



Macedonian Young Lawyers Association

# The state of asylum in the Republic of North Macedonia 2020

Skopje, 2021



## Macedonian Young Lawyers Association

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## Contents

List of abbreviations .....	5
Introduction.....	7
Brief overview of the situation in the country .....	8
Access to territory and non-refoulement principle .....	10
Access to procedure. ....	12
Asylum procedure.....	14
Administrative procedure .....	14
Procedure before the administrative courts .....	20
Reception Centers in Republic of North Macedonia .....	22
Conditions in the reception centers in Republic of North Macedonia .....	24
TC Vinojug .....	25
TC Tabanovce .....	26
RC for asylum seekers .....	28
Detention due to immigration .....	29
Integration .....	31
Early integration . ....	31
Integration of the refugees in Republic of North Macedonia .....	34
Integration of the refugees from the 1999 Kosovo crisis in the Republic of North Macedonia.....	36
Right to naturalization .....	37
Right to social protection .....	38
Vulnerable categories .....	39
Children .....	39
Sexual and gender-based violence .....	42
Recommendations .....	44

## **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 Association (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 North Macedonia (RNM)

Roma, Ashkali and Egyptians (RAE)

Sector for Asylum (the Sector)

Centers for Social Work (CSW)

Crisis Management Center (CMC)

**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 2020. 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.**

**This publication is supported by the UNHCR Representation in Skopje. The opinions and standings stated in this publication are solely belonging to the author, and do not necessarily reflect the official standings of the UNHCR.**



## 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 eleven years, MYLA has been successfully protecting the rights of these persons and their full realization, and regularly participates in the 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 region and outside it, which will submit application for asylum in Republic of North Macedonia (RNM). MYLA provides legal advice for submission of the application for asylum and the procedure even before its submission to all of the foreigners who show intention to submit such application. After the opening of the Transit centers (TC), i.e. in the South – the Transit Center Vinojug, and in the North – the Transit Center Tabanovce, MYLA has everyday attendance through an office in these centers, where it manages to monitor the condition, provides initial advice and information for the procedure for asylum, provides support and directs and mediates for the persons that want to submit application in the procedure before the state authorities. MYLA also has its office in the Reception center for asylum seekers in Skopje, where it represents asylum seekers, provides legal counseling and consultations, monitors and mediates for issues related to their status on daily basis. MYLA also provides legal counselling and represents persons under international protection in all of the procedures before the state bodies. In addition to this, in the scope of MYLA's operations we include the representation of the 1999 Kosovo crisis refugees which are still in the country and enjoy international protection, through legal assistance in the procedures related to their status and the rights they are entitled to.

On grounds of the experience and practice in providing free legal aid to the asylum seekers and persons under international protection in the country, MYLA has prepared this report, which provides comprehensive analysis to the access to the asylum procedure, the asylum procedure itself and the actions of the state bodies, the integration procedure and (dis)respect of the rights of the persons of concern. In addition to this, this Report shows the defaults in the application of the domestic laws and bylaws in the field of asylum, as well as the international instruments adopted in accordance with the Constitution of RNM. Through this document, we aim to establish efficient asylum and integration system for the persons under international protection, in which their guaranteed rights will be respected. This document contains real examples, available data and recommendations for overcoming certain weaknesses and problems within the RNM asylum system.

## 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.

Accepting RNM as a transit-country instead of a final destination, the average time which the refugees spend in the transit centers is several days. But in 2020, the main change that affected several processes was the Covid-19 pandemics.

The virus had significantly complicated the situation for the migrants and asylum seekers that arrived in RNM during the past period, from several aspects. The President of RNM declared state of emergency on the 18th of March 2020 for the whole territory of the country<sup>1</sup> and it lasted until the 23rd of June 2020 with several disruptions. The pandemics contributed towards shortages and difficulties in conduction of the asylum procedure and the procedures related to the realization of the right to international protection, while at the same time the recommendation for prevention and protection against the virus needed to be obeyed. This also affected the irregular movement of the migrants throughout RNM territory and the capability of the state to control these movements in times when preventive measures for protection against spreading the virus were continuously undertaken. Due to this, the country had conducted some amendments and reached measures for the migrants and asylum seekers. The Government during one session reached a conclusion that “During the period of state of emergency due the COVID-19 virus, all new asylum seekers, as well as the newly identified persons without regulated residence at the territory of Republic of North Macedonia, initially are accommodated in quarantine for 25 days in the Transit Center Vinojug – Gevgelija.”<sup>2</sup> When the state of emergency ended, this practice continued, and after submitting appeals in individual cases and a reaction by MYLA and UNHCR regarding this issue, this period was shortened to 14-day quarantine in order to eliminate the discrimination against this category of persons in comparison to the other citizens or foreigners.

The start of the pandemics meant stopping of the registration of migrants in TC Vinojug, and this center, apart from the asylum seekers, also became quarantine center for the persons detained as witnesses in the criminal proceedings against the smugglers.

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 to be accommodated in foster homes or individual private accommodation at their own cost with prior written approval by MLSP. After the expiry of the quarantine in TC Vinojug, the asylum seekers were taken and accommodated in the Reception center.

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<sup>1</sup> <https://pretsedatel.mk/%d0%b2%d0%be%d0%bd%d1%80%d0%b5%d0%b4%d0%bd%d0%be-%d0%be%d0%b1%d1%80%d0%b0%d1%9c%d0%b0%d1%9a%d0%b5-%d0%bd%d0%b0-%d0%bf%d1%80%d0%b5%d1%82%d1%81%d0%b5%d0%b4%d0%b0%d1%82%d0%b5%d0%bb%d0%be%d1%82-%d0%bd/>

<sup>2</sup> Excerpt from the draft-minutes from the twenty-eighth session of the Government of Republic of North Macedonia, held on 25th of March 2020.



However, 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. As per the Law on Social Protection,<sup>3</sup> 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 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 2020, 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 been realized in practice yet.

Although the global pandemics has imposed changes for the state of asylum, it does not cover the defaults of the system and some of the problems that muddle through the past years. MYLA has noted and reported some of these problems, such as violation of the right to submitting application for granting the right to asylum for some of the refugees, forced return of an asylum seeker to the Greek territory, need for improvement of the procedure for granting a refugee status, decisions lacking sufficient elaboration, with lack of attention and assessment of the need for international protection. Key novelty and one step ahead was the start of the holding oral hearings as per the Law on Administrative Disputes<sup>4</sup> before the Administrative court in RNM.

Due to all the above mentioned, through this Report, we aspire towards motivating the institutions to provide the basic guaranteed rights and process and material protective measures for the refugees in RNM.

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<sup>3</sup> Law on Social Protection (Official Gazette of RNM no. 104 from 23.05.2019).

<sup>4</sup> Law on Administrative Disputes Official Gazette of RNM no. 96 from 17.05.2019).



## **ACCESS TO TERRITORY AND THE NON-REFOULEMENT PRINCIPLE**

The non-refoulement principle is one of the ground postulates both in international,<sup>5</sup> and domestic law<sup>6</sup> 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 this principle, which is accepted and incorporated in the RNM legal system, the states are required to provide and to guarantee access to their territory and efficient asylum procedure to the persons which due to certain reasons have found themselves on their territory and seek international protection. This principle forbids the states to return these persons to the place that is unsafe for persecution as per the international refugee law is applied for any form of forced removal, including deportation, expulsion, extradition, non-formal transfer and denying acceptance at the border. It compulsory and completely forbids the state to violate, modify exclude or limit this principle.

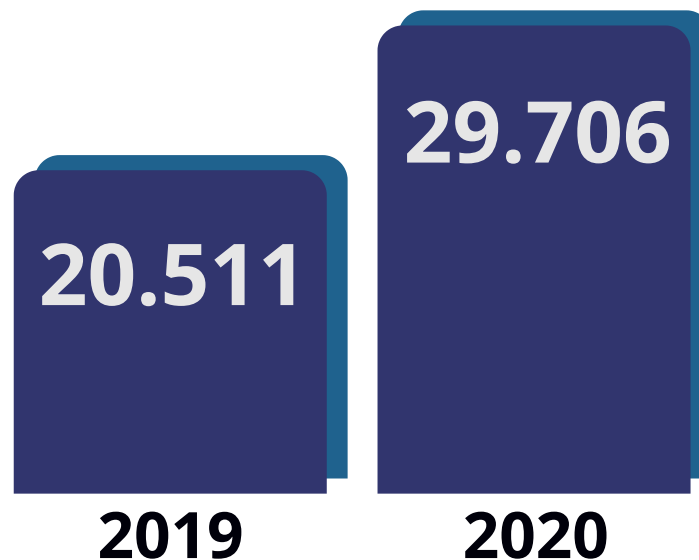
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<sup>5</sup> Article 33 from the 1951 UN Convention Relating to the Status of Refuges. The Convention is available at the United Nations High Commissioner for Refugees' web-site <https://www.unhcr.org/3b66c2aa10>

<sup>6</sup> Article 14 from LITP.

In 2020, besides the global pandemic, the number of persons caught and returned to some of the neighboring countries has slightly increased in comparison to 2019. In 2020, MYLA had registered 29.706 cases of returns outside the formal procedure, unlike 2019, where the number of such returns was 20.511.

