



ASYLUM

**THE STATE OF ASYLUM IN THE
REPUBLIC OF NORTH MACEDONIA
IN 2022**

The State of Asylum in the Republic of North Macedonia in 2022

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LIST OF ABBREVIATIONS

United Nations High Commissioner for Refugees (UNHCR)
European Convention on Human Rights (ECHR)
European Union (EU)
European Court on Human Rights (ECtHR)
Personal Identification Number of the citizen (PIN)
Law on Asylum and Temporary Protection (LATP)
Law on International and Temporary Protection (LITP)
Law on Free Legal Aid (LFLA)
Law on Citizenship (LC)
Law on Criminal Procedure (LCP)
Law on General Administration Procedure (LGAP)
Law on Administrative Disputes (LAD)
International Organization on Migration (IOM)
Macedonian Young Lawyers Associatin (MYLA)
Ministry of Labor and Social Policy (MLSP)
Ministry of Interior (Moi)
National Preventive Mechanism (NPM)
Unaccompanied minor – Child Foreigner (UMCF)
Reception Center for Asylum Seekers – Vizbegovo (Reception center)
Transit Center (TC)
Republic of North Macedonia (RNM)
Roma, Ashkali and Egyptians (RAE)
Sector for Asylum (the Sector)
Centers for Social Work (CSW)
Crisis Management Center (CM)

This report is a comprehensive overview of the various practices, policies and procedures in relation to the asylum system in Republic of North Macedonia in 2022. The Report emphasizes the key challenges faced by the asylum seekers and the refugees during the asylum procedure and during realization of other rights.

In order to produce this document, we used: a) data gathered during representation of asylum seekers, refugee and migrants, persons under subsidiary protection and recognized refugees in North Macedonia; b) data gathered through monitoring of the condition and treatment of the authorized bodies towards the refugees and migrants in the Transit Centers where MYLA has accessible offices and c) data gathered during the attendance in the Reception Center for Asylum Seekers in Skopje. Furthermore, in order to prepare this Report, we gathered public information, as well as numerous available reports and literature.

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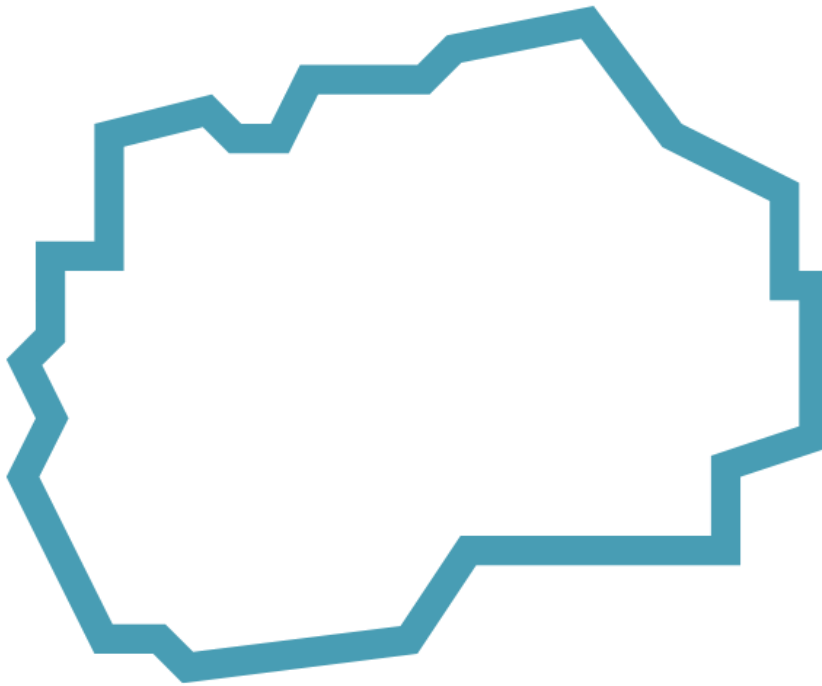
INTRODUCTION

The Macedonian Young Lawyers Association (hereinafter referred to as: MYLA), supported by the United Nations High Commissioner for Refugees Office in Skopje (hereinafter referred to as: UNHCR) has been continually conducting the project for representation and provision of free legal aid to the asylum seekers and persons under international protection in the procedures before the state bodies and courts. For more than twelve years, MYLA has been successfully protecting the rights of these persons and their full realization, and regularly participates in conduction of the asylum procedures, guaranteed as per the legal provisions that are in force in the Republic of North Macedonia.

MYLA represents the asylum seekers coming from the countries from or outside the region who would submit an application for asylum in the Republic of North Macedonia (RNM). MYLA provides legal advice for the submission of the application for asylum and for the procedure following the application for all foreigners that intend to submit an application. After the opening of the Transit centers (TC) – Transit center Vinojug (south) and Transit Center Tabanovce (north), MYLA possesses its own venues in both of the centers and monitors the freedom, provides initial advice and information on the application procedure, supports, directs and intermediates for the persons wanting to submit an application before the authorities.

MYLA also has its offices in the Reception center for asylum seekers in Skopje, providing daily attendance and representation of the asylum seekers, legal advice and consultations, intervenes for issues related to their rights as asylum seekers as well as in procedures related to their status. MYLA also conducts legal counselling and represents the persons under international protection in all procedures before the authorities. As from April 2021, MYLA has returned to visiting the Reception center for foreigners and provides legal aid for some of the migrants accommodated there. In addition to this, MYLA represents the 1999 Kosovo crisis refugees which are still in the country and enjoy international protection and provides legal assistance in the procedures related to their status and the rights belonging to them.

Based on the experience and practice in providing free legal aid to the asylum seekers and persons under international protection, MYLA has prepared this Report that provides comprehensive analysis to the access to the asylum procedure, the asylum procedure itself and the work of the authorities, the integration procedure and the (dis)respect of the rights of the people concerned. This Report also shows the faults in the application of the domestic laws and bylaws regulating the asylum, as well as the international documents adopted in accordance with the Constitution of RNM. With this approach, we are striving for establishing an efficient system for asylum and integration of the persons under international protection that will respect their guaranteed rights to the highest extent. This documents holds real examples, available data and recommendations for overcoming certain weaknesses and problems in the asylum system in RNM.



BRIEF OVERVIEW OF THE SITUATION IN THE COUNTRY

Macedonia is one of the central transit points in the Balkan route towards the desired final destinations. The state of emergency in a part of RNM territory, proclaimed on August 19, 2015 is still valid. With it, two temporary transit centers were established near the southern and northern border. Perceiving RNM as a transit-country instead of a final destination, the average time the refugees stay in the transit centers is several days. In 2022, we saw an end to all the measures related to the COVID-19 pandemics that affected migrants and asylum seekers.

February brought the invasion of Ukraine by Russia, and the conflict provoked mass emigration to more than 8 million Ukrainians in just one month. By the end of 2022, there were 11,6 million migrated Ukrainians, including 5,9 million that migrated internally and 5,7 million that ran away in their neighboring countries or further.¹ By the end of 2022, Macedonia was the only country in the region and in Europe that didn't anticipate providing temporary protection to the Ukrainians in accordance with the Law on International and Temporary Protection, as was done by the other countries. Instead the Ukrainians were sent to apply for a permit for temporary stay due to humanitarian reasons. This permit deprived the Ukrainian refugees from free access to rights and they faced many challenges. First and foremost, they couldn't receive work permits and find employment, they couldn't enroll their children in school, they didn't have health and social insurance, etc. The Ukrainians were left on their own in the whole process, and consequently – many of them left the country

¹ Global trends report 2022, UNHCR, <https://www.unhcr.org/global-trends-report-2022>

in a short time. Apart from this situation, same as in other European countries, very few people decided to submit an individual application for granting the status of a refugee. In 2022, 4 Ukrainians submitted an application for asylum², and until October there were 358 Ukrainians that received a temporary residence permit³. MYLA offered free legal aid to every Ukrainian that needed information on regulating their status here. The aid included the rights arising from social protection, education, work, accommodation and everything else related to their residence and status in the country.

