



Shadow Report 2020 North Macedonia

Chapter 19

Social Policy and Employment



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I Executive Summary

The shadow report on Chapter 19 focuses on the aspects of interest for migrants and migrations. While the core of this issue is considered as part of Chapter 24, Chapter 19 contains aspects regarding social policy and employment, as well as the protection against discrimination, which are of central importance for the everyday lives of migrants.

The EU enlargement process has undergone important changes in the reporting period. A decision to open accession negotiations with North Macedonia was finally adopted. A new methodology was adopted by the European Commission, which aims to make important changes to the process. These changes went hand in hand with the globally changed and challenging context, caused by the COVID-19 pandemic.

In 2020 the European Commission has found that the country has made some progress with regards to Chapter 19, and that it is, overall, moderately prepared. This is a repetitive conclusion for several years in a row, meaning that the preparedness has not advanced and that the progress in relation to Chapter 19 can be qualified as stagnant. The Commission mainly repeated the recommendations from last year, added a larger emphasis on gender equality, and alerted to the possible negative effects from the COVID-19 crisis, particularly on regressing the advancements made regarding crucial issues, such as rate of unemployment.

There were several key achievements in the reporting period that are directly or indirectly relevant for migrants. In relation to employment, a new Law on Labour Relations has been drafted and is about to enter into a public discussion. In relation to social protection, a new Law on Social Protection was adopted and the implementation has started. In relation to gender equality and non-discrimination, a new Law on Prevention and Protection against Discrimination was adopted, only later to be annulled by the Constitutional Court. A new Law on Gender Equality and a Law on Prevention and Protection against Violence against Women and Family Violence are being drafted.

Our overall conclusion is that the issue of migration and the aspects that are of relevance for migrants are still side-lined in Chapter 19 and remain largely invisible. We propose recommendations as to how this can be rectified. In addition, we note points for improvement and propose specific recommendations regarding the legislative and policy framework and the implementation on a number of issues regarding migrants and employment and labour relations, social protection and social inclusion, social dialogue and gender equality and non-discrimination.

II Introduction

Context

This Shadow report is produced in the framework of the EU funded Project IRIS Networking - CSOs for protection sensitive migration management, which aims at empowering CSOs in the Western Balkans region to be effective and accountable independent actors and to improve their capacity to dialogue with governments influencing policy and decision-making processes. A wider understanding of the term “migrant” is used, encompassing categories such as, refugees, IDPs, displaced persons, returnees under readmission agreement, asylum seekers, person likely in need of international protection, victim of trafficking, etc.

This is the second such country shadow report. It follows up on the findings and recommendations of the previous report, but also includes specific issues that were observed during the monitored period. The report covers the period since the publication of the last EU enlargement package, from May 2019 until August 2020.

The year 2020 was globally marked with the COVID pandemics, which also affected migration flows, as well as migration management in the region of the Western Balkans, including North Macedonia. Due to the situation caused by the pandemic, a state of emergency was declared in North Macedonia, lasting from 18 March until 22 June 2020. The situation also had an impact on the activities of the CSOs in the country in the fields of migration, especially on their work on the ground, which gradually resumed since June 2020.

The Republic of North Macedonia has been a candidate for accession negotiations since 2005. In March 2020 the Council of the EU decided to open accession negotiations with North Macedonia. The European Commission submitted the Draft negotiating framework to the Council of the EU on 1 July 2020, in which the new methodology for enlargement has been implemented. The Negotiating Framework is currently under discussion in the Council of EU. Following the adoption of the Negotiating Framework by the Council of the EU, it is expected that the negotiations actually start with the first Intergovernmental accession conference.

Early parliamentary elections in the country took place on July 15, 2020. The Parliament was constituted at the beginning of August 2020. A new Government was appointed outside of the reporting period covered with this report, at the beginning of September.

Methodology

The data was collected through desk research and interviews with relevant stakeholders. Available primary and secondary sources relevant to migrants and the issue of migration through the prism of Chapter 19 were reviewed. Primary sources of information were legislation and secondary acts, strategies and action plans of relevant ministries¹ prepared/adopted in the monitored period, as well as publicly available data on performance of state bodies. Data collected was also collected from interviews conducted with key stakeholders. The purpose and focus of the interviews was to collect data that could not be collected otherwise, within the timeframe for producing this report.

Secondary sources used include CSOs reports and analyses falling within the scope of the topics covered in Chapter 19 (see part III – Chapter Overview), reports of international organisations in the monitored period, with a specific focus on EU relevant reports: European Commission report on North Macedonia,

¹ Ministry of Labour and Social Policy, Ministry of Interior, Ministry of Education etc.

Fundamental Rights Report on North Macedonia of the Fundamental Rights Agency of the EU, etc. Particular attention was given to independent CSO reports, specifically those published by IRIS network members.

Structure of the Shadow Report

In this report we first provide a chapter overview, presenting which areas fall within the scope of Chapter 19 and are of interest for migrants (III Chapter Overview). Then, we provide an overview of the findings for Chapter 19 in the last EC progress report on the country (IV Current Situation). Following this, we present the progress with the national developments compared to the developments, conclusions and recommendations noted in the last shadow report (V Progress). We close the report with a section on recommendations (VI Recommendations).

III Chapter Overview

Strictu sensu, the *acquis* related to migrants is mainly in Chapter 24. However, Chapter 19 carries importance for issues related to the social policy and employment, as well as the protection against discrimination. In the new enlargement methodology² the chapter has been positioned in the cluster III Competitiveness and Inclusive Growth. This signals also that the aspects of importance for migrants and migration will be treated with more scrutiny within the frame of Chapter 24 rather than Chapter 19.

Chapter 19 covers the following aspects of the EU *acquis*:

- Employment and labour (labour law and health and safety at work);
- Social Dialogue;
- Social Inclusion and Social Protection; and
- Non-discrimination and Gender Equality.

Some sections are only tangentially of importance, such as health and safety at work, whereas others, such as non-discrimination and gender equality, are directly and in whole relevant for the protection of migrants from unlawful unequal treatment. Still, as already noted, the core of the *acquis* regarding migrants is included in Chapter 24.

An overview of the preparedness of the country in relation to Chapter 19, in the past 4 years based on EPI's assessment of the EC country progress reports is included in Table No.1.

Table No.1: *Overview of the assessment of the country's progress and preparedness in 2020 with regards to Chapter 19*

Chapter	Progress ³		Preparedness	
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² European Commission, 'Enhancing the Accession Process - A Credible EU Perspective for the Western Balkans' <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/enlargement-methodology_en.pdf> accessed 14 September 2020.

³ The numeric values correspond to the following standardised EU assessments:

- On progress: From 2015 to 2019 the EC applied the following phrases: Backsliding, No progress, Some progress, Good progress, Very good progress. In 2020 the EC added the assessment "limited progress". Consequently, the assigned numerical values for the updated scale are the following: (1—3) Backsliding; 0 No progress; 1 – Limited progress; 2 - Some progress; 3- Good progress; 4 - Very good progress.
- On preparedness: 1 - At an early stage; 2 - Some level of preparation; 3 Moderately prepared; 4 - Good level of preparation; 5 - Well advanced.

Year	2015	2016	2018	2019	2020	2015	2016	2018	2019	2020
19. Social policy and employment	2	2	2	2	2	3	3	3	3	3

Source: Ardita Abazi Imeri et al, *Clear Recommendation - Uncertain Date* (European Policy Institute – Skopje, 2019),12; updated by the authors.

The country remains moderately prepared achieving some progress only. None of the priorities set as recommendations include issues related to migration.⁴

IV Current situation

For several years in a row, the European Commission has found that the country has made some progress with regards to Chapter 19, and that it is, overall, moderately prepared. That was the case as well in this reporting period. Considering the longer period in which the preparedness has not advanced, it would be justified to refer to the progress in relation to Chapter 19 as stagnant.

