



HELP ON THE ROUTE

ANNUAL REPORT FOR 2017.

THE RIGHTS OF REFUGEES,
MIGRANTS AND ASYLUM SEEKERS
IN THE REPUBLIC OF MACEDONIA

The project "Help on the route - Fostering protection of human rights of migrants passing through Macedonia and Serbia" is financed by the European Union

PROJECT IMPLEMENTED BY:





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“HELP ON THE ROUTE”

Annual report for 2017 - The rights of refugees, migrants and asylum seekers in the Republic of Macedonia

Publisher:

Helsinki Committee for Human Rights of the Republic of Macedonia,
represented by the President, Professor Gordan Kalajdziev, PhD

Editor-in-chief:

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Co-publishers:

Foundation Ana and Vlade Dlvac - Belgrade, R. Serbia
Arbeiter Samariter Bund Deutschland e.V. - Belgrade, R. Serbia
Novi Sad Humanitarian Centre - Novi Sad, R. Serbia

Adaptation on design and print:

Relativ

Circulation: 200 copies

Skopje, 2018.

CIP - Каталогизација во публикација
Национална и универзитетска библиотека “Св. Климент Охридски”, Скопје

341.231.14-054.73(497.7)“2017”(047)

BRMBESKA, Elena

Annual report on the state concerning the refugees, migrants and
asylum seekers on the territory of the Republic of Macedonia for 2017 /
[author Elena Brmbeska]. - Skopje : Helsinki committee for human rights
of the Republic of Macedonia, 2018. - 25 стр. ; 25 см

ISBN 978-608-4790-32-7

а) Бегалски права - Македонија - 2017 - Извештаи
COBISS.MK-ID 106730250

This publication has been produced with the assistance of the European Union, under the project “Help on the route - Fostering protection of human rights of migrants passing through Macedonia and Serbia”. The contents of this publication are the sole responsibility of the Helsinki Committee for Human Rights and can in no way be taken to reflect the views of the European Union.

Content

About the project and the findings from this report.....	7
Introduction – The refugee crisis in 2017.....	9
Crisis situation.....	10
Reception-transit camps and reception centers.....	10
Unregulated migration and deportation.....	13
Access to asylum.....	15
National Strategy for Integration of Refugees and Foreigners.....	16
Legal framework – amendments.....	18
Registered incidents and human rights violations.....	20
Hate speech and hate crimes against the refugees.....	22
Conclusion.....	23
Recommendations.....	24

About the project and the findings from this report

This report has been prepared as part of the project “Help on the route – fostering protection of human rights of refugees and migrants passing through Macedonia and Serbia”, which is supported by the European Union and implemented by the Ana and Vlade Divac Foundation from Serbia, in partnership with the Helsinki Committee for Human Rights of the Republic of Macedonia, Novi Sad Humanitarian Center and the Arbeiter-Samariter-Bund (ASB) in Serbia. One of the project’s components is the connecting of 24 civil society organizations from Macedonia and Serbia into a network that will register the violations of the refugees and migrants’ rights¹ and provide greater protection for them, and apart from the four partner organization – implementers, five civil society organizations from Macedonia and fifteen civil society organizations from Serbia also participate. Each of these organizations acts within the framework of their mandate and provides various services for protecting the rights of refugees and migrants. The following are among them: the Macedonian Red Cross, “Legis”, “Open Gate” (La Strada), the Regional Center for Sustainable Development (RCSD) Gevgelija and the NGO “Civic Development” (Vaksince). The data and findings in this report are a result of their reporting.

It is necessary to mention that the findings in this report are also a result of the reporting from the field observations of the Helsinki Committee for Human Rights during 2017,² as part of the project “Fostering Protection of Human Rights of Migrants and Asylum Seekers in the Republic of Macedonia” supported by the Open Society Initiative for Europe.

The state regarding the refugee crisis in the Republic of Macedonia during 2017, concerning several aspects of it, are encompassed in the report. The functioning of the transit camps, the conditions and the treatment which refugees and migrants receive there, the flow of illegal migration and the isolated incidents, as well as the adoption and conducting of the national policies and legal solutions concerning refugees and migrants are some of the topics which will be dealt with in this report. Furthermore, the referencing to the societal and political events in the country which have made their mark on the dynamics of the refugee crisis in the Republic of Macedonia is inevitable. The description of the states and the conclusions in this report will also reference the special analysis “Refugee Rights: National and international standards vis-a-vis the situation on the ground”, prepared at the beginning of the project, in January 2017.³

In order for the report to be all-encompassing and as detailed as possible, a research was conducted during 2018 about respecting the refugees and migrants’ rights, as well as the course of the refugee crisis during the past year. The research was carried out by Prof. Trpe Stojanovski, a police science expert with a long-term experience in migrations. Two focus groups and five in-depth interviews were conducted as part of the research with the most engaged social benefactors in the crisis (representatives from civil society organizations which act during the crisis, journalists who did research and reported on the refugee crisis, representatives from the Ministry of Internal Affairs, the Ministry of Education, the Crisis Management Center and the Macedonian Red Cross). The findings and confirmed conclusions from the research are part of this report.

During the observations, and the determining of the states and the violations of the refugees and migrants’ rights who transit the Republic of Macedonia, the Helsinki Committee adhered to the domestic legislative and the international standards. Hence, the determined states are seen through the frame of the Constitution of the Republic of Macedonia, the Law on Asylum and Temporary Protection,⁴ the Law on Foreigners⁵ as basic guidelines, as well as the Law on Police.⁶ Bearing in mind the rights guaranteed by the 1951 Refugee Convention, the determined violations have been ascertained on the basis of the European Convention on Human Rights (ECHR), as well as the practice of the European Court of Human Rights (ECtHR).

1 Two terms will be used in this report - refugees and migrants due to the mismatch of the words among the expert public and the essential inability to use only one word: refugees, because they have left their home in order to seek protection which has not been provided for them in their home country, and migrants, because of their unregulated status on the territory of the Republic of Macedonia, i.e. absence of the status of a recognized refugee in a formal and legal sense.

