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Policy Analysis Report

Synthesis Report

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Introduction

An enlarged concept of South Europe[1]

This study focuses on the Mediterranean and South Eastern Europe, an area composed of diverse societies and states, which have been affected in various ways by processes of migrant mobility and cultural diversity. In the analysis we have included three of the older EU member states (Greece, Italy, and Spain), as well as newer (such as Bulgaria, Cyprus, and Romania) and prospective EU member states (such as Turkey, and the Former Yugoslav Republic of Macedonia), all of which experience invariably processes of emigration and immigration. The inclusion of these states does not only allow us to address gender and migration in relation to the processes of European integration and enlargement, but also to address the multiple challenges of incoming and out-flowing migration flows, including the importance of return, circular and transit migration. For this purpose we are using an enlarged concept of South Europe.

Research and policy questions on migration in South Europe have been framed primarily in relation to the experiences of Greece, Italy, Spain and Portugal, within the framework of what is perceived as a linear process of transition from "migrant sending" to "migrant receiving"– what might be termed a "South European migration paradigm". Although, this paradigm has offered important research findings and insights, policy making and research have focused almost exclusively on a one-sided conception of the societal and security "needs", the institutional structures, the labour demand and policy making processes of "migrant-receiving" states. This bias has led to a tendency to identify "migrant-receiving" states with development, economic prosperity, and political stability, and "migrant-sending" ones with underdevelopment, backwardness, economic hardship and political instability. In fact, it can be argued that in many cases, policy making and research based on the "Southern European migration paradigm" have been interlinked in their emphasis on the construction of a new European border in the South, assuming an "orthodox" policy

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[1] This report is a synthesis of the findings of the GeMIC WP3 policy analysis country reports. More specifically, unless otherwise stated, the following sources - listed in an alphabetical order according to author's name- have been used: **Bobi Badarevski**, 2008, "GeMIC Policy Analysis - The Case of the Former Yugoslav Republic of Macedonia", *Ge.M.IC WP3 report*, (Euro-Balkan Institute: Research Centre in Gender Studies) (assistant researcher Ilija Milcevski); **Gabriela Iuliana Colipcă**, 2008, "GeMIC Policy Analysis - The Case of Romania", *GeMIC WP3 report*, (Univeristy of Galati) (preliminary research: Lidia Mihaela Necula and Steluţa Stan); **Zeleia Gregoriou**, 2008, "GeMIC Policy Analysis - The Case of Cyprus", *GeMIC WP3 report*, (University of Cyprus: Department of Education**); Helen Kambouri and Pavlos Hatzopoulos**, 2008, "GeMIC Policy Analysis - The Case of Greece", *GeMIC WP3 report*, (Panteion University: Centre for Gender Studies); **Georgeta Nazarska**, 2008, "GeMIC Policy Analysis - The Case of Bulgaria", *Ge.M.IC WP3 report*, (International Centre for Minority Studies and International Relations) (with contributions from Marko Hajdinjak); **Saime Ozcurumez**, 2008, "GeMIC Policy Analysis - The Case of Turkey", *Ge.M.IC WP3 report*, (Bilkent University: Department of Political Science); **Claudia Pedone**, 2008, "GeMIC Policy Analysis - The Case of Spain", *GeMIC WP3 report*, (Consorci Institut d'Infància i Mon Urbà). **Gigi Rogero**, 2008, "GeMIC Policy Analysis - The Case of Italy", *GeMIC WP3 report,* (University of Bologna: Department of Politics, Institutions and History). These reports are all available at www.gemic.eu.

response through the adoption of effective mechanisms for the management of immigration influxes.

Statistics on migration in South Europe

Producing reliable statistics on migration in the EU is a very complicated task mainly because there is no common strategy for both the collection and the interpretation of data.[2] On the one hand, this reflects the difficulties of collecting information on such dynamic and diverse social phenomena (which include emigration, immigration, legal and illegal border crossings) and on the other hand, it reflects the absence of a common definition of migration policy concepts (including residence permit, long-term, short-tern status, regularization, naturalization, etc). None of the EU member states have yet adopted the *UN Recommendations on Statistics of International Migration* fully.[3] As each member state employs a different methodology based on administrative and bureaucratic criteria, Europe-wide and regional analyses and comparisons between states is very difficult. In this context, we can begin the analysis with the remark that it is almost impossible to compare the official statistics of the eight states studied by GeMIC researchers since the data required by Eurostat may not even be available or may be based on estimates.[4] The lack of reliable statistics reflects the fact that different statistical agencies use different definitions of migration and is paralleled by a total lack of Europe-wide statistics on emigration, which depends entirely on individual states' strategies of registering departures and arrivals.

More specifically, according to the official statistics in the older EU member states, (Greece, Italy and Spain) immigration has become a dominant trend, while emigration has decreased. The statistics, however, in the three states studied point towards divergences linked to the political and socioeconomic peculiarities of each state. Cyprus appears to follow the same migration patterns as Greece, Italy and Spain without taking into consideration migration flows in the North. Statistical data on Bulgaria and Romania shows the simultaneous coexistence of emigration, immigration and transit migration flows. With regards to the prospective EU member states migration statistics reflect different categorizations and definitions of migrant influxes and outflows. In the Former Yugoslav Republic of Macedonia, the official statistics document a positive net flow of international migration, which means that due to immigration the population should be growing. Turkey, on the contrary, is identified increasingly in official statistics as a "transit" and "receiving' state in addition to its traditional role as "sending" state.

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[2] Michel, Poulain, 1999, "Confrontation des statistiques de migration intra-européenne: vers une matrice complete?", *Eurostat Working Paper*, 3/1999/E/no.5. and Youssef Courbage, and Paul Compton (ed.), 2002, *The demographic characteristics of immigrant populations*, Population Studies no 38 (Strasbourg: Council of Europe)

[3] UN, 1994, "Recommendations on statistics of international migration"; and Michel Poulain and Nicolas Perrin, 2002, "Can UN migration recommendations be met in Europe?", in Migration Information Source, at http://www.migrationinformation.org/Feature/display.cfm?id=139

[4] Eurostat, 2008, "Resident citizens with foreign nationality. Population by citizenship-foreigners", at http://epp.eurostat.ec.europa.eu/tgm/refreshTableAction.do?
tab=table&plugin=1&init=1&pcode=tps00157&language=en

Refugees and asylum seekers

Data on refugees and asylum seekers in the EU is more complete when it comes to the number of applications filed, although there is no data on the two perspective member states (Turkey and Former Yugoslav Republic of Macedonia)[5] mainly because their asylum procedure standards are considered to be different from those of the EU member states. A similar problem arises with regards to the policies of sending and receiving states' official statistics. An example is that of the Roma, who constitute an important proportion of asylum-seekers leaving Romania often claiming asylum in other EU member states. It is estimated that in the early 1990s, more than 60% of all Romanian asylum-seekers recorded abroad were Roma. While international human rights organizations have recorded persistent discrimination against the Roma population in Romania (in employment, housing, health and education), as well as continuous practices of hate speech and intolerance by the Media and some public authorities,[6] Roma ethnicity is not always considered as such and the motivations for asylum-seeking are highly disbelieved and treated as a potential 'cover-up' for labour migration.

Discursive constructions of emigration-immigration

In all eight states studied by GeMIC researchers, the transition from a "migrant-sending" towards a "migrant receiving" stage is as much a statistical as a "discursive" turn.[7] A "migrant receiving" bias, however, obscures the complexities of EU enlargement processes, as a result of which many former immigrants have become EU nationals after their country's EU accession. Furthermore it ignores the dynamic character of in-, transit-, circular and out-migration flows presupposing instead a linear model of development. In practice, the passage from the "migrant-sending" to the "migrant-receiving" has not been a linear process– and elements of emigration are still present even in older and more "integrated" EU member states.

Notwithstanding their European orientation, migration policies and statistics have reserved a privileged position for migrants of the same ethnic descent, a strategy which is silenced in official migration statistics. A characteristic example is the case of Greece and Cyprus, where ethnic Greeks from the former Soviet Union (the "Pontians") – which are formally included in official statistics as "third country nationals"- are granted a special legal status under the umbrella of the policies of "pallinostisi" (repatriation). In Italy too a 1992 law introduced the "principle of ethnic preference in the determination of citizenship" according

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[5] Eurostat, 2008, "Asylum applications" at
http://epp.eurostat.ec.europa.eu/tgm/refreshTableAction.do?
tab=table&plugin=1&init=1&pcode=tps00021&language=en
[6] Amnesty International, 2008, "Romania-Report", at
http://www.amnesty.org/en/region/romania/report-2008. This is not included in the GeMIC policy analysis report on Romania.
[7] See Pedone, 2008, op.cit.

to which descendants of Italian immigrants were considered potential Italian citizens, and simplified procedures were set up for them. On the contrary, migrants with historical links to South European states, such as Albanians of Greek origin in Greece, Indians, Sri-Lankans, Lebanese and Syrians in Cyprus or Latin Americans in Spain, were initially excluded from such preferential treatment but have gradually acquired privileged access to nationality by residence. In Turkey, although, there has been strong pressure by EU institutions to transform what is considered to be "liberal" visa requirements in order to meet EU standards, nationals of Balkan countries and the ex-Soviet Union may still enter with 'sticker visas'.