**According to MYLA statistics in 2019 and 2020, a total number of returned migrants to Greece outside the formal procedure in RNM**



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 is increasing every year. Moreover, during the pandemics, due to failure to register, all of the migrants that were found at the south border were informally returned to Greece, without registration and without a procedure for individual assessment of their needs. Apart from the persons found at the south border, this year we have noted a trend of persons found near the northern border, which were later taken to the Greek territory outside a formal procedure. Furthermore, the police had occasionally transporting persons accommodated in TC Tabanovce 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.

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. However, **most of these categories of persons that served as witnesses in criminal proceedings during 2020 were kept in TC Vinojug, although in not even one case a decision for detention was reached. As per the decision upon submitted request for information of public importance,<sup>7</sup> a total of 32.100 attempts for illegal crossing of the state border from the neighboring countries have been prevented, while at the RNM entry point a total of 26.309 persons have been prevented from entering.**

<sup>7</sup> Decision no. 16.12-208/1 as a response to the request for free access to the required information of public importance from the Ministry of Interior of RNM.

In 2020, MYLA had intervened in 25 different cases on ground of disobedience of 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.

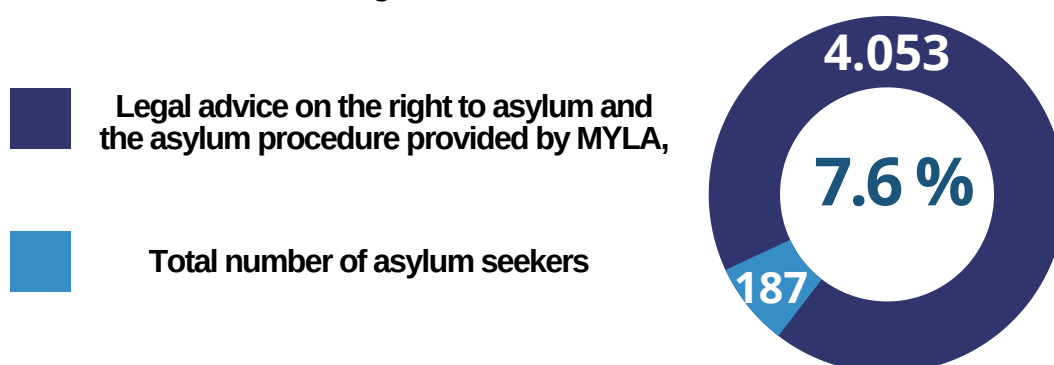
#### • ACCESS TO PROCEDURE

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. The police officer will register the application and will conduct the registration and then it is obliged to notify the Sector for Asylum and to take the asylum seeker to the Reception center. In 2020, the asylum seekers, upon submitted application, were taken to the quarantine accommodation as per the Decision reached by the Government of RNM in TC Vinojug. After the termination of the state of emergency, upon reaction of MYLA and UNHCR and the filed appeals against the decisions on accommodation, MLSP determined that the asylum seekers would be accommodated in 14-day quarantine. An exception to this rule was possible only in case of a negative PCR test not older than 48 hours. In such situation, the asylum seeker would be immediately transferred to the Reception center. However, even the revised decision for 14-day quarantine had no ground in the laws or in any other act, which once again brings into question the legal ground for quarantine detention in a situation when this measure was not applied to any other category of persons in the country. In addition to this, the LITP prescribes that any person that wants to require asylum and is in RNM shall submit an application for asylum to the Sector. However, as per the interpretation of the Sector for Asylum, this is not applicable for persons which have once before been asylum seekers and after the completion of the procedure want to submit a new application, and that it applies only to foreigners with regulated residence under the Law on Foreigners. In case of family reunification, the application should be submitted to the diplomatic-consular branch of RNM abroad. With the submission of the application for asylum, the procedure for asylum is officially initiated.

Although in 2020 no intention for submitting an application for asylum was officially registered, during this period there were cases when the people orally declared their intention for submitting application for asylum, but it had not been registered and they were returned to Greece against their will.

In August 2020, they had limited the right to access to an asylum procedure for a group of 14 refugees from Afghanistan, i.e. three families, including eight children in this group, were forcibly returned to Greece, despite declaring intention to submit an application for asylum. These persons, before the MYLA field lawyer and before the police officer in TC Tabanovce declared intention to submit application for asylum. However, with an explanation by the state bodies not to burden the procedure with documentation and that the person will be accommodated in TC Vinojug, these persons were set to be accommodated and to apply for asylum in Vinojug. They went with a police vehicle toward this center, but were never accommodated there and their requests for asylum were not registered. The persons explicitly stated that they did not want to return to Greece, but when MYLA contacted all the authorities to locate them, the response was that they have never declared intention to submit application for asylum and after the transport to TC Vinojug, they have left the country on their own.

According to MYLA statistics for 2020:



In 2020 a case was registered on illegal return of an asylum seeker without his permission and without his consent, to Greece. The MLSP had reached a decision for accommodation of an asylum seeker in TC Vinojug, but he was never accommodated there; instead, he was returned to Greece. MYLA reacted immediately for this case to the authorized bodies. However, the authorized state bodies that the asylum seeker left on his own and declared intention to return to Greece. The asylum seeker contacted MYLA and had confirmed that he had been returned to Greece without his consent, despite being an asylum seeker and outside of the formal procedure, and during the crossing of the border, he suffered physical injuries from the attack by people in uniform.<sup>8</sup>

The submission of an application for the persons detained as witnesses was allowed after the period for quarantine accommodation and after the persons would give the statement before the Public Prosecutor in the procedure against the smugglers. In some cases, unnecessary delay in the procession of the application for asylum was noticed, as well as delay of the process of transportation to the Reception center. The main reason for delays of the transportation process was the need from providing a vehicle for transportation, although some of the asylum seekers stayed in quarantine even longer than prescribed due to these reasons.

<sup>8</sup> Please find more information here [Annual report on the efficiency of the legal protection of human rights in Republic of North Macedonia - 2020](#), page. 49.

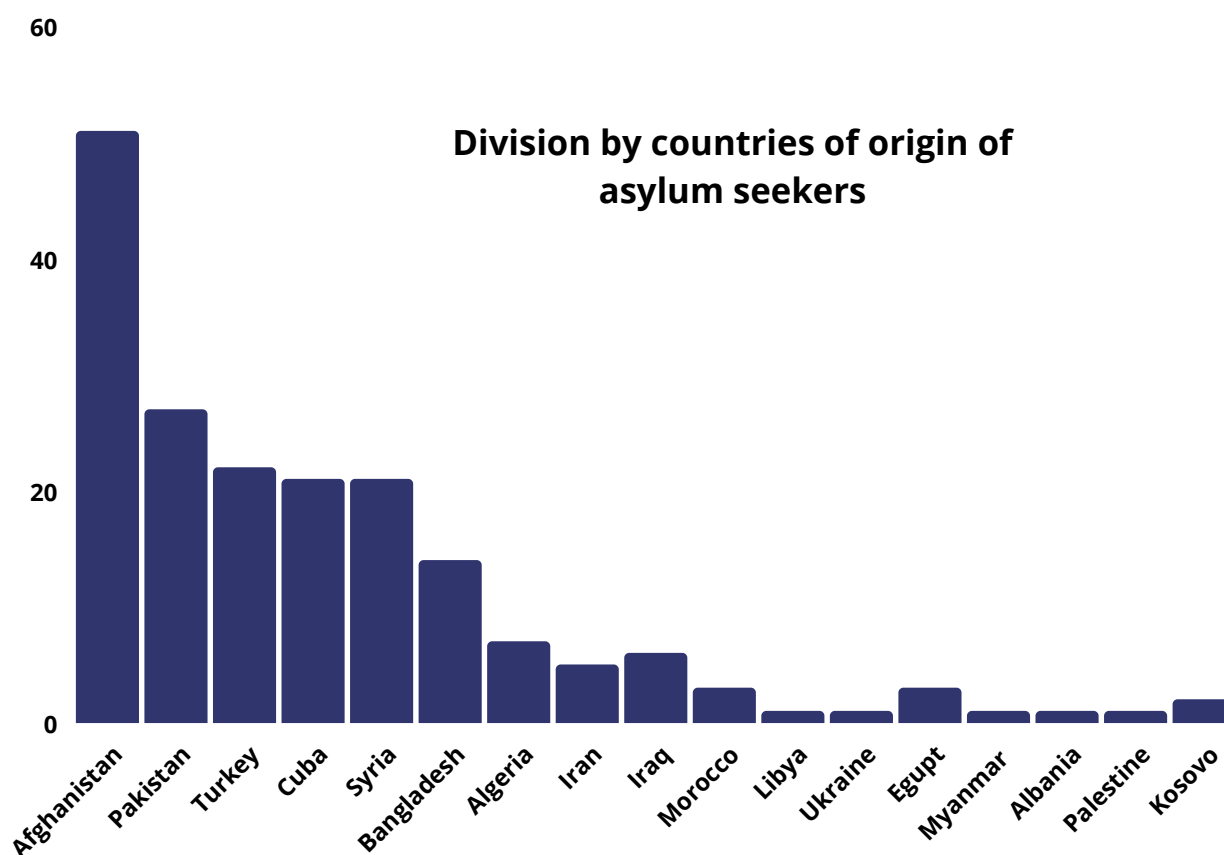


## **ASYLUM PROCEDURE**

### **·ADMINISTRATIVE PROCEDURE**

The asylum procedure in RNM starts with submitting an asylum application. The application may be submitted in written or orally on Minutes, in Macedonian language and its Cyrillic letters or, if that is not possible, in the language of the country of origin, in some of the widely accepted

foreign languages or in a language that is reasonably assumed to be understood by the asylum seeker.<sup>9</sup> 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 of RNM.<sup>10</sup> The law regulating this issue, and under which the asylum procedures are conducted is the Law on International and Temporary Protection.



