

Conflicting objectives of EU conditionality uncovered Roma policies in the Republic of North Macedonia

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Abstract

This policy paper examines the conflicting objectives of EU conditionality in relation to Roma in the aftermath of introducing visa-free travel for the Western Balkans, studying the case of North Macedonia. Since the eastern enlargement, EU conditionality on Roma has gradually advanced in terms of both the acceding countries and EU member states. At the same time, the pressures to curb migration in the EU have inadvertently affected the position of Roma. In acceding countries from the Western Balkans, the tension between these two trends has been clearly illustrated with the EU and national responses to the rise of the number of asylum seekers in the EU from this region. Looking at the case of North Macedonia, the paper shows how national authorities, in response to EU member state requests, have instituted practices at the national level that have led to a violation of the rights of the Roma community, by limiting their freedom to exit the country.

1. Introduction and rationale

This policy brief examines the conflicting objectives of EU conditionality in relation to Roma in the case of the Republic of North Macedonia. EU conditionality for the purposes of this brief denotes “the offer of positive incentives (such as EU membership) as a reward for states [that] meet the EU’s demands to adopt certain rules” (Sedelmeier, 2006, p. 9). The mechanism of conditionality was most extensively developed for the eastern enlargement of the EU, since prior to the 1990s there was no proper monitoring of conditions for accession to the EU, especially in relation to the political criteria (Pridham, 2007).

Since the eastern enlargement, EU conditionality on Roma has gradually advanced in terms of both the acceding countries and EU member states. At the same time, the pressures to curb migration in the EU have inadvertently affected the position of Roma. In acceding countries from the Western Balkans, the tension between these two trends has been clearly illustrated with the EU and national responses to the rise of the number of asylum seekers from this region in the EU. Faced with increasing burdens on their respective administrations, affected EU member states (most notably Belgium and Germany) demanded that the governments of the Western Balkans take action to stop the rise of the number of asylum seekers (Sommo, 2011). In 2012, the German authorities announced that 80–90% of the Western Balkan asylum claimants were Roma and classified them as false or economic asylum seekers.¹ In response, the issue quickly became defined in relation to the ethnic/racial background of the people exiting these countries and measures were sought and implemented to limit the freedom of movement of Roma specifically.

Having these developments in mind, this brief undertakes a case study of North Macedonia in the aftermath of the visa-free travel decisions of 2009–10. The country is an instructive example due to the long-term engagement with the EU institutions, extensive scope of measures limiting the freedom of movement of Roma resulting in more than 50 court cases and numerous verdicts confirming discrimination,² and the explicit recognition of discriminatory practices by national authorities.³ Similar trends can be noted at various points in time in most of the other countries of the region, notably Serbia and most recently Albania.

The structure of this policy brief is as follows: first, it provides a background to the policy issue, examining two distinct tracks in which Roma policies are approached at the EU level. These include (i) the perspective of integration/inclusion both in the EU and in enlargement countries and (ii) a migratory, i.e. security, perspective in response to the rise of numbers of asylum seekers in the EU. The background to the policy issue is followed by the case study, illustrating

¹ See H. Heuser, “Blitzverfahren – German Asylum Procedures for Roma from Western Balkan Countries” in “Going Nowhere? Western Balkan Roma and EU Visa Liberalisation”, *Roma Rights*, 1/2014, 1 October 2014.

² See European Policy Institute & KHAM, “Right to Equality and Freedom of Movement at Borders: Experiences in Providing Legal Assistance”, Skopje and Delcevo, 2016, http://epi.org.mk/docs/Sloboda%20na%20dvizenje%20-%20iskustva%20od%20pravna%20pomosh_MK.pdf.

³ Ministry of the Interior, “Spasovski: The discrimination of Roma at border crossing points cannot be allowed”, Press Release, 2 November 2016, <http://mvr.gov.mk/vest/2894>.

the conflicting objectives of EU conditionality on Roma from the two perspectives discussed above. Last, the paper draws its conclusions and the significance of this conflict of priorities.