2 The field observers Goran Mitrovski, Mence Rizova, Premtim Iseni, Sedat Sulimani, Sedat Shabani (translator from Arabic language), Aleksandar Stojanov, Dushica Nofitoska, Ayeta Ljajikj and Faton Memedi (translator from Farsi language).

3 http://mhc.org.mk/system/uploads/redactor_assets/documents/2365/helsinki-mk-final.pdf

4 Official Gazette of the Republic of Macedonia, num. 49/2003, from 25.07.2003 with recent amendments from 11.04.2016 (num. 71/2016)

5 Official Gazette of the Republic of Macedonia, num. 35/2006, from 23.03.2006 with recent amendments from 11.12.2015 (num. 217/2015)

6 Official Gazette of the Republic of Macedonia, num. 114/2006, from 03.11.2006 with recent amendments from 29.06.2016 (num. 120/2016)

Introduction – The refugee crisis in 2017

Starting at the end of 2014, the Republic of Macedonia found itself on the route of thousands of refugees who were leaving their homes in order to reach the European Union (EU) member-states. During the following 3 years (2015, 2016 and 2017), the refugee crisis changed its dynamics, yet continually tested the country's preparedness to fully respect the guarantees of the basic human rights from the national legislation, as well as the responsibilities from the international contracts and instruments, and at the same time deal with an unprecedented influx of refugees and migrants transiting the "Balkan Route". The Republic of Macedonia never became a final destination for them which can be proven by looking at the number of asylum or temporary protection requests submitted in the country compared to the number of refugees and migrants which were crossing daily.

If we consider the number of refugees and migrants who crossed the country,⁷ the changes in the policies and practices, as well as the registered human rights violations, the flow of the refugee crisis in 2017 was calmer and with significantly less events in comparison to 2016. During 2017, the borders of the European countries remained closed as a consequence of the agreement reached between EU and Turkey in March, 2016. With this, even though the "Balkan Route" remained officially closed, the path for increased smuggling groups and illegal border crossings was opened, and the refugees and migrants continued the pursuit of their goal via an aggravated route in order to reach the Western European countries. Faced with numerous and sometimes life-threatening challenges, some succeed in achieving their goal, while others have more than ten unsuccessful attempts at crossing the closed borders.

During 2017, the majority of refugees and migrants who were transiting the country were men, and a smaller number were women and children. The unaccompanied minors were the most numerous among the vulnerable groups, while a smaller number were pregnant women. Unlike during the previous years of the refugee crisis, there were almost no elderly people or people with disabilities. According to the countries of origin, individuals and groups from several countries were encountered during different periods of the year, among them: Afghanistan, Syria, Pakistan, Iran and Iraq as most represented, while more rarely present were the cases of refugees and migrants originating from Morocco, Algeria, Libya, Palestine and towards the end of the year – several Turkish citizens who were fleeing a political persecution.

On one hand, the Republic of Macedonia succeeded in securing comfortable accommodation in the country for the refugees and migrants throughout the year by providing basic conditions in the transit camps so as to enable respecting of their human rights. On the other hand, however, despite the occasional violations of human rights in separate cases, as are the restriction of their freedom of movement, limited access to territory and use of excessive and unnecessary force by the police officers, the most dominant problem which prevails throughout the year is the practice of illegal "deportation", i.e. expulsion the refugees and migrants from the country without appropriate procedure. According to the observations done by the Helsinki Committee, the "deportation" to Greece is an everyday practice, with or without consent from the refugees. Unfortunately, the same practice is noticed to be carried out by the Serbian security services, who performing in the same way transfer the refugees on Macedonian territory, upon the refugees' request or against their will.

Finally, immediately after the early parliamentary elections were held in December 2016, in 2017 the Republic of Macedonia experienced a climax of the political crisis which inevitable impacted the refugee crisis management and treatment of the refugee issue. On one hand, in anticipation of the upcoming local elections in October 2017, the refugee issue did not take up a significant part of the pre-election promises of the political candidates. On the other hand, it was severely abused for political purposes and to certain political parties it served as an instrument for stirring hatred and intolerance in an attempt to distract the public from the political crisis.

7 "During 2017, a total of 17 000 migrants/refugees are registered to have entered the territory of the Republic of Macedonia" - Source: the Office of the United Nations High Commissioner for Refugees – UNHCR in Macedonia, from the Annual Report of the Macedonian Red Cross for 2017

Crisis situation

With the heightening of the refugee crisis and the ever more common groups of refugees illegally entering the country, with a decision of the Assembly on August 19th 2017, a crisis situation was declared along the southern border with Greece and the northern border with Serbia. The declaring of the crisis situation triggered several consequences: firstly, the Crisis Management Center was activated and was given the coordinative role in the refugee crisis, i.e. it participated in the formation and completely took over the coordination of the transit camps; secondly, the Army of the Republic of Macedonia was engaged along the borders as necessary for the management of the illegal migration and the other safety risks that go with it. Furthermore, after a reached agreement with several EU member-states, foreign police forces were deployed along the Macedonian-Greek border and were patrolling along the border in mixed teams with the Macedonian police force.

After multiple extensions of the crisis situation, during October 2017 the Assembly again adopted a decision to extend the crisis situation until the end of June 2017, with an explanation by the MPs that due to the political crisis in the country and the suspicious stability of the agreements between EU and Turkey, it is necessary to protect the state border. During June 2017, a decision was adopted for another extension of the crisis situation on both borders for the duration of the following 6 months.

The justification for the extension of the crisis situation on the southern and northern borders is indisputable, bearing in mind the illegal crossings and the activities of the smuggling groups in the region. During 2017 however, considering the apparently reduced number of refugees transiting the country,⁸ the reduction of the number of police officers in both transit camps is also significant, which calls into question the maintaining of safety in the camps.