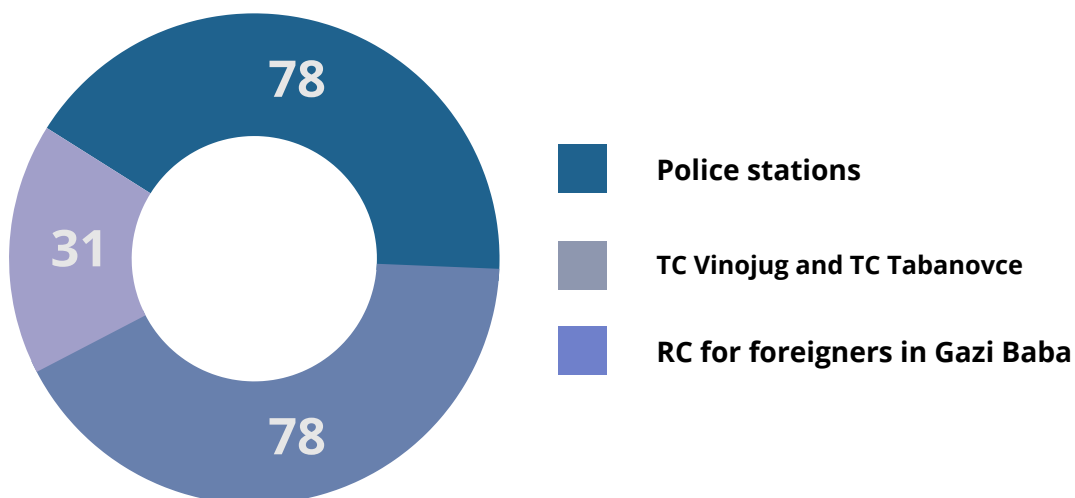
The asylum procedure may be regular or urgent. The regular procedure shall be conducted within 6 months with a possibility for additional three-month extension due to justified reasons, but not longer than nine months.<sup>11</sup> Against the decision reached by the Sector a Lawsuit to the Administrative court is allowed within 30 days from the receipt of the Decision. The urgent procedure shall be conducted within 15 days from the filed asylum application. **In 2020, not one urgent procedure was conducted upon an application for granting the right to asylum.**

<sup>9</sup> Article 28, para 1 from LITP.

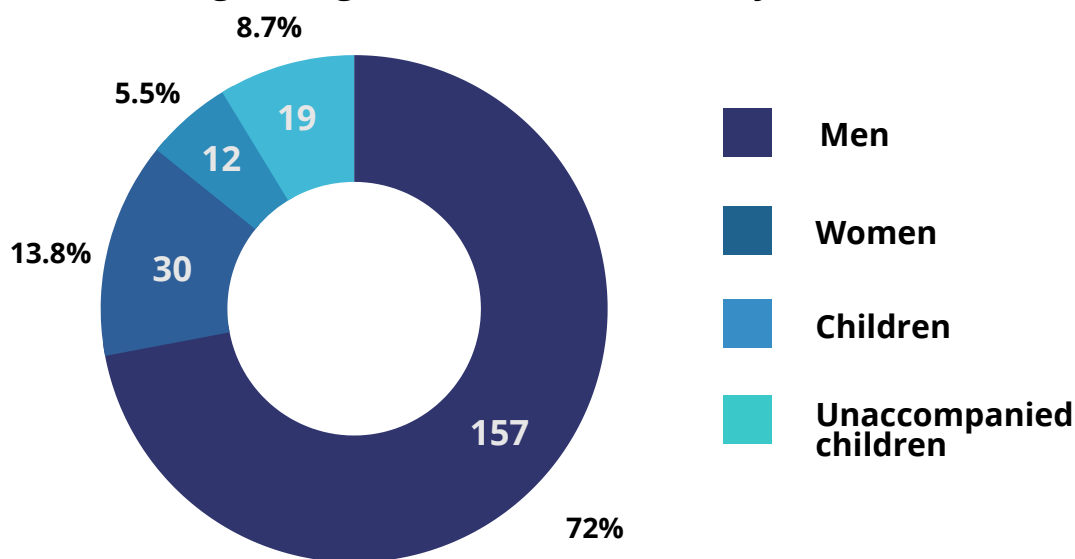
<sup>10</sup> Article 43 para 1 from LITP.

<sup>11</sup> This possibility is a novelty in the LITP – Article 38, para. 2,3, 4 and 5, which has not been anticipated by the old Law on asylum. The Sector is obliged to inform the asylum seeker for the continuance of the deadline, and upon his/her request, the Sector shall inform him/her upon the reasons for continuance.

### Number of asylum seekers by places of submission of asylum applications according to MYLA statistics



### Age and gender breakdown of asylum seekers



Throughout the year, the occurrence of the Corona virus significantly contributed towards postponement of the interviews with the Sector for asylum, since time was needed for technical organization of the process and to find solution for conduction of the interviews, taking care at the same time to obey the restrictive measures in the country. MYLA has conducted 11 interventions in individual cases in order to find a way and modalities to conduct them in accordance with the European Commission Recommendations<sup>12</sup> for overcoming problems provoked by the virus regarding the timely conduction of the asylum procedures and the rights of the refugees. As of September, after adapting a venue with protective glass in the Reception center by MYLA, the online interviews with the asylum seekers started. Ever since, the interviews were uninterruptedly conducted and the 6 months deadline for deciding upon application for asylum as prescribed by law was being obeyed.

<sup>12</sup> COMMUNICATION FROM THE COMMISSION COVID-19: Guidance on the implementation of relevant EU provisions in the area of asylum and return procedures and on resettlement (2020/C 126/02), [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0417\(07\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0417(07)&from=EN).



During the past years, the asylum seekers were able to have direct contact with representatives from the Sector for Asylum, scheduled for every Wednesday in the Reception center. However, in 2020 the open days in the Center were interrupted due to the Corona virus. In order for the 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.

In the asylum procedure, there is an interview with the asylum seeker in order to determine whether the person needs to receive protection in the country. The sector schedules and conducts the interviews within the deadlines as prescribed by law, i.e. it is aware of the deadline within which it shall reach a Decision, so it conducts them within the timeframe from 15 days to 6 months, with an exception for the interviews which were delayed due to the Coronavirus. Additional problem occurred at the beginning of the year due to lack of an interpreter from Urdu and Pashtu, due to which three interviews were delayed until the specific interpreters were found by MYLA and to uninterruptedly proceed with the procedure. These interviews were held after more than four months. The interpretation services are usually covered by UNHCR, but engaged by MYLA.

During the conversation with the asylum seekers, besides the authorized officials, also present may be the representatives of the asylum seekers (except if they decide otherwise), a parent or guardian, if such is appointed to the asylum seeker, interpreter from the language understood by the asylum seekers, engaged by the Sector and an UNHCR representative. Until now, at all of the hearings held before the Sector, a representative from MYLA has been present.

Despite the regular submission of closing speech after the conducted interview, these documents are rarely considered and the evidence are usually not examined, which can be concluded from the number of negative decisions reached in the Asylum procedures. **A total of 45 interviews with asylum seekers and the Sector for asylum were conducted in 2020. The average timespan from the interview to reaching a decision is 114 days.**

**In 2020, only two unaccompanied children from Afghanistan were granted with a status of a person under subsidiary protection. But on the other hand, none of the asylum seekers received the refugee status, as a most comprehensive form of international protection<sup>13</sup> (the last status of a recognized refugee has been granted in 2016).** With this, taking into consideration the number of persons that were interviewed, we may conclude that the rate of granting asylum in RNM is 0,9%. The low percentage of asylum seekers that were present during the procedure, and the fact that many of them have left the country even before their interview was scheduled and the asylum procedure had been stopped by the Sector, is a fact that has a significant role in determining the percentage of granted asylum requests.

**In 2020, MYLA received 40 negative decisions (25 of them related to the 1999 Kosovo crisis refugees and 15 for new asylum seekers). At the same time, the Sector for asylum reached 63 decisions for stopping the procedure for new asylum seekers.**

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<sup>13</sup> This information is confirmed with the UN [North Macedonia Annual Result Report](#) 2020, page. 15.

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. 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 2020, the Sector for asylum reached several negative decisions which require special attention, since they violate the rights of the persons requesting international protection prescribed with the international conventions and domestic laws, and the obligation of the state for comprehensive examination of the case and reaching the right decision.**

**The Sector had wrongfully found lack of fear from persecution or suffering serious damages for a child from Afghanistan, which claimed that due to the war, threats and kidnapping by the Taliban, he had to flee the country. In another case similar to this, a single father from Afghanistan fleeing with his two minor children, was denied by the Sector due to lack of reasons for granting international protection.<sup>14</sup>**

Furthermore, **in a case of a mother from Syria which fled from the Syrian war and fear from expulsion, the Sector for Asylum determined lack of reasons for granting international protection.** For this case, MYLA has filed an application requiring urgent decision due to expiry of the timespan for reaching a decision and wrongful delay, especially since three child refugees were affected, the youngest of them at only 1,5 years old, and urgent surgeries were needed due to health issues. The Ombudsman has detected violation of the rights of the children, suggested that the procedure was repeated before the Sector for Asylum and recommended to the body to take into consideration the circumstances of the case and the reasons behind leaving Syria and to reach a decision with which the protection of the family will be granted. Unfortunately, the seekers, devastated, left the country.

