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ACCESS TO SOCIAL PROTECTION AND NATURALIZATION

For refugees and persons under subsidiary
protection in the Republic of Macedonia



Macedonian Young Lawyers Association



Kingdom of the Netherlands

ACCESS TO SOCIAL PROTECTION AND NATURALIZATION FOR REFUGEES AND PERSONS UNDER SUBSIDIARY PROTECTION IN THE REPUBLIC OF MACEDONIA

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INTRODUCTION

In the Republic of Macedonia two state authorities share the responsibility regarding the legal procedure/ residence and social protection of the asylum seekers and refugees. The Ministry of Interior, Sector for Asylum is responsible for the asylum procedure, regardless of the fact where the application is submitted (at the border crossing points, inside the territory of the country or at the airport)¹. During the asylum procedure, including the appeal period, asylum seekers are allowed to stay on the territory of the country. The costs related to their residence and care, are borne by the state and the responsible authority concerning the reception is the Ministry of Labor and Social Policy, through the work of the Reception Center for Asylum Seekers- Vizbegovo. This Ministry is as well fully in charge of leading the process of local integration, once the protection has been granted by the Ministry of Interior².

Local integration³ in the Republic of Macedonia is arranged through the Strategy for Integration of Refugees and Foreigners and its National Action Plan⁴ in which the integration and assistance measures for implementation of the period 2008-2015 are set out. Under the Strategy, in terms of the 1951 Refugee Convention, refugees are given the right to seek employment, to engage in other income-generating activities, to own and dispose of property, to enjoy freedom of movement and to have access to public services such as education and health. However, the process of local integration is complex and gradual, and comprises distinct but related not just legal, economic, social, but as well cultural dimensions, which in reality imposes considerable demands on both the individual and the receiving society.

The Integration strategy was primarily aimed at facilitating the local integration of Roma, Ashkali and Egyptians (RAE) from the region who were granted international protection, without special consideration for refugees from outside the region. The Strategy itself embraces the concept that *local integration is a dynamic and multifaceted two-way process which requires efforts by all parties concerned, including a preparedness on the part of refugees to adapt to the host society without having to forego their own cultural identity, and a corresponding readiness on the part of host communities and public institutions to welcome refugees and meet the needs of a diverse population.*⁵ Within the national policy framework, the integration process is targeting only recognized refugees and persons under subsidiary protection, as well as, under certain conditions, other persons who have established close links with Macedonian citizens and register residence. This means that once an asylum claim has been decided upon and status has been granted, the local integration can officially start. This Strategy does not include asylum seekers whose applications are pending or rejected. The Government considers that the experience of the asylum seekers before they are granted certain status affects the level of their integration in many ways; but they can solely enjoy the benefits stipulated within the Law on Asylum and Temporary Protection, until their status is finally determined. Integration, in full respect according to the national policy, can happen only when the person is granted refugee status or status of persons under subsidiary protection, so they

¹ Article 12 from the Law on Asylum and Temporary Protection, Official Gazette of the Republic of Macedonia, no. 49/2003, 66/2007, 142/2008, 146/2009, 166/2012, 101/2015

² Article 48 from the Law on Asylum and Temporary Protection, Official Gazette of the Republic of Macedonia, no. 49/2003, 66/2007, 142/2008, 146/2009, 166/2012, 101/2015

³ Local integration is a long-term solution, referring to permanently settling refugees in host communities in countries of asylum. It is one of the three durable solutions for refugees. In view of the current state of asylum, the concept is attracting revived attention for its potential to protect refugee rights, promote economic development and provide long-term solutions to persistent crises.

⁴ Available at: <http://www.mtsp.gov.mk/?ItemID=BD66FCC3A7FBCB47AB9150CBFEC2C96> (Accessed on 10.10.2016)