2. Background to the issue

2.1 Roma as an element of EU accession conditionality

The situation of Roma became an element of EU conditionality in the latter half of the 1990s, as a result of international advocacy efforts and the increasing number of Roma asylum seekers from central and eastern Europe in the EU (Vermeersch, 2003). Empirical analysis of the role of the EU in the development and implementation of Roma policies has been inconclusive. On the one hand, it has been widely accepted that the development of “pro-Romani policies gained momentum during the accession negotiations”. Similarly, Swimelar (2008) concludes that minority rights for Roma in the accession process “have become institutionalised, empowered in the public realm, and generally accepted as appropriate at the elite level” (p. 519). On the other hand, Vermeersch (2003) concludes that the policy changes, especially in relation to Roma, were predominantly a result of short-term political considerations.

Since the big-bang enlargement and largely as a result of it, the EU has also been instituting its own rules and policies on Roma integration. This includes the obligation for EU member states to adopt and implement National Roma Integration Strategies (NRIS) in line with an existing EU framework for this purpose, developed as an EU response to the forced evictions and expulsions of EU Roma citizens by the French and Italian governments in 2010.⁴ Recent studies have highlighted that the EU NRIS framework “fails to properly address systemic challenges to the rule of law and structural barriers erected by all state institutions in the EU Member States as well as malpractices such as the continued forced evictions and returns of both Roma EU citizens and Roma non-EU asylum seekers, the use of camps and segregation of Roma communities” (Carrera et al., 2017, p. 28). According to the same analysis, Commission officials also shared the view that the strategy cannot address the systemic violations of the EU law. A 2018 evaluation of these strategies in their first cycle found that despite progress in some areas, most notably education, “discrimination continues to be of high concern in European societies” (European Commission, 2018c, p. 20).

In parallel, the European Commission has also been working in the context of enlargement countries by including Roma policies as an element of the political criteria for accession, but also in relation to social policy and anti-discrimination as well as fundamental rights. As a result, Roma have been a topic of the EU annual reports on the countries in the Western Balkans. The reports have outlined in detail the monitoring of various conditions and “provided the basis for

⁴ For a background on this see: A. Geddes and P. Scholten, *The politics of migration and immigration in Europe*, Sage, 2016.

enlargement decisions by other EU executive institutions” (Pridham, 2007, p. 453).⁵ Using these documents, the EU has stipulated its own conditionality through the standard instruments of accession, i.e. the annual reports and their follow-up. Lastly, Roma and the need for promotion of their social inclusion are included in the Commission’s Communication on enlargement of February 2018 (European Commission, 2018a).

2.2 Roma as (false) asylum seekers

Following the (re)introduction of visa-free travel for short stays for the citizens of the Western Balkans in 2009 and 2010, as noted in the introduction, Roma were singled out by EU member states as *false* asylum claimants. In 2012, the German asylum bureau issued statements that 80–90% of the Western Balkan asylum claimants were Roma and classified them as false or economic asylum seekers (Heuser, 2014). Similar numbers were included in the UNHCR’s report on asylum, according to which 92% of all asylum applicants in Germany originating from Serbia and Kosovo were of Roma origin.⁶ These statements were accompanied by official releases of the Federal Ministry of Interior, which requested immediate termination of the massive inflow of Macedonian and Serbian citizens, instigating an aggressive media campaign as well, coupled with frequent visits from high-level representatives of EU member states to the region (Heuser, 2014).

As a result of this increase and pressure from the member states affected, at the Justice and Home Affairs Council of 8 November 2010 the EU established a post-visa liberalisation monitoring mechanism, including representatives of Frontex, Europol, the current and incoming Council Presidency, and the Secretariat of the Police Cooperation Convention for South-East Europe (European Commission, 2011a). As part of this mechanism the Commission started issuing reports on the post-visa liberalisation monitoring and produced a total of five reports, with the last one in January 2015.⁷ Simultaneously, Frontex in its first Western Balkans annual risk analysis of 2010 registered the increase in unfounded asylum claims and attributed them “to ethnic Albanian or Roma community members from Serbia and the Former Yugoslav Republic of Macedonia, travelling legally to the mentioned EU Member States and citing socio-economical reasons for their asylum claims” (Frontex, 2010). Between 2011 and 2014, the ‘abuse’ of the visa-free travel scheme by Western Balkan nationals had already been determined as a migratory risk in all annual Frontex reports.