Although increased migrant mobility is closely associated with EU accession processes, it is also discursively attached to specific national identities and historical reconstructions of the past. The discursive construction of certain categories of migrants as belonging to the nation, as opposed to the "foreigners", who are subjected to restrictive immigration policies is fundamental to an understanding of the complexities obscured by official migration statistics.[8] This is evident also in the "new" member states where EU accession did not signify a passage towards a "migrant receiving" stage, but rather the development of migration patterns that challenge the linear model assumed in official statistics. From the perspective of "migrant sending states", emigration has often been linked to ethnic minority status, as in the cases of Bulgarian Turks emigrating towards Turkey in 1990 and 2001 (only to move during the next decade towards Western Europe), Bulgarian Jews migrating to Israel in the early 1990s (many of which are beginning to return back to Bulgaria), as well as Germans, Hungarians and Jews leaving Romania in the 1990s (although the flow decreased to almost zero at the end of the decade). Also since 2002, when the Schengen visa requirement was eliminated, circular migration boomed in Romania.

In many cases the limits between immigrants, asylum seekers and refugees are porous and in fact the same migrants can be characterized by different state institutions and NGOs as political or economic, refugees or immigrants, legal or illegal, long or short term, whereas the distinction between these categories may only serve political purposes and nationalist objectives.

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[8] Gregoriou, 2008.

1. Chapter 1: Gender in migration policies

1.1. EU policies on migration and asylum

The development of the EU policies on migration was marked by the ratification of the Amsterdam Treaty, signed in 1997 and came into force in 1999, which gave new responsibilities under article 36 to the EU with regards to the following policy areas: (i) asylum, refugees and displaced persons, (ii) the conditions for the entry and stay of third country nationals and (iii) illegal immigration and stay. The 2000 "Communication on a Community Immigration Policy"[9] led to the subsequent adoption of 23 acts. These have a twofold purpose: on the one hand, to regulate the influx of illegal migrants in the EU and, on the other hand, to regulate legal migration in the EU - including the conditions for family reunification, long-term stay and migration for purposes of study and scientific research. [10]

Overall, EU policies are based on a sharp distinction between *legal* and *illegal* migration. With regards to *legal* migration a "Policy Plan" was adopted in 2005, which "lists the actions and legislative initiatives that the Commission intends to take, so as to pursue the consistent development of the EU legal migration policy".[11] The plan describes a rational system of migration "management", which is controlled by and depends entirely on the labour demand in the receiving states. With regards to *illegal* migration, the Commission adopted the "Communication on policy priorities in the fight against illegal immigration of third-country nationals" in 2006.[12] The specific policy priorities outlined in this Communication are: a. Cooperation with third countries, which aims at the prevention of departures from and transit through states outside the EU, b. Secure Borders – Integrated Management of External Borders, c. Fight against Human Trafficking, d. Secure travel and ID documents, e. Addressing regularisations, f. Tackling a key pull factor: illegal employment, g. Return policy, and i. Carriers' liability. All these measures aim

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[9] "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Third Annual report on migration and integration" (COM (200)757)

[10] See in particular Directive 2003/86/EC on the right to family reunification (EE L 251, 3.10.2003), Directive 2003/109/EC on the status of third country nationals' long-term stay (EE L 16, 23.1.2004), Directive 2004/114/EC on the condition of entry if third country nationals for the purpose of studying, student exchange, unpaid vocational training and voluntary work (EE L 375, 23.12.2004), and Directive 2005/71/EC on the special procedure for the entry of third country nationals for the purpose of scientific research (EE L 289, 3.11.2005).

[11] "Policy plan on legal migration" (COM (2005) 669)

[12] "Communication on policy priorities in the fight against illegal immigration of third-country nationals" (COM (2006) 402)

at "managing" migrant movements at different stages and geographical locations both within and outside the EU. These two acts establish a twofold EU policy on migration on the basis of which migrants who have already entered the EU and have established themselves in the European labour market enjoy a preferential status compared to the new-comers, the unemployed, those who have overstayed after their visas or residence permits have expired and those whose asylum petitions have been rejected. The latter, are all labelled as "illegals", and are subject to policies for the management of "border security, illegal employment, return and cooperation with third countries".

Nonetheless, within the European migration regime, there are three categories of migrants that are constructed as "exceptions" in relation to both legal and illegal migration: (a) refugees and asylum seekers, (b) reunified family members, (c) victims of trafficking. These "exceptional" categories refer also to three distinct specialized policies, which form, however, an integral aspect of the European migration regime, precisely by being constructed as "exceptions".

a. Refugees and asylum seekers constitute the most important of these "exceptions". Set within the area of "Freedom, Security and Justice", the context within which policy in this area is framed is based on two contradictory objectives: respecting the human rights obligations and traditions of member states and meeting the challenges of rising "flows of persons seeking international protection". On the one hand, by setting specific standards for asylum seeking procedures, the EU recognizes the need to respect the human rights of persons who are "unable to seek protection in his/her country of citizenship and/or residence in particular for fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion".[13] On the other hand, however, this need is in constant conflict with the objective of securing "freedom" within the EU by "protecting" the external borders from illegal migration. In many European societies, the perception that illegal influxes are caused by liberal asylum systems and that "bogus" asylum seekers manipulate systematically the protective mechanisms intended for "genuine" refugees have become part of public discourse influencing decisions at the EU level.

As a result, the three directives that set down the principles for common asylum procedures in the EU are characterized by the tensions that arise from these contradictory objectives.[14] Thus, one the one hand, they seek to harmonize the procedures through which asylum

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[13] "Council Directive laying down minimum standards for the reception of asylum seekers" (2003/9/EC),

[14] "Council Directive laying down minimum standards for the reception of asylum seekers" (2003/9/EC), **"**Council Directive on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted" (2004/83/EC) and "Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status" (2005/85/EC)

seekers enter, stay and apply for asylum in different member states and to establish common protection standards in accordance with international humanitarian law. On the other hand, however, they also aim at a more effective cooperation amongst member states in matters of border control through a coordination mechanism, known as the "Dublin regulation", that assigns responsibility for asylum petitions to the first "safe country of entry".[15] In this context, it is also important to mention the introduction of the EURODAC System, whose aim is the identification of fingerprints in order to prevent asylum seekers from applying for asylum in more than one EU countries, and to establish the responsibility for the granting and withdrawal of the refugee status procedures.[16] As it is increasingly apparent in policy texts on asylum, border security becomes more significant than human rights protection. Furthermore, it is "externalized", since the processing of asylum petitions within the EU is in many cases assigned to states outside the EU territory.[17] Through the construction of refugees as an "exception", policies on a common asylum system reinforce the sharp distinction between legal and illegal migrants.

b. Reunified family members are conceptualised as an "exception" too. The right to family reunification is recognized by the *Treaty of the European Communities* (article 36, par. 3 a) and by the 1950 *European Convention for the protection of human rights and fundamental freedoms* of the Council of Europe. Although this category of migrants is formally entitled to a legal residence permit - even if they do not fulfil the necessary criteria for being recognized as "legal"- in practice this right has been undermined by restrictive national policies.

c. Victims of trafficking are also constructed as an "exception". In 2002, the *Charter of Fundamental Rights of the EU* affirmed with article 5(3) that trafficking in human beings is prohibited. In addition a *Council framework decision* emphasized the need to harmonize the policies of EU member states in anti-trafficking and to impose sanctions on perpetrators of trafficking within the context of international cooperation.[18]

Although the EU has signed the UN "Convention against transnational organised crime and its Protocols on combating trafficking in persons, especially women and children, and the smuggling of migrants by land, air and sea",[19] the human rights of victims and in particular women's rights have been marginalized compared at least to securitization of the fight against illegal trafficking networks.[20] According to a directive of 2005, victims of trafficking are entitled to legalize their presence in the

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[15]"Council Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national" (EC) No 343/2003).

[16] CE no.2725/2000, 407/2002 and 343/2003

[17] Rutvica Andrijasevic, 2006,. "The Southern Gate to Fortress Europe", in. P. Kilpadi, ed. *Policy perspectives: Islam and tolerance in Wider Europe (*Budapest: Open Society Institute), pp. 30–51.

[18] **"**Council Framework Decision on combating trafficking in human beings" (2002/629/JHA)

[19] "The United Nations Convention against transnational organised crime and its Protocols on combating trafficking in persons, especially women and children, and the smuggling of migrants by land, air and sea".

EU, on the condition that they collaborate with the police against the perpetrators of the crime, (both individuals and networks). They are entitled to a period of contemplation, during which they receive protection by the state in which their claim is processed. If after this period they decide to collaborate with the police, they are recognized as victims of trafficking entitled to a residence permit.[21] According to article 29 of the "Treaty of the EC", trafficking in persons constitutes one of the crimes (along with terrorism, and offences against children, illicit drug trafficking and illicit arms trafficking, corruption and fraud) that should be prevented and combated in order to provide citizens with a "high level of safety within an area of freedom, security and justice". Also following the Tampere European Council, EU anti-trafficking policies are based on a strategy according to which this objective can only be achieved through international cooperation between migrant-sending, transit and receiving states. Although migrants belonging to this category are in principle entitled to a residence permit and EU protection precisely because they are victims, their "exceptional status" is constructed as a policy priority inextricably linked to the security, criminality and control of borders against illegal migration.

