Gender Gap Analysis in the Home Affairs Sector

in North Macedonia



GENDER GAP ANALYSIS IN THE HOME AFFAIRS SECTOR

IN NORTH MACEDONIA



GENDER GAP ANALYSIS IN THE HOME AFFAIRS SECTOR IN NORTH MACEDONIA

Publisher:
UN Women, Blvd. Blazhe Koneski 7/10, Skopje, North Macedonia

Author:
Athanassia Sykiotou

Design:
Nita Hadjihamza Gashi

Number of pages: 160

Skopje, 2025

Sweden
Sverige

The development and publication of this analysis were supported as part of the UN Women's programme "Promoting Gender Responsive Governance in the Republic of North Macedonia" funded by Sweden.

The views expressed in this publication are those of the authors and do not necessarily represent the views of UN Women, the United Nations, or any of its affiliated organizations, or Sweden as a donor.

Contents

LIST OF ABBREVIATIONS	**3**
INTRODUCTION	**7**
METHODOLOGY	**9**
CHAPTER 1: Analysis of the international and regional laws, regulations and policies	**16**
A. Analysis of the international and regional legislative framework related to gender equality	**16**
B. International and regional framework related to organised crime	**26**
C. International and regional policies with standards and requirements in the field of Home Affairs	**50**
D. Presentation of good practices of gender mainstreaming in EU	**82**
CHAPTER 2: Analysis of the national laws, regulations and policies related to Home Affairs	**92**
A. Analysis of the existing national legal framework	**92**
B. National Policies related to Home Affairs in the fight of organised crime	**105**

CHAPTER 3: Identifying gaps in the thematic areas of Home Affairs to assist according to the EU accession process **127**

A. Police reform **128**

B. Identifying gaps related to violence against women **131**

C. Gaps in relation to Border Police **135**

CHAPTER 4: Recommendations for improvement **141**

A. Recommendations in the field of Police reform for gender mainstreaming **141**

B. Recommendations in the field of violence against women **142**

C. Recommendations in relation to Border Police **145**

CHAPTER 5: Questionnaire protocol **151**

CHAPTER 6: List of stakeholders from key gender mechanisms for interviews **153**

Main Bibliographical Sources **156**

List of Abbreviations

BDPFA	Beijing Declaration and Platform for Action
BPfA	Beijing Platform for Action
BPS	Border Police Sector
CEAS	Common European Asylum System
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CPT	Comité européen pour la prévention de la torture (European Committee for the Prevention of Torture of the Council of Europe)
CSW	Centre of Social Work
CVoT	Centre for Victims of Trafficking
DCAF	Geneva Centre for Security Sector Governance
EAW	European Arrest Warrant
ECHR	European Convention for the Protection of Human Rights
ECJ	European Court of Justice
ECOSOC	Economic and Social Council
EEA	European Economic Area
EIGE	European Institute for Gender Equality
EU	European Union
EVAW	End Violence Against Women
FGM/C	Female Genital Mutilation/ Cutting
GAP	Gender Action Plan (EU)
GBV	Gender-based Violence
GCM	United Nations Global Compact for Safe, Orderly and Regular Migration
GPR	Gender Equality Framework Programme
GREVIO	Group of Experts on Action against Trafficking in Human Beings (of the Council of Europe)
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence (of the Council of Europe)
IBM	Integrated Border Management
IOM	International Organization for Migration
IPA	Instrument for Pre-accession Assistance
JCC	Joint Cooperation Committee

JHA	Justice and Home Affairs
LGBTIQ+	Lesbian, Gay, Bisexual, Trans, Intersex, Queer and others
MFA	Ministry of Financial Affairs
MLSP	Ministry of Labour and Social Policy
MoH	Ministry of Health
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoU	Memorandum of Understanding
NCC	National Coordination Centre for Combatting Organised Crime
NCCBM	National Coordination Centre for Border Management
NGOs	Non-Governmental Organisations
NPA	National Programme of Action
NPAA	National Programme for the Adoption of the Acquis Communautaire
OCCPO	Crime and Corruption Prosecution Office
OSCE	Organization for Security and Co-operation in Europe
OTITV	Operational Team for Identification of Trafficking Victims
PPO	Public Prosecutors Office
RNM	Republic of North Macedonia
SBAM	Sector for Border Affairs and Migration
SDG	Sustainable Development Goals
SoM	Smuggling of Migrants
SOP	Standard Operating Procedure
SWG	Sector Working Group
TEU	Treaty of the European Union
TFEU	Treaty on the Functioning of the European Union
TiP	Trafficking in Persons
UAMs	Unaccompanied Minors
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNTOC	United Nations Trnasnational Organised Crime Convention
VoT	Victims of Trafficking
VSV	Victims of Sexual Violence
WPON	Women Police Officers Network

INTRODUCTION

Equality and non-discrimination are the founding values of the European Union, as expressed in Article 2 of the Treaty on European Union. EU equality legislation is legally binding in all EU Member States and it is also transposed in EEA countries and EU candidate countries. Gender equality in North Macedonia has marked progress in recent years as testified by a series of international and regional commitments and through the national legal and policy frameworks. A series of legal provisions guaranteeing women's rights and gender equality have been adopted, such as the Law of Equal Opportunities of Women and Men, the ratification of the Istanbul Convention, or the National Programme for the Adoption of the Acquis 2021-2025, which influence the institutional practice in promoting gender equality in North Macedonia.

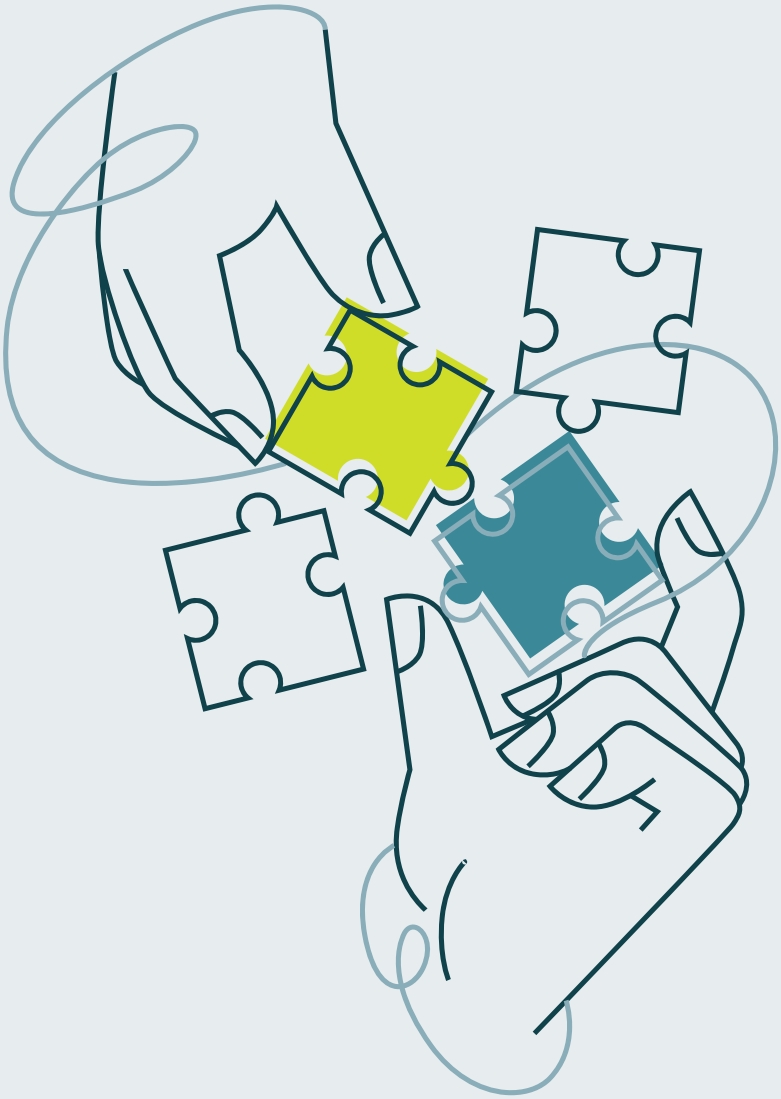
However, there are still gaps to overcome in policy development and implementation of the adopted legislation in order to achieve gender equality. Institutional capacities, as well as cooperation between the gender mechanisms, the key ministries and civil society organisations need to be strengthened in order to increase gender mainstreaming in all aspect of government work.

It has to be noted that gender mainstreaming is not an end in itself, but rather a strategy for pursuing the goal of equality in all aspects of societal life. Yet, for this analysis the focus will be given to safety, security and the rule of law that relates to the fight of Home Affairs against **organised crime** with focus on police reform and capacity-building for the Border Police to secure national safety against transnational crime, especially illegal migration with a link to asylum and human trafficking.

Gender equality as an objective often remains a very abstract concept and it is frequently assumed that everyone understands the same thing. However, this can lead to difficulties and conflicts of goals during the implementation stage. Furthermore, different goals for the advancement of gender equality are appropriate for different organisations, depending upon the organisation's exact policy area and field of activity.

Gender mainstreaming is not just about women, but about ensuring that women's as well as men's experiences and concerns are built into policy design, implementation, monitoring and evaluation, and that both individual rights and structural inequalities are addressed. It also entails looking at institutions and how they work, including gender representation within policy areas and decision-making structures.

The present consultancy aims to provide support to the managerial, operational, and human resources of the Secretariat for European Affairs (SEA), with specific focus on gender mainstreaming in the Sector Working Group (SWG) on Home Affairs in policy areas related to **organised crime,** especially on the police reform and capacity-building for the Border Police to secure national safety against transnational crime, in particular illegal migration with its link to asylum and trafficking of humans. The project's overall objective is to offer assistance in adjusting the national systems to international and European policies and methodologies and ensuring continuous performance of the Home Affairs in line especially with the EU standards.



METHODOLOGY

The working plan sets out the detailed plan of how the gender mainstreaming strategy is to be introduced over the specific period of time, as set in the consultancy for the Home Affairs sector that incorporates the sub-sector specifics and topics/areas related to **organised crime,** with focus on police reform and capacity-building for the Border Police to secure national safety against transnational crime, illegal migration linked to asylum and trafficking of humans.

It needs to be noticed that the Home Affairs sub-sectors are three: **Organised crime; Financial Investigations and Information Technology** however within the framework of the present consultancy, the focus should be given on the sub-sector of organised crime and in particular to the above-mentioned specific topics/areas. It should be underlined that according to the EU Negotiations Chapters, and under the SWG Home Affairs sub-sector of organised crime are also included: trafficking of drugs, firearms and goods; and terrorism threats. However, considering that the cycle of topics is very wide, it is advisable within the limits and time constrains of the present consultancy, to narrow them down and focus on the above-mentioned areas/topics in particular as related to gender mainstreaming.

Of course, the implementation of gender mainstreaming depends much on the type of administrative regime. However, any institution is a unique entity and there is consequently no standardised blueprint for dealing with change. There are also different types of actors within an institution who have different tasks, competencies and roles with regard to processes of change.

The European Institute for Gender Equality (EIGE) has proposed a Gender Mainstreaming Cycle Model[1] as the part of the module 'What is gender mainstreaming?'. The cycle shows how gender can be integrated into different stages of designing, planning, implementing as well as monitoring and evaluating polices, programmes and projects developed by the EU institutions and the public administration of the EU Member States. It has also developed an online tool on gender competence development,[2] including databases of trainers and training materials on gender mainstreaming.[3] The Swedish government has published a manual including a collection of gender mainstreaming tools, accompanied by a book of ideas for managers and strategists.[4]

---

1 European Institute for Gender Equality – EIGE, Gender Mainstreaming Cycle: *https://eige.europa.eu/gender-mainstreaming/policy-cycle*

2 *https://eige.europa.eu/gender-mainstreaming/toolkits/gender-equality-training/how-guiding-principles-commissioning-authorities?language_content_entity=en*

3 *https://eige.europa.eu/gender-mainstreaming/toolkits/gender-institutional-transformation/step-9-developing-gender-equality-competence*

4 *https://www.government.se/contentassets/3d89b0f447ec43a4b3179c4a22c370e8/gender-mainstreaming-manual-sou-200715*

The European Commission defines gender planning as "an active approach to planning which takes gender as a key variable or criterion and which seeks to incorporate an explicit gender dimension into policy or action".[5]

In accordance with the *European Institute for Gender Equality*'s Guide for Institutional Transformation for organisational change,[6] the basic phases of mainstreaming gender in an organisation are three:

1. **Introduction phase:** Planning the process of change and taking initial steps with the aim of enabling an institution to anchor gender equality as a guiding principle in all procedures and practices in an organisational setting.

2. **Implementation phase:** Necessary regulations and procedures are in place; gender equality is anchored in an institution by applying specific gender mainstreaming methods and is supported by a gender mainstreaming support structure. For example, tools and methods appropriate to the specific tasks within an organisation have been developed and are constantly being applied.

3. **Consolidation phase:** Gender equality is part of all regular procedures. There is no need to apply specific gender mainstreaming methods because gender equality has been merged into the organisation's standard procedures.

For gender mainstreaming it is vital to select methods that suit the specific procedures of a particular organisation, as well as to develop tools that have been custom-made to suit the requirements. These methods and tools should be systematically and authoritatively applied in order to ensure the success of gender mainstreaming. This means that the operation should be continuously and systematically integrated into the respective stages of procedures. It also means that its application is mandatory and that it can have a genuine influence on planning and decision-making. The starting point, of course, is gender analysis which provides the necessary data and information to integrate a gender perspective into policies, programmes and projects within the Home Affairs Sector in particular related to organised crime.[7] For example, the sub-sector of police reform[8] should be characterised by service to all citizens with no discrimination

[5] European Commission, Communication from the Commission to the Council and the European Parliament. Programme of action for the mainstreaming of gender equality in Community development co-operation, COM(2001) 295 final), 2001. See also, European Institute for Gender Equality, Institutional Transformation. Gender Mainstreaming Toolkit, 2016.

[6] European Institute for Gender Equality, Institutional Transformation. Gender Mainstreaming Toolkit, 2016.

[7] The European Commission defines gender analysis as 'the study of differences in the conditions, needs, participation rates, access to resources and development, control of assets, decision-making powers, etc., between women and men in their assigned gender roles'. See, European Commission, Communication from the Commission to the Council and the European Parliament. Programme of action for the mainstreaming of gender equality in Community development co-operation, COM(2001) 295 final), 2001.

[8] Glomseth R., Gott S. & Petter H. (2011), "Professional Values in Knowledge Organizations: The Case of Police Districts", *International Journal of Police Science and Management*, Vol. 13(1), pp. 100-125; Liqun C. (2011), "Visible Minorities and Confidence in the Police", *Canadian Journal of Criminology and Criminal Justice*, Vol.53(1), pp.56-90.

of gender or other characteristics; of the assessment of the citizen's needs in particular of women and girls; as well as of ethical conduct with integrity being the core of ethics binding all the other elements together.[9]

With regard to the integration of women as police officers,[10] it needs to be underlined that this provides a greater sense of security to women and children and improve access and support from law enforcement agencies to local women. They also help police to address and respond to crimes related to sexual exploitation and abuse. A police service that is representative of the women helps restore trust and confidence in the police, especially from women and children, as the police institution is reformed, restructured and rebuilt. In this respect, the Home Affairs should establish a policy that among other issues should set the percentage of contribution of female police officers on a par with their national police gender ratio, and review their recruitment requirements and procedures to ensure that female candidates are not restricted from applying and/or advancing.

A thorough gender analysis enables policymakers to understand gender inequalities in the specific historical and social context, as it explores the causes and effects of gender disparities on the target group. Looking at the underlying causes of gender inequalities and discrimination can assist in setting relevant and targeted objectives and measures to eliminate these inequalities. In this way, gender analysis contributes to the improved gender responsiveness of policies and legislation as it provides the basis for ensuring that the needs of all citizens — women and men — are adequately addressed.[11]

The purpose of gender analysis is to identify and address gender inequalities, by:

- acknowledging differences between and among women and men, based on the unequal distribution of resources, opportunities, constraints and power;
- ensuring that the different needs of women and men are clearly identified and addressed at all stages of the policy cycle;
- recognising that policies, programmes and projects can have different effects on women and men;
- seeking and articulating the viewpoints of women and men and making their contribution a critical part of developing policies, programmes and projects;
- promoting women's participation and engagement in community, political and economic life;
- promoting better informed, gender-responsive and effective interventions.

---

9 *US Department of Justice* (1999), "Five I's of Police Professionalism. A Model for Front-Line Leadership", *Crime Prevention and Community Safety: An International Journal*, Vol.1 (2), pp.7-24: *https://www.ojp.gov/ncjrs/virtual-library/abstracts/five-police-professionalism-model-front-line-leadership*

10 In North Macedonia out of a total number of 9 907 police officers only 720 are women, number that shows that women are underrepresented. In 2019 out of the 528 graduates from the Police Training Center only 75 were women. There should be an equal number of women and men in the Police. See, OSCE POLIS: *https://polis.osce.org/country-profiles/north-macedonia*

11 European Commission, International Cooperation and Development, Toolkit on Mainstreaming Gender Equality in EC Development Cooperation. Section 1: Hand-book on concepts and methods for mainstreaming gender equality, European Communities, 2004.

The methodology of the present Gender Gap Analysis consists in six components:

1. The first is based on a desk review through the collection of all international and regional (especially of EU) laws, regulations and policies structured in three sections. In the first is analysed the international and regional legal framework related to gender equality; in the second, the international and regional framework related to organized crime; and in the third, the international and regional policies with standards and requirements in the field of Home Affairs.

   Under this component is included also a third section with the presentation of good practices in gender mainstreaming in EU member States.

2. The second component focuses on the analysis of the existing national laws, regulations and policies related to Home Affairs structured in two sections. The first section analyses the existing legal framework on gender equality and organised crime, and the second presents the policies related to Home Affairs in the fight against organised crime.

3. The third component focuses on the gap analysis of the national legal and strategic frameworks in comparison to the international and especially to the EU framework. In this component are identified in three sections the gender gaps in the thematic areas of Home Affairs, and the main sectors to assist according to the EU accession process, focusing on police reform and the gaps related to gender mainstreaming (first section); the gaps related to violence against women (second section); and the gaps in relation to Border Police and organised crime, focused on illegal migration, asylum and human trafficking (third section).

4. The fourth component consists in the formulation of recommendations of gender mainstreaming in the thematic areas of Home Affairs selected for improvement structured as above (recommendations in the field of police reform for gender mainstreaming; recommendations in the field of violence against women; recommendations in the field of Border Police related to illegal migration, asylum and human trafficking.

5. The fifth component presents the elaboration of two semi-structured questionnaires addressed: one to the personnel of Home Affairs and the second to other stakeholders.

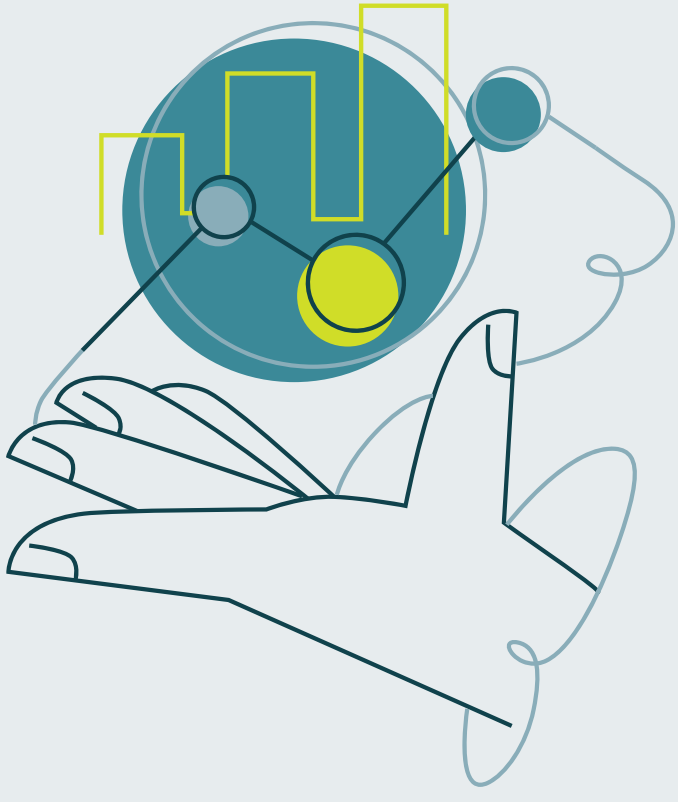
6. The sixth component identifies the need of interviews with representatives of Home Affairs and with other stakeholders and CSOs, that work on the fight against organised crime, in areas such as migration and trafficking of persons. It is important to adopt a participatory process by consulting with different stakeholders, because this can contribute to its transparency and the accountability of those in charge of implementation, and to avoiding conflicts in the implementation phase. The Beijing Platform for Action (BPfA), adopted in 1995, encourages and promotes the active involvement of public, private and civil society actors to work together for gender equality.

> The Council of the European Union acknowledged the involvement of civil society organisations in the pursuit of gender equality as one of the conditions that must be ensured for an effective national structure for gender equality.[12]

This component comprises a list of stakeholders from key gender mechanisms for interviews.

At the end there is a list of the main bibliographical sources that have been consulted.

It is important to note that in order to assess if the decisions for the Home Affairs gender mainstreaming are based on sound and consistent analysis, a set of quality assessment criteria based on the 'Quality Frame' should be used to ensure that at each stage gender equality issues have been analysed and correctly addressed.



[12] The relevance of stakeholders' involvement in the pursuit of gender equality was reaffirmed by EIGE's 2014 report on the Effectiveness of institutional mechanisms for the advancement of gender equality — Review of the implementation of the Beijing Platform for Action in the EU Member States. The report underlines the importance of the involvement of civil society as a condition for the development and implementation of gender mainstreaming and gender-equality policies.

The Quality Frame is the common overall framework for quality assessment consisting of three key quality attributes requiring assessment to show that a project is:

a) Relevant: that it meets demonstrated and high-priority needs, and is consistent with the policy objectives of the EU. The criteria used are:

- Consistency with EU policy commitments to gender mainstreaming;
- Consistency with commitments to the international and regional gender-related targets and sector-specific policies, guidelines and
- regulations;
- Evidence that gender specialists and representatives of women's groups have been consulted throughout the process;
- Analysis of problems e.g. background data/situation analysis disaggregated by age, sex and other social factors (e.g. ethnic origin); and
- Good practices.

b) Feasible: that the design is technically, socially and economically sound and will provide sustainable benefits to the target groups. The criteria for this are:

- Objectives and work programme linked to gender equality policy objectives;
- Clear resources related to gender equality objectives with access and control over them (it needs to be underlined that 'resources' are not only material and financial means and goods, but also time, information, knowledge and rights. 'Access to resources' means: who uses them and who benefits from them? 'Control over resources' means: who can obtain access to resources and make decisions about their use? Which factors influence the access to and control over resources? Another important question is if women and men are aware of their legal rights concerning the access to and control over resources[13]);
- Clear management arrangements and support institutional strengthening & partner ownership reflecting gender equality principles, giving equal voice to men and women;
- Clear monitoring and evaluation with consistent use of sex-disaggregated indicators and resources for gender-sensitive data collection;
- The project is environmentally, technically & socially sound and benefits are sustainable: (preliminary) relevant information on gender and other social/ environmental issues include.

[13] See Council of Europe (2018), Gender Mainstreaming Toolkit for Co-operation Projects, p. 22.

c) Effective and well managed: meaning that it is able to deliver sustainable benefits. In order for the project to be **effective and well managed,** the project should be:

- Relevant & feasible to all groups, including women and/or other target groups identified;
- Project objectives are achieved and the results delivered in equitable manner as originally planned;
- Well managed: equal opportunities principles are implemented; gender inequality issues are reflected in project reports, and corrective actions taken; information is disaggregated by sex;
- Sustainability issues are being effectively addressed so that gender equality achievements are maintained and built upon beyond the life of the project;
- Good practice principles are applied.

In order to measure the change or to confirm the progress towards the achievement of the sectors of Home Affairs in gender mainstreaming, gender-sensitive quantitative and qualitative indicators should be used related to the areas of organised crime, as mentioned above.[14] Indicators should be disaggregated by sex, because men and women may have different views. In the framework providing e.g. specific services for victims of crimes some indicators could be: the possibilities for women to access these services and the number of women having access to these services.

Quantitative gender-sensitive indicators, as the term suggests, are measures of quantity (total numbers, percentages etc.). They are needed for showing the average outcome, or the degree to which a goal or objective has been attained. Sources of quantitative indicators could be data systems and records where information is presented in a sex-disaggregated manner. Typically, these sources should include administrative records, or sociological surveys of the target population. Quantitative indicators tend to be easier to define, record and assess than qualitative indicators.

Qualitative gender-sensitive indicators can be defined as people's judgements and perceptions about a given subject. They are useful for understanding processes, but frequently do not show how typical or widespread the views expressed are. Qualitative indicators are harder to measure as they involve processes and use categories of classification, such as those based on perceptions. Typical sources of qualitative indicators may be public hearings, focus groups, attitude surveys and interviews, e.g. the level of women's confidence in and approval of revised legislation, or a scoring or ranking system, such as a scale of 1–5, prepared in advance to measure perceptions of the Home Affairs capacity in specific issues..

[14] European Commission, International Cooperation and Development, Toolkit on Mainstreaming Gender Equality in EC Development Cooperation. Chapter 6, Section 1: Gender-sensitive indicators, European Communities, 2004.

CHAPTER 1

ANALYSIS OF THE INTERNATIONAL AND REGIONAL LAWS, REGULATIONS AND POLICIES

The objective of this component is to present and analyse the basic requirements of the international and regional framework of laws, regulations and policies (of the Council of Europe and the EU), related to gender equality and gender mainstreaming. The first section focuses on the analysis of the international and regional legislative framework related to gender equality. However, with regard to Home Affairs and the thematic area of organised crime, there is an additional international and regional framework that relates to transnational organised crime that needs to be taken into consideration (second section), especially in relation to the Police reform and the capacity building of Border Police, and this is presented in the second section. The third section is focused on the analysis of the international and regional policies, standards, and requirements both in the sector of gender equality and gender mainstreaming and in the field of Home Affairs related to the thematic area of organised crime. Under this section, in three separate paragraphs, are presented the International and Regional policies on gender mainstreaming; the requirements related to Police reform in the fight of organised crime; and the policies on capacity building for the Border Police to secure national safety against transnational crime, especially illegal migration and human trafficking. In the fourth and last section are presented good practices of gender mainstreaming in EU.

A. Analysis of the international and regional legislative framework related to gender equality

The very basis of international and regional standards that a country needs to ratify and is obliged to apply in order to be considered that it is committed in the field of gender equality, is the following framework:

- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979 and the Optional Protocol to the Convention of 1999 (establishing that States who become parties to the optional protocol recognise the competence of the Committee to receive and consider communications under the Protocol);

- The Istanbul Convention of the Council of Europe on Preventing and Combating Violence against Women and domestic violence (2011),[15] which the EU has signed it in 2017 and is expected to ratify.[16]
- The Beijing Declaration and Platform for Action of 1995;[17]
- The EU gender equality acquis, which includes all the relevant Treaty provisions, legislation and the case law of the European Court of Justice (ECJ) in relation to gender equality,[18] mainly:
  - The EU Treaty (Articles 1(a) and Article 2), as well as the resulting Directives:
  - the European Pact for Gender Equality, originally adopted in 2006 and concluded by the Council of the European Union on March 7, 2011;
  - the Charter of Fundamental Rights of the EU (Chapter 3: Equality before the law, non-discrimination, diversity, gender equality, rights of children, elderly people and people with disabilities. Equality between women and men is enshrined in Article 23 of the Charter);
  - the Women's Charter Declaration, launched by the European Commission in 2010 (COM(2010) 78 final); as well as a series of other texts on gender equality such as:
  - The Directive (2006/54/EC) on equal opportunities and equal treatment of women and men in employment and occupation;
  - The Racial Equality Directive (2000/43/EC);
  - The Employment Equality Directive (2000/78/EC);
  - The Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.
  - Also, (expecting) the Directive on combating violence against women and domestic violence based on the European Commission's proposal.[19]
  - Together with the above, there is also the Race Equality Directive (Directive 2000/43/EC).

[15] The Republic of North Macedonia has signed the Council of Europe's Convention on Preventing and Combating Violence against Women and ratified the Convention at the end of 2017. The Republic of North Macedonia has also developed a National Action Plan for the implementation of the Istanbul Convention (2018-2023).

[16] On May 2023 the European Parliament has given their consent for the Council to ratify the Convention. On the 28-6-2023 the EU deposited the instrument for approval of the Istanbul Convention and it will entry into force on the 1st of October 2023.

[17] EIGE, Beijing +25. The fifth Review of the Implementation of the Beijing Platform for Action in the EU Member States, 2020: *https://eige.europa.eu/publications-resources/publications/beijing-25-fifth-review-implementation-beijing-platform-action-eu-member-states*

[18] See, Susanne Burri and Sacha Prechal (2008), EU Gender Equality Law.

[19] Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence, COM/2022/105 final, Strasbourg, 8.3.2022: *https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0105*

TIt needs to be underlined that the EU pursues gender mainstreaming by systematically including a gender perspective in all stages of policy design in all EU policy areas, internal and external. The EU strategy is implemented by using intersectionality[20] –the combination of gender with other personal characteristics or identities, and how these intersections contribute to unique experiences of discrimination– as a cross-cutting principle.

Among the **7 key strategic objectives** of EU Gender Equality Strategy 2020-2025 (COM(2020) 152 final) two are directly related to the Home Affairs objectives**: a)** ending gender-based violence (and protecting and supporting victims) and **b)** challenging gender stereotypes.[21]

In order to develop a potentially successful gender mainstreaming strategy it is vital to have in-depth knowledge of the organisation itself, including its hierarchies, processes and mode of operation. It is also important to clearly understand how gender mainstreaming can be sustainably implemented and enforced.

The basic elements that a gender mainstreaming strategy should contain are:

- what type of gender mainstreaming support structure is to be established;
- what equality objectives the organisation is to set itself;
- how to communicate gender mainstreaming both internally and externally;
- which gender mainstreaming methods and tools are to be developed and introduced;
- how to strengthen the commitment of all staff members and how to develop their gender equality competence;
- what kind of gender information management system is to be established;
- how to launch gender equality action plans;
- how to promote equal opportunities within the organisation's personnel;
- how to monitor and steer the process of organisational change.

It is vital that gender mainstreaming does not appear to be a special measure outside of the organisation's standard operating procedures as this could potentially lead to resistance or the issue not being taken as seriously as others.

---

[20] EIGE defines 'intersectionality' as an "analytical tool for studying, understanding and responding to the ways in which sex and gender intersect with other personal characteristics/identities, and how these intersections contribute to unique experiences of discrimination". See: *https://eige.europa.eu/thesaurus/terms/1263*). According to Article 10 TFEU, when "defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation".

[21] The European Commission launched a campaign to challenge gender stereotypes, on 8 March 2023. This EU-wide campaign tackles gender stereotypes affecting both men and women in different spheres of life, including career choices, sharing care responsibilities and decision-making. It is a concrete deliverable of the Gender Equality Strategy 2020-2025.

a. The Convention on the Elimination of All Forms of Discrimination against Women

The CEDAW, which was adopted by the UN General Assembly in 1979,[22] is the most comprehensive and detailed international agreement on women's human rights. It establishes rights for women in areas not previously subject to international standards, most notably in personal and family life. It refers specifically to reproductive rights and the rights of rural women, bringing these 'new' issues strongly into the global agenda. The Convention is built on three fundamental principles: *non-discrimination*, *state obligation and substantive equality.*

i. The Principle of Non-discrimination, meaning that:

- - discrimination is socially constructed, exclusionary and not essential to human interaction. It prevents women from enjoying their rights and fulfilling their potential;
- both direct discrimination (where intent exists) and indirect discrimination (the effect of unintentional actions) need to be actively redressed;
- temporary measures (specific actions) can be put in place to correct past discrimination;
- discrimination that occurs in the private sphere needs to be addressed, as much as discrimination in the public sphere.

ii. The Principle of State Obligation, meaning that:

- once a State ratifies CEDAW it becomes party to legally binding obligations to eliminate discrimination against women. The State will abide by and be held accountable to the norms and standards mentioned in CEDAW;
- the State is responsible for the welfare of its women and therefore, it must take measures to protect their rights and redress any inequalities.

iii. The Principle of Substantive Equality, meaning that:

- women are entitled to equal opportunities and treatment;
- women should have equal access to resources;
- women should not just receive formal equality, but laws may need to be changed and enforced so that results can be seen.

[22] Its Optional Protocol has been adopted in October 1999 and is in force since December 2000. The purpose of the Protocol is to strengthen the enforcement mechanisms available for the rights within CEDAW. The Protocol provides for complaints to be taken directly to the UN. The Republic of North Macedonia has ratified the CEDAW and its Optional Protocol.

It needs to be underlined that in the sixth periodic report of the Committee on the Elimination of Discrimination against Women in North Macedonia,[23] the Committee noted that although the Convention is an integral part of the legal order of North Macedonia, however there is a general lack of awareness of the Convention, the Optional Protocol and the Committee's general recommendations in the State.

b. The Istanbul Convention of the Council of Europe on Preventing and Combating Violence against Women and domestic violence

The Convention opened for signature on 11 May 2011 and came into force on 1 August 2014. The Istanbul Convention is a major human rights treaty and the first legally-binding instrument which creates a legal framework that establishes comprehensive legal standards to ensure women's right and approach to combat violence. The Convention is focused on Prevention, Protection and support of victims, Prosecution of offenders and Integrated Policies.[24] According to the Convention "gender-based violence against women" means "violence that is directed against a woman because she is a woman or that affects women disproportionately" (Article 3).

Regarding prevention, the member States have committed to:

- train professionals in close contact with victims;
- regularly run awareness-raising campaigns;
- take steps to include issues such as gender equality and non-violent conflict resolution in interpersonal relationships in teaching material;
- set up treatment programmes for perpetrators of domestic violence and for sex offenders;
- work closely with NGOs;
- involve the media and the private sector in eradicating gender stereotypes and promoting mutual respect.

When the preventive measures have failed and violence incidents have occurred, the Convention provides protection and support for victims and witnesses. This means police intervention and protection, as well as specialised support services, such as shelters, telephone hotlines etc. It also means a referral mechanism for victims, making sure that general social services understand also the realities and concerns of victims of domestic violence and violence against women and support them accordingly.

---

[23] Committee on the Elimination of Discrimination against Women, Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia, CEDAW/C/MKD/CO/6, 14 November 2018: *https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/378/27/PDF/N1837827.pdf?OpenElement*

[24] The Istanbul Convention provides also for two types of monitoring procedures: a country-by-country evaluation procedure and a special inquiry procedure. The *country-by-country evaluation procedure* begins with a first assessment, to be followed by evaluation rounds GREVIO (the monitoring mechanism of the Convention). *A special inquiry procedure* may be initiated by GREVIO when there is reliable information indicating that action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention.

Some examples of measures set forth in the Convention include:

- Granting the Police the power to remove a perpetrator of domestic violence from his home: In situations of immediate danger, the police need to be able to guarantee the safety of the victim. In many instances, this may mean ordering the perpetrator for a specified period of time to leave the family home and to stay away from the victim (implementing safety measures).
- Ensuring access to adequate information. After experiencing violence, victims are usually traumatised and need easy access to clear and concise information on available services, in a language they understand.
- Setting up easily accessible shelters in sufficient numbers and in an adequate geographical distribution: Victims come from a wide range of social realities. For instance, women from rural areas or women and girls with disabilities need to have access to shelters as much as women from big cities.
- Making available state-wide 24/7 telephone helplines free of charge: Specialised helplines for victims of violence against women and domestic violence can direct the victims to the services they need. They are essential in offering immediate expert advice and pointing victims towards safety.
- Setting-up easily accessible rape crisis or sexual violence referral centres: These centres provide immediate medical counseling, trauma care and forensic services and are extremely rare across Europe. It is important to make these services more widely available.
- It should be borne in mind that it is not enough to set up protection structures and support services for victims. It is equally important to make sure victims are informed of their rights and know where and how to get help, thus a referral mechanism should be established.

The Convention establishes a series of offences characterised as violence against women that States which ratify the Convention must criminalise such as::

- psychological violence (Art.33);
- stalking (Art.34);
- physical violence (Art.35);
- sexual violence, including rape (marital included), explicitly covering all engagement in non-consensual acts of a sexual nature with a person (Art.36),
- forced marriage (Art.37);
- female genital mutilation (Art.38);
- forced abortion and forced sterilisation (Art.39);
- sexual harassment (according to the convention it should be subject to "criminal or other legal sanction" (Art. 40); and
- 'honour crimes' (Art. 42).

According to the Convention, State parties will have to take a range of measures to ensure the effective investigation of any allegation of violence against women and domestic violence. This means that the Police will have to respond to calls for help, collect evidence and assess the risk of further violence to adequately protect a victim. Furthermore, the authorities will have to carry out proceedings in a manner that respects the rights of victims at all stages and that avoid secondary victimisation.

On the integrated policies, the Convention relies on the premise that no single agency or institution can deal with violence against women and domestic violence alone. An effective response to such violence requires concerted action by many different actors. The Convention therefore asks State parties to implement comprehensive and co-ordinated policies involving government agencies, NGOs as well as national, regional and local parliaments and authorities. The aim is that policies to prevent and combat violence against women and domestic violence are carried out at all levels of government and by all relevant agencies and institutions.

c. The Beijing Declaration and Platform for Action

28 years after its adoption, the Beijing Declaration and Platform for Action remains a transformative framework for achieving gender equality, the empowerment of all women and girls, and the full enjoyment of their human rights.

The BDPFA was adopted in Beijing in September 1995 (the Republic of North Macedonia is a signatory to the BDPFA), and is notable for its importance on gender mainstreaming especially in development cooperation. The BPFA upholds the CEDAW and builds upon previous strategic frameworks and policy commitments at international level.[25]

Subsequently most countries have produced National Programmes of Action (NPAs), which set out their strategies and programmes for implementing the commitments made at Beijing. These NPAs are considered an important source of data, and a basis of policy dialogue with partner countries.

The content of the Beijing Platform for Action is focused on Critical Areas of Concern such as:

- The persistent and increasing burden of poverty on women;
- Inequalities and inadequacies in, and unequal access to, education and training;
- Inequalities and inadequacies in, and unequal access to, health care and related services;
- Violence against women;

[25] See, the review and appraisal of the implementation of the Beijing Declaration and Platform for Action and the outcomes of the twenty-third special session of the General Assembly Report of the Secretary-General (E/CN.6/2020/3).

- The effects of armed or other kinds of conflict on women, including those living under foreign occupation;
- Inequality in economic structures and policies, in all forms of productive activities and in access to resources;
- Inequality between men and women in the sharing of power and decision-making at all levels;
- Insufficient mechanisms at all levels to promote the advancement of women;
- Human rights of women;
- Stereotyping of women and inequality in women's access to and participation in all communication systems, especially in the media;
- Gender inequalities in the management of natural resources and in the safeguarding of the environment;
- Persistent discrimination against and violation of the rights of the girl child.

The basic principles of this 12-point platform were reaffirmed in many occasions. In 2020 there has been the fifth review of the implementation of the Beijing Platform for Action in the EU Member States (Beijing +25).[26]

d. The European Pact for Gender Equality

The European Pact for Gender Equality, emphasises the importance of using women's untapped potential mainly in the labour market. Measures to achieve this include promoting women's empowerment in economic and political life and taking steps to close gender gaps, combat gender stereotypes and promote better work/life balance for both women and men. The Pact was originally adopted in 2006. A revision of the Pact was prepared under the Hungarian Presidency of the European Council in the first half of 2011, to support the link between the Pact and Europe 2020, and the European Commission's Strategy for equality between women and men 2010–2015. In March 2011, a new European Pact for Gender Equality (2011–2020) was adopted, aiming at encouraging the EU and Member States to take measures to:

- eliminate gender stereotypes, ensure equal pay for equal work and promote the equal participation of women in decision-making;
- improve the supply of affordable and high-quality childcare services, and promote flexible working arrangements;
- strengthen the prevention of violence against women and the protection of victims, and focus on the role of men and boys in order to eradicate violence.

[26] EIGE, Beijing +25. The fifth Review of the Implementation of the Beijing Platform for Action in the EU Member States, 2020: *https://eige.europa.eu/publications-resources/publications/beijing-25-fifth-review-implementation-beijing-platform-action-eu-member-states*

The Pact also reaffirms the importance of integrating the gender perspective into all policies.

This Pact could be of interest while reforming the Police, not only in relation to the services offered to citizens, but also with regard to the rights of women police officers and also of the civil personnel that should be given the above due consideration. On that issue, consideration should be given also to the provisions of the Gender Recast Directive (Directive 2006/54/EC) on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation; the Work-Life Balance Directive (Directive (EU) 2019/1158) of the European Parliament and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

At the level of EU, on 8 March 2022, the European Commission adopted an EU-wide proposal for a Directive to combat violence against women and domestic violence (COM/2022/105 final). Currently, no specific piece of EU legislation comprehensively addresses violence against women and domestic violence. This Directive will be the first act specifically addressing this type of violence. The proposal seeks to introduce targeted minimum rules on the rights of this group of crime victims, and to criminalise the most severe forms of violence against women and of cyber violence.

e. The Charter of Fundamental Rights of the EU

The entire Chapter 3 of the Charter is dedicated to the principle of Equality. It is, thus, referring to equality before the Law ('Everyone is equal before the law', Art.20); to the non-discrimination prohibiting any discrimination based on any ground including sex and sexual orientation (Art.21); the respect of diversity (Art.22); gender equality (Art.23); the protection of the rights of children (Art.24); of the elderly people (Art.25); and of people with disabilities (Art.26).