The Transit centers Vinojug and Tabanovce remained to operate as temporary centers without a regulated status, and the persons accommodated in these centers were processed without any legal procedure and without establishing of their status in the country. The practice of retaining migrants for the purpose of criminal proceedings, i.e. for the purpose of their being witnesses in these procedures remained, despite it not being listed as a legal ground for retention. Their illegal deprivation from freedom was not revised by a judge within the shortest possible timeframe and they were not allowed to appeal this retention. There were children and other vulnerable categories of children among the retained people.

The practice of informal refoulement of migrants in the countries from which they arrived continued, and people were mostly returned to Greece, and less returned to Serbia, outside the legal procedures. In 2022 there were 24.134 cases of persons returned to Greece without excluding the possibility that this number includes some people being returned more than once. The number has visibly increased in comparison to 2021, when there were 16.877 such returns. This practice has been ongoing for years, and the number of persons returned to another country without procedure and without following the legal refoulement procedure and obeying to the readmission contracts is significantly high. Although many of the migrants were caught or found on RNM territory, the state treats these cases as preventing an illegal entry to its territory.

In this reporting timeframe, the asylum seekers still couldn't enjoy the right to work that that is granted to them by law, if the Sector of asylum failed to decide within 9 months upon their request, since in order for them to be registered in the Employment agency they need a PIN and the authorities continued to refuse to issue PINs to asylum seekers even after many interventions by MYLA and other state bodies.⁴ So, despite being able to work by law, the asylum seekers were deprived from enjoying this right.

The reception center for asylum seekers in Vizbegovo (Reception center) remained the only center to accommodate all asylum seekers and it is under the authority of the Ministry of Labor and Social Policy (MLSP). As an exception, there is the possibility for unaccompanied children under the age of 12 to be accommodated in foster homes or individual private accommodation at their own cost with prior written approval by MLSP. In 2022, the practice of quarantine retention for migrants and asylum seekers was terminated.

The child protection system, especially when it comes to the accommodation, remained non-functional for the child migrants and asylum seekers without parents or without parental care. The children were still kept in immigration detention as witnesses for the criminal proceedings against smugglers or as victims, and this year there was a significant decline in the number of requests for asylum by guardians of unaccompanied children on the grounds that it was not in their best interest, thus leaving them outside the care system. As

² This is one submitted application for asylum which concerned a family of four that was represented by MYLA.

³ <https://www.slobodnaevropa.mk/a/32070421.html>

⁴ In a brief sent by the MLSP to MYLA as a response to the request for solution of the PINs issue, MLSP responded that the Ministry had issued a Recommendation for solving this issue and granting a PIN to the other institutions.

per the Law on Social Protection⁵, apart from the foster homes, protection and accommodation in separate housing units, institutions or other forms of protection should also be taken into consideration. This especially regarding the older children, which are most present, and which are always accommodated in the reception/transit centers with the other migrants and asylum seekers, and some parts of these centers provide conditions that resemble detention centers. Hence, urgent introduction of alternatives is necessary, as well as well-functioning of the child protection system and mechanisms. This would help to avoid the practice of detention of children in inappropriate conditions and the internationally recognized principle that no child should be kept/detained due to immigration reasons could be respected.

In 2022, the implementation of the Law on Free Legal Aid, in the field of free legal aid for asylum seekers that should be provided by the state, has not yet been realized in practice. Consequently, legal aid is still provided by international and non-profit organizations, thus not applying this part of the Law for a fourth year in a row.

2022 also didn't see the final systemic solution for the Kosovo crisis refugees that have been in this country for more than 22 years, although Macedonia pledged to do this at the 2019 Global Refugee Forum.

Some of the problems in the registration procedure continued with most of the asylum seekers being obliged to go to the police station 20 km away from the Reception center on their own on order to be fingerprinted. The lack of state-funded system for translation/interpretation services at any phase of the asylum procedure on any language continued, and this is the main gap in the asylum procedure.

In 2022 not even one status of a refugee was granted⁶, a state lasting from 2016 until the moment of writing this Report. Most of the asylum seekers left before the interview was conducted or before the Sector reached a decision.

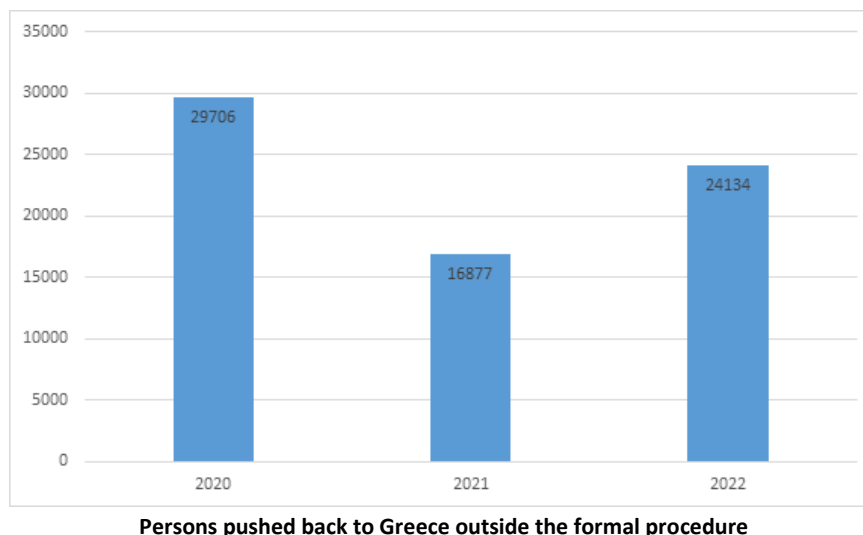
Due to all this, with this Report we aim to encourage the institutions to provide the basic guaranteed rights as well as procedural and material protective measures for the refugees in RNM.

⁵ Law on Social Protection ("Official Gazette of RNM" no. 104 from 23.05.2019)

⁶ The last refugee status in North Macedonia had been granted in 2016.

ACCESS TO TERRITORY AND NON-REFOULMENT PRINCIPLE

The *non-refoulement* principle is one of the ground postulates both in international⁷ and in domestic law⁸ when it comes to treatment of refugees and asylum seekers. This principle protects the persons with the refugee status, but also all of the persons which still have not formally received such status. **As per the data possessed by MYLA, in 2022 there were 24.134 persons caught and deported back to some of the neighboring countries. In 2020, MYLA registered 29.706 cases of refoulment outside of formal procedure, while in 2021 this number was 16.877.**



This practice has been ongoing through the years and is still present, and the number of persons returned without conduction and obeying the formal legal procedure and the readmission treaties is significantly high. Apart from persons caught at the southern border, during the year a trend was noted of persons that were caught near the northern border that were later conducted to Greek territory outside formal procedure. Furthermore, the police had occasionally transported persons accommodated in TC Taŭbanovce to the Greek border, where they were left on some unofficial points. Most of these persons showed intention to return to Greece, but some of them, without assessment of their condition and against their will were transported together with the others as a group. The persons were initially registered with their official information in TC Tabanovce, but a small part of them was taken without any registration.⁹

⁷ Article 33 from the 1951 UN Convention on the Status of Refugees. The Convention is available on the UNHCR website: <https://www.unhcr.org/3b66c2aa10>

⁸ Article 14 from the LITP.

⁹ All information were gathered directly by MYLA's attendance in the Transit centers Tabanovce and Vinojug.

From the group of persons caught on the RNM territory, a small part was taken in the Reception center for foreigners to serve as witnesses in the criminal proceedings against the smugglers, and after giving a statement, they were allowed to leave the Center, most commonly by submitting application for asylum.