**The Sector for asylum, in a case of a seeker from Yemen reached a decision by which, it once again, declared that there was no fear from persecution or suffering serious consequences, while failing to take into consideration the fact that at the moment of submitting the application and reaching the decision,**

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<sup>14</sup> More information are available at [Annual report on the efficiency of the legal portection of human rights in Republic of North Macedonia - 2020](#), page 48.

**in Yemen there is the world biggest humanitarian crisis and that the respect of human rights is to a bare minimum, struggling for the basic existential needs.<sup>15</sup>**

In the cases in which the Sector for asylum decided for termination of the granted protection, mostly regarding the 1999 Kosovo crisis refugees, misapplication of the law was ascertained. When the new law (LITP) entered into force in 2018, MoI, in cooperation with the MFA, published a list<sup>16</sup> in which Kosovo had been listed as a safe country. With that, even though as per the new law the list should apply to cases initiated after its entering into force, the Sector started applying this list as evidence in the cases of the 1999 Kosovo crisis refugees that have submitted their applications for asylum in 2003. So, in some of the decisions it was stated: "On grounds of Article 17, para.4 from the Law on International and Temporary Protection (Official Gazette of RM no. 64/18), the Ministry of Interior in cooperation with the Ministry of Foreign Affairs prepared a list of safe countries of origin, and Kosovo is amongst them. " On grounds of this statement, many suffered termination of their right to asylum as per Article 38 from the LITP with an explanation that Kosovo is a safe country and these persons cannot any longer refuse protection from their country. In the lawsuits against these decisions, MYLA quoted international reports and stated that Kosovo was not a safe country for the minorities, in which group the Kosovo refugees belonged. In addition to this, the right to asylum and to international protection shall not, and should not be terminated automatically only on grounds of that list; it should not be applicable for all of the persons when each case requires individual assessment and a chance for the person to prove the opposite. On the other hand, in 2019, the Sector had granted international protection to a person from Kosovo.

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.<sup>17</sup> However, from this pledge until now no significant improvement has been detected and the application of the mechanisms for strengthened asylum case management is not realized in practice.

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<https://www.unhcr.org/yemenemergency.html#:~:text=After%20more%20than%20six%20years,a%20step%20away%20from%20famine;>

2.

[https://www.unicef.org/emergencies/yemencrisis#:~:text=Yemen%20is%20the%20largest%20humanitarian%20crisis%20in%20the%20world%2C%20with,more%20than%2012%20million%20children\\_](https://www.unicef.org/emergencies/yemencrisis#:~:text=Yemen%20is%20the%20largest%20humanitarian%20crisis%20in%20the%20world%2C%20with,more%20than%2012%20million%20children_)

<sup>16</sup> Official Gazette of RNM no. 56 from 15.03.2019.

<sup>17</sup> Statement given by Svetlana Geleva (Director for Multilateral Affairs and Security Cooperation at the Ministry of Foreign Affairs of NRM) at the Global Refugee Forum, Geneva, 18.12.2019.

## • 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 2020, **MYLA on behalf of the asylum seekers and persons under subsidiary protection filed 29 lawsuits. At the same time, the Administrative court has decided in 19 cases that were submitted in 2018 and 2019.** Despite the procedure before the court being urgent under the LITP, **on average, the Administrative court decides within 265 days upon a filed lawsuit. However, we shall note increased efficiency in the deciding upon cases this year.**<sup>18</sup> **In the 19 cases, the Administrative court reached 8 positive and 11 negative Verdicts. 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 not reach even one positive decision upon received positive Verdict by the Administrative court by which their decision is annulled. By the end of 2020, there were 28 active cases pending before the Administrative court.**

On another hand, **the Higher administrative court needs almost 500 days to reach a decision upon appeal against a Verdict reached by the Administrative court. MYLA has filed 10 appeals before this court. Throughout 2020, the Higher administrative court had decided in 24 cases for persons represented by MYLA, and reached positive decision in 10 cases, and negative decision in 14 cases.**

**The verdicts of the Administrative courts show that when it comes to the asylum issues, the judicial system provides special protection to children, whether accompanied or unaccompanied, as well as to single mothers. These two categories are mostly recognized as vulnerable, so the asylum system is mostly inclined towards their protection.**

The entering into force of the new Law on Administrative Disputes,<sup>19</sup> meant that the Administrative court would start holding oral hearings in the asylum procedures. In the procedures for persons represented by MYLA, three oral hearings were held in the procedures upon newly submitted applications for asylum and one hearing in a procedure for a person with recognized protection whose right had been terminated by a Decision reached by the Sector for Asylum (regarding a 1999 Kosovo crisis refugee). All the cases in which the Administrative court held oral hearings ended with negative verdicts. 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.

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<sup>18</sup> Under the LATP, the Administrative court shall decide within two months in case of a regular procedure, and within 30 days in case of an urgent procedure, and under the new LITP, in Article 43 (for regular procedure) and Article 49 (for urgent procedure) it is stated that the procedure before the courts is urgent, without stating specific deadlines.

<sup>19</sup> Article 9 of this law contains the oral hearing principle, as stated: "(1) As per the oral hearing principle, the Court shall normally reach a decision in an administrative dispute on grounds of a public, direct and oral hearing. (2) Except for the cases stipulated by law, the Court in an administrative dispute may not decide without holding a hearing".

The fact that the administrative courts base their decisions only on the legality of the decision may be considered both as legal and formal failure to provide international protection when the criteria for its provision are fulfilled. The Higher administrative court had reached numerous positive verdicts in 2020, some of them due to technical reasons, i.e. due to the fact that the proxy of the person of concern with which the Sector for Asylum conducted the interview had not signed the Minutes from the interview, despite being noted on the Minutes.

**Another default is the scarce application of the decisions reached by the ECtHR and the standpoints of the Court stated in them.** It should be concerning why the ECtHR practice is not being taken into consideration, since RNM, as a high party-signatory to the ECHR is obliged to fully obey the rights prescribed with the ECHR, which means that it is obliged to respect the verdicts through which the ECHR provisions are being implemented. It is not acceptable that the judges use the ECtHR verdicts only in some exceptional cases as essential correction to the system and fail to develop positive court practice as a mechanism through which the authorized bodies will be directed towards complete respect of the legislative and will be careful when undertaking activities.<sup>20</sup>

Furthermore, despite RNM not being an EU member yet, in accordance with the aspirations for entry and harmonization of the domestic laws with the EU law, the domestic courts should also use the decisions reached by the European Court of Justice regarding the manner of acting and application of the EU law, but also as a guide for legal reasoning.

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<sup>20</sup> Despite the ECtHR not being an “asylum court” and the right to asylum not being directly stipulated in the ECHR, each signatory state is obliged to guarantee the rights anticipated with the ECHR to each person found at their territory. Hence, the rights of all citizens are also rights of the asylum seekers, of the persons under international protection and migrants, and the ECtHR has developed specific practices regarding this issue throughout the years.



## RECEPTION CENTERS IN REPUBLIC OF NORTH MACEDONIA

The reception centers Vinojug and Tabanovce continued to operate in 2020 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. TC Tabanovce usually accepts all refugees and migrants that state desire to enter. TC Vinojug mostly accommodates vulnerable categories of refugees and migrants, families, children as well as refugees and migrants caught in police action of illegal smuggling.

2020 saw changes related to the reception of refugees and migrants, since TC Vinojug was declared as a center for quarantine accommodation for all of the new asylum seekers and newly found persons lacking regulated residence in RNM. For the asylum seekers accommodated in this center, MLSP was reaching decisions for quarantine accommodation. On another hand, for the persons detained as witnesses in the procedures against smugglers, received no decision on their accommodation. This has been confirmed in the 2020 State Ombudsman's Annual Report: **“During the visits it was ascertained that there were no individual decisions for accommodation, i.e. detention in the Center for the newly found persons without regulated residence in R.N. Macedonia, which further opens the issue about the arbitrariness of their limitation of freedom of movement.”**<sup>21</sup> The detained persons were not able to appeal to their detention and lacked access to basic rights enjoyed by detained persons. During the 25-day quarantine, they were not allowed to exit the container they were accommodated in, except for toilet needs twice a day, accompanied by a police officer. The containers they were accommodated in were constantly monitored by the police.

The State Ombudsman's National Preventive Mechanism stated that: “However, the SO-NPM finds that there is a need for higher level of coordination and communication between the state authorities before reaching decisions. In this manner, before reaching the decision for quarantine accommodation in the Transit Center Vinojug in Gevgelija for all of the new asylum seekers and newly found persons without regulated residence in R.N.Macedonia, **it has been ascertained that the conditions and capacities of the Center for the possibility of such accommodation were not taken into consideration, and also no additional measures were undertaken to further regulate the action of the state bodies in case of quarantine accommodation which essentially means adjusted operational mode, which in the given situation should be applied to a Center which in normal conditions should be an open-type center”**.<sup>22</sup>

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. The State Ombudsman ascertained that: “The lack of clear rules of procedure affect not only the insufficient coordination between the representatives of the state bodies and organizations present in the Center regarding the treatment of the detained persons, but it also imposes the risk from possible inappropriate actions and violation of their rights.”<sup>23</sup> 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.

The public institution “Reception center for asylum seekers” in Skopje” remained the only institution for accommodating asylum seekers.

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<sup>21</sup> 2020 North Macedonia Annual Report on the Level of Realization and Protection of the Basic Human Rights, page. 77.