The European Commission reiterated the recommendations from last year. These are “continue to implement activation measures for long-term and low-skilled unemployed people, including women, persons with disabilities and Roma [, and] improve capacities of the State Labour Inspectorate and reinforce the bipartite social dialogue between employers and workers.”⁵ In addition, the Commission expanded last year’s recommendation on poverty alleviation with addressing both poverty and anti-discrimination for all groups referred to as vulnerable in the strategic documents on poverty alleviation.⁶

Regarding **labour law**, while the Law on Minimum Wage has been noted as a positive development, the capacity of the State Labour Inspectorate remains a point of worry, and one of the key recommendations. The capacities for implementation of the laws overall have also been contested in the area of **health and safety at work**, in addition to insufficient interinstitutional cooperation.

Regarding the **employment policy**, while the youth guarantee is hailed as a positive development together with the historically low level of unemployment, the Commission warns that negative effects from the COVID-19 crisis are to be expected in the coming period. Due to this, implementation and further use of the activation measures for long term unemployed remains to be crucial.

The Law on Social Policy remains the key development in relation to **social policy**. Together with the ongoing deinstitutionalisation process they are noted as positive developments which can have many positive impacts in the field covered by Chapter 19.

What is new in this report is that the Commission deals in greater detail with two things in this report – the role of the trade unions and gender equality. Regarding the former, the Commission devotes the main part of its **social dialogue** reporting on the position of trade unions, noting declines in union membership and trust. The Commission considers that this undermines the position of the workers,

⁴ European Commission, ‘Update on the Republic of North Macedonia’ <<https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/update-on-the-republic-of-north-macedonia.pdf>>.

⁵ European Commission, ‘North Macedonia 2020 Report’ (European Commission, 2020) <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north_macedonia_report_2020.pdf>, 82

⁶ The recommendation in 2019 was: “implement the poverty alleviation strategy, the Roma inclusion strategy, and relevant action plans” (European Commission, ‘North Macedonia 2019 Report’ (European Commission, 2020), 79). In 2020, the recommendation states: “continue provision of assistance to all vulnerable groups in society while addressing poverty and anti-discrimination” (European Commission, ‘North Macedonia 2020 Report’ (European Commission, 2020) <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north_macedonia_report_2020.pdf>, 82).

overall, in the social dialogue. This, together with the noted lack of social dialogue in the private sector and changes in the legislative framework which potentially breach international labour law norms,⁷ has led the commission to conclude that the social dialogue in the country is, overall, “inadequate and social partners’ capacities remain weak”.⁸ Regarding the latter novelty – the more serious treatment of **gender equality** in this report – the Commission highlights several structural issues that affect the overall developments in this area. Firstly, the Commission notes the lack of effective protection from harassment and sexual harassment in practice. The report finds that, regardless of the legal framework, “there is no existing data on incidents of sexual harassment in the workplace or a system to investigate such incidents”.⁹ Second, the longstanding need for increase in the capacities for childcare and preschool services and facilities remains unmet. Third, the pervasive issue of gender gap and gender stereotyping persists. Finally, an existing issue obstructing the use of maternity leave – the existing six months rule on duration of the labour relationship – was raised, which is crucial for equal protection of all women from pregnancy and birth discrimination.

Finally, the report notes the regress in relation to **non-discrimination in employment and social policy** caused by the annulment of the Law on Prevention and Protection against Discrimination. While the Commission does not deal more with this law in Chapter 19, it treats it extensively in the “Fundamental Rights” section of the “Fundamentals First” part. Therein, the Commission notes that the decision of the Constitutional Court has effectively left the country without a “comprehensive legal framework on non-discrimination and an equality body”,¹⁰ a gap which should be addressed by the new legislature. The Commission recommends, or better requires, for the country to “swiftly re-adopt the Law on the Prevention and Protection against Discrimination, ensuring it is in line with the EU acquis and European standards on non-discrimination and that provisions of the previously adopted law, including the list of protected grounds, be preserved, and establish the Commission for Prevention and Protection against Discrimination”.¹¹ In addition, it also requires for a better implementation of the legislation protecting from hate speech.

V Progress

In this section we trace the progress in North Macedonia towards alignment and implementation of the EU acquis in relation to the areas covered by Chapter 19. These are: employment and labour (labour law and health and safety at work); social dialogue; social inclusion and social protection; and non-discrimination and gender equality. We discuss these in that order.

EMPLOYMENT AND LABOUR

⁷ In particular, the Commission notes the following: “Concerns have been expressed that the new Law on Primary Education and the Law on Secondary Education contain provisions, allowing for the replacement of striking workers in primary and secondary education, that diverge from the International Labour Organisation Convention 87 on Freedom of Association and Protection of the Right to Organise.” European Commission, ‘North Macedonia 2020 Report’ (European Commission, 2020) <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north_macedonia_report_2020.pdf>, 83.

⁸ European Commission, ‘North Macedonia 2020 Report’ (European Commission, 2020) <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north_macedonia_report_2020.pdf>, 83.

⁹ European Commission, ‘North Macedonia 2020 Report’ (European Commission, 2020) <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north_macedonia_report_2020.pdf>, 84.

¹⁰ European Commission, ‘North Macedonia 2020 Report’ (European Commission, 2020) <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north_macedonia_report_2020.pdf>, 24.

¹¹ European Commission, ‘North Macedonia 2020 Report’ (European Commission, 2020) <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north_macedonia_report_2020.pdf>, 25.

Labour Law

The drafting of the new Labour Law continued in the reporting period. The public discussion upon the draft has not started yet. Article 4 of the draft, as it currently stands,¹² prohibits discrimination on grounds of, inter alia, race, colour of skin, origin, national or ethnic belonging, belonging to a marginalised group, language, citizenship, religion or religious belief, personal or social circumstances, and any other ground. This open-ended provision contains sufficient personal scope for the protection of all groups that fall within the definition of migrant, as per this report. Articles 5 to 10 regulate various aspects of discrimination of relevance for migrants, directly (such as regulating the forms of discrimination and other procedural institutes) or indirectly (such as respect for the private and family life of the worker, which may concern also migrant workers). Regrettably, the draft does not contain explicit or implicit reference to the prohibition of multiple discrimination. This form of discrimination is particularly important for migrant women, as they may face discrimination on two grounds with the bare fact that they are migrant and women. This sets a lower standard than the Law on Prevention and Protection against Discrimination,¹³ which already foresees both multiple and intersectional discrimination as prohibited forms of discrimination. Considering the jurisprudence of courts to interpret labour law discrimination cases only by using the Labour Law, while disregarding the Law on Prevention and Protection against Discrimination, this is cause of concern, particularly since the Law on Prevention and Protection against Discrimination is referred to only in relation to inspection (article 4, paragraph 4). The draft Labour Law also regulates the institute “Employment contract with a foreign citizen and a person without citizenship” (Article 27). According to it, foreign citizens and persons without citizenship can enter an employment contract if they fulfil the criteria set by this and another special law that regulates employment of foreigners, whereas contracts not in line with these provisions are void.

While the Law on Foreigners and the Law on Employment of Foreigners did not undergo any relevant amendments in the reporting period, it is worth noting for the purposes of a discussion on employment of foreigners, that the Government adopted a COVID-19 crisis Decree of relevance, related to this law. This decree extended the stay for foreigners, initially until the end of the state of emergency and later extending it until August 31, 2020.¹⁴ The issue of low employment quotas persisted in the reporting period. Namely, as already reported by the Macedonian Young Lawyers Association (a CSO providing free legal aid), the Government has consistently set a quota for employment of foreigners which is significantly below the possibility offered according to the Law on Employment of Foreigners. While the law allows for a quota of 5% from the total employees, in practice the quota is set between 0.4% and 0.43%.¹⁵ Moreover, there are no legally set deadlines for some aspects of the procedures, as well as no comprehensive and clear list of documents required for working permit applications, which additionally burdens this process that on average ends in three months from the application date.¹⁶ In addition, employment in the public sector remains out of reach for persons that are not nationals of the country. According to the Law on Administrative Servants, holding citizenship of the Republic of North Macedonia is a general condition for a person to be able to apply for an administrative servant job

¹² Copy of the draft obtained from a member of the working group on 01 September 2020. Copy on file with authors.

