and related theoretical approaches. The course “Security challenges, threats and risk” at the same department covers topics such as “Concept of security challenges, risks and threats (classification criteria, new and old, analysis level); Globalization consequences in the area of security; Economic threats to security; Environmental threats to security; Human safety; Humanitarian interventions; Economic development and security (south - north, global poverty)” which directly relate

23 <http://www.fb.bg.ac.rs/download/akreditacija/PRIMENjENA%20ETIKA.pdf> (accessed on 09/03/2017)

24 <http://www.fpn.bg.ac.rs/osnovne-studije/odeljenje-za-medunarodne-odnose/druga-godina-studija/pravno-regulisanja-medunarodnih-odnosa/> (accessed on 09/01/2017)



to migration issues.<sup>25</sup> The “Political regulation of ethnical conflicts and relations” course in the same master programme also contains teaching units dealing with the issues of citizenship, stateless persons and rights to asylum.

The course “Security in Southeast Europe” contains a teaching unit on regional security challenges, risks and threats that references migration. The European Integrations Master course “EU legislation and internal affairs” mentions the issue of (primarily forced) migration and related EU regulations. “Social Policy and Social Work” master studies include the “Demography” course which, among other topics, covers “Population migration - concept, classification, analysis and theories”. However, the key migration-related course is delivered in the Social Work Master Programme, and it is called “Migration policies”. It contains the following teaching units: “Concepts, theoretical and methodological explanations, Determinants of global, regional and internal migration, Global movement of production, capital and workforce factors, International migration policy standards, EU migration policy, Best practice examples, Flows and content of migration movements in Serbia, Workforce migration, Brain drain (causes, consequences, possibility of return), Forced migration during armed conflicts (refugees, IDPs), Legal and institutional framework of migration policies in Serbia, Perspectives and strategic basis for resolving the issue of migrants, Migration policy in practice”.<sup>26</sup>

Finally, in the PhD studies, the course “International relations in early 21st century” contains the teaching unit entitled “Geographic, demographic and environmental factors in international and global relations in early 21st century; Military factors in international and global relations in early 21st century; Main security challenges and threats in the international and global relations in early 21st century”. Also, the course “Researching peace and security on the 21st century” deals with new forms of conflicts, position of individuals and human rights, thus touching upon migration issues. The course “Legal regulating of international relations in the early 21st century” includes a teaching unit focusing on international humanitarian law in the early 21st century, so we can implicitly conclude that types of forced migration will be mentioned within that unit, as well as within the unit “International law subjects - old and new”.<sup>27</sup>

### **Study of migration at University of Novi Sad**

At the University of Novi Sad migration are being researched at four faculties: Faculty of Philosophy, Faculty of Law, Faculty of Economy in Subotica and Faculty of Sciences (Department for Geography, Tourism, and Hotel Management).

#### **Migration in the curriculum of Faculty of Philosophy**

If we review the curriculum of the Sociology department at the Novi Sad Faculty of Philosophy, we can notice several courses which are very interesting from the aspect of migration study. The first is “Demography”. This course also covers mechanical population movements, and relationship between migration and immigration. We also noted the course “Contemporary demographic processes”. Another interesting course is “Sociology and futurology”, which does not mention migration directly, but it is clear that the teaching unit reviewing the midterm and long-term social change processes has to touch upon migration. “Sociology of social conflicts”, while analysing different causes and types of social conflicts, deals with the population movements as a cause

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25 <http://www.fpn.bg.ac.rs/studije-ii-i-iii-stepena/master-studije/modul-medunarodne-bezbednosti/iza-zovi-rizici-i-pretnje-bezbednosti/> (accessed on 09/01/2017)

26 <http://www.fpn.bg.ac.rs/studije-ii-i-iii-stepena/master-studije/master-akademske-studije-socijalne-politike/migraciona-politika/> (accessed on 09/01/2017)

27 <http://www.fpn.bg.ac.rs/studije-ii-i-iii-stepena/doktorske-studije/medunarodne-i-evropske-studije/druga-godina-studija/pravno-regulisanje-medunarodnih-odnosa-na-pocetku-xxi-veka/> (accessed on 09/02/2017)



or consequence of specific conflicts. It seems quite logical that “Rural sociology” and “Urban sociology” would include migration.

As far as Master Studies are concerned, although there is no specific course focusing on migration, it should be noted that “Social sciences research methodology” provides important insights on proper methods of migration research, i.e. on the proper manner of applying methodological knowledge in the studying of forced migration. Among other things this course covers territorial population movements, relationship between theory and empirical data in the research of forced migration, qualitative and quantitative factors in the research of forced migration, planning of the research of forced migration. In the case of PhD studies, there are no courses dedicated to migration issues.

### **Migration in the curriculum of Faculty of Law**

When it comes to University of Novi Sad Faculty of Law, it has two study programmes at undergraduate studies level: “General Study Programme” and “Internal Affairs Study Programme”. When we review the description of courses at the Faculty website, as well as their content, we can highlight classical legal courses related to migration issues such as “International public law” and “International private law”. As far as Master studies are concerned, we could not find any specific courses dealing with migration.

### **Migration in the curriculum of Subotica Faculty of Economy**

Subotica Faculty of Economy at Novi Sad University has nine departments: Agrarian economy and business; European and international economy and business; Finances, banking and insurance; Quantitative economy; Marketing; Management; Business IT systems; Accounting and auditing; and Trade.<sup>28</sup> We reviewed the curricula, but failed to find any specific course focusing on migration. As far as Master studies are concerned, they do not contain any specific courses dealing with migration. The same goes for the PhD studies.

### **Migration in the curriculum of Faculty of Sciences (Department for Geography, Tourism, and Hotel Management)**

By reviewing the structure of undergraduate studies of Geography, Tourism, and Hotel Management, we noted that migration are incorporated in the syllabi of these studies (primarily in the courses for future graduate geography professors). We would highlight the courses “Population geography” and “Demographic models”.

As far as Master studies are concerned, we did not manage to find any specific courses focusing on migration. There are several PhD courses which, either explicitly or implicitly, review migration issues. These are as follows: “Population policy and family planning”, “Global geopolitical processes and Serbia”, “Geography and global changes”, “Regional development in Southeast Europe”.<sup>29</sup>

### **Study of migration at the University of Kragujevac**

In the case of University of Kragujevac, we studied the position of migration at the Faculty of Law. By reviewing the curricula, as well as the content of courses at the Faculty of Law, we noted several of them which relate to migration. The first would be “International public law” which provides students with knowledge on topics such as protection of rights of refugees and asylum seekers. There is also “International private law” which also provides information on migration, i.e. position and rights of foreign

<sup>28</sup> <http://www.ef.uns.ac.rs/beta/ofakultetu/studijскиiplanovi/osnovnestudije.htm> (accessed on 09/33/2017)

<sup>29</sup> <http://www.dgt.uns.ac.rs/dokumentacija/2017g04mpg.pdf> (accessed on 09/13/2017)

nationals.

As far as Master studies are concerned, we could not find the issues related to migration in any of the provided courses whose content we reviewed. On the other hand, the issue of migration (refugees and asylum seekers) is present in the PhD studies in the framework of the course "International public law - selected topics".<sup>30</sup>

### **Study of migration at University of Nis**

In the case of University of Nis, we attempted to determine the state of affairs in relation to migration study at four faculties: Faculty of Philosophy, Faculty of Law, Faculty of Economy and Faculty of Sciences and Mathematics.

#### **Migration in the curriculum of Nis Faculty of Philosophy (Sociology Department)**

By reviewing the content of four year-long courses at undergraduate sociology studies at University of Nis Faculty of Philosophy, we can note several courses that focus on migration. Already at their first year, the students take "Social demography" where they are familiarized with the concept of spatial population movement, i.e. migration. They also study population policies and other important population-related issues. We also reviewed the content of courses taking place in other years of study, but were unable to find any mention of migration.

As far as Sociology Master Studies are concerned we could not find any courses dealing specifically with migration issues. However, "here is a course entitled "Demographic changes and population policy" in the master studies programme that is awaiting accreditation.

The situation is similar with PhD studies. We should mention the course "Urban and rural sociology" which contains a teaching unit on "Demographic challenges in Serbia". In a similar manner, "Labour sociology" course mentions a teaching unit entitled "Workforce migration".

#### **Migration in the curriculum of Faculty of Law**

In the undergraduate studies at Nis Faculty of Law, migration are studied in the "International public law" course, where they are covered by several teaching units (rights of migrant workers, refugees, asylum law). We also noted another course, "International humanitarian law", where migration is mentioned from the aspect of rights of refugees and displaced persons in international humanitarian law. As far as Masters Studies are concerned, we did not manage to find any courses specifically focused on migration. The same goes for PhD studies.<sup>31</sup>

#### **Migration in the curriculum of Faculty of Economy**

At the undergraduate studies at Nis Faculty of Economy, migration is studied in the course "Economic Geography" which is the part of the first year curriculum. At Master studies, migration is studied in the course entitled "Valorisation of Spatial Potential". There are no courses focused on migration at PhD studies level.

#### **Migration in the curriculum of the Geography Department at Faculty of Sciences and Mathematics**

At the undergraduate geography studies in Nis, the main course covering

<sup>30</sup> <http://www.jura.kg.ac.rs/index.php/sr/dokumenti/646-2016/2017/view-category.htm> (accessed on 09/13/2017)

<sup>31</sup> [http://www.prafak.ni.ac.rs/files/silabusi/Silabus-Medjunarodno\\_javno\\_pravo-IZMENJENO\\_februar\\_2017.pdf](http://www.prafak.ni.ac.rs/files/silabusi/Silabus-Medjunarodno_javno_pravo-IZMENJENO_februar_2017.pdf) (accessed on 09/03/2017)

migration is “Population geography” with topics such as “global population movement, movement of Serbian population, migration, migration according to type, migration indicators, migration in the world, and migration in Serbia. Also, as we have learned that migration are also studied in the framework of courses “Regional geography 1” and “Regional geography 2”. Master studies contain “World population” course which pays considerable attention to migration.

### **Migration in the curriculum OF John Naisbitt University**

In the case of John Naisbitt University in Belgrade we reviewed the position of migration in the curricula of two its faculties: Faculty of International Economy and Faculty of Law, Public Administration and Security.

#### **Migration in the curriculum of John Naisbitt University Faculty of International Economy**

While reviewing the list of undergraduate courses at the John Naisbitt University Faculty of International Economy (Study programme International economy and Finances), we became interested in the course entitled “Geopolitics of Serbia”.<sup>32</sup> Although migration are not explicitly mentioned in the content of this course, by reviewing the syllabus, it studies population as a geopolitical factor, and, accordingly, past and present migration in Serbia. There are also three courses at the third study year (“Economic and political geography of Europe”, “Economic and political geography of North and Latin America” and “Economic and political geography of Russia and Asia”) whose contents we had reviewed and concluded that even though migration are not explicitly cited, they are definitely mentioned during lectures and exercise classes. The situation is similar in the case of following courses: “Contemporary European economies 1 and 2”, “Contemporary economies in North and Latin America 1 and 2” and “Contemporary economies of Russia and Asia 1 and 2”.

As far as Master studies are concerned, we have reviewed the “Goeconomics and Regional Studies” Programme. In the first semester of their master studies the students can take a course entitled “Regional economic geography of the world” which includes the teaching unit Global population - increase, regional distribution, natural and mechanical movement, Structures - economic and geographic importance; population concentration zones, settlements, economies, infrastructure. When it comes to the other master programme at this faculty (“Banking and Finances”) we were unable to find any courses dealing with migration. If we look at PhD studies, “International economy” course contains a teaching unit focusing on international movement of production factors, which includes migration. Also, even though the content of “Goeconomics and economic diplomacy” course does not directly mention migration, by reviewing the syllabus we can conclude that students do gain some indirect information about this issue.

#### **Migration in the curriculum of John Naisbitt University Faculty of Law, Public Administration and Security**

Through our review of the undergraduate studies programme at this faculty, we were able to conclude that the scientific field of migration is present in the following courses: “International Public Law”, “International Relations”, “Organized Crime”, “International Private Law”, “Environmental Security”, “International War and Humanitarian Law”, “Social Policy”, and “Security Systems”.<sup>33</sup>

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32 <http://www.fine.edu.rs/wstr.php?bs=GEOPOLITIKA%20SRBIJE%202014> (accessed on 09/11/2017)

33 [http://fpjub.megatrend.edu.rs/index.php?option=com\\_content&view=article&id=138&Itemid=1004](http://fpjub.megatrend.edu.rs/index.php?option=com_content&view=article&id=138&Itemid=1004) (accessed on 09/11/2017)

As far as Master studies are concerned, we noted the following courses: "Contemporary Security Systems" and "Crime Suppression Policy" which cover, among other things, migration factors, transnational organized crime and, hence, human trafficking issues; as well as "Contemporary International Law" which cover the legal aspects of migration, especially forced ones.<sup>34</sup> Another very interesting course would be "Geopolitics" which contains the teaching unit "Demographic Development and Picture of Serbia" that necessarily covers the issue of migration. There are also "Analysis of Security Phenomena" and "Joint Foreign and Security Policy of EU" which provide an analysis of elements of EU migration policy in its role of an important factor of security.

PhD studies programme at the Faculty of Law, Public Administration and Security contains several interesting courses where migration is one of the teaching units in several course curricula. These courses are as follows: "Current International Legal Challenges", "International Relations and Foreign Policy", "Contemporary International War and Humanitarian Law", "Contemporary Security Theories".<sup>35</sup>

### **Migration in the curriculum of Singidunum University**

At the University of Singidunum, we researched the study of migration at two of its faculties: Faculty of Media and Communications and Faculty of Applied Ecology - Futura.

#### **Migration in the curriculum of Singidunum University Faculty of Media and Communications**

The programme we found especially interesting at undergraduate level was Social Policy. For example, the course "Development of social work as a profession" contains a teaching unit entitled "migration and mobility of capital and workforce". As far as Master studies are concerned, we noted two very relevant programmes. The first is "Theories of modernity: capitalism studies", and the second is "Social work". The first programme (Capitalism studies) contains a set of courses focusing on both capitalism and its consequences to human lives, such as "Labour relations theory" or "Contemporary transformations of labour relations".<sup>36</sup> The second study programme we found interesting from the aspect of migration was "Social work". It includes relevant courses such as "Social issues and social work", "Strategic planning in social policies" and "Modern states and social policies". A course that seems especially interesting and explicitly mentions migration is "Social issue and social work". One of its teaching units is dedicated to forced migration and refugees.

#### **Migration in the curriculum of Singidunum University Faculty of Applied Ecology - Futura**

By reviewing the curriculum of undergraduate studies at the Faculty of Applied Ecology - Futura we encountered several courses which directly or indirectly deal with migration. First such course, "Ecology", is offered in the first year of studies. It includes a teaching unit "Population ecology" which deals with migration, among other topics. There is also "Environmental policy" which covers the topic of "Challenges of global environmental policy". Another very interesting course would be "Human ecology" which reviews, among other things, the history of demographic population development and theories of demographic transition. As far as master studies are concerned, we should note the course entitled "Environmental security systems". Namely, this course covers

<sup>34</sup> [http://fpjub.megatrend.edu.rs/index.php?option=com\\_content&view=article&id=139&Itemid=1005](http://fpjub.megatrend.edu.rs/index.php?option=com_content&view=article&id=139&Itemid=1005) (accessed on 09/11/2017)

<sup>35</sup> <http://en.fjub.naisbitt.edu.rs/> (accessed on 09/12/2017)

<sup>36</sup> <http://www.fmk.singidunum.ac.rs/smer/master-studije/46-teorije-savremenosti-studije-kapitalizma/57-struktura-programa-ii-godina/> (accessed on 09/12/2017)

global security and environmental challenges and threats, which definitely involves migration, even though they are not directly mentioned in the syllabus. We could not find any courses focusing on migration in the programme of PhD studies at this University.

### **Conclusion**

When reviewing the curricula and syllabi of undergraduate (basic), graduate (master) and PhD studies at state universities in Serbia (University of Belgrade, University of Novi Sad, University of Kragujevac, University of Nis), as well as two private universities (John Naisbitt and Singidunum) it is momentarily obvious that none of the analysed faculties provide systematic, integrated, comprehensive study of migration issue in all its manifestations, nor comprehensive knowledge on all of its consequences (social, political, economic, security-related, psychological, environmental etc.). Also, it is very difficult to extrapolate appropriate lessons learned which would provide the basis for migration strategies that the government and the society could adopt and implement from the existing curricula and syllabi or the information provided to students at the analysed universities.

All of the above helps to explain why the Republic of Serbia, in spite of the efforts invested by the whole society to respond to challenges, risks and threats related to migration, is unable to be an appropriate and sufficiently efficient partner to the relevant institutions in the international community increasingly faced with this global phenomenon. In other words, such dispersed knowledge is of little use to the government and its institutions. We are especially thinking of “running in place” and repetitions which are present in some of the analysed universities at all academic levels, from undergraduate to PhD studies.

In order to raise the general public awareness level on migration issues, it is necessary to study this phenomenon by using a multidisciplinary approach in the framework of an integral programme in a systematic, comprehensive and integrated manner. In this way we would profit from all the existing knowledge on migration while simultaneously reaching a new level of quality in understanding causes, processes and consequences of population movements through integration and synergy.

The next step should be focused on the advancement of strategic reflection in this area, through drafting and (especially) implementation of strategies that would enable the society, government and all its institutions to face and successfully overcome negative consequences of migration. In order for the Republic of Serbia to become a reliable partner in comprehensive international and global efforts aimed at responding to problems caused by population movements, it is necessary to raise total cognitive and material capacities.

One of the main recommendations would be to design and launch a Master Studies Programme at University of Belgrade, with the cooperation of all other Serbian universities, as well as support of relevant national and international institutions, which would eliminate the existing issues with dispersed information, repetition and ineffectiveness of existing knowledge and actions in this field. These studies would necessarily be multidisciplinary in order to cover this issue in a holistic manner and provide a cognitive scientific basis for deepened understanding of such a multidimensional phenomenon as migration. The said studies could be called “Migration Studies”. Bearing in mind the examples and experiences with integration of migration in the academic programmes of EU countries, migration studies should cover the following areas: Analysis of the way in which government laws and policies impact migration patterns, Analysis of practices and mechanisms applied by different states as solutions to problems related to irregular, legal and forced migration, A more detailed review of the sources of information in order to enable a better understanding of international migration challenges, Application of best practice models in order to produce permanent policies and practices and Advance preparation for changes by keeping up with international migration trends.



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## ГЛОБАЛИЗАЦИЈАТА И ТРАНСНАЦИОНАЛНАТА МИГРЦИЈА КАКО ФАКТОРИ КОИ ЈА СТИМУЛИРААТ ТРГОВИЈАТА СО ЛУЃЕ

### Апстракт

*Во трудот авторите го објаснуваат современиот тренд на глобализацијата и транснационалната миграција како фактори кои ја стимулираат трговијата со луѓе. Постојат бројни фактори кои влијаат врз растот на овие криминални појави. Авторите генерално се согласуваат дека факторите со кои работат, се она што го прави различен и бавен, е важноста и влијанието на секој фактор поединечно, со нивната интеракција и меѓусебно влијание врз поединците. Преку статистички истражувања овие појави се дадени согледувања на трговијата со луѓе и мигранти во Република Македонија. Изразена е потреба од зајакнување на институционалната борба против трговијата со луѓе поврзана со транснационалната миграција.*

*Клучни зборови: миграција, криминал, човекови права, фактори, глобализација.*

## GLOBALIZATION AND TRANSNATIONAL MIGRATION AS FACTORS WHO STIMULATE TRADE WITH PEOPLE

### Abstract

*In this labour the authors explain the contemporary trend of globalization and transnational migration as factors who is stimulate trade with people. There are numerous factors that influence the growth of these criminal phenomena. The authors generally agree that the factors with which they work, its what makes it different and slow, is the importance and impact of each factor individually, with their interaction and interaction with individuals. Through statistical research at these phenomena are given insights into beings trade with people and migrants in the Republic of Macedonia. There is a expressed need to strengthen the institutional fight against trade with people related with transnational migration.*

*Keywords: migration, criminal human rights, factors, globalization.*

### Вовед

Има многу теории кои ја објаснуваат човечката миграција, од кои повеќето се потпираат врз две нивоа на фактори. На микро ниво или лично, разликите

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во заработувачката ги повлекуваат луѓето од сиромашните земји кон земјите со перспективи за поголемо лично и фамилијарно богатство. Разликите во платата меѓу земјите што праќаат и земјите што примаат имигранти се најважниот фактор во одлуката на луѓето да се преселат. На макро ниво земјите со недостаток на работна сила се обидуваат да регрутираат работници од странство за да ги исполнат барањата на економијата. Како што економијата се зголемува и намалува така пазарот на трудот флукутира и земјите на кои им е потребна работна сила одговараат со охрабрување или обесхрабрување на имиграцијата. Индивидуалните работници од една страна се приспособуваат на промените во економијата и на овој начин интернационалната миграција станува изедначувачки механизам за баланс дистрибуција на економските ресурси. Во минатиот век генералниот тренд се сменил од одлив на Европејци во нивните колонии преку океанот во миграции од земјите во развојот во Африка, Азија и Латинска Америка кон индустријализираните земји во северна Америка и Европа. Растечката глобална комерција во втората половина на 20 -от век придонела да се навлезе во ерата на интернационалната размена на стоки и услуги, како и раздвижување на работниците за одговор на можностите за вработување. Интернационалната миграција експлодирала во 1980 год, со луѓе од земјите во развој и земјите од поранешниот Советски Сојуз кои барале можности на други места, а најмногу на запад. Во последниве две децении глобалната миграција на популацијата достигнала ниво, според податоците на Обединетите нации, на 175 милиони лица кои моментално живеат надвор од своите земји. Имено, миграцијата не е нешто ново за светот и за Европа, при што актуелната мигрантско-бегалска криза претставува феномен незабележан во поновата светска историја. Бегалската криза е далеку од нејзината завршница, а наскоро може да се очекува и нов бран, на што предупредуваат повеќе експерти за безбедносните ризици и мигрантските движења. Истовремено, се укажува на потребата од поголема соработка меѓу земјите кои се на патот на бегалците.<sup>3</sup> Информациите за овој актуелен безбедносен феномен со негативен предзнак се од големо значење за градење на стратегија на национално и европско ниво за негово успешно детектирање, превенирање и превземање на адекватни акции.<sup>4</sup>

### **Фактори кои влијаат врз развојот на трговијата со луѓе**

Во литературата постои мислење за факторите кои имаат значајно влијание во општеството, а кое се должи на комплексноста на трговија со луѓе, дека може да се објасни само со помош на многу варијантниот модел што укажува на присутноста на повеќе фактори на ризик кои придонесуваат за појавата и опстојувањето на овој кривичен феномен. Во литературата постојат неколку поделби на овие фактори, така што некои автори ги делат на надворешни и внатрешни, лични, структурни и културни промени, на објективни и субјективни, на макро и микро како и оние кои ги буткаат или ги привлекуваат жртвите<sup>5</sup>. Интересно е дека, во објаснувањето на појавата со трговија на луѓе, на прво место се изјавите за пари, што изнесува милиони на годишно ниво, дека делуваат како магнет за опстанокот на оваа работа. Затоа, за корупцијата, како фактор кој организаторите на трговијата со луѓе непречено ја користат, е функционирањето на полицијата и другите органи како и лица одговорни за криминалот кои упорно се борат да ја спречат.

Не се ретки случаевите каде сторителите, понекогаш ги подмитуваат

3 Конференцијата се реализира во партнерска соработка на Институтот за геостратешки истражувања и надворешна политика при МНР, Европското движење на Република Македонија и Фондацијата Конрад Аденауер, поддржани и кофинансирани од фондот за соработка на Централно европската иницијатива (ЦЕИ).

4 Козарев А., Информационната сигурност и миграционните процеси во контекста на настоящата бежанска криза во Европа, во: Миграционните вълни – минало, настояще, бъдеще, Благоевград, 2017 година, стр. 88.

5 Ристановиќ-Николиќ, В.: Трговија со жени во Србија и околните земји-обем, карактеристики и примери, Темида, број 1, Белград, 2002, стр. 9.

членовите на владите на некои земји, а со тоа стануваат кривци за таквата состојба во државата. Како на пример, во Нигерија, корупцијата во државните институции ја има во сите пори на државниот систем и таму цвета трговијата со луѓе и се кршат човечките права. Третата можна причина е понудата и побарувачката. Ако проблемот на трговијата со луѓе е чисто од економска гледна точка, колку што има побарувачка за луѓе, толку луѓе ќе бидат купени или продадени. Водени од мотивот да се достигне највисоката можна добивка од човечкото страдање, се повеќе се јавуваат престапници кои ги експлоатираат луѓето до границите на биолошките можности каде ќе бидат понудени за продажба.<sup>6</sup>

Една од најпознатите поделби во литературата кога станува збор за објаснување на причините за трговија со луѓе е врз основа на таканаречениот модел на “туркање и привлекување”, со кој сите фактори кои придонесуваат за трговијата со луѓе се поделени во две групи, факторите привлечност (PULL - фактори) и фактори на туркање (PUSH- фактори). Оваа поделба се карактеризира по тоа што јасно нагласува три фактори кои им помагаат на луѓето да го напуштат местото на живеење и да мигрираат на друго место или некоја друга земја. Место во кое лицето не е нужно да биде надвор од државата, односно, може да работи во самата држава само во различен град, но да постојат факторите кои ги привлекува луѓето да живеат и работаат во него. Меѓу овие фактори при работа во земјите на потекло и земјите на дестинација на жртвите постои тесна взаемна врска каде се испреплетуваат односите повеќекратно и каде нужно мора да бидат земени предвид сите обиди да се објасни создавањето, развојот и опстанокот на трговијата со луѓе. Комплексноста на општествениот феномен како што е трговијата со луѓе и начините на нејзиното појавување сугерира претпазливост во причинско – последичната анализа. Секое поедноставување на трговијата со луѓе преку овие фактори само ќе доведе до недоразбирања, несоодветни заклучоци и негативни последици во областа на борбата против оваа појава. Фактори на туркање или отфрлање на сите оние фактори кои имаат негативно влијание во земјата на потеклото, кај потенцијалните жртви ја зголемува желбата да ги напуштат своите постојани места на живеење на легален или нелегален начин.

Бројот на овие фактори може да биде голем, а нивното делување да биде спорно и контраверзно. Бројот и односот на факторите мора да бидат присутни кај лицето за да се почувствува загрозен, и не секогаш е можно да се утврди со сигурност кој од факторите во еден случај е доминантен и влијае, а друг пак може да има средно или занемарливо значење.

### **Фактори на туркање – PUSH**

Во стручната и научната литература како фактор на туркање во групата се наведуваат следните: високата стапка на невработеност; сиромаштијата; пазарот на труд затворен за жените и половата дискриминација е изразена; недостиг од можности за подобрување на квалитетот на животот; сексуална или етничка дискриминација; прогон, насилство или злоупотреба на поединци; бегане од кршење на човечките права; колапс на социјалната инфраструктура и вооружен судир и војна.

Социо-економски фактори – особено факторите на сиромаштијата и невработеноста силно доведуваат до миграција, особено губењето на работното место.

Невработеноста – на светско ниво во однос на невработеноста, доаѓа до зголемување на бројката и сега достигнува над 200 милиони, со тенденција во натамошен раст. Од вкупниот број на работоспособно население, податоците на Меѓународната организација на трудот, покажуваат дека околу 6,5 отсто се

<sup>6</sup> Долежал, Д.: Превенција во трговијата со луѓе, Зборник на Правниот факултет, Ријека, (1991) в. 28, бр. 2, Ријека, 2007, стр: 1404 и 1405.

невработени<sup>7</sup>. Во текот на 90-тите години на XX век, во Централна и Источна Европа и поранешниот Советски Сојуз, и во речиси сите земји каде процесот на транзиција започнал, стапката на вработеност значително се намалила. Се проценува дека околу 26 милиони луѓе ги загубиле своите работни места од кои повеќе од половината се жени (14 милиони).<sup>8</sup> Бројот на регистрирани невработени лица по првиот бран на економските реформи во пост-комунистичкиот период само во Источна и Централна Европа се зголемил за милион. Во 1989 година, за осум до девет милиони во 1993 година и 1994 година, три четвртини од невработени лица потекнувале од регионот на Централна Европа и од Балканот.<sup>9</sup> Еве како на микро и макро план изнесувала стапката на невработеност во соседна Р. Србија:

Сиромаштијата - врши силно влијание врз однесувањето на луѓето. Сиромашните поединци се економски уништени, деградирани и потиснати, живеат во лоши, нехигиенски станбени услови кои ги пратат бројни болести, примитивизмот, нееднаквоста, деморализацијата, вознемиреноста и очајот. Денес во светот околу 2,8 милијарди луѓе живеат во лоши услови и со помалку од два долари на ден. Над 50 проценти од децата живеат во сиромашни семејства и посиромашните региони во светот.<sup>10</sup>

Политички фактори – ја вклучува политичката нестабилност предизвикана од злоупотребата на моќта, како и од злоупотребата на поголемиот дел од владеачката класа. Особено тешките форми на газењето на човечките права на поединците се од идеолошки причини од страна на јавните службеници и спречувањето од опозициските партии како за контрола на политичките партии, така и за потиснување на човечките права и слободи, но и на политичките противници. Уште можеме да нагласиме и за спречувањето на политичките противници за нелегалното прислушкување, сликање, озвучување и следење, како и за експериментирањето врз човечките суштества, но и злосторствата на полицијата со уништувањето на еден народ или етнички групи во рамките на државните граници. Ова силно влијае врз поединците, кои често без размислување ја прифатија понудата на законски или незаконски начин на миграција и со тоа да станат жртви на трговијата со луѓе.<sup>11</sup>

Културни фактори - членови на одредени групи стануваат жртви на трговија со луѓе поради специфичните обичаи во рамките на границите на специфичните култури, со специфични обичаи и традиции на патријархалните општества кои ја промовираат трговијата со деца како и склучувањето бракови со деца – типичен претставник е ромската популација. Тамангс- племето од Непал тргува со жените и децата од нивното племе во Индија поради сексуални уживања и експлоатација.<sup>12</sup>

Фактори поврзани со милитаризмот<sup>13</sup>-Секоја војна директно е поврзана со зголемување на обемот на криминалот. Со присуството на војската се зголемува побарувачката на сексуалните услуги и делува како фактор на привлекување и е погодно тло за проширување на проституцијата. Независно дали ќе бидат припадниците на регуларната војска или мировниците на страните војски се појавуваат во улога на клиенти, но воедно и како учесници во трговијата со луѓе

7 Бјалајац, Ж.: Трговија со луѓе – примери и последици, Автор, Белград, 2005, стр. 35 и 36.

8 Kartusch, A.: A Reference Guide for Anti-Trafficking Legislative Review with Particular Emphasis on South Eastern Europe, Ludwig Boltzman Institute of Human Rights, OSCE/ODIHR, Warshaw, 2001, p. 112.

9 Ристановиќ-Николиќ, В.: Преживеј ја транзицијата, Службен весник, 2008, стр. 36 и 37.

10 Штиглиќ, Е. Ц.: Противречностите на глобализацијата, СБМ, Белград, 2004, стр. 39.

11 Игњатовиќ, Ч.: Криминологија, Службен весник, Белград, 2006, стр. 283.

12 Upala Devi Banerjee: Globalisation, Crisis in Livelihoods, Migration and Trafficking of Women and Girls: The Crisis in India, Nepal and Bangladesh, Conference paper, III International Congress of Women Work and Health, Sweden, 2002, p. 4. У: Лалиќ, В: Трговија со луѓе во Босна и Херцеговина, Дефендологија -центар за безбедносно, социолошко и криминолошко истражувања, Бања Лука, 2007, стр. 40.

13 Милитаризам (фр. militarisme) претставува превласт на војската врз државните власти, војната управа., У: Вујаклија, М: Лексикон на странски зборови, реченици и изрази четврто дополнување и редовно издание, Просвета, Белград, 1991, стр. 548.



(жртви). Сите тие се претставници, а воедно и никулци за појавата на извршување тешки кривични дела против невини луѓе, а во исто време и во извршувањето на разни други кривични дела, особено на оние кои обезбедуваат стока за широка примена поради лошото снабдување со артикли што се од витално значење. За време на војната<sup>14</sup> многу луѓе биле заробени, убиени, депортирани, протерани, злоупотребени, итн. Многу луѓе биле принудени да се борат за нивните животи, а и се обидуваат на секој можен начин да ја напуштат територијата опфатена со војна. Отсуството на перспектива, беззаконие, и очај се само некои од факторите кои во голема мера се користат од страна на извршителите на трговија со луѓе преку лажни ветувања, со измама и насилство за да се регрутираат жртвите. Како особено ранлива група се лица со висок степен на виктимизација и не само што бегаат од воената зона, туку стануваат жртви бегалци. Затоа овие фактори се позиционирани во паралела, како фактори на привлекување и буткање што во дестинациската земја каде едноставно се подготвени потенцијалните жртви да бидат лесен плен на трговците со луѓе. Дискриминаторските и негативните фактори на туркање нужно треба да бидат поставени во однос на факторите на измислената придобивка кај богатите земји во светот.

Организиран криминал- со оглед на важноста што ја има индустријата за секс, ја презеде контролата на “понудата и побарувачката” на жртвите на трговија со луѓе со цел за поголема нивна експлоатација и постигнување за што поголема финансиска добивка. Разликата помеѓу официјалната политиката во дестинациските земји и потребата за миграција на населението е исполнет со организираниот криминал, заобиколувајќи ги редовните правни имиграциски постапки - измамата на жртвите за можностите за олеснување во пристапот до пазарот на трудот во побогатите и по просперитетните држави. Имиграционите закони и политиките во дестинациските земји, во врска со работата на мигрантите и миграциската проституција, исто така, придонесува за зголемувањето на виктимизација на жртвите. Државите пред сè се членки на Европската Унија. Со зголемување на приливот на мигранти се реагираше со рестриktivна емиграциона политика која е насочена кон спречување на миграцијата, особено нелегалната, што уште повеќе би можело да доведе до криминализација на општеството. Проблемот на трговијата со луѓе и превенцијата, развиените земји ја согледуваат низ призмата на заштита на интересите на државата на мигрантите, при што странците на различни начини се обидуваат да влезат во земјата (законски или незаконски) и не се прифатени како добредојдени гости. Рестриktivни мерки, зајакнатата визна политика, зголемувањето на граничната контрола, построгите следења на мешаните бракови не донесе значајни резултати.

Напротив, рестриktivното законодавство само придонесе за зајакнување на трговијата со луѓе, бидејќи спроведувањето на бројни прекршочни и кривични мерки спречи соработка со полицијата, а неретко била погодена од ваквата ситуација само жртвата, а не организаторите на трговијата со луѓе.<sup>15</sup>

Корумпираните службеници- придонесоа за трговијата со луѓе со самиот факт што непреземајќи мерки и дејствија кои се овластени со закон, да им ја олеснат работата на организираниот криминал. Европа како и поголемиот дел на земјите ги посочува најзначајните PULL и PUSH фактори, а тие се:

### Фактори на привлекување-PULL

Во оваа група влегуваат следните фактори: подобар стандард и квалитет на

<sup>14</sup> Војната значи недоразбирање на две вооружени формации во која доаѓа до силно негирање на вредносниот систем каде веќе започнало. За разлика од револуцијата каде вредностите на системот трајно, институционално и неповратно се негираат, а војната овој процес е привремен. У: Игњатовиќ, Ч.: Историја, стр. 229.

<sup>15</sup> Петровиќ-Мрвиќ, Н.: Трговија со луѓе, како и специфична форма на женска миграција, Темида, Виктимолошко друштво Србија, број 1, Белград, 2002, стр. 14 и 15.

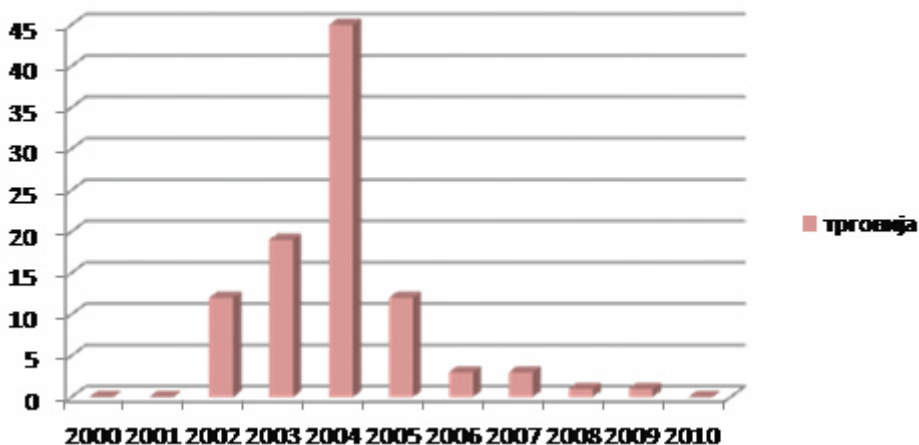
живот на друго место или во друга земја; полесен и подобар пристап до високото образование; помалку дискриминација или вознемирување; обезбедување на минимални стандарди на индивидуите и индивидуалните права; подобри можности за работа; потребата за евтина работна сила; зголемена побарувачката за комерцијални секс услуги; повисоки плати и подобри работни услови; побарувачката за работници во индустријата за секс и повисоки плати и формирање на мигрантските заедници.

Анализата на бројните научни сознанија, а и податоците добиени од научните истражувања покажаа дека уништените семејни односи и присуството на алкохолот како и криминалната средина значително имаат свое влијание и на факторите кои влијаат врз изборот на девојките и младите жени за професионалната проституција. Во таа смисла само ако сегашната стапка на невработеноста, на сиромаштијата и социјалната средина како и патолошкото однесување се појавува предвидливоста на функцијата на факторот “push” и ефектите од сиромаштијата, но тоа само по себе ја повлекува и невработеноста, и другите елементи на лишување- да се определат млади жени и девојки за доброволно пристапување на проституција во земјите од Западна Европа.

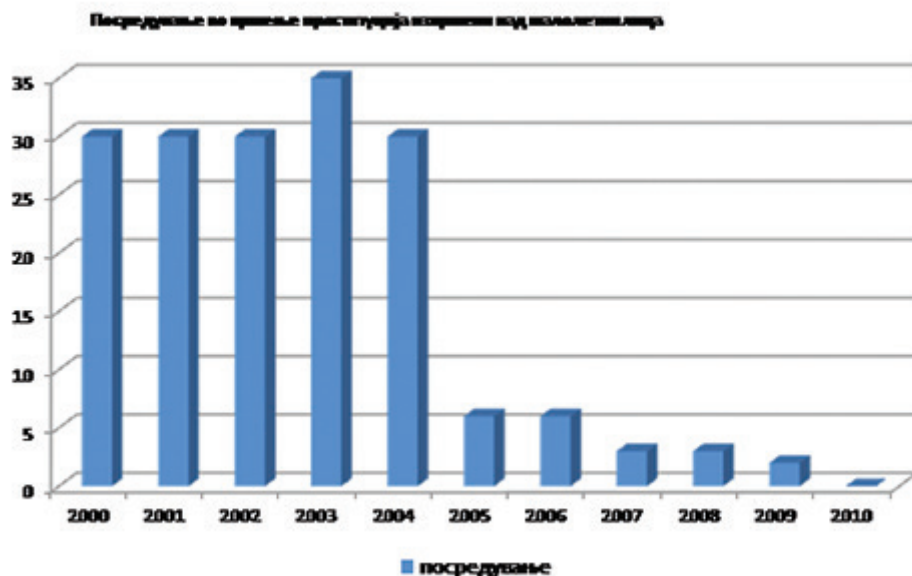
### **Статистички согледувања на трговијата со луѓе и мигранти во Република Македонија**

Согласно податоците добиени од Републичкиот завод за статистика, бројот на вкупно пријавените, обвинети за кривичното дело трговија со луѓе, на територија на Република Македонија од 2000 година до 2010 година генерално бележи континуирано зголемување. Во еден дел на слика 1, може да се забележи дека согласно со истражувањата спроведени во 2005 година постои опаѓање на бројот на предмети во 2000 год и 2001 год. Овде не смееме да заборавиме дека во овој период опаѓањето на бројот на предмети во 2000 год и 2001 год е поради тоа што имавме конфликтен период и делови од територијата на нашата земја каде не беше контролирана од страна на органите на државата. Ова би значело дека нашите органи за прогонот немале целосна контрола над целата територија на Р. Македонија во смисла на гонењето на сторителите на кривичното дело трговија со луѓе.

### **Трговија со луѓе**



*Графикон 1 – Трговија со луѓе во периодот од 2000 до 2010 година во РМ*



Графикон 2 – Посредување во вршење на проституција извршени над малолетни лица

Во овој ист период од класичниот и прилично јавен начин на ова кривично дело во реализација во ноќните барови, се заменува во нови форми и со нов таен начин на делување преку користење салони за убавина, масажи, агенции за вработување и други слични форми. Водено од годишните извештаи на МВР и другите надлежни органи како и од одредени извори се спомнува за зголемување на трговијата со луѓе и со домашни жртви поради сексуална експлоатација. Во бројните полициски извештаи и судски обвинителни акти во врска со кривичните дела трговија со луѓе и посредување при вршење на проституција се голем број на ноќни барови од Тетово и тетовско како и од Гостивар и гостиварско и струшко и охридско во кои било вршено присилно давање сексуални услуги од страна на жртвите, а во индивидуалните изјави можеме да забележиме дека постои соработка меѓу ноќните барови и нивната взаемна соработка во однос на жртвите. Ноќните барови при примање-предавање на жртвите се користеле со техниката на купување и продавање или пак само со размена на една жртва со друга, така кажано глава за глава.

Од ова произлегува дека според нејзината природа, трговијата со луѓе секогаш е мошне добро организирана и вклучува најмалку три страни заинтересирани за лесна добивка, а мал ризик и тоа продавач, потоа транспортер и купувач. Влезот во Македонија на жртвите е најчесто илегален преку шума и полиња, со помош на товарни возила или посебни автобуси, шлепери и камиони како и товарни возови и моторни чамци, но и преку авионскиот превоз.

Жртвите главно не поседуваат легални патни исправи или пак тие им се одземени од страна на трговците. Откриени жртви на трговија со луѓе и мигранти најчесто се јавуваат странски државјани и тоа главно се од: Албанија, Косово, Србија, Турција, Кина, Нигерија, Колумбија, Авганистан, Бугарија, Индија, Бангладеш, Романија, Молдавија, Русија и Украина.

Структурата на мигрантите низ годините е следнава:

Најголемиот број се на возраст од 20 до 30 години, потоа од 30 до 40 години, од 40 до 50 и од 50 годишна возраст до 60, но има и под 18 години.

Најчестата експлоатација на сите жртви е склучувањето фиктивни бракови

како и трудовата експлоатација, но понекогаш се појавуваат и во комбинација од сите тие елементи со додаток на питачење или сексуална експлоатација.



Карта бр.1: Повец на движење на шверцувањето мигранти, Извор: МВР

Како централна балканска положба територијата на Република Македонија е користена како транзитна земја преку која од страна на криминалните групи се шверцуваат мигранти за Западно Европските земји. Како правци на движење кои ги употребуваат мигрантите се утврдени :

- Од Кина, Русија, Р. Србија преку територијата на Р. Македонија за Р. Грција, од каде се шверцуваат за западноевропските земји;
- Од земјите на Блискиот Исток (Авганистан, Ирак, Иран, Пакистан), Р. Грција преку Р. Македонија, Р. Србија спрема некоја од западноевропските земји.
- Од Р. Албанија преку територијата на Р. Македонија, Р. Грција спрема западноевропските земји;
- Од Р. Турција по воздушен пат преку аеродром „Александар Велики,, со користење фалсификувани ПИ преку територијата на Р. Македонија, Косово, Црна Гора, БиХ, Хрватска, Словенија од каде продолжуваат за западноевропските земји;



Карта бр. 2: Повеќето на движење на шверцување мигранти со авионски превоз

Мигрантите кои транзитираат низ територијата на Р.Македонија можат да се поделат во две категории и тоа: транспортот на мигрантите од овие земји се врши преку воспоставени меѓународни канали за шверцување мигранти управувани од меѓународни криминални групи, кои транспортот преку одредени држави во зависност од крајната дестинација го обезбедуваат преку (матичните) криминалните групи кои евидираат (функционираат) во државите каде (минува), поминува каналот, како што е случај и со Р. Македонија. Пример за тоа е успешно спроведената меѓународна истрага „Канис“ во која беа вклучени Р. Македонија и Р. Србија, во координација на „Секи- центарот“ во Букурешт. Во истрагата беше идентификувана меѓународна криминална група, која преку меѓународен канал шверцуваше мигранти од Кина преку Русија (Москва), Р. Србија (Белград), Р. Македонија, Р. Грција кон земјите од западна Европа. Меѓународната криминална група составена од кинески, српски, македонски и грчки државјани функционираше со поделба на задачите на членовите по земји низ кои се одвивал транспортот, со утврдена цена за извршените задачи.

Во делот на илегалната миграција само во 2009 год. за одбележување е откривањето на поголем број (60) мигранти, по потекло од Авганистан, на територијата на Р. Македонија, кои од Р. Грција остварувале илегален влез во РМ, движејќи се најчесто во групи од 4 до 8 лица. Единицата за борба против трговија со луѓе и шверцување мигранти расчисти повеќе случаи на откриени мигранти на територијата на Р. Македонија, при што кај мигрантите се пронајдени карти од Google, на кои им била исцртана етапата на движење преку Р.Македонија-Србија-Унгарија, а понатаму со два крака едниот кон В.Британија, а другиот кон земјите од ЕУ. Исто така, добиени се сознанија, дека повеќе илјади мигранти се наоѓаат на територијата на Р. Грција во повеќе прифатни кампови со намера да заминат во некоја од западно европските земји. Ваквите податоци, укажуваат дека од 2010 година, па се до 2012 година може да се очекува инволвирање на криминални групи од Р. Македонија, во транспортот на авганистански мигранти од Р. Грција



преку територијата на Р. Македонија, до некоја од западноевропските земји. Како потврда на горенаведеното е откриениот случај на организирано шверцување на авганистански мигранти на ГП „Богородица“, при што во камион управуван од македонски државјанин, со кои се превезувале портокали, откриени се 29 мигранти, кои биле преземени во Патра, Р. Грција, за што е поднесена КП од РЦ за ГР Југ. Во обид да излезат од Македонија спречени се ( 845 ) лица. Од нив 755 албански, 59 македонски, 19 косовски, 7 авганистански, 3 палестински и по 1 државјанин на САД и Индија.

### **Шверцување мигранти**

Криминалните структури од Република Македонија кои се занимаваат со овој вид криминална активност се дел од организирана меѓународна криминална мрежа и се поврзани со криминални структури од други држави (држави од Блискиот и Далечен Исток, како и африканските земји, потоа Р. Грција, Р. Србија, Р. Албанија, Косово, Р. Црна Гора, Р. Босна и Херцеговина, Р. Хрватска и Р.Словенија) со цел да се овозможи непречен транспорт на мигрантите до нивната крајна дестинација Земјите на ЕУ.

Мигрантите кои транзитираат низ територијата на Р. Македонија можат да се поделат во две категории:

1. Транспортот на мигрантите кои потекнуваат од земјите од Блискиот и Далечниот Исток (Кина, Авганистан, Пакистан, Сомалија, Палестина и др.) се врши преку воспоставени меѓународни канали за шверцување мигранти, управувани од меѓународни криминални групи, чишто организатори се наоѓаат во некоја од наведените земји. Транспортот (шверцувањето) на мигрантите, преку одредени држави во зависност од крајната дестинација, го обезбедуваат криминални групи кои потекнуваат од државите каде проаѓа (минува) каналот, како што е случајот и со Р. Македонија, но тие се во состав на меѓународната криминална група. Како потврда на ова, во текот на 2010 година, откриена и санкционирана е една организирана криминална група, која се занимавала со шверцување мигранти по потекло од Авганистан, Пакистан, Ирак и други земји од блискиот и далечниот исток кои биле пренесувани од Р.Грција преку територијата на Р. Македонија до Р. Србија, при што кривично се пријавени 11 (единаесет) лица, државјани на Р. Македонија и двајца странски државјани. Истовремено, членовите на криминалната група на мигрантите им обезбедувале сместување и исхрана, а потоа ги транспортирале до наредната дестинација (Р.Србија). Во текот на реализацијата откриени и приведени се вкупно 11 (единаесет) авганистански и палестински мигранти.
2. Транспортот на мигранти кои потекнуваат од соседните земји (Албанија и Косово), се организира од страна на македонски, албански и косовски криминални групи кои меѓусебно соработуваат. Македонската криминална група во зависност од потеклото на мигрантите, соработува со криминални групи од Косово и од Албанија, кои вршат регрутирање на мигрантите и го организираат нивниот транспорт до границата со Р. Македонија. Транспортот на мигрантите преку територијата на Р. Македонија го организира и извршува македонската криминална група, додека илегалното префрлување преку границата од Р. Албанија и од Косово кон Р. Македонија и од Р. Македонија кон Р. Грција, во зависност од договорот помеѓу групите го вршат лица кои живеат од едната или другата страна на граничната линија и се членови на криминалната група.

Како потврда на тоа во текот на 2010 година, санкционирана е една

меѓународна организирана криминална група, која се занимавала со шверцување на мигранти кои биле пренесувани од Р. Албанија преку територијата на Р. Македонија, до Р. Грција, при што кривично се пријавени 18 лица, државјани на Р. Македонија и две лица, албански државјани. При реализацијата на оваа криминална група применети се ПИМ во текот на 2009 година, при што се документирани 50 кривично -правни настани, шверцување мигранти, при што преку овој „канал“ се прошверцувани повеќе од 120 мигранти, по потекло од Р.Албанија. Истовремено, членовите на криминалната група, на мигрантите им обезбедувала сместување и потребна документација, односно, фалсификувани патни исправи и билети до крајната дестинација.

### Заклучок

Република Македонија е држава која не е имуна од современите текови во областа на современиот криминалитет. Во разновидниот каталог на криминални појави со модерен предзнак посебно место завзема и оној кој е поврзан со трговијата со луѓе и мигрантската криза. Негативните последици од мигрантската криза нема држава која не ги почувствувала. Меѓутоа, може да се заклучи дека најтешките последици од мигрантскиот бран со кој беше зафатен светот ги почувствуваа жртвите на трговијата со луѓе кои во потрага по подобар живот лесно стануваат плен на криминалните групации кои се занимаваат со трговија со луѓе. Можноста за огромна заработувачка од трговијата со луѓе или пак од незаконската трговија со човечки органи придонесе за брзо проширување на овој црн пазар во рапидна насока.

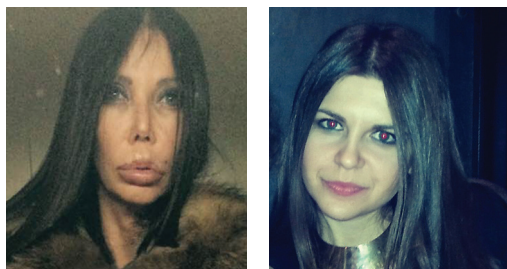
Сето ова ја наметнува потребата од засилување на меѓународната полициска соработка на планот на детектирање на криминални организации кои се занимаваат со трговија со луѓе поврзана со најсовремениот модел на инклузија на мигрантите во овој најтежок криминал со кој на најперфиден начин се повредува човечкото достоинство.

Државите како никогаш досега се обврзува меѓусебно да соработуваат за надминување на овој проблем кој се заканува да се искачи на врвот во хиераријата на современи безбедносни ризици и закани.

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## ECONOMIC AND SOCIAL ASPECTS OF MIGRANT CRISIS WITH A LOOK AT THE ROLE OF THE RED CROSS AND REFUGEE AND MIGRATION COMMITTEE OF REPUBLIC OF SERBIA

### Abstract

*Some of the problems that Serbia faces were made visible by the migrant crisis. Migration problem, in the context of European integration, is especially important for the study of institutional functioning and the functioning of European values, both in the EU itself and in Serbia which is on the road of European integration. Looking at the migrant crisis from a context of European integration means not only political and financial relation of EU towards Serbia and countries on so called Balkan route, but also looking at higher context – total economic effect of joining process. The migration crisis that is challenging the European countries nowadays is a big concern not only for the host countries citizens, but a life challenge for the immigrants themselves. The analysis of the role of the Refugee and migration committee and the Red Cross of Serbia, a combination of traditional assistance to development and social integration and more active interventions may offer some interesting insights into its work and the importance in the migration processes.*

*Key-words: economy, immigrants, crisis, Committee, Red Cross, Europe, Serbia*

### Introduction

The migrant crisis implies there is a great wave of population movements, first of all from Asia, and then from North Africa, to developed countries of Europe, which caused first administrative, financial, and then political problems, both to countries of transit and to countries of final choice. This mass movement of various groups of people, caused by a refugee wave from Syria in 2015, is called mixed migration flows. This crisis could be called a refugee crisis, as refugees make up the vast majority of all those involved in mixed migration flows - in addition, their rights are different and more clearly defined. However, the term “mixed migration flows” more generally indicates the scope and breadth of the problem.

The problem of migration has been a source of interest for the European public for many years, and is at the center of attention at the time of the migrant (refugee) crisis in 2015. By moving a large migrant wave across the territory of Serbia, the so-called Western Balkan route, this problem has been launched into the center of public attention in Serbia. The migration problem, placed in the context of European integration, is of particular importance for the study of the functioning of institutions and the functioning of European values, both within the EU as well as in Serbia, which is on the path to

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European integration.

European integration implies, on the one hand, internal integration, integration across the EU, and, on the other hand, the enlargement process that applies to candidate countries for EU membership. Both of these processes are at the center of attention under the influence of external and internal challenges, among which migration takes a special place. European integration is a priority of Serbia's foreign policy and the basis of internal reforms and transformation of the state and society. The Serbian Constitution is testament to the impact of European integration on the whole society, the program orientation of the vast majority of relevant political parties and the majority of the citizens, oriented towards integration in the EU. In relation to Brussels, Serbia should fight for more understanding of the state of the economy and help with the costs caused by the migrant crisis and the process of joining the European Union.

The migrant crisis has sparked disputes among EU members on how the crisis should be resolved and by which instruments, which in the UK have become one of the leading issues ahead of the referendum on leaving (remaining in) the EU. In addition to humanitarian and security challenges, the issues of the EU's global role, the migrant crisis has opened the issue of demographic prospects and economic benefits that can be brought by huge migration waves (by some estimates the arrival of more migrants contributed to GDP growth in Germany). The massive influx of refugees from Asia and Africa to Europe points to the historical situation of demographic shifts and possible global consequences. But, Member States also view this problem from their own, national angle. Hence the debate and protests over the violation of the ethnic picture, as well as the debate on the good side of the influx of migrants for economic reasons.<sup>3</sup>

One of the changes that is being imposed is a change in the field of managing cultural diversity - strengthening intercultural dialogue as an enhanced multiculturalism. However, the large influx of refugees (migrants) causes citizens to fear the change of national identity and lifestyle, which the populists use for political purposes, turning these fears into political capital. The attitude towards migrants is litmus paper that tests the functioning of the proclaimed values and objectives of the EU, as well as the functionality of the Union, its political strength and relevance in international relations. The way the EU countries and the Union as a whole will face this crisis will show its strength, weaknesses and open prospects for their elimination. The absorption of large influxes of migrants will have to be accompanied by efficient management of economic flows, as well as effective management of ethnic and national diversity through interculturalism, or integrative multiculturalism.

Serbia is in the phase of fulfilling administrative, economic and political criteria formulated through 35 chapters. Among the numerous tasks ahead of Serbia on the path of European integration are those related to migration in the wider sense, and the migration crisis caused by the refugee wave in 2015. The challenges that Serbia faces in this context are different from those faced by individual EU countries and the Union as a whole, not only because it is not a member of the EU, but primarily because it is not the country of the final destination of refugees (migrants). Serbia is expected to remain constructive, but also to significantly improve migration management and asylum policy. According to the suggestions from Brussels, the entire asylum system should be rationalized and brought into line with European and international standards in this area.

Serbia is not a landlocked state, which means that refugees and migrants do not come directly from war-affected areas to its territory, nor do they intend to build up in it. Even when they want it, the established asylum system makes it near impossible for them. Relevant reports from international organizations have indicated that massive inflows of refugees and migrants will occur. Thus, the issue of the internal security of the states connects with migrants, that is, with their uncontrolled inflows and the possible impact on the security, economic and political situation in the country.

In the conditions of the migrant crisis, a wide range of organizations and civil society

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<sup>3</sup> Lutovac, Z., Migration and European integration of Serbia, Magazine Population, year 2016, no 54(1)



initiatives have found themselves in a situation to solve this problem. From providing direct help to awareness-raising campaigns, demonstrating solidarity with “people on the move,” volunteers were trying to make up for what was lacking in the response of the state and the international community. However, aside from an international conference organized by Group 484 in October 2015, there was no coherent attempt to link stakeholders that could offer possible solutions to problems such as facilitating the migration of migrants and their subsequent crossing, readmission, “cargo sharing”, integration.<sup>4</sup>

If to some extent, it is possible to talk about the positive aspects of the refugee-migrant crisis, then one should first of all emphasize the willingness and commitment of all key actors to establish an acceptance system that in principle has the needs of an individual. Great encouragement is also the fact that the Republic of Serbia has opted for an open border policy, and that the reform process was not completely stopped. Also, there was a significant shift in the way the media reported on daily basis, which in the end also affected the empathetic attitude of the citizens of the Republic of Serbia who directly engaged and helped migrants and refugees. The number of actors who participate equally in debates with the aim of finding the most adequate solutions is far greater, and the quality of the debate has been significantly improved. The established bases can be the factor that can make the announced reforms in the process of meeting the criteria more effective and efficient.<sup>5</sup>

The Refugee Committee, as a special organization in the state administration system, was established by the Law on Refugees<sup>6</sup> for carrying out professional and other tasks related to the care, return and integration of refugees determined by this Law and related administrative affairs. By adopting the Law on Migration Management<sup>7</sup>, the Refugee Committee, formed by the Law on Refugees, continues to work under the name the Refugee and Migration Committee, in accordance with the jurisdictions stipulated by this Law and other laws.

Given that the International Community does not treat the territory of former Yugoslavia as a humanitarian endangered region any more, and since traditional international and international humanitarian donors are leaving the region (or have already done so), the Committee carries out a functional transition of its activities from a humanitarian to a development phase, in which permanent solutions for refugees should be provided, both in terms of massive and faster return, as well as integration (solving the housing and employment problem) in Serbia.

The Committee cooperates with the Red Cross organization, humanitarian, religious and other organizations, associations and citizens. Civil society organizations, and particularly the more structured non-governmental organizations, have played a pivotal role over the years in the assistance of migrants at all levels. Although it is sometimes remarked that non-governmental organizations may often out step the state directly or indirectly in the provision of essential services and basic rights, there is very little empirical data on the kinds of services non-governmental organizations in reality offer to immigrants that are not eligible for certain state-funded services and how they do so in different settings. In other words, one cannot take for granted that non-governmental organizations always support migrants’ policies, as many studies seem to suggest. Some non-governmental organizations and social movements instead oppose pro-migrant policies and argue against the granting of social rights to irregular migration.

Some of these services range from psychological support to securing the lodgings

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4 A look over horizon: Facing refugee and migrant crisis, Proceedings, conclusions and recommendations from international expert conference, Belgrade, March 2016

5 Group 484, Challenges of migrant-refugee crisis from a standpoint of OCD, Part of the project: Networking and building the capacities for more effective migratory policy in Serbia, Belgrade, March 2016

6 Official Gazette of Republic of Serbia, no 18/92, Official Gazette of Socialist Republic of Yugoslavia, no 42/02 and Official Gazette of Republic of Serbia, no 30/10

7 Official Gazette of Republic of Serbia, no 107/12

for the refugees. Organizations such as UNICEF, IDEAS, and Save the Children are primarily focused on helping the refugee children adapt and achieve safety and support through the use of family-legal and social protection. This helps the protection of the most vulnerable groups of refugee/migrant children, as well as to ensure a continuous, coordinated, comprehensive and clear response to the needs of children. On the other hand organization such as Red Cross of Serbia is not only focused on children, rather on all the migrants/refugees. The Red Cross of Serbia is a humanitarian, independent and voluntary organization and the only national society in the Republic of Serbia.

The Republic of Serbia, in cooperation with the Committee and the Red Cross, actively creates conditions for the quality, dignified and safe life of refugees and migrants in the Republic of Serbia and actively helps their return to the place of origin. The Republic of Serbia is committed to finding durable solutions for refugees, while respecting the right of every individual to the free choice. Resolving the issue of refugees is based on the following principles:

- respect for human rights;
- respecting the human dignity of every individual;
- informed and voluntary decisions;
- partnership of all relevant actors;
- the availability of rights and services on an equal footing for all;
- welfare of refugees;
- active participation of refugees in finding the best solutions.

Joining the European Union for the Republic of Serbia is a strategic commitment, which implies acceptance of the adopted European values and standards in a whole range of areas. Strategically, legally and institutionally regulated migration is essential for fulfilling the necessary conditions in the first place for visa liberalization, and then for joining the EU.

### **Economic and social aspects of migrant crisis**

At the moment world is, and above all Europe, faced with a great and serious contradictory dilemma of choice between: the freedom of global movement of people, goods and capital, which is considered to be an advanced democratic practice, against the restriction of the waves of economic migrants and (false) refugees and asylum seekers from the central Eurasia, whose freedom of movement is being limited because they are allegedly threatening the interests of European states, which is contrary to democratic developments. On the one hand, Europe has always provided shelter and a home for migrants from all continents. It was, among other things, in its economic interest. On the other hand, mass migrations from the beginning of 2015 have prompted many European countries to re-evaluate their hospitality and to respond in order to protect their national interests. As a consequence there is a more restrictive migration policy, primarily towards persons who cannot prove refugee status and asylum seekers.<sup>8</sup>

Considering the migration crisis in the context of European integration implies not only the political and financial attitude of the EU towards Serbia and countries in the so-called Balkan route, but also the wider context - the overall economic effects of the joining process. And while there were plenty of writing and talking about the positive effects of joining, there was much less talk and text on the costs of joining the EU. One of the issues that is important for future relations between Serbia and the EU, which was made more visible by the migrant crisis, is how to apply solidarity principle in situations that are directly related to both in the process of joining, and then how to create projects that will enable the use of structural and cohesion funds in the first critical year of membership.

During the last two decades, the socio-economic system in the Republic of Serbia

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<sup>8</sup> Mijalković, S., Petrović, I., Security risks of contemporary migrations, Science, security, police, year 2016, no 21(2)

has suffered extremely high loads. Due to the conflict and economic weakness in the region, economic productivity and trade volume has decreased, unemployment has risen, and the living standard has fallen. The economy of the Republic of Serbia is still in the process of transition and economic restructuring. The uncertain economic situation worsening the global economic crisis will additionally aggravate the position of certain groups of migrants and will also affect migration flows.

Republic of Serbia faces all types of migration: external and internal, forced and voluntary, legal and illegal, migration of highly qualified and unskilled workers, immigration and emigration. This imposes a number of different yet clearly connected challenges to modern migration management. Despite the small employment opportunities for immigrants, the Republic of Serbia is interesting for citizens of some countries in the region, as well as for citizens of the countries of the Afro-Asian region. With the approach of the Republic of Serbia to the European Union and its economic strengthening, a greater number of immigrants can be expected.

Bearing in mind the economic situation in Serbia, too much influx of migrants can also affect the attitude of Serbian citizens towards refugees. Considering the state of the Serbian economy, there is a thin line between what can be an influx to general satisfaction, from that inflow that can cause fear and dissatisfaction with the “impact on the budget” or because of “taking over jobs”. The absorption of large influxes of migrants will have to be accompanied by efficient management of economic flows, as well as management of ethnic and national diversity through interculturalism, or integrative multiculturalism.

In the last two decades, the Republic of Serbia has been confronted with turbulent and turbulent migration movements. The arrival of refugees from the former Yugoslavia and internally displaced persons from Kosovo and Metohija, as well as the departure of a large number of emigrants to the countries of Western Europe and North America, are trends that marked the 1990s. In the past few years, Serbia has also faced asylum seekers from countries of Asia and Africa and illegal migrants as well as returnees under the Readmission Agreement. All these years marked the trend of depopulation of rural areas. As a result of such migration movements, a number of different ministries are in charge of various categories of migrants that are defined by a number of sector strategies.

Addressing the issue of refugee crisis and mass migration of the population from the war affected areas of the Middle East, most often emphasizes, in the first place, the difficulties that can arise as a result of the reception, accommodation and/or integration of this population in the countries of transit and destination. However, the migrant influx can be viewed as a development potential if certain preconditions are fulfilled.

The inflow of foreign investments and investments related to the process of deployment and acceptance of refugees is one way to mitigate negative impacts and to encourage the development of local environments that are particularly involved in these processes. As a result of the process of de-agrarization and aging of the population in Serbia, which have been emphasized in the last few decades, there has been the emergence of deserted rural areas, whose revival requires the arrival of a young, motivated workforce. One way of integrating migrants which could have positive economic effects and lead to the revival of agriculture and other industries in the lagging regions, is their settlement in these areas.

The permanent settlement of refugees on the territory of the whole of Serbia would be optimum. It would be desirable that these families within the municipality should be located relatively close to allow communication between them, but not concentrated, as this creates the possibility of their ghettoisation. Their work integration as well as the territorial distribution will depend on the structure of the economy of the municipality. In economically underdeveloped areas, agriculture and rural life appear as the most common option for work.<sup>9</sup>

It is very important to have a clear profile of the population: years, family status

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<sup>9</sup> Friedrich Ebert Stiftung/Center for Applied Social Research, Refugee Study – Serbia 2016, Belgrade 2016

and education, work experience, etc. before making any decisions on the accommodation of refugees. The way and the extent of their integration will depend on their skills, knowledge and experience. The experiences of the integration of refugees from wars from the territory of the former Yugoslavia are an important resource to pay attention to when making integration strategies. Joint work, shared housing and cultural exchange are possible considering the good practices of the past. The resources that the municipal administration, centers for social work and non-governmental organizations own are not sufficient to face the integration of the refugee population. Integration assistance is expected from state institutions, international governmental and non-governmental organizations.

### **The role of the Refugee and Migration Committee of Serbia**

In accordance with the Law on Refugees, the Committee carries out tasks related to: recognition and termination of refugee status; refugee care; registration of refugees; harmonization of the provision of assistance to refugees by other bodies and organizations in the country and abroad and care for equal and timely assistance; providing accommodation of refugees to the areas of local self-government units; undertaking measures for the return of refugees; addressing the housing needs of persons in accordance with this Law; keeping records from its jurisdiction and establishing databases and performing other tasks determined by this Law.<sup>10</sup>

In accordance with the Law on Migration Management, the Committee carries out tasks related to: proposing to the Government the goals and priorities of migration policy; proposing to the Government measures in order to achieve positive effects of legal migration and the suppression of illegal migration; monitoring the implementation of migration policy measures; providing state administration bodies, autonomous provinces and local self-government units with data for the development of strategic documents in the field of migration; proposing projects in the area of migration management from the scope of their work and making an annual report to the Government on the situation in the area of migration management.

The Committee carries out tasks related to: collecting, integrating and analyzing data and indicators for migration management; reporting on immigration and emigration; creation and regular updating of the migration profile of the Republic of Serbia; establishing a unique system for collecting, organizing and exchanging data; establishing cooperation with members of the European Migration Network; training of persons performing tasks of importance for managing migration, taking care of the availability of information of importance for migration issues, as well as other tasks determined by law.

In accordance with the ratified international treaties and generally accepted rules of international law, which regulate the status and rights of refugees, for the purpose of care, integration or return of refugees, the Committee is launching an initiative to seek international assistance from United Nations institutions and other international organizations.

The National Strategy for Resolving the Issues of Refugees and Internally Displaced Persons, adopted by the Government in 2011, defines the basic objectives and directions of the Committee's work for the permanent solution of refugee problems in the Republic of Serbia. Work on improving the conditions for the return of refugees to the country of origin and providing conditions for the local integration of refugees who have applied for or have already acquired citizenship of the Republic of Serbia are two basic, equally treated directions for the permanent solution of the refugee issue in the Republic of Serbia.

Since 1992, refugees have been provided by the Republic of Serbia and the

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<sup>10</sup> More detailed data available on the official site of The Refugees and Migration Committee:  
<http://www.kirs.gov.rs>

international community by residing in collective centers, and housing construction projects have also begun. The Refugees and Migration Committee, from the budget of the Republic of Serbia and in cooperation with international agencies and organizations, governments of individual countries and local self-governments, implements programs of permanent solutions for refugees, and since 2002 in accordance with the “National Strategy for Resolving the Issues of Refugees and Internally displaced persons” for internally displaced persons as well.

By implementing the gradual closure plan for collective centers their number is rapidly decreasing - in 1996, there were about 700 collective centers. In January 2002, there were 388 collective centers in the territory of the Republic of Serbia where 26,863 persons were accommodated. On July 1st 2017, there are 13 collective centers in the territory of the Republic of Serbia where 471 persons are located. Of the total number of collective centers in the territory of Serbia outside of Kosovo and Metohija there are 5 collective centers with 153 persons, while in the territory of Kosovo and Metohija there are 8 collective centers with 318 persons.<sup>11</sup>

Nearly EUR 60 million have been earmarked for solving housing needs and economic empowerment since 2008, of which EUR 33.8 million has been allocated from EU funds, EUR 22.5 million from the budget of the Republic of Serbia, EUR 12.4 million from the UNHCR budget - EUR 2.4m from the US BPRM and EUR 450.000 from the Government of the Federal Republic of Germany.<sup>12</sup>

Local action plans for resolving the issue of refugees, internally displaced persons and returnees under the Readmission Agreement<sup>13</sup> are strategic and action documents of local self-governments that determine the needs of these categories of persons and provide for measures and activities and allocations of a local self-government unit in order to improve their position. Local action plans look in the mid-term and plan to solve the problems of this population with measures and activities that are fully adapted to their real needs. Employment and housing issues are the basic needs of refugees, internally displaced persons and returnees based on the Readmission Agreement.

The significance of local action plans is reflected in the fact that local governments have accurately recorded the problems and needs of this population and proposed or planned solutions. Local action plans are being prepared with the cooperation of all relevant institutions in one municipality/city. Thus, the local action plan represents an official position that demonstrates the willingness of a community to solve identified problems, but also a concrete instrument that provides solutions.<sup>14</sup>

In September 2015, the implementation of the Twinning Project “Support to the National Asylum System in the Republic of Serbia”, funded by the European Union, started with The Refugees and Migration Committee and the Ministry of the Interior of the Republic of Serbia in partnership with the Swedish Migration Agency as the majority partner and the Integration Service of The Ministry of Security and the Interior of the Kingdom of the Netherlands and the Ministry of the Interior of the Republic of Slovenia. The project aims to improve the overall asylum system, including amendments to the Law on Asylum, developing mechanisms for integrating protected persons, improving interviewing techniques and protecting documents issued to asylum seekers, as well as conducting information campaigns in order to raise awareness on the rights and

11 More detailed data available on the official site of The Refugees and Migration Committee: <http://www.kirs.gov.rs>

12 More detailed data available on the official site of The Refugees and Migration Committee: <http://www.kirs.gov.rs>

13 By agreement between the Republic of Serbia and the European Union on the readmission of persons who illegally reside that entered into force on 1 January 2008, the Contracting Parties have regulated the procedure for the return of persons who do not meet the conditions for entering or staying in the territory of a Contracting State. The prevention of illegal migration and the acceptance and integration of returnees under the Readmission Agreement are one of the conditions for putting the Republic of Serbia on the White Schengen List.

14 More detailed data available on the official site of The Refugees and Migration Committee: <http://www.kirs.gov.rs>



obligations of asylum seekers in the Republic of Serbia, as well as on the consequences of the misuse of the visa-free regime by Serbian citizens in EU member states.<sup>15</sup>

ASYLUM SEEKERS IN SERBIA until August 2017													
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total:
2009	4	4	21	19	35	26	35	21	26	22	17	45	275
2010	27	18	36	36	37	35	17	38	57	68	92	61	522
2011	97	140	205	251	283	397	342	419	375	219	240	164	3132
2012	199	64	115	108	227	261	238	242	352	358	334	225	2723
2013	157	193	381	490	370	272	369	335	627	651	607	614	5066
2014	943	596	516	651	761	790	1170	1547	1524	2353	2201	3438	16490
2015	2425	2537	3761	4425	9034	15209	29037	37463	51048	180307	149923	92826	577995
2016	475	712	699	598	861	1206	1532	1920	951	1247	1503	1117	12821
2017	584	502	707	552	577	329	297						3548
<b>Total:</b>													<b>622.649</b>

Table 1 – Asylum Seekers in Serbia from January 2009 until August 2017<sup>16</sup>

In accordance with the scope of work, the Committee cooperates with other bodies and organizations. The Committee realizes close cooperation with the Ministry of Labor within the framework of projects supporting the integration of refugees and improving the living conditions of internally displaced persons, meaning solving the problems of socially vulnerable refugees and internally displaced persons from Kosovo and Metohija. The Commissioner in performing the professional, operational and administrative-technical tasks for the Government’s Coordination Body for Migration Management cooperates with all ministries in charge of the implementation of the Migration Management Strategy.

The Committee, within its competencies, provides reports, analyzes, other materials and explanations regarding the application of regulations from the Committee’s scope. Within the framework of cooperation with the republic authorities, a special type of cooperation is realized with the Republic Public Prosecutor’s Office, which undertakes legal actions and uses legal remedies before the courts and other competent authorities in order to realize the property rights and interests of the Republic of Serbia and the Committee. The Committee performs tasks within its competence, continuously and in cooperation with the trustee for refugees and migration within the local self-government.

Citizenship	No	%
Syria	302.597	52,22
Afghanistan	161.250	27,82
Iraq	76.109	13,14
Iran	11.585	1,99
Pakistan	9.114	1,57
other	18.863	3,26
<b>Total</b>	<b>579.518</b>	<b>100</b>

Table 2 - Persons who have expressed their intention to seek asylum in the Republic of Serbia in 2015 by citizenship<sup>17</sup>

15 More detailed data available on the official site of The Refugees and Migration Committee: <http://www.kirs.gov.rs>

16 Data available on the official site of UNHR Serbia: <http://www.unhcr.rs/dokumenti/statistike/azil.html>

17 Data available in the Migration Profile of the Republic of Serbia in 2015, available on the official site of The Refugees and Migration Committee: <http://www.kirs.gov.rs>

The Committee publishes the Migration Profile of the Republic of Serbia<sup>18</sup> on an annual basis. A migration profile is a document that combines data on all categories of migrants in the country. From relevant institutions, data on different categories of migrants are collected, and regular updates of profiles are established on an annual basis. The migration profile presents a comprehensive overview of migration and migration statistics in the country so that migration management actors and the general public can provide a comprehensive insight into migration. Precise data are necessary in order to plan and take appropriate measures for the purpose of comprehensive management of migration flows. In addition to providing an overview of all migrant data and serving as a means of tracking migration flows and trends in the country, the Migration Profile seeks to identify and analyze key migration challenges. The primary data for the development of this instrument are the official statistics collected by the competent authorities, and in the development of the document the data of international organizations and experts, as well as relevant studies and research, are used.

The basic idea of the Migratory Profile is to serve as an instrument that will assist national actors in planning adequate migration policies, as well as representatives of civil society and the academic community in analyzing current migration flows. Regular annual updates provide a better insight into the total migration situation in the country. This document aims to provide to competent authorities in the Republic of Serbia an insight into relevant migration trends and consequently enable the development of policies and the adoption of necessary regulations in the field of migration management.

### **The importance of the Red Cross in the migrant crisis**

Civil society organizations, and particularly the more structured NGOs, have played a pivotal role over the years in the assistance of migrants at all levels. Although it is sometimes remarked that NGOs may often out step the state directly or indirectly in the provision of essential services and basic rights, there is very little empirical data on the kinds of services NGOs in reality offer to immigrants that are not eligible for certain state-funded services and how they do so in different settings. In other words, one cannot take for granted that NGOs always support migrants' policies, as many studies seem to suggest. Some NGOs and social movements instead oppose pro-migrant policies and argue against the granting of social rights to irregular migration.

Another aspect concerns the limitations that NGOs themselves may confront and the condition in which they are allowed to operate. Therefore, local authorities often try to provide necessary services, not directly, but by delegating these tasks to NGOs or by indirectly facilitating or funding their activities. Towards return policies the NGOs that are involved in development and migration present divergent attitudes. While some NGOs working with migrants, refugees and development are very reluctant to see the perspective of return as a danger for many people, others focus on return, as a way to help migrants in facing the increasingly restrictive asylum policies. Therefore, many NGOs cooperate with partner organizations in societies of return, assisting migrants to return independently and safely to their country of origin, and contributing to viable resettlement.

There is a growing interplay between a service-oriented role of NGOs and a political necessity to be more influential. It is true that such interplay can be observed in several policy fields at all levels. However, in the specific case of migration, and particularly in the Mediterranean, NGOs traditional and more recent roles are more and more dominated by the security paradigm and the need to understand how to manage the emergency phase.

NGOs are generally considered as useful actors, informed about current initiatives and able to enrich the agenda with their own proposals. In order to increase the level of

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<sup>18</sup> More detailed data available on the official site of The Refugees and Migration Committee: <http://www.kirs.gov.rs>

information and participation among non-governmental actors working on the national level, several initiatives have been promoted within the specific field of European migration policies. All kinds of consultations have demonstrated that, even in this field, as in many others, NGOs working on the national level do not feel sufficiently informed about the European dimension of migration policies. The main problems are often dealing with poor access to information, its format and the speed with which it is delivered.<sup>19</sup>

Under the Geneva Conventions of August 12, 1949, the Serbian authorities recognized the Red Cross of Serbia as the only national society in the Republic of Serbia and an auxiliary body of public authorities in the Republic of Serbia. In relations with public authorities, the Red Cross of Serbia retains the autonomy which enables it to act at all times in accordance with the Basic Principles of the International Red Cross and Red Crescent.

The Red Cross of Serbia aims to alleviate human suffering, with the task of providing assistance to endangered persons in the event of war, natural, environmental or other disasters in order to save lives and human health and ensure respect for humanitarian law, and in the event of a state of need for social protection and care, as well as the task of preventive action and enlightenment of citizens in the field of health and social protection and improvement of the humanitarian values of the society. In achieving the defined goal and tasks, and especially in the conduct of humanitarian affairs, the Red Cross of Serbia assists all people without any discrimination on any grounds, and in particular because of race, color, gender, nationality, social origin, birth or similar status, religion, political or other belief, property, culture, language, age or psychological or physical disability.

In exercising public authority and implementing the program, the Red Cross of Serbia cooperates with the competent state authorities, territorial autonomy bodies and local self-government units, as well as with institutions and organizations in the field of health care, social protection, pension and disability insurance, other forms of organizing protection and rescue population, material and other goods, churches and religious communities, enterprises and other forms of organization for performing activities or services, non-governmental organizations and citizens.

The Red Cross of Serbia is assisting the authorities in the humanitarian field. Faced with a large number of migrants, it helps in the accordance with its possibilities. In the course of 2016, 350t of various help were distributed in Belgrade, meaning 190,000 rations. Presently in the Centre for Asylum in Krnjača, dry meals (preserved food, bread and water) are provided twice a day for persons that did not apply for asylum and for migrants placed in Obrenovac. Apart from food, clothes, hygienic items and other available help are distributed. Also, in Centers for Asylum, workshops on human trafficking and programs for connecting family members (family links) are organized.

On distribution locations, help is being distributed on daily basis. This help is consisted of individual food and hygiene packets, clothes and shoes, donations of international humanitarian organizations, as well as the help that the Red Cross received from companies and institutions. Apart from all that, Red Cross hands out leaflets for Search Service of Red Cross of Serbia in English, French and Arabic in order for those in search for family members to be able to find them as soon as possible using the link. Also, the migrants receive leaflets for Committee for Refugees of the Republic of Serbia with lodgings information.<sup>20</sup>

It was particularly unusual for the Hungarian Red Cross to insist that in the period of intensifying the crisis after the physical closure of the border between the Republic of Serbia and the Republic of Hungary and the immediate conflict between migrants and Hungarian police and military forces, its representatives should enter the territory of the

<sup>19</sup> Nešković, S., Nongovernmental organizations and media in the context of building civil society, Proceedings "Security in postmodern ambient" book 3, Belgrade: CESNA B and HANNS SEIDEL STIFTUNG, 2008, p 72

<sup>20</sup> Data used refers to the territory of Belgrade. More data available on the official site of Red Cross of Belgrade: <http://www.crvenikrst011.org.rs/pomoc-migrantima/>

Republic of Serbia and distribute help for the migrants with our local organizations. It is unusual that the Hungarian Red Cross persisted on this request, while at the same time not acting in the territory of the Republic of Hungary in accordance with the humanitarian mandate as confirmed by IFRC representatives.

<b>Asylum Seekers – Current status and location</b>	
Center for the reception of asylum seekers, Banja Koviljača	<b>96</b>
Bogovadja, Red Cross facility	<b>208</b>
Sjenica – Temporary center for the reception of asylum seekers	<b>236</b>
Tutin - Temporary center for the reception of asylum seekers	<b>25</b>
Krnjaca - Temporary center for the reception of asylum seekers	<b>720</b>
Center for the accommodation of minors (Belgrade)	<b>3</b>
Center for the accommodation of minors (Niš)	<b>2</b>
A reception center for foreigners in Padinska Skela (lockup)	<b>0</b>
<b>TOTAL:</b>	<b>1290</b>

*Table 2 – Current locations of Asylum Seekers in Serbia<sup>21</sup>*

The inflow of migrants kept the same trend, and according to the Ministry of Internal Affairs reported by UNHCR in 2015 to 29th December, 577,425 migrants were registered. The Red Cross of Serbia was invited to attend and participate in the work of the Work Group on Mixed Migration established by the Government of the Republic of Serbia. Cooperation with UNHCR has been established for the purpose of providing humanitarian assistance since the onset of a continuous migrant inflow. The result of the established cooperation is the Agreement for a period of 6 months, by the end of 2015, which defined that the UNHCR will provide humanitarian assistance for 72,000 migrants in the amount of 76,603.41 \$, which was realized and this model of cooperation was not continued, but the Red Cross of Serbia was directed towards ESNO as a further partner.

The IFRC provided funds from the Disaster Response Emergency Fund (DREF) in the amount of CHF 296,902 for the period 17/8/2015 to 17/11/2015, and the purpose of the funds was to help 63,000 adults and 4,500 children. Also in September, the Emergency Appeal was published, which was soon revised to the amount of CHF 3,200,000 for the period 9/9/2015 to 9/4/2016, and the purpose of the funds was to help 273,000 people with articles of food, hygiene and support to the Red Cross of Serbia for realization of activities. In a short period of time, the availability of funds from the Emergency Relief Aid issued in September for assistance to migrants in Serbia was achieved, achieved in relation to the initially published amount of CHF 2,064,735 in the amount of 109.6%. This revision enabled the enhancement of activities, but it also reaffirmed the reputation of the Red Cross of Serbia, the trust that national societies and governments of donor countries for this purpose have in the Red Cross of Serbia when they entrust it their donations.

<sup>21</sup> Data available on the official site of UNHR Serbia: <http://www.unhcr.rs/dokumenti/statistike/azil.html>

<b>Report on the number of migrants that received help in organizations of Red Cross of Serbia from 10.6 до 31.12.2015.</b>		
<b>Period of reporting</b>	<b>Red Cross Organization</b>	<b>Number of migrants that received help</b>
10.6.-31.12.	Preševo	<b>228.706</b>
10.6.-31.12.	Kanjiža	<b>5.830</b>
10.6.-31.12.	Subotica	<b>4.695</b>
10.6.-31.12.	Sombor	<b>5.273</b>
10.6.-31.12.	Šid	<b>122.060</b>
10.6.-31.12.	Negotin	<b>1.377</b>
10.6.-31.12.	Zaječar	<b>2.288</b>
10.6.-31.12.	Dimitrovgrad	<b>14.279</b>
10.6.-31.12.	Belgrade	<b>19.621</b>
<b>Total</b>		<b>404.129</b>

Table 3 - Report on the number of migrants that received help in organizations of Red Cross of Serbia from 10.6 до 31.12.2015.<sup>22</sup>

### Conclusion

Today there are about 60 million refugees in the world, of which only a small part is directed towards Europe. It can be expected that their numbers will grow, and Europe will be an increasingly desirable destination. It should not be expected that at the time of globalization, Europe will succeed in stopping or redirecting the migratory flow. Even if they partially thwart their influx, a significant number of refugees will be able to come to Europe. In this respect, it can be expected that a certain number of refugees will remain permanently in Serbia.

The image of Serbia on the international plane changed better because of the humane attitude towards refugees and migrants who were in transit, but it is much more important for Serbia's citizens to see that their attitude towards them is a part of essential changes in society, rather than a smart response to the crisis – to adopt appropriate administrative and legal measures to effectively manage the problems that the migration crisis has brought to the fore, but primarily to change the essence of the political community and that the change of image is the result of the transformation of the state and society in the direction of strengthening democratic institutions, the rule of law, freedom of the media and developed human rights and freedoms.

At the EU level, non-governmental organizations are more and more influenced by the security paradigm and by the need to protect and emphasize the human dimension against a discourse which targets migrants as a threat also in societal terms. This has produced, next to traditional assistance to development and social integration, a series of more active interventions associated to the immediate emergency management phase. The continuous and structured set of operations by non-governmental organizations both individually or jointly provided a wide range of services to be offered to migrants.<sup>23</sup> Camps were built, providing faster and better quality accommodation. There are no more major delays at border crossings due to a slow border police procedure. Non-governmental organizations have taken on a great deal of responsibility for the care of

<sup>22</sup> Data available in the official Red Cross of Serbia Work report for 2015, available on the official site of Red Cross of Serbia: <https://www.redcross.org.rs/>

<sup>23</sup> Nešković, S., Nongovernmental organizations in: Sociology – basic categories and postmodern society, Belgrade: high Business School, Čačak, 2010, p 238



migrants. It seems that the migrant crisis is subsiding.

In accordance with the legislation and other documents in the Republic of Serbia related to migration, the Red Cross of Serbia is part of an organized response to this humanitarian crisis. Therefore, the Red Cross has been present and active on the ground since the beginning in all places where migrants are registered or retained. In all of these areas, a Red Cross distribution point has been established and equipped with human capacities to carry out its humanitarian tasks independently or with the support of specialized teams or organizations of the Red Cross from the surrounding area. During the period in which migrants left the territory of the Republic of Serbia through the "green border" with Hungary, in organized as well as unofficial centers for migrants in Kanjiža and Subotica, daily distribution of humanitarian aid and other Red Cross activities for migrants was realized. In that sense, the Red Cross daily implemented the distribution of humanitarian aid - food, water, hygiene items, assistance in temporary accommodation and restoration of family ties.

Regarding immigration, the Republic of Serbia is still not a destination country, even among the countries in the region, especially for migrants whose goal is to find work. In 2015, the Republic of Serbia has become a much more frequent transit country for many migrants from Syria, Afghanistan, Iraq, Iran and Pakistan who want to arrive in the EU countries, and the number of asylum applications has increased significantly. The Republic of Serbia has to develop a clear and coherent migration management strategy, as well as an institutional framework that would provide incentives for the consistent implementation of migration policies. The Republic of Serbia faces numerous challenges in the area of migration, refugees, internally displaced persons and returnees under the Readmission Agreement, while trying to harmonize its legislative and administrative framework with the enlarged EU acquires in the field of migration.

In Serbia in the 1990s, many people experienced themselves or saw escape and expulsion. From this empathy is born. However, in the long run, it is probable that the media have the decisive role. Since then, neutral or positive reports have dominated. The difficult situation of the refugee is presented through personal stories. This has led Serbia to be the only state in the Balkans to receive migrants without any problems in its territory.

The amount of hospitality and the interest of the EU in migrant problem is seen in Brussels' inaction towards the erection of the wall on the Hungarian-Serbian border. Most migrants traveled through Serbia to the final destination, not because the trip is the shortest, but because that is the only way towards Europe. After the shooting at the Bulgarian border, trouble with border patrol in Greece, the erection of a wall in Hungary, the only road on which they can be protected to some extent is through Serbia. Whether due to the bad experience in our past from which we learned something, the great empathy of the people or just humanity, Serbia proved to be a decent host in this situation.<sup>24</sup> Due to its refugee policy, Serbia has been positively presented in the West - for the first time in the last 25 years. And indeed, the willingness to help was, and remained, impressive.

It is necessary to agree, as soon as possible, at the EU level a comprehensive, viable solution to the migrant crisis, which will include transit countries on the Western Balkan route. For the Republic of Serbia, as a candidate country for EU membership and a heavily burdened transit country on the Balkan route, it is crucial that the EU achieve a unique position and harmonize a comprehensive solution that would include common measures and activities to provide a genuine and effective response. The Republic of Serbia wants to transform the migration into a positive force for the further economic and social development of the country, as well as for mutually beneficial forces both for the countries of origin and destination countries.

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<sup>24</sup> <http://casopisinterfon.org/2015/11/12/migrantska-kriza-danas/>

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*Konstantin Kazakov<sup>1</sup>*

## **COUNTERTERRORISM ANALYSIS-SYNTHESIS IN THE NATIONAL SECURITY SYSTEM**

### **Abstract**

*The article considers important aspects of counterterrorism analysis-synthesis in the national security system. The author presents counterterrorism analysis-synthesis in the national decision-making chain also in the intelligence workflow and some models that describe the intelligence process. The goal of this paper is first and foremost to develop and contribute to the educational literature of the intelligence profession.*

*Keywords: national security, counterterrorism, analysis- synthesis.*

### **Introduction**

There is no absolute target for terrorists. The best target for terrorists is the most vulnerable so that they can kill a lot of people in order to shock both the government and citizens. Terrorist attacks are kinds of propaganda tools to show the power of the organization to the government and to terrorize the people. Therefore, the more shocking and lethal the attacks are, the more success for terrorist organizations. Bennet points out the costs of terrorism and says because of this reason terrorists want to be successful in their attacks.

Terrorists have excellent operational security, and they hide well. They present immense challenges to the anticipating and pursuing intelligence analyst as the terrorists cover their activities with cultural noise and culturally laden deceptive activities. These capabilities cause them to be very difficult to notice, let alone to find.

The challenge for the intelligence analyst is to understand the Operational Environment, understand the culture, and understand the enemy, and how all three relate. At the center of the struggle to outwit the enemy is learning how he thinks, plans, makes decisions, acts, receives feedback, and adjusts, by learning from his perspectives and thoughts. Find, fix, and finish-type of philosophy and decision-making cannot work without such cognition. To support commanders' decisions, analysts must think more broadly to gain depth of knowledge and find relationships leading to a well-hidden foe. They must find, track, and neutralize embedded terrorists and insurgents and do so without committing gross errors of logic, without creating undo negative outcomes through ill-conceived actions and a corollary increase in credibility problems with the populace, and without causing unwarranted collateral damage to the populace and personal and commercial property.

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### Counterterrorism Analysis-synthesis in the national decision-making chain

Intelligence and security services are key components of any state, providing independent analysis of information relevant to the external and internal security of state and society and the protection of vital national interests.

Intelligence refers to ‘information relevant to a government’s formulating and implementing policy to further its national security interests and to deal with threats to those interests from actual or potential adversaries’. It also refers to the activity and process by which information is systematically collected and made available to government officials in a usable form. The intelligence ‘product’ is composed of analyses and assessments, including raw data. In sum, the term intelligence encapsulates a broad range of activities and all have the obtaining of or denying of information in common.

Intelligence, then, is the collection and analysis of information, presented to policy-makers in a form that will help them in their decision-making process and their choice of policy options.

The intelligence analyst is only one of contributor in a larger chain of analysis-synthesis operations, which leads to national decisions and subsequent actions. Consider the practical sequence of analysis-synthesis processes that are partitioned between intelligence, operations, and policy. The typical reasoning sequence (Figure 1) includes three distinct functions (often performed by three distinct organizations), each requiring an analysis-synthesis loop:

- Intelligence analysis. Intelligence collects and breaks down data, guided by the context of the problem, decomposing all elements of data and organizing them into temporal, spatial, and functional frames of reference. From this data, hypotheses (explanations or models) are synthesized, ranked, and reported in the intelligence report;
- Planning. Operations accepts the intelligence report and analyzes the implications of the hypothesized situation before synthesizing (planning) feasible course of actions or responses. These responses depend on the resources available;

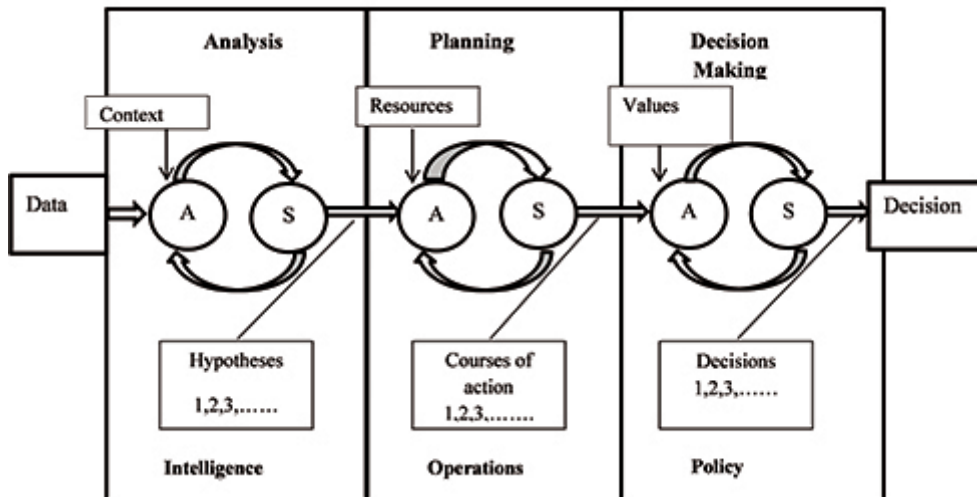


Figure 1. Analysis-synthesis in the national decision-making chain.

- Decision making. Policy makers consider the possible course of actions in the context of values (cost, risk) to determine the utility of each alternative and make decisions based on a rational selection of highest utility.

### Intelligence data sources

A taxonomy of intelligence data sources includes sources that are openly accessible or closed (e.g., denied areas, secured communications, or clandestine activities).

Open source intelligence (OSINT): Foreign radio and television news sources; Foreign printed materials: books, magazines, periodicals, journals; Diplomatic and attaché reporting; Shortwave radio, telecom, Internet conversations; Foreign network computer sources; Gray literature (printed and electronic).

Closed sources: Human intelligence (HUMINT); Imagery intelligence (IMINT); Signals intelligence (SIGINT); Computer network exploitation (CNE); Measurements and signatures intelligence (MASINT).

### Counterterrorism Analysis-Synthesis in the Intelligence Workflow Models that describe the intelligence process

The stimulus-hypothesis-option-response (SHOR) model (Figure 2), described by Joseph Wohl in 1986, emphasizes the consideration of multiple perception hypotheses to explain sensed data and assess options for response. The model detailed the considerations for commander decision making by making choices among alternative course of action.

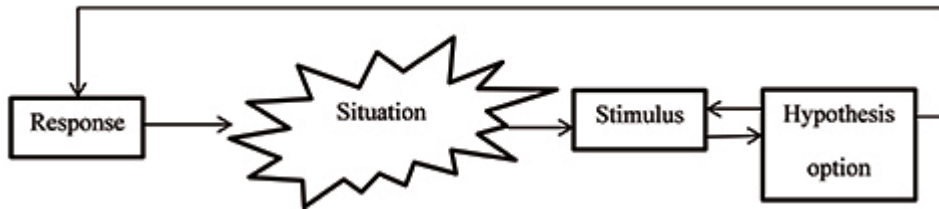


Figure 2. The stimulus-hypothesis-option-response (SHOR) model.

The observe-orient-decide-act (OODA) loop (Figure 3), developed by Col. John Warden, is a high-level abstraction of the military command and control loop that considers the human decision-making role and its dependence on observation and orientation—the process of placing the observations in perceptual framework for decision making. While the OODA model applies to the entire command and control process (in which intelligence provides the observe function), the entire loop may be applied to the intelligence control loop in which the act function governs tasking and collection.

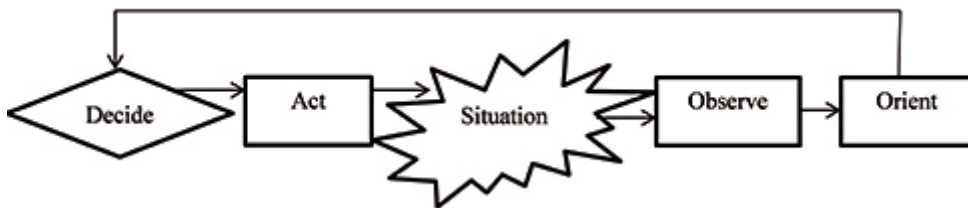


Figure 3. The observe-orient-decide-act (OODA) loop.

Both of these models focus on the military situation as the object of control; the next two models view the situation as an object of surveillance, where the control loop serves to better observe and understand the situation.

The tasking, processing, exploitation, dissemination (TPED) model (Figure 4) used by technical collectors and processors distinguishes between the processing elements



of the national technical-means intelligence channels (SIGINT, IMINT, and MASINT) and the all-source analytic exploitation roles of the intelligence and counterintelligence services.

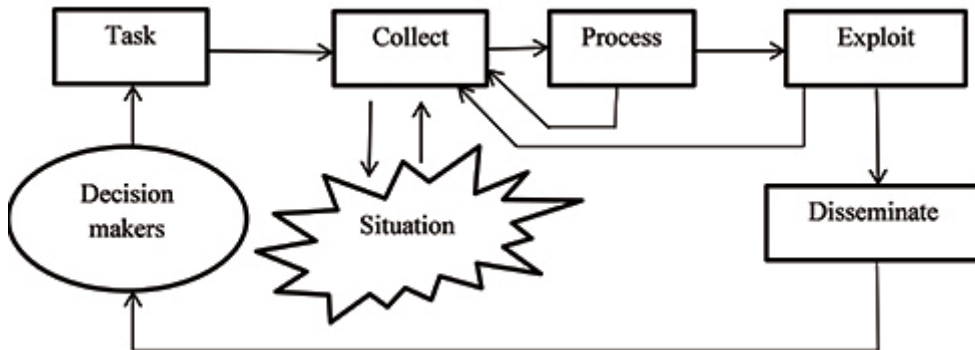


Figure 4. The tasking, processing, exploitation, dissemination (TPED) model.

The TPED process has been applied to independent stovepipe intelligence channels, and concepts have been developed to implement wide-scale multi-INT TPED processes. The model is a high-level organizational model that does not include planning per se because it includes policy-level activities organizationally above the processing chain.

The DoD Joint Directors of Laboratories (JDL) data fusion model (Figure 5) is a more detailed technical model that considers the use of multiple sources to produce a common operating picture of individual objects, situations (the aggregate of objects and their behaviors), and the consequences or impact of those situations. The model includes a hierarchy of data correlation and combination processes at three levels (level 0: signal refinement; level 1: object refinement; level 2: situation refinement; level 3: impact refinement) and a corresponding feedback control process (level 4: process refinement). The JDL model is a functional representation that accommodates automated processes and human processes and provides detail within both the processing and analysis steps. The model is well suited to organize the structure of automated processing stages for technical sensors (e.g., imagery, signals, and radar). The practical implementation of the processing and analysis stages in a typical intelligence workflow can be described using the JDL model to distinguish the characteristics of each stage (Figure 5). The processing stage is characterized by high-volume single-INT processing channels (stovepipes) to perform the JDL data fusion model level 0 and 1 functions:

Level 0: Source preprocessing/subobject refinement. Preconditioning data to correct biases, perform spatial and temporal alignment, and standardize inputs. Signal refinement automated processing correlates and combines raw signals (e.g., imagery pixels or radar signals intercepted from multiple locations) to detect objects and derive their location, dynamics, or identity.

Level 1: Object refinement. Association of data (including products of prior fusion) to estimate an object or entity's position, kinematics, or attributes (including identity). Object refinement processing detects individual objects and correlates and combines these objects across multiple sources to further refine location, dynamics, or identity information.

The output of this stage is a set of heterogeneous databases (e.g., imagery, video, text, or audio) or a data warehouse for subsequent all-source analysis.

The analysis stage in the figure performs the analysis-synthesis functions for higher level understanding of situations and their consequences:

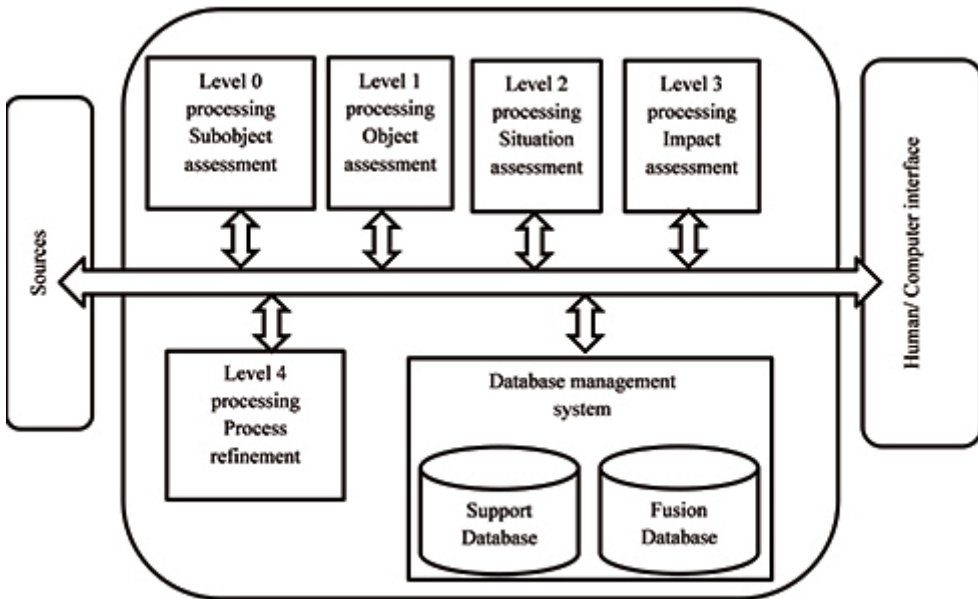


Figure 5. The Joint Directors of Laboratories (JDL) data fusion model.

Level 2: Aggregation of objects/events to perform relational analysis and estimation of their relationships in the context of the operational environment (e.g., force structure, network participation, and dependencies). Situation refinement analysis correlates and combines the detected objects across all sources within the background context to produce estimates of the situation—explaining the aggregate of static objects and their behaviors in context to derive an explanation of activities with estimated status, plans, and intents.

Level 3: Impact assessment. Projection of the current situation to perform event prediction, threat intent estimation, own force vulnerability, and consequence analysis. Routinely used as the basis for actionable information. Impact refinement analysis estimates the consequences of alternative courses of action.

The processing stage is data driven, processing data as it is collected to produce intermediate products for large databases, while the analysis stage is goal driven, responding to queries for intelligence answers from consumers (e.g., targeting or order of battle or national capability estimates). The analysis stage employs semiautomated detection and discovery tools to access the data in large databases produced by the processing stage.

The level 4 process refinement flows are not shown in the figure, though all forward processing levels can provide inputs to refine the process to: focus collection or processing on high-value targets, refine processing parameters to filter unwanted content, adjust database indexing of intermediate data, or improve overall efficiency of the production process.

The practical implementation of this workflow, whether in a large national or military intelligence organization or in a small corporate competitive intelligence cell, requires a structural model of the workflow processes, policies, and procedures that move from raw data to finished intelligence products.

Over the past two decades, significant attention has been focused on multisensor data fusion for both military and nonmilitary applications. Data fusion techniques combine data from multiple sensors and related information to achieve more specific inferences than could be achieved by using a single, independent sensor. Data fusion

refers to the combination of data from multiple sensors (either of the same or different types), whereas information fusion refers to the combination of data and information from all intelligence data sources.

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Vladan Stanković<sup>1</sup>

## ISLAMSKI FUNDAMENTALIZAM I SEKULARIZAM – RAZLOZI MIGRACIJA STANOVNIŠTVA

### Rezime

Naučni rad koji je pred nama nastojaće da se pozabavi religijskim aspektima migratornih kretanja. Među tim razlozima posebno mesto i ulogu ima odnos islamizma i sekularizma, pa će predmet istraživanja presvega dotaći odnos islamskog fundamentalizma i sekularizma. Problemska situacija u kojoj migranti iz islamskih zemalja nisu u stanju da se akomodiraju i prilagode u sekularna društva Zapadne Evrope, nameće problemska pitanje koja glase: Da li je moguća adaptacija i akulturacija islamista u savremena društva Zapada? U kojoj je meri moguće očekivati integraciju islamista u savremena sekularna društva Zapada, i kakva je uloga islamskog fundamentalizma u tome? Kakve posledice može izazvati dalji konflikt između fundamentalizma i sekularizma u savremenim zapadnim društvima? Koliko religijska komponenta predstavlja značajan činilac migratornim kretanjima iz područja nastanjenih islamskim življem ka društvima Zapadne Evrope? Naučni značaj podstaknutog istraživanja od velike je važnosti za razumevanje odnosa: između migranata i domicilnog stanovništva, između religijskog i sekularnog, između novopridošlica (njihovih tradicija, običaja, navika) i sistema vrednosti u koji su primljeni i prihvaćeni... Težeći da pruži odgovore na bar neka od ovih pitanja rad će nastojati da razjasni neke od fenomena u svetlu najsvježijih terorističkih dešavanja u Zapadnoj Evropi, i da pronikne u uzroke i veze, u nedovoljno razjašnjena zbivanja, i tako ostvari društveni doprinos problemu. Metodi koji će u radu biti iscrpljivani su: metod posmatranja, analitički metod, logički metodi indukcije i dedukcije, analiza sadržaja, uporedni metod, metod unakrsnih kultura, statistički metod...

*Ključne reči: fundamentalizam, sekularizam, islamizam, migracije, terorizam*

*(„Pričao im je i o nebu, a i o paklu, staništu Psa, poplačnom žeravicom i zvečarkama, i o tome kako se Đavo može prikazati, i o naizgled bezazlenim novotarijama.“,*

*Mario Vargas Ljosa (nobelovac), Rat za smak sveta, Laguna, Beograd, 2011, str.18)*

## ISLAMIC FUNDAMENTALISM AND SEQUULARISM - REASONS OF MIGRATION OF POPULATION

### Abstract

*How much fundamentalism, and how much secularism condition mass-migrations.*

<sup>1</sup> Vladan Stanković, naučni saradnik Instituta za političke studije u Beogradu

*Indirectly and consequently, the religious aspect brings a significant change in immigrant societies affected by vital decadence and low birth rate, and a high rate of age. We are witnessing that there is a kind of „Islamic boom“ in the European societies to the growth of the share of the Islamic population, which does not show the overwhelming zeal to fully integrate into European postmodern civilizational currents. They live on the edges of European societies, most often subcultural, closed in a kind of ghetto. They can not achieve in the ghetto the fullness of the content of their religion, which represents their life and happiness for themselves, they introduce a part of them into a chain of Islamism and fundamentalism which completely excludes them from the new secular order, and turns religious extremism and adventure with possible unintelligible consequences. Fundamentalists have already announced a new war, a “satanic order that alienates a man from God,” and they do not give up modern forms of war in which a well-indoctrinated individual can at any moment act on a living force in any place and at any time.*

*Key words: fundamentalism, secularism, Islamism, migration, terrorism*

Iako sasvim ne ključan, religijski aspekt migracija nije zanemarljiv, posebno što najveći broj imigranata, koji u poslednjih nekoliko godina ulaze na prostor Evropske unije, dolazi pretežno iz samo jedne religijske grupacije – iz islamske verske zajednice.<sup>2</sup>

Jedan broj islamskih useljenika pokazuje sklonost da se akomodira i prilagodi sredini u koju su došli, i da vremenom dosegnu visok stepen akulturacije, a među njima ima i onih koji dožive integraciju u novo životno i radno okruženje. To ipak nije slučaj sa svim useljenicima. Najnovija izražavanja ukazuju da se samo jedan manji broj podpuno integriše u novu sredinu, i postanu ugledni članovi zajednice, i da već njihova neposredna pokoljenja postaju podpuni i lojalni državljani nove zemlje. Najveći broj useljenika ostaje da egzistira negde na „ničijoj zemlji“: obavljaju osnovne radne i građanske aktivnosti kao i ostali građani nove države, ali u životnom i socijalnom pogledu nastavljaju verski, kulturni i socijalni život kakav su vodili u zemlji-porekla. Najmanji je deo onih koji se vrlo malo ili uopšte ne integrišu u novo društvo, i među njima treba tražiti potencijalnu pretnju po život i imovinu građana.

Najsvežija konfliktna dešavanja: učestale pretnje na verskoj osnovi, (ne) organizovani napadi na pojedince ili grupe, planirani akti koji ugrožavaju objekte, ljude pa i čitave društvene skupine, ukazuju da problem postoji i da tinja. Ako tome pridodamo da se akomodacija islamskih migranata, naročito onih nižeg obrazovnog nivoa, ne odvija na način i tempom kako se to očekuje, da je prilagođavanje u takvoj populaciji poprilično otežano, naročito u poslednjih deceniju-dve, da je akulturacija primetna samo u uskim intelektualnim i imućnijim društvenim slojevima useljenika iz islamskih zemalja, a da je puna integracija prava retkost, onda nailazimo na problemsku situaciju, na koju treba podhitno dati neki smisleni odgovor. Očigledno je da je problem na nivou društvenog sabračanja, da su zakazale institucije koje imaju socijalizatorsku i regulativnu ulogu, i da je problem sistemski, te da se mora krenuti od početka, od razumevanja početnih premisa koje (one)omogućavaju društveni saobraćaj, i tako stvaraju pretpostavke da se aktivira novo potencijalno žarište sa nesagledivim posledicama.

### Pojmovni okvir

Tačka ontološkog suočavanja problema leži u odnosu fundamentalizma i sekularizma. Oba su ova ontološka diskursa društvena, političko-pravna, totalitetna, međusobno izključiva i opresivna. Izlaganje koje sledi nastojaće da ukaže na neodrživost njihovog sa-postojanja, bez spremnosti da se bar donekle samoograniče kako bi mogli da postoje jedan pokraj drugog. Reč je o izvesnom „sukobu civilizacija“ koji se može

<sup>2</sup> Timoty Savage, „Europe and Islam – Crescent Waxing, Cultures Clashing“, The Washington Quarterly, Vol.27, N°3: 25-50, The George Washington University/Taylor and Francis, Washington D.C, 2004.



razrešiti samo uzajamnom tolerancijom.

1. **FUNDAMENTALIZAM:** Fundametalizam potiče od: lat. fundamentum. Fundus je baza, osnova ili temelj, pa bi doslovno fundamentalizam bio: „temelj+izam“ = temeljizam.<sup>3</sup> Fundamentalizam je, dakle, pravac ili pristup, koji teži nekoj osnovi, „nečemu što je ranije bilo“, „kako je ono nekada postojalo“. U formalnom smislu fundamentalizam se sastoji od idejno-vrednosno-normativne baze ili sadržaja učenja oko koga se sve fundira,<sup>4</sup> i političkog pristupa kao načina na koji se fundus poostvaruje u realnom okruženju.<sup>5</sup> Fundamentalizam, dakle, označava težnju povratku prvobitnim uzorima – osnovama.<sup>6</sup> On bi predstavljao: usmerenost ka kakvom osnovnom ili bazičnom učenju.<sup>7</sup> U nekim jezicima fundamentalan je „pročišćen“, ali i „dubok“<sup>8</sup> (fra. profond = dubok)<sup>9</sup>. Fundamentalno može da znači i: pričvršćeno, fiksirano, nešto što je: u Osnovu nečega – utemeljenost u nečemu.<sup>10</sup> Svaka utemeljenost zahtev je za vraćanjem izvoru ili korenima.<sup>11</sup> Fundamentalan je, dakle: „onaj koji ima važnost za neku osnovu – onaj koji je dubinski; jedan suštinski karakter – odlučujući, determinišući“.<sup>12</sup> Verski fundamentalizam je vraćanje korenima vere, onakvoj veri kakva je ona bila na njenom izvoru: razum upodobljen neumitnoj snazi autoriteta.<sup>13</sup> Snaga verskog fundamentalizma upravo leži u huserlovskoj fenomenološkoj težnji da se sadašnja vera, i njena ortopraksa, očisti od svih nalepljenih sadržaja ili naslaga verskih predanja koja su se taložili vekovima, a koja su dovela do „izkrivljavanja vere“ i udaljavanja od njenog osnivačkog izvorišta.<sup>14</sup> Ovde se radi o svojevrsnoj „borbi za čistotu ubeđenja“.<sup>15</sup> Stoga se kao ključne reči u vezi fundamentalizma pojavljuju: „reduktivizam, determinizam, fatalizam i fanatizam“.<sup>16</sup> Ipak, reč je o izvesnom „povratku u budućnost“, jer fundamentalizam ne teži povratku u prošlost, već da ono kako jeste u prošlosti postane merilo i osnov budućnosti.<sup>17</sup>

- 3 Vladan Stanković: „Fundamentalizam i/ili verski integrizam“, u zborniku: Religija, politika, pravo, (priredili: Jovan Ćirić, Velibor Džomić, Miroljub Jevtić), Institut za uporedno pravo, Mitropolija crnogorsko-primorska SPC, Centar za proučavanje religije i versku toleranciju, IIU Svetigora, Beograd/ Budva, 2015, str.761.
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- 10 Najčešće ima značenje utemeljenosti u bazičnom tekstu, „tekstu iz davnina“. (O ovome u: Steve Bruce, *Fundamentalism*, Polity Press Cambridge, Cambridge, 2008, p.12: „In general, fundamentalisms rest on the claim that some source of ideas, usually a text, is complete and without error.“)
- 11 „Фундаментализм, напротив, рассматривается как идеологическая приверженность корням и истокам религии, в широком смысле как установка на какую бы то ни было религиозную концепцию, идею, ценность, которая берется под полномасштабную защиту.“ (Дмитрий Головушкин, „Религиозный фундаментализм / Религиозный модернизм – Концептуальные противники или амбивалентные феномены?“, *Вестник ПСТГУ I, Богословие, Философия*, Vol.57, №1: 87-97, Ярославль, 2015, стр.87)
- 12 Danielé Morvan, „Fondamental, ale, aux“, *Dictionnaire culturel en langue française*, Sejer, Paris, 2005, p.1082: „Qui a l’importance d’une base, d’un fondement, un caractère essentiel et déterminant.“
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Na osnovu mnoštva ponuđenih definicija pod fundamentalizmom bi mogli da podrazumevamo: „● pravce nedvosmislenih spoznaja; ● povratak suštini spoznaje; ● borbu za suštinu spoznaje; ● zahtev za realizaciju društva prema nacrtima spoznaje; ● praksu i stremljenja iz postavki spoznaje; ● ideologizaciju društva na temeljima sveobuhvatajućeg totaliteta; ● sveprožimajući sistem vrednosti koji polazi iz neporecive spoznaje; U nešto užem smislu značenja fundamentalizam oličava i: ● –utopističku viziju uređenja sveta po merilima neporecive spoznaje; ● politizaciju religije; ● pojavni oblik sukoba civilizacija; ● –totalni pristup svetu kao reakciju na modernizam.“<sup>18</sup>

Drugi autori još više konkretizuju fundamentalističke tendencije i pojavne oblike. Tako npr. fundamentalizam prepoznaju kroz: ● reakciju na proces društvene marginalizacije religije, ● selektivnost prema nosiocima i tendencijama Moderne, i prema zastranjivanjima sobstvenog predanja, ● apsolutnost i nepogrešivost Svetih spisa, ● milenarizam i mesijanizam, ● sektaštvo spram „nečistih“ i autoritarna organizacija, ● striktan kodeks ponašanja članova (seksualne zabrane, način oblačenja, cenzura knjiga, muzike...) <sup>19</sup>

**ISLAMSKI FUNDAMENTALIZAM:** Od četiri pravna izvora od značaja za praktikovanje islamske vere (Kur'an, Suna, Idžma i Kijas), za proučavanje islamskog fundamentalizma i islamskog integriteta odnosno islamizma od najvećeg značaja je Suna ili Sunet (Sunnet; *سنة رسول*). Uloga sune je da veru održava utemeljenom: „u“ i „oko Muhameda“, da je fundira i fundamentira na suštinu učenja iz Kur'ana.<sup>20</sup> Doslovno i dosledno pridržavanje islamskog normativnog sistema u sferi: teologije, morala, etike, običaja i (šerijatskog) prava omogućava fundiranje islamske vere i daje snagu islamskom fundamentalizmu da se održi.<sup>21</sup> Pored rigidnog dogmatskog normativizma od fundamentaliste, npr vahabita, očekuje se tumačenje vere izključivo shodno autoritetima iz Prorokovog doba od pre gotovo 1.400 godina.<sup>22</sup> Tako vahabitski pokret postaje fundamentalistički, jer sam život upodobljava islamizmu Muhamedovog vremena, zalaganjem za: čistoćom verskog učenja, originernim tumačenjem islamskog pristupa, odbacivanjem „novotarija“ poput islamskih škola u pristupima islamu (koje udaljuju vernika od Muhamedove vere), staranjem o ponašanju i vrednosnom prosuđivanju muslimana u skladu sa životom prve islamske zajednice iz vremena proroka Muhameda.<sup>23</sup> I više od toga: islamski fundamentalista danas nadzire „u kojoj se

gy and Religion, Vol.348, Peter Lang Inc – International Academic Publishers, New York, 2015, p.216:

„But fundamentalism intends neither an artificial imposition of archaic practices and lifestyles nor a simple return to a golden era, a sacred past, a bygone time of origins – although nostalgia for such an era is a hallmark of fundamentalist rhetoric. Instead, religious identity thus renewed becomes the exclusive and absolute basis for a re-created political and social order that is oriented to the future rather than the past.“

18 Vladan Stanković, „Osnovi fundamentalizma“, Politička revija, Vol.26, N°4: 109-126, Institut za političke studije, Beograd, 2010, str.114.

19 Detaljnije u: Martin Marty, Scott Appleby, Fundamentalism and the State – Remaking Politics, Economics, and Militance, The University of Chicago Press, Chicago, 1993.