The ethnic distribution of asylum seekers was included already in the first reports of the European Commission on the post-visa liberalisation monitoring. In its first report of 2011, the Commission assessed that “as regards the ethnic background and geographical distribution, *an estimated 80% of all asylum seekers from Serbia and the former Yugoslav Republic of*

⁵ The importance of the progress reports as an essential reference source of conditionality has been confirmed in research and discussions with stakeholders, including at the EU and national levels.

⁶ See <http://www.unhcr.org/5149b81e9.html>, footnote 14.

⁷ The reports on the post-visa liberalisation monitoring were discontinued at the height of the migration/refugee crisis.

Macedonia were Roma (Romani speaking)" (emphasis added) (European Commission, 2011a). According to this report, their main reason for leaving their country of origin is economic, based on false perceptions of financial advantages that they will acquire by requesting asylum in certain member states (ibid.). In the second report of December 2011, the Commission determines the existence of a *profile* of the asylum seekers with the following description: "*the vast majority of the claims stems from persons belonging to the Roma minority, who often arrive with their families*" (emphasis added) (European Commission, 2011b). In the same report, the Commission notes that "between 22 August and 18 September 2011 the share of citizens of Roma origin is as follows: 100% for Albania, 100% for Montenegro, 92% for Serbia, 88% of Bosnia and Herzegovina and 71% for the Former Yugoslav Republic of Macedonia" (emphasis added) (European Commission, 2011b).

To deal with these cases specifically, most of the affected countries introduced expedited procedures for asylum seekers, including Norway and Germany. In August 2012, the German authorities established a *Western Balkans support unit*, manned by seconded staff focusing exclusively on applications from these countries, reducing the asylum processing time from 40 to 10 days. In this procedure the applicant's interview is held on the same day as the asylum application (or two days afterwards at the latest), and the decision on whether protection is accorded or not is submitted within one week, not leaving time for preparation.⁸ The average duration of the interview is only 40 minutes, and the formal 25 questions concerning name, origin, family, etc., take approximately 30 minutes of that time, with couples interviewed together. Research has argued that these discriminatory interviews resulted in 100% negative decisions submitted with the added comment that the applications were "obviously unsubstantiated".⁹

In September 2015, the European Commission proposed to replace the national safe lists with an EU common list of safe countries of origin.¹⁰ This move followed the 2014 decision of the German Bundestag to place Macedonia, Serbia and Bosnia and Herzegovina on the national list of safe countries of origin. The Commission's proposal would "enable Member States to apply specific procedural rules, in particular accelerated asylum and border procedures, where the applicant is a national of a country that has been designated as a safe country of origin by national law".¹¹ Among the countries included in the European Commission's proposal are Albania, Bosnia and Herzegovina, the Republic of North Macedonia, Kosovo, Montenegro,

⁸ H. Heuser, "Blitzverfahren – German Asylum Procedures for Roma from Western Balkan Countries", <http://www.errc.org/article/roma-rights-1-2014-going-nowhere-western-balkan-roma-and-eu-visa-liberalisation/4325/9>.

⁹ Ibid.

¹⁰ Proposal for a Regulation of the European Parliament and of the Council, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/proposal_for_regulation_of_the_ep_and_council_establishing_an_eu_common_list_of_safe_countries_of_origin_en.pdf.

¹¹ <http://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-european-list-of-safe-third-countries-of-origin>.

Serbia and Turkey, which are designated as safe countries of origin within the meaning of Directive 2013/32/EU.¹² Though the proposal is still under discussion, the Western Balkan states have since been included on most of the national lists of safe countries of origin.¹³

3. Case study: EU pressure to advance and limit the rights of Roma in the Republic of North Macedonia

According to the 2002¹⁴ census, the Republic of North Macedonia has 2,022,547 inhabitants, of whom 53,879 or 2.66% declare themselves as Roma, but according to unofficial election data the number is much higher. Contestation over numbers is a common feature of Roma policy across the EU as well (see Guild and Carrera, 2013). According to the report of the Roma Education Fund, the unofficial number of Roma in the country is 135,490,¹⁵ or 6.77% of the total population. In line with practices across the region, the country adopted one of the first Strategies for Roma in 2004,¹⁶ revised twice since then,¹⁷ and was also a signatory of the Decade of Roma Inclusion adopted in 2005. Roma are included regularly in the EU progress reports as a point of concern in the country. For specifically monitoring Roma policies, the Commission established Roma seminars for regular review and follow-up. When looking at the assessments of the European Commission, as also confirmed through interviews, there is repetition in terms of the need to advance the inclusion of Roma in all policy areas, including education, housing, health and social protection.