Reception-transit camps and reception centers

During 2017, the established transit camps⁹ in Vinojug, Gevgelija (RTC Vinojug) and Tabanovce, Kumanovo (RTC Tabanovce) continued to function in accordance with the old principles. The management, i.e. the coordination of the camps was still in the hands of the Crisis Management Center, and when it comes to the institutions in authority the representatives from the Ministry of Internal Affairs (MIA), the Ministry of Labour and Social Policy (MLSP) and the Ministry of Health (MH) are still present. Apart from the state institutions, civil society organizations (domestic and international) were highly present in the camps which, depending on their mandate and area of action, were providing different services and goods for the refugees who were either staying or transiting. In that sense, the following organizations were present at the camp: the Macedonian Red Cross, Macedonian Young Lawyers Association, "Legis", "Open Gate" (La Strada), SOS children's Village – Macedonia, the Danish Refugee Council, as well as the following international organizations: International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), the Jesuit Refugee Service (JRS), as well as the occasional presence of the OSCE. Even though not present with permanent representatives, the Ombudsman (representatives from the National Preventive Mechanism) conducted occasional observatory visits to the camps in order to determine any shortcomings and problems that the refugees are facing.

As was the situation in 2016, the two camps differed concerning their openness which in turn contributed to their different functioning. RTC Vinojug is a closed type of camp, i.e. the refugees and migrants staying there have a restricted right to move outside the camp. They cannot leave the camp without previous consent from the responsible institutions, as well as provided escort (from the MLSP or the Red Cross) during their leave from the camp. On the other hand, the refugees and migrants accommodated at RTC Tabanovce have the possibility of leaving the camp in order to have a walk in the city, do some shopping or any other reason, at any given time and without escort from the officials.

At the beginning of the year, 92 refugees with different origins were accommodated at RTC Vinojug, out of which the majority stayed for more than 10 months, i.e. from the official closing of the borders in March 2016. During the first two months of the year, this number was gradually, yet significantly reduced because a large number of refugees left for Greece; these were groups or individual families who in several turns were transferred to Greece with transport organized by the

⁸ The reduced number of refugees staying in the camps is a consequence of the overall policy of closing the borders of all the countries on the refugee route, as well as the tightened border security controls. The aggravated movement of the refugees and the loss of any kind of hope for going onwards forced them to return back. Furthermore, the reduction in the number of refugees has been noted "in" the camps, yet the number of refugees and migrants who are moving outside the camps and with the help of the smugglers is also on the rise during the past period.

⁹ During 2016, they were spontaneously renamed into reception-transit centers (RTC) for which an official decision was not announced but was observed from the written communication with the institutions.

Ministry of Internal Affairs. According to them, the reason for this is the impasse that they were facing, i.e. their inability to continue on their way, the feeling of being held prisoners in the camp and the lack of freedom. Since the beginning of March 2017, the number of refugees staying in the camp reduced to 8 and during the entire year it did not surpass 20 refugees, even though it constantly changed. All the refugees and migrants who stayed in the camp, for a longer or shorter period of time, were registered by the responsible institutions.

In RTC Tabanovce, on the other hand, due to the open character of the camp regarding exiting and entering it and the greater movement in this region, the number of refugees was constantly fluctuating throughout the year. From nearly 100 refugees during January 2017, the number significantly dropped during the subsequent months (from 20 to 30 refugees). During July 2016, the number increased again to 90 refugees as a result of the increased arrival of people in smaller (3-5) and larger groups (6-10), as well as the ever shorter stay of the people coming to the camp. By the end of the year, the number of refugees staying in the camp reduced to 18.

RTC Tabanovce faced three general problems during 2017: the first is the selective policy of admitting refugees and migrants to the camp and allowing them to stay. This type of selection is done according to undetermined criteria and without any rules, where some groups or individuals are granted access to the camp and others are not. Despite the numerous warnings and the indications from the MIA and the CMC that there will no longer be selective admission, the practice still continues leading to the conclusion that it has been established only according to the individual will of certain police officers deployed in the camp. This situation has also been determined by the National Preventive Mechanism at the Ombudsman's office¹⁰ which has made several recommendations concerning the unselective admission of refugees and migrants who need protection in the camps. On the other hand, even though the Ministry of Internal Affairs¹¹ considers that accommodation and providing protection for the refugees is the basic task of the police, it does not think that it can forcefully retain the refugees in the camp since it is an open camp. The second problem which the camp is facing is the registration, i.e. the recording of refugees who stay in it. Throughout the year, "registered" and "unregistered" refugees and migrants were accommodated in the camp. As in the previous case, it is unclear where the practice of registering some refugees who arrive but not others originates. The attempts during the everyday observation to find a certain "scheme" or criteria according to which refugees and migrants are either registered or not, like for example country of origin, travelling in groups, individuals or families, were unsuccessful. The last problem which the camp was facing during the second half of the year was the refugees' refusal to stay in it. A large number of refugees and migrants who were transiting this region were entering the camp only in order to receive basic products (food, water and warm clothes), medical care or to briefly rest. However, the refugees generally did not want to stay in the camp, but were simply using it as a station on their route and were leaving it immediately, without further delay. It is precisely because of this that the increased frequency and constant fluctuation in the number of refugees staying in this camp occurs. The impression of the police officers is that the refugees do not want to stay in the Republic of Macedonia. They think that, if the refugees can choose between Macedonia and Serbia, they would choose Serbia because it is geographically closer to their desired destination. However, if they have to choose between Macedonia and Greece, then they would choose Greece since from there they have easier access to the reallocation programs and the packages from the European programs, as well as easier access to the smuggling groups.¹²

The infrastructural setup of both camps during the entire year remained relatively the same, with occasional problems and additions. The refugees and migrants arriving in the camps who had to be accommodated received their individual containers (houses). Considering the reduced number of refugees staying in the camps, there was no problem in providing individual containers for each family that arrived. All containers are equipped with air-conditioning, i.e. can provide heating during the winter period and cooling during the summer period. Small problems arose during the winter periods when due to the low temperatures, there was a brief lack of water and electricity. The institutions reacted quickly to this situation and there were no serious consequences. During the periods when the number of refugees staying in the camp was low, part of the toilets for the refugees were closed.