In the Decision upon filed request for information of public interest¹⁰ it is stated that there were 27.394 prevented attempts for illegal crossing of the state border with the neighboring countries, while at the RNM entry point a total of 24.776 persons were prevented from entering.¹¹

In 2022, MYLA had intervened in 22 different cases related to conforming to the non-refoulement principle by the state bodies. The need to obey to this principle was also stated before the Sector for Asylum during the official interviews with asylum seekers.

All persons that have entered RNM territory, and with which the MYLA field lawyers have had a conversation, stated that they were not informed about the possibility to submit an application for asylum in the state by the police or other bodies. Some of them, with an explanation that they entered the country illegally and without conducting an individual assessment of the case were returned to Greece by the police, regardless of the fact that in this country there are still refugees coming from war areas and who need international protection. Although most of the migrants were caught on RNM territory, the state registers these cases as prevention from illegal entry to its territory.

What is lacking in this part is the mechanism for control and established protective mechanisms to prevent violation of rights to these persons. The European Commission Report on North Macedonia from 12.10.2022 states that: *“While the registration of migrants apprehended in the country resumed at the beginning of 2021, the lack of proper protection-sensitive profiling and referral to national protection mechanisms of all persons identified as needing international protection or having other protection needs remains a concern. Registration of migrants needs to be carried out in a systematic manner and protection-sensitive profiling needs to be improved.”* It further states that: *“In the absence of effective readmission arrangements with the neighbouring countries, the practice of returning apprehended migrants outside of the legal and/or procedural framework to neighbouring countries continued and should be discontinued as a matter of priority.”*¹²

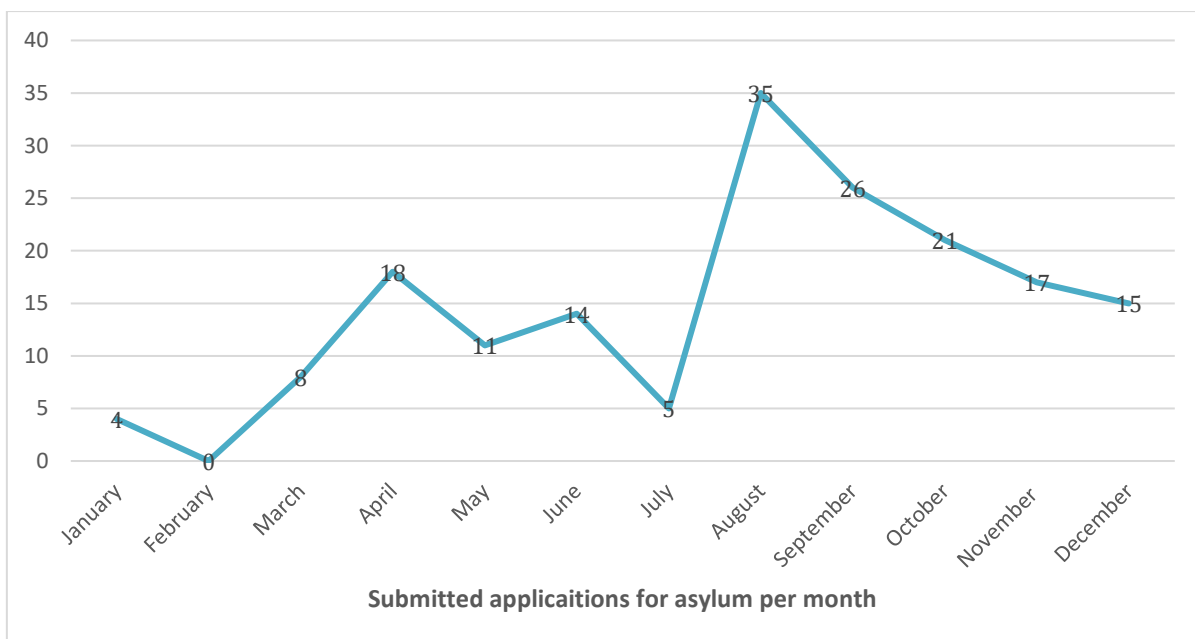
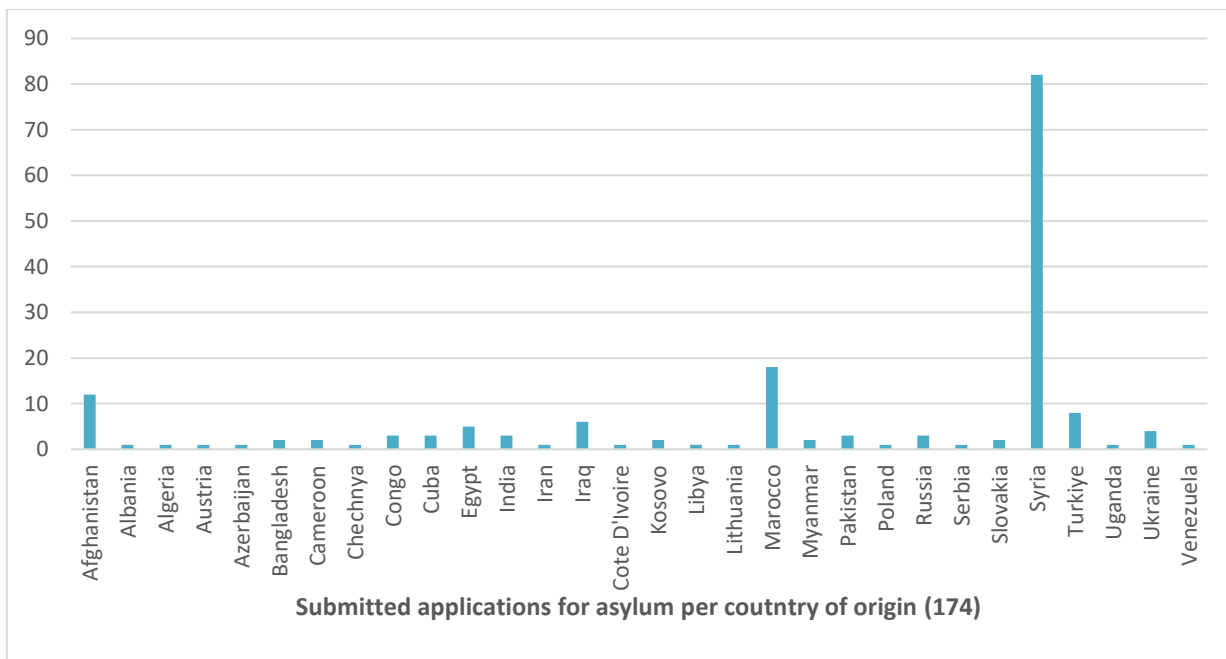
¹⁰ Decision no. 16.12-208/1 in response to a request for access to the requested information by Mol of RNM.

¹¹ Decision no. 16/12-1194/4 from 25.09.2023 issued by Mol.

¹² EC Report on North Macedonia from 12.10.2022, pg. 43-44, available at: <https://www.pravda.gov.mk/Upload/Documents/North%20Macedonia%20Report%202022.pdf>

ACCESS TO PROCEDURE

The LITP prescribes in detail the procedure for a foreigner entitled to request asylum in RNM. These persons may do so at the border, in the nearest police station or in the Reception center for foreigners or to the Sector for Asylum.



Even though in 2022 there was no officially registered intention for applying for asylum, during this period there were cases where the persons orally expressed their intention for applying for asylum; however their request was not processed due technical difficulties or because of the policeman's assessment that there was no foundation for applying for asylum. MYLA accordingly responded to the competent authorities in order to enable unhindered access to the asylum procedure.