20 Klaus Kincler, Verski fundamentalizam, Clio, Beograd, 2002, str.73: „Fundament islama ne čini samo Kuran, već i tradicija tzv. suna i tumačenje stručnjaka.“

21 Prema islamskoj predanju pravo je zapovest Boga, a pravne škole su umeća ili veštine ovladavanja ovom tradicijom. „(...) bez temeljnog poznavanja šerijata (šari'a), celine norme koju je Bog objavio, a ljudi usvojili i razradili, da bude vodstvo muslimanu u praktičnom iskazivanju i primenivanju vere, i fikha (fiqh), nauke koja izučava njena pravila, nemoguće razumeti islam, ni kao veru, a ni kao na toj veri zasnovanu zajednicu.“ (Giorgio Varcellin, *Instituzioni del mondo musulmano*, Torino, 1996, p.269, op.cit: Darko Tanasković: *Islam i Mi*, Beograd, 2006, str.269)

22 Zubair Qamar, „Wahhabism – Understanding the Roots and Role models of islamic extremism“, *As-Sunnah Foundation of America*, 2012, p.1: „Purity of worship and reverence to God alone. The authentic carriers of Islam from the time of the Prophet(s) until now.“

23 Andrea Teti, Andrea Mura: „Islam and islamism“, *Routledge Handbook of Religion and Politics* (ed. Jeffrey Haynes): 92-110, Routledge Taylor & Francis Group, 2008-2009, p.97: „As for many such movements of its time, in Wahhabism, tradition is perceived as a fixed set of values that must be protected from the assaults of religious innovations (bid'ah). However, many critics argue that the Wahhabi stylisation of the past is both nostalgic and passive: the past is taken to offer a refuge from the moral corruption of the present rather than a potential set of resources to be managed in order to promote an assertive Islamic answer to change.“

meri muslimani detaljno pridržavaju propisanih pravila života kako su živeli prvobitni vernici Muhamedovog vremena. Propisi u pogledu dužine brade, načina odevanja, posta, klanjanja i svih ostalih rituala podpuno treba da budu u njihovim rukama. Reč je o svojevrsnoj verskoj policiji, kojom može da raspolaže samo i izključivo Islamska država.<sup>24</sup> Ovdje se uočava svojevrsna opredeljenost ka redukciji, ka otklanjanju naslaga islamskih učenja „koja kvare veru i izpravno predanje iz doba Proroka osnivača učenja“. Kod njih je prisutna „netolerancija prema novotarijama naknadno nastalih tradicija“ (ortodoksnost), postoji revnost u izvršavanju verskih zahteva (ritualizam), posvećenost iskonskoj veri (fanatizam).

ISLAMIZAM: Za razliku od islamskog fundamentalizma koji nastoji da život islamskog vernika fundira oko izvora vere (čak do razmera kakva je ona doslovno bila u vreme proroka Muhameda) islamizam predstavlja sadržinsku pozadinu islamskog integrizma – neprestano nastojanje da se čitav društveni i privatni život vernika obavije islamom. Ovo za posledicu ima neprestanu tendenciju islama da sekularni pravni sistem pretoči u svoje božansko pravo – da ga islamizuje.<sup>25</sup> U ovim verskim naporima suna ili sunet igra najznačajniju ulogu, jer se ona u hijarahiji nalazi odmah iza Muhamedovih objava iz Kur’ana pošto pojašnjava ono što je nejasno u Knjizi objave (Kur’anu). Suna je svojevrsna praktična primena Kur’ana.<sup>26</sup> Kada u nekim slučajevima nema dokaza o određenom pitanju niti u Kur’anu niti u suni tada se koriste tumačenja: Idžme i Kijasa (ili islamske uleme). U Fik-u ili pravnoj jurisprudenciji, koja tumači verske zakone, obaveznost normi je rastegljiva, što je vidljivo u pravilima o izvršavanju radnji (amalija), a koja se kreću od: onog što je naredeno (Farz), preko: onog što je zabranjeno (Haram), onog što je pokuđeno (Mekruh), do: onog što je preporučeno (Mustehab) i onog što je dozvoljeno (Mubah). Na taj se način omogućava pravna operacionalizacija Muhamedove objave božanskog zakona. Ovdje je veza religije i prava najočevidnija, a ostavruje se spuštenost vere (integrizam) i neudaljavanje od temelja vere (fundamentalizam).<sup>27</sup> Na taj se način sprovodi i jedna dosledna i doslovna islamska politika, islamska ideologija ili islamizam.<sup>28</sup> Mreža spuštene vere u svakodnevni život toliko je: gusta, izprepletana, živopisna, bogata i raznovrsna da gradi civilizaciju.<sup>29</sup> „Za islamistu kažemo da je to onaj musliman koji nastoji da živi islam u punom obimu.“<sup>30</sup> I dok je u sunitskom islamu integrizam relativno statičan, krut i oprezno sklon nadogradnji, dotle je on u šiitskom islamu dinamičan, gibak i sklon neprestanoj nadogradnji. Stoga bismo mogli

24 Vladan Stanković, „Verski fundamentalizmi, društvena integrisanost i terorizam“, Politika nacionalne bezbednosti, Vol.6, N°1: 121-144, Institut za političke studije, Beograd, 2016, str.133.

25 Mirosljub Jevtić zastupnik je teze o neprestanoj potrebi islama da pridobije sekularnu državu, da je zadobije za sebe – da ta država postane islamska. (Videti: Mirosljub Jevtić, Religija izazov političkoj nauci, Centar za proučavanje religije i versku toleranciju, Beograd, 2010, str.115: „Fikret Karčić... nastavnik islamskog teološkog fakulteta u Sarajevu: Za muslimane pravo nije samo elemenat ukupnog islamskog učenja već njegov funkcionalni izraz. Prema tome, ako je pravo funkcionalni izraz islama, onda je jasno da je za njega potrebna država, jer prava nema bez države. A to znači da nema ni islama bez islamističke države.“)

26 O suni kao značajnom ali zavisnom pravnom izvoru od Kur’ana kao teksta neporecive objave u: Mohammad Hashim Kamali, Principles of Islamic Jurisprudence, Islamic Texts Society, 1991, p.62: „Firstly, the Sunnah may consist of rules that merely confirm and reiterate the Qur’an, in which case the rules concerned originate in the Qur’an and are merely corroborated by the Sunnah. The question as to whether the Sunnah is an independent source is basically redundant with regard to matters on which the Sunnah merely confirms the Qur’an, as it is obvious that in such cases the Sunnah is not an independent source.“

27 Religija i pravo su u islamu sveprožimajući. Tako npr: Mirosljub Jevtić, Religija – izazov političkoj nauci, Centar za proučavanje religije i versku toleranciju, Beograd, 2010, str.25: „(...) jasno je da se u celokupnom islamskom učenju nalaze elementi koji imaju pravnu prirodu, te da celokupno islamsko učenje ima pravni karakter. Zato se islam poistovećuje sa šerijatom.“

28 William Al-Sharif, Islamism – Religion & Ideology, Lulu.com, 2009, p.164.

29 „(...) pod terminom islamske civilizacije podrazumevamo konceptualni kolektivni civilizacijski sistem, koji na demonstrativan i racionalan način proizilazi iz principijelnih doktrina islamske spoznaje.“ (Muamer Halilović, „Antropološki fundamenti islamske civilizacije“, Mileševski zapisi, N° 9: 435-461, Prijepolje, 2012, str.435-436)

30 Vladan Stanković, „Verski fundamentalizmi, društvena integrisanost i terorizam“, Politika nacionalne bezbednosti, Vol.6, N°1: 121-144, Institut za političke studije, Beograd, 2016, str.132.

izvesti zaključak kako su u šiitskom obliku ispovedanja islamske vere islamizam i fundamentalizam praktično sinonimi, dok je u sunitskom načinu ispovedanja islama fundamentalizam reduktivan jer čisti sadržaje „svesti od bilo kakvih novotarija“<sup>31</sup> (te će kao takav samo sunitski oblik ovde biti zanimljiv za dalje razmatranje).

2. SEKULARIZAM (SEKULARIZACIJA): Sekularizam (lat: seculo – starost, saeculo – vreme, seculorum – uzrastanje, iz toga je i: lat. saecularisatio – „posvetovljavanje, pretvaranje nečega crkvenog u svetovno, odnosno mirsko“<sup>32</sup>) ili (ovo)svetovnost: je politički pokret za odvajanjem i umanjenjem uticaja religije i crkve na državu i vladu. Doslovno: sekularizam sprovodi odvajanje crkve od države, izključuje religiju iz sfere odlučivanja, i premešta je u privatnu, intimističku ravan.<sup>33</sup> Ovaj pokret ima dugu predistoriju zasnovanu na: reformaciji, protestantizmu, prosvetiteljstvu, engleskoj liberalnoj i francuskoj građanskoj revolucionarnoj misli. Politički pokret sekularista biće obznanjen tek 1846. godine od strane Džordža Džejkoba Holioaka (George Jacob Holyoake), protivnika uzpostavljanja državne religije i favoriziranja jedne religije na uštrb drugih.<sup>34</sup> Sekularna država danas potvrđuje pravo na slobodu od religijskih pravila i učenja, kao i pravo na slobodu od državnog nametanja izključivo jedne vere u jednoj zajednici.<sup>35</sup> U sekularizovanom društvu ljudske aktivnosti i odluke, posebno političke, treba da budu zasnovane pre svega na dokazima o činjenicama koje su nepristrasne i odvojene od religijskog učenja. Od sekularizma kao ideološkog i političkog pravca razlikujemo sekularizaciju koja predstavlja: društveni proces preobražaja društva iz bliske identifikacije sa verskim vrednostima i institucijama prema nereligijskim vrednostima sekularnih institucija.<sup>36</sup> Sekularizacija je ograničila delovanje crkve u društvu, i potisnula religiju iz javne sfere. U sekularnim društvima vera nema značaj kulturalnog uzora, a verske organizacije imaju malu društvenu moć.<sup>37</sup>

3. MIGRACIJE: u najbukvalnijem smislu označavaju: „kretanje“, „pokret“, „ne-mirovanje“. Od izraza „migracija“ potiče i izraz „imigracija“, koji označava: „useljavanje“, ali i termin „emigracija“, koji je sinonim za „iseljavanje“. Migraciju bismo mogli definisati kao: kretanje ljudi iz jedne tačke ka drugom odredištu u cilju zadovoljenja osnovnih egzistencijalnih potreba koje podrazumevaju: život i rad na useljeničkoj teritoriji. U osnovi cilj migracija je useljenje na teritoriju sa, uglavnom, uređenijih političko-ekonomskim sistemom od onog iz koga se potiče, kako bi se lakše ostvarile radne uloge, egzistencija, položaji i profesionalni prestiž.<sup>38</sup> Najčešće se dešava da se migranti integrišu u novo društvo, postanu njegov sastavni deo, i preuzimaju osnovne vrednosti zemlje-prijemnika, te se ponašaju u skladu sa novim, preuzetim normativnim sistemom i sistemom vrednosti. Međutim, ima i izuzetaka. Ti izuzeci mogu postati bezbednosni problem sa nesagledivim posledicama po domicilna društva i postati veliki izazov za obezbeđivanje sigurnosti građana koji u ovim zemljama žive i rade.

31 Vladan Stanković, „Fundamentalizam i/ili verski integrizam“, u zborniku: Religija, politika, pravo, (priredili: Jovan Ćirić, Velibor Džomić, Miroljub Jevtić), Institut za uporedno pravo, Mitropolija crnogorsko-primorska SPC, Centar za proučavanje religije i versku toleranciju, IU Svetigora, Beograd/Budva, 2015, str.769.

32 Dragoljub Đorđević, „Sekularizacija“, u zborniku: Sociološki rečnik, (priredili Aljoša Mimica, Marija Bogdanović), Zavod za udžbenike, Beograd, 2007, str.508.

33 José Casanova, Public Religions in the Modern World, University of Chicago Press, Chicago, 1994, p.21.

34 George Jacob Holyoake, Principles of Secularism, Austin & Co, London, 1871.

35 Johannes van der Ven, Human Rights Or Religious Rules?, Brill, Leiden/Boston, 2010, p.28.

36 Виктор Иванович Гараджа, „Секуларизация как социокультурный феномен“, Социология религии, ИНФРА-М, Москва, 2007, стр.280: „Секуларизация – процесс освобождения различных сфер общественной жизни от контроля духовенства как социальной группы и церкви как института или моральной силы...“

37 Brigitte Caulier, Religion, sécularisation, modernité – les expériences francophones en Amérique du Nord, Presses Universitè Laval, Sainte-Foy, 1996, str.76.

38 Michel Picouet, Hervé Domenach, Les migrations, Presses Universitaires de France, Paris, 1995, p. V-4: „Les termes déplacement, migration sont utilisés pour définir la mobilité d’une population, qu’elle soit professionnelle, spatiale.“



## Migracione trase

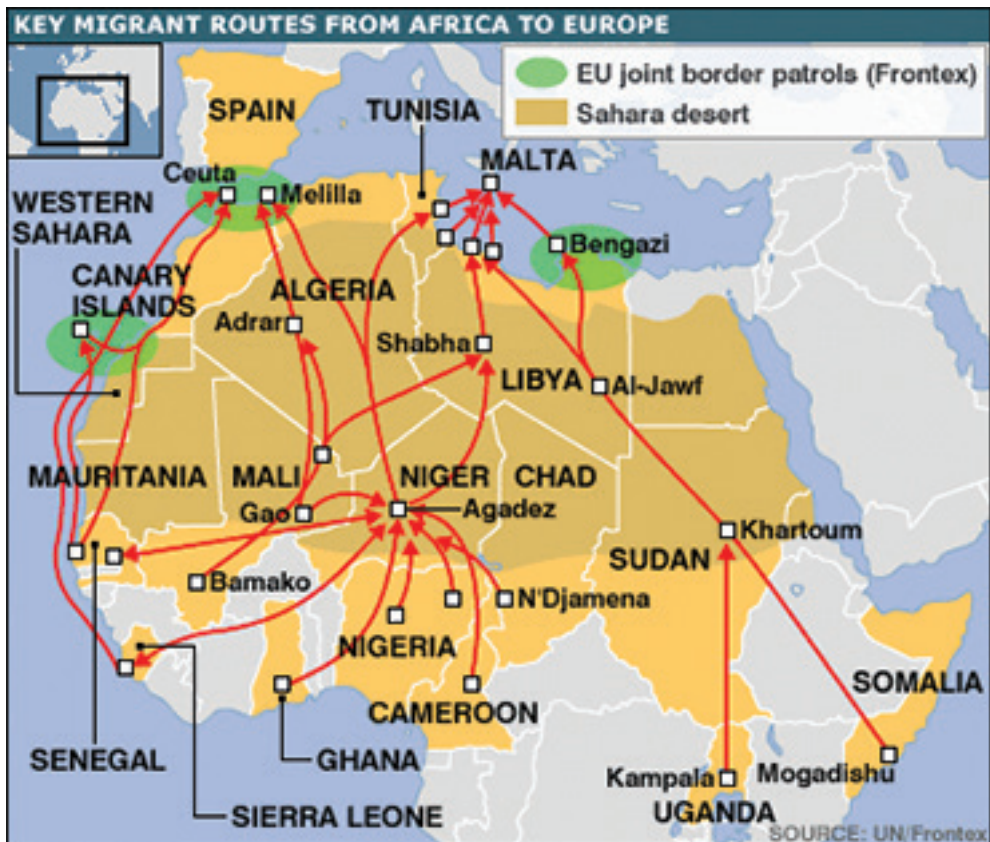
„Evropska migracijaska kriza“ ili „Veliki migratorni talas“, koji traje od 2010. godine do danas, možda nema religijski uzrok, ali svakako ima religijsku posledicu jer unosi značajan priliv muslimanskih vernika u najznačajnije države-članice Evropske unije, te je zbog toga od velike važnosti ukazati na zemlje-emitere iz kojih migranti pristižu, a u kojima je dominantna muslimanska populacija.

Prvi migratorni udar, koji nastaje sredinom 2010. godine, beleži veliki priliv imigranata u visokorazvijene zemlje Evropske unije iz pravca Albanije i tzv. Kosova (južne pokrajine Republike Srbije: Kosovo i Metohija).

Najfrekventnije migracije dešavaju se na tzv. „mediteranskoj ruti“ između Afrike i Evrope (mapa ispod). Pokazaće se da su na tim trasama migracija presudne islamske zemlje, kako u pogledu emisije migranata, tako i u pogledu: tranzita, propuštanja migranata, šverca ljudi, trgovine ljudima i slično. Ključna „migraciona staza“ ide iz podsaharske Afrike i zahvata sledeće zemlje Istočne i Zapadne Afrike: Somalija, Uganda, Sudan, Kamerun, Nigerija, Gana, Siera Leone, Senegal. Osim ovih zemalja pretežno Zapadne Afrike, i zemlje saharskog pojasa (koje su sve listom muslimanske), u poslednje vreme imaju značajan migracioni odliv: Mauritanija, Mali, Niger i Čad. Veoma živa migracija odvija se i u islamskim zemljama koje izlaze na Sredozemno more, poput: Maroka, Alžira, Tunisa, Libije i Egipta. Dve su glavne migracione trase: istočna i zapadna. Istočna trasa polazi iz Somalije, zemlje koja je poharana dugogodišnjim građanskim ratom, doživela podpuni ekonomski slom, gde ne postoji najosnovniji elementi vladavine prava, gde su: siromaštvo, korupcija, kriminal, terorizam, obalno razbojništvo, trgovina oružjem i ljudima... Centar iz koga polaze migracije iz Somalije je glavni grad Mogadišu. Druga istočna polazna destinacija je Uganda koja je takođe preživela građanske sukobe, ekonomsku devastaciju i gubitak stanovništva, ali i veliku smrtnost populacije zbog: rata, bolesti i prirodnih nepogoda. Centar njihove migracione emisije je takođe glavni grad Kampala. Iz Mogadiša i Kampale migranti se sabiraju u glavnom gradu severnog Sudana, Kartum, koji je jedan od najznačajnijih stecišta islamskog terorizma u ovom delu sveta. Iz Kartuma migranti se šalju preko libijskog mesta Al-Džav ka mediteranskim lukama Bengaziju i Tripoliju, najvećim gradovima Libije. Od pada režima Moamera el-Gadafija ovaj pravac Kartum→al-Džav→Bengazi/Tripoli postaje podpuno otvoren i prohodan. Iz Bengazija i Tripolija švercerskim kanalima migranti se prebacuju na ostrvo Lampeduza ili na jedno od ostrva malteškog arhipelaga, a odatle put Italije ka srednjoj i severnoj Evropi.

Zapadna ruta, ima prihvatni centar u Agadezu (Niger) i odatle se migranti prikupljaju iz okolnih zemalja: Čada, Kameruna, Nigerije, Gane, Senegala, Malija. Iz Agadeza migranti se upućuju u dva pravca preko saharske pustinje do gradova Šabe u Libiji, odnosno Adrara u Alžiru. Iz Šabe se migranti šalju ka Tripoliju i dalje („intermarijum“) preko mora. Pošto je alžirska obala dobro kontrolisana to iz grada Adrara krijumčarskim kanalima migranti dospevaju na špansku teritoriju koja se nalazi na afričkom tlu: u Meilju i Seutu. Migranti koji dospeju do ovih španskih gradova na afričkoj obali već dobijaju specijalni status pa je njihov ulazak na evropsko tlo olakšan. Konačno, treća trasa puta ide od Senegala, kao glavnog zapadno-afričkog emitera izbeglica, i to brodovima: od luke glavnog senegalskog grada Dakra preko Kanarskih ostrva koji su teritorija kraljevine Španije, gde izbeglice stiču određena prava, pa se dalje otiskuju u španske luke na afričkoj obali Seutu i Meilju, a odatle na Iberijsko poluostrvo. Tri su glavne „bezbednosne oaze“ gde se sprovodi kontrola migracionih tokova ka EU: jedna je na Kanarskim ostrvima, druga je u španskim enklavama na afričkoj obali Seuti i Meilji, a treća je Bengaziju i njegovoj okolini.

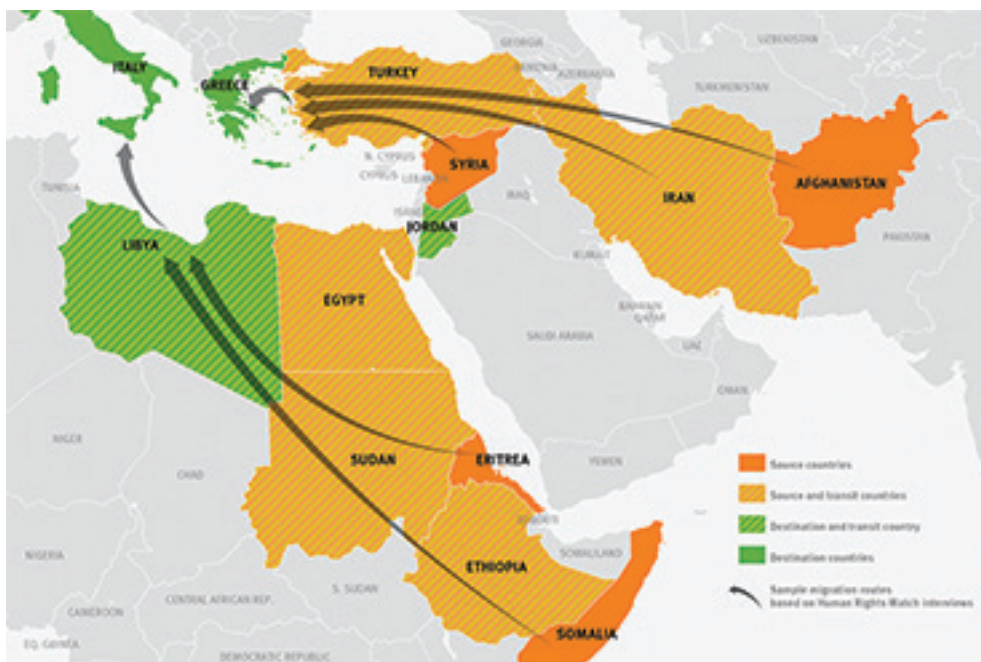




Pored afričke trase koja je otvorila centralnomediterranski koridor InterMarium, još su dva pravca od velikog značaja kada je Veliki migracioni talas u pitanju.

Jedan pravac ide od Srednjeg Istoka i obuhvata prvenstveno: Avganistan i Pakistan (mada u novije vreme i neke islamske zemlje centralne Azije, tzv. „centralnoazijske bivše SSSR-republike“). Na ovoj ruti tranzicione zemlje ili zemlje prolaza su islamističke destinacije Iran i Turska. Drugi migratorni pravac polazi sa Bliskog Istoka. On prvenstveno obuhvata migrante iz ratom opustošene Sirije, ali ima migranata i iz Jordana, Libana i drugih država „regije“. Konačno, tu je još jedan pravac koji ima bitno polazište: to je ratom opustošena Somalija, zemlja nepreglednih peščanih plaža i pustara, te Eritreja, novonastala državi na obali Crvenog mora iz koje se takođe mahom iseljavaju muslimani. Njihov prihvatni centar leži na libijskoj obali Sredozemnog mora.

Kako god bilo uočavamo da je tzv. „Arapsko proleće“ ili proces tzv. „dugih revolucija“ imao za posledicu zbacivanje starih autokratskih, i u nekim zemljama i socijalističkih, režima što je dovelo do: liberalizacije graničnih prelaza u tim državama, velikih neostvarenih očekivanja stanovništva, snažnog pokreta nezadovoljnih i mladih ka „evropskom raju“, i značajan priliv migranata u najrazvijenija društva Evropske unije, te značajniji priliv muslimana u tzv. „zemlje prihvata“ u Evropskoj uniji. U migrantskoj populaciji koja je ušla na evropsko tlo najveći broj useljenih su upravo islamske veroispovesti. Realno najveći deo te populacije izkazuje spremnost da se integriše u novo društvo. Ipak ima i onih migranata koji su izbegli sa ratom zahvaćenih područja, nalaze se u najboljim životnim godinama, mnogi od njih su prekaljeni ratnici koji znaju da barataju oružjem, a među njima ima i onih koji su izuzetno vojno obučeni čak i za najsloženije vojne operacije.



### Adaptacija u novo okruženje -između fundamentalizma i sekularizma-

Valja odmah imati u vidu poteškoće u funkcionisanju navopridošlih imigranata koji su živeli u sasvim drugačijem društvenom i pravnom sistemu od onoga koji poznaje Evropa. Ovde su od presudne važnosti dva razdvojena, a uslovljena pitanja. Prvo pitanje tiče se odnosa fundamentalizma i sekularizma kao idejno-vrednosno-normativnih ideoloških matrica na kojima počivaju savremena društva. Drugo pitanje dotiče problem pozicije i uloge fundamentaliste u sekularnim savremenim poredcima.

Kada je reč o odnosu fundametalizma i sekularizma valja istaći najpre njihovu podudarnost koja se tiče totalitetnog pogleda na uređenje sveta. Fundamentalisti teže da čitavu društvenu zbilju upodobu bazičnoj paradigmi, i da iz nje konsuno izvedu sve društvene: relacije, funkcije i posledice. Sa druge strane, sekularizam traga za „slobodom-od“, za jednom totalitetnom dekompozicijom paradigmatičnih uzora, gde će „sloboda-sama-po-sebi“ biti paradigma izpoljavanja, a svi ostali udeoni (parcijalni) ili sveobuhvatni (holistički) sadržaji biće preseljni u sferu privatnosti.<sup>39</sup> U današnjim oktroisanim sekularističkim društvima zapadne Evrope, gde je uveliko na delu konfesionalna i religijska pluralizacija, postoji tendencija da se sve verske zajednice postave da egzistiraju više-manje izključivo subkulturalno.<sup>40</sup> Sekularni Zapad je napravio

<sup>39</sup> Na ovu temu: José Casanova, „Religion, European secular identities, and European integration”, <http://www.eurozine.com/religion-european-secular-identities-and-european-integration/>, 2006, p.9: „Internal differences notwithstanding, western European societies are deeply secular societies, shaped by the hegemonic knowledge regime of secularism. As liberal democratic societies they tolerate and respect individual religious freedom. But due to the pressure towards the privatization of religion, which among European societies has become a taken-forgranted characteristic of the self-definition of a modern secular society, those societies have a much greater difficulty in recognizing some legitimate role for religion in public life and in the organization and mobilization of collective group identities.“

<sup>40</sup> Na subkulturalno tretiranje religijskih zahteva koji nadilaze svet privatnosti ukazuje i čuveni sociolog religije Petar Berger. Tako npr. nailazimo na njegovu sledeću konstataciju: Peter L. Berger, *Between Relativism and Fundamentalism – Religious Resources for a Middle Postion*, Wm. B. Eerdmans Publishing, 2009, p.10: „(...) this kind of subcultural fundamentalism becomes ever more difficult under modern conditions, because the walls of separation from the outside world have to be kept very strong and in good repair.“

vidne pomake kada je od „verskih sloboda priznanja prava svakome da upražnjava sobstvenu veru“, uznapredovao ka „slobodi veroispovedanja“ koja omogućava maksimalne standarde u pravu na izpovedanje vere unutar sobstvene subkulture ukoliko to ne ugrožava prava drugih.<sup>41</sup> Sekularisti, međutim, ostaju pri dogmi da sve ono što ima pretenziju da iz sfere verske privatnosti zađe u oblast javnog, sve ono što iz intimističkog područja prerasta u društvenu afirmaciju sa političkim ambicijama treba neumoljivo saseći u korenu jer predstavlja opasnost po ustavni poredak i opštu bezbednost savremenih (formalnih) demokratija. Nemogućnost da se verski život satkan od filigrantskih integrističkih veza koji čine osnovu njihovih života ostvare u sekularnom društvu (a fundamentalizam je njegovo najradikalnije obeležje) izrodiće kod dela najpredanijih vernika jednu vrstu agresivne frustracije zbog nemoći da život usklade sa puninom bića vere (koja nudi odgovore na sva moguća životna pitanja). U sekularnom poretku društvenih odnosa moguća je samo uslovna sloboda – sloboda do izvesnih granica. Sve van toga pripada ograničenju ustavnog poretka koji štiti prava drugih da u privatnim odnosima upražnjavaju „sobstveno-videnje-sveta“.<sup>42</sup> Tako ovaj konflikt kao sudar dva holizma i dva dijametralna pogleda na život, dve oprečne i totalitetne vizije sveta, ostaje i u budućnosti nerazjašnjen. Sekularistički poredak „slobode-od“ tretiraće verski integritizam kao „zastareo model mračnog srednjeg veka“, a sam verski fundamentalizam kao najradikalniju varijantu političkog ekstremizma koji odbacuje vrednosti Moderne: formalnu slobodu, jednakost, zaštitu privatnog poseda...

Sada dolazimo do ključnog pitanja koje glasi: Kako izgleda percepcija migranta, novopridošlice u sekularno društvo Zapada, koji od običnog muslimana i islamiste postaje zagriženi vernik, koji se kako vreme odmiče preobraća se u fundamentalistu (i potencijalnog teroristu). Ponajpre, on je razočaran postojećim odnosima „mehaničke-moći-iz-interesa“ u društvu u koje se nastanio, gde ne vladaju suptilni društveni odnosi svojstveni zajednici iz koje je došao. Nemoć da bude prihvaćen pojačava njegova percepcija da je novo društvo u kome je nastanjen pod snažnim dejstvom arkanskih sila koje usmeravaju društvo ka sinkretizmu i razuzdanim slobodama. Javlja se potreba da učini nešto kako bi izbavio svet od palosti u krivicu i greh, da treba nešto da preduzme i da se tako izkupi pred Bogom.<sup>43</sup> Od početne razočaranosti sredinom u kojoj živi, on se podpuno povlači iz svakog oblika spoljnog angažovanja u svetu. Sada već odbija da se adaptira u novopridošlu sredinu.<sup>44</sup> Vremenom se povlači u sebe, okreće se veri – u njoj traži spas. Na izvorištu je verskog učenja: marljivo iztražuje izvore vere, sve više uviđa razlike između „čiste vere“ i „verske prakse“.<sup>45</sup> Vernik postaje dogmatičan: cepidlači u nijansama, emotivno se izpunjava starim izvornim tekstovima i „onim kako se nekada živelo u čistoti vere“.<sup>46</sup> Kako vreme odmiče sve se više utvrđuje u fundamentalizmu. Dobija potrebu da veru obznani u obliku kakva je izprva bila: čista i neukaljana raznim novotarijama ekumenizma i sinkretizma. I najmanja nadogradnja za njega je odstupanje i jeres. Još kasnije fundamentalista dobija potrebu ne samo da opšti izključivo i samo sa drugim istomišljenicima, već i da dela: da se povezuje u male društvene grupe ogrezlih fundamentalista. Oni su sada nošeni jakom zajedničkom svešću da rade nešto izpravno. U svom radu fundamentalisti i potencijalni verski teroristi deluju fanatično: nespremni su na kompromise, preziru alternativna rešenja, stvari predstavljaju „u crno-beloj tehnici“,

41 O ovome u: Geneviève Koubi: „La liberté de religion – une liberté de conviction comme une autre“, Les défis des droits fondamentaux, 37-49, Bruylant/AUF, Bruxelles, 2000, p.38: „Le repositionnement d'un débat à propos des droits fondamentaux en matière religieuse qui s'ensuit, contribue à la connaissance de la nuance qui s'insinue entre la liberté de religion et la liberté religieuse.“

42 Paul Taylor, Freedom of Religion – UN and European Human Rights Law and Practice, Cambridge University Press, Cambridge, 2005.

43 Harun Yahya, L'islam dénonce le terrorisme, Essalam, Paris, 2004, p.144.

44 Rex Hudson, „The sociology and psychology of terrorism – who becomes a terrorist and why?“, Federal Research Division, Library of Congress, Washington DC, 1999, p.24.

45 Peter Hill, William Williamson, The psychology of religious fundamentalism, Guilford Press, 2005, p.9.

46 Israel Shahak, Norton Mezvinski, El fundamentalismo Judío en Israel, Pluto Press, Londres, 2004, p.44.



rigidno veruju, a percpecija stvarnosti im se svodi na „zatvoreni um“.47 Uključuju se u borbu za spas sveta koja ponekad podrazumeva sva sredstva: od propovedi i agitacije, preko „prljanja u bezbožnom svetu“, sve do objave „svetog rata“. U današnje vreme pojačane socijalne kontrole, koja ima razrađene najsuptilnije mehanizme preventivnog delovanja, „sveti rat“ se sveo na mučke atake po civilnim žrtvama.

### Islamski terorizam

Podaci opominju da iza mase verski motivisanih terorističkih akata islamski terorizam učestvuje sa preko 4/5 ili 80%.48 U novije vreme tendencije ukazuju da 9 od 10 terorističkih akata počine islamski fundamentalisti ili bar islamisti.

Jedan od prvih ozbiljnijih napada novijeg vremena zbio se u njujorškom Svetskom trgovinskom centru 1993. godine, kada je poginulo 6, a teže ili lakše ranjeno 1.042 osobe (odgovornost za akt je preuzela „Gama Islamiya“ – Gamaa Islamiya). Alžirski fundamentalistički pobunjenici u više navrata su delovali po civilnim ciljevima u Alžiru tokom 1993, 1994, i 1995. godine. Negde u isto vreme, 1996. godine, došlo je do napada na civilne objekte nedaleko od američke vojne baze u Saudi Arabiji od strane islamskih ekstremista.

Od 2000-te godine naovamo međunarodni terorizam dobija na zamahu, a religija igra važnu ulogu u geopolitičkim sukobima: 2001. godine gine preko 3.000 ljudi u rušenju „kula-bliznakinja“ Svetskog trgovinskog centra za šta se optužuje „Al Kaida“; 2002. godine u moskovskom pozorištu „Dubrovka“ poginulo je 170 lica od strane čečenskih fundamentalističkih terorista; 2004. u školi u Beslanu (Severna Osetija, Ruska federacija) stradalo je 344 žrtve od čega čak 186 dece – odgovornost je preuzela čečensko-inguška separatistička islamistička organizacija; 2004. u eksploziji bombe na železničkoj stanici u Madridu (Španija) gine 192 civila i preko 2.000 ranjenih; 2010. godine u moskovskom metrou 40 mrtvih i preko 100 ranjenih, odgovornost preuzeo „Kavkaski emirat“; 2011. „Bombardovanje na Uskrs“ u severnom, pretežno hrišćanskom delu Nigerije u crkvama u Madali, Josu, Gadaki i Damaturi odnelo je preko 100 života; iste 2011. bombaš samoubica u Iraku odneo je preko 130 života; u oktobru 2011. u glavnom gradu Somalije Mogadišu islamski fundamentalisti su pobili preko 100 ljudi i još 110 ranili; 2013. godine u baločistanskom šiitskom sedištu, gradu Kveti (Quetta), stradalo je preko 130 ljudi od strane suni-ekstremista; 2014. islamska fundamentalistička teroristička organizacija „Boko Haram“ izvršila je upad u hrišćanska sela savezne države Borno u Nigeriji i pobila 200 civila mahom žena i dece, pa je čitav slučaj zaveden u evidenciji pod imenom „Borno masakr“; iste 2014. teroristička organizacija ISIL je napravila masakr u Siriji odnevi preko 700 života civila, žena i dece; krajem 2014. pripadnici ISIL-a izvršili su egzekuciju nad 150 žena u zapadnoiračkoj provinciji Al Anbar; pred sam kraj godine talibani izvode tzv. „Peševarski masakr“ u jednoj školi u Peševaru (Pakistan) gde je pobijeno preko 140 dece i osoblja škole; januara 2015. godine zbio se 5 uzastopnih napada u predgrađima Pariza, ubistvo novinara i urednika redakcije satiričnog časopisa „Šarli Ebdo“ (Charlie Hebdo); tek što je nova 2015. počela „Boko Haram“ ponovo dejstvuje po hrišćanskim naseljima u severoistočnoj Nigeriji gde se dešava novi, sada: „Baga masakr“ u kome ponovo strada preko 200 civila, mahom hrišćana; 31. oktobra iste godine eksplozija bombe na liniji Šarm el Šejk – Sant Petersburg, 224 stradala putnika, odgovornost preuzeo ISIL; u seriji bombaških aktivnosti po Parizu i Sent Deniju od 9-11. novembra za akte čiju je odgovornost preuzeo ISIL stradalo je 137 ljudi i 368 ranjeno; 22. mart 2016. godine teroristički napad na briselski aerodrom i metro-stanicu, stradalo 35 ljudi preko 300 ranjenih, odgovornost preuzeo ISIL; 12. jula 2016. u noćnom klubu u Orlandu u saveznoj državi Florida (SAD) pripadnik ISIL-a

47 Rex Hudson, „The sociology and psychology of terrorism – who becomes a terrorist and why?“, Federal Research Division, Library of Congress, Washington D.C., 1999, p.32.

48 Richard Jackson, „Constructing Enemies – Islamic Terrorism in Political and Academic Discourse“, Government and Opposition, Vol.42, N°3: 394-426, Cambridge University Press, Cambridge, 2007, p.398.

pobio je 49 i ranio 53 civila; pred sam istek 2016. godine u tzv. „Berlinskom napadu“ ubijeno je 12, a ranjeno 56 civila, odgovornost je preuzeo ISIL; konačno u tekućoj 2017. godini na Cvete u bombaškom napadu u gradovima Tanta i Aleksandrija (Egipat), na prepad u koptskoj katedrali mučki je ubijeno 47 hrišćana i preko 100 ranjeno; 2017. u Mačesteru na koncertu muzičke pop-pevačice Arijane Grande pojedinac-samoubica usmrtio je bombom razorne moći 22, a ranio 129 lica; samo mesec dana kasnije na Londonskom mostu (Old London Bridge) terorista je usmrtio 11, a ranio 48 civila, pri čemu su odgovornost za napad preuzeli islamski ekstremisti, pojedinci među kojima ima i britanskih državljana; konačno napad koji se zbio u avgustu mesecu 2017. godine u Barseloni u kome je ubijeno 15, a ranjeno 120 civila na popularnom šetalištu „Rambla“ u sred dana, za koji su odgovornost preuzeli pojedinci tzv. „čelije-spavači“ islamskih fundamentalista i ekstremista.

Ono što se na osnovu navedenih činjenica može zaključiti je: 1) da napadi u zapadnim zemljama ipak nisu praćeni tako masovnim žrtvama kao u nekim zemljama Afrike i Azije; 2) sve su učestaliji teroristički akti u društvima Zapada; 3) u najnovije doba trend je da terorističke akte ne počinjavaju terorističke grupe, već tzv. „čelije-spavači“ koje se sastoje od svega 2-3 člana, pa se čak radi i o pojedinačnim aktima, što znatno otežava praćenje ovih lica i stavljanje pod nadzor i neutralizaciju; 4) konačno, panika i nespokoj među stanovništvom, i test provere bezbednosnih mehanizama država je na ispitu, i predstavlja savremeni oblik vođenja globalnog rata, gde god je to moguće i svim raspoloživim sredstvima.

Ono što ostaje kao upečatljiv utisak jeste da su napadi manje masovni ali učestali, te da ih odlikuje najmanja moguća očekivanost. Zanimljivo je da su najnovije terorističke akte učinila lica koja su čak legalni državljani zemlje u kojima su izveli terorističke akte, potomci migranata iz druge generacije, gotovo savršeno adaptirani na društvo u kome su rođeni. Posebnu opasnost predstavlja upravo uvoz terorista i potencijalnih ekstremista iz islamskih zemalja koji stižu na valu Velikog evropskog migracionog talasa. Ovde se sada vraćamo na početak rada sa pitanjem: Mogu li hiljade novih imigranata, nosioca uvezene radne snage za zahuktalu kapitalističku privredu „zemalja centra EU“ da uvezu i izvestan broj dobro obučениh terorista, duboko motivisanih, i fundamentalistički nastrojenih, koji u zapadnoj civilizaciji vide samo dekadentnost savremenog čoveka koji se otuđio od tradicionalnih vrednosti zajednice u kojoj su: deca i porodica na prvom mestu?

### **Zaključna razmatranja**

Na samom kraju, prirodno, nameće se pitanje: Koliko su islamski fundamentalizam, odnosno sekularizam uzroci migratornih kretanja? Svakako da religijski razlozi ne mogu biti glavni zamajac migracija. Povod za Veliki evropski migracioni talas pre svega je ekonomski. Zahuktale privrede nekoliko razvijeni zemalja EU, a pre svega Nemačka, imaju problem sa nedostatkom radne snage, najviše usled starenja stanovništva, ali i zbog dešavanja na međunarodnom tržištu rada gde je svetski trend obaranje cene rada kako bi se pariralo tržišnoj ponudi Kine koja nudi drastično jevtiniju robu za masovna tržišta roba.

Pa ipak, i religijski razlozi igraju ulogu u migracijskog krizi iako spadaju u uzroke slabijeg intenziteta. Najpre, migracije mogu predstavljati jedan od oblika svetog rata, džihada. U očima islamskih fundamentalista Zapad je obezbožen i u rukama je đavola. Po učenju islamskih fundamentalista: Zapad treba osloboditi zaposednutosti i vratiti ga na put Poslednje božije objave – jedine ispravne (muhamedove) vere. Sveti rat za spas duša obezboženih moguće je ostvariti i migracijama koje očima islamskih fundamentalista predstavljaju legitimno sredstvo „svetog rata“. Da u tome ima istine ukazuje i podatak da useljenički prirast muslimana u srce Evrope i njihov demografski rast donose značajnu promenu u zapadna društava zahvaćena vitalnom dekadencijom i niskim natalitetom, te visokom stopom starosti stanovništva.<sup>49</sup> Svedoci smo svojevrsnog „islamskog buma“

<sup>49</sup> Report, „An Uncertain Road – Muslims and the Future of Europe“, The Pew Forum on Religion and



u srcu Evrope gde značajna populacija muslimanskog stanovništva (koje sada u nekim zemaljama EU doseže i blizu 10%) ne iskazuje preteranu revnost da se podpuno integriše u evropske postmoderne civilizacijske tokove. Oni žive na rubovima evropskih društava, najčešće subkulturalno, zatvoreni u svojevrsna geta. Nemoć da u getima ostvare puninu sadržaja svoje vere koja je za njih sam život i sreća, frustrira ih i uvodi u lanac islamizma i fundamentalizma koji ih podpuno izključuje iz novog sekularnog poretka, i okreće verskom ekstremizmu i avanturizmu sa potencijalno nesagledivim posledicama. Na sve to sekularna društva Zapada nemaju ništa novo da ponude kako bi se ovo stanje prevazišlo. Čak šta više, ona očekuju nove predloge i ideje stručne i naučne javnosti, i već tu pokazuju kašnjenje za zadatim okvirima u koja su saterana. Mere sekularista svode se na: čekanje, praćenje i ulaganje u bezbednosne mere kako bi se smanjila potencijalna šteta od delovanja terorističkih grupa islamskih fundamentalista i ekstremista. Ipak, ni fundamentalisti ne sede skrštenih ruku. Oni su već objavili novi rat, „satanističkom poretku koji otuđuje čoveka od Boga“, i ne odustaju od savremenog oblika ratovanja u kome dobro indoktrinirani pojedinac može u datom trenutku da nanese veliku štetu na bilo kom mestu i bilo kada. Rešenje za ovakav oblik specijalnog rata za sada ne postoji, jer bi on podrazumevalo masovno praćenje pojedinaca koji ulaze na migracijskom talasu „nove seobe naroda“, što je tehnički neizvodljivo.

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## **MIGRATION PROCESSES AND CROSS-BORDER COOPERATION IN THE WESTERN BALKANS IN A MODERN ECONOMIC ENVIRONMENT**

### **Abstract**

*Cross-border cooperation is an integral part of the EU regional policy created with the aim of improvements of economic and social cohesion and also reducing vast differences in the levels of development of European regions. It's primary objective is to establish full reciprocal partnership between the border areas of different countries. From the start of the stabilization and association, Western Balkans have evolved different forms of support programs, through cross-border and regional cooperation. In addition to encouraging the interconnection in the implementation of these programs, a great importance is given to establishing partnerships with countries that are already members of the European Union. Membership in the EU should be understood as a means of achieving developed and stable democracy, economic prosperity and social welfare. In this regard, it is necessary to direct an coordinated involvement of all participants of the political and social life, from political parties, institutions and state authorities to civil society. Balkans region has significant strategic position in international trading routes and its countries are well suited to be competitive in certain fields on the world economic stage. However, there are many challenges and problems facing the regional cooperation, but many of which can be tackled by the people and authorities of Balkans. Serbia with the countries of Southeast Europe achieves a high level of trade, which accounts for more than on third of exports and about one-fifth of the total Serbian imports. Largest trade, and surplus, Serbia has with CEFTA members, which is not only a consequence of the proximity, as well as the liberalization of trade and investment. Geographical proximity and cultural familiarity, which Serbia has with most countries of Balkans, makes this region very important for our country's position on the European and global market. Since the 1980s, the political construction of migration increasingly referred to the destabilizing effects of migration on domestic integration and to the dangers for public order it implied. The spillover of the internal market into a European internal security question mirrors these domestic developments at the European level.*

*Key words: Serbia, cross-border cooperation, economic prosperity, development, european integrations, Western Balkans, migration.*

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## **Introduction**

The processes of tertiarization and extermalization, inherent in the global economy, are manifested nowadays in the area of improving the service economy. This is especially prominent in developing countries, where they are characterized by the dominant role of the services sector, and a high level of economy tertiarization of these countries. Product extermalization is achieved through a variety of services, which are used as intermediate inputs in the production of material and tangible products, as well as the support services that arise after production. The creation of the European Union there led to a significant change in the balance of forces in the world. Uniting some of the economic and economically stable countries in the world, along with their political power and influence, led to the emergence of a very important new factor on the world stage.

The development of a common migration policy in the European Union (EU) is embedded in wider societal, political and professional processes that articulate an endangered society. Western European welfare states face a multiplicity of challenges to their mechanisms of societal integration and political legitimacy. These include economic and financial globalization, the rise of poverty, the deterioration of living conditions in cities, the revival of racist and xenophobic parties and movements, the estrangement of the electorate from the political class, and the rise of multiculturalism. In this setting migration has been increasingly presented as a danger to public order, cultural identity, and domestic and labour market stability, it has been securitized. Although the social construction of migration as a security question is contested (for example by social movements supporting a liberal multiculturalism it results from a powerful political and societal dynamic reifying migration as a force which endangers the good life in west European societies.

Cross-border cooperation can be seen as part of an integrated approach to management through different levels (supranational, national, sub-national) to improve horizontal territorial cohesion throughout the united Europe. Certainly, it should be emphasized that the focus of cross-border cooperation remains focused on the cooperation between the various institutional actors and functional characteristics (local and regional authorities, educational, cultural institutions, business associations and civic associations), which re divided by borders in a given cross-border area. In considering the relationship of regional and national policies of the European Union, even when interpreting the manner of formation of the Union and its specific features, the starting point is always on its transnationality and the benefits that membership provides to the member countries. It is often stressed that the Union does not abolish nationality, national identity, national interests, but these are only slightly adjusted. The resistance that is often felt by the Union among the citizens of the Union and the candidate countries comes from two sides: from the lack of information about the Union on the one hand, and the fear of extinction of the nation and its assimilation into a European nation, on the other hand.

In the Western Balkans, CARDS enabled a strategic approach to assist the countries and the region and aims to support the process of accession to the EU so as to set a strategic framework for relations with the EU. As it was defined in the CARDS regulation regional, cross-border, transnational and interregional co-operation must play a key role in relation to the extension and reconciliation. In order for the benefit of the program of cross-border cooperation on the European continent to be complete, the legal and operational framework for cross-border cooperation programs financed from these instruments must comply with the regulations of the European Regional Development Fund. In the future, it is certainly necessary to include these programs of cooperation at the external borders into the framework of the European territorial cooperation, as well as supplemental financing from the regional policy and structural funds, especially in the field of cross-border cooperation so that its potential could be further utilized and in

order to achieve the main goal - a balanced development of the region within the borders of the European Union as well as on them.

In the countries of the subregion of the Western Balkans the relations and cooperation are much better than in previous years, while the involvement of the Republic of Serbia stands out in the process of regional cooperation also through the presidency of the regional organizations. The priorities in the region are considered to be the economic and social cooperation, cooperation in the field of justice and home affairs, and energy and infrastructure development. Also, an increasing importance is given to the development of “human capital”, education and training of people, which is a sign of maturity in the region. Then the issue of human rights is naturally imposed, as well as social inclusion and cultural co-operation, where there was some resistance for years. Analysts believe that the inclusion of non-governmental organizations in the work of regional initiatives has contributed to the process of regional cooperation and the European integration process.

### **Migration processes and the Western Balkans in the conditions of the economic crisis**

During the peak of the European migration and refugee crisis, hundreds of thousands of asylum seekers and migrants arrived in the European Union via the Western Balkans. In 2015, 600,000 registered at the Presevo camp alone, on the border of Serbia and the former Yugoslav Republic of Macedonia (FYROM). Key components of crisis management fell to non-EU states along the Western Balkans route, primarily Serbia and the former Yugoslav Republic of Macedonia, which paradoxically were not consulted on broader, European-wide responses. The Western Balkans geographic region—comprised of Albania, Bosnia and Herzegovina, Croatia, Kosovo, former Yugoslav Republic of Macedonia, Montenegro, Serbia, and Slovenia—is no stranger to refugee flows, having itself experienced massive displacement as a result of violence and ethnic cleansing during the 1990s. While Balkan countries at first opted to facilitate the movement of asylum seekers through their territories, to pass on responsibility for them, pressure from EU Member States ultimately led to a domino effect of border closures and increasing restrictions on movement as the crisis wore on.

As a series of cascading border restrictions in Republic of Macedonia, Serbia, Croatia, and Slovenia closed the Western Balkans route, the number of people moving dropped dramatically. Migrants still wishing to travel north were pushed into more dangerous irregular channels in remote areas, and many became subject to police violence. Such practices are not unheard of within the European Union itself, but the trend carries worrisome implications for countries still consolidating democratically and developing the rule of law. Further, while many perceive the crisis in the Balkans to be over, thousands of migrants remain in limbo, stranded in countries along the route - nearly as many as in 2016. This article outlines the critical role played by countries along the Western Balkans route during the height of the crisis, charts the gradual closure of the route, and examines the political implications of migration for these countries and their EU accession aspirations.<sup>3</sup>

The route north through the Western Balkans is not a new one, and has long been a pathway for those coming from the Middle East or Eastern Africa. Hundreds of thousands from within the Balkans also used this route to flee violence during the 1990s, when the region was primarily one of origin, not transit. In fact, an influx of Yugoslav refugees in the early part of the decade led to the development of the Common European Asylum System (CEAS), which today finds itself under significant pressure. After the European Union opened up visa-free travel for Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, and Serbia in 2009-10, some

<sup>3</sup> Huysmans, J., *The European Union and the Securitization of Migration*, University of Kent: Journal of Common Market Studies, 2000, pp. 20.

from the region joined African and Middle Eastern flows seeking asylum further north.

In mid-2015, the number of irregular migrants passing through the former Yugoslav Republic of Macedonia and Serbia increased dramatically. Pressure on the two governments to address the flows grew, particularly amid reports of migrants suffering abuse at the hands of authorities and being struck by trains along railway lines. The former Yugoslav Republic of Macedonia responded by declaring a state of emergency at its borders. In November 2015, in an attempt to start managing and reducing flows, both governments enacted legislation allowing migrants to register "intent to seek asylum" upon entry and receive a 72-hour temporary permit to be in the country. This move created a fluid, hyper-temporary, semi-legal status that would become problematic later on.

While facilitating transit, countries along the route introduced new national legislation and interpreted EU law in a manner that reduced the numbers traveling north. As candidates for EU membership (Slovenia and Croatia have been EU Member States since 2004 and 2013 respectively), these countries were also obliged to adopt EU-style asylum laws as part of accession negotiations. Because there were multiple routes north, if one country adopted restrictions others quickly followed suit to avoid responsibility for trapped migrants, resulting in a de facto coordination tacitly encouraged by EU Member States. In November 2015, the former Yugoslav Republic of Macedonia, Serbia, and others enacted border controls to allow only migrants from Syria, Iraq, and Afghanistan to pass through, creating a hierarchy of "deservingness" based on nationality—which did not go unnoticed by migrants.<sup>4</sup>

At the start of 2016, a number of EU Member States, often led by Austria and Germany, began imposing their own restrictions, unleashing a ripple effect of responses further south. Slovenia and Croatia adopted quotas to limit passage, aggravating the situation at the Greek-FYROM border. Meanwhile, the former Yugoslav Republic of Macedonia had begun constructing a fence while periodically closing its border with Greece, going so far as to use tear gas to counter protests and barrages. In April 2016, a deal between the European Union and Turkey took effect, seeking to curb migrant flows across the Aegean Sea by returning to Turkey those who had newly crossed into Greece. In exchange, the European Union agreed to give Turkey 6 billion euros and speed up visa liberalization for Turks. While the deal has been highly credited with stemming flows, the actions of countries along the Western Balkans route also played a significant and perhaps less-appreciated role. The former Yugoslav Republic of Macedonia responded to the deal by effectively closing its Greek border, again setting off a domino effect of restrictions. Any remaining migrants became trapped in the bottleneck, where they were ushered into reception camps.

Those who pressed on with their journey north now moved in clandestine fashion. Travel became more difficult, expensive, and dangerous due to strict police checkpoints and the threat of theft, assault, or kidnapping by gangs and smugglers. As the Balkan approach to migration turned hardline, police guarding borders into the former Yugoslav Republic of Macedonia, Serbia, Bulgaria, and Hungary began using detention, violence (including use of dogs and beatings), or theft of migrants' belongings to intimidate and deter people from attempting to cross. Further, those who successfully crossed could still be pushed back across the border, even if they applied for asylum, according to media and human-rights group reports. In February 2017, Hungary passed a law saying that pushbacks were legal within the entire country, not just in the border transit zones.

The Western Balkan countries remain an area of interest to those with a stake in migration issues. Despite the region's common recent history, the Western Balkans are very diverse as regards migration issues: some are plagued by poverty and high unemployment rates that generate large outflows of migrants, while others already attract immigrants to fill the labour shortages in certain booming sectors of their economy.

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<sup>4</sup> Šabić, Š., Borić, S., *At the Gate of Europe: A Report on Refugees on the Western Balkan Route*, Sarajevo: Friedrich Ebert Stiftung Southeast Europe, 2016, pp. 34.

Much of the emigration from the region is directed towards more developed countries, but considerable intraregional movements also occur. The process of accession to the European Union has further diversified the region and the opportunities and mobility of its nationals. One of the obstacles to the successful development of adequate policies and programmatic responses to migration issues in the region is the lack of knowledge and reliable information on migration trends and on the latent migration propensity from the Western Balkan region.

### **The concept of economic development of the subregion in the Western Balkans**

The nineties were characterized by a negative image in the relations between the countries of South Eastern Europe, especially the countries of the former Socialist Federal Republic of Yugoslavia, which resulted in a four-year civil war (1991 to 1995), as well as internal problems that occurred in Macedonia and Albania. The above mentioned situation significantly led to the displacement of tracks of these countries regarding their EU membership, actually these circumstances led them away from this track. Only at the end of the twentieth century did the Western Balkan countries start their "belated integration."<sup>5</sup> Return or approach required a series of radical reforms in post-conflict societies in whole. Today, all the countries formed after the dissolution of the SFRY, managed to renew their membership in the Council of Europe (CoE) and the Organization for Security and Cooperation in Europe (OSCE), yet are located at different distances from membership in the EU and NATO.

The rapid collapse in the accession process primarily for the countries of the former Yugoslavia was stopped after signing of the peace agreement in Dayton and Paris in 1995 and Erdut and, in the political sense, marked the new era in which the EU seeks to contribute to the Stabilization of the political and security situation, economic development and reconstruction and reconciliation in this area. In an effort to contribute to the preservation of peace which is still fragile, in 1996 the European Union formulated a comprehensive policy approach by setting a framework for the promotion of bilateral relations between the countries of the South East Europe and the European Union.

The principles in the development of relations between the Western Balkan countries with the EU are identical to those that were in force for the countries of Eastern and Central Europe, namely: the necessity of promoting democracy, the rule of law, human and minority rights and freedoms, the encouragement of economic transformation and the promotion of regional cooperation and defining the principles for the establishment of contractual relationships that are equal for all countries in the region. This approach specifies the concrete forms of cooperation and objectives or general and special requirements for its improvement. The main objectives of the regional approach to South Eastern Europe are reflected in the political and security Stabilization, economic reconstruction and development and promoting regional cooperation. Since the achievement of these objectives is only possible by parallel commitment of the EU and the countries of the region, the EU has offered several forms of cooperation and assistance adapting them to the current post-conflict and individual circumstances.

In May 1999 the European Commission proposed a new innovated model of relations with the countries belonging to the region that were called Western Balkans titled the Stabilization and Association Process (SAP)<sup>6</sup>. This proposal was acknowledged and accepted by the EU Council of Ministers in June 1999, which represented the opening process for the Western Balkans.

Members of the Western Balkan countries are: Croatia, Bosnia and Herzegovina, Serbia, Montenegro, Albania and Macedonia. The main objective of this process are bilateral and regional cross-border activities in order to initially ensure their Stabilization

<sup>5</sup> Lopandić, D., *Reforma Evropske unije, Zapadni Balkan i Srbija*, Belgrade: The Institute of Economic Sciences, 2007, p. 22

<sup>6</sup> Mišćević, T., *Pridruživanje Evropskoj uniji*, Belgrade, 2009, p. 151

and then joining the Union. This process is related to the promotion of economic and trade relations through trade liberalization and the creation of a free trade zone, the improvement of the existing economic, budgetary and financial assistance for the development of democracy, civil society, education and institution building through the fund for pre-accession assistance of the EU - CARDS program.

Regional approach 1996/1997
Agreement on cooperation and trade,
Autonomous trade preferences (ATP ),
Financial and technical assistance by PHARE and OBNOVA,
Regional cooperation.
Stabilization and Association Process 1999
Agreement on stabilization and association,
Autonomous trade preferences (ATP ),
Financial and technical assistance by PHARE and OBNOVA,
Regional cooperation.
Improved Stabilization and Association Process 2003
Agreement on stabilization and association,
Extraordinary trade preferences (ETP ),
Financial and technical assistance by CARDS , twinning, TAIEX,
Political forum EU - WB,
European partnerships,
Regional cooperation.

*Table 1: Development of the EU policy towards the Western Balkans<sup>7</sup>*

As it was stated, the European Union launched the Stabilization and Association Process for the countries of Western Balkans in 1999 which aims at the Stabilization of the whole region, as well as post-conflict areas, and opening the perspective of EU membership. The Stabilization and Association Process is an instrument of foreign policy of the European Union which is designed to stabilize the political, economic and social conditions in the countries of the Western Balkans and the maintenance of peace in the region after the political crisis and the wars in the former Yugoslavia. The aim of the Stabilization and Association Process is the creation of stronger political and economic ties between the countries, which is also in the process of the European Union, as a major economic power on the continent. The aim is to stabilize the economic situation in the countries of the Western Balkans and eliminate the sources of radicalism that were the main reason for the wars of the nineties. The Stabilization and Association Process is the basic framework for the relations of the countries of the Western Balkans and the EU until their entry into the EU.

At the summit in Thessaloniki in 2003, the European Union guaranteed the European perspective for all Western Balkan countries, provided that they enter into the EU individually, in accordance with the speed of progress of reforms, and not as a group. The main instrument of the Stabilization and Association Process is the Agreement on Stabilization and Association, by which the prospective member countries govern their relations with the European Union.

Western Balkan countries are at different levels of relations with the European

<sup>7</sup> Dragojlović, N., Srbija u procesu evropskih integracija, Belgrade, 2012, p. 55



Union in the Stabilization and Association Agreement. However, in this process there are several common phases:

- Monitoring and evaluation of the reform process - includes a mixed, technical group made up of representatives of the authorities of the Western Balkans on the one hand and representatives of the European Commission on the other hand. These working groups were formed with the main task to monitor, or to have an insight into the state of law, economy and political system of each country and provide joint recommendations for monitoring the standards that exist in the EU. The beginning of their work represents the beginning of the integration process of the counties of Western Balkans. The work of the technical follow-up continues in the later stages of accession.
- Feasibility study - presents a report that on the basis of monitoring and success in the progress of reforms, the European Commission notes whether the country is able to open negotiations for the conclusion of the Stabilization and Association Agreement. Based on these studies it is estimated that the government has taken on the level of reform that is the basis for the beginning of negotiations and at the same time provides a proposal to the Council to open these negotiations.
- The negotiations for the conclusion of the Stabilization and Association Agreement – they start when the EU Council of Ministers, on a proposal from the Commission, adopts a mandate under which the Commission is involved in negotiations. The mandate, all the Member States being included in its draft, actually provides the basis for a draft agreement on Stabilization and association, along with which is negotiated with the countries of Western Balkans.
- Application for membership - there is no precisely defined time when a Western Balkan country can submit candidacy. The country must estimate the time itself or in consultation with the European Commission. In accordance with the practice, the country submits the nomination, having clearly demonstrated that it has met certain requirements under the Stabilization and Association Agreement, or until it takes the first steps in its implementation.
- Evaluation of the European Commission on the application for membership - the Commission gives the future candidates a set of a large number of questions (in case of Macedonia and Croatia there were more than 4,000 questions) and asks for a detailed explanation about all the public authorities, civil society, economy, law etc.
- Negotiations on entry into membership - are much more comprehensive and complicated than the negotiations on concluding the agreement, they start with a so-called screening, which in practice is a more detailed overview of national legislation in all fields.
- Conclusion of the agreement on entry into membership - stems after they all the obligations defined by the Stabilization and Association Agreement have been fulfilled. Then the Agreement on Membership can be concluded, which shall include all the agreements reached. After the ratification of this agreement by the candidate country and all the EU countries, the country becomes a new member of the EU.

Uneven pace of the Western Balkans in the European integration process is found in a complex system of obligations, namely the conditions that must be met, which are accompanied by the problems that these countries face in meeting these requirements. For the Western Balkan countries, there are three levels of requirements defined in the various documents of the European Union:

1. The first level - the Copenhagen criteria - when one defines the basic economic, political, legal and administrative criteria, and given the possibility that the Union itself estimates that it is able to withstand the new extension,

- they become binding for all countries that want to join the EU, so these are the basic requirements for each individual country in the Western Balkans,
2. The second level - responsibilities of the Stabilization and Association Process – these are the requirements defined by the European Union policy towards the Western Balkans generally, and related to the Stabilization of the region (economic, political and safety), the establishment of regional cooperation, the return of refugees, with special emphasis on the fulfillment of international obligations (cooperation with the international criminal tribunal in the Hague for the former Yugoslavia)
  3. The third level - individual obligations of the Western Balkans - which are defined as short-term and medium-term priorities of each country separately, listed in the European Partnership for a given country. This document accompanies the annual report of the European Commission for each country, and makes a cross-section of what the country has fulfilled, and what still needs to be fulfilled on its way to European integrations.<sup>8</sup>

In addition to the above requirements and the stages that Western Balkan countries must meet, there is another important issue, which is the willingness of the Union for a new enlargement and a fearful attitude, due to lessons learned related to the expansion of 2004, 2007 and 2013. During this period, a larger number of countries, as entered the Union as new members, which led to significant problems in the functioning of democratic institutions. From the perspective of the Western Balkan countries, this problem manifests itself through continually adding new conditions for membership. However, it is not a new situation, but a much more rigorous assessment of their implementation in relation to the countries - earlier candidates. Another problem is the crisis in the EU, as evidenced by numerous failures of the referendum of the Constitutional Treaty of Europe in some Member States, the adoption of a new agreement from Lisbon and the current developments in relation to its ratification.

Instructed by the mentioned experience, the EU seeks to allow countries of the Western Balkans through the SAP as well as using all the instruments introduced under this process ensure their target and efficient integration. In this way it allows the countries of this region that, going through all the stages of this complex process, they become fully prepared for possible membership. As the development of such policy is largely inspired by the development of the expansion policy toward the countries of the CIA, so is the introduction of individual instruments of SAP based on the positive experience of these in the context of the previous enlargement.

The most important instrument of the Stabilization and Association Process is the agreement is that establishes association of these countries. The Stabilization and Association Process (Stabilization and Association Agreement - SAA) is the legal basis of the first contractual relationship, which lays the foundation for the establishment of a special, highest form of cooperation between the Union and some of the countries of the Western Balkans.<sup>9</sup>

The Stabilization and Association Agreement (SAA) is a new, third generation of association agreements offered mostly to the countries of the Western Balkans, as a part of the Stabilization and Association Process. The agreement is signed for an indefinite period with the aim of contributing to the economic and political stability of the entire region. Countries that have become members of the new expansion of the European Union have signed the association agreements (the so-called European Agreements). The main difference between the two aforementioned agreements is the “evolutionary clause” content in the SAA and emphasizing regional cooperation in the Western Balkans, in order to ensure lasting peace in the region.

By signing the SAA, thanks to this clause, the status of “potential candidate countries” for the Western Balkans is confirmed. This is much more than the signatory

<sup>8</sup> Mišćević, T., *Pridruživanje Evropskoj uniji*, Belgrade, 2009, p. 224

<sup>9</sup> Mišćević, T., *Pridruživanje Evropskoj uniji*, Belgrade, 2009, p. 226

EU. Another difference is reflected in regional cooperation, where the signatory country undertakes to sign bilateral agreements, or agreements with countries that are in the process of Stabilization and Association Process and candidate countries.

SAA agreement is of “mixed” character, which means that in addition to the European Union, parties and all Member States given that the SAA includes the areas not only within the jurisdiction of the EU, but also belong to the jurisdiction of the Member States. As it is an agreement of mixed character, in order for it to come into force it must be approved or ratified by the parliaments of all Member States and the European Parliament.<sup>10</sup>

The chronology of signing of the Stabilization and Association Agreement between the countries of the Western Balkans and the European Union is as follows:

- Macedonia, April 2001;
- Croatia, October 2001;
- Albania, March 2006;
- Montenegro, September 2007;
- Serbia, April 2008;
- Bosnia and Herzegovina June 2008;

Stabilization and Association Process consists of a preamble and ten chapters:

1. General principles,
2. Political dialogue,
3. Regional cooperation,
4. Free movement of goods,
5. Free movement of workers, services, capital, establishment,
6. Balancing the rights, application of competition regulations,
7. Justice, freedom, security,
8. Policies of cooperation,
9. Financial cooperation,
10. Institutions of association, general and final provisions.<sup>11</sup>

By signing this Agreement, the parties are still required to abide by previously signed agreements: the United Nations Charter, the document of the Organization for Security and Cooperation in Europe, the Stability Pact for South Eastern Europe, as well as to respect the Dayton/Paris and Erdut agreements.

The preamble of the Stabilization and Association Agreement confirms the status of a potential candidate for the associated country, and so there is a chance that these countries, after the fulfillment of all the requirements, request a membership in the European Union. However, the Union is non-binding, and can not guarantee the Western Balkan countries the membership after fulfillment of all the requirements.

### **Economic integration and cooperation of the countries in the Western Balkans**

The manufacturing process is reflected through a series of activities that interfere, manipulate, link or converted inputs creating a specific production or range of production. Services provide the links that hold together the different stages of production in the strictly defined framework. More complex manufacturing process and the large number of single phase require a greater need for monitoring, control, management, information and other services. The complexity of the production and specialization require the services that prevent its collapse and chaos. Due to many specific and complex factors, it is very typical for the country sub-region of the Western Balkans. The second function of service is reflected in the links between the different economic units in the company. The movement of goods to the potential consumers or users is only possible with the help of services. Services, in this case, have the function of connecting of supply and demand

<sup>10</sup> Lazarević, G., Knežević, I., Božić, R., *Prekogranična saradnja*, Belgrade: Friedrich Ebert Stiftung and European Movement in Serbia, 2011, p. 97

<sup>11</sup> Ivošević, Z., *Regionalne i nacionalne politike prekogranične saradnje sa posebnim osvrtom na ekonomski razvoj mikroregiona*, Novi Sad: FIMEK, 2014, p. 60

side of an economic activity which has an organized market. They also contribute significantly to the creation of so far non-existent market. "Consulting" services create markets where individual economic units can not establish business operations with other economic units. Connection can also be made using the "network" services. They allow you to "connect" individuals and companies within and outside the country. The role of the service, in this case, is reflected in the reduction of physical barriers that can lead to fragmentation of the market.

The most important role of services is reflected in the creation of "intangible goods", the most important among which is the information. The purpose of professional services (legal, medical, accounting, engineering and other) is to transfer information from the supplier to the customer or to create the previously non-existent information. Utility sector is a major factor of today's economy. In the period of economic recession, employment in the service sector has grown, and in the course of economic expansion, it grew faster than in the industrial sector. During the last twenty years, employment in the service sector has grown by 2.1% (in progress recession) to 4.8% during the economic expansion, while in the manufacturing sector during the recession there was a decline of 8.3%, and in the course of economic prosperity the production of this sector rose only by 3.8%.

The main economic purpose is to offer services using expertise - structured information and technical knowledge, in terms of manipulation of information or material - required to support other economic activities. This is mainly the knowledge and experience in relation to the financial markets, technical and managerial support to the production, transportation and distributive capabilities, service maintenance and repair, or assistance for health and educational needs.

Each company within the economy must use certain services in order to reach their clients, as well as to allow easier access of their products to the market. In addition, the service allows the creation of global markets that enable the integration of national economies, which is recognizable as a common characteristic of the Western Balkan countries. As for the value of services, which the consumer receives by the purchase, it depends on how it interacts with other inputs. Thus, the tourism industry is a complex of interdependent financial, transport, catering and function of hiring and recreation, operating under the influence of the main processing innovations, including transportation and computerized reservation network. None of these functions can be evaluated individually, not considering the importance of the activities of others in their market areas. Any understanding of the services must be based on the simple fact that they are very dependent on each other.

The request for rapid changes in the quality of product and employment, is inherent with the development of the service sector. Manufacturing companies produce tangible goods that can be stored and transported. Nonperforming companies produce services that are intangible or less tangible products. However, there has been an increase in employment in the services from 50 to 70 percent, and the total amount of money spent for the purchase of services increased from 40 to 50-60%. Some authors point out that the new workers in the services do not lead to a proportional increase in output. Most of the studies predict that by the end of the century, the productivity of the service sector will grow by only 0.5 percent per year compared to 3.3 percent in the manufacturing industry. Understandings are limited, given that statistics for the field of service economy are less reliable. The real value of the service output from some parts of the service sector, such as government, health or education services, is difficult to measure. In addition, productivity growth was significantly different in different industries within the service sector. In software development and telecommunications industries, the USA is the most prominent. Distribution systems, health services, improvement of education are in the second place. A very vital service sector is characteristic for highly developed economies (although governments of these countries have a constant concern for the further development of this sector).

Currently, the economic position of Serbian and the image that we sent to the world is not satisfying. In foreign economic relations there are still negative trends in various areas: high trade deficit, high unemployment, lack of coverage of imports by exports, the relationship between domestic and export prices, regional and market-orientation of exports and imports, a way of borrowing and utilization of foreign accumulation, technological-production passivation. Not only in this, but in all regions, the most competitive are those economies which attract the most foreign investments. Assessment of the World Economic Forum is that Serbia, if it wants to improve its position, has to improve four areas: competition legislation, state administration, infrastructure and education. According to the methodology of the IMF Serbia in 2010 accounted for 76th, but according to the World Bank's 73rd place. Thus the implemented reforms were inadequate and insufficient in terms of the development of market economy. The main reasons why our product can't compete with competition, not even from the environment, are outdated technology, poor finishing of products and high prices. The average age of machines in Serbia is 30 years, 12 years higher than the average in the region. For Europe union Serbia is lagging behind technologically 29.5 years. This is set out on a representative sample of 154 small, medium and large companies that are operating within 6 industries with similar production programs.

In choosing ways of economic cooperation with the countries of South East Europe Serbia could choose one of several models: the first model is foreign direct investment, which are the weakest and least cost-effective form of cooperation. The only novelty is to add money, and from the standpoint of management everything remains the same. The second level is the process of introducing foreign technology, which is a better solution. It comes to the acceptance of not only foreign knowledge and experience, but also better management. The third way of cooperation is the partnership or the presence of foreign companies in Serbia. This form of cooperation is the best for our economy, because in addition to money and technology it incorporates the "know-how". In this way, in Serbia we have some examples of best practices from which domestic managers learn in order to improve their businesses.

The foreign investors input following advantages of Serbia, which apart it from the neighboring countries:<sup>12</sup>

- Low salaries of employees
- High level of knowledge and skills of employees
- The knowledge of foreign languages and customs
- The closeness of European Union
- Already existing trade agreements
- Positive microeconomic situation
- Technological knowledge and skills
- Attractive destination for life.

Region of South-Eastern Europe is a region in which many of the state have no access to the sea. This fact is a major limitation for these countries, because in addition to the construction of its infrastructure, which is a major financial and organizational challenge, they depend on the infrastructure of other countries, through which passes their wares. Among these countries is Serbia, which is landlocked. And countries in our neighborhood, with which is done intensive foreign trade have the same problem. That's why through the territory of Central and South East Europe transit goods which are the subject of foreign trade of these countries. Thus, initiatives that are driven in order to speed up the flow of foreign trade, so in this part of the world, and at the multilateral level are desirable. When it comes to Serbia, regional initiatives have the greatest significance.

In contemporary conditions, in consideration of the economic environment is also significant participation of some countries in the regional integration process, considering that an increasing number of countries organize their economy on that basis.

<sup>12</sup> Đukanović, D., Trapara, V., Srbija u Jugoistočnoj Evropi, Beograd: Institut za međunarodnu politiku i privredu, 2013, pp. 48.



In the last decade of the twentieth century there was a remarkable increase in number of regional trade arrangements among countries, but the attention of economic public again get the forgotten relationship between regionalization and globalization for a while. Approximately the 1/3 of regional trade arrangements currently in effect, refer to the countries that are in development. The number of regional trade arrangements between developed and developing countries is getting increased through years, where the EU in this process had a dominant role. The European Union's main export and import partner to all countries of the Southeast Europe. Wealthy market of the EU has a big power of absorption for goods and services from the countries of the Western Balkans and traditionally is the largest supplier of them.

This countries have significant natural resources. Proximity of the market, easiness of communication and reciprocal linking partners unambiguously indicates possibility of connecting the countries of the region, in order to create conditions for faster economic growth, rising incomes and more equal relations of the region with the leading world economic powers.<sup>13</sup> The primary task of regional blocks is that multinational companies, either within or outside its borders, which provide favorable conditions for capital investment and fertilization.

Space and its long-term sustainability are regulated by regional cooperation, while political and economic co-operation makes the region more attractive to investors, facilitate trade, accelerating modernization, which requires a special form of analysis of the advantages and disadvantages of this practice, both for the Western Balkans, and with particular reference to the Republic of Serbia. Through the successful regional cooperation, the Southeast Europe countries expressing readiness and the degree of responsibility of the task to the standards of the European Union and European integration.

Improving the situation in the region can be achieved by increasing the mutual trade between states of the region, and in order to this happen we must facilitated foreign trade flows. First it must be built and improved the work of institutions that would contribute to accelerating of the foreign trade flows, particularly customs services. Without improving the work of all services in the region, there is no increase of mutual trade. It is sufficient that the reform process does not take just one state and that goods retain more than necessary at the border of that state. That would delete all the positive effects of the reform of all other states of the region. Cooperation between customs services is considerable and from bilateral aspect and is defined with a number of agreements that are the Republic of Serbia and its predecessors signed with many countries, among which are the country's neighbors, members of the European Union and Russia and China. One of the ways to enable a higher degree of integrated management of customs is the creation of joint customs offices, which form applied in local level is called "one customs office." This form of cooperation is the way to achieve cooperation between the customs services of neighboring countries. Cooperation between customs services is based on the daily management of the work of the customs services directed towards harmonization of requirements that they set to the participants in foreign trade and in the process of developing a regulatory framework that should enable all services to recognize the validity of the information they receive from each other. The savings funds are enabled because these services use the common infrastructure, as well as equipment that is often expensive but also because they organize joint research activities of custom agents and outside the customs checkpoint.

The most neighboring countries are on the list of our most import trade partners. The fact that our most important partners are in an environment confirms the importance of geographical factors, or proximity, which affects the cost of transport costs for goods. In addition, to foreign trade are also important and transaction costs, but they can be reduced if customs service do their job efficiently enough, which would lead

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13 Neskovic, S., Regional Cooperation and European Integration in the Function of Security of the Western Balkans, Thematic Collective Book, "New Challenges to the Balkan Security" Vol. 3, St. Cyril and St. Methodius University of Veliko Turnovo, 2016, pp. 15.

to an increase in the competitiveness of exports. Countries CEFTA 2006 are the most important trade partners of Serbia. In 2011, the export in Bosnia and Herzegovina has made participation of 10.1%, 7.5%, Montenegro, Macedonia 4.45%, Croatia 4%. In addition to these countries for Serbian was imported export to Romania 6,9%, Bulgaria 2,76% and Hungary 2,04%.

Table 1. Serbia's position, according to criteria of foreign trade, with all three factors that determine the performance of foreign trade, both export and import<sup>14</sup>

	Doing foreign trade (rank)	The number of documents required for implementation of export	The number of days required for export	Costs of export (USD by container)	The number of documents required for implementation of import	The number of days required for import	Costs of import (USD by container)
Business 2013	94	7	12	1.455	7	14	1.660
Business 2012	79	6	12	1.433	6	14	1.609
Business 2011	74	6	12	1.398	6	14	1.559
Business 2009	62	6	12	1.398	6	14	1.559
Business 2008	58	6	12	1.240	6	14	1.440
Business 2006	-	9	32	15*	15	44	17*

\*The number of necessary signatures

Table 2. Serbia's foreign trade with the EU, EFTA, CEFTA in the period of 2009-2011<sup>15</sup>  
( in million USD)

	Export			Import		
	2009	2010	2011	2009	2010	2011
All together	8334	9795	11779	15807	16470	19862
European union	3797	4723	5653	8401	8010	9662
EFTA	92	69	92	261	224	247
CEFTA	2630	2808	3202	1227	1413	1609

Note: Data on exports to CEFTA related to: Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, import data relating to: Bosnia and Herzegovina, Croatia, Macedonia, Montenegro.

Of special importance for Serbia's CEFTA region, especially due to the fact that

14 IBRD/WB, Doing Business, International Bank for Reconstruction and Development/ World Bank, Washington, podaci za više godina 2006-2013.

15 RZS, Statistički godišnjak Republike Srbije 2012, Republički zavod za statistiku, Beograd, 2012, pp. 295-297.

in the foreign trade with them Serbia has a multi-year surplus. This is thanks to its geographic location, but also the nature of the agreement, which entering into force in 2007. is time associated with an increase of foreign trade flows in the region.

From this year, there is an increase of Serbian exports to CEFTA, and with it an increase in surplus. The most important products in the export structure are mainly oriented towards CEFTA countries and neighboring countries.

Serbia still records the surplus with most countries in the Western Balkans. In 2011, the surplus in trade with CEFTA countries amounted to almost 1.3 billion euros, in 2007 the surplus amounted to one billion euros. In 2012, Serbia's surplus was 1.4 billion, which was mainly a result of exports of agricultural products (cereals and various kinds of drinks) and exports of iron and steel. We mostly imported coal, coke and briquettes, iron and steel, electricity, and at the end of fruits and vegetables. The surplus is biggest in trade with Montenegro, we are theirs the most important trading partner, as well as with Bosnia and Herzegovina and Macedonia. After Croatia left CEFTA Serbia will have the biggest benefit from this free trade zone. Croatia has the most competitive processing industry, but our backlog is reduced, which can be seen through the reduction of the deficit in recent years. However, the Croatian accession to the European Union does not mean that Serbia will be relieved of the state of competition on both the domestic market and on markets in the region. IMF data show that Croatia's economy has much better performance than ours and that it will probably remain for the next half-decade.

Gravity model, which measures the difference between potential and actual trade shows that Serbia has room to increase exchanges with Croatian and Albania, and trade with Bosnia and Herzegovina, Macedonia and Montenegro is above potential. The exchange between the countries of the former Yugoslavia can never be at the same level as in the framework of the common state, but due to cultural similarities, the old economic ties and recognition of brands by consumers trade and into the future will be facilitated. The biggest obstacles to trade are non-tariff barriers. Also many industrial products are not covered by the CEFTA agreement or duty on them is not reduced, as well as both agricultural products and services. In addition to this there are problems in the implementation of the agreement itself. Thus, Bosnia and Herzegovina unilaterally introduced but abolished customs restrictions.<sup>16</sup> Companies of the two countries could reach a successful cooperation and improve the results with joint appearances on third markets. Turkey has a powerful textile industry, which is involved in 18% of the country's GDP and employs 26% of workers and exports more than 24 billion dollars in the world. Serbia's plus would be the Free Trade Agreement with Russia which allows duty-free exports, but also a number of other agreements with CEFTA, EFTA, the European Union and the benefits in foreign trade with the United States of America.

A free trade agreement the two countries signed in 2010. They also signed agreements on economic cooperation, avoidance of double taxation and investment. Our textile industry used the agreement in very good way. This is especially evident on the basis of strong export growth in 2011. In this year was achieved the highest volume of trade between Serbia and Turkey, which amounted to 0.6 billion dollars. We mostly export to the Turkish market: iron and steel, non-ferrous metals, raw rubber, mineral ores and metal scraps. We most import from Turkey: yarn, fabrics and textile products, road vehicles, metal products, electrical materials, appliances and devices. With Greece, Bulgaria and Romania Serbia is connected by an agreement with the European Union. On these markets our country has an asymmetric duty-free treatment. Romania and Bulgaria for a time were in the regime of free trade with Serbia, through the CEFTA agreement, but after joining the European Union their relationship with Serbia was regulated through a common customs policy of the European Union. With regard to Greece, since 2000. the European Union has granted the countries of the Western Balkans trade concessions, preferential market access in the form of exceptional trade measures.

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<sup>16</sup> Đukanović, D., Trapara, V., Srbija u Jugoistočnoj Evropi, Beograd: Institut za međunarodnu politiku i privredu, 2013, pp. 74.

Exceptional trade measures came into force on the 1st December 2000. with duration of five years, after which they were renovated and they made possible to export to the European Union, means in Greek without duties and restrictions for most of our products, with the exception of certain fishery products (trout), wine, sugar and beef (baby-beef-individual quotas for each country). The problem with using incentives are very long and complex procedure of establishing administrative and technical cooperation for the export of sensitive products (especially agricultural and food) as well as the fact that the market of the European Union has a high degree of protection (in the form of high quality standards), high level of consumer protection and health standards for products of countries which are not members of the European Union and that they can't easily meet.

### **Conclusion**

The Subregion Western Balkans of the South East European region consists of the countries that are not sufficiently strong in economic terms, and regional cross-border cooperation among them is still not at a satisfactory level. It is about long-term characteristic that stemmed from the economic and political marginalization in relation to major world trends, poor communication with the main European integration, isolation from the global economy and the traditionally bad political relations between them. Trade in the Western Balkans has suffered because of long-standing economic sanctions against the FRY, as well as the conservative trade regimes and policies that have exhibited high tariff and non-tariff barriers. All this has contributed to mutual trade in the Western Balkan countries is less than could be expected between neighboring countries.

While today the Western Balkans remain a substantial source of migration, in the current context they are mainly a transit route. Countries in this particularly sensitive region have less-advanced welfare systems, limited institutional capacity and struggling economies that are further strained by having to provide for large numbers of transiting migrants. Having activated dormant political conflicts in the region, these developments risk turning into a major destabilising factor. In all likelihood, the crisis will last and the Western Balkans will remain a busy migrant route. This puts relations between the EU and the Western Balkan enlargement countries in the spotlight and makes the case for increased cooperation in a situation of mutual dependence. While the EU is already providing technical, humanitarian and financial assistance to the Western Balkans, it needs to come up with a coordinated approach focused not only on short-term measures, but also on the long-term consequences for the region, including their impact on the enlargement process as a whole.

The development disparity between regions is considerably high and is naturally prone to even higher expansion. Not all Europeans have the same advantages and chances of success when faced with the challenges of globalization. The EU aims to reduce the uneven development of underdeveloped areas. Regional policy is a complement to national policies, which aim to promote the development of backward regions. The EU regional policy is one of the oldest common policies. Service economy has significant implications for economic growth and the formation of economic policy in the Western Balkans. Services tend to be labor intensive, or to use less capital equipment than processors. Increase of productivity with personal service was slower, while the price increase was faster than productivity. In addition, the average size of service companies is generally low, as a result of reducing the risk of concentration of production in relation to the processing industry.

In the context of EU regional policy in achieving regional goals, the most important role is played by the Structural Funds and the Cohesion Fund. However, the regional policy and the development of these funds depends not only on the development of the Common Market, the European Monetary Union and the enlargement of the Union,

but, to a large extent, on the political situation. Depending on the policy represented in a particular period in the EU, priorities in funding and the amount of resources are defined, which structural funds have at their disposal. However, there is an undoubted importance of these funds on the creation and development of the economic situation in the Member States. In this context, above all, the European Social Fund, the European Regional Development Fund and the Cohesion Fund have the greatest importance. Although the number of regional policy objectives, from the initial seven was narrowed to three, their essence remains the same - to provide financial assistance to the less developed and economically depressed regions. Each of the Funds, their financial instruments, contribute to achieving smaller goals, then all together contribute to regional development, reducing regional disparities and the establishment of cooperation between the regions and countries in the EU.

Membership in the European Union for the countries of Western Balkans is not something inevitable, but a conscious and precisely determined decision of a country and its people that such a choice is in their (national, regional and individual) interest. The EU membership is not an aim for itself, but a means for achieving the long-term national strategy for effective economic development in order to improve the living conditions of the population and, therefore, it should be established by consensus. Though migration flows through the Western Balkans were largely transitory, they have illuminated cracks in the European system of border management and may have lasting effects on the region. The lesson from the Balkan experience is that in the absence of common policy to deal with an influx of asylum seekers, countries may compete to be the lowest common denominator, with no one wanting to be saddled with ultimate responsibility. This knowledge could inform future proactive policy development ahead of the next crisis.

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## **MALOLETNI MIGRANTI U SUKOBU SA ZAKONOM U REPUBLICI SRBIJI – KAKO IH PREPOZNATI U PRAKSI**

### **Rezime**

*Porast broja migranata - izbeglica usled političkih dešavanja i oružanih sukoba širom sveta je problem sa kojim se većina zemalja EU, kao i Republika Srbija, susreće u poslednjih par godina. Posebni izazov za pravni sistem podrazumeva procenjivanje starosti tih osoba, koja kod sebe nemaju lična dokumenta. Procenjivanje starosti je neophodno da bi izbeglice mogle da ostvare svoja prava kao potražioc azila. Procena hronološke starosti pomoću različitih osobenosti skeleta i zuba je od izuzetnog značaja u ovim slučajevima. Zubni parametri se smatraju pouzdanijim od skeletnih, jer skelet ranije završava razvoj u poređenju sa zubima. Ovo je veoma korisno kada treba napraviti razliku da li je osoba maloletna ili punoletna. Takođe, primeri iz prakse ukazuju koja kombinacija metoda daje najbolje rezultate i praktično objašnjavaju na koji način može da se sprovede procena hronološke starosti. Sve navedeno se radi u cilju obezbeđivanja uniformnosti na nivou Republike Srbije i usklađivanju prakse i iskustava za zemljama članica EU. To je od posebnog značaja kada se ove kategorije lica pojave kao izvršioci krivičnih dela, kakvih situacija je već bilo u praksi, a sporna je njihova starost.*

*Ključne reči: krivična dela; maloletnici; migranti/izbeglice; procenjivanje starosti; forenzička stomatologija.*

## **MINOR MIGRANTS IN CONFLICT WITH LAW IN THE REPUBLIC OF SERBIA-HOW TO RECOGNIZE IN PRACTICE**

### **Abstract**

*The increase of refugees - immigrants due to the political situation and war condition around the world is an increasing problem that most member states of the EU, as well as the Republic of Serbia, are experiencing in the past several years. The special challenge for the legal system is age estimation of those persons, who do not have identification documents with them. Age estimation is necessary for immigrants in order to achieve their rights as seekers of the asylum. Age estimation using various skeletal and dental traits is of exceptional importance in these situations. Dental parameters are considered to be more reliable than skeletal ones, because the skeleton completes*

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*its development earlier, compared to teeth. This is very useful in cases when there is a need to make a difference between an underage and adult persons. The examples from the practice show which combination of methods gives the best positive results and practically explain how to conduct chronological age estimation process. Everything aforementioned is done in order to achieve uniformity on the state level of the Republic of Serbia and to harmonize practice and experiences with member states of the EU. This process is crucial when individuals from this category are law-offenders, and those situations were noted in practice when the age of these persons is disputable*

*Key words: criminal offence; juveniles; migrants/refugees; age estimation; forensic dentistry.*

## Uvod

Godinama već Evropa je željena destinacija za stanovnike velikog broja država Afrike, Azije po različitim osnovima. Nekad je u pitanju migracija stanovništva iz ekonomskih razloga – beda i siromaštvo (Pakistan, ...), nekada zbog političkog progona pojedinaca (Salman Ruždi,...) pa čak i naroda, a ponekad su razlozi i ratni odnosno unutrašnji oružani sukobi - Avganistan i Irak. Iz tih država egzodus stanovništva traje godinama. Sukobi u državama Severne Afrike – tzv. Arapsko proleće i poslednji događaji u Siriji, na području Bliskog istoka koja država je zahvaćeno od marta 2011. godine oružanim sukobima – nekom vrstom građanskog rata gde ratuje, više zaraćenih strana međusobno i protiv aktuelne vlasti dodatno je pokrenulo masovno iseljavanje stanovništva sa teritorije Sirije zbog progona i nasilja od strane različitih sukobljenih strana. U tom sukobu interesi velikih sila su suprotstavljeni. SAD i Evropske zemlje – Zapad podržale su pobunjene snage pod izgovorom da Vlada sirijskog predsednika upotrebljava hemijsko oružje. Sa druge strane su Rusija i Iran koje podržavaju aktuelnu vlast u Siriji. Sve to uz dovelo je počev od 2010. i 2011. godine, pa nadalje do povećanja broja izbeglica i tražilaca azila pored drugih država u Evropi, a pre svega u državama EU i na teritoriji Srbije. To je eskaliralo tokom 2015. godine koja se može opisati i kao godina „migrantske“ krize. Podaci Međunarodne organizacije za migracije koji su objavljeni 15.3.2016.godine pokazuju da je najveći broj izbeglica tokom 2015.godine u Evropu došao iz zemalja Severne Afrike – 1.011.712.migranata<sup>3</sup>. Na to ukazuju i pojedini autori. Prema Simeunoviću postoje tri glavna faktora koja uzrokuju migracije. To su demografska eksplozija u nekim delovima sveta, ratovi i mogućnost socijalnog inženjeringa<sup>4</sup>.

Studija koja je rađena u Odeljenju za stanovništvo UN pod naslovom “Trends in International Migrant Stock: The 2015 Revision” , predstavljena javnosti u Njujorku u januaru 2016.godine sadrži najnovije podatke o broju migranata širom sveta, kao i kretanju njihovog broja u poslednje dve i po decenije. Takođe, pomenuta studija sadrži i podatke o njihovoj rasprostranjenosti po kontinentima, regionima i zemljama<sup>5</sup>.

Tokom 2015.godine prema podacima iz Studije u svetu je bilo 244 miliona migranata (uključujući 20 miliona izbeglica). Najveći broj migranata utočište je našao u Evropi – 72 miliona, pri čemu u zemljama Zapadne Evrope živi gotovo 28miliona migranata – približno 14% ukupnog broja stanovnika Zapadne Evrope<sup>6</sup>.

Na tom putu pojedini migranti – izbeglice umiru odnosno bivaju povređeni na najrazličitije načine – u saobraćajnim nezgodama, tučama, pogodeni vatrenim oružjem

<sup>3</sup> <http://www.iom.int/>, postavljen 15.3.2016., (pristup: 6.9.2017).

<sup>4</sup> Simeunović, D. „Migracije kao uzrok političkih anomalija u Evropi“, Bezbednost, nauka, policija 3/2015, 10.

<sup>5</sup> UN, Trends in International Migrant Stock: The 2015 Revision available at <http://reliefweb.int/report/world/trends-international-migrant-stock-2015-revision> (pristup: 18.9.2017.)

<sup>6</sup> UK, Key trends in international migration, Expert Group Meeting on The Post- 2015 Era: Implication for the Global Research Agenda on Population Development, New York, 10 April 2015, (pristup: 18.9.2017.)

odnosno od strane hladnog oružja ili oruđa, razboljevaju se. Zbog toga potreba za procenjivanjem hronološke starosti tih osoba, ali i živih ili preminulih osoba je u stalnom porastu u svakom modernom društvu, uključujući tu i Srbiju. Iz brojnih razloga. Pre svega zbog toga što migranti obično nemaju identifikaciona dokumenta i u takvim slučajevima je neophodno da se ustanovi njihova starosna dob, da bi mogli da podnesu prijavu za azil ili da bi ostvarili određena svoja prava, koja im pripadaju prema međunarodnim dokumentima odnosno pravu države u kojoj se zateknu i podnesu zahtev za azil.

Posebno ugrožena kategorija predstavljaju maloletna lica bez pratnje. Prema definiciji Evropske komisije (EK) maloletna lica bez pratnje su osobe koje dolaze iz zemalja trećeg sveta na teritoriju zemlje članice Evropske unije bez pratnje osobe koja odgovara za njih ili koja su ostala bez te pratnje nakon stupanja na tlo zemlje članice. Pored regulative koje dolaze od strane EK, svaka zemlja članica ima drugačije pravne regulative koje se tiču ovog pitanja<sup>7</sup>.

A takođe, zbog adekvatne primene odredaba važećih krivičnih zakonodavstava u svakoj pojedinoj državi prema migrantima u sukobu sa zakonom.

Pravci kretanja izbeglica – migranata su u početku bili preko Italije i Španije, zbog blizine njihovih obala državama Severne Afrike. Kada su se migranti – izbeglice sa područja Bliskog istoka usmerili u pravcu izuzetno razuđenih obala Grčke i brojnih ostrva koja pripadaju toj državi kao najbližem odredištu na putu iz svoje zemlje, u svojim pokušajima da stignu do Evrope iz različitih razloga, koje smo prethodno pomenuli ili nekih drugih razloga, Republika Srbija se posle početnog perioda od 2014. godine do danas nalazi se na tzv. „balkanskoj ruti“ kojom migranti pokušavaju da stignu do najrazvijenijih država EU. Kroz teritoriju naše države prošle su kolone migranata, pojedini podaci kažu i preko milion ljudi, žena i dece. Veliki broj predstavljaju porodice ali i pojedinci. Među njima su i oni koji predstavljaju i opasnost po Evropu zbog svojih ideoloških stavova, pripadnosti pojedinim terorističkim organizacijama pri čemu se u poslednjih nekoliko godina najčešće pominje pripadnost tzv. Islamskoj državi.

Pojedini od migranata – izbeglica, bez obzira na pol, godine života - da li su punoletni ili maloletni, dolaze u sukob sa zakonom i vrše pojedine vrste kaznenih dela (krivična dela – prekršaje) na teritoriji Republike Srbije. Na štetu državljana RS ali i na štetu drugih migranata.

Sa migrantskom krizom došli su i određeni novi, do sada nepoznati problemi sa kojima su se suočili policija i pravosuđe u Srbiji. Naime, kao izvršioци krivičnih dela pojavila su se lica sa drugih kontinenata, koja nemaju validna lična dokumenta i kojima je zbog toga teško utvrditi starost. I nisu tu problem ona lica za koja je i golim okom jasno vidljivo da su u pitanju punoletne osobe. Problem predstavljaju ona lica, pre svega muškog pola, koja se pojavljuju kao izvršioци pre svega krivičnog dela, za koja se ne može sa sigurnošću utvrditi koliko imaju godina, već im se mora verovati na „časnu reč“, na osnovu onih podataka koje su oni dali nadležnim organima Republike Srbije prilikom zvaničnog evidentiranja.

Zbog toga je izuzetan značaj forenzike za procenjivanja starosti pojedinih lica. Primena forenzike je neophodna u najranijoj fazi postupka kada se ove kategorije lica pojave kao učesnici događaja koji predstavlja sukob sa zakonom.

Cilj nam je da u jednom radu ograničenog obima ukažemo na mogućnosti kako taj problem može da se reši, da se uz pomoć forenzike - nauke utvrdi stvarna ili bar približna starost tih lica izvršilaca, pre svega krivičnih dela, grupe društveno najopasnijih od svih kaznenih dela. To je bitno, da bi se ta lica ukoliko na teritoriji RS izvrše krivično delo mogli i adekvatno procesuirati u skladu sa svojim uzrastom – ukoliko su maloletna lica shodno odredbama Zakona o maloletnim učiniocima krivičnih dela i krivičnopravnoj zaštiti maloletnih lica<sup>8</sup> (dalje: ZM) odnosno shodno odredbama važećih propisa iz krivično pravne oblasti – Krivičnog zakonika<sup>9</sup> (dalje: KZ) u postupku koji se vodi po

7 European Migration Network, Policies, Practices and Data on Unaccompanied Minors, 2015, 48.

8 Zakon o maloletnim učiniocima krivičnih dela i krivičnopravnoj zaštiti maloletnih lica („Sl.glasnik Republike Srbije“ br.85/05 počeo sa primenom 1.1.2006. godine).

9 Krivični zakonik („Sl.glasnik Republike Srbije“ br. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009,



pravilima Zakonika o krivičnom postupku<sup>10</sup> (dalje: ZKP).

U meri u kojoj je to neophodno osvrnućemo se i na najvažnije međunarodno pravne i domaće izvore prava - dokumente iz ove oblasti i dati definicije pojedinih pojmova od značaja za ovaj rad.

### Terminologija

Obzirom da je Srbija najčešće tranzitna država za brojne državljane Azije sa područja Bliskog istoka odnosno Afrike, da neki od njih podnose i zahtev za azil u Srbiji, imajući u vidu te činjenice smatramo da je neophodno ukazati pre svega na određene terminološke razlike kada su pojedine kategorije ovih lica u pitanju.

Jer u zavisnosti od njihovog statusa na pojedine kategorije tih lica se primenjuju donekle i različiti međunarodni odnosno domaći propisi.

Tako, prema određenju Međunarodne organizacije za migrante terminom migrant (migrant) označava se osoba koja se bez prisile, dobrovoljno i iz ličnih razloga, preseljava iz mesta svog prebivališta na određenu destinaciju sa namerom trajnog nastanjenja<sup>11</sup>.

Osim ovog termina značajan je i termin : Iregularni migrant (irregular migrant) koji se označava strani državljanin koji kršeći propise o prelasku državne granice ulazi na teritoriju tranzitne i/ili države krajnje destinacije ilegalnim putem, bez dokumenata, van redovnih graničnih prelaza, odnosno na graničnim prelazima izbegavanjem granične kontrole ili uz pomoć tuđe ili falsifikovane putne isprave. Takođe, iregularni migrant je i stranac koji je na teritoriju druge države ušao na legalan način, ali je tokom boravka na njoj stekao iregularan status usled isticanja roka važenja putne isprave, vize ili boravišne dozvole<sup>12</sup>. (Ibid, 13) U slobodnom govoru najčešće se koristi termin „ilegalni migrant“. To govore kako domaći tako i evropski zvaničnici.

Osim ovih kategorija u toj terminologiji prisutna je i kategorija: Ekonomski migrant (economic migrant) kojom se označava osoba koja napušta svoje uobičajeno prebivalište i naseljava se izvan mesta svog porekla da bi unapredio materijalno - egzistencijalni karakter svog života.

Pored navedenih kategorija, smatramo da je neophodno pomenuti još neke kategorije lica i to:

Izbeglica (refugee) – Shodno Konvenciji o statusu izbeglica od 28.7.1951. godine<sup>13</sup> izbeglica je lice koje zbog osnovnog straha od progona na osnovu rase, vere, nacionalnosti, pripadnosti određenoj društvenoj grupi ili zbog političkog mišljenja se nalazi izvan zemlje svog državljanstva i nije u stanju, ili zbog straha ne želi da se stavi pod zaštitu te zemlje, kao i lice bez državljanstva koje se nalazi izvan države svog prethodnog stalnog boravka i koje ne može ili zbog tog straha ne želi da se vrati u državu

Azilant (asylum – seeker) – Osoba koja je napustila zemlju svog porekla i formalno podnela zahtev za azil u drugoj zemlji, ali samo u periodu dok o ovom zahtevu nije odlučeno<sup>14</sup>.

U Zakonu o azilu RS (dalje: ZA)<sup>15</sup> shodno važećim međunarodnim propisima definisani su, pored ostalih, najvažniji pojmovi iz ove oblasti kao što su stranac, lice koje traži azil, izbeglica, utočište, subsidijarna zaštita, član porodice, svojstvo člana

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121/2012, 104/2013, 108/2014,94/16)

10 Zakonik o krivičnom postupku („Sl.glasnik Republike Srbije“ br. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014)

11 Terminology, Section 1.1. in : Essential of Migrant Management – Volume One: Migration Management Foundations,IOM,2005,8 [http://www.rcmvs.org/documentos/IOM\\_EMM/v1/V1S01\\_CM.pdf](http://www.rcmvs.org/documentos/IOM_EMM/v1/V1S01_CM.pdf),(приступ: 18.9.2017.)

12 Ibid, 13.

13 Konvencija o statusu izbeglica iz 1951-godine, „Službeni list FNRJ – Međunarodni ugovori i drugi sporazumi“, br.7/60, čl.1(A), Protokol o statusu izbeglica iz 1967, „Službeni list FNRJ – Međunarodni ugovori i drugi sporazumi“, br.15/67, čl.1.tač.2.

14 Asylum-seekers,UNHCR,<http://www.unhcr.-centraleurope.org/en/who-we-help/asylum-seekers.html>, (приступ:18.9.2017).

15 Zakon o azilu, „Sl.glasnik RS“ 109/2007 od 24.11.2007, čl.2.st.1.tač.8.

porodice, maloletnik bez pratnje ... .

Pored ostalog, u čl.36.ZA definisana je i privremena zaštita strancima koja se pruža u slučaju masovnog dolaska lica iz države u kojoj se njihov život, bezbednost ili sloboda ugrožava nasiljem opštih razmera, spoljnom agresijom, unutrašnjim oružanim sukobima, masovnim kršenjem ljudskih prava ili drugim okolnostima koje ozbiljno narušavaju javni poredak, kad zbog masovnog dolaska ne postoji mogućnost da se sprovede individualna procedura za dobijanje prava na azil, pružice se privremena zaštita u skladu sa socijalnim, ekonomskim i drugim mogućnostima Republike Srbije, o čemu odlučuje Vlada, kakva situacija se dogodila u proteklom periodu.

### **Međunarodni i domaći izvori prava u vezi sa migrantima**

Najvažniji međunarodni dokument od značaja za predmet ovog rada je Konvencija o statusu izbeglica iz 1951.godine sa Protokolom iz 1967.godine. To je osnovni dokument koji je ratifikovala i FNRJ kao pravni prethodnik današnje Republike Srbije.

Ovaj međunarodni dokument je značajan zbog pojmovnog razlikovanja izbeglice – lica koja usled opravdanog straha od progona zbog svoje rase, vere, nacionalnosti, pripadnosti nekoj društvenoj grupi ili svojih političkih mišljenja se nađu izvan države čije državljanstvo imaju (Čl.1. Konvencije o status izbeglica iz 1951.godine) i ekonomskih migranata – osoba koje napuštaju svoju zemlju isključivo rukovođeni ekonomskim obzirima, odnosno da bi poboljšali svoj materijalni status, usled čega ne uživaju pravo na međunarodnu zaštitu poput prethodne kategorije lica.

Kada su u pitanju maloletne izbeglice - deca osim pomenutog međunarodnog dokumenta od značaja za njih je i Konvencija o pravima deteta (dalje: KPD)<sup>16</sup>. Ta Konvencija je ratifikovana od strane SFRJ, države koja je pravni prethodnik današnje Republike Srbije.

KPD zahteva od država da svoj deci koja su pod njihovom jurisdikcijom obezbeđuju sva prava, bez diskriminacije, a rukovodi se principom najboljeg interesa deteta. Pri tome, detetom se smatra lice koje nije navršilo 18 godina života, odnosno nije postalo punoletno (čl.1.). Ova Konvencija u svojim odredbama sadrži i eksplicitne obaveze država kako da postupaju kada su u pitanju maloletnici u sukobu sa zakonom (čl.40.KPD) Takođe, KPD sadrži i odredbe koje se odnose na preduzimanje svih mera zaštite dece od svih oblika fizičkog ili psihičkog nasilja, povrede ili zloupotrebe, zanemarivanja, zlostavljanja ili eksploatacije, da preduzimaju mere kako bi sprečile otmicu, prodaju i trgovinu decom, kao i mere obezbeđenja oporavka i reintegracije dece – žrtava eksploatacije, okrutnog i ponižavajućeg postupanja.

Osim navedenih međunarodnih dokumenata za Srbiju je takođe značajna Evropska konvencija za zaštitu ljudskih prava i osnovnih sloboda<sup>17</sup> koju je usvojio Šavet Evrope 1950.godine. Srbija je pomenutu Konvenciju ratifikovala tokom 2003.godine a njena primena je počela tokom 2004.godine.

### **Važeće zakonodavstvo u odnosu na maloletnike u Srbiji**

Prema odredbama ZM maloletnik je lice koje je u vreme izvršenja krivičnog dela navršilo 14 godina, a nije navršilo 18 godina. U okviru ovog uzrasta postoji razlika, pa se mladim maloletnikom smatra lice koje je u vreme izvršenja krivičnog dela navršilo 14, a nije navršilo 16 godina, dok je stariji maloletnik lice koje je u vreme izvršenje krivičnog dela navršilo 16, a nije navršilo 18 godina.

ZM isključuje mogućnost izricanja krivičnih sankcija prema deci - licima koja u vreme izvršenja protivpravnog dela koje je u zakonu predviđeno kao krivično delo nisu

16 Zakon o ratifikaciji Konvencije Ujedinjenih nacija o pravima deteta, „Službeni list SFRJ – Međunarodni ugovori“ br.15/90 i „„Službeni list SRJ – Međunarodni ugovori““ br.4/96 i 2/97.

17 Zakon o ratifikaciji Evropske konvencije za zaštitu ljudskih prava i osnovnih sloboda, „Službeni list SCG – Međunarodni ugovori“, br 9/2003, 5/2005 i 7/2005 – ispr. i „Službeni glasnik RS – Međunarodni ugovori“, br.12/2010

navršila 14 godina. Prema ovoj kategoriji lica ne mogu se primeniti ni druge mere koje predviđa ZM.

Kada su u pitanju krivične sankcije koje se mogu izreći maloletnicima ZM propisuje da se maloletnicima za učinjena krivična dela mogu se izreći vaspitne mere, kazna maloletničkog zatvora i mere bezbednosti predviđene članom 79. Krivičnog zakonika, osim zabrane vršenja poziva, delatnosti ili dužnosti.

Pri tome, mlađim maloletnicima mogu se izreći samo vaspitne mere a starijim maloletnicima mogu se izreći pre svega vaspitne mere, a izuzetno ovoj kategoriji maloletnika može se izreći i kazna maloletničkog zatvora. Pod uslovima predviđenim ZM maloletnicima se mogu izreći mere bezbednosti.

Vaspitne mere su: mere upozorenja i usmeravanja: sudski ukor i posebne obaveze; mere pojačanog nadzora: pojačan nadzor od strane roditelja, usvojioca ili staraoca, pojačan nadzor u drugoj porodici, pojačan nadzor od strane organa starateljstva, pojačan nadzor uz dnevni boravak u odgovarajućoj ustanovi za vaspitavanje i obrazovanje maloletnika i zavodske mere: upućivanje u vaspitnu ustanovu, upućivanje u vaspitno-popravni dom, upućivanje u posebnu ustanovu za lečenje i osposobljavanje.

Prema odredbama KZ u RS važi tzv.teritorijalni princip izvršenja krivičnog dela – što znači da sva lica koja izvrše neko krivično delo na teritoriji RS odgovaraju prema odredbama KZ RS. To znači da se sve navedene odredbe ZM primenjuju na sve maloletne osobe, bez obzira da li su u pitanju državljani RS, strani državljani – gde spadaju i maloletni migranti/azilanti ili lica bez državljanstva. Osim na maloletne osobe, ovaj princip se odnosi i na sve punoletne osobe.

Za postupanje prema maloletnim učinocima krivičnih dela prema odredbama ZM na teritoriji Republike Srbije nadležni su viši sudova odnosno viša javna tužilaštva koja pokreću pripremni postupak a po završetku tog postupka odlučuju da li postoji dovoljno dokaza za nastavak postupka i podnose predlog za izricanje krivične sankcije, o čemu odlučuje veće za maloletnike nadležnog višeg suda.

### **Migranti i krivična dela na teritoriji Republike Srbije**

Imajući u vidu broj migranata koji je prošao kroz teritoriju Republike Srbije tokom 2015. i početkom 2016.godine, broj krivičnih dela koje su izvršili migranti je objektivno posmatrano zanemarljiv. Ovo posebno imajući u vidu da su na teritoriji Nemačke prema podacima nemačke policije tokom prošle godine migranti su u toj zemlji počinili više od 180.000 krivičnih dela što je, kažu, za 70.000 više nego u 2014. Dve trećine krivičnih dela odnosi se na fizičke povrede, pljačke i falsifikovanje putnih isprava<sup>18</sup>.

Kada su u pitanju krivična dela koja se odnose na migrante koji borave ili su se zatekli u Republici Srbiji uočavamo da postoje dve grupe krivičnih dela:

- Krivična dela koja vrše domaći državljani u vezi sa migrantima
- Krivična dela koja vrše migranti

#### **Krivična dela koja vrše domaći državljani u vezi sa migrantima**

U pogledu ove grupe krivičnih dela u zavisnosti od perioda 2015.-2017.godine u sudskoj praksi na osnovu rada nadležnih organa bezbednosti uočeno je otkrivanje pojedinih krivičnih dela koja se vrše najčešće i koja su u direktnoj vezi sa migrantima.

To su pre svega krivično delo nedozvoljen prelazak državne granice i krijumčarenje ljudi, gde se migranti suštinski pojavljuju kao žrtve domaćih državljana ali i pojedinih stranaca, koji iskorišćavaju njihovu situaciju i beskrupulozno ih koriste radi zadovoljenja svojih imovinskih interesa. Na ta krivična dela nećemo se posebno osvrutati u ovom radu.

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<sup>18</sup> <http://www.rts.rs/page/stories/sr/story/125/drustvo/2217208/zanemarljiva-krivicna-dela-migranata-u-srbiji-.html> Zanemarljiva krivična dela migranata u Srbiji SUBOTA, 20. FEB 2016, 08:00 -> 11:03, IZVOR:RTS) (pristup: 16.9.2017).

## Krivična dela koja vrše migranti

U okviru ove grupe možemo konstatovati da postoje četiri podgrupe krivičnih dela, bez obzira da li ta krivična dela vrše punoletne ili maloletne osobe i to:

### Krivična dela koja se vrše od strane migranata prema drugim migrantima

U okviru ove grupe krivičnih dela uočili smo kada je u pitanju mesto izvršenja krivičnog dela da se ista vrše uglavnom na dve lokacije – u okviru centara za izbeglice gde su migranti smešteni odnosno na otvorenom prostoru, najčešće u gradovima odnosno mestima u kojima migranti privremeno borave na teritoriji Republike Srbije dok čekaju na odnosno traže mogućnost kako da napuste teritoriju Republike Srbije i odu na željenu destinaciju prema kojoj su se uputili, pri čemu je naša zemlja samo „usputna stanica“.

Kada su u pitanju krivična dela koja se vrše u okviru centara za izbeglice najčešće su to krivična dela iz grupe protiv života i tela (teške telesne povrede, lake telesne povrede i slično) dok su van centara za izbeglice vršena pored prethodno navedenih i najteža krivična dela iz ove grupe (ubistva, ubistva u pokušaju) ali i krivična dela iz drugih grupa – protiv imovine (teške krađe, krađe, razbojništva) odnosno protiv polnih sloboda (silovanje, nedozvoljene polne radnje). O tome govore pojedini naslovi u medijima<sup>19</sup>.

Međutim, na području Subotice indikativno je iz empirijskih podataka Osnovnog suda u Subotici značajan broj krivičnih postupaka (12) tokom 2015. i 2016. godine u kojima migranti nisu predmet krijumčarenja preko državne granice, već su učesnici grupa koje vrše ovu inkriminisanu delatnost. To znači da su u pitanju izvršioци koji borave duži period na našem području i koji su očigledno „oficiri za veze“ pretežno stranih organizovanih grupa i naših zainteresovanih „preduzetnika“ za krijumčarenje nelegalnih migranata preko državne granice u Mađarsku, sa ciljem da se oni kasnije iz te zemlje prebace u druge zemlje Evropske unije koje su im krajnja destinacija, u najvećem delu prema SR Nemačkoj<sup>20</sup>.

### Krivična dela koja se vrše od strane migranata prema državljanima Republike Srbije (lokalnom stanovništvu)

Imajući u vidu način života migranata u centrima za izbeglice, ali i van tih centara, uočili smo da migranti najčešće vrše iste grupe krivičnih dela kao i prema migrantima. To su grupe krivičnih dela protiv imovine (teške krađe, krađe), protiv života i tela (teške telesne povrede, lake telesne povrede) ali i protiv polnih sloboda (nedozvoljene polne radnje, silovanje). O tome govore i brojni naslovi iz medija u Srbiji<sup>21</sup>.

### Krivična dela koja vrše migranti ali bez pričinjavanja štete trećem licu

U ovoj grupi krivičnih dela dominantna su krivična dela falsifikovanje isprave odnosno navođenje na overavanje neistinitog sadržaja, naročito na području Višeg suda u Subotici.

Ovo iz razloga što su pojedine opštine sa tog područja na putu migranata prema Mađarskoj, kao prvoj državi članici EU prema kojoj su migranti – izbeglice težili da stignu na svom putu prema pojedinim državama članicama EU, a na kom putu su u pojedinim od tih opština u kontroli zaustavljani i legitimisani od strane nadležnih organa

19 „Sukobi migranata u Beogradu, dvije osobe povrijeđene“ (<http://rtrs.tv/vijesti/vijest.php?id=250524>, 21/04/2017 | 22:26 - 22:59 | Autor: RTRS, (pristup: 16.9.2017).

20 Prema rečima Ferenc Molnara, predsednika Višeg suda u Subotici : Panel diskusija i okrugli sto na temu „Migracije, bezbednost i ljudska prava“ Palić, 11.04.2017. godine – Procesuiranje migranata u krivičnim postupcima pred višim sudovima sa područja Apelacionog suda u Novom Sadu.

21 Ukazujemo samo na neke od tih naslova: ... „Uhapšen migrant koji je optužen za pljačku vikendice U Batrovcima“, „Pljačka na buvljaku na Novom Beogradu: Migranti joj oteli pantalone, oborili drugog prodavca i pobešli!“ (pristup: 16.9.2017).

### **Krivična dela koja vrše migranti u cilju pomoći državljanima Srbije**

Retke su situacije, mada su zabeležen u praksi da su migranti pomagali domaćim državljanima u izvršenju pojedinih krivičnih dela ili posle izvršenih krivičnih dela, pa su zbog toga došli u sukob sa zakonom u pojedinim sredinama na teritoriji RS.

Tako, u jednom slučaju je strani državljanin osuđen za krivično delo pomoć učiniocu posle izvršenog krivičnog dela, gde je pomogao domaćem državljaninu protiv koga je u toku krivični postupak zbog postojanja opravdane sumnje da je izvršio krivično delo ubistva<sup>22</sup>.

### **Problemi u praksi - kako utvrditi starost migranta**

U praksi policije a potom pravosudnih organa ne samo u Republici Srbiji nego i širom Evrope, u pojedinim državama u kojima su migranti izvršili pojedina krivična dela, kao ozbiljan problem pojavio se problem kako utvrditi starost pojedinih migranata u sukobu sa zakonom, a naročito da li su isti eventualno maloletni jer je to od značaja za njihov procesni položaj u krivičnim postupcima u svakoj od tih država.

Na ove probleme ukazuju i pojedini profesori ali i strana i domaća sudska praksa.

Tako, nedavno je profesor Milan Škulić ukazao na jedan slučaj iz nemačkog pravosuđa: „...Posebno je u javnosti odjeknuo jedan zločin u idiličnom Frajburgu, lepom gradu na padinama Švarcvalda, jednom od najomiljenijih nemačkih univerzitetskih centara, poznatom i po ugodnoj klimi.

Bila je topla oktobarska noć. Devetnaestogodišnja studentkinja medicine se biciklom nešto posle ponoći spokojno vraćala sa studentske žurke. Nikada više nije viđena živa. Silovana je na obali reke u kojoj je kasnije pronađeno njeno telo. Čvrsti dokazi, a pre svega rezultati DNK analize, ukazali su na migranta iz Avganistana koji u Nemačkoj boravi od 2015. godine i koji se oficijelno smatrao „dobro uklopljenim“ u nemačko društvo. ...

U inače uređenoj pravnoj državi, kao što je Nemačka, posebno šokantno deluje i sumnja koja se pojavila u pogledu prave starosti osumnjičenog, ali i njegove moguće ranije, vlastima nepoznate kriminalne prošlosti. Osumnjičeni je zvanično u vreme izvršenja zločina imao 17 godina. Pojavila se informacija da je isti čovek navodno još 2013. godine u Grčkoj i tada sa navršenih „istih 17 godina“ napao i teško povredio jednu devojkicu, te da je za taj zločin osuđen na 10 godina zatvora, a da je pod nejasnim okolnostima pušten nakon svega nekoliko godina. Potom se našao u Nemačkoj gde ponovo kao „maloletnik“ vrši težak zločin. Sada se u istrazi na temelju veštačenja pokušava utvrditi prava starost osumnjičenog, što se ipak svodi na neku vrstu ovlašne „šac metode“, krajnje netipične, pa i čudne za savremene krivične postupke.

Nemačko pravosuđe, naviknuto na visok stepen urednosti i preciznosti, sada se suočava s banalnim problemom utvrđivanja pravog uzrasta učinioca krivičnog dela, što se u „normalnim“ slučajevima rešava krajnje rutinski. Ako bi se dokazalo da je bio punoletan u vreme izvršenja zločina njemu prethodi i kazna doživotnog zatvora, a u suprotnom najviše 10 godina. Razlika je ogromna. Nemačka javnost se pita i kako je moguće da ako je zaista isti čovek već osuđen u Grčkoj to ne bude poznato nemačkim vlastima, i to u vreme kada EU intenzivno razvija policijsku i pravosudnu saradnju....<sup>23</sup>.

Identičan problem kao u Nemačkoj, pojavio se i u Srbiji.

Tako, nedavno je sudija Ferenc Molnar ukazao na jedan slučaj koji se desio

<sup>22</sup> Prema rečima Ferenca Molnara, predsednika Višeg suda u Subotici : Panel diskusija i okrugli sto na temu „Migracije, bezbednost i ljudska prava“ Palić, 11.04.2017. godine – Procesuiranje migranata u krivičnim postupcima pred višim sudovima sa područja Apelacionog suda u Novom Sadu - предмет Вишег суда у Суботици СПК 10/16.

<sup>23</sup> <http://www.politika.rs/scc/clanak/373911/Pogledi/Migranti-i-kriminalitet-pouke-jednog-nemackog-slucaja> Milan Škulić, 10.2.2017. (pristup: 14.9.2017).



na području koje pokriva Viši sud u Subotici. „ ... jednom migrantu posle izvršenog krivičnog dela na štetu drugih migranata stavljeno je na teret izvršenje krivičnog dela teško ubistvo.