<sup>22</sup> Ибид., стр. 76-77.

<sup>23</sup> Ибид., стр. 76.

## • CONDITIONS IN THE RECEPTION CENTERS IN NORTH MACEDONIA

The conditions in the reception centers vary depending on the state on field. In these centers that exist in RNM, there is presence from state institutions and international organizations which take care for the overall functioning of the asylum system in the state and help to the persons accommodated there. When it comes to the state bodies, there is permanent presence of Mol and MLSP employees that handled the everyday activities in the centers. MYLA in 2020 was present in TC Tabanovce and in TC Vinojug, through providing free legal aid and information to the present persons about the right to asylum and the asylum procedure, assisting in the procedure for submitting the application for asylum and support for enjoyment of the rights of these persons in the asylum procedure. However, due to the Covid-19 situation, the second quarter of the 2020 found decreased intensity of presence in order to obey to the protocols reached by the State. However, even in this newly found state, MYLA lawyers provided free legal aid and information to the refugees, migrants and asylum seekers for their rights in the state through telecommunication means and online modalities.

2020 saw no changes regarding the conditions in the center unlike the previous years.<sup>24</sup> This means that the basic services were provided for the accommodated persons, such as food, hygienic pack and access to health services. Most of the persons accommodated in the centers were satisfied by the conditions and services put at their disposal. As an exception to this were the reports of the asylum seekers that were in quarantine due to limited movement. In these centers, there was permanent presence of a medical doctor with certain restrictions and working in shifts, mostly in TC Tabanovce. For those requiring medical aid and institutional care, transportation, accommodation and appropriate treatment was provided. There was a lack of psychologist to offer psychosocial support to the persons accommodated in these centers, especially to the vulnerable categories of people. Some support was provided in TC Vinojug from the present social worker, and in TC Tabanovce, conversations were held by a social worker, but only with some of the unaccompanied children. The children accommodated in these centers were still not enrolled in formal education.

What remains as a general problem is that the children that are in RNM without parent and without parental care still did not have access to protective mechanisms that are available for children under the Law on Social Protection. More specifically, protective mechanisms connected with alternative forms of care and their accommodation in foster homes, small group homes and other forms available for children citizens of RNM. The conditions, safety and services that are (un)available in the transit centers do not correspond to the needs of the children and we need higher level of protection and application of the alternative mechanisms for care and upbringing. The centers lacked any recreational or occupational activities for the persons accommodated there, especially taking into consideration the pandemics and the ban on group activities.

Regarding equipment and hygienic packages as a protective measure against the virus, it has been noted that TC Vinojug has better coordination for providing such requisites to the detained persons, unlike TC Tabanovce, where masks were divided only occasionally.

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<sup>24</sup> More info regarding 2018 and 2019 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](http://www.myla.org.mk).





## • TC VINOJUG

Due to the southern border being more active and the high number of actions conducted by the police in this area, the number of persons accommodated in this Center is significantly higher in comparison to TC Tabanovce. What is concerning, is the lack of formal procedure for accepting persons in the center and the possibility for the police to decide which persons will be accommodated there.

**Throughout 2020, the number of registered, but also non-registered persons in TC Vinojug, as per the MYLA statistics is 26.894 persons; MYLA has provided legal aid and counseling for 2.955 of them, and 31 persons submitted applications for asylum in this center.<sup>25</sup>**

COVID-19 has significantly complicated the access to services of persons detained in TC Vinojug which were in quarantine, and which were either asylum seekers or persons detained as witnesses in the procedure against smugglers.<sup>26</sup> Amongst the detained persons with limited freedom of movement there were families and children whose development was deeply affected by such detention and it should be considered as a last resort. These persons were allowed to go to the toilet only twice a day, accompanied by Mol officer. For the asylum seeker, the 25-day quarantine needed to expire (which was later amended to 14-day quarantine), and then they were transferred to the Reception center in Skopje. The others which were accommodated in TC Vinojug were persons detained as witnesses to the procedures against smugglers, and they were first tested against Corona virus, and in case of negative result, they were taken to the Public prosecutor's office to give their statement, and then were informally returned to Greece.

**In 2020, 48 asylum seekers were put into quarantine in TC Vinojug.** Some of them after the submission of the application for asylum, and some of them submitted their application while being accommodated there, and then they were transferred to the Reception center. Most of the complaints are coming from the persons put into quarantine that their freedom of movement was limited and that they were locked inside, were constantly under control of a police officer and were unable to be exposed to fresh air for a certain time. They all had access to health services provided on field, access to three meals a day, access to internet and hygienic assets. If some of the migrants desired some products, they were provided from the shops.

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<sup>25</sup> Information regarding MYLA field reports can be found at [www.myla.org.mk](http://www.myla.org.mk).

<sup>26</sup> For more information on this matter, please see the Report on Immigration Detention in North Macedonia through numbers – January-September 2020, available both in [Macedonian](#) and [English](#), at [www.myla.org.mk](http://www.myla.org.mk).

A social worker was present in the center every working day and on-call during weekends, who spoke with the vulnerable categories of migrants. The same social worker was appointed as a guardian to all of the detained unaccompanied children in the center. However, the required level of psychosocial support needed to some of the migrants was lacking in the center.

Apart from the fact that the status of the center has not been formally regulated, the persons accommodated there are not allowed to freely leave the center and have de facto their freedom of movement limited. After the outburst of the COVID 19 pandemics, the process of registration of refugees and migrants was stopped as per the recommendations of the state for respecting the health measures.

Amongst the persons accommodated in the center, there were unaccompanied children which are mostly caught in the process of smuggling, and as a vulnerable category of persons, were accommodated in this center. Alternatives to detaining children due to immigration were not found in 2020, which meant that the children did not have access to the rights and services that needed to be provided for them. After their accommodation, they were granted with a guardian from the Center for Social Work in Gevgelija, who is obliged to take care of the best interest of the child. In 2020, the number of applications for asylum submitted on behalf of the unaccompanied minors significantly decreased, since the guardians had assessed that for some of the children applying for asylum was not in their best interest. In 2020, all of the children asylum seekers were accommodated in RC for asylum seekers, except for one unaccompanied child, which was accommodated in a foster home in Skopje. This was an exemption of the existing practice, and the reason was the early age of the child. One child had serious accident in RNM, where it was overrun by a train, which led to amputation of one leg. After its reception in hospital, a certain time the child was accommodated in TC Vinojug, where it received the necessary medical care, and then was transferred to Skopje. The guardian on his behalf submitted application for asylum and his request was accepted by the authorities.

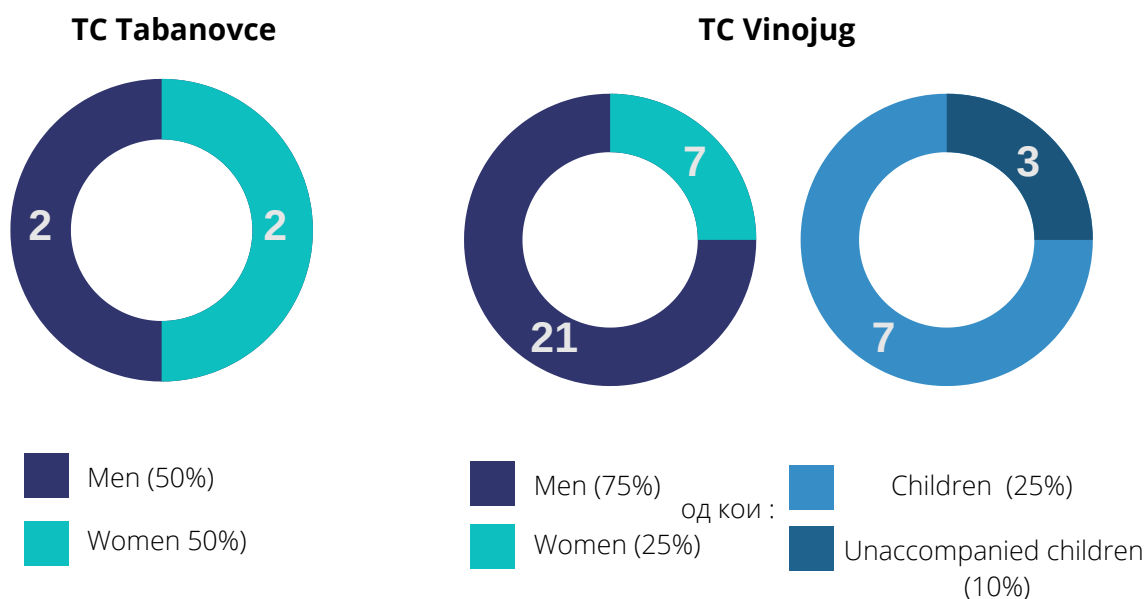
#### • TC TABANOVCE

At the northern border, which is also near to the TC Tabanovce, the activities and movement of the refugees and migrants are with lower intensity. The number of police actions has significantly decreased and, accordingly, the number of persons accommodated in this center has decreased. Mostly, this Transit Center accommodated migrants returned by the police from the territory of Serbia, which would then arrive to the Center by themselves and would require accommodation. Due to lack of formal procedure for reception in the Center, the Police decide who would be accepted. Most of the refugees and migrants that were accommodated in TC Tabanovce were adult males aged 18 to 50, which were coming from Syria, Afghanistan, Pakistan, Bangladesh, Iran, Iraq etc. Before the outburst of the Corona virus pandemics, conversations were conducted with this persons by MLSP and the lawyers from MYLA, which helped to assess their needs in more detail. However, with the outburst of the pandemics, MLSP conducted conversations with the vulnerable categories of persons, mostly with the unaccompanied children. MYLA conducted the conversations on an open air when the conditions allowed that, by respecting the restrictive measures in the state.