¹³ Regarding the annulment of this law, please see section “Gender equality and non-discrimination”.

¹⁴ Decree-law on the Implementation of the Law on the Employment and Work of Foreigners During a State of Emergency (Уредбата со законска сила за примена на Законот за вработување и работа на странци за време на вонредна состојба), *Official Gazette of the Republic of North Macedonia*, No.123/2020.

¹⁵ Macedonian Young Lawyers Association, *Access to work, employment and education for foreigners in RSM – Policy brief* (Пристап до работа, вработување и образование на странци во РСМ - документ за јавни политики) (2020), p.14.

¹⁶ Macedonian Young Lawyers Association, *Analysis of the policies and services available to foreigners in the Republic of North Macedonia* (Анализа на политиките и услугите достапни за странците во Република Северна Македонија) (2020), p.38-39.

(Article 31). Consequently, access to employment in the public sector is not an option for most of the migrants that this report is focused on as well.

Lack of comprehensive efforts to support and facilitate integration in the sphere of employment is evident for migrants in general. Regardless of the generally favourable legal framework, they continue to face issues in realising their rights. The barrier for access to employment for asylum seekers, which arises as a result of the lack of legal framework that would enable asylum seekers to acquire a personal identification number, persisted, according to our interviewees.¹⁷ This was also reported by the CSO's ; not having a personal identification number, which is a prerequisite for a person to be registered by the Agency for Employment, has prevented asylum seekers from using the services of this public employment agency.¹⁸ Some of our interviewees also reported that among some refugees and asylum seekers there is lack of interest for seeking employment in North Macedonia due to the short term nature of their stay in the country which, in turn, is sometimes reported as a result of the lack of opportunities for employment.¹⁹ The temporary nature of the refugees and asylum seekers' stay can also serve as a justification for the lack of comprehensive engagement by the institutions regarding this matter which ultimately results in not using the potential of these people as workers.

The new Employment and Social Reform Programme 2022 was adopted.²⁰ One of the objectives set by this programme is "Reducing unemployment among long-term unemployed and persons belonging to other vulnerable groups". Under this objective, 2.000.000 EUR are to be allocated for the purposes of "development of social entrepreneurship, aiming at job creation and integration of the most disadvantaged categories into the labour market" which includes "victims of trafficking in human beings",²¹ as part of the "vulnerable groups". Another measure, which also pertains to "vulnerable groups" (albeit generally, and without specific reference to victims of trafficking) foresees "preparation and implementation of the annual Operational plans for labour market services and active employment programmes and measures, focusing on designing a set of various services and measures tailored to the needs of the different specific vulnerable groups of unemployed persons", budget with 86.000.000 EUR.²² Measures relating to the "reduction of drop-out rates and number of early school leavers" also refer to children of Roma returnees, as do other measures included in the section on "Promoting the social inclusion of Roma".²³

Various aspects of employment of returnees remained an open issue in the reporting period. Returnees seem to have low(er) qualifications and interest in education and training, as well as lack of trust in the employment measures, and in the possibility for employment in the public sector due to widespread perception of discrimination. This is further compounded by the lack of systematic engagement of civil society organisations.²⁴

The Law on Minimum Wage was amended providing clearer procedure for the actions of the State Labour Inspectorate and introducing misdemeanour fines. However, it is questionable whether these fines can be considered to be dissuasive, considering that they are set quite low.

¹⁷ Interview with a representative from a CSO conducted on 22.09.2020.

¹⁸ Macedonian Young Lawyers Association, *Annual report regarding the efficacy of the legal protection of human rights in the Republic of North Macedonia* (Годишен извештај за ефикасноста на правната заштита на човековите права во Република Северна Македонија – 2019) (2020), p.28.

¹⁹ Interview with a representative from a CSO conducted on 16.09.2020.

²⁰ (r)ESRP – Revised Employment and Social Reform Programme 2022 (December 2019), <http://www.mtsp.gov.mk/espr-espr.aspx>

²¹ *Ibid*, p.121.

²² *Ibid*, p.120.

²³ *Ibid*, p.89-90.

²⁴ Based on the document: European Policy Institute – Skopje, *Recommendations for developing a strategic document for support and receipt of returnees in line with the readmission agreements* (Препораки за развој на стратешки документ за поддршка и прием на повратници согласно реадмисионите договори) (May 2019).

In addition, the COVID-19 crisis had an impact in the area of labour law. The impact from the crisis in this area, particularly on persons that were already vulnerable, such as Roma, is still unfolding. An analysis by the European Policy Institute regarding the impact of COVID-19 on Roma revealed several worrying points. The restricted freedom of movement directly impacted plastic and iron collectors' daily earnings; these were reduced because they had to conduct their activities in a shorter amount of time. Seasonal workers were affected by the inability to travel abroad for work purposes. But particularly worrying is the impact of the crisis on Roma women, since they work in provision of services (including sales and hygiene), thus they are directly in the first COVID-19 frontlines.²⁵ Considering that the largest percentage of returnees in the country are Roma, these findings are of relevance for this report. X

The National Strategy on Integration of Refugees and Foreigners 2017-2027, which contains sections on employment, social protection, housing, education, and so on, is still not adopted. According to the interviewees, the main reasons for this remain political²⁶ and are a reflection of the lack of political courage to advance a more humane approach towards migrants.²⁷ The political positions might be a reflection of the fears among the general population which rest in racialised perceptions of the migrants,²⁸ thus extending instead of curbing xenophobia and racism against migrants.²⁹ This indirectly maintains the issue of migrants and their human rights, and of migration overall, as a heavily securitised issue.

The implementation of the strategy for the formalisation of the informal economy (2018-2022) has continued. The Action Plan for the Formalisation of the Informal Economy 2019-2020 was discussed by the Economic and Social Council in June 2019.

Health and safety at work

Immediately before the start of the COVID-19 crisis in the country, at the end of January 2020, amendments to the Law on Safety at Work were adopted.³⁰ The amendments focused on procedural issues regarding the work of the State Labour Inspectorate and a related misdemeanour procedure, as well as on revising (lowering) the misdemeanour fines. It is questionable whether these fines can be considered to be dissuasive, considering that they are now set quite low.

Health and safety at work became a more prominent issue in 2020, due to the COVID-19 crisis. The Government adopted series of measures and guidelines regarding health and safety of workers in relation to the COVID-19 crisis. As established in the previous section, migrants are in general facing many obstacles to employment, thus health and safety at work issues are not among the priority issues with which they are faced during the reporting period.

However, regardless of the government introduced measures, CSOs reported many cases where the government ordained measures and guidelines were not implemented. For example, only in March - the first month of the crisis, the Macedonian Helsinki Committee - an CSO providing free legal aid, registered cases of 1007 workers complaining that the recommendations of the Ministry of Health

²⁵ Ismail Kamberi, Challenges facing Roma during the crisis caused by COVID-19 - short overview (European Policy Institute – Skopje, 2020), p.8.

²⁶ Interview with a representative from a CSO conducted on 18.09.2020.

²⁷ Interview with a representative from a CSO conducted on 11.09.2020.

²⁸ On racism towards high-skilled migrants in post-socialist CEE countries, see: Krzysztof Jaskulowski and Marek Pawlak, 'Migration and Lived Experiences of Racism: The Case of High-Skilled Migrants in Wrocław, Poland' (2020) 54 International Migration Review 447.

