



# **DETENTION FOR IMMIGRATION REASONS IN NORTH MACEDONIA**

January – December 2024

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## 1. INTRODUCTION

Considering its territorial position, the Republic of North Macedonia in 2024 remained a country through which a large number of persons on the move transited. These persons continued to use smuggling services and to cross borders irregularly. During these movements, some persons on the move were detained for immigration reasons. Such detention, in some cases, constitutes a violation of their fundamental rights arising from domestic and international law.

During the reporting year, the Reception Centre for Foreigners was regularly visited by representatives of MYLA, twice a week, for the purpose of providing free legal aid regarding the right to asylum in our country. Additionally, visits were conducted in cases of urgent need. However, access for communication with the persons to inform them about their rights and legal mechanisms was limited. As a result, MYLA was able to inform only a small portion of the persons detained in the centre about the right to asylum. The detained persons still did not have access to legal aid regarding their detention in the centre.

The report contains information on the profile of the persons who were detained, their nationality, the grounds for detention and the restrictions on the freedom of movement within the asylum procedure. The data presented and the challenges identified are intended to serve as a starting point for potential processes aimed at improving the protection of the rights of persons affected by detention for immigration related reasons.

All data presented in this report are based on publicly available and obtained information, as well as on data regarding persons detained in the Reception Centre for Foreigners and less frequently in TC Tabanovce, to which MYLA has access.

## 2. DETENTION IN THE RECEPTION CENTRE FOR FOREIGNERS

The Law on Foreigners<sup>1</sup> regulates the possibility of detaining a foreigner. The prescribed period for temporary detention of a foreigner is 24 hours; for the purpose of securing the procedure for their removal. The foreigner must be immediately informed of the reasons for the detention and of the possibility to notify the diplomatic-consular mission of the state of which they are a citizen to, to contact a legal representative and to communicate with members of their family.<sup>2</sup> As a place where foreigners may be detained in cases where deportation cannot be carried out within the prescribed 24 hour period, the Law on Foreigners designates the Reception Centre for Foreigners of the Ministry of Interior in Article 159.<sup>3</sup> The grounds for detention in this centre are several: 1) if the foreigner is staying illegally on the territory of North Macedonia and a return decision has not been issued due to a risk of absconding or when they evade or obstruct the return procedure; 2) if a decision has been

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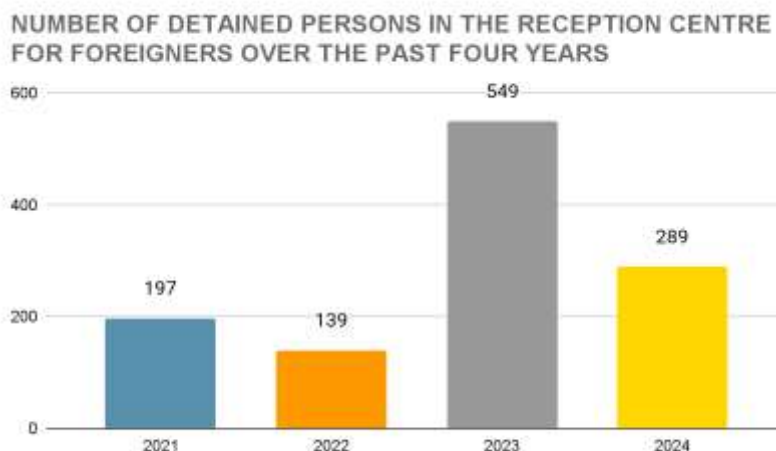
<sup>1</sup> "Official Gazette of the Republic of Macedonia" no. 97/18 and "Official Gazette of the Republic of North Macedonia" no. 108/19, 294/21 and 284/23

<sup>2</sup> Ibid., Article 158, paragraphs 1 and 2

<sup>3</sup> Ibid., Article 159

made to return the foreigner, and they do not possess a valid travel document, preventing voluntary departure from North Macedonia; and 3) if an asylum seeker has been subject to a restriction of the freedom of movement pursuant to the law.

In 2024, a total of 289 foreigners were detained in the Reception Centre for Foreigners. Compared to the total number of detained persons in the previous year,<sup>4</sup> the reporting period shows a decrease of 47%.



Out of the total number of 289 persons detained at the Reception Centre for Foreigners, the majority are men (194), followed by women (58). A total of 37 children were detained in the Centre of whom 21 were unaccompanied and 16 were accompanied by a parent or guardian. Most of the detained persons originated from Syria, Turkey, China, Nepal and Iraq.