In 2020, most of the refugees and migrants from TC Tabanovce were taken to a certain informal point at the Greek border. The police occasionally conducted organized transfer for some of the persons. Most of them stated will to return to Greece.

In the reporting period, only the most basic condition for accommodation were provided for the migrants, such as food, hygienic package and occasional provision of protective masks and medical services. Sometimes the migrants received clothing and could use a computer. Other activities that were available during the past years and that were provided by numerous organizations are no longer available. This Center lacks provision of psychosocial support, organized activities for children and their education, as well as possibilities for recreational activities. Due to this, most of the persons in the camps stayed only for several days before continuing their travel individually, or assisted by the police. During 2020, the total number of registered and accommodated persons in TC Tabanovce was 2.308, and MYLA provided legal aid and counseling for 1.321 people. Three persons submitted applications for asylum in this center.<sup>27</sup> Throughout 2020, one guardian was appointed for all children accommodated in this Center, and a conversation was conducted with most of them. However, an application for asylum was not filed for any of the children, under assessment that it was not in their interest. The children and families were accommodated in separate venues – containers separated from the other migrants.

### Gender structure and age of asylum seekers in both TCs



<sup>27</sup> Information regarding MYLA field reports can be found [www.myla.org.mk](http://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.

After the outburst of the COVID 19 pandemics, some of the activities and the common premises of this center were put out of use due to prevention and protection against the Corona virus, such as the fitness center, the computer center and other group activities. However, in the second half of 2020, the Center initiated introduction of new educative contents, especially for children accommodated in the Reception center. Towards the end of the year, for all of the persons interested to learn Macedonian, classes were organized by a professor, who worked mostly with the children present at the Reception center. Also, all of the children were enrolled in school and attended the classes online. The necessary technical equipment for uninterrupted attendance during online classes was provided through donations.

Until the COVID – 19 pandemics outburst, the asylum seekers had three meals a day each day of the week. However, with the start of the pandemics, due to protection, both of the employees and the asylum seekers, these three meals were divided at the same time every day of the week. All of the asylum seekers had access to a doctor, which was present every working day of the week in certain hours of the day. During the first months of the pandemics, after the restrictive measures for movement were introduced throughout the whole territory of the country, the Center reached a decision for restrictive movement of the asylum seekers outside the Center. With the decrease of the intensity of the measures, they were allowed to move more freely, and finally, to be allowed to have free movement outside the Center. Disinfectants were provided both for the employees and the asylum seekers, protective masks and other protective equipment. The venue was regularly disinfected and cleaned. In addition to this, a disinfection system was set for the vehicles that entered the Centers and dispensaries for disinfection of hands.

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 order to protect from the virus and to be able to uninterruptedly provide free legal aid and conducting interviews with the asylum seekers, in this Center, a separate room was equipped with appropriate preventive equipment donated by MYLA. In addition to this, MYLA provided a TV video beam to show the most important information related to prevention and protection against the virus and the measures in the state, on several languages.



#### • DETENTION DUE TO IMMIGRATION

In 2020, 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. During 2020, the entry and visitations in the Reception center for foreigners by MYLA were still disabled. However, at the same time, in TC Vinojug persons were kept as witnesses in procedures against smugglers due to the preventive measures against the Corona virus and preventive quarantine accommodation. Hence, due to the everyday presence of MYLA in this Center, regular monitoring had been conducted on the detention and the conditions, and the persons were provided with information on the right to international protection, when that was provided by the Police, due to the need for contact with the detained persons. TC Vinojug did not reach any decision for accommodation or detention for these persons. During this time, they were able to leave their premises only twice to go to the toilet, in presence of a police officer. The refugees and migrants which were detained mostly came from Pakistan, Afghanistan, Bangladesh and Turkey. **As a 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 a request for access to information of public interest, in the timeframe from 1.1.2020 until 31.12.2020, 119 persons were detained in the Reception center for Foreigners in Skopje, and 95 of them were provided with legal aid.<sup>28</sup> When it comes to children, 13 children were detained here, 7 of them unaccompanied, and at the same time, five women with six children were also detained. From the total number of asylum seekers, in 2020 83 applications for asylum were submitted for 87 persons. On another hand, 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 233; 39 amongst them are unaccompanied children. The average detention time for adults and children is 16 days, and longest time is 55 days. The detained unaccompanied children were granted with guardians within the legal timeframe. However, the practices vary, and the guardians of the unaccompanied children were not always granted access to speak with the children.<sup>29</sup> Moreover, some of the children that were detained in the RC for Foreigners and TC Vinojug were accommodated in a room together with other adults, which is unacceptable and contrary to the domestic and international standards for detaining children. Also, the children were not included in the education process, and they had no access to educational or interactive programs.<sup>30</sup> No alternatives were found for detaining children due to immigration in 2020, despite the fact that as per international law the children may not be detained due to immigration. Although the domestic law, i.e. the Law on Social Protection states alternative mechanisms for care and protection of children and their accommodation outside of such centers, in various forms of fostering such as small group homes or foster homes, they have not been applied for children foreigners, which is a violation to their rights.

The detained persons in TC Vinojug as witnesses in the criminal proceedings were not provided with the possibility for access to legal aid and consultations before the expiry of the time set for quarantine accommodation, or, before receiving negative result from a PCR test, and the asylum seekers – until the expiry of the time set for quarantine accommodation as set by the MLSP. They failed to understand the reason and duration of their detention, bearing in mind that they were kept in quarantine for 25 days before being taken to court to witness. Due to the failure to provide access to legal aid, some of them personally or through their relatives outside the Center, used social media to contact MYLA or directly sent applications to the State Ombudsman of RNM.

RNM still fails to provide alternatives to detaining persons due to immigration. Despite the legal provision that the detention of a foreigner that lasts for more than 12 hours must be revised by a judge, there is no practice to show obedience and application of this provision.

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<sup>28</sup> Decision no. 16.12-208/1 as a response to the request for free access to the required information of public importance from the Ministry of Interior of RNM.

<sup>29</sup> [Immigration Detention in North Macedonia through numbers, January - September 2020](#)

<sup>30</sup> Ibid.



## 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 MLSP<sup>31</sup> 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. The state has a key obligation to provide environment in which the asylum seekers may, in an early phase, gain skills which would contribute towards their future independence, and the existence of educational and professional programs is now obligatory. But these activities are organized through international organizations such as the UNHCR, through support and integration programs and are not provided by the state mechanism.<sup>32</sup> In 2020, the highest obstacle to realization and inclusion in many activities was the Coronavirus, which led to cancelling most of the activities due to protection and prevention. However, this year also the Macedonian language courses, as well as the courses for integration of children and adults, as prescribed with the Strategy was not provided by the state as a continuous integration process for these persons.

<sup>31</sup> <http://www.mtsp.gov.mk/content/pdf/strategii/%D0%A1%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D0%B8D1%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%D0B8%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%D0BA%D0%BE%D0%BD%D0%B2%D0%B5%D1%80%202017.pdf>

<sup>32</sup> More information regarding integration of asylum seekers and persons under international protection can be found in the [UN North Macedonia 2020 Annual Result Report](#), pg. 11.

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**, in this manner: “The asylum seekers until the taking of a final decision in the procedure for recognition of the right to asylum have the right to: - **work only within the Reception Centre or another place of accommodation determined by the Ministry of Labour and Social Policy, and right to free access to the labour market for an applicant whose asylum application has not been decided upon by the Sector for Asylum within a period not exceeding nine months since the submission of the application**”.<sup>33</sup>

However, this provision is incorrect and contrary to the possibilities for exercising this right, leaving the asylum seekers without access to the labor market. This law has been reached as per the EU Directives in this area, aiming towards harmonization of the legislative with the EU legislative, including the Directive 2013/33 regulating the standards for reception of seekers of international protection.<sup>34</sup> Article 15, para. 1 of this Directive regulates the right to work and prescribes that **each state shall ensure that asylum seekers have access to the labour market no later than 9 months from the date when the application for international protection was lodged if a first instance decision by the competent authority has not been taken**. This has been incorporated in the LITP, as stated above. But, **Article 15 para. 3 in the Directive emphasizes that the access to the labour market shall not be withdrawn during appeals procedures, where an appeal against a negative decision in a regular procedure has suspensive effect, until such time as a negative decision on the appeal is notified**. The latter is not incorporated in our law, which loses the essence of the right to access to the labor market, which has been anticipated and provided to the asylum seekers by the **Directive**. In practice, this is considered a right only if the Sector had not reached decision within 9 months from the submission of the application, and the appeal procedures upon the decision are not taken into consideration, contrary to the explicit provision in the Directive. **We can hence conclude that this economic right is limited for the asylum seekers and they are practically deprived from being a part of the labor market and from contributing to the Macedonian society due to legal impreciseness and lack of harmonization with the EU legislative.**

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<sup>33</sup> Article 61, para 1, item 10 from the LITP.

<sup>34</sup> DIRECTIVE 2013/33/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013, Standards for the reception of applicants for international protection (recast), available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0033&from=EN>.