Slučaj je zakomlikovala njegova izjava o svojoj životnoj dobi - da je rođen 01.01.1998. godine i da ima 17 godina. Naspram tog navoda, javno tužilaštvo i sudija za prethodni postupak su raspolagali potvrdom Odseka pogranične policije za strance u Zaječaru od 24.07.2015. godine br. 4542/2015/2015 u kojoj je navedeno da je K., po svojoj izjavi ovom organu policije, rođen u Avganistanu, u mestu Baglan 26.05.1993. godine.

Kako bi se pitanje njegove životne dobi kao prejudicionalno razrešilo, tužilaštvo je dalo naredbu i poverilo veštačenje veštaku specijalisti dečje endokrinologije iz Novog Sada. Zadatak veštaka je opredeljen u dužnosti da se izjasni o godinama starosti osumnjičenog, te je veštaku naloženo hitno postupanje uz obavezan klinički pregled tada osumnjičenog.

Postupajući veštak pedijatar endokrinolog je dana 11.08.2015. godine sačinio svoj nalaz, u kojem je doslovno utvrdio sledeće: „mladić niskog rasta, srednje razvijene osteomuskularne građe, neobrijan, sa dlakama koje označavaju početak brijanja ranije nego anamnestički podatak bi opravdalo, završen rast svih umnjaka (prema priloženom izveštaju stomatologa), testisi veličine odraslog muškarca, kao i penis i dlakavost 5/5 završena. Koštana starost određivana po atlasu koji koristi većina zemalja greulich-pyle je 18 godina, odnosno pokazuje da je rast završen”. Međutim, veštak je u svojoj konkluziji spremio iznenađenje, pošto je ovom svom nalazu dodao sledeće: „na osnovu navedenog bi se moglo zaključiti da je mladić stariji ili da ima 18 godina, MEĐUTIM, MORA SE UZETI U OBZIR ETNIČKA PRIPADNOST, KOJU KARAKTERIŠE UBRZANO SAZREVANJE, TE SA SIGURNOŠĆU HRONOLOŠKU DOB (KAO ŠTO MOŽEMO KOŠTANU) HE MOŽEMO ODREDITI, GREŠKA JE MINIMALNA 6-12 MESECI”.

Policijски organi Mađarske su pre readmisije podvrgli K. detaljnom lecarskom pregledu, gde je lekar na osnovu vizuelnog pregleda njegovog tela i karakterističnih organa za utvrđivanje životne dobi, dao izričito mišljenje da je on muškarac svakako stariji od 18 godina, te da se ima smatrati punoletnim no propisima pomenute zemlje.

Posle ovog nalaza i mišljenja, nakon što je pritvor produžen prema K., u preostalom delu postupak je već sproveden po pravilima Zakona o maloletnim učinocima krivičnih dela i krivičnopravnoj zaštiti maloletnih lica. Prema K. je stavljen predlog za izricanje krivične sankcije, gde je već kvalifikacija bila ublažena, stavljalо se na teret krivično delo ubistvo iz čl. 113 u vezi čl. 19 st. 2 i 3 KZ, sa predlogom da mu se izrekne primenom čl. 17 ZM pojačan nadzor od strane organa starateljstva. Veće za maloletnike Višeg suda u Subotici svojim rešenjem Km. 55/15 od 22.09.2015. godine, udovoljilo je zahtevu javnog tužioca i predloženu vaspitnu meru u zakonskom trajanju izreklo. Pritvor mu je ukinut.

Sprovođenje vaspitne mere je obustavljeno rešenjem veća za maloletnike Višeg suda Subotica br. Ivm. 46/15 od 23.11.2015. godine, jer je CSR obavestio sud da se po ukidanju pritvora K. sa sestrama udaljio sa područja ovoga suda i ne zna se njegovo sadašnje boravište, s tim što je prethodno jedno vreme boravio zajedno sa majkom, sestrama i bratom u sigurnoj kući u okviru programa za zaštitu osoba koje su preživele nasilje, a 05.10.2015. godine je sa porodicom napustio ovu kući i najverovatnije i teritoriju R. Srbije<sup>24</sup>.

### **Značaj forenzike za utvrđivanje starosti migranta**

U pogledu utvrđivanja starosti pojedinih migranata u sukobu sa zakonom poseban značaj ima forenzika. I ne samo u tom segmentu, već za različite potrebe. Zbog toga,

<sup>24</sup> Prema rečima Ferenc Molnara, predsednika Višeg suda u Subotici : Panel diskusija i okrugli sto na temu „Migracije, bezbednost i ljudska prava“ Palić, 11.04.2017. godine – Procesuiranje migranata u krivičnim postupcima pred višim sudovima sa područja Apelacionog suda u Novom Sadu – Studija slučaja.

neophodno je ukazati na značaj forenzike za utvrđivanje starosti migranata u sukobu sa zakonom i da li je neki migrant za koga postoje osnovi sumnje da je izvršio krivično delo punoletan ili maloletan, jer od toga zavisi i vrsta krivičnog postupka koji će se prema tom licu voditi. Bez pomoći forenzike objektivno je nemoguće utvrditi starost pojedinog migranta imajući u vidu da to nisu lica koja su sa evropskog kontinenta već iz drugog podneblja, iz Afrike ili Azije.

U forenzici, procenjivanje starosti je jedna od glavnih grana istraživanja. Razvoj ove specifične grane nauke može da se objasni činjenicom da postoji konstantno povećanje broja osoba kojima identitet nije utvrđen, usled ratnih sukoba širom sveta, kao i za potrebe pravnog sistema u slučajevima utvrđivanja starosti (Ritz-Timme et al. 2000). U sudsko-medicinskom veštačenju, procenjivanje starosti zajedno sa DNK analizama čini osnovu pozitivnog utvrđivanja identiteta osobe. Ilegalne migracije predstavljaju veliki problem za evropski kontinent u poslednjih nekoliko godina, kao posledica globalnih, ekonomskih i političkih promena. Sa ovim migracijama povećava se i broj maloletnih delinkvenata u evropskim zemljama, što predstavlja jasan signal da je procenjivanje starosti neophodno da bi se odredila njihova krivična odgovornost, koja je uglavnom između 14. i 22. godine (Schmelting et al. 2007; Schmelting et al. 2008; Focardi et al. 2014).

Procenjivanje starosti za potrebe sudskog postupka putem sudsko-medicinskog veštačenja se koristi u slučajevima kada hronološka starost osobe nije poznata. Značaj ove discipline je da na najtačniji način ustanovi starost pomoću dostupnih podataka i na taj način pomogne pravnom sistemu da donese konačnu odluku. Veoma često izveštaj eksperta (veštaka) nije samostalan, jer je neophodna saradnja više različitih veštaka da bi dokumentimao validnost na sudu. Različite naučne discipline, kao što su forenzička antropologija, forenzička stomatologija, radiologija, pedijatrija primenom specifičnih znanja i veština pomažu u donošenju konačne odluke. Treba naglasiti da bez obzira koliko je precizna i tačna jedna metoda za procenjivanje starosti ili koliko iskustva ima veštak, ne postoji jedan test ili metoda koja može apsolutno tačno da proceni starost osobe (Schmelting et al. 2011).

Forenzička stomatologija, kao grana i stomatologije i forenzike veoma često se koristi u kombinaciji sa ostalim forenzičkim metodama za procenjivanje starosti. U samom procesu procenjivanja starosti treba definisati nekoliko pojmova.

Hronološka starost se obično definiše vremenskim periodom od trenutka rođenja do određenog trenutka u vremenu. U sudsko-medicinskim slučajevima starost osobe je često nepoznata i stoga se koriste naučne metode koje pomoću tabela i grafikona pomažu u procenjivanju starosti. Ovakve metode su razvijene na uzorku u kome je poznata dob pojedinaca. (Braga et al. 2005; Gill-King 2010).

Dentalna starost predstavlja procenu stepena formiranja i erupcije zuba, koja zavisi od mnogo spoljnih faktora (Moorrees et al. 1963).

Procenjena starost je parametar koji se dobija nakon analize različitih parametara na ljudskom skeletu ili na zubima, pomoću odgovarajuće tehnike (Bass 1995). Procenjena starost je parametar koji je od najvećeg značaja za ovaj rad, jer pomoću tog podatka se obezbeđuje podrška pravnom sistemu u donošenju odluke da li je lice maloletno ili punoletno i donosi se konačna odluka po pitanju prava te osobe.

Zubi predstavljaju jednu od najčvršćih struktura u našem organizmu i otporni su na različite uticaje sredine (mehaničke, hemijske, termičke). Za određene grane stomatologije, kao što su dečja i preventivna stomatologija ili ortopedija vilica, procenjivanje starosti je korisno i može da pomogne terapeutu da napravi plan terapije, kao i da predloži ishode lečenja, na osnovu stadijuma razvoja i mineralizacije zuba. Zubi mogu da se koriste u različitim istraživanjima i slučajevima u kojima su drugi delovi tela uništeni ili nisu dostupni. U polju forenzike, procena starosti pomoću zuba dobija sve više na značaju, posebno u kriminalnim slučajevima (Schmelting et al. 2004) ili za procenjivanje starosti dece u trenutku smrti ili za identifikaciju nepoznatih skeletnih

ostataka (Foti et al. 2003). Na kraju, porast broja ilegalnih migranata bez odgovarajućih identifikacionih dokumenata može da predstavlja problem u utvrđivanju starosti ovih osoba, tako da forenzička stomatologija predstavlja jedan od alata koji se može koristiti u ovim slučajevima (Cameriere et al. 2006; Cameriere et al. 2014; Pereira et al. 2015).

Forenzički stomatolog može da se pozove na sud kao veštak u slučajevima kada je neophodna pozitivna identifikacija preminule osobe ili u slučajevima kada je neophodno proceniti starost osobe. Forenzički stomatolog je u evropskim zemljama stalan član tima za identifikaciju žrtava nesreća (DVI) i regulative na međunarodnom nivou koje su predložene od strane Interpola predstavljaju korak napred ka unapređenju saradnje među zemljama i formiranju jedinstva na nivou zemalja članica EU (Interpol 2014). Međutim, postavlja se pitanje da li stomatolog treba da učestvuje u identifikaciji ili ta uloga treba da se poveri antropologu ili patologu. Veliki broj zemalja nema razvijen sistem ili ne poseduju dovoljno resursa za sprovođenje ove ideje, tako da je nedostatak forenzičkih stomatologa razumljiv sa ovog gledišta. Takođe, eksperti iz drugih oblasti možda nemaju dovoljno znanja o morfologiji regije glave i usta, tako da je mišljenje da stomatolog treba da bude konsultovan kad god za to postoji mogućnost. U slučajevima kada forenzički stomatolog nije dostupan u određenoj zemlji, treba razmotriti mogućnost da se strani konsultant posavetuje po ovom pitanju, a lokalni stomatolog treba da aktivno učestvuje u procesu i ponudi pomoć i resurse, da bi se prebrodila potencijalna jezička barijera, kao i da pomogne inostranom kolegi da bolje razume lokalne navike populacije (Skinner et al. 2010).

Pored uloge koju ima u identifikaciji žrtava masovnih nesreća, forenzički stomatolog može da koristi zubne parametre da proceni starost i živih i preminulih osoba. U najvećem broju slučajeva, ortopantomografski snimci zuba i vilica se koriste da bi se procenila starost. Tehnike koje se koriste su brojne i izbor zavisi od samog eksperta i nivoa znanja. Sve tehnike mogu da se podele u dve velike grupe, zavisno od starosti populacije za koju se koriste. Jedna grupa metoda se koristi za subadultnu populaciju, dok je druga za odraslu populaciju (Ritz-Timme et al. 2000).

Metode koje se koriste za procenu starosti dece i adolescenata se baziraju na posmatranju i opisivanju stadijuma nicanja i mineralizacije zuba. Ovaj princip se može lako primeniti kod živih osoba jer je dovoljno da se obavi stomatološki pregled ili analiza radiografskog snimka i da se proceni stadijum nicanja. Međutim, ovaj parametar ne može da se koristi samostalno, zato što je nicanje zuba pod uticajem mnogih faktora i odvija se u jako kratkom vremenskom periodu. Genetska informacija o nicanju zuba se nasleđuje, ali je ekspresija gena pod uticajem faktora sredine. Zbog toga je teško predvideti na koji način će ti faktori uticati na samo nicanje. Najbolja kombinacija u praksi je da se koriste metode koje porede stadijume nicanja sa stadijumom razvoja zuba i na osnovu ova dva parametra hronološka starost se može proceniti korišćenjem standardizovanih dijagrama ili shema. Ove metode nisu destruktivne i indirektne su, tako da ih to čini pogodnijim za upotrebu (Blenkin and Taylor 2012; De Luca et al. 2012; Djukic et al. 2013; Pavlović 2016; Pavlović et al. 2017).

Najveći nedostatak metoda za procenjivanje starosti je sto su referentne tabele i regresione formule razvijene na osnovu određenog uzorka osoba i primenjive su za populaciju koja je korišćena u studiji. Ove metode se mogu koristiti u drugim slučajevima, ali veštak mora biti svestan činjenice da postoji mogućnost da će rezultati biti drugačiji od originalnih. U nekim slučajevima autori su zaključili da originalna metoda precenjuje starost sa velikom razlikom, pa su napravili modifikacije i prilagodili ih određenoj populaciji (Acharya 2011; Blenkin and Taylor 2012). Baš iz ovog razloga je neophodno razviti jedinstven system za procenu starosti pomoću dentalnih parametara (Schmeling et al. 2007).

Formiranje Studijske grupe za forenzičko dijagnostikovanje starosti (AGFAD) početkom 2000. godine je u velikoj meri pomogla da se proces procenjivanja starosti učini dostupnijim i jedinstvenijim. Preporuke su donete da bi sam proces bio jednostavniji veštaku. Celokupna procedura je neinvazivna i sastoji se od kombinacije tri metode:

fizikalnog pregleda, rentgenskog snimka levog ručnog zgloba i pregleda zuba direktnom metodom i pomoću rentgenskog snimka. U slučaju da je završeno okoštavanje ručnog zgloba, primenjuje se kompjuterizovana tomografija medijalne epifize ključne kosti, da bi se ustanovilo da li je osoba navršila 21 godinu starosti. Naravno, ove analize treba da sprovede stručno i profesionalno lice, koje ima znanja o prednostima i nedostacima svake od metoda (doktor medicine, kvalifikovan stomatolog i kvalifikovan antropolog). Neophodno je naglasiti reč "kvalifikovan", jer iako eksperti iz navedenih oblasti imaju izuzetno i obimno znanje, iskustvo u radu sa metodama za procenjivanje starosti je presudno za donošenje što tačnije ekspertize. Posebno, treba voditi računa da veštak ne izađe iz oblasti svoje ekspertize, jer u tom slučaju takav izveštaj može vrlo lako da se poništi na sudu od strane sudije ili pravnog zastupnika (Schmeling et al. 2007; Márquez-Grant 2015). Međutim, i pored preporuka, ne postoje studije koje su pokazale da su se ove metode koristile zajedno, kao ni da li postoji statistički značajna razlika između hronološke i procenjene starosti ako bi se koristio samo jedan parametar ili dva. Razlog za ovo verovatno leži u spornim etičkim regulativama i da li ekspert može da pristupi podacima ispitanika, bez narušavanja privatnosti.

Najčešće korišćene tehnike u procenjivanju starosti su zasnovane na radiografijama ručnog zgloba ili zuba. Treba naglasiti da svaka individua prati svoj sopstveni obrazac i mehanizam razvitka i da u većini slučajeva upotreba samo jednog parametra nije dovoljna za procenjivanje starosti osobe. Određeni skeletni parametri koji se koriste u ovom postupku završavaju svoj razvoj oko 16. ili 17. godine, tako da adolescentima i mladim osobama iznad ove dobi starost može da se proceni samo pomoću zuba (De Salvia et al. 2004).

Metoda koja se koristi za procenu starosti bi trebalo da ispuni nekoliko zahteva, da bi mogla da se smatra verodostojnom. Naravno, svaka osoba je različita i jedinstvena i svaki slučaj bi trebalo da se posmatra zasebno. Procenjivanje starosti može da bude približno, ako se sprovodi trenutno, na licu mesta, ili može da bude što je tačnije moguće i to je od značaja za pravne slučajeve u koje su uključeni maloletni ili mladi delinkventi. Postoji nekoliko smernica šta jedna metoda za procenu starosti treba da poseduje pre nego što se smatra za relevantnu. Neke od stavki su: transparentnost, objavljivanje u stručnim i naučnim časopisima, jasne i dostupne informacije o tačnosti metode, etičke i pravne regulative (u slučaju da se metoda primenjuje na živim osobama). Ove smernice u radu su veoma korisne i mogu da pomognu ekspertu koji ih koristi da na jednostavan način odabere metodu koja će ispuniti sve zahteve pravnog sistema i svakog slučaja ponaosob (Ritz-Timme et al. 2000).

Da bi se na praktičan način sagledao značaj procenjivanja starosti, ukazaćemo na dva slučaja iz strane sudske prakse.

Slučaj broj 1:

Optuženi mladi Avganistanac je bio pod optužbama za ubistvo. Prema sopstvenoj izjavi imao je 13 godina i 5 meseci kada je bio urađen pregled. Pošto su organi pravosuđa sumnjali u tačnost ovih podataka, sud je naložio da se sprovede forenzičko procenjivanje starosti, što je podrazumevalo i radiografski pregled.

Fizikalnim pregledom je ustanovljeno da je se radi o adolescentu. Parametri koji su analizirani ovom prilikom su bili visina, težina, tip maljavosti i količina maljavosti, fizionomija larinksa, i sekundarne polne karakteristike. Nakon ovog pregleda, urađen je radiografski snimak ručnog zgloba. Tim snimkom je ustanovljeno da je morfologija karpalnih kostiju normalna, da je došlo do kompletne osifikacije (sraščivanja) epifiza metakarpalnih kostiju i falangi. Distalni krajevi kostiju podlaktice su bili još uvek otvoreni i pokazivali su znake osifikacije samo u srednjem delu. Na osnovu ovih pokazatelja, ustanovljena je starosna dob od 16-17 godina. Pretpostavka je bila da osoba nije mlađa od procenjene dobi. Pošto kosti šake nisu srasle, nije bilo potrebe da se radi radiografija ključne kosti.

Stomatološkim pregledom je ustanovljeno da treći molari (umnjaci) nisu nikli. Analiza ortopantomografskog snimka je zaključeno da se gornji desni umnjak nije ni



razvio, dok su preostala tri bila vidljiva. Na osnovu analize stadijuma mineralizacije, zaključeno je da osoba ima između 16 i 17 godina u trenutku pregleda. Takođe, u trenutku pregleda 14. godina života je bila navršena bez ikakve sumnje. Kao zaključak se navodi da izjava o starosti okrivljenog nije verodostojna. Nedugo nakon toga sud je došao do podatka da je prava starost osobe u trenutku pregleda bila 16 godina i 4 meseca (Schmelting et al. 2011).

Slučaj broj 2:

Osoba u ovom slučaju je bila pod istragom zbog zloupotrebe droga. Prema sopstvenoj izjavi, osoba je poreklom iz Gvineje Bisao i u trenutku pregleda je bila stara 17 godina i 8 meseci. Kao i u prethodnom slučaju, sud je sumnjao u verodostojnost ove izjave i izdat je nalog za forenzičko utvrđivanje starosti.

Fizikalnim pregledom je ustanovljeno da se radi o odrasloj osobi. Analizom radiografskog snimka ručnog zgloba ustanovljeno je da su kosti kompletno srasle, ta da spojevi nisu više uočljivi. Na osnovu ovih podataka, zaključeno je da osoba ne može da bude mlađa od 16,7 godina. Pošto je razvoj kostiju šake bio završen, urađen je CT snimak oba sternoklavikularna zgloba. Na osnovu snimka, zaključeno je da je došlo do kompletne osifikacije na obe strane i da minimalna starosna dob u ovom slučaju iznosi oko 21,6 godina.

Stomatološkim pregledom je ustanovljeno da osoba nema kompletnu denticiju. Uočen je nedostatak većeg broja zuba. Sva 4 umnjaka su nikla i dosegla okluzalnu ravan. Analizom snimka, svi umnjaci su bili u istom stadijumu razvoja, koji je odgovarao starosnoj dobi oko 22. godine, ali sa velikom standardnom devijacijom, tako da je minimalna starost na osnovu zuba procenjena na 17 godina. Kao zaključak, veštaci su rekli da je apsolutna minimalna starosna dob osobe 21,6 godina i da je u trenutku pregleda osoba navršila i 18. i 21. godinu života. Usled ovoga, izjava optuženog se nije smatrala doslednom (Schmelting et al. 2011).

### **Predlog za postupanje u praksi**

U praksi pojavile su se na području većeg broja viših sudova na teritoriji Republike Srbije situacije da su pojedini migranti osumnjičeni da su izvršili krivična dela i da podaci sa kojima nadležni organi u pogledu njihove starosti ukazuju da bi se moglo raditi o maloletnim licima. To se dešavalo na područjima Viših sudova u Sremskoj Mitrovici, Subotici, Valjevu ...

U takvim situacijama neophodno je usklađeno postupanje svih nadležnih organa. Pre svega u fazi predistražnog postupka policije i viših javnih tužilaca koji odlučuju o pokretanju pripremnog postupka prema takvom licu – migrantu, za koga postoje osnovi sumnje da je izvršio krivično delo i da se eventualno radi o maloletnom učiniocu na osnovu raspoloživih podataka kojima se to lice identifikovalo na teritoriji Republike Srbije. Najčešće su to podaci koje su ova lica dala nadležnim organima prilikom ulaska na teritoriju naše države ili u centrima za izbeglice koji su formirani od strane Komesarijata za izbeglice Republike Srbije.

Imajući u vidu pokretljivost ovih lica sa jedne strane, koja se u tim situacijama brzo udaljavaju sa područja na kome su eventualno izvršila krivično delo, a sa druge strane da bi se obezbedilo prisustvo tih lica u krivičnom postupku koji bi trebao da usledi, neophodno je podneti predlog za određivanja pritvora nadležnom sudiji za maloletnike višeg suda, da bi se krivični postupak posle eventualnog određivanja pritvora postupak mogao adekvatno i brzo sprovesti. Posebno je to značajno, u situaciji kada su migranti – izbeglice učinili krivično delo prema domaćim državljanima ili neko teže krivično na štetu drugih migranata.

Posle toga, neophodno je pored ostalih radnji dokazivanja odrediti u što ranijoj fazi postupka veštačenje od strane veštaka odgovarajuće struke, da bi se odgovarajućim fizikalnim pregledima na nesumnjiv način, ukoliko je to moguće, utvrdila starost izvršioca krivičnog dela – da li je isti maloletan ili je možda dao nadležnim organima



netačne podatke u pogledu starosti. U konkretnom slučaju, neophodno je odrediti komisijsko veštačenje od strane veštaka različitih struka, u sastavu koje komisije bi trebalo da budu uključeni veštaci forenzičke stomatologije, antropolog, veštak koji se bavi problematikom DNK veštačenja.

U slučaju da na teritoriji Republike Srbije ne postoji veštak specijalista forenzičke stomatologije, što se može proveriti preko liste veštaka Ministarstva pravde Republike Srbije, neophodno je da u hitnim slučajevima sudija za maloletnike u sastav komisije uvrsti veštake sudsko medicinske struke odnosno specijaliste oralne hirurge kojima bi što preciznije trebalo naložiti šta je sve neophodno da se uradi u toku veštačenja – i to svaki od veštaka u okviru svog delokruga nadležnosti.

Pre svega treba im naložiti da utvrde visinu, težinu, tip maljavosti i količinu maljavosti, fizionomiju larinks, i sekundarne polne karakteristike. Nakon ovog pregleda, po potrebi da se uradi radiografski snimak ručnog zgloba, da bi se tim snimkom ustanovilo da li je morfologija karpalnih kostiju normalna, da li je došlo do kompletne osifikacije (sraščivanja) epifiza metakarpalnih kostiju i falangi, u kojoj fazi se nalaze distalni krajevi kostiju podlaktice – da li su još uvek otvoreni i da li pokazuju znake osifikacije i u kom delu eventualno.

Veštaku stomatološke struke – forenzičkom stomatologu/oralnom hirurгу treba naložiti da stomatološkim pregledom ustanove da li su nikli treći molari (umnjaci) ili ne. Po potrebi, potrebno je naložiti da se urade ortopantomografski snimci, što je danas objektivno moguće u svim većim gradovima u Srbiji jer postoje odgovarajuće ordinacije koje rade navedenu vrstu snimanja i da se na osnovu tih podataka utvrdi da li je došlo do razvijanja umnjaka – svih ili samo nekih, te da se na osnovu analize stadijuma mineralizacije, izvedu odgovarajući zaključci u pogledu starosti svakog pojedinog lica.

Veštak koji obavlja DNK veštačenje – molekularni biolog odnosno molekularni genticar bi na osnovu uzetog biološkog materijala od tog lica - brisa bukalne sluznice, imajući u vidu prijavljenu zemlju porekla migranta na osnovu odgovarajućih biostatičkih proračuna mogao da se eventualno izjasni o odgovarajućim podacima koji su od značaja za davanje zajedničkog nalaza i mišljenja komisije veštaka.

### **Zaključak**

Forenzičko procenjivanje starosti postaje jedan od temelja sudsko-medicinskog veštačenja. Korišćenje različitih tehnika ima najveću primenu u proceni starosti kod maloletnih migranata u sukobu sa zakonom. Trud i zalaganje eksperata da se oformi jedinstvena mreža u cilju deljenja iskustva i donošenja preporuka i smernica predstavlja važan korak ka unifomnosti na ovom polju.

Procena starosti na osnovu dentalnih parametara je posebno značajna nakon određene starosne dobi, kada su svi skeletni pokazatelji završili rast i razvoj i kada su jedini pouzdan pokazatelj zubi. Jedna metoda nije dovoljno pouzdana i ne može sa dovoljnom tačnošću da predstavlja validan dokaz na sudu. Saradnja više eksperata je neophodna na svim poljima, pa i na ovom, da bi se dobili što pouzdaniji rezultati.

U ovom radu dali smo predlog kako treba postupati u takvim situacijama. Osim toga, neophodno je formirati radne grupe i stručne komisije koje bi se detaljnije bavile ovim problemom. Pored same analize zakona Republike Srbije i mogućih nepoznanica koje se tiču procenjivanja starosti, potrebno je i izvršiti opsežne studije da se ustanovi koja metoda daje najbolje rezultate za naše podneblje. Na taj način bi ta metoda bila proverena i ispitana i priznata od strane naučnog sveta, tako da ne bi postojala mogućnost da se dovede u pitanje njena verodostojnost. Takođe, radna grupa bi trebalo da donese preporuke za rad u određenim situacijama, da bi se obezbedilo jedinstvo na nivou Republike Srbije i da bi se uskladila praksa sa praksom zemalja EU.

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## **LEGISLATIVNI OKVIR SISTEMA BEZBEDNOSTI DRŽAVNE GRANICE REPUBLIKE SRBIJE U FUNKCIJI REŠAVANJA MIGRANTSKE**

### **Rezime**

*Legislativni okvir je vrlo bitan element svakog sistema bezbednosti pa tako i sistema bezbednosti državnih granica. Legislativni okvir Sistema bezbednosti državne granice u Republici Srbiju temelji se na stratezijskim dokumentima (Strategijama nacionalne bezbednosti, integrisanog upravljanja granicom, suprotstavljanja iregularnim migracijama i dr.), zakonima (carinski, o zaštiti državne granice, strancima, azilu i dr.) i podzakonskim aktima (uredbama, pravilnicima i dr.). U procesu pridruživanja EU, Republika Srbija obavezala se na usklađivanje čitavog niza oblasti iz nacionalne legislative s pravnim tekovinama EU, što podrazumeva i oblast upravljanja sistemom bezbednosti granica zasnovanog na Konceptu integrisanog upravljanja granicom. Migrantska kriza izazvana oružanim sukobima na Bliskom istoku izložila je ovaj sistem velikom izazovu. S tim u vezi cilj rada je da se analizira postojeći legislativni okvir ovog sistema, ukaže na kompatibilnost i dalje prilagođavanje s pravnim tekovinama EU, ali i na njegovu reakciju na postojeće izazove kao što je migrantska kriza i dr.*

*Ključne reči: stratezijska dokumenta, zakoni, Evropska unija, Republika Srbija, sistem bezbednosti državne granice, migrantska kriza*

## **THE LEGISLATIVE FRAMEWORK OF THE SECURITY SYSTEM OF THE STATE BORDER OF THE REPUBLIC OF SERBIA IN THE FUNCTION OF SOLVING THE MIGRANT CRISIS**

### **Abstract**

*The legislative framework is a very important element of every security system, as well as the system of state border security. The legislative framework of the State Border Security System in the Republic of Serbia is based on strategic documents (National Security Strategies, Integrated Border Management, Countering Irregular Migration, etc.), laws (customs, protection of state borders, foreigners, asylum, etc.) and bylaws (regulations, regulations, etc.). In the process of joining the EU, the Republic of Serbia has committed itself to aligning a whole range of areas of national legislation with EU acquis, which also includes the area of border security management based on the Integrated Border Management Concept. The migrant crisis caused by armed conflicts in the Middle East has exposed this system as a major challenge. In this regard, the aim of the paper is to analyze the existing legislative framework of this system, point to compatibility and further alignment with the EU acquis, as well as its response to*

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*existing challenges such as the migrant crisis and others.*

*Key words: strategic documents, laws, European Union, Republic of Serbia, state border security system, migrant crisis*

## **Uvod**

Pridruživanje Evropskoj uniji za Republiku Srbiju predstavlja strateško opredeljenje, koje podrazumeva prihvatanje usvojenih evropskih vrednosti i standarda u čitavom nizu oblasti.<sup>2</sup> Slobodan protok ljudi i robe između država članica EU, uz istovremeno suprostavljanje prekograničnom organizovanom kriminalu, na nacionalnom i nadnacionalnom nivou, zahteva uvođenje odgovarajućih mera i standarda u ovoj oblasti. Budući da se Republika Srbija već graniči sa četiri zemlje članice EU (Mađarska, Rumunija Bugarska i Hrvatska), od kojih jedna pripada "Šengen-zoni" (Mađarska), a imajući u vidu opredeljenje za pristupanje Evropskoj uniji i drugih zemalja u okruženju, od izuzetnog je značaja implementacija donetih strategija koje su direktno ili indirektno vezane za državnu granicu i suprotstavlanje prekograničnom kriminalu i drugim nedozvoljenim aktivnostima za granicu.

Osim što je usvojila i ratifikovala sve važnije međunarodne konvencije, kada je u pitanju suprostavljanja organizovanom kriminalu i terorizmu, naša zemlja je bila i u obavezi da nacionalno zakonodavstvo prilagodi proklamovanim međunarodnim standardima, u skladu sa Sporazumom o stabilizaciji i pridruživanju sa Evropskom unijom.<sup>3</sup> U cilju što efikasnije borbe protiv prekograničnog kriminala, terorizma i dr., usvojen i niz drugih strategijskih dokumenata, koji su potom konkretizovani kroz akcione planove.

Na osnovu nacionalnih strategijskih dokumenata, u ovoj oblasti, koncipirana su odgovarajuća zakonska rešenja, ali i elementi Sistem bezbednosti granica Republike Srbije. On je po svom sadržaju veoma širok i kompleksan, a osim legislativnog okvira obuhvata skup mera i aktivnosti na kontroli prelaženja državne granice (kontrola na graničnim prelazima) i obezbeđenju državne granice između graničnih prelaza, koje se sprovode od strane različitih subjekata (policijskih, vojnih, carinskih, inspekcijских i dr.), u cilju sprečavanja nedozvoljenih aktivnosti (prekogranični organizovani kriminal, terorizam i dr.).<sup>4</sup>

U cilju utvrđivanja pravnih pretpostavki za njegovo funkcionisanje, u ovom radu bazićemo se na legislativni nivo Sistema bezbednosti granica Republike Srbije analizirajući strategijska dokumenta, zakonska i podzakonska akta iz kojih proizilaze odgovarajuće preventivne i represivne aktivnosti subjekata odgovornih za njihovu primenu.

## **Strategijska dokumenta**

Međunarodnopravni okvir za donošenje strategijskih dokumenata vezanih za Sistem bezbednosti granica Republike Srbije, uglavnom, čine različite konvencije opštijeg tipa koje regulišu osnovna ljudska prava svih, uključujući migrante, kao i posebne konvencije koje se odnose na pojave blisko povezane sa iregularnim migracijama, poput krijumčarenja migranata ili trgovine ljudima.

2 Vlada Republike Srbije je u martu 2008. godine usvojila Nacionalni program za integraciju u Evropsku uniju koji obuhvata čitav niz političkih, ekonomskih i bezbednosnih kriterijuma koji se moraju uskladiti sa standardima Evropske unije.

3 Ovaj sporazum je Republika Srbija parafirala (7.11.2007. godine) i potpisala (29.4.2008. godine), s tim što ga je Narodna skupština Republike Srbije ratifikovala 9.9.2008. godine (Službeni glasnik RS, br. 83/2008).

4 Dostić, S. (2015): Comparative overview of border security systems of the United States, the Russian Federation and the Republic of Turkey, Tematski Zbornik radova međunarodnog značaja sa naučnog skupa sa međunarodnim učešćem "Dani Arčibalda Rajsa", Tom 2, Kriminalističko-policijska akademija, Beograd,, str. 153-162



Relevantne međunarodne konvencije su: Univerzalna deklaracija o ljudskim pravima<sup>5</sup>, Međunarodni pakt o građanskim i političkim pravima („Službeni list SFRJ – Međunarodni ugovori“, br. 7/1971.), Međunarodni pakt o ekonomskim, socijalnim i kulturnim pravima („Službeni list SFRJ“, br. 7/1971) Konvencija o eliminisanju svih oblika diskriminacije žena (CEDAW) („Službeni list SFRJ – Međunarodni ugovori“, br. 11/1981.), Konvencija Ujedinjenih nacija o pravima deteta („Službeni list SFRJ – Međunarodni ugovori“, br. 15/1990, „Službeni list SRJ – Međunarodni ugovori“, br. 4/96, 2/97), Konvencija Ujedinjenih Nacija protiv transnacionalnog organizovanog kriminala („Službeni list SRJ – Međunarodni ugovori“, br. 6/2001) i Protokol za prevenciju, suzbijanje i kažnjavanje trgovine ljudskim bićima, naročito ženama i decom („Službeni list SRJ – Međunarodni ugovori“, br. 6/2001), Protokol protiv krijumčarenja migranata kopnom, morem i vazduhom („Službeni list SRJ – Međunarodni ugovori“, br. 6/2001), Konvencija o zaštiti ljudskih života na moru (SOLAS)<sup>6</sup> i Konvencija o traganju i spašavanju na moru. Države potpisnice ovih instrumenata imaju obavezu da izveštavaju o ispunjenju obaveza prema navedenim konvencijama.

Legislativni okvir Sistema bezbednosti granica Republike Srbije, osim međunarodnih dokumenata, zasnovan je na nacionalnim stratejskim dokumentima. S tim u vezi, u nastavku rada navešćemo i ukratko opisati najznačajnije nacionalne strategije kao što su: Strategija nacionalne bezbednosti Republike Srbije, Strategija za borbu protiv organizovanog kriminala, Strategija suprotavljanja ilegalnim migracijama u Republici Srbiji u periodu 2009-2014. godine, Nacionalna strategija za borbu protiv pranja novca i finansiranja terorizma, Nacionalna strategija za borbu protiv korupcije u Republici Srbiji za period od 2013. do 2018. godine i Strategiji integrisanog upravljanja granicom Republike Srbije.

Strategija nacionalne bezbednosti Republike Srbije je bazična strategija od koje polaze sve ostale u oblasti nacionalne bezbednosti. Ona daje analizu okruženja Republike Srbije, identifikuje bezbednosne izazove, rizike i pretnje (među kojima su i terorizam; organizovani kriminal; narkomanija, proliferacija oružja za masovno uništenje; visokotehnoški kriminal i ugrožavanje informacionih i telekomunikacionih sistema; i dr.) utvrđuje nacionalne interese, određuje ciljeve, osnovna načela i elemente politike nacionalne bezbednosti i definiše strukturu, načela funkcionisanja i odgovornosti u okviru sistema bezbednosti.<sup>7</sup>

Republika Srbija, primenjujući ovu strategiju, obavezala se i na regionalnu saradnju u oblastima: zajedničke obuke i angažovanja elemenata sistema bezbednosti u multinacionalnim operacijama, upravljanja krizama i upravljanja granicom, suprotavljanja terorizmu i organizovanom kriminalu, zaštite od elementarnih nepogoda i tehničko-tehnoških nesreća i zaštite životne sredine, prirodnih resursa i zdravlja građana.

Na nacionalnom nivou, delovanje državnih i ostalih organa i institucija Republike Srbije, u oblasti unutrašnje bezbednosti, ovom strategijom je usmereno na zaštitu ustavnog poretka, života i imovine građana, sprečavanje i suzbijanje svih oblika terorizma, organizovanog, finansijskog, ekonomskog i visokotehnoškog kriminala, korupcije, pranja novca, trgovine ljudima, narkomanije, proliferacije konvencionalnog naoružanja i oružja za masovno uništenje, obaveštajnih i subverzivnih delatnosti, kao i drugih izazova, rizika i pretnji bezbednosti.

Primena Nacionalne strategije za borbu protiv organizovanog kriminala zasnovana je na tri osnovna principa suprotavljanja organizovanom kriminalu: primeni i razvijanju preventivnog i represivnog delovanja, oduzimanju imovine proistekle iz krivičnih dela organizovanog kriminala i aktivnom razvijanju poverenja i saradnje sa građanima i privatnim sektorom, radi povezivanja svih snaga i potencijala društvene

5 [http://www.poverenik.rs/images/stories/Dokumentacija/54\\_Idok.pdf](http://www.poverenik.rs/images/stories/Dokumentacija/54_Idok.pdf), preuzeto dana 15.08.2017.

6 <https://treaties.un.org/doc/Publication/UNTS/Volume%201184/volume-1184-I-18961-English.pdf>, preuzeto dana 15.08.2017.

7 Odluka o usvajanju Strategije nacionalne bezbednosti Republike Srbije (Službeni glasnik RS, broj 88/2009).

zajednice.

Strategijom se, u skladu sa međunarodnim standardima i preporukama, u dužem vremenskom periodu predviđaju mogući trendovi i pravci razvoja organizovanog kriminala i definišu odgovarajući osnovni ciljevi i mogućnosti Republike Srbije za njegovo predupređenje i smanjivanje na najmanju moguću meru. Takođe, njome se definiše politika, pravac i metodologija državnih organa s ciljem:

- razvijanja proaktivnog pristupa u borbi protiv organizovanog kriminala;
- povećanja efikasnosti u borbi protiv organizovanog kriminala odgovarajućom primenom preventivnog i represivnog delovanja, kao i oduzimanje imovine proistekle izvršenjem krivičnog dela;
- harmonizacije nacionalnog zakonodavstva sa međunarodnim standardima u oblasti borbe protiv organizovanog kriminala;
- jačanja kapaciteta (ljudskih i materijalno-tehničkih) svih državnih organa koji učestvuju u borbi protiv organizovanog kriminala;
- jačanja saradnje na nacionalnom, regionalnom i međunarodnom nivou; i
- jačanja saradnje između državnih organa, privatnog sektora i civilnog društva.<sup>8</sup>

Potrebno je napomenuti da je Republika Srbija do 2014. godine imala Strategiju suprotstavljanja ilegalnim migracijama u Republici Srbiji u periodu 2009-2014. godine (Službeni glasnik RS, br. 25/2009). Glavni cilj, ove strategije bio je poboljšanje efektivnosti i povećanje efikasnosti u suprotstavljanju ilegalnim migracijama, kao oblika organizovanog kriminala, a prioriteti su: ispunjavanje kriterijuma za liberalizaciju viznog režima (tzv. "beli šengen"); ubrzanje procesa stabilizacije i pridruživanja Republike Srbije Evropskoj uniji; jačanje bezbednosnih kapaciteta i potencijala Republike Srbije, i sprovođenje koncepta integrisanog upravljanja granicom.<sup>9</sup>

Metodologija suprotstavljanja ilegalnim migracijama zastupljena u ovoj Strategiji zasnivala se na pozitivnom zakonodavstvu Republike Srbije, najboljoj praksi policije Republike Srbije i EU, te Šengenskom katalogu mera kojim su obuhvaćene četiri faze suprotstavljanja ilegalnim migracijama, i to: aktivnosti u trećim zemljama, zemljama porekla i tranzita; bilateralna i međugranična saradnja; mere na spoljašnjim granicama (upravljanje granicama – provere i nadzor) i ostale aktivnosti unutar zemlje. Iako sa zakašnjenjem od dve godine, u toku su završne aktivnosti za izradu nove strategije, u ovoj oblasti, koja bi se odnosila na period važenja od 2017. do 2020. godine.<sup>10</sup> Upotreba prideva 'iregularni' umesto 'ilegalni', kada se govori o migracijama i migrantima, u skladu je sa tendencijom u svetskoj i evropskoj politici upravljanja migracijama da se unapredi zaštita osnovnih prava migranata i izbegne stigmatizacija i kriminalizacija migranata koji se kreću van ustanovljenih pravila i procedura.<sup>11</sup>

Osnovni ciljevi Nacionalne strategije za borbu protiv pranja novca i finansiranja terorizma su:

- preventivnim i represivnim merama uticati na smanjenje kriminaliteta u vezi sa pranjem novca i finansiranja terorizma;
- implementirati međunarodne standarde čije sprovođenje omogućava članstvo ili povoljniji status države u međunarodnim organizacijama;
- razviti sistem saradnje i odgovornosti svih učesnika u borbi protiv pranja novca i finansiranja terorizma;
- unaprediti saradnju javnog i privatnog sektora na planu borbe protiv pranja

8 Nacionalna strategije za borbu protiv organizovanog kriminala (Službeni glasnik RS, br. 23/2009).

9 Strategija suprotstavljanja ilegalnim migracijama u Republici Srbiji u periodu od 2009-2014. godine (Službeni glasnik RS, br. 25/2009).

10 Autor ovog članka je 2008. godine bio član radne grupe za izradu prvobitne Strategije suprotstavljanja ilegalnim migracijama u Republici Srbiji u periodu 2009-2014. godine, a trenutno je član radne grupe za izradu Strategije e suprotstavljanja iregularnim migracijama u Republici Srbiji u periodu 2017-2020. godine

11 Upotreba pojma 'iregularni migrant' preporučena je još 2006. godine od strane Parlamentarne skupštine Saveta Evrope (Council of Europe, Parliamentary Assembly, Resolution 1509, "Human Rights of Irregular Migrants") i 2009. godine od strane Evropskog parlamenta (Paragraph 159, European Parliament resolution on the situation of fundamental rights in the European Union 2004-2008, 14 January 2009)

novca i finansiranja terorizma;

- obezbediti transparentnost finansijskog sistema.<sup>12</sup>

Neophodnost izrade ovakve strategije u našoj zemlji, zasniva se na dva osnovna razloga. Prvi razlog su dešavanja tokom devedesetih godina prošlog veka u Autonomnoj pokrajini Kosovo i Metohija, kada je novac dobijen aktivnostima organizovanih kriminalnih grupa, pre svega od krijumčarenja narkotika, u značajnoj meri korišćen za finansiranje terorističkih aktivnosti, nezakonitu nabavku naoružanja i druge potrebe. Drugi razlog je situacija nakon dolaska međunarodnih snaga bezbednosti, u junu 1999. godine na Kosovo i Metohiju, kada su nastavljene aktivnosti pojedinih terorističkih grupa koje deluju prema srpskom stanovništvu, pripadnicima međunarodnih snaga, kao i prema pripadnicima srpske vojske i policije na području Preševa i Bujanovca, i to preko administrativne linije sa teritorije Autonomne pokrajine Kosovo i Metohija. Finansiranje navedenih terorističkih aktivnosti je, u najvećoj meri, nastavljeno sredstavima pribavljenih vršenjem krivičnih dela, pre svega krijumčarenjem narkotika i prebacivanjem ilegalnih migranata.<sup>13</sup>

Svrha Nacionalne strategije za borbu protiv pranja novca i finansiranja terorizma je da se, na osnovu opisa i analize stanja i trendova kriminaliteta, kao i analize zakonodavnog, institucionalnog i operativnog okvira borbe protiv pranja novca i finansiranja terorizma, daju preporuke za prevazilaženje problema i unapređivanje postojećeg sistema.

Pranje novca<sup>14</sup> je proces prikrivanja nezakonitog porekla novca ili imovine stečenih kriminalom, a finansiranje terorizma predstavlja pokušaj ili obezbeđivanje ili prikupljanje sredstava ili imovine, u nameri da se koriste ili sa znanjem da mogu biti korišćeni, u celosti ili delimično, za izvršenje terorističkog akta od strane terorista ili od strane terorističkih organizacija.

Polazeći od navedenih činjenica, osnovni ciljevi Nacionalne strategije za borbu protiv pranja novca i finansiranja terorizma su:

- preventivnim i represivnim merama uticati na smanjenje kriminaliteta u vezi sa pranjem novca i finansiranja terorizma;
- implementirati međunarodne standarde čije sprovođenje omogućava članstvo ili povoljniji status države u međunarodnim organizacijama;
- razviti sistem saradnje i odgovornosti svih učesnika u borbi protiv pranja novca i finansiranja terorizma;
- unaprediti saradnju javnog i privatnog sektora na planu borbe protiv pranja novca i finansiranja terorizma;
- obezbediti transparentnost finansijskog sistema.<sup>15</sup>

Borba protiv pranja novca direktno je povezana sa drugim oblicima borbe protiv kriminala, tako da se ovom strategijom daju i preporuke u vezi sa: oduzimanjem protivpravno stečene imovinske koristi; privremenim merama kod oduzimanja protivpravne imovinske koristi; obrnutim teretom dokazivanja u vezi sa oduzimanjem protivpravne imovinske koristi i upravljanjem privremeno oduzetom protivpravnom imovinskom koristi.

Neophodnost izrade ovakve strategije u našoj zemlji, zasniva se na dva osnovna razloga. Prvi razlog su dešavanja tokom devedesetih godina prošlog veka u Autonomnoj pokrajini Kosovo i Metohija, kada je novac dobijen aktivnostima organizovanih kriminalnih grupa, pre svega od krijumčarenja narkotika, u značajnoj meri korišćen za finansiranje terorističkih aktivnosti, nezakonitu nabavku naoružanja i druge potrebe. Drugi razlog je situacija nakon dolaska međunarodnih snaga bezbednosti, u junu 1999. Nacionalna strategija za borbu protiv pranja novca i finansiranja terorizma (Službeni glasnik RS, br. 89/2008).

13 Ibidem.

14 Procena Međunarodnog monetarnog fonda je da je ukupan obim pranja novca u svetu između dva do pet procenata ukupnog svetskog društvenog proizvoda. Iznos u novcu koji odgovara navedenim procenatima je od 590 milijardi do 1,5 biliona američkih dolara godišnje. S obzirom na tajnost i prirodu pranja novca, navedeni podaci su samo indikator veličine problema.

15 Nacionalna strategija za borbu protiv pranja novca i finansiranja terorizma (dostupno na - [www.vlada.gov.rs/strategije](http://www.vlada.gov.rs/strategije)).

godine na Kosovo i Metohiju, kada su nastavljene aktivnosti pojedinih terorističkih grupa koje deluju prema srpskom stanovništvu, pripadnicima međunarodnih snaga, kao i prema pripadnicima srpske vojske i policije na području Preševa i Bujanovca, i to preko administrativne linije sa teritorije Autonomne pokrajine Kosovo i Metohija. Finansiranje navedenih terorističkih aktivnosti je, u najvećoj meri, nastavljeno sredstavima pribavljenih vršenjem krivičnih dela, pre svega krijumčarenjem narkotika i prebacivanjem ilegalnih migranata.

Opšti cilj Nacionalne strategija za borbu protiv korupcije u Republici Srbiji za period od 2013. do 2018. godine ("Sl. glasnik RS", br. 57/2013 je da se korupcija, kao prepreka ekonomskom, socijalnom i demokratskom razvoju Republike Srbije, u najvećoj mogućoj meri otkloni. Posledice korupcije ne sastoje se isključivo u osiromašenju društva i države, nego i u drastičnom padu poverenja građana u demokratske institucije, kao i stvaranju neizvesnosti i nestabilnosti ekonomskog sistema koja se ogleda, između ostalog, i u smanjenju investicija. Oblasti prioritnog delovanja su utvrđene na osnovu kvalitativne i kvantitativne analize indikatora o trendovima, obimu, pojavnim oblicima i drugim pitanjima vezanim za korupciju u Republici Srbiji. Oni su zasnovani na različitim izvorima informacija, uključujući godišnje izveštaje Agencije o sprovođenju Strategije iz 2005. godine, izveštaje Saveta za borbu protiv korupcije (u daljem tekstu: Savet), analize potreba urađene za potrebe izrade Strategije, izveštaja Evropske komisije o napretku Republike Srbije iz 2012. godine, analiza u okviru Grupe država za borbu protiv korupcije Saveta Evrope (u daljem tekstu: GREKO), Organizacije za ekonomsku saradnju i razvoj (u daljem tekstu: OECD) i Konvencije Ujedinjenih nacija protiv korupcije (u daljem tekstu: UNKAK), modela planova integriteta koji su nastali u saradnji sa organima vlasti u procesu koji je koordinirala Agencija, analize percepcije građana o korupciji, izveštaja civilnog sektora, kao i drugih relevantnih dokumenata. Struktura Strategije je takva da se prvo navodi oblast prioritnog delovanja i kratak opis stanja i ključnih problema u njoj (Političke aktivnosti, Javne finansije, Privatizacija i javno-privatno partnerstvo, Pravosuđe, Policija, Prostorno planiranje i izgradnja, Zdravstvo, Obrazovanje i sport, Mediji), a zatim formulacija ciljeva.

Strategija, u svrhu ostvarivanja prioritnih ciljeva, definiše i preventivne mere u suprotstavljanju, kao što su: Uspostavljena analiza rizika na korupciju u postupku pripreme propisa; Sistem zapošljavanja i napredovanja u organima vlasti na osnovu kriterijuma i zasluga; Obezbeđena transparentnost u radu organa vlasti; Kontinuirana edukacija o korupciji i načinima borbe protiv korupcije; Stvoreni uslovi za aktivnije učešće privatnog sektora u borbi protiv korupcije; Narodna skupština prati sprovođenje zaključaka, odnosno preporuka koje je donela povodom izveštaja nezavisnih državnih organa; Proširene i precizirane nadležnosti i unapređeni kadrovski kapaciteti i uslovi rada Agencije za borbu protiv korupcije, Zaštitnika građana, Poverenika za informacije od javnog značaja i zaštitu podataka o ličnosti i Državne revizorske institucije; i Uspostavljen sistem za sprečavanje sukoba interesa zaposlenih u javnom sektoru. Strategijom je predviđeno i da Savet za borbu protiv korupcije je savetodavno radno telo Vlade, koje sagledava aktivnosti u borbi protiv korupcije, predlaže mere koje treba preduzeti u cilju efikasne borbe protiv korupcije, prati njihovo sprovođenje i daje inicijative za donošenje propisa, programa i drugih akata i mera u toj oblasti. Savet blagovremeno ukazuje Vladi na uočene pojavne oblike korupcije i ukazuje na propuste u mehanizmima borbe protiv korupcije. Savet će pratiti rezultate sprovođenja Strategije i akcionog plana u državnim organima, obveznicima akcionog plana.

Već smo naglasili da pridruživanje Evropskoj uniji za Republiku Srbiju predstavlja strateško opredeljenje, koje podrazumeva prihvatanje usvojenih evropskih vrednosti i standarda u čitavom nizu oblasti.<sup>16</sup> Slobodan protok ljudi i robe između država članica EU, uz istovremeno suprostavljanje prekograničnom organizovanom kriminalu, na

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<sup>16</sup> Vlada Republike Srbije je još u martu 2008. godine usvojila Nacionalni program za integraciju u Evropsku uniju koji obuhvata čitav niz političkih, ekonomskih i bezbednosnih kriterijuma koji se moraju uskladiti sa standardima Evropske unije.



nacionalnom i nadnacionalnom nivou, zahteva uvođenje odgovarajućih mera i standarda u ovoj oblasti. Budući da se Republika Srbija već graniči sa četiri zemlje - članice EU (Mađarska, Rumunija, Bugarska i Hrvatska), od kojih jedna pripada "Šengen-zoni" (Mađarska), a imajući u vidu i procese pristupanja Evropskoj uniji i zemalja u okruženju, od izuzetnog je značaja implementacija donetih strategija koje su direktno ili indirektno vezane za suprotstavljane organizovanom kriminalu i terorizmu, počev od Strategija nacionalne bezbednosti Republike Srbije.

Raznolikost i složenost zadataka koji se obavljaju na granici, veliki broj zainteresovanih subjekata, potreba za bliskom saradnjom unutar graničnih službi, odnosno između graničnih službi i na međunarodnom nivou, veliki raskorak između stvarnog i željenog stanja i drugi otežavajući faktori, imaju za posledicu to da bi sveobuhvatna strategija izgradnje sistema integrisanog upravljanja granicom trebalo da bude izuzetno složen i obiman dokument. Da bi se omogućio uvid u celinu problema i istovremeno izbegla opasnost gubitka važnih detalja, u januaru 2006. godine doneta je prva Strategija integrisanog upravljanja granicom u Republici Srbiji (Službeni glasnik RS, br. 11/2006), koja je bila strukturirana u tri nivoa: osnovni dokument, sektorske strategije i funkcionalne strategije. Osnovni dokument Strategije utvrđuje okvire sistema integrisanog upravljanja granicom, uloge i odgovornosti graničnih službi, strategijske ciljeve na nacionalnom nivou i glavne pravce akcije, uključujući i obaveze pojedinih subjekata da izrade strategije integrisanog upravljanja granicom u sektoru za koji odgovaraju i učestvuju u izradi strategije implementacije određene funkcije za čije korišćenje su zainteresovane.

Integrisano upravljanje granicom i njegovi pojedinačni elementi, u Strategiji, sagledavali su se, razvijali i pratili kroz 7 parametara: pravni i regulatorni okvir, institucionalni okvir, procedure, ljudski resursi i obuka, komunikacija i razmena informacija, infrastruktura i oprema i budžet. Ovi parametri biće dosledno primenjivani kao atributi prikaza stanja i razvoja strategijskih ciljeva.

Republika Srbija sa ciljem daljeg usklađivanja integrisanog upravljanja granicom ovom Strategijom preuzima koncept koji je zasnovan na dokumentima Saveta Evropske unije iz 2006. godine, broj 13926/3/06 od 21. novembra 2006. godine, i broj 15628/06. Povećanje obima međunarodne trgovine, turizma, kulturne i obrazovne razmene zahteva otvorenije granice i olakšanje trgovine. Iz tog razloga sve granične službe moraju da stvore ravnotežu između strogih kontrola i sasvim otvorenih granica, a bliska saradnja različitih službi doprinosi stvaranju takve ravnoteže. Osnovni principi efikasnog upravljanja granicama u kontekstu evropskih standarda su:

- Otvorenost granica za trgovinu i kretanje lica što znači da granice moraju biti otvorene za regionalnu saradnju, saradnju unutar regiona i isto tako između regiona i EU. Otvorenost granica podrazumeva slobodnu trgovinu i kretanje ljudi, što su ključni faktori Sporazuma o stabilizaciji i pridruživanju, uz puno poštovanje ljudskih prava i sloboda.
- Zatvorenost granica za sve kriminalne aktivnosti i druge aktivnosti koje ugrožavaju stabilnost u regionu. Problemi u vezi sa krijumčarenjem svih vrsta, ilegalnim migracijama, terorizmom i organizovanim kriminalom se moraju rešavati u čitavom regionu, a posebno na granicama. Borba protiv kriminala, jačanje državnih institucija, a posebno pravosuđa i graničnih službi i uspostavljanje vladavine prava su temelj napretka zemlje na putu ka evropskim integracijama.<sup>17</sup>

Posebnom odlukom Vlade Republike Srbije iz 2009. godine osnovano je i Koordinaciono telo sa zadatkom da prati, usmerava i koordinira aktivnosti vezane za sprovođenje Strategije integrisanog upravljanja granicom u Republici Srbiji. Sastav Koordinacionog tela čine: ministar unutrašnjih poslova, ministar finansija, ministar poljoprivrede, šumarstva i vodoprivrede i ministar za infrastrukturu. Radom

<sup>17</sup> Strategija integrisanog upravljanja granicom u Republici Srbiji za period 2017-2020, (Službeni glasnik RS, br. 9/2017)



Koordinacionog tela rukovodi ministar unutrašnjih poslova. Koordinaciono telo podnosi izveštaj o svom radu Vladi svakih 90 dana. Stručne i administrativne poslove za Koordinaciono telo obavlja Uprava granične policije Ministarstva unutrašnjih poslova.<sup>18</sup>

Kao najznačajniji problemi, u praksi, u funkcionisanju Strategije integrisanog upravljanja granicom, u tom periodu, identifikovani su: finansiranje aktivnosti (modernizacija infrastrukture na graničnim prelazima, nabavka savremenih tehničkih sredstava za potrebe granične kontrole i obezbeđenja državne granice kompatibilnih sa susednim pograničnim organima, zajednička obuka subjekata bezbednosti i dr.), neusklađenost zajedničkih procedura, formalizmi u postupanju (davanje saglasnosti za različite nivoe rukovođenja, brzina protoka informacija i dr.), neutvrđenost granica prema susednim državama (BiH, Hrvatska i Crna Gora), trenutna situacija na području AP KiM i dr. S tim u vezi 8. novembra 2012. godine doneta je druga Strategija integrisanog upravljanja granicom u Republici Srbiji (Službeni glasnik RS, br. 111/2012). Akcionim planom za poglavlje 24, kao i Nacionalnim planom za pristupanje EU predviđeno je donošenje nove Strategije i Akcionog plana za integrisano upravljanje granicom. Navedenim dokumentima su određene glavne aktivnosti koje bi trebalo sprovesti u cilju postizanja evropskih standarda na području integrisanog upravljanja granicom i to: usaglašavanje legislativne (zakonski i podzakonski akti), podizanje kapaciteta svih nadležnih organa (tehničkih i ljudskih resursa), posebne tehničke i IT mere (Sengenski informacioni sistem – SIS, Vizni informacioni sistem – VIS, sistem za graničnu fitosanitarnu inspekciju - TRACES), jačanje međuagencijske saradnje, kao i borba protiv korupcije. S tim u vezi 3. februara 2017. godine usvojena i treća, Strategija integrisanog upravljanja granicom u Republici Srbiji za period 2017-2020 (Službeni glasnik RS, br. 9/2017).<sup>19</sup>

Kada su u pitanju strategijska dokumenta, neophodno je istaći da je 4. avgusta 2017. godine usvojena Strategija prevencije i suzbijanja trgovine ljudima, posebno ženama i decom i zaštite žrtava za period od 2017. do 2022. godine, a da su u toku aktivnosti usaglašavanja teksta Nacionalne strategije za prevenciju i borbu protiv terorizma u periodu od 2017 do 2020., kao i Poslovna strategija Uprave carina za period 2017-2020. godine čime bi se zaokružio legislativni okvir u oblasti integrisanog upravljanja granicom.

### **Nacionalno zakonodavstvo**

Kako smo već naveli, legislativni okvir Sistema bezbednosti bezbednosti državnih granica čine i odgovarajući zakonska i podzakonska akta odnosno propisi (pravilnici, uredbе, odluke, uputstva, direktive i dr.).

Oblast bezbednosti granica odnosno integrisanog upravljanja granicom obiluje zakonima, a u ovom radu ćemo nabrojati samo neke od njih, koji su direktno ili indirektno vezane za bezbednost državne granice, kao što su: Zakon o zaštiti državne granice („Službeni glasnik RS”, broj 97/08 i 20/2015 - dr. zakon); Zakon o strancima („Službeni glasnik RS”, broj 97/08); Zakon o azilu („Službeni glasnik RS”, broj 109/07); Carinski zakon („Službeni glasnik RS”, broj 18/10, 111/2012 i 29/2015); Zakon o bezbednosti hrane („Službeni glasnik RS”, broj 41/09); Zakon o zaštiti bilja („Službeni glasnik RS”, broj 101/2005), Zakon o zdravlju bilja („Službeni glasnik RS”, broj 41/2009); Krivični zakonik („Službeni glasnik RS”, br. 85/05, 88/05 - ispravka, 107/05 - ispravka, 72/09, 111/09, 121/12, 104/13 i 108/14), Zakonik o krivičnom postupku („Službeni glasnik RS”, br. 72/11, 101/11, 121/12, 32/13, 45/13 i 55/14), Zakon o odgovornosti pravnih lica za krivična dela („Službeni glasnik RS”, broj 97/08), Zakon o organizaciji i nadležnosti državnih organa u suzbijanju organizovanog kriminala, korupcije i drugih posebno teških

<sup>18</sup> Odluka o osnivanju Koordinacionog tela za sprovođenje Strategije integrisanog upravljanja granicom u Republici Srbiji, (Službeni glasnik RS, br. 37/2009)

<sup>19</sup> Autor ovog članka, kao član Radne grupe za različite komponente, učestvovao je 2006., 2012. i 2017. godine u aktivnostima kreiranja i donošenja prve, druge i treće Strategije integrisanog upravljanja granicom Republike Srbije.

krivičnih dela ("Službeni glasnik RS", br. 42/02, 27/03, 39/03, 67/03, 29/04, 58/04 - dr. zakon, 45/05, 61/05, 72/09, 72/11 - dr. zakon, 101/11 - dr. zakon i 32/13), Zakon o organizaciji i nadležnosti državnih organa za borbu protiv visokotehnološkog kriminala ("Službeni glasnik RS", br. 61/05 i 104/09), Zakon o oduzimanju imovine proistekle iz krivičnog dela ("Službeni glasnik RS", broj 32/13), Zakon o policiji ("Službeni glasnik RS", broj 6/16), Zakon o maloletnim učiocima krivičnih dela i krivičnopravnoj zaštiti maloletnih lica ("Službeni glasnik RS", broj 85/05), Zakon o međunarodnoj pravnoj pomoći u krivičnim stvarima ("Službeni glasnik RS", broj 20/09), Zakon o upravljanju migracijama ("Službeni glasnik RS", broj 107/12), Zakon o Crvenom krstu Srbije ("Službeni glasnik RS", broj 107/05), Zakon o programu zaštite učesnika u krivičnom postupku ("Službeni glasnik RS", broj 85/05); Zakon o uslovima za upućivanje zaposlenih na privremeni rad u inostranstvo i njihovoj zaštiti ("Službeni glasnik RS", broj 91/15), Zakon o zabrani diskriminacije ("Službeni glasnik RS", broj 22/09) i dr.

Za bezbednost granica sve države opredeljuju specijalizovane stručne službe (granične službe) zadužene za specifične segmente. Najčešće su to službe zadužene za kontrolu putnika i prevoznih sredstava (granična policija), za kontrolu prenošenja, odnosno uvoza i izvoza roba preko državne granice i zaštitu carinske teritorije države (carinska služba), za kontrolu prometa preko državne granice različitih biljnih i životinjskih vrsta i njihovih proizvoda (inspeksijski organi), kao i za kontrolu odvijanja saobraćaja na međunarodnom plovnom putu (lučke kapetanije).<sup>20</sup> Na osnovu navedenih zakona doneti su pravilnici i druga podzakonska akta kojima su konkretizovane postojeće zakonske odredbe, od kojih izdvajamo pojedine koje su direktno vezane za delokrug rada subjekata Sistema bezbednosti granica Republike Srbije (granična policija, carina i granične veterinarske i fitosanitarne inspeksijske službe) kao što su: Pravilnik o načinu utvrđivanja povreda državne granice i graničnih incidenata; Pravilnik o bližim uslovima i načinu izdavanja vize na graničnom prelazu; Pravilnik o obliku, sadržini i izgledu oznaka i druge signalizacije za obeležavanje graničnog prelaza i njegovog područja i obliku, sadržini i načinu postavljanja posebnih tabli i signalizacije kojima se upozorava na približavanje graničnoj liniji; Pravilnik o postavljanju i korišćenju uređaja i drugih tehničkih sredstava prilikom zaštite državne granice; Pravilnik o sadržaju, načinu vođenja i roku čuvanja podataka u evidencijama koje vodi granična policija; Pravilnik o izgledu obrasca i sadržini putnog lista za stranca; Pravilnik o izgledu, sadržini i načinu unošenja odobrenja privremenog boravka u stranu putnu ispravu; Pravilnik o sadržini i izgledu obrazaca zahteva za azil i isprava koje se mogu izdavati tražiocima azila i licima kojima je odobren azil ili privremena zaštita; Uredba o usklađivanju nomenklature Carinske tarife za 2017. godinu; Uredba o vrsti, količini i vrednosti robe na koju se ne plaćaju uvozne dažbine, rokovima, uslovima i postupku za ostvarivanje prava na oslobođenje od plaćanja uvoznih dažbina; Uredba o listama otpada za prekogranično kretanje, sadržini i izgledu dokumenata koji prate prekogranično kretanje otpada sa uputstvima za njihovo popunjavanje; Pravilnik o vrstama pošiljki koje podležu veterinarsko sanitarnoj kontroli i načinu obavljanja veterinarsko sanitarnog pregleda pošiljki na graničnim prelazima i dr.

Potrebno je naglasiti i da je periodu donošenja navedenih zakona, počev od 2008. godine pa do sada, bilo problema u njihovom sprovođenju, zbog kašnjenja u donošenju podzakonskih akata, što je u praksi stvaralo dodatne probleme u njihovom sprovođenju pa su tako npr. podzakonska akta u vezi Zakona o zaštiti državne granice, koji je stupio na snagu 2008. godine, iako je postojala obaveza donošenja u roku od godinu dana od dana stupanja na snagu zakona, doneta tek posle četiri godine odnosno 2012. godine.

<sup>20</sup> Milošević, M., Dostić, S. (2011): Modaliteti saradnje graničnih policija u regionu zapadnog Balkana, Zbornik radova sa naučno-stručnog skupa sa međunarodnim učešćem "Suzbijanje kriminala i evropske integracije", Kriminalističko-policijska akademija i Hans Zajdel fondacija, Tara, str.51.

## Migrantska kriza kao izazov postojećom legislativnom okviru Sistema bezbednosti državne granice u Republici Srbiju

Polovinom juna meseca 2015. godine, dolazi do ekspanzije priliva migranata ka zemljama Evrope, što dovodi do najveće migrantske krize posle Drugog svetskog rata. Takvo stanje dovelo je do promene politike evropskih zemalja u odnosu na migrante. S jedne strane, jedan broj zemalja, opredelio se za humanitarni pristup ovom problemu, dok su vlade nekih zemalja donele odluku o podizanju ograda na svojim granicama po uzoru na hladnoratovski period<sup>21</sup> (npr. Mađarska), što je dovelo do promene rute migranata.

O kakvom problemu je reč, možda najbolje govore podaci Evropske komisije koja je mobilizirala sredstva iz budžeta EU, u do sada ne zabeleženoj meri, te je namenila više od 10 milijardi evra za rešavanje izbegličke krize i pružanje pomoći najpogođenijim zemljama, uspostavljanjem novog okvira za koordinaciju i saradnju namenjenog zemljama zapadnog Balkana, novim partnerstvom s Turskom i ambicioznom predlogom o uspostavljanju nove evropske granične i obalske straže čime bi se osnažila evropska politika za azil i migracije.<sup>22</sup>

Migracije, pogotovu one neregularne, imaju ogromne bezbednosne reperkusije. One sa sobom neminovno donose i povećanje opasnosti po domaću stanovništvo od zaraznih bolesti, kriminala i terorizma. Kada je reč o vrsti terorizma koji sa bujicom migranata raste kao bezbednosni izazov, odgovor je naoko jednostavan i jednoznačan – opasnost koja narasta je opasnost od islamističkog terorizma budući da je ogroman procenat migranata muslimanske veroispovesti. Međutim, stvari ne stoje baš tako prosto. Budućnost koja nas čeka u Evropi svakako će biti obeležena porastom islamističkog ekstremizma, ali njegov porast će biti praćen jednom drugom vrstom ekstremizma, a to je desničarski, koji će sve više biti reaktivne prirode u odnosu na migracije koje će mu istovremeno biti i meta i zamajac.<sup>23</sup>

Republika Srbija se po svom geografskom položaju nalazi na zapadnobalkanskoj ruti i kao zemlja tranzita suočava se sa velikim pritiskom iregularnih migracija.<sup>24</sup> Glavni pravci kojim ilegalni (iregularni) migranti dolaze na teritoriju Republike Srbije vode iz pravca Grčke, odnosno Makedonije, a od 2013. godine aktivirana je i ruta iz pravca Bugarske. Nakon izgradnje žičane ograde od strane mađarskih vlasti, septembra 2015. godine, na državnoj granici sa Mađarskom<sup>25</sup>, došlo je do promene rute ilegalne (iregularne) migracije, tako da sada glavna ruta migracionih kretanja ide ka R Hrvatskoj i dalje ka zemljama Evropske unije. Registrovani su i pojedinačni ulasci ili u manjim grupama iz pravca AP KiM, Crne Gore i BiH, a pojavljuju se indikatori aktiviranja rute preko Rumunije.

21 Militarni sistem bezbednosti granica, posle Drugog svetskog rata, naročito je bio razvijen između bivše DR Nemačke, Čehoslovačke i SR Nemačke (Berlinski zid), gde je bio izgrađen čitav kompleks objekata, prepreka, minskih polja, žičanih ograda sa električnom strujom, betonskih stubova, stražarskih kula sa reflektorima i radiolokacionih uređaja za praćenje. Kontrolu prelazanja i obezbeđenje, navedene granice, obavljale su vojne formacije opremljene, tada, najmodernijim streljačkim oružjem i uređajima za osmatranje i gađanje noću. Navedeno prema – Živković, D.: Granica - izazov za bezbednost, Vojnoizdavački zavod, Beograd, 2008., str. 103.

22 Evropska komisija (2016): Komunikacija komisije u evropskom parlamentu i veću o trenutnom stanju sprovođenja prioritarnih mera u okviru Evropskog migracijskog programa, Brisel, str.5

23 Simeunović, D.(2015): Migracije kao uzrok političkih anomalija u Evropi, NBP-Žurnal kriminalistiku i pravo, br.3/2015, Kriminalističko-policijska akademija, Beograd, str.6-7.

24 Potrebno je napomenuti da je krajem 2014. godine, aktivirana i takozvana regionalna iregularna migracija, a reč je o licima sa teritorije AP KiM koji pokušavaju da uđu na teritoriju EU ilegalno prelazeći srpsko-mađarsku državnu granicu. Povećan broj sprečenih pokušaja nezakonitih prelazaka državne granice Republike Srbije od strane lica sa AP KiM nastavio se i u toku januara i februara 2015. godine, nakon čega, zahvaljujući preduzetim merama dolazi do naglog pada broja ovih lica.

25 Prema podacima FRONTEx, tokom maja 2013. godine, na granici Srbije i Mađarske zabeleženo je skoro polovina (43%) svih ilegalnih graničnih prelaza na spoljnim granicama EU. U periodu od 1. januara do 31. maja 2015. godine, više od 50.000 migranata su otkriveni na ovom putu, što predstavlja povećanje od 880% u odnosu na isti period 2014. godine. Navedeno prema - Godišnja analiza rizika 2014. Frontex. str. 5; Dostupno na: [frontex.europa.eu/assets/Publications/Risk\\_Analysis/WB\\_ARA\\_2014.pdf](http://frontex.europa.eu/assets/Publications/Risk_Analysis/WB_ARA_2014.pdf)

Kao dodatni motiv povećanog pritiska iregularnih migracija smatrale su se i najave Evropske komisije da se planira određivanje kvota prihvata tražilaca azila za svaku pojedinačnu članicu EU. Taj pritisak je posebno izražen u toku 2015. godine kada je na teritoriji Republike Srbije, prema podacima Ministarstva unutrašnjih poslova Republike Srbije ukupno otkriveno 599.033 iregularnih migranata. Navedeni broj predstavlja zbir broja izraženih namera za traženje azila – 579.518, broj lica kojim je izdata Potvrda o ulasku na teritoriju Republike Srbije, a koja dolaze iz zemalja u kojima su njihovi životi u opasnosti – 5.101 i broja podnetih prekršajnih prijava zbog nezakonitog prelaska državne granice – 14.414, što je u odnosu na celu 2014. godinu, kada je ukupno otkriveno 23.373 iregularnih migranata, više za oko 25 puta.<sup>26</sup>

Potrebno je istaći činjenicu da je, zbog velikog priliva migranata, u drugoj polovini 2015. godine, počelo sa sprovođenjem politike omogućavanja humanitarnog tranzita preko teritorije Republike Srbije licima koja dolaze sa ratom zahvaćenog područja, što otežava praćenje problematike iregularne migracije i policijskog rada na suzbijanju krijumčarenja ljudi. Nacionalna struktura migranata, koji tranzitiraju preko Republike Srbije, delimično je izmenjena u odnosu na predhodne godine, kada su dominirali državljani Avganistana i Pakistana. Tokom 2015. godine registrovan je rast broja državljana Sirije, zbog eskalacije oružanih sukoba u toj zemlji, pri čemu se mora imati u vidu činjenica da se nacionalnost i identitet lica utvrđuju samo na osnovu lične izjave migranta. Republika Srbija se kao i većina zemalja Evrope opredelila za humanitarni pristup ovom problemu i omogućila nesmetan tranzit preko svoje teritorije licima koja dolaze sa ratom zahvaćenih područja do krajnjih destinacija. Nakon otkrivanja iregularnih migranata na teritoriji Republike Srbije vršio se njihov pregled i registracija, a zatim i evidentiranje tražilaca azila.

Nakon Samita Evropske unije održanog 7. marta 2016. godine u Briselu na kome su donete ključne odluke za rešavanje migrantske krize, a koje su dovele do „zatvaranja Zapadnoblakanganske rute migranata“, kao i što se očekivalo, na teritoriji R Srbije je došlo do porasta broja sprečenih lica u pokušaju nezakonitih prelazaka državne granice. Uporedo sa tim, došlo je i do povećanog obima krijumčarenja ljudi na teritoriji R Srbije. Ulazne tačke koje su pod najvećim pritiskom bile su delovi državne granice sa Bugarskom i Makedonijom, dok su glavne izlazne tačke bile delovi državne granice sa Hrvatskom i Mađarskom.

Zatvaranjem „balkanske rute“, broj migranata otkrivenih na teritoriji Republike Srbije je tokom aprila 2016. godine stagnirao, da bi od maja meseca taj broj počeo da raste. Tokom leta 2016. godine na teritoriji Beograda je boravilo oko 1.200 izbeglica dnevno.

U periodu 1.01. do 31.12.2016. godine na teritoriji Republike Srbije ukupno je otkriveno 111.143 migranta. (ovaj broj predstavlja zbir broja izraženih namera za traženje azila – 12.811, broj lica kojim je izdata Potvrda o ulasku na teritoriju Republike Srbije, a koja dolaze iz zemalja u kojima su njihovi životi u opasnosti – 96.236 i broja podnetih prekršajnih prijava zbog nezakonitog prelaska državne granice – 2.096), što je u odnosu na 2015. godinu, kada je ukupno otkriveno 599.033 iregularnih migranata, manje za oko 81%.<sup>27</sup>

Od ukupnog broja otkrivenih iregularnih migranata, u 2016. godini, na državnoj granici Republike Srbije otkriveno je ukupno 6.050 lica u pokušaju nezakonitog prelaska državne granice, od čega najviše na državnoj granici sa R Bugarskom (3.125), zatim na državnim granicama sa Mađarskom (1.394) i R Makedonijom (639), kao i Republikom Hrvatskom (594). U ovom periodu 12.811 stranih državljana je izrazilo nameru da traži azil u Republici Srbiji (9.121 muškog i 3.690 ženskog pola, od kog broja je bilo 5.368 maloletnih lica (5.368 muškog i 1.679 ženskog pola), s tim što od ovog broja je 180 maloletnih lica bez pratnje (169 muškog i 11 ženskog pola) . Razvrstano po državi

<sup>26</sup> Statističke evidencije za 2015. godinu Odeljenja za analitiku Sektora za analitiku, telekomunikacione i informacione tehnologije, Ministarstvo unutrašnjih poslova Republike Srbije, Beograd, 2016.

<sup>27</sup> Statističke evidencije za 2016. godinu Odeljenja za analitiku Sektora za analitiku, telekomunikacione i informacione tehnologije, Ministarstvo unutrašnjih poslova Republike Srbije, Beograd, 2017.



porekla 5.580 je iz Avganistana, 2.699 iz Iraka, 2.305 iz Sirije, 1.002 iz Pakistana, 282 iz Irana i 1.225 iz ostalih zemalja. Osnovni modus nezakonitog prelaska državne granice, tokom 2016. godine, slično 2015. godini bio je i dalje između dva granična prelaza, odnosno na zelenoj liniji, gde je sprečeno ukupno 5.042 dok je na graničnom prelazu registrovano 1.008 pokušaja nezakonitog prelaska državne granice (izbegavanjem granične kontrole, upotrebom tuđeg ili falsifikovanog dokumenta). Nacionalnost lica sprečenih u pokušaju nezakonitog prelaska državne granice delimično je promenjena u odnosu na 2015. godinu kada su državljani Sirije bili najzastupljeniji. I dalje je reč o državljanima afro-azijskog kompleksa, a najčešće su državljani Avganistana -44%, zatim Iraka -30%, a državljani Sirije -12%. i dr.<sup>28</sup>

U toku 2016. godine podneto je 349 krivičnih prijava protiv 604 lica, zbog izvršenih 386 krivičnih dela Nedoizvoljen prelaz državne granice i krijumčarenje ljudi iz čl. 350. KZ RS. U tim slučajevima sprečano je krijumčarenje ukupno 5.181 lica. U odnosu na 2015. godinu kada je podneto 759 krivičnih prijava, u 2016. godini je evidentiran pad po svim parametrima, za 54% broja podnetih prijava, 47% otkrivenih učinilaca i 36% broja krijumčarenih lica. Najveći broj izvršilaca čine državljani Srbije sa udelom od 91% od ukupnog broja. Veliki je broj izvršilaca za koje nije utvrđeno državljanstvo iz razloga što su isti napustili lice mesta i ostavili migrante. Interesantno je da su izvršiocima ovog krivičnog dela i državljani Avganistana, Pakistana, Iraka i Turske.<sup>29</sup>

Problemi koji su se manifestovali u toku migrantske krize, u navedenom periodu, mogli bi se podeliti u 3 grupe, i to problemi vezani za:

1. nedovoljne ljudske, infrastrukturne i finansijske resurse (nedovoljan broj ljudi u Komesarijatu za izbeglice i migracije i Ministarstvu unutrašnjih poslova angažovanih na suprotstavljanju iregularnim migracijama; nedovoljna obučanost, pre svega nepoznavanje jezika većinskih grupa migranata i motivisanost policajaca koji rade na granici, njihova učestala rotacija na terenu; nedovoljan kapacitet za smeštaj ugroženih migranata; otežano finansiranje aktivnosti na zaštiti granice i dr.);
2. usvajanje i primenu odgovarajućih zakonskih rešenja koja omogućuju efikasno regulisanje statusa iregularnih migranata (usporena komunikacija između državnih organa i drugih aktera koji se bave iregularnim migracijama; otežano vraćanje migranata u zemlje porekla i tranzita; teška realizacija povrataka u zemlju porekla i tranzita, kako zbog nepostojanja diplomatskih odnosa sa pojedinim zemljama iz kojih stiže dosta migranata, tako i zbog pristupa pojedinim susednim zemljama kao što je Mađarska; neregulisan rad nekih NVO sa migrantima, jer pružaju usluge za koje nisu licencirane i ne koordiniraju svoje aktivnosti sa nadležnim državnim organima, čime se negde dupliraju resursi; ograničena razmena podataka između državnih organa i drugih aktera zbog Zakona o zaštiti podataka o ličnosti i dr.);
3. veliki pritisak na granicu od strane migranata koji žele da prođu kroz Srbiju na putu ka EU.

Da bi efikasno reagovala, Republika Srbija bila je prinudjena da preduzme čitav niz mera i aktivnosti u cilju predupređenja iregularnih migracija izazvanih migrantskom krizom, od kojih izdvajamo:

- U okviru normativno-pravnog okvira, a u skladu sa postojećom problematikom, pokrenuta je procedura donošenja novog Zakona o strancima, Zakona o azilu, Zakona o graničnoj kontroli i izmena Krivičnog zakonika, kao odgovarajućih podzakonskih i instruktivnih akata za ujednačeno postupanje svih organizacionih jedinica. Od strane Uprave granične policije inicirano je i donošenje nove Nacionalne strategije suprotstavljanja iregularnim migracijama u Republici Srbiji za period 2017-2020. godina
- Dana 4.04.2016. godine potpisan je Memorandum o saradnji Ministarstva

<sup>28</sup> Ibidem.

<sup>29</sup> Ibidem.



unutrašnjih poslova i Republičkog javnog tužilaštva u oblasti krijumčarenja ljudi, sa rokom važnosti do 26.09.2017. godine kojim je predviđeno formiranje Stalne udarne grupe („SUD“), čiji je zadatak koordinacija suzbijanja krijumčarenja ljudi i suzbijanja krijumčarenja ljudi sa elementima organizovanosti.<sup>30</sup>

- Rešenjem ministra unutrašnjih poslova od 8.07.2016 obrazovana je Projektna grupa za sprečavanje iregularnih migracionih tokova, sa zadatkom da prati, analizira, razmatra i preduzima sve aktivnosti u vezi sa iregularnim migracionim tokovima u R Srbiji.
- Od strane EU finansira se i sprovodi “Specijalna mera 2” za podršku R. Srbiji u cilju poboljšanja upravljanja granicom prema R. Bugarskoj u kontekstu evropske migracione krize. Policijski službenici granične policije angažovani su i na obezbeđenju granice Makedonije i Grčke, kao i oko 50 stranih policijskih službenika na granici Bugarske i Srbije
- Dana 17.07.2016. godine na inicijativu i predlog Biroa za koordinaciju službi bezbednosti, i uz saglasnost predsednika Republike Srbije, Vlada Republike Srbije je na osnovu člana 39. Zakona o odbrani donela Odluku da se formiraju zajedničke snage policije i vojske u cilju zaštite granica Srbije prema R Makedoniji i R Bugarskoj od nedozvoljenih prelazaka i ilegalnih aktivnosti krijumčara migranata.<sup>31</sup>

Na osnovu navedenog, formirane su zajedničke patrole policije i vojske koje raspolažu tehničkim sredstvima za izviđanje granične linije u svim vremenskim uslovima, ali i dubine teritorije, radi otkrivanja lica koja učestvuju u krijumčarenju ljudi. Od formiranja združenih (zajedničkih) snaga vojske i policije pa do decembra 2016. godine, kada je u pitanju suprotstavljanje iregularnim migracijama, ostvareni su sledeći rezultati:

- Ukupno 12.364 lica je sprečeno da uđe na teritoriju Republike Srbije, od čega 942 lica je uhvaćeno u pokušaju nezakonitog prelaska, a 11.422 lica je odustalo nakon uočavanja patrola.
- Na granici sa Republikom Makedonijom sprečeno je u pokušaju nezakonitog prelaska 6.719 lica od čega je 6.088 odustalih a 631 uhvaćenih lica.
- Na granici sa Republikom Bugarskom sprečeno je u pokušaju nezakonitog prelaska 5.645 lica, od čega je 5.334 lica odustalo a 311 lica je uhvaćeno.<sup>32</sup>

Ono što je trenutno aktuelno su migranti koje su duže vreme „zaglavljene“ u Beogradu, bez sredstava za nastavak putovanja. Tokom prve polovine decembra 2017. godine na teritoriji R Srbije (u prihvatnim centrima, centrima za azil, na tranzitnim kapijama, u prihvatilištu za strance i u parku u Beogradu) svakodnevno je boravilo više od 6.500 ljudi. Sredinom decembra taj broj lica je počeo da raste, tako da je 31.12.2016. godine na teritoriji Srbije boravilo više od 7.300 lica. Sredinom 2017. godine dolazi do smanjenja priliva migranata i tražilaca azila u Srbiji tako da trenutno, u prihvatnim centrima, boravi oko 6.300, što je za 10 odsto manje nego početkom godine.<sup>33</sup>

Potrebno je naglasiti i da su u dosadašnjem periodu uočene pojave „zloupotrebe“ postupka azila, odnosno da veliki broj lica koja izraze nameru za traženjem azila u

30 Od formiranja pa do septembra 2017. godine Stalna udarna grupa je podnela 4 krivične prijave. Krivična prijave obuhvatile su 38 lica. Sa 33 lica sklopljen je Sporazum o priznavanju krivice. Navedeno prema - Statističke evidencije za devet meseci 2017. godine Odeljenja za analitiku Sektora za analitiku, telekomunikacione i informacione tehnologije, Ministarstvo unutrašnjih poslova Republike Srbije, Beograd, 2017.

31 Dostić, S., Marković, D. (2017): Combined model of State border Security system incombating Illegal migrations, The Review of International Affairs, Institut za međunarodnu politiku i privredu Vol. LX-VIII No. 1166-1167, april-septembar, Beograd

32 Statističke evidencije za 2016. godinu Odeljenja za analitiku Sektora za analitiku, telekomunikacione i informacione tehnologije, Ministarstvo unutrašnjih poslova Republike Srbije, Beograd, 2017.

33 UNHCR: U Srbiji smanjen priliv izbeglica i migranata sa Bliskog istoka, Navedeno prema - <http://www.blic.rs/vesti/drustvo/unhcr-u-srbiji-smanjen-priliv-izbeglica-i-migranata-sa-bliskog-istoka/79rcge1> preuzeto dana 31.08.2017. godine.

Republici Srbiji nisu „pravi” tražioci azila i nemaju ozbiljnu nameru da ostanu u našoj zemlji i pored dobijene zaštite, već u postupak azila ulaze kako bi izbegli prekršajnu odgovornost zbog nezakonitog prelaska državne granice ili nezakonitog boravka u Republici Srbiji i kako bi iz Republike Srbije otišli u države članice Evropske Unije. Zaključak proizilazi iz činjenice da većina njih napusti teritoriju R Srbije pre donošenja pravosnažne odluke po njihovom zahtevu za azil, a bilo je slučajeva kada su i lica koja su dobila međunarodnu zaštitu, ubrzo posle toga napustila našu zemlju. Broj tražilaca azila se između prve i druge faze postupka višestruko smanjuje, a u daljem toku postupka njihov broj je sve manji i manji.

### **Prilagodjavanje legislativnog okvira Republike Srbije relevantnom zakonodavstvu EU u funkciji rešavanja migrantske krize**

Politika EU prema iregularnoj imigraciji usmerena je na sprečavanje i smanjenje iregularne imigracije, sprečavanjem ulaska u prostor EU kao i sredstvima politike povratka, na način koji treba da je u potpunosti saglasan sa zaštitom ljudskih prava migranata. Sprečavanje i smanjenje iregularnih migracija i trgovine ljudima je jedan od četiri stuba politike EU u oblasti migracija predočene u dokumentu „Globalni pristup migracijama i pokretljivosti” (The Global Approach to Migration and Mobility - GAMM)<sup>34</sup>. Ostala tri stuba su: zakonite migracije i pokretljivost, međunarodna zaštita i politika traženja azila i maksimiziranje razvojnog uticaja migracija i pokretljivosti. Što se tiče četvrtog stuba, u vezi maksimiziranja razvojnog uticaja migracija i pokretljivosti učinjeno veoma malo. Pitanje migracija nije obrađivano u najvažnijim nacionalnim i razvojnim strategijama u Republici Srbiji<sup>35</sup>. S druge strane, poslednja analiza odnosa migracija i razvoja u Srbiji<sup>36</sup> iznosi niz preporuka za ‘balansiranu integraciju’ migracija u javnu politiku, uključujući i to da se usvoji strategija razvoja ljudskih resursa i definišu načela migratorne politike Republike Srbije. U kontekstu pojačanih imigracijskih pritisaka politika prema iregularnim migracijama u EU je dobila razrađeniji oblik pod naslovom „Smanjenje podsticaja za iregularne migracije”, kako je nazvan prvi stub boljeg upravljanja migracijama u saopštenju EK „Evropska agenda za migracije” iz 2015. godine<sup>37</sup>. U okviru ovog pristupa su prepoznata tri područja aktivnosti na smanjenju podsticaja za iregularne migracije: a) bavljenje korenim uzrocima iregularnog i prisilnog raseljavanja u trećim zemljama kroz finansijsku i političku podršku razvojnim programima u tim zemljama i sistem obaveštavanja o stanju bezbednosti, b) borba protiv krijumčara i trgovaca ljudima kroz saradnju sa trećim zemljama, pojačavanje istraga i unapređenje zakonodavnog okvira i v) unapređenje procedure povratka iregularnih migranata u treće zemlje ukoliko one ispunjavaju uslove u pogledu ljudskih prava.

Opštiji okvir politike EU u rešavanju migrantske krize čine Evropska konvencija za zaštitu ljudskih prava i osnovnih sloboda, Konvencija Saveta Evrope o borbi protiv trgovine ljudima<sup>38</sup> i pomenuti strateški dokument „Globalni pristup migracijama i mobilnosti”, a u zakonodavni okvir EU politika u oblasti iregularnih migracija je pretočena kroz više direktiva i uredbi koje regulišu migracije, počevši od Šengenskog graničnog kodeksa iz 2006. godine do novijih direktiva koje regulišu ulazak i boravak stranaca zbog školovanja i zapošljavanja. Nacionalno zakonodavstvo je ili usklađeno sa ovim uredbama, ili je usklađivanje u toku pa je tako:

- Narodna skupština usvojila predlog izmena i dopuna Zakona o strancima koji prenosi odredbe Direktive 2009/50/EZ, Direktive 2011/98/EU, Direktive

34 [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication\\_from\\_the\\_commission\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication_from_the_commission_1.pdf), preuzeto dana 1.08.2017. godine

35 Rašević, M. (2016). Migracije i razvoj u Srbiji. Beograd: IOM.

36 Ibidem.

37 [http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication\\_on\\_the\\_european\\_agenda\\_on\\_migration\\_en.pdf](http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication_on_the_european_agenda_on_migration_en.pdf) preuzeto da 1.08.2017. godine, preuzeto dana 1.08.2017. godine

38 [http://www.paragraf.rs/propisi/zakon\\_o\\_potvrđivanju\\_konvencije\\_saveta\\_evrope\\_o\\_borbi\\_protiv\\_trgovine\\_ljudima.html](http://www.paragraf.rs/propisi/zakon_o_potvrđivanju_konvencije_saveta_evrope_o_borbi_protiv_trgovine_ljudima.html), preuzeto dana 1.08.2017. godine

- 2003/86/EZ, Direktive 2003/109/EZ, Direktive 2011/51/EZ, Direktive 2005/71/EZ, Direktive 2004/114/EZ, Direktive 2014/36/EU, 2014/66/EU, 81/2004/EZ, Direktive 2002/90/EZ, Direktive 2004/82/EZ, Direktive 2008/115/EZ, Okvirne odluke 2002/946/PUP, Direktive 2009/52/EZ.
- U izradi nacrt izmena i dopuna Zakona o zapošljavanju stranaca koji je usklađen sa Direktivom 2009/52/EZ, Direktivom 2004/38/EZ, Direktivom 2001/55/EZ, Direktivom 2013/33/EZ, Direktivom 2003/109/EZ, Direktivom 2004/81/EZ, Direktivom 2011/95/EZ, Direktivom 2004/114/EZ, Direktivom 2014/36/EU i Direktivom 2011/51/EU.
  - Usvojen Zakon o azilu koji je potpuno usklađen sa Direktivom 2013/32/EU, Direktivom 2011/95/EU, Direktivom 2013/33/EU, Direktivom 2001/55/EZ i izrađena podzakonska akta u skladu sa ovim zakonom.
  - Usvojena nova višegodišnju Strategija za integrisano upravljanje granicom i Akcioni plan za njeno sprovođenje.
  - Usvojen i predlog izmena i dopuna Krivičnog zakonika u skladu sa pravnim tekovinama Evropske unije, tako što je član 350 dopunjen tako da oštrije kažnjava krijumčarenje ljudi.<sup>39</sup>

Izrada već spomenute Strategije suprotstavljanja iregularnim migracijama u Republici Srbiji za period od 2017. do 2020. godine predstavlja dopunu pomenutih aktivnosti tako da se stvori celovit sistem upravljanja migracijama, kao što je preporučeno u TAIEX ekspertskom izveštaju.

U 2017. godini navršava se 10 godina od trenutka kada su potpisani Sporazum o viznim olakšicama i Sporazum o readmisiji između Evropske unije i Srbije. Ova Strategija zaokružuje period intenzivnog rada na unapređenju politike upravljanja migracijama u Srbiji i njenog usklađivanja sa politikom EU u ovoj oblasti. Pregled usklađenosti zakona u NPAA, druga revizija (2016) ukazuje da je u oblasti iregularnih migracija Republika Srbija delimično usklađena sa odredbama Direktive Saveta 2002/90/EZ sa kojom je definisano pomaganje neovlašćenog ulaska, tranzita i boravka, a u tom smislu su preduzeti koraci da se Krivični zakonik Republike Srbije dopuni u smislu proširenja krivične odgovornosti za učinjeno krivično delo „Nedozvoljen prelaz državne granice i krijumčarenje ljudi“ lica koje pomaže ili omogućava nezakonit ulazak ili boravak stranca, bez sticanja imovinske koristi za sebe ili drugog (čl. 350), Direktive Saveta 2004/82/EZ o obavezama prevoznika da razmenjuju informacije o putnicima i sa Direktivom Evropskog Parlamenta i Saveta 2008/115/EZ o zajedničkim standardima i procedurama za vraćanje državljana trećih zemalja koji nezakonito borave. Krivični zakonik delimično je usklađen sa Okvirnom odlukom Saveta 2002/946/PU o jačanju kaznenog okvira u cilju sprečavanja omogućavanja neovlašćenog ulaska, tranzita i boravka, te je potrebno proširenje krivične odgovornosti na pravna lica i odgovorna lica u pravnom licu za učinjeno krivično delo „Nedozvoljen prelaz državne granice i krijumčarenje ljudi“ kao i propisivanje sankcija za pravna lica u smislu odredbi navedenog akta EU.

U Izveštaju o realizaciji Akcionog plana za Poglavlje 24 za period jul-decembar 2016. godine se vidi da usklađivanje zakonskog i institucionalnog okvira relevantnog za upravljanje migracijama sa pravnim tekovinama EU čini važan deo pregovora o pristupanju EU. Pored pomenutih izmena zakonodavnog okvira do kraja 2016. godine su realizovane i sledeće aktivnosti na osnovu preporuka ovog Akcionog plana:

1. Unapređen je mehanizam koordinacije i praćenja poslova koje obavljaju državni organi koji sprovode zakonodavstvo u oblasti migracija (Aktivnost u toku; Tehnička radna grupa za praćenje i upravljanje migracijama aktivno učestvovala u izradi Migracionog profila Republike Srbije za 2015. godinu; U toku je realizacija više projekata koji se odnose na migracije, a povezuju više aktera na državnom nivou);
2. Izradjen Plan obuke i Program akcija u oblasti legalnih i iregularnih migracija (Aktivnost je realizovana; Održane obuke policijskih službenika o postupanju

<sup>39</sup> Izveštaj o sprovođenju aktivnosti u okviru Akcionog plan za Poglavlje 24, Beograd, jul-decembar 2016.

u slučajevima nezakonitog boravka, prinudnog udaljenja, smeštaja lica u Prihvatište za strance i donošenja rešenja o vraćanju; Realizovana obuka za prepoznavanje i otkrivanje lažnih i falsifikovanih dokumenata);

3. Nabavljena oprema koja omogućuje uspostavljanje Centrale baze podataka za strance.<sup>40</sup>

Republika Srbija treba da usvoji zakon kojim se odobrava boravak iregularnim migrantima koji su voljni da saraduju sa nadležnim organima, u skladu sa Direktivom Saveta 2004/81/EZ o boravišnoj dozvoli koja se izdaje državljanima trećih zemalja koji su žrtve trgovine ljudima. Takođe, treba da dostavi relevantne propise kako bi Evropska komisija utvrdila nivo usklađenosti sa Direktivom Evropskog parlamenta i Saveta 2008/115/EZ o zajedničkim standardima i postupcima država članica za vraćanje državljana trećih zemalja čiji je boravak nezakonit (tzv. Direktiva o vraćanju).

Republika Srbija je delimično uskladila svoje zakonodavstvo sa odredbama Direktive Saveta 2009/52/EZ o minimalnim standardima o sankcijama i merama protiv poslodavaca državljana trećih država koji nelegalno borave. U zakonodavstvu ne postoji odredba koja se odnosi na poslodavce koji zapošljavaju iregularne migrante ali su u Zakonu o radu sadržane opšte odredbe kojima se kažnjava nezakonito zapošljavanje. Novi Zakon o zapošljavanju predviđa prekršajne odgovornosti poslodavaca koji zapošljavaju stranca suprotno odredbama Zakona, odnosno stranca kome nije odobren privremeni boravak ili stalni boravak (iregularni migrant). Zakon o zapošljavanju stranaca propisuje inspeksijski nadzor ispunjenosti uslova zapošljavanja stranaca koji vrši inspekcija rada. Osim toga, pored novčane kazne, zaštitna mera zabrane obavljanja poslovnih aktivnosti takvog poslodavca za određeni vremenski period u slučaju zapošljavanja iregularnog migranta je takođe propisano. Zakon o zapošljavanju stranaca ne predviđa krivičnu odgovornost poslodavca u slučaju zapošljavanja iregularnih migranata.<sup>41</sup>

U cilju pripreme za sprovođenje Uredbe Evropskog parlamenta i Saveta 862/2007/EC nakon pristupanja EU, Komesarijat za izbeglice i migracije od 2010. godine redovno priprema Migracioni profil Republike Srbije. Podaci koji se prikazuju u migracionom profilu postepeno se usklađuju sa zahtevima Uredbe o statistikama o migracijama i međunarodnoj zaštiti.<sup>42</sup>

## Zaključak

Analizirajući legislativni okvir, u proteklom periodu, uočljivo je da je u oblasti bezbednosti granica odnosno integrisanog upravljanja granicom, Republika Srbija postigla određeni napredak u strategijskom, zakonskom i podzakonskom segmentu, kao i da se nastavljaju aktivnosti na permanetnom prilagodjavanju standardima EU.

Strategijska dokumenta su uglavnom usaglašena sa međunarodnopravnim okvirom odnosno različitim konvencijama na nadnacionalnom i međunarodnom nivou ali i zakonodavnom okviru EU. Međutim, ne postoji ustaljena praksa i kontinuitet u njihovom donošenju, naročito u oblasti Sistema bezbednosti granica, pa se dešava da je pojedinim strategijama istekao rok važnosti, a da druga nije doneta kao npr. Strategija suprotstavljanja iregularnim migracijama u Republici Srbiji (stara strategija je istekla 2014. godine, a nova još nije doneta iako je predviđena njena važnost za period od 2017. do 2020. godine) ili da se kasnilo sa donošenjem (Strategije integrisanog upravljanja granicom u Republici Srbiji za period 2017. do 2020. godine, doneta 3.02.2017. godine, Strategija prevencije i suzbijanja trgovine ljudima, posebno ženama i decom i zaštite žrtava za period od 2017. do 2022. godine, doneta 4.08.2017. godine i dr.) ili se još uvek kasni sa njihovim donošenjem (Nacionalne strategije za prevenciju i borbu protiv terorizma u periodu od 2017. do 2020. i dr.). Slična situacija je i sa zakonima čije je usvajanje uglavnom uslovljeno obavezama iz Akcionog plana Pregovaračkog

40 Izveštaj o radu Uprave granične policije za 2016. godinu, Ministarstvo unutrašnjih poslova Republike Srbije, Beograd, januar 2017. godine

41 Izveštaj o sprovođenju aktivnosti u okviru Akcionog plan za Poglavlje 24, Beograd, jul-decembar 2016.

42 <http://www.kirs.gov.rs/articles/migo.php?type1=59&lang=SER&date=0>, preuzeto dana 2.08.2017.



poglavlja 24., dok se u slučaju pojedinih propisa (pravilnici, uredbe i dr.) često kasnilo sa donošenjem, probijaći zakonski rok od godinu dana od dana donošenja zakona.

Migrantska kriza izazvala je niz problema na evropskom kontinentu (društvenih, međunarodnih, ekonomskih, demografskih, socioloških i dr.), ali pre svega bezbednosnih. U oblasti bezbednosti evidentno je da je u okvirima migrantske krize eskaliralo krijumčarenje ljudi, pod patronatom dobro organizovanih kriminalnih grupa, koje sve više ima negativne reprecusuje u pogledu mogućeg dolasku regrutovanih pripadnika različitih kriminalnih, ali i terorističkih grupa u izbegličkim kolonama. Ovakvo stanje iziskivalo je određeno „revidiranje“ postojećih sistema bezbednosti državnih granica država EU, ali i ostalih država na migrantskoj ruti uključujući i Republiku Srbiju, koji su po prirodi svoje funkcije i najviše izloženi migrantskom talasu. Izazovi i obim migrantske krize iziskivali su, kako u zemljama EU, tako i regiona zapadnog Balkana, angažovanje pripadnika vojske, koji zajedno sa graničnom policijom aktivno učestvuju u zaštiti državne granice, na taj način aktivirajući pomalo zaboravljeni kombinovani model sistema bezbednosti granica (vojno-policijski).

Problemi koji su se javljali u ovom periodu uglavnom su se odnosili na: nedovoljne ljudske, infrastrukturne i finansijske resurse; usvajanje i primenu odgovarajućih zakonskih rešenja koja omogućuju efikasno regulisanje statusa iregularnih migranata; i veliki pritisak na granicu od strane migranata koji žele da prođu kroz Srbiju na putu ka EU.

U cilju predupredjenja stvaranja „slepog creva“ u Republici Srbiji za prolazak migranata do željenih destinacija u zemlje EU, ovakvo stanje je iziskivalo hitno usvajanje i primenu niza pravnih, proceduralnih i drugih mera i aktivnosti. Zbog izraženog elementa prekograničnosti, ove mere i aktivnosti mogu biti efikasne samo ako su povezane i dopunjene sa merama koje preduzimaju i drugi organi i službe bezbednosti u zemlji, i ako su koordinirane sa međunarodnim policijskim, pravosudnim i carinskim organizacijama, graničnim službama susednih država, uz poštovanje principa poverenja kao dela efikasne međunarodne (prekogranične) saradnje. S tim u vezi potrebno je unaprediti model razmene informacija koji je preduslov za objektivnu analizu i procenu kretanja migratornih tokova i pretnji od krijumčarenja ljudi i drugih vidova prekograničnog organizovanog kriminala, terorizma i dr.

Radi rešavanja postojećih problema s kojim se Republika Srbija suočila u vreme migrantske krize, ali i eventualnog predupredjenja budućih, na nacionalnom nivou je neophodno nastaviti sa: evaluacijom stečenih iskustava u migrantskoj krizi; daljem prilagođavanju i primeni legislativnog okvira; unapređenjem mehanizma koordinacije i praćenja poslova koje obavljaju državni organi koji sprovode zakonodavstvo u oblasti migracija; jačanjem i obukom svih angažovanih subjekata; nabavkom sofisticirane opreme za suzbijanje iregularnih migracija; proširenjem postojećih i izborom adekvatnih smeštajnih kapaciteta za iregularne migrante; pravovremenim i transparentnim finansiranjem svih aktivnosti i dr.

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## GEOGRAPHIC POTENTIAL OF THE RAILWAY NETWORK AS THE FOCUS OF MIGRATION CRISES

### Abstract

*Globalization leads to the erosion of national borders, the harmonization of national and international rights, the freedom of movement of people, goods and capital. Individual countries are enabled to solve energy related issues more easily, transport infrastructure, environmental protection and especially traffic. In this sense knowledge of the traffic corridors, the railway has a multidisciplinary aspect, which in recent times has to be monitored from the aspect of migration movements. The countries of the European area, follow this complex complicated phenomenon differently through their practice (eg British Transport Police, Polizia Ferroviaria) there are also international bodies that are focusing on these problems, such as, for example, Railpol (European Railway Police Network). Regardless of the shape of each competent service, the knowledge of the rail system is more than necessary in the way it is presented by this work.*

*Keywords: geographic potential, rail network, traffic system, international community.*

### Introduction

We all know that Railway industry started parallelly with the First Industrial revolution. But why? Well, there is a lot of explanations but I have my own.

Industrial revolution encouraged inventors and innovative private investors to invest in new technologies and new solutions. I have not the intention to offend anybody, but England was the best soil for that. Huge amount of coal mines and demand for iron ore created the ambient with a lot of challenges. At that time only boats sailing through numerous channels were able to satisfy demand. In such an ambient without any competition with road transport started to develop railway transport.

Conclusion which can be made is that for expansion of railway transport demand for transport of mass goods was crucial.

Well, according to that railway is a vessel on the track. This is my point of view of what are railways. Because of that, when decreasing the level of transport performed on railways started and was redirected on road in European countries and in the most countries in the world most of my colleagues made a question what to do.

The solution has been found in privatization. Privatisation is a process of opening Railway market for everybody who have means and intention to make income in the railway sector but without much knowledge about railways as a system. And there is a task for the railway experts, lawyers and economists to solve the problems for the

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newcomers.

Resolving this problem of creating transparent ambient for the old railway companies and newcomers is a task which Europe Union is trying to solve with four railway legislation packages and introducing technical specifications of interoperability.

Their task has almost been done. They carried out a decomposition of stable and solid but inert railway system in profitable, spreaded system for everybody which start to look like as a road transport system. That is not enough and state still have to provide safe competitive, fast and mass transport, for its industry and population of what they already accustomed. And in consultations with experienced railway engineers, lawyers and economists started to make new rules and concept as is Interoperability.



*Figure 1 Daybreak*

### **Country of origin**

Republic of Serbia, is a small country on Balkan peninsula in Europe, a part of former Yugoslavia and a sovereign country now.

Serbia has a strategic transportation location since country's backbone, Morava valley, represents by far the easiest route of land travel from continental Europe to Asia Minor and the Near East.

The major rail hub is Belgrade (and to a lesser degree Niš), while the most important railway lines include: Belgrade-Bar (Montenegro), Belgrade-Šid-Zagreb (Croatia)/Belgrade-Niš-Sofia (Bulgaria) (part of Pan-European Corridor X), Belgrade-Subotica-Budapest (Hungary) and Niš-Thessaloniki (Greece). Although still a major mode of freight transportation, railways face increasing problems with the maintenance of the infrastructure and lowering speeds for maintaining safety. All rail services are operated by public rail company, Serbian Railways.

First railway line was built up in 1884 between Belgrade and Nis and it was long 243 km. Up to 1890 in Serbia were finished 2263 km of railway tracks. In 1919 after forming Kingdom of Yugoslavia uniform railway network was created - interoperable network on whole territory. At that moment the total length of railway lines was 3806 km, 1279km electrified, 696 stations, 334 tunnels and 981 bridges.

On Railway line Belgrade-Bar is the bridge with highest bridge piers in the Europe, with 200m over terrain named “Little River” bridge. This line is mostly a mountain line with 254 tunnels of a total length of 144.4 km and 234 bridges made of concrete or steel with a total length of 14.600m.

The backbone of the Serbian rail network is the Corridor X (Salzburg – Ljubljana – Zagreb -) Sid- Belgrade - Nis - Presevo (-Skopje - Veles -Thessaloniki) with branches over Subotica (Corridor Xb) on the Hungarian and Dimitrovgrad on the Bulgarian border (CorrdiorXc). In total this represents a length of 875 km. Corridor X represents around 20% of the entire railway network across Serbia, on which occurs approximately 50% of total rail transport.



Besides Corridor X, there are SEETO railways Routes, such as Vrsac – Belgrade – Bar (Route4), Kraljevo – Pristina – Skopje (Route 10).



Figure 2 Map of Europa

All these lines were made to cover present and former industrial and administrative centres.

Why former industrial centres? After the conflict on the region of the former Yugoslavia our industry was impoverished and without investments and it lost almost whole previous market they had. So there were, and still are, almost no demand for transport of large scale of people and goods.

### The railwaysystem of Republic of Serbia

Freight and passenger traffic volumes have moved in opposite directions over the period 2000-2007, whereas in 2008-2009 both suffered declines due to the impact of the international financial crisis. The following figure shows, that the rise in traffic volume has been uneven, with a steady rise in freight traffic 2000 - 2007 and a steady decline in passenger traffic over the same period. In 2009, passenger traffic declined to 522 million passenger-km, down from 583 million in 2008 and 687 million in 2007. Freight traffic plummeted by 32% in 2009, to 2,968 million ton-km. Taking 2000 as a base, freight

traffic has risen by 42% over 2000-2009; passenger traffic has declined by 58%.

In the following years, passenger traffic began to recover slightly from it's historical minimum and in 2013 reached half of the value from 2000.

After a slight rise in 2010 and 2011, freight transport plunged again in 2012 by 23% and in 2013 it reached a level of 67% of that before the financial crisis in 2007.

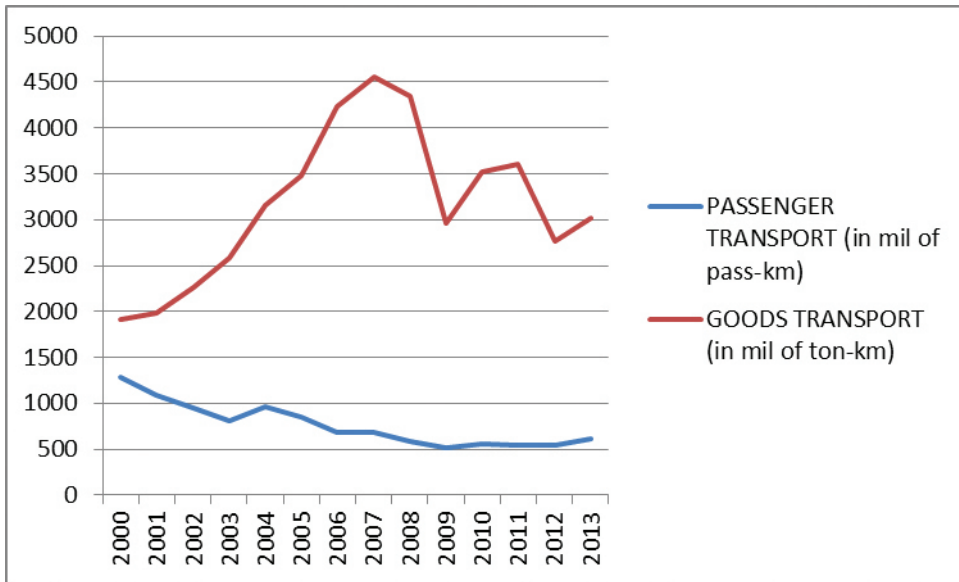


Figure 3 Serbian Railways – Passenger and Freight Traffic, 2000-2013

### Transport scope of Serbian Railways

The area of interest of the Serbian railway market is spreading over the former Yugoslav Republics and neighbouring countries of South Eastern Europe.

Corridor X is going through the territory of Serbia and, due to this fact, it represents the most important link for the Serbian market. It offers access especially for the transport of ITUs to the Adriatic ports of Rijeka, Koper and Bar, the Serbian Danube ports and the ports of Thessaloniki and Constanta, which is the gateway of the EU to the Black Sea.



Figure 4 Competitive transport Corridors in the Balkan region, Source VCV

The competitive situation of Rail Corridors IV, going through Hungary, Romania and Bulgaria to Turkey, and X (in orange) shows the enormous challenges rail operators are facing from competing rail and road corridors (in red), the Danube (in turquoise colour, Corridor VII) and short sea shipping (in blue).

A main potential for railway traffic is the substantial increase in the transit trade flows, for instance, the Turkish transit trade which is expected to increase to 1.74 million tons/year northbound and 2.21 million tons/year southbound.

A major problem on the Corridor X are the border crossings that require long stopping times of at least 4-5 hours for freight trains, often even longer.

One of the major challenges that Serbian Railways are facing with is certainly the lack of traction and wagons.

### Transport sector and economy of Serbia

The economic development of a country, in a broader sense, is mainly based on the level of investment, trade and consumption. This law is valid not only at the state level, but also at the regional level. As a means of facilitating trade, transport is considered as a key factor of achieved level of economic development of the region. Traffic is the main factor, not only of society development, but also of the survival of a particular community. Changes in cost of transport have an economic impact on regional development types, the decisions on the location of the companies, the decisions of households on settling down or commuting from suburban to urban areas and so on. These effects are also felt through other economic costs, such as pollution and congestion. At the same time, economic growth and development affect both the demand for the type and volume of traffic services.

The relationship between freight traffic and GDP is two-way:

- The volume of freight traffic makes an impact on the GDP,
- The level of GDP affects the volume of freight traffic.

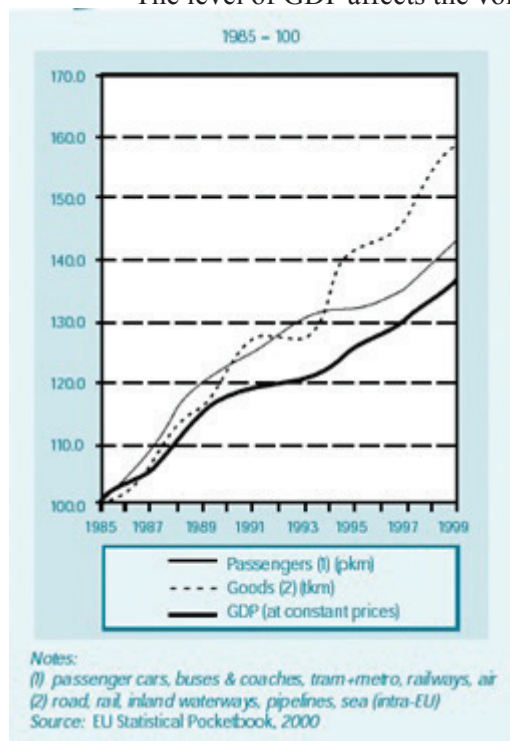


Figure 5 Source: <http://international.fhwa.dot.gov/eurofreight.cfm>

On the other hand, the relationship between the passenger transport and the GDP is mostly one way: GDP level affects the volume of passenger transport.

In the last few decades the economic circumstances in Serbia were not particularly favorable. The disintegration of the country, war and UN sanctions have led to a significant decline in economic activity in Serbia - to a level below ten per cent of that in 1989/90, and a significant lack of resources in all areas of the economy appeared. The same situation was particularly evident in the sectors of transport infrastructure, which bore the consequences for more than a decade, which caused a significant maintenance backlog. In addition, during the NATO bombing in the spring of 1999 a large damage was inflicted to the industrial and transport infrastructure in Serbia. The result of the described process is a decrease in the

effectiveness of the transport sector (low level of service, low speed, irregularities in traffic, etc.), inadequate technical and technological characteristics of transport networks and increased external costs incurred due to traffic and transport. After 2000, a significant international assistance is provided and the current improvement in the maintenance and revitalization of the network is mainly a consequence of this support.

The main carriers of goods transport in 2013, according to the Statistical Yearbook of Serbia were: rail transport with 40%, road transport with 38%, pipeline transport with 13% and inland waterway transport with 9%. From the above it is clear that rail transport plays a dominant role in the transport of goods and still resists somehow the increasing share of road transport, while in the EU-27 share of road transport in the carriage of goods is significantly higher.

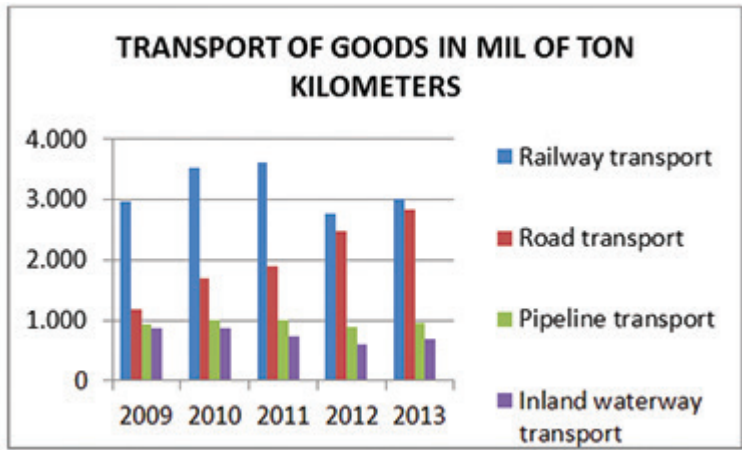


Figure 6 Transport of goods in million of ton kilometers, source: Statistical Yearbook of Serbia

When it comes to passenger traffic situation is different. The most frequent type of passenger transport in 2013 is road transport with a share of 69%, followed by air transport with 22% and, at the end, railway transport with a modest share of 9%.

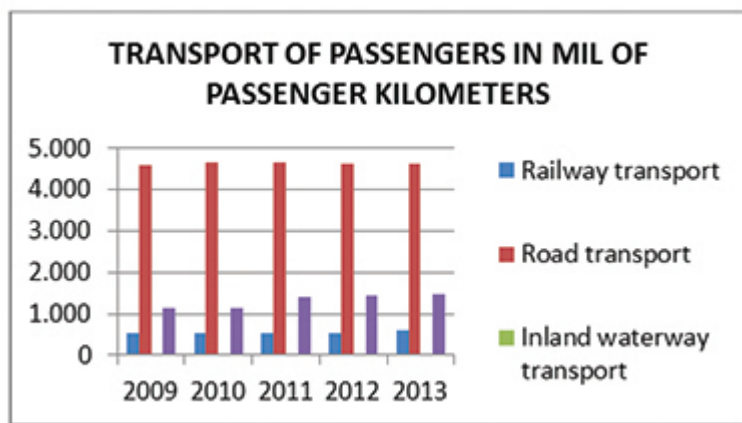


Figure 7 Transport of passengers in million of passenger kilometers, source: Statistical Yearbook of Serbia



### European path and market liberalization

Before the beginning of the liberalization process by the European Commission, the European railway market was divided on a national basis and regulated by the national monopolies, vertically integrated railway companies. This rail system was no longer able to meet the growing demand for international shipments. In the early 80s of the last century it already became apparent that rail traffic cannot keep pace with the dynamic development of the EU transport market. To cope with this challenge, the EU formulated transport policy in rail transport that is focusing on improving the quality and efficiency of transport of goods and passengers through the liberalization of the services market and prices, formation of the Trans-European railway network and improvement of infrastructure, which should correspond to the prescribed safety standards, while reducing the negative impact of transport on the environment. In addition, it is required to raise the quality of services of the railway system and to strengthen the railway market and gradually deregulate it. EU is encouraging the interoperability of national networks (and hence international services) through technical harmonization and developing a common approach to railway safety in order to facilitate market access while maintaining a relatively high level of security. The European railway agency was established to perform the implementation of EU legislation related to interoperability and safety legislation as an independent technical advisor at the EU level.