⁵ UNHCR Executive Committee, Conclusion on Local Integration, No. 104 (LVI) – 2005, preamble and (k), Available at: <http://www.unhcr.org/4357a91b2.html> (Accessed 02.03.2016)

can make plans for their future, including plans for employment, housing and integration in the Macedonian society. Despite its restrictions in terms of the beneficiaries, the Strategy itself is a comprehensive document that should not be read in isolation. Its true function can only be achieved if viewed in parallel with the broader reforms applied to the field of migration, monitoring relations, decentralization, social inclusion, and other key services of public character in the country. This means that the legal framework for its implementation is composed not just from the Law on Asylum and Temporary Protection, but as well from many others such as the Law of aliens⁶, the Law on Employment and Work of Foreigners⁷, the Law on citizenship⁸, the Law on Social Protection⁹, Family law¹⁰, Law on Child Protection¹¹, Law on employment and insurance in case of unemployment¹², Law on Primary Education¹³, Law on Secondary Education¹⁴, Law on Higher Education¹⁵, Law on Citizens' Associations and Foundations¹⁶, Law on Public Gatherings¹⁷, Law on Administrative Procedure¹⁸, Law on Administrative Disputes¹⁹, etc.

The local integration process within the Macedonian society encompasses three main elements. One aims at anchoring and mainstreaming the persons granted asylum in the national welfare and protection system, which includes health care services and social protection. The second provides for a development aspect of integration through specifically tailored projects aiming at supporting the self-reliance of persons granted asylum by addressing their needs in housing, employment, education and vocational training. The third element offers legal assistance to help integrating refugees in obtaining a legal status

⁶ Official Gazette of the Republic of Macedonia" nos. 35/2006, 66/2007, 117/2008, 92/2009, 156/2010, 158/2011, 84/2012, 13/2013, 147/2013, 148/2015 and 217/2015

⁷ Official Gazette of the Republic of Macedonia" nos. 70/2007, 5/2009, 35/2010, 148/2011, 84/2012, 148/2013, 38/2014 and 150/2015

⁸ Official Gazette of the Republic of Macedonia" nos. 67/1992, 8/2004, 98/2008, 158/2011 and 55/2016

⁹ Official Gazette of the Republic of Macedonia" nos. 79/2009; 36/2011; 51/2011; 166/2012; 15/2013; 79/2013; 164/2013; 187/2013; 38/2014; 44/2014; 116/2014; 180/2014; 33/2015; 72/2015; 104/2015; 150/2015; 173/2015; 192/2015 and 30/2016

¹⁰ Official Gazette of the Republic of Macedonia" nos. 80/1992, 9/1996, 38/2004, 33/2006, 84/2008, 67/2010, 156/2010, 39/2012, 44/2012, 38/2014, 115/2014, 104/2015 and 150/2015

¹¹ Official Gazette of the Republic of Macedonia" nos. 23/2013, 12/2014, 44/2014, 144/2014, 10/2015, 25/2015, 150/2015, 192/2015 and 27/2016

¹² Official Gazette of the Republic of Macedonia" nos. 37/1997, 25/2000, 101/2000, 50/2001, 25/2003, 37/2004, 4/2005, 50/2006, 29/2007, 102/2008, 161/2008, 50/2010, 88/2010, 51/2011, 11/2012, 80/2012, 114/2012, 39/2014, 44/2014, 113/2014, 56/2015, 129/2015, 147/2015, 154/2015 and 27/2016

¹³ Official Gazette of the Republic of Macedonia" nos. 103/2008, 33/2010, 116/2010, 156/2010, 18/2011, 42/2011, 51/2011, 6/2012, 100/2012, 24/2013, 41/2014, 116/2014, 135/2014, 10/2015, 98/2015, 145/2015 and 30/2016

¹⁴ Official Gazette of the Republic of Macedonia" nos. 44/1995, 24/1996, 34/1996, 35/1997, 82/1999, 29/2002, 40/2003, 42/2003, 67/2004, 55/2005, 113/2005, 35/2006, 30/2007, 49/2007, 81/2008, 92/2008, 33/2010, 116/2010, 156/2010, 18/2011, 42/2011, 51/2011, 6/2012, 100/2012, 24/2013, 41/2014, 116/2014, 135/2014, 10/2015, 98/2015, 145/2015 and 30/2016

¹⁵ Official Gazette of the Republic of Macedonia" nos. 35/2008, 103/2008, 26/2009, 83/2009, 99/2009, 115/2010, 17/2011, 51/2011, 123/2012, 15/2013, 24/2013, 41/2014, 116/2014, 130/2014, 10/2015, 20/2015, 98/2015, 145/2015, 154/2015 and 30/2016

¹⁶ Official Gazette of the Republic of Macedonia" nos. 52/2010, 135/2011 and 55/2016