The distinction between legal and illegal migrants, as well as the "exceptions" of refugees and asylum seekers, reunified family members and victims of trafficking exemplifies the one sided policy perspective, which assumes a "migrant receiving" status for all EU member states and also prioritizes the security "needs" of EU member states over migrant needs and rights. In practice despite restrictive measures for the prevention of migration flows, they continue to flow. This has led certain scholars and activists to argue that migration should be conceptualised as an autonomous dynamic, a social movement which cannot be reduced either to state policy making, or to state induced economic and societal factors.[22]

European cooperation in migration policies is based above all on a common effort to secure the external EU borders. According to the "Communication on illegal migration", "the solidarity, mutual trust and shared responsibility between Member States is a key requirement in an area without internal borders, which poses a particular burden with respect to pressure from illegal immigration on Member States who control an external border". This statement is of particular importance for South Europe, a region in which the management of illegal migration has become a priority since the majority of

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[20] Claudia Aradau, "The perverse politics of four-letter words: risk and pity in the securitization of human trafficking", *Millennium: Journal of International Studies* 2004, vol. 33 no. 2, pp. 251-277

[21] "Council Directive on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities" (2004/81/EC) L 261, 06/08/2004.

[22] Sandro Mezzadra (ed.), 2004, *I confini della libertà. Per un' analisi politica delle migrazioni contemporanee* (The Freedom Borders: For a Political Analysis of the Contemporary Migrations), (Roma: DeriveApprodi).

member states possess external borders. As a result, migration policy constitutes a means of constructing and securing a common European border in the South, rather than a means of devising strategies to address the challenges of autonomous migration flows and for creating the conditions for intercultural interaction, dialogue and cooperation.

1.2. Gender in European migration policies

The gender aspects of European migration policies are complex and multiple, ranging from positive factors enhancing migrant women's employment, earnings and social position to negative factors leading to practices of extreme exploitation and precariousness. In fact the divergences are such that a study of gender and migration in Europe argued that from a gender perspective it is more accurate to talk about "migration regimes".[23] Undoubtedly, however, the European efforts to "strengthen the external borders" have made it impossible for the majority of migrant women to enter Europe independently, through legal channels and to find employment outside the unskilled, low-paid, feminized sectors of the economy.[24] In states like Greece, Italy, Spain and Cyprus, the presence of (illegal) migrant women has stimulated local women's participation in the labour market and covered up for the demise of extended family networks, public child and elderly care support. While through informal mechanisms many migrant women were given a chance to support themselves and their families and become independent and emancipated,[25] the persistent failure to acknowledge a gender perspective in EU, state and local policies and to introduce specific measures for this unregulated private sector has generated precarious work conditions.[26]

In general, as the European Women's Lobby (EWL) has pointed out, most official EU texts have adopted a gender neutral approach and language, ignoring the specific conditions experienced by female and male immigrants as well as the ways in which divisions of gender, nation and class intersect, reinforcing instead dominant stereotypes.[27] It is notable

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[23] Eleonore Kofman, Annie Phizacklea, Parvati Raghuram and Rosemary Sales, 2000 *Gender and International Migration in Europe: Employment, Welfare and Politics* (London: Routledge), pp. 44-76.
[24] Rutvica Andrijasevic, 2003. "The Difference Borders Make: (Il)legality, Migration and Trafficking in Italy among Eastern European Women in Prostitution", in S. Ahmed, C. Castaneda, A. Fortier, and M. Sheller, eds., *Uprootings/ Regroundings: Questions of Home and Migration* (Oxford: Berg), pp. 251–272.
[25] Helen Kambouri, 2008, "Feminine jobs/Masculine becomings: Gender and identity in the discourse of Albanian domestic workers in Greece", *European Journal of Women's Studies,* 15 (1), pp. 7-22.
[26] Maria Kontos, 2007, "Policy briefing: Policy Assessment and Policy Recommendations" FEMiPol *Integration of Female Immigrants in Labour Market and Society. A Specific Targeted Research Project of the 6th Framework Programme of the European Commission*
[27] See the critique of the European Women's Lobby, 2007, "Equal Rights, Equal Voices: Migrant Women in the European Union", European Women's Lobby, 2007, *Contribution to the European Commission's Green the Paper on the Future of Common Asylum System* (COM (2007) 301 final)

that to date there are no official EU policies on migrant women's rights.[28] The lack of gender mainstreaming constitutes one of the most persistent features of the European policies son migration.

In the 2008 Communication entitled "A Common Immigration Policy for Europe: principles, actions and tools"[29] gender is silenced and marginalized systematically with regards to both legal and illegal migration. More specifically, in the Communication, the need for a common perspective on the management of migration flows is perceived as an integral aspect of the construction of a common European space, and identity. The central theme in this conceptualisation is the contrast between the openness of internal borders, which necessitates the closure of the external borders. In this context, the European national is contrasted to the non-European migrant other. The European space is defined in terms of three interrelated concepts, which correspond to three pillars of action: *prosperity, solidarity and security*.

Prosperity refers to the economic development of European societies and the positive impact that migrant workers may have on it. The text emphasizes the need to encourage legal migration flows in order to respond to the demand for labour in specific sectors, through the matching the skills of prospective migrants with the needs of the host society. Within this context, there is a single reference to gender (along with age) as a criterion for the selection of prospective legal migrants. Furthermore, within the context of labour market integration, it is emphasized that "due attention should be paid to immigrant women". Finally the text envisages the amendment of the Directive on family reunification in relation to labour market integration of legal migrants without discussing the issue in detail. With regards to *solidarity*, a concept that refers to the coordination between member states (including transparency, trust and cooperation as well as efficient and coherent use of available means by EU member states) and the cooperation with third countries, there is no reference to gender or women. The final section of the Communication refers to *security*, an area that is far more extended than the other two since it addresses the "effective fight against illegal migration". In this area, "a visa policy that serves the interests of its partners", is envisaged along with "an integrated border management", and a "zero tolerance" policy against trafficking in human beings, and the development of "effective and sustainable return polices". Women are referred to as victims of trafficking, although it is worth mentioning that there is reference only to children in the context of sexual exploitation.

In parallel, with the above, a "Policy Plan on Asylum" was published in 2008.[30] In this context, the Commission emphasizes that one of the primary objectives of the policies on *asylum* is gender mainstreaming. However, in the three principles outlined in the policy plan

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[28] European Women's Lobby, 2004, "Integrating a gender perspective into the EU immigration policy" *Position Paper.*

[29] "A common immigration policy for Europe: principles, actions and tools" COM (2008) 359final.

[30] "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions: policy plan on asylum, an integrated policy approach across the EU" COM(2008) 360 final.

("quality and harmonization of international humanitarian standards", "effective cooperation and just allocation of responsibilities" and "solidarity") there are only two references to women and gender: women are included in the list of vulnerable categories of refugees, for which special care should be taken in order to provide full protection. The other vulnerable groups included are children, victims of torture and people with medical needs. However no specific measures are outlined and there is no explanation with regards to the content and meaning of the term "gender equality". While there is a formal commitment to gender equality, in practice gender inequalities are silenced, and women refugees are portrayed only as a "vulnerable group".

EU texts referring to *family reunification* adopt a gender neutral approach avoiding to address gender relations directly. Instead they emphasize the positive role of the nuclear heterosexual family in the effective integration of legal migrants in host societies. According to a 2003 directive,[31] "Family reunification…helps to create socio-cultural stability facilitating the integration of third country nationals in the Member State, which also serves to promote economic and social cohesion". However, this right is granted to the "members of the nuclear family". States may decide to extend this right also to "relatives in the direct ascending line, adult unmarried children, unmarried or registered partners as well as, in the event of a polygamous marriage, minor children of a further spouse and the sponsor". As the migrant family is presented as one of the very few migrant institutions that host countries should respect and protect, the gender inequalities inherent in the heterosexual, patriarchal structures of family life are silenced. Women are in the case of this "exception" only represented as a vulnerable category in particular in relation to discrimination caused by patriarchal norms, which are alien to the European family model, such as for example in the case of polygamy, which is prohibited.

With regards to *trafficking*, it is worth noting that the first attempts to address the issue had a clear feminist orientation. In the two communications published during the 1990s[32] and in the Joint action STOP,[33] it was made explicit that the protection of migrant women constitutes the primary objective of anti-trafficking policies. This framing was influenced by the Beijing Platform for action which pushed towards gender mainstreaming in all policy areas. Gradually, however a gender neutral approach has been adopted in all official EU texts. This development was inextricably linked to the definition of trafficking as a security issue associated with criminality and illegal border crossings. As the trafficking question was securitized, emphasis was placed once more on the control of borders and the combating of criminal networks rather than on the human rights and the protection of victims.