Article 23 of the Charter safeguards equality between men and women by providing 'Quality between women and men must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.'

The first paragraph has been based on Articles 2 and 3(2) of the EC Treaty, now replaced by Article 3 of the Treaty on European Union and Article 8 of the Treaty on the Functioning of the European Union which impose the objective of promoting equality between men and women on the Union, and on Article 157(1) of the Treaty on the Functioning of the European Union. It draws on Article 20 of the revised European Social Charter of 3 May 1996 and on point 16 of the Community Charter on the rights of workers.[27]

[27] For a detailed analysis of EU legal bases for gender equality in the Treaties, see, Dagmar Schiek and Biljana Kotevska, "Article 23 - Equality between Women and Men", in Steve Peers et al. (Eds), The EU Charter of Fundamental Rights: A Commentary, Hart Publishing, second edition 2021, p. 635s.

It is also based on Article 157(3) of the Treaty on the Functioning of the European Union and Article 2(4) of Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

The second paragraph takes over in shorter form Article 157(4) of the Treaty on the Functioning of the European Union which provides that the principle of equal treatment does not prevent the maintenance or adoption of measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers. In accordance with Article 52(2), the present paragraph does not amend Article 157(4).

f. The Women's Charter Declaration

The Women's Charter Declaration is a Declaration by the European Commission on the occasion of the 2010 International Women's Day in commemoration of the 15th anniversary of the adoption of a Declaration and Platform for Action at the Beijing UN World Conference on Women and of the 30th anniversary of the UN Convention on the Elimination of All Forms of Discrimination against Women.28

Among other principles of equality between women and men, the Declaration enshrines the principles of dignity, integrity and ending gender-based violence.

The Declaration states that the full enjoyment of fundamental rights by women and girls is an inalienable, integral and indivisible part of universal human rights and is essential for the advancement of women and girls, peace, security and development. Gender-based violence, including harmful customary or traditional practices, constitutes a violation of fundamental rights, in particular human dignity, the right to life, and the right to the integrity of the person. Such violation prevents the exercise of a self-determined life.

With the Declaration the European Commission reaffirms its commitment to ensure that respect for fundamental rights is at the core of EU activities and that the EU does not tolerate gender-based violence and that efforts should be made to eradicate all forms of violence and to provide support for those affected through a comprehensive and effective EVAW policy framework against all acts of violence, including by means of criminal law.

It needs to be underlined that although the EU has developed extensive legislation on gender equality, primarily in the field of employment, up to date other than the EU-

[28] Communication from the Commission A Strengthened Commitment to Equality between Women and Men A Women's Charter Declaration by the European Commission on the occasion of the 2010 International Women's Day in commemoration of the 15th anniversary of the adoption of a Declaration and Platform for Action at the Beijing UN World Conference on Women and of the 30th anniversary of the UN Convention on the Elimination of All Forms of Discrimination against Women 5-3-2010/COM/2010/0078 final.

wide strategy and action plan to combat violence against women there was lack of specific binding texts in the area of violence against W/G with the exception of the protection for victims of trafficking and crime (Directives 2011/36/EU and 2012/29/EU). Now with the accession of EU to the Istanbul Convention and the up-coming EU directive containing binding measures to protect women from violence and the combination of other measures such as adding gender-based violence to the crimes listed in Article 83(1) TFEU; the establishment of a European Observatory and the adoption of a coherent system for collecting statistics in Member States, progress is made in the field of fighting violence against women and girls.

The European Parliament has drawn the attention to member States on action needed on emerging and topical issues, such as in asylum and migration policies; action to tackle emerging forms of gender-based violence such as cyberstalking and online harassment; and to take account of the specific needs of vulnerable groups, such as child victims, women with disabilities, refugee and LGBTIQ+ women.

B. International and regional framework related to organised crime

The principal framework on organised crime that any State should ratify and integrate includes:

- The UN Transnational Organised Crime Convention (adopted on 15 November 2000 and entered into force on 29 September 2003) with its supplementary Protocols: a) the Protocol to prevent, suppress and punish trafficking in persons, especially women and children (Palermo Protocol) adopted on 15 November 2000 and entered into force on 25 December 2003; b) the Protocol Against the Smuggling of Migrants by Land, Sea and Air, adopted on 15 November 2000 and entered into force on 28 January 2004;[29] and c) the Protocol against the Illicit Manufacturing of and trafficking in firearms, their parts and components, and ammunition adopted on 31 May 2001 and entered into force on 3 July 2005.[30]
- The United Nations Convention Against Corruption adopted on 31 October 2003 and entered into force on 14 December 2005;[31]
- The European Convention on Action against Trafficking in Human Beings adopted on 3 of May 2005 and entered into force on the 1st February 2008;[32]

[29] North Macedonia has ratified the UNTOC with both Protocols on 12 Jan. 2005.
[30] North Macedonia has acceded to the Protocol on 14 Sept. 2007.
[31] North Macedonia has ratified the Convention on 13 Apr. 2007.
[32] North Macedonia has ratified the Convention on 27 May 2009 (entered into force on the 1st Sept. 2009).

- The Geneva Convention relating to the Status of Refugees (adopted on 28 July 1951 and entered into force on 22 April 1954), and the Protocol of New York on the Status of Refugees (adopted on 31 January 1967 and entered into force on 4 October 1967);[33]
- *The Directive 2011/36/EU* of the European Parliament and of *the Council of* 5 *Avril 2011 on Preventing and Combating Trafficking in* Human Beings and Protecting its Victims (replacing Council Framework Decision 2002/629/JHA);
- *The* Directive 2012/29/EU of the European Parliament and of *the Council* of 25 October 2012 *on establishing minimum standards on the rights, support and protection of victims of crime (replacing Council Framework Decision 2001/220/JHA).*

a. UN Transnational Organised Crime Convention and its supplementary Protocols

The networks of trafficking –independently of which form of trafficking they might be using– are usually moving in the same field of the organised crime and they have tremendous ramifications, not only in the country of origin of the victims, but also in the country of destination connected with other international networks. Besides they act by using the same methods with every other form of organised crime: corruption of public officials, forgery, blackmail, illegal use of arms, trafficking of drugs, violence, and other forms of coercion. This is the reason why at international level the efforts have been simultaneously focused in combating organised crime, trafficking and illegal migration. This is the reason why the UN Convention against Transnational Organised Crime is related with three Protocols (the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against Smuggling of Migrants by Land, Sea and Air and the Protocol against Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition).

We briefly analyse below the main requirements of the two Protocols of the UN Transnational Organised Crime Convention (UNTOC) of 2000: a) the Protocol to prevent, suppress and punish trafficking in persons, especially women and children (Palermo Protocol); and b) the Protocol Against the Smuggling of Migrants by Land, Sea and Air. The Border Police needs to be trained on the requirements of the UNTOC Convention and its Protocols in order to address the phenomenon of human trafficking and migrant smuggling and being in place to identify and protect vulnerable categories and arrest traffickers and migrant smugglers.

[33] North Macedonia has succeeded both to the Convention and the Protocol on 18 Jan. 1994. The former Yugoslavia had signed and ratified the Convention on 28 July 1951 and 15 December 1959, respectively and had acceded to the Protocol on 15 January 1968.

i. The Palermo Protocol on Trafficking in persons

According to Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime of 2000 (Palermo Protocol), trafficking of persons is:

"The recruitment, transportation, transfer, harbouring or receipt of persons, by **means** of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the **purpose** of exploitation.[34] Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs".

Trafficking of human beings concerns exploitation mainly for purposes of:

- prostitution;
- forced labour;
- begging;
- compulsory recruitment of minors for criminal activities or in order to be used in armed conflicts;
- illegal adoptions;
- removal of organs;
- forced marriages;
- trafficking of mother-carriers and
- other types of exploitation.

The concept of human trafficking implies very often the strong role of criminal organisations,[35] using several distinct but interrelated acts, and means such as threat or use of force, coercion, fraud, deception, aiming at the exploitation of a person, which makes the crime not a one-time act, but a criminal activity that is carried out over a certain period of time.

Art.5 of the Palermo Protocol urges States to "adopt legislative and other measures as may be necessary to establish as criminal offences: (a) the committing and attempting

[34] UNODC (2015), Issue Paper: The Concept of 'Exploitation' in the Trafficking in Persons Protoco

[35] According to the Council of Europe recommendation Rec (2001) 11 on guiding principles on the fight against organised crime adopted by the Committee of Ministers on 19-09-2001, "Organised criminal group" shall mean the illegal activities carried out by a structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes, by using intimidation, violence, corruption or other means in order to obtain, directly or indirectly, a financial or material benefit". This definition is similar to the Art. 2 (a) of the Palermo Convention.

to commit trafficking in persons (in accordance with article 3); (b) participating as an accomplice in trafficking; and (c) the organisation or direction of other persons to commit trafficking in persons.

Measures for the protection and assistance to victims of trafficking are provided in Art.6 of the Protocol. The Protocol places first in the list of protection the privacy and identity of victims of trafficking in persons, including, confidentiality of legal proceedings relating to trafficking (Article 6 para 2 of the Protocol). In particular, States should provide for: (a) Information to victims of trafficking in persons on relevant court and administrative proceedings; and (b) assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

The same Article provides for measures concerning the physical, psychological and social recovery of victims of trafficking in persons, in cooperation with non-governmental organisations, in particular:

(a) appropriate housing; (b) counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand; (c) medical, psychological and material assistance; and (d) employment, educational and training opportunities. Each State should take measures for the physical safety of victims of trafficking in persons while they are within its territory (para 5).

For the application of such provisions the Protocol provides that States should take into account, the age, **gender** and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care (para 4).

The same Article provides for the possibility of obtaining compensation to the victims for damage suffered (para 6), which can be an important incentive for victims to co-operate with the authorities in a criminal procedure against traffickers (as provided also by Articles 14 para 2 and 25 of UNTOC Convention (regulating the Disposal of confiscated proceeds of crime or property).

It also requires that measures are taken to avoid re-victimisation of trafficked victims. According to **Art.9:** "States should establish comprehensive policies, programmes and other measures: (a) To prevent and combat trafficking in persons; and (b) To protect victims of trafficking in persons, especially women and children, from re-victimisation."

The Protocol gives particular importance to the issue of investigation of trafficking cases and to the identification of perpetrators through cooperation and training of State authorities. On the issue of co-operation **Art.10:** "Law enforcement, immigration or other relevant authorities of States Parties shall co-operate with one another by exchanging information, to enable them to identify perpetrators and establish cross-links within the participating Member States; to identify the cross-border modus operandi and shed light on the method of communication of criminal networks

with a view to dismantling them. This can only be achieved by proper **training** for law enforcement, immigration and other relevant officials". Also, in relation to the **Information exchange and training Art.10 in para 2** of the Protocol requires that training should not only focus on the methods used in preventing trafficking, prosecuting the traffickers and protecting the rights of the victims (including protecting the victims from the traffickers), but it should also take into account the need to consider human rights and child- and **gender-sensitive issues** and it should encourage cooperation with non-governmental organisations, other relevant organisations and other elements of civil society.

The Protocol also requires:

- Co-operation between the States in case of immergency by transmitting information in view of protecting endangered persons on the territory of another State;
- Co-operation between State authorities and non-governmental organisations, or other relevant organisations and the civil society, in establishing strategic partnerships.
- With regard to **Border Police** the Palermo Protocol refers to specific **border measures**, such as:
- Border controls for the prevention and detection of trafficking in persons, including the denial of visa (Art.11) and
- the establishment of liability for commercial carriers with adequate sanctions (Art.11 para 3 and 4);
- Control for the security and integrity of travel documents, in order to prevent unlawful creation, issuance and use (Art.12); and
- Non-discrimination clause for the victims of trafficking (Article 14). The clause means that all measures should be applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. In this effect, a State should not use the victim for the purposes of the criminal prosecution, but should protect and assist him/her on the sole grounds of his/her victimisation.

ii. The Protocol against the Smuggling of Migrants

According to Article 3, paragraph (a), of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime (2000), the term 'smuggling of migrants' means: "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident".

Smuggling of migrants (SoM) significantly undermines the integrity of national borders, exposes migrants to the risk of severe human rights violations and causes the loss of thousands of lives. Because SoM is an illegal activity with transnational character,

data on the magnitude of the phenomenon is precarious. The numbers of detections of irregular border-crossings can only be relied upon as proxy indicators.

In order to effectively combat migrant smuggling a number of avenues are of relevance, such as:

(i) promoting robust investigations;

(ii) enhancing information gathering, sharing and analysis;

(iii) protecting vulnerable migrants effectively;

(iv) enhancing international cooperation, especially with countries of transit and origin.

Investigations related to SoM pose particular challenges. The first is that the 'commodity' being smuggled is human beings. The preservation of life and safety of those involved must be duly evaluated. Any Border Police operation should start with a risk assessment, in order to assess not only the dangers of the operation for the police, but also for the lives of people being smuggled.

Some of the **challenges** in SoM investigations are:[36]

- Risks to life and safety of migrants smuggled/witnesses;
- Structured and well-organised nature of criminal networks;
- Variety of financial and logistical resources supporting the smuggling venture;
- Use of social media to communicate, which are not always easy to monitor;
- Financial services to proceed to payments, which are difficult to trace;
- Fast adaptability of Organised Criminal Groups to new advances in law enforcement techniques and policies;
- Demand for smuggled migrants which operate as concealers of evidence (directly or indirectly). Eventual reluctance of witnesses due to fear of retaliation from the smugglers.
- Association with other serious crimes, e.g. corruption, money laundering, trafficking in persons, which might appear easier to prosecute and, as such, divert the police efforts from the investigation of SoM as such;
- Challenges in international cooperation due to unwillingness or inability of other States to offer their assistance.

The specific challenges and characteristics of SoM require robust and tailored investigative methodologies suitable to address the difficulties associated to this crime type. The so-called multidisciplinary approach is one promising methodology. It includes

[36] United Nations Office on Drugs and Crime (2010), Basic Training Manual on Investigating and Prosecuting the Smuggling of Migrants.

close cooperation between States and State agencies, as well as with other relevant stakeholders such as NGOs and the private sector). SoM is a business and, as such, it is based on a business model, composed of several phases and whereby the main purpose is to maximise smugglers' profit. To counter SoM, barriers should be created to disturb the business of migrant smugglers at different stages of the endeavor. For instance, private transportation is often used (e.g. buses, taxis or lorries). Creating strong disincentives to service providers – through criminal or administrative sanctions – will jeopardise smuggling operations. The same is applicable to those providing accommodation to smuggled migrants with the purpose of obtaining a financial or other material benefit.

The multidisciplinary approach should apply. For instance, anti-SoM units should work closely together with other relevant units, such as anti-trafficking, anti-corruption and anti-money laundering, considering that these are crimes often associated with migrant smuggling. Given the possible linkages between SoM and trafficking in persons (TiP), it is equally important to make sure that anti-SoM and anti-TiP police sections work in partnership, as appropriate.

The holistic approach in addressing SoM (and TiP), requires that various (national and international) agencies and stakeholders are called to complement each other's roles and these are:

- Law enforcement and justice actors;
- Immigration services;
- Border Police;
- Labor, social, health inspectorates;
- Embassies and ministries;
- NGOs; and
- Private sector.

Cooperation of public-private sectors

The role of NGOs is crucial in the responding to migrant smuggling, not only in respect of providing assistance to migrants (as referrals), but also by their capacity to raise awareness of the general public of the threats posed by migrant smuggling.

Intra and inter-agency coordination

The multiplicity of actors, means of evidence and investigative techniques needs to be emphasised in the context of SoM investigations, as well as the underpinning relationships. It is important to regulate coordination, interaction, communications and hierarchical referrals in the development of investigations. Standard operating procedures, guidelines or rules should be drafted. For instance, it is critical to regulate the timing of intervention, the role and referral duties of frontlines officers. The collaboration between law enforcement, private sector and NGOs must be well established.

The State Police authorities in EU cooperate with Europol, [37] which is the European Union's law enforcement agency mandated to tackle organised crime, with possibilities of intervention to almost all areas of cross-border crime. Europol's role is to strengthen cooperation "between the competent authorities, including the police, customs and other specialised law enforcement services of the EU Member States in relation to the prevention, detection and investigation of criminal offences» (Article 30(1) TEU). Once Europol detects serious indications of organised crime activity in one of the Member States, it undertakes the collection, processing, analysis and exchange of relevant information and the joint assessment of specific investigative techniques, direct cross-checking facilities, forensic and technical support and expertise (Article 30(1)(d) TEU).

Another authority is the European Border and Coast Guard Agency (FRONTEX) which is mandated to coordinate with the border and coast guards of EU member States the border control of the European Schengen Area (for the moment and until the integration of North Macedonia it exercises also in the Greek-North Macedonian borders).[38]

FRONTEX has a number of multi-purpose Joint Operations contributing to the implementation of the EU Action Plan against migrant smuggling. FRONTEX's first joint operation in North Macedonia was launched in April 2023, following the entry into force of the status agreement between the European Union and North Macedonia. The capacities of the National Coordination Centre for cooperation in the field of external border surveillance should be strengthened. [39]

Further, the Regulation (EU) No 1052/2013 establishing the European Border Surveillance System (EUROSUR), provides for "a common framework for the exchange of information and for the cooperation between Member States and Frontex in order to improve situational awareness and to increase reaction capability at the external borders of the Member States of the Union ('external borders') for the purpose of detecting, pre-

[37] The European Police was established in 1995 and started its activities on 1 July 1999.

[38] FRONTEX is governed by Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard (OJ L 295, 14.11.2019, p. 1). The above-mentioned regulation provides FRONTEX with a reinforced mandate and increased competences compared to Regulation (EU) 2016/1624, such as the European Border and Coast Guard Standing Corps (the EU's first uniformed service).

[39] EU Commission on Accession process, Screening report North Macedonia, Cluster 1: *https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-07/MK%20Cluster_1%20Draft%20screening%20report_external%20version.pdf*

venting and combating illegal immigration and cross-border crime and contributing to ensuring the protection and saving the lives of migrants ('EUROSUR)". The EUROSUR Regulation has been repealed and replaced by Regulation (EU) 2019/1896, which carries revised provisions on EUROSUR.[40]

At the same time, the creation of EUROJUST contributes to tackling organised cross-border crime more effectively by accelerating horizontal action through legal assistance. EUROJUST is mandated to improve coordination and cooperation between investigating and prosecuting authorities in the Member States, and to provide support to them generally. In the terms of its founding instrument, Members States are required to exchange information with Eurojust that will allow it to perform its tasks. This information permits, for instance, to cross-check links to cases in the Eurojust Case Management System, to offer assistance to Member States at an early stage, and to provide operational and strategic feedback to national authorities.

The obligation to transmit information specifically includes information about:

- Joint Investigation Teams;
- Cross border cases of particular gravity; and
- Cases involving (potential) conflicts of jurisdiction, controlled deliveries, repeated problems in judicial cooperation.

EUROJUST has also the so-called 'On-Call Coordination', which enables judicial authorities and law enforcement officials to request Eurojust's assistance on a 24 hour/7day basis. Notification of the OCC telephone numbers is restricted to judges, prosecutors and law enforcement officials.

Coordination centers, in turn, permit the simultaneous meeting of police, judicial and, if needed, customs authorities involved in specific case or operation. Coordination centers provide a unique opportunity for the real-time exchange of information and centralised coordination of the simultaneous execution of, inter alia, arrest warrants and searches and seizures in different States. Coordination centers expedite the timely transmission of additional information that is urgently needed to execute such measures and newly issued MLA requests. coordination centers may also play a significant role in the development of the judicial dimension of a case, particularly in facilitating the anticipation and timely resolution of complex legal issues arising prior to and during common action days. Such issues include those stemming from the different domestic legal frameworks of confiscation and asset seizures or the procedural requirements set out at national level for the execution of European Arrest Warrants (EAWs).

[40] Other relevant instruments are Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) and Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals, also referred to in Regulation (EU) 2019/1896.

Training

According to **Article 14** of the Protocol against the Smuggling of Migrants States should provide specialised training for immigration and other relevant officials in preventing relevant crimes and in the treating of migrants who have been the object of such crimes, while respecting their rights. On this respect States should cooperate with each other and with competent international organisations, non-governmental organisations, other relevant organisations and other elements of civil society to ensure that there is adequate personnel training in their territories to prevent, combat and eradicate SoM.[41] Such training shall include:

(a) Improving the security and quality of travel documents;

(b) Recognising and detecting fraudulent travel or identity documents;

(c) Gathering criminal intelligence, relating in particular to the identification of organised criminal groups known to be or suspected of being engaged in SoM activities, the methods used to transport smuggled migrants, the misuse of travel or identity documents for purposes of SoM and the means of concealment used in the smuggling of migrants;

(d) Improving procedures for detecting smuggled persons at conventional and non-conventional points of entry and exit; and

(e) The humane treatment of migrants and the protection of their rights as set forth in this Protocol.

b. The European Convention on Action against Trafficking in Human Beings

The Convention of the Council of Europe on Action against Trafficking in Human Beings has been adopted by the Committee of Ministers of the Council of Europe on May 3, 2005, opened for signature on May 16, 2005 and entered into force on February 1st, 2008). In this section, an analysis of the main provisions of the Convention in comparison to those of the Palermo Protocol is presented. It needs to be underlined that although the Convention adopts the same definition on trafficking (Art.4) with the Palermo Protocol, however it has wider scope because it is not restricted to only transnational and organised crimes. According to Art.2 the Convention applies "to all forms of trafficking in human beings, whether national or transnational, whether or not connected with organised crime." Thus, it covers also trafficking crimes that are committed by single individuals and those committed at national level. Further, it has more precise and detailed provisions than any other previous international or regional instrument on trafficking in persons.

[41] See, United Nations Office on Drugs and Crime (2010), Basic Training Manual on Investigating and Prosecuting the Smuggling of Migrants, Module 8 'International Cooperation'.

Both the Protocol and the European Convention set some important elements, such as:

- Trafficking can be any kind of exploitation of the human body[42] (it can exist in various forms of exploitation, such as slavery or forced labour, sexual exploitation, exploitation of labor, removal of organs and other elements of the human body, child pornography, mendicancy, illegal adoptions, etc.);
- The consent of the victim of trafficking should be irrelevant to the act if the precise means have been used (except in the case of children where the consent is irrelevant even if other means have been used). This is a very important derogation from what is the rule to most of the crimes related to morality and the genital sphere (e.g. the rape cannot be established if the victim has consented to it). However, the first lapsus of the Protocol is appearing because it does not give the definition of the victim, on the contrary to the European Convention which defines as "victim", "any natural person who is subject to trafficking in human beings as defines in this article" (Art.4e).

The European Convention in its Art. 4 includes the same criminal offences with the Protocol of Palermo, adding also aiding and abetting (in Art. 21), but it goes further by criminalising acts relating to travel or identity documents for the purpose of enabling human trafficking (Art.20). In the subject of aggravating circumstances, the Protocol of Palermo do not help much, given that it does not specify any. Only the European Convention against Trafficking in Art.24 considers as aggravating circumstances if:

a. the offence deliberately or by gross negligence endangered the life of the victim;

b. the offence was committed against a child;

c. the offence was committed by a public official in the performance of her/his duties;

d. the offence was committed within the framework of a criminal organisation.

The European Convention adds also another offense that is not provided by the Palermo Protocol: that of the **"consumer's" behavior,** if acting consciously while using the services of a victim of trafficking (Art.19). The Convention states: "Each Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences under its internal law, the use of services which are the object of exploitation as referred to in Article 4 paragraph a of this Convention, with the knowledge that the person is a victim of trafficking in human beings".

The European Convention deals with the **investigation and prosecution of cases of human trafficking (Art.27 to 31)** and gives particular attention to the specialised authorities and co-ordinating bodies in the fight against trafficking and the protection of victims (Art.29).

[42] According to the Convention's Explanatory Report, as exploitation, one can understand the abuse of a person in order to gain profit out of him/her, consisting also in reselling him/her to another person. It can also consist in the fact "to compel a person to perform a work or service" or to "maintain a person in the state of servitude", but it can include such activities.

In a more detailed manner the Convention deals with the protection of victims, providing inter alia for a **secure accommodation**, which is fundamental to the protection of the victims (Art.12) and also for the **protection of the private life of victims** by the media (Art.11), stating that States should: "...ensure, in particular, that the identity, or details allowing the identification, of a child victim of trafficking are not made publicly known, through the media or by any other means, except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child. In Art.11 para 3 it is provided that States should take measures "aimed at encouraging the media to protect the private life and identity of victims through self-regulation or through regulatory or co-regulatory measures".

One of the most important provisions is the one regulating the **protection of the witnesses (Art.28).** According to **Art.28** the States should take measures in order to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators, for victims, for those who report the criminal offences or otherwise co-operate with the investigating or prosecuting authorities; for witnesses and also for members of the family of victims and witnesses. In para 2 it is provided that *"the protection may include physical protection, relocation, identity change and assistance in obtaining jobs"*. Special measures should be taken towards child victims.

Another issue which is not covered by the Palermo Protocol is the **protection of the victims during their identification procedure.** It is very important that victims are not expulsed before they get identified as such, and also that during this period they can benefit from a proper assistance. In this effect, the European Convention provides in **Art.10** that: "Each Party shall ensure that, if the competent authorities have reasonable grounds to believe that a person has been victim of trafficking in human beings, that person shall not be removed from its territory until the identification process as victim of an offence provided for in Article 18 of this Convention has been completed by the competent authorities and shall likewise ensure that that person receives the assistance provided for in Article 12, paragraphs 1 and 2".

Reflexion and recovery period

Victims of trafficking need an absolute protection before they decide if they wish to cooperate with the authorities or return to their countries. That is why the need what is called a "reflexion" or "recovery" period.

This issue is not at all regulated by the Palermo Protocol. On the contrary, the European Convention gives specific importance to the matter, allowing the victims first to recover and escape the influence of traffickers



before they decide if they wish to collaborate with the authorities or not. During this period all expulsion orders are prohibited. **Art.13** provides for a recovery and reflection period of at least 30 days, "*when there are reasonable grounds*[43] *to believe that the person concerned is a victim*". This provision is without prejudice to the activities carried out by the competent authorities in all phases of the relevant national proceedings, and in particular when investigating and prosecuting the offences concerned. During this period, the Parties shall authorise the persons concerned to stay in their territory and benefit from the measures of assistance contained in Article 12, paragraphs 1 and 2.

Status of victims of trafficking in persons in receiving States

The Protocol of Palermo, in addition to the protective measures set in **Articles 6 and 7**, provides for measures to allow the temporary or permanent residence of victims of trafficking in persons in the territory of the hosting country (para 1), given due consideration to humanitarian and compassionate factors (para 2). The European Convention in its **Art.14** deals in a more detailed manner with the issue providing that each Party shall issue a renewable residence permit to victim if the authorities considers that their stay is necessary owing to their personal situation; and/or if the authorities consider that their stay is necessary for the purpose of their cooperation with the competent authorities in investigation or criminal proceedings.

The granting of a permit according to this provision shall be without prejudice to the right to seek and enjoy asylum.

The European Convention deals also with the issue of residence while regulating the issue of the reflexion and recovery period **(Art.13)** as mentioned above.

Repatriation of victims of trafficking in persons

According to Art.8 para 1 of the Protocol of Palermo and Art.16 para 1 of the European Convention, the State of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party should facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

Such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking. Both texts state that this return should preferably be voluntary[44] (Art.8 para 2 of the Protocol of Palermo and Art.16 para 2 of the European Convention). This means that both texts are not in favour of expulsion measures. However, the general view of the Protocol on the issue of unvoluntary return of the victims is less clear than of the European Conven-

[43] This means that the identification procedure has not yet been completed, but a screening process has reached the assessment that "there are reasonable grounds" to believe that the person concerned is a victim.

[44] On the subject of repatriation, see the European Convention on the Repatriation of Minors, No 071 28-5-1970: *https://rm.coe.int/1680072d3c*

tion's. The European Convention apart from Art.16, it expressly provides in two more occasions that the victim should not be returned during the identification procedure (Art.10) nor during the reflexion period (Art.13).

Another point which is not expressly stressed by the Protocol is that a **victim should not be returned during the criminal procedure**. This point is covered by the European Convention against trafficking which provides under Art.14 (regulating the issue of the residence permit) that if the competent authority considers that the victim's stay is necessary for the purpose of cooperation with the authorities in investigation or in criminal proceedings, it can allow the stay in the territory by issuing a residence permit.

Prevention, cooperation

According to Article 9 of the Palermo Protocol and to Art.5 of the European Convention, the States should establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from re-victimisation.

On this purpose, both the Protocol and the European Convention suggest that States should take measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons, in cooperation with non-governmental organisations, other relevant organisations and other elements of civil society. However, the Convention deals with the issue in a more detailed manner in six paragraphs.

The Protocol supports any **bilateral or multilateral cooperation between the States**, **to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity (Art.9 para 4).** The European Convention also supports international cooperation and cooperation with civil society in preventing, combatting and protecting victims of trafficking (Art.32 to 34).

International Co-operation and information

Article 10 of the Protocol provides that law enforcement, immigration or other relevant authorities of States Parties shall, **cooperate with one another by exchanging information,**[45] to enable them to identify perpetrators and establish cross-links within the participating Member States; to identify the cross-border modus operandi and shed light on the method of communication of criminal networks with a view to disman-

[45] According to Art.27 of the UNTOC Convention States should cooperate with other States Parties in conducting inquiries (the Convention gives a very detailed list of what the inquiries should concern, e.g. the activities of persons suspected; the movement of proceeds of crime, etc.).

tling them. This can only be achieved by proper **training** for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. According to Article 10, the training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights, as well as child and gender-sensitive issues and it should encourage cooperation with non-governmental organisations, other relevant organisations and other elements of civil society. The same importance to this matter is given also by the European Convention in Art.34.

Non-punishment clause

Another very important issue for the protection of victims of trafficking is that they should not be punished for committing offences in the framework of the trafficking process. According to Art.26 of the European Convention: "*Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so*.

This issue is not covered by the Protocol nor by the UNTOC Convention. The only provision is made in favour of the accused persons who cooperate with the authorities under Art.26 para 2 of the UNTOC Convention, which provides: "*mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention*".

Non-discrimination principle

Article 14 of the Protocol of Palermo and Art.3 of the European Convention set a very important clause in favour of all the victims of trafficking: the non-discrimination clause. This clause means that all measures should be applied in a way that are not discriminatory to persons on the ground that they are victims of trafficking in persons. In this effect, a State should **not use the victim for the purposes of the criminal prosecution,** but should protect and assist him/her on the sole grounds of his/her victimisation.

The EU Council Directive 2004/81/EC of 29 April 2004[46] on 'the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities', sets the cooperation of the victims as mandatory in order to assist them and provide them with a residence permit -- which of course is discriminatory to the victims. The EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims tried to make clear that the States "should take the necessary measures to ensure that assistance and support for a victim are not made conditional on the victim's willingness to cooperate in the criminal in-

[46] OJ L 261, 6-8-2004, p. 19-23.

vestigation, prosecution or trial", however "without prejudice to Directive 2004/81/EC" (Art.11 para 3).

The clearest text on this issue is the European Convention of the Council of Europe, which provides in Art.14 para 1, that States should issue a residence permit to the victims not only when they cooperate "*with the authorities in investigation or criminal proceedings*", but also when "*the competent authority considers that their stay is necessary owing to their personal situation*". This means --in respect to the principle of non-discrimination-- that a victim merits to be protected and assisted and issued a residence permit, on the mere basis of her/him being a victim of trafficking and not only on the grounds of his/her cooperation with the authorities.

Border measures

Article 11 of the Protocol of Palermo, as well as Art.7 of the European Convention suggest that each State should take measures for the provision of **border controls** for the prevention and detection of human trafficking, including the denial of visa. Such measures should include the establishment of **liability for commercial carriers** with adequate sanctions (Art.11 para 3 and 4 of the Protocol of Palermo and Art.7 para 3 and 4 of the European Convention); as well as the denial of entry or revocation of visas of persons implicated in the commission of offences (Art.11 para 5 of the Protocol of Palermo and Art.7 para 5 of the European Convention); and strengthening co-operation among border control agencies by, *inter alia*, establishing and maintaining direct channels of communication (Art.11 para 6 of the Protocol of Palermo and Art.7 para 6 of the European Convention).

Art.12 of the Protocol of Palermo and Art.8 and 9 of the European Convention provide that security and integrity of travel documents, as well as the control of such documents must be ensured in order to prevent unlawful creation, issuance and use.

In comparison to the Palermo Protocol, the points that to our view give an added value to the European Convention are mainly the following:

- It stresses the principle of non-discrimination for the victims of trafficking;
- It emphasises on the need to assist and protect also potential victims of trafficking, particularly members of the most vulnerable groups, such as women, young people and children;
- It provides a non-punishment clause for victims of trafficking for offences committed in the framework of the trafficking process;
- It provides for the punishment of the "consumer's" behavior who consciously uses the services of a victim of trafficking;
- It provides for a specific reflexion and recovery period for the victims of trafficking during which no expulsion order can be executed;
- It provides for the issuance of a residence permit not only to victims who cooperate

with the authorities but to all victims if their stay is necessary owing to their personal situation;

- It provides for a more precise assistance to victims of trafficking (involving, where appropriate, NGOs committed to the protection of or assistance to victims), including **secure** accommodation, counseling, psychological help, access to healthcare, availability of an interpreter, practical access to law-enforcement authorities, etc.;
- It provides for the protection of the private life of victims of trafficking in particular by the media.

c. The EU Anti-trafficking Directive and Strategy on Combatting Human Trafficking

The Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on Preventing and Combating Trafficking in Human Beings and Protecting its Victims and replacing Council Framework Decision 2002/629/JHA, is the fundamental EU legislative act addressing human trafficking.[47]

The EU legal and policy framework on trafficking in human beings is victims-centred, gender-specific, child sensitive and anchored in human rights. The Directive establishes:

- minimum rules concerning the definition of criminal offences and sanctions;
- common provisions to strengthen victim's protection, assistance and support, as well as prevention; and
- key actors to fight against trafficking.

The main articles of the Directive focus on the non-application of penalties to victims (Article 8); the protection of and assistance to victims, the principles of *non-refoulement* and non-revictimisation, the establishment of appropriate mechanisms aimed at the early identification of victims and the role of national referral mechanisms (Articles 11); the protection of victims in criminal proceedings (Article 12); the concepts of remedy and redress (Article 17); prevention (Article 18); and the establishment of a monitoring mechanism (Article 19). It is important that the Directive requires that member States take the necessary measures to ensure that a person is provided with assistance and support **as soon as the competent authorities have a reasonable-grounds indication for believing that this person** might have been subjected to trafficking (Art.11 para 2).

Article 9 of the Directive requires that member States ensure that investigation and prosecution of trafficking offences is not dependent on reporting or accusation by a victim and that criminal proceedings continue even if the victim has withdrawn his or her statement.

[47] The Directive was adopted on 5 April 2011, and entered into force on 15 April 2011, OJ L 101, 15-4-2011, p. 1-11.

The Directive underlines the necessity for member States to take the necessary measures to ensure that persons, units or services responsible for investigating or prosecuting the offences are trained accordingly (Article 9 para 3) and stresses the need for measures to ensure that effective investigative tools, such as those which are used in organised crime or other serious crime cases are available to persons, units or services responsible for investigating or prosecuting the offences (Article 9 para 4).

The Directive includes also the non-prosecution or non-application of penalties to the victim clause (Art. 8) that requires from the competent national authorities not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2.

Together with the provisions on the protection of victims of trafficking (Art.10 and Art.14 for child victims and Art. 16 for UAMs), the Directive contains specific provisions for the protection of victims during investigation (Art.12). In particular, the Directive requires that victims of trafficking receive specific treatment aimed at preventing secondary victimisation by avoiding, among others, unnecessary repetition of interviews during investigation; and the unnecessary questioning concerning the victim's private life.

Specific provision is included for the protection of child victims during investigation (Art.15) where it requires that:

(a) interviews with the child victim take place without unjustified delay after the facts have been reported to the competent authorities;

(b) interviews with the child victim take place, where necessary, in premises designed or adapted for that purpose;

(c) interviews with the child victim are carried out, where necessary, by or through professionals trained for that purpose;

(d) the same persons, if possible and where appropriate, conduct all the interviews with the child victim;

(e) the number of interviews is as limited as possible and interviews are carried out only where strictly necessary for the purposes of criminal investigations and proceedings; and

(f) the child victim may be accompanied by a representative or, where appropriate, an adult of the child's choice, unless a reasoned decision has been made to the contrary in respect of that person.

It needs to be noticed that the EU Directive, as all other international texts on trafficking, states that when the crime involves a child, it shall be a punishable offence of trafficking even if none of the means described has been used (Art.2 para 5).

The EU trafficking Directive is actually in the process of being reviewed. On 19 December 2022, the Commission presented a proposal to strengthen the EU rules to prevent and combat trafficking in human beings. The development of this complex crime requires new actions at the EU level, as traffickers are benefitting from further opportunities to recruit, control, transport and exploit the victims, as well as move profits and reach out to users everywhere in the EU and beyond without crossing any border.[48]

The updated rules are expected to provide stronger tools for law enforcement and the judicial authorities to investigate and prosecute new forms of exploitation, as well as people who use the services provided by victims of trafficking, while knowing that these persons are trafficked. The Commission's proposal provides for mandatory sanctions against legal persons for trafficking offences committed for their own benefit. It also aims at improving procedures for the early identification and support of the victims in the Member States, which will foster the creation of a European Referral Mechanism. The revision of the Anti-trafficking Directive updates and further harmonises the EU legal framework, with the specific aim of facilitating cross-border cooperation in cross-border cases.

In particular, the revision includes:

- Adding forced marriage and illegal adoption among the forms of exploitation explicitly covered by the Anti-trafficking Directive;
- Referring explicitly to the means of information and communication technologies **in particular the misuse of internet and social media,** to commit or facilitate trafficking offences;
- Introducing mandatory sanctions against legal persons held accountable for trafficking offences, by excluding companies from entitlement to public benefits, aid or subsidies, or closing the establishments used for committing the offence;
- Requiring the formal establishment of National referral mechanisms, which deal with identification of victims and their referral to protection, assistance and support services;
- Criminalising the **knowing** use of services obtained from victims of trafficking (when the user knows that the person is a victim), in order to step up the prevention efforts related to reducing the demand that fosters trafficking in human beings and all forms of exploitation.
- Formalising an annual EU-wide data collection on trafficking indicators in human beings conducted and published by EUROSTAT.

[48] European Commission, Directorate-General for Migration and Home Affairs, Study on the economic, social and human costs of trafficking in human beings within the EU, Publications Office, 2020, *https://data.europa.eu/doi/10.2837/3428;* European Commission, Directorate-General for Migration and Home Affairs, J. Gregulska, C. Healy, E. Petreska, et al., Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms, Publications Office, 2020, *https://data.europa.eu/doi/10.2837/697914*

The EU Strategy on Combatting Trafficking in Human Beings (2021–2025)

On 14 April 2021, the Commission adopted a new EU Strategy on Combatting Trafficking in Human Beings (2021-2025). This initiative provides for a comprehensive response to the crime – from preventing the crime, and protecting and empowering victims to bringing traffickers to justice. As trafficking in human beings is often perpetuated by organised crime groups, the EU Strategy on Combatting Trafficking in Human Beings is closely linked to the EU Strategy to Tackle Organised Crime (2021-2025).

The Strategy on trafficking focuses on the implementation of the Directive and recommends that effective processes are also established to ensure that action in other EU policy areas reinforces the protection and assistance of trafficked persons as required by the Directive. In particular, the EU Strategy on Combatting Trafficking in human beings proposes concrete **actions to identify and stop trafficking early on**, to go after criminals by turning trafficking from a low-risk and high-return crime to high-risk and low-return crime, and to protect the victims and help them rebuild their lives.

The Strategy puts forward a comprehensive response to combatting trafficking in human beings, from prevention through protection of victims to prosecution and conviction of traffickers. It aims at:

- reducing demand for trafficking and all forms of exploitation;
- breaking the criminal model to halt victims' exploitation;
- protecting, supporting and empowering victims, especially women and children; and
- to deepen cooperation across the international dimension.

Every two years, the European Commission adopts a report on the progress made in the fight against human trafficking. The fourth progress report was presented on 19 December 2022 providing a factual overview on the progress made, and present patterns, challenges, and key issues in addressing trafficking in human beings in the EU.

Human trafficking remains a priority crime area in the EU Policy cycle for organised and serious international crime: EMPACT 2018-2021 with the objective "to fight against the trafficking in human beings in the EU for all forms of exploitation, including sexual and labour exploitation as well as all forms of child trafficking".

EMPACT is a structured multidisciplinary co-operation platform of EU countries, EU institutions and agencies, as well as third countries, international organisations and other (public and private) partners in view to address organised and serious international crime, including trafficking in human beings.