¹⁷ Official Gazette of the Republic of Macedonia" nos. 55/1995, 19/2006, 66/2007 and 152/2015

¹⁸ Official Gazette of the Republic of Macedonia" no. 38/2005, 110/2008 and 51/2011

¹⁹ Official Gazette of the Republic of Macedonia" no. 62/2006 and 150/2010

in the country that enables their full integration in their new society- citizenship through naturalization or permanent residence.²⁰

The National Action Plan of the Ministry of Labor and Social Policy²¹ proposes measures for ensuring integration of the refugees and persons under subsidiary protection, such as financial assistance for housing, activities for reducing vulnerability and encouraging self-support of the persons, campaigns for informing the refugees about their rights and responsibilities, facilitating their access to the services. In terms of community engagement and development, the above mentioned plan emphasizes the importance of the integration process in all societal spheres and the mixing with the domicile population. In respect to, *"the integration process does not end with the decision of the target group to integrate into the local environment, or with the provision of development assistance - the process of naturalization is equally important, so it should be provided adequate support."*²²

The Center for Integration of Refugees and Foreigners within the MLSP is responsible to facilitate the integration process of the beneficiaries in areas such as: housing, health care, education, employment, social protection and community development. In addition, the Center was responsible for preparing appropriate individual integration programs²³. This Center plays a crucial role in achieving results related with the local integration process. Its activities are targeting two main fields of work: provision of advice, information and practical support to beneficiaries, enabling their access to state services and social benefits; and supports the implementation of specific projects which target specific integration activities that are not covered by regular state services. Besides refugee counseling and practical assistance in accessing state services, the Centre also conducts information campaigns when necessary. The Centre is a focal point for integration related information and coordination for state ministries and agencies, as well as local and international non- governmental partners. Since its establishment in 2009, according to information provided from the Center, over 6.000 beneficiaries have been provided direct assistance interventions to the refugee families, taking part in the local integration, mostly on the Law on Social Protection, Law on Health Insurance and Law on Employment of Foreigners. The Centre for Integration also includes access to benefits arising from specifically created integration programs.

Important to note is that even though, the integration of refugees and persons under subsidiary protection is as such arranged through the central authority- the Ministry of Labor and Social Policy and the Center for Integration working in the capital, according to Article 11 from the Law on Asylum and Temporary Protection, the principle of local contribution implies an obligation of the local self-government units to accept the responsibility of accommodation recognized refugees and persons under subsidiary protection depending on their economic development and the number of their inhabitants, on which the Government of the Republic of Macedonia will decide.

²⁰ Overview of the National Action Plan for Integration of Refugees and Foreigners, Ministry of Labor and Social Policy

²¹ National Action Plan of the Ministry of Labor and Social Policy, Strategy for Integration of Refugees and Aliens in RoM 2008-2015, available at <http://www.mtsp.gov.mk/dokumenti.nspix> (accessed 04.04.2014)

²² National Action Plan of the Ministry of Labor and Social Policy, Strategy for Integration of Refugees and Aliens in RoM 2008-2015, available at: <http://www.mtsp.gov.mk/dokumenti.nspix> (accessed on 04.04.2016)

²³ Strategy for Integration of Refugees and Foreigners in the Republic of Macedonia, available at http://mtsp.gov.mk/WBStorage/Files/strategija_begalci.pdf (accessed 04.04.2016)

RIGHTS IN FRAMEWORK OF THE REFUGEE INTEGRATION PROCESS

For refugees and persons under subsidiary protection to access support to sustain their integration in Macedonia, they have to formally submit application within the office of the Center for Integration. The next step is the development of the Family Integration Plan, developed together with the refugee family. The Plan consists of assessing gaps and outlining activities addressing the issues important to the family during the integration process. The family integration plan should offer concrete action points across integration sectors (employment, education, housing, health insurance, social protection) and thus forms the base for the individual implementation, monitoring and evaluation of the integration activities. In 2010, 814 persons (214 families) from Kosovo have applied for local integration²⁴, however, nowadays significant number of them have left Macedonia and repatriated back to Kosovo, meaning that currently 553 persons are in the process of local integration.