Member States are carrying out the transposition of EU Directives with different intensity. Some of them, such as the United Kingdom, the Netherlands, Sweden, Germany and Austria went even further than the EU's requests, and others, particularly countries of southern Europe, are lagging behind. The liberalization index shows the degree of progress in the Member States.

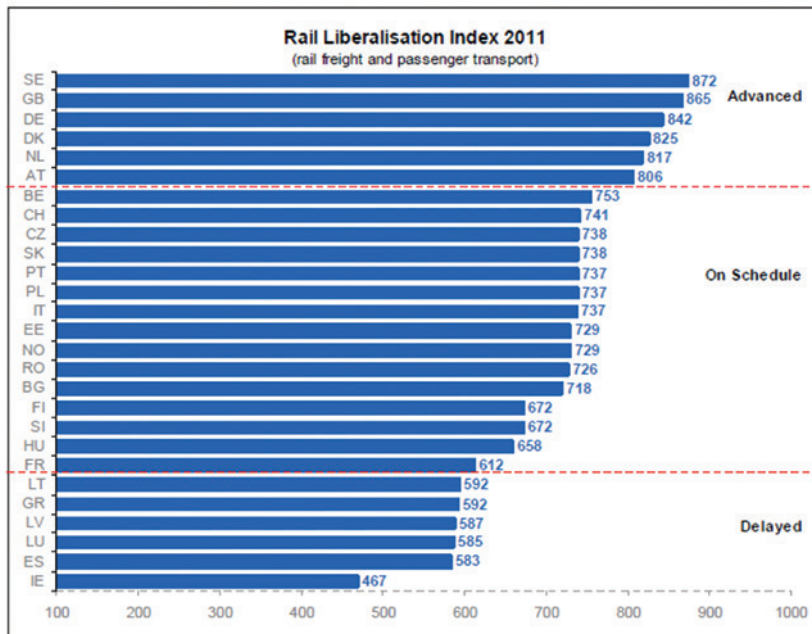


Figure 8 Rail Liberalisation Index 2011, source: Rail Liberalisation Index

The candidates for accession transposed great part of EU directives because it was an essential condition for the “acquis communautaire”.



## Railway Legislation of EU First railway package of 2001

Figure 9 TEN Rail Europe

On 2001, the European Council adopted the three Directives known as the "rail infrastructure package".

The first railway package adopted in 2001 enabled rail operators to have access to the trans-European network on a non-discriminatory basis. To improve Europe's rail freight options, the European Commission proposes the creation of a one-stop-shop to market freeways. It underlines the need to improve the distribution of train paths, establish a tariff structure which reflects relevant costs, reduce delays at borders and introduce quality criteria.



Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area was recast of the first Railway package.

## Second railway package of 2004

Figure 10

On 2002, the European Commission proposed a new set of measures (known as the "second railway package") aimed at revitalising the railways through the rapid construction of an integrated European railway area. The actions presented are based on the guidelines of the transport White Paper and are aimed at improved safety, interoperability and opening up of the rail freight market.



The second railway package of 2004 has accelerated the liberalization of rail freight services by fully opening the rail freight market to competition as from 1 January 2007. In addition, the package created the European Railway Agency, situated in Valenciennes (France), introduced common procedures for accident investigation and established Safety Authorities in each Member State.

### Third railway package of 2007

Figure 11

The third railway package adopted in October 2007 introduced open access rights for international rail passenger services including cabotage by 2010. Furthermore, the third railway package introduced a European driver licence allowing train drivers to circulate on the entire European network (the certification of cross-border drivers is foreseen as from 2009 and of all other drivers as from 2011). The



drivers will have to meet basic requirements concerning their educational level, age, physical and mental health, specific knowledge and practical training of driving skills. Last but not least, the third railway package strengthened the rail passengers' rights.

### Fourth railway package of 2013

European commission Vice-President Siim Kallas state that:

1. We need a European approach to make sure trains can easily cross the continent. We need rapid action on two fronts.
2. We need to create joined up infrastructure - better linkages between national networks to create a truly European system.
3. And we need a real internal market for rail services.



Figure 12

## **Serbia on European path**

Serbia officially applied for EU membership 22.12.2009, and acquired the status of candidate two years later, 01.03.2012. With the beginning of accession negotiations between Serbia and the EU, Serbia has started transposing the so called. "Acquis Communautaire" into its legal system, which includes the accumulated legislation, legal acts and court decisions representing the corpus of EU legal acts. In addition, Serbia will have to fully harmonize its legislation with the EU on the rail (Chapter 14 - Transport Policy). The period for applying for accession to the accession itself, in other countries of Southeastern Europe, lasted about 10 years. Based on their experiences, Serbia's EU membership is expected around 2020. Accordingly, full harmonization with EU railway legislation could be expected between 2015 and 2018.

In order to open up the railway market and to enable its unhindered development and functioning, it is necessary to carry out its proper regulation. In recent years, a strong emphasis has been placed on independent market regulators to ensure non-discrimination, equal and fair competitive behavior by market participants as one of the most important principles for the functioning of a free and open European railway market.

Market regulation in the EU has shown that effectively independent market regulators have been promoting a large influx of private capital in the railway sector.

### **Reform of Railways in Serbia**

Harmonization of railway legislation began with the adoption of the Law on Railways in year 2005. National regulations of the Republic of Serbia are the basis for the implementation of the transformation of the railways and the establishment of the concept of market and commercial activities in which the Serbian railways shall become efficient, reliable and competitive to air transport.

Restructuring of the railways in a broader concept signify:

1. restructuring of the railway enterprises,
2. restructuring of the state institutions in the transport sector, especially railway,
3. restructuring the relations between the State and the Railway.

It is hard to speak about any of these three components separately and not coming to the field of another two components.

The process of restructuring of railways in Serbia began later than in other railway administrations on Balkan, and some of the key changes had already been implemented, such as:

1. In year 2005 came into force a new Law on Railways which introduced a concepts of separation of rail to rail rail operators (railway undertakings) and infrastructure managers.

The separation of the railway system in two parts:

- the part that is responsible for the management of rail infrastructure on organization and regulation of rail transport – infrastructure manager;
- the part that is responsible for the transport of passenger and freight traffic – railway undertaking;

And established Directorate for Railways governmental organization as a regulatory body for the field of railways. Directorate of railways has been established to carry out expert, regulatory and other operations in the field of railway transport defined by the Law on Railway and Law for Railway safety and interoperability.

2. In year 2013 entered into force new Law on Railways and in 2014 Law for Railway safety and interoperability which are bringing together even closer legislation of Serbian railways to EU legislation and covering up to third railway package of EU legislation;

3. Introduced the concept of public service obligations;

Restructuring process of the Public Enterprise "SERBIAN RAILWAYS" was started 2003. It is a long and complex process that requires a clear legal framework and the government's determination.

In this process are unavoidable delays and slowdowns, but indisputably provides productivity growth, income, competitiveness and the attractiveness of railway companies. Like in other railways in Europe that process takes as long as need (and still are) in order to prepare the national railways enterprise for market business in real sense of that word.

There are a lot of factors which make influence on the efficiency of this complex process. Restructuring process of public enterprises was observed in scope work of the next activities:

1. Legal framework,
2. Organization structure,
3. Rationalization of unprofitable sections on the network,
4. Division of non core activities,
5. Reduction number of employees,
6. Relation between the state and the railway.

All of mentioned activities have precise level of significance, and positive effect of restructuring can be only in case if all activities give expected results. We can say that restructuring of the railway state enterprise optionally take 3-5 years depending of expected difficulties.

### **Observation instead of conclusion**

In Serbia demand for railway service is not even near to the demand of EU countries and our Industry is still in lack of job, investment and market. Railway have to follow grow and expansion of processing industry and population demand for transportation and have to follow state growth. In our case the development of railways is, at the moment, disproportionate compared with development of industry and their specific demand for type (vehicle type) and capability for provision of service (door to door).

In the past 40 years it was cheaper for the state to invest in roads and create an offer to private transportation sector to develop and grow lorry freight traffic. This move of the State provide an ambient for a road transport to hijack a large part of the transport services of goods and passengers from railway.

In past period was a poor infrastructure maintenance which created decreasing speed on operations, and increasing duration of transport. This condition of railways was not acceptable for industry which was struggling to survive after period of disintegration of former state and former market it had.

Consultancy company hired from Serbian government did not recognise need to reconstruct railway system according to level in which was our industry and from the year 2001 to 2007 after very little growth of transport and from that 2007 up to now we are in the forced reduction of transport service which are in general lower than it was in the period in late 80ies in a former Yugoslavia.

This decreased demand for the transport service, in general, railways was unable to see off and to be a competent partner to road freight and passenger carriers because of principle on which Railway system works - already planned Timetable in use. Lack of flexibility of big state owned railways create space for road freight transport company to operate. Once the goods went to road, it is very difficult to get it back on railways. Why is that we all know but we do not want to speak about it. So we have to make railway system more flexible, to satisfy growing and extended demand for this kind of transport.

**Project - Corridor Interoperability**

For years, railway undertakings have tried to introduce competitive products on corridors through Serbia. The project Ljubljana – Istanbul is the most successful trial.

In March 2009 a test train ran between Ljubljana and Istanbul/Halkali significantly reducing the travel time from current 60 hours in order to show the potential of this line. In comparison to other transport modes the customers do not save time at the moment and due to the higher costs the rail is the least attractive transport mode on this section, as it is also reflected in the modal split charts below:

Trade exchange (from Turkey to Austria, France, Germany, Italy and Slovenia) in 2008:

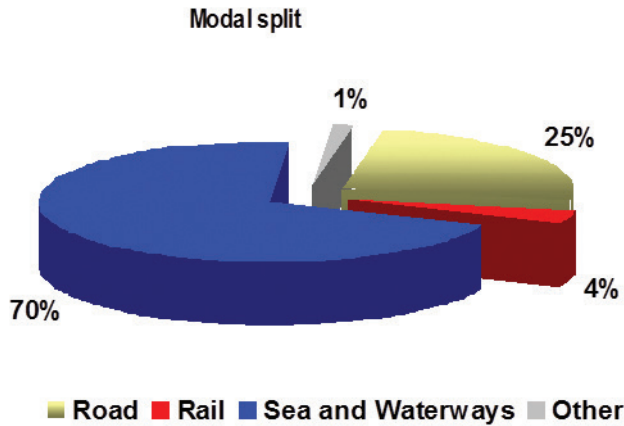


Figure 13 Modal split between Turkey and Central Europe in 2008, Source: Adria Kombi

Trade exchange from Central Europe (Austria, France, Germany, Italy and Slovenia) to Turkey in 2008:

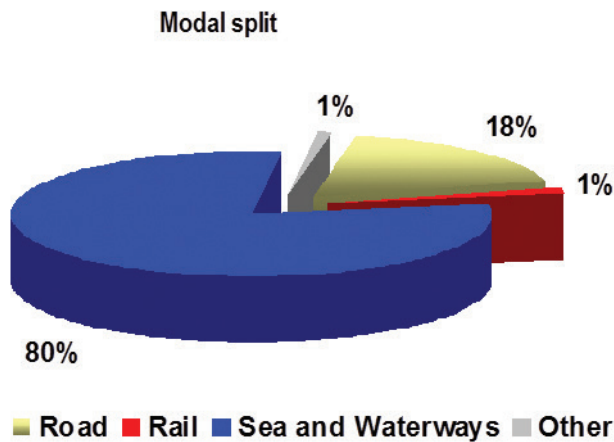


Figure 14 Modal split between Central Europe and Turkey in 2008, Source Adria Kombi



The line in detail from Ljubljana to Halkali:



Figure 15 Details for the line Ljubljana to Halkali, Source: Adria Kombi

The total line length is 1577 km, 260 km thereof is non-electrified and 200 km are single track. There are also on some sections gradients up to 29 %. Furthermore the line is crossing 5 countries, with 4 x 2 border crossing procedures and stations. As shown in the picture above there are also different energy supply systems. To achieve a reduction of travel time there was a close cooperation of IMs, RUs and also the border crossing state authorities. And in the end the train achieved a travel time of 35 hours including 6 hours stopping time.

With this travel time the railway becomes a strong and serious competitor which is also shown in the chart below:

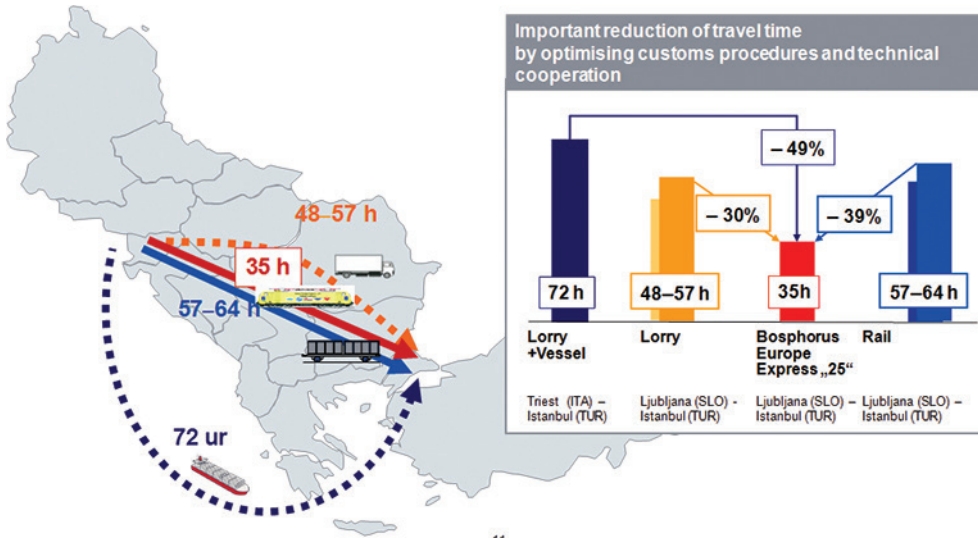


Figure 16 Comparison of travel times, Source: Adria Kombi

The test run clearly shows that reducing travel time and increasing reliability is not only a matter of capital investment. Even with the present state of facilities, transit time could be reduced by half if a better overall organisation of the railway sector is

implemented.

Flexibility of road transport can be only overcome with excellent organization of railways.

### **Final word**

This strong link between transport service and industry demand for transport is sign of state sustainable development.

So restructuring of railway sector is not a separate process of industry status and their perspective. Volume of transportation demand in passenger service is also in relation with industry development.

This linkage have to be leading target for creating transport policy in one state and have to be always a prime demand which have to be fulfilled in creating planned allocation of roles in transport sector of industry.

Safety, reliability, cost, energy efficiency, environment friendly have to be, and always were, leading characteristics of railways for making decision with which mode of transport some transport subjects (goods and passengers) will be transported.

Recognition of demand of goods transport and passenger transport and allocation offer in relation of demand in right time and place is sign of good organization in railway sector. This is necessary to prevent transporting service to cross to road transport once and to stay forever.

Why forever?

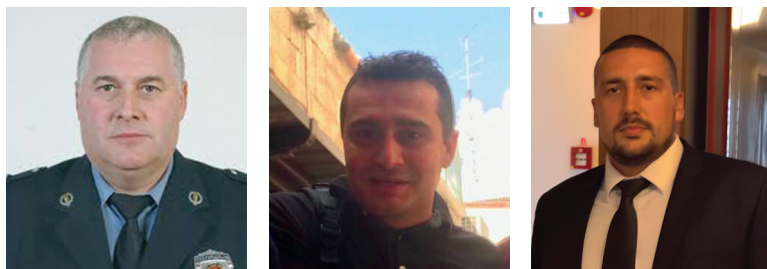
Lorry can lead goods from departure point to destination point with no other involvements from sender of goods. With just fulfilling simple documents and giving it to the driver of lorry owner of the goods can enjoy in comfortability of no other needs for him in transportation process.

This have to be a goal for future, which railway have to reach as soon as possible.

Simplicity for departing goods, uniform transport units, high speed passenger trains, comfort and customer focused railway system is unreachable target for other land transport systems.

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## **BEZBEDNOSNA ZAŠTITA ODREĐENIH STRANIH LIČNOSTI I DELEGACIJA U ZVANIČNOJ POSETI REPUBLICI SRBIJI U PODRUČJU POGOĐENOM MIGRANTSKOM KRIZOM**

### **Rezime**

*Cilj ovog rada je prezentovanje sveobuhvatnih mera zaštite određenih stranih ličnosti i delegacija u zvaničnoj poseti Republici Srbiji u području pogođenom migrantskom krizom. Prilikom identifikovanja migrantske krize koja pogađa više zemalja po pravilu se uspostavlja pojačana međunarodna saradnja koja za posledicu ima česte posete određenih stranih ličnosti i delegacija područjima pogođenih migrantskom krizom. Dakle, problem ovog rada je ukazivanje na moguće pretnje i opasnosti određenih stranih ličnosti i delegacija u zvaničnoj poseti Republici Srbiji zbog čega je neophodno organizovanje subjekata bezbednosti i preduzimanje odgovarajućih mera od samog ulaska na prostor Republike Srbije prema pozitivnom pravu nosilac bezbednosne zaštite određenih stranih ličnosti i delegacija u zvaničnoj poseti je Ministarstvo unutrašnjih poslova čija se uloga preciznije definiše Zakonom o policiji Republike Srbije.*

*Ključne reči: Mere, zaštita, strane ličnosti, delegacija, Ministarstvo unutrašnjih poslova.*

## **SECURITY PROTECTION OF CERTAIN FOREIGN PERSONALITIES AND DELEGATIONS IN AN OFFICIAL VISIT TO THE REPUBLIC OF SERBIA AREAS AFFECTED BY THE MIGRANT CRISIS**

### **Abstract**

*The aim of this work is the presentation of comprehensive measures to protect certain foreign personalities and delegations in official visit Republici Srbiji areas affected by the migrant crisis.*

*Therefore, the problem of this study is pointing to possible threats and risks of certain foreign personalities and delegations in an official visit to the Republic of Serbia which is why it is necessary to organize security subjects in the protection against possible threats.*

*The organization of security subjects and taking appropriate measures from the entry to the territory of Serbia under positive law wearer safety and protection of certain*

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*foreign personalities and delegations in an official visit to the Ministry of Internal Affairs, whose role precisely defined by the Law on Police of the Republic of Serbia.*

*Keywords: Measures, protection, foreign personalities, the delegation, the Ministry of Internal Affairs*

## **Uvod**

Zakon o policiji u trećoj glavi koja glasi Organizacija policije, Direkcija policije u članu 20 se kaže u sastavu Direkcije policije su organizacione jedinice u sedištu, policijska uprava za grad Beograd i područne policijske uprave. Za obavljanje policijskih poslova u sedištu Direkcije policije obrazuju se uprave, u sedištu policijske uprave za grad Beograd obrazuju se uprave i policijske stanice u opštinama.<sup>4</sup>

Organizacione jedinice u sedištu obrazuju se tako da su po linijskom principu radno povezane sa odgovarajućim organizacionim jedinicama i poslovima područnih policijskih uprava i policijskim stanicama tako organizovani da poslove iz delokruga obavljaju na čitavom području na kojem je nadležno Ministarstvo unutrašnjih poslova.<sup>5</sup>

## **Policijski poslovi**

Zakon o policiji je definisao policijske poslove i u drugoj glavi koja glasi Policijski poslovi, Pojam i vrste policijskih poslova u Članu 12 ovog Zakona se kaže Nacionalni i međunarodni standardi policijskog postupanja.<sup>6</sup>

„U obavljanju policijskih poslova policija se pridržava nacionalnih standarda policijskog postupanja, zahteva utvrđenih zakonima i drugim propisima i aktima Republike Srbije, kao i međunarodnim ugovorima i konvencijama koje je usvojila Republika Srbija.<sup>7</sup>

Pri obavljanju policijskih poslova, u skladu sa stavom 1. ovog člana, policija se pridržava i međunarodnih standarda policijskog postupanja, a naročito zahteva utvrđenih međunarodnim aktima koji se odnose na: dužnost služenja ljudima; poštovanje zakonitosti i suzbijanje nezakonitosti; ostvarivanje ljudskih prava; nediskriminaciju pri izvršavanju policijskih zadataka; ograničenost i uzdržanost u upotrebi sredstava prinude; zabranu mučenja i primene nečovečnih i ponižavajućih postupaka; pružanje pomoći nastradalim licima; obavezu zaštite poverljivih podataka; obavezu odbijanja nezakonitih naređenja, otpor podmićivanju i korupciji.<sup>8</sup>

Policija preduzima mere radi ostvarivanja najviših standarda iz st. 1. i 2. ovog člana. Policija obezbeđuje da postupanje policijskih službenika u praksi ne bude ispod, niti u suprotnosti sa evropskim standardima policijskog postupanja. Policija ima svoj kodeks etike koji donosi Vlada.

Za obavljanje policijskih poslova od posebnog značaja je poznavanje ciljeva, strukture i metode rada nekih evropskih i regionalnih organizacija pre svega Organizacije za evropsku bezbednost i saradnju (OEBS), Savet Evrope (SE), Evropske Unije (EU) i Severnoatlantskog pakta (NATO). Naša zemlja je članica OEBSA i SE-a kandidat za EU i NATO. Policija mora poznavati i poštovati sve njihove konvencije koje se odnose na policijske poslove. OEBS i naša vlada potpisali su ugovor gde je OEBS koordinator reformi policijskog školstva i uopšte rada policije. O zastupljenosti standarda OUN, OEBS, SE i EU svedoči član 12 Zakona o policiji.<sup>9</sup>

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4 Zakon o policiji, Republika Srbija Ministarstvo unutrašnjih poslova, Beograd2006. god

5 Zakon o policiji, Republika Srbija Ministarstvo unutrašnjih poslova, Beograd2006. god

6 Zakon o policiji, Republika Srbija Ministarstvo unutrašnjih poslova, Beograd2006. god

7 Zakon o policiji, Republika Srbija Ministarstvo unutrašnjih poslova, Beograd2006. god

8 Zakon o policiji, Republika Srbija Ministarstvo unutrašnjih poslova, Beograd2006. god

9 Zakon o policiji, Republika Srbija Ministarstvo unutrašnjih poslova, Beograd2006. god

## Delokrug rada policije

Policija ima značajnu ulogu u sprovođenju mera koje potpišu vlada i obavežu se da ih dosledno sprovede. Bečki kongres koji se održao 1815. godine je prvi pokušaj kodifikacije diplomatskog prava. Na ovom kongresu je prihvaćen pravilnik kojim su izjednačeni nazivi i rangovi diplomatskih predstavnika. Do tada su vladari svojim predstavnicima davali visoke rangove, nadmećući se međusobno, a sve u cilju jačanja vlastitog ugleda. Kasnije bilo je još nekoliko pokušaja da se izvrši kodifikacija diplomatskog prava 1946. godine. Organizacija ujedinjenih nacija učinila je bitan korak u kodifikaciji diplomatskog prava, polazeći pre svega od potrebe određivanja statusa, imuniteta i povlastica svojih diplomata. Tako je Glavna skupština Ujedinjenih nacija prihvatila Konvenciju o povlasticama i imunitetima diplomata. Još detaljnije i bliže ovu temu je obrađivala i Bečka konvencija o diplomatskim odnosima održana 18. aprila 1961. godine. Zemlje potpisnice Bečke konvencije imaju obavezujući karakter. Prema Bečkoj konvenciji Prostorije diplomatske misije su nepovredive. Organima države je dozvoljeno da u njih uđu samo uz pristanak šefa misije. Država kod koje se akredituje ima specijalnu obavezu da preuzme sve potrebne mere da bi sprečila ulazak u prostorije misije ili njihovo oštećenje, narušavanje mira misije ili povreda njenog dostojanstva. Prostorije misije, nameštaj i drugi predmeti koji se u njemu nalaze, kao ni prevozna sredstva misije nemogu biti predmet nikakvog pretresa, revizicije, zaplene ili mere izvršenja. Arhiv i dokumenti misije nepovredivi su u svako doba i ma gde se nalazili. Ličnost diplomatskog agenta je neprikosnovena. On ne može biti podvrgnut nikakvoj vrsti hapšenja ili pritvora. Država kod koje se akredituje tretira ga s dužnim poštovanjem i preuzima sve razumne mere da bi sprečila nanošenje uvrede njihove ličnosti, njihovoj slobodi ili njegovom dostojanstvu. Službena prepiska misije je nepovrediva kao i diplomatski kurir koji nemože biti podvrgnut nikakvoj vrsti hapšenja ili pritvaranja. Privatni stan diplomatskog agenta uživa istu nepovredivost i istu zaštitu kao i prostorije misije. Takođe dokumenta i njegove prepiske i njegova imovina uživaju nepovredivost.

Ministarstvo unutrašnjih poslova Republike Srbije zauzima značajano mesto suverene vlasti svake države, a ta vlast je jedan od konstitutivnih elemenata državnosti kao subjekta međunarodnog javnog prava. U skladu sa suverenitetom i integritetom Ministarstvo unutrašnjih poslova ima značajnu ulogu u realizaciji skoro svih ugovorenih prava i dužnosti od strane međunarodnog prava. Policija je nezamenljiva institucija u ostvarivanju dva najvažnija oblika nadležnosti teritorijalne i personalne u pogledu nadležnosti države u međunarodnom pravu. Vlast jedne države nad licima i stvarima na njenoj teritoriji obezbeđuje monopolom prinude. Trebalo bi naglasiti da je jako bitno obavljanje policijskim poslovima vezano za personalnu nadležnost a najbitnije za deo stanovništva koji imaju status stranaca. U ovom radu posebnu pažnju posvetićemo policijskim poslovima u zaštiti određenih stranih ličnosti i delegacija.

Za policiju, kao deo izvršne vlasti svake države, posebno je značajno poznavanje onih odredbi međunarodnog javnog prava koje se odnosi na međunarodnu odgovornost države. Ukoliko policajci, vršeći svoju nadležnost, zbog nepoznavanja ili ignorisanja odredbi međunarodnog javnog prava, oštete nekog stranca ili stranu državu, oni će dovesti do tzv. direktne međunarodne odgovornosti svoje države. Oni svoju državu mogu učiniti odgovornom po međunarodnom pravu čak iako su neka svoja dela učinili prekorajenjem svoje nadležnosti. Na kraju, oni svojim nezakonitim postupanjem mogu da dovedu i do tzv. vikarne odgovornosti države, tj. do odgovornosti za akte privatnih lica kojima se nanese šteta stranim državama i njihovim državljanima.

Na prvi pogled izgleda da su policijski poslovi udaljeni od diplomatskih i konzularnih odnosa između država, međutim oni su usko i direktno vezani po pitanju bezbednosne zaštite diplomatskih predstavnika i objekte njihovog rada i stanovanja. Međunarodna pravna obaveza svake države je da stranim diplomatsko konzularnim predstavnicima i predstavništvima obezbedi neprikosnovenost i najveći mogući stepen zaštite. Pored ove obavezujuće zaštite, Ministarstvo unutrašnjih poslova ima obavezu da



bezbednosno štiti strane šefove država i vlada, ministara i drugih visokih predstavnika države za vreme njihove posete određenoj državi zaduženi su pripadnici policije i druge službe bezbednosti. Pripadnici službe bezbednosti zadužene za bezbednost svoje radne i obavezujuće zadatke moraju tako da sprovedu da ničim odnosno nijednom svojom radnjom ne naruše diplomatsko konzularni imunitet i privilegiju stranih predstavnika, koje je zapisano i štiti međunarodno javno pravo.

### **Međunarodna pravna zaštita**

Akcent ovog rada je na zaštiti stranih određenih ličnosti i delegacija u skladu sa odredbama međunarodnog i državnog prava u celini od raznih vrsta ugrožavanja. U tom generalnom pravnom okviru posebno ćemo posmatrati bezbednosnu zaštitu stranih određenih ličnosti. To nas obavezuje da pre nego što pređemo na razmatranje problema međunarodne pravne zaštite, jasno odredimo bar značenje tri bitna pojma: (1) određene strane ličnosti i delegacije; (2) zaštita i međunarodno pravna zaštita; i (3) međunarodno pravo.

Nesporno je da bez međunarodnog prava nema ni međunarodne pravne zaštite, a bez određenih stranih ličnosti i delegacija nema predmeta – subjekta te zaštite, te ovaj deo izlaganja započinjemo pokušajem obrade značenja pojma i obrade realiteta „međunarodno pravo“.

O međunarodnom pravu postoje raznovrsna shvatanja, počev od shvatanja da međunarodno pravo uopšte ne postoji, preko shvatanja da ono u nekom smislu i jednom delu postoji do shvatanja da postoji samo međunarodno pravo zbog njegovog primata nad unutrašnjim državnim pravom.

„Politička enciklopedija“, međunarodno pravo definiše: „Međunarodno pravo predstavlja skup pravni pravila koja uređuju odnose između država, međunarodnih organizacija (i drugih subjekata međunarodnog prava) kao i život međunarodne zajednice u celini. Saglasnost država da poštuju određena pravila predstavlja bazu obaveznosti međunarodnog prava i sledstveno tome osnov njegove pravne prirode.

Bez ulaženja u rasprave o dualizmu i monizmu međunarodnog prava, za nas su važna dva momenta. Prvo, zaštita i obezbeđivanje određenih stranih ličnosti i delegacija je jedna od sadržina međunarodnog prava, utemeljena na vekovnim običajima, savremenim uzusima i međudržavnim ugovorima i normama koje su prihvatile sve civilizovane države i drugo, ta se zaštita praktično sprovodi neposrednim izvršavanjem normi unutrašnjeg prava. O tome se u delu S. Avramov-M. Kreća, „Međunarodno javno pravo“ govori na više mesta, pa se kaže: „Za vreme službenog boravka u inostranstvu, šef države uživa specijalnu zaštitu, posebne počasti, privilegije i imunitet. Strana država dužna je da pruži bezbednost njegovoj ličnosti...“<sup>10</sup>, i nastavlja se da „...lica koja se nalaze u pratnji šefa države, uživaju iste privilegije kao i šef države.“<sup>11</sup> Navedeni iskaz mi shvatamo da uživaju, u načelu, istu zaštitu kao i šef države, mada ovo poistovećivanje položaja u vezi s privilegijama i dalje ne izgleda dovoljno pravno zasnovano. U najkraćem, obezbeđenje šefa države koje se nalazi u njegovoj pratnji, već zbog svojih funkcija u pratnji, ne može „uživati iste privilegije“.

U istom delu, kaže se: „...Od najstarijih vremena diplomatskim predstavnicima priznane su određene povlastice, kako bi u punoj bezbednosti, mogli da obave svoju, ponekad veoma delikatnu funkciju...“<sup>12</sup>, nastavljajući da „...Diplomatski predstavnici su neprikosnoveni...“<sup>12</sup> te da „...to znači da uživaju pravo na najvišu i najefikasniju zaštitu... država prijema dužna je da preuzima sve mere u cilju pružanja zaštite njegovoj ličnosti

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10 Avramov Smilja, Kreća Milenko, „Međunarodno javno pravo“, šesnaesto izmenjeno i dopunjeno izdanje, Savremena administracija, Beograd, 1999, str. 148.

11 Avramov Smilja, Kreća Milenko, „Međunarodno javno pravo“, šesnaesto izmenjeno i dopunjeno izdanje, Savremena administracija, Beograd, 1999, str. 148.

12 Avramov Smilja, Kreća Milenko, „Međunarodno javno pravo“, šesnaesto izmenjeno i dopunjeno izdanje, Savremena administracija, Beograd, 1999, str. 155.

i dostojanstvu.<sup>13</sup> Države to čine propisima i primenom propisa u okvirima svog pravnog i bezbednosnog poretka, što se vidi iz zakona i drugih propisa koje su donele.<sup>14</sup>

Navedeni međunarodni zahtevi u pogledu bezbednosti lidera – posetilaca stranih zemalja, nisu samo specijalna obaveza za zemlju prijema, već utiču i na shvatanje pojma političkih lidera sa stanovišta zaštite i bezbednosti. Ni ambasada ni konzulat, ni ambasadori ni konzuli, ni personal ambasada i konzulata nisu politički lideri, niti se na bilo koji način mogu uklopiti u važeću definiciju liderstva.<sup>15</sup> Pa ipak, oni su neizbežna obaveza bezbednosnih snaga. Jasno je da obezbeđivanje i zaštita političkih lidera unutar jedne zemlje ima drugo značenje i značaj od obezbeđenja i zaštite lidera drugih zemalja (bilo da su oni u poseti, bilo da su to lideri u međunarodnoj funkciji – lideri međunarodnih organizacija – ili da su to lideri privremeno izbegli odnosno prognali iz svojih zemalja) ili od zaštite diplomatsko-konzularnih predstavništava i njihovog personala. Mada su to posebna pravna i praktična pitanja, ona se u određenim slučajevima veoma usko povezuju i prožimaju. Najjednostavniji primer u tom smislu su sastanci i javni zajednički nastupi lidera zemalje - posetioca i lidera zemlje - domaćina, kada se štite i obezbeđuju istovremeno, istim merama zaštite i obezbeđenja istovremeno, oba lidera ili više lidera.

Kao posebno, javlja se i pitanje zaštite i obezbeđenja političkog lidera iz jedne zemlje prilikom službenog ili privatnog boravka u drugoj zemlji. Raznolikost pojava oblika tog pitanja po pravilu se rešava bilateralnim ili multilateralnim sporazumima, ugovorima i dogovorima raznog karaktera.

U savremenim uslovima, najvažniji i najuticajniji osnov i skup međunarodnih prava je Povelja Ujedinjenih nacija i na osnovu nje, druga akta organizacije Ujedinjenih nacija.

### Međudržavna policijska saradnja

Kada preko Ministarstva inostranih poslova imamo najavu da će u zvaničnoj poseti Republici Srbiji boraviti određena strana ličnost sama ili sa članovima delegacije ili delegacija bez određene ličnosti.

Posete određenih stranih ličnosti i njihovih delegacija realizuju se u uslovima složene regionalne bezbednosne situacije koju karakterišu bezbednosni rizici koji ugrožavaju našu zemlju. A to su pre svega:

- Kriza s migrantima;
- Islamski ekstremizam;
- Albanski nacionalizam;
- Stanje na jugu Srbije i Kosovu;
- Kriza u Grčkoj.

Kriza s migrantima kada Mađarska vlada najavljuje postavljanje žičane ograde prema Republici Srbiji i te svoje najave realizuje, Makedonija i Grčka se bore upotrebom snaga bezbednosti koje primenjuju sredstva sile u borbi protiv nekontrolisanog priliva migranata. Zatim donose odluke da migrante organizovano prevezu do teritorije Srbije. Srbija prihvata humanitarnu krizu s migrantima ali po pravilu humanitarna kriza prerasta u bezbednosnu krizu gde smo upravo svedoci da se na terenu javlja bezbednosna kriza.

Srpske snage bezbednosti od samog ulaska migranata na naš prostor u selu Miratovac kod Preševa pokušavaju da bezbednosni rizik svedu na minimum. Prilikom prelaska migranata sa teritorije Makedonije službe bezbednosti vrše prihvatanje migranata gde ih autobusima prevoze do prihvatnog centra u Preševo.

Islamski ekstremizam, pripadnici i simpatizeri ISIS kao i sekta vehabije bliska

13 Avramov Smilja, Kreća Milenko, „Međunarodno javno pravo“, šesnaesto izmenjeno i dopunjeno izdanje, Savremena administracija, Beograd, 1999, str. 156.

14 Zakon o osnovama uređenja službi bezbednosti Republike Srbije“, Sl.glasnik RS, 116/2007, videti i: „Zakon o vladi, 2005“, „Zakon o bezbednosno-informativnoj agenciji, 2002“, „Zakon o odbrani, 2007“, „Zakon o vojsci Srbije, 2007“, Narodna skupština, internet, www.parlament.sr.gov.yu.

15 Kegli-Vitkoč, „Svetska politika – trend i transformacija“, Fakultet političkih nauka, Diplomatska akademija, Beograd, 2004.

Al Kaide ozbiljna su bezbednosna pretnja za Srbiju i ceo region. Prema izveštajima bezbednosnih službi u Srbiji u zemljama u okruženju ima nekoliko centara ekstremizma koji ugrožavaju region.

U Bosni i Hercegovini imamo najmanje četiri centra koji ugrožavaju ceo region. U centralnom delu Bosne i Hercegovine nalazi se baza za regrutaciju vojnika ISIS-a u selo Ošve samo 250 kilometara od Beograda.

Takođe u centralnom delu Bosne i Hercegovine nalazi se kamp za obuku regrutovanih vojnika ISIS-a u selu Jezero koje je takođe udaljeno od Beograda manje od 300 kilometara. Jezero je nekada bilo srpsko selo pa je došlo u ratnim sukobima do migracije stanovništva vehabije su kupili kompletna domaćinstva ovog sela. Kupovinom celokupnog domaćinstva stvorili su im se uslovi da se nasele i zbog nepristupačnosti terena napravili kamp za obuku.

U Gornjoj Maoči zadnjih desetak godina Vehabije su takođe kupili kompletna domaćinstva naselili se i napravili centar vehabija za jugoistočnu Evropu. U selu patroliraju vehabijske patrole i kontrolišu ulazak i izlazak iz sela dvadeset četiri sata.

Četvrti centar u Bosni i Hercegovini nalazi se u selu Dubica od kojih strepe stanovnici Zvornika i Kalesije. Sredstva informisanja su obaveštavala dešavanja Dubičke vehabiske grupe u policijskoj stanici Zvornik, kada je član vehabiske grupe iz vatrenog oružja ubio policajca na dužnosti u dežurnoj službi.

Furkan iz Novog Pazara je centar udaljen od Beograda manje od 300 kilometara odakle su radikalni islamisti vrbovali mlade Bošnjake i regrutovali za rat na prostoru Siriji u redove ISIS-a.

U Kačaniku je sedište Džihadista za Balkan sa čijeg prostora je na ratište Sirije i Iraka otišao veliki broj radikalnih islamista u redove ISIS-a.

Bezbednosne službe Republike Srbije i bezbednosne službe Sjedinjenih američkih država, Engleske, zemalja Evrope, a pre svega sa zemaljama u okruženju saraduje po pitanju razmena informacija o kretanju pojedinaca i grupa pripadnika islamskog radikalizma.

Albanski nacionalizam i jednostrano proglašenje nezavisnosti Kosova i Metohije i povremene provokacije na jugu Srbije povećavaju rizik poseta stranih ličnosti i delegacija. Nedavni teroristički napadi u Kumanovu kao i planirani udari na severu Kosova i u oblasti Preševa podsećaju nas da ideje o velikoj Albaniji još žive među Albanskim nacionalistima. Povremene provokacije imaju za cilj da izazovu nestabilnost na ovom kriznom području. Naoružani ekstremisti koji se povremeno pojavljuju na ovim kriznim prostorima imaju političku podršku od strane Kosovskih i Makedonskih zvanika.

Stanje na jugu Srbije i Kosova nije na zavidnom nivou imajući u vidu bezbednosne pretnje kosovskim Srbima koje nisu još prošlost. Dodatne tenzije i bezbednosna pretnja po kosovske Srbe je nedavno donešena odluka o osnivanju Specijalnog suda za zločine koje je izvršila Oslobođilačka vojska Kosova. Na spisku optuženih mogli bi se naći i sadašnji politički lideri pojedinih političkih partija koje su na vlasti.

Kriza u Grčkoj koja se do neke prenela na naš prostor po pitanju bankarskih uloga u bankama čiji su vlasnici stvarni ili fiktivni državljani Grčke. U slučaju nove erupcije ekonomske i socijalne krize u Grčkoj, ceo region bio bi zahvaćen domino efektom nestabilnosti. Na primer, u koliko bi građani Srbije naglo počeli da povlače novac iz Grčkih banaka, koje nebi mogle da ih isplate, samo korak bi nas dovele od nasilja na ulicama.

Policijska saradnja ne samo regionalne već i međunarodna, nije više samo fraza ministara unutrašnjih poslova za dobijanje pozitivnih političkih poena. Vlade regionalnih zemalja su shvatile ono što kriminalne organizacije već dugo koriste kao „ključ“ dobrog uspeha, a to je timski rad i međudržavna saradnja. Predstavnici Vlada, a najviše resorni ministri unutrašnjih poslova zemalja u regionu Srbije, Hrvatske, Crne Gore, Republike Srpske, Makedonije, Bugarske Bosne i Hercegovine su izjavili i usaglasili da bez zajedničkog delovanja policije svih država u regionu i šire nema uspeha u borbi protiv svih vrsta kriminala, a naročito u oblasti obezbeđenja određenih stranih ličnosti i

delegacija

Za inteziviranom regionalnom saradnjom ministara u regionu najviše zasluge se pripisuju vladi Republike Srbije i njenom ministru unutrašnjih poslova kao pokretača ove uspešne saradnje što govori u prilogu činjenica da su formirane brojne organizacije rukovodioca policije regiona i održane brojne konferencije na ministarskom i direktorskom nivou u Beogradu.

### Zaključak

Zakon o policiji je definisao policijske poslove i u drugoj glavi koja glasi Plicijski poslovi, Pojam i vrste policijskih poslova u Članu 12 ovog Zakona se kaže Nacionalni i međunarodni standardi policijskog postupanja

„U obavljanju policijskih poslova policija se pridržava nacionalnih standarda policijskog postupanja, zahteva utvrđenih zakonima i drugim propisima i aktima Republike Srbije, kao i međunarodnim ugovorima i konvencijama koje je usvojila Republika Srbija“.

Za obavljanje policijskih poslova od posebnog značaja je poznavanje ciljeva, strukture i metode rada nekih evropskih i regionalnih organizacija pre svega Organizacije za evropsku bezbednost i saradnju (OEBS), Savet Evrope (SE), Evropske Unije (EU) i Severnoatlantskog pakta (NATO). Naša zemlja je članica OEBSA i SE a kandidat za EU i NATO. Policija mora poznavati i poštovati sve njihove konvencije koje se odnose na policijske poslove. OEBS i naša vlada potpisali su ugovor gde je OEBS koordinator reformi policijskog školstva i uopšte rada policije. O zastupljenosti standarda OUN, OEBS, SE i EU svedoči član 12 Zakona o policiji.

Za policiju, kao deo izvršne vlasti svake države, posebno je značajno poznavanje onih odredbi međunarodnog javnog prava koje se odnosi na međunarodnu odgovornost države. Ukoliko policajci, vršeći svoju nadležnost, zbog nepoznavanja ili ignorisanja odredbi međunarodnog javnog prava, oštete nekog stranca ili stranu državu, oni će dovesti do tzv. direktne međunarodne odgovornosti svoje države. Oni svoju državu mogu učiniti odgovornom po međunarodnom pravu čak iako su neka svoja dela učinili prekorajenjem svoje nadležnosti. Na kraju, oni svojim nezakonitim postupanjem mogu da dovedu i do tzv. vikarne odgovornosti države, tj. do odgovornost za akte privatnih lica kojima se nanese šteta stranim državama i njihovim državljanima.

Kao posebna obaveza zemlje domaćina, javlja se i pitanje zaštite i obezbeđenja određenih stranih ličnosti i delegacija iz jedne zemlje prilikom službenog ili privatnog boravka u drugoj zemlji. Raznolikost pojedinih oblika tog pitanja po pravilu se rešava bilateralnim ili multilateralnim sporazumima, ugovorima i dogovorima raznog karaktera.

Zadatak obezbeđenja je da zaštiti određene strane ličnosti i delegacije i objekte u kojima borave, od svih aktivnosti koje na bilo koji način prete i predstavljaju opasnost po bezbednost određenih stranih ličnosti i delegacija.

S obzirom na specifičnosti migrantske krize, njenog obima i broja država koje pogađaju migrantske krize, česte su posete stranih delegacija područjima pogođenim migrantskim krizama. Od ključne važnosti za sagledavanje obima migrantske krize jeste uspostavljanje saradnje neposredno na terenu i sagledavanja posredica krize koje nije moguće bez adekvatne zaštite političke elite, a posebno stranih delegacija na područjima pogođenim migrantskom kizom.

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## **НЯКОИ АСПЕКТИ ОТ НОРМАТИВНАТА УРЕДБА НА ИНСТИТУТИТЕ МИГРАЦИЯ И РЕАДМИСИЯ В ЕВРОПЕЙСКИЯ СЪЮЗ**

### **SOME ASPECTS OF THE LEGISLATIVE SYSTEM OF THE INSTITUTES MIGRATION AND READMISSION IN THE EUROPEAN UNION**

#### **Abstract**

*The report examines some of the main aspects of the legal and administrative regulations of the institutions of migration and readmission. Some of the key documents adopted by the European Union regarding migration processes have been examined and evaluated. A retrospective review of the development of the readmission was made. Conclusions are made on creating favorable conditions for an effective return policy for migrants placed on the territory of the European Union.*

*Keywords: Migration, readmission, European Union, The European Migration Programme, International Organization for Migration*

#### **Въведение**

Поводът за написването на настоящия доклад са двата института, свързани с миграционните процеси отнасящи се до сигурността на Европа. Международното право е набор от правила и принципи, които регулират сътрудничеството между държавите в борбата с международната престъпност и се фокусира върху поддържането на законността и реда. През последните десет години ролята на миграционните процеси се повиши. Голяма роля по своята същност изигра през 2011 г. т. нар. „Арабската пролет“, която представляваше серия от протести, размирици и бунтове в държави като Тунис, Алжир, Египет, Либия, Йемен, Бахрейн, Сирия, Мароко, Йордания и Саудитска Арабия. От друга страна войните в Ирак, Афганистан, Либия и Сирия сега са главните източници на имигранти към Европа. Сериозния икономически и социален миграционен натиск се превръща в основна заплаха за Стария континент. Липсата на общоевропейска философия, политика и единомислие при разрешаване на миграционният проблем и бежанската криза изправя Европейския съюз пред още по-големи опасности. Наблюдава се изостряне на политическата риторика между страните членки от европейската общност, която създаде сериозни противоречия между страните от Западна и Източна Европа. Кризата с бежанците създаде трясък в Европейския съюз и дестабилизира европейските общества. Забелязва се сериозно разминаване във вижданията за решаването на възникналият проблем с бежанците между Германия и Висшеградската четворка (Унгария, Полша Чехия, Словакия).

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Европейският съюз изпадна в деликатно положение, след като не успя да намери полезен ход по отношение на това дали да приема бежанците, които идват заради конфликта в Близкия изток или да затвори границите си за тях, като заедно с това да се опита да намери баланс между хуманитарните принципи на международното право и съхранение на вътрешната стабилност и националната сигурност на държавите членки.

Добросъвестността в международното право е от съществено значение за поддържането на приятелски отношения и сътрудничество между държавите при използването на отделните институти във връзка с контролирането на миграционните процеси.

### **Нормативна и административна уредба на института миграция**

През последните години над 55 милиона чужди граждани са посетили континента Европа и са осъществили над 220 милиона пресичания на външните граници на Европейския съюз. Освен тези законови пътувания, военните конфликти в Близкия изток и на други точки по света са предизвикали още 1,8 милиона незаконни преминавания на границите на европейските държави.

Наблюдава се драстично увеличение на нерегламентирано преминаване на мигранти през границите на страните от Западните Балкани. Контролът на тези процеси е от изключителна важност и тази тема се пренесе от политическия в общественения дебат. Гражданите на страните членки на Европейския съюз очакват сериозни мерки, които да допринесат за гарантирането на вътрешната сигурност и охрана на обществения ред. От своя страна европейските и националните институции и администрации са насочили вниманието си към развитието и прилагането на силови политики, които да са съсредоточени за ефективното управление на миграцията.

Създадените от страна на европейските институции на нормативни и практически разрешения следват да бъдат хармонизирани с постигането на баланс между контрола върху имиграционните процеси и основните права на имигрантите.

Характерно е, че мярката за обезпечаване на депортирането на граждани на трети страни се превърна в превантивна мярка, чиято цел е да обезкуражи имигрантите и да ги откаже от незаконно влизане на територията на европейските държави. В резултат на тази тенденция се смята, че понастоящем хиляди мигранти са задържани, въпреки, че точният им брой към всеки един конкретен момент остава неизвестен и неизмерим.<sup>2</sup>

Оценката на редица авторитетни европейски и световни издания показва, че задържането само по себе си не е достатъчно ефективно като способ за превенция на незаконната миграция<sup>3</sup> и намаляване на броя на незаконно влизащите или пребиваващите чужденци.<sup>4</sup>

През 1999 г. с подписването на договора от Амстердам се поставя началото на института на реадмисия на нерегламентирани мигранти. С този документ се оправомощава Европейския съюз да договаря и да сключва споразумения за реадмисия с държави, които не са членки на ЕС. Те могат да бъдат под формата на споразумения за сътрудничество, които да улесняват държавата на произход или държавата на транзитно преминаване, да издава разрешения за преминаване на граждани на страни извън ЕС, които не притежават паспорт, или са в процес

2 The Uncounted: The detention of migrants and asylum seekers in Europe, Global Detention Project Report, публикуван на 17.12.2015

3 Миграцията е преместване на хора с цел смяна на местоживеенето.

Миграциите могат да бъдат:

- Вътрешни – преместване на хора в границите на държавата, което в българския език е възприето да се нарича с общата дума миграция.
- Външни – преместване на хора извън общността им – държавата, континента.

4 A. Edwards, UNHCR, 'Back to Basics: The Right to Liberty and Security of Persons and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants' (Април 2011г.)

на отстраняване. Политиката придобива официален характер с Директивата за връщане от 2008 г.

Във връзка с незаконната миграция Европейския съюз бяха приети два основни законодателни акта, а именно:

- „Директива за връщане на незаконните имигранти“, 2008/115/ЕО;
- „Директива 2009/52/ЕО“.

С „Директива за връщане на незаконните имигранти“, 2008/115/ЕО се определят общите стандарти и процедури на ЕС за връщане на незаконно пребиваващи граждани на трети държави. Основните области за допълнителни действия включват гарантиране на адекватното прилагане, насърчаване на последователни практики, които да са съвместими с основните права, подобряване на сътрудничеството между държавите членки и засилване на ролята на Frontex<sup>5</sup>. Frontex има няколко области на отговорност, които са посочени в Регламент (ЕО) № 2007/2004<sup>6</sup>. Гарантиране на ефективното връщане е именно една от основните задачи на екипите, подкрепящи националните органи по „невралгичните точки“ ( т.нар. горещи точки) в Италия и Гърция. На 9 септември 2015 г. Комисията публикува освен това план за действие на Европейския съюз в областта на връщането (COM(2015)0453), който беше одобрен от следващия Съвет през октомври.

„Директива 2009/52/ЕО“ предвижда санкции и мерки, които да бъдат прилагани в държавите членки срещу работодатели, които нарушават забраната за наемане на незаконно пребиваващи граждани на трета държава.

В Европейската програма за миграцията<sup>7</sup>, приета от Европейската комисия на 13 май 2015 г., е посочено, че един от стимулите за незаконната миграция е знанието, че системата на ЕС за връщане на незаконните мигранти не е достатъчно ефективна. Само за 2014 г. по-малко от 40 % от незаконните мигранти, за които е било разпоредено да напуснат ЕС, в действителност са направили това. Един от най-ефективните начини за справяне с незаконната миграция е системното връщане — доброволно или принудително — на лицата, които нямат право да останат в Европа или вече не се ползват от това право. По-малко хора, които не се нуждаят от международна закрила, биха рискували живота си и похарчили средства, за да достигнат до ЕС, ако знаят, че бързо ще бъдат върнати в страната си.

Следователно ефективността на системата на ЕС трябва да бъде повишена относно връщането на незаконните мигранти. Това ще увеличи общественото доверие в системата на ЕС за убежище, също така ще запази и подкрепата за оказването на помощ на лицата, нуждаещи се от международна закрила.

Доброволното връщане на незаконни мигранти в страните им на произход продължава да е предпочитаният вариант, когато е възможно. Доброволното връщане и съпътстващите го мерки за реинтеграция спомагат да се затвърди положението на върнатите лица в техните страни на произход и по този начин възпират новата незаконна миграция. Те обикновено се считат за по-ефективни от гледна точка на разходите, отколкото принудителното връщане. Доброволното връщане може също така да спомогне за преодоляване на нежеланието на определени трети държави да сътрудничат при връщането на техни граждани. Дялът на доброволните връщания от общия брой връщания бележи постепенно увеличение в ЕС през последните години. Данните сочат, че през 2013 г. в около 40 % от случаите на връщане е ставало дума за доброволно напускане, докато през 5 Frontex е агенция, която помага на страните от ЕС и държавите, асоциирани към Шенген, да управляват външните си граници. Агенцията подпомага и хармонизирането на граничните проверки в ЕС. Frontex улеснява сътрудничеството между граничните органи в страните от ЕС, като предоставя техническа помощ и експертен опит.

6 Регламент (ЕО) № 2007/2004 на Съвета за създаване на Европейска агенция за управление на оперативното сътрудничество по външните граници на държавите-членки на Европейския съюз.

7 Съобщение на Комисията до Европейския парламент, Съвета, Европейския икономически и социален комитет и Комитета на регионите „Европейска програма за миграцията“, 13 май 2015 г., COM(2015) 240 final.

2009 г. дялът на доброволно напускане е бил едва 14 %<sup>8</sup>.

Въпреки че държавите членки на ЕС носят основната отговорност за изготвянето и прилагането на програми за доброволно връщане, ЕС предоставя:

- финансиране за такива програми;
- форум за обмен на най-добри практики;
- засилване на оперативното сътрудничество в областта на доброволното връщане.

Съгласно националните програми по ФУМИ<sup>9</sup> за периода 2014—2020 г. държавите членки планират чрез доброволно връщане да бъдат върнати два пъти повече незаконни мигранти, отколкото чрез принудително връщане. Комисията насърчава държавите членки да разработят ефективна рамка, позволяваща на незаконните мигранти лесен достъп до програми за доброволно връщане. Програмите за подпомагане на доброволното връщане<sup>10</sup> следва да бъдат замислени по такъв начин, че да се избегне създаването на притегателен фактор, т.е. стимули за пристигането на още незаконни мигранти в Европа с цел да се възползват от тези програми<sup>11</sup>.

С цел да се увеличи допълнително процентът на доброволните връщания, Комисията финансира програми за подпомагане на доброволното връщане по линия на ФУМИ в сътрудничество с правителствени и неправителствени партньори, като например Международната организация по миграция<sup>12</sup> (МОМ). Тя подпомага мрежата „Европейски инструмент за реинтеграция“ (European Reintegration Instrument Network), която предоставя подкрепа за реинтеграцията, социална подкрепа и подкрепа в областта на заетостта за върнатите лица.

Успехът на доброволното връщане зависи и от това доколко реална е перспективата за принудително връщане. Мигрантите, които често дават на контрабандистите всичките си спестявания, за да стигнат до Европа, могат и да не са готови да приемат подпомагане за доброволно връщане, освен ако не им е ясно, че ще бъдат върнати при всички случаи. Когато мигрантите не се връщат доброволно, връщането трябва да се извърши принудително.

С Директивата на ЕС за връщането се въвежда правно задължение за държавите членки<sup>13</sup> да издават решение за връщането на всеки гражданин на трета страна, който пребивава незаконно на тяхна територия, и — когато е необходимо — да предприемат мерки за неговото принудително изпълнение<sup>14</sup>. В нея се предвиждат

8 EMN inform (Кратки проучвания на Европейската мрежа за миграцията), Overview: Incentives to return to a third country and support provided to migrants for their reintegration („Обзор: стимули за връщането в трети страни и подкрепа за реинтеграцията на мигрантите“), януари 2015 г.

9 Фонд „Убежище, миграция и интеграция“ подпомага националните усилия за подобряване на възможностите за прием, гарантиране на съответствието на процедурите по предоставяне на убежище със стандартите на Съюза, интегриране на мигрантите на местно и регионално равнище и повишаване на ефективността на програмите за завръщане.

10 Доброволно връщане или доброволно напускане, за които се оказва логистична, финансова и/или друга материална помощ.

11 По отношение на Западните Балкани много държави членки са преустановили помощта за доброволно връщане с изключение на поемането на разходите за транспорт за връщането, за да предотвратят по-нататъшното привличане на мигранти.

12 Международна организация по миграция е водещата междуправителствена организация, посветена на принципа, че хуманната и регламентирана миграция е от полза за хората, търсещи ново начало и приемащото ги общество. МОМ съдейства на мигрантите и страните при посрещането на нарастващите предизвикателства на миграцията, за да повиши нивото на разбиране на въпросите, свързани с този процес, да насърчи социално-икономическото развитие чрез миграция и да поддържа благополучието и човешките права на мигрантите

13 Терминът „държавите членки“ се отнася до 30 държави: 28-те държави — членки на ЕС, с изключение на Обединеното кралство и Ирландия, плюс Исландия, Лихтенщайн, Норвегия и Швейцария. Директивата е част от достиженията на правото от Шенген и е обвързваща за държавите, асоциирани към Шенген. Обединеното кралство и Ирландия не са обвързани, но биха могли да участват в нея.

14 Съгласно член 8, параграф 1 държавите членки предприемат всички необходими мерки за принудителното изпълнение на решението за връщане, ако не е бил предоставен срок за доброволно напускане съгласно член 7, параграф 4 или ако задължението за връщане не е било

също така гаранции за защита на правата на подлежащите на връщане лица, които дават възможност връщането да се извърши по хуманен и пропорционален начин.

Необходимостта от справянето с миграцията към ЕС предопределя нов подход. Страните членки на ЕС трябва да използват механизмите, с които разполагат, като за целта е необходимо да се съчетават вътрешните и външните политики по възможно най-добрият начин. Правилните решения могат да бъдат изведени след тясно сътрудничество между – държавите членки, всички институции на ЕС, международни организации, местни органи и страни извън Съюза.

Развитието на процесите свързани с кризата с бежанците през 2016 г. В ЕС налага предприемането на незабавни действия, които да противодействат за нейното разрастване. За постигането на ефективни резултати са необходими решителни промени на политиките на ЕС в областта на миграцията, така че да се осигурят силни държавни граници, както и работеща система, която да е в състояние да предвижда проблемите. Всичко това се налага поради неадекватно прилагане на действащата система, която натоварва някои от държавите членки с непропорционална отговорност. Като по този начин се насърчават незаконните миграционни потоци към ЕС. За изграждането на ефективна система, която да функционира е необходимо тя да се основава на отговорност и солидарност.

За да се изгради по-ефикасно управление на миграционните потоци е нужно да се осигури закрила на тези лица, които наистина се нуждаят от нея. Заедно с това ЕС трябва да реализира проактивна политика за прозрачни, достъпни и устойчиви законни начини за миграция. За тази цел е наложително създаването на законни канали, чрез които да се позволи преминаване на нуждаещите се от международна закрила. Тяхното предвижване трябва да се осъществява по организиран, безопасен и опазващ достойнството начин и да спомогне за спасяването на човешки животи.

От направеният анализ може да се направи извод, че от изключително значение е нормативната и административната уредба на държавите членки, която би изиграло ключова роля за създаването на благоприятни условия за ефективна политика за връщане. Те следва да гарантират енергични действия, като се започне от идентифицирането на незаконно пребиваващи граждани на трети страни, издаването и принудителното изпълнение на решения за връщане и бързи правни процедури<sup>15</sup>. За тази цел държавите членки трябва да покажат достатъчно решителност и да отделят достатъчно ресурси, в това число: финансиране, персонал и капацитет за задържане, за да се гарантира физическото присъствие на незаконните мигранти с цел връщане, включително чрез задържане, ако е необходимо.

### **Основни характеристики на института реадмисия**

Прилагането на механизма за реадмисия е с особена важност, заради необходимостта за овладяването на мигрантските и бежански потоци към Европейския съюз. Нуждата от цялостно прилагане на действащите споразумения за реадмисия е голяма. Спазването на нормите в международното право, ефективният контрол на границите и прилагането на реадмисията са важни елементи в управлението на миграционните потоци.

Рeadмисията не е отделена като независим правен или процедурен институт в страните членки на Европейския съюз. В повечето случаи органите, които действат в сферата на управлението на миграцията са ангажирани и с въпросите по реадмисията.

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изпълнено в рамките на предоставения съгласно член 7 срок за доброволно напускане.

<sup>15</sup> Няколко държави членки например постановяват автоматично суспензивно действие във всички случаи, в които се търси правна защита срещу решение за връщане, без да правят разграничение. Подобни практики могат да доведат до забавяне на процедурите за връщане. Автоматично суспензивно действие следва да се постановява само в случаите, в които има риск от нарушаване на принципа на забрана за връщане.



Понятието „реадмисия“ е заимствано от английския език и произлиза от глагола to readmit, което означава приемам обратно. По настоящем все повече държави наред с отдавна известните видове принудително връщане на незаконните мигранти (експулсиране, депортиране) прилагат и реадмисия.

Във връзка с възникването на института на реадмисия, трябва да се отбележи, че някои автори подхождат към определяне на фазите на възникване на договорите за реадмисия от гледна точка на това, че европейските страни са започнали да включват разпоредбите за реадмисия в споразуменията си с други страни още преди образуването на такава организация като Европейския съюз, както и преди формирането на института на реадмисия като такъв в рамките на ЕС. Други учени при определяне на етапите на формиране на института на реадмисия в рамките на Европейския съюз се отдалечават от началото на водене на политика на непосредствено регулиране на реадмисията от държавите-членки на Европейския съюз.

Европейските държави започват да сключват споразумения за реадмисия от началото на XIX век. Тези споразумения засягат експулсирането на нелегални имигранти чрез налагане на задължения и процедури за реадмисия между договарящите се страни. Най-ранните двустранни споразумения, свързани с реадмисията, са споразуменията от 1818 г. и 1819 г., сключени между Прусия<sup>16</sup> и други германски държави. Като друг пример може да се даде споразумението, сключено между Нидерландия и Германия на 7 ноември 1906 г. С даденото споразумение се установява, че договарящите се държави се ангажират да „отворят своите територии“ за чужденци. То е насочено към „ограничаване на правомощията по експулсиране на холандските граждани от Германия и обратното. От 1950 до 1960 г. западноевропейските държави започват да регулират движението на хора между определени териториите чрез сключване на споразумения за реадмисия<sup>17</sup>. Например, това е актуално за страните-членки на такъв съюз като Бенелюкс<sup>18</sup>.

През 90-те години на XX век държавите-членки на Европейския съюз, постепенно отменят визовите изисквания към гражданите от Централна Европа, а споразуменията за реадмисия стават така наречено средство за защита на териториите и интересите на приемащите страни.

Държавите-членки на ЕС сключват двустранни споразумения, които пряко регулират въпросите на реадмисия по отношение на гражданите на договарящите се страни (например, споразумението сключено между Германия и Виетнам през 1995 г., споразумението на Алжир с Италия през 2000 г., и така нататък), както и на гражданите на трети страни. В същото време не трябва да се забравя, че член 4 (3) от Договора за създаване на Европейския съюз през 1992 г., заменяч чл. 10 от Договора за създаване на Европейската общност, съдържа разпоредба, според която държавите-членки трябва „да се въздържат от предприемането на каквито и да е мерки които биха могли да застрашат постигането на целите на Съюза“<sup>19</sup>.

Политиката на ЕС за реадмисия на незаконни мигранти е въведена през 1999 г. с договора от Амстердам, който оправоощава ЕС да договаря и да сключва

<sup>16</sup> Прусия (на латински: Borussia, Prussia или Prutenia; на немски: Preußen или Preussen) е историческо и географско понятие, което може да означава няколко неща. През средновековието Прусия се споменава като територия, обитавана от западнобалтийското племе пруси, загубило езика си през 18 век. Включва прибалтийски области, завладени и управлявани от Тевтонския орден. На 8 април 1525 г. великият магистър на Тевтонския орден Алберт фон Бранденбург получава титлата херцог на Прусия, а на 18 януари 1701 г. в Кьонигсберг император Леополд I Хабсбург коронясва Фридрих I за крал на Прусия.

<sup>17</sup> Coleman N. European readmission policy. Third country interests and refugee rights. — Lei-den: Koninklijke Brill NV, 2009

<sup>18</sup> Бенелюкс е западно-европейски икономически съюз, включващ три съседни държави: Белгия, Нидерландия и Люксембург. Името му най-вероятно е въведено през 1946 г. и идва от първите букви на страните членки. Официалните езици са нидерландски (заради Нидерландия и Фландрия) и френски (заради Белгия и Люксембург).

<sup>19</sup> Cassarino J.-P. Readmission policy in the European Union. European Parliament, 2011, p. 17

споразумения за реадмисия с държави, които не са членки на ЕС. Те могат да бъдат под формата на споразумения за сътрудничество, които улесняват държавата на произход или държавата на транзитно преминаване да издава разрешения за преминаване на граждани на страни извън ЕС, които не притежават паспорт, или са в процес на отстраняване. Държавите-членки в определен исторически момент вече не са в състояние “да реагират адекватно на нарастващите трудности в областта на връщането, което също се дължи на факта, че някои трети страни отказват да сътрудничат по политически причини”<sup>20</sup>.

Европейският съюз използвайки политическата си тежест, може да допринесе да бъдат насърчавани третите страни в областта на сключването на споразумения за реадмисия. Европейският съюз в този период започва да сключва споразумения за реадмисия с трети страни паралелно със споразуменията за опростяване или пълно премахване на визовия режим, например споразуменията, сключени с балканските страни (Македония, Сърбия, Черна гора, Албания, Босна и Херцеговина), Хонг Конг, Макао и др.

На 29 април 2004 година Съветът на ЕС приема Решение № 2004/573 за организирането на съвместни полети за отстраняване от територията на две или повече държави-членки на граждани на трети страни, които са субекти на индивидуални заповеди/решения за отстраняване<sup>21</sup>.

На 15 март 2006 г. Европейският парламент и Съветът приемат кодекс на Общността за режима на пресичане от хора на границите<sup>22</sup> (Шенгенски кодекс за границите). Кодексът служи като първи в историята на Европейския съюз нормативен акт, в който са събрани заедно правилата по въпросите за пресичане от хора на вътрешните и външните граници на Европейския съюз (т.е. границите между държавите-членки и границите с трети страни).

В същото време, приетият Шенгенски кодекс за границите не съдържа подробна регламентация по отношение на някои въпроси, свързани с пресичането от хора на границите.

Както вече споменахме по-горе държавите от територията на Европейския съюз за първи път са пристъпили към използването на реадмисията (от началото на XIX век). Първоначалните механизми, които са прилагани във връзка с институцията на реадмисия са се отличавали от съвременните: тяхната основна цел е било изгонването на нежеланите лица, а не по-широката цел подобряване на контрола върху миграционните потоци. Понастоящем както държавите-членки на ЕС, така и ЕС като цяло имат право да сключват споразумения за реадмисия, която влиза в сферата на тяхната съвместна компетентност. Важно е да се отбележи, че вече присъстват елементите на принципа на субсидиарност<sup>23</sup>.

20 Coleman N. European readmission policy. Third country interests and refugee rights. — Lei-den: Koninklijke Brill NV, 2009, p. 55

21 Council Decision 2004/573/EC of 29.04.2004 on the organization of joint flights for removals from the territory of two or more Member States of third-country nationals who are subjects of individual removal orders – OJL 261, 06/08/2004, p. 28-39

22 Regulation (EC) 562/2006 of the European Parliament and of the Council of 15.03.2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJL 105, 13/04/2006, p. 1-31

23 Принципът на субсидиарност е официално въведен с Договора от Маастрихт, който го включи в Договора за създаване на Европейската общност (Договора за ЕО). Общото значение и цели на принципа на субсидиарност се изразяват в предоставянето на известна независимост на йерархично подчинен орган по отношение на висшестоящ орган, по-специално орган на местно самоуправление по отношение на орган на централната власт. Прилаган в рамките на Европейския съюз, принципът на субсидиарност служи като критерий за регулиране на упражняването на неизключителна компетентност на Съюза. Той изключва намесата на Съюза, когато даден въпрос може да бъде уреден по ефикасен начин от държавите членки на централно, регионално или местно равнище, и легитимира упражняването на правомощия от страна на Съюза, когато държавите членки не са в състояние да постигнат в достатъчна степен целите на предвиденото действие и то може да има добавена стойност на равнището на Съюза. Принципът на субсидиарност се отнася до всички институции на Съюза и има особено практическо значение в рамките на законодателните процедури.

В международното право е залегнало фундаменталното право на всяко лице да напуска която и да е страна, включително своята собствена, както и правото да се върне в страната на своя произход. Задължението на държавата да приема обратно собствените си граждани се извежда чрез тълкуване от горепосочените права, залегнали в международните документи. При това, в международното право липсва пряко залегнало задължение на държавите да приемат обратно по реда на реадмисията гражданите на трети страни, влезли в друга държава от тяхната територия. Този пропуск са призвани да попълнят споразуменията за реадмисия, сключвани от държавите.

За значимостта на развитието на сътрудничеството между държавите във връзка с прилагането на института на реадмисията, свидетелства и работата на Комисията по международно право на ООН<sup>24</sup> по темата „изгонване”.

Независимо от важноста на сключването на споразуменията за реадмисия, държавите могат да се сблъскат с редица проблеми, както при сключването на тези споразумения, така и по време на реализацията им.

Освен горепосочените проблеми, реадмисията повдига редица въпроси от общотеоретичен вид, като:

- спазва ли се съотношението на правата на човека и задължението на държавите да приемат обратно собствените си граждани;
- законосъобразно ли е изгонването (реадмисията) на лицата, на които е отказано да получат статут на бежанци.

На първият въпрос можем да дадем отговор, че относително съотношението на правата на човека и задължението на държавите да приемат обратно собствените си граждани е необходимо да се посочи, че в международното право се съдържа фундаменталното право на всяко едно лице да напуска всяка една страна, включително своята собствена, както и правото на връщане в страната на своя произход. Задължението на държавата да приеме обратно собствените си граждани се извежда от правата, залегнали в международните документи. Но в международното право няма залегнало задължение на държавите да приемат по реда на реадмисията гражданите на трети страни. Тази непълнота са призвани да запълнят споразуменията за реадмисия, сключвани от държавите.

За вторият въпрос е важно да отбележим, че законосъобразността на прилагане на процедурата по реадмисия към лицата, на които е отказано получаването на статут на бежанец – необходимо е да се направи уговорка, че в случай когато от държавата, в която лицето е подало документи за получаване статут на бежанец е установена липсата на основания за предоставянето на такъв статут, връщането и приемането от държавите на гражданството, постоянното местожителство или трета страна на такива лица се осъществява независимо от категориите връщани лица, тоест не получили статут на бежанец лица се приравняват към незаконните мигранти. При това, държавите трябва да спазват принципа на сигурната трета страна.

Политиката свързана с прилагането на института по реадмисия придобива официален характер с приетата Директива 2008/115/ЕС на Европейския парламент и Съвета от 16.12.2008 г. за общите стандарти и процедури в държавите-членки за връщане на незаконно пребиваващите граждани на трети страни определя общите стандарти и процедури в държавите-членки за връщането на незаконно пребиваващите граждани на трети страни, позовавайки се на приоритета за изпълване на процедурата за „доброволно връщане”. Това е така защото „връщането в по-голяма степен ще бъде уредено и рационално организирано, ако

<sup>24</sup> Спомагателен орган на Организацията на обединените нации, създаден през 1947. Седалище – в Женева. Състои се от 34 членове, избират се от Общото събрание на ООН от списъка на кандидатите, представени от правителствата на държавите членки на ООН за 5 г.; могат да бъдат преизбирани. Те действат не като представители на своите държави, а в качеството си на самостоятелни личности. Комисията по международно право провежда ежегодни тримесечни сесии (от май до юли) в Европейската служба на ООН в Женева.

е резултат от свободния и осъзнат избор на човека”. А също така „в сравнение с принудителното оказване на съдействие при доброволното връщане съществено намалява риска от нарушаване правата на човека, за държавата е по-малко скъпоструваща процедура както икономически, така и политически”<sup>25</sup>.

Друг важен документ, който бе приет на 25.06.2008 г. от Европейският парламент и Съветът на ЕС е Директивата за единни стандарти и процедури за страните - членки на Европейския съюз за връщане на незаконно пребиваващи граждани на трети страни. Този правен документ заложи минималните стандарти за отношение към лица, подлежащи на експулсиране и реадмисия, но също така осигури стимулиране на доброволното връщане на нелегални имигранти.

Трябва също да се отбележим, че в чл. 2 (2) от Договора за функционирането на Европейския съюз, е регламентирано че “когато Договорите осигуряват на Съюза компетентност, споделена с държавите-членки в определена област, и Съюзът, и държавите-членки могат да законодателстват и да приемат правно обвързващи актове в тази област. Държавите-членки упражняват своята компетентност, доколкото ЕС не е упражнил своята. Държавите-членки упражняват отново своята компетентност, доколкото ЕС е решил да спре да упражнява своята”.

От гореизложеното може да направим извода, че държавите-членки на Европейския съюз няма да упражняват своята компетентност в областта на реадмисията, докато Европейският съюз води преговори или сключва споразумение за реадмисия от името на Съюза с някоя трета страна, но това от своя страна съвсем не означава, че държавите-членки са лишени от възможността да упражняват своята компетентност в областта на реадмисията като цяло.

Прилагането на хуманна и ефективна политика на връщане, която да бъде в съответствие с Хартата на основните права на ЕС и въз основа на принципа на даване на предимство на доброволното завръщане е от съществено значение за цялостно и устойчиво контролиране на миграционна политика.

Също така важно е да отбележим, че Директива от 2008 г. позволява на държавите-членки на ЕС да избират формите и методите за изпълнение на утвърдените стандарти, оставяйки поле за маневриране с оглед различните мащаби на миграционния натиск, в това число размерите на нелегалната имиграция в една или друга страна. Този правен документ е заложил минимални стандарти за отношение към лицата, подлежащи на изгонване по реда на реадмисията, но и е обезпечил стимулирането на доброволното връщане на нелегалните имигранти.

Спецификата на споразуменията за реадмисия с участието на ЕС е в това, че те носят комбиниран характер: споразумението е двустранно, тъй като се сключва от ЕС с трета страна, а изпълнителните протоколи към споразумението, представляващи неразделна част от него и сключвани от трета страна с конкретни държави-членки на ЕС, придават на споразумението многостранен характер.

От гледна точка на съдържанието на правоотношенията, в доклада можем да определим реадмисията като механизъм, позволяващ на една държава, на територията на която се намират незаконни мигранти да осъществява въз основа на международен договор с държавата на тяхното гражданство или с държавата, от територията на която са пристигнали, тяхното изгонване.

Съгласно Ръководството по реадмисия за експерти и специалисти-практици (РРЕСП), разработено от международната организация по миграцията (МОМ)<sup>26</sup>, реадмисията представлява „действие на държавата, разрешаваща повторното влизане на лицето (собствени граждани, чужди граждани или лица без гражданство), за което е станало известно, че същото (даденото лице) незаконно е влязло, пребивава или живее на територията на другата държава”.

25 Директива 2008/115/ЕО на Европейския парламент и на Съвета от 16.12.2008 г. относно общите стандарти и процедури, приложими в държавите-членки за връщане на незаконно пребиваващи граждани на трети страни

26 Manual on Readmission for Experts and Practitioners: Selected Foreign Readmission and Return Practices, 2010

От гореизложеното можем да определим, че реадмисията може да се разглежда като действие на държавата, разрешаваща повторното влизане на лицето на нейната територия.

В тази връзка е важно да отбележим ролята на MOM<sup>27</sup> в глобален мащаб по отношение на разрешаването на възникналите проблеми във връзка с миграцията и в частност възможността за прилагането на института на реадмисия е голяма.

На 19.09.2016 г. по време на Среща на върха на ООН за мигрантите бе приета резолюция, с която се подкрепи споразумението за превръщането на Международната организация по миграция в част от системата на ООН с цел сътрудничество и по-тясно отношение на мобилността, което да включва движението на мигранти и разселени в засегнатите от миграция общества, както и доброволното връщане на мигранти и развитието на миграционните политики в държавите членки.

В Директива 2008/115/ЕС<sup>28</sup> се посочва, че воденето на ефективна политика за връщане е необходим елемент от ефективното управление на миграцията. Директивата определя термина „връщане“ (return) като процес на връщане на гражданите на трета страна – или по реда на доброволното спазване на задълженията след връщането, или принудително в:

- неговата или нейната страна на произход;
- транзитните страни в съответствие с правото на Общността или двустранните споразумения за реадмисия или други договорености;
- друга трета страна, в която заинтересованият гражданин на трета страна доброволно решава да се върне и в която той или тя ще бъде приет.

### **Заклучение**

На дневен ред са поставени въпросите свързани с управлението и регулирането на миграционните потоци, като част от въпросите за националната сигурност, както и използването на изградените международноправни и национални механизми за противодействие на трансграничната организирана престъпност, за връщане на чужди граждани застрашаващи националната сигурност и прилагане на споразуменията за реадмисия.

Европейските и националните институции и администрации са насочили вниманието си към развитието и прилагането на силови политики, които да са съсредоточени за ефективното управление на миграцията.

В системата на международното право, реадмисията е формиращ се институт за международноправно уреждане на миграционният натиск, нормите на който уреждат процедурата по реадмисията, включително приемането, връщането и транзита на лицата, незаконно намиращи се на територията на една от договарящите се държави.

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27 Международната организация за миграция (МОМ) е междуправителствена организация, основана през 1951 г. като Междуправителствен съвет за европейска миграция, който да оказва помощ при презаселването на хора, разселени по време на Втората световна война. Към април 2015 г. има 157 страни членки и 10 страни наблюдателки. Официалните езици са английски, френски и испански. Седалището на МОМ се намира в Женева, Швейцария. Има повече от 8 400 служители, а бюджетът ѝ за 2013 г. е 1.675 млрд. щатски долара. Международната организация по миграция е подпомогнала приблизително 20 милиона мигранти през 2015 г. Тя е междуправителствена организация с над 9 500 служители и 450 офиса по света.

28 Директива 2008/115/ЕО на Европейския парламент и на Съвета от 16.12.2008 г. относно общите стандарти и процедури, приложими в държавите-членки за връщане на незаконно пребиваващи граждани на трети страни



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## BALANCING INTERNATIONAL NORMATIVE REGIME AND NATIONAL SECURITY INTERESTS IN CURRENT MIGRATION CRISIS

### Abstract

*This article focuses international migration management regime from the aspect of its practical challenges for national security. This issue is problematised within the broader security debate. Many scholars and practitioners advocate that national security exceeds defence of vital values of state and that it encompasses societal, environmental, economic, and political security. The broadening of this concept labels as security risks or threats a multitude of issues, among which international migrations. In that context, instead of the traditionally state being the referent object threatened, considered to be in threatened become non-state objects, such as humanity, cultural identity, or the individual. We outline international normative regime of migrations and seek activities and aspects of migration that may be perceived as a security issue relevant for national security. We then raise a matter whose vital interests are relevant in case of migrations and argue that perception of immigration as a threat for national security is not objective but constructed. Finally, we contextualise the challenges of current migration crisis with focus on Republic of Serbia, as a developing country and a country of origin and transit. The findings indicate that massive and 'unwanted' migrants threaten the stability, in a way that they strain many functions of the state and, consequently, also impact overall efficiency of national security system. But, migrations as such do not seem to pose direct threats for national security. The findings enable a conclusion that migration policy generally requires cooperation with third countries and international organizations, to control the inflows and avoid unwanted outcomes.*

*Keywords: global compact, global migration management, protection of migrants, commitments of states, governance capacities*

## USKLADIVANJE MEĐUNARODNOG NORMATIVNOG REŽIMA I INTERESA NACIONALNE BEZBEDNOSTI U AKTUELNOJ MIGRANTSKOJ KRIZI

### Rezime

*Ovaj članak se bavi upravljanjem međunarodnim migracijama iz ugla praktičnih izazova za nacionalnu bezbednost države. Radi se o fenomenu koji je normativno obuhvaćen međunarodnim načelima, politikama i pravilima. Zadnjih godina, masovno kretanje migranata iz većeg broja država iz kriznih područja na Bliskom istoku, severu*

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Afrike i Azije ka državama Evropske unije ispoljilo je niz slabosti međunarodnog režima migracija, u meri da je nazvano "migrantska kriza". Obrazloženja za neizvesnost zbrinjavanja ugroženih ljudi iz kriznih područja obuhvatala su niz narativa vezanih za bezbednost, poput povećanja rizika od terorizma, programirane "islamizacije", povećanja organizovanog kriminala isl. Republika Srbija, kao država koja se našla na tranzitu ove grupacije migranata, između država porekla, tranzitnih država EU i država destinacije u EU, suočila se sa svim nedoslednostima međunarodnog režima u ovoj oblasti. Struktura članka obuhvata četiri pitanja: međunarodni normativni režim migracija, globalni pristup migracijama, bezbednosni aspekt migracija i trenutni položaj Republike Srbije. Međunarodna načela i pravila koja se odnose na migracije počivaju na humanističkom konceptu da se obezbedi ostvarivanje osnovnih ljudskih prava svih koji su prinuđeni ili voljni da napuste matičnu državu u potrazi za bezbednim ili boljim životom. Savremeni svet, međutim, odlikuje dubok jaz između razvijenih i ostalih država, pri čemu globalni procesi trpe uticaj dominacije razvijenih da finansiraju procese i da artikulišu operativne politike, uključujući I u oblasti migracija. Tako je došlo do binarnosti, da priliv migranata generalno koristi ekonomijama razvijenih država, koje u uslovima ekonomske krize neoliberalizma (i krize identiteta u EU) nisu u mogućnosti da private iznenadni i masivan priliv ljudi drugačijeg kulturnog i religijskog identiteta. Nesporno je da masovne migracije nose niz izazova u pogledu javnog reda i mira, organizovanog kriminala, ili javnog zdravlja, međutim neki od narativa migracijama pripisuju svojstvo generatora pretnji za nacionalnu bezbednost. Uz uvažavanje mogućnosti da u okviru migrantske populacije ima prostora za nosioce neprijateljske delatnosti protiv određene države, nalazi ne potvrđuju da međunarodni normativni režim i globalni pristup omogućavaju takvu organizovanu delatnost. Naime, države legitimno kontrolišu kretanje i boravak na svojoj teritoriji, te otkrivanje, sprečavanje i presecanje neprijateljske delatnosti ne zavisi od broja ljudi (jer bi se u suprotnom i turizam mogao pojmiti kao potencijalni generator izaziva), već od artikulisanja konkretnih nosilaca ugrožavanja (u kom slučaju bi i zloupotreba migracija mogla predstavljati jedan od metoda neprijateljskog delovanja). Preko million migranata koji su u period od oko osamnaest meseci prešli preko teritorije Republike Srbije, koja je i sama država u razvoju, do maksimuma je napregao administrativne i javne finansijske resurse. Pri tome, suočilo se sa oportunističkim pristupom država EU, od kojih neke nisu bile spremne da private migrantsku populaciju. Međunarodna saradnja, koja je načelo režima migracija, došla je do izražaja samo u delu finansiranja troškova humanitarne pomoći, ali ne i kada se radi o pitanju razmeštanja migranata. Ono što je indikativno jeste da su evidentirani slučajevi neprijateljske delatnosti, pre svega terorističkih i ekstremističkih aktivnosti, u dosadašnjem periodu bili uglavnom vezani za mreže u samim državama, te se ne može tvrditi da aktuelne migracije predstavljaju vid organizovanog nastupa. Takođe, organizovno krijumčarenje i trgovina ljudima, čine se pre posledica nedosledne primene režima migracija nego organizovanog nastupa zloupotrebom migracija. Nalazi u ovom članku ukazuju da masovan priliv neželjenih migranata predstavlja bezbednosni izazov, ali ne i da migracije kao takve generišu pretnje za državu i društvo kao takvo, osim u smislu uticaja na međunarodni ugled države. S obzirom da je kretanje migranata usmereno ka razvijenim državama, čini se da problem ne može prevazići sekuritizacijom pojedinačnih država, ni projektnim pristupom, već koordinacijom politike prema migrantima u okviru međunarodnih organizacija i aktivnu saradnju između država porekla, tranzitnih država i država destinacije.

*Ključne reči:* globalni dogovor, globalno upravljanje migracijama, zaštita migranata, posvećenosti država, kapaciteti javne uprave

## Introduction

On 1. January 2016, there was some 20.7 million non-EU nationals residing in the EU countries, making up 4.1 % of the EU-28 population), while during 2015, alone, there were an estimated 2.4 million immigrants from non-member states.<sup>3</sup> On the global level, most migrants do not reside in EU countries. In 2015, the number of international migrants globally reached 244 million. Two thirds of international migrants were in twenty countries, among which the largest number (47 million) lives in the United States of America, Germany and the Russian Federation host the second and third largest numbers of migrants (12 million each), followed by Saudi Arabia (10 million), the United Kingdom (nearly 9 million), and the United Arab Emirates (8 million). Of the top twenty destination countries, nine are in Asia, seven in Europe, two in Northern America, and one each in Africa and Oceania. Nearly two thirds of migrants live in Europe (76 million) or Asia (75 million).<sup>4</sup>

While migration from developed countries to other parts of the world is viewed as opportunity, the reversed trend is increasingly associated with the notion of a security challenge or threat. Furthermore, if migration is understood in the context of free flows of goods, finance and people, within the notion of development, it is interesting that the flow of people is increasingly being met with restrictive policies.

Under international law, states are entitled to control movement across their borders. Migration management, through connection with security, becomes an issue of strategic importance, in a sense that it impacts international relations and mingles with other core policy fields. In that context, i.e. with normative regime being international and the concern national, an issue arises related to interpretation and application of existing international norms (general structure of normative order), i.e. the meaning of original terms in the specifics of contemporary migrations. The general presumption is that meanings in the norms are intended to follow the evolution of force of law at any given time, valid today in extremely dynamic process of evolution of many social and inter-state relations.

### General international normative regime of migrations

United Nations have declared, and it is a general principle of international law, that enjoying recognised individual rights and freedoms is not subject to distinction of any kind, including based on the political, jurisdictional or international status of the country or territory to which a person belongs.<sup>5</sup>

International Covenant on Civil and Political Rights affirms the guarantees that the recognised rights will be exercised without discrimination as an obligation of states.<sup>6</sup> State have an obligation to take steps with a view to achieving progressively the full realisation of the recognised human rights by all appropriate means, including the adoption of legislative measures. These steps should be undertaken to the maximum of the available resources of a state, individually and through international assistance and co-operation. An important provision in implementation of human rights provide concerns developing countries, in sense that they may determine the extent to which they would guarantee the economic rights, with due regard to human rights and their own economy.

International Covenant on Economic, Social and Cultural Rights also affirms the

3 EUROSTAT, Migration and migrant population statistics, 2017. [http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration\\_and\\_migrant\\_population\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration_and_migrant_population_statistics) (August 25, 2017)

4 UN Department of Economic and Social Affairs Population Division, Population facts, December 2015. [http://www.un.org/en/development/desa/population/publications/pdf/popfacts/PopFacts\\_2015-4.pdf](http://www.un.org/en/development/desa/population/publications/pdf/popfacts/PopFacts_2015-4.pdf) (August 25, 2017)

5 UN General Assembly, Universal Declaration of Human Rights, Resolution A/RES/217 A (III) (10 December 1948), UN Doc. A/810 at 71 (1948), Art. 2.

6 International Covenant on Civil and Political Rights, 999 UNTS 171, "Official Journal SFRY – International Treaties", no. 7/71, Art. 2.



obligation to guarantee the exercise rights enunciated without discrimination of any kind and elaborates a set of rights related to work, health care, social security, protection of children from social and economic exploitation, and the right of every person to a standard of living that includes food, clothing, accommodation, compulsory, accessible and free primary education.<sup>7</sup>

UN Convention relating to the Status of Refugees establishes the minimum standards for treatment of refugees, and particularly guarantees the rights and the same treatment as citizens when it comes to access to courts, wage-earning employment, public elementary education, identity and travel documents.<sup>8</sup> A special role in implementation of this Convention (and the relating Protocol) is stipulated for the UN High Commissioner for Refugees (UNHCR), which has supervisory duties. States have an obligation to cooperate with the UNHCR (or any other agency of the United Nations which may succeed it) in the exercise of its functions, through submitting reports and providing information and data requested concerning: the condition of refugees; the implementation of the Convention; and laws, regulations and decrees which are, or may be, in force relating to refugees.<sup>9</sup>

Convention against Transnational Organized Crime does not mention migrating, nor migrants as a potential illegal activity, in any form.<sup>10</sup> International law, however, recognises the potential victimisation of migrants. Obligations of states in that context are provided through two protocols in supplement of this Convention, regarding smuggling of migrants and trafficking of people (especially women and children).<sup>11</sup>

In addressing phenomenon of migrations, international law requires special attention for the needs of children. One of the principles in the Convention on the Rights of the Child is non-discrimination, i.e. that the states have an obligation to provide Convention rights to all children under their jurisdiction. There is also the principle of giving primary importance to the best interests of the child, as well as the recognised right of every child to have the name, care and citizenship right after birth, and states are obligated to respect the right to preserve their identity, including citizenship.<sup>12</sup> In the context of protection of children, there is a special obligation to prevent their exploitation through prostitution and pornography.<sup>13</sup>

Regional European instruments impose expectations on states to promote inclusion of migrants. Council of Europe calls on member states to take all necessary measures to promote diversified and positive interactions between migrants and host societies. As such are explicated advances related to following: diverse and enhanced opportunities for public interaction; participants' interaction skills; processes to support and encourage positive interactions; recognition of positive contributions from migrants; migrants participation and identification of fields of their involvement; how existing policies can facilitate or inhibit interaction while providing flexible and responsive services; decision-makers and practitioners recognition and respect of diversity and its complexity when seeking to empower migrants to participate more in society (particularly in the design of

7 International Covenant on Economic, Social and Cultural Rights, 993 UNTS 3, "Official Journal SFRY", no. 7/71., Arts. 2, 10, 11

8 UN Convention relating to the Status of Refugees, 189 UNTS 150, "Official Journal FPRY – International Treaties", no. 7/60, Arts. 16, 17, 20, 22, 27, 28.

9 *ibid.*, Art. 35.

10 United Nations Convention against Transnational Organized Crime, 2225 UNTS 209, "Official Journal SFRY – International Treaties", no. 6/2001.

11 Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against transnational organised crime, 2241 UNTS. 507; Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime, 2335 UNTS 254, "Official Journal SFRY – International Treaties", no. 6/2001.

12 United Nations Convention on the Rights of the Child, 1577 UNTS 3, "Official Journal SFRY", 15/90, "Official Journal FRY" 4/96 and 2/97, Arts. 2, 3, 7, 8.

13 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2171 UNTS. 227, "Official Gazette of the FRY - International Treaties", no. 7/2002.

policies, services and interventions); and policies that maximize the potential of multiple aspects and/ or dimensions of identity; stronger networks among diverse groups.<sup>14</sup>

To enable implementation of the normative goals, European Union (EU), which hosts large migrant communities, has developed a comprehensive regulatory model. The EU Council establishes unique fingerprint databases of asylum seekers (EURODAC).<sup>15</sup> Several directives further develop EU's asylum system: minimum standards on procedures in Member States for granting and withdrawing refugee status,<sup>16</sup> minimum standards for the reception of asylum seekers<sup>17</sup> minimum standards for giving temporary protection in the event of a mass influx of displaced persons and measures promoting a balance of efforts between Member States,<sup>18</sup> and an integrated approach to questions arising from the pressure of migration and asylum applications and regarding the management of the external borders of the EU.<sup>19</sup>

Presented outline of the normative order is based on humanity, but has a deeper rationale. Migrants, generally, move, seeking to improve their lives. Implementation of international normative regime is based on their conditions in country of origin. People fleeing armed conflicts or persecution can be given the status of refugee. It is a legal process through which governments or UNHCR determine whether an individual seeking international protection can be considered a refugee under international, national or regional law. An individual who claims to be a refugee but whose claim has not been evaluated is a asylum seeker. Besides these two categories, remain people seeking to find work, better education, reuniting with family etc., but who can return home safely. Some of them may face extreme conditions at home (natural disasters), which have coerced them to leave. In such cases, from the legal aspect, their status depends on whether they are coerced (for migrants) or forced (for refugees) to migrate into another state.

### Global approach to migrations

Migrations may have positive and negative effects on host states (Table 1.) and on countries of their origin (Table 2).

Positive	Negative
skills gaps and job vacancies can be filled	depression of wages may occur
economic growth can be sustained	available cheap labour allows employers to ignore productivity, training and innovation
services to an ageing population can be maintained	if number of incomers is unrestricted unemployment may rise
new workers pay taxes and fill the pension gap	rise in population can strain public services
Immigrants bring energy and innovation	migrants may be exploited
Host countries are enriched by cultural diversity	integration problem and friction with local
schools with falling numbers can be transformed	increased security monitoring
	organised crime and human trafficking

14 Committee of Ministers of the Council of Europe, Recommendation to member states on interaction between migrants and receiving societies, CM/Rec(2011)1 (19 January 2011), para. 1.

15 Council (EC), Regulation No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention, "Official Journal" L 316/ 15.12.2000, pp. 1-10.

16 European Parliament and the Council, Directive 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, "Official Journal" L 337, 20.12.2011, pp. 9-26

17 European Parliament and the Council, Directive 2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protection, "Official Journal" L 180, 29.06.2013, pp. 96-116

18 Council, Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, "Official Journal" L 212, 7.8.2001, pp. 12-23.

19 European Parliament and the Council, Regulation No 514/2014 of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management, "Official Journal" L 150, 20.5.2014, pp. 112-142.

Table 2. Possible impacts on countries of origin of migrants	
Positive	Negative
remittance sent home by migrants	loss of young workers
reduced unemployment and prospects for young	loss of highly skilled people
returning migrants bring savings, skills and contacts	children left behind or without a wider family

It is commonly recognised that if there are existential or economic preconditions migration is inevitable. If not allowed, it will develop in illegal ways. Migration can be beneficial for migrants, countries receiving and countries of origin. In the context of rationale of international normative order, not all possible impacts seem to be of equal significance.

Over past decades, thorough researches have been conducted and they indicate that migrants facilitate benefits to industry; positive influence on the productivity of local workers; contribute new ideas and a fresh approach to firms; and advance cultural links with nations that will be useful in international trade.<sup>20</sup> International migration may also be used as a tool to solve specific labour market shortages and population ageing in destination countries.

In present economic and trading structures, it is rich and powerful countries that benefit most. Their positive impact is estimated in following: labour markets (increase in workforce, fill niches in fast-growing and declining sectors of economy labour-market flexibility); the public finances (contribute in taxes and social contributions, employment is the biggest determinant of migrants’ net fiscal contribution); economic growth (boosts the working-age population, arrive with skills and contribute to human capital development of receiving countries, contribute to technological progress.<sup>21</sup>

It is also widely accepted that migration brings social and cultural pressures that need to be considered. To address this aspect, in a way to enable migrations, the most immediate issue is preventing frictions. It is generally believed that they occur as a cumulative effect of prevailing stereotypes held by local people and migrants without information about the local ways and opportunities to integrate.

Mentioned factors have influenced shaping of migration policies on global level. Their primary goal is to facilitate economic development, while protecting human rights. In the contemporary phase, migrations are viewed within the concept of global sustainable development. The UN’s agenda for sustainable development until 2030 stresses the multidimensional reality of migration. It calls on countries to implement planned and well-managed migration policies, eradicate human trafficking, respect the labour rights of migrant workers and reduce the transaction costs of migrant remittances. The Agenda highlights the vulnerability of migrants, refugees and internally displaced persons, and emphasises that forced displacement and related humanitarian crises threaten to reverse much of the development progress.<sup>22</sup> The general approach is the those forced to flee should never be denied haven or rescue. The Agenda contains a set of universally applicable commitments for improving the lot of people and the planet, to be achieved by 2030. As an overarching principle, it proposes that States have a collective interest and responsibility to ensure that the most vulnerable people and populations, including migrants and refugees, are not left behind by economic, social and environmental progress. Under one specific Goal, in target 10.7, States committed themselves to cooperate to “facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”.

In 2016, at the high-level plenary meeting of the General Assembly on addressing

20 Oxford Economics, *The Economic, Labour Market and Skills Impacts of Migrant Workers in Northern Ireland*, Belfast: Department for Employment and Learning, 2009.

21 OECD, *Is migration good for the economy? Migration Policy Debates*, 2/2014, p.1. <https://www.oecd.org/migration/OECD%20Migration%20Policy%20Debates%20Numero%202.pdf>;

22 UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development*, A/RES/70/1 (21 October 2015).

large movements of refugees and migrants, heads of states and governments adopted as the outcome document the New York Declaration for Refugees and Migrants.<sup>23</sup> In this instrument states recognised the need to strengthen international cooperation on migration and initiated a two-year process for developing two voluntary initiatives based on businesses' commitments to implement universal sustainability principles (global compacts<sup>24</sup>): on refugees; and for safe, orderly and regular migration, the latter to be presented for adoption at an intergovernmental conference to be held in 2018.

In terms of global response to migrations, the Declaration on Refugees and Migrants, like the Sustainable Development Agenda, articulates an idea to foster the well-being of refugees and migrants. In that context, global compact of safe, orderly and regular migration envisions: enhanced international migration governance; new channels for safe and regular migration; promoting respect for the human rights of migrants; protection of migrants in transit; and protection of migrants in countries in crisis. This instrument calls for development of non-binding and guiding principles on the treatment of migrants in vulnerable situations and proclaims an expectation that comprehensive refugee response should be developed and initiated by the UNHCR, in coordination with relevant states, including host countries, and involving other relevant UN entities, for each situation involving large movements of refugees.<sup>25</sup> From the aspect of security element in rationale underlying global normative regime, this instrument recognises the state's right and responsibility to manage and control their borders, and within that to implement border control procedures in conformity with applicable obligations under international law, including international human rights law and international refugee law. Within this, it proclaims undertaking of duty to promote international cooperation on border control and management as an important element of security for States, explicating issues relating to battling transnational organized crime, terrorism and illicit trade.<sup>26</sup>

Forced migration and flows of refugees are a challenge to the international community. Globalisation and interdependence concerning phenomenon of migrations impose that agenda for action relies on commitments between States and migrants, among States, and between States and other stakeholders. There is a duty to address the root causes of forced migration; relieve the suffering of those forced to leave their homes; and find solutions to their plight.<sup>27</sup> It is recognised that migration policies encompass at least five key priorities, related to functional aspects of achieving sustainable development goals. (Figure 1.)

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23 UN General Assembly, New York Declaration for Refugees and Migrants, UN Doc A/RES/71/1 (3 October 2016).

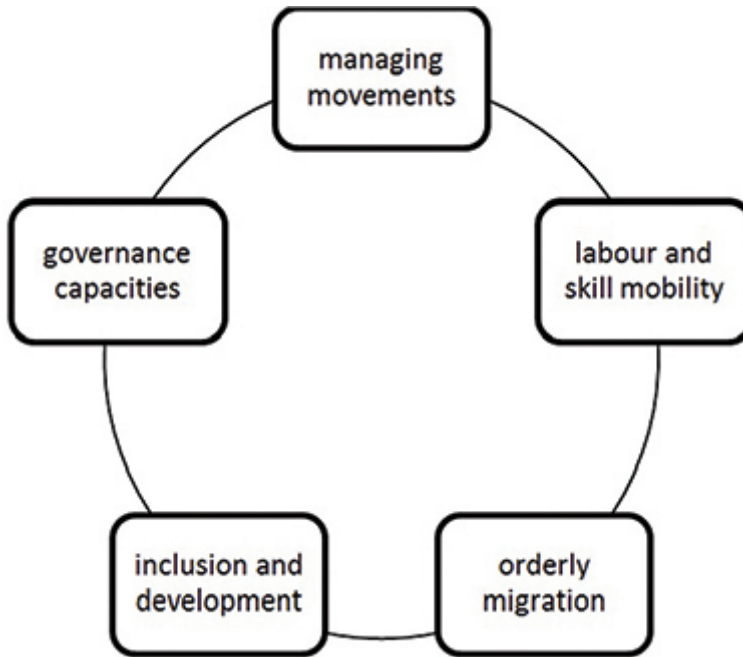
24 Term "compact" is used for a not legally binding agreement that captures a consensus of States and other relevant stakeholders on political and concrete actions to improve the global response to displacement.

25 UN General Assembly, *op. cit.* (supra 23), paras. 52, 69.

26 *ibid.*, para. 25.

27 UN General Assembly, Report of the Special Representative of the Secretary-General on Migration, UN Doc. A/71/728 (3 February 2017), para. 6.

Figure 1. “Migration policies priorities”<sup>28</sup>



Within the global regime, states have vital commitments. The most essential and urgent one concerns clarifying the responsibilities towards migrants who are in vulnerable situations and may not be able to return home, but do not qualify for protection under status of refugees (well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, or not having a nationality and being outside the country of his former habitual residence as a result of such events) The problem is in the binary approach to protection, in which refugees are treated as “good” (deserving help) while irregular migrants are “bad” (because they move, without due regard for legal process).

States have no obligation to open their borders to all migrants, but they do have an interest in seeing migration occur legally and safely, with respect for the human rights of migrants. To achieve this, state authorities needs to work out and articulate clearly migration policy, i.e. the opportunity for migrants. This concerns terms under which they will allow migrants to enter, stay and work and how their departure and return will be facilitated.

The 2030 sustainable development agenda imposes an expectation on states to leave no one behind, including migrants and refugees. One of the main problems in accepting newcomers is that it tends to generate costs in advance, while possible benefits may (or may not) come in future. By including migration-related targets in the 2030 Agenda and adopting the New York Declaration, states have recognised that managing international migration is a shared responsibility. There is, therefore, a need for consensus on how to address large crisis-related movements, not only to protect people on the move but also to avoid the damaging effect of ad hoc responses on national political institutions and the public’s trust.

Another continued priority for states, besides enabling labour and skills mobility and orderly migration (and return), should be cooperation on reducing irregular movements and criminal networks that made a business out of smuggling migrants or trafficking people, exploiting their desperation and their search for a better life. Despite

<sup>28</sup> *ibid.*, para. 16.



the public pressure to be tough on “illegal immigration”, states should cooperate to avoid the criminalisation of victims and not only rely on border and law enforcement.

Generally, effectiveness of commitments of states depend on governance capacities, i.e. necessary prerogatives and resources for integrating newcomers, that can facilitate policy coordination and convergence in critical areas.

Commitments of states can be deduced into several functional goals (Figure 2).

*Figure 2. “States’ commitments concerning migrations”*



But, in today’s global order, states are not the only decision makers related to migration. Much of international migration is driven by family ties, diaspora networks and the private sector. Communication technologies and legitimate and illicit intermediaries help migrants plan their journeys across international borders. In the face of growing hostility towards migrants and refugees, there are responses from private citizens, non-governmental organisations and businesses, either with solidarity and mobilisation, or with opposition and confrontation.

A series of negative consequences are related to the imposing of modernisation. Cultural biased megaprojects have undermined aspirations and lifestyle of people. Development projects based on Western science, aiming toward universal civilisation in the name of progress and development have ignored local people and their knowledge. The development programs financed by international donors did not rehabilitate or address the needs of rural ethnic groups in their countries. This development has also encouraged migration (by marginalising the natives). Practically, the institutionalisation of development turned out to be a measure of strategic intervention against socio-political opposition.<sup>29</sup> Within the globalisation process, immigration, multiculturalism,

29 Stevanović, Miroslav, *Odživi razvoj kao političko-pravna kategorija*, doktorska disertacija, Fakultet političkih nauka Univerziteta u Beogradu, 2016, str. 160.

multinational corporations and international non-governmental organizations, contribute to new forms of the so-called. "cultural hybridization," which is why great attention is paid to the administration in cities, toward which most migrations are directed.

The political economy of our time rests on the regulation of the population, as economic power, growth or decline, migration and medical care.<sup>30</sup> Considering the current crisis of the mass influx of migrants from crisis areas into EU countries, from the point of view of the economic dimension of sustainable development, the issue of the impact of mass migrations is being exposed. Academic literature still has no definite confirmation for the neoliberal discourse that the ensuing waves of immigration contribute to reinforcing the economy. The economic policies themselves, in the long run, can be affected by the inclusion of inequalities in public health parameters. The need for a holistic approach is most prominent within the concept of human development. Migration is treated in the context of freedom and mobility of individuals, as a component of human development. This is the reason why it is generally advocated for liberalisation of entry, and as a critical issue focused on addressing the concerns of the local population. In the affirmative context, two categories of migrants are especially considered. When it comes to the movement of women, in accordance with the approach that feminism should be the driving force of development, it is claimed that in a significant number of cases it is emancipation of women. Also, in accordance with the thesis that the educational index is the best indicator of the state of human capital, it is the massive movement of skilled labour in search of better opportunities.<sup>31</sup>

The recent wave of boat people has demonstrated how options for dealing with 'illegal' arrivals are constrained by obligations of states. It was just not designed with today's mass refugee outflows or migratory movements in mind. Acceptance rates are more revealing of a country's political priorities, or attitude to migration, or the weight of numbers it has to deal with, or its diplomatic relations with countries of origin, than the genuineness of migrants'/refugees' needs.

The UNHCR reports the highest number of displaced persons ever recorded. The statistics are sobering: one in three Syrians has been forced to abandon their home, Europe is facing unprecedented arrivals of asylum seekers and refugees, and thousands of migrants have lost their lives in the Mediterranean alone.<sup>32</sup>

Historical experiences demonstrate that migration is an effective way to generate cross-cultural understanding, through mixed marriages, hybrid arts and cuisine, and cosmopolitan cities. Recalling on such empirics some draw conclusion that even the rise of violent extremism should be a reason to promote migration.<sup>33</sup> As the vital role of immigrants is established in western economies,<sup>34</sup> a state granting them the stay is engaged in expressing its commitment to liberal political values.<sup>35</sup>

The underlying ethos of migration regime is a general commitment not to return a person in existential need. The premise of this regime is international cooperation; specifically concerning reciprocal commitment to provide protection to refugees. The regime comprises two sets of obligations: asylum and burden-sharing. Asylum includes the obligation that states have toward refugees who reach their territory; and burden-sharing represents the obligation that states have toward refugees in the territory of other

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30 *ibid.* str. 219.

31 UNDP, Human Development Report 2009 - Overcoming Barriers: Human Mobility and Development, New York: Palgrave Macmillan, 2009, pp. 9-18.

32 UNHCR, Global Trends Forced Displacements in 2015, Geneva: UNHCR, 2016, pp. 37, 40, 44

33 Koser, Khalid, How Migration Can Help Fight Violent Extremism, World Economic Forum blog - Agenda, 18 February 2015. <https://agenda.weforum.org/2015/02/how-migrationcan-help-fight-violent-extremism/> (24 August 2017)

34 Strittmatter, Robert (1995), Corporate Concern for Non-employees: An Ethically Correct Labor Policy for Migrant Workers, in: Values, Work, Education: The Meanings of Work, Samuel Natale; Brian Rothschild, (Tara Madden(eds.), Amsterdam/Atlanta: Rodopi, 1995, p. 227.

35 Owen, David (2016), In Loco Civitas: On the Normative Basis of the Institution of Refugeehood and Responsibilities for Refugees, in: Migration in Political Theory: The Ethics of Movement and Membership, Sarah Fine; Lea Ypi (eds.), Oxford: Oxford University Press, 2016, p. 277.

states (to financially support them or to resettle some of them on their territory). The regime has a strongly institutionalised norm of asylum that is widely accepted; however, the norms related to burden-sharing are largely discretionary. Despite this apparent consensus, the existing refugee regime is at a crossroads, with an increasing number of governments are closing their borders.

The definition of a “refugee” was created at a time in history, and in a geographical context: post–Second World War Europe. Today there are new drivers of cross-border displacement, including climate change, food and water insecurity, and state fragility. Many of these are outside the framework of the Refugee Convention. This poses a question of who today has a just claim to asylum. Many authors suggest that persecution is a special case and justifies the privileged status of “refugee.” For others, the existing conception of “refugee” creates an ethically arbitrary barrier, excluding others with equally valid moral claims to protection.

### **Security aspect of international migration regime**

It is in the common interest of states that migrants have somewhere safe to go. International community benefits from the availability of refugee protection, which can, to some extent, even be viewed as global public good. When provided, it offers nonexcludable and nonrivalrous benefits to all states. Those benefits concern reintegrating people into the state system and the guarantee that their basic needs and human rights will be met.<sup>36</sup>

Normative criteria for migrations are high velocity labor mobility and growth of wealth and economy, but the problem is whether free cross-border movement is normatively desirable. This issue is highlighted in discourses of nationalism as opposed to cosmopolitanism.<sup>37</sup> Criminalisation and illegalisation as the effects of multidimensionality of migrations introduce security challenges. Thus, state can derogate principles and regimes in managing inflow of migrants. On the other side, a developing construct of human security prioritises wealth and circumstances of individuals, which requires judicial insight to acts of states.

Overreaching notion of security (securitisation), combined with counter-terrorism and recession, have propelled militarised border control and war-time surveillance techniques in the cities, as the dominant policy response to (irregular) migrations pursued by governments. This is a process of social construction based on emphasizing the disruptive consequences of migrations, creating a state of mind and policies which resemble war conditions. The underlying rationale is combatting terrorism and spreading of religious extremism from sub-regions, which is promoted to geopolitical significance. This is taking politics beyond rules, and the construction of threats depends on the language used to construct migrations, or their aspects, as security issues.

In response to the rapid rise in the number of international migrants, in recent years, migration, especially of ‘illegal’ migrants, has heightened the perception of their threat to national security. At the core of the perception of irregular migration as a national security threat seem to be real or imagined links to terrorism and organised crime, as well as health threats, which can undermine aspects of sovereignty of a state. Tackling this kind of security concerns requires migration management and border management policies. Such perception of threat often focuses on challenges that may pose real or imagined threats to the population of countries of destination. But, it does not fulfil the basic function of the system of national security – to identify unfriendly activities (plans, intentions, actions) and mechanisms (decision process, bearers), since it does not relate to the structural causes of violence and deprivation which causes many

36 Betts, Alexander, *The Normative Terrain of the Global Refugee Regime*, *Ethics & International Affairs*, 29:4/2015, pp. 363-375.

37 Ghosh, Shubha, *The Movement of Skilled Labor and Knowledge Across Borders*, in: *The Ashgate Research Companion to Migration Law, Theory and Policy*, Satvinder Juss (ed.), Oxon/New York: Routledge, 2016, p. 520.

to migrate. From the perspective of potential source of immigrants, the main imperative is not to curb migration by all possible means but rather to prevent the loss of life in the regions of their origin, protect the migrants against the human traffickers and smugglers and promote humanity.<sup>38</sup>

There is, so far, no empirical support for the rhetorically framed linkage between national security and immigration as inherent, but it is nevertheless increasingly embraced by the public in effected host countries. National security aspects of immigration are primarily related to issues of integration and alienation of immigrants, and as such they hardly match the criteria of the threat-defence logic which ties migrations to issues of defence and survival. The paradox is that the implementation of such concept on migrations is caused by regional environmental degradation leads to engagement of military and national security apparatus in responding to environmental problems. This creates market opportunities for various services, legal and illegal, which in turn promote xenophobia, racism and consequently facilitate deeper securitisation.<sup>39</sup>

The Euro-centric nature of the approach concentrates on impact on developed countries, even though irregular migration affects poorer countries disproportionately harder. For states of origin, irregular migration often is an essential economic factor for both their citizens and their economies because of remittances, estimated at \$429 billion (in 2016) and expected to grow in 2017 to \$444 billion. Recently, several high-income countries that host many migrants are considering taxation of outward remittances (Bahrain, Kuwait, Oman, Saudi Arabia, the USA, and the UAE), in part to discourage illegal migrants. But these taxes are difficult to administer and likely to drive the flows underground. It is also in some cases a 'security valve', allowing young people without a perspective in their country to seek their future elsewhere.<sup>40</sup>

Globalisation is defined by cross-border connectivity which serve to expedite flows of goods while at the same time increase the level of immigration. The major challenge facing transit and destination states is preventing international terrorists from entering. The threat of terrorism requires increased immigration control in the form of a more thorough screening by consular officials in the countries of origin, shared data between national law enforcement agencies, advancing methods of border patrols, and combined law enforcement and international security actions to identify and arrest suspected terrorists. The large-scale movement of people poses potential threats to the security of the EU countries and the USA, which are simultaneously primary benefactor of migrations.

Societies develop legitimising norms for policies reflecting deep-rooted values in society, often in the forms of constitutional and legal values. Administrative responsibility falls on policy makers but also on national and sub-national bureaucratic entities in separate administrative spheres of responsibility or functional sectors. If the normative regime of migrations is based on specific Cold-war and economic interests of the West, and with underlying liberal-democratic agenda as societal values. Their inadequacy stems from the very conditions to which those values were suited in international regime. They have, again in the geopolitical interest, supported and provided "safe-heaven" for supporters of radical groups, often with knowledge of countries of their origin, which have refrained from violent acts in those countries. But has escalated since a new geopolitical dimension arose with the idea of Islamic caliphate in the Middle East and North Africa. The practical problem in context of national security is understanding the power structure within these groups and dynamics of their operations, which has become an internal issue, since many of these are migrants with citizenship, or even citizens, who

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38 Lutterbeck, Derek, Policing Migration in the Mediterranean, *Mediterranean Politics*, 11:1/2006, p. 64.

39 d'Appollonia; Ariane Chebel, Xenophobia, Racism, and Securitization of Immigration, in: *Handbook on Migration and Security*, Philippe Bourbeau (ed.), Cheltenham/Northampton: Edward Elgar Publishing, 2017, p. 259.

40 The Global Knowledge Partnership on Migration and Development; The World Bank, *Migration and Development Brief 27: Migration and Remittances - Recent Developments and Outlook*, Washington: The World Bank, 2017, p. 13.

live within the national societal values but with opposing value system.<sup>41</sup>

Since declaring its caliphate in June 2014, ISIS has in the first year carried out or inspired at least 143 attacks in 29 countries.<sup>42</sup> Costs from terrorism are still lower than other forms of violence. The losses from violent crime and homicide globally were 32 times greater than losses from terrorism and the number of lives lost 13 times higher. The costs of containing terrorism are significant and greater than the direct costs of terrorism. National security agencies are tasked with preventing terrorist activity as well as supporting other elements of national security. It is estimated that spending on national security and intelligence agencies in the G20 countries reached at least US\$117 billion in 2014, and a study found that counterterrorism spending in EU has increased, from \$5.7 billion in 2002 to \$93.5 billion in 2009.<sup>43</sup>

We witness a discourse, that individuals born in Europe (most often to immigrant parents of Islamic religion), are supposedly radicalised and joining extremist or terrorist groups.<sup>44</sup> The key aspect in this is that they are radicalised by also nationals and join groups made up of nationals.<sup>45</sup> Since the goals of these groups are immanently political, their tactics (terrorism, also used by some domestic ideological or national extremists) do not reflect the essence of the threat, and can only through connection with outside factors represent a national security issue. Concerning this, we witness another paradox, in sense that many EU countries maintain support for the very countries of origin to which such groups are associated.

There is no evidence to suggest that popular movement is orchestrated by organised crime. Perpetuation of migration by existing networks of immigrant families in the host countries and by organisations which promote migration. These are often associate with trafficking and smuggling.<sup>46</sup>

Economic differences between states are widening - economic survival dominate goal. But, the effects, on the level of state, may include new foreign policies, different political will, changing allies, which may be due to influence of migrants and their countries of origin. Self-determination based on ethnicity: location and sovereignty constitute the key to ethnic survival; freedom to self-government. The question for any state, as a political community (nation) is who belongs to it.<sup>47</sup>

As far as security analysis are concerned, the most useful categorisation seems to be one that refers to the status of migrants. The basic difference is between legal and illegal status. Terms like undocumented migration, unauthorized migration, clandestine migration, or irregular migration capture the diversity of forms of illegal migration.<sup>48</sup> But they do not necessarily reflect the status of a migrant. Majority of migrations are legal. Migration policies of both origin and destination countries can affect cities in positive and negative ways. Restrictive, inadequate or unclear policies on labour mobility in Africa, Asia and Europe may give rise to irregular migratory flows and the growth of

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41 Peter, Frank, Introduction, in: *Islamic Movements of Europe*, Ortega, Peter, Frank Rafael (eds.), London/New York: I.B.Tauris, 2014, p. 86.

42 Lister, Tim et al., *ISIS goes global: 143 attacks in 29 countries have killed 2,043*, CNN, July 25, 2016. <http://edition.cnn.com/2015/12/17/world/mapping-isis-attacks-around-the-world/index.html> (August 25, 2017)

43 Institute for Economics and Peace, *Global Terrorism Index: Measuring and Understanding the Impact of Terrorism*, New York: Institute for Economics and Peace, 2016, p. 68. <http://economicsandpeace.org/wp-content/uploads/2016/11/Global-Terrorism-Index-2016.2.pdf> (August 25, 2017)

44 Cinca, Sanda, *Current Trends of the Terrorist Phenomenon in the European Union*, in: *The Perfect Storm of the European Crisis*, Dan, Dungaciu; Ruxandra, Iordache (eds.), Newcstel: Cambridge Scholars Publishing, 2017, p. 280.

45 Argomaniz, Javier; Rees, Wyn, *The EU and Counter-terrorism*, in: *The Routledge Handbook of European Security*, Sven Biscop; Richard Whitman (eds), Oxon/New York: Routledge, 2013, p. 225.

46 Wright, Alan, *Organised Crime*, 3rd edition, Oxon/New York: Routledge, 2013, pp. 92-94.

47 Martin, Susan, *International Migration: Evolving Trends from the Early Twentieth Century to the Present*, New York: Cambridge University Press, 2014, p. 48.

48 Costello, Cathryn, *The Human Rights of Migrants in European Law*, Oxford: Oxford University Press, p. 64.



informal urban settlements.<sup>49</sup> Strict border control policies can lead to urban "transit hubs" where migrants become stranded on their way to intended destinations.

Increased large scale migration to urban centres is inevitable due to the global realities of aging societies, slow and uneven economic growth among regions in a country and among nations, and environmental and climatic instability. For many cities, migration has become a more important determinant of population growth and age structures than fertility and mortality.<sup>50</sup>

Threat perceptions related to migration have heightened in recent years, because: a) the security agenda has been linked to broadening and widening of the concept of security in many aspects of policy; b) there has been a rapid rise in the numbers of migrants crossing borders and especially of irregular migrants; and c) the notion of 'the war on terrorism' and other so-called transnational threats have been linked to migration, especially irregular migration.<sup>51</sup> Labelling an issue a security threat has implications on laws, norms, policies and procedures. It has been used to justify harsh and restrictive migration policies. These policies result in inability of asylum seekers to access safe countries, migrants smuggling and human trafficking, unsafe passages and contributing to a growing anti-migrants tendencies. They also result in a gap between the protection that migrants enjoy under international law and the realities they experience as they travel and work across different countries. Consequently, there are emerging differences between the interests of migrants and the states trying to control their movements and entry but also the interests of governments and NGOs and civil societies in these countries.