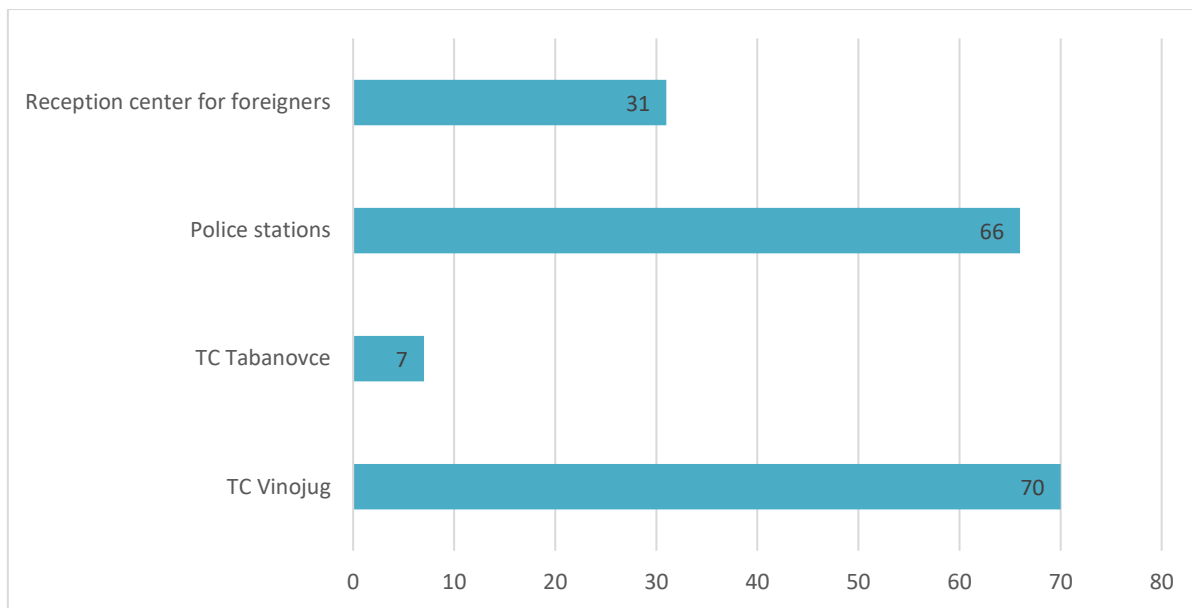
Filing a request for asylum for the persons detained as witnesses in TC Vinojug was allowed only after the testimonies by the persons in front of public prosecutors for the procedures against smugglers were finished. In certain cases, it was noted that there was an unnecessary delay in the processing of the application for recognition of the right of asylum as well as a delay of the processes of transport to the Reception Center. The justification was that the highest-ranking police officer must be present in order for the applications to be processed.

The main reason for the delay regarding the process of transport was the need for a vehicle for the transport of asylum-seekers to be provided, and because of that a portion of the asylum-seekers were held in quarantine for larger periods of time than estimated. Sometimes, the Police waited for a bigger group of asylum-seekers to be formed, in order to transport them to the Reception Centre. For the migrants accommodated at the Reception Centre, the practice for keeping them as witnesses for the procedures continued, while the possibility of submitting a request for asylum is available to them, only after giving a witness statement in front of the public prosecutor.

ASYLUM PROCEDURE

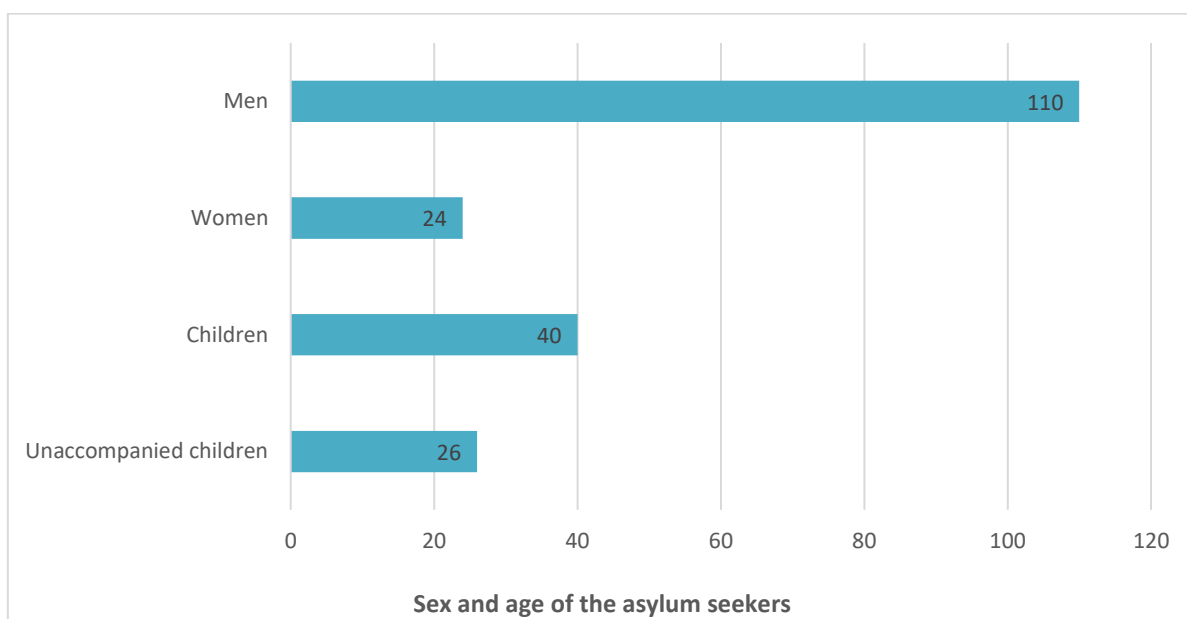
ADMINISTRATIVE PROCEDURE

The asylum procedure in RNM starts with submitting an asylum application. The Sector for asylum in the MoI is authorized body for conducting the asylum procedure. The procedure is administrative and one-instance, which means that against the Decision reached by the Sector an appeal is not allowed and the asylum seeker is entitled to file a lawsuit before the Administrative court. In **2022, 174 persons submitted an application for asylum in North Macedonia, and this year two cases were proceeded in urgent procedure upon submitted application for granting the right to asylum.**



Submitted applications for asylum upon the place of submission

Before the COVID-19 pandemics, the asylum seekers were able to have direct contact with representatives from the Sector for Asylum, scheduled for every Wednesday in the Reception center. In 2022, the practice of the Sector for Asylum to be absent from the Reception center continued. However, in order asylum seekers to uninterruptedly enjoy their rights regarding issuance of acts and documentation, issuance and continuance of identification documents and other communication, MYLA visited the Sector for Asylum every Wednesday and was obtaining the necessary documentation for them, and then they were delivered to the asylum seekers in the Reception center, where most of them were accommodated. Still, the presence of the Sector in the Reception Centre is necessary in order for the direct communication and exchange of information with the asylum-seekers to be continued.



During the year, there was a continuation of conducting the interviews online in the Reception Centre with the help of MYLA. In 2022, 12 interviews with asylum-seekers were conducted. The average time after conducting the interview and until there is a final decision is 41 days. In doing so, any translation services for the interview are usually covered by UNHCR and hired by MYLA.

Also, from the attending at the interviews, the MYLA lawyers have noticed and pointed out the use of leading questions and selective inscription of the statements of the asylum seekers in the Minutes from the conversation. In some cases, a greater number of questions regarding the travelling of the asylum seeker is noticed in comparison to the expulsion. This may lead to a serious breach of substantial law.

In 2022, MYLA received 29 negative decisions (19 of which were for the refugees from the 1999 Kosovo crisis and 10 were for new asylum-seekers). Meanwhile, the Sector made 70 decisions for stopping the procedure for new asylum-seekers.

