

# Report on immigration detention in North Macedonia

January - December 2023



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# 1. INTRODUCTION

During 2023, people on the move continued with their movement through North Macedonia while using illegal paths and smugglers. The irregular detention leaves the door open for violation of basic human rights to foreigners who are detained, especially for detained children. The children should not be detained in any case or the detention should serve as a last resort.

MYLA had a regular two times a week visit to the facility for the detention of foreigners (Reception center for foreigners) and occasionally when the center needed MYLA assistance but with limited access to the persons detained there. MYLA had a chance to inform only a few persons detained in the center to whom access was allowed, about their rights and the possibility to apply for international protection.

This report represents the data on the profile of the detained nationals, grounds for detention and the limitation of freedom of movement within the asylum procedure. The data presented in this report and issues related to detention are intended to serve as a starting point for further improvements in the protection of the rights of those who are affected by immigration detention.

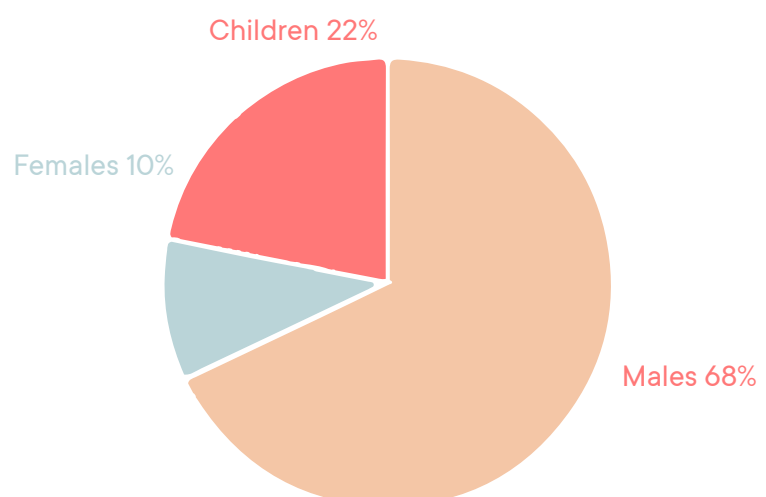
All the information presented in this report is based on received public information, as well as on data available to MYLA for the persons detained in TC Vinojug, TC Tabanovce and RC for foreigners.

## 2. DETENTION IN THE RECEPTION CENTER FOR FOREIGNERS

The reception center for foreigners is the only official place to detain foreigners for immigration reasons in North Macedonia. According to the Law for Foreigners, a foreigner can be temporarily detained until his procedure for deportation is finished not more than 24 hours<sup>1</sup>. According to Article 159 of the same law, foreigners for whom deportation can't be finished can be accommodated (detained) in the Reception center for foreigners<sup>2</sup>. There are several grounds for which foreigners can be detained there. One of them is when a foreigner is staying illegally in North Macedonia, also when there is a decision for deportation but the foreigner doesn't have travel documents, and asylum seekers for which there is a decision for limitation of freedom of movement.

In 2023, 549 foreigners were detained in this center. There is a big increase in the numbers compared to the same period in 2022 when 139 foreigners were detained in RC for foreigners and 177 in 2021. Most of the detainees were men (373), but there were also 56 women and 120 children, of which 51 were unaccompanied children. According to the available data, the majority were from Syria, Turkey, Pakistan, and Congo. For all of the detainees, there was a decision for detention in the RC for foreigners. MYLA does not have information on the grounds on which these decisions were brought. However, the main reason the migrants are detained is to serve as a witness in the criminal procedures against the smugglers.

### Detained foreigners in RC for foreigners



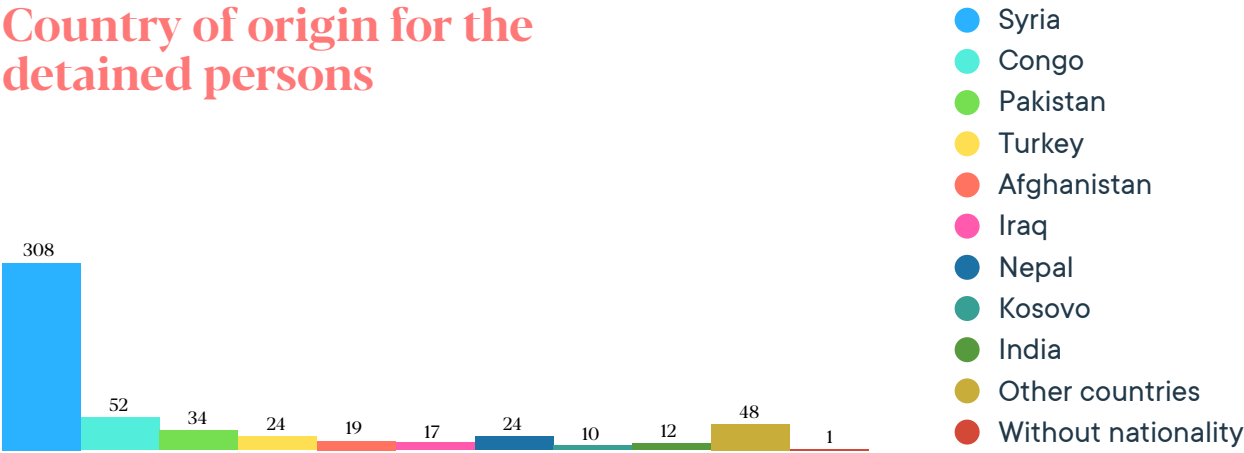
<sup>1</sup> <https://www.refworld.org/docid/6290d0774.html> Refworld | North Macedonia: Consolidated law on Foreigners, article 158, paragraph 1;