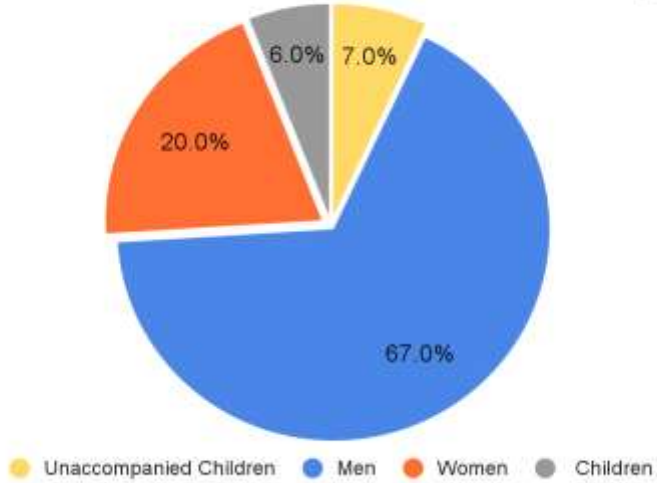
MYLA does not have information as to whether detention decisions were issued for all detained persons at the Reception Centre for Foreigners. Furthermore, information is not available regarding the formal legal grounds on which a significant number of persons were detained. However, based on the observations made, the practice of detaining foreign nationals who act as witnesses in criminal proceedings against smugglers, persisted during this year. Although many individuals were de facto detained on this basis, the detention decisions state that they were detained for the purpose of establishing their identity. This unlawful detention of persons on the move has also been noted as a matter of concern in the European Commission's 2024 Progress Report on North Macedonia. The report further states that effective judicial control of detention cases is lacking and that detained migrants benefit only from legal counselling and assistance in the asylum procedure.<sup>5</sup>

<sup>4</sup> Macedonian Young Lawyers Association. (2024) Detention for Immigration Reasons, January – December 2023 [Online]. Available at: <https://myla.org.mk/wp-content/uploads/2024/07/Detention-MKD-2023.pdf>

<sup>5</sup> European Commission Report on the Progress of North Macedonia in 2024, page 46, available at: [https://enlargement.ec.europa.eu/document/download/5f0c9185-ce46-46fc-bf44-82318ab47e88\\_en?filename=North%20Macedonia%20Report%202024.pdf](https://enlargement.ec.europa.eu/document/download/5f0c9185-ce46-46fc-bf44-82318ab47e88_en?filename=North%20Macedonia%20Report%202024.pdf)

In 2024, it was observed that the duration of detention of persons acting as witnesses in criminal proceedings against smugglers was significantly reduced and in most cases such persons were processed within 24 to 48 hours.

**Detained Persons in the Reception Centre for Foreigners**

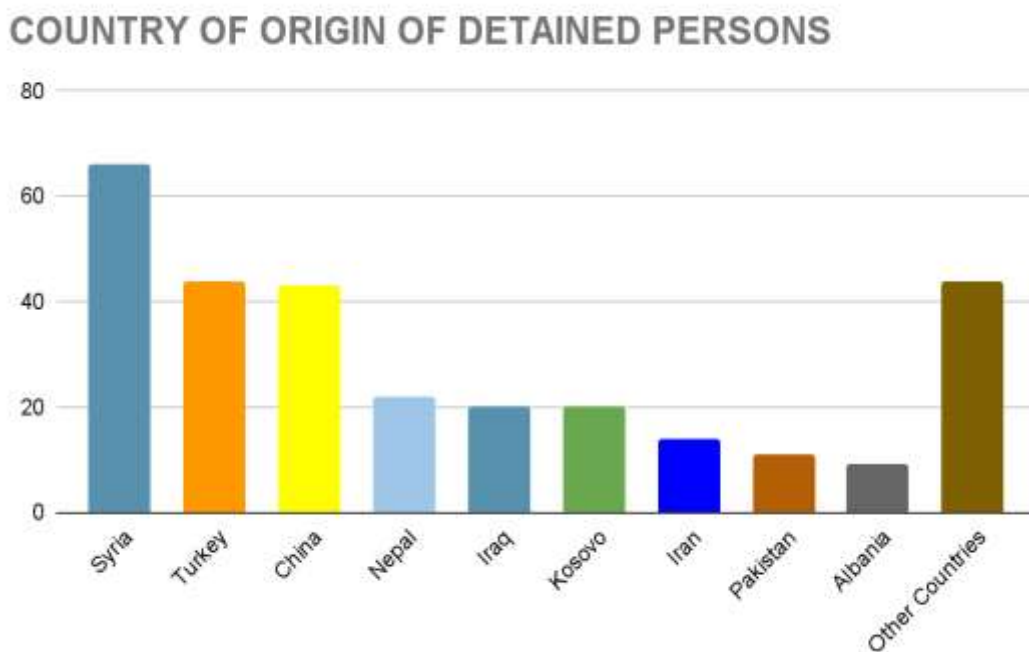


In 2024, in the Republic of North Macedonia, 334 applications for the recognition of the right to international protection were submitted, of which 145 were submitted at the Reception Centre for Foreigners.