Indicators to Monitor the Gender-Specific Implementation of the Anti-Trafficking Directive

The European Institute for Gender Equality (EIGE) has developed a list of indicative indicators[49] to support member States in ensuring the implementation of the provisions of the Anti-Trafficking Directive, and the Victims' Rights Directive, from a victim-focused, gender and child-specific approach. Among these indicators are the following:

i. Policy framework

- National action plan or strategy on combating violence against women includes human trafficking (Yes/No);
- Percentage of national budget spending allocated to actions related to human trafficking in the last 12 months;
- Number of victims of human trafficking, by age, sex, country of origin, EU or non-EU national, and unaccompanied minors referred to specialised support services in the last 12 months.

ii. Victim identification

- Number of victims of human trafficking per 100 000 population, by sex, age and form of exploitation in the last 12 months;
- Number and proportion of female deaths that occurred due to human trafficking in the last 12 months;
- Number of hours of specialised training on human trafficking conducted in the last 12 months, indicating geographical coverage.

iii. Assistance and support

- Number of shelters specialised in trafficked women, that accept accompanying children in the last 12 months;
- Number of victims trafficked receiving assistance and support in terms of safe accommodation, social and/or medical care, psychological support services, legal aid services, material assistance in the last 12 months;
- Number of identified victims of trafficking that are granted international protection in the last 12 months.

iv. Access to Justice

- Number of cases of human trafficking by type of exploitation being prosecuted in the last 12 months;
- Number of perpetrators of human trafficking prosecuted and convicted by age, sex and relationship with the victim in the last 12 months;
- Number of victims of human trafficking granted compensation in the last 12 months..

[49] European Institute for Gender Equality – EIGE (2018), Gender-specific measures in Anti-trafficking actions: Report, Luxembourg: Publications Office of the European Union, p. 65.

d. The EU Pact on Migration and Asylum

The New Pact on Migration and Asylum is a set of regulations and policies aiming at creating a fairer, efficient, and more sustainable migration and asylum process for the European Union. The Pact, proposed in September 2020, was designed to manage and normalise migration for the long term, providing certainty, clarity and decent conditions for people arriving in the EU. It also seeks to establish a common approach to migration and asylum that is based on solidarity, responsibility, and respect for human rights.

On September 2021 there was a renewed EU Action Plan against migrant smuggling 2021-2025. Recently, on June 2023 there was a Council's agreement on Asylum and Migration Management Regulation and Asylum Procedures Regulation. EU countries have a shared responsibility to welcome asylum seekers in a dignified manner, ensuring that they are treated fairly and their case is examined following uniform standards. This ensures that, no matter where an applicant applies, the outcome will be similar. Procedures must be fair, effective throughout the EU, and impervious to abuse. However, asylum flows are not constant, nor are they evenly distributed across the EU. In this regard, since 1999, the EU has established a **Common European Asylum System (CEAS)**.[50] In 2020, the European Commission proposed to reform the system through a comprehensive approach to migration and asylum policy based on three main pillars:

- efficient asylum and return procedures;
- solidarity and fair share of responsibility; and
- strengthened partnerships with third countries.

The Common European Asylum System sets out common standards and co-operation to ensure that asylum seekers are treated equally in an open and fair system – wherever they apply. The system is governed by five legislative instruments and one agency:

- The **Asylum Procedures Directive**[51] aims at setting out the conditions for fair, quick and quality asylum decisions. Asylum seekers with special needs receive the necessary support to explain their claim and in particular protection of unaccompanied minors and victims of torture is ensured.
- The **Reception Conditions Directive**[52] ensures that common standards for reception conditions (such as housing, food and clothing and access to health care, education or employment under certain conditions) are provided for asylum seekers across the EU to ensure a dignified standard of living in accordance with the Charter of fundamental rights.

---

50 For the Common European Asylum System see: *https://home-affairs.ec.europa.eu/policies/migration-and-asylum/common-european-asylum-system_en*

51 Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, 29-6-2013, p. 60-95.

52 Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ L 180, 29-6-2013, p.96-116.

- The **Qualification Directive**[53] clarifies the grounds for granting international protection and therefore making asylum decisions more robust. It also provides access to rights and integration measures for beneficiaries of international protection.
- The **Dublin Regulation**[54] enhances the protection of asylum seekers during the process of establishing the State responsible for examining the asylum application, and clarifies the rules governing the relations between states. It creates a system to detect early problems in national asylum or reception systems and address their root causes before they develop into fully fledged crises.
- The **EURODAC Regulation**[55] supports the determination of the Member State responsible under the Dublin Regulation and allows law enforcement authorities access to the EU database of the fingerprints of asylum seekers under strictly limited circumstances in order to prevent, detect or investigate the most serious crimes, such as murder, and terrorism.
- The **European Union Agency for Asylum**[56] contributes to improving the functioning and implementation of the Common European Asylum System.[57] It provides operational and technical assistance to Member States in the assessment of applications for international protection across Europe.[58]

---

53 Directive 2011/95/EU of the European Parliament and of the Council 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 (recast), OJ L 337, 20-12-2011, p.9-26: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095*

54 The Dublin Regulation (Regulation No. 604/2013; also the Dublin III Regulation; previously the Dublin II Regulation and Dublin Convention) is a European Union law that determines which EU Member State is responsible for the examination of an application for asylum, submitted by persons seeking international protection under the Geneva Convention and the EU Qualification Directive, within the European Union.

55 The EURODAC database was created in accordance with the Dublin Treaty, by Regulation (EC) No 2725/2000 establishing 'EURODAC' (and concluded by Regulation (EC) No 407/2002) on the comparison of fingerprints for the effective implementation of the Dublin Convention, in order to collect fingerprints of asylum seekers and illegal immigrants in the European Union, with a view to identifying asylum seekers more easily, in the asylum examination procedure. However, these legal texts have been revised and supplemented by Regulation (EU) No 603/2013 establishing 'EURODAC' for fingerprint comparison, allowing data to be compared in addition for law enforcement purposes. The Regulation entered into force on 20 July 2015. For the latest Council documents on Asylum and Migration, see: Tracking the Pact: Latest Council documents on Asylum and Migration Management Regulation and EURODAC: *https://www.statewatch.org/news/2023/may/tracking-the-pact-latest-council-documents-on-asylum-and-migration-management-regulation-and-eurodac/*

56 Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010, OJ L 468, 30-12-2021, p.1-54.

57 See, European Union Agency for Asylum, Asylum Report 2023: *https://euaa.europa.eu/asylum-knowledge/asylum-report*

58 To manage the technical aspects of large-scale information systems, such as SIS II, VIS and EURODAC, the European Agency for the Operational Management of Large Information Systems (eu-LISA) has been set up. The Agency's main task is to keep IT systems under its responsibility 24 hours a day, 7 days a week, ensuring continuous data exchange between national authorities. The Agency is also responsible for adopting and implementing security measures, organising the training of IT experts on the systems they manage, issuing statistics and monitoring research activities. The Agency must maintain full separation of data in the three systems and ensure that data security and data protection requirements are fully met.

It is the responsibility of the State authorities to identify asylum seekers and offer them protection from *non-refoulement* and deportation. In this respect, among a group of smuggled migrants the Border Police should be well trained to be able to identify asylum seekers, as well as victims of trafficking, as it is analysed below (see section C.c.ii).

e. The EU Directive on establishing minimum standards on the rights, support and protection of victims of crime

Another Directive which needs to be underlined is the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 on establishing minimum standards on the rights, support and protection of victims of crime (replacing Council Framework Decision 2001/220/JHA).[59] The Directive **applies only in relation to criminal offences committed in the Union and to criminal proceedings that take place in the Union**. It confers rights on victims of extra-territorial offences only in relation to criminal proceedings that take place in the Union.

The Victims' Rights Directive establishes minimum standards on the rights, support and protection of victims of crime and ensures that persons who have fallen victim to crime are recognised and treated with respect. They must also receive proper protection, support and access to justice. The Directive considerably strengthens the rights of victims and their family members to information, support and protection. It further strengthens the victims' procedural rights in criminal proceedings. The Directive also requires that EU countries ensure appropriate training on victims' needs for those officials who are likely to come into contact with victims.

[59] The Directive is in view to be amended. See, Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, Brussels, 12-7-2023, COM(2023) 424 final: *https://commission.europa.eu/system/files/2023-07/COM_2023_424_1_EN_ACT_part1_v7.pdf*

C. International and regional policies with standards and requirements in the field of Home Affairs

The objective of this section is to present the international and regional standards and requirements --especially those of the EU-- that all State authorities should implement as a solid basis on gender mainstreaming in the thematic area of Home Affairs, related to the Police in the fight against organised crime with focus on the police reform; and the capacity-building for the Border Police to secure national safety against transnational crime, especially human trafficking and migrant smuggling.

a. General International and Regional policies on gender mainstreaming

Under this section, in the first paragraph there is presentation and analysis of the international and regional standards, mainly the United Nations System-wide Policy on Gender Equality and the Empowerment of Women; the EU Gender Equality Strategy 2020-2025 and EU Action Plan III; as well as the European Minimum Standards for support services on violence against women; and then, in the next two paragraphs, follow the policies that should apply for a gender sensitive Police reform and those related to capacity building for the Border Police in the fight against transnational organised crime, especially in human trafficking and migrant smuggling.

i. The United Nations System-wide Policy on Gender Equality and the Empowerment of Women

According to UN Women [60] gender mainstreaming as a key strategy for achieving gender equality and the empowerment of women is related to women-specific actions. It should not be seen as replacing them, but rather as supplementing and enhancing their effectiveness.

An important point, which should be raised in all discussions of gender mainstreaming, is that the strategy of gender mainstreaming does not in any way preclude the need for specific targeted interventions to address women's empowerment and gender equality. The Beijing Platform for Action calls for a dual strategy – gender mainstreaming complemented with inputs designed to address specific gaps or problems faced in the promotion of gender equality.[61]

The integrated approach in gender mainstreaming aims to make all existing and planned policies, programmes, activities, outcomes, and results gender-responsive by

[60] United Nations system-wide policy on gender equality and the empowerment of women: focusing on results and impact, 15-12-2006, CEB/2006/2: *https://www.un.org/womenwatch/ianwge/gm/UN_system_wide_P_S_CEB_Statement_2006.pdf*

[61] United Nations (2002), Gender Mainstreaming. An Overview, Former Office of the Special Adviser on Gender Issues and Advancement of Women; UN Women, Strategic Plan 2022-2025. Building a Gender-Equal World: *https://www.unwomen.org/en/un-women-strategic-plan-2022-2025*

systematically and effectively identifying and taking explicit action to address relevant gender-equality dimensions as an essential part of all development policy and practice, with the overall explicit goal of promoting gender equality and achieving positive gender equality results.[62] This integrated approach includes four approaches:

1) Address gender equality in all sectors and policy areas: this does not imply that the attention should be the same across all areas, but that gender equality should be addressed in terms of the issues to be considered or the type and level of attention required. Gender mainstreaming is a process of cumulative change (closing gaps). Expecting positive results immediately is not always realistic, especially when addressing structural and systemic causes of gender-based inequality, discrimination, and exclusion. It is important to start the process of change by: a) Identifying priority areas for attention within the sector or policy area; and b) Identifying and effectively utilising strategic entry-points with the potential for starting and sustaining the change process.

2) Institutionalise attention to gender equality within organisations when using the integrated approach to gender mainstreaming: Institutionalisation is critical for gender mainstreaming in organisations. Measures must therefore be taken to ensure that gender mainstreaming becomes a regular, sustained part of established processes and procedures within organisations. Systematic attention should be given to gender equality considerations within existing internal routine procedures and processes, with the support of clear directives, guidance, and gender-responsive methodologies and tools. The accountability framework states that there should be 'visible' attention to gender equality and women's empowerment, including in strategic programme documents. Simply including mention of women and girls among a list of vulnerable groups in these documents is not seen as constituting 'visible' mainstreaming.[63]

3) Give attention to gender equality from the initial stages, using gender analysis: Establishing the relevance and importance of gender equality early on is critical for: a) identifying the type and level of attention required throughout all phases of development interventions; and b) ensuring an adequate focus on gender equality goals and results. Systematic use of gender analysis in initial phases of design and planning processes is important and has been emphasised by both the United Nations 1996 Beijing Declaration and Platform for Action and the ECOSOC Agreed Conclusions.

4) Focus on gender inequality results through transformative change in policies, processes and outcomes: A gender transformative approach seeks to identify and address the underlying causes of gender-based inequalities, discrimination, constraints and exclusion such as gender norms, stereotypes, sociocultural attitudes and behavior, and power relations at different levels that create, reinforce, and sustain gender inequalities.

---

[62] *UN Women (2022)*, Handbook on gender mainstreaming for gender equality results, p.20: *https://www.unwomen.org/en/digital-library/publications/2022/02/handbook-on-gender-mainstreaming-for-gender-equality-results*

[63] See, UNSDG (2018), UNCT-SWAP Gender Equality Scorecard. Performance Indicators for Gender Equality and the Empowerment of women for United Nations Country Teams, 2018 Framework and Technical Guidance, New York.

The Platform for Action calls on Member States to use gender mainstreaming as a means to achieve gender equality through various transformative measures. Member States are asked to review and revise legislation; review and reformulate policies; analyse programmes and projects and adjust or restructure as necessary; and to conduct reviews of services and strengthen and reorient them to eliminate gender biases.

5) *Broaden and strengthen women's equal participation in decision-making and enhance their leadership roles:* Even where women play critical roles in different sectors and policy areas, they are not always able to participate in decision-making as they are largely underrepresented and under-informed. There can be many obstacles to women's participation, including unequal access to necessary information, lack of knowledge about decision-making procedures, and negative attitudes towards women's leadership. Obstacles to women's presence on these bodies, including stereotypes and other negative and exclusionary attitudes and practices, must be identified and addressed. Methodologies and tools promoting participation should be reviewed to ensure that they are gender-responsive and not simply ensuring participation in implementation activities.

ii. The EU Gender Equality Strategy 2020-2025 and EU Gender Action Plan III

The EU Gender Equality Strategy 2020-2025[64] underlines that the European Union is a global leader in gender equality: 14 of the top 20 countries worldwide on gender equality are EU Member States.[65] Thanks to robust equal treatment legislation and jurisprudence,[66] efforts to mainstream the gender perspective into different policy areas and laws to address particular inequalities, the EU has made significant progress in gender equality in the last decades.[67]

The Strategy contains **seven key strategic objectives:**

- ending gender-based violence (and protecting and supporting victims);
- challenging gender stereotypes;
- closing gender gaps in the labour market;
- achieving equal participation across different sectors of the economy;

---

[64] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Union of Equality: Gender Equality Strategy 2020-2025, 5-3-2020, COM(2020) 152 final: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0152&qid=1691239921321*

[65] As regards the implementation of the Sustainable Development Goal 5 on gender equality, according to the 2019 EM2030 SDG Gender Index: *https://data.em2030.org/em2030-sdg-gender-index/* .

[66] The EU has adopted six Directives covering equality between women and men in the workplace, in self-employment, in access to goods and services, in social security, in pregnancy and maternity and on family-related leave and flexible working arrangements for parents and carers. Together they have progressively set a legal standard across Europe ensuring a broad protection from discrimination. Numerous cases brought to the European Court of Justice have further strengthened the principle of equality and delivered justice for victims of discrimination.

[67] Although the Gender Equality index for 2022 scored EU and the Member States with 68.6%: *https://eige.europa.eu/gender-equality-index/2022*

- addressing the gender pay and pension gaps;
- closing the gender care gap and
- achieving gender balance in decision-making and in politics.

The Strategy presents policy objectives and actions to make significant progress by 2025 **towards a gender-equal Europe**. The goal is a Union where women and men, girls and boys, in all their diversity, are **free** to pursue their chosen path in life, have equal opportunities to **thrive**, and can equally participate in and **lead** our European society.

The Strategy pursues a dual approach of gender **mainstreaming** combined with targeted actions, and **intersectionality** is a horizontal principle for its implementation. While the Strategy focuses on actions within the EU, it is coherent with the EU's external policy on gender equality and women's empowerment.

On 8 March 2023, the European Commission launched a campaign to challenge gender stereotypes.[68] This EU-wide campaign tackles gender stereotypes affecting both men and women in different spheres of life, including career choices, sharing care responsibilities and decision-making. It is a concrete deliverable of the Gender Equality Strategy 2020-2025.

Drawing from the **EU gender equality Strategy 2020-2025**, which calls for a gender-equal Europe, the EU gender action plan for 2021-2025 (GAP III) calls for a gender-equal world and is complementary to the LGBTIQ+ equality strategy for 2020-2025. It will scale up the EU contribution to reach SDG 5[69] in all EU internal and external policy areas and across the **2030 Agenda**.

The EU Presidency conclusions on the Gender Action Plan 2021-2025 (GAP III),[70] had expressed deep concern and regret that gender equality, the empowerment of women and girls and their full enjoyment of all human rights, are questioned and pushed back against amid shrinking civil, democratic and civic space globally. According to the conclusions, gender equality is key to the success of efforts geared towards poverty reduction, sustainable growth, peace, security, human rights, democracy, the rule of law and the building of inclusive and resilient institutions and societies.

To increase efforts for the collection of gender, age, disability and sex-disaggregated data and to deliver on their thematic priorities in a coordinated, measurable and transparent way member States are strongly encouraged to use the GAP III revised moni-

---

[68] *https://end-gender-stereotypes.campaign.europa.eu/index_en*

[69] *https://sdgs.un.org/goals/goal5*

[70] GAP III complements and supports the implementation of the following Commission documents: the EU Gender Equality Strategy (2020-2025), the LGBTIQ+ Equality Strategy (2020-2025), the EU Anti-racism Action Plan 2020-2025, the EU Roma Strategic Framework for equality, inclusion and participation as well as the EEAS document on the EU Action Plan on Women, Peace and Security (WPS).
See, Council of the European Union, Presidency conclusions on the Gender Action Plan 2021-2025 (GAP III), 13947/20 of 16-12-2020: *https://data.consilium.europa.eu/doc/document/ST-13947-2020-INIT/en/pdf*

toring and reporting framework, which is anchored in the Sustainable Development Goals (SDG) indicator framework.[71]

- In the EU Gender Action Plan III,[72] the European Commission underlines that in order to address the root causes of gender inequality and contribute to counter the multiplicity of stereotypes and biases which are still prevailing in many contexts, three principles should apply:
- Take a gender-transformative approach;
- Address intersectionality of gender with other forms of discrimination,[73] with focus given on the most disadvantaged women and girls, for instance indigenous women and girls belonging to racial/ethnic/religious minorities, refugee, migrant, economically and socially deprived, and those living in rural areas, as they face multiple discrimination, including elderly women and women and girls with disabilities (protected by the UN Convention on the Rights of Persons with Disabilities), as particularly disadvantaged.[74] Also, advancing the rights of LGBTIQ+ persons is the focus of the EU LGBTIQ+ equality strategy, to be used in conjunction with GAP III;
- Follow an approach based on human rights, which places the principles of non-discrimination and countering inequalities at the centre of all action.

The GAP III provides a policy framework for the EU focusing on five pillars:

7. Making EU engagement on gender equality more effective as a cross-cutting priority of EU external action in its policy and programming work. This requires further gender mainstreaming in all external policies and sectors and a gender-transformative, rights-based and intersectional approach.

8. Promoting, together with EU Member States, strategic EU engagement at multilateral, regional and country level, in close cooperation with partner governments, civil society, the private sector and other key stakeholders with greater coordination, cooperation and transparency;

---

[71] The indicator set consists of at most 6 indicators per goal in order to attach equal importance to all goals and to ensure a balanced measurement of progress across the social, economic, environmental and institutional dimensions of sustainability. For the EU SDG indicator set for 2022 see: *https://ec.europa.eu/eurostat/documents/276524/14173765/EU-SDG-indicator-set-2022.pdf*

[72] European Commission, EU Gender Action Plan III. An Ambitious Agenda for Gender Equality and Women's Empowerment In EU External Action, 25.11.2020, JOIN(2020) 17 final: *https://international-partnerships.ec.europa.eu/system/files/2021-01/join-2020-17-final_en.pdf*

[73] According to Article 10 TFEU, when 'defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'.

[74] The EU Programme 'Implementing Norms, Changing Minds' Phase II (1 February 2020 to 31 July 2023) implemented by UN Women, aimed at reducing gender-based discrimination and violence against women and girls in the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo, Montenegro, the Republic of North Macedonia and Serbia) and Türkiye with a particular focus on the most disadvantaged groups of women. *https://www.impactpool.org/jobs/873417*

9. Focusing on key areas of engagement: such as ensuring freedom from all forms of gender-based violence; promoting sexual and reproductive health and rights; strengthening economic and social rights and the empowerment of girls and women; and advancing equal participation and leadership;

10. Leading by example, by establishing gender-responsive and gender-balanced leadership at top EU political and management levels; and

11. Reporting and communicating on results, putting in place a quantitative, qualitative, and inclusive monitoring system to increase public accountability, ensure transparency and access to information.

The GAP III underlines that the EU should ensure that the human rights of migrant women and girls are fully realised through **gender-responsive migration policies**, programmes and laws, and gender-responsive migration governance at global, regional and national levels reinforced. Also, **EU humanitarian aid** should continue to be both gender and age-sensitive, and aim to be gender-age-responsive,taking into account specific needs, vulnerabilities, and the capacities of all.

iii. The European Minimum Standards for support services on violence against women

Already in 2008, the Council of Europe had developed standards for support services.[75] The standards had been developed by **service type** in three different sections:

- Core minimum standards applicable to all types of services, for all forms of violence against women
- Service specific standards that apply to: helplines; advice and advocacy; counselling; outreach; intervention projects; shelters/refuges; rape crisis centres; sexual assault referral centres; law enforcement and perpetrator programmes.

In each section the proposed standards are often accompanied by the details of "aspirational standards". These are standards which are ideal, and for which there was much support amongst the literature review or respondents, but have been deemed too high to be achievable across Europe. There may be member states who are able to satisfy minimum standards in some areas, and these aspirational standards can serve as a guide to international obligations in combating violence against women.

Some of the main principles related to the application of basic standards are:

1. Respect and dignity

- The service user has a right to be treated with respect and dignity at all times (*Respect for dignity, EU Charter Art.1, UDHR Art.1 & Millennium Dec para 6*);

[75] Council of Europe (2008), Combating violence against women: minimum standards for support services.

- Confidentiality must be guaranteed. Any written or spoken communication or other information containing anything that can identify the service user should only be passed on to others with the service user's *informed consent*. The only exceptions are:
  - to protect the service user, when there is reason to believe that her life, health or freedom is at risk;
  - to protect the safety of others, when there is reason to believe that they may be at risk. Confidentiality policies should be explained clearly to the service user before any services are provided.

2. Safety and security

This refers to the safety of the service user, any children and vulnerable persons related to their case, and staff. Safety here is not just immediate physical protection, but psycho-social safety, including social inclusion. Crisis services should be available and accessible round the clock, i.e. 24 hours a day, 365 days a year.

Services should be holistic and user-led. The service provider should be competent to:

- provide what the service user needs or is requesting;
- where this is not possible, refer the service user to relevant services.

3. Accessibility

Services should be available to all women (prohibition of discrimination: (ECHR Art. 14 & Proto 12, Art.1, CEDAW, UDHR Art. 7, & EU Charter Art.21; respect for the rights of persons with disabilities (EU Charter Art. 26); respect for cultural, religious and linguistic diversity (EU Charter Art.22).

This may require outreach, adaptation of service provision to service user's needs and the development of specialist services (i.e. for migrant, ethnic minority, or disabled women).

- Interpreters should be trained to deal with violence and sign confidentiality agreements;
- Service Providers should ensure that their buildings and facilities are accessible for women with physical, auditory and learning disabilities;
- Outreach should be undertaken with underserved/ hidden communities (migrants, women with disabilities, lesbians, women in the sex industry)
- Services should also have anti-discrimination and equal opportunity policies with respect to staff and service users.
- Services should be moving towards widening access;
- Links with services that provide specialist services to minority communities – building joint training and satellite services.

4. Children

- Service providers should be mindful of the needs of children of service users and their specific responsibilities with respect to girls and young women (Right of the child to be protected: CRC Art. 19, Social Charter Art. 14, Revised Social Charter Art.17, EU Charter Art.24).
- Services should have a child protection policy and staff should be trained on it..

5. Law enforcement

Especially for the Police:

- Victims should be seen as soon as possible by a specially trained officer;
- There should be one specially trained officer in domestic violence, and one in sexual violence per police force area;
- Specialist Police units should be created;
- Police should refer all victims to relevant support organisations;
- Police record systems should enable identification of cases of violence against women, and permit monitoring of interventions, repeat victimisation and case outcomes;
- Police should have protocols on information sharing with other agencies – covering both anonymised aggregate data that identified by case;
- All victims should be provided with:
  - information on the status of their case;
  - legal aid and advice services
  - access to civil remedies and protective measures;
  - information on bail conditions, when perpetrator is to be released;
  - information on available support;
  - how to obtain compensation.
- Mandatory training of all law-enforcement professionals should include:
  - a gender analysis of violence against women;
  - understanding of victimisation and the various responses to it;
  - best evidential practice (in evidence collection and court procedure);
  - a rights-based approach;
  - non-discrimination.

b. Police Reform

i. Reasons for a gender equal Police

First of all, it needs to be noted that despite the fact that gender equality is an international legal obligation and supports development, a gender perspective is also important in policing for the main reasons:

- A gender-equal society is a safer society that respects the rule of law;
- A gender perspective makes policing more effective; and
- A diverse, representative police service is more accessible and effective;
- Gender units within the police can support attitudinal change in the general public and encourage better reporting of gender-based crimes.

Increasing women's representation in police services is an important element of gender-sensitive police reform.[76]

Globally, we are witnessing an encouraging momentum toward creating a more balanced public safety service powered partially by a growing appreciation of the valuable professional qualities that women often bring to law enforcement. However, despite women being in law enforcement for over a hundred years, they still face discrimination and harassment. Policewomen often encounter a 'glass ceiling', meaning they can advance in their carriers as far as the imposed ceiling will allow. Some of them are even being harassed by their fellow officers. All of these at the loss of the citizens the police should serve. Women are found to respond more effectively to incidents of violence against women, which make up approximately half of the calls to police in some countries. Also, research indicates that women are less likely to use excessive force or pull their weapon. In South East Europe, women represent between 3,5 and 7,5% of uniformed police officers with only a handful in management positions.

However, more women in the police does not automatically guarantee a more gender-sensitive police service, mainly because incentive systems and training may still reinforce operating practices that discriminate against women, particularly if women in the police are present in just token numbers. In the region, policewomen feel that they were not treated equally to their men colleagues and do not have equal career opportunities.

[76] United Nations (2002), Gender Mainstreaming. An Overview, Former Office of the Special Adviser on Gender Issues and Advancement of Women; United Nations (2001), Gender Mainstreaming: Concepts and Definitions, New York: Prepared by OSAGI; UN Women (2009), Gender-Sensitive Police Reform in Post-Conflict Societies: *https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2012/10/WPSsourcebook-04B-GenderSensitivePoliceReform-en.pdf*

For this reason, efforts to recruit women must 'aim high' in the sense of seeking to attract large numbers of women to improve gender parity. Recruitment drives targeting women must avoid gendered divisions of labour and power that relegate women to the lower ranks and the least-valued tasks.[77]

The main question that should be posed is: What a police service that advances gender equality and integrates a gender perspective look like?[78]

As they are often the first interface that people have with the criminal justice system, police have an opportunity to ensure a positive experience: that all individuals – men, women, girls and boys – are treated respectfully and crimes against them are dealt with seriously. This can play an important role in contributing to a society where discrimination and GBV are not tolerated and where equality is possible.

Training to ensure understanding of non-discrimination policies and codes of conduct should be a routine part of in-service training.

Policing that advances gender equality should serve the needs and interests of all groups that have been historically marginalised, such as women, girls and LGBTIQ+ people. Police should be subject to strong internal controls and independent oversight to maintain professionalism and high standards.[79]

Diversity of staffing should be supported by recruitment, training, retention and advancement policies that recognise merit and the required skills, rather than outdated ideas of what policing involves. This may include the use of affirmative action – where groups who have previously been discriminated against are specifically targeted for employment, retention or promotion. Flexible working arrangements, parental leave and childcare support enable equality of opportunity. Police uniforms, equipment and facilities (such as accommodation and lavatories) are designed with gender diversity in mind. Recruitment drives explicitly target women and LGBTIQ+ people, and recruitment and promotion panels are similarly inclusive. Women and LGBTIQ+ people are consulted on policies, programmes and facilities to promote inclusion.

---

[77] A. Ward & T. Prenzler (2016), "Good practice case studies in the advancement of women in policing", Police Science and Management, 18(4), p. 243.

[78] DCAF, OSCE/ODIHR (Lisa Denney), Policing and Gender, UN Women Gender and Security Toolkit, 2019: *https://www.dcaf.ch/sites/default/files/publications/documents/GSToolkit_Tool-2%20EN%20FINAL_0.pdf.* See also, UN Gender-Sensitive Police Reform in Post-Conflict Societies, 2nd edition 2009: *https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2012/10/WPSsourcebook-04B-GenderSensitivePoliceReform-en.pdf*

[79] Women Police Officers' Network in South East Europe (2012), Guidelines for Gender-Sensitive Policing, Belgrade: South Eastern and Eastern European Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) and UNDP, pp. 10-20; DCAF (2015), Training Manual on Police Integrity, Geneva; DCAF (2015)"The police", SSR Backgrounder Series, Geneva: DCAF.

ii. Key elements for gender-sensitive institutional change

How can policing advance gender equality and integrate a gender perspective?

A police service that contributes to gender equality is not one that only recruits more women or sets up services to improve responsiveness to GBV. It is a police service that reconfigures its relationship with the public to a service orientation, sheds its hyper-masculinised culture and embraces diversity and inclusion across gender, race, ethnicity and other identifications. It is a police service that becomes the custodian of safety for all within its diverse community, starting with the most vulnerable and marginalised.[80]

Among the key elements for gender-sensitive institutional change in the police are:

- putting in place new operating practices, incentive systems and performance measures to motivate and reward new forms of policing that respond to women's needs;
- Recruiting women and implementing measures to retain and promote them; and
- Engaging women in accountability systems.

The following are some of the conditions that must be in place to improve policing and contribute to gender equality:

a) Engendering research, planning and monitoring and review

Achieving a more representative police service requires planning based upon a thorough understanding of current policies and procedures, as well as the factors limiting the recruitment and retention of a diverse workforce.[81]

Research to map current policies, protocols and procedures is a useful first step to understand where a police service is starting from. This involves reviewing existing policies and procedures to check that they are non-discriminatory and gender inclusive, and identifying gaps or areas for improvement at strategic and operational levels. It may take the form of a gender self-assessment or gender audit. Consultations with female staff can highlight how existing policies and procedures are experienced in practice. In Albania, Bulgaria and Moldova, for instance, police collect sex-disaggregated data on individuals' reasons for leaving the service, which inform planning and retention policies. In Albania, reports are submitted to the Chief of Police following each recruitment campaign, noting its shortcomings so that these are improved upon.

---

[80] Tara Denham (2008)"Police Reform and Gender", Gender and Security -Toolkit 2, Sector Reform Toolkit, Geneva: DCAF, OSCE/ODIHR, UN WOMEN.

[81] UN Women (2009), Gender-Sensitive Police Reform in Post-Conflict Societies: *https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2012/10/WPSsourcebook-04B-Gender-SensitivePoliceReform-en.pdf*; L. Denney and C. Valters (2015), "Evidence synthesis: Security sector reform and organisational capacity building", London: Overseas Development Institute and Department for International Development.

b) Guidelines for recruitment for a diverse police service

Achieving a diverse and representative police service that draws on the highest quality of candidates possible requires active measures to recruit women and LGBTIQ+ people, as well as other underrepresented groups. Women and LGBTIQ+ people from minority backgrounds or with disabilities or asylum-seekers, may experience double discrimination and therefore require additional, support in recruitment processes. There are particular opportunities for change in recruitment processes in the wake of conflict or governance transition, when large-scale reform of the police takes place and gender roles may be in flux.[82]

In addition to integrating a gender lens across all areas of policing, police services must have specific, clear and comprehensive policies and procedures to guide their response to GBV. These should cover:

- Reception of complaints on GBV (at police stations and by telephone) in a manner that ensures confidentiality and respect, and builds confidence of other victims and survivors[83] to report;
- Response to complaints of GBV so to avoid secondary victimisation, including by mandating arrests of perpetrators upon reasonable suspicion and provisory measures, instead of encouraging victims to return to a violent partner;
- Investigating complaints of GBV;
- Providing referrals to other services (e.g. legal advice, healthcare, counselling);
- Internal controls (e.g. reviewing handling of GBV cases);
- Managing and analysing information and statistics with sex disaggregation.

c) Gender units and gender focal points

Gender units and/or gender focal points can assist in integrating a gender perspective across the police service and facilitate cross-government working. This can help to ensure that the latest gender knowledge is brought to bear on policing and that the police participate in and are connected with wider gender initiatives across government.

---

[82] National Center for Women and Policing (2000), Recruiting and Retaining Women: A Self-Assessment Guide for Law Enforcement, Los Angeles, CA: National Center for Women and Policing, p. 22; N. Sreekumaran Nair, et al. (2017), "Gender-responsive policing initiatives designed to enhance confidence, satisfaction in policing services and reduce risk of violence against women in low- and middle-income countries: A systematic review", London: EPPI Centre, University College London.

[83] The term 'victim' typically refers to someone who has recently experienced a sexual assault; additionally, this word is commonly used when discussing a crime or when referencing the criminal justice system. The term 'survivor' often refers to an individual who is going or has gone through the recovery process; additionally, this word is used when discussing the short- and long-term effects of sexual violence. See, National Sexual Assault Kit Initiative Training and Technical Assistance (SAKI TTA), "Victim or Survivor: Terminology from Investigation Through Prosecution", Bureau of Justice Assistance, U.S. Department of Justice's Office of Justice: *https://sakitta.org/toolkit/docs/Victim-or-Survivor-Terminology-from-Investigation-Through-Prosecution.pdf*

Gender units and gender focal points in police services are usually responsible for some or all of the following:

- undertaking or commissioning gender research, assessments and audits;
- supporting the development and implementation of gender-related policies, procedures, programmes and guidelines;
- designing and monitoring gender indicators;
- reporting on progress;
- gender-related training and education.

In addition, gender units and focal points may work with internal control and disciplinary mechanisms to support handling of reports of gender discrimination or abuse within the police.[84]

Gender units and focal points can also play a strategic role in co-ordinating with cross-government agencies on gender-related issues. This includes, for instance, supporting the development, implementation and reporting of policing aspects of national action plans on Women, Peace and Security.

Given this breadth of responsibilities, it is important that gender units and focal points are well resourced and positioned at a sufficiently senior level within the police to ensure they have the capacity and authority to fulfil their mandate.

d) Training and professional development

Training of police may be entry level, specialised or in service, and is a common strategy to build competencies (knowledge, skills and attitudes) and change behaviours. Whether delivered at training centres, academies or in the workplace, training can play a role in supporting organisational change if material is appropriately designed and delivered. The sheer amount of training conducted as part of police reform has resulted in a range of lessons about what works in supporting learning and behaviour change. Training can be an easy entry point, but to be most effective it should be used not simply to deliver skills and knowledge but also to build space for work on longer-term change processes.

A gender perspective can be mainstreamed across all training curricula. This means that training on investigations, for instance, should include how techniques might have to be adapted to the needs of women and people of diverse sexual orientations and gender identities and expressions;[85] and how to investigate cases involving GBV.

[84] C. Criado Perez (2019), Invisible Women: Exposing Data Bias in a World Designed for Men, London: Chatto and Windus.

[85] UNDP (2021), A Gender-Responsive Communication Guide. Rethinking Communication, Turkey, February 2021; European Institute for Gender Equality – EIGE (2019), Toolkit on Gender-sensitive Communication.

Additionally, specific courses aimed at improving awareness and understanding of gender-related concepts and GBV may include:

- gender and diversity, including discussions of masculinity;
- organisational policies and codes of conduct on discrimination and sexual and gender-related harassment, bullying and abuse, legal and ethical obligations and disciplinary consequences for non-compliance;
- respect for and promotion of human rights of women, boys, girls and LGBTIQ+ people;
- protocols and practices on: domestic violence; rape and other forms of sexual assault; stalking; human trafficking and slavery; honour crimes; hate crimes, including homophobic and transphobic abuse and violence; child sexual abuse; prostitution (including whether it is illegal or regulated).

e) Cooperation

The Women Police Officers Network (WPON) was established with the support of SEESAC in November 2010 under the umbrella of the Southeast Europe Police Chiefs Association by high-ranking women representatives of police services in Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Moldova, Montenegro, Republic of North Macedonia, and Serbia. WPON's mission was to place gender at the top of the agenda of the police reform in the region. It served as a platform for knowledge and experience change across police services in the region on the status, needs and priorities of policewomen in South East Europe, an advocacy mechanism for promoting gender equality in the policing and as an advisory mechanism on the gender- efficient implementation of international agreements.

Its' success in raising the awareness on the position of women in police services and the development and implementation of sustainable solutions for the improvement of recruitment and retention of women personnel became a uniquely powerful practical example of the implementation of the United Nations Security Council Resolution 1325 on Women, Peace and Security.

f) Essential information sharing

Gender discrimination in police institutions is a topic rarely addressed. WPON created a safe space for policewomen to share their knowledge and expertise and to feel heard and understood. WPON members realised the importance of local-level association for women police officers since they spend most of their work time in men dominated environments. Two local associations of women police officers were established by WPON members from Bosnia and Herzegovina. Associations not only enable peer support and information exchange but, more importantly, boost confidence and create networks which in turn ensure better gender integration and systematic change.

g) Data



The absence of data leads to ineffective policies the perpetuate gender gaps and prevent citizens from getting the safety they need from the police. Some data are brought to light in 2010 by the research on the "Support for Gender Mainstreaming in Policing Practice in South East Europe".[86] The data showed that, at that time, women only represented between 3,5 and 7,5% of uniformed police officers in South East Europe with only a handful in management positions.[87] It also enabled identify certain trends. For examples, the fact that although fewer women than men enrolled in police academies, they were on average as or more successful than their male colleagues.

Data from the above-mentioned research served as the reference point for the development of the Guidelines for Gender Sensitive Policing with an Emphasis on Recruitment, Selection and Professional Development of Women in Police Services by WPON members. The Guidelines were designed as a manual for police managers at all levels, particularly those working in departments responsible for education, human resources and public relations, or other officials within the Ministry of Interior and the police who handle recruitment, admission, selection, and professional development. They propose a set of simple and low-cost measures, which will help police services in South East Europe attract and retain more qualified women and advance gender equality.

iii. Accountability systems

A culture of zero tolerance in relation to sexual and gender-based discrimination, harassment, bullying and abuse across the police service, should encourage officers to call out such behaviour wherever it is witnessed. Cases of discrimination or abuse should be dealt with by internal control and oversight bodies speedily, transparently and with sensitivity to the well-being of the complainant.[88] In addition, robust and independent oversight mechanisms should exist outside of the police to ensure accountability. These may include national human rights institutions, such as ombuds offices, complaints bodies and anti-corruption commissions.[89]

---

86 SEPCA (2010), Establishing the Southeast Europe Women Police Officers Network Research Findings: *https://www.seesac.org/f/docs/Gender-and-Security/ESTABLISHING-THE-SOUTHEAST-EUROPE-WOMEN-POLICE-OFFICERS-NETWORK-Resea_3.pdf*. It was this project that established the Network of the Southeast Europe Women Police Officers.

87 Based on a comparison of 73 countries in 2015 in Europe the countries that the most women police officers were Bulgaria and Switzerland. See, *https://www.helgilibrary.com/charts/which-country-has-the-most-female-police-officers/*

88 R. Montgomery (2011), "Female staff associations in the security sector: Agents of change?", Occasional Paper No. 25, Geneva: DCAF.

89 UNODC (2011), Handbook on Police Accountability, Oversight and Integrity, Criminal Justice Handbook Series, Vienna, United Nations Publication.

Gender-sensitive police reform requires that women become engaged in holding the police to account. Ensuring the accountability of security services in any country presents important challenges.

From the findings of a research conducted in England and Wales,[90] it is resulted that women officers still felt excluded, undermined, and undervalued. The participating officers felt that overt forms of discrimination were not so wide-spread, but that they had to work harder than male colleagues to prove themselves equally capable. Policewomen in the women-only police stations perceived that their career opportunities were thwarted as a consequence of secondments out of mainstream policing. In sum, discrimination and harassment is still being experienced by women police officers.

The accountability framework states that there should be 'visible' attention to gender equality and women's empowerment, including in strategic programme documents. Simply including mention of women and girls among a list of vulnerable groups in these documents is not seen as constituting '*visible*' mainstreaming.[91]

iv. Barriers, Interventions, and Indicators

Under this paragraph, there is presentation of some of the barriers for women for integrating in the police profession, as well as the needed interventions and indicators that show that the police reform is in the right way for gender mainstreaming.