²⁹ For more on racism in this context, please see section "Non-discrimination and Gender Equality" in this report.

³⁰ Law on Safety at Work (Закон за безбедност при работа), *Official Gazette of the Republic of North Macedonia*, No.18/2020.

regarding protection of the workers have not been respected.³¹ By the end of June 2020, the CSO received cases pertaining to 2723 workers, and the number one reason for the reporting was a breach of government ordained measures.³² There is no information in these reports specifically regarding migrants.

SOCIAL DIALOGUE

The initiative for establishing the local economic and social councils continued in the reporting period. Notwithstanding the ongoing negotiations, there are a total of 15 such councils established.³³

In addition to this tripartite dialogue, which is the core of the “social dialogue” issue as per EU acquis, we consider here also the inclusion of various partners in decision-making processes in general. The Law on Social Protection and the Law on Prevention and Protection against Discrimination, both adopted in 2019, were adopted following a participatory process. Although the participants in the working groups were again decided at the discretion of the relevant ministry, they covered sufficiently the relevant civil society sector and other stakeholders. The same applies to the process that is currently underway for drafting of the Labour Law. This largely overlaps with what the interviewees reported, namely being included in some stages of the processes alone and only sometimes,³⁴ thus alerting to a certain randomness with regards to the participation.

SOCIAL INCLUSION AND SOCIAL PROTECTION

The new Law on Social Protection (LSP) was adopted.³⁵ In accordance with the law, asylum seekers, persons with a recognised refugee status and persons under subsidiary protection have right to social protection (Article 14). Right to health care is foreseen for persons with a recognised refugee status and persons under subsidiary protection (Article 66). Monetary assistance can also be provided to persons with a recognised refugee status and persons under subsidiary protection, subject to a decision of a Social Service Centre (Article 114). Some of the interviewees underlined the need for adoption of the National Strategy on Integration of Refugees and Foreigners 2017-2027, in order to provide further support for the implementation of the Law on Social Protection, with regards to migrants.³⁶ CSOs have applied for licencing as service providers on grounds of Article 163 of the LSP. For example, Open Gate has applied for licencing the program for protection of victims of trafficking and supported 4 other CSO to apply. However, the process is slow and there is limited interaction with the MLSP. The initial deadline for applications was set to December 2020, but an extension is anticipated.

In line with the Law on International and Temporary Protection, in August 2019, the Ministry of Labour and Social Policy adopted three rulebooks of relevance for this shadow report.³⁷ The Rulebook on the Standards for Reception of Asylum Seekers regulates the standards for the reception that the social service provider should abide by, including regarding the accommodation, food and essential supplies,

³¹ Macedonian Helsinki Committee, Infographic: “Workers rights at times of the Corona virus 10 March – 31 March” (Работничките права во време на коронавирусот 10 март – 31 март), <https://mhc.org.mk/wp-content/uploads/2020/03/1-infographic-mkd.pdf>

³² Macedonian Helsinki Committee, Infographic: “Workers rights at times of the Corona virus 10 March – 30 June” (Работничките права во време на коронавирусот 10 март – 30 јуни), <https://mhc.org.mk/wp-content/uploads/2020/07/infografik7-mk.pdf>

³³ Local economic and social councils website: <http://less.mk>

³⁴ Interview with a representative from a CSO conducted on 11.09.2020.

³⁵ Law on Social Protection (Закон за социјална заштита), *Official Gazette of the Republic of North Macedonia*, No.104/2019.

³⁶ Interview with a representative from a CSO conducted on 11.09.2020.

³⁷ All three rulebooks were published in: *Official Gazette of the Republic of North Macedonia* No.195/2019.

health services, social protection services, psycho-social support, legal aid and recreation. The other rulebook, regulating the criteria for provision of housing accommodation or monetary housing assistance, is the Rulebook on the criteria for using an apartment for accommodation purposes or securing an accommodation monetary assistance for the persons holding a refugee status in accordance with their needs. The housing and care of unaccompanied minors and asylum seekers that belong to a vulnerable group are regulated in the Rulebook on Housing and Care for Unaccompanied Minors and Persons Recognised as Asylum Seekers in the Republic of North Macedonia that belong to Vulnerable Groups. The services falling within the scope of this rulebook include services such as psycho-social support, social services, medical care, community activities, education, employment-seeking and training, language skills acquisition programmes. All three rulebooks are now in force. X

However, despite of the generally favourable legal framework, some issues persist in practice. The CSO notes that there is no credible and complete information regarding the possible services available to foreigners offered by the municipalities. Often times, the municipalities state lack of mandate to deal with social services for foreigners; their websites are only in the local languages (predominantly only in Macedonian). They also do not collect data on the services requested by or provided to foreigners.³⁸

Following the progress regarding the integration of migrants in general is difficult due to the lack of data. Namely, as CSOs have already signalled, except for the Ministry of Interior, other institutions do not collect data or do so partially. In addition, these institutions are also not included in processes pertaining to the integration of migrants in their local communities and in the society.³⁹

The issue of reintegration of national and foreign victims of trafficking remains a core issue of social inclusion and social protection for this category of migrants. The evaluation of the former and the initial steps for the drafting of the new policy on combating trafficking are underway. But, the practical implementation of the reintegration program suffers from lack of resources, namely including finances and local level capacities, which leaves the largest burden for reintegration on the CSOs.⁴⁰

Finally, a particularly pertinent issue in relation to social inclusion and social protection of migrants is the issue of integration of returnees. Several key points remained open for returnees in the reporting period. Firstly, while the presently offered benefits may be sufficient to tackle the present challenges of returnees, the access to benefits, that are available to all citizens, should be improved for returnees and new venues for access should be considered. Returnees that do not have an “active job seeker” status cannot apply for social assistance. But, furthermore, the issue of access to social assistance is compounded by the lack of identification documents. Returnees often do not have access to healthcare, regardless of the fact that it is obtainable through an easy procedure, because they are not aware of the process and how they can (re)gain access to this right. This is tied to a possible risk of lack of immunisation, which is also largely due to lack of information. Some returnees have obtained medical treatment while abroad but cannot continue it now since they have no funds to translate the medical document obtained while abroad. In addition, returnees in need of orthopaedic support cannot obtain it since they need to have at least six months of insurance before they apply for support.⁴¹

³⁸ Macedonian Young Lawyers Association, *Analysis of the policies and services available to foreigners in the Republic of North Macedonia* (Анализа на политиките и услугите достапни за странците во Република Северна Македонија) (2020), p.38-39.

³⁹ Macedonian Young Lawyers Association, *Access to work, employment and education for foreigners in RSM – Policy brief* (Пристап до работа, вработување и образование на странци во РСМ - документ за јавни политики) (2020), p.24.

⁴⁰ Open Gate, *Analysis- Challenges in Identification protection and reintegration of victims of trafficking* (2020) <https://drive.google.com/file/d/1U1LB0DADHtZO-IgF5oNBKRjYFcQj90K/view>.

⁴¹ This summary of findings is based on: European Policy Institute – Skopje, *Recommendations for developing a strategic document for support and receipt of returnees in line with the readmission agreements* (Препораки за развој на стратешки документ за поддршка и прием на повратници согласно реадмисионите договори) (May 2019).

NON-DISCRIMINATION AND GENDER EQUALITY

The new Law on Prevention and Protection against Discrimination (the Anti-Discrimination Law, ADL) was adopted on May 16th, 2019 for a second time. The ADL replaced the 2010 Law on Prevention and Protection against Discrimination. The ADL is relevant for migrants since all natural and legal persons, regardless of citizenship, personal and social status, age, disability or any other ground or status, are to benefit from the protection of the law and are liable for any discriminatory acts outlawed by the ADL.