The decisions with which the applications for granting asylum were rejected remained a challenge. In the process of deciding upon the asylum application, it can be noted that the Sector often pays attention to the technical aspects of the applications and to facts that are irrelevant for the examination of the asylum application, and in some cases it does not conduct essential and detailed examination of the need for international protection in the country. In the lawsuits filed against the decisions, better elaboration in decisions is often sought, as well as the need for the Sector to take into consideration the relevant statements and facts for the fear from expulsion and to punctually determine the facts for each individual case. In addition to this, in some cases, the summaries of the decisions do not contain sufficiently determined facts for the condition of the asylum seekers, or sufficient reasons for rejection of some of the statements and vice versa. Due to this, MYLA in some cases identified breaches, because neither the relevant facts, the relevant laws and provisions from the country of origin, nor the relevant statements or documents for individual conditions of the asylum seekers were taken into consideration and examined in detail.

In December 2019, during the Global Refugee Forum in Geneva, the Republic of North Macedonia pledged to increase the capacity for protection of the asylum seekers and persons under international protection through strengthening the asylum case management with the formation of a complete database for conducting a more effective procedures¹³. However, from this pledge until now, the platform for more efficient conducting of procedures is still not put to use by the Sector.

PROCEDURE BEFORE THE ADMINISTRATIVE COURTS

Upon reaching a Decision by the Sector, the asylum seeker is entitled to file a lawsuit to the Administrative court of RNM. **In 2022, MYLA on behalf of the asylum seekers and persons under subsidiary protection filed 24 lawsuits. At the same time, the Administrative court has decided in 26 cases that were submitted in previous years. Despite the procedure before the court being urgent under the LITP, on average, the**

¹³ Statement given by Svetlana Geleva (Director for International Relations and Security Cooperation in the Ministry for Foreign Affairs of RNM) during the Global Refugee Forum, Geneva, 18.12.2019.

Administrative court decides within 237 days upon a filed lawsuit. However, we shall note increased efficiency in the deciding upon cases this year. Out of total 26 decisions of the Administrative Court, 4 were positive and 22 negative. A positive verdict means that the Administrative court had annulled the decision reached by the Sector and the case had been returned to repeat the deciding. In the past period, the Sector did make one positive decision after receiving a positive verdict from the Administrative Court for the annulment of the Sector's decision. In one case this year, the Administrative court accepted the lawsuit and decided to stop the procedure because the asylum seeker had left North Macedonia. At the end of 2022 there were a total of 11 cases in front of the Administrative Court.

On another hand, the Higher administrative court needs almost 440 days on average to reach a decision upon appeal against a Verdict reached by the Administrative court. MYLA has 22 appeals submitted before this Court. During 2022, the Higher administrative court decided in 24 cases for persons represented by MYLA, in 1 of which the decision was positive, and in 23 negative. At the end of 2022, in front of the Higher administrative court, there were a total of 22 active cases.

From all of the verdicts it can be concluded that in the procedures in which the administrative courts reached positive verdicts, the practice continued and they returned the case for repeated deciding and did not reach substantial verdict as prescribed by the law. Also the positive verdicts were adopted mostly due to technical reasons.

The Administrative court continued with holding oral hearings in accordance with the Law on Administrative Disputes and in the procedures for asylum. In the procedures for persons represented by MYLA, eight oral hearings were held in the procedures upon newly submitted applications for asylum and nine hearings in procedures for persons with recognized protection whose right had been terminated by a Decision reached by the Sector for Asylum (regarding 1999 Kosovo crisis refugees).

In the procedures conducted under the old Law on Administrative Disputes, the Administrative court continued its practice to return cases to the administrative body in case of a positive verdict, without holding a hearing and without reaching a substantial decision, despite it having the necessary authorization and duty in some cases as per Law.

In most cases, the Administrative court does examine the cases regarding the lawfulness of the Decision, which may be considered as a legal and formal failure to provide international protection when the conditions for it to be granted are fulfilled. One flaw that is still visible is the scarce application of the decisions reached by the ECtHR and the statements of the Court therein. It is unacceptable that the judges use the verdicts from the ECHR only in exceptional cases as an essential corrective of the system and therefore fail to develop positive case law as a mechanism through which the authorized bodies will be directed towards complete obeying to the legislative and will act carefully when undertaking an action¹⁴.

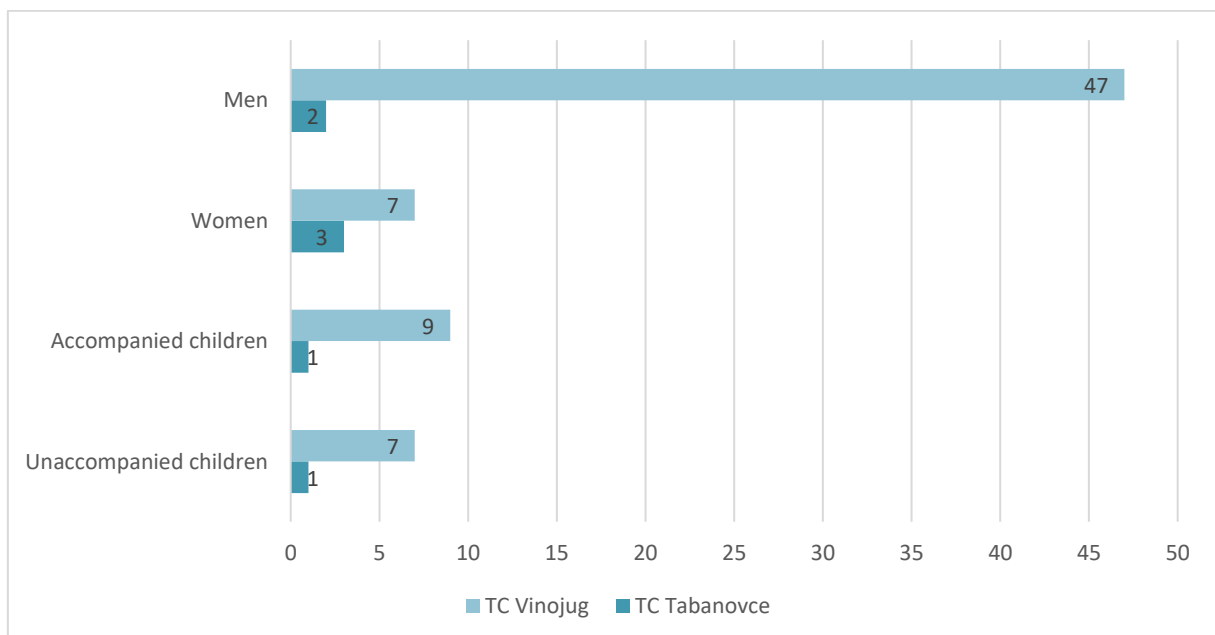
¹⁴ Although the ECtHR is not a "court for asylum" and the right to asylum is not directly stated in the ECHR, each signatory state is obliged to guarantee the rights stated with the ECHR to all persons at its territory. Hence, the rights of all citizens are also rights of the asylum seekers, of the persons under international protection and migrants and ECtHR has developed certain practice regarding this issue throughout the years.

Furthermore, although RNM is not yet a European Union member, in accordance with the aspirations for entry and harmonization of the domestic legislative with the EU law, the domestic courts should use the verdicts of the European court of Justice when acting and applying the EU law, but also as a legal reasoning guide.

RECEPTION AND TRANSIT CENTERS IN REPUBLIC OF NORTH MACEDONIA

The Transit centers Vinojug and Tabanovce continued to operate in 2022 under control and management of the Crisis Management Center (CMC). The centers are settled near the northern and southern border of the state, where it is most likely for the migrants and refugees to seek illegal entry in the country. These centers are in an area in which the country has declared state of crisis, which is continued every six months. The two centers operate in a manner to register the persons that transit throughout RNM. The entry in these centers is not fully defined and is mostly dependent on the will of the police to grant or reject entry.