While requesting an improvement in the situation of Roma across policy fields, responses to the rise in the number of asylum seekers in EU member states at both the EU and national levels post-2009 illustrate a parallel process of securitisation of this community. In the first year after the visa liberalisation, Macedonia was listed as a major country of origin of asylum seekers, with the highest relative increase at more than 599% (UNHCR, 2011). As was reported by *Der Spiegel*, in the case of Germany in 2010, asylum requests from Macedonia and Serbia together accounted for 7,444 applications, whereas a year earlier, just 690 applicants came from these two countries (Angelos, 2011). According to the European Stability Initiative,

¹² Proposal for a Regulation of the European Parliament and of the Council, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/proposal_for_regulation_of_the_ep_and_council_establishing_an_eu_common_list_of_safe_countries_of_origin_en.pdf.

¹³ See European Commission, European Migration Network, “Safe Countries of Origin”, March 2018, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_inform_safe_country_of_origin_final_en_1.pdf.

¹⁴ See the State Statistical Office, *Census of Population, Households and Dwellings in the Republic of Macedonia 2002*, Skopje, 2005, http://www.stat.gov.mk/pdf/kniga_13.pdf.

¹⁵ Roma Education Fund, “Needs Assessment Study for the Roma Education Fund”, Background Paper, Paris, 2004, <http://siteresources.worldbank.org/INTROMA/Resources/NAReportFinalMacedonia.pdf>.

¹⁶ Ministry of Labour and Social Policy, *Strategy for Roma in the Republic of Macedonia*, 2005, Republic of Macedonia, Skopje, 2005, http://www.mtsp.gov.mk/wbstorage/files/strategija_romi.pdf.

¹⁷ Ministry of Labour and Social Affairs in cooperation with the National Coordinator of the Decade and the Strategy for Roma, *Strategy for Roma in Macedonia 2014–2020*, Skopje, 2014, <http://www.mtsp.gov.mk/content/pdf/strategij/Strategija%20za%20Romite%20vo%20RM%202014-2020.pdf>.

Germany was the first destination for asylum seeking from the Western Balkans, with 36% in 2010 rising to 76% of all asylum claims from the region in 2014.¹⁸ Similar trends were noticeable in Sweden and Belgium as well.

In response to these trends, in May 2011 Belgium sent a letter to the European Commission suggesting a suspension of the visa-free regime with Serbia if the latter did not undertake necessary measures. Similar messages were sent to Macedonia as well, with high-level EU officials regularly visiting the country in order to 'warn' the authorities and the local population.¹⁹ The rise of the number of asylum seekers from these countries instigated further action at the EU level with proposals for introducing a safeguard clause to suspend visa liberalisation (European Commission, 2011c). In practice, the requirement to decrease the number of asylum seekers from the region, with a focus on Roma, became an (*informal* or unofficial) element of EU conditionality.²⁰ High-level officials highlighted that between 2011 and 2015, the national authorities were under strong political pressure to reduce the number of potential asylum seekers coming from the country.²¹ In the same interview, it was confirmed that at high-level meetings, representatives of the European Commission and of EU member states actively used the threat of suspending the visa-free regime in order to achieve that goal.

To respond to the requirements, the government devised statutory solutions for criminalising the abuse of the visa-free regime and under pressure began a practice of profiling *potential asylum seekers upon exit from the country*. In relation to the former, changes were introduced in 2011 that provided for **revoking passports** for the period of one year for Macedonian citizens who had been deported from another state, later declared unconstitutional in 2014. Yet, the European Roma Rights Centre (ERRC) had "documented 75 cases in which Macedonian border officials revoked the passports of Romani individuals who had been deported from EU countries as failed asylum seekers, and became aware of another 155 such cases" (ERRC, 2015). Similar measures had been introduced in Bulgaria and Romania in the early 2000s.²² In Bulgaria specifically, Tchorbadjiyska argued that the possibility for revoking the passports of those who have infringed on other states' entry and residence rules might be challenged as a limitation to their freedom to move (Tchorbadjiyska, 2007).