The Anti-Discrimination Law brought many improvements, including full alignment with the EU acquis. It enlarged the personal scope and defined more clearly the material scope of the law. All forms prohibited under EU law were prohibited with the Anti-Discrimination Law and more - segregation, assumed discrimination, discrimination by association, and intersectional discrimination were all prohibited. The positioning of the new equality body under the law provided better ground for independence of the body. Many improvements were made in relation to procedural aspects, including explicitly accepting situation testing as a method for proving discrimination, bringing the standard for the shifting of the burden of proof in line with the EU standards, explicitly allowing for *actio popularis*, and lifting court fees for discrimination cases. It also foresaw an obligation for harmonisation of all other laws at the national level with this law within two years of its adoption. However, some issues persist. For example, the sanctions still cannot be said to be being dissuasive, effective and proportionate.

The implementation of this law was underway, although in a problematic manner, as the new independent body was not in place until the mandate of the old body expired.⁴² CSOs reacted throughout this period.⁴³

After the adoption of the ADL, following a submission by the (now former) equality body, the Constitutional Court annulled the ADL on May 14th, 2020 because it was adopted with a simple instead of absolute majority. This decision was criticised by CSOs, mainly because it was adopted at a time when the Parliament was already dissolved, thus it could not remedy this formal unconstitutionality issue and re-adopt the law again,⁴⁴ leaving the country without a comprehensive anti-discrimination law amidst the COVID-19 pandemic crisis.⁴⁵

The National Coordinative Body on Non-discrimination continued its activities in 2019 and 2020. This body was established by the Government in 2018 in order to monitor the situation with regards to non-discrimination in the country, as well as to oversee the implementation of all relevant laws and policies under the coordination of the Ministry of Labour and Social Policy.⁴⁶ With the support of the OSCE, it

⁴² European network of legal experts in gender equality and non-discrimination, "Country left without an equality body in operation" (13 September 2019), <https://www.equalitylaw.eu/downloads/4954-republic-of-north-macedonia-country-left-without-an-equality-body-in-operation-pdf-68-kb>.

⁴³ Standard.mk, "Coalition Margins: The Parliament should elaborate the reasons for annulling the vacancy add for appointment of members of the Commission for protection against discrimination" (Коалиција Маргини: Собранието да ги образложи причините за поништувањето на огласот за избор на членовите на Комисијата за заштита од дискриминација), *standard.mk*, (19.12.2019) <https://standard.mk/makedonija/koalicija-margini-sobranieto-da-gi-образlozhi-prichinite-za-ponishtuvanje-na-oglasot-za-izbor-na-chlenovite-na-komisijata-za-zashtita-od-diskriminacija/>

⁴⁴ European Policy Institute Website, "Reaction following the annulment of the Law on prevention and protection against discrimination" (Реакција по укинувањето на законот за спречување и заштита од дискриминација), *European Policy Institute Website*, (15.05.2020), <https://epi.org.mk/post/14844>; Blueprint Group, "When the law-keepers fail the citizens pay the price" (Кога чуварите на правото ќе потфрлат, граѓаните го носат товарот), *European Policy Institute Website*, (11.06.2020), <https://epi.org.mk/post/15133>.

⁴⁵ While outside of the reporting period covered in this shadow report, it is important to note that in October 2020 the Parliament adopted the Law on Prevention and Protection against Discrimination. The law entered into force on October 30, 2020. At the time of closing of the text of this report, there were five days left from the deadline for the Parliament to open a public call for members of the Commission for Prevention and Protection against Discrimination.

⁴⁶ Ministry of Labour and Social Policy (2018), "National Coordinating Body on Non-discrimination Established" (Формирано национално координативно тело за недискриминација), *Ministry of Labour and Social Policy Website*, www.mtsp.gov.mk/april-2018-ns_article-formirano-nacionalno-koordinativno-telo-za-nediskriminacija.nspk.

undertook three analyses – on collection of equality data, harmonization of the national equality legislation and on the public duty for equality. All of these analyses were grounded on the new Anti-discrimination Law and were to serve as basis for the work of the body. However, these activities were either stalled or stopped due to the preterm elections and the annulment by the Constitutional Court. The body is, however, still continuing with the activities. With expert support, the body is working on developing a methodology for collecting statistical data, as per the newly introduced obligation with the (now annulled) Anti-discrimination Law. This law obliges all state institutions to collect data regarding all grounds of discrimination explicitly protected in the law. Additional research is being conducted regarding the developing of a model for implementing the public duty for equality.

In 2019, the Ministry of Labour and Social Policy, supported by the OSCE, conducted assessments of the implementation of the Law on Equal Opportunities of Women and Men at the central⁴⁷ and at the local⁴⁸ level. Both assessments highlighted a number of issues arising from the content and the implementation of the law and recommended that the law is either amended or that a new law is adopted to rectify these shortcomings. The assessments did not include any findings regarding migrants, as defined in this shadow report. However, their findings undoubtedly pertain to migrant women as well. This is especially the case with the assessment at the central level which proposes that the amendments/the new law undertakes an intersectional approach.

In January 2020, the Ministry of Labour and Social Policy followed up on these assessments. It convened a working group for the drafting of the new gender equality legislation. The work of the working group is underway, and it is expected that it will deliver a draft for public consultation during autumn 2020.

During 2019, the Ministry of Labour and Social Policy convened a working group for drafting a law on gender-based violence, focusing on prevention and protection of violence against women and family violence. The working group comprised of representatives from ministries, CSOs and international organizations. This consultative and participative process resulted in the draft Law on Prevention and Protection against Violence against Women and Family Violence. The draft was prepared already in December 2019. However, due to the pre-term elections, its forwarding to the Parliament was placed on hold, where it remained until the cut-off date for this report.⁴⁹ In 2019 the Ministry of Labour and Social Policy, in cooperation with the European Institute for Gender Equality and UN Women, published the first Gender Equality Index on North Macedonia. The index is a flagship output of EIGE, and North Macedonia was the first non-EU Member State to be included in the index. Its overall score was 62, and it was a few points below the European one – 67.4. The results in all domains, except for the domain “Power”, show that the country is below the European average. The result in the domain of power (52.6 points for North Macedonia, as opposed to 51.9 EU average) is mainly explained by the longstanding gender election quotas. The gender inequalities seem very pronounced in the other domains, and in

⁴⁷ Неда Чаловска-Димовска, ‘Извештај за проценката на имплементацијата на законот за еднакви можности на жените и мажите на централно ниво’ (Министерство за труд и социјална политика и Организација за безбедност и соработка во Европа 2019).

⁴⁸ Марија Савовска, ‘Извештај за проценката на имплементацијата на законот за еднакви можности на жените и мажите на локално ниво’ (Министерство за труд и социјална политика и Организација за безбедност и соработка во Европа 2019).

⁴⁹ While outside of the reporting period covered in this shadow report, it is important to note one key change that took place in September 2020. Namely, before sending the draft to the Parliament, representatives of Ministry of Labour and social policy, without involving and consulting concerned CSOs’ including those involved in the aforementioned working group, fully revised the draft text and submitted to the Parliament the revised version. When this information became public, the draft text returned to the Ministry. CSOs insisted to be meaningfully involved in the revision process in order to contributing to drafting a law that will be most beneficial for the victims. It is expected that the draft Law will be adopted by the end of 2020.

particular in relation to “Money” (related to income and earnings) and “Time” (related to household Responsibilities).⁵⁰ The index does not refer specifically to migrant women.

Both national strategies on non-discrimination and on gender equality expire this year. The evaluation of the gender equality strategy is currently underway, whereas the evaluation of the non-discrimination strategy has not commenced yet.