Even when specific references to gender are made in official texts, these are vague, and lack detail and substance with regards to gender inequalities. In 2005, the Council published the "Plan on best practices, standards and procedures for

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[31] "Directive on the right to family reunification" (2003/86/EC)
[32] COM (1996) 567 final, 20.11.1996 and COM (1998) 726 final, 9.12.1998
[33] STOP Joint Action 96/700/JHA (29.11.1996)

combating and preventing trafficking in human beings".[34] In this plan, it was emphasized that a "human rights and victims centred approach" should be adopted, in the context of which "EU institutions and Member States should promote gender specific prevention strategies as a key element to combat trafficking in women and girls. This includes implementing gender equality principles and eliminating the demand for all forms of exploitation, including sexual exploitation and domestic labour exploitation". In parallel, however, it was emphasized that the EU "should strengthen its operational response", recognizing human trafficking as a crime "which must be addressed as a clear law enforcement priority". The fact that crime prevention and management of illegal flows takes precedence over the "victims centred" approach seriously undermines all efforts to address gender within the context of trafficking policies.

In the gender neutral EU policies on migration the only vague references to gender mainstreaming become possible in the contexts of the "exceptions" (refugees, reunified family members and victims of trafficking), which tend to reproduce stereotypical representations of women as a particularly dependent and vulnerable group. In the EU migration policies women as autonomous migrants as well as gender inequalities are silenced. Their "migrant receiving" bias obscures the autonomous dynamics of women's migrant flows, including processes of feminization (which in many nationalities is overwhelming) that challenge established policy making categories and stereotypical representations of women as a vulnerable and dependent group.

1.3. Border control and migrant precariousness in South Europe

1.3.1. Policies on immigration-emigration

Given the establishment of the freedom of movement within the EC, the safeguarding of national borders from immigration (perceived as a "security threat") constitutes a policy priority affecting the broader European area, since migrants are assumed to be able to move easily across internal borders into other national territories.[35] Simultaneously, process of precariousness which affect the European labour market at large influence the production and reproduction of migrants as cheap, temporary, flexible labour.[36] These traits are dominant in Greece, Italy, Spain and Cyprus, while they become increasingly salient also in Bulgaria, Romania and the Former Yugoslav Republic of Macedonia.

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[34] "Plan on best practices, standards and procedures for combating and preventing trafficking in human beings in the context of the Hague programme" (EE C 311/9.12.2005).

[35] **Ole Waever**, **Pierre Lemaitre**, **Barry Buzan**, and **Morten Kelstrup, eds., 1993,** *Identity, migration and the new security agenda in Europe* (London: Palgrave).

[36] The term precariousness refers to a condition of existence without predictability or security and is applied in particular to labour conditions. Abdel Mabrouki, 2004, *Génération précaire* (Paris: Le Cherche Midi).

In the case of *Greece* legislation was amended in 1991, for the first time after 1929. The new law (1975/91) focused on the reinforcement of border control and policing and did not include measures for the regularization of foreigners who had already entered the state illegally, nor for the integration of migrants. Following two presidential decrees of 1997, the legislation was amended again ten years later laying down the rules for migrant regularization and the issuing of work and residence permits (green and white cards) – which became the ad hoc mechanism regulating migration policies. This mechanism has assumed the temporary character of different forms of migration, which placed all migrants in a state of insecurity with regards to their legal status and encouraged their employment in the already booming black market. Bureaucratic problems – including the issuing of residence permits at the date of their expiry- have become a permanent structural strategy used to intensify the precariousness of migrant labour. In parallel with the application of these regularization procedures, the so-called "scoop operations" (massive expulsions of immigrants without legal residence permits by the police), intensification of border controls and policing of the everyday life of migrants became commonplace. Subsequent amendments, and a new law in 2005, which seemingly introduces the notion of "integration" and long-term residence status, have failed to address the precarious living conditions that both legal and illegal migrants experience, while they have also reinforced they treatment of migrants by policy makers as labourers destined to "do the jobs Greeks are no longer willing to do". On the one hand, migrants' residence in Greece is still determined primarily by labour-market criteria, emphasizing the needs of the market rather than those of the migrant labourers. On the other hand, the legal paths to enter the Greek territory are blocked by a complicated and unrealistic formal procedure, while the criteria for the issuing of long-term residence permits and naturalization exclude in practice most long-term migrants.

In *Italy*, too the primary strategy to cope with migrants already living and working in the country informally was based on ad hoc regularizations. The first "amnesty" took place in 1986 in response to "mounting" pressures to respect international agreements and the need to deal with rising numbers of illegal migrants residing in the country. Ever since, amnesties have become increasingly elaborate and specialized in the "the technical effectiveness of the repressive norms and the administrative discretionary power", but they have not yet succeeded in "managing" migrant movements. Subsequent legislative amendments have succeed, on the contrary, to impose an even more restrictive regime of border control and policing, combined with a strategy of temporary and flexible residence permits that place migrants in a precarious situation, including the imposition of quotas to the entry of foreign workers according to the needs of the national and local economy.

In the case of *Spain,* the policy approach adopted for the first time in 1985 in order to harmonize legislation with EU directives proved to be inefficient for the "management" of rising migration flows, and the security of external EU borders. Migrants continued to flow within the Spanish territory despite restrictions and many of them decided to stay longer despite the lack of efficient integration policies. However, for the same reason, harmonization proved to be extremely efficient in strategically reinforcing the precariousness of illegal migrant labour. Although, legislation on migration was amended

later, intensified policing of borders and temporary regularization procedures remained the primary mechanisms for the "management" of migrants residing in the territory after having entered illegally. The residence permits issued through this procedure were linked to employment status and social security contributions (often purchased by the migrants themselves).

The antithetical dynamics of restrictive immigration policies and precarious labour conditions for migrants are manifest also in policy making developments in new and prospective member states, which find themselves in the process of harmonizing their legislation with EU directives. Overall harmonization has ignored the specificities of each member-state and the state policies on migration that have preceded it emphasizing the expansion of the "common European frontier" in the South.

In *Cyprus*, the "aliens and immigration law" of 2002 was drafted in order to harmonize national legislation with the community aquis. Following this process, however, Cypriot policies were repeatedly criticized by the European Commission for failing to cope with the EU requirements in particular in matters of illegal migration, border control and readmission agreements with third countries. These criticisms illustrate how the borders of Cyprus are constructed as European through a security discourse that silences the peculiarities of the green line, and obscures the complexities of migrant flows from and to the North. In parallel, however, policy making is based on a temporary conception of migration, and allows only short-term and flexible forms of labour to be regularized reinforcing the precariousness of the legal system. Ministerial Council decision No. 33.210 dated 15/3/1990, defines the sectors of economic activity open to migrant labour, while the Department of labour decides the number of permits to be issued according to "short-term" needs of the market. Following pressures by the Commission the legislative framework was amended with a Ministerial Council Decisions in 2007, to include provisions for long-term residents. Although this reform was expected to transform the status of migrants in Cyprus, (since it formally gives the right to those who can prove legal residence permit for more than five years to apply for long term residence status), it has been constructed as a "legal impossibility" exempting from those entitled to long-term residence status most migrants whose presence in the Cypriot economy is not judged to be long-term.

Both *Bulgaria and Romania* have begun the process of harmonization with the objective of reinforcing the control of illegal migration through their borders. In their case, however, this has meant not only the combating of trafficking and transit migration but also taking measures for the control of illegal emigration, and the encouragement of return migration (in particular of students and highly skilled nationals working in EU member states). More specifically, during the 1990s, the Bulgarian legislation has been amended to provide for three types of residence permit for foreigners: short-term, long-term and permanent, to develop an effective immigration policy, including public debate and information campaigns about immigrants, the inclusion of immigrants in administrative registers, their cultural and social integration, and recognition of their educational and professional qualifications. Furthermore one of the main objectives of the demographic policy is to reduce the emigration of young people in reproductive age, and encourage their repatriation. In

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Romania, the harmonization of the national legislation with EU directives was "a long-lasting process, which was summarized in the a document entitled "National Strategy for Migration" issued in 2004, which not only integrated EU requirements but also followed the five main lines of European policy regarding migration: controlled migration prevention, asylum, social integration of foreigners, return and voluntary repatriation of emigrants.

Finally, the tendency to combine policies of emigration, immigration, transit and circular migration – have become central to the expansion of the common European border to the South. Today in prospective and candidate member states, there are strong pressures to proceed with harmonization, even if in coming flows are still limited and transit and out migration are dominant.

In the *Former Yugoslav Republic of Macedonia*, harmonization with the "Schengen acquis" led to a "Border management strategy and action plan" and the "Law on State border surveillance", which were almost fully implemented by 2008. These included international cooperation and contacts with FRONTEX with a view to concluding a working arrangement. In this context, visas are no longer issued at the borders, save in exceptional cases, such as in the case of visas for citizens of Albania, and the EC. At the same time, there were strong pressures to enter into force measures to facilitate the control of trafficking flows. Also the government focused on the readmission agreements with EU and other countries, which were put into force in order to manage issues linked to transit migration and emigration. On the contrary, the "Law on Aliens" was formally adopted in February 2006, but its approval has been delayed to 2008, manifesting the emphasis placed on border control in migration policies in South Europe.

In *Turkey*, where in-coming and transit migration are dominant trends and emigration flows have decreased during the last decades, European harmonization has become a sensitive policy issue. The main challenge concerns the visa policy, which identifies three categories of entry into the country, including "individuals who enter and remain in Turkey without a visa usually for three months in a pre-determined time period of stay of 30 nor 60 months", "nationals of countries who need visas to enter and remain in Turkey" and "nationals of countries who need to acquire at the port of entry the 'sticker visa'". The EU objects to this type of policy, which is based mostly on selecting potential migrants according to their country of origin. However, the positive and negative visa lists of the EU and Turkey do not overlap. Finally there is strong pressure by the EU to sign "readmission agreements" with different countries to enable illegal immigrants who have passed through Turkey to return. The requirement of the EU for Turkey present a major challenge particularly in relation to management of return and transit migration.