<sup>2</sup> Ibid, article 159;

Starting from the 1st of April 2023, Frontex, the European Border and Coast Guard Agency, and North Macedonia launched a joint operation with which the European border guards supported local authorities with border surveillance and border checks, including patrolling, checking documents and gathering information on cross-border crime. The start of this joint operation is important and plays a crucial role in fighting crime and managing irregular migration. Previously, most of the people on the move were detained as a witness in criminal procedures in TC Vinojug, but when Frontex started its operation this practice changed. Considering the number of detained people on the move in 2023, most of them were detained in RC for foreigners until they gave a statement in front of the public prosecutor with an issued document for their detention.

In 2023, MYLA conducted 59 visits to the RC for foreigners and had a chance to talk with 10 detainees there. The number of persons with whom MYLA had a chance to talk is very low because all of the detainees had to give a statement in front of the public prosecutor and then some of them had a chance to talk with MYLA about the asylum procedure in North Macedonia. MYLA was usually not allowed to speak with the detainees until they were taken to the court/public prosecutor.

### Country of origin for the detained persons



In 2023, there weren't deported persons according to the readmission agreements. Additionally, 44 detainees were expelled/forcibly removed from the territory of North Macedonia. For all of them, a decision was issued and then they were removed from the territory of North Macedonia.

| Serial Number | Country    | Number    |
|---------------|------------|-----------|
| 1             | Kosovo     | 9         |
| 2             | Greece     | 6         |
| 3             | Serbia     | 5         |
| 4             | Albania    | 5         |
| 5             | Turkey     | 16        |
| 6             | Netherland | 1         |
| 7             | France     | 1         |
| 8             | Germany    | 1         |
| <b>TOTAL</b>  |            | <b>44</b> |

Most of the detained persons were part of some smuggling incidents and the detention served as a mechanism for securing those persons as witnesses against the smugglers.

In the reporting period, four Regional centers of border affairs in North Macedonia have submitted 66 criminal charges against smugglers and in these cases, the police prevented the smuggling of 910 people. Also, the police didn't register any cases of "human trafficking". However, there were five criminal cases of "child trafficking" for which the police submitted charges against 31 persons for eight crimes that they did. The victims of these crimes were four children (girls) at 14, 15 and 17 years of age.

## 3. DETENTION IN THE TRANSIT CENTERS

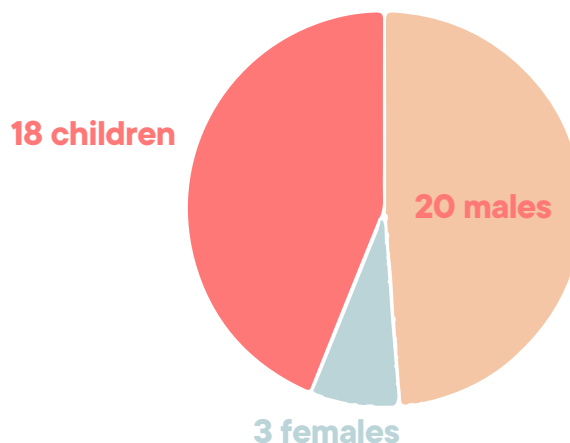
The status of transit centers remained undefined for nine consecutive years. This is important because the respect for the human rights of the people placed there is questionable since the status and the rights of the people are not envisioned and defined anywhere, so there aren't any protection mechanisms in case of violations as well.

### TC Vinojug

The practice of detaining people on the move in TC Vinojug continued in 2023 but with a decrease compared to the previous years, mainly due to the operation on Frontex on the southern border. MYLA did not have the data about the average spend time in detention in this center.

In TC Vinojug, in 2023, 41 people were detained as witnesses in criminal proceedings against smugglers. Most of them were males (20) but there were 3 females and 18 children of whom 16 were unaccompanied children with an assigned legal guardian.