In 2020, this right was still not available for the asylum seekers.<sup>35</sup> The procedure initiated by MYLA in 2019 on grounds of the right to work and determining discrimination for one asylum seeker, to the day of publishing this report has no outcome, and due to the Coronavirus, most of the oral hearings were postponed. In 2020, MYLA filed applications to the Ombudsman in two cases, due to deprivation from this right and need for change of the legal solutions, and these defaults were also identified by the Ombudsman. In the procedure, the Ombudsman recommended and provided directions for amendments of the Law on International and Temporary Protection and the Law on Personal Identification Number, which would provide and facilitate the access of the asylum seekers to the labor market. Besides the above stated obstacles, another problem that remains is the lack of possibilities for receiving a PIN for an asylum seeker which would facilitate the process for their registration in the Employment Agency of RNM, opening a bank account and all of the other employment-related processes. The Employment Agency has recognized this problem and through a letter stated that it shall directly contact the MLSP in order to solve this issue through examination and conducting activities for appropriate regulation in the existing laws. But there are still no amendments regarding this issue.

Apart from the right to work, key part of the private and family life of a person is the right to marry. The right to marry is regulated with the Law on Family, and with Article 12 from the ECHR. **In 2019, one asylum seeker stated that she wanted to get married with a Macedonian citizen, and possessed all of the documents as prescribed by law, translated into Macedonian by a certified court translator.** She then submitted request to marry, with the complete documentation, to the authorized unit of the Office for management of registers of births, marriages and deaths. **For reasons unknown, the Unit did not examine this request,** and transferred it for examination in the Office for management of registers of births, marriages and deaths in Skopje. **After many requests and urgencies for the case, the last undertaken activity is a lawsuit before the Administrative court on grounds of silence of administration, under Article 22 from the LAD.** In 2020, the Administrative court reached a negative decision, stating that the lawsuit had been filed early, since the corresponding procedure before the administrative bodies had not yet been conducted. MYLA disagreed with such reasoning and appealed the Verdict before the Higher Administrative court. **The State Ombudsman directed towards elimination of the violations in this case, but this still has not been done. MYLA sees active discrimination caused by the practice of these bodies.** In addition to this, MYLA had filed a lawsuit before the Basic court Skopje II Skopje, requesting from the Court to recognize violation of Article 8 of the ECHR, i.e. of the right to private and family life and right to a marriage under Article 12 from the ECHR, on grounds of preventing the plaintiff to enter into marriage, despite fulfilling the legal conditions for doing so.<sup>36</sup>

2020 also saw a decision by which a Macedonian citizen was rejected from recognizing fatherhood for a newborn baby to an asylum seeker mother, who has filed the necessary documentation, although the previous year, the first child of the mother and the same father was registered and the fatherhood was accepted with the same documentation.

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<sup>35</sup> More information can be found in the [Annual report on the efficiency of the legal protection of human rights in Republic of North Macedonia - 2020](#), pg. 49.

<sup>36</sup> Ibid.

The Office for Management of Registers requested a birth certificate from the country of origin and certificate for free marital status not older than 6 months, without taking into consideration the fact that she was an asylum seeker in this country and was not allowed to contact her country of origin. At the same time, the same birth certificate served to register the birth of the child in the Registry of Births, while the confirmation of fatherhood was rejected. In addition to this, the asylum seeker was informed, without further explanation, that she could request confirmation of fatherhood before a court or before the Center for Social Work, which, next to the OMR are authorized for these issues.<sup>37</sup>

#### • INTEGRATION OF THE REFUGEES IN 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 society.<sup>38</sup>

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.

It is important to state that although the integration of the refugees and persons under subsidiary protection is as such organized by the central authority – MLSP, in accordance with Article 70 from the LITP: “The principle of local participation shall mean an obligation of the local self-government units to accept responsibility for accommodation of persons with refugee status and persons under subsidiary protection, depending on the level of economic development and number of inhabitants of local self-government units, which is decided by the Government of the Republic of Macedonia”.

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<sup>37</sup> *Ibid.*

<sup>38</sup> 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>.

Towards the end of 2020, the total number of persons under subsidiary protection present in RNM was seven. These are the persons who were new asylum seekers, coming from countries outside the region. Therefore, when we speak about integration of refugees, in most of the cases, it is about the integration of the refugees from the 1999 Kosovo crisis, due to their long-term residence in the country as persons under international protection. Due to this, their experience is the most relevant when it comes to 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 2020, Macedonian language classes were provided by UNHCR, and conducted by their partners. Also, in cooperation with partners, the persons under protection were included in the state employment program through the Employment Agency of RNM, through enabling them to attend courses (for cooking, hairdressing etc.). The assets for kindergarten were initially covered through donations, but in the meantime, an agreement was concluded with the municipality in which these person lived, and they were enrolled for free. 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 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.



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

**In 2019, MYLA represented 367 refugees that had fled Kosovo, primarily Roma, Ashkhali and Egyptians (RAE) in RNM, and in 2020 the total number of represented refugees is 317. Concluding with 2020, 14 persons have the status of a recognized refugee, and 138 are persons under subsidiary protection in this country. On the other hand, 118 persons had their right to asylum terminated by a final decision, and 86 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.<sup>39</sup>**

**Throughout this year, 80 decisions were reached for these refugees by the Sector; 37 were for continuance of the subsidiary protection and two were for granting subsidiary protection status. On the other hand, 41 decisions were reached for termination of the international protection in the country.**

From its eleven-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 20 years in RNM without having the state taking appropriate activities for permanent solution of their issue. The circumstances and their condition remains unchanged in comparison to the past years.<sup>40</sup> As 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.

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<sup>39</sup> For more information, please see the info graphics prepared by MYLA: "The state of the Kosovo refugees from 1999 in Republic of North Macedonia 2011-2019", available at: [www.myla.org.mk](http://www.myla.org.mk).

<sup>40</sup> For more information regarding 2018 and 2019, please see the [State of Asylum in RNM](#), 2018-2019 pg. 50.

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.

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 (SWC) 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. Below, you can find short resume for the two main rights representing integration in our country.

- **RIGHT TO NATURALIZATION**

In accordance with Article 7-a from the Law on citizenship (LC),<sup>41</sup> a person with recognized refugee status may acquire citizenship of RNM by naturalization, provided that within the period from the recognition of the refugee status until submission of the application for admission to citizenship, he/she legally and permanently resides on the territory of the Republic of Macedonia for at least six years. When it comes to persons under subsidiary protection, Article 7 from the LC may apply. Furthermore, a foreigner that submitted application for admission to RNM citizenship personally may acquire RNM citizenship by naturalization, provided that he/she has been obtaining legal and permanent residence in the country for at least eight years. **However, even when this criterion is fulfilled, there are other criteria from the LC that require documentation from the country of origin, such as: certificate that there is no criminal procedure ongoing against the applicant, certificate that the applicant has not been convicted and confirmation for dismissal from previous citizenship. Apart from these documents, the Citizenship sector in the MoI requires documentation not prescribed by the LC, such as: Excerpt from the register of births and excerpt from the registry of marriages (if the person is married).** Also, in the procedure for conclusion of a marriage of a person under subsidiary protection as one of the options for naturalization, the documents treated as necessary from the Office for management of the registers of births, marriages and deaths within the Ministry of Justice also include documentation from the country of origin – excerpt from the registry of births and excerpt from the registry of marriages.

It can be noticed that **each demand anticipates initiating contact with the country of origin by the persons of concern. In these cases there is a risk for creating existential and safety problem for these persons, because they have recognized right to asylum in RNM after fleeing their country of origin or country of citizenship due to fear from persecution and fear for the safety of their lives.** It is arguably contradictory to request such documents when taken into consideration that all of these persons are with recognized right to asylum, they are under international protection and cannot contact with their country of origin. All of their personal documents and documents relating to their status in the country are issued by, and are under authorization of the Sector for Asylum within the Ministry of Interior.

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<sup>41</sup> Official Gazette of RM, no. 67/1992, 8/2004, 98/2008, 158/2011 and 55/2016.

When it comes to the necessary evidence regarding residence, Article 7 from LC, inter alia, **contains a condition that the foreigner needs to have “apartment provided”**. Most of the persons under subsidiary protection live in rented houses which are in the process of legalization (due to the low rent), or are a subject to an inheritance procedure and the owners of these houses do not possess title deeds. The Sector for citizenship as an evidence for the place of residence considers possession of a title deed for the object of residence or lease agreement verified by a Notary Public (for conclusion of such agreement, the title deed is required for the premises given under lease), although this is not required by law.

In the reporting period, one person submitted application to acquire citizenship in Republic of North Macedonia, and 3 persons have received the Macedonian citizenship.

- **RIGHT TO SOCIAL PROTECTION**

Under the Law on social protection,<sup>42</sup> all the refugees and persons under subsidiary protections are entitled to basic social protection, continuous social protection, medicinal care and one-time financial aid. The access and enjoyment of social rights are equal to those offered to the Macedonian citizens. The CSW is authorized for management of the cases on social protection, and is responsible for providing appropriate information and support to the refugees in preparation and submission of their application for social aid.