In relation to the field of non-discrimination and gender equality, a glaring problem is racism with regards to all migrants, and the pervasive intersectional issue of racism and gender discrimination for migrant women. Our interviews that work directly with migrants and that monitor the public discourse regarding migration and migrants point out to this issue as an omni-present one.⁵¹ While it can manifest in many ways, and while the discrimination of migrants can fall under several of the proscribed discrimination grounds under the 2019 (now annulled) ADL, effectively, the phenomenon that migrants face in their daily life in the country stems from racism and xenophobia. Interviewees alert also to the fact that many representatives from the institutions that they cooperate have exhibited such behavior during activities in which they jointly participated (such as in workshops and focus groups).⁵² Finally, the particular needs of migrant women and their particular positionality and vulnerability do not seem to be taken into consideration on the ground, as witnessed in many instances by the CSOs representatives that we interviewed.⁵³ In addition, age seems to be another criteria which is often disregarded and which disproportionately more affects migrant children. Reports from the ground show little observance by the institutions, in particular by the police, regarding children which may affect the realization of their child rights but also result in re-traumatization that can have lasting consequences.⁵⁴

STAKEHOLDERS DYNAMICS: CSOs CONTRIBUTION AND REGIONAL COOPERATION

In addition to the observations and findings already discussed, two main conclusions can be drawn with regards to the dynamics occurring in relation to the developments in Chapter 19 with regards to other stakeholders, in particular with regards to CSOs and with regional cooperation.

Regarding CSOs, there is a clear trend of willingness for cooperation and high activity of CSOs, especially those that work on the ground. The representatives of the authorities highly value the contribution and dedication of the NGOs in addressing migration issues and assisting migrants and victims of trafficking, especially vulnerable categories.⁵⁵ They also suggest a more planned and coordinated action of the competent ministries with the relevant CSOs,⁵⁶ as well as enhancing the role of CSOs in the provision of services.⁵⁷

In addition to CSOs, another thread clearly stands out from the available data – questionable regional cooperation. While the regional cooperation is assessed as good in terms of agreeing on principles,

⁵⁰ European Institute for Gender Equality, “Launch of North Macedonia's Gender Equality Index”, *European Institute for Gender Equality Website*, (04.10.2019), <https://eurogender.eige.europa.eu/events/launch-north-macedonian-gender-equality-index#resources>.

⁵¹ Interview with a representative from a CSO conducted on 11.09.2020.

⁵² Interview with a representative from a CSO conducted on 18.09.2020.

⁵³ Interview with a representative from a CSO conducted on 11.09.2020.

⁵⁴ Interview with a representative from a international organisation, conducted on 28.09.2020.

⁵⁵ Interview with a representative of a Ministry, 19.10.2020; Interview with a representatives of an international organisation, 21.09.2020.

⁵⁶ Interview with a representative of a Ministry, 19.10.2020.

⁵⁷ Interview with a representatives of an international organisation, 28.09.2020.

issues arise when countries demand return of migrants, as none of the countries accepts returned migrants. As the countries in the region are not included in the EU resettlement mechanism, returning illegal migrants to EU MS is also an issue.⁵⁸

The developments discussed above are presented in Table No.2.

Table No.2: *Comparison of the 2020 findings with the current situation and the main findings in the EC progress report*⁵⁹

Findings from the 2019 Shadow Report	Current situation	Main findings of the progress report
Legal framework		
Employment and Labour		
Labour Law		
<p>"Within the framework of this joint initiative between the Government of the Republic of Macedonia and the European Commission, the development of an important strategic document was initiated, the so-called Employment and Social Reform Programme 2020 - ESRP. The preparation of the document, was envisaged by the European Commission as an inclusive and participatory strategic process that will follow and accompany the process of European integration of the candidate countries and which will further represent an important mechanism for mutual dialogue through setting and regular monitoring of priorities in the areas covered, and which will be structured following the model of the European Union Strategy "Europe 2020".</p>	<p>The drafting of the new Labour Law continued in the reporting period, although public discussion has not yet started. In some respects, the draft sets lower standards than the ones established in the ADL. It also points to the Law on Employment of Foreigners as <i>lex specialis</i> on the subject matter of interest for this report, making no distinction between persons that are in various migration stages or with various migration statuses.</p> <p>The issue of low employment quotas for foreigners persisted in the reporting period. Moreover, there are no legally set deadlines for some aspects of the procedures, as well as no comprehensive and clear list of documents required for working permit applications, which additionally burdens the process. Finally, persons that are not nationals, thus most of the migrants targeted with this report included, do not have</p>	<p>"The existing labour legislation allows for fair and equal treatment of workers and provides a relatively good protection in case of dismissal. However, enforcement of the legislation continues to lag behind in many areas. A consultation on the new labour law is under way. Amendments to the Law on Minimum Wages, which provide for a steady rise in the minimum wage, aiming to boost the economy through private consumption, were enacted. The professional performance of the State Labour Inspectorate remains low. There were no major issues regarding child labour." (page 82)</p>

⁵⁸ Interview with a representative of an international organisation, 21.09.2020.

⁵⁹ European Commission, 'North Macedonia 2020 Report' (European Commission, 2020)

<https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north_macedonia_report_2020.pdf>.

Findings from the 2019 Shadow Report	Current situation	Main findings of the progress report
Regular and continuous monitoring and evaluation of the success of active employment measures and labour market services, setting targets and follow up of achievements together with social partners and Ministry of Labor, supported by IPA program II and ILO in 2019-2020.”	<p>access to public employment jobs due to disqualifying citizenship criteria.</p> <p>Lack of personal identification number for asylum seekers is still an obstacle for obtaining employment.</p> <p>Many aspects regarding employment of returnees remained unaddressed in the reporting period, including the lack of systematic engagement of CSOs.</p> <p>While the provisions of the Law on Minimum Wage regarding the inspectorate and the misdemeanour fines were amended, it is questionable whether these can be considered to be dissuasive.</p> <p>The impact from the COVID-19 crisis in the area of labour law, particularly on persons that were already vulnerable, such as Roma, is still unfolding.</p>	
Development of social and employment policies		
“There were set out measures for the 80 regulatory and business environment to: (i) increase the prominence of institutions in the labour market; (ii) increase inspections; and (iii) raise awareness among individuals and businesses on the importance of formalising informal activities. Adequate resources should be allocated to ensure that the action plan is carried out within the set timeframe. The occupational outlook was further	<p>While the new Employment and Social Reform Programme 2022 was adopted, it has only few aspects of relevance for migrants (in individual measures that target vulnerable groups and the social inclusion of Roma).</p> <p>The National Strategy on Integration of Refugees and Foreigners 2017-2027 remains not adopted.</p> <p>The implementation of the strategic documents regarding the formalisation of the informal economy continued.</p>	“On employment policy, the unemployment rate dropped to its lowest level since the country’s independence at 16.2% in quarter one of 2020 before the onset of the COVID-19 pandemic. Women’s labour market participation also slightly increased (55.5% of the 15-64 year-olds). These positive trends are however likely to be reversed as a result of the COVID-19 crisis. The employment of Roma, the long-term and low-skilled

Findings from the 2019 Shadow Report	Current situation	Main findings of the progress report
<p>developed, with 21 occupational descriptions published by Q3 2018. There are also planned activities to support integration of the migrants-repatriates (migrant-returnees) in their local communities, activities for stimulating the use of remittances from abroad received by our citizens (in many cases even the social assistance beneficiaries) through various forms, such as active employment measures, motivation to use these funds for starting own businesses, support in establishing family businesses and similar, which would activate the citizens and would gain them financial independence. Such activities would be implemented in cooperation and with support of the local community by 2020.”</p>		<p>unemployed and persons with disabilities is supported by the guaranteed minimum assistance scheme introduced by the Law on Social Protection and expected to bring further reduction of poverty through higher coverage and larger benefit. Since March 2020, the government has adopted a number of temporary socio-economic measures to mitigate the impact of the COVID-19 pandemic on employment. The implementation of the 2018-2020 Action Plan on Employment, which addresses inclusion of vulnerable groups in the labour market, is progressing. The youth unemployment rate decreased compared with previous years to 35.6% in quarter four of 2019. It however remains a major concern, addressed with the further implementation of the Youth Guarantee Scheme on the whole territory of the country. Measures on undeclared work under the 2018-2020 Strategy for Formalisation of the Informal Economy were partially implemented. The occupational outlook was further developed with 45 occupation descriptions published by quarter one of 2020. The Employment Service Agency’s capacity should be strengthened by recruiting additional staff, especially in light of the increased and diversified workload created by the</p>