The second, major group of measures consists of enhanced **controls upon exit from the country**. The enhanced controls were based on a telegram sent from the Ministry of the Interior to the

¹⁸ See European Stability Initiative, "New facts and figures on Western Balkan Asylum Seekers", 6 April 2015, <http://www.esiweb.org/pdf/New%20facts%20and%20figures%20on%20WB%20asylum%20claims%206%20April%202015.pdf>.

¹⁹ Confirmed in interviews with the author.

²⁰ Confirmed in interviews with the author.

²¹ Interview with a representative of the Ministry of Foreign Affairs, June 2016.

²² In the case of Romania, "the entering or leaving a foreign state by the illegal passing of its borders, committed by a Romanian citizen or by a person without citizenship residing on the Romanian territory is considered as an offence and is punished with imprisonment from 3 months to 2 years", Art. 1(1), Emergency Ordinance no. 112, Referring to the Punishment of Some Action Committed Abroad by Romanian Citizens or by [a] Person Without Citizenship Residing in Romania, 30 August 2001 (*Official Gazette of Romania*, no. 549, 3 September 2001).

relevant services requesting that “controls upon exit from the territory of the Republic of Macedonia of organized groups of citizens, potential asylum seekers, are to be enhanced, especially in light of provisions of Article 15 of the Law on Border Control (Official Gazette of the Republic of Macedonia No. 171, dated 30 December 2010)”.²³ In practice, this measure implied that the border police would conduct stricter controls upon exit, as was confirmed by interviewees as well. As documented by various international and national observers, these measures primarily targeted the Roma community. For example, according to the report of the Council of Europe Commissioner for Human Rights, between December 2009 and the end of November 2012, about 7,000 Macedonian citizens were not allowed to leave the country, with Roma clearly disproportionately affected.²⁴ The US Department of State reports that in 2011 alone, during a seven-month period, more than 1,500 Macedonian citizens, mostly Roma, were refused exit from the country on the basis of being potential asylum seekers.²⁵ Furthermore, according to the same source after just one year the number of Macedonian citizens who were denied exit from the country increased from 1,500 in 2011 to 8,322 in 2012.²⁶ The number of exit refusals was observed by the European Commission and Frontex, noting that in 2013 the number of refusals of exit was 6,700 or 41% more compared with 2012 (Frontex, 2014). The ERRC in its work has confirmed that in 90% of the cases only Roma were asked for evidence to justify why they were travelling (i.e. in cases when Roma and non-Roma were travelling together) (ERRC, 2015).

The discriminatory nature of these policies has been confirmed by the national authorities and courts as well. The Ombudsman confirmed that the Ministry of Interior limits the citizens’ right to freedom of movement because they belong to the Roma and Albanian community, i.e. it discriminates against them, in four consecutive annual reports, specifically those published in the period from 2012 to 2015.²⁷ A representative of the Ministry of Labour and Social Policy confirmed this and emphasised that at meetings with EU officials they were under significant pressure to limit the freedom of Roma to leave the country, since they were presumed to be

²³ Telegram of the Ministry of the Interior, the text of which was quoted in the judgment in case no. XXVIII П4-1228/13 of the Skopje 2 First Instance Court, according to the legal opinion of the Macedonian Young Lawyers Association, <http://tinyurl.com/hrzxpqa>.

²⁴ Council of Europe, “Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to the former Yugoslav Republic of Macedonia, from 26 to 29 November 2012”, <https://wcd.coe.int/ViewDoc.jsp?p=&id=2052823&direct=true>.

²⁵ Bureau of Democracy, Human Rights and Labor, U.S. Department of State, *Country Report on Human Rights Practices 2012*, <http://www.state.gov/documents/organization/186589.pdf>.

²⁶ Bureau of Democracy, Human Rights and Labor, U.S. Department of State, *Country Report on Human Rights Practices for 2013*, 2013 година, <http://www.state.gov/documents/organization/220516.pdf>.