As provided for by Articles 50-57 of the Law on Asylum and Temporary Protection, recognized refugees and persons under subsidiary protection have the same rights and duties as Macedonian nationals with the exception of the right to vote, to engage in professions where it is prescribed by law that the person should be a national, or to be subjected to military draft. They may acquire the right to movable and immovable property; engage in wage-earning activities and professions, have the right to social protection, health care, education, etc. In accordance with Article 59 and Article 60 of the same law, persons who are granted subsidiary protection are equal to nationals in relation to the exercise of the right to social protection, health services and accommodation. As regards other rights, their situation is equal to foreigners with a residence permit.

²⁴ The formal registration started October 2010 following the integration campaign through which all refugees had opportunity to receive detailed information on their rights and responsibilities through the integration process in Macedonia. More available in a Brochure, Ministry of Labor and Social Policy of the Republic of Macedonia, Center for Integration, supported by UNHCR Office in Skopje, Skopje, 2013

THE RIGHT TO SOCIAL PROTECTION

According to the Law on Social Protection²⁵, basic social protection, permanent social protection, nursing care and one- time financial assistance is available to all refugees and persons under subsidiary protection. The access and enjoyment of the social rights is equal to the ones offered to Macedonian citizens. The Centers for Social Work (CSW) are responsible for social protection management of the cases and the Centre for Integration is responsible to provide adequate information and support the refugees in preparing and submitting their application for social assistance²⁶. The Center for Integration updates the social- protection database that assists the Ministry and the CSW to manage cases and coordinates monthly payments arising from social protection rights. Occasionally, the Center for Integration provides additional support, such as distribution of clothes or other humanitarian items.²⁷

As the situation regarding social rights stands at present, only persons under humanitarian protection, victims of human trafficking, recognized refugees and persons under subsidiary protection and foreign nationals with permanent stay have complete access to social rights. According to Article 53 from Law on Asylum and Temporary Protection, the recognized refugee, from the day of delivery of the decision for recognition of the status of a recognized refugee is equal with the citizen of the Republic of Macedonia in relation to the exercise of the rights of social protection established with the Law on Social Protection. The right to financial assistance, the recognized refugee can exercise through the locally competent Social Welfare Centers for a period of one or two years. After that period, the recognized refugees are equal to the Macedonian citizens in respect of all social protection rights.

According to article 47 from the Law on social protection, the amount of the social welfare for its beneficiary is 2.334 MKD denars²⁸ (hereinafter: base amount). For every member of the family, the base amount is raised with the coefficient 0.37, but up to 5 members. This social welfare amount is usually in line with the level of the living costs for the previous year, which are published by the State Statistic Office in January of the current year and area base amount for the social welfare for the following year²⁹.

The persons under subsidiary protection and the recognized refugees in Republic of Macedonia in terms of exercising of their rights of social welfare are equal with Macedonian citizens and these rights are guaranteed with the Law of asylum and temporary protection and Law of social welfare of the Republic of Macedonia.

²⁵ Official Gazette of the Republic of Macedonia” nos. 79/2009; 36/2011; 51/2011; 166/2012; 15/2013; 79/2013; 164/2013; 187/2013; 38/2014; 44/2014; 116/2014; 180/2014; 33/2015; 72/2015; 104/2015; 150/2015; 173/2015; 192/2015 and 30/2016

²⁶ Information received from the Centre for Integration of Refugees and Foreigners during an interview

²⁷ More available in a Brochure, Ministry of Labor and Social Policy of the Republic of Macedonia, Center for Integration, supported by UNHCR Office in Skopje, Skopje, 2013, page.10

²⁸ Equals to 37.8 Euros

²⁹ In a situation in which the growths of the living costs for the previous years are negative, there is no aligning with the base amount. The right to social welfare shall be paid as a difference between the determined amount of social welfare and the total revenues on all grounds of all household members. The amount of the social welfare is determined depending the period of utilizing the right, especially, in the first 3 years – in the amount of 2.334 denars, and upon of the third year, in amount of 50% from the determined amount.

In order to register for social assistance, the beneficiary needs to provide to the MLSP his/her address of residence usually with a lease contract without notary verification. The beneficiary apply for social welfare to the Center for Social Work in the municipality where his the address of the residence registered. In addition of this application copy of these documents are required: lease contract, valid ID from Mol - SfA if the person is an adult, decision for recognized status of person under subsidiary protection or recognized refugee from Mol - SfA, birth certificate (from country of origin) or certificate for status from Mol – SfA and for minor children PIN number determined by Mol – SfA.