The EU has developed its own indicators for monitoring progress towards the gender equality goals in the 2030 Agenda for Sustainable Development,[92] focusing on violence, education, employment and leadership:

Barriers

- Discriminatory laws and practices;
- Lack of gender-sensitive legal frameworks/labour regulations;
- Discriminatory/biased institution policies, conditions, and practices;
- Biased stereotypes of authority favoring men;
- Low quota for women in entering police institution;
- Lack of gender equality regulations for recruitment and advancing;
- Low level of trust of the public;
- Lack of inclusion, predictability, transparency, trust, and dialogue among stakeholders.
- Lack of baby care services that avert women to access the police profession.

---

[90] Foster Janet et al. (2005), Assessing the impact of the Stephen Lawrence inquiry, Home Office Research Study 294, Research Development and Statistics Directorate: *https://webarchive.nationalarchives.gov.uk/ukgwa/20110218135832/rds.homeoffice.gov.uk/rds/pdfs05/hors294.pdf*

[91] UNSDG (2018), UNCT-SWAP Gender Equality Scorecard. Performance Indicators for Gender Equality and the Empowerment of women for United Nations Country Teams. 2018 Framework and Technical Guidance, New York.

[92] EUROSTAT, SDG 5 - Gender equality: *https://ec.europa.eu/eurostat/statistics-explained/index.php?title=SDG_5_-_Gender_equality*

Potential Interventions

- Reform explicitly discriminatory laws and regulations;
- Facilitate de facto gender-neutral implementation;
- Establish gender-sensitive feedback loops and/or other mechanisms that channel data on women's priorities and constraints into reform process;
- Increase quota for women in entering police institution;
- Reform regulations for women recruitment and advancing;
- Implement gender-sensitive awareness-raising campaigns;
- Include strategic communications, awareness-raising, and information sharing in the police;
- Train public officials to understand gender-related constraints and challenges to promote greater equality for both women police officers and in public services towards women;
- Increase baby care services to give incentives for women's access to police service.

Suggested Indicators

Outputs

- % of police sector staff who receive gender-sensitivity training;
- # of public awareness-raising campaigns conducted;
- % of female feedback providers on implementation effectiveness of new laws and regulations;
- Presence of explicit organizational policy statements prohibiting gender discrimination in hiring, promotion and retention policies, salaries, and benefits (binary indicator: Y/N);
- # of women officers participating in workshops, trainings, seminars, conferences, and networking events.

Outcomes

- # of recommended laws/regulations/amendments enacted or government policies adopted to address gender constraints in the Police;
- # of recommended procedures/policies/practices/standards that were improved or eliminated to address gender constraints;
- # of police officers and other stakeholders who acquired new knowledge of gender-based issues;
- # of women entering the police force as police officers;
- # of women police officers promoted (contributing to institutional decision-making);
- % of women police officers who reported they are satisfied or very satisfied with service provisions and/or quality;
- % of women trained who acquired new knowledge or skills;

Impact Indicators

- # of new posts created or obtained by women;
- # of women police officers with equal salary with men;
- # of the public attesting satisfaction with women police officers' services;
- # of women reporting increased levels of self-confidence, willingness to assert themselves;
- # of baby care services for women police officers.

Some of the recommended Strategies for a gender balanced Recruitment and Promotion practices in the workplace could be the following:

- Set a target for the proportion of applications or recruitment shortlists that are gender balanced and take into consideration intersectional gender inequality;
- Set targets for recruitment of diverse candidates at specific levels;
- Review recruitment processes to attract greater gender diversity in candidates. For example, through reviewing language in job descriptions, composition of interview panels, shortlisting, and appointment processes;
- Communicate a transparent process for secondment and acting opportunities;
- Create an internal awareness campaign to help people understand the gendered segregation of occupations within the workplace and the impact gender stereotypes can have on decisions about role type and level.

c. Policies on capacity-building for the Border Police to secure national safety against transnational crime, especially illegal migration and trafficking of humans

The Border Police is part of the Bureau for Public Safety in the MoI and is composed of: Sector for Border Affairs and Migrations on central level, four Regional Centres for Border Affairs (RCBA North, RCBA East, RCBA South and RCBA West) at regional level, 37 Police Stations for Border Affairs at local level (6 Police Stations for Border Checks, 11 Police Stations for Border Checks and Border Surveillance, 20 Police Stations for Border Surveillance) and 1 Mobile unit for fight against cross-border crime acting at central level. Each Regional Centre is having Operational Centre along with Unit for Cross-border crime, Unit for Foreigners and Readmission, Joint Affairs Section, Criminal-intelligence Analysis section.

There is also a **National Coordination Centre for Border management (NCCIBM)** which is a coordination platform responsible for monitoring of the Strategy for Development of the Integrated Border management. The National Coordination Centre for Border Management (NCCBM) was set up by a Decision of the Government of March

2007 based on the **Law on State Border Surveillance,**[93] and the **Law on Border Control**[94] in order to improve efficient coordination, exchange of data and information and ensure integrated border management.

It is of extreme importance that the Border Police knows how to identify (and consequently protect if there is a need of) different categories of persons who are trying to cross (often illegally) the borders.

i. The different categories of migrants: smuggled migrants, asylum seekers and victims of trafficking

Under this section are analysed the different categories of foreigners without (valid) documents that may enter into the country and that the Border Police should know how to identify. In the next paragraphs follow the differentiation between smuggled migrants,[95] asylum seekers and victims of trafficking; the process of identification of victims of trafficking, as well as the gender and child specific measures that should be taken especially for anti-trafficking actions.

Among the broad category of migrants that may try to enter illegally into the national territory, the Border Police need to identify three categories: smuggled migrants, asylum seekers and victims of trafficking. The last two (asylum seekers and victims of trafficking) are in need of international protection. It has to be underlined that the category of victims of trafficking may have eventually both the quality of victim of trafficking and of asylum seeker in case they fear persecution in their country of origin according to the Geneva Convention (see further below).

It is, thus, important that the Border Police are well trained to be able to identify all possible categories in order to offer the adequate protection to those who need it. It is also important to know the methods that traffickers and smugglers use such as false travel documents, corruption, etc.[96]

It should be underlined that the lack of identification of **trafficked victims** has a broad impact on counter-trafficking: it affects understanding of the phenomenon; the ability of trafficked persons to receive the assistance and services they require and are entitled to; and it affects the ability to pursue an effective criminal justice response. Likewise, the inability to identify **asylum seekers** -who are an important clientele for migrant smugglers and potentially for traffickers- not only jeopardise the international com-

[93] Official Gazette No. 71/2006 and 66/2007.
[94] Official Gazette, No.171/2010.
[95] The EU on September 2021 adopted a renewed Action Plan against migrant smuggling 2021-2025. The Action Plan focuses on: a) intra-EU cooperation and exchange of information; b) emerging counter-smuggling phenomena; and c) more targeted cooperation with countries of origin and transit. See, EU Action Plan, COM/2021/591 final: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0591*
[96] It is important that the Police are also trained on the provisions of the United Nations Convention Against Corruption adopted on 31 October 2003 and entered into force on 14 December 2005 and has been ratified by North Macedonia on 13 Apr. 2007.

mitments of the State, but also puts at stake the personal safety of people that risk to be persecuted if returned to their country of origin.[97]

The stages of a thorough identification pass from the very first step of the Border Police suspecting the first signs of a possible victimisation of a person being trafficked or being an asylum seeker. Very often a person in need of international protection, due to various reasons, (such as early age or not speaking any western languages), may not be able to 'speak out' and explain the reasons of entry in the country (in these reasons coercion is also added in the case of victims of trafficking). It is thus, the duty of Border Police to be well trained in order to ask the right questions.

Considering that both **victims of trafficking** and **asylum seekers** often benefit from international migration flows they are very often confused with **undocumented migrants**. The Police should understand that these categories may be **undocumented, but they are not simply illegal migrants.** Those who enter illegally may have paid large sums of money and may have entered the country, or used other means such as false documents, but they are in need of immediate identification for international protection. Especially, human trafficking has a significant impact on victims, who suffer both psychological and physical harm and trauma and this is the reason why the Border Police should identify rapidly the victimisation of a person entering the country.

At this point, a distinction should be made between voluntary and involuntary migration. Not all people who leave their homes have the same reasons and thus, they should not be treated equally.

- **Voluntary migrants** are those who leave their homes of their own volition either for economic reasons (employment)- and so they are called economic migrants - or for other, personal reasons that push them to choose another country to live in (study, family reunification, or other personal reasons).[98] Among voluntary migrants, persons who enter a country without legal documentation are smuggled migrants.
- **Involuntary or forced migrants** are the persons who leave their countries, in order to escape persecution (refugees), conflict, repression, natural and human-made disasters, ecological degradation or other situations that endanger their lives, freedom or livelihood. Among them they might be individuals compelled to move by government or other authorities, often in the process referred to as "ethnic cleansing". It is estimated that a large number of asylum seekers (over 65%) are using the "services" of the smugglers to gain access to Europe.[99]

[97] The related framework for identification and of protection of asylum seekers is based on the Geneva Convention of 28 July 1951 relating to the Status of Refugees, and the Protocol of New York of 28 September 1967 on the Status of Refugees. North Macedonia has succeeded both to the Convention and the Protocol on 18 Jan. 1994. See, Inter-Agency Coordination Group against Trafficking in Persons (2017), Trafficking in Persons and Refugee Status, ICAT Issue Brief 03, 09/2017.

[98] UNODC (2013), Issue Paper: Corruption and the Smuggling of Migrants.

[99] Sabine Dusch, Le trafic d'êtres humains, Ed. PUF, Coll. Criminalité internationale, 2002, p.31.

Asylum seekers

A refugee according to the definition given in Art. 1 of the 1951 Geneva Convention is "a person outside the country of which he is a national who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it." An asylum seeker is a person seeking recognition of refugee status by the country to which he applies for protection, in accordance with the Geneva Convention.

It needs to be noticed that according to the EU legislation and in particular the Qualification Directive,[100] the interpretation of 'membership of a particular social group' has application on profiles related also to sexual orientation and gender identity (Art.10 (1)d). Thus, the asylum claim of women and girls may be related to certain legal traditions and customs, resulting in for example genital mutilation (women and girls who refuse to undergo FGM/C), forced marriage, forced sterilisation or forced abortion, that should be given due consideration in so far as they are related to the applicant's well-founded fear of persecution.[101] Together with the above, the following categories should be given special attention:

- Women who have been victims of rape or other forms of sexual violence and who face stigmatisation by the surrounding society;
- Women who were formerly prostitutes and who face ostracism or other forms of discrimination, punishment or ill-treatment;
- Women who are survivors of human trafficking and who are ostracised by their family and society in general; and
- Women transgressing social mores, e.g. women who, based on a deeply-rooted conviction, refuse to follow traditional cultural norms related to the 'expected' role of a woman in the family.

Also, according to Art. 28 of the Qualification Directive it is necessary, when assessing applications from minors for international protection, that Member States should have regard to child-specific forms of persecution.

There are several groups of children who could be seen as a particular social group and thus persecuted in a specific country of origin.[102] Of course, the existence of a particular

[100] Directive 2011/95/EU of the European Parliament and of the Council 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 (recast), *OJ L 337, 20-12-2011, p. 9-26.*

[101] See, European Asylum Support Office (2020), EASO Guidance on membership of a particular social group, EASO Practical Guides Series, p.21: *https://euaa.europa.eu/sites/default/files/EASO-Guidance-on%20MPSG-EN.pdf*

[102] Op. cit. p.23.

social group should be assessed in light of the situation in the specific country of origin or part thereof. Some common examples are:

- Girls who refuse to undergo FGM/C;
- Children who refuse to follow traditional cultural norms who are perceived to be different by the surrounding society, e.g. girls who study or go to school in cultures where access to education is reserved for boys, children who refuse forced marriage;
- Victims of child trafficking who are ostracized. Children are particularly vulnerable to trafficking, including for sexual exploitation, marriage, domestic work, modern slavery, begging, illegal adoption, criminal activities.
- Children accused of witchcraft.

Thus, any person who does not fall under the above definition is not a refugee. If he/she has entered for other reasons and has voluntarily left his/her country in order to settle elsewhere, he/she is a migrant and may be driven to do so for many reasons (family, personal, financial). In other words, voluntary migration stems from factors that 'push' the person to leave his country, while involuntary migration stems from factors that 'drag' the person in this direction.

According to UNICEF, an estimated two to five per cent of the refugee population worldwide is unaccompanied children, who are more at risk of exploitation by trafficking networks.[103]

The Border authorities should also know that, very often among asylum seekers, there is a number of **unaccompanied minors** who are declared as children of asylum seekers, who because they claim persecution in their country of origin, they do not carry any travel documents. However, there is a risk that these UAMs are kidnapped, or they may be orphans carried by trafficking networks in order to get them legalised as asylum seekers in the reception country before they exploit them. This means that some persons may abuse the asylum procedure in order to avoid refoulement or deportation and obtain a permit of (temporary) residence in the country of reception. This does not mean that the border authorities should be strict and refuse all asylum claims, presuming that they may be fraudulous, but rather that they should pre-assess the case by giving the benefit of the doubt (if there are grounds to believe the claim) and then investigate thoroughly each case.

[103] According to UNICEF worldwide, about 43.3 million children had been displaced as a consequence of conflict and violence as of the end of 2022. This number includes some 17.5 million child refugees and asylum seekers (14.2 million refugees under UNHCR mandate and other children in need of international protection, 1.8 million Palestine children registered as refugees with UNRWA and around 1.5 million asylum-seeking children). Also, while children make up less than one third of the global population, they are more than 41 per cent among the world's refugees in 2022. Among the international migrants in 2020, nearly 1 in 3 children were refugees; for adults, the proportion was less than 1 in 20. See, UNICEF (June 2023), Child Displacement: *https://data.unicef.org/topic/child-migration-and-displacement/displacement/*

Victims of trafficking

There is a third category that can be either voluntary or involuntary migrants and these are the victims of human trafficking. Victims of trafficking may be either pushed to migrate by force, coercion or deception or they may have taken the decision to migrate freely and then coerced by traffickers once in the country of destination.[104]

ii. Main differences between human trafficking and migrant smuggling

However, trafficking differs from smuggling, because the latter supposes the consent of the transported person. However, often the transported person does not know what is to become of him/her once in the country of destination and so it happens that a smuggled migrant may become a victim of trafficking. The striking point in human trafficking is the fact that the consent of the victim to his/her exploitation does not affect the illegal character of the act. So, even if the victim consents to his/her exploitation this does not render the trafficker less criminal. Thus, it should be noted that a person is always in a position of potential exploitation as victim of trafficking by organized criminal networks from the moment he/she decides to migrate.[105]

According to EUROPOL some factors that indicate the existence of organised crime[106] are the following:

- As longer the distance from the country of origin as much the appeal to networks gets more frequent;
- The fact that most migrants prefer to travel as groups;
- Change of itinerary according to the measures of control in order to dispel traces;
- Participation of travel agencies for the safeguarding of issuance of forged documents;
- Recycling of forged documents already used by other illegal migrants;
- Use of code in mobile phones or card phones;
- Already arranged legal assistance in case of arrest.

Potential victims are either recruited previously (especially in case of sexual exploitation),[107] or in case they are smuggled migrants they may be victimised after their arrival in the country of destination.[108] So, their coercion or deception can take place either at a point before migration; during the journey; or even after their arrival in the host

[104] For more details see below.
[105] Council of the European Union, The EU's fight against organised crime: *https://www.consilium.europa.eu/en/policies/eu-fight-against-crime/* See, also in the same site, the EU's crime priorities for 2022-2025.
[106] EUROPOL, EU SOCTA 2021 Serious and Organised Crime Threat Assessment. A Corrupting Influence: The Infiltration and Undermining of Europe's Economy and Society by Organised Crime: *https://www.europol.europa.eu/cms/sites/default/files/documents/socta2021_1.pdf*
[107] For the recruitment methods, see: UNODC (2015), The Role of Recruitment Fees and Abusive and Fraudulent Recruitment Practices of Recruitment Agencies in Trafficking in Persons.
[108] George Borjas - Jeff Crisp (eds.), 2005, Poverty, International Migration and Asylum, New York: Palgrave Macmillan in association with the United Nations University - World Institute for Development Economics Research.

country. However, they may not be able to return to their country if, for example, in the case of human trafficking, smugglers blackmail victims with stigmatisation in their own country or if the victims of trafficking have also a reason under the Geneva Convention to be recognised as refugees i.e. in case the political situation changed in their country of origin.

The main means used by traffickers is corruption which is central to the success of trafficking.[109] Corruption problems related to trafficking have been reported from almost all countries of southeastern Europe and there is a general belief that trafficking cannot take place without the involvement of corrupted officials. While there is a perception of widespread corruption in relation to trafficking and while there are few reports on specific corruption cases, there are very few reports on investigations into corruption offences related to trafficking.

According to the Palermo Protocol trafficking in persons consists of a combination of **three basic elements**: **Action, Means, and Purpose**.

- The **action** comprises the recruitment, transportation, transfer, harbouring or receipt of persons;
- the **means** used are threat of force or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, and
- the **purpose** is always the exploitation of the victim (labour, sexual, or other).

It needs to be noted that the difference between **trafficking in persons** and **smuggling of migrants** is that **smuggling of migrants** is the facilitation of the illegal entry of people into a country. Traffickers are paid for their services (usually in advance), which means that their relation with migrants ends once the (border) service is rendered. However, **trafficking in persons** is about profiting from the exploitation of victims. These can be exploited and even sold -as mentioned above- before they reach their destination, but this is still trafficking, if the purpose of the traffickers is to bring these persons in the country for exploitation. Another difference between the two phenomena is that while the **migrants' give their consent for their illegal passage**, **victims of trafficking, even if they consent for the illegal passage, however they do not consent for being exploited** (there has been use of force or other means of coercion from the traffickers); or even if they have consented to work or to prostitution, **this consent has no value**, because the traffickers have resorted to fraud or coercion. This is why Art.3 (b) of the Palermo Protocol states that the consent of a victim of trafficking in persons to the intended exploitation is irrelevant where any of the means of fraud or coercion are used. Consent is void because the victim's will is alienated by the means used by the trafficker (threats, deception, force, violence, etc.).[110]

[109] UNODC (2011), Issue Paper: The Role of Corruption in Trafficking in Persons.
[110] UNODC (2014), Issue Paper: The Role of 'Consent' in the Trafficking in Persons Protocol.

The difference between child trafficking and trafficking in (adult) persons is that the use of force or deception does not need to be established in order to prove that a child is a victim of trafficking, as the child is considered incapable of making an informed decision.

Further, another difference is that **smuggling of migrants is always transnational in nature**: it presupposes illegal border crossings. Trafficking in persons is not necessarily transnational, because victims may also be trafficked in the same country. In cases of transnational trafficking, border crossing may be either legal or illegal. Thus, the phenomenon of trafficking goes far beyond the simple movement of persons organised for profit.

iii. The Process of identification of victims of trafficking

The prompt and accurate identification of victims of trafficking is critical in ensuring that they are assisted, supported and protected. Prompt and accurate identification is also fundamental to an effective criminal justice response. Mechanisms and procedures should be in place to guide and facilitate the identification process.[111]

The importance of identification of victims of human trafficking is clearly recognised in the *UN Recommended Principles and Guidelines on Human Rights and Human Trafficking* (2003):[112] "A failure to identify a trafficked person correctly is likely to result in a further denial of that person's rights. States are therefore under an obligation to ensure that such identification can and does take place" (Guideline 2).

According to the *United Nations Principles and Guidelines on Human Rights and Human Trafficking* what looks like a case of illegal migration could amount to trafficking in persons.[113]

A key issue for victim identification, is the understanding of 'victim', as contained in the EU Anti-Trafficking Directive. The Directive defines the offence of trafficking in Article 2. A victim, for the purposes of support and assistance measures, is someone for whom a competent authority finds 'reasonable grounds' to believe they have been subjected to a trafficking offence which, in turn, is defined in Article 11(4) as 'the recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.'

111 Inter-Agency Coordination Group against Trafficking in Persons – ICAT (2017), A Toolkit for Guidance in Designing and Evaluating Counter-Trafficking Programmes.

112 The Recommended Principles and Guidelines on Human Rights and Human Trafficking have been adopted by the United Nations Office of the High Commissioner for Human Rights (OHCHR) and are included as an addendum to a report to the Economic and Social Council (E/2002/68/Add.1). They serve as a framework and reference point for the work of OHCHR on this issue.

113 For the EU identification is contained in Articles 11-17 of the Anti-Trafficking Directive. See, European Institute for Gender Equality – EIGE (2018), Gender-specific measures in anti-trafficking actions: Report, p. 25.

It is relevant that the Directive recognises subtle forms of control, such as abuse of power or abuse of a position of vulnerability, which can widen the scope of victims able to benefit from the assistance and protection provisions.[114]

During the identification process the Police should:

1. Suspect that they may be dealing with a case of human trafficking;
2. Identify victims;
3. Identify potential traffickers (Identification of victims is made more difficult by the fact that **there is no single profile that identifies a trafficker**. Misidentification is an ongoing barrier to protecting these victims);
4. Determine or presume the age of the victim(s), who in some cases may be unaccompanied minors;
5. Corroborate the victim's statements;
6. Establish correlations between potential traffickers, victims, documents, etc.;
7. Determine the nature and extent of the operation.

For the Identification of victims of trafficking some general indicators that a person may be trafficked are the following:

- Age;
- Gender;
- Country of origin;
- Travel documents (type and eventual falsification);
- Means of transport;
- Evidence of abuse (eventually);
- Evidence of a person being submissive or fearful.

Timely identification of a victim is important in order for the police to:

- be able to offer adequate protection (referral to the right institution);
- prevent the treatment of the victim as an illegal migrant or a criminal; and
- prevent deportation (if third country resident).

The victim is most often vulnerable. According to the *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (adopted on 29 November 1985), "victims are persons who, individually or collectively, have suffered harm, including physical or mental injury, mental suffering, material loss or serious impairment of their fundamental rights, as a result of acts or omissions that violate the criminal laws in force in a Member State."

[114] European Institute for Gender Equality – EIGE (2018), Gender-specific measures in anti-trafficking actions: Report, p. 25.

The best attitude to dealing with alleged victims is by building trust. Trust can be very difficult to gain and extremely easy to lose.

The examination of the victim needs to be conducted by trained personnel (only after the victim's situation has been stabilised if in need of immediate medical or/and psychological support).

It is also important for the Police to understand the reactions of victims of trafficking. In many cases, trafficked persons are not ready to be identified as such.

- Victims of trafficking may be extremely intimidated by traffickers or by the presence of the police, or by both;
- Victims of trafficking may have been 'brainwashed' by traffickers;
- For many victims of trafficking, abuse or other trauma-inducing events may have begun long before the trafficking process.

If a victim reacts in a hostile or aggressive manner, the Police should know that this has nothing to do with the person of the police officer. Victims may adopt tactics and emotions to face or survive their ordeals. It is likely that they do not react to everyone in the same way. It is not certain that every victim will respond to the examination process with hostility, but many will. Any type of hostility should not be dealt in a negative way.

Victim identification can be complex and occur at several different steps or stages such as:

- ***Preliminary identification*** of presumed victims can be made by non-governmental organisations (NGOs) or by Border Police
- ***Formal identification*** of victims can be made by specialised police (or police units) for the purposes of deciding whether the crime of human trafficking has been committed and whether the identified person is a witness to that crime.

It is important to note that any formal identification process is likely to be time-consuming, potentially preventing victims of trafficking from accessing the services they require in a timely way. This problem has prompted agreement on the importance of a **presumption of victim status**: if there is good reason to believe someone has been trafficked, then that person should be treated as a victim, unless and until another determination is made. This is especially important for a wide range of assistance, support and protection obligations on the part of the State that would not otherwise be provided. Another important **presumption relates to age** (as explained below; see: Special Measures for Identification of Trafficked Children).

The *UN Principles and Guidelines* provide valuable direction on how identification could and should happen. For example, they note the importance of ***written identification tools,*** such as guidelines and procedures that can be used by police, border guards, immigration officials and others involved in the detection, detention, reception and processing of irregular migrants to permit the rapid and accurate identification of

individuals who have been trafficked. The *UN Principles and Guidelines* also note the need for cooperation between state officials and agencies involved in identification and for training to be delivered to them in identification and correct application of agreed guidelines and procedures.

iv. Obstacles in identification

The transportation of illegal migrants and human trafficking are being carried out in exactly the same way, following the same methods and itineraries, with the mere difference -as mentioned above- that it is likely that the smuggled migrants, after being smuggled, they may end up as victims of trafficking, soon after they have crossed the borders. Together with this obstacle others are being added, such as:

- ***Lack of training:*** The Border Police lack the knowledge to be able to identify correctly the victims of trafficking.
- ***The transnational character of the crime***: What makes investigation more difficult is the fact that there are always more countries involved. International co-operation is needed to make the investigation a success. Close contact with authorities abroad is often needed to be able to inform the victim correctly and to take the right decisions regarding the safety of the victim. These contacts are also necessary to know what will happen to the victim when s/he returns home or in order to support a request for a longer stay in the receiving country.
- ***The eventuality of expulsion before the identification procedure of the victim is over***: Only the European Convention against trafficking provides that a victim who presses charges against a trafficker is granted a temporary residence permit. The victims are allowed to stay legally during this period and are entitled to assistance, such as counselling, medical care, financial and legal services. Safe housing is also provided for.
- ***The fear of retaliation by the perpetrators against the victims and their families:*** victims are too scared to report the offence or they withdraw their statements, under pressure of threat or blackmail at their address or the address of family-members.
- ***The cultural differences*** which demand a special treatment of the victims and training of the authorities. Actually, make a victim testify on the criminal acts may add to his/her re-victimisation. This is why it these cases need special handling.[115]
- ***The difficulty in obtaining victim/witness statements:*** Investigation and prosecution of trafficking cases present a supplementary difficulty, given that they cannot always depend on the assistance of the victim. Victims of trafficking in human beings are often in a psychological and/or physical condition which might restrain them from cooperating with the authorities and consequently testify against the perpretators.

[115] Often in trainings organised for police-officers on human trafficking, police-officers are asked to exchange their latest sexual experience to the person who is sitting next to them. Of course, this always causes many objections since it is considered as an invasion to privacy. However this is done in order to make police officers realise how victims of human trafficking feel when they are expected to tell to a stranger all the humiliating details of the acts they have been forced to or endure.

In general, exchange of information at the earliest possible stage and rapid international co-operation is of great importance for an efficient prosecution of trafficking.

Another popular argument is that victims are accused of giving false statements, in order to get a temporary residence-permit. This is mainly the reason for which the Council of Europe gives great importance on the identification procedure and regulates it in a detailed manner.

- ***The language barriers and consequently the need for interpreters***: Very often victims are in a bad physical and psychological condition and they do not wish to press charges or testify against traffickers or even dare to declare that they are victims. On the other hand, they may fear the "uniform" (since in some countries there is little confidence in the integrity of the police) and women fear to speak to men officers. In that case, police officers and interpreters should be of the same sex of the victim, especially for women and child victims.

v. Gender specific measures in anti-trafficking actions

It is important to notice that stereotyping, especially by law enforcement authorities and the criminal justice system, hampers victims' credibility, hindering their access to identification, protection, support and justice.[116] Given that perpetrators are often closely connected to the victim, there is a possibility that, prior to recruitment, there is an initial agreement on the part of the victim on entering the trafficking routes, even though she might not be aware of the reality she is going into and conditions she is going to face. This can lead to victim-blaming attitudes and discourses, and might even affect the victim's credibility, especially if she does not fit into an 'ideal victim' stereotype. Victims who experience several forms of discrimination, as is often the case with victims of trafficking for sexual exploitation, face even stronger negative stereotypes, for example, migrant women at risk of deportation might face the preconception that they are pretending to be victims of trafficking to avoid sanctions or deportation. It is striking that women comprise a relatively large share of convicted trafficking offenders, compared to most other crimes.[117]

Recital 18 of the Anti-Trafficking Directive recommends that provision of support and assistance to victims should follow an individual needs assessment that takes into account their experience, cultural context and individual characteristics. Recital 18 is not followed by a binding obligation which can compromise implementation. Women trafficked for the purpose of sexual exploitation suffer particular (and severe) types of harm and trauma, thus, the importance of individual assessment in these cases cannot be over-stated. Assessment of the individual needs of women trafficked for sexual exploitation can be challenging and an understanding of their cultural background is essential as this crime may be linked to a traditional practice. However, the only type of assessment required by the Anti-Trafficking Directive that is applicable to all victims is in relation to their protection needs during criminal proceedings. The same happens

[116] European Institute for Gender Equality – EIGE (2018), Gender-specific measures in anti-trafficking actions: Report, p. 15.
[117] Op. cit.

with regards to the Victims' Rights Directive.[118] The emphasis on criminal proceedings is unhelpful, given only a small fraction of victims' cases are brought to trial.

Trafficking, which involves sexual exploitation, is a particularly severe form of violence against women, with traumatic consequences for victims, and the Anti-Trafficking Directive itself recognises sexual violence as a 'particularly grave offence' (recital 12). The special needs of certain categories of trafficking victims are recognised in Article 11(7), which lists factors such as pregnancy, health, disability, mental or psychological disorder or serious psychological, physical or sexual violence. This provision is of particular importance in the case of women trafficked for the purpose of sexual exploitation, who are at increased risk of suffering from ill health, including psychological disorders, as a result of the gendered harm and violence they have suffered. There is also an increased risk of pregnancy amongst this category. There is, however, little guidance on any practical measures that Member States must take.

The added value of the Victims' Rights Directive is the guidance provided for cases of victims with special needs. Recital 17 identifies 'victims of gender-based violence' as having special support needs. Recital 37 stipulates that "victims who have suffered considerable harm due to the severity of the crime could require specialist support services". Recital 38 offers a more comprehensive list of the circumstances that invoke specialist support, including gender-based violence and repeated violence in close relationships: both of which concern victims of trafficking for sexual exploitation. According to EIGE,[119] this recital draws the attention of the authorities to the special needs of women victims of violence. The types of special assistance outlined in recital 38 include "shelter and safe accommodation, immediate medical support, forensic exams in cases involving sexual assault, short and long-term psychological counselling, trauma care, legal advice, advocacy and specific services for children involved". However, this list of services is omitted in Article 9 (Support from victim support services) itself, which is a shortcoming of the Directive since recitals do not have a binding character.

vi. Special Measures for the Identification of Trafficked Children

According to Art. 3 of the Palermo Protocol, the identification of someone as a "child victim of trafficking" shall not depend on the identification, prosecution or detection of traffickers or criminals. Also, according to Art. 12 para 6 of the Council of Europe Convention against trafficking, the identification of a person as a victim of trafficking and the provision of assistance to him or her shall not depend on his or her willingness or ability to provide the police with information or to testify against his or her traffickers.

The identification of a person as victim of trafficking shall not reduce or restrict his or her entitlement to seek asylum, to be recognized as a refugee or as legal migrant (Art.14 para 4 of the Council of Europe Convention against trafficking). Also, according to Art. 14 para 2 of the above Convention, the residence permit for child victims, when

[118] Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, *OJ L 315, 14.11.2012, p. 57-73.*

[119] European Institute for Gender Equality - EIGE (2016), An analysis of the Victims' Rights Directive from a gender perspective, European Press: Luxembourg.

legally necessary, should be issued in accordance with the best interests of the child. In this context, it is important for the police to be trained in identification of children who may have been trafficked (Art.15(3)c. of the Anti-trafficking Directive), in protection concerns which may arise (especially for UAMs – Art.16), in the referral of such individuals to the appropriate authorities, including to an asylum procedure, and in relevant country or place of origin information to assist the identification process.[120] Art.16 para 7 of the Council of Europe Convention against trafficking requires that child victims should not be returned to a State, if there is indication, following a risk and security assessment, that such return would not be in the best interests of the child.

International law requires that child victims of trafficking be accorded special measures of protection and support. The nature of these measures will generally reflect the particular challenges involved in supporting and protecting children. For example, in relation to identification, it is important to acknowledge that not all child victims of trafficking will present as such.[121] They may appear to be 18 or older. Their passports may have been destroyed or confiscated. They may be carrying false identity papers that misstate their age. Child victims of trafficking may lie about their age because this is what they have been told to do by their exploiters. They may lie because they are afraid of being taken into care or being sent back home. However, in the case of children where there is doubt about their age there should be ***presumption of being underaged***. Article 10 para 3 of the Convention of the Council of Europe against Trafficking and Article 13(2) of the EU Anti-Trafficking Directive require that where there are doubts over the age of a victim of trafficking, and there are reasons to suggest that the victim is a child (defined in Article 2 of the Directive as someone under the age of 18), it should be presumed that this is a child victim for the purpose of receiving immediate support. This presumption is crucial as it provides an opportunity for child victims of trafficking to be swiftly identified and receive age-appropriate assistance and protection. It can further protect child victims from secondary victimisation.

Under such a presumption, a victim who *may* be a child is treated as a child unless or until another determination is made. It removes special or additional difficulties that would otherwise complicate the identification of child victims. The presumption of age is linked to the presumption of status: meaning, that a child who *may* be a victim of trafficking is presumed to be a victim unless or until another determination is made. The importance of this presumption cannot be overstated. Without it, a child risks being treated as an adult irregular migrant, with all the consequences that flow from this: for example, risk of detention in many European States,[122] risk of homelessness and destitution in others.[123]

---

120 UNICEF (2006), Guidelines on the Protection of Child Victims of Trafficking, p.14: *https://www.refworld.org/pdfid/49997af727.pdf*

121 Browne-James L., Litam S.D.A., McRae L. (2021), Child Sex Trafficking: Strategies for Identification, Counseling, and Advocacy, Int J Adv Couns, Vol.43(2): 113-125, doi: 10.1007/s10447-020-09420-y. Epub 2021 Jan 6. PMID: 33432250; PMCID: PMC7787704.

122 Athan. Sykiotou (2017), Immigration Detention Practices and Use of Alternatives to Immigration Detention of Children in non-EU Member States of the Council of Europe, Parliamentary Assembly of the Council of Europe Committee on Migration, Refugees and Displaced Persons, Council of Europe, October 2017: *http://website-pace.net/documents/19863/3390925/2017-ImmigrationDetentionPracticesStudy-EN.pdf*

123 European Institute for Gender Equality – EIGE (2018), Gender-specific measures in anti-trafficking actions: Report, p. 51.

Regarding the laws, systems and procedures that should be in place to ensure rapid and accurate identification of child victims, the *UNICEF Guidelines*[124] provide important guidance:

- States are to establish effective procedures for the rapid identification of child victims, including procedures to identify child victims at entry points and other locations;
- Efforts are to be made to share information between relevant agencies and individuals in order to ensure children are identified and assisted as early as possible; and
- Social welfare, health or education authorities are to contact the relevant law enforcement authority where there is knowledge or suspicion that a child is being exploited or trafficked or is at risk of exploitation or trafficking.

According to Art.11 para 2 of the Convention of the Council of Europe on trafficking, the State authorities should adopt measures to ensure, in particular, that the identity, or details allowing the identification, of a child victim of trafficking are not made publicly known, through the media or by any other means, except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child.

Regarding unaccompanied children, according to Art.10 para 4 of the Convention of the Council of Europe on trafficking and Art.16 of the Anti-trafficking Directive, as soon as an unaccompanied child is identified as a victim, the State authorities should:

(a) provide for representation of the child by a legal guardian, organisation or authority which shall act in the best interests of that child;

(b) take the necessary steps to establish his/her identity and nationality;

(c) make every effort to locate his/her family when this is in the best interests of the child.

Concluding, it should be noted that competent authorities should identify gaps in the early recognition of indicators of the multiple forms of direct and subtle forms of coercion, deception and abuses of vulnerability, which are used in the trafficking and tackle them. Authorities should ensure that as soon as there are reasons to suspect that persons may be victims of trafficking, they should offer them immediate protection and assistance. Confirmation of their status as a victim of human trafficking should occur at a later stage. Consent given to traffickers should be always considered irrelevant by the authorities, and particular attention should be given to female victims of trafficking.

[124] UNICEF (2006), Guidelines on the Protection of Child Victims of Trafficking, UNICEF Technical Notes: *https://www.refworld.org/pdfid/49997af727.pdf*

D. Presentation of good practices of gender mainstreaming in EU

Below are presented four examples of good practices for gender mainstreaming in the EU.

***Example 1:* The Gender Equality Framework Programme (GPR) of Berlin**

Source: Review of the Gender Equality Framework Programme II (2011–2016): *www.gleichstellung-weiter-denken.de*

In Germany, the Gender Equality Framework Programme (GPR I, 2008–2011 - Strategies for a Gender-equitable Berlin)[125] was designed to provide a binding framework to gender policy advancement and orientation of all authorities in the state of Berlin. The Programme made clear that Gender Mainstreaming intends to systematically implement processes in a top-down manner, which will then be executed from the bottom up. It was based on ten defined overarching gender equality principles used as guiding policy goals:

1. Women and men define and characterise equally the social life in its political, economic, cultural and social facets.
2. Women and men have equal rights and self-determination in all aspects and stages of their lives.
3. Women and men earn their own livelihood and poverty-proof pension, based on good education and training, equal pay and equal access to the labour market.
4. Women and men share equally in household work and family care, child education and care while maintaining their independent living.
5. Women and men partake equally in the resources of the Federal State (of Berlin).
6. Women and men can rely on an administration that talks, writes and acts gender just.
7. Women and men learn and teach in a gender-sensitive way in schools, kindergarten and all other educational institutions.
8. Women and men receive gender-just services in healthcare and sports.
9. Women and men feel safe and live free from violence as well as sexist discrimination in the private and public sphere.
10. Women and men develop freely their personality and are perceived and respected in their diversity.

[125] The programme was decided by the Senate of Berlin and funded by the State of Berlin. For more information: *www.berlin.de/gleichstellung-weiter-denken/*; *www.berlin.de/sen/frauen/* ; *www.gleichstellung-weiter-denken.de*

On June 2012 the GPR II was developed and came with a mission statement on equality policy: "Equality in the State of Berlin". Women's and equality policies should be a cross-cutting task for all ministries and districts in Berlin. In order to assist the administrations in this challenge, an orientation frame has been created. The mission completed the statutory regulations and formulated an ideal vision of the equality policy from the perspective of the citizens.

All institutions involved in the GPR as well as actors in order to develop the GPR II, the Equality Office has offered consultations to all senate and district administrations. The individual communication between gender equality officers, gender budgeting representatives and subject specialists of the administrations aimed to discuss needs for quality policies and develop appropriate measures for each administration.

For the GPR II, the development of the action plans focused on the topics of the Berlin state policy. This served as a link to the Legislature to anchor the measures for equality in the central government and to optimize the use of resources. The GPR II and the section of the measures were compiled simultaneously. Parallel to this, the professional work on the measures from the GPR I was continually carried on.



In the course of the GPR II, numerous equality policy activities and measures were successfully carried out among which the'Gender Coaching at the Berlin Police'. The aim of the project for female and male executives of the higher service of the Berlin Police was to enable them to act gender-sensitively in both their professional and personnel-related tasks.

- Within the scope of gender-related coaching, a total of 87 executives were accompanied and advised professionally on gender in five individual coaching sessions.
- Both the coachees and the coaches were included in the evaluation.
- The project has shown that it is possible to develop individual gender competences, and, in the same way, to shape the leadership culture of a whole group of executive staff in a gender-sensitive and equality-oriented manner, thus anchoring the importance of gender in management.

The project also showed that it is the responsibility of the State (of Berlin) to find ways to implement gender mainstreaming in all different departments.

The GPR was also updated by the Senate of Berlin in the 18th legislative period (2016-2021).[126] This includes the further development of Berlin's gender equality policy in terms of content and strategy and the linking of the debate on gender equality with current political issues.

Example 2: **Training to tackle LGBTI-phobic crime in Hungary**

Source: R. Poláček and J. Le Dérof (2011) "ILGA-Europe Toolkit for Training Police Officers on Tackling LGBTI-phobic Crime", Brussels: ILGA-Europe.

In Hungary, the LGBTI organisation Háttér began training the police on LGBTI-phobic crimes in 2010, in the wake of increasingly violent attacks on Gay Pride marches.[127] A working group made up of legal scholars, lawyers, sociologists and training specialists was established to develop the training, based on an assessment of why investigations of hate crimes fail and what police are taught about LGBTI people and hate crime. They found police knowledge about LGBTI people and hate crimes to be very low. Training was therefore developed to:

- acquaint participants with basic knowledge about the LGBTI community and raise awareness about discrimination against them; and
- provide legal and practical information about various types of hate crime and best practices for providing support to victims.

[126] *https://www.berlin.de/gleichstellung-weiter-denken/gpr/gpr-iii/*

[127] In Hungary it is reported that the human rights of LGBTIQ+ persons had significantly deteriorated since 2015 due to increasingly hostile political discourse and the adoption of a series of restrictive laws. Recently, ECRI was pleased to note that Hungary has taken a wide range of anti-segregation measures, including the setting-up of anti-segregation working groups in 2019 and the incentives used by the Ministry of Justice for boosting the motivation of police officers, such as the "Victimia Protector" award. See, ECRI Report on Hungary, adopted on 6 December 2022 and published on 9 March 2023: *https://rm.coe.int/ecri-6th-report-on-hungary-translation-in-hungarian-/1680aa687b.*

The working group also identified key people within the police with direct influence on hate crime investigations who could play a "multiplier" role. One such person was the Head of Crime Prevention in the Budapest Police, who became a key ally and assisted Háttér in developing the training proposal in a manner that would be acceptable to the police. Háttér had significant knowledge of police structures and ways of working, having accompanied LGBTI crime victims to police interviews. This helped them to develop a curriculum that spoke to police needs.