Findings from the 2019 Shadow Report	Current situation	Main findings of the progress report
		newly adopted policy measures. Although the number of Roma benefiting from active employment measures increased, it is still 10 times lower than for non-Roma beneficiaries. The criteria for participating in active employment schemes should be reviewed to ensure increased participation of vulnerable people, including Roma. The revised Economic and Social Reform Programme was adopted by the government in December 2019, following a consultation with relevant stakeholders. Preparations for participating in the European Social Fund continued. The Sector Monitoring Committee to support education, employment and social policy was established.” (page 83)
Health and Safety at Work		
/	<p>Before the start of the COVID-19 crisis, amendments were adopted to the Law on Safety at Work, focusing on procedural issues regarding the work of the State Labour Inspectorate and a related misdemeanour procedure.</p> <p>Due to the COVID-19 crisis, health and safety at work as an issue gained prominence. Regardless of the government introduced measures, CSOs reported many cases where the government ordained measures and guidelines were not implemented.</p>	<p>“On health and safety at work, the administrative capacity slightly improved with the recruitment of additional inspectors. However, the capacity is still insufficient to ensure that the legal provisions are enforced. The number of inspections intensified during the COVID-19 outbreak and focused primarily on protection of workers’ health and compliance of 83 employers with recommended protective measures. The 2017-2020 Strategy on Occupational Health and Safety was partially</p>

Findings from the 2019 Shadow Report	Current situation	Main findings of the progress report
		implemented. A revision of the current Law on Safety and Health at Work was initiated. Inter-institutional coordination and co-operation was weak, as was the implementation of occupational health and safety legislation. According to civil society organisation reports, there were 141 reported injuries at workplace in 2019, of which 22 were fatal." (pages 82-83)
Social Dialogue		
"The Local Economic and Social Councils are expected to be developed further in 2019."	<p>The initiative for establishing the local economic and social councils continued in the reporting period.</p> <p>The Law on Social Protection and the Law on Prevention and Protection against Discrimination, both adopted in 2019 were adopted following a participatory process. The same applies to the process that are currently underway for drafting of the Labour Law and the Law on Gender Equality.</p>	<p>"Limited progress was made on social dialogue. The Economic and Social Council was actively involved in the amendment of the Law on Labour Relations. Tripartite consultation structures were established in 12 municipalities. The bipartite social dialogue in the private sector remains poor, as does the commitment of social partners to reinforce the collective agreements. Trade union membership is decreasing, undermining workers' representation. Overall, workers' confidence in trade unions' capacity to function in an independent way is deteriorating. The implementation of the Law on Peaceful Settlement of Labour Disputes remains weak. Overall, social dialogue is inadequate and social partners' capacities remain weak. Out of 79 ratified International Labour Organisation Conventions, 77 are in force, with no new</p>

Findings from the 2019 Shadow Report	Current situation	Main findings of the progress report
		Conventions ratified during the reporting period. Concerns have been expressed that the new Law on Primary Education and the Law on Secondary Education contain provisions, allowing for the replacement of striking workers in primary and secondary education, that diverge from the International Labour Organisation Convention 87 on Freedom of Association and Protection of the Right to Organise." (page 83)
Social inclusion and social protection		
<p>"It will provide assistance to people aged above 64 who are not entitled to any income support.</p> <p>More effort is needed to successfully reintegrate returnees, especially the most vulnerable such as Roma - who represent a large part of returns.</p> <p>The government should consider reviving and reinforcing the coordination body of returnees under the leadership of the Ministry of Labour and Social Policy."</p>	<p>The new Law on Social Protection was adopted. It contains several articles of relevance for migrants, including regarding monetary assistance. In line with the Law on International and Temporary Protection, in August 2019, the Ministry of Labour and Social Policy adopted three rulebooks of relevance for this shadow report. However, the licencing of CSOs is slow, with limited interaction with MLSP and the initial deadline (December 2020) will most probably be extended.</p> <p>However, despite of the generally favourable legal framework, some issues persist in practice, such as lack of credible and complete information on the possible services for foreigners, thus also migrants. Municipalities also claim lack of mandate to deal with some issues in relation to the services needed for foreigners. Data collection,</p>	<p>"Progress continued on social inclusion and protection. The new Law on Social Protection was adopted, marking the start of a reform of the social protection system. As a response to 84 the COVID-19 outbreak, a decree was adopted amending the Law on Social Protection in order to allow for people facing loss of earnings to be entitled to Guaranteed Minimum Assistance from the following month. The proportion of employed people at risk of poverty was 8.8%, while for pensioners it was 7.9%. The Gini coefficient to measure income distribution inequality was 31.9. Roma and persons with disabilities remain at the highest risk of poverty. A social pension scheme was included in the new Law on Social Protection, providing assistance to people above 64. The</p>

Findings from the 2019 Shadow Report	Current situation	Main findings of the progress report
	<p>except for the Mol, continues to be an issue.</p> <p>Several issues regarding social inclusion and social protection of returnees persist. Little advancement has been made regarding the access to social assistance and health care.</p>	<p>capacity of the social work centres must be further strengthened to allow them to implement the newly adopted legislation, in line with the country's policy of de-centralisation of social assistance. Implementation of the 2018-2027 National Strategy on De-institutionalisation has started and has already contributed to the inclusion of children with disabilities in the society. Re-settlement of children and adults from institutional care to foster families or community-based housing is ongoing. The relevant institutions are highly committed to the de-institutionalisation process but have underestimated the time needed to prepare the process and fulfil the preconditions. This has led to negative reactions by local communities where group homes have been set up. Conditions in residential institutions for adults with disabilities remain very poor." (page 83-84)</p>
Non-discrimination and Gender Equality		
<p>"The government set up the National Coordination Body, which is in charge of promoting and monitoring non-discrimination and equal opportunities in all spheres of social life."</p>	<p>The new Law on Prevention and Protection against Discrimination was adopted in May 2019. The ADL is relevant for migrants since all natural and legal persons, regardless of citizenship and personal and social status, are to benefit from the protection of the law and are liable for any discriminatory acts outlawed by the ADL. It is also important that</p>	<p>"On equality between women and men in employment and social policy, the first Gender Equality Index was published showing significant gender differences in participation and quality of work. Women are less likely to be employed fulltime than men. In 2019, the employment rate for men was 64.4% compared to</p>

Findings from the 2019 Shadow Report	Current situation	Main findings of the progress report
	<p>it outlawed multiple and intersectional discrimination, which is highly relevant for women and girls migrants.</p> <p>However, following a submission by the (now former) equality body, the Constitutional Court annulled the ADL in May 2020 because it was adopted with a simple instead of absolute majority. By the end of this reporting period, the law was still not adopted again by the Parliament.</p> <p>The National Coordinative Body on Non-discrimination continued its activities in 2019 and 2020. With the support of the OSCE, it undertook three analyses – on collection of equality data, harmonization of the national equality legislation and on the public duty for equality.</p> <p>In 2019, the Ministry of Labour and Social Policy, supported by the OSCE, conducted assessments of the implementation of the Law on Equal Opportunities of Women and Men at the central and at the local level. In January 2020, the Ministry of Labour and Social Policy followed up on these assessments. It convened a working group for the drafting of the new gender equality legislation. The work of the working group is underway, and it is expected that it will deliver a draft for public consultation during autumn 2020.</p> <p>In 2019 the Ministry of Labour and Social Policy, in cooperation with the European Institute for Gender Equality and UN Women, published the first Gender Equality Index on North</p>	<p>44.7% for women. While there is the national Law on Protection against Workplace Harassment and training of public sector workers on gender equality to promote gender equality and eliminate sexual harassment in the workplace, there is no existing data on incidents of sexual harassment in the workplace or a system to investigate such incidents. According to the Law on Health Insurance, women need to work at least 6 months with the same employer to be entitled to maternity leave. Measures are being taken to increase childcare and pre-school capacity, which should help women return to the workplace. Both gender stereotyping and the gender pay gap persist. On non-discrimination in employment and social policy, in May 2020, the Constitutional Court repealed the Law on Prevention and Protection against Discrimination on procedural grounds, thus depriving the country of a comprehensive legal framework on non-discrimination. The Ombudsman's 2019 annual report refers to 60 discrimination-related complaints, out of which the Ombudsman concluded discrimination in 24 cases." (page 84)</p>

