



Macedonian Young Lawyers Association

MYLA MID-YEAR REPORT ON IMMIGRATION DETENTION IN MACEDONIA

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Title:

**MYLA MID-YEAR REPORT ON IMMIGRATION DETENTION IN MACEDONIA
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Effective legal assistance and the opportunity to adequately challenge the legality of detention are fundamental safeguards against arbitrary detention.

It is important to ensure access to legal aid to everyone, including asylum seekers, refugees, and migrants affected by immigration detention.

Legal aid is central in providing access to justice both as a basic human right and as a means to protect other human rights.

INTRODUCTION

In response to the increased cross-border migration in the region, immigration detention has become a growing phenomenon in Macedonia in the past few years. This phenomenon has caused an increase in concerns surrounding the possible violations of human rights for those held in detention within Macedonia's borders.

Since as early as 2015, the Macedonian Young Lawyers Association (MYLA), supported by UNHCR, has been actively engaged in the protection of refugees and migrants affected by immigration detention. MYLA conducts regular monitoring of the immigration detention facility and provides information on the international protection to immigration detainees.

Independent monitoring of immigration detention contributes to an increase in the transparency and accountability of the public institutions, strengthens the human rights protection system, and reinforces the rule of law.

This report shows comparative data on the profile of detained third-country nationals, discusses the legal grounds for detention, the conditions in the immigration detention facility, and the access to the asylum system. The issues presented are intended to serve as an indicator for further developments in policy and practice in order to protect the rights of those affected by immigration detention.

KEY FINDINGS

The number of immigration detainees in the first half of 2017 was significantly lower compared to that of 2015 and 2016.

The detention conditions diverged from the relevant domestic and international legislation and standards.

Detainees were not adequately informed about the legal grounds for their detention, the possibilities to challenge the detention, nor did they have access to legal assistance.

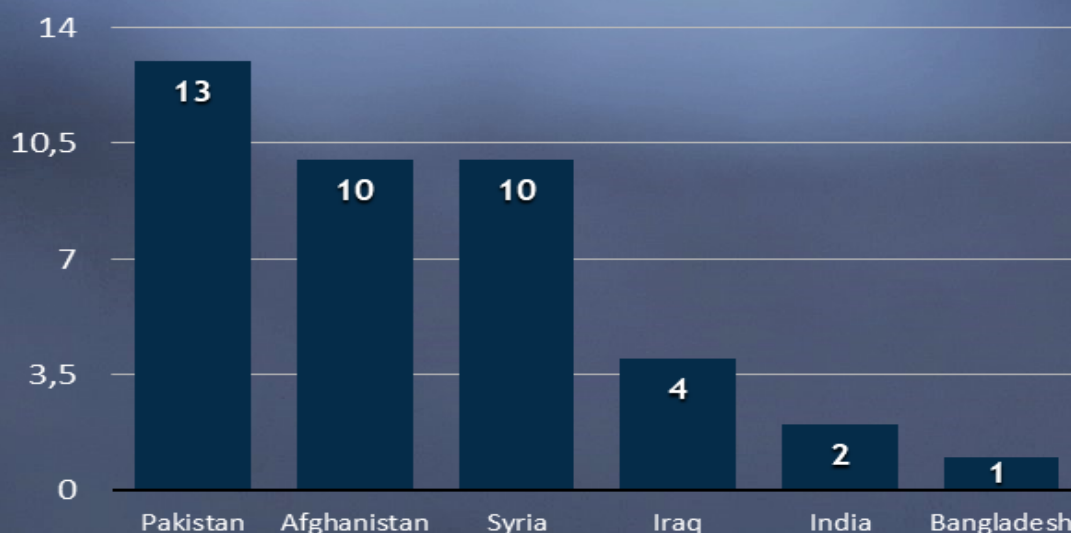
Of the asylum seekers in Macedonia during 2017, 58% were immigration detainees prior to seeking asylum.

PERSONS DETAINED IN THE RECEPTION CENTRE FOR FOREIGNERS

The Reception Centre for Foreigners is the only immigration detention facility in Macedonia. Over the first six months of 2017, MYLA conducted regular weekly visits to the centre.