### **Current position of Republic of Serbia**

Institutionally, response model to migrations and the challenges associated with migrants and asylum seekers in Serbia: involves a framework comprised of centers for social work, police, prison system, asylum centers, National service for employment, Red Cross, Commissioner for refugees, youth offices, Health centers, elementary schools, civil society organisations and local media.<sup>52</sup>

Currently, around 6,000 migrants are in Serbia at any moment.<sup>53</sup> Large majority of them are from Afghanistan.<sup>54</sup> Until 2015, most Afghans applying for protection in EU countries<sup>15</sup> were successful (around 60 percent of them received either refugee status or subsidiary protection). This recognition rate decreased 2016, averaging at 52 percent.<sup>55</sup> The situation for Afghan migrants changed in March 2016 because of a number of factors: revised national policies towards Afghan migrants in the Balkans; the European Union-Turkey deal, which aimed at stopping the general flow of migrants and; increased efforts within the EU to accelerate 're-admission' of Afghans to Afghanistan (i.e. sending back, voluntarily or forcibly, those who are not accepted as asylum seekers). Additionally, some countries, such as Germany and Finland, decided to classify Afghanistan as a

49 International Organisation for Migrations, World Migration Report 2015 Migrants and Cities: New Partnerships to Manage Mobility, June Lee et al. (eds.), Geneva: IOM, 2015, p. 4.

50 UNESCO, Culture - Urban Future: Global Report on Culture for Sustainable Urban Development, Paris: UNESCO, 2016, p. 142.

51 Wohlfeld, Monika, Is Migration a Security Issue?, in: Migration in the Mediterranean: Human Rights, Security and Development Perspectives, Omar Grech; Monika Wohlfeld (eds.), Malta: MEDAC, 2014, pp. 72-73.

52 Morača, Tijana, Migranti i migrantkinje u lokalnim zajednicama u Srbiji, Beograd: Atina - Udruženje građana za borbu protiv trgovine ljudima i svih oblika nasilja nad ženama, 2014, str. 11-12.

53 Tanjug, U Srbiji trenutno između 6.000 i 7.000 migranata, Večernje novosti, 19. jun 2017. <http://www.novosti.rs/vesti/naslovna/drustvo/aktuelno.290.html:671281-U-Srbiji-trenutno-izmedju-6000-i-7000-migranata> (August 25, 2017)

54 Beta, UNHCR: U Srbiji trenutno 5.203 migranata, Blic, 25. 07. 2017. <http://www.blic.rs/vesti/drustvo/unhcr-u-srbiji-trenutno-5203-migranata/468h5ng> (August 25, 2017)

55 International Rescue Committee, Afghan Refugees and the European Refugee Crisis, June 2016. <https://www.rescue-uk.org/sites/default/files/document/1040/15-06-16europeanrefugeecrisis-afghanis-tanbriefingfinal.pdf> (August 25, 2017)

‘safe country’, or at least as having ‘safe zones’ to which those who had failed in their applications for asylum could be sent.<sup>56</sup> So there is a question where these people, fleeing from conditions in their country of origin, stay.

Before the closure of the Balkan route, almost a million of migrants passed through Serbia, causing a crisis response. Only during May and June of 2016, 300 refugees and migrants daily arrived in Serbia, mostly from Macedonia (80%), and from Bulgaria (20%). According to UNHCR, “the estimated number of refugees, migrants and asylum seekers in Serbia has increased from 2,800 in mid-July to almost 4,000 by August 8, 2016.<sup>57</sup> After closing of the borders, 150 to 200 people daily continued to cross them, and in 2017, another 12.000 – 13.000 are expected to arrive. The requested assistance for Serbia for handling migration crisis amounted to \$39,251,551, while in plan for 2016 it received \$13,106,618. UNHCR Serbia acknowledges that the problem has regional dimensions and Serbia cannot be viewed in isolation.<sup>58</sup> Migrants, who generally previously have to cross one of EU countries (Greece, Bulgaria or Romania) remain at the borders or in Serbia if they found themselves there, without the possibility to continue.

In reception centres in Serbia reside 6,800 migrants. Their prolonged stay has imposed new rules. Their temporary integration into the social system of Serbia is necessary. A large proportion of migrants are likely to tacitly renounce their entry into Serbian social system, because once they permanently regulate asylum, they would lose the legal basis to receive it in Germany (and EU states would get into a position in which situation that can always and everywhere routinely deport them back to Serbia).

It is not clear if temporary integration is possible, since this process would involve a category of people who do not have asylum requirements (war, personally persecuted) but want a better life, or are in transit. Furthermore, a decision by the European Court that Slovenia and Austria can allow refugees and migrants to return to Croatia. In view of the Court, Croatia as an EU member state is responsible for examining applications for international protection by persons who crossed its border en masse during the migration crisis and those persons must be regarded as having crossed the external border of Croatia irregularly within the meaning of the Dublin III.<sup>59</sup> This ruling implies that, when Serbia becomes a member of the EU, other EU countries will be in position to return migrants to Serbia if they were first registered there.

In 2015 and in the first quarter of 2016, more than 920 000 refugees and migrants (primarily from Syria, Afghanistan and Iraq) have passed through Serbia on their way to EU countries (Hungary and Croatia). Since the beginning of the migration crisis, the leading EU has allocated €20.1 million humanitarian funding to Serbia to assist refugees and migrants, on top of €24.5 million of EU pre-accession aid allocated to the refugee crisis.<sup>60</sup>

Considering their number, publicly available figures, that migrants have committed at least 20 rape cases, over 150 thefts and 200 reports for violent behaviour and the disturbance of public order and peace,<sup>61</sup> do not support the public fear that migrants can

56 Afghanistan Analysts Network, Thematic Dossier XIV: Afghan migration to Europe, AAA Web site – Publications, 17 February 2017. <https://www.afghanistan-analysts.org/publications/> (August 25, 2017)

57 Oxfam; Beogradski centar za ljudska prava; Atina; Makedonsko udruženje mladih pravnika; Open Gate, Zatvorene granice: programski izveštaj o uticaju zatvaranja granica na izbeglice u pokretu, sa fokusom na žene i decu u Srbiji i Makedoniji, Septembar 2016, str. 4. <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2016/11/Zatvorene-granice.pdf> (August 25, 2017)

58 Beta, Srbiji za migrantsku krizu potrebno 40 miliona dolara, N1, 23.01.2017. <http://rs.n1info.com/a223016/Vesti/Vesti/Srbiji-za-migrantsku-potrebno-40-miliona-dolara.html> (August 25, 2017)

59 Court of Justice of the European Union, Judgment in Cases C-490/16 A.S. v Slovenian Republic and C-646/16 Khadija and Zainab Jafari v. Austria, Press Release No 86/17, 26 July 2017. <https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-07/cpl170086en.pdf> (August 25, 2017)

60 European Commission, Serbia: Response to the Refugee Crisis, Echo Factsheet, January 2017. [http://ec.europa.eu/echo/files/aid/countries/factsheets/serbia\\_en.pdf](http://ec.europa.eu/echo/files/aid/countries/factsheets/serbia_en.pdf) (August 25, 2017)

61 О овоме се ћути: Мигранти у Србији починили 20 силовања, 150 крађа и 200 физичких напада!, Patriot, 28. фебруара 2017. <http://patriot.rs/o-ovome-se-cuti-migranti-u-srbiji-pocinili-20-silovanja-150-kradja-i-200-fizickih-napada/> (August 25, 2017)

be associated with criminal behaviour. In that context, at the conference "Migration as a Security Challenge: The Wester-Balkan Route", the State Secretary at the Ministry of Labor, Employment, Veterans' Affairs and Social Affairs, stated that migrants do not in any way represent a security threat to Serbia.<sup>62</sup>

The connection of migration with organized crime is, above all, related to some migrants being drawn into "networks" of trafficking, but possibly also in other forms of organised crime. Global migration is also related to international terrorism. Namely, the rise of terrorism in parts of the world, especially mass terrorism and the creation of new self-proclaimed states, contributes to the alleviation of migrations, especially refugees.<sup>63</sup> The problem of the Republic of Serbia is that it is burdened with mass migrations of refugees from crisis areas. Although they are only in transit, their journey has been tackled with numerous risks to their safety, but also on the safety of citizens, the state and the international environment.

These security challenges can have repercussions on the level of national security. Firstly, as repressive and inhuman treatment of migrants can undermine the reputation of state, it is vital that migration management does not include harsh and inhumane treatment of migrants as such. Secondly, economic and financial functioning of state, especially a developing one like Serbia, can be destabilised, because of the massive inflow of new labour, and possible black labor market, as well as due to increased public spending. Thirdly, there is an increased risk of social and even demographic destabilisation. Fourthly, as the EU developed countries are a traditional destination of migrations, it is obviously in their economic interest, but since 2015 many of them re-examine their hospitality and react constrain large-scale migrations, which leaves Serbia as a transit country exposed to burden it cannot face alone.

### **Conclusion**

The empirics of implementation of current international regime do not provide an argument that migrants represent a national security threat. Migrants and migrations may be used for organised activities against vital values of a state, but information technologies are also used by criminals and terrorists yet no one considers information technologies as a security threat.

The problem in broadening national security concept is considering events that are logically not eo ipso a threat to security, and thereby stretching a concept, potentially to a point where its application leads to illogical results. To claim that migrations require a national security response, we need to establish their effects concerning opposition to the government, political threat, cultural threat/contribution, social and economic burden and hostage in relation to the destination country. None of those can be attribute to phenomenon of migrations.

International law recognises a right of a state to secure its national interests. Such response would not be contrary to international law. But the response is limited by the binding international norms. These norms provide rights of migrants, while international regime attempts to find middle ground between legal regime and interests of states. Resolving this by broadening security concept narrative does not seem to address the roots of problem Commitments of states, since there is no evidence that migrations phenomenon as such does not fall within preconditions to be a national security threat.

Generally, Serbia is facing the consequences of a policy that has been implemented in the regions from which migrants come from. From the aspect of international normative regime, the problem needs to be approached where it originated. Global regime relies on political will of actors, which are not exclusively states and international organisations, thereby introducing the will of various stake holders. It seems that beginning to

<sup>62</sup> Radinović, Ivana, Održana konferencija, „Migracije kao bezbedonosni izazovi“, YU Eco, april 11, 2017. <http://yueco.rs/odrzana-konferencija-migracije-kao-bezbedonosni-izazovi/> (August 25, 2017)

<sup>63</sup> Mijalković, Saša; Petrović, Ivan, Bezbednosni rizici savremenih migracija, NBP - Žurnal za kriminalistiku i pravo, p. 3.

constructive approach should include developing a working definition of “migrants in vulnerable situations”; an authoritative overview of the applicable international legal frameworks and non-binding instruments; and identifying protection gaps in practice.

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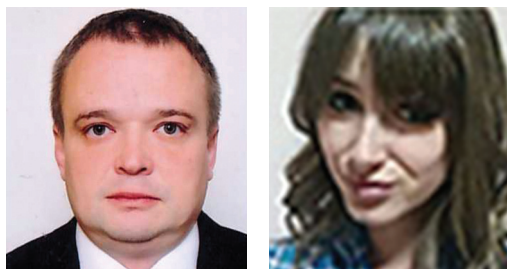


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## ILEGALNE MIGRACIJE-POTENCIJALNI GENERATOR DRUŠTVENIH KONFLIKATA

### Rezime

*Migracije su prisutne tokom čitave istorije ljudskog roda. One podrazumevaju fizičko kretanje stanovništva, njegovo privremeno ili trajno preseljavanje iz jednog sociokulturnog ambijenta u drugi. Masovne ilegalne migracije (one koje nisu izvršene u skladu sa propisima države emigracije, državama tranzita i države imigracije) sa sobom nose značajne implikacije ne samo po bezbednost migranata već i po bezbednost države imigracije i njenog lokalnog stanovništva.*

*U radu su naznačene neke od bezbednosnih posledica migrantske krize koja je zahvatila evropski kontinent. Poseban akcenat stavljen je na objašnjenje kulturno-perceptualnog faktora kao jednog od posrednih uzroka društvenih konflikata. U tom smislu, elaborirana je veza između kulturno-istorijskih i etničkih razlika sa jedne, i konfliktnog potencijala sa druge strane. U radu su opisani i modeli integracije imigranata, kao mehanizama za smanjenje konfliktnog potencijala.*

*Ključne reči: ilegalne migracije, društveni konflikti, kulturno-perceptualni faktori, konfliktni potencijal, integracija*

## ILLEGAL MIGRATIONS – POTENTIAL GENERATOR OF SOCIAL CONFLICTS

### Abstract

*Migrations have been present throughout the entire history of humankind. They imply the physical movement of a population, its temporary or permanent relocation from one socio-cultural environment to another. Mass illegal migrations (those that are not in accordance with the regulations of the country of emigration, transit countries and countries of immigration) carry significant implications not only for the safety of migrants, but for the security of the country of immigration and its local population, as well.*

*This paper indicates some security consequences of the migrant crisis that has affected the European continent. What is particularly emphasized is the explanation of the cultural-perceptual factor as one of the indirect causes of social conflicts. In this sense, the link between cultural, historical and ethnic differences on one side and the conflict potential on the other is elaborated. The paper also describes models of immigrants' integration as mechanisms for reducing conflict potential.*

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*Key words: illegal migrations, social conflicts, cultural-perceptual factors, conflict potential, integration*

## Uvod

Teorijska misao o odnosu migracija, konflikata i, uopšte, bezbednosti ima dugu istoriju. Razmatrajući problem narušavanja društvenog integriteta Aristotel u Politici piše o vezi između etničke heterogenosti i društvene nestabilnosti. O značaju društvenog konsenzusa svih ili većine za društveni integritet u etnički nehomogenim zajednicama govore njegovi i danas aktuelni stavovi da „razlika u narodnosti može da bude urok pobune dotle dok se ljudi različitih narodnosti potpuno ne stope. Jer država ne nastaje od slučajno sakupljenog mnoštva i u slučajnom momentu. Stoga su one države koje su primile nove stanovnike u svoju državnu zajednicu ili su dopustile strancima da se nasele na njenoj teritoriji najčešće poprište pobuna“ (Aristotel, 1975: 125).

U prvoj polovini XX veka, sociološka misao bila je usmerena kako na unutargrupne, tako i na međugrupne konflikte. U tom smislu posebno se ističe Čikaška škola, koja se bavila odnosima i konfliktima između različitih etničkih, rasnih, verskih, kriminalnih, migrantskih i drugih grupa američkog društva. U tom periodu nastali su značajni sociološki radovi koji su probleme konflikata između različitih grupa američkog društva posmatrali kao pojave uzrokovane različitim društvenim činiocima, ističući pritom pozitivne funkcije konflikata na unutargrupnu i međugrupnu dinamiku. Tokom tridesetih godina prošlog veka, u okvirima Čikaške škole, Torsten Selin je formulisao teoriju kulturnog konflikta, u kojoj se zalaže za proučavanje sukoba društvenih normi koji nastaje kada se različita pravila ponašanja primenjuju na određenu životnu situaciju u kojoj se pojedinac ili grupa nalazi. Konflikt normi postoji, smatra Sellin kada se “na specifičnu životnu situaciju u kojoj se neka osoba nalazi mogu primeniti manje ili više različita pravila ponašanja. Norme ponašanja jedne grupe kojoj pojedinac pripada mogu nalagati jedan odgovor na situaciju, dok norme neke druge grupe mogu nalagati sasvim suprotan odgovor” (Sellin, 1938: 30). Prema njegovom shvatanju, kulturni konflikt može da nastane na različite načine i svaki oblik je potencijalno povezan sa kriminalitetom. Prvo, moguće je da sukob normi nastane sa razvojem civilizacije u okviru jedne kulture i, drugo, da sukob društvenih normi nastane iz dodira različitih kultura (npr. u procesu ekonomske migracije) (Milašinović i sar., 2012).

Neki od prvih istraživača rasne diskriminacije u Engleskoj tokom šezdesetih godina prošlog veka jasno su ukazali na postojanje veze između boje kože i kulturne komponente u rasnoj diskriminaciji. U studiji Danijela (W. W. Daniel) piše: “Iskustva belih imigranata, kao što su Mađari i Kiprani, u poređenju s crnim ili smeđim imigrantima, kao što su zapadni Indijci i Azijati, ne ostavlja sumnju da je glavna komponenta u diskriminaciji boja kože” (Werbner & Modood, 1997). To je za Danijela dalje potvrđeno otkrićem da su zapadni Indijci bili više diskriminirani od Azijata, pa zaključuje da se prema onima koji se najviše fizički razlikuju od belackog stanovništva sprovodi najviši stepen diskriminacije; zbog toga su, kako tvrdi, predrasude protiv crnaca najdublje ukorenjene i najraširenije. Nasuprot tome, on je smatrao da Azijati svetlije boje kože pate od diskriminacije zbog kulturalnih razloga.

Jedan od najuticajnijih američkih sociologa Robert Ezra Park je smatrao da konflikti neće nužno nestati između svih rasnih grupa, i pored toga što je dugoročno sa optimizmom gledao na razvoj rasnih odnosa. Za razliku od sociologa koji su zagovarali model useljenik-domaćin, on nije verovao da će se migranti nužno prilagoditi načinu života domaćina te će konflikt među njima postojati u svom latentnom ili manifestnom obliku (Milašinović i sar., 2012).

## Pojmovno određivanje migracije

Ljudska zajednica je, tokom čitave istorije, bila izložena delovanju različitih vrsta

opasnosti. Prirodne, društvene, tehničko-tehnološke i druge nesreće, kao i oružani sukobi doveli su do ozbiljnih problema i razaranja velikih razmera, što za posledicu često ima i migracije stanovništva. Posledice takvog delovanja pokazale su koliko je važno, i pre svega neophodno, da društvo pronade adekvatne načine zaštite i spasavanja ugroženog stanovništva, kao i otklanjanja nastalih posledica. Veliki broj ljudi, u ovakvim uslovima i na ograničenom prostoru izložen je psihičkoj i fizičkoj patnji ili smrti. Pojedinačne odluke o migraciji ne mogu se odvajati od lokalnog, institucionalnog i globalnog konteksta u kojem je došlo do takve odluke, to se uglavnom odnosi na prinudne migracije koje prouzrokuju događaji izvan kontrole pojedinca, poput ratova, prirodnih nepogoda i slično.

Migracije se često označavaju kao kretanje osobe ili grupe osoba iz jedne geografske jedinice u drugu, preko administrativne ili političke granice, sa ciljem da se privremeno ili trajno nasele na mestu koje se razlikuje od mesta porekla (Bauer et al., 2005: 113). Ipak, potrebno je naglasiti da ne postoji saglasnost oko vremenske dimenzije ovog fenomena.

Dok naučna javnost svaku promenu mesta stanovanja, bez obzira na destinaciju i trajanje smatra migracijama, Ujedinjene nacije ih definišu na sledeći način: „...oblik prostorne pokretljivosti između jednog geografskog dela i drugog, podrazumevajući pod tim trajnu promenu mesta stanovanja“ (Bobić, 2007: 103).

Pojam migracija se može definisati kao privremeno ili trajno, prisilno ili dobrovoljno preseljavanje stanovništva, kako iz jedne zemlje u drugu, tako i između jednog sociokulturnog, lokalnog ili regionalnog ambijenta u drugi, te predstavljaju globalni fenomen čiji se uticaji i posledice šire i izlaze iz nacionalnih okvira (izvor). Migranti napuštaju svoje zemlje i dolaze u druge kako bi poboljšali kvalitet svog života, pobešli iz konfliktnih područja i nasilnog okruženja, ali i od represivnih režima i sistemskog ugrožavanja ljudskih sloboda i prava.

Usled nepostojanja univerzalne definicije pojma migrant, u praksi se, koristi različita terminologija, s obzirom na razlog migriranja i vrste migracija. Danas se govori o mešovitim migracijskim tokovima koji obuhvataju različite kategorije osoba - izbeglice, migrante, tražitelje azila<sup>3</sup>, žrtve trgovine ljudima<sup>4</sup> - koje iz različitih razloga napuštaju svoje zemlje, kreću se i prelaze državne granice bez odgovarajućih dokumenata i nezakonito ulaze u zemlje odredišta<sup>5</sup>.

Iako pojmovi izbeglica i migrant imaju svoja značenja koja su jasno propisana međunarodnim pravom, u javnom diskursu i medijima dolazi do mešanja i neprecizne upotrebe ova dva termina. Konvencija o izbeglicama iz 1951. godine i prateći Protokol iz 1967. godine predstavljaju osnovu savremene zaštite izbeglica. Prema Konvenciji izbeglica je osoba koja se ne nalazi u zemlji svog državljanstva i koja se zbog osnovanog straha od proganjanja zbog svoje rase, vere, nacionalnosti, pripadnosti određenoj društvenoj grupi ili zbog političkog mišljenja ne može, ili se zbog tog straha ne želi staviti pod zaštitu dotične države; ili osoba bez državljanstva koja se nalazi izvan zemlje prethodnog boravišta, a koja se ne može, ili se zbog tog straha ne želi vratiti u tu državu (Konvencija o statusu izbeglica, 1951). Migranti su lica koja se ne suočavaju sa preprekama za povratak, već se odlučuju da migriraju u nadi da će poboljšati trenutne

3 Tražitelji azila su pojedinci koji su zatražili međunarodnu zaštitu, a čiji zahtevi za statusom izbeglice još nisu odobreni. <http://www.unhcr.hr/kome-pomazemo/trazitelji-azila>, 1.9.2017.

4 Trgovina ljudima podrazumeva prodaju i kupovinu, tj. držanje neke osobe u cilju njene eksploatacije, kao i sve druge radnje koje mogu biti deo tog procesa (npr. prevoz, skrivanje, čuvanje i sl.). Do eksploatacije uvek dolazi i eksploatacija se uvek održava upotrebom sile, pretnje, prevaram, zloupotrebom ovlašćenja i/ili zloupotrebom teškog položaja, otmicom ili na neki drugi način. Cilj trgovine ljudima je ostvarivanje zarade (ili neke druge koristi) kroz eksploataciju, bilo da se radi o seksualnoj eksploataciji, prinudnom radu, prinudnom prosjačenju, prinudi na vršenje krivičnih dela, ilegalnom usvojenju, prinudnim brakovima, trgovini organima ili nekom drugom obliku. <http://www.astra.rs/cinjenice-o-trgovini/ta-je-trgovina-ljudima/>, 1.9.2017.

5 Neregularni (nezakoniti) migrant je osoba koja, zbog nezakonitog ulaska ili isteka vize, nema pravni status u državi tranzita ili zemlji domaćina. Lalić Novak, G., Kraljević R. (2014). Zaštita izbeglica i ranjivih skupina migranata, Priručnik za edukatore. Zagreb: Hrvatski Crveni križ.



uslove života, pronaći zaposlenje ili kvalitetnije obrazovanje, odnosno iz ekonomskih razloga ili da bi poboljšala svoj materijalni status (Bobić, 2007: 110). Takvo lice ne ispunjava kriterijume za dobijanje izbegličkog statusa i stoga nema pravo na međunarodnu zaštitu kao izbeglica. Za razliku od izbeglice, ekonomski migrant uživa zaštitu svoje države i, ako želi, može se u nju sigurno vratiti.

Izbor jednog od termina projektuje suštinski odnos prema izbeglicama, od strane javnosti i nadležnih službi države na čijoj se teritoriji zateknu. Dok se prema izbeglicama postupa u skladu sa normama zaštite izbeglica koje su definisane u nacionalnom zakonodavstvu i u međunarodnom pravu, prema migrantima države mogu postupati prema sopstvenim imigracionim zakonima i procesima. Pozivajući se na odredbe međunarodnih konvencija i protokola mnogi migranti se oglašavaju kao izbeglice u nadi da će im biti uvažena prava na bezbedno utočište i zaštita od vraćanja u opasnost od koje su pobešli.

Različite kategorije migranata mogu usled različitih okolnosti biti istovremeno u različitim ulogama i prelaziti iz jedne uloge u drugu - ekonomski migrant može postati izbeglica *sur place*<sup>6</sup> zbog promena u zemlji porekla, odbijeni tražilac azila koji u određenom roku ne napusti zemlju postaje nezakonit migrant, a žrtve trgovine ljudima mogu pod određenim pretpostavkama dobiti i izbeglički status (Canoy et al., 2010: 73). Takođe, u okviru migracijskih kretanja često migriraju i deca bez pratnje, koja se zbog svojih specifičnosti svrstavaju u najranjiviju vrstu neregularnih migranata.

### **Bezbednosne implikacije migrantske krize**

Bliski istok je veoma dinamična konfliktna regija, ali i mesto ukrštenih interesa svih svetskih sila, gde međunarodna zajednica još uvek ne pronalazi diplomatska rešenja za uspostavljanje mira i bezbednosti. Poslednjih godina sukobi u ovoj oblasti doživljavaju veći intenzitet, a njihove posledice pogađaju i države na drugim kontinentima. Dolina Eufrata i Tigra opterećena je ratnom situacijom u Libiji, Iraku, a pre svega u Siriji u kojoj pet godina besni brutalni građanski rat između režima u Damasku, na čijem čelu je predsednik Bašar el Asad, i sirijske opozicije. Pored toga, tu su i područja gde su nastanjeni Kurdi i gde već duže vreme traju sukobi između Turaka i Kurda, ili u Nigeriji, Keniji, Maliju, Kamerunu, Sudanu, Somaliji i drugim afričkim zemljama gde deluju terorističke organizacije Al Šabab i Boko Haram, koje na ovim područjima čine velike zločine. Sve navedene neuralgične tačke su podstakle ogroman broj ljudi na izgnanstvo. Očajni ljudi su počeli da napuštaju svoje domove i beže u još većem broju tokom poslednje dve godine, što usled rata, diktatorskih režima, straha od terorizma ali i nade da će pronaći bolje mesto za svoj život (Dragostinova, 2016).

Više od milion migranata prešlo je u Evropu od 2015. godine do danas, što je proizvelo krizu u zemljama koje se bore sa prilivom migranata i stvorilo podelu u Evropskoj uniji o tome kako najbolje da reše problem migracija ljudi. Aktuelna migrantska kriza pokazala je da je put migranata rizičan i opasan ne samo po njih same već i po zemlje prijema, krajnje destinacije i zemlje tranzita. Nezavisno od razloga zbog kojih emigriraju, dolazak većeg broja građana u novu državu može imati negativan uticaj po njenu bezbednost. Bezbednost može biti ugrožena i u tranzitnim državama preko čije teritorije ova lica treba da pređu do svog konačnog odredišta. Iako migranti u pojedinim zemljama imaju značajnog udela u porastu radne snage, mnogi ih doživljavaju kao pretnju društvenoj koheziji i stabilnosti, teret po ekonomsko blagostanje koji iscrpljuje lokalne resurse u stanovanju, zdravstvenoj zaštiti i obrazovanju, a što dalje dovodi do ogorčenosti i neprijateljstva lokalnog stanovništva (Kuvekalović et al., 2017).

U javnom diskursu i medijima često se postavlja pitanje zašto je tek sada došlo

<sup>6</sup> Izbeglica *sur place* je osoba koja nije bila izbeglica u trenutku kad je napustila svoju zemlju porekla, već je to postala kasnije, usled okolnosti koje su u njenoj zemlji nastale tokom njenog odsustva. Izbeglice *sur place* mogu strahovati od proganjanja zbog promene koja se dogodila u zemlji porekla, kao što su državni udar ili političke aktivnosti i drugo. Lalić Novak, G., Kraljević R. (2014). Zaštita izbeglica i ranjivih skupina migranata, Priručnik za edukatore.

do masovne migracije kada sukobi traju godinama unazad? Ova eskalacija se može pripisati nizu faktora, od kojih su se neki godinama taložili: stalno nasilje i nestabilnost zemalja porekla; pogoršanje uslova u zemljama prvog azila, što je dovelo do toga da neke države, uključujući Jordan i Liban, pojačaju svoje granice, ograničavajući pristup na obližnja sigurna mesta za raseljena lica; kontinuirani nedostatak mogućnosti za rad ili upis u školu za većinu izbeglica; geopolitičke promene koje su zatvorile alternativne destinacije, kao što je Libija (Banulescu-Bogdan & Fratzke, 2015).

Veliki migracioni tok sa Bliskog istoka i Afrike ka Evropi započeo je 2011, a naročito se intenzivirao od 2014. godine, da bi tokom 2015. godine dosegao nezapamćene razmere, uveliko premašivši projektovani broj migranata za 2015. godinu, koji su 2013. u svojim dokumentima naznačile Ujedinjene nacije. Stopa rasta migracija je u svetskim razmerama daleko veća od očekivane. Samo pre dve godine pretpostavljalo se da će ukupan broj migranata u svetu 2015. godine dostići maksimalnu cifru od 237 miliona, što je ozbiljna stopa rasta u odnosu na 1990. godinu, kada je ukupan broj migranata u svetu iznosio „svega“ 154 miliona (UN, 2015).

Aktuelna migrantska kriza, po svom obimu, izazovima, rizicima i posledicama koje sa sobom nosi, danas predstavlja jednu od najvećih kriza u Evropi. Ukoliko se u obzir uzme i to da savremene migracije poprimaju obeležja globalnosti, organizovanosti i masovnosti, jasno je da su rizici i posledice po ljudsku, nacionalnu i međunarodnu bezbednost višestruko uvećani. Evropska zajednica nije bila pripremljena na tako veliki priliv migranata. U početku, države su uspevale da sve drže pod kontrolom i primenjivale neophodne mere kako bi zaštitile svoje granice, ali sa povećanjem broja ljudi koji su pristizali uvećali su se i problemi sa kojima su se države suočavale. Stotine hiljada migranata i izbeglica nekontrolisano se kretalo ka obalama Grčke i Italije, što je dovelo i do tragičnih ishoda, jer su mnogi na tom putu stradali. Za veoma kratko vreme migracije su dostigle neverovatne razmere, što je iznenadilo Evropsku uniju, zbog čega je došlo i do različitog delovanja pojedinih država članica.

Migraciona kretanja u prvom redu produbljuju krizu zemalja koje predstavljaju polazište njihovog traganja za boljim životom odnosno matičnih zemalja, zatim utiču na države kroz koje prolaze i ne predstavljaju njihovo konačno odredište, do krajnje destinacije. Na taj način, migriranje može da predstavlja pretnju narodima i vladama zemalja iz kojih migranti dolaze i u koje odlaze, kao i odnosima između te dve zemlje (Vilijams, 2012: 587). Migracije sa sobom neminovno donose i povećanje opasnosti po domaće stanovništvo od zaraznih bolesti, kriminala i terorizma. Za zemlju domaćina one mogu, usled prevelikog priliva jeftine radne snage i neočekivano velikih socijalnih davanja, predstavljati i izvor destabilizacije njene ekonomske sigurnosti. Svaka ilegalna migracija, kao posledica demografske eksplozije i teških socijalnih uslova može dovesti do stvaranja bezbednosnih problema u bilo kojoj tranzitnoj zemlji. Migracije, takođe, povećavaju rizik od unutrašnjih i međudržavnih konflikata na tlu, pre svega Jugoistočne Evrope. Ukoliko bi Nemačka prestala da prima izbeglice, to bi moglo dovesti do oružanih konflikata na Balkanu, budući da je sada druga zemlja na svetu, odmah iza SAD, po broju imigranata.

Teroristički napadi koji godinama unazad sporadično pogađaju evropske gradove pokazuju da proces islamske radikalizacije sve više uzima maha kod mladih ljudi islamske veroispovesti. Potencijalni počinioci terorističkih akata mogu se nalaziti u redovima migranata, zbog čega bezbednosne implikacije migrantske krize traže posebnu pažnju. Pretnja od islamističkog terorizma raste sa brojem migranata, budući da je ogroman procenat migranata muslimanske veroispovesti. Globalni događaji poput terorističkih napada počinjenih od strane imigranata dodatno usložnjavaju prijem novih doseljenika u „obećane“ zemlje (Traynor, 2015). Neosporna je činjenica da su 80% migranata muškarci starosti od 18 do 50 godina, koji su vojno sposobni te da među njima ima veliki broj potencijalnih terorista. Pretpostavlja se da je najmanje tri hiljade džihadista koji su pristigli u Zapadnu Evropu u kolonama migranata (Radišić, 2016). Iz navedenih razloga, snage koje deluju na državnim granicama i kontrolišu prolazak ljudi, robe i vozila imaju

veliku odgovornost u uslovima aktuelne krize.

Prema nekim predviđanjima u narednih pedeset godina, u razvijenim zemljama Evrope i Azije očekuje se opadanje rasta stanovništva, dok će dolazak migranata, uglavnom islamske veroispovesti promeniti etničku strukturu Evrope (Spasovski i Šantić, 2011). Procenjuje se da će se povećati broj muslimanskog stanovništva u Evropi na 10,2% u 2050. godini, kada se uzmu u obzir migracije zajedno sa drugim demografskim faktorima koji dovode do promene broja stanovnika, kao što su stope fertiliteta i starosna dob. Takođe se smatra da je Evropa jedini kontinent na kome će do 2050. godine doći do pada broja stanovnika. Hrišćani će i dalje biti najveća religijska grupa u Evropi 2050. godine, ali će njihov broj pasti čak za 100 miliona (sa 553 na 454 miliona), dok će broj Muslimana značajno da poraste i to će imati veliki uticaj na kulturu i društvo Evrope (Pew Research Center, 2015).

### **Kulturno-perceptualni faktori kao posredni uzroci društvenih konflikata**

Kultura je ne samo pogodan okvir za razvoj i saradnju nego i plodno tlo za različite borbe i neprijateljstva. Kao takva kultura daje sliku sveta manje ili više zajedničku za sve pripadnike kulturnog kolektiviteta. Kako ističu istraživači takva nasleđena slika sveta koja se njom prenosi često sadrži gotove definicije „nas“ i „njih“, zapravo ona govori ko je drugačiji i ko je tuđ, ko je prijatelj a ko neprijatelj (Milašinović i sar., 2012). Opisi su najčešće veoma uprošćeni, emocionalno obojeni i krajnje labavo povezani sa stvarnošću. Osim toga, slika sveta koju zajednička kultura predaje najčešće sadrži i istoriju kolektiviteta u vidu uprošćene mitologije kojom se podela na „nas“ i „njih“ produbljuje, opravdava i pojačava (Karpinski, 1998). Na taj način kulturne teme pojavljuju se kao polazište i ponuđeno opravdanje za sukobe među društvenim grupama.

Kulturne teme pojačavaju se svesno stvorenim ideologijama, a upravo kroz te ideologije političke stranke i pokreti nastoje da koriste kulturno nasleđene predstave i stereotipe. Tako se kultura i ideologija često međusobno pothranjuju. S druge strane, i mas-mediji na sličan način crpu svoju moć iz predstava i stereotipa uvreženih u kulturnoj matrici i na taj način ih pojačavaju radi rasplamsavanja konflikata, a posebno onih međuetničkih. Pritom, mediji dodatno pojačavaju predstavu o neprijatelju, koju je svaka strana već izgradila o onoj drugoj. Eskalacijom sukoba svaka strana analizira činjenice i stvara jasniju predstavu o onoj drugoj, čime slika neprijatelja postaje koherentna i bolje definisana, a postupci u prošlosti postaju dosledna strategija neprijateljstva (Milašinović i sar., 2012).

U literaturi koja proučava konflikte identifikovana su dva kulturna i perceptualna faktora koji su veoma značajni u izazivanju unutrašnjih društvenih sukoba.

Prvi je ili nepravda ili kulturna diskriminacija nad manjinama, u smislu nejednake mogućnosti obrazovanja, pravna i politička ograničenja upotrebe i učenja jezika manjina, i pritisci na religiozne slobode i slično. U ekstremnim slučajevima, nastojanja da se populacije manjina asimiluju, najčešće se sprovode programima naseljavanja drugih etničkih grupa u prostor tradicionalno nastanjen manjinama. To je ne samo oblik kulturnog genocida već i veoma značajan faktor izazivanja destruktivnih i razarajućih etničkih konflikata. Kada je reč o nepravdi prema etničkim manjinama one se najčešće statistički definišu (Karpinski, 1998). Zapravo, smatra se da postoji nepravda kada su nacionalne podele u višenacionalnoj državi u prevelikoj korelaciji sa društvenim podelama - drugim rečima, kada ljudi smatraju da pripadnici određene nacije zadržavaju nesrazmerno veliku količinu dobara, poput vlasti, obrazovanja, kulture ili prestiža, kada jedna nacija vlada, a druga dopušta da se njome vlada (Milašinović i sar., 2012).

Drugi faktor, vezan je sa istorijom grupa i njihovim percepcijama o sebi i drugima. Mnoge grupe imaju legitimne razloge nezadovoljstva prema drugim grupama za zločine počinjene u bliskoj ili dalekoj prošlosti. Neke "drevne mržnje" imaju stvarne, legitimne istorijske osnove koje proističu iz traumatizujućih istorijskih iskustava i koje se aktiviraju u određenim socijalnim okolnostima i najčešće rezuljuju građanskim ratovima,

genocidom, dugotrajnim neprijateljstvom i državnom dezintegracijom.

Pojedine društvene grupe posebno etničke, imaju tendenciju da iskrivljuju svoju sopstvenu istoriju, a da često satanizuju susede, rivale i protivnike. „Priče koje se usmeno prenose s generacije na generaciju postaju deo tradicije neke grupe. One se često iskrive i postaju preterane vremenom, a članovi grupe tretiraju ih kao primljenu mudrost“ (Klare & Chandrain, 1998: 190). Time kulturno - istorijske, a posebno etničke razlike, postaju značajan, a neretko i presudan činilac konflikata, posebno u sadejstvu sa postojanjem izoštrene socio-ekonomske krize, autoritarnim političkim režimom i spremnošću političkih elita za održanjem ili zadobijanjem vlasti (Milašinović i sar., 2012).

### **Migranti i kulturno-perceptualne paradigme u Republici Srbiji**

Republika Srbija je kao tranzitna zemlja opterećena masovnim migracijama lica sa područja Iraka, Sirije i Avganistana. Iako je najveći broj migranata u tranzitu kroz Republiku Srbiju, njihovo putovanje je skopčano sa brojnim rizicima po njihovu bezbednost, ali i po bezbednost građana, države i međunarodnog okruženja.

Jedna od specifičnosti aktuelne migrantske krize odnosi se na bezbednosno-kulturološki aspekt fenomena. Migrante karakterišu kulturološke i religijske osobenosti, u odnosu na zemlju porekla i veroispovest. One se ogledaju u socijalnim, kulturnim i istorijskim razlikama ne samo među migrantima, već i između migranata i lokalnog stanovništva.

Reakcije lokalnog stanovništva i, uopšte, šire zajednice na migrante mogu biti različite u odnosu na percepciju pomenutih razlika između „njih“ i „nas“. Ukoliko je percepcija negativna može doći do političkih, ekonomskih ili društvenih napetosti između lokalnog stanovništva i pridošlica. Na teritoriji Republike Srbije je, u pojedinim sredinama zabeležen porast konfliktnog potencijala koji se manifestovao u formi socijalnih protesta sa izraženim antimigrantskim raspoloženjem. Negativan stav prema migrantima posledica je asimetrične kulturne percepcije pridošlica kao raso/etnički/verski/kulturno/civilizacijski/pa čak i intelektualno drugačijih od domicilne populacije. Stoga prisustvo većeg broja pridošlica, ukoliko se percipiraju kao nepoželjni i drugačiji, na teritoriji jedne države može voditi uvećanju antagonizama između društvenih grupa te predstavljati potencijalno destabilišući faktor po bezbednost države.

Strah domaćeg stanovništva neki autori smatraju opravdanim oslanjajući se na činjenicu da migracije neminovno donose povećanje opasnosti po domaće stanovništvo od zaraznih bolesti, kriminala i terorizma (Simeunović, 2015: 6). Takav primer nedovoljne solidarnosti sa migrantima možemo zateći u Švajcarskoj, Nemačkoj, Austriji, Švedskoj, Danskoj i Norveškoj u kojima bez obzira na zvaničnu politiku države, postoji veliki otpor stanovništva na prihvatanje migranata. U pojedinim gradovima, u kojima je bilo planirano da se nastani mali broj migranata, javno su potpisivane peticije i od državne i lokalne vlasti zahtevano da se odustane od prihvatanja migranata odnosno lica koja treba da se rasele i nastane u njihovoj sredini (Radović, 2015). Otpor građana, pa čak i šire javnosti može se objasniti strahom i zabrinutošću za bezbednost, naročito sa aspekta nacionalne i lične bezbednosti (Koser, 2011).

Prema istraživanju sprovedenom u Republici Srbiji, u periodu od februara 2012. do oktobra 2015. godine, zabeleženo je nekoliko slučajeva koji ukazuju na postojanje anatagonizama i konfliktnog potencijala između imigranata i domaćeg stanovništva (Stojić Mitrović, 2016).

Tako se navodi primer Banje Koviljače u kojoj se nalazi najstariji centar za smeštaj azilanata. Vremenom, usled intenziviranja kretanja zapadnobalkanskom rutom, u Banji Koviljači je smeštaj našao veliki broj azilanata. Uporedo sa povećanjem broja azilanata, raslo je i negativno raspoloženje lokalnog stanovništva prema njima. Lokalno stanovništvo postaje sve nezadovoljnije zbog prisustva migranata: policija prima prijave da su migranti nekoga opljačkali, ušli u privatne posede, pratili meštane, a nakon prijave jedne Engleskinje da su je migranti silovali, organizovan je i formalni protest



pod nazivom „Ko je sledeći?“. Osnovni zahtev izražen na protestu bilo je izmeštanje Centra za azil. Na protestu se govorilo o smrtonosnim bolestima koje dolaze iz udaljenih zemalja, opravdanom strahu o seksualnim napadima na pre svega mlade i ženske osobe, kao i nacionalnoj istoriji i religiji (RTS, 2011).

Percepcija prisustva migranata na privredu Banje Koviljače ističe se kroz mišljenja jednog dela lokalnog stanovništva da „azilanti teraju goste“ (Stojić Mitrović, 2016). Problem se opaža kao veoma ozbiljan budući da se lokalna privreda u velikoj meri orijentiše na pružanje turističkih usluga. U Banji Koviljači je poznata Specijalna bolnica za rehabilitaciju, čiji korisnici dolaze iz celog sveta. Vlasnici smeštajnih objekata, pa i bolničkih kapaciteta, govorili su da su dobijali pozive (potencijalnih i stalnih) gostiju u kojima im otkazuju boravak, jer se plaše za svoju bezbednost upravo zbog migranata. Strah gostiju i meštana odnosio se na pojavu kriminaliteta, i to krijumčarenje, silovanje, narkomaniju i prostituciju (<https://www.youtube.com/watch?v=mrwvr8zk-fc>). Međutim, statistike o broju prijavljenih boravaka u Specijalnoj bolnici i Banji Koviljači nisu pokazale smanjenje. Uticaj prisustva migranata na turističko poslovanje je, dakle, ocenjivano kao negativno, iako statistike to nisu potkrepile (Stojić Mitrović, 2016). Nesumnjivo je da je prisustvo migranata delu stanovnika, odnosno, vlasnika nekretнина u Banji Koviljači donelo profit. Osim njih, povećan je i promet u prehrambenim trgovinama, kafićima, prodavnicama garderobe, a prihodovali su i taksisti, tj. prevoznici (Stojić Mitrović, 2016).

Zanimljiv spektar kulturnih paradigmi o migrantima i pripadnicima lokalne zajednice uočen je na primeru izdavanja smeštaja migrantima. Migrantima je u najvećem broju slučajeva izdavan smeštaj u poljoprivrednim i industrijskim objektima, a ne u apartmanima i sobama u registrovanom privatnom smeštaju. To su bile prazne hale, štale, svinjci, obori, čardaci, poljoprivredni objekti, garaže, i drugi nenamenski prostor: „Samo tri do pet procenata od onih što su izdavali je imalo adekvatan smeštaj. Njih je vodila isključivo pohlepa za novcem, 10 evra za noć, u četiri kreveta spava njih osam na smenu“ (Stojić Mitrović, 2016). Izdavanje neodgovarajućeg smeštaja migrantima predstavljalo je priliku da se zaradi veliki novac za kratko vreme.

Sa druge strane, bilo je i onih koji su se bavili iznajmljivanjem privatnih smeštajnih objekata, kategorisanih apartmana i soba, ali koji nisu želeli da ih izdaju migrantima, čak iako su mogli da ostvare veliki profit (Stojić Mitrović, 2016). Opravdanje se svodilo na strah od osude zajednice, jer „kada neko primi azilante, komšije ne smeju da spavaju, plaše se, ovi su bučni, ne poštuju dnevni red; kao i na strah od oštećenja imovine, premda postoje mišljenja da „migranti jednostavno imaju drugačije navike i to može da dovede do oštećenja imovine, imaju miris koji se dugo oseća u prostoriji i kada odu“ (Stojić Mitrović, 2016). Migranti koji, pak, nisu imali novca za smeštaj, pribegavali su nezakonitom zaposedanju napuštenih kuća i objekata što je dodatno pojačavalo strah od kriminala kod domaćeg stanovništva (Stojić Mitrović, 2016).

Najveći strah meštani su vezivali za mogućnost pojave epidemije infektivnih bolesti. Rizik je vezivan za prisustvo migranata i njihovu lošu higijenu. Međutim, bilo je i drugačijih mišljenja. Ljudi koji nisu meštani Banje Koviljače, već su bili u turističkoj poseti, smatrali su da se problem prebacuje na migrante koji ne održavaju higijenu, dok on zapravo leži u samoj lokalnoj sredini - Banja Koviljača nema nijedan javni toalet, niti su meštani dozvoljavali migrantima da koriste toalete ugostiteljskih objekata (Stojić Mitrović, 2016).

Ugrožena bezbednost percipirana je kao posledica nedostatka formalne kontrole migranata koji nisu bili smešteni u Azilnom centru. Lokalno stanovništvo je isticalo da nikada nisu imali problema sa samim Centrom za smeštaj lica koja traže azil i sa osobama koje su u njemu, ali da su problem bili svi oni za koje u Azilnom centru nije bilo mesta i koji su „u Banji Koviljači boravili bez ikakvog nadzora“ (Stojić Mitrović, 2016). Bezbednost je prema shvatanju meštana ugrožavalo nekontrolisano prisustvo migranata, koje su dovodili u vezu sa povećanja kriminaliteta u gradu. Bilo je zabeleženih slučajeva tuča između grupa migranata, upadanja na privatni posed i pljački, gde su migranti



najčešće bili žrtve. Međutim, stanovnicima je bilo teško da objasne na koji način su ih migranti direktno ugrožavali. Govorili su da je Banja Koviljača generalno postala nebezbedno mesto zbog prisustva migranata što je dovelo do porasta kriminaliteta, krijumčarenja, narkomanije, pojave silovanja i drugih oblika napada (<https://www.youtube.com/watch?v=mrwwr8zk-fc>).

Upravo su strah i neprijatnost isticani kao osnovni motiv za insistiranje na izmeštanju Azilnog centra iz Banje Koviljače. Stanovnici koji su imali drugačije mišljenje se nisu usuđivali da ga istaknu iz straha od osude zajednice (<https://www.youtube.com/watch?v=Ub1ysFKgWqM>). Ipak, kako je preovladavalo mišljenje meštana da migrante treba držati pod kontrolom i izdvojene od ostatka populacije, zahtev za izmeštanje Azilnog centra na kraju je ispunjen.

### **Integracija kao mehanizam za smanjenje konfliktnog potencijala**

Osobe koje su emigrirale iz matičnih država često su uplašene za svoju sudbinu, i nemaju realnu sliku situacije u kojoj se nalaze. Oni, po pravilu, nemaju ni strategiju ni mogućnost za poboljšanje svog ekonomskog i socijalnog položaja, niti imaju znanje o načinu na koji mogu da ostvare svoja prava. Stoga oni predstavljaju posebno ranjivu grupu, satkanu od članova različitog socijalnog, obrazovnog, ekonomskog i kulturnog statusa koji su u opasnosti da upadnu u transnacionalne mreže trgovine ljudima i postanu roba kojom se trguje i eksploatiše - prodavanje ljudi, posredovanje u ilegalnom usvajanju dece, prinudni brak, seksualno zlostavljanje, eksploatacija radne snage, prisiljavanje na izvršenje krivičnih dela i učešće u oružanim sukobima (Ghrib, 2002).

Unesrećeni ljudi često se usled gubitka resursa, imovine, bliskih osoba i emotivne sigurnosti osećaju kao ljudi koji nigde ne pripadaju, posebno u odnosu na brojne aspekte socijalnokulturnih ambijenata iz kojih oni odlaze (emigraciona područja), odnosno onih u koje dolaze (imigraciona područja). Oni doživljavaju poniženje skoro na svakom koraku, jer ih mnogi doživljavaju kao problem, teret u njihovoj blizini.

Zbog toga se kao poseban izazov pojavljuje potreba za integracijom migranata, kako bi se obezbedilo njihovo prihvatanje od strane lokalne zajednice i uključivanje u normalne društvene tokove. Naime, integracija nameće obavezu državi prijema da migrantima osigura formalna prava, koja će im omogućiti učestvovanje u društvenom, kulturnom i socijalnom životu zajednice. Sa druge strane integracija omogućava prilagođavanje standardima i vrednostima države prijema, a da se, pri tom, pridošlica ne odriče vlastitog kulturnog identiteta. To znači da uspešna integracija zavisi od dva osnovna uslova - spremnosti na integraciju među migrantima, i spremnosti na prihvatanje migranata među domaćom populacijom (Lalić Novak i Kraljević, 2014: 50).

Cilj integracije je da dovede do suštinske jednakosti i omogući ostvarenje jednakih šansi za sve. Dakle, da bi integracija postojala, nije dovoljno da pripadnici određene grupe samo egzistiraju na teritoriji jedne zemlje, već je potrebno da se uključe u sve sfere društvenog života, da rade, obrazuju se, da ne osećaju svoju različitost kao problem i da se osećaju prihvaćeno od ostatka stanovništva. Prihvaćenost pridošlica od strane "starosedelaca" je preduslov za ukidanje podvojenosti na "nas" i "njih" koja može voditi u etnocentrizam i jeste jedan od pokazatelja konfliktnog potencijala.

Danas se u teoriji i praksi govori o tri dominantna pristupa integracije u Evropi. To su asimilacijski model, multikulturalizam i interkulturalizam (Bužinkić i Kranjec, 2012: 12). Asimilacijski model je proces adaptacije u kojem migrant ili čitava grupa preuzme običaje, norme, vrednosti i socijalne osobine društva u koje je došlo, tako da je kulturno uključen u dominantno većinsko društvo. To je zapravo proces prisiljavanja imigranata da odustanu od dosadašnjeg kulturnog identiteta, odnosno ovaj model ne poznaje kulturne različitosti već odbacuje etnička, verska ili kulturna obeležja. Primer takvog modela najizraženiji je u Francuskoj koja službeno ne priznaje niti uzima u obzir činjenicu da su nacionalne manjine skupine sa različitim potrebama i pravima. Ovaj pristup je posebno problematičan s obzirom da je najveći udeo migranata u Francuskoj

upravo muslimanske veroispovesti (Rudiger & Spencer, 2003).

Multikulturalizam (model kulturnog pluralizma) je model koji se temelji na prepoznavanju i poštovanju postojanja različitih grupa unutar jednog društva koje koegzistiraju. Društvo dopušta postojanje multikulturnih zajednica koje mogu živeti u skladu sa svojim stilom, običajima, jezikom i vrednostima. Razvoj tzv. grupnih prava rezultirao je u boljem razumevanju i poštovanju različitosti kultura, samim tim pozitivnoj konotaciji multikulturalizma, prihvatanje različitih kultura i poštovanje njihovih vrednosti, tradicija i dubokih moralnih različitosti. Ovaj model s jedne strane osnažuje kulturnu raznolikost, ali ujedno preuzima i rizik da preraste u separatizam ili segregaciju, budući da je praksa pokazala reciprocitet učvršćivanja distance među njima (Rudiger & Spencer, 2003).

Interkulturalizam je model koji se temelji na procesu interkulturalnog dijaloga koji obuhvata otvorenu razmenu stavova između individua i grupa različitog etničkog, kulturnog, verskog i jezičnog porekla i nasleđa, na temelju međusobnog razumevanja i poštovanja. Ovaj model kreće od činjenice da se kulture menjaju pod različitim uticajima i zahtevima i predstavlja proces međusobnog povezivanja i mešanja kulture manjine i većine pri čemu nastaje novi kulturni obrazac. Jednostavnije rečeno, u pitanju je jednostrano prilagođavanje imigranata na dominantnu kulturu i vrednosti, gde se kao konačni rezultat javlja nepostojanje kulturne specifičnosti (npr. američki doseljenici) (Rudiger & Spencer, 2003).

Proces integracije migranata u Republici Srbiji može biti otežan političkim motivima, ali i neprihvatanjem društva koje u migrantima ponekad vidi glavne krivce za svoje egzistencijalne probleme. Razloge bi trebalo tražiti i u čestoj pojavi apatije kod migranata, njihovoj depresivnosti zbog teške situacije u kojoj su se našli, strahu od nepoznatog, od započinjanja života iz početka, nerazumevanju kulture i običaja većinskog stanovništva i sl (Milenković, 2013).

Integracija migranata nije jednostavan proces jer zahteva angažman na svim nivoima vlasti, a posebno lokalnih vlasti koje mogu na različite načine da podstiču i unapređuju proces integracije. Prvo, neophodno je adekvatno zbrinuti porodice. Druga mera svakako je usmerena na povećanje broja zaposlenih migranata. Kako bi se to postiglo, potrebno je da postoji procena broja nezaposlenih lica, kao i profil zanimanja koja su u deficitu. Nakon takve procene lokalne vlasti mogu organizovati kurseve obuke u cilju razvijanja individualnih znanja i veština radi povećanja mogućnosti za zaposlenje. To mogu da budu kursevi jezika, računara i svi drugi kursevi koji mogu da razviju konkretna primenjiva znanja i veštine. Osmišljen pristup lokalnih vlasti podrazumeva i štampanje određenih informatora i brošura ili organizovanje tribina i grupnih savetovanja za migrante. Segment obrazovanja posebno je važan za inkluziju. Deca migranata ne samo da imaju jednako pravo na obrazovanje, već je za njih neophodno preduzimanje dodatnih mera kako bi ovo pravo ostvarili. Na primer, za decu koja ne poznaju jezik neophodno je organizovati dodatne kurseve jezika i obezbediti im pedagoškog asistenta, ako je to neophodno.

### **Zaključak**

Masovne migracije stanovništva dovode do etničke heterogenosti i uvećavaju kulturnu raznovrsnost ne samo u državama imigracije već i u tranzitnim državama.

Kulturno-istorijska i etnička heterogenost može predstavljati problem u društvima koja nisu spremna da se i sama menjaju kako bi integracija novopridošlih bila izvodljiva. Stvaranje društva koje je otvoreno za migrante podrazumeva volju i mogućnost tog društva za promene, jer upravo je otpor prema promenama društvenih obrazaca jedan od uzroka neuspešnosti integracijskih politika i uključivanja migranata u društvo.

Ukoliko je u takvom društvu izražena etnička distanca, ksenofobija i drugi kulturološki stereotipi doći će i do porasta konfliktnog potencijala koji može voditi u socijalne proteste pa i intenzivnije forme nasilja. U prilog navedenog možemo navesti

slučaj protesta u Banji Koviljači. Iako je prelazak konflikta iz latentne u manifestnu fazu na vreme zaustavljen primenom strategije razdvajanja učesnika u konfliktu, ostaje otvoreno pitanje strategijskog promišljanja mogućnosti za preventivno delovanje u budućnosti i osmišljavanja sistemskog rešenja za izazove migrantske krize.

Dok je na nivou političkih elita država, regionalnih i međunarodnih organizacija neizostavno kreiranje adekvatne politike za rešavanje migrantske krize, njena implementacija na operativnim nivoima, kao i izazov integracije, je prevashodno u nadležnosti države i lokalne samouprave. Političke odluke koje se donose u funkciji rešavanja migrantske krize predstavljaju najznačajniji faktor koji utiče na stabilizaciju postojećeg stanja, ali ono neće biti trajnog karaktera bez njihove uspešne realizacije u kontekstu razvijanja ambijenta spremnog za sveobuhvatni prihvatanje migranata i njihovu integraciju. Tome nas je podučavao još Aristotel, tvrdivši da etnička heterogenost može predstavljati izvor sukoba sve dotle dok se ne postigne saglasnost između "građana" i "stranaca". Prema tome, društveni konsenzus svih ili većine značajan je za društveni integritet u etnički nehomogenim zajednicama i jedan je od preduslova za očuvanje mira.

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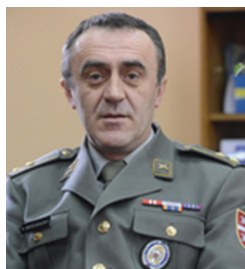
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## **ULOGA I ZNAČAJ ANGAŽOVANJA VOJSKE SRBIJE U MIGRANTSKOJ KRIZI**

### **Rezime**

*Migrantska kriza, nastala na Bliskom Istoku i Severnoj Africi, dobila je svoj epilog i na Balkanu kao tranzitnom prostoru migranata na putu ka državama Zapadne Evrope. Usled povećanog broja migranata, Vlada Republike Srbije je donela odluku o angažovanju svih elementi sistema bezbednosti i odbrane. Republika Srbija se efikasno suočila sa migratskom krizom i u kratkom vremenu preduzela odgovarajuće mere na prihvatu, zbrinjavanju i transportu migranata kroz Srbiju. Formiranjem i angažovanjem Zajedničkih snaga za obezbeđenje državne granice, nedvosmisleno je iskazana namera odlučnom suprotstavljanju nekontrolisanom prilivu migranata na svojoj i teritorije ostalih evropskih država. U takvim okolnostima, Vojska Srbije je dobila poseban zadatak u skladu sa dodeljenim misijama u cilju očuvanja državne granice kao i bezbednost svojih građana.*

*Ključne reči: migrantska kriza, državna granica, Vojska Srbije, misije, zadaci.*

## **THE ROLE AND THE IMPORTANCE OF THE ENGINEERING OF MILITARY SERBIA IN THE MIGRANT CRISIS**

### **Abstract**

*The migrant crisis in the Middle East and North Africa has also received its epilogue in the Balkans as a transit area of migrants on the path to Western European countries. Due to the increased number of migrants, The Government of the Republic of Serbia has made a decision to engage all elements of the security and defense system. The Republic of Serbia has effectively dealt with the migration crisis and in the short term has taken appropriate measures on the acceptance, care and transport of migrants through Serbia. By the formation and engagement of the Joint Forces to secure the state border, the intention is expressed unequivocally against the uncontrolled inflow of migrants into its territory and the territories of other European countries. In such circumstances, the Army of Serbia was given a special task in accordance with the assigned missions in order to preserve the state border as well as the security of its citizens*

*Key words: migrant crisis, state border, Serbian Army, missions, tasks..*

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## **Uvod**

Najozbiljnija izbeglička kriza nakon Drugog svetskog rata proizvodi značajne reperkusije na evropskom prostoru. Evropska unije se bez ikakve sumnje suočava sa jednom od najvećih kriza od svog nastanka. Prostorne, vremenske i socijalne dimenzije današnjih migracija još su nesagledive a krajnji rezultati nepredvidivi. Različiti scenariji koji uključuju proricanje invazije siromašnih, demografskoj bombi, seobi biblijskih razmera, ali između paranoičnog konspiracionizma i „moralne panike”, potrebno je naći srednji put koji će biti zasnovan na realističkim projekcijama. Rešenje migrantske krize jeste u tome da je potrebno lečiti uzroke a ne posledice. To bi između ostalog značilo usaglašavanje političkih interesa velikih sila i zajednički rad na uništavanju tzv. Islamske države. Sve do tada Evropa će biti izložena borbi „ekstremizma protiv ekstremizma”, jer će na jednoj strani biti ekstremni desničari, a na drugoj strani takođe ekstremni džihadisti, a kao i do sada nedužni civili biće kolateralna šteta. Dok migranti imaju nameru da pronađu bolje mesto za život bežeći od rata ali i siromaštva, države koje ih primaju strahuju od bezbednosnih problema, promene nacionalnog i kulturnog identiteta i eventualnih problema koje migranti nose sa sobom. Najgore od svega što teret migrantske krize najviše snose one države koje ni na koji način nisu upletene u dešavanja na ratom zahvaćenim područjima u severnoj Africi.

Kada se dodatno uzmu u obzir i sasvim izvesno nefunkcionalna nastojanja Evropske unije da definiše zajedničku migracionu politiku, problematika migracionih kretanja u Evropi sve češće poprima ksenofobične sadržaje. Migracioni talas koji je zapljusnuo Evropu u poslednjih nekoliko godina, od tzv. Arapskog proleća, prema mnogima je pokazatelj ne samo neefikasne migracione politike Evropske unije, već je i relativizirao njenu funkcionalnost uopšte. Podizanje zidova na granicama evropskih država i suspenzije Šengenskog sporazuma pojave su koje podrivaju proklamovana načela na kojima počivaju evropske integracije, multikulturalizam i sloboda kretanja ljudi, robe i ideja. Sve što je Evropska unija ponudila kao rešenje migracione krize je u domenu kriznog menadžmenta, bez ikakve naznake za sistematskim rešenjima.. Evropska unija je uspela da u pregovorima sa Turskom obezbedi zaustavljanje talasa izbeglica ka Evropi. Međutim, uzimajući u obzir skorašnja unutrašnja politička previranja u Turskoj i njen odnos prema EU nije izvesno koliko će to rešenje biti održivo. Nakon dogovora Evropske unije i Turske, kao i mera koje su preduzele Grčka, Bugarska, Mađarska, Hrvatska, Slovenija i Austrija, značajno je opao priliv migranata ka Srbiji. Zbog sve složenije situacije, Savet Evropske unije zvanično je odobrio formiranje i agencije pod nazivom „Evropska granična i obalska straža“ (EBCG - European Border and Coast Guard). Agencija EBCG(1) ima za cilj da obezbedi bolje upravljanje spoljnim granicama Evropske unije kako bi se pratili tokovi migranata, obezbedila bezbednost i očuvanje slobode kretanja ljudi unutar Evropske unije. Novoformirane snage su zvanično 6. oktobra 2016. godine započele sa radom(2).

Kada se Republika Srbija suočila sa problemom velikog priliva migranata, države članice EU pokazale su nejedinstvo u rešavanju evropskog, a ne samo srpskog, grčkog ili makedonskog problema. Stavovi država Evrope o problemu migranata bili su različiti. Na taj način u prvi plan je došlo do izražaja nejedinstvo i slabost EU u rešavanju vanrednih problema. U cilju rešavanja migrantske krize, mnoge predloge koje su dali Evropska komisija, UNHCR i drugi osujetio je nacionalni šovinizam ili inercija birokratije u državama Evropske unije. Na taj način stari kontinent postaje izloženiji riziku erozije vrednosti i vladavine prava. Veliki broj država u Evropi odbio je da pomogne realizaciji održivih rešenja koje je predviđen međunarodnim i evropskim zakonima. Umesto toga, odlučile su se za pojedinačne reakcije, uključujući i nezakonito odbijanje prijema u azilne procedure, vraćanje izbeglica preko granice iz jedne zemlje u drugu bez zakonskih ili humanitarnih mera zaštite(3).

Međutim i pored suprotstavljenih stavova, EU je isticala pozitivan primer Republike Srbije i njen human i ljudski pristup u rešavanju migrantske krize. S druge

strane imamo zidove i bodljikave žice, koji treba da spreče kretanje migranata, na granicama Makedonije, Hrvatske, Slovenije i Austrije. Imajući u vidu reakcije Evropske unije na migrantsku krizu, stiće se utisak da ista nije adekvatno odreagovala. Preduzela je određene mere i naložila svojim članicama da u skladu sa svojim mogućnostima i procenama prihvate i zbrinu određen broj migranata. Evropska komisija usvojila je Program kvota za prijem migranata za države članice, a državama kandidatima za Evropsku uniju je preporučila da prime određeni broj migranata uz neposrednu finansijsku pomoć. Takođe, donela je odluku da se pristigli migranti ne vraćaju u zemlje u kojoj su registrovani, čime je delimično suspendovana Dablinska konvencija.

Prema „Dablinskom sporazumu“ po pitanju prava na azil odgovorna je ona država Evropske unije u koju je lice prvo ušlo. U slučaju da ta zemlja važi kao sigurna, podnosioci zahteva, po pravilu, moraju da se vrate nazad u tu zemlju kako bi tamo podneli svoj zahtev. Međutim, ovaj sporazum, se svesno zaobilazi od strane pojedinih članica Evropske unije (Grčke, Mađarske, Hrvatske). Zbog presude Evropskog suda za ljudska prava da su narušena prava migranata i da je prema njima postupano nehumano, Grčka je izuzeta iz Dablinskog sporazuma i u nju se migranti (azilanti) ne vraćaju. Ovakav stav dovodi Hrvatsku i Mađarsku, a u budućnosti verovatno i Rumuniju i Bugarsku u položaj koji će direktno zavisiti od ponašanja zemalja krajnje destinacije (SR Nemačke, Francuske...) u pogledu trajanja prihvata migranata(4).

Samostalne mere koje su pojedine članice Evropske unije preduzele u pogledu zaustavljanja ili kanalisanja kretanja migranata dovele su u pitanje i funkcionisanje Šengenskog sporazuma. Zbog nespremnosti za prihvatanje velikog broja migranata, ali i propisa Evropske unije koje zemlje na granici Evropske unije dovodi u poziciju prve zemlje ulaska, te samim tim i obaveze koje proizilaze iz Dablinskog sporazuma, došlo je do narušavanja bilateralnih odnosa zemalja koje su se nalazile na migrantskoj ruti. To je posebno bilo izraženo između: Srbije-Mađarske, Srbije-Hrvatske, Hrvatske sa Mađarskom i Slovenijom, kao i Grčke sa Makedonijom. Kada je u pitanju Srbija, narušavanje međudržavnih odnosa sa susedima se prvenstveno ogledalo na potpunom ili delimičnom onemogućavanju prolaska migranata duž granice sa Mađarskom (narочito preko graničnog prelaza Horgoš) i Hrvatskom (okolina Šida), što je i prouzrokovalo privremeno zatvaranje granica, zabrane prolaska ljudi, protoka robe i kapitala između Srbije i Hrvatske.

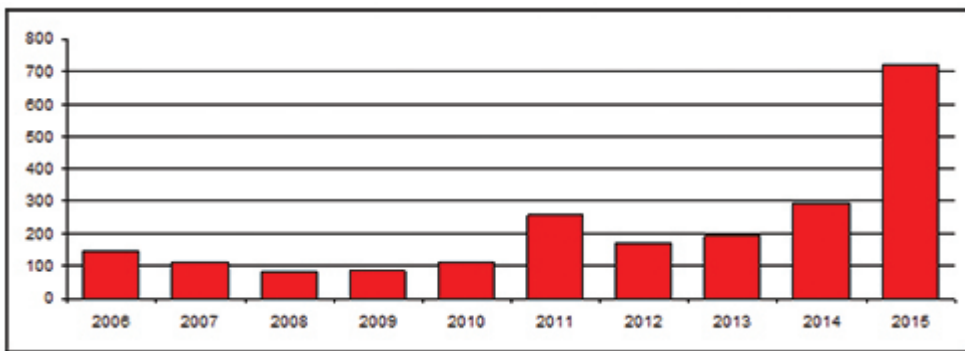
### **Migrantska kriza i Republika Srbija**

Prostor u kome se Republika Srbija nalazi predstavlja tranzitni koridor za migracije iz regiona sa visokom stopom nezaposlenosti i niskim životnim standardom u regione sa relativno nižom stopom nezaposlenosti, visokim životnim standardom ali i sa starom populacijom na zapadu i severu. Zbog toga je značajno sagledati dvostruki proces migracije koji se odigrava u regionu jugoistočne Evrope, jer pored tranzita, prisutna je i višedecenijska ekonomska migracija stanovništva iz ovog regiona u razvijene države zapadne Evrope. Mreže organizatora neregularne migracije koriste savremene tehnologije da omoguće ilegalne prelaskе u države članice Evropske unije, posebno u vezi sa izradom krivotvorenih pasoša, viza i ličnih dokumenata koji se koriste prilikom kontrola na graničnim prelazima. Međutim, od početka građanskog rata u Siriji, turska granica se prelazi mimo zvaničnih puteva, bilo kopnenim, bilo morskim, pa čak i vazдушnim putem. Ovom poslu organizovane kriminalne grupe prilaze nakon temeljnog izučavanja uslova za ilegalne migracije, identifikacije potencijalnih klijenata, sastavljanja materijala potrebnog za traženje azila, te obećanja pomoći klijentima prilikom zapošljavanja u državi krajnje destinacije(5).

Kao što se iz primera Turske jasno može uočiti uticaj konflikta u susednim državama na migracione procese, neophodno je sagledati perspektive rešavanja kriznih situacija u regionima Bliskog istoka, Azije i sa Kavkaza, kao potencijalnih motivacionih faktora za migracione procese prema Evropi. Reč je o potencijalnim

konfliktnim područjima koje je Bžežinski davno označio kao regione geopolitičkih potresa i nestabilnosti u budućnosti. Dakle, jasno je da se može računati na navedene regione kao na izvore migracionih kretanja koji će uticati na prostor jugoistočne Evrope na dugoročnoj osnovi. Razlozi za navedenu tvrdnju su kumulativne prirode i može se reći da je za navedeni region immanentan gotovo čitav spektar migracionih motivacionih faktora: od ekonomskih, političkih, preko potencijala za izbijanje konflikata, do ratnih sukoba kao što je to slučaj u Iraku i Siriji. Politička i bezbednosna situacija u regionima severne Afrike i Bliskog istoka, u kojima je izvršen transfer vlasti tokom takozvanog „arapskog proleća” i dalje je nestabilna. Uzrokovana je unutrašnjim protivrečnostima u navedenim društvima i opterećena nasleđenim međudržavnim antagonizmima, od kojih je najozbiljniji izraelsko-arapski konflikt(6).

Upravljanje migracijama podrazumeva jasan i uređen sistem koji uspostavlja zakonodavna i izvršna vlast jedne države u skladu sa jasnom migracionom politikom i organizovanim upravljanjem migracionih tokova, praćenjem spoljnih i unutrašnjih migracionih kretanja, kao i sprovođenjem potrebnih aktivnosti radi stavljanja istih u regularne tokove. Vlada Republike Srbije usvojila je 2009. godine Strategiju suprotstavljanja ilegalnim migracijama za period 2009–2014. godine(7), što je bio preduslov za svrstavanje Srbije na listu pozitivnog viznog režima Evropske unije.



Grafikon br 1: Ukupan broj krivičnih dela nedozvoljenog prelaska državne granice i krijumčarenje ljudi prema evidenciji Ministarstva unutrašnjih poslova Republike Srbije

Analiza statističkih podataka ukazuje na to da je usvajanje navedene strategije bila i potreba nacionalnog sistema bezbednosti. Nagli porast izvršenja i otkrivanja krivičnih dela vezanih za neregularne migracije u Srbiji nisu iznenađujući, ali ukazuju na zabrinjavajući porast sa tendencijom da se i u narednom periodu uvećavaju s obzirom na to da je većina migracionih faktora na strani nastavka masovnih migracija.

S obzirom da je Republika Srbija kandidat za članstvo u Evropsku uniju i da je proces pregovora o pristupanju otpočeo otvaranjem i usklađivanjem potrebnih poglavlja, svakako da je i efikasno upravljanje migracijama jedan od uslova od čijeg ispunjavanja zavisi pridruživanje Srbije Evropskoj uniji. Naravno, da bi oblast migracija bila pravno i institucionalno uređena u skladu sa potrebnim standardima Evropske unije Vlada Republike Srbije je najpre uredila zakonodavni okvir za razvijanje sistema upravljanja migracijama. Zakonodavni okvir je razvijen na platformi međunarodnog prava, a svi ratifikovani-potvrđeni međunarodni ugovori, kao i svi zakoni i drugi opšti akti su u saglasnosti sa Ustavom Republike Srbije. Svakako da su među međunarodnim dokumentima najznačajnije konvencije kojima se uređuju pitanja ljudskih prava i eliminisanje svih oblika diskriminacije, položaja lica bez državljanstva, statusa izbeglica, ali i borbe protiv organizovanog kriminala i terorizma(8).

Kao i druge države u regionu i Republika Srbija je po pitanju migrantske krize zavisna od odluka velikih sila. Zaočekivati je da migrantski talas tokom narednog perioda



bude manjeg intenziteta, međutim za geografski prostor Republike Srbije se obično kaže da je kuća nasred puta koji je i put svile ali i krijumčarenja droge, oružja i ljudi pa je ovaj prostor oduvek predstavljao kapiju Evrope. Ukoliko se izuzmu neredi na graničnim prelazima sa Mađarskom kao i svojevrsan „carinski rat“ sa Hrvatskom, Srbija je do sada pošteđena narušavanja bezbednosti i sigurnosti građana i države, ali takav privid ne sme da zavara, jer na to upućuju teroristički napadi u pojedinim evropskim državama izvršenim od strane pripadnika terorističke organizacije tzv Islamske države. Pri tome je izvestan broj izvršilaca terorističkih napada na putu za u Evropi stigao prelazeći tzv „balkansku rutu“, na čijem se „koridoru“ nalazi i Srbija.

Procenjujući situaciju, državni organi Srbije su pravovremeno reagovali i odmah po otpočinjanju krize formirali prihvatne centre omogućivši human tretman migranata, medicinsku i pravnu pomoć, čime su sprečili ilegalne aktivnosti. Srbija je prva počela registraciju migranata od njihovog ulaska u Evropu, čime je omogućila njihovo praćenje do krajnjih odredišta. Usaglašeno angažovanje državnih institucija, Policije i Vojske Srbije, medija i nevladinih organizacija održalo je red u migrantskim centrima. Human tretman migranata smanjio je njihov strah od proterivanja, što je doprinelo razvijanju međusobnog poverenja, lakše kontrole njihovog kretanja, ali i podizanju ugleda Srbije u svetu.

Na osnovu stanja na terenu, u susednim državama, kao i praćenje situacije na prostoru država zahvaćenih ratnim dejstvima na Bliskom istoku, Vlada Republike Srbije je još u septembra 2015. godine usvojila „Plan reagovanja u slučaju povećanog priliva migranata“(9). Plana je imao za cilj da obezbedi odgovarajuće kapacitete za efikasan odgovor u slučaju masovnog priliva migranata u Republiku Srbiju. Pre usvajanja navedenog plana preduzimate su potrebne mere za prihvatanje i smeštaj migranata(10). U tim okolnostima sa tada poznatim činjenicama navedeni plan identifikovao je nadležne organe, organizacije i institucije, kao i njihove zadatke u skladu sa procenjenim situacijama i varijantama odgovora na nastalo stanje. Preduzimate aktivnosti koordinirane su od strane Radne grupe za rešavanje problema mešovitih migracionih tokova. Osnov za aktiviranje usvojenog plana bile su činjenice i stanje na terenu koje je dostavljalo Ministarstvo unutrašnjih poslova formiranoj radnoj grupi. S tim u vezi, Republika Srbija je pravovremeno procenila situaciju, izvršila pripreme u skladu sa procenom, za razliku od zemalja članica Evropske unije, što su potvrdili i zvaničnici većine zemalja Evrope, kao i zvaničnici međunarodnih organizacija koje se bave migrantima(11). Republika Srbija je ostvarila odgovor na izbegličku krizu na najpozitivniji mogući način, humano i u skladu sa zakonom, pri čemu nije došlo do proterivanja izbeglica koje su hvalile razumevanju države Srbije, vlasti i građane. Ovakvim postupkom Srbija ne samo da je sprečila fatalan ishod ili patnje na svojoj teritoriji, već je unapredila svoj međunarodni ugled.

### **Normativni aspekt angažovanja Vojske Srbije u sprečavanju ilegalnih migracija**

Zbog svog društvenog značaja i uloge koju ima u sistemu odbrane, vojska je tradicionalno i sastavni deo ustavne materije. Mnoge države već u ustavnim odredbama uređuju njen položaj i osnovnu nadležnost u sistemu nacionalne odbrane. Na taj način se najvišim pravnim aktom definiše i društveni razlog postojanja vojske, što se može uočiti iz onih ustavnih normi koje određuju društvene vrednosti koje ona mora da štiti. U najopštijem značenju to su one društvene vrednosti zbog kojih se i uspostavlja sistem odbrane i koje ujedno određuju njegovu osnovnu društvenu funkciju(12).

Ustav Republike Srbije uređuje osnovnu funkciju oružanih snaga. Prema ovom aktu, njihov osnovni zadatak je odbrana države od oružanog ugrožavanja spolja i izvršavanje drugih misija i zadataka u skladu sa Ustavom, zakonom i principima međunarodnog prava koji regulišu upotrebu sile. Iz ove odredbe se ne vidi koje vrednosti one brane već se to vidi iz odredbe koja u nadležnost Republike Srbije stavlja i uređivanje i obezbeđivanje suverenosti, teritorijalne celovitosti i bezbednosti države(13). Primarna

funkcija oružanih snaga je odbrana suvereniteta, nezavisnosti i teritorijalnog integriteta države. To je njihova tradicionalna funkcija, koja determiniše i njihovo postojanje. U ustavnoj praksi navode se i neke druge društvene vrednosti čija je odbrana u nadležnosti oružanih snaga, ali i pored toga funkcija oružanih snaga je prvenstveno uslovljena spoljnim faktorom koji ugrožavaju bezbednost države. Drugim rečima, oružane snage postoje da bi zaštitili navedene vrednosti onda kada one budu ugrožene oružanim putem spolja, odnosno agresijom. Pored toga, njihovo postojanje ima za cilj i odvracanje od agresije, što takođe definiše njihovu funkciju.

Slična određenja o oružanim snagama koja se nalaze u Ustavu Republike Srbije možemo naći u ustavnim odredbama drugih država. Tako na primer u Ustavu Austrije se navodi da federalna armija štiti ustavne institucije i demokratske slobode, unutrašnji poredak i bezbednost države, pruža pomoć civilnim strukturama u slučajevima prirodnih katastrofa i nesreća velikih razmera(14). Prema odredbama Ustava Poljske, funkcija oružanih snaga je odbrana nezavisnosti, teritorijalnog integriteta i nepovredivosti državnih granica(15). Oružane snage Rumunije su isključivo u interesu naroda i garantovanja suvereniteta, nezavisnosti i jedinstvo države, teritorijalnog integriteta i ustavne demokratije(16). S druge strane savremena praksa oružanim snagama determiniše i pojedine unutrašnje bezbednosno-zaštitne funkcije, koje se uglavnom odnosi na slučajeve unutrašnjih pobuna širih razmera ili akata terorizma u okolnostima kada organi bezbednosti nisu u mogućnosti da deluju samostalno.

Pored navedenog ne smemo zaboraviti i slučajeve tehničko-tehnoloških i prirodnih katastrofa nesreća, kada oružane snage pružaju pomoć institucijama civilne vlasti. Uopšteno posmatrano radi se o situacijama koje se u skladu sa propisima o odbrani smatraju razlogom proglašenja vanrednog stanja odnosno vanredne situacije. Mnoge države ovakvu funkciju oružanih snaga uređuju ustavnim ili zakonskim propisima koji regulišu oblast odbrane. Predmetna funkcija nije primarna već sporedna jer se realizuje samo kada drugi nadležni državni organi nisu u mogućnosti da se samostalno suprotstave ovakvim pojavama. Oružane snage Mađarske mogu se upotrebiti i u slučaju oružane akcije usmerene protiv ustavnog poretka, preduzimanja vlasti ili u slučaju kritičnih akata oružanog nasilja koji dovode u ozbiljnu opasnost živote i imovinu građana do nivoa masovnih razmera ako se upotreba policije pokaže nedovoljnom kao i u slučaju prirodnih i industrijskih katastrofa(17). Pored toga, oružane snage Nemačke mogu se angažovati radi podrške policijskim snagama ukoliko prirodna katastrofa ili nezgoda ugrožava više od područja jedne savezne države. Pored toga a radi odbrane od preteće opasnosti za opstanak države ili za odbranu slobodnog demokratskog osnovnog poretka savezne države ili neke Zemlje, savezna vlada može upotrebiti oružane snage kao podrška policiji i saveznoj pograničnoj zaštiti a u cilju zaštite civilnih objekata i u borbi protiv organizovanog i oružanog ustanka(18).

U skladu sa navedenom praksom i jedinice Vojske Srbije, mogu se angažovati na pružanju pomoći stanovništvu, u slučaju prirodnih i drugih nesreća većih razmera u kojima su na određenoj teritoriji ugroženi životi i zdravlja ljudi i životinja i njihova materijalna dobra, a na osnovu zahteva organa nadležnih za zaštitu i spasavanje ljudi i materijalnih dobara U takvim okolnostima načelnik Generalštaba Vojske Srbije, odnosno starešina nadležne komande, a u cilju zaštite i spasavanja ljudi, materijalnih i kulturnih dobara od elementarnih nepogoda, tehničko-tehnoloških nesreća i katastrofa, posledica terorizma i drugih većih nesreća, može narediti mere sprovođenja pripravnosti i upotrebe delova Vojske Srbije radi otklanjanja štetnih posledica koje mogu nastati nevojnim pretnjama bezbednosti(19).

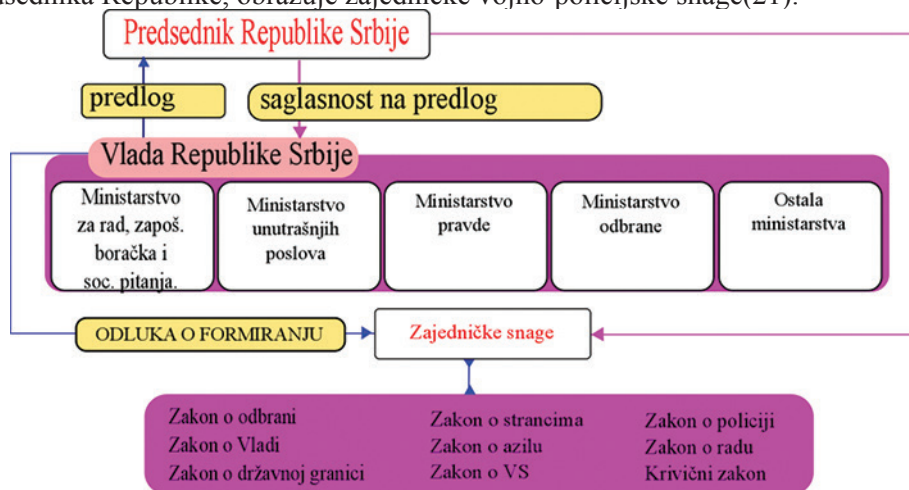
MISIJA	ZADATAK
Obrana Republike Srbije od oružanog ugrožavanja spolja	Odvraćanje od oružanog ugrožavanja
	Obrana teritorije
	Obrana vazdušnog prostora
Učešće u izgradnji i očuvanju mira u regionu i svetu	Učešće u međunarodnoj vojnoj saradnji
	Učešće u multinacionalnim operacijama
Podrška civilnim vlastima u suprotstavljanju pretnjama bezbednosti	Pomoć civilnim vlastima u suprotstavljanju unutrašnjem ugrožavanju bezbednosti, terorizmu, separatizmu i organizovanom kriminalu
	Pomoć civilnim vlastima u slučaju prirodnih nepogoda, tehničkih, tehnoloških i drugih nesreća

Tabela br.1: Odnos misija i zadataka Vojske Srbije

Kao oružana snaga, Vojska Srbije u sistemu odbrane Republike Srbije ima veoma značajnu ulogu, jer svojom organizacijom, opremljenošću, operativnim i drugim sposobnostima, predstavlja faktor odvrćanja od svih oblika ugrožavanja bezbednosti Republike Srbije. Misije i zadatke Vojske utvrđeni su Strategijom odbrane u skladu sa Ustavom i na osnovu neotuđivog prava Republike Srbije na individualnu i kolektivnu odbranu, saglasno članu 51. Povelje UN i osnovnim principima međunarodnog prava(20).

U uslovima narastanja izazova, rizika i pretnji bezbednosti, kao i mogućeg vojnog i nevojnog ugrožavanja bezbednosti Republike Srbije, Vojska Srbije se može angažovati u operacijama širokog spektra, što od nje zahteva izgradnju operativnih sposobnosti koje mogu da odgovore njenim misijama. Sa aspekta sprečavanja ilegalnih migracija, posebno su značajni zadaci iz treće misije, a težišno učešće jedinica Vojske Srbije u obezbeđenju državne granice, radi sprečavanja ilegalnih prelazaka migranata i kontrole teritorije Republike Srbije.

Pored navedenog, Zakonom o odbrani kao opštim sistemskim pravnim aktom, propisana je i obaveza saradnje Vojske i Policije u slučajevima kada su ugroženi granični pojas, granica i životi ljudi i materijalnih dobara na tom području. U ovim okolnostima, Vlada na zajednički predlog ministra unutrašnjih poslova i odbrane i uz saglasnost predsednika Republike, obrazuje zajedničke vojno-policijske snage(21).



Šema br.1 Zakonska osnova angažovanja zajedničkih snaga

## Angažovanje Vojske Srbije u sprečavanju ilegalnih migracija

Usložnjavanje migrantske krize krajem 2015. i početkom 2016. godine, Ministarstvo unutrašnjih poslova i Uprava granične policije dodatno su ojačale kapaciteta na obezbeđenju državne granice. Međutim, angažovani kapaciteti nisu bili u stanju da adekvatno odgovore na novonastalo stanje. Nove činjenice na terenu i sve veći priliv migranata zahtevao je brzo reagovanje i angažovanje kapaciteta Vojske Srbije. Kad je reč o angažovanju pripadnika Vojske Srbije, oni su se u rešavanje problema povećanog priliva migranata uključili 21. juna 2015. godine. U početnom periodu učestvovali su u organizaciji prihvata migranata na granici sa Republikom Makedonijom na zadacima uređenja prihvatnih centara, zdravstvenom zbrinjavanju, vodosnabdevanju, higijenskom kupanju i privremenom smeštaju migranata. Međutim dalje usložavanje situacije (početkom 2016. godine), u realizaciju zadataka uključene su i jedinice Vojne policije, sa osnovnom misijom obezbeđenja državne granicu u sistemu redovnog obezbeđenja, u cilju sprečavanja ilegalnih prelazaka migranata i kontrole teritorije Republike Srbije. Iz definisane misije operacionalizovana su dva osnovna zadatka i to sprečiti ilegalne prelaskе državne granice od strane migranata i onemogućiti krijumčarenje migranata i privođenje lica koja se bave tim poslovima.



Šema br.2: Misija i zadaci Zajedničkih snaga bezbednosti

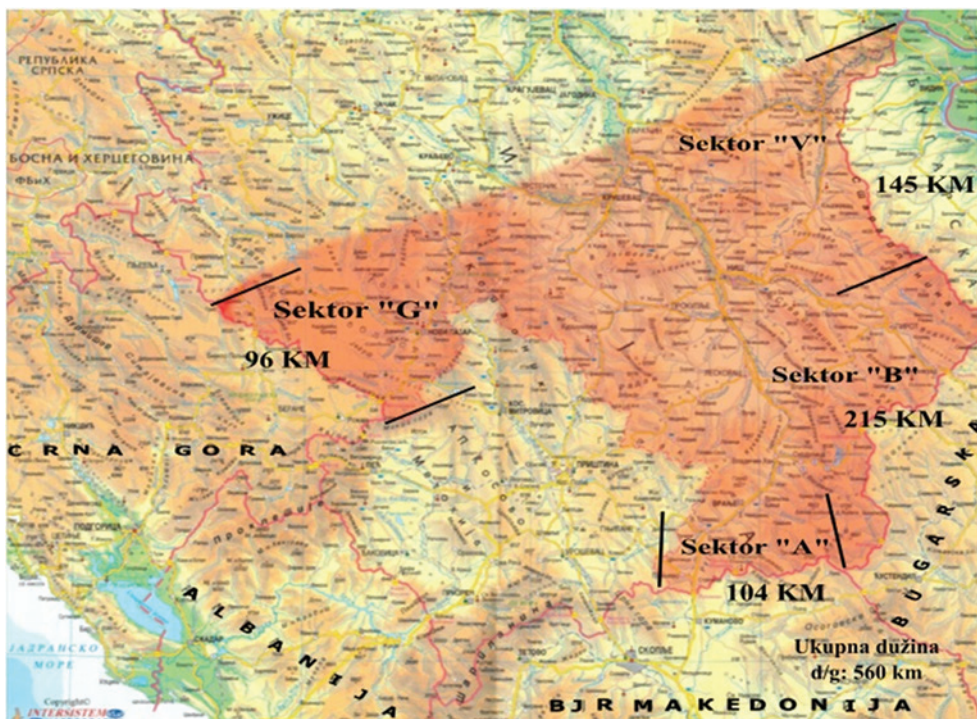
Tada je u smenama angažovano po 150 lica, što je značilo da je u tom periodu bilo angažovano 750 ljudi. Za to vreme registrovano je da je odvraceno od prelaska oko 9.700 migranata, a privedeno i procesuirano 145 krijumčara kada su državne granice prema Makedoniji i Bugarskoj zatvorene, registrovan i novi pravac kroz raško-polimsku oblast, pa je njihovo delovanje prošireno na još jedan sektor, koji obuhvata deo administrativne linije i deo državne granice prema Crnoj Gori(22).

U skladu sa određenom misijom, obrazovane su Zajedničke snage od dela jedinica Vojske Srbije i Ministarstva unutrašnjih poslova Republike Srbije. Angažovanje zajedničkih snaga je od početka postavljeno kao združeno i mešovito, od nivoa komande Zajedničkih snaga, pa do organa u prostoru. Komandir svakog organa u prostoru je vojni starešina, a u organu, zavisno od namene da li je na linijskom ili dubinskom obezbeđenju. Pored pripadnika Vojske angažovani su i pripadnici granične policije, interventnih jedinica policije, saobraćajne policije i žandarmerije odnosno nosioci primene ovlašćenja prema migrantima ili krijumčarima, pri čemu je vojni deo angažovanih organa imao zadatak asistencije nosiocima ovlašćenja. Nakon dobijanja zadatka za formiranje Zajedničkih snaga, izrade Planova i razmeštaja jedinica, 19. jula 2016. godine formirana je Komanda Zajedničkih snaga. Pored pripadnika Vojske Srbije i MUP-a u Komandi zajedničkih snaga uključeni su i pripadnici bezbednosnih službi (BIA, VBA, VOA), ministarstva za rad, zapošljavanje, boračka i socijalna pitanja i komesarijata za izbeglice i migracije. U početnom periodu primarni zadatak bio je sagledavanje i procena stanja s obzirom na kretanje migranata u cilju određenja adekvatnog rasporeda jedinica duž



granične linije(23).

Zadatak se izvršavao kombinacijom linijskog i dubinskog obezbeđenja u redovnom režimu. Linijsko obezbeđenje izvodi se sa bivših karaula kroz kontrolu granične linije putem patroliranja, osmatranja, postavljanja rejonskih stražara, osmatračnica i zaseda. Za dubinsko obezbeđenje su razmeštene snage po dubini teritorije, gde su organizovani punktovi za kontrolu saobraćaja, patrole, osmatračnice i zasede, uz stalnu kontrolu putnog i železničkog saobraćaja. Izrađeni su planovi za preduzimanja mera, u slučaju pokušaja masovnijih ilegalnih prelazaka državne granice Angažovanje helihopterskih jedinica Vojske i Policije, vršeno je zaista vrlo restriktivno, i to uglavnom za izvidanje određenih reiona i pravaca u cilju prikupljanja potrebnih podataka. Zona operacije obuhvata prostor uz granicu sa Bugarskom i Makedonijom, a od 16. decembra 2016. godine, i deo oblasti u zahvatu granice sa Crnom Gorom, tako da ukupna dužina granice iznosi 560 kilometara.



Šema br.3: Načelna podela obezbeđenja državne granice u migrantskoj кризи

U početnom periodu angažovanja zajedničkih snaga najveći pritisak za ulazak u Srbiju bio je iz Makedonije, da bi se u poslednje vreme znatno povećao i broj ilegalnih prelazaka državne granice iz Bugarske. Migranti iz Makedonije, dolazili, pravcima: selo Lojane – selo Miratovac, selo Lojane – selo Trnava, selo Lojane – selo Norča, selo Lojane – selo Strezovce, a zatim preko Pribvatnog centra u Preševu, legalno ili ilegalno, nastavljali put prema Vranju, Nišu, Beogradu, Novom Sadu i državnoj granici sa Mađarskom i Hrvatskom. Iz Bugarske, pravcima: Sofija – Gradina – Dimitrovgrad – Pirost, Mihajlovgrad – Kadibogaz – Zaječar, Trn – Strezimirovce –Surdulica i Čustendil – Bosilegrad. Najintezivniji pravci za prelazak državne granice, vodili su preko sektora „A“, gde je skoro osam i po hiljada lica, pokušalo da uđe u zemlju, odnosno u proseku 52, dnevno. Granicu sa Bugarskom u dva sektora, pokušalo je da pređe 8.572, odnosno 53 prosečno dnevno. Deo granice prema Crnoj Gori i deo a/l, pokušalo je preći 55 lica, ili 4 dnevno. Ukupno gledano, prosečno je neku od granica pokušalo proći 105



migranata(24).

Najopterećeniji pravci za ilegalni prelazak iz Bugarske su pravci prema Dimitrovgradu i Zaječaru. Iz Makedonije, osnovni pravac je: s.LoJane– s.Miratovac. Komanda Zajedničkih snaga je reagovala na promenu maršute kretanja migranata u sektoru „A“ - obrazovanjem sektora „G“ u čijoj je nadležnosti da spreči ilegalne prelaske koji u prostor Raške oblasti izvode preko Kosova i Metohije i sa prostora Crne Gore. Najveći broj migranata, svakako je iz Afganistana, stim što je ovaj prikazani broj i veći, jer većina migranata iz Pakistana su u stvari izbegli Afganistanci Paštunske nacionalnosti. Po pravilu migranti iz Sirije i Iraka su sa porodicama, što nije slučaj sa Afganistancima koji su vrlo mladi i uglavnom muškog pola. Migranti iz Sirije i Iraka po ustaljenom obrascu uglavnom dolaze iz pravca Makedonije, a iz Afganistana iz pravca Bugarske. Zanimljiva je mala grupa iz Kube, čiji je obrazac kretanja na relaciji: Havana-Moskva-Tivat-Tutin. Iz ostalih zemalja Bangladeš, Šri Lanka, Uganda, Ruanda i Eritreja ilegalne prelaske je pokušalo 46 lica.



Šema br.4: Broj ilegalnih prelaska državne granice prema sektorima

Pored angažovanih snaga Republike Srbije, angažovano je i 220 međunarodnih policijskih službenika, kao vid dodatnih snaga iz Evropske unije (iz Mađarske, Češke i Slovačke) (25). Ove snage iz EU su se angažovale na područjima gde je analizom rizika utvrđeno da je granica najugroženija, odnosno gde je najveći pritisak i priliv migranata. Tom prilikom pripadnici međunarodnih snaga su upoznati sa našim zakonodavstvom i nadležnostima i ovlašćenjima granične policije i Zajedničkih snaga, a istovremeno sa njihovim pravima i obavezama. Efekti ovakvih mera su smanjen broj migranata od početka 2017. godine, promena ruta kretanja i krijumčarenja migranata, koja je potvrđena prilikom razmene informacija svih službi bezbednosti, kako u Republici Srbiji, tako i u regionu(26).

Svakako da je MUP u skladu sa svojim kapacitetima dalo veliki doprinos u aktuelnoj migrantskoj krizi, međutim uključivanjem Vojske Srbije u realizaciji ovog zadatka, taj efekat je značajno povećan. Još značajnije je zajedničko angažovanje Vojske Srbije i MUP u odgovoru na bezbednosne izazove, rizike i pretnje bezbednosti.

### Rezultati angažovanja Vojske Srbije

Delovanje Zajedničkih snaga prema Republici Makedoniji i Bugarskoj imalo je izuzetne efekte. Otkriveno je oko 20 hiljada ilegalnih migranata, od toga je oko 19 hiljada odvraceno od prelaska na teritoriju Republike Srbije. Pored navedenog, otkriveno je oko 1.250 krijumčarenih lica, koja su smeštana u prihvatne centre. Angažovanje zajedničkih snaga doprinelo je da nekoliko desetina hiljada migranata promeni svoju odluku da krene preko Republike Srbije, odnosno izabralo je druge pravce za prebacivanje ka zapadnoj Evropi, što je posebno značajno u procesu readmisije. Efikasnim angažovanjem Zajedničkih snaga prema Republici Bugarskoj i Makedoniji, znatno je smanjen broj ilegalnih prelaska granice. Ovo je dovelo do otvaranja nove alteranativne rute preko Crne Gore, pa je od decembra 2016. godine otpočelo angažovanje Zajedničkih snaga i na delu granice sa ovom susednom državom(27). Na osnovu dosadašnjih podataka, zaključak je da taj put bira mali broj migranata, međutim, nije isključena mogućnost da će se i na tom pravcu povećati broj, posebno ako se situacija u Turskoj iskomplikuje, a sukobi na prostoru Sirije intenziviraju. Kada se ima u vidu broj izazova sa kojima se pripadnici angažovanih snaga suočavaju na terenu, pored migranta najveći izazov je borba protiv krijumčara. Ova pojava je vrlo raspostranjena i donosi veliku materijalnu dobit. Prema saopštenju Komande Zajedničkih snaga vojske i policije u „više od 100 različitih akcija do sada je uhaćeno 114 krijumčara, dok se za 28 i dalje traga. Najveći broj krijumčara je iz Srbije, njih 96, dok su ostali iz Bugarske (12), Pakistana (5), Avganistana (5), Irak (5), Moldavija (1) i Holandije (1). Oni su pokušali ilegalno da se prevezu na sever Republike Srbije više od 1.800 migranata“.(28) Da je angažovanje Zajedničkih snaga, pozitivno, i da utiče na bezbednost Republike Srbije i njenih građana, pokazuje i podatak da je do sada više od 80 registrovanih ilegalnih prelazaka osujećeno, a da bi broj ljudi koji bi ušao u našu zemlju, da nije bilo Zajedničkih snaga, bio dramatično veći(29).

Pored navedenog, primeri uspešnog rada Komande Zajedničkih snaga vojske i policije govore o njihovom stručnom i profesionalnom radu između ostalog govori i uspešna akcija protiv krijumčarenja migranta, kada je uhapšeno pet osoba zbog sumnje da su pokušali da prokrijumčare 21 osobu poreklom iz Avganistana i Sri Lanke“. U najvećoj akciji novoformiranih timova za sprečavanje krijumčarenja ilegalnih migranata do sada, na deonicama Zaječar – Negotin i Zaječar - Paraćin uhaćena su P.M. (1967), A.R. (1987), V.J. (1978), Lj.S. (1984) i T.F. (1986) iz Beograda. Krijumčari su vozilima marke Golf 2 i Audi A3 beogradskih registarskih oznaka obezbeđivali rutu kretanja kombi vozilu marke Iveko, koje je prevozilo migrante“. Takođe, jedna od uspešnih akcija je da su „Uhaćena četvorica krijumčara ilegalnih migranata, 26.12.2016. godine. U dve koordinirane akcije Zajedničkih snaga Vojske Srbije i Ministarstva unutrašnjih poslova, u saradnji sa policijskim upravama iz Zaječara i Požarevca, uhapšene su četiri osobe zbog postojanja osnova sumnje da su izvršile krivično delo neovlašćeni prelaz

državne granice i krijumčarenje ljudi. Na putu Zaječar – Paraćin uhvaćeni su J.V. (1989) i M.M. (1990) iz Beograda i M.M. (1996) iz Avganistana koji su zatečeni dok su u kombiju prevozili 36 migranta, državljana Avganistana i Malija. U okolini Požarevca, zaustavljen je kamion nemačkih registarskih oznaka kojim je upravljao srpski državljanin Z.A. (1958) iz Negotina, koji je prevezio u zadnjem tovarnom delu 41 lice, državljane Avganistana i Pakistana(30).

Ukupno je sprečeno 104 pokušaja krijumčarenja ljudi, odnosno pronađeno je 1.643 krijumčarena lica. Od 119 krijumčara, 86 su državljani Srbije, a 33 strani državljani. (Bugarska 15, Pakistan 5, Irak 5, Avganistan 5, Moldavija 1, Holandija 1 i Austrija 1). U pokušajima krijumčarenja migranata korišćeno je 76 putničkih vozila i 42 kombi vozila. Krijumčarenje migranata je postao unosan posao, koji krijumčarima donosi veliku zaradu, tako da je preuzelo primat od preprodaje narkotika i drugih kriminalnih radnji. U prethodnom periodu od strane Osnovnih javnih tužilaštava, mera Pritvor do 30 dana određena je za 88 krijumčara ili 74% od ukupno uhvaćenih krijumčara. Protiv 31 lica ili 27% ukupno uhvaćenih krijumčara podneta je krivična prijava u redovnom postupku, isti su pušteni da se brane sa slobode. Protiv 2 lica ili 2% ukupno uhvaćenih krijumčara podnete su prekršajne prijave u redovnom postupku od strane stanice granične policije Rujan. Radi se o maloletnim licima, državljanima Republike Srbije. Za 8 lica ili 7%, nadležni javni tužioci utvrdili su da u njihovim radnjama nema elemenata krivičnih dela za koje se goni po službenoj dužnosti i da se lica puste bez preduzimanja mera(31).

### **Zaključak**

Region jugoistočne Evrope se nalazi na jednoj od najfrakventnijih migracionih ruta u Evropi. Pored problema loše ekonomske situacije u većini država i negativnog nasleđa iz bliže istorije, migracioni talas je pokazao krhkost političke stabilnosti, ali i nekonzistentno ponašanje pojedinih država članica Evropske unije prema migrantima i zajedničkoj migracionoj politici. Evropska unija je svoje delovanje u migracionoj krizi zadržala na nivou kriznog menadžmenta i još uvek nije postigla konsenzus oko osnovnih pitanja čak ni na tom nivou, a da ne govorimo o njenim aspiracijama na spoljnopolitičkom planu za delovanje na međunarodnoj sceni kao globalni akter. Evropska unija je pokazala da nije u prilici da postigne konsenzus o značajnim pitanjima kao što je zajednička i sveobuhvatna migraciona politika, koja bi pored kriznog menadžmenta obuhvatala i zajednički spoljnopolitički nastup usmeren ka stabilizaciji političko-bezbednosnih prilika u kriznim regionima i njihov održiv ekonomski razvoj.

Zbog toga treba očekivati nastavak migracionih pritisaka na region jugoistočne Evrope izvestan i u godinama koje dolaze, s obzirom da je stabilnost regiona Bliskog i srednjeg istoka i severa Afrike teško dostižan barem sa današnje tačke gledišta. Relativno male i ekonomski nerazvijene države regiona, izuzev Turske, nisu u poziciji da bitno utiču na tokove migracione krize, već su u poziciji da stvore uslove za bezbedan i dostojanstven boravak migrantima na njihovom putu ka državama u kojima će tražiti azil u skladu sa odredbama međunarodnog i nacionalnog prava.

S obzirom na bezbednosne rizike koje su deo migracije, reakcija svake država su različite. Države u okruženju a posebno Mađarska među prvim zemljama je uvela vanredno stanje i postavila bodljikavu žicu na južnim granicama sa Srbijom i Hrvatskom čime je glavnu migrantsku rutu skrenula ka Hrvatskoj i Austriji. Hrvatska je jednostranom odlukom zatvorila granice prema Srbiji, usled čega je došlo do „carinskog rata” i zaustavljanja robne razmene i slobodan prolaz između dve države. Austrija je uvela restrikcije u prijemu migranata iz Slovenije, čime je izazvala domino efekat na „Balkanskoj ruti“. Za razliku od mnogih zemalja, Republika Srbija je najhumanije postupala sa migrantima, ocena je mnogih zvaničnika država i UNHCR-a. Državni organi Republike Srbije pokazali visok nivo organizovanosti, profesionalizma i humanosti u isto vreme, tokom rešavanja problema prilivom migranata sa područja Makedonije i Bugarske i njihovim daljim kretanjem ka Šengenskom prostoru.



S obzirom da je Republika Srbija kandidat za članstvo u Evropsku uniju i da je proces pregovora o pristupanju otpočeo otvaranjem i usklađivanjem potrebnih poglavlja, efikasno upravljanje migracijama jedan od uslova od čijeg ispunjenja zavisi pridruživanje Srbije Evropskoj uniji. Oblast migracije je pravno i institucionalno uređena u skladu sa potrebnim standardima Evropske unije. Vlada Republike Srbije je najpre uredila zakonodavni okvir za razvijanje sistema upravljanja migracijama. Zakonodavni okvir je razvijen na platformi međunarodnog prava, a svi ratifikovani-potvrđeni međunarodni ugovori, kao i svi zakoni i drugi opšti akti su u saglasnosti sa Ustavom Republike Srbije.

Formiranjem i angažovanjem Zajedničkih snaga za obezbeđenje državne granice sa Bugarskom i Makedonijom, Srbija je iskazala nameru da se ozbiljno i odlučno suprotstavi nekontrolisanom prilivu migranata na svoju teritoriju i teritorije ostalih evropskih država. Govoreći o direktnim efektima delovanja Zajedničkih snaga, otkriveno je oko 20 hiljada ilegalnih migranata na prostoru koji je pod njihovom kontrolom, od toga oko 19.000 je odvraceno od prelaska na teritoriju Republike Srbije. Takođe, otkriveno je oko 1.250 uglavnom krijumčarenih lica, koja su smeštana u prihvatne centre. Indirektno, možemo proceniti da je samo angažovanje zajedničkih snaga doprinelo tome da nekoliko desetina hiljada migranata promeni svoju odluku da krene preko Republike Srbije, odnosno izabralo je neke druge pravce za prebacivanje ka zapadnoj Evropi a proces readmisije funkcioniše samo sa Republikom Bugarskom, pa bi, da nema Zajedničkih snaga, grupisanje migranata dovelo do njihovog značajnog povećanja na teritoriji naše zemlje.

S obzirom da će se u novim Strategijsko-Doktrinarnim dokumentima Republike Srbije, migracije identifikovati kao rizik i pretnja bezbedno Vojska Srbije će i u daljem, na osnovu dostignutih operativnih sposobnosti, korišćenjem postojećih kapaciteta i osloncem na kapacitete teritorije, pružati neophodnu podršku civilnim vlastima u suprotstavljanju identifikovanih pretnji bezbednosti, težišno ekstremizmu, terorizmu i organizovanom kriminalu, kao i pomoć u slučaju prirodnih nepogoda i tehničkih i drugih nesreća. Jedinice Vojne policije, kao i druge jedinice, angažovati na obezbeđenju državne granice i u primeni protivterorističkih mera, u skladu sa zahtevom ministarstva unutrašnjih poslova Republike Srbije i Nacionalnog tela za upravljanje migrantskom krizom.

Na kraju, ne treba zaboraviti i stečena iskustva kao i uočene nedostatke koji su se ispoljili tokom aktuelne migrantske krize. Sa aspekta angažovanja Vojske Srbije jedna od osnovnih problema ogleda se u nedostatku adekvatnih tehničkih sredstava za obezbeđenje državne granice. U prvom redu ovaj nedostatak se odnosi na termovizijske uređaje, optoelektronska sredstva kao i kamera za dnevno i noćno osmatranje državne granice. To je ujedno i jedan od prioretnih zadataka jer upotrebom navedenih sredstava unapređuje se sistem obezbeđenja državne granice u sprečavanju ilegalnih prelazaka. Uvođenjem tehničkih sredstava ima za cilj i racionalnije angažovanje pripadnika vojske. U cilju unapređenja efikasnosti obezbeđenja državne granice sigurno da postoji i potreba povećanja stepena koordinacije i saradnje svih subjekata uključenih u sistem obezbeđenja državne granice. Na taj način se uspostavlja efikasan sistem koji može da odgovori na eventualno usložavanje migrantske krize.

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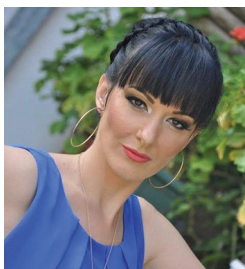
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## MIGRACIONI VALOVI I NJIHOV UTICAJ PO BEZBEDNOST ZEMLJE

### Rezime

*Fenomen migracijske krize u Srbiji svakako spada među najvažnije društveno-političke događaje 2015. godine. Preusmeravanjem migracijskog pravca zapadnobalkanske rute Srbija se našla pred velikim izazovom.*

*Često je postojeća kriza (među konzervativcima) percipirana kao opasan događaj koji može narušiti postojeće vrednosti i stabilnost nacionalnog identiteta našeg društva. Međutim, za sada, nema bojaznosti od novih talasa migracione krize, s obzirom da su migranti, ne samo po pitanju Srbije već i zemlje regiona, redom zaobilaze društva sa ekonomskom nestabilnošću i jedini cilj su im razvijene zemlje Severne i Zapadne Evrope (i Austrija), u prvom redu Nemačka. S obzirom da je Srbija država koja ima ograničene kapacitete za legalan smeštaj ilegalnih migranata koji najčešće zahtevaju azil kako bi izbegli krivičnu odgovornost, ipak se ovim problemom mora dodatno pozabaviti narednih godina, pre svega iz razloga ekonomske i političke nestabilnosti zemalja Bliskog istoka i težnje njihovih državljana da se domognu boljeg života u nekoj od zemalja EU.*

*Otuda se i nameće predmet rada autora, da pored teorijske konceptualizacije pojma migracije i imigracije, važnost da povezanosti našeg geografskog područja i migranskim valovima s jedne strane, i posledicama migracionih tokova i bezbedonosne agende po naše društvo, i društvo u celini sa druge strane.*

*Ključne reči: Migracija, migranška kriza, imigranti, Balkan, Srbija, bezbednost.*

## MIGRATION WAVES AND THEIR IMPACT FOR SAFETY

### Abstract

*The phenomenon of the migration crisis in Serbia is certainly one of the most important social and political events in 2015. Redirecting the migration route of the west-Balkan route Serbia faced a major challenge.*

*Often the existing crisis (among conservatives) is perceived as a dangerous event that can undermine the existing values and stability of the national identity of our society. However, for now, there is no fear of the new wave of the migration crisis, given that migrants, not only in terms of Serbia, but also in the countries of the region, are constantly circumventing societies with economic instability and their only goal is the developed countries of North and West Europe (and Austria), primarily Germany. Given that Serbia is a state with limited capacities for the legal accommodation of illegal migrants who most often require asylum in order to avoid criminal responsibility, this problem must be dealt with in the coming years, primarily due to the economic*

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*and political instability of the countries of the Middle East and the aspirations of their citizens to get a better life in one of the EU countries.*

*Hence, the subject of the author's work is placed, in addition to the theoretical conceptualization of the concept of migration and immigration, the importance of linking our geographical area and migration waves on the one hand, and the consequences of migration flows and the security agenda for our society, and the society as a whole on the other.*

*Key words: Migration, migrant crisis, immigrants, Balkans, Serbia, security.*

### **Terminološka konceptualizacija pojma migracija i imigracija**

Migracije nisu savremena pojava, s obzirom da vekovima ljudi napuštaju svoje domove, a motivi njihovog trajnog ili privremenog preseljenja su veoma različiti.

Pojmom migracija ili seoba obuhvata se fenomen kojim se opisuje fizičko kretanje ljudi iz jednog područja u drugo, iz jednog socijalno-kulturnog okruženja sa moralnim i običajnim normama u novo okruženje, najčešće preko velikih udaljenosti i/ li u velikim grupama, gde se susreće sa novim moralnim i kulturnim standardima. Kao osnovne osobine migracijskog kretanja mogu se izdvojiti sledeće: a) relativno stalna pokretanja individua ili grupa; b) iz jedne geografski određene lokacije prema drugoj; v) kojem prethodi proces odlučivanja na strani individue; g) zasnovane na hijerarhijski uređenim skupovima vrednosti i želja; d) koje rezultiraju promenom interakcijskog sistema individualnog migranta (Šabani, Kovačević, 2013: 56).

Pokretače migracija (legalnih i ilegalnih), oblikuju socio-ekonomski i politički faktori (međunarodni i građanski konflikti, ratovi, ekonomske krize, klimatske nepogode i slično). Iako postoji određeni stereotip i uopšteno shvatanje o konstantnom i rastućem prilivu imigranata iz siromašnih zemalja u razvijene zemlje, činjenica je da je takva vrsta pokretljivosti dostupna ograničenom broju ljudi, onima sa određenim socijalnim i finansijskim kapitalom (Castels, Miler, 2009)<sup>3</sup>.

Kroz istoriju su se migracije događale u obliku dobrovoljnih migracija unutar jedne oblasti ili između više njih, ili prisilnih migracija (koje uključuju fenomene kao trgovinu robljem i etničko čišćenje)<sup>4</sup>. Njihov značajni uticaj dobro poznat je kroz ljudsku istoriju, bilo u obliku brzog osvajanja nekog geografskog područja, bilo kroz postepenu kulturnu infiltraciju (kao što je to bio slučaj sa padom Zapadnog Rimskog Carstva); bilo u obliku kolonizacije koje su značajno izmenile svet (bilo da je reč o praistorijskim kolonizacijama, bilo kolonizacijama Amerike i Australije u novijem dobu). Naime, kretanje stanovništva iz jednog u drugo okruženje može da izazove pojavu kriminalnog ponašanja, izazvano kako kulturnim tako i običajnim normama i moralima. Drugim rečima pojedinac odlazi iz svog okruženja gde je moralne i kulturne standarde prihvatio, i dolazi u novu sredinu u kojoj se susreće sa novim načinom ponašanja. S obzirom da se njihov uticaj ogleda i u susretu i mešanju različitih kulturnih standarda, upravo iz tog razloga smatra se da migracija može dovesti do pojave krize ličnosti, jer dolazi do sukoba starog i novog sistema vrednosti (počev od problema sa adaptacijom, lošim stambenim uslovima, nezaposlenošću, što dovodi do kriminalnog ponašanja) o čemu će tek biti reči.

U današnjem svetu obično se razlikuju četiri glavna tipa migracije: a) sezonska ljudska migracija (obično vezana uz poljoprivredne delatnosti ili godišnje odmone); b) migracija od ruralnih prema urbanim područjima (obično vezana uz zemlje u razvoju koje prolaze kroz proces industrijalizacije i urbanizacije); c) migracija od urbanih prema suburbanim područjima (obično vezana uz razvijene zemlje i motivisana

<sup>3</sup> Mali broj migranata danas u svetu potiče iz ekonomski najsiromašnijih zemalja, dok su među najbrojnijima migranti iz zemalja koje su u intenzivnom procesu ekonomskog razvitka ili ekonomski relativno bogatih zemalja Azije i Latinske Amerike (Predojević-Despić, 2010: 41).

<sup>4</sup> Ljudu koji se nalaze u migraciji se nazivaju migranti, a zavisno o kontekstu emigranti (iseljenici), imigranti (useljenci) ili doseljenici.

visokim troškovima života i nižim kvalitetom života u gradskim centrima, poznata kao suburbanizacija), i d) međunarodna migracija (migracija iz siromašnih, manje razvijenih zemalja i nemirima pogođenih regija sveta u stabilnije i bogatije zemlje, kao globalni, vekovima star fenomen).

Dospevši u situaciju migriranja, individue i grupe, postaju nosioci struktura na taj način što, osim fizičkog pomaka, preduzimaju i nove interakcijske sisteme koji su joj ponuđeni preko simboličkih sistema migrantskog kolektiviteta ili imigrantskog društva (Šabani, Kovačević, 2013: 57). Na ovoj ravni moguće je razlikovati uspešnog i neuspešnog migranta, s obzirom da je on nužno u okruženju koje treba savladati<sup>5</sup>.

Neupuštajući se u opširnije i detaljnije opservacije pojma imigracija, u nastavku će biti date samo nekoliko teorijskih definicija ovog pojma. Naime, imigracija je proces doseljavanja stanovništva na neki prostor, uzrokovan njegovim određenim, za stanovništvo privlačnim faktorima, upravo suprotno značenju pojma emigracija (1).

Značajno je navesti da se kod imigracije razlikuje: a) legalna imigracija (koja podrazumeva doseljavanje stanovništva u skladu s pravnim propisima ili s pristankom države na čiju teritoriju imigranti dolaze), od ilegalne imigracije (kod koje se doseljavanje stanovništva smatra kršenjem pravnih propisa, odnosno protivno volji organa države na čiju se teritoriju dolazi)<sup>6</sup>. Razlika između ilegalnih i legalnih migracija skoro da i ne postoji, posebno u pogledu motiva, a temeljna i osnovna razlika je u tome što su legalne migracije dopuštene, a ilegalne ne. Pod ilegalnim ulaskom podrazumeva se prelazak državne granice bez pridržavanja i poštovanja neophodnih uslova za legalan ulaz u zemlju prijema. Ilegalne migracije se mogu definisati kao migracije ljudi preko državnih granica, kojima se krše migracioni zakoni. To su pre svega ekonomske migracije, koje nastaju u savremenom globalnom poretku, kao rezultat potražnje za jeftinom radnom snagom i restriktivnih (ili nepostojećih) imigracionih politika zemalja destinacije (Renovčević, 2013: 299). Međunarodna organizacija za migracije (IOM) definiše ilegalnog imigranta kao osobu koja zbog neovlašćenog ulaska, kršenja uslova ulaska ili zbog isteka vize, nema legalan status u zemlji tranzita ili destinacije. Ono o čemu je posebno pisala Anja Renovčević govori o tome da se ilegalne imigracije mogu odrediti i kao kretanje uzrokovana zahtevima (globalnog) tržišta rada i unutrašnjih karakteristika ekonomske strukture razvijenih zemalja – potražnje za jeftinom, lako eksploatisanom imigrantskom radnom snagom (opširnije videti u: Renovčević, 2013).

Neregularne, odnosno nezakonite migracije daleko je teže pratiti, pa se dostupni podaci smatraju više procenom nego pouzdanom slikom o obimu i karakteristikama ovih migracija. Prema kriterijumu značaja ilegalnih migracija izdvajaju se opredeljujući faktori koji determinišu njen nastanak i dalji razvoj (geografski faktori, ekonomski faktori, politički faktori i socijalni faktori), gde svaki pojedinačno neposredno utiče na fenomen ilegalnog krijumčarenja ljudi (opširnije u: Arabi, 2015).

U kontekstu navedenih teorijskih uopštavanja, na ovom mestu je važno ukazati na ono što obeležava ovu deceniju, a vezano je za najveću izbegličku migrantsku krizu još od Drugog svetskog rata<sup>7</sup>. Reč je naime o po/kretanju ojađenih kolona izbeglica sa Severa Afrike, Bliskog istoka i centralne Azije prema Evropskoj uniji u nadi da će tamo pronaći utočište i spasiti živu glavu, pa čak i po ceni gubitka svega što su godinama stvarali (gubitka ne samo u materijalnom i duhovnom životu svojih zavičajja, već i vlastitog kulturnog i verskog identiteta). Dakle, pored etničke i radne migracije, treba ukazati i na značaj migracija izbeglica i azilanata, koja snažno utiče na opseg i strukturu evropskih migracija, s obzirom da je reč o migracijskim strujanjima koja su povezana s 5 Proučavajući migracije Zapadne Bosne u odnosu prema Sloveniji Silva Mežnarić uočio je šest tipova transformacije grupa u društvu prijema (Slovenije). Opširnije o tome videti u: Šabani, Kovačević, 2013: 57).

