

MYLA 2018

REPORT ON IMMIGRATION DETENTION
IN NORTH MACEDONIA



MYLA

In 2018,

refugees and migrants continued to transit through Republic of North Macedonia using irregular and smuggling routes. In response, immigration detention remained to be a growing phenomenon, causing an increase in concerns surrounding the possible violations of human rights for those held in detention. MYLA conducted regular monitoring of the immigration detention facility (RC for Foreigners) and provided information on the international protection to detained persons. However, MYLA had limited access to detained persons, detention areas and detention case files.

This report is based on the statements given from the detained persons during the interviews.

KEY FINDINGS

- The number of detained persons in 2018 (at least **211**) was higher compared to the 2017 (at least 100).
- The average length of detention was **12 days**, with the longest detention being **78 days**.
- There was an increase of detained **unaccompanied children (36)** in 2018. However most of them (33) were referred to alternative care arrangements immediately or within 1 day upon the registration in the center, while 3 unaccompanied children were detained for more than 3 days (one of them was detained 11 days). The unaccompanied children were accommodated together with the adults (in the same rooms).
- In 2018 there was also increase of detained families with children, including **5 detained families** in the center and **6 children** within the families. The longest detained family was accommodated for 17 days in the center.
- Out of **1073 refugees and migrants** who traveled in different groups only **20% were detained** and the rest were **returned to Greece in absence of a formal procedure**. In the reporting period MYLA reported cases of separation during the apprehension by the police.
- For the first time since establishing the asylum law in 2003, the new Law on International and Temporary Protection introduced provisions inducing limitation of freedom of movement to asylum seekers. In 2018, **two asylum seekers were placed in detention** and issued detention decisions based on the provisions of the new Law.
- **68%** of the asylum seekers in 2018 were detained prior to seeking asylum.
- The average length of stay of these asylum seekers in the Reception Centre for Asylum Seekers was **8 days**.

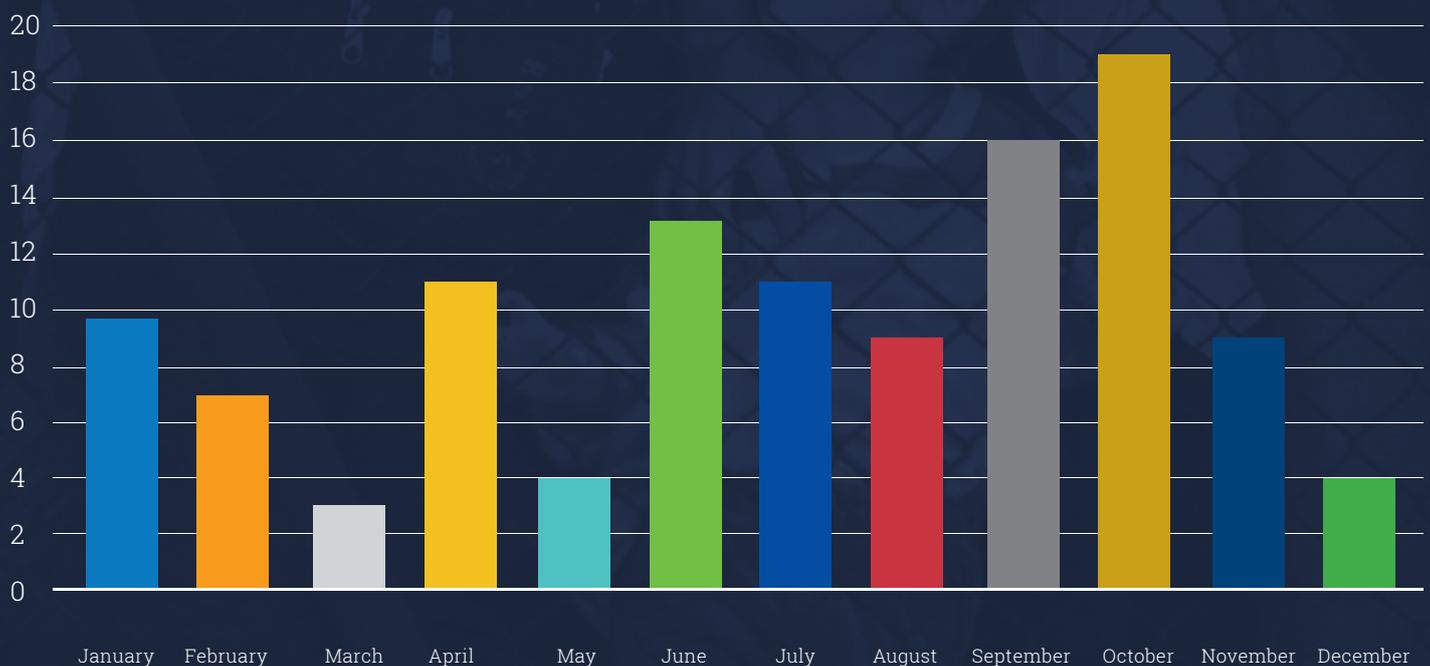


CoI of Detained Persons



■ Pakistan
 ■ Afghanistan
 ■ Iraq
 ■ Iran
 ■ Turkey
 ■ Bangladesh
 ■ India
 ■ Syria
 ■ Other Col