A two-day training course was developed for police services countrywide, and delivered by non-police trainers with experience of working with the police. The training involved four modules:

1. Prejudices and the LGBTI community: concepts of sexual orientation and gender identity; characteristics of the LGBTI community; prejudices about LGBTI people; institutional homophobia and transphobia.

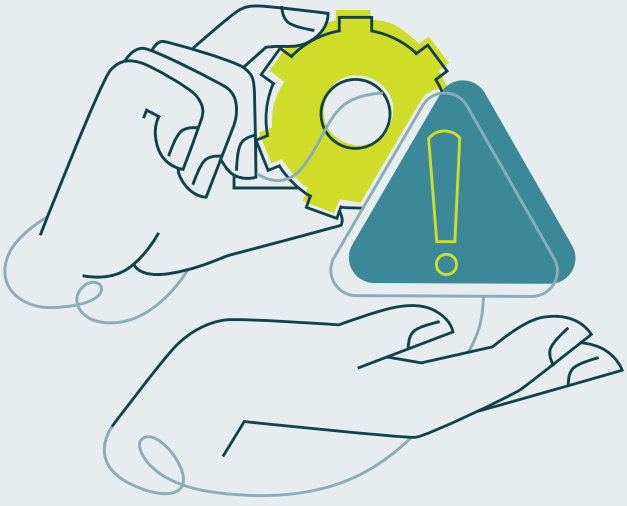
2. Equal treatment in criminal procedures: concept and legislative background to equal treatment; LGBTI people in criminal procedures; LGBTI people as a vulnerable victim group.

3. Significance of hate crimes: definition and significance of hate crimes; effects of hate crimes on victims; hate groups and perpetrator profiles.

4. Responses to hate crimes: definition of "violence against a member of a community" and "incitement to hatred" in Hungarian criminal law; indicators for hate crimes; victim protection; data collection and protection.

The training utilised innovative methods to expose prejudices that can get in the way of police work. An exercise called "Leila and Mohamed" involved telling the story of a girl crossing the river to meet her lover, with participants asked to rate characters in the story based on sympathy when different levels of information were provided. This revealed how assumptions based on stereotypes can lead to miscalculations and less effective policing. Recorded stories from victims of LGBTI-phobic crimes were used to demonstrate the detrimental effects of hate crimes, asking interviewees about how they felt during the security and identity. (This approach of using recorded stories avoided the risk of exposing victims to a 'live' police audience, which risk re-traumatising the victim.) These stories have built empathy on the part of the police and their understanding of how police conduct affects people, as well as the effectiveness of investigations.

Engaging the police on a specific problem – in these case LGBTI-phobic crimes – was found to be more effective than general gender sensitisation or training. It was more relevant to police officers' concrete duties, while still providing an entry point to discuss attitudes, prejudices and stereotypes around gender. In addition, using interactive training exercises rather than lecture-style presentations supported reflective learning.



The initial training course involved just 30-40 officers, but it has grown over time as police appetite has increased and the training has been well received. Háttér finds LGBTI community members now report better treatment by those police who have undergone the training than those who have not. In its own engagement with the police and programme evaluation, Háttér noted that **those who have participated in the training have retained a nuanced understanding of hate crimes more than a year after the training.**[128]

Example 3a: **Training for local authorities by the Swedish Association of Local Authorities and Regions (SALAR)**

Source: European Institute for Gender Equality – EIGE (2013), *Good practices in Gender Mainstreaming. Mainstreaming Gender into the Policies and the Programmes of the Institutions of the European Union and EU Member States*, Luxembourg: Publications Office of the European Union, p.25.

The Swedish Association of Local Authorities and Regions (SALAR) represents governmental, professional and employer-related interests of Sweden's 290 municipalities and 20 county councils. In order to contribute to the improvement of the conditions of Swedish municipalities, county councils and regions with regard to their functions as employers, service providers, supervisory authorities and community developers, SALAR works proactively with the Swedish government as well as European institutions. In December 2007, the government decided to grant the Swedish Association of Local Authorities and Regions (SALAR) funds through the programme for sustainable gender

[128] See, the joined report of LGBT Alliance, Háttér Society, Transvanilla Transgender Association, and Labrisz Lesbian Association (2021), LGBTQI Rights in Hungary: *https://en.hatter.hu/sites/default/files/dokumentum/kiadvany/upr-lqbtqi-hu-2021.pdf*

equality for the period 2007-2010 to support the work of integrating the gender-equality perspective as a natural part of all decision-making.

The aim of the programme is to achieve concrete and durable improvements in the activities of municipalities, county councils and private companies (schools, healthcare centres and hospitals) through mainstreaming gender in all decisions and activities.

Many of Sweden's municipalities and county councils have received funds for developing gender equality in their services to residents and patients. The programme also generated research on gender-equality work. The funds also specifically targetted efforts to develop gender mainstreaming in the country's municipalities and county councils. This included training key staff in organisations, building up a web-based knowledge bank for ongoing dissemination of experience and instructive examples, and developing managerial systems. The programme covered the whole country, all its citizens and the main part of all public services. It is not just a question of gender equality, but also of quality of services. There was a strong link before, during and after the implementation, between the project and the European Charter for Equality between Women and Men in Local Life,[129] which brought together 1060 local administrations in adopting a shared view on ways to implement gender mainstreaming at all levels in their activities and policies. The project provided training to 66 000 representatives in decision-making bodies and managers. Eighty-seven local projects (involving regions, municipalities and private companies) were supported by programme funding.

Evaluation reports show that the activities resulted in the following long-and short-term changes:

- changes in organisational structures, policies, procedures and culture;
- enhancing gender disaggregated data and gender analytical information;
- influencing the policy agenda and institutional framework;
- organisational capacity-building and change;
- enhancing gender-mainstreaming capacity within organisations and institutions;
- increasing visibility of and advocacy for gender issues;
- systematic integration of gender issues in planning and implementation of activities, projects and measures;
- increasing gender expertise;
- recognising and addressing practical gender needs and problems.

The evaluation reports show also that the programme has achieved good results in a limited time period. Success was due to the systematic and strategic work by the programme management. Success was achieved when the right priorities were brought to the forefront of the programme. SALAR has created legitimacy and designed a coherent programme.

[129] *http://www.ccre.org/docs/charte_egalite_en.pdf*

The lessons learned from the process were ways to connect gender equality to quality management development; involve the decision-making level in the design and implementation of gender-mainstreaming strategies to promote gender-equality policies; engage management levels and make use of sex disaggregated statistics.

Example 3b: **Swedish municipality on Labour Market initiatives**

Source: Swedish Institute and Swedish Association of Local Authorities and Regions (SALAR), *Guide to Gender Mainstreaming*, 2019, p.17: https://si.se/app/uploads/2019/06/guide-to-gender-mainstreaming_digital-folder_eng.pdf

A Swedish municipality carried out a project with unemployed people with the aim to improve their abilities to enter the labour market. The project was followed up by sex-disaggregated statistics. This showed that there were as many women as men who participated in the project, but that fewer women participated in the part of the project that included activities to become self-supporting.

A gender analysis was made by using peer-review and examining each other's notes on how municipality employees handled cases. It showed that officials had different expectations depending on whether the client was a woman or a man. Consequently, they asked different questions to women and men. To address this, they developed a checklist consisting of gender-neutral questions to be asked regardless of the client's gender, to ensure equal treatment.

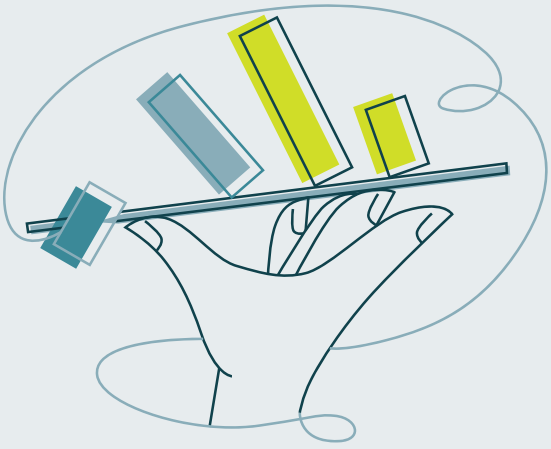
As a result, more women participated in activities to achieve self-sufficiency. It has also contributed to more people being able to become self-sufficient – all in all, a more efficient organisation.

Example 4a: **Establishing a gender mainstreaming support structure**
The City of Vienna's Department for Gender Mainstreaming

Source: European Institute for Gender Equality – EIGE, *Success Stories from EU member States*, "Gender Institutional Transformation"**:** https://eige.europa.eu/gender-mainstreaming/toolkits/gender-institutional-transformation/example-5-establishing-gender-mainstreaming-support-structure

The Gender Mainstreaming Department of the City of Vienna accompanies the administration of the City of Vienna in the implementation of gender mainstreaming.[130] It provides information and knowledge on gender aspects and is responsible for strategic coordination and networking. It also delivers analysis and advice to the administration of the City of Vienna. The department has its own website section with manuals, documentation of conferences and other useful information.

[130] The five gender mainstreaming principles are shown in the site of the City of Vienna: *https://www.wien.gv.at/english/administration/gendermainstreaming/principles/five-principles.html*



To increase the accuracy of planning, the quality as well as the effectiveness of service delivery, the department is constantly counselling the administration. It aims at making gender equality a regular part of all processes, projects and activities of the City of Vienna administration.

The department offers various forms of gender equality competence development: standard gender training workshops and the development of working support documents and guidelines, for example on topics like gender-sensitive language or sex-disaggregated data. There is also individual gender coaching. The selection of tools and methods is made in light of the diverse administrative culture, which varies from department to department within the city's government and administration. Another important element is the development of awareness-raising campaigns that address the citizens of Vienna but also the city's administrative staff.

The Vienna Gender Mainstreaming Department shows that in certain contexts it can be useful to have an internal department that is an integral part of the administrative body.

The example shows that there is no blueprint for a successful support structure, but that its set-up, staff and resources should be adapted to the specific context and culture of an institution. It shows also, that gender mainstreaming is a learning process. A support structure that can offer a continuous stream of advice to administrative staff provides relief to actors involved in implementation: learning requires outside stimulation, which can be provided by a support structure. The actors involved will feel more confident in being involved and actively participating if there is someone available to give advice. Furthermore, it will be difficult for administrative staff to conduct research and manage information on gender issues within their work schedules. A support structure can serve as a service unit to promote gender mainstreaming at this point.

Example 4b: **Establishing Gender Budgeting in Vienna**

Source: State of Wien, *https://www.wien.gv.at/finanzen/budget/gender-budgeting.html*

Gender budgeting is the fiscal policy instrument of gender mainstreaming. The aim is to distribute the budget fairly between the sexes from a social point of view. This means an extension of the traditional budgeting process and no separate budgets.

It is being checked who benefits from the financial resources and services, how the services are used, and whether the appropriate distribution of resources helps to increase or decrease existing gender differences.

The decision to implement gender budgeting was made by the Viennese state government in January 2005. Since the beginning of July 2005, gender budgeting has been anchored in the business allocation of the City of Vienna. The Finance Department (MA 5) is responsible for implementation.

With the budget for the year 2006, for the first time in Austria there was a separate chapter for gender budgeting in the estimates and in the corresponding financial statements.

The key considerations of gender budgeting were:

1. What is the gender balance in the area in question?
2. How is expenditure distributed between the sexes?
3. Who are the users of the services and/or products?
4. Data collection:

    - As a first step, distinction between women and men
    - If possible, take into account additional social dimensions such as age, income and education level, ethnic origin, disability
    - Collect data from the outset in a gender-specific and as differentiated way as possible Example: traffic counts or questionnaire campaigns

1. How does the planned project affect the situation of women and men?

    - Who currently benefits from the respective services and/or products?
    - Who can primarily use the services and/or products and therefore benefit?
    - Who is adversely affected by prioritization?

2. How can a contribution to equality be made?

    - How can products and/or services be designed so that they can better benefit or be better used by the actual target groups?
    - How can priorities be set?

What was new compared to the approach of other public bodies was that not only parts of the budget were examined, but for the first time all budget approaches were reviewed for their gender relevance. Since then, gender budgeting has been integrated as an integral part of the City of Vienna's budget preparation process.

Since 2009, there has also been a legal obligation to carry out gender budgeting[131] in accordance with Article 13, paragraph 3 of the Austrian Federal Constitution, according to which the federal, state and local governments must strive for actual equality between women and men in budget management.[132]

In 2005, the 12th district of Vienna (Meidling) made itself available as a gender budgeting pilot district. All expenditures taxable by the district were analyzed. These are all matters in which the district manages the budget in accordance with § 103 (1) of the Vienna City Constitution.

The result was an annotated district estimate that included a gender-specific representation of users and target groups. In addition, all planned measures were presented with regard to a gender-equitable distribution of funds or improvement in the provision of services.

Since then, Meidling has continued to develop gender budgeting at the district level. To support the expansion of gender budgeting to other districts, a separate guide has been created. Through the implementation of gender budgeting at both central and district level, the City of Vienna has established itself as a best practice example in Austria and abroad.

A Handbook was published from the City of Vienna on *Gender Mainstreaming in Urban Planning and Development*, containing the experiences of various municipal departments from the various projects for the implementation of gender-sensitive planning. [133]

[131] *https://www.wien.gv.at/finanzen/budget/index.html*
[132] *https://www.wien.gv.at/statistik/gender/budgeting/index.html*
[133] State of Vienna (2013), *Gender Mainstreaming in der Stadtplanung und Stadtentwicklung*, Nr.130: *https://www.wien.gv.at/stadtentwicklung/grundlagen/gender/index.html*

CHAPTER 2

ANALYSIS OF THE NATIONAL LAWS, REGULATIONS AND POLICIES RELATED TO HOME AFFAIRS

The objective of this component is the presentation of the national laws, regulations and policies on gender equality and gender mainstreaming, as related and reflected in the strategies and policies in the examined sector of Home Affairs (in the fight against organised crime) and the framework regulating the actions of the law enforcement authorities that need to be gender mainstreamed in view to include not generally women, but also the vulnerable groups, such as marginalised groups, LGBTQI, W/G with disabilities, elderly women, women and children from ethnic/religious/racial minorities.

A. Analysis of the existing national legal framework

Laws, policies and procedures provide police services with their mandate and set out standards of conduct to which police officers are held. Commitment to gender equality and to integrating a gender perspective made through commitments to non-discrimination, rights protection, equality, diversity and inclusion, are as shown in the following examples.

- Law on police: setting out values of policing, including commitments to human rights, equality and non-discrimination.
- Police service's code of conduct: setting out the principles that guide policing, including the values of diversity, equality, rights protection and non-discrimination.
- Police service's disciplinary codes: including clear punishments for gender discrimination or abuse.

a. Draft Law on Gender Equality

It should be noted that the Draft Law on Gender Equality comes to clarify and amend the already existing **Law of Equal Opportunities of Women and Men,** a new version of which needs probably to be adopted on the grounds of the provisions of the Draft Law on Gender Equality.

The Law on Gender Equality[134] regulates the establishment, improvement and promotion of measures to accomplish gender equality in all areas of social living and determines the competencies of the entities responsible for the implementation of the Law and the special gender mechanisms (Art.1). The objective of the Law is to ensure the accomplishment of full gender equality, by strengthening the position and status of women in society, equal access to resources and equal participation in decision-making in all spheres of social living to fully overcome obstacles and to create conditions for achieving the potential of everyone, regardless of their sex, gender and gender identity (Art.2).

The Law defines that "Gender equality" means equality of men and women in visibility, valuing, strengthening, responsibility, participation in all spheres of public and private life, access to and equitable distribution of resources (Art.4 par.1). Also, the term "women and men" includes both girls and boys up to 18 years of age and transgender people (Art.4 par.2).

It is of great importance that the Law in Art.6 contains and safeguards basic principles such as:

- the principle of suppression of gender stereotypes and prejudices;
- the principle of full and efficient participation in the society of both men and women;
- the principle of balanced participation and acting in the direction of achieving and maintaining a percentage representation of women and men which is not less than the percentage of representation of that sex in the total population;
- the principle of women's empowerment;
- the principle of appropriate adaptation and accessibility;
- the principle of intersectionality by taking into account that sex or gender identity can be simultaneously and inextricably linked to another or other discriminatory grounds, both in specific cases of discrimination and at the systemic level in society, manifested as stereotypes, prejudice and stigma.

The Law provides that the measures for gender equality may be permanent (Art.8) and temporary (Art.9). The permanent measures shall be a continuous obligation of all State entities. Also, according to Article 10 par. 1 of the Law "All state bodies, bodies of local self-government units, legal entities with public authorisations and all other legal entities shall be competent for implementation of gender mainstreaming in accordance with the provisions of this Law". Further, the law provides for the possibility of judicial protection for any person who considers that his right to equal treatment on the basis of sex, gender or gender identity has been violated (Art.27).

[134] European Commission for Democracy through Law (Venice Commission), North Macedonia Draft Law on Gender Equality, CDL-REF(2021)044, Strasbourg, 28 May 2021: *https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2021)044-e*

The law refers to **gender mainstreaming tools (Art. 11) such as:**

- gender analysis;
- gender impact assessment;
- gender planning;
- gender-disaggregated statistics;
- gender-responsive budgeting;
- gender-sensitive public procurement;
- gender audit;
- gender-responsive monitoring and evaluation;
- consultations by respecting the principle of participation in the planning and implementation of policies;
- capacity building by continuous education for gender equality; and
- awareness raising.

It should be noted that a Commission for Gender Equality that already exists within the Assembly[135] as a permanent working body of the Assembly of the Republic of North Macedonia, among other competences it produces annual reports on gender equality; it proposes the adoption and amendment of laws and other regulations in the field of gender equality; it monitors the adoption and application of permanent and temporary measures for gender equality in all areas in the public and private sector through various activities in accordance with the Rules of Procedure of the Assembly; requests thematic reports from other entities of this Law and reviews them; and establishes cooperation with the commissions for gender equality in the units of local self-government, and other commissions and associations.

Also, the Ombudsman and the Commission for Prevention and Protection against Discrimination takes care, within their legally established competencies, for achieving gender equality by taking measures for prevention and protection of the women's and men's rights pursuant to law (Art.14). GREVIO's report notice that women who are particularly at risk of, or exposed to, intersectional discrimination, are women with disabilities, women belonging to minority groups, in particular, Roma women, migrant and asylum-seeking women, LGBTIQ+ women, homeless women, elderly women, rural women, women in prostitution, women with addiction issues, and women in situations of detention. These groups of women face barriers in accessing protection and support. Their experiences of violence are widely under-researched and deserve more attention in order to create evidence-based policies that are targeted to address their needs.[136] GREVIO urges the government to raise awareness to victims belonging

[135] The Commission works on review of proposals for laws and other regulations to assess the level of inclusion of the gender concept across different thematic areas: *https://www.mtsp.gov.mk/WBStorage/Files/Sektor_za_Ednakvi_moznosti_MKD%5B1%5D.pdf*

[136] GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), op. cit., p. 14.

to these groups of women about their rights to protection and support services.

There is also a Sector for Equal Opportunities under the Ministry of Labor and Social Policy.[137] Also, there is a Strategy on Gender Equality is in force. The National Strategy on Gender Equality (2022–2026) was adopted by the Government in September 2021.

Although there is a considerable progress in the area of gender equality, in 2022, a report on "*Women and Men in North Macedonia – A statistical portrait of trends in gender equality*", published by the State Statistical Office in collaboration with UN Women, concluded that North Macedonia "still has a long road ahead to achieve a gender equal society."[138]

North Macedonia in 2017 ranked 35 out of 189 countries in the *Human Development Report's* gender-inequality index.[139] According to the National Gender Equality Index of 2015 for North Macedonia developed by the Ministry of Labour and Social Policy and State Statistical Office in the Republic of North Macedonia in cooperation with the European Institute of Gender Equality (EIGE), the Gender Equality Index for North Macedonia was ranked 15th compared to the EU Member states.[140]

However, in the Global Gender Gap Index[141] of 2022 rankings, North Macedonia appears to be making progress scored ranked 69th in the world report.

b. Law on Prevention and Protection against Violence against Women and Domestic Violence

Already in 2006, the adopted Law on the prevention and protection against discrimination (amended in 2020), included important definitions, such as direct and indirect discrimination, harassment, incitement, encouragement to discriminate, victimisation, and segregation. The law explicitly recognised gender identity and sexual orientation as grounds for discrimination and introduced the concept of intersectional discrimination. The discrimination included gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

On 23 March 2018, North Macedonia ratified the Istanbul Convention. The Convention entered into force in respect of North Macedonia on the 1st July 2018. An Action Plan for the Implementation of the Istanbul Convention was also adopted for the period 2018 to 2023.

---

137 *https://www.mtsp.gov.mk/WBStorage/Files/Sektor_za_Ednakvi_moznosti_MKD%5B1%5D.pdf*

138 Republic of North Macedonia State Statistical Office - UN Women (2022), Women and Men in North Macedonia – A statistical portrait of trends in gender equality, *https://eca.unwomen.org/sites/default/files/2022-10/EN_WandM-NMK-Report_WEB_0.pdf*

139 USAID/North Macedonia, Gender Analysis Report, July 2019: https://banyanglobal.com/wp-content/uploads/2019/09/USAID-North-Macedonia-Gender-Analysis-Report.pdf

140 Ministry of Labour and Social Policy, State Statistical Office of North Macedonia, European Institute of Gender Equality (EIGE), UN Women (2015), Gender Equality Index: *https://www.mtsp.gov.mk/content/pdf/dokumenti/2019/Gender%20Index_ENG.pdf*

141 World Economic Forum (2022), Global Gender Gap Report 2022. Insight Report, July 2022: *https://www3.weforum.org/docs/WEF_GGGR_2022.pdf*

Based on the activities arising from the First Strategic Goal of the Action Plan for Implementation of the Convention, in January 2021 the **Law on Prevention and Protection against Violence against Women and Domestic Violence** was adopted. The law is fully aligned with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and aims to expand the system for the prevention and protection of all forms of gender-based and domestic violence. Article 3 of the Law covers physical violence, psychological violence, stalking, economic violence, sexual violence and rape, sexual harassment, sexual harassment online, forced marriage, female genital mutilation, forced abortion and forced sterilisation, and coercive control over women.

Amendments have also been made to the Law on the Rights of the Child by the Parliament with cross-party support, which demonstrates the political commitment for these issues. The Parliament has its own commission for gender equality, and there are gender equality coordinators in all municipalities. Moreover, there are now inter-party parliamentary groups which focus on women, youth, LGBTIQ+, people with disabilities and Roma.

The Law on Prevention and Protection from Violence against Women and Domestic Violence envisions an integrated system, under which all relevant state bodies are obliged to collect statistical and administrative data.[142]

The Council of Europe's Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) in its 2023 Baseline Evaluation Report[143] assessed the country's legislative and other measures of implementation of the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).

GREVIO has observed some progress, but also identified significant gaps[144] (as they will be highlighted further below).

Article 7 of the Law on Violence against Women and Domestic Violence stipulates that the effects of gender-based violence on vulnerable categories of women must be taken into account when adopting relevant measures and activities. According to Article 8 of the Law, measures, activities and services for victims of gender-based violence and domestic violence should be adapted to the specific needs of women with disabilities.

---

[142] Government of the Republic of North Macedonia (2022), Report submitted by North Macedonia pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report), GREVIO/Inf(2022)5, published on 6 April 2022, p. 12.

[143] Group of Experts on Action against Violence against Women and Domestic Violence (2023), GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), NORTH MACEDONIA, Council of Europe, 26 May 2023: *https://www.mtsp.gov.mk/content/pdf/ednakvi%20moznosti/GREVIO-Inf(2023)5%20Final%20report%20on%20North%20Macedonia.eng.pdf*

[144] Op. cit., p.10.

The Law in Article 58 contains also **temporary protection measures** for victims, such as effective measures against the perpetrator of violence including the prohibition to contact over the telephone or otherwise communicate directly or indirectly with the victim; to approach at a distance of fewer than 100 meters from the residence, school, workplace or certain place that the victim regularly visits; or the removal from the home regardless of ownership for ten to 30 days. A proposal for imposing a temporary measure can be submitted regardless of whether criminal proceedings are being conducted. The temporary protection measure can last a minimum **of three months, and a maximum of one year.** If the violence continues after the expiration of the period for which a temporary protection measure has been imposed within one year, the victim or the social work centre may submit a request for an extension of the measure or measures.

The Law on Prevention and Protection against Violence against Women and Domestic Violence envisages also the integrated collection, as well as the protection of data on gender-based violence against women and domestic violence. According to Article 28 of the Law on Prevention and Protection against Violence against Women and Domestic Violence, all State administration bodies, courts, public prosecution, local self-government units and legal entities exercising public powers determined by law and associations are obliged to: collect statistical and Administrative data on the situation with gender-based violence against women and domestic violence, based on sex, gender, age, community affiliation, residence and other data determined by this or another law, under the provisions of the Law on Personal Data Protection.

Further, North Macedonia has expanded protection for various forms of violence against women with the adoption of new amendments of the Criminal Code (adopted in February 2023), which align the country's laws with the Convention on Preventing and Combating Violence against Women and Domestic Violence. In particular, the Criminal Code, has introduced a definition of sexual violence and rape based on the absence of consent, and criminalised stalking, sexual harassment, femicide and female genital mutilation.[145]

Under the 2014 Law on the Prevention of, and Protection from, Domestic Violence, four protocols were introduced, including a multisectoral protocol that requires that various institutions work together. The Law envisaged the formation of a **national co-ordinating centre against domestic violence** with a five-year mandate to include representatives from relevant ministries, national politicians, the judiciary, the ombudsperson and civil society organisations.[146]

It needs to be underlined that Article 4 of the Law on Prevention and Protection against Violence against Women and Domestic Violence defines the **principle of due diligence**. In line with the guiding principles of the Istanbul Convention. The principle of due diligence creates a **positive obligation of the State** for effective protection of the right to life. The principle of 'due diligence' defines the obligation of institutions to promptly, urgently and under legal authority take all measures to ensure the protection of the victims and to ensure fair compensation or restitution to victims.

[145] Op. cit.
[146] See infra the policies.

c. Law on International and Temporary Protection of 2018, establishing protection on the basis of sex and gender in processes of international and temporary protection of asylum seekers and refugees and the Law on Foreigners of 2019

The Law on International and Temporary Protection, in force since 19 April 2018,[147] provides that the special needs of the vulnerable persons, among whom are asylum seekers, persons with a refugee status, persons under subsidiary protection or persons under temporary protection, will be taken into consideration. If their asylum application is rejected or they withdraw it, they may apply for voluntary return. Victims of human trafficking are also considered as vulnerable persons whose special needs will be established by individual assessment of their situation by a competent public institution for social protection.

As regards the requirement to have in place gender-sensitive asylum procedures, the Law on International and Temporary Protection contains a number of procedural safeguards available to women such as the express recognition that asylum seekers who have been exposed to torture, rape or other severe forms of psychological, physical or sexual violence fall under the category of vulnerable persons and that their special needs must be established by way of individual assessment. Women asylum seekers are actively asked whether they wanted an interviewer and interpreter of the same sex. Asylum seekers have the right to free legal aid provided by the state throughout the proceedings, and additionally they have the possibility to receive legal counselling by specialist NGOs.[148]

Of particular importance is the principle of *non-refoulement* contained in Art. 14 of the Law that provides:

"(1) An applicant, a person with a refugee status or a person under subsidiary protection cannot be expelled or returned ("*refouler*") in any manner whatsoever to the frontiers of state:

- where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion; or
- where he/she would be subjected to torture, inhuman or degrading treatment or punishment.

[147] Law on International and Temporary Protection: *https://mvr.gov.mk/Upload/Documents/zmpz%2064-2018.pdf* (MKD) and *https://www. refworld.org/cgi-bin/texis/vtx/rwmain?docid=53072d144* (ENG)

[148] Group of Experts on Action against Violence against Women and Domestic Violence (2023), GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), op. cit., p. 89.

(2) The prohibition referred to in paragraph (1), indent 1 of this Article shall not apply to a foreigner who constitutes a danger to the security of the Republic of Macedonia, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the citizens of the Republic of Macedonia.

(3) The foreigner referred to in paragraph (1), indent 2 of this Article who cannot enjoy the right to asylum in the Republic of Macedonia owing to the reasons referred to in Articles 8 and 10 of this Law, shall be allowed to remain on the territory of the Republic of Macedonia as long as the country of his nationality, or in the event of a stateless person, the country of former habitual residence, would be subjected to persecution, torture, inhuman or degrading treatment or punishment."

Provisions on the protection of asylum seekers and migrants are also contained in the Instambul Convention. According to the Convention residence status laws shall provide for the possibility of obtaining autonomous residence permits for women in specific circumstances (Article 59). Additionally, Article 60 of the Convention provides that asylum procedures, must be gender-sensitive and allow women to disclose their stories in full, and grounds for persecution shall be interpreted in a gender-sensitive manner. This can only be achieved if, in turn, reception procedures and support services for asylum seekers are sensitive to the needs of women victims or those at risk of violence.

It needs to be noticed that in North Macedonia only a very small number of those arriving in the country lodge asylum claims, and out of those, many abandon their claims and travel onwards. Notwithstanding this, GREVIO recalls that Article 4, paragraph 3, of the Instambul Convention requires parties to apply the protections within the Convention, without discrimination, to *all* women and girls currently in its territory.[149] This applies, for example, also to migrant women who are not seeking asylum in North Macedonia but are transiting through the country and may be staying at one of the temporary transit centres in Vinojug or Tabanovce.

It is also particularly important to ensure that vulnerable women who have experienced gender-based violence are identified in a timely manner to inform decisions regarding access to appropriate accommodation and specialist support services and to ensure the application of procedural safeguards. In the absence of vital information obtained through a proper vulnerability assessment, the guarantees contained within the Law on International and Temporary Protection regarding the establishment of their needs are ineffective. The timely identification of vulnerability would also enable the asylum authorities to introduce and implement further procedural adjustments for vulnerable women.

[149] For a more detailed overview of the laws and practices in relation to asylum proceedings in North Macedonia, see the European Court of Human Right's judgment in the case of A.A. and Others v. North Macedonia, nos. 55798/16 et al., §§ 30 et seq., 5 April 2022, available at: *https://hudoc.echr.coe.int/eng?i=001-216861*.

Article 61 of the Istanbul Convention entails the obligation under international law for states to respect the principle of *non-refoulement* in relation to women victims of gender-based violence who may fear persecution if returned. According to this principle, states shall not expel or return an asylum seeker or refugee to any country where their life or freedom would be threatened. Article 3 of the European Convention of Human Rights also prevents a person being returned to a place where they would be at real risk of being subjected to torture or inhuman or degrading treatment or punishment. The obligation to respect the *non-refoulement* principle applies equally to victims of violence against women who are in need of protection, irrespective of the status or residence of the women concerned.

In 2016, the Ministry of Labour and Social Policy, in cooperation with UN Agencies and NGOs, developed the document - Standard Operating Procedures for Prevention and Response to Gender-Based Violence in the Reception Centre for Asylum Seekers "Vizbegovo". Additionally, in 2019, the Ministry of Labour and Social Policy adopted a document regulating the standards for the reception of asylum seekers "Rulebook on the standards for the reception of asylum seekers", which takes into account gender-sensitive parameters in the provision of basic services. Additionally, in the same year, the Ministry of Labour and Social Policy adopted the "Rulebook on the manner of care and accommodation of unaccompanied minors and vulnerable categories of persons with a recognised right to asylum in North Macedonia" which specifies services for vulnerable persons identified based on the Law on International and Temporary Protection. In the *National Programme for Adoption of the European Union Acquis (NPAA) 2021-2025* it is announced that the construction of a new Reception Centre for Foreigners will be finalised.

Article 14 of the Law on International and Temporary Protection provides that women whose asylum applications have been rejected will not be returned to a country where their lives would be endangered

North Macedonia has just completed a roadmap project with the EUAA, which ran from 2020-2022 and aimed at establishing an asylum and reception system in line with EU standards. It is hopeful that the quality of asylum decisions will improve, granting every woman asylum seeker a proper assessment of her claim on the merits.

As regards **irregular migration**, although North Macedonia is party to all relevant international conventions in the field of migration, it has indicated that its legal framework is **partially aligned** with the EU *acquis*.[150] North Macedonia implements a series of strategic documents in the field of migration, such as the National Strategy for Integrated Border Management 2021-2025 with the Action Plan for Implementation (2022-2025), the Resolution of the Migration Policy 2021-2025, the Migration Profile (2021).

It needs to be underlined, that the **Law of Foreigners of 2019**, includes provisions on the detention of migrants, which is contrary to international guidelines, when apply-

[150] EU Commission on Accession process, Screening report North Macedonia, Cluster 1: *https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-07/MK%20Cluster_1%20Draft%20screening%20report_external%20version.pdf*

ing to children.[151] The country does not provide for alternatives to detention of children migrants, despite the international **principles** that prohibit such detention, especially of unaccompanied minors.[152] The Law on Foreigners of 2019 foresees immigration detention in closed centres –as an administrative measure– for foreigners, including children, with orders of removal, removal by force or expulsion, and for foreigners readmitted on the basis of international agreements.

In particular, a foreign national may be detained by the MoI for a maximum of 24 hours for illegal entry onto the national territory (Article 158). If their deportation cannot be enforced during that time limit, a temporary decision on the detention and accommodation at the Reception Centre for Foreigners in Skopje is issued by the same ministry. An UAM may be detained in another reception centre.

In addition, other vulnerable categories of foreign nationals – such as asylum seekers and victims of human trafficking – can also be detained at the Reception Centre pending their identification and issuance of identity documents.

However, there is no information on the existence of screening procedures of irregular migrants for eventual identification of such victims. The maximum length of detention is six months (Art.161) which, can be prolonged to twelve for exceptional reasons and which -even for 'exceptional reasons', appears extremely long. Migrant children have access to social service, but there is no-discriminatory access for migrant children to national services.

The Law on Foreigners provides for temporary accommodation at a Reception Centre for Foreigners in Skopje for all irregular foreigners (including families with children and UAMs) with orders of removal, removal by force or expulsion, and for foreigners readmitted on the basis of international agreements. According to the Law on Foreigners for UAMs found to be in violation of the legislation within the national territory, the

[151] Ath. Sykiotou (2017), A study of immigration detention practices and the use of alternatives to immigration detention of children, Parliamentary Assembly of the Council of Europe Committee on Migration, Refugees and Displaced Persons, Council of Europe, October 2017.

[152] Such as: the International Convention on the Rights of the Child of 1989; The UN Rules and Guidelines for the Protection of Juveniles Deprived of their Liberty (the Havana Rules) of 1990; The Geneva Convention of 28 July 1951 relating to the Status of Refugees, and the Protocol of New York of 31 January 1967 on the Status of Refugees; The 2012 UNHCR Guidelines on applicable criteria and standards relating to the detention of asylum seekers and alternatives to detention; The 1994 UNHCR Refugee Children – Guidelines on Protection and Care; The 1988 UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles); The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families of 18 December 1990, adopted by the General Assembly of the United Nations; Parliamentary Assembly of the Council of Europe (PACE) Recommendation 1596 (2003) on the situation of young migrants in Europe; PACE Recommendation 1686 (2004) on human mobility and the right to family reunion; The final Declaration and Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, Poland, 16-17 May 2005), and in particular Part III.2 of the Action Plan entitled "Building a Europe for children"; PACE Recommendation1703 (2005) on protection and assistance for separated children seeking asylum; PACE Resolution 1810 (2011) on unaccompanied children in Europe: issues of arrival, stay and return; PACE Recommendation 1985 (2011) on undocumented migrant children in an irregular situation: a real cause for concern; PACE Resolution 2020 (2014) on the alternatives to immigration detention of children.

Ministry of Internal Affairs should inform the competent diplomatic or consular authorities and, if the UAM has to be detained, the Social Work Centre should be informed and a guardian appointed in accordance with the Family Law. However, according to the recent CPT's report on North Macedonia, none of these requirements has been fulfilled.

The CPT already in its 2016 Report for North Macedonia had recommended that: a) migrant children should not be accommodated at the Reception Centre; b) the authorities should avoid, as much as possible, detaining irregular migrant families; and c) the official minimum living space per person in multi-occupancy rooms should be set at 4 m2. If, in exceptional circumstances, detention cannot be avoided, CPT recommended that families be accommodated in a dedicated unit of the Reception Centre for Foreigners providing an adequate environment, and the period of detention should be limited.[153]

d. Legal Framework on Combating Trafficking in Human Beings and Illegal Migration

It appears that a broad legal framework for combating trafficking in human beings has been recently developed, strengthened and harmonised with the European legislation and with international laws and standards.[154]

The **Criminal Code** in Articles 418(a) and (d) criminalises sex trafficking and labor trafficking and prescribes a minimum penalty of four years' imprisonment, which is sufficiently stringent and, with regard to sex trafficking, commensurate with those for serious crimes, such as rape. It also criminalises the smuggling of migrants (Art. 418-b), organising a group and encouraging commission of acts of trafficking in human beings and smuggling of migrants (Art. 418-c); and trafficking of children (Art. 418-d).

The amendments of 2018 to the Criminal Code[155] introduced also the *principle of not punishment* for the victim of human trafficking and trafficking of children (Article 418-a, par. 7 and Art. 418-d, par. 8 respectively). The provision covers non-punishment, non-prosecution and non-detention of victims of human trafficking for the crimes committed while under coercion from the traffickers. The new provisions enable a more efficient identification, assistance and support of victims that, in most of the cases are forced by the traffickers to commit several crimes to which they do not consent. The application

[153] CPT (2016), Report to the Government of "the former Yugoslav Republic of Macedonia" on the visit to "the former Yugoslav Republic of Macedonia" carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 Oct. 2014, CPT/Inf (2016) 8, Strasbourg, 17 Mar. 2016, p. 62, 65. See also the CPT Report for 2021: *https://www.rolplatform.org/cpt-report-on-north-macedonia-2021/*

[154] National Commission for Combating Trafficking in Human Beings and Illegal Migration, National Strategy for Combating Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021-2025), Skopje, 2021, p. 209: *https://north-macedonia.iom.int/sites/g/files/tmzbdl2301/files/documents/2023-02/National%20Action%20Plan%20for%20Combating%20Trafficking%20in%20Human%20Beings%20and%20Illegal%20Migration%20in%20the%20Republic%20Of%20North%20Macedonia%202021%20%E2%80%93%202025.pdf*

[155] Law Amending the Criminal Code of 28 December 2018 (in force since 1 January 2019): *https://www. pravdiko.mk/wp-content/uploads/2013/11/Zakon-za-izmenuvane-i-dopolnuvane-31-12-2018.pdf*

of the principle on non-punishment will encourage the victims to collaborate with law enforcement authorities in identifying and punishing the perpetrators. It needs to be noted that in the fight against trafficking, North Macedonia still remains in Tier 2 of the State Department`s Report for 2023.[156]

The **Law on Free Legal Aid** in force since the 1st October 2019,[157] offers primary and secondary legal aid to all persons who meet the conditions of Articles 18, 19, 20 and 21 of the Law on Free Legal Aid, and are in financial need for legal aid. Article 8 from the previous Law on Free Legal Aid stays in force and is related to the protection of the victims of crimes and protection of the victims of trafficking. One of the aspects that burden the practical implementation of the Law refers to the evidence that the applicant needs to submit in order to have their application for a lawyer in a procedure approved, as well **Action Plan III** as the dilemma of whether free legal aid is approved in order to prove that a person is a victim of a crime, or it is going to be approved only if the party is registered as a victim and is going to claim pecuniary or non-pecuniary damages in civil law proceedings.[158]

With IOM's support the **Standard Operating Procedures** for dealing with victims of trafficking were prepared and they were revised and adopted in November 2018. The revised SOPs provide an adequate framework for the support, integration and voluntary return of VoT and migrants. Additionally, in collaboration with the UNHCR Office, Standard Operating Procedures for unaccompanied foreign children[159] (SOP UFC) and Standard Operating Procedures for processing vulnerable categories of foreign nationals[160] (SOP VCF) have been adopted since 2016.

In November 2022, the government adopted the **Law on Compensation of Victims of Violent Crimes** (into force since May 2023). Under this law, trafficking victims have the right to compensation of 120,000 denars ($2,085) to 270,000 denars ($4,690) even when no criminal proceedings have been initiated against the perpetrator. For child victims, pursuant to the **Law on Justice for Children,** the Ministry of Justice has adopted an annual programme that plans the sources and manner of spending funds to **compensate a child** who is a victim or damaged by an action, which under the law is a crime of violence, and other acts of individual or group violence.[161]

---

[156] US Department of State, 2023 Trafficking in Persons Report, June 2023: *https://mk.usembassy.gov/2023-trafficking-in-persons-report-is-now/*

[157] Law on Free Legal Aid: *http://pravda.gov.mk/Upload/Documents/ Zakon%20za%20besplatna%20pravna%20pomos.pdf*

[158] National Strategy for Combating Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021-2025), op. cit., p. 212.