Maintaining the hygiene in the transit camps during certain periods was a challenge for the authorities. At the beginning of the year, the hygiene at RTC Vinojug was at an alarming level. Unfortunately, the changes in the political structure had an impact on the presence, as well as the work of the hygiene workers at Vinojug camp.¹³ Beginning from April 2017, the hygiene workers in the camps signed a work contract with IOM (International Organization for Migration), instead of with the Ministry of Labour and Social Policy. After this change, the hygiene in the camp significantly improved during the remainder of the year.

Food and water was provided for the refugees and migrants accommodated in the camp. Even though in the previous years the food was provided by the Ministry of Labour and Social Policy, by the middle of 2017 the obligation of providing food was left to the Red Cross. The biggest problems occurred during the periods when the number of refugees in the camps was significantly low, so they were served monotonous, canned food. In certain periods of the year, the refugees were given access to the kitchen, as well as the necessary supplies so that they can prepare the food themselves. Food and

10 <http://ombudsman.mk/upload/NPM-dokumenti/2017/Poseben%20izvestaj-Tabanovce-22.12.2017.pdf>, страна 10 и 11

11 During a conversation with a high representative of the border police as part of the conducted research (Prof. Trpe Stojanovski), page 6, paragraphs 5 and 6

12 Data received from the Report on the conducted research and the in-depth interviews with representatives from the Ministry of Internal Affairs (Prof. Trpe Stojanovski), page 5, paragraph 1

13 <https://www.slobodnaevropa.mk/a/27594882.html>

water was also provided for the refugees at RTC Vinograd who were caught by the police while using unregulated routes and had to be deported to Greece, as well as for the refugees and migrants who came to RTC Tabanovce for a relatively short period of time and were ready to go on their way immediately.

The refugees and migrants staying and transiting the camps were regularly provided with clothes which were appropriate for the weather conditions. Apart from the Red Cross, many times the clothes were provided by civil society organizations, i.e. the humanitarian organization "Legis" which reacted more efficiently to the weather conditions and the refugees' needs.

The organizing of educational and recreational activities in the camps was completely left to the civil society organizations, as well as the international organizations. The civil society organization "Open Gate" (La Strada), which had signed a Memorandum of Cooperation with the Ministry of Labour and Social Policy, and in cooperation with UNICEF, completely undertook the organizing of educational activities for the children. When the number of refugees in the camps was significantly high, there were regular classes held for the children in various subjects like: languages (Macedonian, German), Mathematics, Geography and other social sciences. A positive example was the organized visit to the elementary school in Gevgelija where the children from the camp had the opportunity to meet and socialize with children from the Republic of Macedonia.¹⁴ Apart from the children, the recreational activities were often organized for the women accommodated in the camps as well. The biggest problem was the lack of recreational and educational activities for the men who, from this point of view, were neglected the most. There were several instances when "Legis" organized tournaments in various sports for the men in the camps. From the middle of the year onwards, when the number of refugees accommodated in the camps reduced, the educational and recreational activities also reduced in number. They were only organized in the rare periods when there were children present in the camp. This is problematic because in isolated cases there were families or individuals staying in the camps for a longer period of time (for example, a three-member family originating from Afghanistan, a mother with two adult children who were staying in Vinograd for more than five months). What is most important is that not once did the Ministry of Education get involved in the official organizing of educational activities for the children staying in the camp during different periods, even though access to education is one of the guaranteed fundamental rights.

From the observations done by the Helsinki Committee, it can be confirmed that effective medical care was provided and available to the refugees and migrants staying in or transiting the camps. Considering the vulnerable state of the refugees and the path they take every day, there were various health problems encountered among which: fatigue, dehydration, wounds from walking too long, people bitten by dogs, people who had been beaten and physically abused, and also people with more serious illnesses as are cancer, epilepsy or other permanent conditions for which continual therapy is necessary. There were several cases of pregnant women, even women in critical pregnancies, who notwithstanding the doctors' recommendations decided to continue on their path.

The primary medical aid was uninterruptedly provided by the Red Cross, which provided 24-hour presence in the camps and mobile teams to help the refugees on the unregulated routes, especially in the Lipkovo region. According to the Annual Report of the Red Cross for 2017, throughout the year they provided first aid and assistance 10 410 times in the transit centers and the surrounding regions. There were doctors present in the camps who were assigned there by the Ministry of Health and who intervened if necessary. During the entire year, regular gynecological examinations were provided for the women and they were carried out in a mobile clinic, and if necessary (critical pregnancy or a need for an examination from a specialist) the women were transported to the city hospital. Transport to the local city hospitals was also provided for refugees who needed to be examined by specialists. Dental examinations were provided for all refugees who needed them.

During 2017, the material conditions in the Reception Centers for Foreigners (Gazi Baba) and Asylum Seekers (Vizbegovo) in Skopje improved, primarily due to the reduced number of refugees, migrants and asylum seekers accommodated there. The conditions in the reception centers have been observed in detail by the National Preventive Mechanism (NPM) – Ombudsman which has the authority to conduct unannounced visits in order to determine the conditions and the rights of people kept at the reception centers. So, for example, in their report on the several consecutive visits made to the Reception Center for Foreigners (Gazi Baba),¹⁵ NPM confirms an improvement in the physical conditions for accommodation in comparison to the previous year, considering that renovations are constantly carried out. Even though there are no indications of inappropriate treatment from the employees at the Center, the people accommodated there complain about lack of information regarding the reasons why they have been detained, as well as lack of information regarding how long they will be detained.¹⁶ One of the main problems which NPM indicates is the practice of illegal detention of people, i.e. detaining them to determine their identity. After the discussions with the employees, NPM determined that those were cases of people who had been held as witnesses in criminal procedures against smugglers, which is a repetition of the practice from the previous 2016.¹⁷ A problem has also been determined concerning the right to a legal representative, i.e.