²⁷ Ombudsman’s Office of the Republic of Macedonia, *2012 Annual Report of the Ombudsman’s Office*, <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2012/GI-2012.pdf>; *2013 Annual Report of the Ombudsman’s Office*, <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2013.pdf>; *2014 Annual Report of the Ombudsman’s Office*, <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2014/GI%202014.pdf>; *2015 Annual Report of the Ombudsman’s Office*, http://ombudsman.mk/upload/Godisni%20izvestai/GI-2015/GI_2015-za_pecat.pdf.

potential asylum seekers.²⁸ This respondent explained that “despite the fact that we, as representatives of the institutions, objected to the pressure to reduce the number of asylum application[s] by preventing exit from the country, this was an issue regarding which [we] were not allowed any chance of negotiating”.²⁹ The representative of the Ombudsman’s Office emphasised that the national authorities “refer to certain demands from Brussels and from EU Member States, such as Germany and France, which were affected by the largest number of asylum seekers at certain points in time, as well as Switzerland, but all these demands were made informally”.³⁰ The national courts have also established discrimination in more than a dozen cases in which the plaintiffs were Roma who were denied the right to exit the country.³¹

Yet, despite the confirmations of the Ombudsman and the court cases, in the specific period under analysis, the Commission did not regularly recognise the problem of profiling as a concern in its annual reports. Only in 2015 did the Commission note that “complaints have been registered by Roma prevented from leaving the country and of mistreatment of Roma who have returned after unsuccessfully seeking asylum abroad” (European Commission, 2015a). Three years later, in 2018, the Commission reflected on the issue again by noting that “no new cases were registered of Roma being prevented from leaving the country at its borders. Fifty (50) allegations for infringement of the right to equality entered in court proceedings” (European Commission, 2018b).

The turning point at the national level was the statement of the interior minister in November 2016, *admitting* this practice, emphasising that discrimination against Roma at border crossing points *could not be allowed*.³² The statement came during a period when the pressure from the Commission regarding this issue had significantly subsided, as underscored by the respondents. However, the issue could reappear on the agenda in some form or another. For example, neighbouring Serbia is required to “continue to take preventive measures against unfounded asylum requests by its citizens in EU Member States” as a conditional benchmark necessary to fulfil in order to close chapter 24 in the accession negotiations with the EU.³³ Since North Macedonia very recently started with the screening of chapters 23 and 24, and given the

²⁸ Interview with a representative of the Ministry of Labour and Social Policy, May 2016.

²⁹ *Ibid.*

³⁰ Interview with a representative of the Ombudsman’s Office, August 2016. The formal recommendation for fulfilment of measures for reducing the number of asylum seekers was in fact a letter sent from Belgium to the European Commission. See L. Sommo, “EU Proposes Mechanism to Suspend Visa-Free Regime”, *Balkan Insight* [Online], 2011, <http://www.balkaninsight.com/en/article/eu-proposes-mechanism-to-suspend-visa-free-regime>.

³¹ See European Policy Institute & KHAM, “Right to Equality and Freedom of Movement at Borders: Experiences in Providing Legal Assistance”, Skopje and Delcevo, 2016, http://epi.org.mk/docs/Sloboda%20na%20dvizenje%20-%20iskustva%20od%20pravna%20pomosh_MK.pdf.

³² Ministry of the Interior, “Spasovski: The discrimination of Roma at border crossing points cannot be allowed”, Press Release, 2 November 2016, <http://mvr.gov.mk/vest/2894>.

³³ European Union Common Position, “Chapter 24: Justice, freedom and security”, Conference on Accession to the European Union – Serbia, Brussels, 8.7.2016, <http://data.consilium.europa.eu/doc/document/AD-21-2016-INIT/en/pdf>.

learning processes in the European Commission, the same benchmark is likely to be included in this case as well.