6 Pod njom se podrazumeva kretanje koje se vrši van regulatornih slanja zemalja, tranzita i zemlje domaćina. Ilegalni migrant je lice koji zbog ilegalnog ulaska ili isteka vize, nema legalni status za neku zemlju tranzit, i drugačije se može nazvati migrant klandestin, ilegalan, bez dokumentacije ili emigrant u neispravnom stanju.

7 Prema Ministarstvu za rad, zapošljavanje, boračka i socijalna pitanja kroz Srbiju je prošlo 700. 000 izbeglica tokom prošle godine, što jasno upućuje na značaj ovog problema.



političkim krizama ili etničkim konfliktima u zemljama emigracije. Moderne migracije, o kojima se danas mnogo priča, između ostalog pokrenute su evropskom ekspanzijom na području Novog sveta, a potom i industrijalizacijom. Kolonizacija i industrijalizacija glavni su indikatori modernih migracija koje su zacrtale obrasce i današnjih savremenih migracija. Isto tako postoji povratni uticaj migracija na kolonijalne ekonomije i procese industrijalizacije, koje su predmet istraživanja nekih drugih radova.

### **Prometna povezanost i posebnost našeg geografskog područja sa migranskim valovima**

Ilegalne imigracije danas predstavljaju veliki politički, ekonomski, geopolitički, socijalni problem, iz koga se račva još niz istih. Sa ovim problemom suočene su mnoge zemlje Evrope, pa i Srbija kao kapija Istoka i Zapada, kroz koju tranzitira veliki broj migranata.

Naime, migracijski tokovi, a posebno izbeglički valovi od 1989. do 1995. godine postavili su migracije u središte javnih i političkih diskusija unutar EU. Pri tome su strahovi stanovnika EU uticali na reakcije političara i novinara što je mnoge autore navelo da Evropu opisuju kao «belu tvrđavu» (Chesnais, 1995, Ruffin, 1993). Imigracije u Evropi imaju dužu istoriju, još od početka industrijalizacije<sup>8</sup>. Glavne destinacije za imigrante uopšte, pa tako i ilegalne, su Sjedinjene Američke Države i zemlje Evropske unije<sup>9</sup>.

Zanimljivo pitanje koje zaokuplja pažnju mnogim istraživačima vezano je za to kako je Evropa odgovorila na jedan od najvećih izazova u svojoj istoriji. Naime, istorijski, SAD i EU su se na različite načine razvijale i nastale su u različitom kontekstu, te su i njihovi pristupi migracijama u određenoj meri različiti. U SAD je imigracija u najvećoj meri shvaćena kao pitanje nacionalnog interesa i kao takvoj joj se prilazi sa aspekta iskorišćavanja njenih potencijala, minimizacije negativnih efekata i maksimizacije benefita po državu. To je federacija nastala masovnom imigracijom, te je kao takva dug period imala otvorene granice, bez posebne državne intervencije. O migracionoj politici u ovoj zemlji se može govoriti tek od početka XX veka, dok je u zemljama Evrope ona oduvek postojala i bila veoma restriktivna. Suprotno SAD, stav prema migracijama i politika koja se posledično osmišljava u EU nalaže kontrolu, restrikcije i stavlja naglasak pre svega na sprečavanje prekomernih kretanja (Niessen, Schibel, 2003).

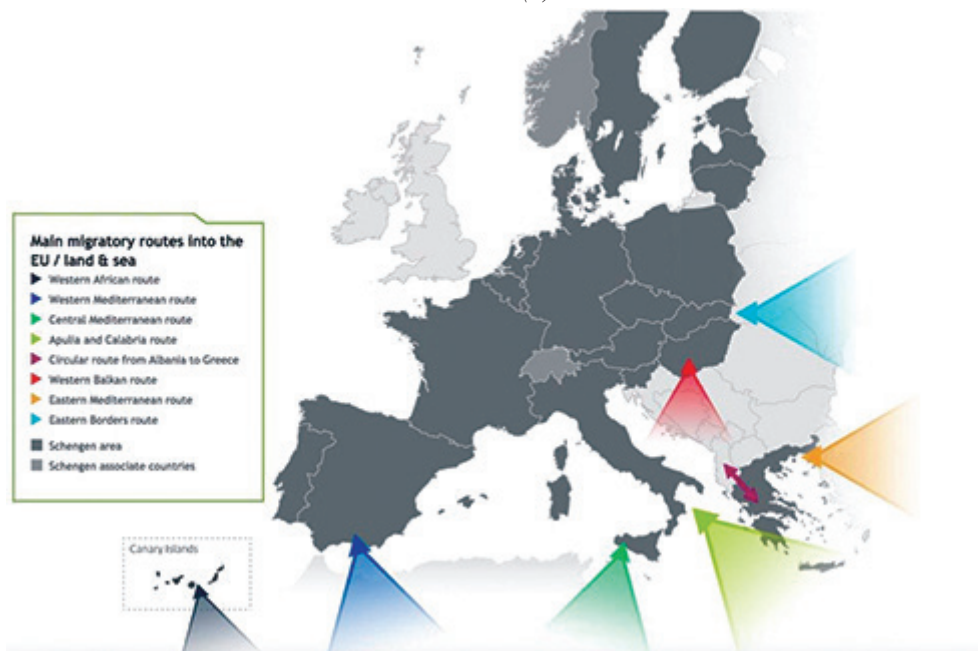
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8 Tridesetih godina 20. veka dominiralo je, pretežno preokeansko, iseljavanje iz Evrope. Između 1815. i 1939. iselilo se preko 50 miliona Evropljana u preokeanskim zemljama, među njima gotovo 30 miliona u SAD. U isto vreme migriralo je više stotina hiljada poljskih i ukrajinskih radnika prema Nemačkoj, Francuskoj i Velikoj Britaniji. Kvantitativno najznačajnije savremene migracije u Evropi prouzrokovane su ratovima, proterivanjima, etničkim čišćenjima i preseljenjima etničkih grupa nakon Prvog i Drugog svetskog rata. Od 1918. do 1950. godine ovaj oblik migracija u Evropi uključuje više od 20 miliona ljudi. Tek nakon 1950-ih radne migracije i spajanje porodica postaju dominantan oblik migracija u Evropi, sa naznakom da politički inducirane migracije, prisilne i prinudne migracije nisu izgubile na značajun(pogotovu u periodu između 1991-1995. godine).

9 Prema podacima koje nudi Pew Hispanic Center (navedeno prema: [www.pewhispanic.org](http://www.pewhispanic.org)), ilegalni imigranti u SAD čine 28% ukupnog stanovništva rođenog u inostranstvu, a 3,7% ukupne populacije. U SAD je 2011. godine živelo 11,2 miliona ilegalnih imigranata. Prema proceni za 2002. godinu u petnaest zemalja Evropske unije je živelo između 3,1 i 5,3 miliona ilegalnih imigranata, što je činilo između 0,8% i 1,4% ukupnog stanovništva. Procena za 2005. godinu, za dvadeset pet zemalja iznosila je između 2,4 i 5,4 miliona, a za 2008. godinu u dvadeset sedam zemalja Evropske unije je živelo između 1,9 i 3,8 miliona ilegalnih imigranata (između 0,39% i 0,77% ukupnog stanovništva), (Blomfield, Morehouse, 2011). Poredeći rezultate EU15, vidi se da se broj ilegalnih imigranata smanjivao, a ne rastao. Godine 2005. taj broj iznosi između 2,2 i 4,8 miliona (između 0,58% i 1,23% ukupnog stanovništva), a 2008. godine iznosi između 1,8 i 3,3 miliona (između 0,46% i 0,83% ukupnog stanovništva).

Slika 1. Glavni migracijski pravci prema Evropi

Izvor: (2)



Potrebno je ukazati na značaj posebnosti geografskog položaja i dobre prometne povezanosti s različitim delovima kontinenta i naše zemlje. Naime, Balkan po svom geopolitičkom položaju predstavlja čvor, krst, razmeđe i “verigu među svetovima”. Ili, kako je Sveti Sava definisao položaj Srbije, “Istok na Zapadu, Zapad na Istoku”. On predstavlja prostor “etničkog koktela”. Na njemu se ukrštaju putevi, ali i različite kulture i civilizacije. Zbog toga je ovde istorija veća od geografije (Mitrović). Na Balkanu kroz istoriju dolazilo je do susretanja, dijaloga i prožimanja različitih kultura i civilizacija. Ovde se seku civilizacijski lukovi pravoslavlja, katoličanstva i islama. Između ovih različitih kultura i civilizacija u prošlosti postojala je koegzistencija, ali i sukob. Često su se iz prožimanja ovih različitih kultura javljali novumi, tj. novi kulturni amalgmani, simbioze i sinteze, potsticajne za dalji razvoj čovečanstva (Mitrović, 2006: 125). Upravo se u tome i odgleda hendikep naše zemlje - da posedujemo/imamo „kuću na putu”. Mi smo tranzitna zemlja, a ne zemlja destinacija.

Republika Srbija se nalazi na jednom od glavnih smerova međunarodnih migracija u Evropi, na tzv. Balkanskoj ruti, te stoga naša zemlja ima ulogu važne tranzitne zemlje za nezakonite migracijske tokove iz Jugoistočne Evrope, Bliskog istoka, i Središnje Azije, sa sve većom sigurnošću da će se i u budućim razdobljima povećati broj nezakonitih migranata kojima će naša država biti tranzitna tačka na njihovom putu u sve bogatije i razvijenije zemlje Zapadne Evrope (poput Nemačke, Austrije i Italije).

Otud očekivanja mnogih teoretičara da će naša država sve češće biti zemlja odredišta kako zakonitih, tako i nezakonitih migranata. Najnoviji podaci MUP-a Srbije jasno pokazuju da se broj ilegalnih migranata zatečenih na teritoriji Srbije rapidno povećava. Policija je za prvih deset meseci ove godine registrovala 6.156 ilegalnih migranata, što je na mesečnom nivou oko 615 osoba. Poređenja radi, u celoj 2008. godini bila su registrovana 764 ilegalna migranta (Prodović, Milojković, Prodović, 2016: 304)<sup>10</sup>. Navedenu priču potvrđuje podatak da se u Srbiji (bez KiM) povećava

<sup>10</sup> Najveću glavobolju graničnoj policiji zadaju ilegalni migranti, budući da je od početka ove godine tri i po puta više osoba nego prošle, pokušalo da se ilegalno preko teritorije Srbije domogne

broj imigranata (kako povratnika - koji u sve masovnijem broju pristižu po osnovu Sporazuma o readmisiji ili tražilaca azila, koji su uglavnom u tranzitu ka zemljama EU odnosno Zapada), te je s toga, naša zemlja, na žalost, označena kao tzv. kritična tačka Evrope u pogledu iregularnih migranata, uključujući i žrtve krijumčarenja žena i dece (Bobić, 2013: 99)<sup>11</sup>. Granična policija je u prvih devet meseci ove godine podnela 105 krivičnih prijava za trgovinu ljudima, protiv 210 učinilaca od kojih su 204 muškarca i šest žena. Krijumčarena je 781 osoba, a najveći broj njih bio je iz Avganistana (222), Pakistana (156), Tunisa (78), sa KiM (100), iz Palestine (58) i Libije (28) (Prodović, Milojković, Prodović, 2016: 304).

Slika 2. – Glavne rute kretanja migranata/tražilaca azila do Srbije



Izvor: APC/CZA, 2013.

### Posledice migracionih tokova i bezbedonosna agenda

Pre terorističkih napada 11. 09. 2001. godine argumentacija o rizicima koji su

Evrope. Klasičnom rutom iz Grčke, preko Makedonije oni ulaze na teritoriju naše zemlje, odakle „koridorom 10” idu na sever ka granici sa Mađarskom ili „koridorom 7” ka Hrvatskoj. Krajnja destinacija i jednima i drugima jesu zemlje centralne Evrope. Da bi izbegli prekršajnu i krivičnu odgovornost, ilegalni migranti nakon presretanja policije, izražavaju nameru da traže azil i na taj način ulaze u proceduru na teritoriji Srbije, koja im onda služi kao prvo veliko odmorište ka njihovom krajnjem putu u zemlje EU.

<sup>11</sup> Broj izbeglica, tražitelja azila i interno raseljenih osoba širom sveta je, prvi puta nakon Drugog svetskog rata, premašio 50 miliona ljudi, prema UNHCR-ovom godišnjem Izveštaju o globalnim trendovima iz 2014. godine.

pratili migracije (pre svega ilegalne) uglavnom se svodila na ekonomske i društvene i na brigu zbog budžetskih izdvajanja. Međutim, od 2001. godine na ovamo, primarna postaje bezbednosna agenda i isticanje veze između terorizma, trgovine ljudima, šverca migrantima i drugih oblika transnacionalnog organizovanog kriminala.

Kriza koja potresa države Evrope i nemogućnost da donesu jedinstvenu strategiju u borbi sa talasom izbeglica sa Istoka, i ratom zahvaćenih područja Azije, Bliskog Istoka i Afrike same za sebe govore o ozbiljnosti ovog problema<sup>12</sup>. Upravo velik priliv nezakonitih migranata u bogatije zemlje, nezavisno od preduzetih mera i pravnih ograničenja, pridoneo je tome da to pitanje, kao i pitanje nadzora granice, dospe u žarište nacionalnih interesa pojedinih država, te se pitanje unutrašnje sigurnosti neke države često povezuje s nezakonitim migracijama, to jest, s prilivom nezakonitih imigranata u bogate zemlje (Gosh, 1998)<sup>13</sup>. Upravo poslednji događaji na tzv. balkanskoj ruti ukazuju na devijacije u smislu poštovanja međunarodnih standarda, kao i načela postupanja prema izbeglicama u različitim zemljama prijema ili prolaska kroz određenu zemlju do izabrane destinacije. Izbeglice se susreću sa različitim barijerama, počevši od njihovog tretmana i položaja, kao i situacija u kojima se ova populacija nalazi kao žrtava spleta okolnosti na svom putu. U datoj situaciji njihov položaj se zloupotrebljava od strane mnogih kriminalnih grupacija koje deluju u zemljama prolaska, pa se time poštovanje njihovih temeljnih prava (kao što su pravo na život, zaštita od torture, zabrana zloupotrebe i svrhu prisilnog rada i dovođenja u položaj sličan ropstvu, te čitav spektar drugih prava i sloboda), dovodi u pitanje.

Posebno se mora naglasiti kakvo je raspoloženje ostavilo njihovo prisustvo. Dakle, masovni priliv stranaca u našoj zemlji (pre svega kada je reč o prihvatnim centrima - Banji Koviljači, Bogovađi, Obrenovcu, Divljani) izazvao je masovno uznemirenje građana u ovim sredinama. U domaćim medijima se često prenose slike ovih „nepoželjnih stranaca“ (kako ugrožavanju imovine i bezbednost stanovništva; kako su meštani izloženi silovanju, pljački, napadima, upadima u posede, pranje novca, šverca droge, organizovanog kriminala, terorizma, prostitucije, ubistva; suočavanju sa čudnim (nekulturnim, necivilizovanim, pa i violentnim) ponašanjima ovih imigranata, među kojima je većina tamnoputa, govore nerazumljivim jezicima, drugačije je vere, navika, običaja; ali ipak sve to bez relevantnih dokaza, sem u pojedinačnim slučajevima (CZA/APC, 2013). S druge strane, često su, upravo, imigranti ti koji su opljačkani, prevareni, premoreni, iscrpljeni, gladni, bos, životno ugroženi.

Mnogi analitičari polaze od toga da je fenomen migracije povezan sa fenomenom kriminaliteta, koja se u poslednje vreme javlja u većoj i zabrinjavajućoj formi, i kao takva dovodi do povećanja stepena zabrinutosti kod građana (s obzirom da se povećava osećaj ugroženosti i straha, kako za sebe, tako i za svoju porodicu). Naime, kretanje stanovništva iz jednog u drugo okruženje može da izazove pojavu kriminalnog ponašanja, izazvano kako kulturnim tako i običajnim normama i moralima. Drugim rečima pojedinac odlazi iz svog okruženja gde je moralne i kulturne standarde prihvatio, i dolazi u novu sredinu

12 Tako se Srbija tokom 2013. ali i tokom poslednjih godina, suočava sa sve većom i permanentnom azilantskom krizom, jer se enormno povećava broj tražilaca zaštite među tranzitnim, interkontinentalnim imigrantima (pretežno iz Sirije, Eritreje, Somalije, Afganistana, Alžira, itd, od samo 77 lica u 2008. do čitavih 4.000 krajem 2013). Podatak preuzet iz Centra za zaštitu i pomoć tražiocima azila, na bazi dokumentacije MUP-a.

13 Bivši predsednik SAD-a Bil Klinton je niz slučajeva krijumčarenja kineskih migranata brodovima u SAD u leto 1993. godine povezo sa pretnjom nacionalne sigurnosti, a sledeće je godine masovni egzodus haičanskih izbeglica i njihovu stalnu pretnju stabilnosti regije i kontroli njihovih granica naveo kao primarni razlog za američku akciju. Poseban se problem pojavio kada se nezakonite migrante počelo povezivati sa kaznenim delima organizovanog kriminala i terorističkih akata u Nju Jorku, Madridu, Londonu itd (Dragović, 2012: 13). Izveštaj zastupnika Evropskog parlamenta Klaudia Fava pred Odborom za civilna prava, pravosuđe i unutrašnje poslove "Europe to penalise employers of illegal immigrants", usvojeno 21. januara 2009. godine. Sažetak na: <http://www.europarl.europa.eu/sides/get-Doc.do?language=en&type=IM-PRESS&reference=20090120IPR46696> (pristupljeno 9. januara 2011). V. i Europe's Borders, The Economist od 16. oktobra 1999: "Prema procenama direktora ICMPD-a (International Centre for Migration Policy Development in Vienna) računa se da se svake godine u Evropu krijumčari 400.000 ljudi" (Dragović, 2012: 14).



u kojoj se susreće sa novim načinom ponašanja. S obzirom da se njihov uticaj ogleda i u susretu i mešanju različitih kulturnih standarda, upravo iz tog razloga smatra se da migracija može dovesti do pojave krize ličnosti, jer dolazi do sukoba starog i novog sistema vrednosti (počev od problema sa adaptacijom, lošim stambenim uslovima, nezaposlenošću, što dovodi do kriminalnog ponašanja) (opširnije videti: Prođović, Milojković, Prođović, 2016).

Prema Nacionalnoj strategiji za borbu protiv organizovanog kriminala među brojnim faktorima koji pogoduju razvoju organizovanog kriminala u Republici Srbiji, kako po vrsti, tako i po intenzitetu posebno se ističe značaj i uticaj migracione krize (Nacionalna strategija za borbu protiv organizovanog kriminala, 2009). Migracija, kao jedan od socioloških faktora, koji utiče na kriminalitet, je problematika koja je zastupljena u više zemalja sveta. Kao dokaz toga navedena su brojna istraživanja, koja potvrđuju problematiku ove teme. To se odnosi na činjenicu da migranti dolaze iz raznih krajeva širom sveta, uglavnom sumnjivog porekla, izazivajući među domaćim stanovništvom veliku zabrinutost širom celog sveta (posebno među Amerikancima i Evropljanima), smatrajući ih odgovornim za brojne društvene nevolje (od sitnog kriminala do terorizma)<sup>14</sup>.

Prema izveštaju EUROPOL-a o organizovanom kriminalu, objavljenom u oktobru 2005. godine, ilegalne migracije se ne smanjuju. Naprotiv, prisutno je još veće konsolidovanje grupa koje se bave organizovanim kriminalom, a koje sada kontrolišu ceo proces - od zemlje porekla do zemlje destinacije. Sada kada se pojačavaju mere na sprečavanju ilegalnih migracija i pojačavaju granične kontrole, jedina mogućnost koja ostaje ilegalnim migrantima je da do željene destinacije dođu preko kanala organizovanog kriminala.



Slika 3. Evropski putevi krijumčarenja droge

Izvor: (3).

Nesporno je da je ogromna količina nasilja počinjena širom sveta, od sredine prošlog veka pa sve do danas, kako u ime „demokratije“, tako i u ime „ljudskih prava“. Međutim, postavlja se pitanje da li se i koliko nasilja i danas vrše u ime „ljudskih prava“? Istorija pokazuje da su vođeni tzv. „preventivni ratovi“ sa ciljem „širenja demokratije“. To nam je dobro poznato i dan danas, po valu izbeglica nad kojima je učinjeno nasilje u njihovoj zemlji, na putu do Zapada, pri čemu se ispoljavanje nasilja nad njima tu ne zaustavlja, već se nastavlja i na njihovom daljem putu. Kakvo je dejstvo nasilja - dobro ili loše (smatrajući ga neuspešnim modelom borbe), pesimisti polaze od toga da kažu da teoriju nenasilja nude belci – crncima (ili obratno); bogati – siromašnima (ili obratno); kapitalisti radnicima (ili obratno); moćni – slabijima (ili obratno); vladajuće elite – podčinjenima (ili obratno). Nasilje drugih ne bi trebalo biti izgovor za vlastito nasilje,

<sup>14</sup> U prilog navedenoj priči je zapažanje italijanskog socijalnog ekonomiste Loreta Napoleona koji ističe da se zapaženo povećanje stope kriminala u Italiji (na osnovu izveštaja iz prošle godine) povezuje sa velikim prilivom legalnih i ilegalnih migranata. Ovaj analitičar navodi da su neki pripadnici kineske, albanske i drugih dijaspora u Italiji umešane u veliki broj kriminalnih aktivnosti (uključujući trgovinu ljudima, krijumčarenje drogom i oružjem, prostituciju, pranje novca i izdavanje lažnih dokumenata).



pisao je Erazmo<sup>15</sup>.

Danas je bavljenje krijumčarenjem ljudi zakonom kažnjiv zločin. Ova vrsta krivičnog dela ostavlja ozbiljne i duboke posledice po jedno društvo. Kroz istraživanje društvene stvarnosti, posledice se mogu odrediti i prema pojedincu i prema društvu, počev od odsustva pozitivnog osećaja odgovornosti pojedinca prema samom sebi, prema svojoj porodici i prema društvu. Nepoštovanje zakona i sistema vrednosti od strane pripadnika mreže za krijumčarenje ljudi opterećuje društvo, utiče na njegov napredak, razvoj i ometa njegov tok. Posledice bavljenja krijumčarenjem, na nivou čitavog društva, postaju vidljive u svim segmentima (prvenstveno se odnosi na povećanje stope delinkvencije i kriminalnog ponašanja, terorizma, korišćenja narkotika, zločina, krađe, oružane pljačke, falsifikovanja i korupcije)<sup>16</sup>.

Pored krijumčarenja ljudi, prostitucija je bezbednosna pojava čije se značenje najčešće permutuje sa značenjem pojave trgovine ljudima tako što se između tih dveju pojava stavlja znak jednakosti, odnosno tako što se žrtve trgovine ljudima smatraju prostitutkama<sup>17</sup>. Značaj razlikovanja prostitucije od trgovine ljudima nije ni malo manji od značaja razlikovanja krijumčarenja ljudi od trgovine ljudima. Opravdanje je u činjenici da je u praksi prostitucija najzastupljeniji oblik seksualnog vida eksploatacije uopšte eksploatacije žrtava trgovine ljudima (Šabani, Kovačević, 2013: 61).

Potpuno je jasno da su nezakonite migracije i krijumčarenje osoba velika društvena opasnost koja ugrožava celi sistem sigurnosti, jer se uz njih vezuju razni oblici više ili manje društveno opasnih kažnjivih radnji – od manjih prekršaja, preko mogućih zaraza od raznih bolesti, do teških kaznenih dela koja čine sami imigranti, ali i moćne zločinačke organizacije.

Posledice suočavanja sa organizovanim kriminalom, i migrantima koji ga izazivaju, ne samo da ometaju demokratski razvoj jednog društva, već direktno destabilizuju privredu i usporavaju privredni, tehnološki i društveni razvoj jedne zemlje. U kontekstu razumevanja ilegalne imigracije u savremenom društvu, neophodno je govoriti o procesu ekonomske globalizacije i globalizacije uopšte, o novoj internacionalnoj podeli rada, slabljenju države blagostanja i stvaranju podvojenog tržišta rada<sup>18</sup>. Na svetskom planu dolazi do promena u sferi ekonomije, politike i kulture i do stvaranja novih veza i kanala, nezavisnih od prostornosti i nacionalnih država. Zemlje koje primaju migrante se suočavaju sa problemima koji se ogledaju u restrukturiranju privrede, što dovodi do porasta društvenih tenzija i zvaničnog zatvaranja granica te zemlje za migracije<sup>19</sup>.

15 Zaboravlja se da nasilje ne sme biti odgovor ni na šta. Niti na ružnu reč, niti pogrešno i nespretno interpretiran stav, a niti ni na neku nepromišljenu akciju pojedinca ili grupe. Razlog za nasilje ne postoji i ono nikada nije opravdano.

16 Prisustvo osećaja otuđenja i gubitka kulturnog identiteta, kao rezultata teškoće prilagodavanja novom društvu, pokazale su studije koje se bave ilegalnim migracijama i teškoćama integracije, a posebno studije Hamida Al-Hašimija (Al-Hašimi, 2006) i Muhameda Ramadana (Ramadan, 2009).

17 Ovde posebno treba spomenuti pojavu "Taharuša" (taharrush) □ brutalne arapske „igre“ koju igraju grupe mladih muškaraca oko jedne žene (vrsta grupnog silovanja, tj. vrsta ritualizovanog seksualnog nasilja), što predstavlja direktnu vezu između porasta silovanja u Švedskoj i imigracije (statistički podaci to i potvrđuju, s obzirom da je u Švedskoj policiji 1975. godine bilo prijavljeno 421 silovanje, a 2014. godine – 6620. Upravo su radio-stanica Granskning Sverige i list Aftonposten nagovestili da su silovatelji uglavnom sa Bliskog istoka i Afrike (prednjače oni poreklom iz Somalije). No, ovaj se problem do sada nije istraživao. Od 2000. godine ima samo jedno istraživanje na temu nasilja imigranata, koje je uradila Ana-Kristina Hdžel sa univerziteta Karlštada. Prema njenim podacima, 2002. godine 85 odst. osuđenih na dve godine zatvora za silovanje bili su imigranti ili deca imigranata poreklom iz muslimanskih država.

18 Useljenici bez obzira jesu li tražitelji azila, etnički useljenici ili pripadnici porodičnih migranata posmatraju se, pre svega, kao konkurenti na tržištu rada ili kao dodatno opterećenje za državu blagostanja.

19 Najave da bi se mogao zabraniti ulazak migranata, a deo čak i vrati nazad iz Nemačke, Austrije, Slovenije i Srbije suočava se sa ozbiljnim posledicama. Posebno je opasna mogućnost da bi za hiljade ljudi, koji se domognu evropskog tla, Srbija mogla da bude poslednja destinacija. U tom kontekstu je neophodno sačiniti sveobuhvatan plan mera koje bi se primenjivale u slučaju odluke naših suseda da zatvore granice „hiljadu kilometara dugoj izbegličkoj ruti“. U tom slučaju bi se i naša zemlja, u očuvanju svojih državnih interesa, morala ponašati kao susedne zemlje, uprkos činjenici da su u prvom naletu izbeglica Srbi pokazali izuzetno solidaran stav i želju da se nesrećnim ljudima pomogne.

Nema sumnje da organizovani međugranični kriminal, nezakonite migracije<sup>20</sup> i učešće na stranim ratištima (uznemiravajuće tendencije povratka na zapadni Balkan onih koji su ratovali na stranim ratištima u Siriji i Iraku), kao i pokušaji vrbovanja mladih za ekstremne ideologije - kao posebno zanimljiva problematika, ostaju izazovi za sigurnost na Balkanu. Koliko je aktuelna i značajna ova tema govori i izjava šefice diplomatije koja je izrazila ličnu zebnju da ukoliko se ne razreši na odgovarajući način ova kriza izazvana velikim migracionim tokovima mogla predstavljati i opasan izazov za unutrašnjost EU. Ukoliko se upliv ilegalnih imigranata u Srbiju nastavi istom merom, to će kasnije dovesti do narušavanja stabilnosti i bezbednosti. Zbog toga mnogi smatraju da prisutnost ilegalne imigracije u našoj zemlji ozbiljno može da naruši bezbednost i stabilnost društva.

O načinu reagovanja na ove i mnoge druge izazove vezane za ovu temu, te načinu kako je naša zemlja i okruženje reagovalo na jedan od najvećih izazova u svojoj istoriji, opširnije videti u: Prodović, Milojković, Prodović, 2016: 309-312).

### Zaključna razmatranja

Navedena polemisanja upućuju na vrlo kompleksno pitanje: koliko nam uzajamna povezanost bezbednosti zemlje i migracionih tokova govori o izgradnji države, njene ekonomske stabilnosti, društvene kontrole i same izgradnje socijalnih identiteta?! Da li se slika o postojećem stanju može sagraditi na osnovu objavljenih činjeničnih informacija o aktuelnim kriminalnim dešavanjima u Evropi tokom seoba sa Istoka, i da li se na osnovu toga mogu sagledati pravi postojeći i potencijalni geopolitički, ekonomski, socijalni i mnogi drugi problemi?! Odgovore na ovakva kompleksna pitanja potrebno je tražiti i pronaći, kako među zemljama koje su se sa time već suočile tako i među zemljama koje se bore da se sa navedenim problemom izbore.

Posebnu pažnju valja posvetiti tome kako regulisati i kontrolisati migracijske pritiske na EU, pogotovo nezakonite migracije, a uz to i zaštitu ljudskih prava ugroženih migranata, a da se pritom ne narušavaju unutrašnja sigurnost i instituti koje su izgradile članice EU-a. Upravo je prisutnost velikog broja imigranata<sup>21</sup> nametnuo potrebu za ponovnim promišljanjem načina na koji se spoljne granice zajednice mogu najbolje štititi od transnacionalnog kriminala, nezakonitih migracija, krijumčarenja ljudi i robe, zloupotrebe sastava azila, ali i pretnji povezanih s terorizmom (Marenin, 2010), što je sve navelo zemlje EU da aktivnije nadziru svoje granice, kako bi se time obezbedila veća sigurnost<sup>22</sup>.

Svoje izlaganje završavamo Pjer Burdijeovom konstatacijom da svi oni koji imaju priliku da posvete svoj život proučavanju društva, ne mogu (dodajemo: i ne smeju) ostati mirni, neutralni i indiferentni prema naporima od kojih zavisi budućnost sveta.

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<sup>20</sup> Ilegalna imigracija ostavlja negativne posledice po sve zemlje koje su joj cilj, s obzirom da su one danas povezane sa značajnim porastom stope zločina, terorizma, a u krajnjem i širenja zaraznih bolesti.

<sup>21</sup> Iako nema tačnih podataka, prema procenama Europolu u EU godišnje uspe ući od 400.000 do 500.000 nezakonitih migranata, a pretpostavlja se da od 4,5 do 8 miliona nezakonitih migranata radi u građevinarstvu, poljoprivredi, hotelima i drugim sektorima u EU.

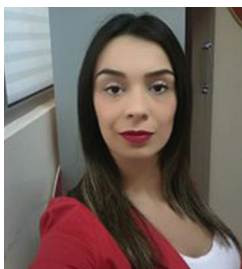
<sup>22</sup> Svrha šengenskih sporazuma (uvedenih 1995. godine), kao osnove svih kasnijih dokumenata na evropskom nivou nije bila samo ukidanje unutrašnje granične kontrole, nego i stvaranje boljih uslova za kontrolu spoljašnjih granica, sve jaču i odlučniju borbu protiv prekograničnog kriminala i suzbijanje nezakonitih migracija (Occhipinti, 2004).

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## **ODNOS DRŽAVNIH ORGANA PREMA MIGRACIONIM KRETANJIMA SA POSEBNIM OSVRTOM NA REPUBLIKU SRBIJU, KRALJEVINU DANSKU I ZEMLJE SEVERNE EVROPE**

### **Rezime**

*U ovom radu bavićemo se funkcionisanjem državnih organa u Republici Srbiji, Danskoj i zemljama severne Evrope gde će akcenat biti stavljen na migraciona kretanja i na sami odnos državnih organa prema migrantima. Razlika između Republike Srbije i Kraljevine Danske i ostalih nordijskih zemalja sa stanovišta migranata je u tome da Republika Srbija predstavlja tranzitnu, odnosno usputnu zemlju, dok Danska Kraljevina predstavlja krajnji cilj za migrante. Kako god, za ove zemlje i za čitavu Evropu migrantska kriza predstavlja ogroman izazov, gde je nužno zajedničko delovanje državnih organa kako u unutrašnjosti zemlje, tako i između samih država.*

*Ključne reči: državni organi, migrantska kriza, Republika Srbija, Kraljevina Danska, severna Evropa.*

## **RELATIONSHIP OF STATE AUTHORITIES ACCORDING TO MIGRATION DEVELOPMENTS WITH A SPECIAL FRAMEWORK IN THE REPUBLIC OF SERBIA, THE KINGDOM OF DENMARK AND COUNTRIES OF NORTHERN EUROPE**

### **Abstract**

*In this paper we will deal with the functioning of state authorities in the Republic of Serbia, Denmark and the countries of Northern Europe where the emphasis will be placed on migration movements and on the attitude of state authorities towards migrants. The difference between the Republic of Serbia and the Kingdom of Denmark and other Nordic countries from the point of view of migrants is that the Republic of Serbia represents a transit or a landing country, while the Danish Kingdom represents the ultimate goal for migrants. Whatever the case, for these countries and for the whole of Europe, the migrant crisis is a huge challenge, where it is necessary for the joint action of state authorities both within the country and between the countries themselves.*

*Key words: state authorities, migrant crisis, Republic of Serbia, Kingdom of Denmark, Northern Europe.*

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## Uvod

Organizacioni sistem uprave u jednoj zemlji najkraće se definiše pojmom javna uprava. Nju sa jedne strane čini državna uprava i upravne organizacije, a sa druge strani nedržavni subjekti. U tom smislu, državna uprava, kojoj je zadatak obavljanje stručnih i sa njima povezanih upravnih poslova obuhvata organe uprave i upravne organizacije. Što se tiče Republike Srbije, prema Zakonu o državnoj upravi iz 2005. godine i Zakonu o ministarstvima iz 2008. godine organi državne uprave organizovani su kao:

1. ministarstva,
2. organi uprave u sastavu ministarstava i
3. posebne organizacije.

Ovi organi zaduženi su za obavljanje širokog delokruga poslova u koje spadaju: učestvovanje u oblikovanju politike Vlade, praćenje stanja, izvršavanje zakona i drugih poslova, inspekcijski nadzor, staranje o javnim službama, učestvovanje u razvojnim poslovima itd. Što se tiče nedržavne uprave, napomenućemo samo da su nedržavni subjekti ovlašćeni za obavljanje upravne delatnosti, a prema Zakonu o državnoj upravi Republike Srbije dele se na:

1. javne ustanove i
2. javne agencije.

U mnogim zemljama sveta vodi se stalna rasprava o značaju javne, odnosno državne uprave gde postoji sve veća tendencija napuštanja starog, apstraktnog shvatanja javne uprave kao skupa normi kojim se reguliše vršenje upravne vlasti i okretanje ka pragmatičnom proverljivom pristupu da je dobra samo ona uprava koja se pokaže kao uspešna.<sup>3</sup>

Značaj državne uprave i njenih organa osim u unutrašnjem funkcionisanju države („fair“ odnosa između uprave i građana, uvođenje transparentnosti, efikasno upravno delovanje) koji doprinosi razvoju i društvenoj stabilnosti zemlje, ogleda se i u radu i odnosu organa državne uprave prema spoljašnjim činionicima koji deluju na celokupan politički sistem.

Jedan od takvih događaja koji pogađa zemlje Evropske unije i Evrope u celini poslednjih nekoliko godina su masovna kretanja ljudi. U zemlje Evropske unije u proteklom periodu ušlo je više od milion i po izbeglica, koje su pobile od rata i nasilja u Siriji i drugim problematičnim zemljama. Razlozi zbog kojih se ljudi odlučuju na promenu mesta boravka su kompleksni, pa je s toga jako teško napraviti konkretnu klasifikaciju migracija. Bez obzira na poteškoće u klasifikaciji, usvojena je međunarodnopravna regulativa koja pruža prava migrantima. Ipak, prava na slobodu kretanja i zaštitu od progona ograničene su državnim suverenitetom. Srbija i države regiona, nastoje da se prilagode savremenim migracionim kretanjima preko svojih teritorija, nastojeći da se pre svega pridržavaju svojih političkih odluka zasnovanih na očuvanju nacionalnog interesa, u nedostatku evropske migracione politike koja bi uspela da reši ovaj problem. Region Jugoistočne Evrope predstavlja tranzitno čvorište za krijumčarenje, trgovinu drogom i ljudima, kao i ilegalnim migracijama, pa nadležni organi moraju da budu oprezni prilikom klasifikacije pojedinih migranata, poštujući kako unutrašnje, tako i međunarodne standarde koji garantuju određena prava i obaveze.<sup>4</sup>

Problem migracija u savremenom svetu ogleda se u tome da one nisu više prosto unutrašnje ili međunarodno kretanje stanovništva iz egzistencijalnih razloga, već to postaje globalni problem koji je povezan sa organizovanim kriminalom i terorizmom što ima brojne implikacije po savremeno društvo, međunarodnu zajednicu i države. Poslednje migracije koje su uzdrmale tlo Evrope su jasno pokazatelj prethodno navedenog. Brojni teroristički napadi u Nemačkoj, Francuskoj, Španiji itd. upravo se povezuju sa ilegalnim migrantima koji od početka 2011. godine naseljavaju u enormnim razmerama evropske

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3 Nešković, S., Bezbednost i reforme u Srbiji, Institut za političke studije, Beograd: 2006., str.53.

4 Blagojević, V., Milosavljević, B., Političko-pravni okvir savremenih migracija u Jugoistočnoj Evropi, Vojno delo, Beograd: 2016., str. 75-93.

zemlje. U tom smislu, migracije će predstavljati bezbednosni izazov za zemlje Evrope, pa tako i za Srbiju, ne samo u smislu povećanja opasnosti od terorizma, već i zbog mogućnosti izbijanja regionalnih konflikata, što bi predstavljalo i najveću anomaliju, budući da bi najsiromašnije zemlje, u koje spada i Srbija, snosile najveće posledice migracija.<sup>5</sup> Delovanje i odnos državnih organa prema migrantima i procesima koje nose sa sobom imaju odlučujuću i ključnu ulogu u rešavanju ovih problema.

### Odnos državnih organa prema migrantskoj krizi

Talas izbeglica iz Azije i Afrike koji je zapljusnuo Evropu od Grčke pa do Norveške, stavio je mnoge zemlje pred organizacione, humanitarne i bezbednosne izazove, sa kakvim decenijama unazad nisu bile suočene. Procenjuje se da je preko srpske granice u Evropu ušlo nekoliko stotina hiljada migranata iz Sirije, Iraka, Avganistana, Pakistana. Jugoistočna Evropa predstavlja tranzitni koridor iz regiona sa visokom nezaposlenošću i niskim životnim standardom u regione sa starom populacijom, izrazito manjom stopom nezaposlenosti i višim životnim standardom na zapadu i severu. Ozbiljan problem savremenih migracija prave mreže organizatora neregularne migracije koje koriste napredne tehnologije da omoguće ilegalne prelaskе migranata u zemlje Zapadne Evrope, posebno u vezi sa izradom krivotvorenih pasoša, viza i drugih dokumenata koje koriste prilikom prelaska granica.

Izbeglička kriza se širila rapidnom brzinom i za kratko vreme postala sfera interesovanja bezbednosnih službi koji pomno prate kretanja migranata preko „Balkanske rute“. Državni organi Srbije smatraju da stanovništvo nema razloga za brigu i da drže situaciju pod kontrolom. Međutim, ni ta sigurnost koju nam upućuje državni vrh ne umanjuje strepnju koja se vije nad Srbijom i Starim kontinentom u obliku pitanja pretili opasnost da sa izbeglicama stigne i rizik od širenja terorizma i islamskog ekstremizma?<sup>6</sup>

U zemljama Srednje Evrope vlada strepnja od uvoza nasilja, pa zemlje ovog dela Evrope grčevito odbijaju da prime veći broj migranata. U javnom mnjenju Poljske, Češke, Slovačke, Mađarske vlada mišljenje da se u kolonama iz Male Azije sliva manji broj pravih izbeglica, dok su ostali ekonomski migranti.

Globalna izbeglička kriza se odrazila i na lokalni nivo balkanskih zemalja, gde nije imala ništa manje katastrofalne dimenzije. Žarište za potencijalne regionalne sukobe uhvatilo je veće razmere sa zatvaranjem mađarske granice i preusmeravanjem migranata ka Zapadu, pri čemu su se zategli odnosi Srbije sa susedima. S druge strane, blokada graničnih prelaza od strane Hrvatske, zaustavljanje protoka robe i kontramere Srbije, zbog kretanja migranata, nanele su višemilionsku štetu obema državama i dovele u pitanje saradnju ove dve države.

Početak septembra 2015. godine, Vlada Srbije usvojila je Akcioni plan za migrante, koji zapravo predstavlja strategiju rešenja problema izbeglica iz Azije i Afrike. Saradnja između država po pitanju rešavanja izbegličke krize mora da bude na izuzetno visokom nivou. Bez obzira što severni susedi Srbije imaju krut stav prema migrantima, korak u dobrom pravcu, posebno na terenu javne bezbednosti postignut je potpisivanjem memoranduma ministara policije Srbije, Austrije, Mađarske i Makedonije. Ovaj memorandum podrazumeva zajedničke patrole na međusobnim granicama između ovih država, kako bi se suzbilo krijumčarenje ljudi i nelegalni prelazak granica. Zvanična državna politika Srbije povodom izbegličke krize je vrlo jednostavna, ona iako van EU spremna je da prihvati deo migranata, dok se situacija u ratnim područjima ne smiri, ukoliko EU odredi kvote za svaku od zemalja članica.<sup>7</sup>

Budući da je političko-bezbednosna situacija u regionu Jugoistočne Evrope još uvek opterećena verskim i nacionalnim antagonizmima, slabim ekonomskim razvojem i posledicama nasilnog raspada bivše SFRJ, migracioni talas svakako ne doprinosi

<sup>5</sup> Simeunović, D., Migracije kao uzrok političkih anomalija u Evropi, Žurnal za kriminalistiku i pravo, Vršac: 2015., str.1-17.

<sup>6</sup> Radović, D., Ima li „spavača“ među migrantima“, Svet bezbednosti, broj 3, 2015. godine.

<sup>7</sup> Isto, str.3.

stabilizaciji prilika u ovom delu Evrope. U savremenim migracijama uočavaju se brojna obeležja koja pokazuju tendenciju za ugrožavanje bezbednosti ljudi, država i međunarodne zajednice. Problem poslednjeg migracionog talasa ogleda se u njegovoj povezanosti sa organizovanim kriminalom. U susretanju težnji velikog dela svetskog stanovništva i restriktivnih migracionih politika razvijenih zemalja, podstaknuta je ideja o krijumčarenju migranata. Istovremeno sa ovim problemom, deo migranata biva uvučen u transnacionalne mreže trgovine ljudima. Preprodaja ljudi, posredovanje u ilegalnom usvajanju dece, trgovina ljudskim organima, seksualno i radno eksploatisanje smatraju se jednim od najisplativijih krimi – biznisa, a mogućnost za otkrivanje trgovaca je svedena na minimum. Povezanost sa terorizmom predstavlja jedan od narastajućih problema migracija koje su uhvatile globalne razmere. Masovni terorizam i stvaranje samoproklamovanih država, doprinosi omasovljavanju migracija, naročito izbeglištva. Narastajući problem masovnih migracija pokrenut je tokom 2015. godine kao posledica samoproklamovane „Islamske države“.

U vezi sa tim, Republika Srbija opterećena je masovnim migracijama izbeglica iz Sirije, Avganistana, Pakistana, Iraka. Bez obzira što Srbija predstavlja samo tranzitnu zemlju gde se migranti ne zadržavaju, to nosi sa sobom brojne rizike po njihovu bezbednost, ali isto tako i po bezbednost građana i države. U čitavom regionu, na Kosovu i Metohiji, Republici Srpskoj, Federaciji Bosne i Hercegovine, Hrvatskoj, Makedoniji i Crnoj Gori prisutni su Al-Kaida, mudžahedini, teroristi Islamske države i masovno se zloupotrebljava islam u sukobima protiv hrišćana. Bez obzira što nema jasnih pokazatelja za eskaliranje terorizma, svako masovno terorističko delovanje korišćenjem taktika prethodno navedenih grupacija, dovelo bi do ozbiljnijih migracija.<sup>8</sup> Prateći trend u poslednjih desetak godina, istraživanja pokazuju da je broj migranata u konstantnom porastu sa tendencijom rasta, što navodi na zaključak da sa brojem migranata rastu i opasnosti i rizici po bezbednost ljudi, država i međunarodne zajednice.

Imajući u vidu limitiranost resursa u slučajevima priliva migranata, sve institucije u Republici Srbiji moraju zajednički, ali i pojedinačno u skladu sa svojim nadležnostima da pripremaju planove rada i projekcije potreba. Za pripremanje takvih programa veoma je važna kontinuirana komunikacija i sa organizacijama civilnog društva, jer je zajedničko delovanje donelo brojne pozitivne ishode u jeku izbegličko-migrantske krize. U delovanju organa Republike Srbije u migrantskoj krizi, ne smemo zanemariti ulogu jedinica lokalne samouprave, koje su snažno izložene izazovima budući da se Republika Srbija nalazi na važnom mestu u zapadnoevropskoj migrantskoj ruti. Prividno zatvaranje ove rute, otežava dalje putovanje migranata ka centralnoj i severnoj Evropi, tako da duži boravak migranata već postaje stvarnost, kao i njihova asimilacija u srpsko društvo i kulturu. Zadatak lokalnih samouprava je da pomognu u senzivitizaciji lokalnog stanovništva i prihvatanju novih komšija. U tom smislu, prilikom planiranja programa i mera integracije, veoma je značajno i korisno iskoristiti i iskustva lokalnih samouprava u integraciji izbeglica sa prostora bivše Jugoslavije, imajući u vidu njihovu aktivnu ulogu u tim procesima u prethodnim godinama.<sup>9</sup>

U dosadašnjem procesu migracija opštinske uprave, stručne službe i nevladine organizacije pokazale su visok nivo profesionalnosti i uradile sve što je u njihovoj mogućnosti da ovu populaciju prema planovima i programima integrišu. Međutim, kod domicilnog stanovništva postoji snažan otpor gde se izdvajaju tri najznačajnije teme i to ekonomsko takmičenje, strah od terorizma i kulturno nerazumevanje. Prvi razlog se ogleda u tome da se radi o naciji koja je bez resursa i da će sa njom morati da dele poslove na ionako već nerazvijenom tržištu. Drugi razlog za odbijanje priliva migranata je iz straha za bezbednost, jer lokalno stanovništvo smatra da oni sa sobom nose klicu potencijalnog nasilja što je osnov za sadašnju, ali i potencijalnu buduću distancu od ove populacije. I treći razlog, strah od prihvatanja drugog i drugačijeg najviše je izražen u

<sup>8</sup> Mijalković, S., Petrović, I., Bezbednosni rizici savremenih migracija, Žurnal za kriminalistiku i pravo, Beograd: 2016., str.1-18.

<sup>9</sup> Volarić, S., Zapadnobalkanska migrantska ruta u periodu „izvan krize“, situacija u Republici Srbiji, Grupa 484, Beograd: 2017., str.6.

pograničnim predelima u kojima već postoji labilna etnička i konfesionalna ravnoteža, gde bi svako doseljavanje predstavljalo poremećaj. Građani Srbije ne vide potencijale i mogućnosti razvoja koje sa sobom može doneti dolazak migranata. U slučaju scenarija da se produži boravak migranata na teritoriji Republike Srbije, državni organi na čelu sa donosiocima odluka moraju da sprovedu opsežnu i detaljnu kampanju u cilju podizanja svesti kod građana, kao i ukazati na pozitivne stvari koje integracija ove politike može imati na privredu, kulturu, političke prilike u Srbiji, kao i na podizanje ukupnog kvaliteta života stanovništva.<sup>10</sup>

Srpska javnost poslednjih nekoliko godina svedoči izbegličkoj krizi u Evropi koja se na ovim područjima ne pamti od rata na prostorima bivše Jugoslavije. Priliv migranata prema podacima EU pokazuju bitno odstupanje u odnosu na ranije godine, prvenstveno u odnosu na brojači kriterijum. U toku 2014. i 2015. godine broj tražitelja azila u Evropskoj uniji se skoro udvostručio u odnosu na 2011. i 2012. godinu, a skoro utrostručio u odnosu na period između 2008. i 2010. godine. Jačanje izbegličkih kretanja potenciranih zbivanjima povezanim s arapskim prolećem, posebno sa ratom u Siriji, zemlje EU su dočekale nespemne i sa nerešenim sistemom podele odgovornosti i neuspehom u saradnji na području izgradnje azila. Slom libijskog režima doprineo je uspostavljanju slobodnijeg kretanja migracija sa afričkog i azijskog kontinenta putem mediteranske rute, dok je intenziviranje migracija tokom letnjih meseci 2015. godine popraćeno i popuštanjem sistema i migracijske kontrole na zapadnobalkanskoj ruti.

Sam izbeglička kriza potencirana je ratovima i prevratima u arapskim zemljama, ali i nedorečenim i nedoslednim intervencijama Evropske unije u cilju rušenja tamošnjih diktatorskih režima. Ekonomsko stanje u arapskim zemljama pogoršano je 2008. godine stagnacijom i krizom u Evropi, jer je smanjena mogućnost izvoza na evropsko tržište koje je ujedno i ključno za arapski svet. Tome su doprineli i stalni zahtevi Evropske unije za reformama po merilima Evropske unije, što bi dovelo do potpune promene državnih sistema i režima. U arapskim zemljama nastojala se uvesti nasilno demokratija, što se pokazalo nemogućim i u bivšim socijalističkim zemljama. Za takav poduhvat, u zemljama bez demokratske tradicije, mora da postoji višedecenijski proces izgradnje novog sistema. Uvođenje ovih zemalja u proces tranzicije dovelo je u žižu političkih zbivanja islamiste. Grupe islamista pokazale su se kao najbolja i beskompromisna suprotstavljenost režimu, što je podstaklo priliv novih članova, jer je lakše zagovarati tradicionalno prepoznatljivu, čistu arapsku državu uređenu po šerijatskim pravima, nego podržati stvaranje višetetničke sekularne višestranačke demokratije, po uzoru na zapadne modele.<sup>11</sup>

Zemlje Evrope nisu ni slutile kakvu krizu mogu da izazovu humanitarne intervencije za uspostavljanje demokratskih sistema u arapskom svetu. Migracijska i izbeglička kriza u velikoj meri su uticale na celokupno stanje bezbednosti u Evropskoj uniji, a brojni teroristički napadi širom Evrope pokazali su da su terorističke grupe iskoristile ovu krizu za prelazak evropske granice. U takvim okolnostima, nužno je praćenje ekonomskih i političkih procesa ne samo u neposrednoj blizini naše države, već i na čitavom prostoru Mediterana, jer svaka nestabilnost i negativna promena u mediteranskim zemljama odražava se i na Evropsku uniju i obrnuto. Nezakonit priliv migranata postaje jedan od najvažnijih pitanja nacionalnih interesa i unutrašnje bezbednosti svih zemalja u Evropi, a naročito država članica Evropske unije. Sve zemlje Evropske unije nisu u jednakoj meri opterećene nezakonitim prilivom migranata. Svakako su najviše na udaru najrazvijenije zemlje, mada se poslednjih godina beleži i visok porast migranata u manje razvijenim državama. Nezakonite migracije predstavljaju bezbednosni izazov i za zemlje Jugoistočne Evrope, jer se geografski nalaze na području kojim prolaze krijumčarski pravci prema Zapadnoj Evropi i zbog vala izbeglica iz ratom zahvaćene Sirije.

Na samom početku priliva migranata u Evropu, Evropska unija je tome problemu

10 Fondacija Fridrih Ebert, Studija o izbeglicama – Srbija 2016, Beograd: 2016., str.26.

11 Tadić, J., Dragović, F., Tadić, T., Migracijska i izbeglička kriza – sigurnosni izazovi za EU, Policijska sigurnost, Zagreb:2016. str.14-41.



pristupila bez većeg angažmana i moglo bi se reći da je delovala usporeno. Upravo zbog toga se našla pred velikim problemom koji je eskalirao 2015. godine, kada se egzodus stanovništva pretvorio u najveću izbegličku, a time i humanitarnu krizu modernog doba. Ozbiljnosti situacije doprinelo je i to da su se izbeglicama, koji su pobešli od ratnih dešavanja, pridružili na tome putu i ekonomski migranti, iskoristivši tako izbegličku krizu kako bi se domogli evropske teritorije i tako omogućili sebi azil i život u evropskim zemljama. Sve to dovelo je do masovnog priliva migranata na evropskim granicama i taj broj se drastično povećao tokom 2015. godine u odnosu na ranije godine.

Pre masovnog priliva stanovnika, Evropska unija se zalagala za tzv. politiku otvorenih vrata prema izbeglicama. Do same eskalacije izbegličke krize i zemlje članice Evropske unije slagale su se sa tim stavom, koji je posebno isticala nemačka kancelarka i htele su da pomognu izbeglicama tako što će im se ponuditi privremena zaštita. Zbog do tada nezamislivog broja dolazaka na evropske granice, stupilo je na snagu vanredno ukidanje Šengenskog prostora. Nemačka, uvidevši razmere krize odlučila je da ponovo uvede granične kontrole. Zbog nesaradnje među državama članicama u preuzimanju odgovornosti i podele tereta prihvatanja izbeglica na svoju teritoriju dovelo je do rigoroznih odluka njihovih vlada čiji su potezi ostale države članice dovele u nezgodnu situaciju.<sup>12</sup> Nezadovoljstvo i burne reakcije među državama članicama Evropske unije izazvao je i postupak postavljanja žičanih ograda od strane Mađarske i Slovenije, koji je Mađarska opravdavala zbog pređenog limita za prijem izbeglica, a Slovenija zbog predostrožnosti vlastite nacionalne bezbednosti, bez obzira na činjenicu da na njenu teritoriju nije došlo do velikog priliva migranata.

Na samom početku eskalacije izbegličke krize, odnosno priliva sve većeg broja migranata prema zemljama Evrope, Republika Srbija i zemlje regiona nisu bile njihova krajnja destinacija i cilj. Destinacije kojima su oni težili i kojih su nastojali da se domognu su najrazvijenije zemlje Evrope poput Nemačke, Austrije, Švedske, Danske i slično. Međutim, sami postupak vlade mađarske, odnosno zatvaranje granica između Mađarske i Srbije, migranti su morali da promenu rutu kretanja i mahom njihove trenutne destinacije postaju slabije razvijene zemlje Balkana. To je tzv. «Balkanska ruta» koja je uglavnom prelazila preko Srbije do Mađarske i dalje do zapadnoevropskih zemalja.

Izbeglička kriza je uzela velikog maha dovodeći u pitanje bezbednost nacionalnih teritorija što postaje sfera interesovanja. Razmatranje nacionalne bezbednosti razvilo se od tradicionalnih vojno-političkih pitanja na međudržavnoj granici, kao što su zaštita nepovredivosti granica ili konstantan otpor prema vanjskim opasnostima, uključujući migracije i migracijske trendove.<sup>13</sup> Uzmemo li u obzir samu definiciju državne granice izvodimo zaključak da se prve mere u zaštiti nacionalne i unutrašnje bezbednosti jedne države moraju preuzeti upravo na državnoj granici, a organi koji su zaduženi za takve radnje, preuzimaju deo odgovornosti i za celokupno stanje na unutrašnjem planu. Danas se širom sveta, a posebno u državama koje su izložene migracijskim kretanjima, ali i drugim oblicima ugrožavanja često koristi pojam granične bezbednosti. Postoje autori koji nivo granične bezbednosti postavljaju kao izazov tvorcima politika, zato što ona sa jedne strane mora biti primerena vanjskim pretnjama, a sa druge strane mora se obezbediti nesmetani protok ljudi i robe, te omogućiti zaštita ljudskih prava i sloboda. Da bi se postigao ili obezbedio potpuni kvalitet, odnosno nivo granične bezbednosti neophodna je bilateralna i multilateralna saradnja nadležnih tela susednih zemalja kroz razmenu informacija značajnih za sve strane i kroz sprovođenje zajedničkih akcija. Poslednjih godina, povećani obim nelegalnih, migracijskih kretanja koja su povezana sa državnim granicama, predstavljaju bezbednosnu pojavu koja se povezuje sa nacionalnom bezbednosti zbog velikog broja migranata koji padaju na teret svakoj državi koja im ponudi utočište i zbog činjenice da su u svom jednom delu povezane sa kriminalnim grupama kako na unutrašnjem tako i na međunarodnom nivou. Prema

<sup>12</sup> Kriste, M., Nacionalna sigurnost i izbeglička kriza: Politika i postupanje Republike Hrvatske prema izbeglicama s Bliskog Istoka, Dubrovnik: 2017, str. 53.

<sup>13</sup> Loescher, G.: International security and population movements, str. 557-560., The Cambridge Survey of World Migration, edited by Robin Cohen, University of Warwick, Cambridge University Press 1995.



procenama Ujedinjenih nacija godišnji promet od krijumčarenja ljudima iznosi preko sedam milijardi dolara.<sup>14</sup>

Migranti direktno ne predstavljaju bezbednosnu pretnju, ali jedan deo njih može da bude radikalizovan i sklon raznim kažnjivim delima, zbog brojnih frustracija ili uticaja okoline. Ipak, najveći bezbednosni izazov ovakvih, može se sa sigurnošću reći, nekontrolisanih migracija je povezanost migranata sa terorističkim organizacijama. Priliv nepoznatih i potencijalno opasnih migranata bez dileme predstavlja ozbiljan bezbednosni izazov, naročito u njihovom spoju sa onim krugovima u Evropi koji su spremni na najradikalnije poteze.

Na svu sreću, Republika Srbija je manje atraktivna kao krajnja lokacija, odnosno, nije toliko atraktivna da bi neko pozeleo da ostane. Međutim, mnogi od njih će biti prinuđeni da ostanu jer neće moći da dođu do odredišta koje su želeli da vide kao krajnje odredište za sebe i za svoju porodicu. Dolazak migranata svakako povećava nivo rizika, iako oni sami po sebi nisu odmah nasilnici ili teroristi, mada njihov boravak, njihovo mnoštvo, različitost kulture, a naročito njihova neadaptiranost na novonastale okolnosti života povećava rizik za političko nasilje i terorizam. Poznata je činjenica da 5-6 generacija migranata u zapadnim zemljama Evrope nisu promenili svoju tradiciju, religiju ni stil života. Oni od Evrope uzimaju samo socijalnu pomoć, novac i blagostanje koje im ona pruža. Evropa za njih predstavlja raj na zemlji i zato ne iznenađuje činjenica da prema njoj hrle, naročito prema najrazvijenijim zemljama jer su tamo i socijalna davanja najveća. Ovim tempom do kraja veka većinu stanovništva Evrope činiće migranti i njihovi potomci, jer će uskoro autohtonih Nemaca biti za dvadeset miliona manje. Ista situacija je i sa Srbima, Bugarima, Hrvatima – broj ovih stanovnika će se drastično smanjiti. Jedini narod na Balkanu koji beleži porast priraštaja su Albanci.

Veći incidenti se očekuju ukoliko priliv ostane na sadašnjem nivou ili se intenzivira i ako Nemačka popuni svoje kvote. U tom slučaju moguć je scenario da će u ime solidarnosti reći da svaka zemlja mora da primi određeni broj migranata. I to je razlog zbog koga je Mađarska podigla žičane ograde, iz straha da će doći trenutak kada će se ukinuti otvorene granice i da ono što je ušlo kod njih tu mora i ostati. Mađarska želi na vreme da se obezbedi i zaštiti i zato ne dozvoljava da iko ostaje na njenoj teritoriji i na taj način ugrožava njenu nacionalnu bezbednost. Ukoliko bi najjače države EU nametnule ideju da u ime solidarnosti svaka država mora da primi nekoliko stotina hiljada migranata ili čak milion, za finansijski slabe države kao što je Republika Srbija i zemlje regiona to bi predstavljalo katastrofu. To bi imalo ozbiljne posledice na bezbednost i došlo bi do ozbiljnih oblika ugrožavanja.<sup>15</sup>

Budući da smo u dosadašnjem radu ukazivali na krizu u kojoj se našla Evropska unija i čitava Evropa zbog priliva migranata, smatramo da je veoma važno da prikažemo i drugu stranu dešavanja, jer nije dovoljna samo jedna evrocentrična perspektiva dolaska izbeglica u Evropu. Tokom 2015. godine tri vodeće zemlje iz kojih je bio najveći priliv migranata su Sirija, Avganistan i Irak. Takođe, ove tri zemlje su žrtve invazija i vojnih intervencija u kojima je učestvovao NATO. Od evropskih zemalja u intervenciji na Avganistan učestvovala su Ujedinjeno Kraljevstvo, Norveška i Nemačka, dok su druge zemlje poput Poljske, Danske, Italije asistirale u američkoj invaziji na Irak. Velikim delom za raseljavanje stanovništva Bliskog Istoka i evropsku migrantsku krizu najodgovornije zemlje su SAD i evropske sile. Migrantska kriza nije mogla nastati sama od sebe, njen stvarni i najveći uzrok su kontinuirani ratovi.

Pogrešno razumevanje i predstavljanje karaktera ratova na Bliskom Istoku i njihove uzročno-posledične povezanosti sa raseljavanjem civilnog stanovništva, pojavljuje se u nekoliko mitova kako građanski rat u Siriji nema nikakve veze sa Evropom, kako arapski narodi predstavljaju pretnju za evropske narode i da prioritet treba da bude zaustavljanje njihovog dolaska i zakonom regulisano njihovo tretiranje, a ne da se ulažu naponi kako

14 Tadić, J., Dragović, F., Tadić, T., op.citat., str.28.

15 Simeunović, D. Intervju, zid n ije rešenje, ali..., Ekspres, Beograd: 2016. dostupno na: <https://www.ekspres.net/drustvo/intervju-profesor-simeunovic-zid-nije-resenje-ali>

bi se zaustavio rat u Siriji.<sup>16</sup>

Većina zapadnih liberala veruje da asimilacija izbeglica iz drugih kultura predstavlja čin velikodušnosti, što i nije tačno kada vlade tih zemalja podstiču rasplamsavanje ratnih sukoba i od normalnog stanovništva proizvode izbeglice. Ne možemo da govorimo o praktičnim rešenjima izbegličke krize bez prethodnog rešavanja temeljnih izvora te krize. Da bi se to postiglo neophodno je da se prvo razume suština nekolicine ratova na Bliskom istoku, posebno faktora koji doprinosi njihovom rasplamsavanju i širenju.

### **Kraljevina Danska i zemlje severne Evrope u suočavanju sa migrantskom krizom**

Prema Ustavu iz 1849. godine, Kraljevina Danska je ustavna monarhija, pri čemu je monarh formalno na čelu države, što predstavlja više ceremonijalnu ulogu. Izvršna vlast je u rukama Kabineta ministara, na čelu koga je premijer, koji je prvi među jednakim. Zakonodavnu vlast čine Vlada i Parlament. Kraljevina Danska je poznata kao država blagostanja i ona sa ostalim skandinavskim zemljama čini celinu koja deli slične socijalne i ekonomske politike, razlikujući se time od Evrope i Zapada. Skandinavski prosperitet postoji unatoč postojanju države blagostanja, a ne zahvaljujući istoj. Pravi uzroci skandinavskog prosperiteta nalaze se u snažnom kulturnom kapitalu i društvenim normama koje su izgrađene unatoč i pre postojanja države blagostanja.<sup>17</sup>

Budući da Kraljevina Danska i ostale nordijske države predstavljaju najbolje države za život i da su socijalna davanja daleko iznad proseka, nije ni čudo što su upravo te zemlje krajnje destinacije i želje migranata koji su napustili svoje domovine u potrazi za boljim i lagodnijim životom. Nakon što je izbeglička kriza eskalirala u toku 2015. godine, grupa migranata iz Nemačke prešla je nemačko-dansku granicu u nadi da će se domoći skandinavskih zemalja i sukobila se sa policijom na železničkoj postaji u mestu Padborg. Nakon toga sukoba, Danska je zatvorila sve železničke i cestovne prilaze uz nemačko-dansku granicu i postavila policiju duž granice. Danska vlada je privremenu kontrolu granice prema nemačkoj produžila i u 2016. godini, jer su smatrali da postoji i dalje mogućnost od priliva velikog broja migranata.

Kraljevina Danska je mnogo kritikovana zbog svog odnosa prema migrantima, na šta se ona ne obazire nastojeći da svoju politiku kreira unutar svoje države, a ne u Briselu, bez obzira što je članica Evropske unije. U cilju da odvraći izbeglice od dolaska u Dansku, usvojen je i zakon koji je predložila vlada desnog centra - dodatno smanjivanje prava izbeglica u toj zemlji. Između ostalog, u zakonu je navedeno da svako ko dođe u Dansku sa više od 10 000 kruna u gotovini, time će morati da plati svoj boravak u ovoj zemlji. Ovaj zakon naišao je na oprečna mišljenja i na kritiku od strane liberalista, međutim, danska vlada ovaj svoj potez opravdava činjenicom da slično pravilo važi i za danske građane koji primaju socijalnu pomoć. Danci imaju dva jasna cilja, jedan je da prestraše ljude, kako bi ih oterali iz svoje zemlje, a drugi je da zagorčaju život onima koji su već tamo i tako ih prisile da odu što pre. Kraljevina Danska, od samog početka izbegličke krize nije htela da prihvati politiku „otvorenih vrata“ koju je zagovarala EU na čelu sa nemačkom kancelarkom, već je konstantno pooštravala kontrolu na nemačko-danskoj granici što je prisiljavalo izbeglice da se vrate u Nemačku. U odnosu na Nemačku koja je u toku 2015. godine primila 1,1 milion migranata, Danska je primila svega 20 000.

Ova država se ne libi da sprovodi brojne akcije protiv migranata. Nastoji da uvede strožija pravila kako bi ovu zemlju učinila manje atraktivnom u odnosu na ostale evropske zemlje. Novim merama su smanjili socijalne beneficije za pridošlice čak 50%, uveli su i rok od godinu dana koji izbeglice moraju da čekaju da bi doveli svoju porodicu, a na stalnu boravišnu dozvolu, moraće sačekati i pet godina. Pored toga, danska vlada je propisala sposobnost govora i razumevanja danskog jezika da bi se mogao ostvariti stalan boravak u Danskoj, da se nakon posebno ubrzane procedure odbija molba za azil ukoliko je ta molba za azil očigledno bezrazložna, da će svi odbijeni azilanti veoma

<sup>16</sup> <http://pisjournal.com/index.php/item/79-rat-u-siriji-i-evropska-migrantska-kriza>

<sup>17</sup> Franulović, D., Pušeljčić, M., Magušić, F., Organizacijski modeli političkih sustava, [https://bib.irb.hr/datoteka/590835.D.\\_Franulovi\\_M.\\_Puelji\\_F.\\_Magui\\_Organizacijski\\_modeli.pdf](https://bib.irb.hr/datoteka/590835.D._Franulovi_M._Puelji_F._Magui_Organizacijski_modeli.pdf)

brzo biti poslata iz Danske i da postoji poseban centar za deportaciju odbijenih azilanata iz kojeg će svi azilanti kojima je odbijeno pravo na azil u Danskoj, biti deportovani iz zemlje u najkraćem mogućem roku. Od svih evropskih zemalja Danska važi za zemlju sa najstrožijim pravilima za tražitelje azila. Može se reći da reputacija Danske kao čvrste i nepokolebljive države usmerava tražitelje azila da svoj dom pronađu na nekom drugom mestu. U prethodnoj godini, u Danskoj je zabeležen pad zahteva podnetih za azil i to na ukupno 5 174, što je za 7, 52 manje u odnosu na dotadašnji prosek.<sup>18</sup>

Još od 1989. godine agencija UNHCR postigla je sa državama dogovor, između ostalog i sa Danskom da prihvate određeni broj migranata svake godine. Danska je od tada svake godine primala po 500 izbeglica na osnovu toga sistema kvota. Manjinska vlada desnog centra je ove godine odlučila da ne želi da prihvati tu kvotu, jer smatraju da trenutno nemaju prostora za prijem novih izbeglica. Kao obrazloženje naveli su da je Danska od 2012. godine primila 56 000 tražilaca azila, kao i da se očekuje da će mnogi od njih pokušati da dovedu svoju porodicu i rođake, a da se pre svega moraju integrisati oni koji su već u Danskoj. Antimigrantska narodna partija je podržala manjinsku vladu i podržala predlog novog zakona protiv primanja izbeglica, jer danske opštine trebaju da imaju malo prostora kako bi bile u mogućnosti da brinu o onima koji su već tu.

Migrantska kriza je svakako jedan od glavnih problema koji je mučio i još uvek muči svetske lidere, ali i pitanje da li su migranti jedine žrtve ovog talasa, ili su posledice daleko veće i dublje. Sve veći broj migranata je izazvao ili učestvovao u brojnim incidentima, a mnogi ih navode i kao potencijalnu opasnost za budućnost. Izbeglice su pretežno nezadovoljne tretmanom i uslovima u kojima su prinuđeni da putuju i žive. Kako migranti čine masovne skupine i grupe, nemoguće je tvrditi da u tako velikim grupama ne postoji barem jedan pojedinac koji nije sklon nezakonitom i kriminalnom ponašanju. Tome u prilog idu napadi u Nemačkoj, Švedskoj, Francuskoj gde su meta bile žene, radnici, novinari koji su izveštavali iz kampova. Podatak koji zabrinjava je što se broj pretnji i nasilnih incidenata u centrima za azilante u Švedskoj iz godine u godinu povećavao, a to je država koja je tokom 2015. godine primila 160 000 azilana što srazmerno njenom ukupnom broju stanovnika je najviše u Evropskoj uniji. Šveđani su kao Nemci, verni principu da su drugi velikodušno reagovali tokom Drugog svetskog rata, kada su se Evropljani suočavali sa progonom i postajali izbeglice. Posle toga, evropske nacije su prigrlile međunarodne zahteve koji od njih zahteva da prihvate one koji traže azil ako dokažu da su progonjeni. Zato su Šveđani prihvatili sirijske izbeglice koje su se našle unutar njihovih granice i rekli kako ih neće vraćati nazad u prvu zemlju EU u koju su ušli po problematičnim „dablinskim“ pravilima azila. Međutim, u odnosu na period posle Drugog svetskog rata, danas je situacija dramatičnija, jer je terorizam dostigao jedan mnogo ozbiljniji i efektivniji nivo. Švedska koja je pokazala zavidan stepen solidarnosti i humanosti za sirijske izbeglice, suočena je sa unutrašnjim destruktivnim oblicima ponašanja, čiji su uzročnici migranti. Ona se suočava sa unutrašnjim oblicima ugrožavanja društva, poput epidemije silovanja od kada su sedamdesetih godina otvorene granice za imigrante. Međutim, stopa silovanja je znatno porasla u 2015. godini kada je prijavljeno 6 620 seksualnih napada u odnosu na 420 napada 1975. godine.

Napomenuli smo da je pored Danske od velikog priliva ugrožena i Švedska, ali i Norveška. Sve ove zemlje u velikoj meri kontrolišu svoje granice, pa je tako i Norveška podigla ogradu na granici sa Rusijom kako bi smanjila ulazak imigranata. Za razliku od Danske, Norveška učestvuje u rešavanju humanitarne krize ispunjavajući kvote za prijem migranata koje je propisao UNHCR, ali podizanjem ograde nastoji da se zaštiti od ulaska ilegalnih migranata. Premijerka Norveške, koja je poznata po svojim imigracionim stavovima, izričita je da se migranti moraju uklopiti u nova društva i da ne mogu da očekuju da će živeti po svojim, a ne po norveškim standardima.

U najrazvijenijim zemljama svakako postoji i najveći strah od izbeglica, jer znaju da su upravo one meta i krajnji cilj migranata. Tako u Norveškoj predstavnici Napredne partije govore o „najezdi stranaca“ i „islamizaciji“ zemlje, a u Danskoj se pojavljuju

<sup>18</sup> <http://www.dw.com/bs/danske-mjere-protiv-navale-izbjeglica/a-18684230>

brošure sa kukastim krstom i naslovom „Danska za Dance“.<sup>19</sup> Bez obzira što je Danska kritikovana zbog odnosa prema migrantima i danska kraljica je više puta isticala kako Danska nije multikulturalno društvo i da ona predstavlja „sve ljude koji su građani danske nacije“.

U skandinavskim zemljama nije „novo pravilo“ da izbeglice treba da zaborave odakle su došle i šta su radile. Taj stav njihovih vlada postoji još od ranijih migracija iz 20. veka. To je najviše izraženo u Norveškoj, jer se na tim osnovama gradi sva njena zvanična i nezvanična „neutralnost“ i uvek je praćeno istim pitanjima prema običnim smrtnicima: „Odakle dolaziš“?, „Kako si izabrao Norvešku“?, „Jesi li musliman“? „Kada ćeš se vratiti nazad“? Skandinavske zemlje iako deo Evrope se u suštini mnogo razlikuju od nje i od evropskih naroda. Imaju svoj zasebni sistem vladanja i upravljanja i poprilično su zatvorene za druge narode i druge kulture, koje su potencijalni rušitelji njihovog mira i nacionalne bezbednosti.

Do migrantske krize, Danska je važila za jednu od najuspešnijih i najtolerantnijih država Evrope, a sada je postala država koju sirijske izbeglice jedva čekaju da napuste. Tretiranje migranata od strane danske vlade je daleko od tolerenatnog i više puta je naglašavala da je ona primila „svoj deo“ i tražila „evropsko rešenje“ izbegličke krize. To je najviše bilo izraženo tokom 2015. godine kada je izbeglička kriza doživela svoju eskalaciju i kada je evropski sistem postao pod velikim pritiskom. Vlada je konstantno i na sve načine pokušavala da odgurne probleme vezane za migrantsku krizu daleko od svojih granica šaljući povratne informacije Evropi da je potreban njen snažan i efikasan odgovor. Ona nema skriveni stav prema migrantima, jasno im je poručila da ne dolaze u Dansku, pokazujući to i primerom kada nije htela da učestvuje u shemi raspoređivanja oko 160 000 migranata koji su bili na teritoriji Grčke, Mađarske, Italije u ostale države članice EU. Snažan antimigrantski stav u Danskoj ne iznenađuje s obzirom na „novu“ desničarsku manjinsku vladu koja vlada sa podrškom populističke antimigrantske Danske narodne stranke, koja je osvojila 21% na poslednjim izborima.

Jedna od poslednjih inicijativa koju je izglasao danski parlament je inicijativa kojoj je cilj da Danci ne postanu manjina u svojim gradovima, te je pozvao vladu da se preduzmu određene mere kako bi se to sprečilo. U Danskoj postoje područja u kojima je ideo imigranata i potomaka imigranata iz neevropskih zemalja veći od 50 odsto. Zato su preduzete određene mere kako bi se ograničile imigracije i kako bi se sprečilo stvaranje paralelnih društava, jer parlament naglašava da Danci ne smeju da budu manjina u područjima njihove zemlje.<sup>20</sup>

Skandinavija se ne suočava prvi put sa valom izbeglica. Ovu situaciju možemo lako uporediti sa devedesetno godinama kada ih je zapljusnuo izbeglički val iz bivše Jugoslavije. Međutim, ono što je sada bitno drugačije je da postoji slaba vlada, politička situacija je daleko nestabilnija, a antimigracijske stranke su puno bolje organizovane. Početkom devedesetih, Švedska se veoma dobro nosila sa izbegličkim valom iz bivše Jugoslavije, pa je i profitirala dolaskom novih ljudi u svoju zemlju. Sadašnja koaliciona vlada, sastavljena od socijaldemokrata i zelenih nije dobro predvidela masovni dolazak u Švedsku. Procenjivalo se da će ih stići otprilike isti broj kao ranih devedesetih, kada je 1992. godine u Švedsku ušlo 84 000, a od toga 70 000 iz bivše Jugoslavije. I Švedska je kao i Danska uvela restriktivne mere koje su je učinile manje atraktivnom za potencijalne azilante i broj izbeglica se smanjio na 2 000 nedeljno. Uprkos tome, posmatrajući sve skandinavske zemlje Švedska je primila najviše izbeglica u 2015. godini, Finska 31 000, Norveška 30 000 i Danska 18 000.

U odnosu na Dansku i Norvešku, Švedska je specifična jer populističke i antimigracijske stranke imaju veliki uticaj u društvu. Švedska je u javnom diskursu politički korektnija, odmerenija i suzdržanija od svojih suseda. Vrlo retko se može naići na ksenofobnu ili rasističku retoriku u masmedijima ili u govoru državnih i vladinih predstavnika. Sa druge strane, veliki broj Šveđana je nezadovoljan takvom politikom i

<sup>19</sup> Lazanski, M., Strah od stranaca sa Bliskog i Dalekog istoka, Tjedno.hr, 2015.

<sup>20</sup> <http://tribun.hr/danski-parlament-ne-zeli-da-danci-postanu-manjina-svojoj-zemlji/>



smatraju da se njihovo mišljenje o imigraciji i njihovo protivljenje velikodušnoj politici prema imigrantima ne uzima za ozbiljno i da je cenzurisano. Švedska u svetu ima reputaciju velikodušne države koja već desetljećima prima tražitelje azila. Ali, poslednjih nekoliko godina broj tražitelja azila se znatno povećao. Zbog najnovijih priliva izbeglica koje beže od rata u Siriji postavlja se pitanje o tome da li je švedska politika „otvorenih vrata održiva. Švedsko ministarstvo za migracije ističe da je ključno shvatiti značaj pozitivnog uticaja koji izbeglice mogu da imaju na ekonomiju, naročito zemlje severne Evrope sa sve starijom populacijom, gde je potrebno sve više radnika kako bi se podržao sve veći broj penzionera. Fokus na ostvarivanje ekonomskog potencijala izbeglica znači da je pronalaženje posla za njih ključno za njihovu integraciju u švedsko tržište rada u šta je švedska vlada do sada uložila ogromna finansijska sredstva. Međutim, potrebno je praviti selekciju, jer naponi da se sve izbeglice koje su stigle u Švedsku integriraju tokom prethodnih godina imale su samo ograničene uspehe.

U čitavoj Evropi, pa i u Skandinaviji čitava situacija se pogoršala zbog nekontrolisanog priliva migranata. Ove zemlje su prve na udaru zbog svog visokog životnog standarda i visokih socijalnih dohodaka, pa su morale da pooštre mere za tražitelje azila. U tome prednjači danska i norveška vlada, koje su imale otvorene stavove da izbeglice nisu dobrodošle i da utočište potraže u drugim zemljama. U Danskoj je tokom 2015. godine podneto 21 000 molbi za azil, što je čini jednom od glavnih evropskih destinacija za izbeglice po glavi stanovnika posle Finske, Austrije, Nemačke i Švedske. Broj molbi je smanjen nakon uvođenja restriktivnih mera, pa izbeglice više teže da idu u Švedsku koja još uvek zagovara politiku „otvorenih vrata“. Izbeglička kriza moraće se rešiti zajedno sa Evropskom unijom i njenim državama članicama, jer nijedna država nema takve kapacitete da krizu reši sama.

### Zaključak

Sloboda, bezbednost i pravda u okviru Evropske unije nesumnjivo je jedno od najvećih dostignuća u poslednje dve decenije. Danas se nalazi pred raskršćem jer mora uskladiti nekoliko različitih višedimenzionalnih platformi po pitanju migracija koje se odnose na koherentne migracijske politike koje su prihvatljive svim državama članicama, apsorpcijske mogućnosti prihvatanja migranata i održivost društvene kohezije unutar evropskih država, koncept kulturalnosti, zaštita i poštovanje osnovnih ljudskih vrednosti, problem nezakonitih migracija i pojava kriminalnih aktivnosti, pretnje od terorizma i radikalizacije. Čitava Evropa se nalazi pred najvećim izazovom od kraja Drugog svetskog rata. Bezbednosni rizici su podignuti na jedan znatno viši nivo, jer su milioni migranata ušli u Evropu i nastoje da prodru do najrazvijenih zemalja zapadne i severne Evrope. Najveći problem predstavlja njihova teška asimilacija u evropsko društvo i kulturu koja se drastično razlikuje od njihove.

Na samom početku izbegličke krize, Evropska unija je zagovarala politiku „otvorenih vrata“ i imala je dobrodošlicu za sve izbeglice. Međutim, vremenom kako se situacija zahuktavala brojne evropske zemlje odustale su od tog izrazito humanitarnog pristupa, jer im je ponestajalo kapaciteta za apsorpciju sve većeg broja migranata. Tako su Makedonija i Slovenija izgradile žičane ograde kako bi sprečile da u njihove države uđu dodatni migranti, što je dovelo do pojačavanja tenzija između susednih država. Države Jugoistočne Evrope, iako tranzitne zemlje, a ne krajnja destinacija migranata, strahuju za svoju nacionalnu bezbednost zato što su i finansijski nedorasle zadacima koji im se stavljaју na teret. Još jedan od problema koji je izazvala migrantska kriza je taj da sve države ne nose jednak teret koji je donela sa sobom kriza, što naravno zavisi i od migranata jer su na udaru one najrazvijenije i od njih se očekuje da donesu rešenje koje će čitavu Evropu izvući iz katastrofe u kojoj se trenutno našla.

Ukoliko bi se ovim tempom nastavio priliv izbeglica, verovatno bi mnoge zemlje ponovo uvele kontrole granica i države bi ova pitanja rešavale na nacionalnom nivou, što bi bio najgori mogući scenario. Kriza je pokazala sve nedostatke i ranjivosti Evrope



kada su u pitanju migracijska kretanja gde su pojedine države ostavljene same da se nose sa krizom.

Zemlje severne Evrope zbog svog standarda predstavljaju krajnji cilj za izbeglice. Međutim, osim Švedske koja se pridržava evropske politike „otvorenih vrata“ ostale države blagostanja nemaju blagonaklon stav za prijem migranata. One sebe ne smatraju multikulturalnim društvima, brojne zakone o migrantima su redefinisale i pooštrile mere za tražioce azila, pokušavajući na sve načine da ih odbiju i udalje od svoje teritorije. Ove države nastoje da sačuvaju svoj identitet, poznate kao države sa najmanjom stopom kriminaliteta na svetu ne žele da rizikuju i da dozvole da priliv migranata naruši društvenu harmoniju.

Jasno je da se sa dolaskom migranata u Evropu povećala stopa kriminala i terorizma. Zato je nužno pojačati borbu protiv krijumčara ljudi i drastično povećati kazne zajedničkim radom evropskih agencija, nacionalnih policija zemalja Evropske unije i trećih država. Takođe je potrebno povećati saradnju obaveštajnih agencija zemalja EU i trećih zemalja kako bi se prikupile sve potrebne informacije o kriminalnim grupacijama koje pod krinkom izbeglica pokušavaju da uđu u Evropu. Zbog razumevanja sadašnjih događaja i anticipacije mogućih budućih trendova, neophodnih za kvalitetno suočavanje sa budućim izazovima, postavlja se potreba razlučivanja razloga koji podstiču procese, strukture migranata, pravce kojima se kreću, te elementi koji utiču na odluku o krajnjoj destinaciji.

### **Summary**

In this paper, we tried to show the attitude of states and authorities towards a migrant crisis that has been affecting both European Union countries and the whole of Europe for years. The crisis has put the European Union on the test because there is a threat that the entire system of joint control of the European Union's external border comes under the big questionnaire.

Countries in the Balkans, among others, and Serbia represent a transit area that migrants need to cross to reach destinations that are the ultimate wish of the countries of western and northern Europe. However, even in these unattractive countries, there is fear that Europe will at one moment stop the policy of "open doors" and that those refugees will remain at their current place of residence, which does not correspond to the countries of Southeastern Europe because they do not have the capacity for such something.

The refugee crisis escalated during 2015 when all the border crossings were blocked. The countries of northern Europe, which were partly the topic of this paper, responded in different ways to these challenges. Denmark was rather radical and did not want to adhere to "open door" policies nor to the allocation of migrants. These countries, although belonging to Europe, constitute a separate entity that functions according to different principles. The governments of Denmark and Norway are pursuing an extremely anti-immigration policy and seek to keep as few migrants as possible in the wider territory, as Sweden's generosity is reflected in the increase in crime rates.

The European Union seems pretty lost, without a strategy, without politics, without an idea. The solution can certainly not be one-sided, because it can not only refer to the EU countries in terms of the distribution of refugees according to the quota system, but also to African snakes from which migrants have come. What Europe is waiting for is a lot of goodwill and effort invested in coordination between both European and African countries and that Europe will have to reconcile itself with the fact that in the next few decades there will be a large influx of refugees from Africa because they are demographic, and economic inequality.

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## **CHALLENGES AND OPPORTUNITIES OF REFUGEE CRISIS IN SERBIA: THE THREE POSSIBLE SCENARIOS**

### **Abstract**

*This paper provides an assessment of the possible economic impact of the refugee crisis in Europe, especially on the economy of Serbia. The study is based on a number of assumptions that must be taken into account in order to assess the economic benefits of immigration, and the results tend to change based on these assumptions. In case of a large inflow of migrants in Serbia, the impact on our economy would primarily be reflected in the effects on public finances and the labor market. Increased unemployment due to higher labor supply, the growth of the gray economy which would consequently led to a decline in public revenues while increasing public expenditure, would constitute a significant challenge for the economic perspective of Serbia.*

*Keywords: refugees, migration, Serbia, EU, economic growth, refugee crisis*

### **Introduction**

The studies of large and sudden flows of immigration that have occurred in the past, including in Europe, show that countries that receive a large number of refugees do not suffer significant economic consequences. The main challenges are social and political, not economic. In the short term, the macroeconomic effect from the refugee surge is likely to be a modest increase in GDP growth, reflecting the fiscal expansion associated with support to the asylum seekers, as well as the expansion in labor supply as the newcomers begin to enter the labor force. The impact of the refugees on medium and long-term growth depends on how they will be integrated in the labor market. International experience with economic immigrants suggests that migrants have lower employment rates and wages than natives, though these differences diminish over time.

Past evidence on the fiscal impact of refugees shows that net direct fiscal impact of welcoming refugees can be relatively high in the short term, but that it will also decrease rapidly over time as their labor market integration improves. For refugees to realize their full potential it will be however important to enable them to locate where their skills are the most needed.

The entire economic benefit that could be given to Serbia from an increase in taking in more refugees is being overlooked. Whilst the moral element is a key to almost everyone, it is the economic benefit that is not being articulated in the mainstream media, which could be the most important factor in persuading the general public to welcome refugees with open arms. Whilst the short term costs of housing refugees and integrating might be substantial, the long term benefits to Europe and Serbia are far greater.

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Of course, there will always be a certain amount of fear, when there is a high influx of migrants entering a country. But what is being forgotten in the Syrian refugee debate is that it is not solely a moral versus security one. The economic element is being neglected in this discussion and it is time that it comes to the forefront.

Given the limited nature of our research, which relates primarily to insufficient data and accurate information due to a short period of time since the last refugee crisis, and the fact that Serbia did not have significant influx of migrants; further analysis is based on assumptions and previous studies of similar issues, presenting possible scenarios of influence on national economy that could occur in the event of a larger inflow of refugees or immigrants.

### **The economic implications of present refugee crisis in Serbia**

From the end of the last century up to present days in Serbia, from year to year, there is an increasing number of immigrants arriving on more than one side (Bobić, 2013b). At first, there was about 617.728 refugees and other war-affected persons, registered in 1996, predominantly from the territory of Croatia and Bosnia and Herzegovina. Most of the refugees came to Serbia in the late 20th century, when wars occurred on the territory of the former Yugoslavia. Number of immigrants in Serbia once again dramatically increased with an arrival of 197.500 internally displaced persons from Kosovo and Metohija, after the conflict with the Albanian majority. After a decade and a half, although the number of refugees was reduced (Bobic and Babovic, 2013), the fact is that most of these forced immigrants remain in the territory where they settled, while there is a very small proportion of those who returned to abandoned homes. When we talk about foreign immigrants at the territory of Serbia, it should be noted that the Chinese are the leading, whose presence is evident in everyday life, in the neighborhoods and local communities of urban areas throughout Serbia.

Since May 2015, Serbia and other countries in the Western Balkans have been facing an unprecedented refugee crisis. In 2015 and in the first quarter of 2016, more than 920 000 refugees and migrants - primarily from Syria, Afghanistan and Iraq - have passed through Serbia on their way to Hungary and Croatia. Serbia was one of the countries along the route of refugees and migrants. Refugee crisis developed very fast in Serbia, with the large number of refugees and migrants who arrived mainly from Macedonia and Bulgaria. National and local institutions, international organizations and civil society organizations, responded adequately to this humanitarian challenge. The Government of the Republic of Serbia had a positive attitude, with clear messages that migrants and refugees are welcome in Serbia, and that the complete society should organize itself in order to temporarily respond in a humane and caring way.

After the closure of the so-called Western Balkans migration route in early 2016, the number of refugees stranded in Serbia stands now at an estimated 7 550.<sup>2</sup> Since the beginning of the crisis the European Commission has allocated 24.8 million EUR in humanitarian aid to assist refugees and migrants in Serbia and Former Yugoslav Republic of Macedonia (FYROM). More than 20.1 million EUR are allocated to Serbia. Actions initially focused on providing basic assistance at the refugee aid points including health services, temporary shelter, warm clothing, food, water, child-friendly spaces and protection. EU funds are being used for better border management, a swifter transportation of people to asylum centers and for improving reception conditions. The assistance is now focused on improving living conditions at the official sites.

Due to (un)expected inflow a large number of migrants and refugees, reform activities were partly abandoned, and the activities aimed at alleviating the consequences of newly emerging circumstances were stressed. Firstly, providing basic urgent needs of people in migration and safe passage to desired destination countries. In 2015, almost

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<sup>2</sup> ECHO Factsheet – Serbia – January 2017, [http://ec.europa.eu/echo/files/aid/countries/factsheets/serbia\\_en.pdf](http://ec.europa.eu/echo/files/aid/countries/factsheets/serbia_en.pdf), preuzeto dana 24/08/2017



600,000 persons were registered by the competent authorities of the Republic of Serbia.

The situation in the Republic of Serbia has been influenced by several factors: the dynamics of inflow migrants to Greece from Turkey, the situation in Macedonia with sporadic closing of borders, politics Hungary towards migrants, as well as the views of the European Union and the Member States on the admissible modalities for resolving the refugee crisis.

Half of 2015 is taken as a crucial moment in which the Republic of Serbia begins to record enhanced border activities, migration and hundreds of migrants and refugees per day, as evidenced by UNHCR statistics for 2015, shown by months (January 2,425; February 2,537; March 3,761; April 4,425; May 9,034; June 15,209; Jul 29,037; August 37,463; September 51,048; October 180,307; November 149,923; December 92,826).<sup>3</sup>

Among the migrants, there were mostly people who came from war-affected areas, from Syria, Iraq and Afghanistan, with a significant number of people from Iran, Pakistan, Lebanon, Bangladesh, Morocco, etc.<sup>4</sup> The most frequent were the citizens of Syria - 301,533, then the citizens of Afghanistan - 160,831 and citizens of Iraq - 76,003, whose inflow was actually particularly increased in the last months of 2015<sup>5</sup>.

In addition to existing asylum centers, with the increase in the number of migrants, new facilities have been opened with the function of accommodation and acceptance of migrants and refugees, Acceptance and Transit Centers: in Presevo, including an Emergency Bin in Miratovac, Kanjiža (active until September 15), Subotica, Šid (near the railway station, the so-called "gray house", Adaševci and Principovac) and Dimitrovgrad. Defined are also potential locations for opening additional centers<sup>6</sup> in the event of an increase in the number of migrants and refugees, which exceeds the available accommodation capacities. Also, it is necessary to mention that Belgrade for a long time was a significant point on the map of movements, although formally never established reception center, despite the fact that by September 2015 the presence was recorded from 100 to 1,000 migrants and refugees on a daily basis who were outdoors.

The entire economic benefit that could be given to Serbia from an increase in taking in more refugees is being overlooked. Whilst the moral element is a key to almost everyone, it is the economic benefit that is not being articulated in the mainstream media, which could be the most important factor in persuading the general public to welcome refugees with open arms. Whilst the short term costs of housing refugees and integrating might be substantial, the long term benefits to Europe and Serbia are far greater.

Of course, there will always be a certain amount of fear, when there is a high influx of migrants entering a country. But what is being forgotten in the Syrian refugee debate is that it is not solely a moral versus security one. The economic element is being neglected in this discussion and it is time that it comes to the forefront.

The assessment of the fiscal impact of immigration calls for a comparison between the costs arising from the greater influx of immigrants, the growth of public expenditures, and, on the other hand, taxes and other public revenues contributed by migrants. Approach to this analysis is based on observing a specific time period of one year, and by simply comparing the contribution of migrants to public finances with services and benefits received for the same year. The difference between the contributions that immigrants make to public finances and the costs of public benefits and services they receive depend on the characteristics of migrants, their impact on the labor market, and characteristics of the social protection system. In theory, research has shown that migrants who are young, educated and have more skills and knowledge, are likely to create a higher positive net fiscal contribution than those with low qualifications and low participation rates in the labor market.

3 UNHCR Serbia: <http://www.unhcr.rs/en/resources/statistics/asylum.html>

4 UNHCR Serbia: <http://www.unhcr.rs/en/resources/statistics/asylum.html>

5 U 2015. ukupan broj izdatih potvrda o izraženoj nameri iznosio je 577.995, <http://data.unhcr.org/mediterranean/documents.php?page=4&view=grid>

6 Identifikovane dodatne lokacije: Sombor, Bosilegrad, Bujanovac, Pirot, Zaječar, Negotin. <http://www.kirs.gov.rs/docs/aktuelno/20160314%20bilten%20februar%20srp.pdf>

Given the limited nature of our research, which relates primarily to insufficient data and accurate information due to a short period of time since the last refugee crisis, and the fact that Serbia did not have significant influx of migrants; further analysis is based on assumptions and previous studies of similar issues, presenting possible scenarios of influence on national economy that could occur in the event of a larger inflow of refugees or immigrants.

### **Scenario one-the growth of public expenditures**

According to the available data for 2017, the fiscal position of Serbia indicates that the public finances in 2017 achieved a budget surplus, due to more revenue collection than planned. Total budget expenditures followed the growth of budget revenues, and didn't significantly deviate. The fiscal position has improved compared to the first four months of 2016, thanks to revenue growth and expense cuts. Certain categories of income, as well as some types of expenditures, are conditioned by macroeconomic tendencies (Parliamentary Budget Office, Analysis of Budget Execution, June 2017, [http://pbk.rs/wp-content/uploads/2017/06/Budzet\\_izvršenje\\_jan%20%80%93apr\\_2017.pdf](http://pbk.rs/wp-content/uploads/2017/06/Budzet_izvršenje_jan%20%80%93apr_2017.pdf), accessed 04.10.2017):

- Favorable developments in the labor market (wage growth and registered employment, reduced registered unemployment)
- GDP growth, based primarily on the household consumption growth and, to a lesser extent, the investment growth
- Increase of prices compared to 2016 also affected the higher VAT collection.

According to the Law on Asylum of the Republic of Serbia (Official Gazette of the Republic of Serbia, nr.109/2007), in case of mass arrival of a person from a country in which their life, security or freedom is threatened by violence of general proportions, external aggression, internal armed conflicts, massive violations of human rights or other circumstances that seriously impair the public order, due to mass arrival, there is no possibility to implement an individual procedure for obtaining the right to asylum, temporary protection will be provided in accordance with the social, economic and other possibilities of the Republic of Serbia. The Government shall decide on the providing of temporary protection. By definition, the last refugee crisis would mean that the Republic of Serbia should provide temporary protection to refugees. A foreigner granted temporary protection is entitled to (The Law on Asylum of the Republic of Serbia (Official Gazette of the Republic of Serbia, nr.109/2007) :

- Stay, up to the period of validity of temporary protection;
- A document, confirming his status and right of residence;
- Health care in accordance with the regulations governing the health care of foreigners;
- Free primary and secondary education in state schools in accordance with a special regulation;
- Legal assistance under the conditions prescribed for asylum seekers;
- Freedom of religion, under the same conditions as citizens of the Republic of Serbia;
- Accommodation, in accordance with a special regulation;
- Affordable accommodation for people with disabilities.

From the previously defined rights of foreigners who would be granted temporary protection, it is clearly noticed that a greater influx of refugees into Serbia, would mean higher public expenditures incurred by providing public services and benefits for the mentioned category. The highest public expenditure would be the growth in the field of health care, as well as accommodation and basic living conditions. For example, in the Republic of Serbia, consolidated public expenditures reached 585,3 billion dinars during the first four months of 2017. During the first four months of 2017, the most important categories of expenditures were social assistance and transfers (233,7 billion dinars),

which represents 40% of the state's consolidated expenditures. On the other hand, some expenditure items increased significantly compared to the first four months of the year: social benefits from the budgets of cities and municipalities, as well as from the budget of the Republic of Serbia (social assistance increased by 2,9 billion dinars in total). Also, accommodation facilities for accepting refugees would require additional resources and investments.

It is clear that a greater number of refugees, and the help they need through public institutions, would in the short term lead to the growth of public expenditures in the budget of Serbia and thus would influence the deterioration of the fiscal position, with the deficit situation.

### **Scenario two-from higher labor supply to higher unemployment**

In most EU countries, there was an increase in the number of employed persons which resulted in the unemployment rate reduction. However, unemployment rates are still quite high compared to the pre-crisis period. This fact indicates that employers, not only in the EU but also in the whole region, during the employment process try to reconcile their labor costs with limited business activity. The process of creating new jobs remains the biggest challenge for EU countries.

In comparison with the EU and the neighbor countries, Serbia has high unemployment rate. The number of unemployed persons in Serbia was reduced, also the unemployment rate, but it is still very high (Statistical Office of the Republic of Serbia, 2017). The basic characteristic of the labor market in Serbia is a high level of long-term unemployed persons in the total number of unemployed, together with low employment and activity rates. With a limited level of labor market demand and investment, both in Serbia and in EU countries, the net wage growth rate remained modest compared to previous years and did not significantly affect the purchasing power and the living standard. In accordance with the current employment laws in Serbia, every registered unemployed person has certain granted rights - in the case of unemployment, which imply financial benefits (The Agency for Labor and Employment of Serbia, [http://www.nsz.gov.rs/live/trazite-posao/dok-trazite-posao/nezaposleni/nov\\_ana\\_naknada.cid245](http://www.nsz.gov.rs/live/trazite-posao/dok-trazite-posao/nezaposleni/nov_ana_naknada.cid245), accessed 28/09/2017):

1. financial compensation,
2. health insurance based on unemployment,
3. pension insurance based on unemployment,
4. payment of pension insurance if they fulfill the eligibility requirements for the retirement.
5. According to the Labor Force Survey (Statistical Office of the Republic of Serbia, <http://pod2.stat.gov.rs/ObjavljenePublikacije/G2017/pdfE/G20171242.pdf>, accessed 28.09.2017), the unemployment rate in Serbia has declined in Q2 of 2017, and it is 11,8%.

According to age intervals, the highest unemployment rate is in age group 15-24, and in Q2 of 2017 it was 28,9%, decreased in comparison to the Q2 of 2016 (when it was 36,2%). Unemployment rate in this group of the youngest working age population was decreased by 7.3 percentage point (p.p.) not as the consequence of the increased employment, but due to decreased total population of this age, causing the decreased number of unemployed.

While the Labor Force Survey records the significant increase of employment both relative to the previous quarter (by 228 000 persons) and relative to the same quarter last year (by 119 400 persons), the Central register of compulsory social insurance (CRCSI) shows more moderate increase of employment in the referent period. The difference is caused, apart from other reasons<sup>7</sup>, by the definition of formal employment which in the

<sup>7</sup> The Survey on registered employment, unlike the Labor Force Survey, does not cover the agricultural farmers older than 65, as well as the pensioners who work additionally under the contract (as their main

Survey relates to existence of written or oral working contract between the employee and the employer, but not to realization of employee's right to health insurance. According to "strict" definition of formal employment in the Survey, which besides the working contract implies also compulsory health insurance of employee, thus better corresponding with the definition of registered employment from CRCSI, number of formally employed in the second quarter 2017 amounted to 2 023 400, which is by 219 600 less than the number of formally employed persons, regularly published on the basis of the Survey.

While the Survey on registered employment records relatively stable increase of registered number of vacancies, the Labor Force Survey records every form of employment, both formal and informal, regardless of the quality or constancy of those "jobs". The latest Labor Force Survey data confirm the increasing trend of unstable, low-productive and not quality employment:

1. Out of total increased employment (by 228 000) relative to the first quarter 2017, 122 000 of new employed persons were engaged in agricultural activities;
2. Compared to the first quarter, a half of new employed related to those older than 55;
3. Almost a quarter of the employed (22,1%) refers to informal employment;
4. Number of employed persons performing jobs for definite time period, seasonal or occasional jobs is increased by 56 700 relative to the previous quarter, reaching now the share of 22,7% in total number of employed;
5. Apart from 637 900 of informally employed, another 219 600 of formally employed do not exercise the right to health insurance. Together, they make 37% of total number of employed;
6. Almost a fourth part of employment (23,4%) relates to employment in agricultural activities.

In the second quarter 2017, unemployment of persons aged 15 and over was 384 100, which is by 68 800 persons less than in the previous quarter, and by 111 400 persons less than in the second quarter 2016. Out of the total number of job seekers, 384.100 persons, there are 48,4% female. Unemployment noted decrease both regarding females and males, relative to the previous quarter. More significant decrease was recorded in male population (49 700) than in female (19 100). According to the Labor Force Survey data for the 2016, among the employed persons, the highest number are those with secondary education (56,77%) and high education (24,80%). Among the employed persons there are less of those with low professional qualifications (18,15%) or those who are unqualified (0,28%). We can therefore conclude that the largest number of unemployed persons in Serbia are unqualified or low-skilled workers.

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status in CRCSI is pensioners, and in the LFS, it is the formally employed person). Additionally, the Survey on registered employment encompass those who are registered as employed in CRCSI on the last day in a month, when the cross-section is observed in CRCSI, while in LFS, which is conducted continuously, covered are also the persons who were employed on short-term basis, anytime during a week / month/ quarter.

Table 3: Rates of activity, employment, unemployment and inactivity by sex, population aged 15 and over, Q2 2017

	Q2 2017	Changes relative to previous quarter	Changes relative to same quarter of 2016
	(%)	p.p.	
<b>Total</b>			
Activity rate	54,5	2,7	0,4
Employment rate	48,1	3,9	2,3
Unemployment rate	11,8	-2,8	-3,4
Inactivity rate	45,5	-2,7	-0,4
<b>Male</b>			
Activity rate	62,5	2,5	-0,2
Employment rate	55,6	4,2	1,9
Unemployment rate	11,0	-3,3	-3,3
Inactivity rate	37,5	-2,5	0,2
<b>Female</b>			
Activity rate	47,1	3,0	1,1
Employment rate	41,1	3,6	2,6
Unemployment rate	12,7	-2,2	-3,7
Inactivity rate	52,9	-3,0	-1,1

Source: Labor Force Survey, Statistical Office of the Republic of Serbia, p.8, (<http://pod2.stat.gov.rs/ObjavljenePublikacije/G2017/pdfE/G20171242.pdf>)



Table 4: Rates of activity, employment, unemployment and inactivity by sex, population aged 15 to 24, Q2 2017

	Q2 2017	Changes relative to previous quarter	Changes relative to same quarter of 2016
	(%)		p.p.
<b>Total</b>			
Activity rate	29,2	1,2	-1,6
Employment rate	20,8	3,2	1,1
Unemployment rate	28,9	-8,2	-7,3
Inactivity rate	70,8	-1,2	1,6
<b>Male</b>			
Activity rate	35,1	1,8	-2,1
Employment rate	26,2	4,8	0,7
Unemployment rate	25,2	-10,3	-6,2
Inactivity rate	64,9	-1,8	2,1
<b>Female</b>			
Activity rate	23,0	0,6	-1,1
Employment rate	15,0	1,5	1,5
Unemployment rate	34,8	-4,9	-9,1
Inactivity rate	77,0	-0,6	1,1

Source: Labor Force Survey, Statistical Office of the Republic of Serbia, p.9, (<http://pod2.stat.gov.rs/ObjavljenePublikacije/G2017/pdfE/G20171242.pdf>)

According to the research we have presented in the previous section, past experience shows that migrants are the youngest workforce, most of them are female and belong to the category of unqualified or low-skilled workers. Taking into account the labor market situation in Serbia, the mentioned categories of the population who are mostly unemployed - the young in the range of 15-24 years, low-skilled and female workers, high influx of refugees in Serbia would increase the number of unemployed workers of the existing structure, which would worsen the labor market situation. Along with illegal immigration, and illegal activities related to non-reporting of workers and non-payment of taxes and contributions, respectively the employment of immigrant workers in the black market would lower the labor costs of domestic workers and deteriorate the already low purchasing power and living standard of workers in Serbia. Theoretically,

the positive effects of immigration at labor market could happen, in case of effective integration of refugees into the labor market, in terms of achieving full potential in the fields which require the skills and the age structure of immigrants.

### **Scenario three-the possible decrease in public income**

As the research has shown, the long-term effect of immigration could have positive impact on public revenues, in case of adequate integration of refugees on the labor market. Positive impact could also be achieved if full potential of refugees, their skills and abilities, were utilized, and in case of legal immigration, in terms of registration and granting asylum to possible applicants. These positive impact would reflect in the collection of a larger amount of tax revenues (income tax, different contributions based on income), in GDP increase, and even (as some studies show) greater reduction of public debt in the long run.

Short-term rise in public revenues in Serbia in the first four months of 2017, according to Parliamentary Budget Office (Analysis of Budget Execution, June 2017, [http://pbk.rs/wp-content/uploads/2017/06/Budzet\\_izvršenje\\_jan%20%80%93apr\\_2017.pdf](http://pbk.rs/wp-content/uploads/2017/06/Budzet_izvršenje_jan%20%80%93apr_2017.pdf), accessed 04.10.2017), was recorded in amount of 7,2% compared to the same period of 2016. This positive tendency, as the mentioned increase in public revenues, was the result of larger contributions payment (contributions payment was increased by 11,7 billion dinars) and the growth of VAT revenues (in amount of 8,0 billion dinars) and excise duties (in amount of 7,6 billion dinars). Viewing these positive tendencies, we could conclude that refugee crisis, that has culminated in the past months and years, didn't have negative implications at public revenues. Although Serbia was not on the direct impact of refugees, the closure of borders and the slowdown in international goods distribution, has reflected on trade relations, but this negative consequence didn't cause reduction of public revenues, including customs revenues.

However, observing the state of Serbia's public revenues, in the text below we will specify possible negative effects of refugee crisis. This is primarily related with the possibility of the gray economy growth. Characteristic of the gray economy, is intensive boost in disturbed market conditions and great external shocks (war, blockade, isolation, sanctions), but also due to rapid political and economic turnarounds, when a decline in production and living standards happens. Observed at the macroeconomic level, the gray economy is represented by all economic activities of individuals, informal groups or organizations that, at least in some elements, do not respect certain institutional procedures, or at least avoid some of the social regulation components. The main reasons for the gray economy emergence are the avoidance or evasion of tax payments, that is, avoiding or violating regulations of economic transactions. The large size of the gray economy always causes disruptions in the national income allocation at macro and micro level. At the macro level, the gray economy shifts the proportion of the distribution of national income between the economy and the population in favor of the population, significantly over the limit of the personal income share.

With the emergence of the gray economy and its development, the economy is losing significant sources of budget revenues. Therefore, the gray economy not only endangers regular inflow of budget funds, but also seriously undermines the production and regular turnover of goods and services. Unfair competition with the whole „legal“ economy, it also diminishes the efficiency of economic policy at the state level. Most workers in gray economy are in the commerce, services and construction industry. To a certain extent, the gray economy can have some positive impacts (dynamizing economic activities, improving or maintaining the achieved living standard level, increasing the total demand level), but the negative impacts are far more numerous. It is considered that the main reason for the emergence and expansion of the gray economy is the evasion of the public revenues payment, avoidance or violation of codes that regulate commercial transactions.

Most analyzes of the gray economy deal with the lost tax revenue. It is assumed that the main causes of this are unfavorable economic environment conditions and high tax rates and high contributions rates to personal income. It's a fact that in Serbia there is very high level of the burden of pay with fiscal expenditures, which is an initial impulse for the gray economy growth, which not only affects the public revenues, but also workers and companies. This often results in decision of employers to hire employees without registration with the competent authorities. This further leads to the gray economy strengthening, where workers have severely restricted access to social benefits and contributions to retirement and health system. Many employers avoid paying taxes and contributions, and their employees register as unemployed in order to receive minimum social fees. Also many illegal immigrants find a solution in the gray economy. To minimize the risk of deportation, they are hiding from state authorities, and the gray economy provides them with the best protection in the form of anonymity. In addition to the fact that immigrants represent cheap workforce to employers, unregistered immigrants who don't have asylum or documents, would be employed illegally, without paying taxes and contributions to personal income, and without social rights.

Thus, the gray economy growth directly affects the decline of public revenues at macro level, the decline of corporative competitiveness in Serbia, while at the same time preventing the state from introducing an effective social protection system, and the employees working in the gray economy have an undefined and unsafe status, inadequate working protection and have been denied the opportunity to protect their rights.

### **Conclusion**

A large number of immigrants or refugees, who in a short period of time and in the limited geographical area of the EU seek to gain asylum, bring a large number of open issues. Most important issue is how the latest mass immigration will affect the economy of European countries. Taking into account the limited research that relates primarily to insufficient data due to a short time period of the last refugee crisis, insufficient statistical database on immigrants, and the lack of harmonization of regulations in the field of labor market, public finances and social rights, the study of these effects is reduced to a large number of assumptions and experiences of a relatively short time period of previous migrations.

Many experts agree that, in the short term, the refugee influx will lead to rising costs, arising from the need to provide food, shelter and first aid. In the longer term, the refugee influx could be positive for the European economy by, for example, addressing the EU's alarming demographic trends. Depending on their education, skills and willingness to work, refugees might improve the ratio of active workers and also contribute to innovation, entrepreneurship and GDP growth. Regarding the labor market, migrants can fill important niches both in fast-growing and declining sectors of the economy, and contribute to labor-market flexibility.

Of course all this does not imply that handling a large influx of foreigners (refugees or otherwise) is not a challenging undertaking for the receiving country. Social, political, and even economic strains associated with the refugees' inflow have been and continue to be key challenges to Syria's neighbors. But these neighbors have shown the much richer EU countries that there need not be insurmountable economic (or even social and political) costs associated with fulfilling the moral obligation of helping those fleeing wars and prosecution. With proper planning and goodwill, EU countries would be able to welcome a vastly larger share of refugees than they have been doing so far. This is also what more and more proud EU citizens have been demanding.

Analysis of the impact of the refugee crisis on the economy of Serbia takes into account the fact that so far there has been no significant influx of immigrants nor a greater number of asylum applications. Hypothetical scenarios of possible fiscal impact on the economy of Serbia that could arise in the event of the influx of a large number of

refugees or immigrants is reflected in the deterioration of fiscal positions and the growth of public expenditures, due to public expenditure necessary for housing and social and health assistance to refugees. Increasing the unemployment rate and the relative decline in public revenue would result in the rise of the gray economy, especially in the labor market. In comparison with the countries of the EU and the surrounding countries, Serbia has a high unemployment rate. The structure of the unemployed corresponds to the average structure of immigrants that would deteriorate the existing situation in that part of the labor market. Many illegal immigrants find a solution in the gray economy. To minimize the danger of deportation, they are hiding from the state organs, and the gray economy provides them with the best protection in the form of anonymity, while immigrants to employers represent a cheaper workforce. For this reason, unregistered immigrants who did not receive asylum would be illegally employed, which would, with the avoidance of payment taxes and contributions at personal income, reduce the already low labor cost of domestic workers.

As the research has shown, the long-term effect of immigration could have positive impact on public revenues, in case of adequate integration of refugees on the labor market. Positive impact could also be achieved if full potential of refugees, their skills and abilities, were utilized, and in case of legal immigration, in terms of registration and granting asylum to possible applicants. At the same time, the gray economy growth directly affects the decline of public revenues at macro level, the decline of corporative competitiveness in Serbia, while at the same time preventing the state from introducing an effective social protection system, and the employees working in the gray economy have an undefined and unsafe status, inadequate working protection and have been denied the opportunity to protect their rights.

If it is to some extent, it is possible to speak about the positive aspects of the refugee-migrant crisis. The readiness and commitment of all key actors should be highlighted in the first place. Establishing a system of acceptance which in its own way has focused at the needs of an individual. Great encouragement is also the fact that the Republic of Serbia has chosen a policy of open borders, as well as that the reform process was not completely stopped.

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*Dragana Nešović<sup>1</sup>*

## **PRAVNI I INSTITUCIONALNI ASPEKTI ZAŠTITE MALOLETNIH MIGRANATA/IZBEGLICA BEZ PRATNJE U IZBEGLIČKOJ KRIZI KROZ SRBIJU**

### **Rezime**

*Republika Srbija je jedna od zemalja na "Balkanskoj ruti" kojom se izbeglice kreću ka zemljama Zapadne Evrope i kao takva susreće se sa značajnim povećanjem priliva izbeglica koji prolaze kroz Srbiju ili se u njoj zadržavaju kraće ili duže vreme. Među njima je veliki broj maloletnika i dece koja putuju sama ili su tokom puta razdvojena od roditelja. Iznenadni početak vanredne situacije, rat, nasilje i raspad porodice značajno utiču na fizičku i psihičku dobrobit dece izbeglica i imaju izuzetan uticaj na razvoj i bezbednost deteta. S druge strane suočavamo se sa nesprennošću međunarodne zajednice, naročito Evrope da adekvatno i efikasno odgovori svim izazovima aktuelne izbegličke krize. U takvim okolnostima najviše stradaju najranjivije grupe, a to su deca, posebno deca bez pratnje koja su izložena rizicima fizičkog ili seksualnog zlostavljanja i eksploatacije, trgovine ljudima raznih kriminalnih grupa. Izbeglištvo pod okolnostima u kojima se aktuelno odvija, zahteva izuzetnu hitnost reagovanja zbog ekstremnih fizičkih, bezbednosnih, zdravstvenih, socijalnih i drugih rizika po život, rast i razvoj deteta i funkcionisanje porodice. Zato je neophodno koordinisano, kontinuirano, efikasno delovanje političkih, profesionalnih, humanitarnih i svih drugih aktera, počev od međunarodnih organizacija koje se bave migrantima, preko evropskih organa, institucija i organizacija, do pojedinačnih država kroz koje prolaze i borave maloletnici/deca izbeglice i njihovih organa i pojedinaca od državnog do lokalnog nivoa.*

*Gljučne reči: migranti/izbeglice, maloletnici/deca bez pratnje, izbeglička kriza, zaštita migranata/izbeglica*

## **INSTITUTIONAL AND LEGAL ASPECTS OF THE PROTECTION OF THE UNACCOMPANIED MINORS MIGRANTS/REFUGEES IN THE REFUGEE CRISIS THROUGH SERBIA**

### **Abstract**

*The Republic of Serbia is one of the countries on the "Balkan Route", by which refugees are moving to the countries of Western Europe, as such it is faced with significant inflow of refugees, whether they are just passing through it or are aimed to stay for longer or shorter period of time.*

*Among the refugees, a large number of minors and children are traveling alone or they were separated from their parents during the migration. The sudden onset of an*

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*emergency, war, violence and family breakdown could have significant influence on the physical and psychological well-being of refugee children and remarkable impact on the children development and safety.*

*On the other hand, we are faced with the unwillingness of the international community, especially Europe, to respond adequately and efficiently to all the challenges of the current refugee crisis. In such circumstances, the most vulnerable groups are most affected, and these are children, especially unaccompanied children who are exposed to the risks of physical or sexual abuse and exploitation, human trafficking by various criminal groups.*

*Exile in current conditions requires exceptional emergency response due to extreme physical, safety, health, social and other risks to life, growth and development of the child and family functioning. Therefore, this issue requires coordinated, continued, effective activity provided by political, professional and humanitarian and all other relevant actors i.e. international organizations dealing with migrants, EU organs, institutions and organizations. Countries (their institutions, government, local-self government, citizens) through which refugee minors / children are passing or staying.*

*Key words: migrants refugees, unaccompanied minors/children, refugee crisis, protection of migrants/refugees*

## Uvod

Migracije, u najširem smislu reči, podrazumevaju bilo koji oblik privremenog ili trajnog kretanja pojedinca u prostoru, tj. svaku trajniju promenu mesta boravka pojedinca ili društvenih grupa i kao takve predstavljaju savremeni globalni fenomen. Globalizacija kao trend kojim se savremeni svet razvija i proces uvećanja interkonekcija između društava nije koncept idealnog društva. U stvari, globalizaciju prati rastući jaz između bogatih i siromašnih. Ona ne podrazumeva ni homogenizaciju, ni pravičnost (Joseph S. Nue, Jr.). Paradoksi globalizacije ogledaju se u sjaju ili bedi savremenog društva, nastajanju društva obilja i siromašnih, produblivanju socijalne i ekološke krize, razvijanju procesa potčinjavanja i dominacije, povećavanju diskriminacije marginalizovanih grupa, što se ogleda u njihovoj sve većoj izloženosti siromaštvu, eksploataciji i društvenoj isključenosti. Od svih političkih bolesti globalizacija je najviše pogodovala širenju terorizma, u tolikoj meri da je moguće govoriti o pandemiji terorizma. Može se javiti u svakom trenutku, na svakom mestu i od njega niko više nije bezbedan – čak ni najjači. Savremni tehnološki razvoj i internet je u velikoj meri uticao ne samo na povezivanje terorista i uspostavljanje njihove međusobne komunikacije, već je omogućavao i širenje njihovih ideja o čemu svedoči veliki broj sajtova koji se bave terorističkom propagandom. Internet omogućava povezivanje terorista, ali i pomaže u njihovom pronalaženju, praćenju i kontroli, pa se može govoriti o dvojnoj ulozi tehnike u doba globalizacije. Reakcija na represivnu formu globalizacije, rađa eksploziju etničkih konflikata: Mekdonaldizacija sveta i džihad dva su pola jednog istog magistralnog procesa.<sup>2</sup> Agresivna homogenizacija, globalno uniformisanje sveta i sabijanje svih kultura u isti globalni kalup izaziva burnu reakciju. Prema Miroslavu Pečujliću tamna strana ekonomske globalizacije i sukobi civilizacija nisu zbivanja odvojena Kineskom zidom: „Najdublja socijalna polarizacija i najšire osiromašenje, pasivno osećanje gubitništva i nemoći preobražavaju se u aktivni nacionalizam i verski fundamentalizam.”<sup>3</sup>

Međunarodno pravo ljudskih prava, posebno Univerzalna deklaracija o ljudskim pravima garantuje pravo na slobodu kretanja kao jedno od osnovnih prava i slobode svake ličnosti. Ono podrazumeva pravo pojedinca na slobodu kretanja i izbor stanovanja u okviru jedne države, ali i pravo pojedinca da privremeno ili trajno napusti bilo koju zemlju, uključujući i vlastitu, kao i pravo pojedinca da se vrati u sopstvenu zemlju.