14 The activity was described by the representatives of the first focus group. Report from the conducted research (Prof. Trpe Stojanovski), page 9

15 A special report on the conditions in the Reception Center for Foreigners in Gazi Baba <http://ombudsman.mk/upload/NPM-dokumenti/2017/Posebni%20izvestaji-Gazi%20Baba-26.12.2017.pdf>

16 Ibid, page 5

17 Refugee rights: National and international standards vis-a-vis the situation on the ground http://mhc.org.mk/system/uploads/redactor_assets/documents/2365/helsinki-mk-final.pdf, page 8

lawyer for the people who have been deprived of their freedom. As NPM states in their report, the people have not been provided with a legal representative even upon their request, and were given an explanation that there are no criminal procedures against them and that they will immediately be released after they give their testimonies.¹⁸

There was a specific case when NPM made an unannounced visit to the Reception Center Gazi Baba and five refugees originating from Syria were found to have been detained in a separate room. The employees attempted to hide the refugees. After a public reaction by the Ombudsman and communicating with the Ministry of Internal Affairs, it was explained that the reason why they were detained was to transfer them to the Reception-Transit Center Vinojug, Gevgelija where they themselves wanted to go. After the intervention by NPM, the people were released.

In the Reception Center for Asylum Seekers on the other hand, the accommodation conditions are relatively good, but there are damages identified to the inventory and the doors.¹⁹ During the visits, NPM determined that the number of beds in the rooms is too big considering the size of the rooms. During the NPM visit, there were 7 people accommodated in the Center which is why it was determined that it is not over crowded. One of the biggest problems is the food served to the asylum seekers, which is mainly canned and does not contain the necessary nutrients. Due to this, one of the recommendations is improving the quality and quantity of food.

Unregulated migration and deportation

Illegal deportation or i.e. the transferring of refugees and migrants to neighboring Greece, without adhering to any kind of legal and formal procedure, is one of the main problems and represents a constant violation of refugee rights. As was the case in the previous year, so it was also in 2017 that the refugees and migrants who were caught on the illegal paths and whose stay in the country was unregulated, were transferred to Greece without delay, i.e. transport was organized for them to be taken to the border and they were left across the border line under open skies. The same practice is observed by the Serbian officials who also, without any official and legal procedure, transfer refugees and migrants to Macedonian territory.

This practice has also been noticed by the civil society organizations working in the field in the reception-transit camps. According to them, the country does not want the civil society organizations to witness the "deportation" which is why they do it so that they cannot be seen. Their remark addresses the inhumane manner in which the deportation is done, i.e. the choice of time and the conditions of the transport vehicles.²⁰

During 2017, the Helsinki Committee noticed several routes that refugees and migrants took on Macedonian territory. In the first case it was a group or individuals coming back from Serbia, willingly or forced to do so. The refugees who come back willingly are those who after a shorter or longer stay in Serbia do not see any possibility of continuing forward; they see themselves in a hopeless situation. Hence, one of the options for them is to go back to Greece where it is easier for them to get in touch with smuggling groups and in this way continue to the western countries where they may have a family member or where they can more easily acquire some means for survival. In rare cases, refugees who have lost all their hope or who hope to get back with their families intend to return to their country of origin. In several cases, the Helsinki Committee has noted refugees and migrants who have been forcibly returned from Serbia, i.e. "deported" by the security services. Once they arrive to RTC Tabanovce these groups have two options: either be transferred to Greece via transport organized by the institutions in authority or be accommodated in the camp, from where within a short period of time they again try to cross the border between Macedonia and Serbia.

In another case, refugees were intercepted coming from Greece, either alone or with the help of smugglers. When the refugees are moving alone, in the majority of cases, they are intercepted by the police on secondary roads in an attempt to find the way to reach the border between Macedonia and Serbia. There have been cases noted where refugees are moving across inconspicuous terrain and along the railway track, which takes the problem back to the very beginning of the refugee crisis and significantly endangers their safety. In the majority of registered cases (in the newsletters of the Ministry of Internal Affairs and the field observers), the groups which are taken to the camp are intercepted while travelling with the help of smugglers. In nearly all the cases, the refugees are victims of the smugglers who have charged them a considerable sum of money (from 2000 to 5000 Euros) and have tricked them, i.e. they have not taken them to the agreed destination. In a large number of cases, once they notice that they are being intercepted by the police, the smugglers leave the vehicles, as well as the refugees behind them.

18 A special report on the conditions in the Reception Center for Foreigners in Gazi Baba, pages 7 and 8

19 A special report on the visit to the reception Center for Asylum Seekers <http://ombudsman.mk/upload/NPM-dokumenti/2017/Posebena%20izvestaj-Vizbegovo-28.07.2017.pdf>

20 Data received from the Report on the conducted research, i.e. the focus groups held with representatives from the civil society organizations (Prof. Trpe Stojanovski), page 5, paragraphs 3-4

Through their field observers and in the absence of official statistics from the Ministry of Internal Affairs,²¹ the Helsinki Committee is keeping their own records of the number of people who have been “deported” to Greece.²² So, during 2017, it has been noted that around 800 refugees and migrants originating from different countries, among which the most frequent are Syria, Afghanistan, Pakistan, Iraq, Iran, Algeria and more rarely Palestine, Morocco and Libya, were “deported” to Greek territory. Monitoring the numbers on a monthly basis, at the beginning of the year they were significantly lower, i.e. they were somewhere between 20 and 30 people. However, in the last four months of the year, the frequency of movement and the size of the groups are bigger and so in October, November and December of 2017 from 100 to 130 people were noted to have been transferred to Greece on a monthly basis. Even though the groups are mostly comprised of adult males, the occurrence of families, women and underage children is not completely excluded. The movement of men was noticed more at the beginning of the year, whereas families can also be noticed from the middle of the year. From their own observations, the Helsinki Committee has noted at least 50 women, among which pregnant ones as well.