4. The alternative policy response: Opening up legal migration pathways in Germany

Recognising the migratory pressures from the Balkans, and in view of the region's accession perspective, policy research has argued for opening up of legal migration pathways as a more applicable policy response. In this respect, Guild has looked into the potential of the Stabilisation and Association Agreements, which include a mechanism to support economic migration by individuals – a right to movement for the purpose of self-employment (see Guild, 2017). Yet, instead of using these agreements to assist neighbouring countries, Guild notes that “member states’ interior ministries have been left free to use exclusively coercive, *non-entrée*, refusal of admission and expulsion measures to block economic migration in the region” (ibid., p. 162). Following this example, in the aftermath of the coercive measures, in 2015 the German authorities responded by broadening the *legal pathways* for opening up the labour market as the road less travelled in the EU at the time. This was done through introducing a regulation (known as section 26.2 of the *Beschäftigungsverordnung*), which essentially opened the labour market for nationals from the six Western Balkan countries, without including minimum skill or qualification requirements (see Bither and Ziebarth, 2018). Following the introduction of this regulation, the number of asylum applications from the Western Balkans dropped, although it is difficult to draw clear conclusions as to its impact.

5. Conclusions and recommendations

This policy paper has examined the conflicting objectives of EU conditionality in relation to Roma in the aftermath of introducing visa-free travel for the Western Balkans, studying the case of North Macedonia. The paper has shown how the national authorities, in response to EU member state requests, have instituted practices at the national level that led to a violation of the rights of the Roma community, by limiting their freedom to exit the country. The paper has analysed both the EU and the national responses instituted through the post-visa liberalisation monitoring mechanism with the purpose of taking measures for decreasing the number of *unfounded* asylum seekers from the region to the EU. Analysing the EU response, the paper has shown that through the documents of the EU and its member states Roma have been singled out as a dominant community among the asylum seekers in parallel with the requirements for the national governments to limit the number of potential asylum seekers. Such conditions have at the national level been transposed into targeting and clear profiling of Roma upon exit, as demonstrated by the analysis of the national response, heavily criticised by national institutions, civil society and international organisations.

In addition to violation of the rights of the Roma community already proven in the national courts and several ongoing procedures in front of the European Court of Human Rights, the practice discussed above carries significant implications for the role of EU conditionality in

acceding countries as well as the overall role of the EU in the world. In relation to the former, the request directed at acceding countries to grossly violate the rights of a specific community undermines the potential of the instrument of conditionality for the purposes of supporting the rule of law and good governance. As to the latter, the actions of member states in which such requests are put forward to third countries in effect undermines the role of the Union as a normative power supporting the values of human rights and democracy. In light of these findings, the paper puts forward the recommendations below.

To the EU institutions and member states:

- The European institutions (including Frontex and the European Commission) should avoid using terminology that can lead to stigmatising communities, specifically Roma, in their reports.
- The EU member states should ensure non-discriminatory treatment of all asylum applicants.
- The EU member states need to look into expanding legal pathways of migration for economic purposes.

To the Macedonian authorities:

- Ensure efficient investigation in cases of alleged racial discrimination and racially motivated, unlawful conduct by the border police.
- Raise awareness among the border police about the principle of non-discrimination and its application.
- Educate and raise the awareness of the Roma community about their civil rights, including in cases in which they are denied exit outside the national borders.

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Engage II Fellowship Programme

The ENGAGE II Fellowship Programme is coordinated by CEPS with support by the Open Society Initiative for Europe (OSIFE). This one-year programme aims to involve academic, civil society and think tank actors from Central and Eastern Europe, the Western Balkans and Eastern Partnership countries in EU policy debates. It entails training, study visits, public events and the publication of policy papers. It culminates in the active participation of the selected fellows at the annual CEPS Ideas Lab.

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The programme is coordinated by the CEPS Justice and Home Affairs (JHA) Unit. It is conducted under the supervision of CEPS Senior Research Fellows Sergio Carrera (Head of the JHA Unit), Cinzia Alcidi (Head of the Economic Policy Unit) and Steven Blockmans (Head of the Foreign Policy Unit).

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- Judit Bayer, Professor of Media Law and International Law at the Budapest Business School
- Simonida Kacarska, Director and co-founder of the European Policy Institute, Skopje
- Naim Rashiti, Executive Director and Senior Balkan Analyst, Balkans Policy Research Group, Pristina
- Maria Repko, Deputy Director at the Centre for Economic Strategy, Kiev
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