## Detained foreigners in TC Vinojug

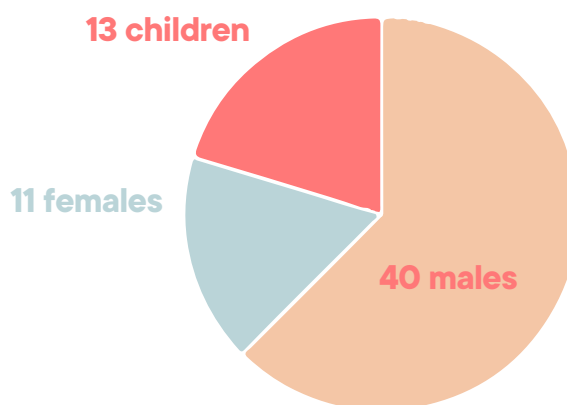


## TC Tabanovce

The TC Tabanovce is a camp that is used mostly for the accommodation of people on the move but in some cases, for the detention of those who were discovered by the police, during actions to prevent smuggling. There was no issued decision for detention in TC Tabanovce. Also, there is no presence of Frontex in this center. The length of detention in 2023 is much shorter than in the previous years in this camp.

For the TC Tabanovce, according to the MYLA statistic, 64 people were detained in 2023. Of them, 40 were males and 11 were females. There were 13 children of whom 5 were unaccompanied children detained in this center.

## Detained foreigners in TC Tabanovce



# 4. LIMITATION OF FREEDOM OF MOVEMENT WITHIN THE ASYLUM PROCEDURE IN NORTH MACEDONIA

With the new Law for International and Temporary Protection (LITP), there are provisions with which the freedom of movement of asylum seekers can be limited for three months with a decision brought by the Ministry of Interior<sup>3</sup>.

The freedom of movement can be limited by two measures. The first one is the prohibition of movement outside the Reception Centre for asylum seekers or another place of accommodation determined by the Ministry of Labour and Social Policy. The second one is accommodation in a Reception center for foreigners, which is the usual place for depriving the freedom of movement<sup>4</sup>.

During the reporting period, there were no cases where this kind of decision was issued compared with 2022 when 12 decisions were issued based on this ground.

According to Article 12 of the Constitution of North Macedonia, the court should decide on the deprivation of liberty<sup>5</sup>. In the same article, it is said that that person should be summoned before the judge in the first 24 hours and the judge should decide about the deprivation of liberty. This shows that this procedure is urgent. Also, the LITP points out that this procedure should be urgent keeping in mind the sensitivity and the possibility for violation of human rights<sup>6</sup>.

The alternatives to detention should be considered, especially since the LITP provides articles in which such kinds of alternatives are available for an asylum seeker with limited freedom of movement.

<sup>3</sup> Law on international and temporary protection, article 63-67;

<sup>4</sup> Ibid, article 64, paragraph 1;

<sup>5</sup> Constitution of the Republic of North Macedonia, article 12;

<sup>6</sup> Law on international and temporary protection, article 65, paragraph 4;



# 5. KEY FINDINGS AND RECOMMENDATIONS

Based on everything presented in this report, several key findings and recommendations should be highlighted and taken into consideration. These facts and numbers should serve as guidance for future developments and in the procedures for building future policies.

## Key findings:

- **There is a big increase in the number of detained persons in RC for foreigners in 2023 (549) compared to 2022 (139);**
- **The start of the joint operation between Frontex and North Macedonia made a big impact on the overall numbers, trends and detention of foreigners;**
- **The overall number of detained persons in 2023 (654) is decreased compared to the overall numbers in 2022 (982);**
- **This decrease in the numbers is mainly due to the presence of Frontex and the fact that the witnesses in criminal proceedings are placed in RC for foreigners.**
- **Decisions for detention were not issued for the detainees in TC Vinojug and TC Tabanovce as opposed to the RC for foreigners where the decisions for detention were issued, but MYLA does not have the information on the grounds on which these decisions were brought;**
- **Half of the detainees were returned to some of the neighbouring countries, mostly to Greece from where they entered. The other half submitted an asylum application and were transported to the site of RC for asylum seekers but most of them had left the center in the first couple of days;**

## Recommendations:

- **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;**
- **Securing the presence of witnesses in criminal proceedings by detaining them is against the law. Appropriate alternatives should be available for these persons;**
- **The detention of children should not be applied and there should be an alternative to the detention of children;**
- **Delaying the processing of submitted asylum applications due to giving a statement in front of the Public Prosecutor is a practice that should be changed in the future to prevent restrictions on the basic human rights of these people;**

Macedonian Young Lawyers Association (MYLA) is an independent, professional and non-profit organization that provides legal assistance and advocacy for the protection of human rights.

MYLA is an organization in North Macedonia that provides free legal aid and represents asylum seekers, refugees, persons without citizenship and other persons of concern in the procedures related to asylum, legal residence and other social rights.



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