CHALLENGES IN ACCESSING SOCIAL PROTECTION

Challenge 1: Inability to exercises the right of social assistance of the whole family if just one member does not possess or has lost the status of a person under subsidiary protection or does not possess personal identification number (PIN).

Case 1: B.I. is a (single parent) with ceased subsidiary protection in Macedonia. A decision for ceasing the subsidiary protection is brought for her and her case is currently in the appeal procedure. De jure, she is still a person under subsidiary protection, with valid ID and PIN number issued by Mol – SfA. However, she cannot exercise the right to social welfare for her and two of her four minor children due to the fact that the two of them are without status of person under subsidiary protection and do not possess PIN because they are born after the decision for ceasing the subsidiary protection. In cases like this, Mol-SfA does not want to determinate status and PIN for these children.

From this case we can see that if only one family member does not possess status and with that does not possess PIN number, than the all family cannot exercises their right of social welfare in RoM.

RECOMMENDATION 1:

The Centers for Social Welfare should at least recognize the right to social welfare for the family members who are under subsidiary protection because this right is guaranteed by the domestic law. The fact that a member of the family is without status or loses the right to asylum should not endanger the social aspect of other members who are still with recognized right to asylum in the country. In addition to this, CSW needs to find a modality for minors to be granted the right to social welfare in accordance with the Law on Child Protection in RM, Article 4 provides that: *"In applying the provisions of this law sets out the principles of protection of the right to life and development of the child, protecting the best interests of the child, providing a minimum standard for every child under equal conditions, excluding any form of discrimination, respect for the child's right to liberty and security of person, of self-opinion and free expression, association and education, for healthy living conditions and achieving other social rights and freedoms of the child"* and with accordance with Article 22-a: *"The best interests of the child shall be a primary consideration when implementing the provisions of this law"*, Article 31 *"On the basis of the facts and evidence established during the procedure, if both parents were granted a status of recognized refugee or subsidiary protection, the Section for Asylum may also issue an additional decision recognizing the same status to their minor child who was born and lives on the territory of the Republic of Macedonia. In cases where one of the parents were granted a status referred in paragraph 1 of this Article, the Section for Asylum*

may issue and additional decision recognizing the same status to a minor child who was born and lives on the territory of the Republic of Macedonia, recognizing the right to asylum, recognized refugee or subsidiary protection. " from the Law of Asylum and Temporary Protection of RoM.

Challenge 2: Ceasing (suspending) the right of social welfare of the whole family for receiving financial funds for covering costs for food and transportation due to attendance of vocational training

Case 2: The right of social welfare is ceased of the whole family of V.B, due to the fact that one member has received financial funds on his bank account for attendance of training and these financial means (over 6.200 denars) were transferred with purpose to cover costs for food and transportation for attendance of vocational training even though this person previously has submitted the contract for attendance of training to the Center for Social Work.

The decision for ceasing the right to social welfare by the CSW is brought in accordance with Article 55 of the Law of Social Welfare: *"for the beneficiaries of social welfare who are work engaged, right of social welfare shall be suspended for the time of work engagement, and after the stopping of the work engagement exercise of the right of social welfare will continued."* In this case CSW didn't make distinction between attendance of training and work engagement. Article 2 paragraph 2 line 11 from the *"Rules on how to establish the state of income, property and property rights of the household, the determination of the right holder and documentation necessary to achieving and exercising the right to social welfare"* provides: *as income in terms of paragraph 1 of this Article, in exercise and use of the right to social welfare, is not considered: 11. Compensation for travel expenses and a daily meal, exercised pursuant programs / measures of the Operational Plan for active programs and measures for employment"*. The CSW considers funds over 6,200 denars received for vocational training, retraining or additional training for employment according to the by-law "Operational Plan for active programs and employment measures" as income or as grounds for inability to exercising and use of the right to social welfare or as a basis for ceasing of this right.

RECOMMENDATION 2:

The by-law "Operational Plan for active programs and employment measures" should be amended and the income for covering expenses for participation to vocational training should not be considered as ground for ceasing the right for social welfare. Measures like this may discourage people to undertake vocational trainings and seek employment. Moreover, taking in consideration the fact that refugees and persons under subsidiary protection are not included in this by-law as beneficiaries.