An issue that remains unclear is the manner and the procedure for reception in the Transit centers, the status and type of these centers and the status and the position of the persons accommodated there. Due to this, it is highly important to regulate the status and actions of the centers, for example with a specific act, rulebook on the status of the centers and the persons or, standard operative procedures for the manner of reception and their accommodation, rights, obligations, etc. MYLA has raised this issue for several times. However, the Public institution “Reception center for asylum seekers” in Skopje has remained the sole institution for accommodation of asylum seekers in the country.



Asylum seekers by sex

CONDITIONS IN THE TRANSIT CENTERS IN REPUBLIC OF NORTH MACEDONIA

In 2022, MYLA was present in the TC Tabanovce and TC Vinojug, where it provided free legal aid, information to the present persons about the right to asylum and the asylum procedure, assisted in submission of the application and provided support in realization of the rights of these persons in the asylum procedure.

In 2022 there were no changes when it comes to the conditions in the center in comparison to previous years.

¹⁵ This means that the basic conditions for the accommodated persons were met, such as food, hygienic materials and access to healthcare services. These centers provided constant presence of a doctor with pre-set working hours. Those seeking medical aid and accommodation in an institution were provided with transportation, accommodation and appropriate treatment. However, the conditions in the centers are not appropriate for a longer term accommodation, although some of the migrants were accommodated there for more than a month.

There was a lack of psychologist who would offer psychosocial support to the persons accommodated in these centers, especially to the vulnerable categories. Children accommodated in these centers were still not included in formal education. The centers lacked any recreational or occupational activities for the persons accommodated there, with an exception to the kid's corner in TC Vinojug, where non-formal education is being provided. Apart from the lack of formal regulation of the status of the centers, the persons accommodated in TC Vinojug are not allowed to freely leave the center and they are de facto deprived from freedom of movement.

Among the persons accommodated in the center there were unaccompanied children that were mostly caught in smuggling processes and were accommodated here as belonging to a vulnerable category. Alternatives to detaining children due to immigration were not used in 2022, with which the children did not have access to the rights and services that need to be provided to them. After their accommodation, they were granted with a guardian from the Center for Social Work who is obliged to take care of the best interest of the child. In 2022, the number of applications for asylum submitted on behalf of the unaccompanied minors significantly decreased, since the guardian had assessed that for some of the children applying for asylum was not in their best interest, thus leaving them outside of the system for protection.

In 2022, only one guardian was appointed for all children accommodated in this center and an interview was conducted with most of them. However, no specific measures were undertaken to provide protection for these children. Mostly they were let on their own in the irregular migrant routes and still didn't have access to the protective mechanisms set for children in the Law on Social Protection and other laws and bylaws.

In TC Tabanovce there were registered 2014 persons and in TC Vinojug 1244 persons. In 2022 in TC Tabanovce 7 applications for asylum were submitted, while in TC Vinojug this number is 70.

¹⁵ More info regarding 2018, 2019 and 2020 can be found in the Report on the State of Asylum in Republic of North Macedonia, available in Macedonian and English at: www.myla.org.mk

RECEPTION CENTER FOR ASYLUM SEEKERS

The public institution for accommodating asylum seekers Reception center for asylum seekers – Vizbegovo is the only institution of this type, and its main goal is accommodating and sheltering asylum seekers.

The asylum seekers have three meals a day every day of the week. All of the asylum seekers have access to a doctor, which was present every working day of the week in certain hours of the day. The venue was regularly disinfected and cleaned.

MYLA was continuously present in this center, and through providing free legal aid, conducted legal counseling and consultation, protection of the rights of the asylum seekers and representation during their asylum procedures. Through everyday communication with the asylum seekers and referring their needs to the center, their requests and appeals were fulfilled and realized.

In 2022, in the center there were several activities for psychological support to the asylum seekers, various activities and exercises, increasing the level of animation and work with children and adults in the center, etc. There was also a teacher in the center that worked with the children on learning Macedonian language, but also worked with the adult asylum seekers.

DETENTION DUE TO IMMIGRATION

In 2022, the refugees and migrants continued to transit through RNM, by using irregular and smugglers' routes. As a response to this, the detention of foreigners due to immigration was increasing, which consequently increased the concerns regarding the possible violations of human rights to the foreign citizens that were kept detained.¹⁶ In 2022, the detention was conducted on three locations – the Reception center for foreigners, TC Vinojug and TC Tabanovce.

By the end of the year, MYLA conducted legal counselling for the asylum procedure for 5 migrants detained in the RC for foreigners. Here most of the detained migrants came from Taiwan, Turkey, Pakistan, Afghanistan etc. All of the persons received decisions for detention, but MYLA does not have information whether any of these decisions was subjected to an Appeal. Some of the detained persons in the RC complained that they did not have their rights explained properly and that they did not understand the language in which the authorities spoke to them. In a conversation with some of them, they stated that they did not know what they signed and that no one explained these documents to them. In 2022, the detention due to immigration was still treated as a part of an administrative procedure and it had not been revised by a judge even after 12 hours.

This year children were again detained in the Center and MYLA reacted for several times. On another note, alternative mechanisms for fostering (such as guardian families, small group homes etc.) that are prescribed

¹⁶ In the 2021 EC Report on North Macedonia, on page 51, the following is stated: "The arbitrary detention of the persons collected while passing the border illegally continued in the reception center for foreigners in the municipality of Gazi Baba, in order to secure their statement as witnesses in the court cases against the smugglers. There are 78 persons (37% out of all requests for asylum) are detained in the center for foreigners in Gazi Baba before being let and accepted in the Reception center for asylum seekers in Vizbegovo."

by the Law on Social Protection do not apply to children foreigners, which can be treated as discrimination in the treatment of children on grounds of their status.

As a main reason for detention, once again the witnessing in the criminal procedure is stated, despite the fact that the laws do not prescribe this as grounds for detention.

As per the information gathered through the request for access to information of public interest, 139 persons were detained in the Reception centers for foreigners in Skopje between 01.01.2022 and 31.12.2022, and all of them were provided with legal aid.¹⁷ Detained in this center were 7 children, out of which 5 were unaccompanied, and 26 women. In 2022, 168 asylum seekers filed requests for asylum, and 31 of them were filed in the Reception center for foreigners. On another note, the number of detained persons in TC Vinojug is much higher than in the Reception Center for Foreigners, and as per MYLA statistics, it is 789; 77 amongst them are unaccompanied children. The average detention time for adults and children is 5 days, and longest time is 30 days. The detained unaccompanied children were granted with guardians within the legal timeframe. In TC Tabanovce 72 migrants were detained from January until the end of September.

Some of the children detained in PC for foreigners and the TCs shared a room with other adults, which is contrary to the domestic and international standards for detaining children.

INTEGRATION

EARLY INTEGRATION

In the LITP there are rights granted to the asylum seekers, which conclude the term early integration. First and foremost, there are the right to education, right to work and right to social protection. Article 61 from this law guarantees the access to available early integration programs. The Strategy for Integration of Refugees in Republic of Macedonia 2017-2027 created by the MLSP¹⁸ also speaks about the early Integration, but it has not been adopted yet. The main directions for early integration as per this strategy are the learning of the Macedonian language and attending vocational trainings for capacity building the employment capacities of the asylum seekers, as essential for sustainable integration. Early integration courses are also anticipated, providing cultural orientation and information on the Macedonian way of life and basics of domestic legislative. Most important part of the integration is the education of children and their enrollment in regular schools. More on this subject can be found in the part of this Report tackling children refugees and asylum seekers. This year the Macedonian language courses for children and adults as prescribed with the

¹⁷ Decision no. 16.12-385/1 in response to the request for access to the requested information of public interest from the Ministry of Interior of RNM.