<sup>2</sup> Pečujlić M. Globalizacija – dva lica sveta, Beograd, 2005, str. 40

<sup>3</sup> Pečujlić M, Globalizacija – dva lica sveta, str. 41

Uzroci koji dovode do migracija (emigracije i imigracije) mogu biti vrlo različiti, od dobrovoljnih, najčešće ekonomskih, do prinudnih.

Tokom poslednje dve decenije, Republika Srbija suočava se sa svim vrstama migracija: spoljašnim, najviše emigracijom; unutrašnjom, uglavnom od sela ka gradu; prinudnom gde spadaju izbeglice od ratom zahvaćenih područja, interno raseljena lica (najviše sa Kosova i Metohije) i povratnici po osnovu readmisije; zatim dobrovoljnom; legalnom; ilegalnom i radnom migracijom.<sup>4</sup>

U poslednje dve do tri godine suočeni smo sa značajnim povećanjem imigracija u Republici Srbiji. Radi se o izbeglicama koje, bežeći od ratova koji se vode u zemljama Azije i Afrike (Sirija, Avganistan, Eritreja, Somalija...) idu put Zapadne Evrope i na tom putu prolaze kroz Srbiju, tzv. Balkanska ruta. Među više od milion izbeglica koje su od 2015. prošli preko Balkana nalazi se i 100.000 dece bez pratnje, a samo u Srbiji boravi od 900-1200 dece koja putuju sama.<sup>5</sup> Nije mali broj onih koji su ostali bez roditelja u ratnim sukobima, ili s tokom puta razdvojena od roditelja. Međutim to su samo zvanični podaci. Zbog loših uslova i nedostatka organizacije deca često nisu registrovana u svakoj državi u kojoj se nalaze, a predviđene mere za njihovu identifikaciju i zaštitu se ne sprovode ili uopšte ne postoje, tako da ne mogu da se isprate svi procesi u vezi sa ovom decom. Da Evropa nema rešenje za navedeni problem govori izveštaj evropske policijske agencije Evropol, u kome se navodi da je najmanje 10.000 dece koja nisu bila u pratnji roditelja, nestalo nakon što su stigla u Evropu. Postoji opravdan strah da su mnoga od njih žrtve eksploatacije, trgovine ljudima i drugih oblika zlostavljanja raznih kriminalnih grupa. Sve ovo ukazuje na ozbiljne praznine u evropskom sistemu zaštite dece širom izbegličke rute. Čitava Evropa, ali i šira međunarodna zajednica nalaze se pred velikom odgovornošću i izazovom kako da zaštitite decu bez pratnje, što zahteva dodatno ulaganje zajedničkog napora i unapređenje postojećih sistema zaštite. Naglasak je na zemljama ulaska, među kojima je i Srbija, gde je potrebno osigurati odgovarajuće kapacitete i stručnost da na odgovarajući način identifikuju, registruju i pruže podršku deci izbeglicama bez pratnje. To, takođe podrazumeva postojanje efikasnih procedura za sprovođenje procene najboljeg interesa deteta, kao i za ujedinjavanje sa porodicom u drugim evropskim zemljama, zatim dalja procedura nalaže određivanje privremenog staratelja za decu bez pratnje i njihovo smeštanje ili u specijalizovane hraniteljske porodice ili u centar za smeštaj stranih maloletnika bez pratnje. Ukoliko dete želi da dobije azil upućuje se od nekih centara za azil, gde mu se dodeljuje staratelj dok traje procedura. Ako se proceni da je moguće pronaći roditelje deteta, slučaj se prosljeđuje Crvenom krstu Srbije. Međutim, bez sveobuhvatnog plana za svu decu bez pratnje, na nivou cele evropske zajednice, koji bi pokrivao aspekte identifikacije porodica, njihovo lociranje i sve druge alternative ne može se efikasno sprečiti da ta deca ne postanu žrtve zlostavljanja i eksploatacija od strane krijumčara i trgovaca ljudima.

### Različite grupe migranata

Migranti predstavljaju jednu vrlo nehomogenu i kompleksnu kategoriju koja se može podeliti na migrante koji dobrovoljno i migrante koji nevoljno, prinudno ili usled progona napuštaju teritoriju svoje zemlje ili deo te teritorije. U prvu grupu spadaju strani državljani koji dobrovoljno, po različitim osnovama borave u drugoj državi - radi školovanja, zasnivanja braka, međunarodni radnici migranti i lica koja dugo nisu boravila u svojoj zemlji, ali se iz nekog razloga u nju dobrovoljno vrate.

U drugu kategoriju spadaju različite grupe migranata kao što su: izbeglice, tražioci azila, povratnici po osnovu readmisije, žrtve trgovine ljudima.

U Republici Srbiji boravi i jedna i druga kategorija migranata. Prvu kategoriju

4 Krstić I., Zaštita prava migranata u Republici Srbiji, Međunarodna organizacija za migrante-Misija u Srbiji, Projekat „Jačanje kapaciteta institucija Republike Srbije za upravljanje migracijama i reintegraciju povratnika“, Beograd, 2012., str.11

5 Podatak Međunarodnih organizacija koje se bave migrantima („International Rescue Committee“ i Save The Children“), april -jun 2017. godine.

čine: stranci, radnici migranti, azilanti. Migranti koji prinudno dolaze u Srbiju su izbeglice<sup>6</sup>, interno raseljena lica, povratnici po osnovu sporazuma o readmisiji i žrtve trgovine ljudima.

Stranci su svi migranti koji nemaju srpsko, već strano državljanstvo, a koji se nalaze na teritoriji Srbije. Stranci na teritoriji Srbije mogu da borave zakonito ili nezakonito. Zakonito borave stranci koji su radno angažovani u stranim predstavništvima, bankama, gradilištima, u trgovini i drugim oblastima ili koji imaju privremeni boravak po osnovu braka, srodstva i sl.

Ilegalni strani migranti su stranci koji nezakonito ulaze na teritoriju Srbije van graničnog prelaza ili sa neregularnom putnom ispravom, najčešće falsifikovanom ili zakonito ulaze u zemlju, ali nakon isteka odobrenog boravka nisu napustili teritoriju Srbije.

Radnici migranti je naziv za radnike koji traže posao ili obavljaju rad u mestu koje je više ili manje udaljeno od njihovog mesta stanovanja. To može biti radnik koji povremeno i privremeno odlazi da radi u drugo mesto (sezonski radnik), ili za period koji nije moguće unapred odrediti. Radnik migrant može obavljati posao unutar granica svoje zemlje ili odlaziti na rad u druge zemlje.

Azilanti su stranci koji traže boravak, utočište (azil), u Srbiji podnošenjem zahteva, a o kojem nije doneta konačna odluka.<sup>7</sup> Srbija se poslednjih godina suočava sa svećim prilivom tražilaca azila jer se nalazi na putu u aktuelnoj izbegličkoj krizi, kojim se kreće veliki broj ilegalnih migranata iz afričkih zemalja, sa Bliskog istoka, Avganistana, preko Turske, Grčke, Bugarske, Rumunije ka Mađarskoj i drugim zemljama EU. Od 2010. godine kada je tražilo azil oko 550 lica, do danas ovaj broj se stalno povećava.<sup>8</sup>

Izbeglice su lica koja se, zbog opravdanog straha od progona zbog svoje vere, rase, pola, jezika, nacionalne pripadnosti, pripadnosti nekoj grupi ili zbog svojih političkih uverenja, ne nalaze u državi svog porekla i nisu u mogućnosti ili zbog straha ne žele da se stave pod zaštitu te države, kao i lica bez državljanstva koja se nalazi izvan države svog prethodnog boravka i koja ne mogu, ili zbog pomenutog straha da se vrate u tu državu.

Interno raseljena lica su pojedinci ili grupe pojedinaca koji su prisiljeni da beže ili napuste svoje domove ili prebivališta, usled oružanog sukoba, situacije opšteg nasilja, povrede ljudskih prava, katastrofe bilo prirodne ili uzrokovane ljudskom rukom, a koji nisu prešli međunarodno priznatu državnu granicu.

Povratnici po osnovu sporazuma o readmisiji su lica koja su vraćena na teritoriju Republike Srbije zato što ne ispunjavaju ili više ne ispunjavaju uslove za ulazak i boravak na teritoriji države sa kojom je Republika Srbija zaključila sporazum o readmisiji. Readmisija predstavlja proces bezbednog povratka osoba koje ne ispunjavaju uslove boravka i nastanjivanja na teritoriji određene države.

Žrtve trgovine ljudima. Pod trgovinom ljudima podrazumeva se naročito težak oblik eksploatacije i lišavanja osnovnih ljudskih prava. Ova pojava je definisana Protokolom za prevenciju, suzbijanje i kažnjavanje trgovine ljudskim bićima, naročito ženama i decom, (član 3).<sup>9</sup>

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6 Republika Srbija je država sa najvećim brojem izbeglih i interno raseljenih lica u Evropi. Prema podacima Komeserijata za izbeglice, Republika Srbija danas pruža podrušku i pomoć za oko 74.000 izbeglica, dok je više od 250.000 njih steklo državljanstvo RS, što predstavlja najveći proces integracije u Evropi.

7 Azil je pravo na boravak i zaštitu koju uživa stranac kome je na osnovu odluke nadležnog organa odobreno utočište ili drugi oblik zaštite predviđen Zakonom o azilu

8 Petrović V., Ljudska prava u Srbiji 2010- pravo, praksa i međunarodni standardi ljudskih prava, Beogradski centar za ljudska prava, Beograd, 2011., str. 18

9 Krstić I., Zaštita prava migranata u Republici Srbiji, Međunarodna organizacija za migrante-Misija u Srbiji, Projekat „Jačanje kapaciteta institucija Republike Srbije za upravljanje migracijama i reintegraciju povratnika“, Beograd, 2012., str. 19

## Pravni okvir u oblasti zaštite migranata

Kada govorimo o pravnom okviru zaštite migranata treba poći, pre svega, od međunarodnih normi i standarda koji su sadržani u specijalizovanim međunarodnim konvencijama u odnosu na svaku kategoriju migranata, zatim evropskih standarda zaštite migranata do odgovarajućih odredbi sadržanim u Ustavu Republike Srbije, zakonima i strategijama gde se definišu prioritetni ciljevi radi unapređenja njihovog položaja i načina za njihovo ostvarivanje.

### Međunarodni standardi zaštite

Međunarodne norme i standardi u oblasti zaštite migranata su od izuzetnog značaja jer važeći Ustav Republike Srbije proklamuje da su opšteprihvaćena pravila međunarodnog prava i potvrđeni međunarodni ugovori sastavni deo unutrašnjeg poretka Republike Srbije. Ustav u članu 16. i članu 193. stav 3. utvrđuje hijerarhiju pravnih normi navodeći da ovi izvori moraju biti u skladu sa Ustavom. Pod opšteprihvaćenim pravilima međunarodnog prava podrazumevaju se međunarodni običaji, a pod potvrđenim ugovorima sporazumi i konvencije koji su ratifikovani od strane Narodne skupštine. Najveći broj normi koje se odnosi na različite kategorije migranata reguliše ljudska prava i u tom kontekstu treba istaći član 18. Ustava, koji predviđa da se ova prava neposredno primenjuju i da se tumače u korist unapređenja vrednosti demokratskog društva, saglasno važećim međunarodnim standardima ljudskih i manjinskih prava.

Jedina Međunarodna konvencija koja se odnosi isključivo na migrante jeste Međunarodna konvencija o zaštiti prava svih radnika migranata i članova njihovih porodica iz 1990, doneta u okviru UN. U drugim konvencijama se govori o migrantima u pojedinim odeljcima ili oblastima. U konvencijama kada se govori o ustanovljenju i zaštiti ljudskih prava misli se na sva lica koja se nalaze na teritoriji jedne države gde spadaju i svi migranti.<sup>10</sup>

Prvi katalog ljudskih prava i njihova univerzalna zaštita uspostavljena je u okviru Ujedinjenih nacija kada je 1948. godine doneta Univerzalna deklaracija o ljudskim pravima. Ona sadrži i niz prava koja su od posebne važnosti za migrante, i to: pravo na život, slobodu i bezbednost, zabranu ropstva i mučenja i drugih oblika zlostavljanja, slobodu kretanja, pravo na državljanstvo, pravo na pravično suđenje, politička prava, zabranu diskriminacije, zabranu proizvoljnog hapšenja, pritvaranja i proterivanja. Takođe, Univerzalna deklaracija garantuje i niz drugih socijalnih i kulturnih prava, kao: pravo na socijalno osiguranje, pravo na rad i prava u vezi sa radom, pravo na obrazovanje i učešće u kulturnom životu zajednice. Jedno od vrlo značajnih prava za ovaj kontekst je pravo na azil, tj. proklamovano je da svako ima pravo da traži i uživa u drugim zemljama utočište od proganjanja, osim ukoliko je lice učinilo krivično delo koje nije političkog karaktera ili koje je suprotno ciljevima i načelima Povelje UN.<sup>11</sup> Pored univerzalne deklaracije, treba istaći još dve konvencije UN o ljudskim pravima: Pakt o građanskim i političkim pravima i Pakt o ekonomskim, socijalnim i kulturnim pravima. Prvi Pakt proklamuje niz građanskih i političkih prava koja se tiču odnosa pojedinca prema državi, kao i mogućnost učešća pojedinca u njenom upravljanju. Prava koja se garantuju drugim Paktom odnose se na: pravo na rad, na pravičnu naknadu za rad, socijalno obezbeđenje, sindikalno organizovanje, pravo na zaštitu majke, deteta i porodice, pravo na zdravlje, pravo na osnovno obrazovanje i ostvarivanje kulturnih potreba pojedinca, uživanje blagodeti naučnog napretka i drugo. Naša zemlja je ratifikovala oba Pakta. Takođe, naša zemlja je ratifikovala i sledeće međunarodne ugovore koji su značajni za zaštitu migranata: 1) Konvenciju o pravima deteta; 2) Međunarodnu konvenciju o ukidanju svih oblika rasne diskriminacije; 3) Konvenciju protiv torture i drugih surovih,

<sup>10</sup> Krstić I., Zaštita prava migranata u Republici Srbiji, Međunarodna organizacija za migrante-Misija u Srbiji, Projekat „Jačanje kapaciteta institucija Republike Srbije za upravljanje migracijama i reintegraciju povratnika“, Beograd, 2012., str.25

<sup>11</sup> Univerzalna deklaracija o ljudskim pravima UN iz 1948. godine, član 14



neljudskih ili ponižavajućih kazni ili postupaka; 4) Konvenciju o eliminisanju svih oblika diskriminacije žena; 5) Međunarodnu konvenciju za zaštitu svih lica od prisilnih nestanka; 6) Konvenciju o pravima osoba sa invaliditetom.

Osim univerzalnog sistema zaštite ljudskih sloboda i prava, postoje i tri regionalna: američki, afrički i evropski. Za Republiku Srbiju najznačajni je, svakako evropski sistem zaštite koje se odvija kroz tri regionalne organizacije (Evropska unija, Savet Evrope i Organizacija za bezbednost i saradnju u Evropi-OEBS). Kao bi se pridružila Evropskoj Uniji Srbija pored ostalog, mora da obezbedi poštovanje ljudskih prava i osnovnih sloboda. Jedno od osnovnih načela Evropske unije je da zajedničko evropsko nasleđe počiva na ljudskim pravima, slobodi, demokratiji jednakosti i vladavini prava. Posebno mesto u okviru EU iz oblasti zaštite ljudskih prava je Povelja o osnovnim pravima EU iz 2000. godine koji je ugrađen u tekst Lisabonskog ugovora, čime je stekao svoju pravnu obaveznost. Povelja proklamuje niz ljudskih prava i sloboda: garantuje nepovredivost ljudskog dostojanstva i štiti niz građanskih, političkih, ekonomskih, socijalnih i kulturnih prava, (tako u članu 21. Povelje zabranjuje se svaka diskriminacija po bilo kom osnovu).

U okviru Saveta Evrope donet je veliki broj konvencija iz oblasti ljudskih prava i sloboda od kojih je, svakako, najznačajnija Evropska konvencija za zaštitu ljudskih prava i osnovnih sloboda iz 1950. godine. Uz Evropsku konvenciju do danas je doneto još četrnaest protokola, od kojih se neki proširuju katalog ljudskih prava, dok drugi se bave proceduralnim pitanjima. Srbija je počela da primenjuje Konvenciju od 3. marta 2004. godine. Inače, ova konvencija, popularno nazvana Evropska konvencija o ljudskim pravima, predviđa niz osnovnih prava i sloboda koja se odnose na sva lica: pravo na život; zabrana mučenja, nečovečnog i ponižavajućeg postupanja; zabrana ropstva i prinudnog rada; pravo na slobodu i sigurnost; pravo na pravično suđenje; kažnjavanje samo po osnovu zakona; pravo na poštovanje privatnog i porodičnog života; sloboda misli, savesti i veroispovesti; sloboda izražavanja; sloboda okupljanja i udruživanja; pravo na sklapanje braka; pravo na delotvoran pravni lek; zabrana diskriminacije i niz drugih političkih, ekonomskih, socijalnih i kulturoloških prava. Recimo, Šesti protokol u članu 1. predviđa zabranu izricanja i izvršavanja smrtne kazne, Sedmi protokol u članu 1. garantuje zaštitu u postupku proterivanja stranaca, a Dvanaesti protokol u članu 1. opštu zabranu diskriminacije.

Pored ovih najvažnijih konvencija koje se odnose na sva lica ili na pojedine kategorije lica postoje i specijalizovane konvencije koje se odnose konkretno na određenu kategoriju migranata. Među njima najznačajnije su: Konvencija o zaštiti lica bez državljanstva iz 1954. godine; Konvencija o smanjenju broja lica bez državljanstva iz 1961. godine; Evropska konvencija o državljanstvu doneta 1997. godine; Međunarodna konvencija o zaštiti prava migranata i članova njihovih porodica usvojena 1990. godine; Konvencija MOR br. 97 o migraciji u cilju zapošljavanja i Konvencija MOR br. 143 o migracijama u uslovima zloupotrebe i unapređenja jednakih mogućnosti i tretmana radnika migranata; Konvencija o pravnom statusu radnika migranata u doneta u okviru Saveta Evrope 1997. godine; Konvencija o statusu izbeglica iz 1951. godine i Protokol o statusu izbeglica iz 1967. godine; Konvencija o zabrani ropstva iz 1956. godine, dopunjena Konvencijom o ukidanju ropstva, trgovine robljem i ustanova i praksi sličnih ropskom; Protokol za prevenciju, suzbijanje i kažnjavanje trgovine ljudskim bićima, naročito ženama i decom (poznat kao Protokol iz Palerma); Sporazumi o readmisiji sa EU; Konvencija o pravima deteta UN iz 1989. godine.

Dalje, od bitnog značaja su važeći međunarodni standardi ljudskih prava i praksa međunarodnih institucija koje nadziru njihovo sprovođenje. Prevedhodno se misli na jurisprudenciju Evropskog suda za ljudska prava i praksu komiteta UN. Njihova ključna uloga dolazi do izražaja prilikom sudske zaštite ljudskih prava i uklanjanju posledica nastalih njihovom povredom. Da bi se neko pravo zaštitilo i ostvarilo sudskim putem, važno je na koji se način postojeće odredbe iz oblasti ljudskih prava tumače. Osnov tumačenja odredbi o ljudskim pravima, upravo, čine pomenuti međunarodni standardi i praksa.

Međunarodne konvencije i standardi o kojima je bilo reč pravno su obavezujući za Republiku Srbiju i predstavljaju međunarodno-pravni okvir u sistemu zaštite migranata.

### Nacionalni pravni okvir zaštite

Ustav Republike Srbije u svojim početnim odredbama drfiniše Republiku Srbiju kao „državu srpskog naroda i svih građana koji u njoj žive, zasnovana na vladavini prava i socijalnoj pravdi, načelima građanske demokratije, ljudskim i manjinskim pravima i slobodama i pripadnosti evropskim principima i vrednostima.“<sup>12</sup> Ustav dalje promovise aktivan odnos države prema državljanima koji privremeno ili trajno ne žive n njenoj teritoriji u smislu zaštite njihovih prava i interesa. Istivremeno, strancima se u načelu garantuju sva prava koja imaju i domaći državljani. Izuzetak su izborna prava i pravo države da uređuje ulazak i boravak stranaca. Proterivanje stranaca moguće je samo pod strogo propisanim uslovima, kada odluku donese nadležni organ u zakonom predviđenom postupku. U odeljku Ustava koji se bavi ljudskim i manjinskimpravima i slobodama nalaze se niz odredbi koje su važne za različite kategorije migranata. Recomo, predviđena je neposredna primena Ustavom zajemčenih ljudskih i manjinskih prava, kao i proklamacija jednake zaštite pred zakonom. Zabranjena je svaka diskriminacija, neposredna ili posredna, po bilo kom osnovu, a naročito po osnovu rase, pola, nacionalne pripadnosti, društvenog porekla, rođenja, veroispovesti, političkog ili drugog uverenja, imovnog stanja, kulture, jezika, starosti i psihičkog ili fizičkog invaliditeta. Međutim, pod diskriminacijim se ne smatra uvođenje, tzv. pozitivnih mera radi postizanja pune ravnopravnosti lica ili grupe lica koja su suštinski u nejednakom položaju sa ostalim građanima, što može biti važno za pojedine grupe migranata. Takođe, Ustav garantuje i niz ljudskih prava posebno značajna za migrante, pre svega: pravo na život; pravo na nepovredivost fizičkog i psihičkog integriteta i zabranu mučenja; zabranu ropstva, položaja sličnog ropstvu i prinudnog rada; pravo na slobodu i bezbednost; pravo na dostojanstvo i slobodan razvoj ličnosti; pravo na pravično suđenje i obavezu čovečnog postupanja prema licu lišenom slobode; slobodu kretanja; slobodu misli, savesti i veroispovesti; pravo na zdravstvenu i socijalnu zaštitu; pravo na obrazovanje i sl. Ustav Republike Srbije garantuje stranom državljaninu koji osnovano strahuje od progona zbog rase, pola, jezika, veroispovesti, nacionalne pripadnosti ili pripadnosti nekoj grupi ili zbog svoji političkih uverena, pravo na utočište u Republici Srbiji. Važno je naglasiti, da se sva ova ljudska prava i slobode mogu primeniti neposredno, što znači da se sud ili bilo koji drugi organ u odlučivanju mogu direktno da se pozovu na ustavnu normu, nezavisno da li je proklamovano pravo konkretnije regulisano zakonom ili drugim podzakonskim aktom. Ustav, naročito, garantuje zaštitu prava koja građani već uživaju jer se dostignuti nivo ljudskih prava ne mogu smanjiti. Država, može ograničiti samo pojedina prava pod uslovom da je ograničenje propisano zakonom, radi ostvarenja svrhe koju Ustav dopušta, u obimu koji je neophodan u demokratskom društvu i bez zadiranja u suštinu samog prava. Međutim, u Ustavu se izričito navode tzv. apsolutna prava u koja se čak, ni u ovoj situaciji ne može zadirati. Tu spadaju najveći broj prava, ovde navedena, a koja su značajna za migrante.

Pored odgovarajući odredbi ustava na pojedine grupe migranata primenjuju se i relevantni zakoni i strategije kojima država Srbija defniše prioritete ciljeve radi unapređenja njihovog položaja i načine za njihovo ostvarivanje.

### Pravni aspekti zaštite maloletnih izbeglica bez pratnje

Republika Srbija, u skladu sa međunarodno prihvaćenim standardima zaštite imigranta/izbeglica i uz uvažavanje, u najvećoj mogućoj meri, specifičnosti njihovih potreba i interesa, obezbeđuje deci i njihovim porodicama zaštitu i podršku primenom mera porodično-pravne i socijalne zaštite. U Ustavu Republike Srbije navedeno je da

<sup>12</sup> Ustav republike Srbije, „Službeni glasnik RS“ br. 98/26

porodica uživa posebnu zaštitu u skladu sa zakonom. Takođe, Ustav izričito garantuje i prava deteta, tako što proklamuje da "deca uživaju ljudska prava koja su primerena njihovom uzrastu i duševnoj zrelosti". Svakom detetu se garantuje parvo na lično ime, upis u matičnu knjigu rođenih, pravo da zna poreklo i očuva svoj identitet. Deca su Ustavom zaštićena od psihičkog, fizičkog, ekonomskog i svakog drugog iskorišćavanja ili zloupotrebe. Porodični zakon posebno garantuje zaštitu porodice i pravo svakog lica na poštovanje njegovog porodičnog života.<sup>13</sup> Inače, u Republici Srbiji još nije donet sveobuhvatan Zakon o deci, već se veliki broj drugih zakona direktno ili indirektno odnose na decu. Pravni okvir za prava deteta je, pre svih Porodični zakon, a još se izdvajaju po značaju i Zakon o maloletnim učiniocima krivičnih dela i krivičnopravnoj zaštiti maloletnih lica, Zakon o azilu, Zakon o osnovama sistema obrazovanja i vaspitanja i drugi.

Najvažniji korpus dečijih prava, koji se priznaju osobama mlađim od 18 godina sadržan je u Konvenciji UN o pravima deteta, a koji je Republika Srbija ratifikovala oktobra 2001. godine. Konvencija obavezuje države da poštuju i obezbede prava svakom detetu, bez ikakve diskriminacije, koje se zatekne na njenoj teritoriji i pod njenom jurisdikcijom, što znači, bez obzira na pol, rasu, boju kože, nacionalnu pripadnost, jezik, veroispovest, etničko i socijalno poreklo, imovno stanje, političko ili drugo ubeđenje i druge osnove. Među pravima koja proklamuje Konvencija, naznačajnija su: ostvarenje najveće moguće mere zdravlja i zdravstvene preventive i medicinske brige, pravo na besplatno osnovno obrazovanje; pravo na odmor, slobodno vreme, igru i učeše u kulturnim i umetničkim manifestacijama; pravo na informisanje, slobodno iskazivanje svog mišljenja; pravo da bude saslušano; pravo deteta da živi sa svojim roditeljima i da ima kontakt sa oba roditelja ako oni žive razdvojeno. Deca sa invaliditetom imaju pravo na posebnu podršku, kao i na aktivno učešće u društvenom životu. Pri tome, države su obavezne da prilikom obezbeđenja proklamovanih prava vode računa o dobrobiti deteta. Države ugovornice preuzele su obavezu da preduzimaju sve potrebne zakonske, administrativne, socijalne i obrazovne mere radi zaštite deteta od svih oblika fizičkog ili psihičkog nasilja, povreda ili zloupotrebe, zanemarivanja ili nemarnog odnosa, maltretiranja ili eksploatacije, uključujući i seksualnu zloupotrebu. Četiri ključna principa Konvencije jesu:

- Pravo na zaštitu najboljeg interesa (član 3),
- Pravo na nediskriminaciju (član 2),
- Pravo na život, opstanak i razvoj (član 6),
- Pravo na participaciju (član 12).

Primena ovih principa prilikom zaštite dece u pokretu znači da najbolji interes deteta treba da bude primaran u donošenju odluka i sprovođenju aktivnosti koje se tiču dece. Od profesionalaca u radu sa decom se očekuje da pruže pomoć bez obzira na pol, uzrast, invaliditet, društvenu klasu, etničku pripadnost, religiju, jezik, političko ubeđenje ili seksualnu orijentaciju. Profesionalci su dužni da u svakom trenutku pokažu poštovanje prema različitostima koje dete nosi sa sobom. Svi akteri koji učestvuju u pružanju podrške deci u pokretu imaju odgovornost da deci obezbede sve potrebne uslove za potpun razvoj kapaciteta. Ostvarivanje prava na participaciju od posebne je važnosti za decu u pokretu, koja se susreću sa nizom odluka koje značajno utiču na njihov život. Dečje sugestije, mišljenja i sposobnost da učestvuju u odlukama i aktivnostima i da na taj način utiču na sopstvene živote ne mogu biti zanemareni. Ono, što je posebno bitno za ovaj kontekst je da Konvencija izričito predviđa da je država ugovornica u obavezi da preduzme adekvatne mere kako bi se detetu koje traži izbeglički status ili koje se smatra izbeglicom prema važećem međunarodnom pravu ili nacionalnim zakonom i postupkom obezbedilo da dobije odgovarajuću zaštitu i humanitarnu pomoć radi ostvarenja prava iz Konvencije, bez obzira na to da li je lice u pratnji roditelja ili neke druge osobe, ili je bez pratnje.<sup>14</sup> Ukoliko je dete bez pratnje, države su u obavezi da obezbede saradnju

<sup>13</sup> Porodični zakon („Službeni glasnik RS“, br. 18/05, 72/2011)

<sup>14</sup> Konvencija o pravima deteta (Službeni list SFRJ-Međunarodni ugovori, br.15/90 i Službeni list SFRJ-Međunarodni ugovori, br.4/96 2/97, član 22

sa međunarodnim i nevladinim organizacijama koje saraduju sa Ujedinjenim Nacijama kako bi zaštitile dete, pomogle mu da pronađu roditelje i druge članove porodice i kako bi dobilo informacije koje su nužne za njihovo ponovno spajanje. Ako oni ne mogu biti pronađeni dete će uživati istu zaštitu kao i svako drugo dete koje je stalno ili privremeno lišeno porodične sredine iz bilo kog razloga.

Implementaciju preuzetih obaveza iz Konvencije o pravu deteta od strane država ugovornica nadzire Komitet za prava deteta, koji se u svom Šestom opštem komentaru bavio pitanjima položaja i tretmana dece bez pratnje koja se nalaze izvan teritorije svoje zemlje. Komitet je, razmatrajući izveštaje država na čijoj se teritoriji nalaze ova deca, zaključio da postoji veliki rizik od zlostavljanja, jer su često izložena diskriminaciji, prinudnom radu, na rodno zasnovanom nasilju, ili su smešteni u nehumanim uslovima i imaju ograničen pristup hrani, zdravstvenim službama i obrazovanju. Dodatno otežava njihov položaj nepostojanje odgovarajuće dokumentacije. Veliki broj država im ne dozvoljava da pređu granicu ili se zadržavaju na graničnim prelazima. Često im se onemogućava da pokrenu proceduru za dobijanje azila, a ako im se dozvoli to bude samo privremeno, tako da kad napune osamnaest godina gube status. Zato je Komitet u svom komentaru naveo principe kojih države mora da se pridržavaju, među kojima su: obaveze države iz Konvencije odnose se na svako dete pod njenom jurisdikcijom i moraju se primenjivati bez ikakve diskriminacije; sve obaveze iz Konvencije moraju biti unete u domaće zakone; obaveze se odnose na sve organe vlasti (zakonodavne, izvršne, sudске); u postupku se mora voditi računa o najboljem interesu svakog deteta; dete ne sme biti proterano u zemlju u kojoj mu pretili opasnost od mučenja ili bilo kog drugog oblika zlostavljanja; dete mora što pre biti registrovano i mora se bez odlaganja proceniti u kakvom je stanju i u kojim je okolnostima došlo na teritoriju zemlje, odnosno proceniti koje potrebe ima; mora mu se obezbediti zakonski zastupnik i staratelj; moraju mu se obezbediti adekvatna briga i smeštaj, pristup obrazovanju, pravo na odgovarajući životni standard, pristup zdravstvenim službama; dete se mora zaštititi od trgovine ljudima i seksualne i druge eksploatacije, nasilja i zlostavljanja; države moraju obezbediti poverljivost informacija dobijenih u odnosu na ovo dete. Isto tako, kod procedura za dobijanje azila Komitet usvaja nekoliko, za države ugovornice obavezujućih, principa: dete mora biti u prisustvu odrasle osobe koja je upoznata sa njegovom situacijom i kompetentna da zastupa njegove interese; detetu će biti obezbeđeno besplatno zastupanje ukoliko je to neophodno; postupak mora da sprovodi kvalifikovana osoba uz prisustvo prevodioca kada je to potrebno; dete mora imati parvo na žalbu; službenici koji sprovedu postupak moraju imati senzitivnost za detetov uzrast, kulturu različitost i pol; dete neće biti vraćeno u zemlju u kojoj mu pretili opasnost od mučenja. Ono može biti vraćeno u zemlju porekla, samo ako je to u njegovm najboljem interesu ceneći bebezbednost i socio-ekonomske uslove koje ga očekuju u toj zemlji, dostupnost ustanova za negu i brigu, stepen integracije koje je dete ostvarilo i dužina odsustvovanja iz svoje zemlje. Pravo je deteta da očuva identitet, državljanstvo, ime i porodične odnose, kontinuitet odgoja njegovog etničkog, kulturnog i jezičkog porekla. Na kraju se uzima u obzir i mišljenje deteta. Ukoliko se proceni da povratak deteta nije u njegovom najboljem interesu, država mora da preduzme mere radi ostvarenja njegove integracije u saradnji sa svim relevantnim akterima i lokalnom zajednicom, pri čemu institucionalno zbrinjavanje deteta mora biti krajnja mera. Detetu se, naročito, moraju obezbediti parvo na obrazovanje i zdravstvenu zaštitu.

U sklopu svih ovih međunarodnih principa i pravila, a skladu sa Konvencijom o pravima deteta, koju je Republika Srbija ratifikovala Ministarstvo za rad, zapošljavanje, boračka i socijalna pitanja donelo je Instrukciju o postupanju centara za socijalni rad i ustanova socijalne zaštite za smeštaj korisnika u obezbeđivanju zaštite i smeštaja maloletnih migranata bez pratnje. U Instrukciji se između ostalog navodi da je Centar za socijalni rad dužan da maloletnom imigrantu bez pratnje obezbedi starateljsku zaštitu postavljanjem privremenog staratelja u skladu sa pozitivnim propisima Srbije. Obim i sadržaj ovlašćenja privremenog staratelja definisani su isključivo u odnosu na



obezbeđenje privremenog smeštaja u ustanovu socijalne zaštite za smeštaj korisnika koja u svojoj organizacionoj strukturi ima posebnu organizacionu jedinicu za privremeni smeštaj i zbrinjavanje maloletnih imigranata bez pratnje. Nakon smeštaja, ustanova gde je dete smešteno postaviće mu odmah novog privremenog staratelja radi privremene zaštite ličnosti, prava i interesa deteta. Ustanova će detetu obezbediti bezbednost, brigu o zdravlju i osnovne egzistencijalne uslove. Smeštaj maloletnog imigranta bez pratnje je privremen i može trajati do iskazivanje iskazivanja njegove želje za dobijanje azila u skladu sa Zakonom o azilu, kad smeštaj obezbeđuje centar za azil. U slučaju premeštaja deteta iz ustanove u centar za azil, premeštaj organizuje ustanova u kojoj je dete smešteno u pratnji staratelja i prevodioca.

“Kao proizvod strateške saradnje između Ministarstva za rad, zapošljavanje, boračka i socijalna pitanja, UNICEF-a i IDEAS-a kreirane su Standardne, operativne procedure za zaštitu dece izbeglica/migranata (SOP), koje, predstavljaju osnov za koordinisano delovanje svih učesnika u podršci i identifikaciji posebno ugrožene dece izbeglica/migranata. SOP definišu organizacioni model reagovanja, uloge i odgovornosti svih aktera, jedinstvene kriterijume i procedure dajući odgovore na pitanja “ko radi”, “šta radi” “kada” i “kako”. Radi što kvalitetnije zaštite dece i poštovanja njihovih prava u izbegličkoj krizi, Ministarstvo za rad, zapošljavanje, boračka i socijalna pitanja preporučuje svim akterima koji učestvuju u podršci deci primenu SOP i kroz njih uspostavljanje jasnih granica i koordinaciju delovanja, do donošenja obavezujućeg dokumenta čiji će SOP biti sastavni deo.”<sup>15</sup>

### **Institucionalni okvir i zaštita maloletnih izbeglica bez pratnje na lokalnom nivou**

Pored pravnog okvira,<sup>16</sup> za praćenje i zaštitu maloletnika i dece izbeglica značajno je uspostaviti institucionalni okvir u skladu sa pravnim tekovinama i standardima Evropske unije i čitave međunarodne zajednice, u pravcu jačanja kapaciteta institucija, kako na centralnom, tako i na lokalnom nivou. Iako, su za obezbeđenje prava migranata prevashodno odgovorni republički organi, neophodno je sve učesnike na republičkom i lokalnom nivou povezati i omogućiti da kordiniraju svoje aktivnosti, kako bi usklađenim pristupom što bolje zaštitili i integrisali ovu najosetljiviju grupu migranata/izbeglica. Od državnih službenika, a posebno službenika u lokalnim samoupravama koji dolaze u dodir sa navedenom kategorijom izbeglica, se očekuje da postupaju skladu sa ustavom, odgovarajućim međunarodnim zakonima i standardima. Međutim nije dovoljno da ovi službenici dobro poznaju propise, već i da ih adekvatno primene u praksi. Zato je nužno da razumeju probleme sa kojima se suočavaju ove kategorije izbeglica kao i da prepoznaju sopstvene uloge i načine za rešavanje tih problema. U svom postupanju prema maloletnim migrantima/izbeglicama, državni, a posebno lokalni službenici treba da obezbede poštovanje i zaštitu svih garantovanih ljudskih prava, da pokažu razumevanje za njihove potrebe i probleme, iako ovo neće biti uvek lako, posebno kada je neophodno ostvariti njihovu integraciju u lokalnu sredinu. Integracija predstavlja proces koji je povezan sa zadacima i izazovima za lokalno stanovništvo, ali i za izbeglice, a naročito za maloletne izbeglice bez pratnje. Da bi integracija postojala nije dovoljno da ove grupe imigranata samo egzistiraju na određenoj teritoriji, već je potrebno da se uključe u sve sfere društvenog života, da se uključe u proces obrazovanja, da ne osećaju svoju različitost kao problem i da se osećaju prihvaćeno od ostatka stanovništva. Zato je nužno da budu dovoljno i adekvatno informisani o svojim pravima u Republici Srbiji uz aktivno uključjenje u procese integracije. Mongi od njih su ostali izvan ovih procesa, upravo zbog neinformisanosti, pasivnosti, nepoznavanja jezika, animoziteta lokalnog stanovništva koje ispoljava predrasde prema ovim grupama i nezainteresovanosti lokalnih organa vlasti da pomognu. Postoje i tenzije većinskog stanovništva zbog pomoći koja se dodeljuje izbeglicama, jer i sebe vide kao podjednako ugroženu kategoriju.

<sup>15</sup> <https://www.unicef.org/.../SOP-za-zastitu-dece-izbeglica-i-migranata>, datum pristupanja 02.10.2017.g.

<sup>16</sup> Ustav republike Srbije („Službeni glasnik RS“ br. 98/26), član 64



U cilju stvaranja uslova za jednako postupanje svih institucija socijalne zaštite u obezbeđivanju pomoći i podrške izbeglicama/migranata, Ministarstvo za rad, zapošljavanje, boračka i socijalna pitanja donelo je Instrukciju o postupanju centara za socijalni rad i ustanova socijalne zaštite za smeštaj korisnika u obezbeđivanju zaštite i smeštaja maloletnih migranata bez pratnje, kao i Akcioni plan za obezbeđivanje zaštite i smeštaja maloletnih migranata bez pratnje.

“Centri za socijalni rad, ustanove za smeštaj korisnika koje u svojoj organizacionoj strukturi imaju posebne organizacione jedinice za privremeni smeštaj i zbrinjavanje maloletnih imigranata bez pratnje i ustanove za smeštaj korisnika-odojčadi, dece, mladih, odraslih, starih i osoba sa smetnjama u fizičkom i mentalnom razvoju, kao i odraslih duševno obolelih lica, su dužne da u skladu sa načelom zaštite prava imigranata, uz uvažavanje u najvećoj mogućoj meri specifičnosti njihovih potreba i interesa, u skladu sa mogućnostima Republike Srbije, a uz poštovanje potvrđenih međunarodnih ugovora i opšte prihvaćenih pravila međunarodnog prava, obezbede mere porodično pravne zaštite-starateljstva i usluge smeštaja”.<sup>17</sup> Centri za socijalni rad i ustanove socijalne zaštite za smeštaj maloletnih imigranata bez pratnje u pružanju usluga i zaštite iz svoje nadležnosti saraduju republičkim i državnim organima a posebno sa: Ministarstvom unutrašnjih poslova, Direkcijom policije-Uprava granične policije, Komesarijatom za izbeglice i migracije, Republičkom organizacijom Crvnog krsta i nevladinim organizacijama koje pružaju usluge svim maloletnim licima.

Značajnu ulogu u zaštiti i pružanju pomoći maloletnim imigrantima/izbeglicama bez pratnje mogu da pruže poverenici za izbeglice. Naime, na lokalnom nivou postoji mreža poverenika za izbeglice koja nastaje tako što nadležni organi u autonomnoj pokrajini i jedinicama lokalne samouprave, uz pribavljeno mišljenje Komeserijata za izbeglice, određuju lice za održavanje veze sa Komeserijatom i za obavljanje određenih poslova za komeserijat. Poslovi poverenika za izbeglice su vrlo značajni i zavise od opštine do opštine.<sup>18</sup> Za kategoriju izbeglica o kojoj je ovde reč to mogu biti: rešavanje problema oko zbrinjavanja i zadovoljenja opštih potreba; pružanje pomoći oko obezbeđenja socijalne sigurnosti i zdravstvene zaštite; vođenje zakonom propisane evidencije, pomoć oko nastavka školovanja, spajanja porodica i sl.

Takođe, na nivou lokalne samouprave formirani su saveti za migracije u cilju donošenja strateških dokumenata i akcionih planova za stvaranje neophodnih uslova za integraciju izbeglica i raseljenih lica. U njihovom sastavu se nalaze relevantni partneri iz lokalnih institucija za podršku integraciji i poboljšanju uslova života izbeglih i raseljenih. Savet za migracije treba angažovati za izradu strategija i planova i za kategorije maloletnih imigranata/izbeglica bez pratnje.

### Zaključna razmatranja

Kada govorimo maloletnicima i deci izbeglicama u aktuelnoj izbegličkoj krizi nužno je pre svega, imati u vidu da se radi o specifičnoj kategoriji migranata sa aspekta njihove zaštite s obzirom na povećanu ranjivost usled samog konteksta migracije i dugotrajnog tranzita. Pristup međunarodnoj zaštiti maloletnika i dece izbeglica bez pratnje ostvaruje se veoma sporo i neefikasno. Na primer, način na koji se porodica ili osoba smeštena u nekoj državi koja nije članica EU može spojiti sa ostatkom porodice u zemlji koja je članica EU, nije dovoljno poznat i često je spor.<sup>19</sup> Nemogućnost dobijanja jasnih informacija o pravnim opcijama koje su im na raspolaganju i o mogućnosti da se

<sup>17</sup> Instrukcija Ministarstva za rad, zapošljavanje, boračka i socijalna pitanja RS o postupanju centara za socijalni rad i ustanova socijalne zaštite za smeštaj korisnika u obezbeđivanju zaštite i smeštaja maloletnih migranata bez pratnje, br. 110-00-00469/2015-14 od 10.07.2015. godine, član I

<sup>18</sup> Krstić I., Zaštita prava migranata u Republici Srbiji, Međunarodna organizacija za migrante-Misija u Srbiji, Projekat „Jačanje kapaciteta institucija Republike Srbije za upravljanje migracijama i reintegraciju povratnika“, Beograd, 2012., str.115

<sup>19</sup> Dablinski proces spajanja porodica traje u proseku dve godine, a kada se jednom započne u nekoj državi članici Evropske unije (recimo u Grčkoj), taj proces više ne može da se nastavi u drugoj državi.

svojim porodicama u EU pridruže u nekom razumnom roku, obično primorava decu da se odluče na veoma rizična putovanja s krijumčarima, što ih dovodi u rizik da postanu lak plen trgovine ljudima i drugim vidovima kriminala. Sa ovog aspekta vrlo je važno da Međunarodne organizacije, Evropska komisija, države članice EU, vlade država kroz koje deca bez pratnje prolaze, međunarodne i lokalne humanitarne organizacije, donatori ulože dodatne napore u rešavanju problema kao što su manjak podataka, nepouzdati podaci i manjkavosti u upravljanju podacima o deci bez pratnje u regionu. U tom kontekstu bino je prepoznati rizike, definisati teškoće u proceni rizika i potreba dece, jer su one osnov podrške. Dosadašnja praksa Srbije sa decom izbeglica bez pratnje je pokazala da je ključni faktor po kvalitet procene rizika nedostatak zajedničkih kriterijuma za procenu između različitih organizacija, što vodi teškoćama u komunikaciji, postizanju dogovora i brzom i efikasnoj podršci detetu. Deca bez pratnje koja su u tranzitu često nemaju pristup formalnom, ali ni neformalnom obrazovanju, čak i onda kad u nekoj državi borave više meseci, tako da postoji hitna potreba da se pojača psiho-socijalna podrška u cilju saniranja ili bar ublažavanja štetnih uticaja situacije u kojoj se ta deca dugoročno nalaze na njihov dečji razvoj.

S druge strane, u radu sa decom bez pratnje iznedrio se jedan aspekt koji se odnosi na rizike po profesionalce koji su angžovani i šta je njima potrebno da bi kvalitetnije obavljali svoje aktivnosti. Ima li dovoljno znanja i veština u proceni, koliko su pomagačima poznate tehnike brzog skringinga, iskustvo u primeni, postoji li veština da se procena realizuje brzo i efikсно uz poštovanje prava i participaciju deteta? Poseban rizik nosi procena i donošenje odluka u situaciji brzog tranzita dece u kratkom vremenskom periodu bez dovoljno relevantnih podataka. On sadrži procenu bezbednosti deteta u nepovoljnim okolnostima dugog putovanja (nelegalni prelazak mora, neprohodni putevi, vremenske nepogode, nedostatak novca), zatim u nepredviđenim teškim okolnostima kao što su: laka podložnost napadu, agresiji, nasilju, manipulaciji i seksualnom iskorišćavanju. Takođe, kulturološke razlike i tolerancija u odnosu na položaj žene i deteta u drugačijem kulturnom kontekstu, zloupotreba od strane roditelja, nedovoljna informisanost i drugi niz faktora i teških okolnosti. Poseban rizik za profesionalce odnosi se na zdravstvenu ugroženost od opasnosti od infekcija, zaraznih bolesti.

Ovo su samo neki od aspekata i faktora u zaštiti dece izbeglica bez pratnje, ali dovoljno da se shvate teškoće, složenost i osetljivost problema. Zato nije dovoljno samo doneti strategije, planove, standarde, upustva, procedure i druga akta nadležnih organa i organizacija, već i obezbediti kadrovske, stručne, profesionalne, institucijalne, socijalne, materijalne, ekonomske i finasijske resurse neophodne za direktnu primenu ovih akata u efikasnoj zaštiti dece u praksi i na terenu. Treba imati u vidu da na nivou lokalne samouprave u Srbiji ne snose svi isti teret, recimo sever (Subotica, Šid) i jug (Preševo, Dimitrovgrad, Niš) u odnosu na ostatak lalalne zajednice. Zato je nužno, da pored jačanja sistema države da odgovori na izbegličko- krizu, da se uključi šira lokalna zajednica i da se podstakne konsezus javnosti što izaziva veliku pokretačku energiju kod građana, kao i volju da pomognu. Ono što je potrebno da bi se ova energija kanalisala u pravom smeru jeste bolja informisanost i komunikacija između orgnizacija koja rade na terenu, medija i građana. Takođe, značajnu ulogu ima isticanje primera dobre prakse, šta je to što smo dobro uspeli da uradimo i obezbedimo u zaštiti i podršci ove dece kao: povezivanje aktera na terenu i otvorena komunikacija; učenje iz iskustva; kreiran niz inovativnih programa procene i podrške-sigurna mesta za decu, kutak za mlade, IKT podrška, radionice za decu, programi neverbalne komunikacije, privremeno skolonište za decu, materijalna pomoć i itd. Kao primer dobre prakse treba istaći mobilizaciju volontera i rad omladinske organizacije inicijativa mladih za ljudska prava Preševo, koja je u kratkom vremenskom roku uspešno angažovala veliki broj mladih iz mešovityh etničkih, verskih, nacionalnih i kulturoloških zajednica na pružanju različitih vidova drekne pomoći izbeglicama. Takođe, državne institucije, pre svih, Komeserijat za izbeglice i migracije Republike Srbije, Ministarstvo za rad, zapošljavanje, boračka i socijalna pitanja i Ministrastvo unutrašnjih poslova odigrali su ključnu ulogu u oblastima: određivanja opštyh pravila i

procedura; informisanja; izdavanja dozvola i akreditacija; održavanja reda i sigurnosti; kordinacije brojnih domaćih i međunarodnih aktera na terenu; registracije migranata.

Međunarodne organizacije doprinele su uspešnom timskom radu u aktivnostima: pružanja finansijske i materijalne pomoći državnim institucijama i civilnim organizacijama; podrške infrastrukturnim radovima; doniranjem opreme; prevodilačkim uslugama; pružanjem zdravstvene zaštite i prevencije; transferom svih globalnih iskustava, znanja i praktičnih veština iz ovakvih i sličnih situacija.

S druge strane pridruživanje Republike Srbije Evropsko uniji predstavlja njeno strateško opredeljenje, što podrazumeva prihvatanje usvojenih evropskih vrednosti i standarda, a prvenstveno u oblasti zaštite ljudskih prava. Za ulazak Srbije u EU od izuzetnog je značaja strateški, pravno i institucionalno uređena oblast migracija, ostvarenje slobode kretanja njenih građana i višeg nivoa zaštite svih lica koja se nalaze pod njenom jurisdikcijom. Da bi se to postiglo nužno je jačanje sistema i kapaciteta države kako be se obezbedila planska, kordinisana i kontinuirana saradnja na svim nivoima, počev od republičkih organa koji kreiraju politike do operativnih, lokalnih organa čiji je zadatak da te politike sprovedu.

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Goran M. Mladenović<sup>1</sup>

## PRAVNI ASPEKTI ILEGALNIH MIGRACIJA I BEZBEDNOST

### Rezime

*Svaki oblik migracija stanovništva iz jedne zemlje u drugu ili samo njihov prelazak i odlazak u drugu zemlju predstavlja određeni oblik narušavanja ustaljene bezbednosti, što bezbednosti organi kvalifikuju kao određeni bezbednosni izazov, rizik i pretnju. Radi ostvarivanja svog cilja migrantska populacija koristi međunarodne norme, nacionalno zakonodavstvo i vanstandardnu humanost zemlje domaćina. Pojedinačni prelasci na granici su kontrolisani i u skladu sa međunarodnim i nacionalnim zakonodavstvom. Poseban oblik migracije predstavlja masovan oblik prelaska državne granice, koji poprima osobine ilegalnih migracija, koje imaju pravne i bezbednosne rizike po nacionalnu i međunarodnu bezbednost. Granica svake države je najistureniji deo koji se čuva graničnom službom, sa ciljem da se svi elementi mogućih kriza zaustave na ovim tačkama, i spreči prenošenje unutar državne teritorije. Granična bezbednost svake države ostvaruje se primenom međunarodnog i nacionalnog zakonodavstva, kao i posebnim multilateralnim i bilateralnim sporazumima između država.*

*Prelazak državne granice od strane migranata i ulazak na teritoriju druge države predstavlja korišćenje univerzalnih sloboda kretanja, sa druge strane, imamo zaštitnu funkciju državne granice, kao elemenat nacionalne bezbednosti. Takav način korišćenja sloboda kretanja i ulazak na teritoriju druge države, predstavlja prenošenje bezbednosnih rizika i zloupotrebe prava unutar državne teritorije. Tako da će tema ovog rada biti pravne norme i bezbednosni rizici ilegalnih migranata na granici unutar državne teritorije.*

*Ključne reči: pravna komponenta ilegalnih migracija i bezbednost, izazovi, rizici, pretnje, granična bezbednost, kontrola ilegalnih migracija, masovne migracije, pravna regulativa, Međunaroda regulativa migracije, Evropska unija, R. Srbija, Evropa, Bliski istok, Balkan.*

*Naučna oblast: Pravo i bezbednost, interdisciplinarnе i multidisciplinarnе studije.*

*Uža naučna oblast: Pravo*

## LEGAL ASPECTS OF ILLEGAL MIGRATION AND SECURITY

### Abstract

*Every form of population migration from one country to another or only their transition and departure to another country represents a certain form of violation of a secure security, which the security authorities qualify as a certain security challenge, risk and threat. In order to achieve its goal, the migrant population uses international norms, national legislation and non-standard humanity of the host country. Individual*

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*crossings at the border are controlled in accordance with international and national legislation. A special form of migration is the massive form of crossing the state border, which takes on the characteristics of illegal migration, which have legal and security risks for national and international security. The border of each state is the most extreme part of the border guard service, with the aim of stopping all the possible crises at these points, and preventing the transfer within the state territory. The border security of each state is achieved through the application of international and national legislation, as well as by specific multilateral and bilateral agreements between states.*

*Crossing the state border by migrants and entering the territory of another state is the use of universal freedom of movement, on the other hand, we have the protective function of the state border as an element of national security. This way of using freedom of movement and entry into the territory of another state is the transfer of security risks and the abuse of rights within the state territory. So the theme of this paper will be the legal norms and security risks of illegal migrants at the border of the country's state territory.*

*Key words: legal component of illegal migration and security, challenges, risks, threats, border security, control of illegal migration, mass migration, legal regulations, International migration regulation, European Union, R. Serbia, Europe, Middle East, Balkans.*

*Scientific area: Law and security, interdisciplinary multisciplinary studies.*

*Narrow scientific field: Law*

### **Pojam i istorijski razvoj migracija**

Migracije su predmet izučavanja više naučnih oblasti, što ukazuje na veliku aktuelnost unutrašnjeg i međunarodnog prava, bezbednosti, ekonomije, sociologije idr. Migracije su širok pojam, koji označava, čoveka u neobičnim okolnostima, mesto življenja koje je ugroženo, put kojim beži od okolnosti koje ugrožavaju njegov život i drugih opravdanih okolnosti u državi ili van nje, prolazak kroz razne granične barijere, regulisane međunarodnim konvencijama i unutrašnjim pravom, ograničenja koja stoje na putu migracija i pružanja standardnih i vanstandardnih humanitarnih uslova za boravak i kretanje migranta, bezbednosni, ekonomski, higijensko-epidemiološki rizici na migranskim rutama, strah stnovništva od migranata idr.

Međunarodna organizacija za migracije (IOM) definiše „Migracijesu kretanje lica, ili grupa lica, preko međunarodne granice, ili unutar države. To je kretanje stanovništva koje obuhvata bilo koju vrstu kretanja ljudi, bez obzira na dužinu puta, sastav i uzroke, a uključuje migraciju izbeglica, raseljenih lica, ekonomske migrante i osoba koje se kreću u druge svrhe, uključujući i spajanja porodice.”<sup>2</sup>

Čovek je oduvek težio boljim uslovima za život, u pogledu materjalnih, klimatskih i hidrografskih uslova. Najveći uzrok za napuštanje svog ognjišta, dolazi od raznih opasnosti, a prvenstveno koje su ugrožavale njegov život. Opasnosti po čovekov život, su još u praistoriji navodile čoveka na razne migracije, a prvenstveno se misli na prirodne nepogode na pojedinim područjima, nemogućnost odbrane od divljih životinja i nemogućnost odbrane od drugih plemena na njihovmom putu kretanja ili seoba. Čovek je u potrazi za hranom, prelazio velika prostranstva, a tamo gde je bilo izobilje hrane, tu se i nastanjivao. Svoje naseobine je stvarao na mestima gde je mogao da se brani od napada drugih plemena, i da bude blizu, izvora hrane. Tako se pojavljuju i prva teritorijalna obeležja, da jedna teritorija pripada jednom naselju. Takav skup naselja nazivan je plemenskim savezima koje kasnije teritorijalno stvaraju određenu teritoriju, vlast i državu. Stvaranjem države stvara ju se i organi vlasti, vojska, policija, sudovi, carina idr.

Od davnina je stranac predstavljao pretnju autohtonom stanovništvu. Zbog

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<sup>2</sup> Internacionalna organizacija za migracije (IOM) - Key M., T.,

opasnosti koje su nosili stranci, svaka vlast i država je odredila mesto gde mogu stranci ulaziti u državu. Ta mesta su bila na samoj granici, u cilju kontrole ulaska ljudi, unošenja i iznošenja stvari, a poseban cilj je bio sprečiti bilo kakav oblik prenošenja krize unutar državne teritorije, što i danas ima zadatak carina.

Kako su na graničnim prelazima postojala ograničenja uvek je postojao neko ko je htelo da ih zaobiđe, što je predstavljalo veliku pretnju za državu i njene građane. Svako ograničenje nosi neki rizik da neće biti ispoštovano. Ovi rizici i pretnje kreću se od narušavanje suvereniteta i teritorijalnog integriteta, higijensko epidemiološka zaštita stanovništva od zaraza i drugih bolesti kao i životinja, narušavanje uspostavljenog političkog, pravnog i ekonomskog sistema, lične bezbednosti građana, religije, i eksploatacije prirodnog bogarstva rezervisanog za građane te države idr. Na osnovu arheoloških nalaza, postoje podaci da je prvi oblik migracije na Zemlji, odigrao od oko pre 200 000 godina, kada je homo sapiens krenua na iz Afrike prema Evropi i Aziji, a onda u ostale delove sveta. Sporenje istoričara postoji o uzrocima migracija, ali se slažu u jednom da je prvu migraciju ljudi pokrenula klimatska promena. Pored arheologa i genetičari su utvrdili da su migracije bile masovne, i da nema dela planete koji nije bio izložen migracijama stanovništva. U početku su to bila plemen, zatim narodi i svi su ostavljali neki trag, na teritoriji gde su se kretali ili nastanjivali. Istražujući uzroke velikih migracija u istoriji, uvek u pozadini njihovog uzroka nalazimo bezbednosne razloge. Takođe kroz teritorije koje su prolazili predstavljali su veliki izazov i pretnju jer su razarali države i stanovništvo na putu svog kretanja, stvarajući uslove za svoje nastanjivanje, potiskujući domaće stanovništvo na razne načine. Bez obzira dali su uzroci migracija klimatske, prirodne nepogode, pustošenje i ispljenost prirodnog bogatstva, vojne pretnje, političke nesuglasice, bezbednosni faktor, je osnov svih migracija. Nalaženje bogatijih teritorija hranom, je uslovljeno pretnjom siromaštva, glad, oboljevanje, visoka smrtnost, nemanje hrane za potomstvo, sigurniji i bezbedniji život svoj i narednih generacija idr. Klimatske promene uslovljavaju migraciju, usled popava, velikog broja hladnih dana, oskudica obradivog zemljišta idr. Industrijska revolucija je uzrokovala najveće unutrašnje migracije stanovništva a zatim i međunarodnu migraciju stanovništva prema centralnoj i zapadnoj evrpo. Primera radi: u SFRJ za 20 godina je 2/3 stanovništva prešlo iz sela u grad. Sve migracije su iste, označavaju premeštanje stanovništva ali se razlikuju vremenskom brzinom prostornom širinom prmeštanja stanovništva. Migracije uzrokovane ratom, su uvek masovne u kratkom vremenskom periodu, što ih čini uočljivim svakom građaninu, a ekonomske migracije su postepne ili u talasima što ih čini neprimetnim. Primer: u Beogradu se svake godine (2010-2017. godina) prijavi 18.000 novih građana, a odjavi oko 8.000, što znači da migracija iz unutrašnjosti Srbije prema Beogradu je 10.000 svake godine.

Industrijska revolucija u Evropi je od 1846. do 1939. godine, izvršila takav uticaj da je oko 50 miliona ljudi napustilo Evropu, i preselilo se u SAD (37 miliona), Kanada (8 miliona) Argentina (6 miliona), Brazil (5 miliona), Australija, Novi Zeland i Južna Afrika (3 miliona).<sup>3</sup> Kada se pojavi stagnacija promena u vidu ekonomske, političke i bezbednosne stabilnosti, nema nikave migracije stanovništva, tkav je period bio između dva svetska rata. U vreme drugog svetskog rata Evropu je napustilo oko 2,2 miliona i mahom otišli u Ameriku. Posle drugog svetskog rata migracija je nastavljena ka Americi, mahom zbog promena političkih režima i stvaranjem Socijalističkih država, postojanja poraženih snaga, bogatih građana i siromašnih, zbog traženja sigurnosti da prehrane sebe i svoje porodice.

Ako analiziramo istoriju migracija po obimu, uzrocima i razlozima, onda vidimo da migracija stonovništva sa Bliskog istoka i severne Afrike ka Evropi, Americi, izbeglička kriza, a ne ekonomski razlozi ekonomski migranti. Ova migracija je uslovljena bezbednosnim rizicima, gde se vodi rat u Sirji, Iraku, Libiji i Afganistanu. Bezbednosni razlozi koji pokreću migracije imaju i svoje drugo lice, želja za preseljenjem u drugu državu, ali to stvara i bezbednosne rizike u vidu kontrakturnog konflikta, povećanje

<sup>3</sup> Migraciona istorija (Migration and History) str. 12

finansijskih izdataka za socijalnu pomoć i integraciju, u novo društvo, u vidu socijalne, rande i obrazovne inkluzija, obaveštajne-bezbednosti nadzor, idr.

Analizirajmo neizvesnost migranata za vreme drugog svetskog rata, na brodovima kojima su prevoženi za Ameriku neki su se razboleli pa ozdravili, neki umrli, neki pokradeni, neki bivni i ubijeni, neki brodovi su potopljeni, svi migranti su ostavili svoj rodni kraj koji je ratom razoren, opustošen, i 50. godina posle rata se obnavlja. Stupanjem na Američko tlo, oni su suočeni sa novim rizicima nepoznate sredine, neizvesna budućnost, neizvesnost za zaposlenje, beskućnici, strah za zdravlje i lečenje, bezbednosni rizici da budu pokradeni, opljačkani, ubijeni idr. Takava odluka, da se upusti u novi svet, stvara kod ljudi nadčovečanski napor i želju za opstanak, koji je motivisan za borbu za goli život, ekonomsku egzistenciju oni znaju šta hoće. Sa istim ciljevima i motivacijom za život se otiskuju i izbeglice iz Sirije, Libana, Iraka, Afganistana, Turske i drugih siromašnih zemalja. Nema razlike u ciljevima ranijih migracija i današnjih, s tom razlikom što današnje migracije nose visok stepen pojedinih individualnih kapaciteta, ugrožavanja bezbednosti u vidu samoinicijativnog terorizma, verskog ekstremizma i pružanja otpora zvaičnim organima vlasti u državi.

### **Tipologija migranta i uzroka**

Sagledavajući razloge koji podstiču na migraciju, uočava se prvi elemenat a to je voljni elemenat (voluntary migration) i nevoljni elemenat (involuntary migration). Kada se uzima u obzir voljni elemenat on mora da ima svoje uzroke, koji su najčešće u pozadini, u vidu neizvesnosti, straha, ekonomske nesigurnosti idr., razloga oni opterećuju psihu čoveka, u vidu pritiska u dužem vremenskom periodu, to ukazuje da: ekonomski, bezbednosni, politički, vojni idr., utiču na formiranje odluke za pokretanje migracija. Svaka odluka da se ostavi sve i krene u migraciju u izbeglištvo, je velika neizvesnost, veliki bezbednosni rizik, zavisnost o zemalja kroz koje prolaze, i neizvesnost gde će se trajno (permanent migration) nastaniti ili privremeno nastani (semipermanent migration). Migranti imaju razne razloge za migraciju, u mestu nastanjivanja mogu biti voljeni i prihvaćeni ili nevoljeni i odbačeni u vidu demonstracija, napada, blokada i dr. Zatim imamo migracije motivisane ličnim interesima, koje su voljne i nevoljne, u voljne migracije ubrajamo sezonske ranike i kretanje đaka, zbog školovanja. Izbeglištvo spada u nevoljne, neželjene migracije, u zavisnosti od mogućnosti povratka u zemlju porekla. Azil je trajno nevoljno, samo sa aspekta psiholoških faktora klasifikacije. Želja da se trajno nastani na određenom mestu, razlikuje migrante od ostalih oblika kretanja radne snage u jednoj državi.

Migrant (migrant) je osoba koja se bez prisile, dobrovoljno i iz ličnih razloga, preseljava iz mesta svog prebivališta na određenu destinaciju sa namerom trajnog nastanjenja.<sup>4</sup> U odnosu na pravac kretanja migrant ima istovremeno dva svojstva, za državu svog porekla on je emigrant (emigrant), jer odlazi (iseljenik), a za državu prijema on je imigrant (immigrant), jer dolazi (useljenik, doseljenik). Poređenjem karakteristika, privremenih i trajnih migracija, mogu se uočiti razlike koje ih razdvajaju. Kada se migracije odigravaju, unutar istog državnog prostora, reč je inter imigracijama, dok one kojima se odlazi u drugu državu, ili čak na drugi kontinent, predstavljaju eksterne migracije ili interkontinentalne migracije. Kada se odvijaju po deonicama puta koji prelaze ili fazama, prelazak jedne deonice migrantskog puta, pa zatim drugi, treći i na svakom prave pauze, od nekoliko dana, sve do konačnog odredišta, migracije su postepene. Specifičan model predstavljaju lančane migracije, koja se odvija po principu, jedan član, se prvo otisne kao migrant i nastani u neku zemlju, zatim spaja porodicu (ženu i decu), zatim povlači braću, sestre, unuke itd. Osnovni razlog kod ovih migranata, je ekonomski osnov. Na osnovu specifičnog govora, kulture, krvnog srodstva, prijateljskih veza i rodbinskih, počinje grupisanje na određenom prostoru, gde otvarju prodavnice,

<sup>4</sup> Terminology, Section 1.1 in: Essential of Migration Management - Volume One: Migration, IOM, 2005, str. 34. <http://www.rcmvs.org/documentos/>, (pregledano 06.10.2017)

škole, čime se vrši grupisanje na određenom regionu i stvaraju male, velike iseljeničke zajednice.

Sa aspekta bezbednosti migracija, veoma je bitno dali se migracije odvijaju u skladu sa propisima zemlje, koja im daje useljenje, ili se useljavanje vrši mimo svih zakonom propisanih normi i pravila. U tom slučaju govorimo o legalnim i ilegalnim migracijama. Legalne migracije se odvijaju pojedinačno ili grupno, uz poštovanje redovnih zakonskih procedura, prelazak na graničnim prelazima, ispravna lična dokumenta. Ilegalne migracije se odvijaju izbegavanjem propisa, kojima se reguliše prelazak državne granice, a mogu biti pojedinačne, grupne i masovne.

Iregularni migrant – Strani državljanin koji kršeći propise o prelasku državne granice, ulazi na teritoriju tranzitne države, krajnje destinacije, ilegalnim putem, bez dokumenata van redovnih graničnih prelaza, odnosno na graničnim prelazima izbegavanjem granične kontrole ili uz pomoć tuđe ili falsifikovane putne isprave. Iregularni migrant je takođe, stranac kome su istekla važeća dokumenta, istekla dozvola za biravak, istekla radna viza, istoklo vreme za školovanje itd.

Ilegalni migrant, je stranac koji je na neregularan način ušao u stranu državu, preko nelegalnog prelaza ili mu je istekla važnost dokumenta na osnovu kojih je legalno boravio, tako da je sada iregularan migrant. Deklaracijom Parlamentarne skupštine OEBS sa sednice iz Osla 2010. godine označeno, neprikladnim kvalifikovanje iregularnih migranata, ilegalnim, s obzirom da „nijedno ljudsko biće ne dolazi na ovaj svet ilegalno“.<sup>5</sup>

Ekonomski migrant – se određuje na osnovu motiva koji ga pokreće na migarnski put, za trajnu promenu prebivališta, a to je ekonomski razlog u vidu materjalnih faktora i bolji uslovi za živaot, ekonomska bezbednost svoje dece i narednih generacija.

U načelu to su sezonski radnici koji pokušavaju da se trajno nastane u drugu zemlju, zbegavajući trajne procedure, tako da se njihov status poklapa sa iregularnim migrantima. Tokovi unutar države se kreću od manje razvijenih područja ili nerazvijenih ka razvijenim, ili od ruralnih ka gradskim sredinama. U međunarodnim migracijama ekonomske migracije se kreću sa Balkanskog poluostrva ka Zapadnoj evropi a takođe i migranti sa Bliskog istoka i Afrike.

### **Podsticajni faktori savremenih migracija**

Uzroci koji dovode do migracija su važni, za njihovu klasifikaciju, što dovdi i do različitog postupanja, određenih državnih službi, međunarodnih i nevaldinih organizacija, prema grupama i pojedinim migrantima. U načelu, uzroci migracija su prinudni ili iznudeni uzroci, rat, siromaštvo, političke krize, bolesti idr. Međutim, u skladu sa uzrocima koji najviše pokreću migrante izdvojila su se dva, glavna faktora i to: pritiskajući faktor u dužem periodu (push-potisni) i popularistički (pull -privlačeće) faktore.<sup>6</sup>

### **Pritiskajući (opterećujući) faktor u dužem vremenu**

Potisni (push) faktori migracija, su takvih karakteristika, da u dužem periodu deluju, ugrožavajuće, po život ili dezorganizacija vlasti, koja stvara nebezbedne uslove, u vidu bezvlašća, izloženost samovolji bandi, kriminalnih grupa, čime se stvara visok stepen ugrožavanja života, bezperspektivnost, nema izvesnosti za brzo rešavanje ovakvog stanje, zbog čega se ljudi odlučuju na migranski put, da ostave sve, napuste svoju kuću, imanje, državu u posebnim okolnostima odlaze u prekomorske zemlje, najčešće po preporuci. Ovakvi nepovljni uslovi, za bezbedan život dovode, u pitanje i osnovne uslove

5 Resolution on migration as a continuing challenge for the OSCE, §7, od 06-10.07.2010 godine, Oslo Declaration of the OSCE Parliamentary Assembly and Resolutions adopted at the nineteenth annual session.

6 Darko Marković i Darija Marković, “Potencijalni izazovi i rizici iregularnih migracija po Evropu”, str. 288.



za dalju egzistenciju, na tom prostoru, usled ratova, progona političkih neistomišljenika, nezakonitost i samovolja u primeni prinude, diskriminaciona politika (rase, boje kože, vere, pola, oskudice hrane idr.), glad, siromaštvo visoka stopa nezaposlenosti, neorjentisanost polova i slaba mogućnost za sklapanje braka, oštri klimatski uslovi, učestale klimatske katastrofe (tajfuni, dugo zadržavanje snežnog pokrivača, velike suše idr.) sve je to, što ljudima smeta, svakodnevno, a nisu u mogućnosti da utiču na situaciju i onda beže sa tog prostora, što nalaze kao jedini izlaz iz situacije. Afrički kontinent, a delimično i Azijski, je surov za život, ne samo zbog prirodnih faktora, već i zbog društvenih faktora, koji opredeljujuće utiču na visok stepen društvene, kolektivne i lične nesigurnosti, što dovodi do velikih migracija stanovništva ka Zapadnoj Evropi, odnosno zemljama EU. Prirodni resursi su bogatstvo nacionalnih država, ali usled eksploatacije od strane Multinacionalnih kompanija, uspostavljene marionatske vlasti, na vlasti vojne hunte i česti pučevi i građanski ratovi, političke korupcije, kolonijalnih interesa, navedeno stanovništvo nema nikakve koristi od toga, osim što je u njihovom okruženju prljava tehnologija. Ovim se produbljuje jaz između siromašnih i bogatih zemalja, čime je sve više gladnih i siromašnih u Africi. Takvom političkom situacijom u Africi, ugrožena su ljudska prava, narušena je politička stabilnost, samovlašće marionetske i vojne vlasti, ratovi i krize koje traju neprekidno, stanje koje se ne rešava u dužem periodu, ugroženi resorsu pitke vode, otvoreni oružani sukobi, građanski ratovi i ratovi kriminalnih bandi i verskog grupa, produbljuje sve veću ekonomsku krizu na ovim prostorima i siromaštvo, čime se nalazi jedini izlaz iz ovakve situacije da lokalno stanovništvo krene u migracione tokove prema EU, Americi i Engleskoj. Spoljna vojna intervencija od strane NATO snaga, izazvalo je svojim dejstvima samo kriz koju nije rešilo, već je samo produbilo u svojoj oštrini i velikom krvoproliću, između lokalnih zaraćenih strana, naoružavajući sebi lojalne grupe, verske grupe, etničke grupe, odnosno razbuktali su građanski rat, čime je potisni faktor za migracije stvoren, tako da je 2016. godine uzrok migrantskih kriza iz Sirije, Libije i Iraka bio NATO. Ovu priliku je iskoristio Islamski fanatički deo, koji je iskoristio teritorijalnu, nekontrolu od strane snaga NATO, uspostavio je pravni i politički sistem zasnovan na Kuranu, i stvorio državu ISIS, koja obuhvata deo teritorije Iraka, Libije i Sirije. Ova džihadistička država je u funkciji, pravno postoji sa svim elementima vlasti zasnovanoj na Kuranu, teritoriji i stanovništvu, s tom konstatacijom da je velika pretnja za izvoz kriza u svetu, otvoreno preteći SAD, Rusiji, Evropi i svim državama u okruženju. Zbog otvorenih pretnji i preduzetim napadima u SAD, EU, Francuskoj, Nemačkoj, Holandiji, Španiji i drugim zemljama Evrope, Azije i Afrike, bilo je potrebno Međunarodno angažovanje za njeno uništenje, ali angažovanje NHCR i OEBS i drugih lokalnih, regionalnih i međunarodnih organizacija na pomoći migrantima iz ovih zemalja. I pored svih mera i pomoći migrantima, usled svoje nužde migranti su predmet krijumčarenja od strane kriminalnih grupa, trgovine ljudima i decom.

### **Populistički ili privlačeci faktori**

Privlačeci ili populistički (pull) faktori su oni uslovi koji su pogodniji za život u odnosu na sadašnje mesto življenja, saznat usled slobodnog pogovaranja građana, saznanjem iz medija i sredstava informisanja, ličnim saznanjem usled putovanja turističkog, službenog ili nekog drugog razloga, čime se strah i neizvesnost pretvara, u brzu akciju u vidu pokreta migrantskih grupa ili masovnih migracija stanovništva, sa tog prostora, radi trajnog naseljavanja na drugom prostoru, koji su predhodno definisali kao cilj. Privlačeci faktori su subjektivne prirode, doneseni na osnovu saznanja i procene najpovoljnijih uslova za svoj život i život svojih potomaka. Najčešće se biraju zemlje za nastanjivanje koje nisu ratovale, gde je standard stanovništva visok, gde je zaposlenost visoka, privreda razvijena, pravni sistem siguran i postojan, humanost prema migrantima i izbeglicama velika i obezbeđeno institucionalno zbrinjavanje. Ovo su sve faktori koji su suprotni i negativnim uslovima koji vladaju u mestu življenja i u nadi su migranti da ih ostvare preseljenjem na migrantsku destinaciju. Svi migranti žele mir, versku



toleranciju, izbegavaju nasilje, izbegavaju diskriminaciju, a traže visok stepen lične bezbednosti, visoku zdravstvenu zaštitu, takođe i sve ostale uslove za za život ne samo svoj već i svoje dece. Migranti ne traže bolji život samo za sebe već i bolji život svojoj deci, želeći da se štopre uklope u školski i društveni sistem zemlje domaćina. Može se reći, da je visok standard zemalja EU, SAD i Engleske uvek bio privlačeci san migrana, zbog mogućnosti brzog zaposlenja, školovanja dece i visokog stepena institucionalne pomoći svakom migrantu. EU je prijemom zemalja ranije Istočnog bloka, pokrenula migracije, samo u Bugarskoj od oko 9 milijona stanovnika, ostala je na oko 6 milijona stanovnika, takođe i Rumunija, Hrvatska osećaju visoku stopu migracije stanovnika. Srbija gubi usled migracije stanovnika i to mladih visokoškolski obrazovanih, oko 55.000 svake godine, koji migriraju iz ekonomskih razloga u zemlje EU.

Postupak zemalja EU prema tražiocima azila je veoma huma i ispoljava se poštovanje visokih standarad ljudskih prava, što stvara uslove za veru, da će se i zakonski useliti u bogatu zemlju, koja će mu učiniti život lepšim, njemu i generacijama koje dolaze iza njega. Takođe jedan od naznačajnijih privlačeci ili populističkih faktora, za migrante je razgovor, i očigledno uverenje sa već doseljenim i integrisnim članovima familije, šire ili uže pordice, komšija, prijatelja i samih radnika državne uprave, humanitarnih organizacija i nvladinih tela ili organizacija. Ne retko članovi pordice i prijatelji su logistička podrška za pokretanje migaranata, kako individualno, pordično ili grupe u gradovim. Kulturološka podrška, porodice, prijatelja, krvno srodstvo ili plemenski sitem organizacije opredeljujući je kada je u pitanju Libija i Irak.

### **Zabrana ograničenja slobode kretanja**

Sloboda kretanja je od pamtiveka do danas predstavljala sa jedne strane istinsku potrebu ljudi, a sa druge strane predstavljala je potencijalnu opasnost, ugrožavanja nacionalnih interesa, u vidu nastanjivanje na tuđoj teritoriji, gde se menja etnička, nacionalna i verska struktura stanovništva. Što vremenom postaje, unutrašnji nacionalni problem. Istorijski gledano ograničenja su uvek postojala, od prvobitne zajednice, preko perioda robovlasništva koje je trajalo oko 2000. godina. U periodu robovlasništva, sloboda kretanja je bila moguća samo slobodnim ljudima, robovima je bila ograničena, jer su oni bili vlasništvo robovlasnika. Međutim treba imati u vidu, da paralelno sa feudalizmom, paralelno je živeo i oblik robovlasništva koji opstao i posle propasti feudalizma, kao oblika društvenih odnosa. U feudalnom društvu, takođe su postojala ograničenja kretanja i nastanjivanja, stanovništva (kmetova ) i stranaca. Izbijanjem Francuske revolucije, uslovilo je donošenje prvog Ustava 1791.godine, kao najvišeg pisanog akta, kojim je dato pravo građaninu „da ode i da se vrati“.<sup>7</sup> Tako je prihvaćena Univerzalna deklaracija o ljudskim pravima, kao prvog akta od opšteg međunarodnog karaktera, koji u širokom obliku, obuhvata, pojam ljudskih prava u članu 13, dato je pravo svakom, na slobodu kretanja i izbora nastanivanja, u okviru jedne zemlje, kao i svako imo pravo da napusti zemlju, i da se vrati, kao njen građanin. Ova povelja i ako je usvojena od strane Generalne skupštine Ujedinjenih nacija, nije imala pravno obavezujuću snagu sve do 1968. Godine, kada je na Međunarodnoj konferenciji o ljudskim pravima proglašena obavezujućom za sve države. Zbog moguće nepreciznosti, u tumačenj, Generalna skupštinaUjedinjenih nacija usvojila je Međunarodni pakt o građanskim i političkim pravima, koji se primenjuje kao obavezujući za potpisnice, da ga, inkorporiraju u domaće zakonodavstvo od 23.marta 1976. godine. U članu 12. Pakta, uređeno je pravo slobodnog kretanja i njegovo ograničenje unutar jedne zemlje, u vidu prava napuštanja bilo koje, pa i svoje zemlje, kao i pravo vraćanja u svoju zemlju. Sloboda kretanja je ograničena, nacionalnim zakonodavstvom, radi zaštite svojih nacionalnih i državnih interesa, u vidu; bezbednosti, javnog poretka, javnog zdravlja ili javnog morala, ili prava i sloboda drugih lica“. Posredno se može zaključiti na osnovu stava 1.ovog člana, „Svako ko se zakonito nalazina teritoriji jedne države, ima pravo da se

<sup>7</sup> V., Dimitrijević, M., Paunović, i V., Đerić, Ljudska prava – udžbenik, Dosije, 1997., str. 257.

u njoj slobodno kreće islobodno izabere svoje mesto boravka“. Tumačenjem ovog člana, nije dato pravo slobodnog ulaska u drugu zemlju, već samo slobodno kretanje unutar teritorije neke zemlje, ako se zakonito boravi u njoj, a pravo ulaska je dato samo svojim građanima. Kako će neko zakonito uću u neku zemlju i boraviti u njoj dato je pravo na diskreciono odlučivanje svakoj državi. Svi državljani zemlje imaju slobodu kretanja na svojoj teritoriji, ali to pravo imaju i stranci kojima je to odbreno na osnovu domaćeg zakona. Međutim u istoriji je poznato da su pojedine zemlje ograničavale kretanje stanovništva unutar svojih granica kao što je: bivši SSSR, Kina, Albanija, idruga zemlje, gde je bilo potrebno pribaviti dozvolu za promenu prebivališta (preseljenje porodice), a uvek je bilo potrebno pribaviti dozvolu za odlazak u drugo mesto, selo, grad itd.<sup>8</sup>

Evropa je unapredila, ljudska prava i slobode „Evropska konvencija o zaštiti ljudskih prava i osnovnih sloboda“ (Convention for the Protection of Human Rights and Fundamental Freedoms), usvojena od strane Saveta Evrope 4. Novembra 1950. godine u Rimu, već u preambuli je naglašen selektivan odabir prava i sloboda. Među tim izvesnim pravima nije se našla sloboda kretanja iz člana 13 Univerzalne deklaracije, osim posredno u članu 4 kojim se zabranjuje ropstvo. Kasnije kada su međunarodni odnosi dopustali (završetak hladnog rata) konvencija je dopunjena protokolima, a pitanje slobode kretanja je u Konvenciju uvršteno Protokolom br. 4. Nije predviđalo slobodu kretanja, i ako je bilo predviđeno zajedničko tržište.<sup>9</sup> Članom 14. Ugovora o osnivanju Evropske zajednice, predvidelo je zajedničko unutrašnje tržište kao „područje bez unutrašnjih granica na kome su obezbeđeni slobodno kretanje lica i promet robe, usluga i kapitala“.<sup>10</sup> Ovim dokumentom predviđena je sloboda kretanja i boravka na teritoriji države članice na osnovu člana 18., a slobodno kretanje radnika država članica predviđeno je i članovima 39-42, a ovo je poslužilo kao osnova za donošenje Šengenskog sporazuma 1985. godine. Ovim aktom zabranjeno je bilo koji oblik njihove diskriminacije po osnovu pripadnosti državljanstvu u pogledu zapošljavanja, nagrađivanja i drugih uslova rada. Ovim aktom predviđena su i posebna ograničenja u cilju zaštite javnog poretka i bezbednosti zemlje i zaštite zdravlja.<sup>11</sup> U sklopu Ugovora o Evropskoj uniji nema posebno predviđenih odredbi o slobodi kretanja. Sloboda kretanja je indirektno definisana u zajedničkim odredbama Unije, uz „paralelno usvajanje mera iz oblasti kontrole spoljnih granica, azila, imigracije, ... na osnovu kojih se ostvaruje u okviru zajedničkog tržišta „sloboda, bezbednost i pravde“.<sup>12</sup> Poveljom Evropske unije o osnovnim pravima sloboda kretanja i boravka je svrstana među prava građanstva, garantujući svakom građaninu Unije pravo da se „slobodno kreće i da slobodno boravi na teritoriji država članica“, a državljani drugih zemalja koji su legalno ušli i borave na teritorije EU, sloboda kretanja i boravka može biti dogovorena u skladu sa Ustavom.<sup>13</sup> Pravo kretanja i nastanjivanja radne snage u EU., uređeno je sa dvadeset četiri direktiva i dvadeset šest pravnih regulativa kojima se u praksi realizuje zabrane diskriminacije radnika koji dolaze iz drugih država EU na osnovu državljanstva. Ovim regulativama se reguliše postupak za ostvarivanje porava na ulazak u drugu zemlju, boravak radnika i radnika ekonomskih migranata.

Analizom svih pravnih akata u vezi slobode kretanja i nastanjivanja, uviđa se da je sve podređeno interesima ekonomije i njene potrebe za radnom snagom, a sa druge strane i cilj osnivanja EU je zajedničko tržište i ekonomski interesi. Ograničenje nastanjivanja državljana u EU odnosi se samo na građane trećih zemalja ako borave u EU bez valjanog razloga, tj. pravnog osnova, u dobijanja radne dozvole, spajanje članova porodice, formiranje bračne zajednice (jedan državljanin članice EU), školovanje, potrebe stručnjaka firmi, i na kraju ezil. Ovaj ograničavajući faktor za ostale kategorije

<sup>8</sup> Ibid. str. 286.

<sup>9</sup> Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol thereto, Council of Europe, European Treaty Series - No. 46, Strasbourg, 16.IX.1963.

<sup>10</sup> Ugovor o osnivanju Evropske zajednice, Sl. list EZ<sup>4</sup>, br.C 325 od 24.decembra 2002. godine, [www.europa.eu.int/eur-lex/lex/en/treaties/index.htm](http://www.europa.eu.int/eur-lex/lex/en/treaties/index.htm)

<sup>11</sup> Ibid., čl. 39 st. 3

<sup>12</sup> Ibid., čl. 39 st. 3

<sup>13</sup> Povelja o osnovnim pravima Evropske unije, Journal Officiel de L'Union européenne, C301/1 od 14.12.2007

državljana je veoma bitan iz razloga bezbednosti svake zemlje članice EU, ali je on svojstven i pravu svake države na zaštitu svoje bezbednosti. Treba imati u vidu da je sloboda kretanja i prelazak preko spoljnih granica EU, široko pravno regulisan i različit za svaku treću zemlju, ali je ograničen vremenski boravak na teritoriji EU. Osnovno ograničenje su bezbednost i moguće ugrožavanje nacionalnih interesa pojedinih članica EU, koji su nasuprot ekonomskim interesima, koji su na prvom mestu. Ostvarivanjem međudržavne ekonomske integracije u okviru država članica EU, sada zajedničko tržište postaje i unutrašnje tržište, unutar kojeg se ostvaruje sloboda kretanja i nastanjivanja radnika, promet robe i usluga, kapitala, s tim što se zajednički ekonomski prostor, transformiše i u jedinstvenu političku zajednicu, koja zbog zaštite ekonomskih, političkih i bezbednosnih interesa EU, organizuje i sprovodi strogi režim kontrole ulaska i boravka državljana trećih zemalja. Tako se građanima država članica EU garantuje pravo slobode kretanja i nastanjivanja na celom prostoru EU, a zato državljanima trećih zemalja omogućen je ulazak u skladu sa viznim režimom ili na osnovu bilateralnih ugovora, do 90 dana.<sup>14</sup>

Na osnovu Direktive 2004/38/ES od 29.04. 2004. godine, nazvana kao „Direktiva slobodnog kretanja“ (Free Movement Directive) za državljane EU (EEA – European Economic Area)<sup>15</sup> koja omogućava kretanje i boravak građanima bilo koje države članice EU, sve dok nisu u situaciji da koriste socijalna davanja, padaju na teret državi na čijoj su teritoriji nastanjeni, posebna uslov je da imaju kombinovano zdravstveno osiguranje. Spajanje porodice (family reunification), omogućava dovođenje člana porodice i ako je državljanin treće zemlje bez dovođenja u pitanje zabranu diskriminacije po osnovu državljanstva, ovo pravo pripada i članovima njihove porodice i ako nisu sa Evropskog ekonomskog prostora. Ovo pravo nije neograničeno, već je potrebno pribaviti vizu, dozvolu za boravka duži od tri meseca. Na osnovu ove direktive za lica koja legalno prebivaju na teritoriji EU duže od pet godina, njihov boravak postaje trajan.

EU, može se reći, da je ovaj prostor jedinstven u ekonomskom, političkom i bezbednosnom smislu, i da restrikcije u unutrašnjem prostoru nema. Primer za to je da nema zabrane slobode kretanja na teritoriji članice EU, što je sudska praksa i potvrdila na primer: Presudom Suda pravde Evropske unije u Luksemburgu (Court of Justice of the European Union - CJEU), od 18. 05 1982. godine, u spojenim predmetima 115 i 116/81 - Rezguia Adoui v Belgian State and City of Liège; Dominique Cornuaille v Belgian State, utvrđeno je da razlozi očuvanja javne bezbednosti kao razlog za zabranu boravka u jednoj državi ne mogu biti primenjeni na državljane drugih država članice EU ako pod istim uslovima nisu predviđeni kao zabrana za sopstvene građane, bez obzira dali su razlozi zaštita sopstvenog tržišta, idr.<sup>16</sup>

Članom 39.Ustava Republike Srbije obuhvaćena je sloboda kretanja i vaoma široko formulisana “Svako ima pravo da se slobodno kreće i nastanjuje u R. Srbiji, da je napusti i da se na nju vrati”. Ovakav oblik definisanja svoj osnov nalazi u Univerzalne deklaracije o ljudskim pravima, s tim da je sloboda kretanja obuhvaćena i u drugim članovima ustava, tako da se tumačenje može i zloupotrebiti zbog nepreciznosti. U istom članu 39, “sloboda kretanja i nastanjivanja i pravo da se napusti R. Srbija mogu se ograničiti zakonom, ako je toneophodno radi vođenja krivičnog postupka, zaštite javnog reda i mira, sprečavanja širenja zaraznih bolesti ili odbrane R. Srbije”. U drugim aktima je predviđeno ograničenje drugih sloboda i prava: bezbednost Republike Srbije (tajnost pisama i drugih sredstava opštenja, čl. 41 st. 2; zaštita podataka o ličnosti, čl. 42 st. 3; sloboda okupljanja, čl. 54 st. 4), javna bezbednost i javni red (sloboda ispoljavanja vere ili uverenja, čl. 43 st. 4), nacionalna bezbednost R. Srbije (sloboda izražavanja, čl. 46 st. 2). Zakon o strancima uređuje pitanje ograničenje ili zabrane kretanja stranaca “na određenom prostoru u R. Srbiji”, dopuštajući takvu mogućnost “ako to zahtevaju

14 Direktivom 2004/38/ES od 29.aprila 2004. godine

15 EEA- Evropske unije i tri članice EFTA. Island, Lihtenštajn i Norvešku

16 Rezguia Adoui v Belgian State and City of Liège; Dominique Cornuaille v Belgian State - Referenc-esfor a preliminary ruling: Tribunal de première instance de Liège - Belgium. - Public policy -Right of residence or establishment. - Joined cases 115 and 116/81, European Court Reports

razlozi zaštite javnog poretka ili bezbednosti R.Srbije i njenih građana, ili na osnovu međunarodnog ugovora".<sup>17</sup> Prilikom kontrole na graničnom prelazu, strancu će se, uz upisivanje uputnu ispravu, zabraniti ulazak u R. Srbiju u sledećim okolnostima:

- ne poseduje validan putni dokument (pasoš, putni list, pogranična propusnica, a za državljane Evropske unije i Bosne i Hercegovine to može biti i lična karta), ili vizu ako se radi o državljaninu zemlje sa kojom Srbija nema sporazum o bezviznom režimu;
- ne poseduje dovoljno finansijskih sredstava za boravak na teritoriji Srbije, kao ni za tranzit ili povratak u svoju zemlju, niti je to obezbedio na drugi način (npr. garantno pismo domaćina);
- putuje u treću državu za koju ne poseduje uslove za ulazak;
- u toku je trajanje mere zabrane ulaska i boravka u Srbiji;
- dolazi sa područja u kojem vlada epidemija zaraznih bolesti a ne poseduje potvrdu o vakcinaciji, niti drugi dokaz da je zdrav;
- postoje bezbednosni razlog za odbijanje ulaska;
- postoji opravdana bojazan da boravak u Srbiji neće koristiti u nameravanu svrhu.

U skladu sa članom 13 ovog zakona, stranom državljaninu se može privremeno onemogućiti izlazak iz zemlje ukoliko postoje nepravilnosti sa putnom ispravom (tuđa, falsifikovana, oštećena ili nevažeća), ne ispunjava uslove za ulazak u drugu zemlju, kao i kada postoje okolnosti koje ukazuju na opasnost da bi izlaskom iz Republike Srbije izbegao krivičnu ili prekršajnu odgovornost, izbegao izvršenje neke sudske naredbe ili sprečio izvršenje nekog drugog pravnog posla za koji postoji akt nadležnog organa.

Članom 4 Međunarodnog pakta o građanskim i političkim pravima data je mogućnost opšteg odstupanja od naznačenih obaveza iz njegovih odredbi u posebnim slučajevima neposrednog postojanja visokog stepena opasnosti koja pretila opstanku nacije, pod uslovom da je to objavljeno službenim aktom, čiji sadržaj mora biti usaglašen sa obavezama međunarodnog prava, ali zabranjena diskriminacija po osnovu rase, boje kože, jezika, vere ili socijalnog porekla.<sup>18</sup> Povišen stepen opasnosti od terorizma, kao i ispoljeni teroristički napadi na telu Evrope u periodu od 2015.godine do 2017. godine, prepoznato je od strane pojedinih država članica Evropske unije upravljao stanje izuzetne opasnosti po opstanak nacije (države), te su odlučile da vrata kontrole unutrašnjih granica i uvedu restriktivnije mere na spoljnim granicama, uključujući i one sa Republikom Srbijom. To je dovelo pitanje slobode kretanja u centar političkih i pravnih, ali i bezbednosnih razmatranja. Međutim kako je došlo do veoma velikih unutrašnjih gužvi na graničnim prelazima unutar EU, došlo je do velikog negodovanja privrednika, i građana, čime je politička vlast EU, reagovala i naredila obustavu unutrašnje kontrole na granicama unutar same EU (jun 2017.)

### **Udaljenje pojedinca iz zemlje**

Međunarodno pravo ostvarilo je takav napredak u oblasti ljudskih prava, da su države prihvatile sve standarde, a to znači da ljudska prava više nisu samo stvar unutrašnje državne politike već su stavljena pod univerzalnu nadležnost. U načelu univerzalna pravna nadležnost se ostvaruje implementiranjem međunarodnih ugovora u unutrašnje pravo, koje poprima snagu zakona. Tako nijedna država ne može imati pravnu normu kojom se sopstveni građanin udaljava sa svoje teritorije ili zabranjuje povratak u zemlju. Međutim, sudski i politički praksa ima ovakvih primera, a jedan od njih je primer oduzimanja državljanstva i zabrane povratka u zemlju izbegloj kraljevskoj porodici Karađorđević, koja je izrečena Ukazom Predsedništva Prezidijuma Narodne skupštine FNRJ, od 08. 03 1947.godine, po člana 16 st. 3 i čl.17 st. 2 Zakona o državljanstvu („Službeni list FNRJ“, br. 54/1946), istim članom obuhvaćeno je oduzimanje državljanstva i zabranjen

<sup>17</sup> Zakon o kretanju i boravku stranaca, Službeni glasnik RS, br. 97/2008, čl. 5

<sup>18</sup> International Covenant on Civil and Political Rights, čl. 4



povratak svih pripadnika vojnih i paravojnih jedinica koje nisu bile u sastavu partizanske vojske NOVJ., i čija je borba u ratu ocenjena kao izdajnička. Ima još primera kao što je Urugavska vlada 1962. godine, zabranili konzularnim predstavnicima da izdaju putne isprave izbeglim licima iz Urugvaja, koji su bili protivnici vojne hunte.<sup>19</sup> Strani državljani koji se zateknu na teritoriju druge zemlje bez uredne dozvole, mogu se udaljiti sa teritorije proterivanjem (rešenjem suda), estradicijom ili odbijanjem podnetog zahteva za azil.

### Proterivanje i ekstradicija

Proterivanje se vrši na osnovu odluke suda, kojom se vrši otkazivanje boravka na teritoriji zemlje domaćina, jer nije ispunio neke zakonske uslove za dalji boravak.

Otkazivanje boravka, stranom državljaninu se izriče u pisanoj formi u vidu, presude, rešenja ili odluke, koja mora sadržati obrazloženje, pravo na pravni lek (žalbu) i vremenski rok do kada trebe da napusti teritoriju države domaćina. Otkazivanje boravka mora biti izričito predviđeno u zakonu. Otkazivanje boravka može biti i pre odlučivanja po žalbi u situacijama kada je ugrožena nacionalna bezbednost, zbog čega se odluka o deportaciji sprovodi odmah do naznačenog graničnog prelaza po izricanju odluke.<sup>20</sup> Kada se radi o otkazivanju boravka građana susedne države, onda se deportacija vrši na granični prelaz koji je međudržavnim sporazumom određen, a kada se radi o državljanima trećih zemalja, deportacija se vrši avijonom u tu zemlju.

U skladu sa izvršenjem ugovora o readmisiji, stranci koji su na teritoriju druge države ušli ilegalno ili legalno pa im je istekla dozvola za legalan boravak, deportacija se vrši na granični prelaz države iz koje su nelegalno ušli ili avijonom se šalju u državu porekla. U najvećem broju slučajeva ne postoje razlozi za hitno proterivanje stranaca, tako im se daje pravo na žalbu (reviziju, drugostepenu ocenu) i daje se razuman rok za napuštanje zemlje domaćina, sa naznakom da žalba ne odlaže izvršenje odluke. Svako nepostupanje po odluci za napuštanje teritorije domaćina podleže prekršajnoj sankciji, zabrani ulaska u zemlju domaćina određeno vreme i prinudno udaljenje sa teritorije od strane policije

Postoje dva međunarodna akta koja zabranjuju proterivanje određene kategorije stranaca sa svoje teritorije i to:

1. Konvencija o statusu izbeglica u čl. 33 zabranjuje vraćanje tih lica na teritoriju države iz koje su izbegli, podrazumevajući da bi na taj način bili podvrgnuti opasnostima po život ili slobodu, zbog kojih su i izbegli.
2. Konvencija protiv mučenja u član 3 zabranjuje vraćanje proteranog lica na teritoriju države iz koje je došao, a u kojoj postoji opravdan rizik da će ono biti podvrgnuto mučenju ili kažnjavanju.<sup>21</sup>

Ustav Republike Srbije ne dozvoljava proterivanje domaćih državljana, niti mogućnost oduzimanja državljanstva, a daje individualnu mogućnosto za promenu državljanstva u skladu sa članom 38. Nepreciznost je ispoljena jer sticanje i prestanak državljanstva je uređeno Zakonom o državljanstvu gde se ovo pravo može privremeno suspendovati u slučaju ratnog stanja, neposredne ratneopasnosti ili vanrednog stanja u skladu sa članom 42, ili čak i odbiti ako to nalažu interesi Republike Srbije u skladu sa članom 41.<sup>22</sup>

Pitanja otkaza boravka stranom državljaninu i zabrane ponovnog ulaska, su regulisana članom 35 Zakonao strancima, a u vezi opravdanih razloga navedenih u članu 11., rok za uadaljenje stranaca iz zemlje ne može biti duži od 30 dana. Sudska praksa i operativni nadzor ove kategorije stranaca pokazuje da 30 dana, je veliki vremenski period koji omogućava strancima da se nesmetano štaju po RS., što predstavlja veliki

19 V., Dimitrijević, M., Paunović, i V., Đerić, Ljudska prava – udžbenik, str. 260.

20 International Covenant on Civil and Political Rights, čl. 13.

21 Slučaj: Mutombo (građanin Zaira) protiv Švajcarske, 1994, dok. UNCAT/C/12/D/13/1993). Preuzeto, V., Dimitrijević, M., Paunović, i V., Đerić, Ljudska prava. str. 261.

22 Zakon o državljanstvu Republike Srbije, Službeni glasnik RS, br. 135/2004i 90/2007.



bezbednosni rizik, a posebno izostala je prevencija kriminaliteta stranaca do napuštanja teritorije.

Estradicija je postupak izručenja nekog lica pravosudnim organima druge države zbog sprovođenja krivičnog postupka ili izdržavanja kazne. Ovo je jedan vid borbe protiv kriminala, gde jedna država traži izvršioca krivičnog dela, koji je pobego na teritoriju druge države. Postupak estradicije je uređen zakonom i strogo je precizan.<sup>23</sup> Ovo se odnosi samo na strane državljane, međutim, moguće je estradicijom izručiti i domaće državljane ako to nije zakonom zabranjeno. Najčešći vid izručenja domaćih državljana je kad su osuđeni na kazne zatvora, i nalaze se na izdržavanju kazne, ali se oni zbog potrebe sudskih procesa u inostranstvu potražuju u svojstvu svedoka, saučesnika, saizvršilaca, pa se onda vraćaju u vlastitu državu na izdržavanje kazne.

Republika Srbija po Ustavu 2006. godine, po članu 38, ne sadrži zabranu izručenja njenih državljana. Zabrani izručenja vlastitih državljana se sprovodi na osnovu načela državne suverenosti, gde država mora da štiti svoje državljane od suđenja u drugoj državi ili izdržavanja kazne u drugoj državi.<sup>24</sup> Osnov za estradiciju je bilateralni ugovor ili multilateralni ugovor sa više država a može biti i po principu reciprociteta. Evropskom konvencijom o ekstradiciji, koja je usvojena od strane Saveta Evrope 1957. godine u Parizu, a stupila je na snagu 1960. godine, potpisana i ratifikovana od strane SFRJ, čiji je naslednik R. Srbija a koju je ratifikovala 2001. godine. Pored potpisnica 47 članica, problemi su nastali što, Austrija, Danska, Grčka, Luksemburg i Nemačka, nisu hteli da izručuju svoje državljane, neke su uslovljavale reciprocitetom, tako Francuska i Italija odbiju da ratifikuju konvenciju u parlamentima.<sup>25</sup>

U međuvremenu su usvojena četiri protokola, kojima su izvršene određene promene u Konvenciji:

- Dodatni protokol iz 1975. godine koji eliminiše mogućnost izbegavanja isporučenja lica eventualnim svrstavanjem zločina protiv čovečnosti i zločina genocida, kao i drugih zločina izvršenih kršenjem Ženevskih konvencija iz 1949. godine, među politička krivična dela (primena člana 3. Konvencije). Takođe, ovim protokolom je dopunjen član 9. Konvencije, navođenjem razloga za odbijanje izručenja kada je licu izrečena pravosnažna presuda u trećoj zemlji.<sup>26</sup>
- Drugi Dodatni protokol, iz 1978. godine, proširuje dejstvo Konvencije u oblasti fiskalnih krivičnih dela i kada ona podleže usamo novčanoj kazni, dajući bliže objašnjenje tih dela. Takođe, ovim protokolom se dopunjuje Konvencija objašnjenjem da se može odbiti izručenje u slučaju sumnji da suđenje u odsustvu lica nije ispunio minimalna prava odbrane, odnosno odobriće se izručenje u tim okolnostima ako država koja moli garantuje pokretanje novog sudskog postupka sa pravom na odbranu. Dalje, ovim protokolom se odbacuje mogućnost ekstradicije u slučaju amnestije u zamoljenoj državi u situaciji kada je ona nadležna za gonjenje za to krivično delo prema svom krivičnom zakonu.<sup>27</sup>
- Treći Dodatni protokol, iz 2010. godine, dopunjuje Konvenciju "u izvesnim aspektima, kako bi se pojednostavio i ubrzao postupak izručenja" onda kada lice na to pristaje.<sup>28</sup>
- Četvrti Dodatni protokol, iz 2012. godine, pojednostavljuje proceduru ekstradicije i tranzita, prilagođavanjem razvoju komunikacione tehnologije i

23 G., Božilović-Petrović, "Ekstradicija i njen značaj za regionalnu saradnju", Decembar 2005 - Broj 2,

24 V., Bajović, Ekstradicija (u) SAD", zbornik III deo, Pravni fakultet, Beograd, 2009. str. 290.

25 Ibid., 291.

26 Dodatni protokol uz Evropsku konvenciju o ekstradiciji, Beograd: Službeni list SFRJ - Međunarodni ugovori br. 10/2001 - usvojen 1975. godine, SRJ ratifikovala 2001, stupio na snagu 21. septembra 2003. godine

27 Drugi Dodatni protokol uz Evropsku konvenciju o ekstradiciji. Službeni list SFRJ - Međunarodni ugovori br. 2/2006, državna zajednica SCG ratifikovala 2006, stupio na snagu 1. avgusta 2008. godine

28 Treći Dodatni protokol uz Evropsku konvenciju o ekstradiciji. Službeni glasnik Republike Srbije - Međunarodni ugovori br. 1/2011, Srbija potpisala 10. novembra 2010. godine.

omogućavanjem vansudskog rešavanja sporova.<sup>29</sup>

Stavljanjem u funkciju međunarodnih krivičnih sudova, ad hoc iredovnog, čiji statuti ne ostavljaju mogućnost odbijanja izručenja domaćih državljana, promenio se i stav država koje su odbijale daratifikuju Evropsku konvenciju o ekstradiciji, kao i onih koje su usvojim ustavima imale striktnu zabranu izručenja. Uostalom, na to ih obavezuje član 6 stav 3 Međunarodnog pakta o građanskim i političkimpravima, koji negira mogućnost da bilo koja odredba tog akta ovlašćujedržavu članicu da ne postupi u skladu sa svojim obavezama iz Konvencijeo sprečavanju i kažnjavanju zločina genocida. Međutim, upravo na primeru stalnog Međunarodnog krivičnog suda se pokazala neujednačenost državnih politika u pogledu ekstradicije, jer su Sjedinjene američke države odbile takvu mogućnost, iako su prethodno striktno stajale na stanovištu teritorijalne, a ne personalne nadležnosti. S druge strane, američki saveznik po svim pitanjima, Evropska unija, usprotivila se pritiscima i ucenama SAD usmerenim na one države koje ne prihvate potpisivanje bilateralnog sporazuma o odricanju prava zahtevanja izručenja američkih državljana. Da bi osnažila svoj stav o ovom pitanju, imajući u vidu protivljenje nekih svojih članica ratifikaciji Evropske konvencije o ekstradiciji,<sup>30</sup> Evropska unija je usvojila svoju Konvenciju o ekstradiciji između država članica, koju je potpisalo samo 12 članica. Međutim, širi konsenzus je postignut kada je 1. januara 2004. godine ova konvencija zamenjena Okvirnom odlukom Saveta od 13. juna 2002. godine o Evropskom nalogu za hapšenje, ali je Konvencija o ekstradiciji između država članica idalje primenjiva u slučajevima u kojima se ne može primeniti Evropski nalog.

Treba ukazati da članom 19 Povelje oosnovnim pravima Evropske unije, kojim se zabranjuju kolektivna udaljavanja (stav 1), kao i proterivanje i ekstradicija državi u kojoj bineka osoba bila izložena riziku da bude osuđena na smrtnu kaznu, ili podvrgnuta mučenju i drugim nehumanim i degradirajućim postupcima.Ukoliko je zadovoljen ovaj uslov i ispunjeni su svi zahtevi obe strane, sama tehnika sprovođenja ekstradicije je vrlo jednostavna, jer se svodi na fizičko preuzimanje lica na graničnom prelazu koji je bilateralnim sporazumom određen za ovakvu vrstu aktivnosti, odnosno nameđunarodnom aerodromu, odlaska ili dolaska, u zavisnosti o sporazuma. Kao što je već rečeno, Srbija je potpisnica Evropske konvencije oekstradiciji i svih dodatnih protokola, a u slučajevima kada postoji neko pitanje koje nije rešeno međunarodnim ugovorom pitanje postupka izručenja okrivljenog ili osuđenog je uređeno Zakonom o međunarodnoj pravnoj pomoći u krivičnim stvarima.<sup>31</sup>

### Izbeglištvo i azil

Prema Konvenciji Ujedinjenih nacija o statusu izbeglica od 28.07. 1951. godine, koja je dopunjena Protokolom o statusu izbeglica iz 1967. godine, izbeglica je lice koje zbog osnovnog straha odprogona na osnovu rase, vere, nacionalnosti, pripadnosti određenoj društvenoj grupi ili zbog političkog mišljenja se nalazi izvan zemlje svog državljanstva i nije u stanju, ili zbog straha ne želi da se stavi pod zaštitu te zemlje, kao i lice bez državljanstva koje se nalazi izvan države svog prethodnog stalnog boravka i koje ne može ili zbog tog straha ne želi da se vrati u tu državu.<sup>32</sup> Protokolom je ukinuta vremenska odrednica iz Konvencije, koja je obuhvatala samo lica koja su se našla utom statusu kao posledica Drugog svetskog rata. Imajući u vidu da sudešavanja u svetu i dalje proizvodila izbeglice, moralo je doći do izmene Konvencije kako bi svi oni imali pravo na jednaku zaštitu. Korekcija definicije izbeglice je izvršena još dvema regionalnim konvencijama. Prva od njih, Konvencija Organizacije afričkog jedinstva o problemima

<sup>29</sup> Četvrti Dodatni protokol uz Evropsku konvenciju o ekstradiciji, Službeni list SFRJ - Međunarodni ugovori br. 13/2013, Srbija potpisala 20. septembra 2012, te je stupio na snagu 1. januara 2013. godine.

<sup>30</sup> Evropska konvencija o ekstradiciji. Ibid., čl. 28

<sup>31</sup> Zakon o Međunarodnoj pravnoj pomoći u krivičnim stvarima, Službeni glasnik R. Srbije, br. 20/2009), član 1.

<sup>32</sup> Konvencija o statusu izbeglica (1951), čl. 1(A); Protokol o statusu izbeglica iz 1967, Službeni list FNRJ-Međunarodni ugovori i drugi sporazumi, br.15/67), čl. 1 tač. 2.

izbeglica, koja je usvojena 1969. godine, kao razloge zbog kojih neka osoba ima potrebu da napusti svoju zemlju definisala je spoljnu agresiju, okupaciju, stranu dominaciju, te događaje "koji ozbiljno narušavaju javni red".<sup>33</sup> Zatim je 1973. godine, doneta tzv. Kartaginska deklaracija, gde je data definicija izbeglice kao lica koja beže iz svojih država zbog ugroženosti svojih života, bezbednosti ili sloboda usled opšteg nasilja, strane agresije, unutrašnjih sukoba, grubih povreda ljudskih prava, kao i drugih okolnosti kojima se ozbiljno narušava javni red.<sup>34</sup> Ženevskom konvencijom iz 1949. godine,<sup>35</sup> koja štiti građanska lica zavreme rata, kao i I Dopunskim protokolom iz 1977. godine. I Dopunski protokol je ključni akt, jer je integrisao De Martensovu klauzulu, ugrađena u preambulu IV Haške konvencije iz 1899. godine. Ovom klauzulom se stanovništvo i učesnici u ratu stavljaju pod zaštitu načela međunarodnog prava, proisteklim iz običaja ustanovljenih među prosvetljenim narodima, principa čovečnosti i zahteva javne savesti.<sup>36</sup> Konvencije o statusu izbeglica iz 1951. i Protokola iz 1967. godine. Proces utvrđivanja da li se migrantu može dodeliti status izbeglice razvija se kroz dve faze. U prvoj je nužno razmotriti svaki pojedinačni slučaj za sebe, kako bi se utvrdile suštinske činjenice, na koje se potom primenjuju kriterijumi iz ovih međunarodnih akata.<sup>37</sup> Tom prilikom mora se poštovati izuzetno važan princip ne vraćanja, koji je opisan u članu 33. Konvencije o statusu izbeglica: "nijedna država ugovornica neće proterati ili vratiti silom, na ma koji način to bilo, izbeglicu na granice teritorije gde bi njegov život ili sloboda bili ugroženi zbog njegove rase, vere, državljanstva, pripadnosti nekoj socijalnoj grupi ili njegovih političkih mišljenja".

Takođe, izbeglički status ne mogu dobiti lica koja već dobijaju pomoć ili se nalaze pod zaštitom nekog drugog tela UN, ili postoje neki drugi aspekti njihovog položaja koji ukazuju da ne zaslužuje takav status. Izbeglice imaju pravo da država u koju su izbegle postupa kao i "sastrancima uopšte".<sup>38</sup> Države potpisnice Konvencije o statusu izbeglica su u obavezi da poštujući odredbe konvencije, osim fizičke zaštite, davanja privremenog smeštaja i hrane, izbeglom licu omogućuje uživanje svih prava i sloboda koji propada u bilokom drugom strancu koji je u zemlju došao dobrovoljno.

### Interno raseljena lica

Sličnu kategoriju lica koja napuštaju svoje domove i prebivališta u strahu za svoje živote, a koju treba razlikovati od izbeglica, čine interno raseljena lica. Pod tom kategorijom se podrazumevaju osobe, ili grupe ljudi, koje su pod istim okolnostima koje važe za izbeglice prinuđene da beže iz svojih domova, ili prebivališta, i na taj način izbegnu teže posledice oružanih sukoba i drugih vidova nasilnog okruženja, elementarnih nepogoda i katastrofa koje su izazvali ljudi, kao i na bilo koji drugačiji način kršenja ljudskih prava.<sup>39</sup> Razlika je od izbeglica što nisu prešli državnu granicu, samo su napustili svoje prebivalište, u cilju sklanjanja od nepoželjnih okolnosti. Izbeglički status se stiče i ako je lice u vreme nastupanja nepoželjnih okolnosti bilo u inostranstvu i nemože da se vrati na svoje prebivalište. Interno raseljena lica štite unutrašnji akti države i međunarodne konvencije. Raseljena lica su zaštićena međunarodnim humanitarnim pravom, čije, nepoštovanje od strane ugrožavajuće sile i prouzrokuje njihovo napuštanje domova, a na kraju može dovesti i do promene statusa u slučaju napuštanja zemlje. U korpusu prava i sloboda koji pripadaju izbeglicama u stranoj državi, pravo na azil je na samom

33 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, Assembly of Heads of State and Government, Organization of African Unity, 10 September 1969.

34 Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 19 - 22 November 1984, III (3),

35 D., Marković, Krivičnopravna zaštita ranjenika, bolesnika i ratnih zarobljenika u Krivičnom zakoniku R.S", Međunarodna politika br.1152, oktobar-decembar 2013. godine, 197-198.

36 Ibid. Str- 197-198.

37 Priručnik o postupcima i kriterijumima za određivanje statusa izbeglice, UNHCR- Visoki Komesarijat UN za izbeglice, Ženeva 1992, Predstavništvo UNHCR u BiH, 2006, 15.

38 Konvencija o statusu izbeglica 1951, čl.7 st. 1

39 Guiding Principles on Internal Displacement, OCHA, 2004- Introduction - Scope and Purpose, 2,

vrhu važnosti. To je ujedno i pravo kojene pripada ostalim kategorijama stranaca, već je apsolutno rezervisano za izbeglice, koji se za razliku od ostalih stranaca ne mogu vratiti u svoju zemlju.<sup>40</sup>

Azil predstavlja zaštitu koju neka država daje pojedincukoji traži utočište na njenoj teritoriji ili na mestu van njeneteritorije koje je pod kontrolom organa te države. Reč azil potiče odlatinske reči asulum koja u doslovnom prevodu znači sklonište, utočište, a u širem nepovredivo mesto.<sup>41</sup> Samom činjenicom da ima status izbeglice, ta osoba je inicijalno i tražilac azila, dok s drugestrane, tražioci azila ne moraju istovremeno biti izbeglice. Bez prava da traži azil izbeglica bi bio u nepovoljnijem položaju nego ostali stranci u toj državi.

Traženje azila je samo pravo, ne i obaveza izbeglica.

Prema članu 57 Ustava Republike Srbije, pravo na azil pripada strancu čiji je strah od progona zbog nekog svog svojstva osnovan, a sam postupak sticanja azila je uređen Zakonom o azilu, koji je u primeni od 2008. godine. Postojanje Zakona o azilu je jedan od razlog zbog kojih se Srbija nalazi na spisku sigurnih trećih zemalja koji koristi Evropska unija. Poštovanje principa nekažnjavanja tražilaca azila koji su ilegalno ušli u Srbiju slabi bezbednost državne granice. Migranti koji ilegalno prelaze državnugranicu imaju pravo da u svakom momentu izraze želju da podnesu zahtevza dobijanje azila i oni to veoma često koriste kako bi izbegli ulazak u prekršajni postupak. Međutim, većina njih nikad ne iskoriti to pravo, već nastavlja svoj put ka državama Evropske unije, pokušavajući da izađu iz Srbije takođe ilegalnim prelaskom državne granice. Po konceptu sigurnetreće zemlje, izbeglice koje beže od progona ili strahota rata u svojoj zemlji, su bezbedne prilikom ulaska u prvu državu na tom putu, a koja se smatra sigurnom trećom zemljom jer u njoj nema ratnih sukoba, niti kršenja ljudskih prava u većem obimu. U skladu sa tim, izbeglica koji se nađe na teritoriji te države trebalo bi da u njoj podnese i zahtev za dobijanje azila. Ovaj koncept ima svoje mane, jer sigurne treće zemlje su najčešće one koje su susedne sa državama porekla izbeglica, što same te države stavlja u nepovoljnu poziciju zbog potencijalno velikog broja zahteva za azil, čije bi odobravanje promenilo demografsku strukturu te države i izazvalo druge probleme kojima bi se oslabilo opštebezbednosno stanje.

Pokazaćemo to na ovom mestu na primeru Međunarodnog pakta ograđanskim i političkim pravima. U članu 8 stav 2 se kaže da se niko "neće držati u zavisnom položaju". Uslovljavanje lica koja nameravaju tražiti azil da to moraju učiniti u tačno određenoj državi jeste držanje u zavisnom položaju, jer se tom licu jednostavno ne ostavlja druga mogućnost apsolutnog rešenja svog statusa. Rešenje statusa nije apsolutno ako nije zasnovano na voljnom momentu. U skladu sa članom 12stav 2 ovog pakta, "svako lice je slobodno da napusti bilo koju zemlju", paje suprotan ovoj odredbi svaki postupak kojim se izbeglice zaustavljaju ujednoj zemlji i onemogućavaju da nastave svoj put ka državi u kojoj oni žele da podnesu zahtev za dobijanje azila.

Postupak azila u Republici Srbiji ima pet faza:

1. izražavanje namere za podnošenje zahteva za dobijanje azila, kao i evidentiranje podataka od strane policije;
2. registracija tražilaca ;
3. podnošenje zahteva za azil;
4. saslušanje;
5. odlučivanje o zahtevu,

Postoje slučajevi kada je azil odobren, postoji mogućnost ukidanja odluke o njegovom davanju, ili pak poništenja odluke. Ukidanje se vrši uslučaju promenjenih okolnosti na osnovu kojih je odluka doneta, dok se poništenje vrši u slučaju otkrivenih neregularnosti u vezi sa donošenjem odluke. Ukidanje odluke se vrši u sledećim okolnostima:

40 V., Dimitrijević, Utočište na teritoriji strane države - teritorijalni azil, Beogradski centar za ljudska prava, 2015). Str. 139.

41 S., Stanarević i F., Ejodus, Pojmovnik bezbednosne kulture. str 8.

- lice je prihvatilo ponovnu zaštitu države porekla,
- lice je ponovo steklo prethodno izgubljeno državljanstvo,
- lice je steklo državljanstvo treće države, i tako obezbedilo zaštitu,
- lice se dobrovoljno vratilo u zemlju porekla,
- prestale su okolnosti u zemlji porekla zbog kojih je lice napustilo i dobilo zaštitu u R.Srbiji.