Challenge 3: Using and not using the Law of obtaining and exchange for data ex officio by the CSW to the detriment of beneficiaries of social welfare.

Case 3: G.B is a person under subsidiary protection who has applied for social protection for her and her children and in addition to the application a decision for extending the right of subsidiary protection for all persons is also submitted. However, CSW has rejected this application with decision in whose explanation is stated that the mother has submitted birth certificates for all children without PIN. CSW didn't comply with the Law of obtaining and exchange for data ex officio to the Mol – SFA and obtain the PINs for the children.

In this case MYLA as legal representative of those persons has obtained the PIN numbers from MoI - SFA for all of them and together with the other documents which are required for the exercise of the right of social welfare are submitted together with the appeal through the CSW to the MLSP against the previous negative decision from CSW. In this appeal stands that the CSW should have obtained those PINs ex officio in accordance with the Law of obtaining and exchange of data ex officio. CSW has accepted this appeal like new application for social protection and has recognized the right of social welfare of these persons with new decision.

RECOMMENDATION 3:

The Centers for Social Welfare should use this law more in the interest of the beneficiaries in order to justify the purpose for which it was created- to facilitate the access to guaranteed rights. The centers for social welfare should keep in mind that they are deciding for the rights of persons (and family) which belong to the especially vulnerable persons, who reside in the country.

RIGHT TO NATURALIZATION

The Strategy for Integration encourages the authorities to promote naturalization of the refugees and persons under subsidiary protection, where possible, meaning in a broader sense, granting them access to citizenship, naturalization. Moreover, the National Action Plan includes not just encouraging community engagement and multicultural activities, but as well measures facilitating the process of naturalization.

According to Article 7-a from Law of citizenship³⁰, a person with recognized refugee status may acquire citizenship of the Republic of Macedonia by naturalization, if from the recognition of refugee status until the submission of the application for admission into citizenship

1. s/he has been legally and permanently living in the territory of the Republic of Macedonia for at least six years and if
2. s/he is at least 18 years of age;
3. has a housing and a permanent source of income in the amount enabling material and social security in accordance with the requirements determined by law;
4. has knowledge of the Macedonian language to the level that he/she can communicate with the environment;
5. is not sentenced a measure prohibition on residence in the Republic of Macedonia and
6. his/her admission to citizenship of the Republic of Macedonia does not endanger the national security or defense of the Republic of Macedonia.

However, in practice, refugees continue to experience many challenges in the process, including when seeking to obtain the necessary personal documents that are required to apply. Following, from 2013 to 2015, according to data provided by MYLA, only 5 persons have been granted citizenship on the basis of this article, and all of them belong to the refugees coming from Kosovo.

³⁰ Official Gazette of the Republic of Macedonia” nos. 67/1992, 8/2004, 98/2008, 158/2011 and 55/2016

As for persons under subsidiary protection, Article 7 from Law of citizenship can be applied. Following, an alien who has personally submitted an application for admission into citizenship of the Republic of Macedonia may acquire citizenship of the Republic of Macedonia by naturalization, if fulfills the following requirements:

1. have reached 18 years of age;
2. until the submission of the application, to have been legally and permanently living in the territory of the Republic of Macedonia for at least eight years;
3. have provided an adobe and a permanent source of means of subsistence in the amount that affords material and social security, under conditions determined by law;
4. not to be punished in the Republic of Macedonia and in the state of his nationality by a sentence of imprisonment with a duration of a minimum of one year, for acts which are prosecuted ex officio and which are punishable according to the regulations of the republic of Macedonia;
5. there is no criminal proceeding instigated against him in the Republic of Macedonia and in the state of his nationality;
6. proficient in the Macedonian language to the extent that extent that he/she can easily communicate in the environment;
7. a measure of prohibition of residence in the Republic of Macedonia has not been declared;
8. his/her admission into citizenship of the Republic of Macedonia should not threaten the security and defense of the Republic of Macedonia;
9. signs an oath that he will be a loyal citizen of the Republic of Macedonia and
10. has a release from his/her former citizenship or proves that he/she will obtain it if admitted into citizenship of the Republic of Macedonia³¹.