In that context, several violations of refugees and migrants’ rights have been determined. The problems connected to the illegal deportation can be observed from several aspects: firstly, it is absolutely prohibited to transfer refugees and migrants across borders without considering and examining each case individually, without established cooperation with the security services and the responsible institutions of the neighboring country, as well as without any kind of formally issued decision for their expulsion from the country. These practices are significantly opposed to the human rights standards, i.e. the prohibition of collective expulsion of aliens found in Article 4 from the fourth Protocol of the European Convention on Human Rights (ECHR), which can be confirmed by the practice of the European Court of Human Rights in numerous verdicts.²³ The only case of organized and legal readmission during February 2017 was when after communicating with the Greek authorities, 50 refugees and migrants from RTC Tabanovce were transferred to Greece with a bus. Even though the procedure was legal, the readmission was conducted during the night, without previously notifying the refugees and migrants accommodated in the camp and without the attendance of all civil society organizations and activists who are present in the camp. The second noted problem is the manner of transferring the refugees to Greece. When it is a question of larger groups, the refugees are transferred in police vehicles or trucks. There have been noted cases where a large number of people are transferred in a smaller vehicle (in one case, 17 refugees were transferred in one police vehicle).²⁴ This action is contrary to Article 3 from the ECHR, i.e. complete prohibition of torture and inhuman and degrading treatment. Finally, illegal deportation and leaving people under open skies places refugees under additional risk for their safety. Bearing in mind the fact that there are women and children among the members of the groups, the country is not taking any measures to guarantee their physical safety or to prevent the risk of violence against them.

Contrary to the observations of the Helsinki Committee and the determined situation on the ground, the Ministry of Internal Affairs has registered a significantly smaller number of illegal migrations in their daily newsletters, i.e. cases where smugglers or refugees were intercepted. So, for example, during the entire year, MIA has notified of only 17 criminal offences connected to smuggling migrants and a total of 178 refugees who have been intercepted with smugglers or on illegal routes.²⁵ The majority of them have to do with noticing vehicles in which refugees and migrants are transported, where in some cases the smugglers were caught, but in others they had fled and could not be found. It is symptomatic that, similar to the practice in 2016, a certain number of refugees have been intercepted in such situations at the Reception-Transit Center Gazi Baba and have been detained as witnesses in the procedure. The Helsinki Committee strongly reacted to several such examples, reminding that the restriction of movement of refugees and migrants because they are being considered witnesses in a criminal procedure is unjustified and against the law.

21 During the conducted focus group with the representatives from the civil society organizations, the need was emphasized for publishing daily statistics on the refugees, asylum seekers and persons accommodated in the reception centers by the Ministry of Internal Affairs, which statistics will be transparent and made available to the civil society organizations. MIA agrees and considers that this will increase transparency, but also that it is the responsibility and the jurisdiction of the public relations sector. (Report on the conducted research by Prof. Trpe Stojanovski, page 7, paragraphs 2-3)

22 All groups or individuals who have been noticed by the Helsinki Committee for Human Rights to have been transferred to the Greek territory have been registered in the weekly and monthly reports of the Committee, which are published and available at <http://mhc.org.mk/pages/reports?locale=mk#WoVeMqjwblU> in Macedonian and in English language. The number of refugees to which the observers from the Helsinki Committee had access to or had knowledge of their transference without being transferred to the camp is also included in the noted cases.

23 A collection of verdicts of the European Court of Human Rights with comments - Mirjana Lazarova Trajkovska, Skopje, 2016, page 130, Prohibition of collective expulsion of aliens http://myla.org.mk/wp-content/uploads/2016/09/ZBIRKA-PRESUDI_AZIL_WEB.pdf

24 Monthly report on the state at the border crossings Gevgelija and Kumanovo – November, 2017 <http://mhc.org.mk/reports/701?locale=mk#Wob9MajwblU>

25 The numbers are from the published newsletters of the Ministry of Internal Affairs

Access to asylum

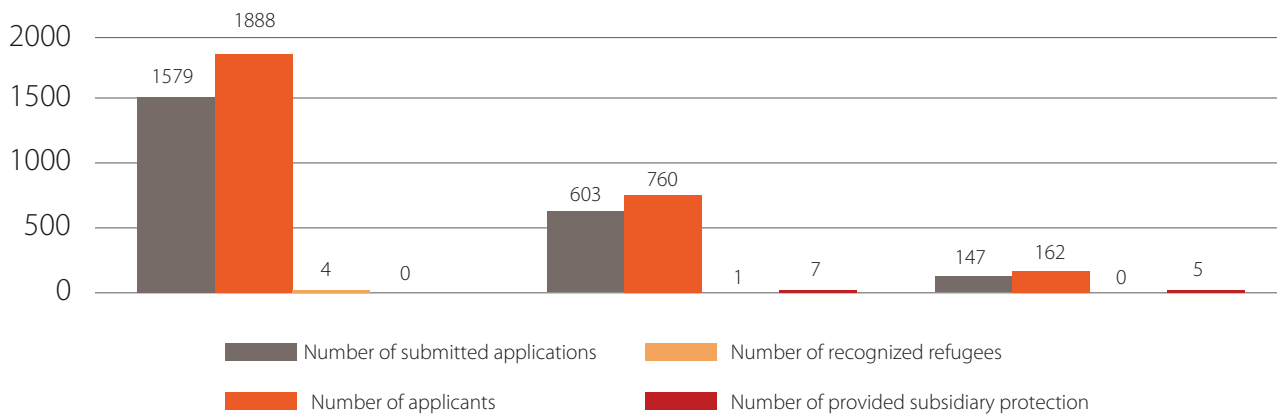
Even though the Republic of Macedonia is generally not a country of destination for the refugees and migrants who are transiting it, a certain number of asylum applications were submitted during 2017. According to the observations by the Helsinki Committee, access to asylum procedure was unrestricted and made available and there were no determined violations, unlike 2016 when there were cases of obstructions during the asylum procedure, dissuading the refugees from submitting the application for asylum, as well as inefficiency of the institutions.