Average number of Persons in Detention per Month



Detention Conditions

- **Majority of persons in detention did not receive detention decisions on time, nor were they adequately informed of the reasons for detention and their rights in a language they understand. Therefore they were unable to challenge their detention. Access to legal assistance for persons in detention was limited to assistance regarding international protection provided by MYLA.**

- Most of the detained persons were satisfied with the treatment by the police in the center. However, men in detention consistently reported lack of access to fresh air outside of the center. Complaints have been made in several cases in which the detained persons complained that the food is not adequate to their culture and habits. Detained persons also required they needed new clean clothes. Some of the detained persons complained about their right of phone calls. Some of the detained persons complained about the hygiene in their toilets and rooms. The detained persons reported **2 incidents while in detention**. One of the detained persons reported an incident of mistreatment and the other detained person reported a financial incident after being released.

Access to the asylum procedure and Prevention of Arbitrary Detention

- **Some of the persons detained in the immigration detention center faced obstacles in accessing the asylum procedure.** MYLA made **10 interventions to promote alternatives to detention or prevent arbitrary detention** for 11 different cases. 5 cases included Turkish nationals who applied or were willing to apply for asylum but had obstacles in the procedure and weren't transferred to the RC for Asylum Seekers according to the LATP. After the interventions were made the detained persons were transferred to the RC for Asylum Seekers. 2 interventions were made regarding the release from detention of a family from Afghanistan, another case of a separated family from Iran and in one case of a separated child from Germany.

- MYLA intervened 2 times in the cases of the asylum seekers who were detained according to the art. 63 from the LITP. Also a letter to the authorities and a complaint to the Ombudsman was sent regarding the case of one asylum seeker who was detained (administrative immigration detention) without any decision.

Deprivation of freedom of movement within the asylum procedure in North Macedonia

- The Parliament of Republic of North Macedonia in April 2018 adopted a new Law on International and Temporary Protection replacing the Law on Asylum and Temporary protection. In order to adjust with EU Directive, into the new Law there are few provisions that introduce the limitation of freedom of movement of asylum seekers for the first time in the Macedonian legal system. These provisions allow for limitation of freedom of movement for up to three months with possibility for extension for three more months with a decision of the Ministry of Interior. As prescribed, the provisions are violating the Constitution of the country and the international obligations that the country accepted and ratified in this regard. Moreover, its implementation, without providing for the appropriate safeguards, specifically considering and providing for alternatives to detention, while utilizing limitation of freedom of movement as a last resort, may amount to detention.

- Giving the authority of the Ministry of Interior, as a state administrative body, to decide upon restricting the freedom of movement of asylum seekers, instead of the court to bring such decisions, violate Article 12 of the Constitution which is: "No individual's freedom can be restricted, except by a court decision and in cases and a procedure determined by a law" and the standards set with the European Convention of Human Rights. Taking into account the facilities and the manner where under the law, the asylum seekers will be held, indeed can be classified as a deprivation of liberty.

- 2 asylum seekers received decisions from the Ministry of Interior for deprivation of their freedom of movement according to article 63 from the Law on International and Temporary Protection. One of them was first detained due to immigration reasons and the other asylum seeker was detained after her asylum request was rejected in the first instance procedure.

Immigration Detention Round Table

• On 26.11.2018 a conference on the topic **“Immigration Detention in North Macedonia - Current practices and applicable legislation”** organized by the Macedonian Young Lawyers Association (MYLA) with collaboration with the Office of UNHCR in Skopje and supported by the project „Global technical assistance and capacity building programme to prevent detention of children and to protect children and other asylum-seekers in detention” funded by the European Union took place in the Hotel Holliday Inn in Skopje. The goal of the event was to review and discuss current practices pertaining to detention of foreigners due to immigration reasons in the country, applicable national legislation, as well as the deprivation of freedom of movement. A focus was given on the conditions and treatment of refugees and migrants in North Macedonia, the procedure with unaccompanied minors and possible alternatives to detention. 37 participants from different institutions and organizations, including academia, attended the event.



CONCLUSIONS FROM THE ROUND TABLE

- Detention that is taking more than 12 hours should be reviewed by Judge.
- Alternatives to detention should be available in law and implemented in practice. No child should be held in immigration detention!
- Detention must not be arbitrary!
- Effective legal assistance and the opportunity to adequately challenge the legality of the decision are crucial in ensuring that the rights of the detained persons are respected and fulfilled.
- Detention conditions shall meet relevant domestic and international legislation and standards in the newly planned Reception Centre for Immigration Detention.



MYLA

Macedonian Young Lawyers Association (MYLA) is an independent, non-profit professional organization which provides legal aid and strategically litigates to protect human rights.

MYLA is an organization in Republic of North Macedonia that provides free legal aid and represents asylum seekers, refugees, stateless persons and other persons of concern in procedures related to asylum, legal residence and other social rights.

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