We can note therefore that the two antithetical dynamics of policy making in South Europe, constitute in practice two complementary aspects of the same circular process: the efforts to prevent further migration inflows in order to protect the South European frontier result into an increase in illegal migration, which functions strategically in providing the markets of South Europe with a labour force, forced to work under conditions of precariousness.

1.3.2. Policies on asylum and refugees

As a result of harmonization many EU member states are in the process of dismantling their asylum protection systems that during the Cold War far exceeded international law. In addition, with the adoption of the "Dublin regulation" many asylum petitions are processed in states (within and possibly also outside the EU) where the even the basic human rights standards do not apply. This is of particular significance for South European states, the majority of which are possessing external EU borders.

More specifically, for member states like *Greece, Italy and Spain*, harmonization in this area took place during the 1980s and 1990s, establishing for the first time, concrete asylum procedures and refugee protection mechanisms based on international law standards. Prior to harmonization, Italy exercised the geographical reserve prerogative and gave asylum to Eastern Europeans, and in Greece there was no state asylum procedure, only an informal UNHCR recognition of refugees. However, following the adoption of the "acquis", what prevailed in these states was a policy approach that emphasized border control rather than a humanitarian perspective. In particular, the Greek state has adopted a unique approach to the implementation and interpretation of the relevant legislation, as a result of which the recognition and protection of refugees and asylum seekers is severely undermined by continuous human rights violations. As a result, many international organizations, NGOs and more recently the Norwegian government no longer consider it a "safe country" and have forbidden the referral of refugees and asylum petitions to Greece, even if it is the first state of entry. The Greek asylum problem puts in question and undermines the rational of the "Dublin regulation".

In new member states like *Cyprus*, harmonization on matters of asylum and refugees has been accompanied by lengthy procedures for the issuing of decisions, low level of refugee recognition. *Bulgaria* constitutes an interesting example because, since it was removed from the "black list" of the Schengen agreement in 1999, foreigners' interest in acquiring asylum and the Bulgarian citizenship increased. In particular during the 1999-2002 period, the number of asylum seekers rose as a result of the Kosovo conflict and the war in Afghanistan. The passing of the Law on Asylum and Refugees in 2002 and the reorganization of the State Agency for Refugees was a result of the inability to deal with these rising numbers of asylum seekers within the context of EU harmonization procedures. Unlike the Mediterranean countries, however, harmonization with the EU acquis has imposed a stricter asylum regime, while also setting down the provisions for the protection of asylum seekers and refugees, which have proven to be impossible to implement given the absence of infrastructures. The number of asylum seekers rose significantly in *Romania* too since 2002, when the Schengen visa requirement was eliminated, and many asylum applicants, especially from Iraq, Somalia, India, China, Bangladesh, Guinea and Ecuador, applied for asylum. Nonetheless, Romania has harmonized almost all aspects of its asylum legislation in accordance with the EU acquis.

In prospective member states, there are strong pressures not only to harmonize legislation with the Community acquis but also to provide the infrastructure for the protection of refugees and the control of borders from asylum seekers influxes. Turkey is the only state that still applies a "geographical limitation" to the 1951 Geneva Convention which means that only European asylum seekers are recognized and offered protection. The Accession Partnership for *Turkey*, which was prepared by the European Commission, and adopted in 2001, and revised in 2003 has set the following objectives: to start alignment of the acquis in the field of asylum including lifting the "geographical limitation" to the 1951 Geneva Convention, to strengthen the system for hearing and determining applications for asylum, and developing accommodation facilities and social support for asylum seekers and refuges. The *Former Yugoslav Republic of Macedonia* is another characteristic example of the emphasis on border controls in EU harmonization processes in matters of asylum: although the harmonization of the asylum law is still incomplete, several readmission agreements have been signed with European member states, and a "reception centres" is already functioning despite the fact that there is no infrastructure for the social protection of asylum seekers and recognized refugees.

Furthermore, both older and new member states have developed repressive policies, through which detention centres are constructed at the borders or in isolated places, inside and outside the EU territory, in order to host both migrants and asylum seekers for undetermined periods of time under conditions violating their human rights.[37] In Cyprus, Greece, and Bulgaria, there are detention centres where asylum seekers either find themselves "literary locked up in a prison…with no right to the freedom of movement" or isolated in remote locations where there is no access to jobs. Often their "temporary accommodation" is indefinitely prolonged.[38] In the case of Italy and Spain, bilateral agreements with countries like Libya and Morocco have allowed the construction of such "detention centres" outside the EU territory where detention is imposed for undetermined periods of time. The European Parliament denounced in 2005 the human rights violations in Lampedusa "detention centre" in Libya and passed a motion denouncing the humanitarian crisis in Ceuta and Mellila in Spain.[39] Critics point out that these "camps" constructed outside the EU territory, in states characterized as "non safe" for asylum seekers, allow European government to filter migrants, without having the obligation to respect their human rights.[40] Although officially, refugees are given the right to apply for asylum outside

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[37] For a map of existing detention centres in Europe, see http://www.migreurop.org/IMG/pdf/carte-en.pdf

[38] In Greece there are several camps spread all over the Aegean. PRO ASYL and Group of Lawyers for the Rights of Refugees and Migrants, "The situation of refugees in the Aegean and the practices of the Greek coast guard" (Athens: PRO ASYL). In Bulgaria, there is the "Special Centre for Temporary Accommodation of Foreigners in Busmanci".

[39] "European Parliament resolution on Lampedusa" Thursday, 14 April 2005-Strasbourg and "Motion for a European Parliament resolution on the humanitarian situation in Ceuta and Melilla (Spain)"

[40] Rutvica Andrijasevic, 2006, "Lampedusa in focus: migrants caught between the Libyan Desert and the deep sea". *Feminist Review*, 82(1), pp. 120–125 and "How to Balance Rights and Responsibilities on Asylum at the EU's Southern Border of Italy and Libya" COMPAS *Centre on Migration Policy and Society,* Working paper no 27, University of Oxford.

the EU, in practice, it is doubtful whether such asylum procedures are respected even according to international standards. Furthermore, the existence of these camps within and outside South Europe point out to the fact that in terms of official policies both immigrants and asylum seekers constitute an issue primarily in relation to border security.

1.4. Gender mainstreaming in South European migration policies

During the process of harmonization of migration policies in South Europe the gender neutral approach of the EU policies has been integrated into national policies. In all the countries studied by GeMIC researchers the subject of migration law was conceived as being gender neutral, while migrant women have been included in policy making only in the context of the "exceptional" categories of the European migration regime. As a result, gender asymmetries and inequalities are systematically silenced, while at the same time representations of migrant women as vulnerable and dependent prevail.

1.4.1. Domestic work

The silencing of gender issues in official policy making, is particularly striking in EU member states, where migrant women play a key role in the domestic and care sectors.[41] Filling up the gap left by the absence of state-funded welfare provisions, and the rich life styles encouraged by economic affluence in Southern European societies, migrant women have become indispensable for the maintenance of gender relations within families. Nonetheless, these sectors are still left largely unregulated, fostering conditions of extreme precariousness, which are legitimised through the silencing of gender in migration policies.[42] Despite their central role in the care economies of the region and the identities of vulnerable victims often attributed to them in official and unofficial discourse, migrant domestic workers are systematically excluded from the social benefits and protection associated with citizenship.

In *Greece*, with the exception of the formal agreements signed with the Philippines in the 1970s, there is no formal procedure for the legal immigration of domestic workers, despite the fact that they are indispensable for the maintenance of the economy. The recent Law 3536/2007, which allows migrant domestic workers to renew their residence permit without a legal contract is the only measure taken to regulate the field, allowing migrant women to "buy" their own security stamps

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[41] Mediterranean Institute of Gender Studies, 2008, "Integration of Female Migrant Domestic Workers: Strategies of Employment and Civic Participation" (Nicosia: University of Nicosia Press)

[42] Bridget Anderson and Julia O'Connell Davidson, 2003, "Is trafficking in human beings demand driven? A multi-country pilot study", *IOM Migration Research Series,* No 15 (Geneva: IOM)

independently of their employers. In *Italy* too, most migrant women working in the domestic sector have entered illegally since there was no formal procedure for their reception and Italian families were unwilling to employ domestic workers with a proper contract and, even more importantly, without having met them. Migrant domestic work today is situated "on the porous borders between formal and informal markets, in a paradoxical combination between intimacy and exploitation". In this context, the centre-right government, driven by the pressures of public opinion and media, has been considering promulgating a decree that excludes domestic workers (and particularly "caregivers") from the enforcement of repressive norms against migrants. In fact, domestic and care giving work is absolutely indispensable for Italian families, in order to compensate for lack of the welfare system.