### **Zaključak**

Uzroci koji pokreću stanovništvo u izbeglički status, su prirodne i društven pojave, koja se pojavljuju u osnovna dva elementa, ugrožavanje života i zdravlja ljudi, sa elementima dugog trajanja i besperspektivnost mogućeg brzog rešenja i drugi elementat je prirodna katastrofa koja prostor na kome se živi, pretvara u neupotrebljiv ili nehuman za dalji život ljudi.

Društveni razlozi za migracije stanoništva su: građanski rat, politička progona, totalni režimi, vojna hunta, strane intervencije, politička i pravna nestabilnost, siromaštvo, nezaposlenost, neorjentisanost polova-nemogućnost sklapanja brakova (udaje, ženidbe, formiranja pordice idr.), ekonomska kriza-snkcije, gašenje industrijskih pogona, propadanje kompanija, idr.

Prirodni razlozi se najčešće javljaju u vidu, erupcije vulkana, tornado, cunami, zemljotresi, ekološki akcidenti i kontaminacija terena (Černobil), klizišta, promena klimatskih uslova (suše, poplave), zaraze i bolesti, prestanak i nestanka vode za piće, oskudica u hrani, izmeštanjem puteva i saobraćajne infrastrukture, pravljnje veštačkih brana i jezera, idr.

Od pamtiveka do danas, ugrožavanje lične, pordične i kolektivne bezbednosti sa nadogradnjom ekonomskih uslova, uvek je bila osnov za pojavu migracija stanovništva. Nekad se migracija odvija tiho u dužem vremenskom periodu, a nekad masovno, u kratkom vremenskom periodu. Kada su migracije masovne uvek su uočljive jer zahtevaju ljudsku solidarnost u pružanju humanitarne pomoći i zbrinjavanju. Sve migracije stanovništva imaju isti uzrok i posledicu, tako da je njihovo pojavljivanje uvek zakonita pojava kada nastupe odgovarajući uzroci.

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## TERORISTIČKI AKTI KAO ZNAČAJAN SEGMENT USLOVLJENOSTI MIGRACIJA STANOVNIŠTVA NA GLOBALNOM NIVOU

### Rezime

*Iz detaljnije analize složenih društvenih fenomena, kao što su globalizacija, migracije i njihov reciprocitet sa terorizmom i terorističkim aktivnostima, u radu su se, a u skladu sa osnovnom temom, izdvojila određena pitanja, koje je bilo potrebno detaljnije analizirati. U skladu sa rečenim, migraciona kretanja ljudi imaju raznovrsne uzroke, pojavne manifestacije i rezultiraju različitim posledicama po same migrante. U kontekstu relacija sa terorizmom, može se istaći da terorizam može usloviti masovne migracije, i tu se pojavljuje kao značajan (nekada i ključni) podsticajni faktor masovnih migracionih kretanja ali sa druge strane, migracioni proces može doneti sa sobom prisustvo terorista u zemljama kroz koje migranti prolaze, u kojima se zadržavaju ili koje pak nastanjuju, te tako omogućiti terorističkim organizacijama delovanje na ovim novim teritorijama. Pored relevantnih napomena u vezi sa fenomenom globalizacije, te samih migracija i njihovih uzroka, u radu je učinjen detaljniji osvrt i na pojam i najznačajnije karakteristike terorizma kao savremenog fenomena i vanremenskog problema globalne bezbednosti.*

*Ključne reči: migracije, terorizam, globalizacija, bezbednost, organizovani kriminal*

## TERRORIST ACTS AS A SIGNIFICANT SEGMENT OF CONFIDENCE MIGRATION OF POPULATION IN THE GLOBAL LEVEL

### Abstract

*From a more detailed analysis of complex social phenomenon, such as globalization, migration and their reciprocity with terrorism and terrorist activities, in the work, in accordance with the basic topic, certain issues, which needed to be analyzed in detail. In accordance with this, migration movements of people have various causes, manifestations and result in different consequences for the migrant himself. In the context of the relationship with terrorism, it can be pointed out that terrorism can condition mass migration, and it appears as a significant (sometimes key) incentive factor for mass migration movements, but on the other hand, the migration process can bring with it the presence of terrorists in countries through which migrants passages, where they are*

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*held or inhabited, and thus enable terrorist organizations to act on these new territories. In addition to the relevant remarks regarding the phenomenon of globalization, migration their causes, a more detailed overview of the concept and most important characteristics of terrorism as a contemporary phenomenon and an out of date global security problem has been made.*

*Key words: migration, terrorism, globalization, security, organized crime*

## Uvod

Globalizacija, koja ima dugu predistoriju, otelotvorenje je osobenog antropološko-civilizacijskog koda, vid je fascinantne evolucije koja vodi od prvih usamljenih grupa humanoida preko arhaičnih imperija do modernog svetskog poretka. Ekspanzija velikih religija i civilizacija, vojna osvajanja i džinovska carstva, arhaičan su oblik povezivanja svetova, ujedinjavanja čovečanstva. Uprkos svim dubokim odsečnim razlikama između njenih modernih i predmodernih oblika, na delu je jedno univerzalno i trajno stremljenje čovečanstva.<sup>3</sup> Međunarodne migracije predstavljaju sastavni deo procesa globalizacije i dobro se prilagođavaju njenim razvojnim procesima – tokom vremena se obim migracija povećava, a njihove društvene i kulturne karakteristike se umnožavaju. Tehnološki razvitak značajno povećava mogućnosti rasta obima privremenih i cirkularnih migracija, a sve veći broj migranata se usmerava ka životu u dva ili više društava paralelno.<sup>4</sup> Dakle, mehaničko kretanje stanovništva u savremenom svetu predstavlja vrlo bitan demografski fenomen i sastavni deo procesa globalizacije.<sup>5</sup>

Istorijski posmatrano, kretanje stanovništva radi poboljšanja ličnih i porodičnih uslova života se javlja praktično sa prvim oblicima ljudskog života. Međutim, ekspanzivan razvoj informatičke tehnologije iz korena je promenio skoro sve aspekte života i rada savremenog čoveka što je posledično ubrzalo proces globalizacije u svakom njegovom aspektu.

Migracije se često označavaju kao kretanje osobe ili grupe osoba iz jedne geografske jedinice u drugu, preko administrativne ili političke granice, sa ciljem da se privremeno ili trajno nasele na mestu koje se razlikuje od mesta porekla.<sup>6</sup> Migracija ili selidba stanovništva vrlo je kompleksan fenomen koji je vezan kako na porast stanovništva u svetu tako i na razvoj savremenih tehnologija transporta.<sup>7</sup> Prema određenju Zakona o upravljanju migracijama, migracija je dobrovoljno ili prinudno napuštanje države porekla ili boravka, radi privremenog boravka ili stalnog nastanjenja u Republici Srbiji i dobrovoljno ili prinudno napuštanje Republike Srbije radi privremenog boravka ili stalnog nastanjenja u drugoj državi (spoljna migracija), kao i promena prebivališta unutar teritorije Republike Srbije, odnosno promena mesta boravka unutar teritorije Republike Srbije ukoliko je do promene došlo prinudnim putem (unutrašnja migracija).<sup>8</sup>

Savremene teorije o međunarodnim migracijama ističu da je volja pojedinca odlučujuća u procesu migracija, a upravo u kontekstu vaganja između faktora koji ga podstiču da ostane i faktora kojima ga podstiču da se preseli na neku drugu, primamljiviju destinaciju. Ovakav stav je iznela i Predojević-Despić, ističući da prema klasičnim formulacijama potiskivanja, sa jedne strane, odnosno, privlačenja, sa druge strane (pull - push), potencijalni migrant meri negativne faktore koji ga potiskuju iz zemlje u kojoj živi (faktori kao što su male plate, nizak životni standard, loši uslovi za rad i drugo) u

3 Pečujlić, M. (2003). Globalizacija – dva lika sveta. U: Aspekti globalizacije (prir. Ivana Pantelić, Vlado Pavićević, Vladimir Petrović i Goran Milovanović), Beograd: Beogradska otvorena škola, 8-19, str. 11.

4 Predojević-Despić, J. (2010). Ka razumevanju determinanti međunarodnih migracija danas – teorijska perspektiva, Stanovništvo, 48 (1), 25-48, str. 25.

5 Poleti, D. (2013). Savremene radne migracije u evropskom kontekstu – ekonomski i politički aspekti, Sociologija, 55 (2), 333-348, str. 333.

6 Ibid., str. 334.

7 Simonić, M. I Vorina, A. (2014). Migracija iz urbanih naselja u ruralna područja, Svarog, br. 9, 98-110, str. 99.

8 Zakon o upravljanju migracijama, „Službeni glasnik RS“ br. 107/2012.

odnosu na pozitivne faktore, odnosno, dobrobit koju bi mogao imati u zemlji destinacije (na primer visok životni standard, bolja mogućnost napredovanja u poslu, dobro plaćen posao i drugo) i odlučuje se da migrira ukoliko prevagnu faktori moguće dobiti u zemlji destinacije.<sup>9</sup>

Suštinski, nema migracija velikih razmera a da u njihovoj pozadini nisu bezbednosni razlozi. Takođe, nema migracija velikih razmera koje same po sebi nisu bezbednosni izazov, i koje ne prate veliki bezbednosni rizici i pretnje.<sup>10</sup>

Na kraju, ali ne i manje značajno, treba definisati ilegalne migracije, koje su nastale tako što je prirodan migracioni proces, koji se posebno uvećao po obimu zahuktavanjem procesa globalizacije, stavljen u korelaciju sa pravnim okvirima nacionalnih zakonodavstava i prema njima se odredio kao nelegalan, odnosno ilegalan. Suština stvari je u činjenici da država nije dala pravo migrantu da boravi na njenoj teritoriji, ali to svakako ne znači da je navedeno lice učinilo neko klasično krivično delo i da je reč o kriminalcu. Razlog za takvu tvrdnju leži u činjenici da je međunarodno pravo regulisalo pravo svakom pojedincu da traži azil u drugoj državi, što je navedeno u Opštoj deklaraciji o ljudskim pravima. Dakle, činjenica da mu je strana država uskratila pravo na azil ne znači da je reč o kriminalcu, kao što se to iz pojma „ilegalni migrant“ može lako zaključiti na prvi pogled.<sup>11</sup>

Imajući prethodno rečeno u vidu, u radu će najpre biti nešto više reči o globalizaciji, kao okviru savremenih pojava i tendencija, pa samim tim i migracionih kretanja, a potom će značajnija pažnja biti usmerena na relevantna pitanja iz oblasti migracija, sa akcentom na migracione faktore. Konačno, u trećem delu analitičkog teorijskog razmatranja teme rada, pažnja će biti usmerena na relevantna pitanja u oblasti terorizma i preduzimanja terorističkih akata kao značajnog faktora koji uslovljava mnoge procese u životu savremenog čoveka, zadirući u ekonomski, politički, bezbednosni aspekt mnogih država i regiona (u širem smislu i kontinenta), a posredno se reflektujući na značajne činioce života i rada ljudi kako na lokalnom, tako i na globalnom nivou. U ovom kontekstu, posebno je interesantan osvrt na vezu između masovnih migracija i ekspanzije terorističkih akata, te na najznačajnija pitanja u oblasti terorizma kao veoma aktuelnog savremenog fenomena, pretnje, rizika i problema nacionalne, regionalne i globalne bezbednosti.

### **Koncept globalizacije – evolutivni kontekst i značaj za savremeno društvo**

Protekla decenija bila je protkana procesom liberalizacije u privredi zemalja širom sveta. Liberalizacija u okviru nacionalnih privreda ali i u međunarodnim okvirima je izbor organa država. Ona je povezana sa privatizacijom javnih preduzeća, povećanjem uloge privatnog sektora i navodnim smanjenjem uplitanja države u privredu. Nasuprot liberalizaciji koja je politički izbor državnih organa, globalizacija je činjenica. Ona je ishod ponašanja preduzeća, najčešće transnacionalnih korporacija, njihove organizacije i kontrole, promena u tehnologiji proizvodnje i distribucije, ekonomije obima proizvodnje, a takođe i upravljanja njihovim finansijama. Proces globalizacije je delom posledica, sa jedne strane, promene u ponašanju pojedinih potrošača koji iskazuju smanjenu ođanost domaćim proizvodima i domaćim proizvođačima, a sa druge strane to je posledica liberalizacije koja otvara prostor za povećanje međunarodne trgovine, proizvodnje, stranih ulaganja i protoka finansija.<sup>12</sup>

Pojavi procesa globalizacije pogodovala je situacija nakon Drugoga svetskog rata, naročito u Evropi. Evropske zemlje, neke tada u potpunosti razorene, ali novčano

9 Predojević-Despić, J. (2010), op. cit., str. 26.

10 Marković, D. (2016). Bezbednosni izazovi, rizici i pretnje ilegalnih migracija, doktorska disertacija, Beograd: Fakultet bezbednosti univerziteta u Beogradu, str. 192.

11 Blagojević, V. i Milosavljević, B. (2016). Političko-pravni okvir savremenih migracija u Jugoistočnoj Evropi, Vojno delo, 68 (3), 75-96, str. 78-79.

12 Jovanović, M. (2013). Globalizacija i evropske vrednosti, Godišnjak, Beograd: Fakultet političkih nauka Univerziteta u Beogradu, 7 (9), 34-42, str. 35.



potpomognute od SAD-a, započinju proces međusobnog povezivanja. Jedan od ciljeva tog povezivanja bio je izbeći dalja međusobna neprijateljstva i stvoriti Evropu u kojoj će sve zemlje međusobno saradivati i pomagati se. Takva politika u Evropi bila je nakon toga pokretač sličnih procesa i drugde u svetu. To je na kraju dovelo do stvaranja sveta kakav je danas.<sup>13</sup>

Termin globalizacija je prvi put upotrebljen 1960-tih godina i od tada se koristi kako u stručnoj, tako i u popularnoj literaturi u različitim značenjima: kao proces, kao stanje, kao sistem, snaga, ili doba. Takode, ovaj termin se odnosi na najrazličitije fenomene: od inovacije u komunikacionim tehnologijama, transnacionalne interakcije proizvodnih sistema i finansijskih transfera, do medijskog rasprostiranja informacija, ili masovnih pomeranja ljudi (turista, migranata, izbeglica) širom sveta.<sup>14</sup>

Različiti su stavovi autora koji opisuju pojam globalizacije, njen istorijski razvoj i kriterijume klasifikacije.

Kako bi pomirili suprotstavljene strane u definisanju procesa globalizacije, pojedini autori izdvaja četiri osnovne karakteristike globalizacije:

1. Stvaranje novih i multipilicacija postojećih društvenih mreža i interakcija daleko prevazilaze tradicionalne, političke, ekonomske, kulturne i geografske granice;
  2. Ekspanzija društvenih veza, aktivnosti i međusobnog delovanja (npr. finansijska tržišta, tržišni centri, trgovina elektronikom);
  3. Intenziviranje i akceleracija društvenih razmena i aktivnosti (npr. Internet, koji nudi razne informacije u roku od nekoliko sekundi, i satelitske antene).
- Drugim rečima, procesi globalizacije i lokalizacije impliciraju jedno drugo.

Sve tri prethodno navedene karakteristike ne postoje samo na materijalnom planu, već i na subjektivnom planu ljudske svesnosti sebe kao dela globalnog u celini.<sup>15</sup>

Istraživanja procesa globalizacije otkrivaju da se suočavamo s pojavom koja ima više dimenzija – ekonomsku, društvenu, političku, kulturnu, versku i pravnu – i da su sve one međusobno povezane na složen način.

Autori su se u toku evolutivnog napredovanja procesa globalizacije bavili značajem ove pojave za društvo, ali i države kao jedinične konstitutivne elemente.<sup>16</sup>

Mišljenja autora o uticaju globalizacije na nacionalne privrede, variraju i često obuhvataju razmatranje i dobrih i loših strana.

Pa tako, Jovanović smatra da je globalizacija povezana sa promenom u strukturi međunarodne proizvodnje i potrošnje jer smanjuje važnost blizine između proizvodnje, sirovina i tržišta. Globalizacija proširuje granice za lociranje preduzeća u prostoru zbog sniženja troškova i povećanja brzine u dostavi sirovina i gotovih proizvoda. Veliko povećanje stranih ulaganja u privrede širom sveta je osnovni sastojak ovog procesa. Liberalizacija na tržištu kapitala i povećana međunarodna pokretljivost kapitala bitno smanjuju uticaj vlada na domaću monetarnu politiku. U slučaju sumnje da će da dođe do devalvacije, kapital može da "pobegne" iz zemlje u roku od nekoliko sati tako da vlade u svojoj ekonomskoj politici moraju da vode računa i o ovoj mogućnosti. Iako su nacionalne vlade izgubile deo uprave nad monetarnom politikom, one su povećale mogućnost nadzora na drugoj strani. Postojanje računara i nove tehnologije u obradi podataka, omogućilo je javnim organima da povećaju nadzor nad firmama i građanima što je, recimo, bitno zbog određivanja i ubiranja poreza.<sup>17</sup>

Globalizacija sobom nosi i dobre i loše strane. Sa jedne strane, ona može da poveže nacionalne privrede, proširi tržište i omogući pristup savremenoj tehnologiji u proizvodnji,

13 V. Više: Krešić, I. (1996). Značenje globalizacije u suvremenom prostornom razvitku svjetske privrede i politike, *Ekonomski pregled*, 47 (1-2), str. 81-88.

14 Đurić Kuzmanović, T. (2008). Raznovrsnost pristupa i otpora globalizaciji, *Škola biznisa*, 5 (2), 14-26, str 14.

15 Ibid., str. 16.

16 O procesu globalizacije vidi više: Santos Boaventura de Soza (2002). Para uma sociologia das ausências e uma sociologia das emergências, *Revista Crítica de Ciências Sociais*, no. 63, pp. 237-208.

17 Jovanović, M. (2013)., op. cit, str. 35.

distribuciji, komunikacijama i obradi podataka. Sa druge strane, ona povećava ranjivost ekonomski slabijih i ubrzava zahteve za prilagođavanjem i modernizacijom privrede i usluga. Usled globalizacije, pojedina preduzeća mogu da stvore, u određenim nivoima, globalni svetski monopolski položaj. To je slučaj, recimo, sa Majkrosoftom i njegovim računarskim programima, ali dominantnost na globalnom planu ove firme je zasnovana na snažnoj lokalnoj koncentraciji tog preduzeća u Sijetlu. Međutim, globalizacija ima kao posledicu i stvaranje širom sveta ogromnog broja preduzeća male i srednje veličine koja mogu da prodru na široko tržište. U ovakvim uslovima brze i lake međunarodne pokretljivosti preduzeća, obrazovana, stručna i iskusna radna snaga je glavna prednost koju može da ima jedna nacionalna ekonomija.<sup>18</sup> Za svoje zagovornike globalizacija upravo polazi od nadnacionalnih sila i mehanizama. Kako Stalker isitče, globalizacija implicira viši nivo organizacije – takav na kom se odvojeni nacionalni entiteti sami rastvaraju, tako da se sve glavne političke i ekonomske odluke u krajnjoj liniji sublimiraju globalno. Ovaj novi svet, u prenosno značenju, svedoči “smrti geografije”.<sup>19</sup>

Opasnosti koje sobom donosi globalizacija su i nepredvidivi tokovi kapitala, špekulativni napadi na pojedine nacionalne valute, finansijske krize i nepredvidiva prebacivanja proizvodnje i zaposlenosti iz jedne zemlje u drugu. Sve ovo povećava ekonomsku i socijalnu ranjivost mnogih zemalja, i to naročito onih koje su male i koje su u razvoju.<sup>20</sup>

Sumirajući utiske o globalizaciji, Santos smatra da naizgled transparentna i jednostavna, ona prikriva više nego što otkriva stvarna dešavanja u svetu. Kad se posmatra iz jedne druge perspektive, ono što se maskira ili skriva toliko je važno da transparentnost i jednostavnost ideje o globalizaciji ne samo što nije bezazlena već se mora smatrati ideološkim i političkim sredstvom koje ima specifične ciljeve. Dva takva cilja treba posebno naglasiti.<sup>21</sup>

Prvi je stvaranje takozvane determinističke zablude. Reč je o plasiranju ideje da je globalizacija spontan, automatski, neizbežan i nepovratan proces koji jača i napreduje u skladu s nekom unutrašnjom logikom i dinamikom čija je snaga tolika da se može odupreti svakom spoljašnjem mešanju.

Drugi politički cilj krije se iza tvrdnje da globalizacija nema politički karakter.

Pored postojanja različitih stanovišta o evolutivnom kontekstu, ulozi i značaju globalizacije u savremenim društvenim okvirima, potrebno je istaći i to da je razvoj informaciono-komunikacionih tehnologija veoma značajan segment korenitih promena koje je proces globalizacije doneo.

Posebna spona procesa globalizacije u opštem smislu i migracija, jeste savremeni fenomen koji označavamo terminom – globalizacija migracija.

Prema Mesiću, proces pod nazivom globalizacija migracija ima sledeća obeležja: umnožavanje migracionih kretanja; diferencijacija ekonomskih, socijalnih i kulturnih zaleđa migranata; ubrzavanje migracionih obrazaca; rast broja migranata; feminizacija migracija; deterritorijalizacija kulturnih zajednica te višestruki lojaliteti dijaspora. Radi se o procesima čiji kombinovani učinci izazivaju dalje širenje međunarodnih (globalnih) migracija. One se (više) ne mogu zaustaviti ni ekonomskim niti političkim merama. Globalizacija vodi »turbulentnim tokovima« ljudi s obrascima kretanja koji će se sudarati i ukrštavati sa ekonomskim zahtevima i migracionim politikama.<sup>22</sup>

### **Migracije, migracioni faktori i veze sa međunarodnim terorizmom**

Slično kao i ostali složeni društveni fenomeni, migraciona kretanja ljudi imaju raznovrsne uzroke, pojavne manifestacije i rezultiraju različitim posledicama po same

18 Ibid., str. 36.

19 Stalker, P. (2000). *Workers Without Frontiers: The Impact of Globalization on International Migration*, Lynne Rienner Publisher, Inc., p. 3.

20 Jovanović, M. (2013)., op. cit, str. 36.

21 Santos Boaventura de Soza (2002)., op. cit.

22 Mesić, M. (2002). *Globalizacija migracija, Migracijske i etničke teme* 18 (1), 7–22, str. 8.

migrante, ali i u odnosu na brojne aspekte sociokulturnih ambijenata društava koje su napustili i onih u koje dolaze.<sup>23</sup> Zbog navedenih karakteristika migracija teško je ustanoviti održivi vrednosni sistem koji bi opredelio i teorijski utemeljio razmatranje migracija sa globalnog stanovišta, jer u nekim slučajevima ona donosi prosperitet, kako državama koje su primile migrante, tako i samim migrantima. Nije retka pojava da su migranti, posebno u razvijenim društvima, izvor društveno neprihvatljivog ponašanja, pa i kriminogenog delovanja. S druge strane, brojna migraciona kretanja uzrokuju, odnosno podstiču, i različite prirodne pojave, klimatske promene, a posebno prirodne katastrofe i druge vanredne situacije.<sup>24</sup>

Prema stavovima pojedinih stranih autora, suština problema vezanim za migracije, leži u pogrešnom razumevanju uzroka imigracije i motiva migranata. Loše upravljanje migracijama ne samo što je dovelo do nemogućnosti uspešne kontrole i regulisanja imigracionih tokova, već i rezultat sprovedenih mera nije u skladu sa nacionalnim interesima, i direktno je suprotstavljen u početku definisanim ciljevima imigracione politike.<sup>25</sup>

Prema Zakonu o upravljanju migracijama, upravljanje migracijama podrazumeva prikupljanje, analizu, obradu, organizovanje, razmenu, čuvanje i zaštitu podataka relevantnih za upravljanje migracijama, utvrđivanje pokazatelja, podataka relevantnih za upravljanje migracijama, uspostavljanje jedinstvenog sistema i drugih mehanizama razmene podataka u oblasti migracija, utvrđivanje i predlaganje ciljeva i prioriteta migracione politike, predlaganje i preduzimanje mera za sprovedenje migracione politike i koordinaciju organa koji obavljaju poslove vezane za upravljanje migracijama, kao doprinosa ostalim zakonom uspostavljenim mehanizmima u oblasti migracija (član 2, stav 1, tačka 4). Načela na kojima se zasniva upravljanje migracijama su: načelo poštovanja jedinstva porodice, načelo zabrane veštačkog menjanja nacionalnog sastava stanovništva, načelo ravnomernog i planskog ekonomskog razvoja upravljanjem migracijama, načelo jačanja veza sa dijasporom i Srbima u regionu, načelo zaštite prava, načelo poštovanja potvrđenih međunarodnih ugovora i opšteprihvaćenih pravila međunarodnog prava u oblasti migracija (članovi 3-8).

Motivacija je vrlo važna komponenta migracija, na osnovu koje se prave različite tipologije. Iako postoje mnogobrojni motivi migracija, one se prema uzroku često dele na ekonomske i neekonomske.<sup>26</sup> Istraživanja ukazuju na to da su ekonomski razlozi, poput traženja posla ili popravljanja uslova života i životnog standarda, najčešći pokretači. Pokazalo se da i u prigradnim migracijama (etnički migranti, azilanti i izbeglice), ekonomski momenat igra značajan uticaj na izbor zemlje destinacije. Takođe, i razlozi kao što su spajanje porodice, često imaju korena u radnim migracijama.<sup>27</sup> Kako Meteljev navodi, motivacioni aspekti migracije su uslovljeni unutrašnjom pobudom da se realizuje nešto željeno, da se izmeni način života kao svrsishodnost životnog trajektorija (nivo prava, zavisnost od javnog mnjenja, prirodni uslovi života, privrženost stereotipnoj sredini).<sup>28</sup>

Prema Mijalkoviću i Petroviću, migracioni motivi su najčešće egzistencijalne prirode, a među njima dominiraju:

- traganje za boljim kvalitetom života (zaposlenje, veći životni standard);
- traganje za bezbednijim, manje nasilnim ili nenasilnim okruženjem, i to:
- odlazanje iz (pred)konfliktnih (ratnih) područja, odnosno

23 Blagojević, V. i Milosavljević, B. (2016)., op. cit., str. 79.

24 Mijalković S, i Žarković M. (2012). *Ilegalne migracije i trgovina ljudima*, Beograd: Kriminalističko-policijska akademija, str. 16-17.; cit. prema: Blagojević, V. i Milosavljević, B. (2016)., op. cit.

25 Vidi više: Massey, D. S., Arango, J., Hugo, G., Kouaouci, A., Pellegrino, A. & Taylor, J. E. (1993).

*Theories of International Migration: A Review and Appraisal*, *Population and Development Review*, 19 (3), pp. 431-466.

26 Bobić, M. (2007). *Demografija i sociologija – veza ili sinteza*, Beograd: Službeni glasnik, str 110.; cit. prema: Poleti, D. (2013)., op. cit., str. 334.

27 Poleti, D. (2013)., op. cit., str. 334.

28 Meteljev, I. S. (2011). *Specifičnosti fenomena migracija u savremenom društvu*, *Sociološka luča*, 5 (1), 24-33, str. 25.

- bežanje od represivnih režima i sistemskog ugrožavanja ljudskih sloboda i prava, a u izvesnoj meri i
- traganje za zdravom životnom sredinom.

U prvom slučaju reč je o tzv. ekonomskim migracijama i ekonomskim migrantima, a u drugom slučaju reč je o političkim migracijama – izbeglištvu i o izbeglicama, odnosno o traženju azila i azilantima. Treći slučaj se odnosi na tzv. ekološke migracije i ekološke migrante usled ozbiljnije i trajnije degradacije životne sredine zbog zagađivanja, prirodnih ili tehničko-tehnoloških katastrofa, što postojeći životni ambijent čini nemogućim za život i rad stanovništva, ili je življenje stanovništva otežano i skopčano sa brojnim zdravstvenim rizicima. Ekonomske migracije se generalno odvijaju na relacijama „siromašni jug – bogati sever“ i „siromašni istok – bogati zapad“, dok se migracije u potrazi za bezbednijim okruženjem i ekološke migracije u najvećoj meri, ali ne i po pravilu, odvijaju do bliže bezbedne destinacije u unutrašnjem ili prekograničnom okruženju.<sup>29</sup>

Ono što se na prvi pogled može uočiti analizom migracionih kretanja na globalnom nivou jeste činjenica da demografska struktura stanovništva i stopa ekonomskog razvoja predstavljaju najznačajnije migracione faktore. Budući da konflikti nastaju kao posledica ekonomskih kriza, koje često prerastaju u političke, jasno je da ekonomski faktori prerastaju u ključnu determinantu migracija. Zato ne treba da čude trendovi da se najizraženiji migracioni koridori završavaju u ekonomski razvijenim državama. Međutim, iako postoje kratkoročni negativni efekti masovne pojave migranata iz siromašnih država, migracija na duži rok jača moć države koja ih je primila. To se prevashodno odnosi na povećanje broja stanovnika i privredna kretanja, jer se tržište proste radne snage održava konkurentnim na svetskom tržištu i time povećava takozvanu tvrdu moć. Istovremeno, masovniji migracioni tokovi prema pojedinim državama jačaju i njihovu privlačnost i kulturu na međunarodnom planu, odnosno jačaju takozvanu meku moć.<sup>30</sup> U ovom kontekstu, kako Meteljev navodi, socijalno-istorijsko iskustvo pokazuje pozitivne rezultate masovnih migracionih kretanja. Tako su određene radničke migracije, koje su imale za cilj kvalitetne promene specifičnosti preživljavanja, početkom XX veka u Americi dovodile do toga, da se Čikago ponosio što je bio jedan od najvećih „nemačkih“ i „poljskih“ gradova, ne pominjući, pak, druge pozitivne „skupine“ – predstavnike drugih etničkih migranata.<sup>31</sup>

Kako pojedini autori navode, migracije su izazvane društvenom, ekonomskom i političkom transformacijom, koja je pratila širenje kapitalističkog sistema na pred-tržišna i netržišna, odnosno planska društva. Sa prodorom tržišta i kapitalno-intenzivnih metoda u ova društva, poremećeni su ustaljeni društveni i ekonomski obrasci, što je nagnalo stanovništvo da traži nove načine za postizanje ekonomske sigurnosti kroz migracije (teorija svetskog sistema). Međunarodne migracije dakle, ne proističu iz nedostatka razvoja tržišta, već upravo zahvaljujući njemu.<sup>32</sup>

Zanimljivo je osvrnuti se na mišljenja koja ukazuju na osnovne zablude o migracionim procesima. Naime, „uspešne mere migracione politike moraju da prevaziđu pogrešna shvatanja o glavnim migracionim mehanizmima, kao i da se na migracije ne sme gledati kao na određeno patološko stanje koje treba suzbiti političkim merama“<sup>33</sup>. Kako Daglas Mesi (Douglas S. Massey) navodi, osnovne zablude o migracijama su sledeće:

- Nedostatak ekonomskog razvitka u zemljama porekla migranata predstavlja uzrok migracija - Uopšteno govoreći, stanovništvo se ne odlučuje na migracije usled izostanka ekonomskog razvitka u zemlji u kojoj živi, već će sa počecima ekonomskog rasta doći i do razvitka emigracionih procesa.

29 Mijalković, S. i Petrović, I. (2016). Bezbednosni rizici savremenih migracija, NBP – žurnal za kriminalistiku i pravo, br. 2, 1-18, str. 2.

30 Blagojević, V. i Milosavljević, B. (2016)., op. cit., str. 81.

31 Meteljev, I. S. (2011). op. cit., str. 25.

32 Poletić, D. (2013)., op. cit., str. 336.

33 Predojević-Despić, J. (2010)., op. cit., str. 41.

- Veliki prirodni priraštaj u zemljama porekla predstavlja uzrok migracija- Prema ovom pogrešnom stanovištu, demografski razvitak stvara višak stanovništva, koji primorava određene kategorije stanovništva da zaposlenje potraže na međunarodnom tržištu rada. Relativno visoke stope fertiliteta imale su određenog uticaja na emigraciju u prvim decenijama 20. veka, međutim, i tada se uticaj prirodnog kretanja stanovništva ogledao kroz interakciju sa ekonomskim razvitkom.
- Migranti se sele uglavnom usled razlika u visini zarada - Jedna od najrasprostranjenijih zabluda o međunarodnim migracijama je da u njihovoj osnovi stoji razlika u visini zarada između određenih geografskih područja. Međutim, iako brojna istraživanja pokazuju da međunarodne migracije širom sveta pokazuju blagu korelaciju sa visinom razlika u zaradama, postojanje razlika u zaradama nije ni nužan ni dovoljan razlog da do njih dođe.
- Migranti su privučeni povoljnim socijalnim olakšicama i pomoći - Sumirajući rezultate različitih istraživanja o uticaju očekivanih mera socijalne pomoći na verovatnoću nedokumentovanih migracija, Karnegijeva zadužbina za međunarodni mir zaključuje da nema valjanih dokaza da potencijalni imigranti žele da se usele u SAD zbog njenih programa javne pomoći.
- Većina imigranata ima nameru da se trajno nastani u državi u koju se doselila - Rezultati brojnih istraživanja sprovedenih među meksičkim migrantima, pokazuju da su, suprotno očekivanjima, migracioni tokovi između Meksika i SAD-a oduvek imali cirkularni ili povratni karakter i da meksički migranti nisu imali nameru da se trajno usele u SAD.

U celini, migracioni faktor pretpostavlja pokazivanje pravca, ne toliko geografskog koliko emocionalnih orijentacija u pogledu na teškoće izbora konkretne orijentacije premeštanja. Ličnost mora da preduzme „poduhvat“, koji pretpostavlja, ako ne prethodnu računicu, onda operativne navike. Klasična migracija počinje pitanjem: ne kuda, već zašto? U pogledu stvaranja novog sopstvenog iskustva, informacija o perspektivnoj teritoriji je ne uzrok, već posledica migracionog plana.<sup>34</sup>

Raznovrsni faktori utiču na pojedinca da se odluči za napuštanje matične države, pa se najčešće svrstavaju u sledeće grupacije:

- Ekonomski faktori. Među njima treba posebno istaći sve veći jaz između životnog standarda i ličnih prihoda između država koji privlači migrante prema državama sa većim životnim standardom, ekonomskim razvojem, šansom za zapošljavanje ili napredovanje;
- Konflikti. Prema podacima Kancelarije visokog predstavnika UN za izbeglice u 2012. godini je bilo preko 10 miliona izbeglica, a broj interno raseljenih lica, dakle takođe migranata, dostigao je brojku preko 28,8 miliona u 2013. godini. Konflikti mogu biti, po svojoj prirodi, etnički i/ili verski, ali i rezultat ekonomskih nejednakosti ili utrkivanje za prirodnim resursima. Kada se tome dodaju i nedostatak ličnih i verskih sloboda može biti motivacioni faktor, kao i diskriminacija prema rasi, rodu, religiji ili u odnosu na druge osnove;
- Demografska disproporcija. Ona može imati različite forme ispoljavanja – od umanjenja broja novorođene dece u razvijenim državama i produženja prosečne dužine života, što doprinosi raskoraku između ponude i potražnje radne snage u razvijenim državama i državama u razvoju. Višak radne snage u nerazvijenim i državama u razvoju mogu stvoriti povećanje stope nezaposlenosti, što predstavlja motivacioni faktor za migraciju. S druge strane, sve starija populacija u razvijenim državama sve više iskazuje potrebu za stranom radnom snagom koja bi popunila manjak radnosposobnog stanovništva;
- Vladavina i javne službe. Loša vladavina, korupcija i nedostatak kvalitetnog obrazovanja i zdravstvene zaštite jačaju migracione procese na međunarodnom

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<sup>34</sup> Meteljov, I. S. (2011)., op. cit., str. 27.



planu;

- Faktori životne sredine. Sve veći broj lica odlučuje da migrira zbog industrijskih akcidenata, poplava, erozije zemljišta, zemljotresa, posledica klimatskih promena, povećane radioaktivnosti, zaraznih bolesti i sličnih razloga. Ipak, većina migranata iz ove grupe zadržava se unutar matične države;
- Transnacionalne komunikacione mreže. Mogu ih organizovati emigrantske zajednice u državama krajnjim destinacijama migracije i time formiraju socijalne i kulturne obrasce za potencijalne emigrante. Tako članovi komunikacijske mreže ili porodice u inostranstvu mogu da promovišu migraciju i upravljaju migracionim procesima za račun trećih lica, kao što je slučaj sa „legalnim“ migracijama u industrijski visokorazvijenim državama.<sup>35</sup>

Međutim, evidentna su neka nova obeležja savremenih migracija koja ugrožavaju bezbednost ljudi, država i međunarodne zajednice.<sup>36</sup> U kontekstu relacija sa terorizmom, može se istaći da terorizam može usloviti masovne migracije, i tu se pojavljuje kao značajan (nekada i ključni) podsticajni faktor masovnih migracionih kretanja ali sa druge strane, migracioni proces može doneti sa sobom prisustvo terorista u zemljama kroz koje migranti prolaze, u kojima se zadržavaju ili koje pak nastanjuju, te tako omogućiti terorističkim organizacijama delovanje na ovim novim teritorijama.

Danas, kad se usled učestalih terorističkih napada migracije, iako mehanički ipak ne bez osnova, povezuju sa terorizmom, potrebno je naglasiti da kao bezbednosni izazov migracije nisu tek puko povećanje opasnosti od porasta broja terorista na tlu Evrope kako se često navodi. Kada je reč o vrsti terorizma koji sa bujicom migranata raste kao bezbednosni izazov, odgovor je naoko jednostavan i jednoznačan – opasnost koja narasta je opasnost od islamističkog terorizma budući da je ogroman procenat migranata muslimanske veroispovesti.<sup>37</sup>

Globalne migracije imaju veze sa međunarodnim terorizmom. Naime, razvoj terorizma u svetu, posebno slučajevi masovnog terorizma i stvaranja novih samoproklamovanih država, doprinosi omasovljavanju migracija, posebno izbeglištva.<sup>38</sup> Pored ove, veoma je izražena i pojava opasnosti od terorizma u tranzitnim zemljama i zemljama destinacije migranata.

Naime, sa dolaskom velikog broja migranata iz zemalja u kojima se vode građanski ratovi i u kojima su situirane razne terorističke grupacije raste rizik od terorizma u zemljama kroz koje migranti prolaze, a naročito u onim u kojima se zadržavaju. Pravilo je da što se duže zadržavaju i rizik biva veći, a najveći je u onim zemljama u kojima trajno ostaju, pogotovu ukoliko te zemlje poput Francuske učestvuju u bombardovanju ili u nekom drugom tipu vojnih operacija u zemljama iz kojih migranti stižu.<sup>39</sup>

Međutim, narastajući je problem masovnih migracija koji je pokrenut tokom 2015. godine, kao posledica samoproklamovanja lažne „Islamske države“. Naime, Islamska država (ISIS – Islamic State of Iraq and Syria; ISIL – Islamic State of Iraq and the Levant; IS – Islamic State) jeste geoprostor koji zahvata delove Iraka i Sirije, a koji je od početka 2014. godine pod kontrolom militantnih sunitskih fundamentalista – salafista, koji su proglasili (inače međunarodno nepriznato) državnost. Sredinom iste godine proglašen je kalifat, u kojem nema mesta za hrišćane, jezuite i šiite, prema kojima se vrše ratni zločini i genocid. S tim u vezi, problem Republike Srbije je što je opterećena masovnim migracijama izbeglica sa područja Iraka, Sirije i Avganistana. Iako su samo u tranzitu kroz teritoriju Republike Srbije, njihovo putovanje je skopčano sa brojnim rizicima po njihovu bezbednost, ali i po bezbednost građana<sup>40</sup>, države i međunarodnog okruženja. S

35 World Migration Report (2013). Migrant Well-being and Development, Geneva, pp. 33-34.; cit. prema:

Blagojević, V. i Milosavljević, B. (2016)., op. cit., str. 82.

36 Stojković, B. (2013). Metodologija procenjivanja izazova, rizika i pretnji za potrebe strategijskog menadžmenta u oblasti bezbednosti, Bezbednost, 55 (3), str. 36-52.

37 Simeunović, D. (2015). Migracije kao uzrok političkih anomalija u Evropi, NBP – žurnal za kriminalistiku I pravo, br. 3, 1-18, str. 7.

38 Mijalković, S. i Petrović, I. (2016)., op. cit., str. 3.

39 Simeunović, D. (2015)., op. cit., str. 8-9.

40 Nikolić, G. (2012). Neki zakonski i praktični aspekti krivičnog dela trgovine ljudima u Republici Srbiji,

druge strane, svedoci smo toga da su među teroristima u zemljama globalnog Zapada najzastupljeniji imigranti. To se podjednako odnosi na skorašnje imigrante, kao i na tzv. drugu i treću generaciju imigranata, potomke posleratnih (Drugi svetski rat) imigranata koji su rođeni na tlu Evrope i Amerike. To je ozbiljan problem i za bezbednost Republike Srbije, njenih građana i regiona.<sup>41</sup>

### **Osvrt na terorizam kao savremeni fenomen i vanremenski problem globalne bezbednosti**

Terorizam je veliki problem savremenog društva. Možda je bolje reći da je terorizam prepreka na putu razvoja savremenog sveta kao globalnog društva. On je postao pojava, pojam, misao i termin koji je ušao u svakodnevni život savremenog čoveka. Uporedo sa razvojem i napretkom čovečanstva, u tehničkom, materijalnom i kulturnom pogledu, razvija se i terorizam. Širok spektar terorističkih aktivnosti stalno se menja po formi, sadržini, tipovima i oblicima organizovanja, načinima delovanja, tehničkoj opremljenosti i drugim osobenostima.

Savremeni terorizam karakteriše teritorijalno širenje, obuhvatajući čitave svetske regione, potom njegovo umnožavanje i pojacavanje intenziteta terorističkih akata. Po svojoj prilici je prošlo vreme kada su kriminal, korupcija, narkomanija, različite manifestacije nasilja, terorizam i dr u društvenim naukama izdvajani u oblast socijalne patologije. U međuvremenu su se granice pomerile, ovi fenomeni su zahvatili čitav svet i srasli sa strukturama i funkcijama velikih sistema. A to možda najviše važi za terorizam, naročito zbog njegove brutalnosti i izazivanja masovne nesigurnosti u svakodnevnom životu.

Poreklo termina terorizam je u latinskom izrazu *terror*, koji je preuzet u francuskom jeziku - *terrorisme*, *terroriser*, u značenju vršenja terora, vladavinu zastrašivanja i primenu nasilja do fizičkog uništenja. U savremenom značenju, od sedamdesetih godina prošlog veka pa nadalje, terorizam označava politički motivisano izazivanje straha i nesigurnosti građana, grupe građana ili pojedinaca upotrebom različitih oblika nasilja. U razumevanju terorizma ključno je da se teroristički akti preduzimaju iz političkih pobuda, i da se njima želi postići određeni politički cilj.

Terorizam može da se posmatra iz više uglova. U širem smislu, to je napad na život i telo pojedinca ili manje grupe ljudi radi postizanja političkih promena. Ukoliko je cilj napada da se ukloni politički odlučilac koji se smatra isključivo i prvenstveno odgovornim za izvestan politički kurs ili stil, reč je o političkom ubistvu. Ukoliko je, pak, neposredna žrtva napada politički manje značajna ili sa svim beznačajna, reč je o terorizmu u užem smislu reči, sa ciljem da izazove strah i pometnju u široj vladajućoj grupi i u stanovništvu, da skrene pažnju na prisustvo snaga u čije ime teroristi istupaju, da ohrabri njihove potencijal ne saveznike i tako sâm, ili uz pomoć drugih sredstava, omogućiti postizanje takvih ciljeva. Slične postupke može preko države da primenjuje i vladajuća većina, ili onaj njen deo koji u rukama ima državni aparat. Oni se tada obično nazivaju terorom i najčešće se sastoje u nemilosrdnom proganjanju političkih protivnika ili uglednih ljudi koji bi to mogli da budu, i u surovom gušenju najmanjih znakova neposlušnosti ili kritike.<sup>42</sup> Generalno, primarni motivi terorista nisu lukrativni, već ideološki (politički, verski, nacionalistički itd.).<sup>43</sup>

Terorizam možemo definisati kao: „upotrebu pretnje nasiljem, od strane malih grupa protiv neuniformisanih pripadnika velikih grupa, zarad postizanja političkih ciljeva”.<sup>44</sup> Kegli i Vitkof definišu terorizam kao: „unapred smišljeno politički motivisano

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Bezbednost, 54 (2), str. 277-290.; cit. prema: Mijalković, S. i Petrović, I. (2016)., op. cit., str. 4.

41 Mijalković, S. i Petrović, I. (2016)., op. cit., str. 4.

42 Dimitrijević, V. i Stojanović, R. (1977). Osnovi teorije međunarodnih odnosa, Beograd: Službeni list SFRJ, str. 289.

43 Mijalković, S. (2008). Dihotomija organizovanog kriminala i terorizma iz ugla nacionalne bezbednosti, Revija za bezbednost, 2 (12), 39-45, str. 41.

44 Jazić, A. (2010). Teroristička propaganda i uloga medija, Međunarodna politika, 62 (1), 113-135, str. 115.

nasilje koje protiv neborbenih ciljeva sprovode subnacionalne grupe ili tajni agenti, obično sa namerom da utiču na javnost<sup>45</sup>. Norris, Kern i Džast (Norris, Kern & Just) definišu terorizam kao: „sistematsku upotrebu nasilnog zastrašivanja protiv civila zarad političkih ciljeva”.<sup>46</sup> Kurmon i Ribnikar smatraju da: „terorizam ima za cilj da kod stanovništva i vlasti na koje se ustremio unese strah, a da pri tome ne izazove obavezno masovna razaranja”.<sup>47</sup> Hofman pak posmatra terorizam kao: „nasilni akt koji se preduzima naročito da bi privukao pažnju, a onda putem stvorenog publiciteta da bi preneo poruku”.<sup>48</sup>

Jedna od operativno najzastupljenijih definicija terorizma, prisutna u brojnim normativnim aktima, je definicija američkog ministarstva spoljnih poslova (State Department). Termin “terorizam” odnosi se na unapred smišljeno, politički motivisano nasilje nad neborbenim ciljevima koje čine subnacionalne grupe ili tajni agenti, a koje obično ima cilj delovanje na određeni auditorijum. Termin “međunarodni terorizam” odnosi se na terorizam koji uključuje građane ili teritorije više zemalja. Termin “teroristička grupa” odnosi se na svaku grupu ljudi koja praktikuje međunarodni terorizam, ili koja rukovodi pod-grupama koje praktikuju međunarodni terorizam.<sup>49</sup> Dakle, aktima međunarodnog terorizma nazivamo situacije u kojima se teroristička akcija odvija na teritoriji dveju ili više zemalja, kada su objekti napada vlasništvo dveju ili više zemalja ili kada su izvršioци samih akcija državljani dveju ili više zemalja.

Na osnovu ovih definicija možemo zaključiti da se terorizam sprovodi protiv civilnog stanovništva kako bi se pridobila medijska pažnja i promovisali ciljevi terorista a sa ciljem da se putem izazivanja straha vlast određene zemlje prisili da omogući ostvarenje tih ciljeva. Bez obzira na veliki broj savremenih definicija terorizma, postoji slaganje oko nekih ključnih kriterijuma.

Ti kriterijumi su:

- terorizam je smišljena, politički motivisana upotreba nasilja ili pretnja nasiljem da bi se zaplašila vlada ili većina javnosti ili da bi se izvršio pritisak na njih
- terorizam predstavlja strategiju nasilja koja je osmišljena da ostvari rezultate postepenim izazivanjem straha i nesigurnosti
- to je nezakonita upotreba pretnje ili sile putem dugoročne kampanje ili sporadičnih incidenata
- to je sračunata upotreba nasilja protiv civila, odnosno neborbenih ciljeva
- moć se u osnovi nalazi na vrhu političkog nasilja- ona je osvajanje, manipulacija i koristi se kako bi se izazvale određene promene
- revolucionarni terorizam ima za cilj da izazove kompletnu političku promenu unutar države
- polurevolucionarne strategije imaju cilj da ostvare političku promenu bez kolapsa političkog sistema
- što se tiče ciljeva, sredstava, meta i načina sprovođenja akcija to je tajna aktivnost koja je pažljivo planirana
- ciljevi se u osnovi mogu razumeti kao politički, socijalni, ideološki ili religiozni, jer bi bez ovih ciljeva teroristi bili smatrani delikventima i kriminalcima
- terorizam se obično sprovodi od strane manjinskih grupa, a u nekim slučajevima i od strane usamljenih pojedinaca
- postizanje maksimuma publiciteta je uvek važan cilj za teroriste
- oblasti u kojima se sprovode akcije, od specifičnih zemalja i lokacija do različitih segmenata društva, postaju brzo transnacionalne gde širenje oblasti

45 Kegli, Č. i Vitkof, J. (2004). Svetska politika, Beograd: Centar za studije Jugoistočne Evrope, str. 622; citirano prema: Jazić, A. (2010)., op. cit., str. 115.

46 Norris, P., Kern, M. & Just, M. (2003). Framing Terrorism: The News Media, the Government and the Public, New York: Routledge, p. 6; citirano prema: Jazić, A. (2010)., op. cit., str. 115.

47 Kurmon, B. i Ribnikar, D. (2003). Asimetrični ratovi, Beograd: Novinsko-izdavački centar „Vojska“, str. 123; citirano prema: Jazić, A. (2010)., op. cit., str. 116.

48 Hofman, B. (2000). Unutrašnji terorizam, Beograd: Narodna knjiga i Alfa, str. 118; citirano prema: Jazić, A. (2010)., op. cit., str. 116.

49 V. više: Basara, M. (2004). Poreklo i problemi modernog terorizma, Vojno delo, 56 (4), str. 154–63.

delovanja terorističke organizacije često prelazi državne granice.<sup>50</sup>

Prema Ženevskim konvencijama od 1949. godine, terorizam, pod određenim uslovima, može da predstavlja i ratni zločin. Reč je o situacijama kada se vrši protiv civila koji imaju status zaštićenih lica, bez obzira na to da li ih vrše oružane snage zaraćenih strana protiv lica koja se mogu naći na teritoriji zaraćene strane kao internirci, ili na okupiranoj teritoriji u međunarodnim oružanim sukobima, odnosno protiv civilnih lica ili lica koja su prestala da učestvuju u unutrašnjem oružanom sukobu. Terorizam može da predstavlja i zločin protiv čovečnosti, pod uslovom da je deo rasprostranjene ili sistematične prakse uperene protiv civila i da izvršioci znaju da su njihova kriminalna dela deo opšteg ili sistematskog obrasca ponašanja (ubistava, istrebljivanja, mučenja i sl.). Ukoliko takvu praksu sprovode represivni režimi koristeći resurse nacije za eliminisanje ciljnih društvenih grupa koje žive unutar države, reč je o tzv. domaćem genocidnom terorizmu, kao vidu terora.<sup>51</sup>

Borba protiv terorizma se ne ogleda samo u njegovom pojmovnom određivanju i iznalaženju jedne opšte prihvaćene definicije, već u preduzimanju čitavog niza mera i radnji u borbi protiv terorističkih organizacija pod kojima se podrazumeva i preduzimanje onih mera i radnji koje će sprečiti finansiranje tih organizacija i njihove aktivnosti.

Danas, terorističke organizacije koriste elemente i legalnog i ilegalnog načina sticanja sredstava, kako bi povećale svoj budžet, što predstavlja područje koje će se u budućnosti najteže otkrivati i predstavljati jedan od ključnih zadataka u borbi protiv terorizma. To svakako ukazuje na jaku spregu sa organizovanim kriminalom, odnosno sa transnacionalnim oblicima kriminalnih aktivnosti iz ove oblasti.

Članovi terorističkih organizacija motivisani su različitim faktorima, od političkih do religijskih. Neki prilaze ovim grupama kako bi stekli određeni status u lokalnoj zajednici, druge uzbuđuje pripadanje tajnoj organizaciji, dok neki samo žele da dođu do određene finansijske koristi. U suštini postoje tri vrste motivacija koje određuju delovanje određenih terorističkih grupa: racionalna motivacija, psihološka motivacija i kulturna motivacija.<sup>52</sup> Racionalna motivacija određuje ponašanje terorista u smeru da pre svega razmišljaju o svojim ciljevima i mogućnostima, analizirajući ih kroz prizmu „cene” koju moraju da plate i mogućeg dobitka. „Racionalni terorista” na prvom mestu nastoji da pronađe način za ostvarenje svojih ciljeva bez sprovođenja nasilnih terorističkih akata.

Psihološka motivacija za sprovođenje terorističkih akata proizilazi iz ličnog nezadovoljstva teroriste sopstvenim životom i dostignućima. U slučaju ovakve motivisanosti, teroristi ni u jednom slučaju ne razmatraju mogućnost da možda nisu u pravu i da su pogledi drugih možda bar delimično istiniti. Oni nastoje da što više prošire svoju antisocijalnu motivaciju na druge. Druga važna karakteristika psihološke motivacije terorista je izražena želja da se pripada određenoj grupi. Za mnoge teroriste pripadnost grupi predstavlja jaču motivaciju nego politički ciljevi koje grupa želi da ostvari. Takvi pojedinci svoj društveni položaj definišu isključivo preko pripadnosti grupi.

Kulturna motivacija unutar terorističkih grupa snažno utiče na jedinstvo i oblikovanje ciljeva i vrednosti unutar terorističkih grupa. Osnovna kulturna determinanta terorizma je percepcija „stranaca” i razumevanje opasnosti po etnički opstanak grupe. Sva ljudska bića su osetljiva na pretnje po vrednosti sa kojima se identifikuju. Ove vrednosti uključuju jezik, religiju, pripadnost grupi i matičnu teritoriju određenog naroda ili samo teritoriju na kojoj određeni narod živi. Mogućnost da se neka od ovih vrednosti izgubi povlači za sobom mogućnost odbrambene, pa čak i ksenofobične reakcije. Religija je najverovatnije najmoćnija od svih kulturnih identifikatora jer nosi sa sobom veoma duboke vrednosti. Pretnja po religiju određene grupe predstavlja rizik ne samo po sadašnjost već

50 Jazić Jazić, A. (2010), op. cit., str. 116-117.

51 Kaseze, A. (2005). Međunarodno krivično pravo, Beograd: Beogradski centar za ljudska prava, str.

145–148; Martin, G. (2006). Understanding Terrorism — Challenges, Perspectives, and Issues, London: Sage Publications, pp. 138–45; Citirano prema: Mijalković, S. (2008), op. cit., str. 41.

52 Jazić, A. (2010), op. cit., str. 122.



i po kulturnu prošlost i kulturnu budućnost te grupe.

U prethodnom poglavlju je istaknuto da savremeni terorizam predstavlja suštinski politički fenomen povezan sa mogućnostima da se, korišćenjem specifičnih psiholoških i institucionalnih efekata nasilja, postignu politički ishodi koje inače ne bi bilo moguće postići korišćenjem legitimnih strategija. Skup strukturnih faktora rizika koji dovode do terorističkih dejstava uključuju religiju kao neizostavni element političkih faktora nezadovoljstva ili radikalizacije.

Pa tako, poseban segment algoritma rizika čine politički faktori nezadovoljstva ili radikalizacije, od kojih su glavna četiri:

(1) Prvi i najopštiji faktor predstavljaju tip i stepen fer uređenja političkog sistema (autoritarni sistemi teže da vremenom kumuliraju nezadovoljstvo kod potisnutih grupa). Legitimitet jednog političkog sistema, kako argumentiše Braun, može tokom vremena, zbog promene životnih okolnosti, doći u pitanje, i ako se sistem živo ne relegitimiše i ne izlazi u susret potrebama svih konstitutivnih, značajnih i legitimnih grupa, on zapada u funkcionalnu krizu legitimiteta. „Konflikt (sa državom) je posebno verovatan ako država često primenjuje represije i nasilje, ili ako prolazi kroz političku tranziciju”.<sup>53</sup> Država koja je prinuđena da redovno primenjuje represiju i da odgovara na optužbe da njeno unutrašnje uređenje nije fer samim tim se nalazi u domenu povećanog rizika od izbijanja unutrašnjeg nasilja.

(2) Drugi ključan politički faktor rizika od sukoba sa državom leži u prirodi nacionalne ideologije. Tradicionalan je stav da države zasnovane na nacionalnoj ideologiji pate od većeg rizika od unutrašnjeg sukoba nego države sa građanskom ideologijom, ali taj stav nije nužno ispravan kada je reč o terorizmu, jer terorizam, pored etničkih, ima globalne socijalne motive, na čemu je izgrađena čitava nova teorija terorizma posle 11. septembra čiji je rodonačelnik Ted Honderich (Ted Honderich).<sup>54</sup>

(3) Treći politički faktor uključuje prirodu političke agende grupa koje mogu biti u sukobu sa državom ili dominantnom zajednicom. „Bilo da je grupni identitet zasnovan na političkim, ideološkim, religijskim ili etničkim vezama, rizik od upotrebe nasilja protiv države veći je ukoliko grupa ima ambiciozne ciljeve, snažan osećaj identiteta i sklona je konfrontiranju kao strategiji za ostvarenje tih ciljeva”.<sup>55</sup> Takve grupe često pribegavaju terorizmu, a kada je njihovo unutrašnje vezivno tkivo religijsko, kao što je slučaj sa džihadističkim terorističkim grupama, zahtevi mogu biti sasvim neprihvatljivi za dominantne zajednice, poput zahteva za uvođenjem šerijatskog prava, na koji su vlasti Pakistana morale da pristanu na delu svoje teritorije u periodu posle 11. septembra 2001, i pored činjenice da je postojao izuzetan međunarodni pritisak da izvrše ofanzivu na talibane u graničnim područjima sa Avganistanom.

(4) Četvrti faktor rizika podrazumeva strategije elita koje vode terorističke grupe. Pošto je obično reč o grupama čija kohezija počiva i na poštovanju hijerarhije, ponašanje grupe će u velikoj meri zavisiti od konkretne taktike koju usvaja lider. Različite grupe u različitim okolnostima, zavisno od postojanja i izraženosti pojedinih faktora rizika, ponašaće se različito, zavisno od toga koliko su radikalni lideri.<sup>56</sup> Upravo stoga se danas represivna strategija u razvijenim zemljama sastoji, pre svega, od udara na najradikalnije lidere kako bi se u kratkom periodu poremetila operativna aktivnost grupa. Primera radi, kada je 5. avgusta 2009. godine jedan od najmilitantnijih lidera talibana, Bajtulah Mehsud (Baitullah Mehsud), koji je u Pakistanu bio poznatiji lider džihadista nego i sam Osama bin Laden (Osama bin Laden), ubijen u vazдушnom udaru koji je izvela CIA u pakistanskoj oblasti Vaziristan, sastanak lidera njegove grupe na kome je trebalo da

53 Brown, M. (1996). *The International Dimensions of Internal Conflict*, Cambridge, Massachusetts: MIT Press, p. 16; Citirano prema: Zirojević, M. (2009). Da li je terorizam nekonvencionalna pretnja bezbednosti?, *Revija za bezbednost*, 3 (9), 1-16, str. 12.

54 Honderich, T. (2003). *After the Terror*, Edinburgh: Edinburgh University Press, (expanded, revised edition); Citirano prema: Zirojević, M. (2009), op. cit., str. 12.

55 Brown, M. (1996), op. cit., p. 18; Citirano prema: Zirojević, M. (2009), op. cit., str. 12.

56 Ibid.



se izabere novi komandant pretvorio se u oružani obračun.<sup>57</sup> Na ovaj način očigledno je poremećena operativna koordinacija i agresivna orijentacija grupe do izbora novog lidera.

U cilju detaljnijeg osvrta na relevantna pitanja u vezi sa terorizmom, zanimljivo je napraviti paralelu između terorizma i organizovanog kriminala.

Organizovani kriminal i terorizam spadaju u najveće savremene transnacionalne nevojne bezbednosne pretnje. Iako su im posvećena brojna međunarodna i nacionalna pravna i strategijska dokumenta, javne debate, naučne i stručne polemike i radovi, još uvek postoji problem njihove nedvosmislene identifikacije.<sup>58</sup> Jedno je sigurno, terorizam i organizovani kriminalitet su čvrsto povezane pojave savremenog društva koje ne poznaju granice određene regije, odnosno prostora definisanog verskom i nacionalnom pripadnošću.

Želja za sticanjem profita osnovni je motiv najvećeg broja počinjenih kriminalnih dela iza oblasti organizovanog kriminala.<sup>59</sup> Organizovani kriminalitet je jedan od najopasnijih oblika kriminalnih aktivnosti čija pojava nije skorijeg datuma. Različiti oblici kriminala i nasilja, naročito danas, razvijaju se velikom brzinom u međunarodnoj zajednici, čime se ugrožava celokupna njena bezbednost. S obzirom da „transnacionalni organizovani kriminalitet predstavlja organizovani kriminalitet čija se kriminalna delatnost odvija na prostoru dveju ili više država ili je po bilo kom osnovu povezana sa više država“<sup>60</sup>, pomenućemo i odnos transnacionalnog organizovanog kriminala i terorizma.

Analizirajući odnos transnacionalnog organizovanog kriminala i terorizma, uočili smo bitne karakteristike terorizma od značaja za upoređivanje sa transnacionalnim organizovanim kriminalom. To su: planski i motivisani politički cilj, primena različitih oblika nasilja i izazivanje i stvaranje krize praćene strahom i drugim psihičkim reakcijama.<sup>61</sup>

U kontekstu prethodno rečenog, povezanost terorizma i organizovanog kriminala predstavlja relativno nov fenomen u genezi ova dva oblika protivzakonitog delovanja.

Za razliku od terorističkih grupa koje deluju širom sveta i koje nikad nisu krile političke ambicije ni političku motivaciju svog delovanja, organizovani kriminal se tradicionalno držao podalje od politike u smislu osvajanja vlasti. Postojao je određen „taktički domet“ i organizovani kriminal se zadovoljavao korumpiranjem političara različitog ranga, ali većih političkih ambicija nije bilo.<sup>62</sup>

Sumirajući prethodno rečeno, možemo reći da veza između organizovanog kriminala i terorizma postoji u slučajevima kada:

- organizovani kriminal svojim ilegalno stečenim profitom finansira terorističke organizacije ili grupe;
- organizovani kriminal krijumčari naoružanje i opremu za potrebe terorističkih pokreta i/ili krijumčari strane plaćenike i teroriste do zemalja u kojima deluje teroristička organizacija;
- terorističke organizacije, samostalno ili u saradnji sa kriminalnim grupama, preduzimaju izvesne organizovane kriminalne aktivnosti radi sticanja materijalnih i vojnih sredstava za izvođenje terorističkih dejstava;

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57 Walsh, D. (2009). Air strike kills Taliban leader Baitullah Mehsud, *The Guardian*, 7 August 2009, Internet, <http://www.guardian.co.uk/world/2009/aug/07/baitullah-mehsud-dead-taliban-pakistan>; Citirano prema: Zirojević, M. (2009)., op. cit., str. 13.

58 Mijalković, S. (2008)., op. cit., str. 39.

59 Matijašević, J. (2010). Pranje novca, aktuelni oblik organizovanog kriminala – manifestacije, medoti i posledice, *Pravo – teorija i praksa*, 27 (5-6), str. 119.

60 Matijašević, J. i Pavlović, Z. (2009). Organizovani kriminalitet, *Pravo-teorija i praksa*, 26 (5-6), 57-65, str. 61.

61 Masleša, R. (2001). Teorije i sistemi sigurnosti, *Magistrat*, Sarajevo; Citirano prema: Matijašević, J. (2008). Organizovani kriminalitet – Transnacionalni organizovani kriminalitet, *Pravo – teorija i praksa*, 25 (1-2), str. 87.

62 Čosić, C. (2008). Strukturne veze između terorizma i organizovanog kriminala, *Revija za bezbednost*, 2 (3), 22-27, str. 22.

- organizovani kriminal, sa izraženim političkim aspiracijama, preduzima određene terorističke aktivnosti kako bi neposredno došao ili doveo svoju „političku struju” na vlast.<sup>63</sup>

### Zaključak

Iz detaljnije analize složenih društvenih fenomena, kao što su globalizacija, migracije i njihov reciprocitet sa terorizmom kao pojavom i terorističkim aktivnostima kao opipljivom manifestacijom ove vanvremenske pojave, može se, sumarno, reći sledeće.

U skladu sa rečenim, migraciona kretanja ljudi imaju raznovrsne uzroke, pojavne manifestacije i rezultiraju različitim posledicama po same migrante. Specifičan je socio-kulturni odnos migranata sa zemljama kroz koje prolaze, sa zemljama u kojima se duže zadržavaju, ali i sa zemljama u kojima se nastanjuju na duži vremenski period. Pomenuti socio-kulturni odnos, svakako je uslovljen odnosom koji su migranti imali u svojim zemljama porekla, kao i razlozima koji su ih podstakli na migracije.

U kontekstu relacija sa terorizmom, može se istaći da terorizam može usloviti masovne migracije, i tu se pojavljuje kao značajan (nekada i ključni) podsticajni faktor masovnih migracionih kretanja ali sa druge strane, migracioni proces može doneti sa sobom prisustvo terorista u zemljama kroz koje migranti prolaze, u kojima se zadržavaju ili koje pak nastanjuju, te tako omogućiti terorističkim organizacijama delovanje na ovim novim teritorijama.

Pored relevantnih napomena u vezi sa fenomenom globalizacije, te samih migracija i njihovih uzroka, u radu je učinjen detaljniji osvrt i na pojam i najznačajnije karakteristike terorizma kao savremenog fenomena i vanvremenskog problema globalne bezbednosti.

Savremeni terorizam je, naime, tragedija savremenog sveta. Ova konstatacija se sa pravom ističe, jer je, umesto daljeg ljudskog progressa, usledio progres terorizma. Posmatrano sa socijalnih aspekata, brojni su stimulatori terorizma, a najveći je u velikoj nejednakosti bogatstva i moći između razvijenih i zemalja u razvoju, antagonizama koji proizlaze iz religijskih, tradicionalnih i drugih osobenosti. Progres terorizma izražen je i stepenom zahvata politike, čak i do linije kada ih je teško razlikovati.

Kada se osvrnemo na sve prethodno rečeno o terorizmu, međunarodnom terorizmu, motivima terorista, te odnosu sa organizovanim kriminalom, ne možemo, a da ne postavimo pitanje, koliko su države i međunarodna zajednica u prvom redu spremne, a potom i voljne, da se još aktivnije uključe u suprotstavljanje ovom fenomenu koji je, kako izgleda iz sadašnje perspektive, jedan od osnovnih oblika ugrožavanja bezbednosti velikog broja zemalja, a svi su izgledi da će to i dalje biti u godinama koje slede. Ovo pitanje se nameće s razlogom, s obzirom da je terorizam poput ratnog stanja – nekome donosi korist, a nekome nesreću. Pa shodno tome, danas se javlja sve više onih pojedinaca, kompanija ali i država koje preko njega ostvaruju svoje interese na direktan ili indirektan način.

Upravo iz tih razloga, potrebno je širiti bezbednosnu kulturu kod naroda u svim državama sveta, ukazujući kako na moguće oblike finansiranja terorističkih organizacija, tako i na moguće načine njihovog sprečavanja i suzbijanja.

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<sup>63</sup> Mijalković, S. (2008)., op. cit., str. 42.

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## BEZBEDNOSNI ASPEKTI MIGRANTSKE KRIZE

### Rezime

*Evropu je zapljusnuo snažan talas migracija stanovništva sa azijskog kontinenta, što je uzrokovano ratnim dejstvima i strašnim razaranjima u mnogim zemljama tog kontinenta. Bežeći od zla rata i vrlo opasne ideologije zasnovane na religijskom fanatizmu, veliki broj ljudi je spas odlučio da potraži u razvijenim evropskim zemljama. Migrantski put je vrlo trnovit i prožet brojnim opasnostima, a migranti na tzv. migrantskoj ruti nailaze na brojne prepreke i poteškoće. Sa druge strane, za evropske zemlje koje migrantima pružaju utočište, otvaraju se brojni bezbednosni problemi.*

*Ključne reči: Migracije, bezbednost, terorizam, položaj.*

## SECURITY ASPECTS OF THE MIGRANT CRISIS

### Abstract

*Europe has sprinkled a strong wave of migration of population from the Asian continent, caused by warfare and terrible destruction in many countries of that continent. Fleeing from the evils of war and a very dangerous ideology based on religious fanaticism, a large number of people decided to seek salvation in developed European countries. The migrant road is very thorny and permeated with numerous dangers, and migrants to the so-called. migrant routes face numerous obstacles and difficulties. On the other hand, for European countries that give migrants an shelter, a number of security issues are emerging.*

*Key words: Migration, security, terrorism, position.*

### Uvod

Migracije su česta i rasprostranjena pojava, prisutne na međunarodnom planu dugi niz godina. One se vezuju za mnoge istorijski bitne događaje, a prva velika seoba naroda je nastala još 375. godine, kad su Huni emigrirali na područje Istočne Evrope, što je za posledicu imalo potiskivanje Gota na zapad. U tom migracionom talasu, mnoga varvarska plemena kreću pravcem zapada, prodirući tako u Rimsko carstvo, napadajući ga i polako, ali sigurno osiromašujući ga. Ova velika migracija naroda je okončana u drugoj polovini petog veka, kad su sva germanska plemena nastanjena na zapadu Evrope i kad je Zapadno Rimsko carstvo i zvanično nestalo. Druga velika migracija, koja je istorijski vrlo značajna je migracija koja se odigrala između 500. i 700. godine, doseljenjem slovenskih plemena na prostor Balkana i Langobarda u Italiju. Razlozi

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za migraciju u oba ova velika talasa su bili potraga za boljim uslovima života, boljim geografskim položajem, potražnja za obradivim zemljištem, ali i pljačkanje bogatijih i razvijenijih zemalja, poput Zapadnog Rimskog carstva i Vizantije.

U novijoj istoriji, kao velika migracija se označava tzv. velika atlantska migracija, koja je trajala u periodu od 1820. do 1980. godine, u kojoj je oko 37 miliona ljudi iz Evrope otišlo da živi na teritoriji Severne Amerike. Motiv za atlantsku migraciju su bili takođe potraga za boljim uslovima života, kao i bekstvo od ratova i ratnih dejstava tokom i nakon Prvog i Drugog svetskog rata. Takođe, stvaranjem Izraela 1948. godine, uz pomoć Amerike i Velike Britanije, budi se svest kod jevrejskog življa da se vrati u svoju domovinu, iz koje su proterani još za vreme rimskog cara Hadrijana 135. godine, te nakon toga, nastaje još jedan veliki migracioni talas, ali ovog puta isključivo jevrejskog stanovništva, koji su bili raseljeni po čitavom svetu. Oko 3,6 miliona ljudi je migriralo u Izrael iz različitih delova sveta.

Najnoviji događaji na teritoriji Azije, prouzrokovani brojnim političkim i međunarodnim faktorima, pokrenuli su početkom dvadeset i prvog veka novu migrantsku lavinu. Prvi ozbiljniji migracioni talas iz Azije u zemlje Evropske unije je registrovan početkom 2010. godine, a nakon vrlo turbulentnih dešavanja na prostoru Libije, gde je došlo do nasilnog svrgnuća legalno izabranog državnog rukovodstva, čime su otvorena vrata anarhiji i bezakonju i nakon otpočinjanja građanskog rata u Siriji. Migranti su se odlučili na bekstvo, kako zbog loših ekonomskih prilika, tako i zbog ratnih dejstava i nesigurnosti koja je evidentno prisutna u njihovim matičnim zemljama. Krajnja destinacija migrantima su razvijene zemlje Evropske unije, a na tzv. migrantskoj ruti su se još našle i Turska, Grčka, Bugarska, Makedonija, Srbija, Mađarska i Hrvatska. Veliki priliv migranata i njihov konstantan dolazak, koji se često odvija i mimo zakonskih procedura, sa sobom povlači i brojne probleme. Takođe, kulturološke, sociološke, religijske i druge razlike migrantskog življa i evropskih naroda, predstavljaju ozbiljan problem, sa kojim se svi podjednako susreću. Sa bezbednosnog aspekta, migranti su često žrtve raznih prevara od strane trgovaca belim robljem i često bivaju opljačkani. Sa druge strane, često su i oni sami akteri radnja krivičnih dela, a postavlja se i osnovana sumnja da učestvuju u sve učestalijim terorističkim aktivnostima po Evropi. Stoga se problem moderne migrantske krize može posmatrati sa dva aspekta i to pravne zaštite migranata i problema terorizma, zasnovanog na verskoj ideologiji.

### **Položaj migranata u savremenim migrantskim kretanjima**

Migranti spadaju u veoma ranjivu kategoriju iz razloga što su, podstaknuti brojnim faktorima koji su njihovu bezbednost i sigurnost doveli u pitanje, prognani sa svojih viševekovnih ognjišta i naterani da spas traže daleko od njih. Migranti često sa sobom nemaju novac, dokumenta, odeću i obuću, već vrlo oskudno najneophodnije stvari, koje su uspeli da ponesu. Često su na udaru raznih trgovaca belim robljem, a neretko su zbog razlika u rasi, boji kože, nacionalne pripadnosti, veroispovesti i jezičkih barijera izloženi diskriminaciji i nasilju po tom osnovu.

Prema definiciji koju daje Konvencija o statusu izbeglica<sup>2</sup>, izbeglicom se smatra svako lice koje se opravdano boji da će biti progonjeno zbog svoje rase, vere, nacionalnosti, pripadnosti nekoj socijalnoj grupi, zbog svog političkog mišljenja, a koje se našlo izvan zemlje čije državljanstvo ima, a ne želi, ili zbog svog straha, neće u nju da se vrati. Konvencija štiti izbegla lica od diskriminacije po osnovu rase, veroispovesti i porekla i garantuje im pravo na slobodu veroispovesti i verskog vaspitanja dece, pravo na sticanje pokretne, odnosno nepokretne imovine, pravo na zaštitu industrijske svojine, izuma, crteža, modela, fabričkih oznaka, komercijalnih imena, zaštitu književne, umetničke i naučne svojine, pravo na nepolitičko i nelukrativno udruživanje i pravo na

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<sup>2</sup> Konvencija o statusu izbeglica sa Završnim aktom Konferencije opunomoćenika UN o statusu izbeglica i lica bez državljanstva je sačinjena dana 28.07.1951. godine u Ženevi. Konferencija opunomoćenika je sazvana na osnovu Rezolucije broj 429 (v) Generalne skupštine UN od 14.12.1950. godine.

dostupnost sudovima i pravnoj zaštiti.

Izbeglim licima se Konvencijom garantuje pravo na adekvatan nužni smeštaj i pružanje elementarnih uslova za neometan život, što podrazumeva pravo na rad, pravo na doprinose po osnovu rada, pravo na plaćeni godišnji odmor, plaćeno odsustvo sa rada usled bolesti, pravo na priznavanje diplome i stručne spreme koju izbeglo lice poseduje iz svoje zemlje porekla. Licima koja još nisu okončala obrazovni proces, garantuje se pravo da pohađaju nastavu i to na svim obrazovnim nivoima.

U aktuelnoj migrantskoj krizi, migranti iz Azije svoje kranje utočište traže u Zapadnoj i Centralnoj Evropi, u zemljama u kojima bi mogli neometano da nastave da žive i rade. Da bi došli do krajnjeg odredišta, migranti moraju da prođu tzv. migrantsku rutu, koja između ostalog obuhvata o područje Balkana i našu državu. Na tom putu, migranti se susreću sa brojnim nepravilnostima i nerazumevanjima njihove teške situacije. Najdrastičniji primer predstavlja odnos Mađarske i Hrvatske, koje su u potpunosti zatvorile svoje granice za migrante i onemogućile ulazak u njihove zemlje. Time je nastao zastoj u protoku migrantskog življa na tlo Zapadne i Centralne Evrope, a brojne migrantske grupe su prinuđene da duže vreme ostanu u Republici Srbiji i čekaju otvaranje granica za nastavak njihove rute do krajnjih odredišta.

Republika Srbija je migrantima pružila maksimalnu zaštitu i utočište. Prema grubim procenama, kroz Srbiju je prošlo između 170 i 180 hiljada migranata, a zatočeno u njoj je, zbog zatvaranja susedskih granica, ostalo oko 6 hiljada. Od početka migrantske krize, tzv. balkanskom rutom je, prema istim procenama, prošlo oko 1,5 miliona migranata<sup>3</sup>. Pošto im je njihov put ka krajnjim odredištima trenutno onemogućen, Srbija ja nastojala da migrantima pruži adekvatan smeštaj u prihvatnim centrima, u kojima je svakom migrantu omogućen pristojan život, a deci migranata je omogućeno uredno školovanje i obrazovanje. Prvog septembra ove godine u osnovne škole u Srbiji je krenulo oko 700 dece migranata i intenzivno se radi na njihovoj inkluziji<sup>4</sup>.

Međutim, zbog ove teške krize, izazvane zatvaranjem granica, mnogi migranti su se našli i na udaru lica koja se bave trgovinom belim robljem, te su tako mnogi bili navedeni da daju veće količine novca, a za uzvrat im je obećavano da će ilegalno biti prevezeni preko državne granice u željene zemlje Zapadne i Centralne Evrope. Uspešnim akcijama srpske policije, mnogi od ovih trgovaca ljudima su privedeni pred lice pravde, a migranti su zaštićeni od prevare.

Mađarska je prva zatvorila svoje granice na jugu, odakle je bio najveći priliv migrantskog življa tokom jula 2015. godine, kad je postavljena čelična ograda i pooštrena kontrola ilegalnih prelazaka državne granice. Iako je zbog toga doživela veliku osudu unutar Evrope, Mađarska nije želela da odustane od svog stava da migranti u ovoj zemlji nisu poželjni. Čelnici ove zemlje ukazuju na bezbednosne rizike koje migracije i migranti sa sobom nose, te ističu da je njihov stav u cilju zaštite čitave Evrope od mogućeg islamskog terorizma, koji se javlja kao prateća opasnost migrantske krize. Početkom ove godine, Mađarska je početkom ove godine, dodatno još sagradila zid duž južne granice, koji se prostire paralelno sa čeličnom ogradom, a koji sadrži senzorske uređaje i snažne reflektore. Između zida i čelične ograde je previđen prostor u kom bi vojska mogla da deluje u slučaju pokušaja nasilnog ilegalnog prelaska državne granice uprkos postavljenim barijerama.

### Bezbednosni izazovi migracija

Sa aspekta bezbednosnih implikacija, migrantska kriza je u Evropi izazvala ozbiljne turbulencije. U cilju što relevantnijeg analiziranja datog problema, ovde treba sagledati sve aspekte bezbednosnih problema, izazvane migrantskom krizom, i to kako one koji se odnose direktno samih migranata, tako i onih koji se dovode u vezu sa prilivom migrantskog življa. Predrasuda da su migranti ujedno povezani sa terorističkim

3 <http://mondo.rs/a988938/Info/Drustvo/Migranti-u-Srbiji-ima-ih-sest-i-po-hiljada.html>

4 <http://www.alo.rs/i-migranti-u-srbiji-krecu-u-skolu/119920>

organizacijama, da su poslata sa tendencijom da u Evropi izvode terorističke akte, potkrepljuje već prisutan ksenofobičan stav o njima, koji je prisutan u dobrom delu starog kontinenta. Sa druge strane, migranti su lica iz ranjive strukture, lica koja su bez vlastite volje bila prinuđena na odlazak u nepoznato, a sve radi spasavanja života i pronalaska bezbednosti za sebe i najbliže. S tim u vezi se javljaju dva gledišta na migrante. Prvo, koje je obojeno sumnjom u njihove namere i stvarne razloge migriranja i drugo koje na migrante gleda kao na žrtve i ugrožene ljude.

Atmosfera linča prema migrantima podgrejavaju sve učestaliji teroristički akti, koji su se intenzivirali upravo u momentu najjačeg migrantskog talasa. Da li se radi o slučajnosti, ili postoji uzročno posledična veza između ove dve pojave, može se najbolje ilustrovati kroz neke primere terorističkih akata, koji su se u novije vreme dešavali u Evropi. Jedan od akata koji je potresao evropsku javnost je bio napad na satirični list „Šarli ebdo“ i to zbog jedne objavljene karikature proroka Muhameda. Teroristički napad na redakciju ovog lista se odigrao dana 07. januara 2015. godine oko jedanaest časova, kad su dvojica maskiranih napadača ušli u redakciju i iz vatrenog oružja otvorili vatru na lica koja su se u redakciji zatekla. Napadači su braća Kuaši, Šerif i Said, koji su po ulasku u redakciju uzviknuli „Alahu Akbar“<sup>5</sup>, a potom ispalili pedeset metaka iz ozbiljnog vatrenog naoružanja i to automatske puške, sačmare, pištolja i zolja. Tom prilikom je ubijeno dvanaest lica, a ranjeno je četvoro. Mlađi brat Kuaši, Šerif je u trenutku napada imao trideset i dve godine. Rođen je i živeo je u Francuskoj, čiji je državljanin bio. Radio je na nižerazrednim poslovima, kao što su poslovi raznošenja pica i prodaje ribe na pijacama. Višestruko je bio osuđivan i hapšen zbog svojih veza sa islamskim teroristima i to još 2005. godine kad je organizovao grupu za odlazak na ratišta Iraka. Kuašija je verski indoktrinirao i zarazio opasnom ideologijom hodža džamije Adava u Parizu, Farid Benjetu, koji je njemu, ali i još mnogim drugim mladim islamistima rođenim u Francuskoj usadiavao dogme islamskog radikalizma i fundamentalizma. Kuaši je na svom suđenju istakao da je motiv na teroristički akt bilo nečovečno odnošenje američkih čuvara prema zatvorenicima u zatvoru „Abu Hraib“ u Iraku, te da je u njegovom aktu i aktu njegovog starijeg brata bilo elemenata osвете. Stariji brat Kuaši, Said je mnogo manje bio involviran u svet islamskog terorizma. On je bio poznat policiji po sitnijim krivičnim delima koja je vršio<sup>6</sup>. Dakle, u ovom terorističkom aktu, izvršioци su bili muslimani koji su rođeni i živeli ceo život na tlu Francuske. Reč je o licima koja sa svojim zemljama porekla nisu imali nikakav kontakt, školovali se i detinjstvo su proveli u Francuskoj, kulturološki apsolutno uklopljeni i asimilovani u evropsku sredinu.

Dana 13. novembra 2015. godine, takođe u Parizu, dogodio se čitav niz terorističkih akata kad je poginulo 129 lica, a 350 lica je teško povređeno. Napadi su se odvijali na više različitih lokacija u Parizu, a sve u okviru ovog jednog dana. Prvi napad se dogodio u blizini nacionalnog stadiona „Stad de Frans“ u vreme održavanja prijateljske utakmice Francuske i Nemačke. Napad su izveli dvojica napadača bombaša, koji su se razneli eksplozivnim napravama. Drugi napad se dogodio u dva restorana u Parizu, „Le Petit Kambož“ i „Le Karilon“, kad su napadači iz vozila u pokretu otvorili vatru na goste ovih restorana. Sledeći napad se dogodio u koncertnoj dvorani „Bataklan“, gde su četvorica napadača otvorila vatru na okupljena lica, koja su čekala početak koncerta američke grupe. Preživela lica su teroristi držali kao taoce, koje su policijske snage uspele da oslobode, lišivši života jednog teroristu, dok su ostala trojica aktivirali eksplozivne naprave i razneli se. Nakon toga, teroristi su vatru otvorili na goste „Mek Donalda“ i restorana „La Bele Ekvipe“. Pored državljana Francuske, povredama su podlegli i državljani Belgije, Hrvatske i Australije. Ni jedan terorista nije preživeo napad. Osmorica su poginuli, sedmorica su se razneli, a jednog su ustrelile policijske snage. Istraga je utvrdila da su teroristi bili raspoređeni u tri grupe, koje su separatno vršile napade, a da su teroristi bili državljani Sirije i Egipta, koji su prošli tzv. migrantsku balkansku rutu<sup>7</sup>. Dakle, u ovom

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5 Bog je veliki, fraza koja se koristi u islamskom svetu.

6 <https://sr.wikipedia.org/sr-el>

7 <https://sr.wikipedia.org/sr/2015>.

terorističkom aktu je učestvovala organizovana teroristička grupacija, sačinjena od lica koja su se deklarirali kao migranti i podmetnuti među migrante, prešli su tzv. migrantsku rutu. Na ovaj način je bačena sumnja na sva lica koja su kroz migrantsku krizu potražila utočište u Evropi. Francuska je bila meta terorista i jula 2016. godine, kada je kamionom u Nici usmrćeno 84 lica. Izvršilac je bio tridesetjednogodišnji Mohamed Lahouaiej Bouhlela, francuski državljanin, sa prebivalištem u Nici, a poreklom iz Tunisa. Radio je poslove dostavljanja pica. Bio je oženjen, otac troje dece, ali njegove komšije tvrde da je često imao porodične svađe, te da u poslednje vreme više nije živio sa porodicom. Pre terorističkog napada nikad nije bio povezivan sa bilo kojom islamskom organizacijom, niti se mogao okarakterisati kao religiozan čovek<sup>8</sup>.

Dana 22. maja 2017. godine u Mančesteru, bombaš samoubica se razneo bombom na koncertu američke pevačice Arije Grande u „Mančesterskoj areni“, kad je stradalo 22 pretežno mladih lica<sup>9</sup>. Izvršilac ovog terorističkog akta je dvadesetdvogodišnji Salman Abedi, rođen u Mančesteru, poreklom iz Libije. Studirao je na Salford univerzitetu i bio vatreni navijač „Mančester junajteda“. Kod njega je prošle godine primećena promena u ponašanju, kad se iznenadno okrenuo veri, pustio bradu i na javnim mestima počeo da peva islamske religijske pesme. Pretpostavlja se da ga je stariji brat uveo u svet islamskog fundamentalizma i da ga je on zarazio tom ideologijom. Dakle, i u ovom slučaju se radi o licu rođenom i odraslom u Evropi, a za razliku od prethodnih slučajeva, ovaj napadač je pripadao akademskim krugovima, jer je studirao na Salford univerzitetu.

Iz navedenih primera, uočljivo je da su pretežno učinioci terorističkih akata lica koja su rođena, odrastala i školovala se u evropskim zemljama, lica koja nisu imala nikakav ili veoma slab odnos sa svojom zemljom porekla, lica koja nisu bila previše verski orijentisani i nisu imali previše ili uopšte kontakta sa islamom i islamskim normama, kroz koji bi se opredelili za džihad i obračun sa neislamskim življem. Profil teroriste koji izvršava terorističke akte u Evropi je profil apsolutno asimilovanog čoveka. Kad se govori o socijalnom statusu, tu su primetne oscilacije te u nekim terorističkim akcijama učestvuju fakultetski obrazovani, a u pojedinim lica iz kriminogenog društvenog sloja, sa dosijeom. Participacija migranata u ovim terorističkim aktima je minorna i takoreći zanemarljiva, a kad se govori o licima koja su pretežni izvršioци ovih dela, tad se mora napomenuti posebna kategorija terorističkih aktivista, poznatih pod nazivom spavači ili vigilanti. Oni se u potpunosti asimiluju u sredinu u kojoj žive, ponašaju se u skladu sa opšteprihvaćenim društvenim normama i imaju status uzornih građana, a po nalogu iz baze, oni bespogovorno pristupaju realizaciji terorističkih akata sa drastičnim posledicama.

### Zaključak

Sa sigurnošću se može reći da je Evropu zahvatila najjača migrantska kriza u modernom periodu. Tzv. „arapsko proleće“ je pokrenulo lavinu problema, i to najpre na teritoriji Azije, koji su se proširili i na tlo Evrope u vidu migrantske krize. Ratna dejstva, konstantna razaranja i pustošenja, kao i delovanje terorističkih grupacija, nagnala su veliki broj ljudi na bekstvo u Evropu, u potrazi za spasom i sigurnošću. Migranti se na svom putu do krajnjeg odredišta susreću sa brojnim poteškoćama, od nerazumevanja, diskriminacije, nasilja, zatvorenih granica, a na samom odredištu se susreću sa problemom poistovećivanja sa onima od kojih su pobegli, dovodeći ih u vezu sa rasplamsalim terorističkim aktima. Bezbednost u Evropi je dovedena u opasnost iz više razloga, a jedan od glavnih je svakako usled intenzivnog delovanja terorista pojedinačno, iza kojih stoje organizovane terorističke grupacije. Iz primera koji su u ovom radu dati, jasno se može izgraditi profil teroriste i može se zaključiti da migranti u vrlo maloj meri participiraju u tim terorističkim akcijama.

<sup>8</sup> <http://dnevnik.hr/vijesti/svijet/teska-tragedija-u-nici---443391.html>

<sup>9</sup> <http://www.politika.rs/scc/clanak/381281/Mancester-broji-zrtve>



### Korišćeni izvori

Međunarodni i domaći normativni akti:

1. Univerzalna deklaracija o pravima čoveka,
2. Konvencija o statusu izbeglica,

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## **POSLEDICA I UTICAJ NAGOMILAVANJA KOMUNALNOG I ELEKTRONSKOG OTPADA NA KVALITET PROIZVEDENE HRANE USLED DOLASKA MIGRANATA**

### **Rezime**

*Cilj ovog rada je da se pokaže kako veliki dolazak migranata utiče na pojavu stvaranja i nagomilavanja komunalnog i elektronskog otpad i da to ima velike posledice na kvalitet i proizvodnju namirnica koje se dobijaju sa parcela koje su u blizini smeštajnih centara. Komunalni otpad je jako raznovrstan i njegovo uredno odlaganje ne može toliko uticati na kvalitet zemljišta, ali procedne vode koje se nagomilavaju i te kako mogu poremetiti kvalitet zemljišta ukoliko se izmešaju sa podzemnim vodama. Elektronski otpad je jako opasan otpad i samo njegovo odlaganje i stajanje na mestima koja nisu deponije jako je štetno i opasno po okolinu, životnu sredinu, a rizično je i po čoveka.*

*Gljučne reči: komunalni otpad, elektronski otpad, namirnice, delovanje, migranti.*

## **CONSEQUENCES AND IMPACT OF MUNICIPAL AND ELECTRONIC WASTE IMPROVEMENT ON THE QUALITY OF PRODUCED FOOD USING THE MIGRANTS**

### **Abstract**

*The aim of this paper is to show that the large migration of migrants affects the emergence of the creation and accumulation of municipal and electronic waste, and that this has great consequences for the quality and production of foods obtained from plots that are near the accommodation centers. Municipal waste is highly diversified and its proper disposal can not have such an effect on the quality of the land, but the water flowing from the ground and how they can disrupt the quality of the land if it is mixed with groundwater. Electronic waste is a very dangerous waste and only its disposal and standing in places other than landfills is very harmful and dangerous to the environment, the environment, and is risky for humans.*

*Key words: municipal waste, electronic waste, food, action, migrants.*

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## Uvod

Rast populacije i produkcija sve većih količina otpada čini da deponije postaju sve brojnije i sve više degradiraju životnu sredinu. Deponije zauzimaju velike površine obradivog zemljišta, prerastaju u nekontrolisana smetlišta sa visokim rizikom i zahtevaju ogromne troškove sanacije i rekultivacije. Ogromna količina otpada nastaje svakog dana u svetu, kako u naseljima, tako i u poljoprivrednim područjima, što se jako štetno odražava na hranu, vazduh i zdravlje ljudi.

Velika migracija ljudi iz islamskih zemalja je na svom putu od rodnog mesta do željenih destinacija prošla kroz našu zemlju. Samim tim su zbog neadekvatnog smeštaja bili primorani da se stacioniraju bilo gde i na bilo kom mestu. Upravo iz tog razloga oni su za sobom ostavljali velike količine otpada i to najviše otpada od hrane, odnosno komunalnog otpada. Sve to je uticalo na da na mesta na kojima su oni boravili, a to su bile i neke njive pored puteva, ugrozi se živi svet odnosno zagadi se okolina. Takođe i zbog nehigijenskih uslova oni su bili primorani da lične potrebe obavljaju svuda, a to se svakako odražava na same namirnice i na sredinu u kojoj živimo. Nedovoljna ekološka svest pojedinih tih ljudi doprinela je povećanju divljih smetlišta u mnogim gradovima i mestima u Srbiji. Može se uzeti da ovo nije samo problem naše zemlje i da se ne srećemo samo mi sa takvim problemom, to je problem na globalnom nivou i ako se ne preduzme nešto po tom pitanju i ne stvore adekvatni uslovi, imaćemo nezdravu sredinu sa puno otpada, zaraze ili ne daj bože nekih teških bolesti.

Ljudi nisu ni svesni koliko sam otpad utiče na životnu sredinu, na vazduh koji dišemo, na hranu koju jedemo i vodu koju pijemo. Posledice zagađenja zemljišta i životne sredine bilo kojom vrstom otpada su velike. Ne sme se olako shvatiti otpad koji čovek sam pravi, a u toku dana on napravi od 800-1000kg komunalnog otpada.

Prema zvaničnim podacima Komesarijata za izbeglice, u poslednje tri godine balkanskom maršrutom, preko Egejskog mora, Grčke, Makedonije i Srbije prošlo je više od 1.200.000 ljudi iz Azije i Afrike. Nezvanično, taj broj je bar duplo veći. U Srbiji trenutno ima oko 12.000 izbeglica, a 7.000 je smešteno u kampovima u Beogradu, Obrenovcu i još 15 gradova, među kojima je i Grad Vranje gde je stacionirano oko 200 migranata. Na osnovu ovih podataka, ukoliko se uzme činjenica da jedan čovek napravi dnevno oko 1kg otpada, može se zaključiti da će brojke o količini otpada biti alarmante, što svakako treba da se uzme u obzir. Svakako da su to ljudi, ali briga o očuvanju životne sredine je ipak na prvom mestu jer upravo i mi i oni živimo i živećemo u toj sredini. Ukoliko se ne povede računa, ko zna kakav će nam biti održivi razvoj.

Sa problemima komunalnog otpada čovek se sreće još od antičkih vremena. U srednjem veku je sa razvojem gradova nastala prava kriza smeća. Rešenje ove krize je nađeno u određivanju posebnih mesta za bacanje smeća van gradskih zidina. Kada su se zbog velikog broja deponija smanjile slobodne površine oko gradova za njihov dalji rast, a neprijatni mirisi su postali nepodnošljivi, prešlo se na skladiranje smeća u jame, a kasnije na spaljivanje otpada.

Uticaj čvrstog komunalnog otpada na životnu sredinu je višestruko negativan.

Čitav niz zagađivača, kojima čovek zagađuje vazduh, vodu i zemljište, lancem ishrane dospevaju u razne prehrambene proizvode. Brojni metali, raznim emisijama iz industrije i saobraćaja, zagađuje zemljište i vode, stvarajući hazardni otpad. Ilustrativni primeri su neka masovna trovanja teškim metalima. Često hrana predstavlja glavni izvor izloženosti stanovništva raznim zagađivačima u životnoj sredini. Računa se da se hranom unosi oko 80% pesticida, zatim mineralnih đubriva, aditiva, zagađenja tokom tehnoloških procesa, iz ambalaže itd. Zato su standardi i propisi za prehrambene artikle vrlo strogi, a laboratorijsko ispitivanje obavezno.

Iako računari i slični uređaji potrošačke elektronike na prvi pogled ne deluju kao preterano opasan otpad, oni sadrže niz materijala, uključujući teške metale, koji mogu dovesti do ozbiljnih ekoloških i zdravstvenih posledica ukoliko se ne odlažu i ne recikliraju na odgovarajući način. Zdravstveni rizici uzrokovani opasnim materijama u

elektronskom otpadu su jedan od najbitnijih razloga za brigu o kvalitetnom zbrinjavanju takvog materijala.

I komunalni i elektronski otpad zbog svoje raznolikosti i različitosti štetno se odražavaju na kvalitet namirnica koje čovek stalno koristi u svojoj ishrani, a da nije toga ni svestan.

Razvoj tehnike, mnogobrojna ambalža iziskuju i povećano zagađenje okoline, a kada je zagađena okolina zagađene su i biljke i životinje pa samim tim i čovek.

Ako se pogleda sa aspekta razvijenosti tehnike, sve više novih uređaja, telefona, računara. Televizora i različite druge tehnike, svet je više zagađeniji, jer su svi ti uređaji prepuni štetnih, kancerogenih i smrtonosnih materija, kao što su olovo, živa, kadmijum, arsen, koji se ne vide ali se pod dejstvom visokih temperatura osećaju. Zbog toga treba težiti da uređaji traju da se stalno ne menjaju, jer to donosi samo veće količine otpada koji treba negde da se skladišti, reciklira i odloži. Kako je za sve to potrebno mnogo novca najčešće taj otpad završi tamo gde ne treba a to su mesta koja daju hranu, čist vazduh i život biljkama, životinjama i čoveku.

### Komunalni otpad

Komunalni otpad je otpad iz kuća, otpad koji nastaje čišćenjem javnih površina kao i otpad koji nastaje u privredi, ustanovama i uslužnim delatnostima. S obzirom da ovaj otpad najviše nastaje tokom naših svakodnevnih aktivnosti to je i rešavanje odnosno postupanje s komunalnim otpadom jedan od najvećih problema jedinica lokalne samouprave. To podrazumeva uređivanje deponija otpada i sanaciju postojećih deponija.

Sastav komunalnog otpada se menja zavisno od sredini u kojoj nastaje a zavisi od mnogih činjenica kao što su: tip naselja u kojem otpad nastaje, životni standard, stepen svesti stanovništva o potrebi selektovanja otpada i stvaranju što manjih količina otpada.

Količina komunalnog otpada trajno raste. Procene pokazuju da svaki stanovnik RS stvori oko 295 kg otpada u godini dana, odnosno 0,81 kg dnevno. Gotovo sva količina skupljenog komunalnog otpada odlaže se na deponiju. Na divlje deponije, van kontrole javnih komunalnih preduzeća, odlaže se oko 40% generisanog komunalnog otpada u Republici Srbiji. U većini slučajeva divlje deponije se nalaze u seoskim sredinama. Najčešće komunalni otpad završi u nekoj njivi, koja predstavlja plodno tlo mnogim biljkama kao i namirnicama biljnog porekla. Ovo je jako važno i treba se ukazati na posledice svima onima koji na ovaj način žele da odlože bilo kakav otpad na njivi.

Sastav komunalnog otpada je jako raznolik, različit. Pojam "sastav" se koristi da se opišu individualne komponente koje sačinjavaju tok čvrstog otpada i njihovu relativnu zastupljenost, obično izraženu u težinskim procentima.

Praćenjem promena sastava i količine otpada kontrolišu se efekti preduzetih mera za iskorišćavanje otpada i smanjenje rizika od uticaja otpadnih materija na zdravlje i životnu sredinu.

Komunalni otpad čine materijali koji imaju sledeći sastav:

Biootpad (biorazgradivi ostaci materije – kuhinjski otpad, ostaci sa pijaca, ostaci hrane, baštenski otpad, kao što su lišće, cveće, granje, pokošena trava, piljevina);

Papir i karton (u ovu vrstu otpada spadaju novine i časopisi, prospekti, katalozi, rokovnici, knjige i slikovnice, papirne kese, kartonske fascikle i kutije, talasasti kartoni, ostali papirni i kartonski predmeti bez plastičnih ili drugih materijala);

Polimerne mase (plastika) (gotovo 96 % plastičnih predmeta napravljeno je od ukupno šest vrsta polimernih materijala PET – polietilentereftalat, PELD – polietilen niske gustine, PEHD – polietilen visoke gustine, PVC – polivinil hlorid, PP – polipropilen, PS – polistiren)

Staklo – (dve glavne grupe staklenih predmeta u širokoj upotrebi su staklene posude – flaše, baloni, čaše i ravno staklo);

Koža i tekstil (stari odbačeni odevni predmeti i obuća, materije za dekoraciju stana, poslovnih prostora, itd);

Električni i elektronski otpad (ovaj otpad najbrže je rastući problem što se otpada tiče danas u svetu. Problem je ne samo u njegovoj količini nego i u toksičnosti njegovih sastojaka kao što su olovo, berilijum, živa i kadmijum koji predstavljaju veliku opasnost po životnu sredinu i zdravlje ljudi. U ovaj otpad spadaju: računari, televizori, veš mašine, frižideri, radio uređaji, mobilni telefoni, telefoni, akumulatori, ako i svi drugi uređaji bazirani na elektronskoj tehnologiji);

Kućni opasni otpad (čine ga one materije koje povećavaju štetnost, te samim tim povećavaju stepen opasnosti komunalnog otpada prilikom odlaganja, spaljivanja ili kompostiranja. Tu spadaju ostaci hemikalija zajedno sa ambalažom – pesticidi, boje, lakovi, sredstva za čišćenje, rastvarači, lepkovi, zatim fluorescentne cevi i živine svetiljke svih vrsta, baterije, posude pod pritiskom, sprejevi, motorno ulje, ambalaža, filteri za motorno ulje, ostaci lekova, kozmetičkih preprata, živini termometri, drveni predmeti impregnirani zaštitom na bazi arsenata i razni predmeti koji sadrže opasne elemente i jedinjenja);

Krupni (kabast) otpad (u ovu veliku vrstu otpada ubrajaju se bela tehnika – dotrajali frižideri, šporeti, bojleri, zatim nameštaj, automobili, automobilske gume, razne mašine);

Građevinski otpad (obuhvata materije koje nastaju prilikom građevinskih radova kao što su gradnja ili rušenje. To su uglavnom inertne materije kao što su građevinski šut – cigle, crep, malter, zatim iskopi raznih vrsta tla, otpad od radova na saobraćajnicama. Ovaj otpad često može biti pomešan sa drugim materijalima – kablovima, komadima izolacije, prljavom ambalažom i raznim drugim materijama, što otežava njegovo zbrinjavanje).

Najveći deo predstavlja otpad od prerade i konzumiranja hrane, tj. čine ga ostaci biljnog i životinjskog porekla. Ovaj otpad lako truli i brzo se razgrađuje, naročito pri visokim temperaturama vazduha. Nastajanje neprijatnih mirisa predstavlja nezaobilaznu organoleptičku dimenziju.

Atmosferske padavine, sunčevo zračenje i oslobađanje toplote usled požara dovode do odvijanja fizičko hemijskih i biohemijskih procesa čiji proizvodi mogu da budu toksične hemijske supstance. To predstavlja hemijsko–toksikološki aspekt odlaganja komunalnog otpada.

Gasovite materije koje se oslobađaju, mogu biti uzrok požara i eksplozija na mestima odlaganja komunalnog otpada i to je fizička posledica njegovog neadekvatnog zbrinjavanja.

Ostaci hrane su povoljni za razmnožavanje insekata, ptica, glodara i drugih sisara, mikroorganizama, privlače ptice, glodare i veće životinje koji opet mogu biti prenosioci bakterija i virusa i to je biogeni aspekt komunalnog otpada. Pri tome ptice, sisari i reptili mogu biti povređeni ili ubijeni smećem koje se odbacuje što bi se moglo svesti pod ekotoksikološki aspekt.

Neki tipovi otpada se ne dezintegrišu i dugo ostaju u životnoj sredini, decenijama preteći svojim štetnim delovanjem. Ovo ima za posledicu i smanjenje broja stanovnika na planeti Zemlji.

Niko se ne zapita kako to otpad i to komunalni može štetno da se odrazi na kvalitet namirnica koje svakodnevno koristi u svojoj ishrani. Plastične ambalaže koje su napravljene od najotrovnijih polietilena i polipropilena, bacanjem mogu zagaditi okolinu. Ambalaža otpadna koja se odlaže može biti iz prehrambene industrije ali isto tako može biti i iz bilo koje druge industrije, pa puna svakojakih različitih hemikalija, bacila i bakterija, ukoliko dođe u kontakt sa nekom namirnicom ima štetne posledice po zdravlje ljudi.

### **Elektronski otpad**

Elektronski otpad spada u grupu opasnog otpada. Pod opasnim otpadom podrazumeva se otpad koji po svom poreklu, sastavu ili koncentraciji opasnih materija



može da prouzrokuje opasnost po životnu sredinu i zdravlje ljudi i ima najmanje jednu od opasnih karakteristika utvrđenih posebnim propisima, uključujući i ambalažu u koju je opasan otpad bio ili jeste upakovan. Opasni otpad je svaki otpad koji sadrži materije koje imaju neko od sledećih svojstava: eksplozivnost, reaktivnost, zapaljivost, nadražljivost, štetnost, toksičnost, infektivnost, kancerogenost, mutagenost, teratogenost, ekotoksičnost, svojstvo oksidiranja, svojstvo nagrivanja i svojstvo otpuštanja otrovnih gasova hemijskom reakcijom ili biološkom razgradnjom. Opasna svojstva proizvoda, tehnoloških procesa i otpada svake su godine sve brojnija, a ispitivanja o štetnosti sve opsežnija i dugotrajnija.

U životnom ciklusu opasnog otpada kao prva faza, javlja se njegova proizvodnja, odnosno, nastajanje ili generisanje, koja podrazumeva čovekove mnogobrojne proizvodne aktivnosti, razvoj modernih tehnologija i primenu novih materijala, pa samim tim i kasnije korišćenje gotovih proizvoda. Generatori opasnog otpada su mnogobrojni, te upravo iz tog razloga u ovoj fazi upravljanja otpadom, mora se izvršiti njihovo prepoznavanje, lociranje i praćenje, uz registrovanje podataka o generisanim količinama u određenim vremenskim periodima. Opasni otpad može poticati iz različitih industrijskih grana, poljoprivrede, komercijalnog sektora ili domaćinstava, odnosno, mogu ga generisati proizvođači mnogobrojnih proizvoda za svakodnevnu upotrebu, specijalizovani proizvođači, bolnice, univerziteti, državne ustanove, komercijalni sektor i pojedinci, odnosno domaćinstva (Popović et al., 2008). Kao najznačajniji generator opasnog otpada javlja se industrija, u okviru koje se posebno izdvajaju sledeće industrijske grane (Jakšić, Ilić, 2000):

- petrohemijska industrija: teški metali, fenoli, kiseline, baze i organska jedinjenja;
- metalna industrija: teški metali, fluoridi, cijanidi, kiseline, alkalije, rastvarači, fenoli;
- industrija kože: teški metali, sulfidi.

Elektronski otpad se ubraja u opasne otpade zbog niza štetnih hemijskih jedinjenja poput silicijuma, kadmijuma, arsena, olova (koristi se u monitorima radi zaštite od zračenja) žive, hroma, berilijuma, fosfora, i plastike koji su opasni po ljudsko zdravlje i veliki su zagađivači okoline. Reč je o otpadu koji se sastoji od više od hiljada raznih materijala, od kojih su neki vrlo visokog nivoa toksičnosti i niskog reciklažnog potencijala, pa se, na primer, spaljivanjem plastičnih materijala računara stvara otrovni gas dioksin.

Elektronsku i elektrotehničku opremu teže je upotrebiti nego staklo, papir ili limenku. Njeno obnavljanje je vrlo kompleksno, a manji je problem velika bela tehnika nego mala komplikovana oprema. Na primer, u SAD-u je 1998. obnovljeno samo 11% računara, 70% velike bele tehnike iz domaćinstva. Problem rastavljanja i obnove sitnog elektronskog materijala vidi se i u provodljivim pločama u kojima se može naći pola metala i nemetala.

Za sad postoje četiri metode obnove elektronskog otpada:

1. rastavljanje opreme: ručno odvajanje delova koji se mogu ponovo upotrebiti i obnoviti
2. mehanička obnavljanje: uklanjanje štetnih delova, zatim usitnjavanje i rezanje da se uklone obnovljivi delovi kao plastika i metali
3. spaljivanje i pročišćavanje: nakon što se spale gorivi delovi mogu se dobiti metali
4. hemijsko obnavljanje: plemeniti metali mogu se dobiti iz štampanih ploča putem hemijskih procesa

Opasne supstance u elektronskom otpadu

Elektronski otpad sadrži između 600 i 1000 različitih hemijskih supstanci koje su štetne po zdravlje i ugrožavaju životnu sredinu, od kojih su najprisutnije materije: olovo, živa, hrom, kadmijum, berilijum i PVC plastika, barijum...

PVC plastika- najčešće korišćena plastika, u prosečnom računaru je ima oko

7kg. Prilikom sagorevanja dolazi do stvaranja dioksina koji može izazvati hormonske poremećaje, oštećenje fetusa, reproduktivnih organa i oštećenja imunog sistema;

Olovo- Izlaganje može da izazove oštećenja mozga, nerava, poremećaje krvi, oštećenje bubrega (maligni tumori) i razvojno oštećenje fetusa. Deca su naročito osetljiva;

Šestovalentni hrom- koristi se u zaštiti od korozije i kao ukras ili učvršćivač metalnih kućišta. Lako se apsorbuje u ćelijama i može uzrokovati oštećenja DNK, i razne alergije;

Polihlorin bifenil (PCB)- Toksični efekti PCB-a uključujući imunske supresije, oštećenje jetre, napredovanje kancera, oštećenje nerava, oštećenje reproduktivnih organa i promene u ponašanju. Dosta se koristi u transformatorima i kondenzatorima. Iako je zabranjen za upotrebu u mnogim zemljama, još uvek je prisutan u e-otpadu;

Kadmijum- Izaziva oštećenje bubrega, kancer na plućima i prostati. Prema Međunarodnoj agenciji za istraživanje raka (IARC) spada u grupu humanih kancerogena;

Barijum- mekani srebrno-beli metal koji se koristi u CRT monitorima kao zaštita korisnika od zračenja. Kratka izloženost barijumu uzrokuje oticanje mozga, slabljenje mišića, oštećenje srca, slezine i jetre;

Berilijum- vrlo lak metal, tvrd, dobar provodnik i nemagnetičan. Zbog ovih osobina se koristi u matičnim pločama. Nedavno je klasifikovan kao kancerogen jer uzrokuje rak pluća;

Brz razvoj tehnologije doprineo je da potrošači retko kad odnose neispravne aparate na popravku, već ih jednostavno zamenjuju novim, jer je to jednostavnije i vrlo često jeftinije. Prosečni životni vek računara se smanjio sa šest godina na samo dve. Većina korisnika mobilnih telefona kupuje nove aparate svake dve godine. Pri tome veliki broj starih aparata završi kao otpad, a čak 90% mase materijala može se iskoristiti i ponovo upotrebiti. Takođe, baterije koje predstavljaju 15-30% mase telefona mogu značajno naškoditi životnoj sredini. Posledice su dvostruke: bacanje mobilnog telefona znači i bacanje vrednih metala (paladijuma i zlata), a ovakav otpad zagađuje okolinu, jer se oslobađaju pomenute toksične materije

Elektronski otpad stvaraju tri glavne grupe:

- Domaćinstva i mala preduzeća;
- Velika preduzeća, institucije i vlade;
- Proizvođači originalne opreme;

Pogrešnim tretiranjem ovog otpada izlažemo se mnogim rizicima kao što su: snažne i iznenadne eksplozije, trovanje, trajna oštećenja organa, invalidnost i smrt. Postoji još jedna opasnost koja je gora od svih prethodnih- otrovi iz elektronskog i električnog otpada štetno utiču na genetiku ljudi što ozbiljno ugrožava naredne generacije.

Preko 1.000 različitih vrsta materijala se koristi da bi se napravili naši elektronski uređaji i njihove komponente – poluprovodni čipovi, štampana kola, drajvovi za diskove, itd. Mnogi od njih su otrovni, uključujući i rastvarače na bazi hlora, antipirene na bazi broma, PVC, teške metale (kao na primer olovo, živa, arsen, kadmijum i heksavalentni hrom), plastiku i gasove. Navedene supstance su štetne po ljudsko zdravlje i životnu okolinu ukoliko se sa njima ne postupa pažljivo. Preko 1450 tona bromiranih derivata ugljenika poznatih kao TBBPA upotrebljeno je za proizvodnju 991 miliona mobilnih telefona prodatih u toku 2006 godine. Ova hemikalija svrstana je u grupu neurotoksina (Grinpis 2008a). Odlaganje otpada na deponije jedan je od najčešćih načina za odlaganje e-otpada, uprkos tome što je opasan. Kod svih deponija je primećeno ispuštanje materija u okolinu do neke mere, što znači da teški metali i druge otrovne supstance iz e-otpada mogu da izađu i zagađuju zemljište i vodu. Oko 40% teških metala koji su pronađeni na deponijama u SAD, uključujući olovo, živu i kadmijum, potiču od e-otpada. Deponije takođe mogu zagađiti okolinu emisijama štetnih gasova iz žive i isparenja koja su posledica nekontrolisanih požara. Toksičnost materija koje se koriste u oblasti elektronike čine njihovu bezbednu reciklažu izuzetno teškom. Na primer, pre reciklaže moraju se ukloniti olovo iz monitora sa katodnom cevi (CRT) i lampice sa živom iz ekrana na bazi

tečnog kristala, kao i PVC, antipireni i drugi aditivi iz plastičnih komponenata. Ako se pravilno ophođenje prema proizvodima nakon prestanka proizvodnje i radnog ciklusa izgubi iz vida, elektronska oprema se proizvodi na takav način da pri reciklaži ostavlja iza sebe materije koje izazivaju zagađenje i emituje gasove štetne po ljude i čitavu planetu, pogotovo kada se ne koriste prikladne tehnike za upravljanje e-otpadom.

E-otpad je teško reciklirati jer sadrži opasne supstance, kao i one koje zahtevaju posebne postupke pri rukovanju. Previše elektronike koju više ne želimo završi na deponijama i u pećima za spaljivanje otpada zajedno sa komunalnim otpadom, ili joj se gubi trag. Od 50 miliona tona koji je stvoren tokom 2009 godine samo 13% je reciklirano, što je šokantan podatak. To predstavlja veliko rasipanje vrednih resursa, posebno kada se uzmu u obzir negativne posledice vezane za ekstrakciju sirovina i slične postupke u procesu proizvodnje električnih aparata.

Ako se izvede na bezbedan i ispravan način, za „vađenje rude” iz naših starih naprava potreban je samo delić energije u odnosu na energiju koja je potrebna za ekstrahovanje rude iz prirode. Takođe, kada se uzme u obzir opasna priroda nekih od materija koje se koriste u elektronskoj industriji, nepravilno tretiranje e-otpada dovodi do toga da društvena zajednica i životna sredina plate cenu neefikasnog i opasnog dizajna od strane proizvođača. Odlaganje na deponije ili spaljivanje u pećima nisu jedina dva načina da e-otpad dođe do neslavnog kraja svog života. Često se elektronska oprema tretira na loš način, pogotovo sve više u zemljama u razvoju, u koje se e-otpad ilegalno uvozi iz bogatih zemalja. Zbog toksičnosti komponenata u sastavu elektronske opreme, upotreba zaostalih metoda za obradu otpada predstavljaju veliki rizik za zdravlje radnika – od kojih su neki čak i deca – i za okolinu. Pošto e-otpad sadrži mnogo vrednih materijala, dolazi do ilegalnog izvoza koji je motivisan željom za profitom. E-otpad dolazi u sredine gde su propisi o zdravlju i bezbednosti radnika kao i o očuvanju životne sredine na niskom nivou (što automatski utiče da i cena rada bude niska).<sup>25</sup> U tim slučajevima mogućnosti da se izvuče maksimalan profit iz e-otpada su dovedene do svog maksimuma, ali se sve to radi na uštrb stanovništva i planete.

### Uticaj e-otpada na životnu sredinu

Ovde se daje samo kratak prikaz uticaja električne i elektronske opreme i njihovog otpada (na kraju životnog ciklusa) na životnu sredinu. Ovo iz razloga da se ukaže na značaj i neophodnost uspostavljanja organizovane i efikasne reciklaže otpada. Plastičan primer je proizvodnja i upotreba računara. Tu imamo direktne i indirektne uticaje na životnu sredinu i ljude. Pri tom se razmatra celokupni ciklus računara od proizvodnje materijala, korišćenja do odlaganja na kraju životnog ciklusa i reciklaže.

#### A. Direktan uticaj

##### (1) Uticaj na životnu sredinu u procesu proizvodnje

- Potrošnja energije, mnogi materijali, puno hemikalija;
- Izloženost radnika štetnim i opasnim materijama;
- Negativni uticaji tokom proizvodnje metala, materijala i hemikalija koji su sastavni delovi računara ili se koriste tokom njegovog proizvodnje;

##### (2) Potrošnja energije tokom korišćenja

##### (3) Uticaj na životnu sredinu odloženih računara (na kraju životnog ciklusa)

- Teška demontaža;
- Teški metali, opasne materije;

#### B. Indirektan uticaj

##### (1) Uticaj na zdravlje korisnika

- Oštećenje zglobova, očiju i kičmenog stuba;
- Nedostatak fizičke aktivnosti – gojaznost i prateće bolesti gojaznosti;
- Zavisnost od kompjuterskih igara – loši rezultati testa;

##### (2) Uticaji kod industrijskih aktivnosti

- Dugoročan uticaj agresivnih i toksičnih materija na zdravlje radnika;

- Zagađivanje okoline u kojim se nalaze pogoni/fabrike;
- (3) Uticaj tokom upotrebe
- Potrošnja papira (seča šuma, ...)
- (4) Uticaj nakon odlaganja istrošenih računara (deponija e-otpada)
- Dugoročno zagađivanje zemljišta, voda (površinskih, podzemnih)

Kada se uzmu u obzir sve posledice elektronskog otpada može se reći da, zbog velike štetnosti u vazduhu i namirnice su zahvaćene dejstvu svih ovih otrovnih supstanci i materijala. Najveće posledice elektronski otpad ima prvashodno na zemljište iz kog rastu kasnije biljke, koje životinje kao i čovek koriste u svojoj ishrani.

### Zaključak

U ovom radu govori se o dve vrste otpada koje su štetne po zdravlju ljudi. Komunalni otpad je veoma raznovrstan otpad po sastavu i strukturi. Nepravilno odlaganje ovog otpada dovodi do toga da se procedne vode izmešaju sa podzemnim i da se tako naruši struktura zemljišta, kao i da se poremeti biljni i životinjski svet. Elektronski otpad spada u grupu jako opasnog otpada, upravo zbog svojih loših karakteristika koje poseduje. Elektronski otpad sastoji se iz velikog broja kancerogenih, isparljivih, otrovnih i štetnih materijala kao što su bifenoli, olovni materijali, kadmijum, živa. Njihovo nepravilno odlaganje dovodi do toga da svi ovi štetni sastojci odlaze ispod površine zemlje iz koje kasnije rastu biljke koje čovek koristi za svoje potrebe u obliku namirnica. Zagađenje ovim otpadom može da bude direktno i indirektno, odnosno posredno i neposredno. Svest ljudi treba da bude razvijenija kako bi se posledice delovanja otpada svele na minimum i kako bi čovek bio siguran da koristi zdrave namirnice u svojoj ishrani. Preduzimanjem odgovarajućih mera za efikasno upravljanje opasnim otpadom umanjujemo negativan uticaj na životnu sredinu i generacije koje dolaze.

Ono što je najbitnije kako do otpada ne bi došlo ili kako bi se velike količine komunalnog, industrijskog, elektronskog ili bilo kog drugog otpada svelo na minimum, treba razviti ekološku svest kod ljudi. Svest ljudii treba podići na visokom nivou i uspostaviti određene standarde koji bi morali da se poštuju, kako od nas samih koji živimo na jednoj teritoriji ili onih koji dolaze i odlaze, prolaze kroz našu zemlju.

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