The European Border and Coast Guard Agency - Frontex and the Republic of North Macedonia, in April 2023, launched a joint operation under which European border services, supported by local authorities, carry out monitoring and border control activities which include patrolling, document checks and the collection of information related to cross-border crime. The European Agency Frontex, throughout 2024, maintained a continuous presence along the Macedonian–Greek border and had a significant impact on the fight against crime and the management of irregular migration. Furthermore, under the influence of Frontex, the practice of detaining persons on the move as witnesses in criminal proceedings against smugglers in TC Vinograd and TC Tabanovce was changed and instead of being held in transit centers, the majority were detained at the Reception Centre for Foreigners.

In 2024, MYLA carried out 86 visits to the Reception Centre for Foreigners and had the opportunity to speak with 7 persons. The majority of the detained persons were held for the purpose of acting as witnesses in criminal proceedings against smugglers and were therefore required to give statements before the competent public prosecutor. In most cases, MYLA representatives were not allowed to establish contact or provide legal aid to the detained persons until they had given their statement before the public prosecutor and/or had been brought before the competent court. As a result, the reported number of detained persons to whom MYLA provided legal aid and legal counselling to, remained low. In cases where there were indications that certain individuals might be potential victims of human trafficking, MYLA provided legal aid regarding the risks of

trafficking and legal aid related to the reporting of possible exploitation. One case was directly referred to the National Referral Mechanism for Victims of Human Trafficking.



In December 2024, the management body of the Reception Centre for Foreigners issued a statement that unaccompanied minors, whose detention was implied by the need to testify in criminal proceedings, would no longer be held at the Centre. This represents a significant positive change in the field of detention of persons on the move.

During the reporting period, a total of 251 decisions for the compulsory expulsion of foreigners were issued, of which 163 were executed. Additionally, pursuant to readmission agreements, one person was deported to their country of origin – the Republic of Bosnia and Herzegovina.

Over the course of the year, two investigations were conducted regarding criminal offenses regulated under Article 418-b – Smuggling of Migrants and Article 418-v – Organizing a Group and Facilitating the Commission of the Offenses of Trafficking in Persons, Trafficking in Minors, and Smuggling of Migrants, from the Criminal Code of the Republic of North Macedonia. One of these investigations is proactive and dismantled an international criminal group. Two criminal charges were filed against 20 individuals, 19 of whom are Macedonian citizens and one a Serbian citizen.

Regarding the criminal offense under Article 418-b – Smuggling of Migrants, 60 criminal acts were recorded. Criminal prosecution measures were undertaken against 78 individuals, of whom 23 were foreign nationals, all adult males with the exception of one female and two children.

Concerning the criminal offense under Article 418-g – Trafficking of a Minor, paragraph 2, two criminal charges were filed against two adult male individuals who had coerced the victims into sexual exploitation.

### **3. DETENTION IN TRANSIT CENTERS**

The status of the transit centers this year also remained undefined. The functioning of both transit centers is not legally regulated, and consequently, neither is the treatment of persons on the move accommodated there. Compliance with basic human rights as a minimum standard to be guaranteed remains unclear and protection mechanisms in the event of potential violations of fundamental rights - non-existent.

#### **- TC VINOJUG**

Following the established presence of the European Border and Coast Guard Agency – Frontex at TC Vinojug, specifically since April 2023, the practice of detaining persons in this transit center ceased. Thus, in TC Vinojug in 2024, not a single person was detained.

#### **- TC TABANOVCE**

During the reporting period, approximately 40 cases of detention of persons on the move were recorded in TC Tabanovce. These detentions included both individual and group cases from Afghanistan, China, Syria and Nepal, including women and minors. Among the detained were three unaccompanied minor male children from Syria. According to available information, these persons on the move most often attempt with the assistance of smugglers, to transit through the territory of North Macedonia toward Greece.

The approximate figure of 40 detentions during the reporting period reflects a noticeable decrease compared to 2023, when a total of 64 individuals were detained.