In *Spain* too, "the increasing incorporation of Spanish women into the labour market, together with the lack of public childcare services and the disparity between male and female participation in the sharing of domestic work, have provoked increased demand for non-EU immigrant workers in domestic service". Nonetheless domestic work remains unofficial and unregulated. In all three of the old member states, the link between residency permits and work contracts presupposes an unrealistic labour market, in which employers are willing to register their employees. This does not correspond to the actual situation of informality, in particular in feminized sectors such as domestic work. Such work requires neither a written contract nor the payment of social security contributions on the part of the employer. It does, however, allow the employers to easily terminate employment while denying workers' access to unemployment benefits. Given the importance of social security contributions for renewing work and residency permits, very often the workers themselves have to cover this expense.

Another striking example is *Cyprus*, where domestic work is attached to an inferior and short term status, which is institutionalised through the temporary residence permits issued for this type of employment only, before the entry of migrant women into the state territory. Although, unlike Greece, Italy and Spain, there is a mechanism for the legal migration of migrant domestic workers, in practice there are several factors that contribute to the precariousness of this particular sector. These include the indeterminacy of tasks (cleaning, care work for children and the elderly), the uncertainty of time limits of stay (which is entirely dependent on specific employers' needs) and the very low payment established. In a 2008 court decision, concerning the application of a domestic worker from the Philippines for long-term residence permit, the Court re-confirmed the legality of the exclusion of domestic workers as a "category" from the effective application of the directive granting of long-term residence status to migrants residing for more than five years

At the same time, however, it is also striking that new EU member-states, like *Bulgaria* and *Romania*, with feminized outflows linked to domestic work have failed

to address gender issues in this unregulated sector. Furthermore, for states like *Turkey* the most significant issue is "circular migration" of domestic workers. Although recent changes in the citizenship law, have provided regulations for the regularization of domestic workers, the requirements for the acquisition of work permits, is a complicated by a lengthy process that results in most migrant domestic workers becoming part of circular movements.

1.4.2. Women refugees and asylum seekers

Although refugee women figure prominently in the European agenda, there is very little progress made with regards to the adoption of effective measures for their protection and social inclusion in the policies of individual member states studied by GeMIC researchers. In *Greece, Italy* and *Spain* there is a formal commitment to addressing the issues of women asylum seekers and refugees. In practice, however, this commitment is undermined by the adoption of gender neutral policies on asylum and missing protection and unlawful detention conditions, for example in what concerns space, hygiene and ill treatment of women asylum seekers in detention centres. In *Cyprus,* asylum protection policy focuses on families and often assumes that women asylum seekers are applying for asylum as dependent family members. In *Bulgaria*, where there is not even a single legal text or any of the documents on migration policy (including its statistical data, charts, and reports) making reference to gender, there is an activity report that mentions refugee women as a target group. The framing of the typical asylum seeker as a male, accompanied or not accompanied by his family, is likely to eclipse the social characteristics and needs of single women and single mothers.

1.4.3. Family reunification

As discussed above, family reunification constitutes one of the few policy areas outside the economy, where migration is considered to have a potentially positive effect. Conversely, however, the family also represents a locus, where migrants can be constructed as a potential threat to the security of South Europe: in relation to fears of a demographic deficit caused by the reproductive capacity of foreigners and in relation to fake marriages used only to regularize illegal immigrants. Despite these antithetical notions, however, family reunification constitutes an exception, where migrants maybe conceptualised as social beings and not simply as labour. Despite the gender neutral context of the official legislation, reunified members are stereotypically constructed as feminine, weak, depended women and children unable to claim an independent identity and existence.

In *Greece*, for example, the law on family reunification institutionalises gender inequality within migrant families by making the acquisition of an independent residence permit very costly, and thus denying migrant women an independent legal status, including the right to work. This tendency reinforces gender stereotyping and puts migrant women in positions of vulnerability not only vis-à-vis the host society but also vis-à-vis their migrant communities.

Italy constitutes a characteristic example since family reunification has been framed in the context of the nationalist "sacredness of the family". Migrant women are considered as economically and juridically dependent on their husbands. In this context, during the 1990s, permission to enter Italy was given only for family reunification and to those already in possession of a contract of employment in Italy, rendering thus the legal entrance of single women virtually impossible. Migrant women, however, did travel alone affirming a different identity than that of the dependent subject following the male migrants of the family attributed to them in official policy and nationalist discourse.

1.4.4. Trafficking

Trafficking constitutes on of the policy areas, in which cooperation and harmonization have proceeded faster. This is mainly because it is linked to the security of the borders. "In reducing all autonomous migration to the category of traffic, the trafficking perspective legitimises a restrictive policy for immigration and for the policing of frontiers. This vision of migration constitutes an important part of strategies of control and criminalisation of non-EU migration in accordance with the interests of a changing, unstable, and precarious labour market".[43]

In practice, anti-trafficking policies have a very limited effect with regards to the protection of migrant women. Restrictive measures legitimised in terms of anti-trafficking objectives, on the contrary, have a significant impact on the increase of illegal flows. A recent Amnesty International report stated, for example, that most women who may qualify as trafficking victims remain unidentified in *Greece* and many are being deported without even receiving information on their rights. Furthermore, even those women who are identified they are usually found through police security checks for unlawful prostitution or illegal stay in Greece and do not receive adequate protection, assistance and information. In *Italy* too, there are several negative aspects of programs intended for the protection of victims that are often inadequate for women who have suffered the experience of human trafficking.

The gendered character of trafficking policies is more apparent in states, where the exigencies of the expansion of the common European borders in the South impose the "control" of trafficking, involving both nationals and foreigners. In *Romania*, for example, trafficking has been considered as a policy issue both from the perspective of the migrant-sending and from the perspective of the transit and migrant receiving. More specifically, changes in legislation have followed European and international trends, while governments and international NGOs have been involved in a top-down policy approach which aimed at "combating trafficking against women", which included both the discouragement of demand, and, the sensitisation and dissemination of information amongst categories of women that are considered most likely to become victims of trafficking. In *Bulgaria* too, anti-trafficking policies are targeting in particular potential victims and focus on prevention through information campaigns, schemes for overcoming the consequences of being a victim of trafficking which include repatriation and reintegration.

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[43] Pedone, 2008.

In the *Former Yugoslav Republic of Macedonia*, trafficking constitutes the sole area, where harmonization with EU policies has proceeded to the extent that all the relevant international and European instruments have become national legislation and a number of policy programs have been drafted and implemented by the government and NGOs. In all the legal and official policy texts, migration is associated with criminality and illegality. In addition, despite the seemingly neutral approach, in official discourse there is a clear gender separation between immigrant men and women.

Overall, migration policies in South Europe are not simply gender blind, but through the persistent silencing and marginalizing of gender issues and the parallel promotion of gender stereotyping of women as vulnerable and dependent groups they encourage gender inequalities. While women have become a privilege policy object in matters of security and border control (trafficking), feminized informal sectors (such as domestic work) have been excluded entirely from migration policies. There is a gendered dimension, therefore, to the constant tension between migrant women's over-representation as paradigmatic victims of trafficking and the denial to accept their role as workers.

2. Chapter 2: Migration in gender policies

2.1. Migration in the EU gender equality policies

Since 1997, under the influence of the Beijing Platform for Action, the Amsterdam Treaty introduced "gender mainstreaming" as one of the main EU objectives. Although gender mainstreaming applies to all EU policies, the "Roadmap for Equality between Men and Women" identified the following priority areas for action in the period 2006 – 2010: equal economic independence for women and men; reconciliation of private and professional life; equal representation in decision-making; eradication of all forms of gender-based violence; elimination of gender stereotypes; promotion of gender equality in external and development policies.[44]

There have been several criticisms of the ways in which gender mainstreaming has been conceptualised and practiced in the EU context from a feminist perspective. Two of them, are mostly relevant for the present analysis. First, while mainstreaming gender across different policy areas has had a positive effect in the framing of EU policies and policy making mechanisms, in many cases, it has undermined the efforts to combat long-lasting gender inequalities through positive action. In those cases, where broader policy objectives were in conflict with gender mainstreaming, gender equality has been reduced to a formal commitment, which in practice signified the silencing or marginalisation of gender issues.[45]

This issue is related to *anti-discrimination law* and in particular to the tendency to "lamp together" gender with other forms of discrimination (i.e. racial or ethnic origin, religion or belief, disability, and age). Accordingly feminist critics argue that enlargement and the administrative reorganization of EU institutions that followed undermined positive action in favour of women and gender equality initiatives in favour of positive action programs addressing other forms of discrimination and social groups.[46] Conversely, however, it should also be noted that several forms of discrimination, including those based on class, which have been entirely excluded from the field of anti-discrimination law, are systematically silenced from gender equality policies at the EU, national and local level. Furthermore, as proponents of intersectionality argue, what is even more important is the fact that different forms of discrimination intersect to produce gender inequality. By prioritising some, without considering the intersections between them, anti-discrimination policies tend towards an individualized approach.

In this context, most official EU texts on gender mainstreaming tend to address women as a universal and unified category, silencing inequalities of nation, race, class and sexual

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[44] "Roadmap for Gender Equality 2006-2010".

[45] Maria Stratigaki, 2005, "Gender Mainstreaming versus positive action. An on-going conflict in EU gender equality policy", *European Journal of Women's Studies*, Vol. 12, No.2, pp. 165-186.