¹⁸

<http://www.mtsp.gov.mk/content/pdf/strategii/%D0%A1%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D0%B8%D1%98%D0%B0%20%D0%B7%D0%B0%20%D0%B8%D0%BD%D1%82%D0%B5%D0%B3%D1%80%D0%B0%D1%86%D0%B8%D1%98%D0%B0%20%D0%BD%D0%B0%20%D0%B1%D0%B5%D0%B3%D0%B0%D0%BB%D1%86%D0%B8%20%D0%BA%D0%BE%D0%BD%D0%B2%D0%B5%D1%80%202017.pdf>

Strategy was not provided by the state as a continuous integration process for these persons, and it was supported by UNHCR.

The right to work is one of the key economic human rights, recognized in all of the international documents that regulate this area. This right is also anticipated for the asylum seekers in the new LITP, but the practice of failing to provide this right continued in 2022. The asylum seekers are still not granted with a PIN and they cannot be recognized in the Employment agency system and consequently, cannot have free access to the labor market.

INTEGRATION OF THE REFUGEES IN THE REPUBLIC OF NORTH MACEDONIA

As prescribed with Article 67-75 from the LITP, the recognized refugees are entitled to the same rights and obligations as the Macedonian citizens, with the exception of the right to vote, engagement in professions where a law prescribes that the person needs to be citizen of RNM, or to serve in the army. They are entitled to gain ownership of movable and immovable possessions, to be employed to receive social aid, health protection, education, etc. In accordance with Article 77 and 78 from the same law, the persons under subsidiary protection are equal to the citizens in relation to exercising the right to social protection, health care and accommodation. When it comes to the other rights, their status is equal to the status of persons with residence permit.

The process of local integration is complex and gradual and encompasses various, not only legal, economic, social, but cultural dimensions, which in reality demand significant requirements both for the individual and for the society¹⁹. Within national policy, the integration process is directed only towards recognized refugees and persons under subsidiary protection, and in specific cases, to persons that have established closed links with Macedonian citizens and have registered residence. This means that after it has been decided upon the asylum application and the status has been granted, the local integration may officially begin.

Towards the end of 2022, the total number of persons under subsidiary protection present in RNM was ten. There are no recognized refugees since 2016, when the last refugee status was granted. This information refers to persons that have submitted applications in the previous years and who came from countries outside of the region. Due to this, when it comes to integration of refugees, mostly it means integration of the 1999 Kosovo crisis refugees due to their long-term residence in the country in the capacity of persons under international protection. Consequently, their experience is most relevant when tackling this process. The practice shows that persons not coming from similar language area face the language barrier as a biggest problem, and they first and foremost want to learn Macedonian. During 2022, Macedonian language classes were provided by UNHCR. The persons under protection were included in the state employment program through the Employment Agency of RNM, through enabling them to attend courses. However, during the past year there were no official programs for learning Macedonian provided by the state, which led to a number of problems for these persons, such as the access to the labor market, education and realization of the other

¹⁹ For more comprehensive picture of the integration in Republic of Macedonia, MYLA published an Analysis on the access to social protection and naturalization in 2016, available at: <https://myla.org.mk/wp-content/uploads/2016/09/ACCESS-TO-SOCIAL-PROTECTION-AND-NATURALIZATION-FOR-REFUGEES-AND-PERSONS-UNDER-SUBSIDIARY-PROTECTION-IN-THE-REPUBLIC-OF-MACEDONIA.pdf>.

rights they are entitled to. In addition to this, there are no system solutions which would lead the refugees towards the process of independence and full integration in the society.

In addition to this, these persons have faced problems regarding the duration of the procedure for payment of the assets for their housing by the Center for social work – in order to receive these funds, they need to have a signed lease contract, and in order to sign such contract, the persons under protection need to provide assets for the rent for the first several months or for paying a deposit. The Center for social work must pay a personal visit and do an insight of the place in which these persons would live, and even after that it may reach a decision for compensation of the living costs. These procedures are slow and not efficient enough, due to which the persons under protection might find themselves in an unfavorable position until their housing issue is settled.

INTEGRATION OF THE REFUGEES FROM THE 1999 KOSOVO CRISIS IN THE REPUBLIC OF NORTH MACEDONIA

In 2022, MYLA represented 302 refugees that had fled Kosovo, primarily Roma, Ashkhali and Egyptians (RAE). Concluding with 2022, 11 persons have the status of a recognized refugee, and 66 are persons under subsidiary protection in this country. On the other hand, 167 persons had their right to asylum terminated by a final decision, and 49 persons are still in the asylum procedure. **The latter number includes the persons who had their right to asylum terminated by a Decision reached by the Sector, but their case is still in a procedure upon a lawsuit or appeal before the administrative bodies and courts.**

From its twelve-year-long experience with the Kosovo refugees, MYLA may conclude that the remaining refugees in the country are in an unfavorable position because they have spent more than 22 years in RNM without having the state taking appropriate activities for permanent solution of their issue. The circumstances and their condition remain unchanged in comparison to the past years.²⁰As seen from the information, some of them are still under protection, and for some of them the asylum procedure has been finally closed or is ongoing upon reached decision for termination of the right to asylum. For some of them, the procedures last for four or five years until reaching of the final decision. Until now, there were temporary/short-term solutions for regulation of their residence, but that was depending from case to case and the condition of the person.

There are, however, a lot of people not belonging to any of this category, mostly due to inability to provide the necessary documentation required by the RNM authorities to regulate their residence on other grounds, which in essence shows that leaving the issues to a coincidence is not a permanent solution. From this stand, the pledge given by the RNM Government before the United Nations during the Global Refugee Forum that the country would solve the many-year long situation of the remaining refugees from Kosovo through providing long-term legal status in the country for all that qualify, is of key importance. But in practice, no specific activities are undertaken by the state for finding a permanent solution for their legal status, i.e. there are no visible results. Towards the end of 2021, MYLA delivered a proposal for the Draft Law on amendment of the Law on Foreigners, aiming to include the Kosovo refugees as a separate category and to regulate their residence by granting them permanent residence in the country as a permanent solution for this category in accordance with the pledge given by the country.

²⁰ More information regarding the previous years is available in the Reports on the State of Asylum in North Macedonia for 2018 and 2019 and especially 2020, available at www.myla.org.mk

The persons with recognized right to asylum in RNM, especially refugees from the 1999 Kosovo crisis, face various boundaries during their integration process, especially in the procedures before the Office for management of registers of births, marriages and deaths, Sector for Citizenship within the MoI and Centers for social work (CSW) in the MLSP. Overall, the biggest problem is that the state authorities require documentation that must be acquired from their country of origin, and which they are not allowed to contact since they are under international protection.²¹

VULNERABLE CATEGORIES

CHILDREN

Under the LITP, a minor is a foreigner which still hasn't reached 18 years of age, and an unaccompanied minor is a foreigner which still hasn't reached 18 years of age and arrives in RNM without being accompanied by a parent or a guardian, that has been left without such company after entering the country or which is under ineffective care.²² In these two definitions, we can notice that the internationally recognized term "child" has not been obeyed, since this is the term that needs to be used instead of a "minor" or any other type of expression used instead of the term "child".²³

The children-refugees and children-asylum seekers are one of the vulnerable categories which require special attention. The LITP prescribes protection to children accompanied by their parent or guardian, as well as to these without such company. In 2022 slight increase of the number of submitted applications for asylum by the guardians of the unaccompanied children, but in comparison to the total number of unaccompanied children, this number is still insignificantly low. **In 2019 there were 94 unaccompanied children asylum seekers, in 2020 this number is decreased to 19. In 2021, this number falls to 14 and in 2022 we have 22 unaccompanied children seeking asylum. However, what is mostly concerning is the number of detained children due to immigration 138²⁴, while the number of detained unaccompanied children is 80.** However, MYLA cannot confirm whether these figures are objective since there is no formal procedure to assess the age of the child. All children are registered as children as per their statement.