In the same period, at least 40 individuals were affected by immigration detention in Macedonia. All detainees were male and between the ages of 18-59, with the exception of one unaccompanied child. The majority of the detainees originated from Pakistan, Afghanistan, and Syria.

It should be noted that due to the limited access of MYLA to detainees and detention areas, the numbers presented are to be considered approximate.



Country of Origin of Detainees (January-June, 2017)

LEGAL GROUNDS FOR DETENTION

Under the applicable legal framework, a foreigner can be detained in Macedonia for the purposes of establishing identity and forced removal.

During the immigration detention visits, MYLA was not able to determine the legal grounds for detention of the individuals interviewed. The reason behind this lies on the lack of provision of detention decisions to the persons and the absence of access of MYLA to the case files.

According to MYLA's findings based on the conversations with the detainees, all of them were apprehended while traveling with migrant smugglers. The detained individuals were told by the police that they were being held in detention as witnesses in the criminal procedures against the smugglers. All detainees were released right after providing a statement before Court.

It should be noted that there is no legal provision that permits detention of witnesses.

CONDITIONS OF DETENTION

MYLA had limited access to the holding cells and area of the immigration detention facility. The following section summarizes the experiences of detainees regarding the conditions obtained by MYLA during the interviews.

ACCESS TO INFORMATION Most of the detainees complained on the lack of information on the grounds and length of detention. There is a lack of interpretation services to ensure that detainees fully understand their legal status, the decisions that concern them, and the documents they are instructed to sign.

FOOD Detainees had been provided with food once every 24 hours. They complained on the insufficient quantity, poor quality and nutritional value of the food they receive. Some of the detainees also complained that the food had not been tailored to their individual medical conditions.

ACCESS TO FRESH AIR The detainees had not been able to move freely within the facility and did not have the possibility to stay outside in open air.

HEALTH CARE There was one doctor from the Red Cross regularly visiting. Only limited medical treatments were available to the detainees despite particular cases where individuals were facing serious health issues. Additionally, there was no support provided by social workers or psychologists for mental health care.

RIGHT TO PHONE CALLS Mobile phones were not allowed. Detainees were able to use the phone at the centre free of charge. However, the right to use the phone was limited to once a week.

TREATMENT There was a lack of an individualized approach based on the characteristics, situations and the needs of foreign nationals in detention. No recreational activities were available.

ACCOMMODATION In 2017, there had been no overcrowding of the immigration detention centre and the living space per detainee was sufficient. The number of detainees was low compared to the total capacity of the facility. In the reporting period, between 10-20 detainees were accommodated in one room.

ACCESS TO THE ASYLUM SYSTEM

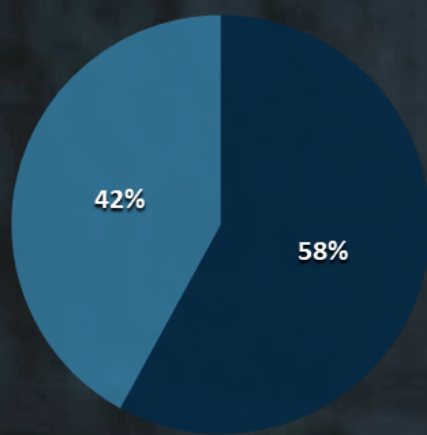
The persons detained in the immigration detention centre faced obstacles in accessing the asylum procedure.

Detainees were not permitted to submit an asylum application prior to providing statements as witnesses before the court in the criminal procedures for migrant smuggling. All of them have been able to submit asylum applications at the time of release.

In the first six months of 2017, 40 persons have applied for asylum at the Reception Centre for Foreigners.

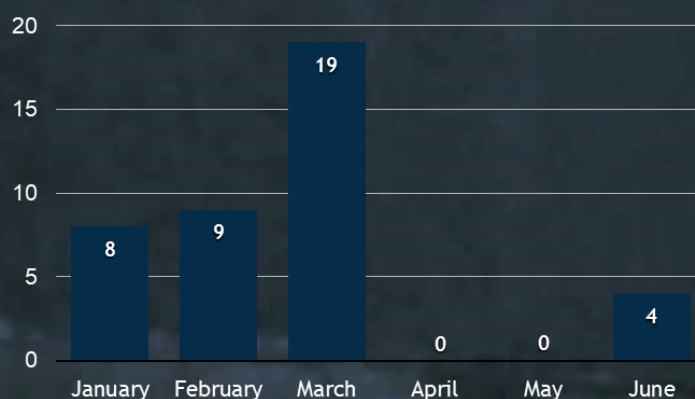
The asylum procedure for all of them was stopped since they have left the Reception Centre for Asylum Seekers soon after they have been admitted.