[159] *http://nacionalnakomisija.gov.mk/wp-content/uploads/2016/12/SOP-za-postapuvanje-so-nepridruzuvani-deca-stranci.pdf*

[160] *http://nacionalnakomisija.gov.mk/wp-content/uploads/2016/12/SOP-za-postapuvanje-so-ranlivi-kategorii-lica-stranci.pdf*

[161] Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), Report submitted by North Macedonia pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report), 5 April 2022, GREVIO/Inf(2022)5, p.10.

The government increased also the resources to the NGO-run shelter for trafficking victims.[162]

The **Law on Foreigners** of 2018[163] provides also direct support and overall assistance for the foreign victims of trafficking (including ensuring period for reflection and temporary stay and accommodation at the Reception Centre for Foreigners, Art. 121 Par. 4 and 5). In addition, it also regulates that the costs for the accommodation of foreign victims of trafficking at the Reception Centre for Foreigners and at the State Centre for Victims of Trafficking & VSV are to be covered from the State budget. It is necessary to harmonise the provisions from the abovementioned Law in order to equalise the rights of the foreign victims of trafficking with the domestic ones and to enable them a direct access to the Centre of VoT & VSV.

The Law on Foreigners incriminates two other migration related crimes: a) assisting a foreigne.

The **Law on Social Protection**[164] provides the right to health care of the victims of trafficking under Art. 66, as well as the setting up of the Centre for Victims of Trafficking and the possibilities for accommodation of foreign victims with approved temporary stay. In March 2018, the Law on Social Protection was amended enabling expansion of the mandate of the state Centre for Victims of Trafficking to also accommodate victims of sexual violence.

The **Child Protection Law**[165] regulates the rights of the children, especially in regard to any kind of sexual exploitation and sexual abuse (harassment, child pornography and child prostitution), soliciting by means of violence, sale or trafficking of children (Art. 12 par. 2).

The Law on International and Temporary Protection, which went into effect on 19 April 2018,[166] contains provisions for the consideration of victims of trafficking considered as vulnerable persons whose special needs are to be established by individual assessment of their situation by a competent public institution for social protection.

---

[162] US Department of Justice (2023), 2023 Trafficking in Persons Report: North Macedonia: *https://www.state.gov/reports/2023-trafficking-in-persons-report/north-macedonia/*

[163] Law on Foreigners, Official Gazette, no. 64 of 11.4.2018: *https://mvr.gov.mk/Upload/Documents/Zakon%20za%20stranci%2097-18.pdf*. Two bylaws have been adopted for the purpose of successful implementation of the Law on Foreigners, as follows: A Decree on the manner of maintaining an Integrated Database on Foreigners, including data on asylum, migration and visas; and A Decree on the manner of granting access, access levels, more detailed criteria according to which the level of access is determined, the duration of the access, the manner of determining the termination and the revocation of the access to the data in the Database.

[164] Law on Social Protection: *http://www.mtsp.gov.mk/content/pdf/ zakoni/2019/28.5_zakon_SZ.pdf*

[165] Child Protection Law: *http://mtsp.gov.mk/WBStorage/Files/dete.pdf*

[166] Law on International and Temporary Protection, *https://mvr.gov.mk/Upload/Documents/zmpz%2064-2018.pdf* (MKD) and *https://www. refworld.org/cgi-bin/texis/vtx/rwmain?docid=53072d144 (ENG)*

B. National Policies related to Home Affairs in the fight of organised crime

North Macedonia has made significant progress in the recent years in adapting its legal and policy framework to the international requirements.

However, adopting legislative amendments and enacting policies and strategies is only a first step. It needs to be supplemented with other measures to ensure implementation in practice by all relevant actors who come into contact with women victims of violence, including through training, awareness-raising and the provision of guidelines.

Negative gender stereotypes which contribute to such violence continue to persist among the population of North Macedonia. Promoting changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men, play a central role in further government efforts.

a. Police reform

Efforts on gender mainstreaming by the MoI focus on the promotion of the gender sensitisation of the police. Up to day, the training activities included a specific component to train staff in the implementation of the Government Strategy for Gender equality. The trainings should include components on mainstreaming gender in border management (in line with principles and standards promoted by DCAF and the OSCE) and in the overall migration management policy. This is particularly important with view to the fact that 42% of migrants are women and girls.[167] Further on, the Action should take into consideration the relevant UN recommendations, notably:

- systematic collection of sex and age disaggregated data in asylum registration systems;
- establishment of mobile protection teams to identify vulnerable groups;
- availability of targeted services in reception and transit centres;
- creation of women only spaces; and
- sex segregated toilets and showers.

[167] UN Women, *Gender Assessment of the Refugee and Migration Crisis in Serbia and FYR Macedonia, Europe and Central Asia Regional Office* UN WOMEN, Istanbul, Turkey, January 2016: *http://eca.unwomen.org/en/digital-library/publications/2016/01/gender-assessment-of-the-refugee-and-migration-crisis-in-serbia-and-fyr-macedonia*.

The following indicators should be used in assessing the gender equality impact of the action:

- Number of women and children directly (f.e. integrated / reintegrated) and indirectly (f.e. organised crime groups in human trafficking stopped and estimated annual human turnover through them) benefiting from the action;
- Number of investigation cases launched and resolved with focus and data on numbers of cases involving women and children for example in trafficking cases as a % of the total; and
- Number of female police officers, female investigators and female officials trained through the action.

In the fight efficiently the dynamic nature of **organised crime**, the entire law enforcement (and judicial) chains need to have a strategic, integrated approach, as well as adequate resources and specialisation. A professional, reliable and efficient police organisation is of paramount importance to ensure the rule of law within the country and to be a reliable partner for other Member States, EU agencies, third countries and international partners in relevant investigations and criminal cases.

Increased operational capacity and cooperation in the fight against organised crime is needed, notably by reinforcing the financial and human resources, is needed across the board. The **National Coordination Centre for the Fight against Organised Crime** is operational but needs to improve its effective capacity.[168]

The **Forensics department** of the Ministry of Interior plays a key role in the pre-trial and trial procedures, thus having established relationship with other organisational units within the ministry as well as institutions outside the Ministry of Interior. The Forensic Department is responsible to coordinate and to control the quality of the evidence recovered from a crime scene. More precisely, to reconstruct the crime, identify the person who did it, preserve the evidence for analysis and collect it in a way that will make it stand up in front of the court. Therefore, the Forensic Department plays a vital role in the criminal justice system by providing investigators with scientifically based information through the analysis of physical evidence. The tasks of the Forensic Department are as follows:

1. Development of strategy and tactics on forensics;
2. Co-operation between local and foreign forensic institutions, as well as with other scientific institutions active in the field of forensic;
3. Management and co-ordination of equipment and resources;
4. Organisation of the implementation of results gained from scientific research within forensics;

[168] EU Commission on Accession process, *Screening report North Macedonia, Cluster 1*: *https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-07/MK%20Cluster_1%20Draft%20screening%20report_external%20version.pdf*

5. To provide forensic expertise, requiring specialist equipment;
6. Examination of crime scenes and involvement in legal proceeding concerning major national events or scenes where specialist presence is required;
7. Maintenance of registers and files used in identification purposes;
8. To continue research, progress and constructive activity in the area of forensics;
9. Management of courses and training for forensic experts;
10. To testify in court as expert witnesses.

As expected, the police investigations are directed towards detecting, gathering and initial check of evidence and after this is handed over to the public prosecutor who decides whether to file an indictment.

The organisation and training of the police is crucial for the identification of victims of organised crime, such as human trafficking. This means that if women working in the sex industry are only considered as sex workers, a large number of victims of trafficking will not be identified and protected and the perpetrators will not be prosecuted. The development of a good quality system for managing the technical aspects and administrative procedures of an organisation of Crime scene investigation units is important to guarantee that all staff (crime scene investigators) performing the same functions, at the same time, are doing so in precisely the same manner and following the same protocol. **Standard Operating Procedures, Quality Manuals and Reference Manuals** should be implemented in every day forensic practice. The crime scene investigation service should systematically plan and conduct regular internal audits to compare the quality system with the criteria of standard ISO/IEC 17020 and test the effectiveness of the set written procedures when put into practice.

Under the **Strategy Paper 2014-2020**, the IPA II had supported completions of the country's police reforms underlying that the MoI continues with the **police reform** and stating that there is a need for further professionalisation of the police and improvement of the human resources management. In the area of home affairs assistance was given to improve the efficiency and professionalism of the police through strengthening the material and human capacities for prevention and repression of crime including organised crime.

GREVIO in its 2023 Report[169] encourages the authorities of North Macedonia to consider the use of disciplinary measures in relation to the misconduct or failure of state officials to take appropriate action in relation to cases of violence against women and domestic violence.

[169] GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), op. cit., p. 58.

The Police Reform Strategy defines the new organisation of the Ministry of Interior (MoI) and of the Police, as it defines the new methodology of work. In this sense, the reform strategy stresses as necessary to develop capacities to implement the policies at different levels within the Ministry as a whole. According to the new Law on internal affairs and new Law on police the new organisational structure of the Ministry of interior is in place. Beside this there is a need for detailed assessment of the current functioning of the organisational set-up effectiveness and efficiency. Furthermore, analyse of the cooperation between the Ministry of interior and other law enforcement agencies should be conducted.

The country is aware of the seriousness of the problem and is fully committed to strengthening efforts to combat organised crime, including the transnational one. Special attention has already been given to the legal and institutional framework, prevention, suppression, inter-agency and international cooperation as well as trainings to enhance both professionalism and investigative techniques and methods.

The institutions of North Macedonia are aware that the fight against organised crime, serious and other forms of crime could not be properly counteracted without effective mechanisms serving to efficiently and effectively enhance Inter-Institutional collaboration and cooperation.

b. National Action Plan (2018–2023) and policies for the implementation of the Istanbul Convention

Significant progress has been made in North Macedonia with regard to advancing gender equality notably with the ratification of the Istanbul Convention and adoption of the National Action Plan for its implementation. However, the Covid-19 crisis has undermined much achieved progress, placing women's needs last on the agenda. Many of the measures that the government undertook to deal with the crisis emerging with the Covid pandemics have not taken into account the women's needs and position they are in. The adopted measures by the government referred to several aspects, and aimed at mitigating the health, social and economic crisis. However, victims of domestic violence, i.e. women and children who are under increased risk of domestic violence was completely left out of the government measures and recommendations. Apart from the notification of the Ministry of Labor and Social Policy addressed to the victims of gender-based violence and domestic violence, which listed numbers for reporting violence, no urgent measures were imposed or proposed for this particularly vulnerable category of citizens.[170]

Article 6 of the Istanbul Convention calls on the parties to include a gender perspective in the implementation and evaluation of the impact of its provisions and to promote and implement policies aimed at achieving equality between women and men and the

[170] National Network against Violence (2020), Report on the progress of North Macedonia on the implementation of the National Action Plan for the Istanbul Convention: *http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2021/02/NAP-finalen.pdf*

empowerment of women. This obligation stems from the realisation that in order to put an end to all forms of violence covered by the scope of the convention, it is necessary to promote de jure and de facto equality between women and men. It also reflects the principle that violence against women is a consequence as well as a cause of gender inequality.

The 2018-2023 Action Plan for the implementation of the Istanbul Convention[171] has a strong gendered perspective, stating in its foreword that it is "a fact that violence deprives women of the opportunity to enjoy their fundamental human rights and constitutes a serious obstacle to equality between women and men." The Action Plan covers and mentions all forms of GBV: domestic violence, stalking, sexual violence, child marriage, female genital mutilation, honour crimes, and human trafficking. The second part refers to the general and special services for the victims, explicitly mentioning the services for the victims of sexual and domestic violence. In the third part, it calls for action to prevent gender-based violence, and recognises child witnesses of gender-based violence as victims. As these policies are aimed at gender-based violence and violence against women, the victims' human rights are at the centre of the policy.[172]

The **Action plan** has three main goals:

- Alignment of the legal framework with the provisions of the Convention;
- Establishing general and specialised services to promote the protection of victims of gender-based violence and victims of domestic violence;
- Implementation of activities for the prevention of gender-based violence and domestic violence.

The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) in its 2023 Report[173] identified several promising practices, such as the solid legal basis for the national co-ordinating body under Article 10 of the Convention, which clearly sets out its composition and tasks, and includes the participation of civil society. Numerous guidelines, manuals and rulebooks for practitioners are available in North Macedonia, for example the manual for police officers on providing gender-sensitive services to support victims of domestic violence, the guidelines and standards for the reception and accommodation of asylum seekers, and the manual for conduct of health professionals in response to gender-based violence. These guidelines set the standards which the authorities are expected to follow, and contribute to a more har-

[171] Action Plan for the implementation of the Convention on Preventing and Combating Violence against Women and Domestic Violence 2018-2023: *https://www.mtsp.gov.mk/content/pdf/ap%202018/15.10-NAP%20AP%20za%20IK%202018.doc*

[172] Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), Report submitted by North Macedonia pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report), 5 April 2022, GREVIO/Inf(2022)5.

[173] GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), NORTH MACEDONIA, Council of Europe, 26 May 2023, op.cit., introduction.

monised application of the relevant laws and practices. GREVIO welcomed the beginnings of specialisation of the institutional response to violence against women, for example of police inspectors that work in the field of domestic violence, and the opening of a *Special Unit for domestic violence* at the Skopje police.

The women's helpline has been providing qualified counselling and support to women victims of violence since 1994, but, according to GREVIO, like most of the services operated by women's rights NGOs, would require more sustainable government funding.

GREVIO in its 2023 Report[174] strongly encouraged the authorities of North Macedonia to enhance the implementation of the Istanbul Convention in relation to all forms of violence against women, beyond domestic violence, which are currently less addressed by policies, programmes and support services, with due regard to their gendered nature.

The Ministry of Interior has prepared:

- Police Handbook Providing Gender-Sensitive Support Services to Victims of Domestic Violence (with the support of UN Women);
- Reminder for the conduct of police officers in cases of gender-based violence and domestic violence (with the support of the OSCE Mission).

Both documents are part of the police officers' training to provide them with professional training for acting upon a report, as well as for sensitisation regarding the issue of gender-based violence and domestic violence.

- An Algorithm for the action of the police officers after receiving a complaint of gender-based violence and domestic violence has been developed.

The curriculum for basic training of candidates for police officers continuously incorporates topics that aim to increase the expertise in acting from a gender-sensitive aspect. In addition to other topics, curricula for hate crime, human rights and anti-discrimination and the provision of gender-sensitive services to support victims of domestic violence are mandatory.[175]

Furthermore, in 2021 the Ministry of Labour and Social Policy has established specialised services for women victims of gender-based violence and domestic violence in 7 regions of North Macedonia (organisational units of the locally competent social work centre; specialised counselling centres for victims; and specialised counselling centres for psychosocial treatment for perpetrators).

[174] Op. cit., p. 11.
[175] Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), Report submitted by North Macedonia pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report), 5 April 2022, op. cit., p. 14.

There is also a National Strategy for Gender Equality 2021-2026 and the **Gender Action Plan III – 2021-2025,** adopted on 25 November 2020.[176]

A revision that is of interest to the Police Reform also is the Revision of the Law on Administrative Servants and the Law on Public Sector Employees (ongoing).

The scope of the Law on Administrative Servants is to be extended to also cover institutions, previously excluded from this law. The revised law will also include provisions clarifying who is an administrative servant and what administrative work entails. It will further address the issue of staff retention policy in the administration.

The government started drafting also a **new Law on Salaries** aiming to submit it to the Parliament in the first quarter of 2024. Outlining what salaries should apply to which specific positions still needs to be agreed together with the Ministry of Finance, and it is to be seen if there will be equality of salaries for men and women in all professions.

The government has also prepared a **draft Law on Top Management** which aims at providing for a merit-based recruitment and promotion system for senior management posts in the civil service. The attainment of full political agreement is still ongoing.[177]

c. National Strategy & Action Plan for Combating Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021–2025)

Given its unique geography as a conduit between two continents North Macedonia faces serious challenges as posed by organized crime. Criminal networks across the region continue to engage in the trafficking of controlled substances, firearms and persons, the smuggling of migrants, money laundering, corruption, terrorism, and related threats.

The Border Police Sector (BPS), which is a part of the Ministry of Interior (MoI), has been tasked with the state border security and border control (border surveillance and border checks). Within the BPS, the policy aspects of border management have been assigned to the Sector for Border Affairs and Migration (SBAM) while the implementation is ensured by four Regional Centres for Border Affairs: North competent for the border with Serbia and Kosovo, West competent for the border with Republic of Albania, South competent for the border with Republic of Greece and East competent for the border with Republic of Bulgaria. The Border Police sector comprises also a Unit for foreigners and readmission and a Reception Centre for Foreigners. In October 2011, a Mobile Unit for Cross-border Crime was established, aiming at operational application of risk analysis, discovery of illegal migrants and other types of cross border crime.

[176] EU Delegation to the Republic of North Macedonia, Gender Action Plan III – 2021-2025, Country Level Implementation Plan – CLIP for the Republic of North Macedonia, Ref. Ares(2022)2523876 - 04/04/2022: *https://www.eeas.europa.eu/sites/default/files/documents/EU%20GAP%20III%20CLIP%20for%20North%20Macedonia%202021-2025.pdf*

[177] See, EU Commission on Accession process, Screening report North Macedonia, Cluster 1: *https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-07/MK%20Cluster_1%20Draft%20screening%20report_external%20version.pdf*

In 2007 the National Coordinator for Integrated Border Management (NCIBM) was set up by a Government Decision based on the Law on State Border Surveillance, and the Law on Border Control. Its creation aimed at improving the interaction among the various bodies involved in the integrated border management. The National Coordination Centre for the Integrated Border Management (IBM) comprises representatives (liaison officer and a backup) of the Ministry of Interior.

The main coordinating body in the area of fight against organised crime is the National Coordination Centre for Fight against Organised Crime (NCC) established with the Government Decision in March 2014. The Standard Operational Procedures for the mandate, organisation and functioning of the NCC were adopted in May 2014. Memoranda of Understandings (MoU) were signed among the respective institutions (mainly between MoI, Financial Police, Financial Intelligence Unit, Customs, Public Prosecutors Office).[178] The NCC is led by the MoI and it coordinates the efforts of all law enforcement agencies in fighting organised crime.

There is a combined competence of a number of institutions in dealing with trafficking in human beings and illegal migration, coordinated by the **National Commission for Combating Trafficking in Human Beings and Illegal Migration.** The National Commission is composed of 12 government agencies and led by the national coordinator to direct anti-trafficking efforts. The Commission has an administrative body, a Secretariat and a Subgroup for Combatting Trafficking of Children. The Anti-Trafficking Secretariat, composed of government ministries, the international community, and civil society, operates under the NC and holds, as the previous, bimonthly meetings.

Although in the previous period the intersectoral activity has given visible results, it is still necessary to strengthen the capacities of the National Coordinator and National Rapporteur's Office, which were some of the key recommendations of the Council of Europe in regard to the harmonisation of the national regulation with international legal instruments. This Strategy envisages strategic goals that enable the strengthening of the National Coordinator's capacities for full and efficient implementing of their mandate.[179]

Human traffickers exploit domestic and foreign victims in North Macedonia, and traffickers exploit victims from North Macedonia abroad. It needs to be noticed that in the RNM children-victims have the highest percentage (76%) in human trafficking, and that

---

[178] European Commission, Instrument for Pre-Accession Assistance (IPA II) 2014-2020, The former Yugoslav Republic of Macedonia, Migration and asylum, border management and fight against terrorism and organised crime, p. 28: *https://dijalogkoneu.mk/wp-content/uploads/2020/05/4.-AP.-Migration-and-asylum-border-management....pdf*

[179] National Commission for Combating Trafficking in Human Beings and Illegal Migration, National Strategy for Combating Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021-2025), Skopje, 2021, p. 198: *https://north-macedonia.iom.int/sites/g/files/tmzbdl2301/files/documents/2023-02/National%20Action%20Plan%20for%20Combating%20Trafficking%20in%20Human%20Beings%20and%20Illegal%20Migration%20in%20the%20Republic%20Of%20North%20Macedonia%202021%20%E2%80%93%202025.pdf.* The 2021-2025 National Strategy and National Action Plan for Combating Trafficking in Human Beings and Illegal Migration have been adopted by the Government of the Republic of North Macedonia on the 66th Session of the Government held on the 21st April 2021.

trend also applies to gender, since the share of female persons is the highest. They usually belong to the vulnerable categories of persons compelled by various social, economic and social factors such as: poverty, gender discrimination, domestic violence and other personal situations of the victim (such as age, health, special needs, etc.). With regard to ethnic origin, all ethnic groups are represented, with the exception of forced marriages and forced begging, in which members of the Roma ethnic community dominate.[180] Traffickers, who are often relatives or close friends, exploit Romani children through forced begging and sex trafficking within forced marriages. Migrants and refugees traveling or being smuggled through North Macedonia, particularly women and unaccompanied children, are particularly vulnerable to trafficking. NGOs report children with mental and physical disabilities are increasingly vulnerable to trafficking. Officials and observers continued to report low-ranking police officers may be complicit in trafficking, including hiding evidence, accepting bribes, changing patrol routes to benefit perpetrators, tipping off perpetrators before raids, or direct involvement in organized crime.[181]

The Republic of North Macedonia, trying to be in line with international standards, has been building its capacities for combating trafficking in human beings and illegal migration since 2001. There are institutions with general authority in this area, such as: MoI, MFA, MLSP, MoJ, MoH, PPO for prosecuting organised crime and corruption, and other competent institutions. At the same time a partnership has been developed in the civic sector involved in the prevention, protection, assistance, support and integration of victims of trafficking in human beings; such a relation has also been established with the international organisations represented in the country.

In order to enable independent functioning of the National Rapporteur in line with the recommendations of the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA), the Government of North Macedonia adopted a decision on 1st December 2019 to appoint as a National Rapporteur a representative from the Office of the Ombudsman of the RNM. Based on their mandate the National Rapporteur is responsible for: monitoring the overall activities in combating trafficking in human beings; collecting and analysing data from relevant partners; monitoring and assessing the implementation of the National Action Plan; adopting conclusions; and giving recommendations for improving and enhancing the fight against trafficking in human beings related to the implementation of laws, policies for better institutional response and recommendations for auditing strategic goals and drafting an annual report. At the date of publication of the *National Strategy for Combating Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021-2025)*, the National Rapporteur had prepared six reports focused on identification and reintegration on victims submitted to the National Commission for Combating Trafficking in Human Beings and Illegal Migration and presented to the broader public.[182]

---

[180] Op. cit., p. 200.

[181] *US Department of Justice* (2023), 2023 Trafficking in Persons Report: North Macedonia: *https://www.state.gov/reports/2023-trafficking-in-persons-report/north-macedonia/*

[182] National Commission for Combating Trafficking in Human Beings and Illegal Migration, National Strategy for Combating Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021-2025), op. cit., p. 206.

However, as reported,[183] the national rapporteur lacks the resources, and legal mandate to successfully monitor and evaluate anti-trafficking efforts. For example, the national rapporteur cannot access transit centers, obtain information from ministries, and lacks general resources, such as computers, office supplies, and transportation.

Based on the analysis of the situation and the institutional framework and the identified priorities for combating trafficking in human beings and illegal migration, the National Commission has established the strategic priorities, goals and directions for the 2021-2025 period. The national strategy covers five strategic areas: supporting framework; prevention; identification and referral; direct assistance, protection, integration and voluntary return of the VoT/migrants; and efficient detection and prosecution of perpetrators of the crimes of THB and MS. It envisages ten strategic goals and 34 objectives to be achieved. A total of 120 activities are planned for this period in order to achieve a total of 53 expected outcomes.[184]

In view of strengthening the identification process of victims of trafficking, on January 2018 the government established **mobile teams** for the identification of vulnerable categories including victims of trafficking in five regions.

The mobile teams consist of a representative from the CSW, a police officer and a representative from a citizens' association and a psychologist. The aim of the mobile teams is to improve the identification by proactive action towards detecting and preventing human trafficking. However, during the period 2018-2019 the team has identified only 14 victims of trafficking.[185]

The **Combatting Trafficking in Human Beings and Migrant Smuggling Unit's Anti-Trafficking Task Force** within the Ministry of Interior (MoI) leads investigations with 16 specialised officers. The MOI maintains 16 additional officers across eight regional offices specifically working on trafficking.

The Ministry of Labor and Social Policy (MLSP) continued to dispatch social workers to screen vulnerable populations at border crossings and transit centers. MLSP social workers and police continued to identify potential forced labor victims among predominately Romani children engaged in begging and street vending and placed them in daycare centers.

Following some critics[186] that government agencies lacked policies and mechanisms to ensure proactive identification efforts, (especially border agents not consistently screening for trafficking indicators at border crossings, and documentation on police

[183] *US Department of Justice* (2023), 2023 Trafficking in Persons Report: North Macedonia: *https://www.state.gov/reports/2023-trafficking-in-persons-report/north-macedonia/*
[184] National Commission for Combating Trafficking in Human Beings and Illegal Migration, National Strategy for Combating Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021-2025), op. cit., p. 215.
[185] Op. cit., p. 207.
[186] US Department of Justice (2023), 2023 Trafficking in Persons Report: North Macedonia: *https://www.state.gov/reports/2023-trafficking-in-persons-report/north-macedonia/*

abuse of migrants and conducting illegal pushbacks to Greece), the government established recently the **Operational Team for Identification of Trafficking Victims (OTITV)** composed by a prosecutor from the Organized Crime and Corruption Prosecution Office (OCCPO), an officer from MoI, a social worker from MLSP, and a representative from an NGO, to officially recognize potential victims and assist in coordinating victim care.

There are two facilities that receive, accommodate and offer protection to foreign and domestic victims of human trafficking /children and migrants:

a) **The Centre for Victims of Trafficking and Victims of Sexual Violence (CVoT & VSV)** is a State-shelter owned by the MLSP and established in 2011, which also is supported in its work by a licensed NGO. Victims of human trafficking, both nationals and foreigners with approved temporary stay, are accommodated there. In March 2018, the Law on Social Protection was amended to enable the expansion of the mandate of the state Centre for Victims of Trafficking to accommodate also the victims of sexual violence. According to the National Commission for Combating Trafficking in Human Beings and Illegal Migration,[187] CVoT & VSV has not met the international standards for accommodation and protection of all categories of VoT (in regard to the capacity, sex, age, security issues) so far. With this legal solution, the accommodation of different categories of victims of violence (sexual, labour, gender-based violence, domestic violence, etc.) under the same roof undermines the efficiency and the effectiveness of the measures for assistance and support due to the specific needs of each of the victims individually. For these reasons this strategy envisages priorities and strategic goals for finding a solution that would involve a new facility that would accommodate the Centre for Victims of Trafficking.

b) The **Reception Centre for Foreigners** is a state-owned facility managed by MoI and in use since 2001.The Centre is intended to accommodate foreign nationals and foreign presumed victims of trafficking. The Reception Centre for Foreigners provides the persons with accommodation, medical assistance and protection, legal counselling and representation, and psychosocial support, as well as services related to returning and reintegration. The accommodation of the foreigners who are potential and identified VoT at the Reception Centre for Foreigners is contrary to the international conventions on the rights of victims. Although the provisions from the Law on Foreigners, Art. 121 Par. 4 and 5 stipulate a maximum of five days for approval of a temporary stay and for the victim to be transferred to the CVoT & VSV, still the five-day stay is contrary to international standards and the efforts for improving the process of identification. The Strategy envisages measures for improving this legal solution by amending the legislation.

There are also two **Temporary Transit Centres in Gevgelija and Tabanovce** have been established for the reception, registration, provision of medical and other assistance to the migrants, as well as for issuing certificates of expressed intention to seek asylum.

[187] See, National Strategy for Combating Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021-2025), op. cit., p. 209.

Furthermore, in the vicinity of the "Tabanovce" border crossing with the Republic of Serbia, a **Red Cross Temporary Relief and Support Station** is set up for the transiting migrants who plan to cross the state border to the Republic of Serbia. The total capacity of both reception centres (Gevgelija and Tabanovce) is 2,000 beds – 1,500 in Gevgelija and 500 in Tabanovce. They operate with the help of the competent authorities in the Republic of North Macedonia (MoI, MLSP, MoH) and the support by NGOs and international organisations. The teams of the Red Cross of RNM have continuously been providing the migrants with first aid and support at the temporary station, offering them medical assistance, food and water, blankets, clothing and personal hygiene items. International organisations and associations are also present at the reception centres providing the migrants with the necessary assistance.

The Law on Social Protection also envisages other measures for social prevention and social services for the vulnerable categories of people.[188]

In the field of organized crime, the Government of the RNM and UNODC have formally agreed to pursue cooperation in the area of enhanced border control within the framework of the EU-UNODC initiative launched in 2020,[189] signing a joint Letter of Agreement (LoA) to that effect. Both entities committed to the implementation of UNODC initiatives in North Macedonia; in particular, to the establishment of a nationally-owned airport inter-agency group consisting of a CCP Air Cargo Control Unit (ACCU) and an AIRCOP Joint Airport Interdiction Task Force (JAITF) at the Skopje International Airport. The signature of the LoA further supports the implementation of the UN Conventions on drugs and crime and the EU Acquis — notably Chapters 23 and 24 addressing serious organized crime, rule of law, good governance and security.

Since 2009 the has also been established the Office of the National Referral Mechanism with the aim to provide adequate identification, referral, fair assistance and protection for victims of trafficking, especially for the children victims, regardless their nationality, ethnic background, age or gender. The Office of the National Referral Mechanism collaborates with other institutions and stakeholders on the process of prevention, identification, support and protection of victims of trafficking, especially children.

In the field of illegal migration, and pursuant **to the Stabilization and Association Agreement with the European Communities and their Member States (SAA),** the Republic of North Macedonia has undertaken to cooperate in the areas of visas, border control, asylum and migration. In addition, the Republic of North Macedonia in 2018, by joining the first **United Nations Global Compact for Safe, Orderly and Regular Migration (GCM),** together with 151 countries has committed to cooperate in all dimensions of international migration.[190]

---

[188] Law on Social Protection of RNM, Chapter IV Social Prevention and Social Services, *http://www.mtsp.gov.mk/content/pdf/zakoni/2019/28.5_zakon_SZ.pdf*

[189] UNODC & North Macedonia to Cooperate on Enhanced Border Control: *https://www.unodc.org/unodc/en/frontpage/2021/January/unodc-and-north-macedonia-to-cooperate-on-enhanced-border-control.html*

[190] Republic of North Macedonia - Ministry of Foreign Affairs (2022), Review of the Implementation Status of the Global Compact for Migration (GCM) in the Republic of North Macedonia, Skopje, March 2022.

As a consequence, in 2018 the *National Unit for Suppression of Smuggling of Migrants and Trafficking in Human Beings* was established with the aim of strengthening the national capacities and increasing the efficiency of the police and of the prosecutor's office in the suppression of organised forms of smuggling of migrants and human trafficking.[191]

The National Unit's head is appointed by the Public Prosecutor of the RNM from the ranks of the public prosecutors of the Public Prosecutor's Office for Prosecution of Organised Crime and Corruption. S/he is appointed to manage and guide the actions of the National Unit for detecting organised forms of migrant smuggling and trafficking in persons.

The establishment of a National Unit is considered as exceptional progress in strengthening the institutional framework in the fight against TiP and SoM.

A Resolution on Migration Policy (2021-2026) of the Republic of North Macedonia with an Action Plan have been prepared in order to enhance the legal framework in the field of migration, harmonised with the UN Conventions and the legal framework of the European Union. The new Strategy for Integrated Border Management 2022-2025 has been adopted by the Government in March 2022. The further use of the GCM in future strategic documents in the field of migration is expected to help to better identify policies for managing migration flows.

On the basis of the GCM and its goals, the institutions of the North Macedonia recognise the following priorities, which require financial resources:[192]

- Expertise in drafting and further harmonisation of legislation;
- Development of a modern, comprehensive IT system for documenting migration flows in the Republic of North Macedonia;
- Construction of infrastructure to improve the provision of social services (human resources, facilities, IT systems for data collection);
- Better realisation of the rights and services for the persons with regulated residence, as well as the persons under international protection;
- Improving the referral system in order to improve the quality of services for vulnerable persons -migrants, especially children;
- Analysis of the situation and undertaking activities for establishing full operational functionality of the Integrated Database for Foreigners, covering asylum, migration and visas.

[191] The Unit was officially established on 3 January 2018 with the signing of a Memorandum of Cooperation in the field of the suppression of organised forms of smuggling of migrants, between the Ministry of Interior and the Public Prosecutor's Office of the RNM.

[192] Republic of North Macedonia - Ministry of Foreign Affairs (2022), Review of the Implementation Status of the Global Compact for Migration (GCM) in the Republic of North Macedonia, Skopje, March 2022, p. 6-7.

The recommendation of the GCM for preparation of indicators for measuring progress is already being implemented through the adopted new Resolution on Migration Policy and the established indicators for monitoring the Action Plan for the period 2021-2025 by the inter-ministerial body responsible for the development of migration policy in the Republic of North Macedonia in which the goals of the GCM are transposed. Migration Management Indicators have also been prepared: Profile of North Macedonia (September 2021). This profile contains a brief overview of the well-developed structures for migration management in North Macedonia, and an overview of the areas that need further improvement, in accordance with the assessment prepared based on the Migration Management Indicators (MMI). The MMI is a standard set of approximately 90 indicators that help countries identify good practices as well as areas for further improvement, and may indicate which tools countries should use to improve migration management structures.

The Ministry of Internal Affairs and the Ministry of Labor and Social Policy have developed standard operating procedures (SOPs) for a number of aspects: SOP for dealing with a vulnerable category of persons; SOP for police officers on the first line of action; The National Commission for Combating Trafficking in Human Beings, in cooperation with the Ministry of Internal Affairs and the Ministry of Labor and Social Policy, supported by the UNHCR, developed and adopted the SOP for dealing with vulnerable categories of foreigners and the SOP for dealing with unaccompanied foreign children.

The Ministry of Labor and Social Policy with the support of UNHCR developed and adopted: Rulebook on dealing with vulnerable persons and unaccompanied children on the manner of care and accommodation of unaccompanied minors and vulnerable categories of persons with recognized right to asylum in the Republic of North Macedonia; Rulebook on standards for accepting asylum seekers; Rulebook on the more detailed criteria and the manner of using a suitable apartment for accommodation or financial assistance needed to provide accommodation for persons with refugee status in accordance with their needs; Rulebook for assessing the best interests of the child, as well as other tools for improving the protection of vulnerable people. In cooperation with IOM, a National Tool for Screening and Identification of Vulnerable Categories was developed.[193]

It is very important that the Ministry of Internal Affairs and the Ministry of Labor and Social Policy continuously conduct trainings that cover police officers, social workers, people from reception centers.

There has been progress in providing interpreters in the language spoken by migrants, in order to establish communication with them, to understand their specifics and needs. This information is necessary for further referral and action.

[193] Review of the Implementation Status of the Global Compact for Migration (GCM) in the Republic of North Macedonia, op. cit., p. 17.

The challenge is the further strengthening of the material, technical and human resources to deal with increased migration flows, in order to more effectively combat smuggling of migrants, as well as to treat and protect migrants, especially women and children.

According to the **Law on Border Control** (of **2010** with its amendments of **2018**), the Border Police has the authority to carry out border checks, surveillance and control of illegal migration, illegal crossing of the state border and residence on the territory of the country and to detect and prevent cross-border crime. The National Coordination Center for Border Management is responsible for "coordinating activities and facilitating the exchange of data and information between state bodies with authority in border management".

The border police receive regular training organized by both state and international organizations. The **training center of the Ministry of Internal Affairs** trains police officers, mainly for border checks, border crime and detection of forged documents. In addition, there are periodic 'trainings for trainers'. Also, since 2018, the EU border agency, FRONTEX and other international organisations such as IOM, provide regular training for border police.

Procedures for identifying, assisting and referring migrants at risk have been established. The institutions concerned follow the guidelines contained in the Standard Operating Procedures for Dealing with Unaccompanied Foreign Children (2015) and the Standard Operating Procedures for Dealing with Vulnerable Categories of Foreigners (2016). Similarly, the 2016 Standard Operating Procedures for Dealing with Vulnerable Categories of Foreigners contain guidance on the procedures to be followed by relevant institutions when dealing with migrants at risk.

In particular, the document contains guidelines for: identification (first contact and active identification) and referral of migrants at risk; initial support and assistance (and initial accommodation); providing legal support (and assistance in regulating their stay in the country and applying for asylum); integration and long-term support (and providing long-term accommodation, health care and education); and voluntary repatriation procedures.

The border police have continuous contacts with the police from each of the neighboring countries and from the countries along the migrant route. The direct cooperation with the neighboring countries is usually realized through the joint border centers. The exchange of information and data is through regular contacts at all three levels and through the JCC for police cooperation (with the competent services of neighboring countries) and through the use of common platforms for information exchange, meetings, participation in international events, forums and initiatives and regular video conference meetings (with EU agencies and competent services of other countries, including neighboring countries).[194]

[194] Review of the Implementation Status of the Global Compact for Migration (GCM) in the Republic of North Macedonia, op. cit., p. 24.

d. National Programme for the Adoption of the Acquis, 2021–2025, relevant to the thematic area of Home Affairs

The most detailed part of the EU's policies on justice, freedom and security is the Schengen *acquis*, which entails the lifting of internal border controls in the EU. However, for the new Member States substantial parts of the Schengen *acquis* are implemented following a separate Council decision to be taken after accession. North Macedonia is reported as "**moderately prepared** to implement the EU *acquis* in this field".[195]

Nevertheless, several measures have been announced for implementation through the *National Programme for Adoption of the European Union Acquis (NPAA) 2021-2025*,[196] such as a *National Master Plan* to ensure future interoperability and compatibility with the EU systems and an *Information System for Integrated Border Management* in order to strengthen the institutional capacities of the National Coordination Centre for Integrated Border Management (NCCIBM), as well as a new Practical Manual *Standard Operating Procedures for Border Control* in order to comply with the recommendations and best practice for border operations prescribed by the Schengen Manual.

Improvement has been noted in the functioning of the **National Coordination Centre for Combating Organised Crime (NCC)**, as a tool for inter-institutional cooperation at national level, with information sharing and conducting joint investigations between different law enforcement institutions.

However, it is rather surprising that the *National Programme for Adoption of the European Union Acquis (NPAA) 2021-2025*, in reference to the public administration does not refer to the issue of gender mainstreaming for the police. The only reference is made to a **Public Policy Document for incorporating the gender aspect in the implementation of anti-corruption policies.**[197]

Also, it is reported[198] that although the external oversight mechanism of the police is complete, the absence of genuinely independent investigators may impede the work of the unit to effectively address police impunity.

The Resolution on Migration Policy (2021-2026) and Action Plan have identified the measures needed to improve the existing data sources and collection; to harmonise further the legislation in the area of migration with the EU acquis, policies and practices; to strengthen the administrative and technical capacities of the institutions and enhance their cooperation. The implementation of this plan needed of course technical and financial support. Recognition of the needs and conditions for both female and male migrants

[195] EU Commission on Accession process, Screening report North Macedonia, Cluster 1: *https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-07/MK%20Cluster_1%20Draft%20screening%20report_external%20version.pdf*
[196] Republic of North Macedonia, National Programme for Adoption of the European Union Acquis (NPAA) 2021-2025, June 2021: *https://www.sep.gov.mk/data/file/NPAA/NPAA%20ENG%20Final_compressed%20(1).pdf*
[197] Op. cit., p. 78.
[198] Op. cit., p. 97.

and refugees has to be ensured. Without adequate understanding, knowledge, skills and tools, the existing migration management mechanisms risk falling short of guaranteeing security standards and respect and protection of migrants' rights. The skills of the Border Police in communication, interaction and treatment of migrants need to be improved. Particular support is required to ensure cultural interaction and translation in the registration process. Attention needs to be given to the vulnerable categories of migrants, such as women, children, persons with disabilities, who are more often subject to violence than men, and their rights or needs are less recognised than men's in transition or camps. The tools used for the data collection need to be further developed and harmonised with the EU standards and upgraded to avail collection of more varied data, to support the data exchange nationally and with the partner countries.

The current migration crisis has nourished also irregular migration and the trafficking in human beings, especially women and children. Smuggling activities and falsification of documents have increased significantly, while proper identification and registration of irregular migrants remains a challenge. The illegal crossings of the state border with forged travel documents present an additional challenge for the country. The risk analysis performed by the relevant institutions of the European Union, shows different models and techniques of forgery of the travel documents of nationals from different countries, imposing thus the need of constant education of the border officers on detection and suppression of this type of crime.

The capacity of the country to accommodate and treat illegal immigrants in line with the international standards needs also to be reinforced. The existing Reception Centre for Foreigners, located in Gazi Baba, with a capacity of 120-150 persons, falls short of meeting basic international standards for detention of irregular migrants, due to severe overcrowding, as well as because of the overall layout of the construction, which has never been designed for the purpose for which it has been utilised. The current building is located in an inappropriate area: a suburb with limited road access. The Committee for the Prevention of Torture (CPT) recommended to the authorities to ensure appropriate space and facilities for social activities and sport - this recommendation cannot be implemented in the current Centre location. Civil society organisations such as Human Rights Watch, Amnesty International and other rights monitoring bodies have criticised the inhuman and degrading living conditions at the current reception centre, which led to temporary suspension of the operations of the establishment. Creation of a new facility to host illegal immigrants, yet in full respect of their rights and the international standards, will address a well spelled and urgent need.