According to data provided through MYLA's work, most of the successful naturalization processes of persons under subsidiary protection in the period from 2012 to 2015 have been done under Article 4- Acquisition of Citizenship by origin from the Law on Citizenship³², meaning that the majority of them were children from mixed marriages between refugee and Macedonian national. In total, 56 persons obtained Macedonian citizenship and 7 persons under subsidiary protection were able to obtain citizenship under Article 7.

In accordance with the Law on citizenship of the Republic of Macedonia started to help in the process of naturalization of the persons with recognized right to asylum for subsidiary protection and the persons with status of recognized refugee which have continuous legal residence for more than 8 years or 6 years for refugees and intended to stay in Macedonia and want to be admitted to Macedonian citizenship. The persons with recognized right to asylum for subsidiary protection in the Law on citizenship of RoM are not mentioned as a category of persons for which is provided admission to citizenship of Macedonia as exemplified for recognized refugees who are covered by Article 7 – a of the Law on citizenship of RoM or

³¹ Upon exception, if the foreign state does not give release or place such conditions for release from citizenship which are impossible for the alien to fulfil and at the same time, in order not to create existential or security problems to the alien and his/her family, he/she shall be admitted into citizenship of the Republic of Macedonia if makes a declaration that he renounce his foreign citizenship.

³² In total **29** people; following naturalizations by marriage in accordance to Article 9 from the Law on Citizenship-**17** in number; under Article 12 from the same law, a child under 18 years of age acquires Macedonian citizenship if both his parents have acquired Macedonian citizenship by naturalization- **5** such cases;

citizenship of the RoM can be obtained by a person with recognized refugee status if from the recognition of refugee status till the submission of the application for citizenship, legally and constantly resides in the RoM for at least 6 years.

But because people with recognized right to asylum for subsidiary protection are foreigners and their stay in the country is legal they are applying for citizenship of RoM under Article 7 of the Law on Citizenship of RoM that the citizenship of the RoM by naturalization may be acquired by an alien who personally submitted an application for citizenship of the RoM which among other conditions until the submission of the request, legally and permanently living on the territory of the Republic of Macedonia for at least eight years.

Challenge 5: Required documents from the country of origin

Although the main request - their legal stay is achieved, as an obstacle in the process of naturalization of these persons are some of the conditions in Article 7 of the Law on Citizenship. Those are the required documents from the country of origin- Certificate that no criminal proceedings, Certificate of criminal records and Certificate for release from their previous citizenship. In addition to these documents, the Section for citizenship, MOI requests for documents not prescribed by the Law on citizenship- Birth certificate and Certificate of marital status (if the person is married).

RECOMMENDATION 5:

In these cases there is a risk to create existential and security problem for these people, due to the fact that they are with recognised right to asylum in Macedonia after leaving their country of origin or the country of their citizenship, because of fear of persecution and fear the safety of their lives.

One recommendation in relation to this provision is the person to make a declaration that is not able to obtain these documents from his/hers country of origin because s/he is with the recognized right to asylum in the Republic Macedonia, pursuant to Article 7 paragraph 4 of the Law on Citizenship of RoM: *“Upon exception of paragraph 3 of this Article, if the foreign state does not give release or place such conditions for release from citizenship which are impossible for the alien to fulfil and at the same time, in order not to create existential or security problems to him and his family, he shall be admitted into citizenship of the Republic of Macedonia if he makes a declaration that he renounce his foreign citizenship.”*

Another proposal is that in the cases where as a final requirement for admission to the citizenship of RoM is required to obtain the necessary documents from their country of origin, the Section for asylum to give guarantees that will not ceased the right of asylum to these people until their admission in the citizenship of RM.

Challenge 6: Required evidence for housing

In terms of the required proof of a place of living, Article 7 of Law on Citizenship, among other conditions provisions that the alien should *“have provided an abode”*. Most of the persons under subsidiary protection live in rented houses who are in the process of legalization (because of cheap rent) or they are subject to probate proceedings and the owners of those houses don't poses a property certificate. Section for Citizenship as an evidence of abode considers possession of property certificate for the

residence facility or a notary verified lease contract (for the conclusion of this contract at the notary is necessary a property certificate for the facility that is issued under the lease).