During 2017, in all the cases in which refugees were accommodated in the transit camps and expressed their intention of applying for asylum, they were provided legal aid through an urgent procedure, i.e. the procedure for application for asylum was fully explained to them. Furthermore, a person (refugee or migrant) who had submitted an application for asylum was transferred to the Reception Center for Asylum Seekers – Vizbegovo, Skopje as soon as possible where interviews were conducted concerning their asylum application. The Helsinki Committee additionally noticed that the Sector for Asylum at the Ministry of Internal Affairs made several visits to the transit camps throughout the year, where they conducted interviews with refugees who had submitted an asylum application.

The people who have been detained at the Reception Center for Foreigners as witnesses in criminal procedures against smugglers²⁶ are, in general, notified of the possibility of submitting a request for recognizing the right of asylum, but from the notifications of the National Preventive Mechanism it has been ascertained that such a possibility has been provided to them only after they provided depositions which, in essence, is a violation of the right to seek asylum.²⁷

According to the data received from the Sector for Asylum at the Ministry of Internal Affairs, there were a total of 147 requests for recognizing the right of asylum for 162 people during 2017. After the conducted procedures and the decisions made, the Sector for Asylum informs that only 5 people have been granted subsidiary protection out of which four people originate from Syria and one from Pakistan. Throughout the year, not a single asylum application was approved that grants the refugee status in accordance with the Law on Asylum and Temporary Protection.

Review of asylum applications 2015-2017



The small number of subsidiary protection which the refugees asked for in this country is symptomatic. As is, even more so, not recognizing refugees and also those people coming from areas threatened by war and whose individual circumstances would justify the status of a refugee, which brings into question the effective examination of the individual circumstances of each submitted request of asylum. From the observations by the Helsinki Committee concerning the practical problems of which the civil society organizations informed and which arose during the asylum procedure, improvements were registered during 2017. So, for example, even though in 2016 there were problems noticed concerning the provision of a translator to help inform about the asylum procedure, during 2017 this problem was overcome either by hiring translators from the Ministry of Internal Affairs or the civil society organizations provided one. However, the issuing of appropriate documents (legal translations) in a language which the refugees understand is still a problem in the asylum procedure.²⁸

²⁶ See above, page 9

²⁷ Special report on the conditions in the Reception Center Gazi Baba
<http://ombudsman.mk/upload/NPM-dokumenti/2017/Poseben%20izvestaj-Gazi%20Baba-26.12.2017.pdf>

²⁸ Report from the conducted research (Prof. Trpe Stojanovski) page 16, also according to Access to the rights of asylum and formal/informal return of migrants/refugees, November, 2016, Skopje

National Strategy for Integration of Refugees and Foreigners

The National Strategy for Integration of Refugees and Migrants (hereinafter Strategy) is one of the key documents of the Ministry of Labour and Social Policy which stipulates the country's policies concerning the recognized refugees and foreigners on its territory. Considering that the previous Strategy (2008-2015) was expiring and that the refugee crisis was directly affecting the Republic of Macedonia, the new Strategy for Integration of Refugees and Migrants was suggested relatively late, i.e. in July 2017. The delay of almost two years after the expiration of the previous document is probably due to the culmination of the political crisis in 2015 and 2016, which led to staff changes in the key ministries dealing with migration, i.e. the Ministry of Internal Affairs and the Ministry of Labour and Social Policy.

The process of adopting a new strategy began quite transparently, i.e. the proposed text of the Strategy was made public, and so the civil society organizations and the public could contribute their comments. At the same time when the proposed Strategy was made public, the local elections were also announced and scheduled for October 2017. Towards the end of July 2017, the Parliamentary Committee on Labour and Social Policy put the discussion about the proposed Strategy for Integration of Refugees and Foreigners on the agenda. Furthermore, it invited all interested citizens, civil society organizations and functionaries to join the discussion. During the several Committee sessions, the "problems" which the proposed Strategy causes were discussed. Among others was the idea of building social apartments for thousands of refugees who are going to settle in the Republic of Macedonia. "Facts" were given about how refugees are harmful for the country, how the country places them first instead of its own citizens, emphasizing the harmful consequences which the refugees caused when they were transiting the country, how they present a danger for the citizens and how they will contribute to the increase in the crime rate. This was the beginning of a public debate which comprised of xenophobic speeches from the political leaders and functionaries. Just like the parliamentary debate, which was filled with calls against the settling of refugees, the media - supporters of the rightwing party (VMRO-DPMNE)²⁹ - informed the public in the same fashion, representing refugees to be harmful for society and emphasizing the intention of the new government to settle the refugees in Macedonia, which in turn created panic and disturbed the citizens.

Inspired by such rhetoric, several civic initiatives were formed (one of them was *Излези и ти*), that were organizing petitions for announcing a referendum on a local level where the citizens can express their opinion whether they are "for" or "against" the settling of refugees in their municipality. Furthermore, the hate speech, as well as negatively presenting the refugees were also a part of the propaganda of the civil society organizations, which is contrary to the purpose of the existence of civil society organizations and initiatives.³⁰ As a consequence of their actions, decisions to hold a referendum were made in 12 municipalities. However, the decisions foresaw holding a referendum on the same day as the already scheduled local elections. From all of this, one could easily see the intention of influencing the local elections and abusing the refugee issue in order to win political points before the elections. Towards the end of September 2017, the State Electoral Commission made a decision during a public session which prohibited the holding of a referendum on the same day with the local elections, emphasizing that the election commissions are not prepared for such a step.³¹ Thus, the referendums were never held and the issue concerning the Strategy completely died out among the public.

Within the process of adopting the Strategy, there was room left for contributions from the civil society organizations working with refugees in the following two ways: by submitting comments in a written form and by participating in a workshop for improving the Strategy which was held in December 2017. Even though the text of the Strategy is generally good, there are still some parts where drawbacks have been noticed and parts to which improvements can be made.