Effective border management is even more important in view of the terrain configuration, consisting of mountains, rivers, roads cutting through the border. The Mobile Border Unit for suppressing cross-border crime and compensatory measures should be strengthened in line with the Frontex training model. It is also important to extend the territory coverage of the national communication system to Tetra IV level, including also the capital city and all new roads and connecting the law enforcement bodies, fire brigades and medical emergency. The upgrade in the integrated border management

data exchange platform is necessary to intensify and operationalise the information exchange between IBM related institutions. The remaining six police stations for border surveillance also need to be connected to the central database of MoI.

Effective protection of the external borders goes hand in hand with strong criminal investigation, well-organised coordination among the numerous actors and a well-functioning judicial system.

Improvements are also needed in key police systems: resource management, community policing, process excellence, learning and growth in order to ensure professional police serviceable to provide rapid and effective police response to all possible security challenges in respect of the human rights.

Effective combating of organised crime requires involvement of the local communities and civil society in fighting radicalisation, crime prevention and information sharing as well as in protecting human rights. The relevant authorities need to understand the role of local communities and develop skills to work with them and involve them in policy making.

The National Programme for the Adoption of the Acquis Communautaire **(NPAA)** has already outlined few priorities in the Home Affairs sector: 1) strengthening the strategic capacities for management of migration; 2) full implementation of the National Action Plan for Combating Trafficking in Human Beings and Illegal Migration, and ensuring victims' access to assistance, protection and reintegration; 3) establishment of minimum/maximum standards of technical equipment of the police stations for border checks and border surveillance; 4) continuous cooperation with neighbouring countries, by realisation of mixed patrols and cooperation through the joint contact centres; 5) trainings of the members of the Mobile Units; and 6) exchange of IBM data nationally, regionally and at the EU level.

This Action is also closely linked to the implementation of the following **national strategies**:

- National Strategy for Combating Trafficking of Human Beings and Illegal Migration 2021-2025, which puts an emphasis on the protection of victims of human trafficking;
- Strategy for Integration of Refugees and Foreigners and the Resolution on Migration Policy, which outline the need for strengthening the skills, competencies and abilities of the key stakeholders in the area of migration, asylum and visa policy;
- Police Development Strategy, reviewing responsibilities related to receiving and accommodating migrants pursuant to the standards and requirements of the EU and strengthening the border affairs and migration department and the regional centres for border affairs operative capacities, including fighting the cross-border crime and illegal migration; 2) enhancing Forensic Capacities of the Police and strengthening the capacities of the forensic laboratories and Crime Scene Investigation (CSI) units at central and regional level; and 3) development of risk management and risk analysis, pursuant to the request and best practices of the EU.

Strengthening the capacities of Home Affairs in the area of asylum, migration and trafficking in human beings means establishment of a new Reception Centre for illegal migrants with Standard Operating Procedures for the Reception Centre for illegal migrants, for treatment of refugees, asylum seekers and other migrants, with particular focus on women, children, persons with disabilities and other vulnerable groups of migrants including victims of trafficking.[199]

There is at present a **Centre for trafficking in human beings,** a State accommodation centre, which provides direct assistance and support to the victims of human trafficking sheltered there to. The Ministry of labor and social policy provides support in covering the expenditures (rent, electricity, heating, water, telephone) for proper operation of the Centre.

Support for migrants, asylum seekers and victims of human trafficking is provided including:

- Cultural intermediation including preparation and distribution of information materials and practical documents for asylum seekers and migrants, linguistic and cultural support for the interaction between migrants and authorities,
- Analysis of risk groups subject of trafficking, defining measures to reduce the risk of identified groups and implement the measures (research and analysis of the risk factors contributing to trafficking in human beings, preventive activities, providing assistance and support to the victims of trafficking in human beings and vulnerable categories of migrants (such as standard package of services for basic needs, legal, medical aid, psychosocial aid) as well as support for their re-integration in the social and economic environment).
- Support for reintegration of victims of human trafficking including support for the establishment and functioning of a compensation mechanism.

Aligning the national systems with the EU and Schengen requirements for border management means inter-institutional coordination and cooperation.

The investigation and processing of cases of organised crime and smuggling of migrants is within the mandate of the Department for Organised and Serious Crimes, where a specific Unit for Trafficking in Human Beings and Illegal Migration has been established.

According to the National Programme for Adoption of the European Union Acquis (NPAA) 2021-2025, material and technical equipping of the National Unit for Suppression of Migrant Smuggling and Trafficking in Human Beings will be further provided, as well as strengthening the capacities of relevant participants - Offices of the National Coordinator for Combating Trafficking in Human Beings and Illegal Migration, the National Rapporteur for Combating Trafficking in Human Beings, as well as the

[199] See Instrument for Pre-Accession Assistance (IPA II) 2014-2020, p. 13.

existing local commissions. Trainings for identification of victims of human trafficking and their reintegration will be conducted on continuous basis. A working group will be established and expert assistance will be provided to improve the legislation in order to ensure more effective protection against trafficking in human beings for the purpose of labour exploitation.[200] There will be also continuous activities on maintaining and strengthening the regional network of coordinators for combating human trafficking. A Memorandum of Cooperation will be signed for the exchange of information in the area of combating human trafficking between the Republic of North Macedonia and Greece.

The **Institutional Stakeholders** for the implementation of the activity to improve the administrative capacities in the area of migration and trafficking in human beings are: the Ministry of Interior (MoI), the Ministry of Labour and Social Policy, the Ministry of Foreign Affairs, local communities, and NGOs.[201]

In the area of improving the situation of domestic violence victims and gender-based violence the *National Programme for Adoption of the European Union Acquis (NPAA) 2021-2025* announced the functioning of 13 specialised centres for care of victims,[202] financed by the Ministry of Labour and Social Policy and managed by the civil sector, 10 specialised services that provide psychosocial assistance and support to victims of domestic violence and SOS hotlines. All police stations were also provided with contact telephones of counselling centres for work with women who are victims of gender/ domestic violence, of civil society organisations and telephone numbers of the National Service for implementation of several protection measures.

It is also announced that an integrated data collection system for victims of gender-based and domestic violence will be established and the capacity of institutions and service providers for victims of various forms of violence will be continuously strengthened.

[200] Republic of North Macedonia, National Programme for Adoption of the European Union Acquis (NPAA) 2021-2025, June 2021, p. 134:
[201] IOM has been designated as the contractor for the implementation of this activity.
[202] Republic of North Macedonia, National Programme for Adoption of the European Union Acquis (NPAA) 2021-2025, June 2021, p. 110.

f. Open Government Partnership National Action Plan 2021–2023

This action plan features commitments related to anti-corruption, particularly in public procurement transparency, public-service delivery, and access to justice for vulnerable groups.[203]

Under the Open Government Action Plan, Commitment 3.6 seeks to improve protection to victims of human trafficking. Currently, there remain no key decisions on the scope of the milestones. The government established a National Unit for Combating Trafficking in Human Beings and Illegal Migration to improve inter-institutional cooperation in combating these crimes, and is planning to create mobile teams to identify and protect victims. However, stakeholders have not yet discussed the content of the database on initiated actions and identified cases of online exploitation of children, or who will collect the data. Relevant institutions are already required to publish and update a variety of data on cases of human trafficking.[204]

Commitment 4.1 improves the protection of human rights for sex workers by improving the professionalisation of police when dealing with such cases.



[203] Open Government Partnership National Action Plan North-Macedonia 2021-2023: *https://www.opengovpartnership.org/wp-content/uploads/2021/11/North-Macedonia_Action-Plan_2021-2023_EN.pdf*

[204] Data on human trafficking cases that is currently publicly available includes: data on committed criminal offences under Articles 418-a through 418-d of the Criminal Code of North Macedonia (trafficking in human beings, smuggling migrants, trafficking in minors); data on victims according to official statistics on identifying victims of trafficking; data on persons detected when smuggling migrants under Article 418-b; data on persons (victims or migrants) detected under Article 418-c (trafficking in human beings, trafficking in minors, and smuggling migrants); data on human-trafficking victims and potential victims, housed in a Reception Center for Foreigners and; data on the number of persons accommodated in the Reception Center for Foreigners.

This commitment also would mandate audio and video recordings during interrogations at police stations so that attorneys and clients may access them to prove human rights violations. Nine police stations within Skopje (in 10 municipalities) are equipped with video recording spaces, of which five are already in operation. Video surveillance systems are also being installed in police stations in several municipalities (such as in Gostivar, Kumanovo, Strumica, Gevgelija, Prilep, Stip, Radovish). However, adding audio recording depends on the ministry's budget for 2023. This commitment is important; the Council of Europe's Committee for the Prevention of Torture notes that ill-treatment often occurs after a suspect is brought under control or inside a police establishment for the purpose of extracting a confession.[205]

Under the Commitment 4.3 ('Access to justice for women who suffered domestic violence'), synchronised data collection and publishing of domestic violence cases across ministries, courts, the police, and social work centres could greatly improve the handling of these cases, allowing victims to receive justice and protection more quickly and efficiently.

[205] Council of Europe, *Report to the Government of North Macedonia on the visit to North Macedonia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 9 December 2020* (29 Jul. 2021), 19, *https://rm.coe.int/1680a359cb*.

CHAPTER 3

IDENTIFYING GAPS IN THE THEMATIC AREAS OF HOME AFFAIRS TO ASSIST ACCORDING TO THE EU ACCESSION PROCESS

The objective of this component is to identify gaps of the national laws, regulations and policies related to gender mainstreaming **in the thematic area of Home Affairs,** especially in the fight against **organised crime** with focus on:

- police reform and
- capacity-building for the Border Police to secure national safety against transnational crime, especially illegal migration and trafficking of humans.

This component aims to verify not only if the national policies, laws and regulations reflect the country's international commitments on gender equality (such as EU and Council of Europe standards, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Istanbul Convention, etc.), but also if they conform to the EU framework taking into account gender equality and women's rights.

In general, the following could be considered as the main points of the national policy:

Strong points:

- The political will to reform the police in gender mainstreaming;
- The political will to combat transnational organised crime;
- The efforts to adopt and amend the existing legal framework according to the international standards;
- The assistance of international organisations.

Weak points:

- Deficiencies in the legal framework and in infrastructure with regard the protection of victims of violence and vulnerable persons at risk;
- Lack of qualified personnel;
- Lack of technical equipment;
- Discriminatory/biased institution policies, conditions, and practices.

A. Police reform

a. Key aspects of gender equality objectives of Home Affairs

In this paragraph, the key aspects of gender equality objectives of Home Affairs are analysed with the aim to verify if the reforms conducted by the Home Affairs in the thematic areas follow or not the EU principles of gender mainstreaming.

According to EU the five principles of gender mainstreaming are:

1. Gender-sensitive language:

- Texts referring to or addressing both women and men must make women and men equally visible. This applies to, amongst others, forms, documents, or texts on the intranet and the internet.
- Attention must also be paid to a gender-sensitive choice of images when preparing public relations material.

2. Gender-specific data collection and analysis:

- Data must be collected, analysed and presented by gender.
- Gender-specific analysis of the initial situation must provide the basis for all decisions.
- Gender-sensitive statistics: Making life's realities visible.

3. Equal access to and utilisation of services:

- Services must be assessed as to their different effects on women and men.
- It is important to identify:
  - Who uses the services (women or men or both)?
  - Who are the target groups?
  - Are the different circumstances and needs of women and men taken into account when planning and designing services?
  - Have all target groups access to the same sources of information?
  - Who benefits most?
  - Which group would suffer most if they could not use the services offered?
  - Are the offices providing the services structurally gendered and barrier free, (i.e. the waiting areas, lighting, access without steps, signage)?

4. Women and men are equally involved in decision making:

- There are binding targets for a balanced gender ratio at all levels of decision making.
- Measures and strategies geared towards a balanced gender ratio must be taken at all levels of decision making.

- This is also important when appointing working groups, project teams, commissions and advisory boards, as well as when organising events, e.g. when selecting speakers.
- Workplaces must be structurally gendered and barrier free where possible (e.g. gendered signage, sufficient lighting, avoiding potentially frightening situations as in poorly accessible basement archives, access without steps, social rooms for different occupations).

5. Equal treatment is integrated into steering processes:

Steering instruments include quality management and gender budgeting, amongst others. It is important to note that:

- Paying attention to the different circumstances of women and men enhances:
  - the success rate,
  - effectiveness and
  - maximum utilisation of staff and funds.
- All targets related to people are defined in terms of full equality and the targets attained are therefore presented by gender.
- Controlling routine as a matter of course includes gender-specific evaluation of results and a systematic steering of the gender ratio, in other words, the development and implementation of (new and adapted) targets, strategies and measures.

b. Identifying Gaps related to the Police reform for gender mainstreaming

Unfortunately, as reported, there is fragmentation of administrative data collected by the various governmental institutions which does not provide a full picture of gender-based violence against women and domestic violence which would allow informing and evaluating public policies and laws in order to identify and remedy any shortcomings.[206]

Despite all efforts in the recent years to adopt a ***gender-sensitive language*** in all police related documents, this has not been achieved.[207] There is still short implementation of gender-fair and inclusive language to improve equality between women and men.

Further, concerning the ***gender-specific data collection and analysis,*** the tools used for data collection need to be further developed and harmonised with the EU standards and upgraded to avail collection of more varied data, to support the data exchange

[206] UNECE – World Bank Institute (2010), Developing Gender Statistics. A practical Tool: *https://unece.org/fileadmin/DAM/stats/publications/Developing_Gender_Statistics.pdf*

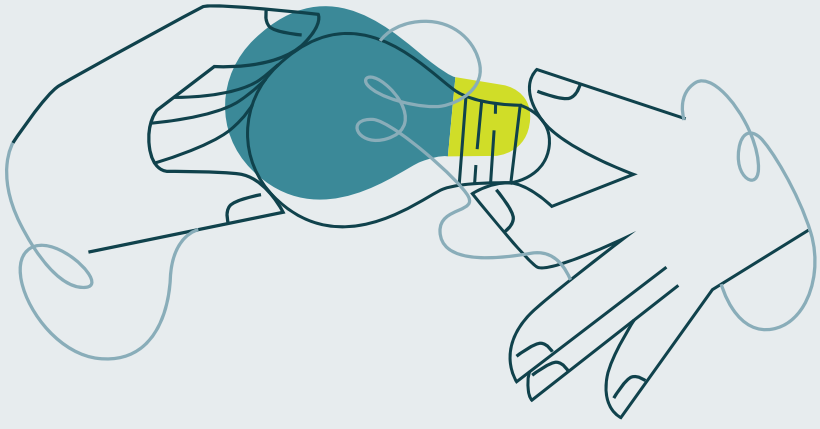
[207] Under the Instrument of Pre-Accession (IPA) funded by the European Commission, EIGE has adapted a Gender Equality Glossary and Thesaurus to four languages of EU candidate countries including North Macedonia. See, EIGE's Gender Equality Glossary and Thesaurus: *http://eige.europa.eu/rdc/thesaurus*. There is also a Glossary created by the Council of Europe, Gender Equality Commission (2016), *Gender Equality Glossary,* March 2016: *https://edoc.coe.int/en/gender-equality/6947-gender-equality-glossary.html#*

nationally and with the partner countries. As mentioned above, an integrated data collection system for victims of gender-based and domestic violence is to be established and the capacity of institutions and service providers for victims of various forms of violence will be continuously strengthened. However, it appears that for the moment there is no synchronised data collection and publishing of domestic violence cases across ministries, courts, the police, and social work centres. When the integrated data collection system will be established it could greatly improve the handling of these cases, allowing victims to receive justice and protection more quickly and efficiently.

As for the ***equal access to and utilisation of services,*** integration of women as police officers, needs to be more enhanced to provide a greater sense of security to women and children and improve access and support from law enforcement agencies to local women. There is also need for clear management arrangements and support of institutional strengthening of gender equality principles, giving equal access to men and women; and need for clear monitoring and evaluation with consistent use of sex-disaggregated indicators and resources for gender-sensitive data collection.

As for the ***equal involvement of women and men police officers in decision making*** it has to be underlined that there are still considerable barriers as mentioned above since the police force still needs to be structured gendered and barrier free. There is still low quota for women in entering police institution; lack of gender equality regulations for recruitment and advancing in the police force; low level of trust in women officers of the public; lack of inclusion, predictability, transparency, trust, and dialogue among stakeholders and generally biased opinions and stereotypes. Further, there is lack of measures to assist working mothers, such as lack of baby care services that avert women to access the police profession.

Lastly, with regard to the ***integration of equal treatment into steering processes,*** full equality has still a long way to run. There is no gender-specific evaluation of results in the police force or a systematic steering of the gender ratio, in other words, the development and implementation of (new and gender adapted) targets, strategies and measures.



B. Identifying gaps related to violence against women

Already in 2019, an OSCE led Survey on Violence against Women in North Macedonia[208] had pointed out that:

- Violence against women is widely accepted as normal and underreported;
- There is lack of shelters and sustainability of existing services;
- There is lack of referral centres for victims of sexual violence;
- There is need for more support and targeted action to help women from minority groups and from rural areas.

While the authorities of North Macedonia have taken important steps to adopt and implement laws, policies and measures to enhance compliance with the Istanbul Convention, GREVIO's Report for 2023[209] shows significant gaps in their implementation in practice. The evaluation procedure has shown that traditional beliefs pose a severe challenge to combating violence against women in North Macedonia, which include the view that domestic violence is a private matter, and that women are subordinate to men. Moreover, the stigma that surrounds sexual violence and rape results in extremely low reporting rates of these crimes, which is amplified by the lack of a sufficient number of rape crisis and sexual violence referral centres. GREVIO noted that the authorities will have to focus their efforts to promoting changes in the social and cultural patterns of behaviour of women and men, with a view to eradicate harmful traditional beliefs that contribute to women being perceived as inferior to men and therefore being subjected to violence against women and domestic violence.

The above report shows that such traditional views prevail also among those who are supposed to protect victims of violence against women and domestic violence, leading to insufficient institutional responses to women's reports of violence. GREVIO received indications from non-governmental and governmental sources that women victims of violence were not taken seriously by law enforcement, the judiciary and other relevant entities, leading to impunity for the perpetrators and a severe lack of protection of women from further violence. Victim-blaming attitudes also lead some police officers to treat reported instances of domestic violence as mere disputes between couples and attempt to 'reconcile' the couple, rather than taking action. GREVIO identified the urgent need to ensure that the authorities' duty of due diligence towards women victims of violence is ensured, and that those state actors who fail in doing so must be held accountable, including through disciplinary sanctions. Systematic and mandatory training of all professionals dealing with women victims of violence needs to be reinforced in order to sensitize those who are mandated to prevent, protect from

[208] OSCE (2019), Well-being and Safety of Women. Results Reports: *https://www.osce.org/projects/survey-on-the-well-being-and-safety-of-women*

[209] GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), NORTH MACEDONIA, Council of Europe, 26 May 2023, op. cit, p. 5.

and prosecute all forms of violence against women and domestic violence. In addition, factors that lead to delays in treatment and high attrition rates of cases of violence against women need to be identified and addressed.

Indications from civil society show that the gendered perspective does not always reach those implementing the laws and policies, as many continue to hold negative gender stereotypes, do not take women seriously when they report their experiences of violence, and sometimes even blame victims for the violence suffered.[210] Public opinion equally lacks a gendered understanding of violence against women and tends to view domestic violence as a private matter. 22% of women themselves think that non-consensual sex within a marriage or partnership could be justified.

Further, the **Centres for Social Work**, a key structure for the support of women victims of violence, are in urgent need of more financial and human resources to be able to effectively discharge their duties. This fact paired with the **shortage of shelter spaces** and the unavailability of emergency barring orders leaves many women victims of violence without the protection they need. Many of these women currently have no other option than staying with their abusers. Urgent steps need to be taken to increase the number of available places in women's shelters, to set up new shelters in areas where there are none, and to introduce emergency barring orders that comply with the Convention's standards, in order to give law enforcement authorities, the possibility to immediately ban perpetrators of violence from approaching the victim.[211]

An overarching issue identified by GREVIO is the statutory obligation by professionals, private persons and NGOs to report any suspicion of violence against women and domestic violence to the authorities. There are no exceptions to this obligation, which essentially makes any duty of professional secrecy redundant and takes away victims' agency, possibly even deterring them from seeking help in the first place. The blanket obligation for professionals to report cases of violence against women, other than in situations in which there are reasonable grounds to believe that a serious act of violence has been committed and further serious acts are to be expected, needs to be reviewed.

It needs to be noted that **Law on Prevention and Protection against Discrimination has been repealed** by the Constitutional Court's decision on procedural grounds. This means that the country currently lacks a comprehensive legal framework on nondiscrimination and an equality body. According to the *National Programme for Adoption of the European Union Acquis (NPAA) 2021-2025*, this serious gap needs to be addressed by the new legislature.[212]

---

[210] GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), op. cit., p. 17. Most of the above issues including that of stereotypes has been also pointed out by the UN Committee on the Elimination of Discrimination against Women (2018), Concluding observations on the 6th periodic report of the former Yugoslav Republic of Macedonia, CEDAW/C/MKD/CO/6, 14 Nov. 2018: *https://digitallibrary.un.org/record/1656543*

[211] GREVIO's (Baseline) Evaluation Report, op. cit., p. 6.

[212] Republic of North Macedonia, National Programme for Adoption of the European Union Acquis (NPAA) 2021-2025, June 2021, p. 96-97: *https://www.sep.gov.mk/data/file/NPAA/NPAA%20ENG%20Final_compressed%20(1).pdf*

The amended Criminal Code (Febr.2023) contains a new definition of 'family violence' (Article 122, paragraph 21), which includes psychological violence. However, this **does not establish a specific offence of psychological violence *per se*** within the Criminal Code. It is intended to guide courts when applying 'family violence' as an aggravating circumstance or as a qualifying element which enhances the seriousness of several criminal offences, including the offences of coercion and threatening the safety. Also, there is **no criminalisation of forced marriage covering all the elements of Article 37 of the Istanbul Convention, and *ex officio* prosecution of bodily injury committed in the context of domestic violence.**

GREVIO in its 2023 Report strongly encourages the authorities of North Macedonia to ensure that relevant professionals, especially prosecutors, judges, medical doctors and other relevant experts, recognise the seriousness of psychological harm inflicted in the context of domestic violence; to this end, further training initiatives should be launched, including on how psychological violence may be evidenced and prosecuted, and taking into account the digital dimension of violence against women.

Proper **gender strategic planning and budgeting tools** are still lacking, which limits the opportunities for effective gender mainstreaming in policy making and the integration of gender perspectives into sector dialogue and in public finance management process.[213]

The **fragmentation of administrative data** collected by the various governmental institutions does not provide a full picture of gender-based violence against women and domestic violence which would allow informing and evaluating public policies and laws in order to identify and remedy any shortcomings.

It is reported that **the country has not yet established quality services** necessary for the protection of victims of gender-based violence to meet the Istanbul Convention standards, including **access for women with disabilities**. The Police still need to strengthen their capacity to assess the violence risk and take adequate measures.[214] While North Macedonia's ratification of the Istanbul Convention and the efforts taken in its implementation are warmly welcomed, there is however a number of identified issues that require urgent action by the authorities to comply fully with the Convention's provisions. These relate to the need to:

- ensure the gender-sensitive implementation of laws, policies and measures in relation to all forms of violence against women, and enhance the implementation of the Istanbul Convention in relation to all forms of violence against women covered by the Convention, domestic violence, which are currently less addressed by laws, policies, programmes and support services;

[213] EU Delegation to the Republic of North Macedonia, Gender Action Plan III – 2021-2025, Country Level Implementation Plan – CLIP for the Republic of North Macedonia, Ref. Ares(2022)2523876 - 04/04/2022:*https://www.eeas.europa.eu/sites/default/files/documents/EU%20GAP%20III%20CLIP%20for%20North%20Macedonia%202021-2025.pdf*

[214] EU Delegation to the Republic of North Macedonia, Gender Action Plan III – 2021-2025, Country Level Implementation Plan – CLIP for the Republic of North Macedonia, Ref. Ares(2022)2523876 - 04/04/2022:https://*www.eeas.europa.eu/sites/default/files/documents/EU%20GAP%20III%20CLIP%20for%20North%20Macedonia%202021-2025.pdf*

- take measures to ensure that the provisions of the Istanbul Convention are implemented without discrimination, particularly when it comes to ensuring access to specialist support services, and paying more attention to the needs of women who are or might be exposed to intersectional discrimination;
- ensure appropriate human and financial resources to implement all policies, measures and legislation aimed at preventing and combating violence against women, including adequate funding of all the relevant institutions and entities, such as the national co-ordinating body;
- ensure, on the one hand, the co-ordination and implementation of policies and measures to prevent and combat all forms of violence against women, and, on the other hand, their independent monitoring and evaluation, supported by appropriate and reliable data that are disaggregated by the sex and age of the victim and the perpetrator, their relationship, geographical location and the type of violence;
- improve the availability across the country of preventive intervention and treatment programmes for perpetrators of domestic violence and of sexual violence;
- - strengthen integrated multi-agency cooperation structures for the protection of and support to victims of all forms of violence covered by the Istanbul Convention that involve all relevant actors, including women's specialist support services, and ensure that risk assessment and risk management procedures are central to multi-agency structures;
- improve access of victims of violence against women and domestic violence to services facilitating their autonomy, and to continue implementing the dedicated programmes that cater to their specific needs in the areas of employment, training and housing;
- set up and support low-threshold specialist support services for victims of all forms of violence against women, beyond domestic violence, based on a victim-centred and empowering approach, including women's shelters and specialist counselling services, and ensure their adequate geographic distribution;
- ensure that women victims of all forms of violence covered by the Istanbul Convention are adequately informed, in a language they understand, of their rights and possibilities, including on available general and specialist support services, the right to claim compensation, the non-mandatory nature of mediation, and their rights under international human rights law;
- take measures to ensure the effective investigation, prosecution and punishment of all acts of violence against women covered by the Istanbul Convention, including acts of physical, psychological and sexual violence against women, by training law enforcement and judicial authorities, in particular on the amended provisions of the Criminal Code, and to ensure that sanctions are effective, proportionate and dissuasive;
- establish a crime of forced marriage which covers all the elements of Article 37 of the Istanbul Convention, and ensure the *ex officio* prosecution of bodily injury committed in the context of domestic violence;

- ensure that specialist women's organisations, lawyers and/or state agencies provide free legal aid and psycho-social support and assistance to victims during investigations and judicial proceedings;
- effectively implement all the measures to protect the rights and interests of women and child victims or witnesses, including to protect them from secondary victimisation, at all stages of investigation and judicial proceedings.

GREVIO has identified other areas in which improvements are required in order to comply fully with the obligations of the Convention, such as: the need to establish a specific offence of psychological violence; and the need to ensure that gender-based violence is detected during asylum procedures and that trained interpreters are available for women asylum seekers. Furthermore, marginalised groups of victims that are at risk of intersectional discrimination should be given equal and barrier-free access to service provision in practice. Across all public sectors, sensitivity towards women victims of violence needs to be increased, in order to encourage more women to come forward with their experiences of violence, and to avoid secondary victimisation.

C. Gaps in relation to Border Police

For all the categories of undocumented migrants that arrive at the borders, a common ascertainment is that the border police lack qualified personnel to screen and assess quickly and efficiently the different categories in order to protect vulnerable persons, such as unaccompanied children, asylum seekers and victims of trafficking.

a. Gaps in relation to asylum and migration

With regard to the **legal framework** the main gaps are that the legislation does not set any indicators on the issue of age determination of undocumented children-migrants who are unaccompanied; and that -as mentioned above- the Law on Foreigners does not prohibit the detention of children migrants, and children asylum seekers, especially unaccompanied, contrary to the international standards.

However, there are major gaps with regard to the **infrastructure/Capacity building.** It appears that the institutional and administrative capacities need to be strengthened across the migration sector by increasing financial, human, material and technical resources across the board, in particular, the capacities for border checks to deal with irregular migration and the capacities for protection-sensitive migration management. The fragmentation of tasks between the various institutions dealing with migration makes management less effective.[215]

[215] EU Commission on Accession process, Screening report North Macedonia, Cluster 1: *https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-07/MK%20Cluster_1%20Draft%20screening%20report_external%20version.pdf*

Of course, North Macedonia is working on strengthening its asylum system with regard to persons with special needs and unaccompanied minors within the framework of the roadmap for cooperation with the EUAA. However, progress is still needed in systematic registration of migrants and protection-sensitive profiling to be fully in line with EU standards and EU Member States practices.[216]

It also appears that the two transit centres are not suitable for long-term stays, and their adaptation to regular reception centres is currently not foreseen. The running costs of both centres are covered from non-governmental sources, and due to the legal status of both centres, it is difficult to ensure a full alignment of all practices with legal standards.[217]

GREVIO is concerned that gender-based violence may either not be identified or not sufficiently recognised during the refugee status determination process. In that context, it notes that the European Commission has expressed its general concern over the quality of the asylum decisions.[218]

In the field of asylum, considerable gaps are reported with regard to deadlines regarding family reunification of persons with subsidiary protection status and on unaccompanied minors;[219] on information and counselling in the detention facilities and at the border crossings, personal interviews and border procedures;[220] on working rights of applicants for international protection;[221] on the rules for personal identification number and the term of validity of the temporary protection.[222]

It is reported that refugee status has not been granted to anyone in North Macedonia since 2016.[223] The quality and speed of asylum decisions continues to remain a concern. There are indications that decisions are made based on the humanitarian needs rather than a proper consideration of the merits of the claim.

---

216 EU Commission on Accession process, Screening report North Macedonia, Cluster 1: *https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-07/MK%20Cluster_1%20Draft%20screening%20report_external%20version.pdf*

217 Ibid.

218 GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), op. cit., p. 90.

219 To align with Directive 2011/95/EU of the European Parliament and of the Council 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.

220 To align with Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection.

221 Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection.

222 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.

223 EU Commission on Accession process, Screening report North Macedonia, Cluster 1: *https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-07/MK%20Cluster_1%20Draft%20screening%20report_external%20version.pdf*

There is no backlog of asylum cases, but the majority of cases are discontinued due to the high rate of claim abandonment.

With regard to interviews which are an essential and integral part of any police investigation, providing an important opportunity for police to gather information and evidence related to crime, it needs to be noticed that currently, the police have limited facilities to allow effective interviewing of suspects and victims of trafficking and migrant smuggling.

Further, as reported by GREVIO in the asylum procedure interpretation is not made available for all women asylum seekers, and that interpreters are not trained on gender-based persecution and forms of violence asylum seeking women may have experienced. Also, the authorities of North Macedonia do not collect data on the number of asylum claims made on the basis of gender-related persecution and on their outcome.[224]

There is also lack of coordination and cooperation of public authorities because the lack of communication between police, prosecutors and the central authorities impacts also on international cooperation.

It also appears that there are no detailed guidelines and Standard Operating Procedures (SOPs) for the identification of victims of trafficking among the smuggled migrants, taking into account factors such as age, gender, and vulnerability. There is no interrelated identification process for the different categories (asylum seekers, smuggled migrants and victims of trafficking) in order to promptly identify the categories of persons that are in need of protection.

There is no presumption of victim status in favour of persons who may be under the age of eighteen years.

Furthermore, child and Women Protection Units are not yet established in the Police.

GREVIO is concerned about the situation of women migrants arriving at the border of North Macedonia, as the European Commission noted that North Macedonia continues the practice of returning apprehended migrants outside of the legal and/or procedural framework to neighbouring countries. Moreover, a lack of vulnerability screening of those apprehended has been attested. Such practices may *de facto* prevent women at risk of or who have experienced gender-based violence from access to the asylum determination procedure in North Macedonia, which is a situation that should be remedied.[225] There is also lack of qualified interpreters for women asylum seekers.

[224] Op. cit., p. 90.
[225] GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), op. cit., p. 92.

b. Gaps in relation to trafficking in persons

It is reported that the government meets partially the minimum standards in several key areas.[226] The government identified significantly fewer victims and the OCCPO did not have sufficient resources to handle all cases under its jurisdiction. While the government increased funding to the shelter, this covered only a small percentage of the shelter's operating expenses. It is also reported that the government did not provide specialised assistance for adult male victims. Normally, the shelter accommodates female and child victims with the capacity to house six victims, but the government lacks longer-term housing options and does not have additional capacity to accommodate victims if the shelter is full.[227]

In 2018, the government amended legislation to accommodate domestic and foreign potential trafficking victims at the shelter; however, the transit center continued to accommodate most foreign potential victims. The shelter allowed victims freedom of movement, but the transit center did not permit foreign potential victims to leave without a temporary residence permit. The accommodation of the foreigners who are potential and identified VoT at the Reception Centre for Foreigners is contrary to the international conventions on the rights of victims. Although the provisions from the Law on Foreigners, Art. 121 Par. 4 and 5 stipulate a maximum of five days for approval of a temporary stay and for the victim to be transferred to the CVoT & VSV, still the five-day stay is contrary to international standards and the efforts for improving the process of identification. The Strategy envisages measures for improving this legal solution by amending the legislation.

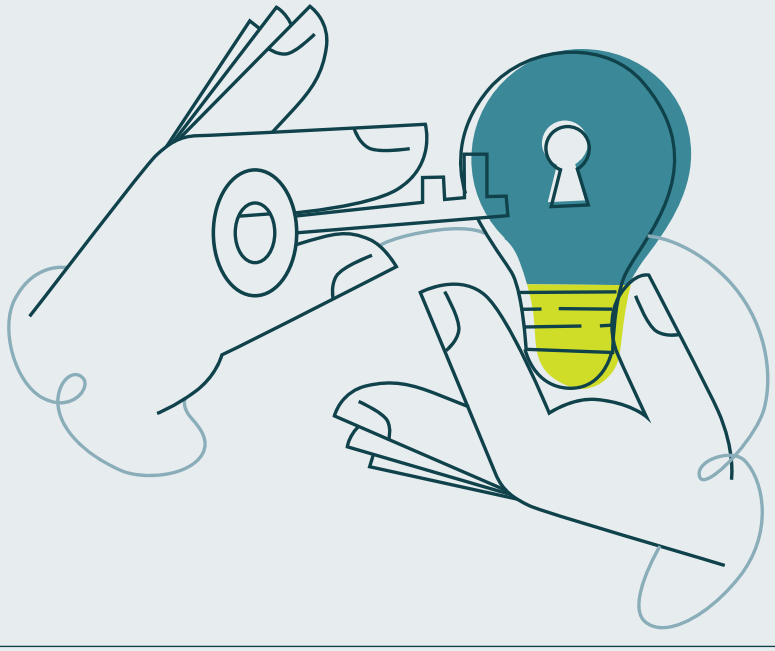
Also, the national rapporteur lacks the resources, and legal mandate to successfully monitor and evaluate anti-trafficking efforts. For example, the national rapporteur cannot access transit centers, obtain information from ministries, and lacks general resources, such as computers, office supplies, and transportation.

Additionally, the government has not allocated funding to mobile teams that identify most potential victims each year, despite past commitments to do so. Due to a lack of consistent screening efforts, local police and some border agents do not consistently screen for trafficking indicators and, as a result, authorities likely arrest, detain, and deport some unidentified trafficking victims without referral to appropriate services or safeguards to prevent re-trafficking.[228] For example, local police detained and deported potential victims in commercial sex without screening for trafficking indicators or notifying the task force, according to experts and government officials. The law permitted foreign victims a two-month reflection period to decide whether to testify against their traffickers, followed by a six-month temporary residence permit, regardless of whether they testify.

[226] *US Department of Justice* (2023), 2023 Trafficking in Persons Report: North Macedonia: *https://www.state.gov/reports/2023-trafficking-in-persons-report/north-macedonia/*
[227] Op. cit.
[228] *US Department of Justice* (2023), op. cit.

It is also reported that the trafficking cases languished or were mishandled due to the absence of a digital case management system to transfer trafficking cases between different police departments and prosecutors' offices.[229] It has to be noticed also that the Courts required victims, who were voluntarily cooperating with proceedings, to remain in North Macedonia until they testified in court. Also, although the law provides witness protection and 24-hour police protection; no victims required witness protection services in 2021 and 2022.

According the Open Government Partnership Report for the National Action Plan 2021-2023 of North Macedonia, under the commitment 3.6 'Better access to guaranteed forms of protection for victims of human trafficking' the problem addressed is that the number of identified victims is small, primarily due to absence of active identification on the part of competent institutions. Also, identification of victims underperforms in the labyrinths of state institutions with competences in this regard. There is a general impression that content and format of data presented in annual reports on human trafficking do not correspond to the need to determine progress made by the State in this field. Additionally, there are no analytical overviews on state-of-affairs presented in such reports, as well as evaluation of progress attained under individual goals defined, in order to measure progress in the future. This has given rise to the negative impression about progress made by the State with international bodies and citizens, but on the other hand, difficulties in decision-making and implementation of changes in line with international standards.



[229] *US Department of Justice* (2023), 2023 Trafficking in Persons Report: North Macedonia: *https://www.state.gov/reports/2023-trafficking-in-persons-report/north-macedonia/*

With regard to the **legal framework,** it is partially aligned with the EU *acquis*, especially with the Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. Amendments are necessary, notably to the Criminal Code, in order to align with penalties of certain offences concerning trafficking in human beings. The legislation on residence permit issued to foreign victims of trafficking in human beings who cooperate with competent authorities is mostly aligned. However, amendments are needed notably to ensure that victims are immediately referred to the Centre for Victims of Trafficking in Human Beings.[230]

Amendments are necessary with regard to the referral to foreign victims of trafficking in human beings who cooperate with the authorities to the Centre for Victims of Trafficking in Human Beings.

With regard to the **infrastructure/Capacity building:**

- Although the standard operating procedures put in place by North Macedonia are broadly satisfactory, however better capacities are needed to detect and prevent TiP;
- Insufficient resources to investigate and prosecute trafficking cases;
- The funding of the shelter for victims of TiP is not sufficient. Even if the government has recently increased funding, this covered only a small percentage of the shelter's operating expenses;
- The shelter has capacity to host a short number of victims of trafficking. Need to increase the capacity of the center and need for increased funding;
- No specialized services for adult male victims of trafficking;
- No sufficient funding for the mobile teams that identify potential victims of trafficking;
- There is absence of a digital case management system to transfer trafficking cases between different police departments and prosecutors' offices and as a result the trafficking cases are mishandled.

[230] EU Commission on Accession process, Screening report North Macedonia, Cluster 1: *https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-07/MK%20Cluster_1%20Draft%20screening%20report_external%20version.pdf*

CHAPTER 4

RECOMMENDATIONS FOR IMPROVEMENT

A. Recommendations in the field of Police reform for gender mainstreaming

- Reform explicitly discriminatory laws and regulations;
- Facilitate de facto gender-neutral implementation;
- Establish good monitoring and evaluation tools;
- Promote gender-fair and inclusive language to improve equality between women and men;
- Establish gender-sensitive feedback loops and/or other mechanisms that channel data on women's priorities and constraints into reform process;
- Increase quota for women in entering police institution (at least by 30%);
- Reform regulations for women recruitment and advancing to facilitate women entering the police force;
- Implement gender-sensitive awareness-raising campaigns;
- Include strategic communications, awareness-raising, and information sharing in the police;
- Train public officials to understand gender-related constraints and challenges to promote greater equality for both women police officers and in public services towards women;
- Increase measures for mothers-police officers, such as baby care services to give incentives for women's access to police service.

B. Recommendations in the field of violence against women[231]

The Home Affairs should promote and provide protection to women and girls, including those with diverse sexual orientations and gender identities, to reduce the risk of further violence and discrimination. Further reducing and eradicating is needed for child sexual exploitation and abuse by strengthening criminal offences for child sexual abuse including counter online and technology-facilitated abuse/violence.

a. Legal framework

- Priority should be given in integrating into the national law and implementing all the provisions of Istanbul Convention;
- According to the *National Programme for Adoption of the European Union Acquis (NPAA) 2021-2025*, the serious gap of the **Law on Prevention and Protection against Discrimination** having been repealed by the Constitutional Court's decision needs to be addressed by the new legislature;
- Establish a specific offence of psychological violence within the Criminal Code in line with the Istanbul Convention;
- Establish a crime of forced marriage covering all the elements of Article 37 of the Istanbul Convention, and ensure the *ex officio* prosecution of bodily injury committed in the context of domestic violence;
- Ensure the gender-sensitive implementation of laws, policies and measures in relation to all forms of violence against women, and enhance the implementation of the Istanbul Convention in relation to all forms of violence against women;
- Take measures to ensure that the provisions of the Istanbul Convention are implemented without discrimination, particularly when it comes to ensuring access to specialist support services, and paying more attention to the needs of women who are or might be exposed to intersectional discrimination;
- The blanket obligation for professionals to report cases of violence against women, other than in situations in which there are reasonable grounds to believe that a serious act of violence has been committed and further serious acts are to be expected, needs to be reviewed;

[231] Based also on the recommendations of GREVIO. See, GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), NORTH MACEDONIA, Council of Europe, 26 May 2023.