Considering the fact that TC Tabanovce is an open-type center (albeit legally unconfirmed and unregulated) and according to its intended purpose, it is not adapted for the detention of persons. Nevertheless, in practice, despite its intended purpose, some persons on the move were detained as witnesses in criminal proceedings or on other grounds. The detained persons, following their apprehension by the police, are temporarily accommodated in a separate room within the transit center and remain under constant supervision by police officers, a room formerly used as an office. Once they are taken to the public prosecutor's office, the persons are returned to the Center, where they are registered and accommodated. The duration of detention usually does not exceed three days.

#### **4. RESTRICTION OF THE FREEDOM OF MOVEMENT IN ASYLUM PROCEDURES IN THE REPUBLIC OF NORTH MACEDONIA**

The Law on International and Temporary Protection (LITP) contains provisions allowing for the restriction of the freedom of movement of asylum seekers for a period of up to three months, by a decision issued by the Ministry of Interior.<sup>6</sup>

The freedom of movement may be restricted through one of two measures. The first involves limiting movement outside the Reception Center for Asylum Seekers or another accommodation facility designated by the Ministry of Social Policy, Demographics and Youth. The second measure concerns placement in the Reception Center for Foreigners, which is the most commonly used facility for accommodating persons whose freedom of movement has been restricted.<sup>7</sup>

**During 2024, no decisions were made to restrict the freedom of movement of asylum seekers, the same as in 2023.**

According to Article 12 of the Constitution of the Republic of North Macedonia, the court must issue a decision regarding the restriction of freedom.<sup>8</sup> The same article stipulates that the person must be brought before the court within the first 24 hours and the judge must decide on the restriction of freedom. This indicates that this procedure is urgent.

Furthermore, the LITP stipulates that the procedure for restricting freedom of movement must be urgent, taking into account the sensitivity of the matter and the possibility of violating fundamental human rights.<sup>9</sup>

Alternatives to detention must be considered, particularly since the LITP includes articles that make such alternatives available to asylum seekers whose freedom of movement is restricted.

#### **MAIN CONCLUSIONS AND RECOMMENDATIONS**

According to the findings presented in this report, several main conclusions and recommendations have been identified, which should be taken into account when planning certain changes. The highlighted information, facts and figures should serve as guidance in order to have an impact on potential planning of amendments and on the procedures for developing future policies.

#### **MAIN CONCLUSIONS**

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<sup>6</sup> Official Gazette of the Republic of Macedonia" No. 64/18 and "Official Gazette of the Republic of North Macedonia" No. 45/25, LITP, Articles 63–67;

<sup>7</sup> Ibid., Article 64, Paragraph 1

<sup>8</sup> Constitution of the Republic of North Macedonia, Article 12;

<sup>9</sup> Official Gazette of the Republic of Macedonia" No. 64/18 and "Official Gazette of the Republic of North Macedonia" No. 45/25, Article 65, Paragraph 4

- There is a trend of a significant 47% decrease in the number of persons detained in the Reception Centre for Foreigners in 2024 (289), compared to 2023 (549);
- Persons on the move, acting as witnesses in criminal proceedings against smugglers, are detained for a very short period of time compared to previous years;
- The cooperation between Frontex and the Republic of North Macedonia influenced overall numbers, trends and particularly detention in transit centers;
- A new practice has been established, whereby persons on the move are less frequently detained in TC Tabanovce and are not detained at all in TC Vinojug;
- 43% of the total number of applications for recognition of the right to international protection in the Republic of North Macedonia were submitted at the Reception Centre for Foreigners;
- As of December 2024, the management body of the Reception Centre for Foreigners adopted a position that unaccompanied minors whose presence is required for giving testimony in criminal proceedings shall no longer be detained in the Centre;
- Detained persons do not have access to legal aid and legal advice regarding the right to asylum and they do not have access to asylum until they provide testimony before the public prosecutor, in cases where detention is implied due to their role as witnesses in criminal proceedings;
- Detained persons do not have access to legal aid and legal advice regarding the detention itself, unless they personally retain a lawyer.

## RECOMMENDATIONS

- Effective legal aid and the possibility to appropriately challenge the lawfulness of detention decisions is of utmost importance and contributes to the protection of the rights of detained persons;
- Detaining witnesses in criminal proceedings against smugglers is unlawful. Appropriate alternatives should be made available for these persons;
- The detention of children should not be applied and alternatives to detention of children should exist;
- The practice of postponing the procedure for submitting an application for recognition of the right to asylum due to providing a statement before the competent public prosecutor should be changed in the future to prevent the restriction of the fundamental human rights of these persons.



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

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

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