RECOMMENDATION 6:

The Section of Asylum as a proof for an abode, as a required documentation for registration of address is the ID card of the owner of the property that was rented and his bills for the electricity/water or decision for the tax of the property. In these documents the name and address should be refer to the same person. The same documents are used for concluding a lease contract without notary verification in the procedure for exercising the right of social protection before the Center for Social Work.

The recommendation is that in the procedure for acquiring Macedonian citizenship, as an evidence for housing to be taken the lease contract without notary verification with the aforementioned documents as it is practiced in the Section of Asylum and MLSP.

Challenge 7: Social assistance as a source of subsistence

Person with granted asylum in the Republic Macedonia can exercise the right of social protection if primarily is registered at the Center for Integration of refugees and to report the address of residence with a lease contract without notary verification. In addition, a request for the exercise of the right to social protection must be submitted in the Center for Social Welfare in the municipality where person has registered the address of residence. A copy of lease contract, valid ID card if the person is an adult, decision for recognized status of a person under subsidiary protection or refugee status, for minor's birth certificate or certificate for status issued by SfA-Mol and personal identification number issued by SfA-Mol have to be submitted.

The social protection system is created in a way that the beneficiary who wants to exercise the right to social protection must have personal identification number issued by the Mol of RoM. In terms of providing a permanent source of means of subsistence in the amount that affords material and social security, under conditions determined by law, the Section for Citizenship started to accept social financial assistance as a source of means of subsistence. However, this can be challenging if:

- There is an interruption or inability to exercise the right of social welfare of the whole family, if just one member does not possess or has lost the status for person under subsidiary protection or
- Inability to exercises the right of social welfare if just one member does not possess personal identification number or untimely submits birth certificate or personal identification number for newborn child. The procedures before Directory for managing registry records, Ministry of Justice for registration of new born child and determination of personal identification number for newborn children of persons with recognized right of asylum are longer than same procedures for people who are Macedonian citizens, mostly due to the fact that if these persons submitted a request to the Directory for managing registry records for obtain the necessary documents from the Sector of asylum in accordance the Law of obtaining and exchange for data ex officio, the duration of these procedures are much longer.

RECOMMENDATION 7:

In these cases the Centers for Social Work should at least recognize the right to social protection to family members who are under subsidiary protection because that right is guaranteed by the domestic law. If one family member loses the right to asylum, which should not endanger the social aspect of the other members, who are still persons with recognized right of asylum in the country. The centers for social welfare should use the Law of obtaining and exchange for data ex officio of RoM more in the interest of the beneficiaries in order to justify the purpose for which it was brought. Moreover, they should keep in mind that they are deciding for the rights of vulnerable persons (and family).

Better communication and coordination between MYLA, the Centers for social welfare and the Centre for integration of refugees and foreigners from MLSP should be established in order to prevent to avoid endangering the right to social protection for these people.

Challenge 8: Procedure for concluding of marriage

In the procedure for concluding marriage of person with recognized right to asylum for subsidiary protection or recognized refugee, as necessary documents among others by the Directory for managing registry records, Ministry of Justice documents from the country of origin- Birth certificate and Certificate of free marital status are requested. The question is why these documents are required by this authority despite knowing that these persons are with recognized right to asylum in Macedonia and with that they are under international protection and cannot contact their country of origin. The issuing of all their personal and status documents in Macedonia is in the competence of Section for Asylum - Mol of RoM.

RECOMMENDATION 8:

The issuance of all personal and status documents should be done by the Section for Asylum - Mol of RoM. All other government body in RoM should accept these documents as credible.

ABOUT MYLA

MYLA continuously supports the integration process of refugees and persons under subsidiary protection through providing legal assistance and representation of their rights in front of the Sector for asylum in the process of reviewing their legal status in the country, using of legal mechanisms in order to ensure that they are provided with personal documentation; assisting the beneficiaries in the procedures for exercising their right of social welfare and providing full support of the beneficiaries in the process of their naturalization in order to obtain residence permit or citizenship as a final achievement in the process of integration.

MYLA continuously supports these persons in terms of exercise of their right of social welfare through legal counseling, submitting requests for exercise of their right of social welfare, submitting various notifications and requests to the Centers of social welfare and preparation of appeals for the MLSP, preparation and submitting lawsuits to the Administrative Court and appeals to the Higher Administrative Court.