- Introduce emergency barring/restraining orders that comply with the Istanbul Convention's standards, in order to give law enforcement authorities, the possibility to immediately ban perpetrators of violence from approaching the victim(s);
- State actors who fail in taking action against domestic violence must be held accountable, including through disciplinary sanctions.

b. Perceptions

- Need of awareness raising to promote changes in the social and cultural patterns of behaviour of women and men, with a view to eradicate harmful traditional beliefs that contribute to women being perceived as inferior to men and therefore being subjected to violence against women and domestic violence;
- Urgent need to ensure that the authorities' duty of due diligence towards women victims of violence is ensured, and that those state actors who fail in doing so must be held accountable, including through disciplinary sanctions;
- Systematic and mandatory training of all professionals dealing with women victims of violence needs to be reinforced in order to sensitise those who are mandated to prevent, protect from and prosecute all forms of violence against women and domestic violence;
- Factors that lead to delays in treatment and high attrition rates of cases of violence against women need to be identified and addressed.

c. Data

- Building IT infrastructure by developing a comprehensive system to collect reliable data, disaggregated by the sex and age of the victim and the perpetrator, the relationship of the perpetrator to the victim, geographical location and the type of violence to provide a full picture of gender-based violence against women and domestic violence to allow informing and evaluating public policies and laws in order to identify and remedy any shortcomings;
- Independent monitoring and evaluation, supported by appropriate and reliable disaggregated data.

d. Infrastructure/Capacity building

- Increase the number and funding of victim-shelters; set up new shelters in areas where there are none, and strengthen the capacity for quality and specialised services for victims and survivors of GBV, especially women with disabilities, women belonging to minority groups, in particular Roma women, as well as women from rural areas, to meet the Istanbul Convention standards;

- Ensure equal and barrier-free access to service provisions for marginalised groups of victims at risk of intersectional discrimination in practice;
- Invest in gender strategic planning and budgeting to increase the opportunities for effective gender mainstreaming in policy making and the integration of gender perspectives into sector dialogue and in public finance management process;
- Implement continuous training on gender-based violence among service providers, provide systematic training on the Law on gender-based violence, its related and supporting-laws and amendments to the Criminal Code, and arrange for training and awareness-raising activities for all police officers;
- Strengthening the capacity of the Police to assess the violence risk and take adequate measures;
- Mainstreaming further the gender perspective into sectoral policies by improving the position of women who are subject to multiple discrimination and eliminating their social exclusion.
- Increase the appropriate human and financial resources to implement all policies, measures and legislation aimed at preventing and combating violence against women, including adequate funding of all the relevant institutions and entities, such as the national co-ordinating body;
- Establish reintegration programmes for victims and survivors of gender-based and family violence;
- Establish/increase availability across the country of programmes for perpetrators of domestic violence and of sexual violence;
- Ensure that women victims of all forms of violence covered by the Istanbul Convention are adequately informed, in a language they understand, of their rights and possibilities, including on available general and specialist support services, the right to claim compensation, the non-mandatory nature of mediation, and their rights under international human rights law;
- Across all public sectors, increase sensitivity towards women victims of violence, in order to encourage more women to come forward with their experiences of violence, and to avoid secondary victimisation;
- Fight persistence of gender stereotypes among law enforcement officers;
- Draft SOPs for the police for a mandatory referral to other services and handing over information (both by pamphlet and orally for those women who are illiterate or for those who do not understand the language with appropriate interpreter);
- Draw up Uniform Protocols for assisting victims of GBV seeking support;

- Take effective protection measures for victims during the proceedings; monitor the progress and outcomes of temporary special measures, including by establishing benchmark indicators, identifying the groups of women and areas of focus to target and the necessary budgetary allocations and adopting guidelines that support duty bearers in applying temporary special measures throughout policymaking processes;
- Draw up standard reporting and investigative procedures in relation to all forms of violence against women.

C. Recommendations in relation to Border Police

a. Recommendations on migration and asylum

Particular consideration should be given to the protection of vulnerable migrants, minorities and vulnerable groups, such as children, in particular unaccompanied minors, people with disabilities, persons in need of international protection.

i. Legal framework

- Amendment of the Law on Foreigners to include an express prohibition of detention of children migrants, and children asylum seekers, especially unaccompanied, and alternatives to detention should be introduced in order to comply with the international standards;
- Include in the legislation a specific provision on presumption of minority for victims whose age is uncertain, but who could potentially be under 18 years of age, to be presumed as children;
- A new provision should be added in the Law of Foreigners affirming the special needs of child migrants and the specific needs of girls, as well as the additional rights to which they are entitled (including the right to age-appropriate care and assistance; the right to a guardian who is to advocate for their best interests, etc.). The provision should make reference to the best interests of the child being the guiding principle in relation to all actions and decisions concerning child migrants;
- Amendments are needed notably on deadlines regarding family reunification of persons with subsidiary protection status and on unaccompanied minors; on information and counselling in the detention facilities and at the border crossings, personal interview and border procedures; on the rules for personal identification number and the term of validity of the temporary protection.
- According to Article 93-a of the Police Law the use of audio and video recording technology is regulated, providing that the police, when taking action can use audio and video recording technology in order to ensure recorded materials on the matter in which policemen have taken relevant actions however, this is not mandatory. There is need of adding the mandatory character for the use of audio and video recordings

during police interviews to contribute to more efficient resolution and elimination of inhumane and degrading treatment of migrants, including potential asylum seekers and victims of trafficking.

- Develop multidisciplinary police reporting procedures to prevent and respond to domestic violence against migrant / refugee women.

ii. Data

- The existing database on foreigners needs to be upgraded through the development of a new asylum module, which should provide a case management tool for processing asylum claims;
- Significantly improve law enforcement data collection and reporting, including the disaggregation of data between smuggling crimes and human trafficking (gender, age, nationality, types of trafficking, etc.).
- iii. Infrastructure/Capacity building
- The quality and speed of decision making in asylum procedures needs to be increased;
- Implement the non-refoulement of women victims of gender-based violence according to Art.61 of the Istanbul Convention and of Art.7 of the Law on International and Temporary Protection;
- Further strengthening of support services of vulnerable migrants should be pursued;
- Develop interrelated identification process for asylum seekers, smuggled migrants and victims of trafficking with tailored trainings to police officers that will include cultural and vulnerability sensitisation modules, human rights and specific issues on protection;
- Creation of specific Interview Rooms in Border Police;
- Capacity development of front-line officials with interview skills training for improvement of interviewing techniques by introducing good practices and guidelines. To this respect, prior to any improvement in the infrastructure, a significant training effort in interview skills and techniques should be offered. Trainees will also need to address some of the gender imbalances currently existing in the police in terms of skilled interviewers;
- Focus is needed on cross-pillar cooperation between all actors, especially more cooperation between Home Affairs units;
- Training and additional guidance in conducting cross border investigations is needed to build capacity in respect of both formal and informal cooperation;
- Regional training workshops on the management and coordination of investigation teams and the implementation of specialist investigative techniques on organised crime;
- Availability of trained interpreters for women asylum seekers on all forms of gender-based violence;

- Establish multi-agency (e.g. police and immigration) border liaison units at identified border 'hot spots' to improve the capacity and quality of cross border cooperation;
- Strengthen coordination and cooperation of public authorities because the lack of communication between police, prosecutors and the central authorities impacts also on international cooperation.

b. Recommendations on trafficking in persons[232]

i. Legal framework

- Ensure full awareness of the provisions of the Victims' Rights Directive for law enforcement and justice officials, border and migration officers, as well as recognised victims;
- Establish liability of legal persons involved in cases of trafficking;
- Criminalisation of the behavior of consumer having used the services of a trafficked person;
- Protection of the rights and the interests of the victims of trafficking, without discrimination, to all cases of trafficking (not restricted only to serious cases of trafficking or when there is a serious danger for the victim);
- Include in the legislation a specific provision on presumption of minority for victims whose age is uncertain, but who could potentially be under 18 years of age, to be presumed as children;
- A new provision should be added in the TiP Law affirming the special needs of child victims of trafficking and the specific needs of girls, as well as the additional rights to which they are entitled (including the right to age-appropriate care and assistance; the right to a guardian who is to advocate for their best interests, etc.). The provision should make reference to the best interests of the child being the guiding principle in relation to all actions and decisions concerning child victims of TiP;
- Establish rules governing extra-territorial jurisdiction to permit and facilitate the prosecution and conviction of offenders, irrespective of the country where the offences were committed, and including cases where the offences took place in more than one country;
- Suspension of deportation of potential victims of trafficking during examination of the case, analogically to the principle of non-refoulement provided for asylum seekers in the Geneva Convention on the status of refugees;
- Provision should be added on the issuance of temporary or permanent residence permit for victims **independently** of their cooperation with authorities;

[232] Some of the recommendations are also pointed out by the 2019 OSCE led Survey on Violence against Women in North Macedonia. See, OSCE, Well-being and Safety of Women. Results Reports, 2019; and EIGE, Gender Specific Measures in Antitrafficking Actions, p.57.

- Provision on free Legal aid for victims of trafficking and appropriate interpretation in their own language;
- Need to adapt the identification and interviewing processes rules for children-victims of trafficking to be consistent with the principles of the Convention on the Rights of the Child;
- Develop detailed guidelines and Standard Operating Procedures (SOPs) for the identification of victims of trafficking taking into account factors such as age, gender, and vulnerability;
- Develop detailed operational guidelines for Seizure and Confiscation of the Proceeds of Trafficking;
- Amend legislation to include that testimonies of children or of traumatised victims should be allowed by video or audio in order to avoid further trauma (secondary victimisation) during the investigation and in the audience and eventual confrontation with the perpetrator;
- Reinforce the application of temporary special measures in the legislative and executive authorities; gender-sensitive approach during, proceedings, and establishment of mechanisms to monitor their implementation;
- Amend the law to include an express provision that victims of TiP, especially children, should not be detained and alternatives to detention should be found;
- Ensure the effective enforcement of anti-trafficking legislation, including by providing Border Police, immigration authorities and other law enforcement officials with mandatory training in its gender-sensitive application;
- Make clear in the law that trafficking-related requests for extradition of offenders should be accorded high priority and expedited (as requested by UNTOC, Article 16(8); and UN Trafficking Principles and Guidelines, Guideline 11.9).

ii. Data

- Improvement of statistical data by harmonising national registration systems – collection,[233] registration according to age, sex ratio, nationality, etc., enabling monitoring of progress made by the authorities;
- Create a digital case management system for rapid and safe transfer of trafficking cases between different police departments and prosecutors' offices.

[233] According to the UN General Assembly, Res. on the Fundamental Principles of Official Statistics adopted by the General Assembly on 29 January 2014, A/RES/68/261, 3 March 2014) on cases of trafficking and migrant-smuggling, as well as on their forms, trends and manifestations.

iii. Infrastructure/Capacity building[234]

- Increase resources to proper investigation and prosecution of trafficking cases;
- Increase funding to the shelter(s) for victims of trafficking;
- Establishment of separate and safe shelters (especially for child victims) equipped with trained personnel and the possibility for victims to stay as long as it is deemed necessary for their psychological and physical recovery;
- Allow victims freedom of movement and to leave shelters at will and establish access to alternative housing to accommodate victims when the shelter is full;
- Strengthen specialised assistance for adult male victims of trafficking;
- Allocate funding to the mobile teams for the identification of potential victims of trafficking;
- Establish training programmes for border police on the identification process of different categories of undocumented migrants to possibly identify victims of trafficking; and case management by making every possible effort to avoid further – secondary victimization;
- Take measures for immediate protection and assistance of victims from the moment there is reason to suspect that a person is a potential victim of trafficking;
- Identify gaps in the early recognition of indicators of the multiple forms of direct and subtle forms of coercion, deception and abuses of vulnerability, which are used in the trafficking of women and tackle them;
- Victim identification interview needs to be expedited and prioritised, especially when there is need to determine the victim's age, so as to ensure that the services offered to the victim are appropriate;
- Absolute priority to the entire process (investigation and judging) of cases of victims of trafficking; priority should be given to the early identification of children-victims (a maximum of time should be set for the entire procedure);
- For unaccompanied children, immediate appointment of a guardian with gender expertise in child victimisation;
- For children-victims assessment of the best interests of the child for further referral to protection services;
- Develop an individual needs assessment that takes into account the victim's experience, cultural context and individual characteristics and in the case of children, the best interests of the child;
- All relevant agencies should jointly use the results of the preliminary identification interview to avoid multiple interviews of the victims, in particular of children, except in the case of verifying information.

[234] The above recommendations are also in the same line with the recommendation of the US Department of Justice Report on human trafficking. *See, US Department of Justice* (2023), 2023 Trafficking in Persons Report: North Macedonia: *https://www.state.gov/reports/2023-trafficking-in-persons-report/north-macedonia/*

- Effective measures for better access to services and better information on referral for victims of human trafficking, especially increase access to healthcare;
- Establish a digital case management system to transfer rapidly trafficking cases between different police departments and prosecutors' offices;
- Increase rehabilitation and reintegration measures for victims of trafficking, especially women and girls, including psychological assistance in the shelters;
- Enhance transparency and accountability of institutions that work on human trafficking;
- Establish separate Interview Rooms should be created in the premises of border police;
- Allocate appropriate human, technical and financial resources to implement the national strategy and the national action plan for combating trafficking in persons and illegal migration for the period 2021-2025 and evaluate the impact of its implementation;
- Improve compensation mechanisms for victims, including by implementing the new Law on Compensation for Victims of Violent Crime, establishing a victim compensation fund, and informing victims of their right to seek compensation;
- Ensure victims are not inappropriately penalised solely for unlawful acts committed as a direct result of being trafficked.

Fight against trafficking in human beings, due to dangers related to it and inter connection of those activities with all forms of corruption, cannot be efficient without an in-depth training of police officers, border control and other agents. The Home Office may be able to face at this moment all forms of crime, but its members are still not sufficiently educated regarding the main characteristics of those forms of crime, neither are they acquainted with the risks, methods and tactics necessary to discover, prosecute and prevent trafficking in persons and smuggling of migrants. An efficient training must lead officers/agents dealing with the matter to:

- Identify different categories of undocumented migrants and treat them according to international guidelines;
- Identify intersectoral marginalisation and vulnerability of victims and persons at risk and the particularities and needs of each category with a view to stopping abuse and to make possible to initiate care measures by the competent authorities, including for the secondary victims (relatives, etc.);
- Identify perpetrators and take pro-active measures and establish cross-links within the participating Member States;
- Identify the cross-border modus operandi and shed light on the method of communication of criminal networks with a view to dismantling them;
- Stop the re-victimisation of the abused victims.

CHAPTER 5

QUESTIONNAIRE PROTOCOL

A. For the Home Affairs:

1. Are there specific gender policies connected to police reform?
2. Is there and, if yes, what type of capacity-building for the Border Police to secure national safety is there against transnational crime, especially illegal migration and human trafficking?
3. Do the executive staff members demonstrate their commitment to gender equality and the implementation of gender mainstreaming, in both formal and informal ways?
4. Are staff members made accountable for achieving gender equality as a common goal within the different sectors of Home Affairs?
5. Are resources for gender mainstreaming available and, if yes, are the resources realistically calculated and sufficient in order to ensure long-term success (sustainability)?
6. Is gender equality part of the quality management process and are gender aspects included in management tools like project cycle management, research and evaluation?
7. Are all staff members of the sections of Home Affairs aware of the intended process of gender mainstreaming?
8. Does the Home Affairs already have a gender mainstreaming support structure?
9. If so, is it capable of fulfilling all of its tasks successfully (e.g. with regard to its structure, resources, competences, position within the body)?
10. If not, what structure is appropriate in terms of its tasks as well as the resources available?
11. Do all staff members and officers have the gender expertise and methodological skills they need to fulfil their responsibility for implementing gender mainstreaming?
12. Are recruitment processes tailored to target women and LGBTIQ+ people?
13. Are there obstacles or deterrents to female or LGBTIQ+ personnel to remain or advance within the police service?
14. Have indicators been defined for the attainment of the goals of gender mainstreaming in monitoring and evaluation?
15. Are sex-disaggregated data routinely collected?
16. Have police officers and staff of the sections of Home Affairs been exposed to gender training in specific areas e.g. trafficking in persons, smuggling of migrants, asylum?
17. Are there any complaints received from citizens or NGOs regarding GBV response?

B. For other stakeholders:

1. Are there policies and procedures in place that set out clear standards of non-discrimination, rights protection and equality?
2. Are Police services available to both women and men?
3. Do women and men have equal access to them?
4. Are women and men treated equally by police officers and civil servants of the Home Affairs sectors?
5. Do the Home Affairs sections and the Police have links with women's organisations?
6. Do you consider that discrimination, bullying, harassment or abuse within the Police is common, downplayed or tolerated?
7. Do you consider that the Border Police is adequately trained to deal with organized crime?
8. To what extent do you consider that the Border Police is adequately trained to identify different groups in need of protection such as victims of trafficking and asylum seekers?
9. To what extent do you consider that the current legal framework provides a sufficient basis for identifying and supporting trafficked persons, smuggled migrants, asylum seekers, and other vulnerable groups?
10. Are there any specialised police services (units, desks or stations) to deal with VAWG, homophobic crimes accessible, used and effective?
11. How are men, women and LGBTIQ+ people respectively treated within and by the police service?
12. Are there effective internal and external controls and oversight mechanisms in the Police for monitoring and promoting gender equality?
13. Do you consider that there is successful police investigation, prosecution and conviction in organized crime cases, especially in human trafficking?
14. Do you consider that there are complaints from citizens or NGOs regarding the GBV response of the Police?
15. Do you consider that there is need for greater interaction with citizens, for instance through telephone hotlines for complaints, feedback and suggestions, or partnering with civil society on GBV issues?

CHAPTER 6

LIST OF STAKEHOLDERS FROM KEY GENDER MECHANISMS FOR INTERVIEWS

Gender stakeholder consultation is the process of engaging physical persons (men and women) and representatives of legal persons, including civil society organisations through obtaining their feedback, views and opinions on gender equality-related issues, in the policymaking and legislative process. Gender stakeholder consultation should promote evidence-based and participatory decision making, taking into account the different priorities and needs of women and men, including the most marginalised groups and those that are traditionally excluded from decision-making processes.[235] The objective is to gather qualitative and quantitative information and the opinions of the different groups and stakeholders on the basis of an open-ended questionnaire.

The Beijing Platform for Action (BPfA) of 1995, promotes the active involvement of public, private and civil society actors to work together for equality between women and men. The BPfA includes stakeholder consultation as part of the strategic objective on 'Institutional mechanisms for the advancement of women' as a basis for enhancing women's equality.[236] This includes the objective to: "promote and establish cooperative relationships with relevant branches of government, centres for women's studies and research, academic and educational institutions, the private sector, the media, non-governmental organisations, especially women's organisations and human rights organisations, and all other actors of civil society".

Most recently, the 2030 Agenda for Sustainable Development, under its main premise of 'leaving no one behind', contains a separate target on ensuring 'responsive, inclusive, participatory and representative decision-making at all levels' (Sustainable Development Goal 16, Target 16.7) and indicators to measure progress:

- Indicator 16.7.1 — 'Proportions of positions (by sex, age, persons with disabilities and population groups) in public institutions (national and local legislatures, public service, and judiciary) compared to national distributions';
- Indicator 16.7.2 — 'Proportion of population who believe decision-making is inclusive and responsive, by sex, age, disability and population group

[235] UN Women (2015), How to manage gender-responsive evaluation. Evaluation Handbook.
[236] See EIGE's report on the Effectiveness of institutional mechanisms for the advancement of gender equality, Review of the implementation of the Beijing Platform for Action in the EU Member States, 2014.

Why is gender stakeholder consultation important?

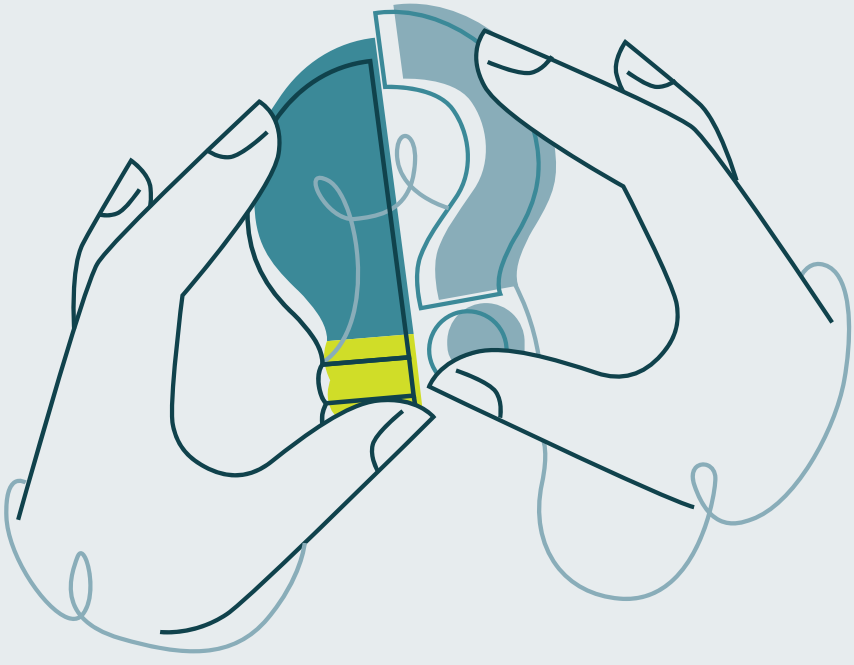
According to the European Institute for Gender Equality (EIGE)[237]

i. Improving public decisions and policies to reflect gender-specific concerns

Stakeholders — women and men — may be affected differently by a public intervention and may have different priorities and perspectives. Failing to ensure a gender balance in stakeholders' engagement is a missed opportunity as only some parts of reality will be captured. This can lead to the perpetuation of existing gender inequalities and backlogs in the planning and implementation of the intervention. From this perspective, gender stakeholder consultation is crucial not only for understanding gender issues at stake in the respective intervention, but also in signalling possible bottlenecks and undesired effects in the planning and implementation process.

ii. Fostering awareness raising and capacity development in relation to gender equality

Continual and meaningful interaction between policymakers and stakeholders creates space for improved transparency and trust, which in turn can lead to an enhanced commitment to the application of gender-equality principles.[238]



[237] European Institute for Gender Equality (EIGE), Gender Stakeholder Consultation: *https://eige.europa.eu/gender-mainstreaming/tools-methods/gender-stakeholder-consultation?language_content_entity=en#toc-what-is-gender-stakeholder-consultation-*

[238] European Institute for Public Participation (2009), Public participation in Europe. An international perspective.

iii. Enhancing accountability in relation to gender equality commitments

Gender stakeholders, such as women's organisations, watch over public-policy processes in order to ensure that governments fulfil their commitments to gender equality and gender mainstreaming objectives.

In line with the above it is advisable to establish the following list of stakeholders for carrying out interviews:

- Relevant branches of government related to the Home Office/Ministry of Interior, and governmental bodies, such as the National Co-ordination Body for Domestic Violence; the Ombudsperson; the Commission for Prevention and Protection against Discrimination; representatives of related Ministries, such as the Ministry of Justice, the Ministry of Labour and Social Policy;
- UN Women North Macedonia and other UN and international agencies, such as UNHCR for issues related to asylum; OSCE;
- Academic and educational institutions and Centres for women's studies and research, such as the Institute for Gender Studies; the Institute for Human Rights;
- The European Network of Policewomen (an EU-wide network aiming to facilitate positive changes with regard to gender mainstreaming and the management of diversity, as well as improving the position of women within European police and other law enforcement organisations);
- Non-governmental organisations, especially women's organisations, such as the Open Gate-La Strada Macedonia; the National Roma Centrum; National Network to End Violence against Women and Domestic Violence; the EGAL (Equality for Gays and Lesbians); the Reactor-Reactor;
- Human rights organisations/authorities such as the National Human Rights Adviser;
- Other actors, such as the Macedonian Young Lawyers Association (MYLA)..

Main Bibliographical Sources

1. Borjas George & Crisp Jeff (eds.), 2005, *Poverty, International Migration and Asylum*, New York: Palgrave Macmillan in association with the United Nations University - World Institute for Development Economics Research.
2. Borrello A. (2005), "Defining the Building Blocks of Ethics", *Law and Order* (1), pp.65-68.
3. Browne-James L., Litam S.D.A., McRae L. (2021), *Child Sex Trafficking: Strategies for Identification, Counseling, and Advocacy*, *Int J Adv Couns*, Vol.43(2): 113-125, doi: 10.1007/s10447-020-09420-y. Epub 2021 Jan 6. PMID: 33432250; PMCID: PMC7787704.
4. Brogden M. and Nijhar P. (2005), *Community Policing: National and International Models and Approaches*, Cullompton: Willan Publishing.
5. Burri Susanne and Prechal Sacha, *EU Gender Equality Law*, 2008.
6. Carrington K., Rodgers J., Sozzo M., & Puyol M.V. (2023), "Re-theorizing the progress of women in policing: An alternative perspective from the Global South", *Theoretical Criminology*, Vol. 27(2), pp.283-304.
7. Criado Perez C. (2019), *Invisible Women: Exposing Data Bias in a World Designed for Men*, London: Chatto and Windus.
8. Council of Europe (2018), *Gender Mainstreaming Toolkit for Co-operation Projects*.
9. Council of Europe, Gender Equality Commission (2016), *Gender Equality Glossary*, March 2016: *https://edoc.coe.int/en/gender-equality/6947-gender-equality-glossary.html#*
10. Council of Europe (2008), *Combating violence against women: minimum standards for support services*, EG-VAW-CONF (2007) Study rev., Gender Equality and Anti-Trafficking Division, Directorate General of Human Rights and Legal Affairs Council of Europe, Strasbourg.
11. Denham Tara (2008), "Police Reform and Gender", Toolkit 2 - *Gender and Security Sector Reform Toolkit*, Geneva: DCAF, OSCE/ODIHR, UN WOMEN.
12. Denney L. and Valters C. (2015), *Evidence synthesis: Security sector reform and organisational capacity building*, London: Overseas Development Institute and Department for International Development.
13. Dusch Sabine (2002), *Le trafic d'êtres humains*, Paris : PUF, Coll. Criminalité internationale.
14. European Asylum Support Office (2020), *EASO Guidance on membership of a particular social group*, EASO Practical Guides Series: *https://euaa.europa.eu/sites/default/files/EASO-Guidance-on%20MPSG-EN.pdf*
15. European Commission, *Communication from the Commission to the Council and the European Parliament. Programme of action for the mainstreaming of gender equality in Community development co-operation*, COM(2001) 295 final), 2001: *https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0295:FIN:EN:PDF*
16. European Commission, Directorate-General for Migration and Home Affairs, *Study on the economic, social and human costs of trafficking in human beings within the EU*, Publications Office, 2020, *https://data.europa.eu/doi/10.2837/3428*
17. European Commission for Democracy through Law (Venice Commission), North Macedonia Draft Law on Gender Equality, CDL-REF(2021)044, Strasbourg, 28 May 2021.
18. European Commission, The *European* Conference *2016 'Promoting* the *Multidisciplinary Approach in Addressing Migrant Smuggling', organised by the European Migration Network (EMN) & the Dutch Ministry of Security and Justice: https://emnbelgium.be/sites/default/files/attachments/nl_2016_emn_conference_migrant_smuggling.pdf*

19. European Commission, International Cooperation and Development (2004), *Toolkit on Mainstreaming Gender Equality in EC Development Cooperation. Section 1: Hand-book on concepts and methods for mainstreaming gender equality,* European Communities, 2004.

20. European Commission, Directorate-General for Migration and Home Affairs, Gregulska, J., Healy, C., Petreska, E., *et al*., *Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms*, Publications Office, 2020, *https://data.europa.eu/doi/10.2837/697914*

21. European Institute for Gender Equality – EIGE (2020), *Beijing +25. The fifth Review of the Implementation of the Beijing Platform for Action in the EU Member States: https://eige.europa.eu/publications-resources/publications/beijing-25-fifth-review-implementation-beijing-platform-action-eu-member-states*

22. European Institute for Gender Equality - EIGE (2019), *Toolkit on Gender-sensitive Communication,* Luxembourg: Publications Office of the European Union: *https://eige.europa.eu/publications-resources/publications/toolkit-gender-sensitive-communication*

23. European Institute for Gender Equality – EIGE (2018), *Gender-specific measures in Anti-trafficking actions: Report*, Luxembourg: Publications Office of the European Union.

24. European Institute for Gender Equality – EIGE (2016), *Gender Equality Training Guide. Gender Mainstreaming Toolkit: https://eige.europa.eu/sites/default/files/documents/mh0716093enn.pdf*

25. European Institute for Gender Equality – EIGE (2014), *Effectiveness of institutional mechanisms for the advancement of gender equality — Review of the implementation of the Beijing Platform for Action in the EU Member States,* Luxembourg: Publications Office of the European Union.

26. European Institute for Gender Equality – EIGE (2013), *Good practices in gender mainstreaming. Mainstreaming gender into the policies and the programmes of the institutions of the European Union and EU Member States*, Luxembourg: Publications Office of the European Union.

27. European Migration Network (2016), *The Use of Social Media in the Fight against Migrant Smuggling: https://www.emn.at/wp-content/uploads/2018/05/EMN-Inform-2016_Social-Media-in-the-Fight-Against-Migrant-Smuggling.pdf*

28. EUROPOL, *EU SOCTA 2021 Serious and Organised Crime Threat Assessment. A Corrupting Influence: The Infiltration and Undermining of Europe's Economy and Society by Organised Crime: https://www.europol.europa.eu/cms/sites/default/files/documents/socta2021_1.pdf*

29. European Union Agency for Asylum, *Asylum Report 2023*: https://euaa.europa.eu/asylum-knowledge/asylum-report

30. EU Delegation to the Republic of North Macedonia, *Gender Action Plan III – 2021-2025, Country Level Implementation Plan – CLIP for the Republic of North Macedonia*, Ref. Ares(2022)2523876 - 04/04/2022:*https://www.eeas.europa.eu/sites/default/files/documents/EU%20GAP%20III%20CLIP%20for%20North%20Macedonia%202021-2025.pdf*

31. Foster Janet *et al*. (2005), *Assessing the impact of the Stephen Lawrence inquiry*, Home Office Research Study 294, Research Development and Statistics Directorate: *https://webarchive.nationalarchives.gov.uk/ukgwa/20110218135832/rds.homeoffice.gov.uk/rds/pdfs05/hors294.pdf*

32. *Geneva* Centre for Security Sector Governance – DCAF (2015), *Training Manual on Police Integrity*, Geneva: DCAF.

33. *Geneva* Centre for Security Sector Governance – DCAF (2015), *The police*, SSR Backgrounder Series, Geneva: DCAF.

34. Glomseth R., Gott S. & Petter H. (2011), "Professional Values in Knowledge Orgainizations: The Case of Police Districts", *International Journal of Police Science and Management*, Vol. 13(1), pp.100-125.

35. Group of Experts on Action against Violence against Women and Domestic Violence (2023), *GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), NORTH MACEDONIA*, Council of Europe, 26 May 2023.

36. Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), *Report submitted by North Macedonia pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report)*, 5 April 2022, GREVIO/Inf(2022)5.

37. Inter-Agency Coordination Group against Trafficking in Persons – ICAT (2017), *A Toolkit for Guidance in Designing and Evaluating Counter-Trafficking Programmes*.

38. Liqun C. (2011), "Visible Minorities and Confidence in the Police", *Canadian Journal of Criminology and Criminal Justice*, Vol.53(1), pp.56-90.

39. Martin S. (1991), "The effectiveness of affirmative action: The case of women in policing", *Justice Quarterly*, Vol.8 (4), pp. 489-504.

40. Montgomery R. (2011), *Female Staff Associations in the Security Sector: Agents of Change?*, Occasional Paper No. 25, Geneva: DCAF.

41. National Center for Women and Policing (2000), *Recruiting and Retaining Women: A Self-Assessment Guide for Law Enforcement*, Los Angeles, CA: National Center for Women and Policing.

42. National Commission for Combating Trafficking in Human Beings and Illegal Migration, *National Strategy for Combating Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021-2025)*, Skopje, 2021: *https://north-macedonia.iom.int/sites/g/files/tmzbdl2301/files/documents/2023-02/National%20Action%20Plan%20for%20Combating%20Trafficking%20in%20Human%20Beings%20and%20Illegal%20Migration%20in%20the%20Republic%20Of%20North%20Macedonia%202021%20%E2%80%93%202025.pdf*

43. Rabe-Hemp C. (2008), "Female officers and the ethics of care: does officer gender impact police behaviors?", *J Crim Justice*, Vol. 36, pp.426-434.

44. Republic of North Macedonia - Ministry of Foreign Affairs (2022), *Review of the Implementation Status of the Global Compact for Migration (GCM) in the Republic of North Macedonia*, Skopje, March 2022.

45. Republic of North Macedonia, State Statistical Office - UN Women (2022), *Women and Men in North Macedonia – A statistical portrait of trends in gender equality*, *https://eca.unwomen.org/sites/default/files/2022-10/EN_WandM-NMK-Report_WEB_0.pdf*

46. Republic of North Macedonia, *National Programme for Adoption of the European Union Acquis (NPAA) 2021-2025*, June 2021: *https://www.sep.gov.mk/data/file/NPAA/NPAA%20ENG%20Final_compressed%20(1).pdf*

47. Schiek Dagmar and Kotevska Biljana (2021), "Article 23 - Equality between Women and Men", in Steve Peers *et al*. (Eds), *The EU Charter of Fundamental Rights: A Commentary*, Hart Publishing, second edition, Oxford: Hart; Bloomsbury publishing, pp.667-692.

48. Southeast Europe Police Chiefs Association - SEPCA (2010), *Establishing the Southeast Europe Women Police Officers Network Research Findings: https://www.seesac.org/f/docs/Gender-and-Security/ESTABLISHING-THE-SOUTHEAST-EUROPE-WOMEN-POLICE-OFFICERS-NETWORK-Resea_3.pdf*

49. Sreekumaran Nair N., *et al*. (2017), "Gender-responsive policing initiatives designed to enhance confidence, satisfaction in policing services and reduce risk of violence against women in low- and middle-income countries: A systematic review", London: EPPI Centre, University College London.

50. Sykiotou Athanassia (2017), *A study of immigration detention practices and the use of alternatives to immigration detention of children*, Parliamentary Assembly of the Council of Europe Committee on Migration, Refugees and Displaced Persons, Council of Europe, October 2017.

51. *Tracking the Pact: Latest Council documents on Asylum and Migration Management Regulation and EURODAC:* https://www.statewatch.org/news/2023/may/tracking-the-pact-latest-council-documents-on-asylum-and-migration-management-regulation-and-eurodac/

52. United Nations (2002), *Gender Mainstreaming. An Overview*, Former Office of the Special Adviser on Gender Issues and Advancement of Women.

53. UNECE – World Bank Institute (2010), *Developing Gender Statistics. A practical Tool*: https://unece.org/fileadmin/DAM/stats/publications/Developing_Gender_Statistics.pdf

54. United Nations (2001), *Gender Mainstreaming: Concepts and Definitions*, New York: Prepared by OSAGI.

55. UNICEF (2006), *Guidelines on the Protection of Child Victims of Trafficking*, UNICEF Technical Notes, Sept. 2006: *https://www.refworld.org/pdfid/49997af727.pdf*

56. UNDP (2018), *Guide Note to Gender-sensitive Communication*, UNDP Lebanon July 2018: *https://www.undp.org/lebanon/publications/gender-sensitive-communication-guidelines*

57. UNDP (2021), *A Gender-Responsive Communication Guide. Rethinking Communication*, Turkey, February 2021: *https://www.undp.org/turkiye/publications/gender-responsive-communication-guide*

58. UNODC (2022), *Organized Crime and Gender: Issues Relating to the United Nations Convention Against Transnational Organized Crime*. Issue Paper: *https://sherloc.unodc.org/cld/uploads/pdf/Issue_Paper_Organized_Crime_and_Gender_1.pdf*

59. UNODC (2022), *Global Report on Trafficking in Persons*: *https://sherloc.unodc.org/cld/uploads/pdf/Issue_Paper_Organized_Crime_and_Gender_1.pdf*

60. UNODC (2021), *Organized Crime Strategy Toolkit for Developing High-Impact Strategies*: *https://sherloc.unodc.org/cld/uploads/pdf/Strategies/OC_Strategy_Toolkit_Ebook.pdf*

61. UNODC (2018), *Global Study on Smuggling of Migrants*.

62. UNODC (2015), *The Role of Recruitment Fees and Abusive and Fraudulent Recruitment Practices of Recruitment Agencies in Trafficking in Persons*.

63. UNODC (2015), *Issue Paper: The Concept of 'Exploitation' in the Trafficking in Persons Protocol*.

64. UNODC (2014), *Issue Paper: The Role of 'Consent' in the Trafficking in Persons Protocol*.

65. UNODC (2013), *Issue Paper: Corruption and the Smuggling of Migrants*.

66. UNODC (2011), *Issue Paper: The Role of Corruption in Trafficking in Persons*.

67. UNODC (2011), *Handbook on Police Accountability, Oversight and Integrity*, Criminal Justice Handbook Series, Vienna, United Nations Publication: *https://www.unodc.org/pdf/criminal_justice/Handbook_on_police_Accountability_Oversight_and_Integrity.pdf*

68. UNODC (2011), *First Aid Kit for use by Law Enforcement Responders in addressing Human Trafficking*.

69. UNODC (2011), *In-Depth Training Manual on Investigating and Prosecuting the Smuggling of Migrants*.

70. UNODC (2009), *International Framework for Action to Implement the Trafficking in Persons Protocol*.

71. UNODC (2008), *Manual for Training Police on Anti-Human Trafficking*, Regional Office South Asia.

72. UNSDG (2018), *UNCT-SWAP Gender Equality Scorecard. Performance Indicators for Gender Equality and the Empowerment of women for United Nations Country Teams*, 2018 Framework and Technical Guidance, New York.

73. UN Women, *Strategic Plan 2022-2025. Building a Gender-Equal World*: *https://www.unwomen.org/en/un-women-strategic-plan-2022-2025*

74. *UN Women (2022), Handbook on gender mainstreaming for gender equality results: https://www.unwomen.org/en/digital-library/publications/2022/02/handbook-on-gender-mainstreaming-for-gender-equality-results*

75. UN Women (2022), *Towards Improved Measures of Gender Inequality: An evaluation of the UNDP gender inequality index and a proposal,* Discussion Paper, No 41, (by Günseli Berik, University of Utah), Nov. 2022.

76. UN Women (2020), *Gender Mainstreaming: A Global Strategy for Achieving Gender Equality and the Empowerment of Women and Girls*: *https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/gender-mainstreaming-strategy-for-achieving-gender-equality-and-empowerment-of-women-girls-en.pdf?la=en&vs=3849.*

77. *UN* Women [Jeni Klugman and Beatrice Duncan] (2022), *Shaping the Law for Women and Girls. Experiences and Lessons from UN Women's Interventions 2015-2020.*

78. *UN* Women (2019), *Equality in law for women and girls by 2030. A multistakeholder strategy for accelerated action*, Leadership and Governance Section UN Women, New York, January 2019: *https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2019/Equality-in%20law-for-women-and-girls-en.pdf*

79. UN Women (2016), *Gender Assessment of the Refugee and Migration Crisis in Serbia and FYR Macedonia, Europe and Central Asia Regional Office* UN WOMEN, Istanbul, Turkey, January 2016: *http://eca.unwomen.org/en/digital-library/publications/2016/01/gender-assessment-of-the-refugee-and-migration-crisis-in-serbia-and-fyr-macedonia.*

80. UN Women (2015), *A Framework to Underpin Action to Prevent Violence Against Women*, New York: *http://www.unwomen.org/en/digital-library/publications/2015/11/prevention-framework#view*

81. UN Women (2015), *How to manage gender-responsive evaluation. Evaluation Handbook*.

82. UN Women (2014), *Gender Equality Capacity Assessment Tool*, New York: UN Women Training Centre: *https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2014/Capacity%20AssessmentTool_May2014_secondDraft%20pdf.pdf*

83. UN Women (2009), *Gender-Sensitive Police Reform in Post-Conflict Societies*: *https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2012/10/WPSsourcebook-04B-GenderSensitivePoliceReform-en.pdf*

84. *US Department of Justice* (2023), *2023 Trafficking in Persons Report: North Macedonia*: *https://www.state.gov/reports/2023-trafficking-in-persons-report/north-macedonia/*

85. *US Department of Justice* (1999), "Five I's of Police Professionalism. A Model for Front-Line Leadership", *Crime Prevention and Community Safety: An International Journal*, Vol.1 (2), pp.7-24: *https://www.ojp.gov/ncjrs/virtual-library/abstracts/five-police-professionalism-model-front-line-leadership*

86. Ward A. & Prenzler T. (2016), "Good practice case studies in the advancement of women in policing", *Police Science and Management*, Vol. 18(4), pp. 242-250.

87. Women Police Officers' Network in South East Europe (2012), *Guidelines for Gender-Sensitive Policing*, Belgrade: South Eastern and Eastern European Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) and UNDP, pp. 10-20.

UN Women North Macedonia
Blvd. Blazhe Koneski 7/10, Skopje, North Macedonia
https://eca.unwomen.org/en/where-we-are/north-macedonia
www.facebook.com/unwomenskopje

UN Women exists to advance women's rights, gender equality and the empowerment of all women and girls. As the lead UN entity on gender equality, we shift laws, institutions, social behaviours and services to close the gender gap and build an equal world for all women and girls. We keep the rights of women and girls at the centre of global progress – always, everywhere. Because gender equality is not just what we do. It is who we are.