The average length of stay in the centre of these asylum seekers was two and a half days. Most of them (33.3%) left the centre the same day of their arrival, 25.6% left the centre within two days and 13% left within one day of arrival.



■ Reception Centre for Foreigners
■ Police stations

*Place of Submission of the Asylum Applications
(January-June, 2017)*



Number of Asylum Applications Submitted at the Reception Centre for Foreigners (January-June, 2017)

LENGTH OF DETENTION

The average length of detention was 14 days, with the longest detention being 60 days. The maximum time limit of 12 months was not exhausted.

PUSH BACKS

The interviewed detainees reported that at the time they were caught by the police, they travelled in groups. However, not all of the persons were detained. Out of 63 people, 53.96% (34) persons were returned to Greece, and 29 were detained. As a result, one family separation case was reported.

MYLA'S WORK RELATED TO IMMIGRATION DETENTION

LEGAL AID

MYLA provided legal aid and representation to 40 asylum seekers affected by immigration detention in 2017.

MONITORING

MYLA's monitoring team, consisted of a lawyer and an interpreter, carried out 13 immigration detention visits in the first half of 2017. During those visits, 12 refugees and migrants were interviewed and informed on international protection.

ADVOCACY

MYLA regularly provides the relevant authorities with the findings of the monitoring conducted and submits to them recommendations. During 2017, MYLA had several meetings with competent authorities, civil society organisations, and international organisations aimed at strengthening the human rights protection system in the context of immigration detention in the country.

CAPACITY BUILDING & NETWORKING

On May 31st, 2017 MYLA joined the International Detention Coalition (IDC), a unique global network of organisations and individuals working together to end the immigration detention of asylum seekers, refugees, and migrants.

RESEARCH & REPORTING

This is the second report on immigration detention in Macedonia published by MYLA.

In January 2017, MYLA published its first annual monitoring report which focused on the conditions in which immigration detainees were held in detention in 2016. The report is available on www.myla.org.mk.



IMMIGRATION DETENTION CONFERENCE HELD ON JUNE 19th, 2017

MYLA supported by the UNHCR Office in Skopje and the European Union, held a conference on “Immigration Detention in Macedonia - Current practices, applicable legislation and possible alternatives” on June 19, 2017 in Skopje.

The conference aimed to advocate for improvement of current practices in relation to immigration detention in Macedonia, to encourage appropriate changes in the legislative, and promoted alternatives to detention. Competent authorities, civil society organisations, and international organisations joined the discussions.



- ◆ No child should be held in immigration detention;
- ◆ Ensuring presence of witnesses in criminal proceedings by detaining them is contrary to the law. Adequate alternatives should be explored;
- ◆ Effective legal assistance and the opportunity to adequately challenge the legality of the decision are crucial in ensuring that the rights of the persons detained are respected and fulfilled;
- ◆ Alternatives to detention should be available in law and implemented in practice and
- ◆ MYLA, UNHCR and relevant CSOs should be included in the working groups for amendments to the relevant legal framework in order to contribute with expertise.

Conclusions of MYLA's Conference on Immigration Detention, June 19th, 2017



Macedonian Young Lawyers Association

About the Macedonian Young Lawyers Association

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

Equipped with the knowledge and innovative capacities of young lawyers, MYLA promotes the rule of law and influences policy through research and advocacy. MYLA strives for a society in which the rule of law is established and people proactively strive for the respect of human rights.

MYLA is the only organisation in Macedonia that provides free legal aid and represents asylum seekers, refugees, stateless persons, and other persons of concern in procedures related to asylum, legal residence, and other social rights.

MYLA's work has been generously supported by The United Nations High Commissioner for Refugees.



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