In some cases, in conversation with other asylum seekers, it had been established that some children when registered by the police present themselves as older on purpose, so that they could be returned to Greece together with the group they are traveling with and to avoid detention. This is due to the fact that, when in contact with an unaccompanied child, as per the Standard Operative Procedures for treatment of unaccompanied children- foreigners²⁵, the police shall immediately notify the Center for Social Work, which

²¹ For the problems related to enjoyment of the two key rights – right to naturalization and right to social protection which represent the integration in the country, please refer to the MYLA reports on the state of asylum in North Macedonia, available at www.myla.org.mk, since the problem remains unchanged.

²² Article 2, item 10 from 11 the LITP.

²³ Please see the 1989 UN Convention on the Rights of the Child, available at: <https://www.unicef.org/child-rights-convention/convention-text>.

²⁴ This number refers to the total number of detained children in the Reception center for foreigners and the two transit centers.

²⁵ Standard Operative Procedures on the treatment of the unaccompanied children-foreigners, Government of the Republic of Macedonia, National commission for combating Trafficking in Human Beings and Illegal Migration, 2015, available at: <http://nacionalnakomisija.gov.mk/wp-content/uploads/2016/12/SOP-za-postapuvanje-so-nepridruzuvani-deca-stranci.pdf>.

shall then undertake the next steps. Each unaccompanied child asylum seeker was granted with a guardian appointed by the CSR, who submits the application for asylum on the child's behalf, and takes into consideration both the sex of the child and its individual needs. The task of the guardian is to conduct initial risk assessment, to assess the needs and to develop a plan for help, adaptation and stabilization. This needs to be done as quickly as possible so that the children receive the needed protection, as well as information about their rights in the asylum procedure. Furthermore, the children through their guardians or legal representatives from MYLA, stated their needs and interests and they were referred to the authorized bodies. MYLA has represented all of the unaccompanied minors that filed applications for asylum during the past year.

When the Law on Elementary Education was reached towards the end of 2019, the children asylum seekers were provided with the possibility to become a part of the formal elementary education, although the education plans were still not developed. In 2022, three children attended regular education in school. In the Reception center the children were able to work with a teacher as an additional aid to study the school subjects and the Macedonian language.

A key problem that remains is the inability of the children accommodated in the transit centers to have access to educational and scientific programs which could help them receive education and to attend school classes which are necessary for their further development.

The practice from the past period showed cases when the unaccompanied children were used as witnesses in criminal procedures against their smuggler. As per the SOP for treating children-foreigners, the unaccompanied child may not be used as a witness in the criminal procedure, with an exception if the child is the only witness in that procedure: "UMCW may be used as a witness only in exceptional cases, when the child is the only witness and there are no other material evidence in the procedure against the perpetrators".²⁶ **However, with the increase of the number of children, the number of these cases increased accordingly, and children were used as witnesses more and more. In 2022, the number of detained children in all centers (RC for foreigners, TC Vinojug and TC Tabanovce) is 138, which is an alarming situation and requires urgent measures for protection of the rights of the children and detention alternatives. Detention of children due to immigration in conditions similar to prison are never in the best interest of these children.** After their witnessing, they are either freed by the police, or their guardians file an application for asylum on their behalf, and they are accommodated in the Reception center. In this country there are still no methods for monitoring the development and needs of the children to the amount to which they would stay here, since they often leave the country immediately, without having their needs and interests processed. Hence, a child control and protection mechanism are needed, as well as continuous work with the children which could establish a cooperation and support system in order to protect what represent their best interest. It is important to state that in 2022 the guardians have mostly assessed that it is not in the best interest of the child to apply for asylum, and the children were informally returned to Greece without the use of specific protective mechanisms in their best interest and they were returned to the irregular migrant routes instead.

²⁶ Ibid., pg. 38.



RECOMMENDATIONS

Access to territory

- ⇒ The authorities should not push the migrants over the borders outside the formal procedure, and should conduct individual assessment for each case, while especially taking in consideration the vulnerable categories of migrants.
- ⇒ The RNM authorized bodies must respect the legal procedure and the decision for expulsion in relation to the return of the refugees over the border.
- ⇒ The return of foreigners shall be conducted only in accordance with the laws and the readmission procedure.

Access to procedure

- ⇒ The asylum applications must be registered immediately in every place as anticipated with the LITP, and the registration process and the process for issuing identification documents must be within the prescribed timeframes.
- ⇒ The procedure for access to the reception and transit centers must be formal, as well as the regulation of the legal status of the persons accommodated in the TCs.

Asylum procedure

- ⇒ The authorized bodies shall adequately process and assess all of the asylum applications, while taking into consideration the relevant reports for the countries of origin of the asylum seekers. Mol shall start with ground elaboration of other, not so common grounds for expulsion, which are included in the definition given in the Convention Relating to the Status of the Refugees.
- ⇒ The deadlines prescribed by law must be respected when conducting the procedure in each individual case.
- ⇒ The first instance body is obliged to respect and apply the directions given by the courts in their verdicts, where the courts decide that there are process and/or substantial irregularities in the conduction of the asylum procedure. It is exceptionally important that the decisions reached by the ECtHR are applied as a source of domestic law.
- ⇒ The Law on international and temporary protection shall be completely synchronized with the EU directives. The partial inclusion of paragraphs from the directive may lead to serious violations of the rights of the asylum seekers and refugees.
- ⇒ The administrative courts shall determine the key facts in order to reach a rightful decision at the scheduled oral hearings.
- ⇒ The Courts are obliged to abide to the deadlines prescribed by law.
- ⇒ When reaching a verdict, the domestic courts shall take into consideration the standings given in the ECtHR judgments, in order to provide complete protection of the rights of the persons of interest, while the judgments from the European Court of Justice shall be taken as a given direction and legal reasoning.

Limitation of freedom of movement

- ⇒ This measure shall be used only as a last resort and in exceptional cases, and it is necessary for alternative measures to be practiced. The limitation of freedom of movement shall not be arbitrary.
- ⇒ A change in the LITP is needed, as well as a court revision of the decisions for limitation of freedom of movement.

Detention due to immigration

- ⇒ The detention due to immigration shall be revised by a judge within 12 hours from the detention.
- ⇒ Children must not be detained due to immigration.
- ⇒ Alternative measures for detention must be found and be legally available and conducted in practice.
- ⇒ The practice of illegal and arbitrary detention must cease urgently.

Early integration

- ⇒ There should be a strategy and program for early integration of asylum seekers.
- ⇒ There is an urgent need to consider the need and to create conditions for granting a PIN with the initiation of the asylum procedure in order to provide access to rights for the asylum seekers, especially the right to work and all of the remaining rights in the early integration process.
- ⇒ The children - migrants accommodated in the reception and transit centers shall be included in the formal education same as the asylum seekers.

Integration of persons under international protection

- ⇒ A method must be found for long-term and final solution of the Kosovo refugees' issue.

During the integration in RNM, the authorized bodies shall not require gaining documentation from the country of origin and contact with that country.
- ⇒ The provision in the Law on Foreigners, which allows for the granting of permanent residence to individuals who have been under international protection for an uninterrupted period of five years, must be urgently amended. Specifically, the consequence of losing permanent residence upon termination of international protection should be removed.

Vulnerable categories

- ⇒ The rights of the children and access to child protection mechanisms shall be made available and be respect in order to respect the best interest of the child in accordance with the domestic and international laws and instruments.
- ⇒ Children may not be used as witnesses in the criminal procedures and be detained for that reason.
- ⇒ The rights guaranteed with the Istanbul convention shall be applied in the asylum procedure.
- ⇒ Sexual orientation shall be examined as a ground for expulsion in practice.