**There is a problem regarding to impossibility to acquire right to social aid for a whole family if only one person does not possess, or loses the status of a person under subsidiary protection, or does not possess personal identification number (PIN), although this right is guaranteed for persons with recognized right to asylum in accordance with Article 71 and 77 from the LITP.**

Another problem occurs when the right to social aid for the whole family is stopped (suspended) due to the financial assets received for covering the expenditures for food and transport for attending vocational trainings. Also, there is a threat of termination of the right to social aid to the whole family in case of untimely delivery of an excerpt from the registry of births or PIN for a newborn. Thus, since the procedures before the Office for management of the registers of births, marriages and deaths for inscription of a newborn whose parents are with recognized asylum status are significantly longer than the procedures for the Macedonian citizens. The parents with recognized asylum status need to receive additional certificate on their status from the Sector and to deliver it to the Office. In addition to this, after the receipt of the excerpt from the registry of births for the newborn by the OMRBMD, it shall be delivered to the Sector, which shall then issue PIN for the newborn, after which the child is entitled to access to social aid. **The authorized bodies use the Law on ex officio gathering and exchange of evidence and data inordinately and incorrectly, thus damaging the beneficiaries of social aid and other rights guaranteed with the domestic laws.** The institutions need to be constantly reminded that they decide upon the lives of exceptionally vulnerably categories of people living in this country.

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<sup>42</sup> Official Gazette of Republic of Macedonia nr. 104/2019, 146/2019 and 275/2019.



## **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.<sup>43</sup> 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".<sup>44</sup>

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<sup>43</sup> Article 2, item 10 from 11 the LITP.

<sup>44</sup> Please see the 1989 UN Convention on the Rights of the Child, available at: <https://www.unicef.org/child-rights-convention/convention-text>.

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. Decreased number of families with children fleeing their countries of origin was registered in 2020, and even more decreased number of unaccompanied children is registered during this year. **While in 2019 there were 94 unaccompanied children asylum seekers, in 2020 this number is decreased to 19. However, what is mostly concerning is the number of detained children due to immigration -76,<sup>45</sup> while the number of detained unaccompanied children is 46.** 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- foreigners,<sup>46</sup> the police shall immediately notify the Center for Social Work, which 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.

During the past years, when deciding upon application for asylum, especially in cases of unaccompanied children, the Sector took in consideration their vulnerability and needs, so each unaccompanied child that submitted application for asylum and took an interview was granted with the right to asylum and was put under subsidiary protection. However, this practice was changed in 2020, and the Sector for asylum reached its first decision for rejection of the application for asylum for two children from Afghanistan and Pakistan. On the other hand, subsidiary protection was granted to two children from Afghanistan. The low percentage of granted protection is due to the fact that many of the children left the country before their application for asylum was examined.

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<sup>45</sup> According to the MoI Decision on providing information of public importance, MYLA was informed that in the period from January – September, the Reception center had 17 detained children, as a response to the further request, MoI has stated that in the period from January – December a total of 13 children were detained in this Center. Due to this, the total number of detained children for the whole year is in conformity with the number stated in the [Report on Immigration Detention](#), January - September 2020

<sup>46</sup> 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-decastranci.pdf>.



The Sector also takes into consideration the state of the asylum seekers which are single parents with children and provides protection in accordance with each specific case. But 2020 also brought a change of practice here, so if the Sector throughout the past years granted subsidiary protection to single mothers with children, this year, the application of a single father from Afghanistan with two children and grounded reason for asylum and need for international protection, with an explanation that there was no fear from persecution and suffering serious consequences for this family in Afghanistan.

**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 2020, due to the pandemics and the ban on physical presence at school and introduction of the online classes, the children asylum seekers through donations were provided with tablets in order to continue their attendance during classes. Regarding the children under subsidiary protection, some of them faced lack of technical equipment to attend online classes. The children whose parents were unable to provide them with technical equipment were forced to quit their attendance. A key problem that remains is the inability of the children accommodated in the TC 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”.<sup>47</sup> **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 2019 a total of 30 children were detained, whether in 2020 this number was doubled and reached 76 children, 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.**<sup>48</sup> This came as a consequence from the fact that when discovering refugees by the police, that transited irregularly, the children were removed from the group in order to provide their safety and protection, and were later used as witnesses in the procedure against the smuggler in order to suppress the smuggling of migrants. 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.

<sup>47</sup> Ibid., pg. 38

<https://www.refworld.org/pdfid/5885c2434.pdf#:~:text=In%20this%20context%2C%20UNHCR's%20position,never>

<sup>48</sup> [%20in%20their%20best%20interests.&text=non%2Ddetention%20of%20children%20for%20immigration%20related%20purposes.](#)

Hence, a child control and protection mechanism is 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.

- **SEXUAL AND GENDER-BASED VIOLENCE**

In 2018, RNM ratified the Istanbul Convention.<sup>49</sup> The Convention is also significant for the asylum seekers and the refugees, and since Article 60, the State gains an obligation to undertake the necessary legal and other measures to provide that gender based violence against women is recognized as a form of persecution within the meaning of Article 1 A (2) of the 1951 Convention relating to the status of refugees and as a form of serious harm giving rise to complementary/subsidiary protection. Gender-sensitive interpretation is given to each of the Convention grounds and that where it is established that the persecution feared is for one or more of these grounds, applicants shall be granted refugee status according to the applicable relevant instruments.<sup>50</sup>

In the domestic legislative, in Article 6 from the LITP it is regulated that the acts of persecution can be in the shape of a physical or psychological violence, including acts of sexual violence, and in Article 7, where the grounds for fear from persecution are elaborated, in the part stating belonging to a certain group, the elements related to gender, which include gender identity, shall be taken into consideration when determining the belonging or possessing a feature of a certain social group. On the other hand, the Law on prevention and protection from violence against women and domestic violence was still in procedure for adoption in 2020. MYLA was included in the working group for drafting the law, and, amongst others, provided appropriate recommendations for harmonization of the law with the Istanbul convention for providing special attention to cases of persons that required protection due to gender based or domestic violence, bearing in mind the types of persecution specific to gender. This law had not been adopted within the reporting period of this document. In light of this, it is worth mentioning that during the Global Refugee Forum, the State pledged to incorporate a system for protection from sexual and gender based violence as per the Istanbul convention, which includes protection of refugees and asylum seekers.

**The significance and content of the Istanbul Convention were used in two cases in 2020 by MYLA in order to protect the rights that belong to the asylum seekers, which are related to their application for asylum. However, the Sector did not take the Convention into consideration, and decided contrary to the statements that the Convention needs to be respected. In these cases, negative decisions were reached, and what remained to concern us is that no explanation was provided for the statements and occasions related to this Convention, i.e. that it was not taken into consideration at all.**

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<sup>49</sup> The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, available at: <https://rm.coe.int/168046253a>.

<sup>50</sup> Additionally, Article 61 regulates the non-refoulement principle for the victims of violence. A comprehensive overview of these two Articles can be found in the Council of Europe Analysis: [GENDER-BASED ASYLUM CLAIMS AND NON-REFOULEMENT: ARTICLES 60 AND 61 OF THE ISTANBUL CONVENTION](#).

Towards the end of 2017 the first asylum application was submitted on grounds of persecution due to belonging to a certain social group, i.e due to sexual orientation. The LATP that was then in force did not list sexual orientation as a single reason for persecution, but the new LITP has it now. However, in this case, the application was rejected and the decision was confirmed by a judgment reached by the Administrative court.<sup>51</sup> The procedure became final in 2020 with a negative decision reached by the Higher administrative court, which found no material breach of the asylum procedure.

In 2020, with the start of the pandemics, and the limitation of freedom of movement of the persons in the country, including the asylum seekers, gender based violence was reported against two asylum seeker women. MYLA has referred the cases to the authorized bodies, but the asylum seekers did not want to continue with the procedure and to report the case in the police. However, in both of the cases, the Center for social work was on field immediately and held a conversation with the asylum seekers.



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<sup>51</sup> Verdict U-6., nr. 72/2018 from 18.04.2019 reached by the Administrative court of RNM.

## RECOMMENDATIONS

- **Access to territory:**

- The authorities should not push the refugees over the borders outside the formal procedure, and should conduct individual assessment for each case, while especially taking in consideration the vulnerable categories of refugees.
- 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.
- An appropriate solution for accommodating the asylum seekers in quarantine or otherwise is needed, which will have legal grounds and which will be accordingly regulated.

- **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 transit centers must be formal, as well as the regulation of the legal status of the persons accommodated in the TCs.
- An appropriate solution for accommodating the asylum seekers in quarantine or otherwise is needed, which will have legal grounds and which will be accordingly regulated.

- **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. MoI 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.

- **Court procedures:**

- 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.

- **Early integration:**

- There should be a strategy and program for early integration of asylum seekers.
- The children-refugees/migrants accommodated in the transit centers shall be included in the formal education same as the asylum seekers.
- There shall be no discrimination against the asylum seekers in the realization of their rights in RNM. It is urgently needed for a solution to be found which would allow the asylum seekers to realize their right to access to the labor market, bearing in mind that they are deprived from this right at the moment.
- No violation of the basic human right of family life and marriage shall be allowed.

- **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. In the cases when people need to provide documents from their country of origin, the authorities must guarantee that they will not terminate the right to asylum for these persons until the moment they gain Macedonian citizenship. Or, the person shall have the possibility to give a statement by which he will confirm that he is in no position to provide these documents from his country of origin, because this person has a guaranteed right to asylum in RNM.

- Regarding the evidence for residence in the procedure for receiving citizenship, the Lease agreement which is not verified by a notary public shall be taken into consideration.

- In relation to social protection, the termination of the right to asylum of one member of the family shall not affect the possibilities for social protection of the other members which still are with recognized right to asylum in the country.

The Centers for Social Work and all of the other authorized bodies must use the Law for ex-officio gaining and exchanging evidence and data.

- **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.