Findings from the 2019 Shadow Report	Current situation	Main findings of the progress report
	<p>Macedonia. The results in all domains, except for the domain "Power", show that the country is below the European average.</p> <p>Both national strategies on non-discrimination and on gender equality expire this year. The evaluation of the gender equality strategy is currently underway, whereas the evaluation of the non-discrimination strategy has not commenced yet.</p>	

VI Recommendations

General recommendations

- *Visibility of migrants should be achieved in employment, social protection and non-discrimination and gender equality issues.* When developing and evaluating policies and legislation in relation to Chapter 19, the issues related to migration and the particular issues faced by migrants should be taken into account. In addition, the much needed intersectional approach should be utilised in order to make sure that all laws, policies, programs and other actions benefit the most vulnerable and excluded persons, such as migrant women and migrant children.
- *CSOs should be supported and their full potential utilised with regards to integration of migrants, transiting or remaining, and the realisation of their human rights.* CSOs have been working on the ground - providing services, monitoring and reporting - and can contribute greatly to considering options for improving the law, policy and practices and to undertaking activities for resolving the issues that migrants face and that have been raised in this report.
- *The Government and the Ministries should establish clear criteria and procedures for meaningful participation of civil society representatives in public processes* regarding the drafting of legal acts and policies that will make these public processes transparent and open. This will give equal opportunities for participation of all interested stakeholders.
- *The role of the local authorities should be enhanced.* The role of the municipalities should be strengthened in creating and implementing policies related to migration which will recognise the importance and impact they have on the everyday lives of migrants.
- *Data collection should be improved.* The collection of data by other institutions, besides the Mol, should be strengthened and the data should be published transparently. The role and importance of CSOs in this should be enhanced.
- *Coordination among the various actors (CSOs, local authorities, state institutions, international organisations) should be improved.* This will avoid overlaps between activities while, at the same time, leaving some activities and issues unaddressed.

- *The policy framework should be sustained and duly implemented.* This means that the Government should undertake, complete and publish evaluations of the strategies that which are expiring this year (such as the strategy on non-discrimination and on gender equality) and to open and maintain participatory consultative processes with involvement of civil society for adoption of new strategies, including by completing those that have been halted for some time now (such as regarding the strategy on integration of foreigners).

Employment

- *The draft Labour Law should be amended to include a provision on multiple and intersectional discrimination.* This will confirm that the Labour Law remains fully in line with the Anti-discrimination Law and will remove any doubt in labour disputes as to the prohibition of these forms of discrimination which are of central importance for migrants.
- *The possibilities for training and education of returnees should be advanced, in order to enhance their employability.* Active employment measures should be promoted among returnees and possibilities for encouraging social entrepreneurship should be considered. Efforts for implementation of the principle of equitable representation with regards to Roma should be enhanced in order to counter existing experiences or sentiments of discrimination by the public institutions. Systematic engagement of CSOs should be supported, including through provision of services.
- *The Government should conduct a comprehensive analysis of the access to and discrimination in employment for migrants.* Besides an analysis of the law as it stands, this should include a comparative analysis of the national law against all relevant international standards and an analysis of the potential bottlenecks in law, policy or practice, such as the already reported issues around the working permit applications, underuse of the employment quotas, or personal identification number. On the basis of this analysis, the Government should, in a participatory process with all relevant stakeholders including CSOs, draft legislative proposals to address the issues identified in the analysis and propose these to the Parliament for adoption. This will create a more favourable climate and will remove this additional obstacle which migrants face with regards to employment in the country, adding clarity, certainty and foreseeability to the process.

Health and safety at work

- *The legislative framework regarding health and safety should be given a bite.* At present, this is not possible, inter alia, because of the low implementation capacities of the competent institutions and the lack of dissuasiveness of the foreseen fines, as sanctions. Legislative changes can bring sanctions up to the effective, proportionate and dissuasive standard. Enhancement in the human and material resources of the competent institutions can jumpstart the improvement of their implementation capacities.

Social protection and healthcare

- *Access to social assistance among migrants should be improved.* It should be provided also to persons that do not hold ID, that are members of families where other family members hold such documents. Support for realisation of the right to healthcare should be provided with the assistance of the Roma health mediators or the fund for healthcare insurance. Returnees should be informed of the possibility for immunisation upon return. Support from the budget should be provided for translating the medical documents that are of importance for

continuing the treatment of persons with emergency or chronic illnesses, or illnesses that require a permanent therapy. Legislative changes that will remove the limiting criteria of six months for a person to qualify for orthopaedic support should be considered.

- *The Government should conduct a comprehensive analysis of the access to and discrimination in social protection for migrants.* Besides an analysis of the law as it stands, this should a comparative analysis of the national law against all relevant international standards and an analysis of the potential bottlenecks in law, policy or practice, such as the already reported issues around the lack of data collection, personal identification documents or language accessibility. On the basis of this analysis, the Government should, in a participatory process with all relevant stakeholders including CSOs, draft legislative proposals to address the issues identified in the analysis and propose these to the Parliament for adoption. This will create a more favourable climate and will remove this additional obstacle which migrants face for using the social services in the country, adding clarity, certainty and foreseeability to the process.
- *The Government should conduct a comprehensive analysis of the access to and discrimination in healthcare for migrants.* Besides an analysis of the law as it stands, this should a comparative analysis of the national law against all relevant international standards and an analysis of the potential bottlenecks in law, policy or practice, such as the already reported issues around the lack of personal identification documents and medical documentation, various administrative obstacles, as well as data collection. On the basis of this analysis, the Government should, in a participatory process with all relevant stakeholders including CSOs, draft legislative proposals to address the issues identified in the analysis and propose these to the Parliament for adoption. This will create a more favourable climate and will remove this additional obstacle which migrants face for using the health services, adding clarity, certainty and foreseeability to the process.

Non-discrimination and gender equality

- *Immediately after commencing its mandate, the Government should forward the Law on Prevention and Protection against Discrimination to the Parliament for adoption.* The Government should amend the proposal to include the changes in the procedure for the appointment of the members of the equality body, as proposed by CSOs. This will provide all persons on the territory of the country, including migrants, with a legal framework that they can use to protect themselves from unlawful unequal treatment.
- *Conditions for the functioning of an independent, effective, impactful and secure equality body in line with international standards should be secured.* Following the adoption of the new ADL, to complete a transparent and participatory procedure for appointment of members of the equality body, and to secure financial, material and human resources so that the body can start functioning.
- *Particular efforts for the inclusion of Roma returnees should be enhanced.* The Government should produce a detailed follow up report on the recommendations which the Assembly adopted in 2019 regarding the inclusion of Roma returnees.

COVID-19 consideration

- *As the COVID-19 pandemic unfolds, the authorities should tailor the measures for mitigating the crisis effects and the support programs with an intersectional perspective in mind.* This is a crucial step in order to ensure that they will work towards mitigating the crisis effects and will support the most vulnerable, including all migrants as defined herein.

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