[46] Maria Stratigaki, 2008, «La politique du recul. De l'intégration de l'égalité «des sexes» à l'intégration de l'égalité «pour tous», *Cahiers du genre,* No.44, pp. 49-72.

orientation. Assuming, however, that women who are citizens are the norm and migrants are included in this universal category simply because they are women obscures the fact that citizens and migrants are not necessarily subjected to the same hierarchies of power. Migrant women, however, are not completely silenced from official policy texts on gender equality: they are also selectively included as "exceptional" cases, which along with minority women are subjected to two different systems of gender inequality (that of their own community and that of the broader society). In the 2006-2010 "Roadmap for equality", for example,[47] migrant women are conceptualised as a "target group" whose members are identified by their vulnerability vis-à-vis male dominated and patriarchal structures of the family, trafficking networks, the market, the state, the migrant community, and the EU. Within the context of double and even multiple discrimination, what is silenced is precisely the agency of migrant women and the autonomous dynamics of their own migrations.

One of the main objectives of GeMIC is to address intersectionality in relation to migration and gender. Addressing intersectionality, however, in policy making is a complicated task, mainly because, as Yuval Davis argues, "each social division has a different ontological basis, which is irreducible to other social divisions".[48] In this context, it is misleading to assume, an "additive" approach to different forms of oppression, an approach that we encounter very often in the usage of the term "double discrimination" in policies on migration and gender inequality. Attention should be given instead to the differentiated levels and forms of oppression that construct social hierarchies based on gender, ethnicity, nation, class or, sexual orientation. Such an approach becomes much more open to different social groupings and practices, rather than focusing on women solely as a vulnerable category. Instead of emphasizing an "individualized" approach, intersectionality takes into account the complexity of the structures of gender inequality and the different positions that women may occupy within those structures as active agents.

2.2. Migration and gender mainstreaming in South Europe

Through the processes of EU harmonization, a common framework has developed, within which it is possible to talk about gender mainstreaming in South Europe. Nonetheless, the content of the relevant policies and the meaning of the term "gender equality" differ significantly from member state to member state.[49] With enlargement and in particular with the accession of new member states, different and often conflictual approaches to gender equality surface. Furthermore, in the states studied by GeMIC researchers, this process of harmonization is currently at different stages, according to the degree of EU integration.

In *Greece*, gender equality is in principle guaranteed under the 2001 constitution. While the harmonization of the Greek law with the EU acquis has led to significant progress, most

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[47] "Roadmap", p.12

[48] Nira Yuval Davis, 2006, "Intersectionality and Feminist Politics", *European Journal of Women's Studies*, Vol. 13, No. 3, 193-209, p. 195

[49] Mieke Verloo, 2007 *Multiple meanings of gender equality: a critical frame analysis of gender policies in Europe* (Central European University Press).

notably in employment and occupation, social security, child and elderly care, it has not taken into account questions of migration, ethnic origin, race and class. In practice migrant women have benefited from specific developments in gender equality policies, most notably from all day schools, kindergartens and day care centres, as well as from EU funded specifically targeted programs aiming at labour market integration, vocational training and education. Nonetheless, many migrant women have been excluded from such opportunities precisely because they are not citizens, and they are usually employed in informal, unregulated sectors, such domestic work. Finally, it should be noted that the predominance of social prejudices and stereotyping on the social and economic roles appropriate for migrant women have undermined the effect of gender equality policies addressing them explicitly or implicitly.

In *Italy*, gender equality is a principle formally recognized by article 3 of the Italian Constitution, which rules the same social dignity and equality of all citizens before the law, without distinction of gender, race, language, religion, political opinion, and social and economic conditions. Other articles specify the formal equality principle, i.e. in the access to civil services and elected offices, or in the labour rights and retribution. Migrant women as non citizens are at large excluded from gender equality polices, although they are targeted by specifically designed programs which have focused chiefly on four issues: health care, particularly with respect to reproductive health; intercultural or multicultural policies; education and school, and violence (trafficking) through the development of advisory bureaus and centres for migrant women. The construction of migrant women as a particularly vulnerable group, however, has undermined these efforts manifesting the ways in which gender inequalities intersect with nation, race and class in the creation of specific social problems.

In *Spain*, migrant women were included in official texts on gender equality since the beginning of the 1990s, but effective action was taken primarily at the level of EU funded projects. However, women holding irregular, part time, flexible, precarious and/or multiple jobs, (which is the case for most migrant women) were at large excluded from gender equality policies and in particular from measures aiming at the reconciliation of work and family life. In effect, policies are directed at a minority of migrant women already inserted into "standard" structures of employment. This, and the way in which policies predetermine household configurations, have been two of the main criticisms levelled at reconciliation proposals by feminist groups and unions.

In *Cyprus*, although migrant women have been included as a vulnerable group in official gender equality policies, they have been effectively excluded from the application of such policies because of the absence of an intersectional approach. A good example of this mechanism, which applies to most member states with large numbers of migrant domestic workers, is that the principle of domestic asylum, which effectively annuls equal treatment in employment since there are no means of providing evidence of gender discrimination in court because of the prevalence of the principle of domestic asylum. Another example is the directives concerning "violence within the family" that effectively exclude migrant women

working in the domestic sector from protection because they are not "formally" part of the family.

In *Bulgaria* too most of EU legal texts dealing with gender equality have been incorporated into the legislative framework during the process of accession. Nonetheless Bulgaria still lacks a comprehensive national strategy on gender equality and equal opportunities. In the context of *Romania*'s pre-accession to the European Union, gender equality was incorporated into the national legislation. Essential legal instruments like the Romanian Constitution, the Labour and Family Codes refer to equal rights for women and men, in general, and to equal access to public, civil or military offices, equal employment, payment and working conditions, in particular, all forms of direct or indirect discrimination (here included on the grounds of sex differences) being condemned. The application, however, of these formal principles has not been effective since gender prejudices and biases continue to dominate public perceptions and discourse.

In *Turkey*, the EU accession process gave an immense impetus to the process of institutionalising and mainstreaming gender equality in the socio-political arena. In terms of policy and practice, however, gender equality in its current stage, does not directly address migrant women's special needs and problems. However, it is possible to note that as a result of the debates and policy efforts to combat irregular migration and trafficking, new legislation is being introduced. In the *Former Yugoslav Republic of Macedonia*, the process of harmonization in matters of gender equality has proceeded in slowly. Although in the current "Law on Equal Opportunities of Women and Men" has been adopted there are neither separate laws on anti - discrimination, nor a separate law on gender equality.

Despite differences in the framing of gender inequality as a policy issue, we can observe that migrant women are referred to and targeted by policies as an "exception", a "vulnerable group". Constructing migrant women as a homogeneous category, which despite internal differences shares the same burden of double or multiple discrimination, gender equality policies have functioned as a means of separating (at least discursively) native from migrant women. In many cases, this separation has proven to be misleading since citizens, such as Greek Muslim women in Thrace and Macedonia or Roma women all over Southern Europe, have shared similar problems with migrant women, or have even experienced forms of discrimination and exclusion far more severe than those experienced by migrant women.

3. Chapter 3: Intercultural interaction and gender as a policy objective

3.1. EU policies on integration

Despite the fact that 2008 was the EU year of intercultural dialogue and cooperation, it is very difficult to talk about a common European policy in the filed of intercultural interaction. The European policies regulating intercultural interaction are based on the notion of integration which is regulated by directive 2003/109.[50] Gender is considered as a marginal category, although the notion of integration is attached to family reunification and long term residence status. In accordance with EU directive 2003/86, the rights of migrant families are prioritized since they are considered to constitute an "indispensable instrument" for migrant integration, linked to the demographic deficit experienced in most European societies. Although it is doubtful whether these provisions will in fact increase the number of migrant families in Europe, they promote a gendered conception of integration, which excludes the needs of single parents and more broadly unmarried (gay, lesbian or straight) migrants and couples. Family reunification is therefore, considered part of the integration process, while questions of gendered violence and the persistence of sexist/racist hierarchies within and between migrant communities and the native populations remain outside the scope of policies of intercultural interaction at the EU level.

3.2. Policies of intercultural interaction and gender in South Europe

In most Southern European societies, the concept of migration evokes both experiences of emigration, which form an integral part of the nationalist narratives, and experiences of immigration, where the subject that migrates is a foreigner. The past inhabits the present in many respects in the ways in which foreigners are conceived and conceptualised. Although experiences of emigration are part of the nationalist tradition, in states like Cyprus, Greece, Italy, Spain, and Turkey there is no sign that these experiences constitute an antidote to racism and xenophobia. Emigration does not necessarily contribute to the development of proactive engagements between cultures. On the contrary, the "migrant-sending past" seems to legitimise racist and xenophobic practices

In the cases studied by GeMIC researchers, there are similarities and differences based on different models and policy traditions. In general, however, the emphasis placed on the security of the South European borders have made difficult if not impossible to organize and implement effective mechanisms pushing towards the direction of mutual intercultural exchange and dialogue. On the contrary, restrictive border control policies have established regular patterns of intercultural hostility and conflict between European nationals and

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[50] "Council Directive concerning the status of third-country nationals who are long-term residents" (2003/109/EC)

aliens. Simultaneously, however, the needs of "migrant-receiving" markets have made it impossible to exclude all migrants from the European space. Through the regime of legal migration based on temporary and flexible residence permits, European societies have managed to "integrate" migrants as precarious labour in national economies.[51] From the perspective of new member states, like Bulgaria, Romania, the Former Yugoslav Republic of Macedonia and Turkey, which experience emigration, transit and circular flows, intercultural interaction has been an objective imposed by the process of European harmonization. For policy makers in these states, intercultural interaction is not necessarily framed in terms of "migrant receiving" policies, but includes also issues like diaspora communities, transnational networks that challenge established national and gender boundaries. Under the umbrella of the policies of European integration, however, intercultural interaction has been reduced to the integration of "legal" migrants already residing in member states. More specifically:

In *Greece*, a new law introduced the concept of "integration" in the official legislation in 2008, making it clear that integration is effectively conceived as a form of assimilation or acculturation, whereby foreigners are entitled to the same rights as citizens only after they have proven that they can master the Greek language and Greek civilization well (through a written test and an interview). The type of integration described by the law is limited to migrants' ability to "assimilate" to the Greek culture and foster Greek norms by means of an apprenticeship of the fundamentals of Greek nationalism (that include middle class status, knowledge and of mainstream language, history, civilization). With the exception of folklore cultural activities, the relationship between migrants and the Greek society envisaged is imbalanced and undermines practices of intercultural exchange since migrant expertise, skills, language, experiences, and culture are not considered to be of importance for Greek society. Policies on intercultural interaction, which were first introduced in the context of the policies for the repatriates are highly nationalistic and attach strong emphasis on education and the apprentice of the Greek language and culture as well as on the adoption of a dominant model of Greek middle class family life.

"Interculturality" can also be identified as a sort of "Italian way to multiculturalism", stressed first of all by pedagogues and education scientists, in order to highlight the transformation – in a multicultural and multilingual way – of the education system in Italy. This approach to "interculturality" has been the basis of public policies, chiefly at the local level. From this standpoint, since the beginning of the 1990s there are various examples: the proliferation of "interculturality" centres, the growth in professional figures specialized in intercultural mediation, or in the successive years the creation of an ever increasing number of university classes dedicated to these topics, as well as a similar attention in schools. "Interculturality" has also created a market and specialized centres that manage almost all the city's intercultural services. Citizenship and long term status in Italy too is narrowly associated with the family. To become Italian citizens with marriage is relatively simple and

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[51] Christina Boswell, 1993, *European Migration Policies in Flux: Changing Patterns of Inclusion and Exclusion* (Oxford: Blackwell publishers)

the acquisition of the citizenship with marriage is quite automatic, making it the primary motivation behind more than 90% of citizenship permits.

The only exception to this tendency is *Spain*, where innovative policies of intercultural interaction have been introduced by local governments. The political perspective which impregnated migration policies in Spain was criticized, for "conceptualising a unidirectional and assimilationist approach toward immigration". At the end of 1992, the assassination of Lucrecia Pérez, a Dominican immigrant who worked as a domestic servant in the Aravaca municipality, detonated the first programs propelled by autonomous regional and municipal administrations, which to a large extent functioned to provide interim answers. The Catalan government was the first to consider in 1986 the integration of the non-EU immigrant population in the areas of health and education. Since 1993 diverse autonomous regions, including Madrid, have developed their own migrant integration plans. In 2003, the Catalan government promoted the elaboration of the "Citizenship and Immigration Plan", which included the definition of integration policy as linguistic policy and the focus on citizenship based on residency and on the will of the person to maintain a stable position in a determined social milieu.

In the case of *Cyprus*, the framing of all migration influxes as temporary has effectively blocked the possibility of policies aiming at intercultural interaction. In this context, specific attention was given to the integration of the repatriates who have been constructed as Greek return migrants, and were legitimised in the context of Greek nationalist ideology effectively excluding the integration of "foreigners". In practice, however, the integration of these "Greeks" has proven to be far more complicated than the official rhetoric prescribed: integration served primarily to legitimise cheap migrant labour and to transform the demographics of the Greeks versus the Turkish population in strategic geographical areas. The marginalisation of Pontian students in Greek schools has been a persistent policy issue. In addition, from 2001, when the Ministry of Education of Cyprus acknowledged officially the "phenomenon" of multiculturalism in schools, the discourse on intercultural education has remained focused on the migrant "object". Migrant students' integration in the educational system exemplifies a nationalist and state-centric conception of intercultural interaction.

In *Bulgaria* the issue of integration of immigrants applies above all (if not only) to refugees and asylum seekers. Despite being a relatively small part of all foreigners in Bulgaria, refugees came to occupy a central place because of their historical importance for the county's migration flows, their natural vulnerability and the related fact that they are protected by international laws to which Bulgaria is a party. At the same time, the government feels that it is important to monitor them closely and to control their status. The government has set up a special State Agency for Refugees (the only such state institution for dealing with foreigners) and passed a national program for their integration.

In the case of *Romania*, while EU harmonization has allowed the adoption of measures aiming at the integration of foreign migrants, there is also concern with regards to the integration of Romanian emigrants in other EU states. Thus, the Romanian authorities have taken steps in two distinct directions: on the one hand, through institutions like The

Department for Romanians Abroad, interest has been shown in assisting the Romanian Diaspora, in helping them preserve their cultural identity and ensuring that their rights were respected. On the other hand, attempts were made to cooperate with receiving states in order to develop repatriation objectives.

In *Turkey*, the laws on settlement, employment and citizenship point to an emphasis on Turkish culture and Turkish descent for promoting integration with an assimilationist tendency. As in the case of Bulgaria most policies of integration concern asylum seekers and refugees, through language courses or attempts to provide or facilitate access to services via newly established reception centres. However, there is also concern for Turkish Diaspora in the context of the debate on Muslims in Europe and mainly in Germany..

In the *Former Yugoslav Republic of Macedonia*, there is a long tradition of multiculturalism following the Yugoslav model. There is, however, very little debate or criticism of these policies, which are based on the safeguarding of ethnic tradition and folklore at the expense of other forms of inequality and in particular gender. Practices and customs, such as the marriages of minors in the Debar region, may be defended as elements of the cultural identity of a certain ethno-cultural community, and therefore promoted as multicultural requirements for the preservation of cultural identity. The lack of public debate on discrimination based on gender, race, nation, class or sexual orientation in such cultural practices is dominant despite the obviousness of gender discrimination based on cultural identity.

In conclusion, the differences in national policies of intercultural interaction have been more striking than in other policy areas. Gender is silenced in most of these policies and even when there are references to women it is only within the context of double discrimination. This silencing of gender issues has been coupled with the overwhelming presence of stereotyping with regards to the role of heterosexual migrant families in promoting spontaneous practices of integration. In this context the role of women as mothers, but also as mediators safeguarding national traditions, but also bridging the gap between host and sending societies should be further explored.

Conclusions

Based on the research and policy analysis conducted by GeMIC researchers, we have reached the following conclusions:

- Focusing almost exclusively on state policies and labour needs of **migrant receiving societies**, European migration policies have imposed restrictive security measures and precarious labour conditions for migrants, but have failed to address both the complexities of migrant mobility and migrant agency. This perspective is reflected also in the lack of reliable official **statistics** on migration in South Europe, which have persistently ignored the autonomous and changing dynamics of migrant movements.

- Because the **external borders** of Southern European states are increasingly conceived as "European", intensified measures of policing and control are imposed. These do not arrest migrant movements, but create the conditions for the construction of migrants as **precarious labour**.

- EU migration policies are based on a **gender neutral approach**, which silences gender equality objectives, and promotes representations of migrant women only as a specifically vulnerable and dependent social group.

- On the contrary, migrant women are silenced in the EU policy context as **autonomous agents**. The lack of a policy framework to regulate the feminized sector of domestic work is a particularly salient issue that has been left outside the EU policy agenda. The persistent failure to address migrant women as workers in this sector is in sharp contrast to the overwhelming interest in migrant women as trafficking victims in public discourse at the EU level.

- The construction of migrant women as **vulnerable and dependent** in EU gender equality policies is based on a very narrow conception of gender mainstreaming that ignores intersectionality, and assumes a very simplistic additive approach to different forms of inequality, that ultimately reduce gender to one amongst other forms of discrimination.

- Intercultural interaction in South Europe has been dominated by policies of **integration**, which in most cases has promoted objectives of assimilation and acculturation in both national and local politics. Gender issues have been silenced, while the nuclear heterosexual middle class family has been set as exemplary.

- EU enlargement has challenged the one sided migrant-receiving perspective since many new and prospective member states experience large **out, transit and circular migration flows**. However, through **harmonization,** EU migration

policies are adopted by new and prospective member states, although for many of them the implementation of those principles may be impossible, not only because of the lack of infrastructures, but also because of differences in migration flows and political traditions. Through this process the gender neutral approach to migration policy is gradually adopted by new and prospective EU member states.

The greatest obstacles to intercultural dialogue and cooperation is the migrant receiving and gender neutral bias of existing migration policies, which strips migrants in general and migrant women in particular of their agency and denies the diversity and autonomous character of migrant movements. Migrant women are included only as a vulnerable and dependent category in migration and gender equality policies. In order to devise alternative policy recommendations and theoretical perspectives on gender, migration and intercultural interaction in South Europe it is necessary to address the autonomous dynamics of migrant movements and intersectionality in gender relations.

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Deliverable 4: Policy Analysis Report

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