Unlike the previous National Strategy for Integration of Refugees and Migrants whose timeframe was 7 years, the new Strategy (2017- 2027) has been anticipated for the following 10 years.³² Experience from the current refugee crisis shows that the situation with the refugees, asylum seekers or migrants can significantly change within a very short period of time. Hence, the time span of the Strategy for Integration of Refugees and Migrants in the Republic of Macedonia has to be shorter, which will in turn enable faster and more timely revision of the time span, as well as evaluation of the results achieved for a shorter period, and will also enable adjusting the future plans and activities according to the challenges which the country is facing.

29 During this period, VMRO-DPMNE became the opposition party after their failure to form a coalition following the early parliamentary elections in December 2017. The President of the Committee for Labour and Social Policy is one of the members of VMRO-DPMNE. Bearing in mind the strong influence over the media and media freedom during the 10 year rule, a large portion of the media were still favoring this political party and were broadcasting only selected data.

30 <http://mhc.org.mk/announcements/627?locale=mk#.WorNgKjwbIU>

31 The Decision of the State Electoral Commission is not made public but only recordings of the held session are available <http://www.alfa.mk/News.aspx?ID=124254#.Wor0L6jwbIU>

32 Taking into consideration that at the beginning of 2018 the final document has not yet been adopted, it remains unclear how the anticipated activities will be implemented in the Action Plan for the previous 2017.

In the text of the Strategy, the work of the Inter-ministerial Coordinative Body for Integration of Refugees and Foreigners, which was formed in 2006, is anticipated and stipulated. It is anticipated to have a multidisciplinary approach which will be accomplished through the participation of the various ministries in the body itself. However, apart from the Red Cross (which is an international organization with a specific goal and mandate), not a single civil society organization is included, and neither are any representatives from the civil society. The inclusion of civil society organizations in the Inter-ministerial Body for Integration of Refugees and Foreigners, as well as in the other bodies for integration of refugees and foreigners, is necessary yet it has not been anticipated in the new Strategy. With the inclusion of civil society organizations working on human rights, social protection, vulnerable groups, gender issues and other areas, a comprehensive approach will be enabled at the basis of which all the aspects of refugee rights will be covered.

Considering the public reactions caused during the heightening of the refugee crisis during 2014, the national system for integration of refugees and migrants, and also the Strategy and Action Plan themselves, focus exclusively on the work with refugees and foreigners and the full dedication to their integration. The steps for working with and for raising the awareness of the local population concerning the integration and acceptance of refugees are anticipated in a very small scope (almost none). If such activities are anticipated, the integration of refugees will be conducted more easily and successfully.

The Strategy foresees a set of activities aimed at early integration of refugees. When commencing this process of early integration and preparation of individual plans for working with refugees and their integration, it is necessary to consider the special circumstances of the vulnerable groups among refugees, some of which are pregnant women, the elderly, people from the LGBT community (with different sexual orientations, gender identity or sex characteristics), persons with mental or physical disabilities, as well as victims of human trafficking or gender-based violence. In order to provide greater social protection, as well as psychological and social support and help, it is necessary to sensitize the people involved in the creating of the plan regarding the sensitive issues by providing appropriate capacities and knowledge.

The part on housing anticipated in the Strategy is very general and does not deal with the anticipated measures and solutions in detail. Even though the importance of inclusion of the local units and their extensive role in solving the housing issue is mentioned, to what extent and what specific role they will have, whether the municipalities will receive a separate item in the budget for undertaking measures from the aspect of housing or will they need to allocate funds from their own budgets is not explained at all. Due to this, the Strategy itself creates panic among the local self-governments and aversion for providing housing for refugees on their territory of the local unit.

Even though the Strategy encompasses a large part of social protection of refugees or people with subsidiary protection, the measures anticipated are superficial and general. The country's experience with the refugee crisis from 1999 so far has shown that social protection is practically non-functional, especially regarding the cases where the right to use free housing expires and the refugees have not succeeded in getting employed and have no possibility of making any income in order to survive. Furthermore, the procedures for exercising the right to social financial assistance are complex and not easily available; the right to social protection is lost if one member of the family loses the status of refugee. All of this makes social protection a weak mechanism for exercising the rights of refugees and leaves them at the margins of society as one of the most vulnerable groups.

Legal framework – amendments

During 2017, the Ministry of Internal Affairs opened the process for changes to the existing Law on Asylum and Temporary Protection, which did not fully meet the standards anticipated in the European directives and also contained relatively poor legal decisions. During 2016, changes to the Law were adopted which were contrary to ECHM, yet enabled the alleviation of the refugee crisis management, which at that time was in full swing. So, for example, an “intention to seek asylum” was introduced which enabled refugees and migrants to legally move through the country with public transport. At the same time, a time limit on family reunions was also introduced, i.e. a condition for a 3 year stay for a person with a recognized status of a refugee or subsidiary protection to start the procedure for family reunion. The introduction of the article which defines every European Union, NATO and EFTA (European Free Trade Association) member-state as a safe third country was also problematic.

These changes have been removed from the text of the new proposed law, now renamed as the Law for International and Temporary Protection. The possibility of submitting an “intention for seeking asylum” has been retained, but the limitations on the period for family reunion, as well as determining every European Union, NATO and EFTA (European Free Trade Association) member-state as a safe third country have been removed. The proposed law also introduces several changes in which the European directives are fully incorporated, which regulate migrations and also promote refugee rights.

So, for example, one of the anticipated changes consists of the reasons for exile, i.e. the elements that will be taken into consideration during the reviewing of the application for asylum and the special meaning of each category. In Article 7, Paragraph 5 of the new proposed law, in accordance with Directive 2011/95/EU of the European Parliament, sexual orientation and gender identity have been noted for the first time as characteristics of a certain social group which might face exile, because of which they might have the possibility of asking for international protection. In the same paragraph it is mentioned that sexual orientation is not considered a criminal offense and that gender and gender identity will be taken into consideration when determining the membership of a certain social group. Bearing in mind that a very small number of laws in the Macedonian legislative explicitly mention sexual orientation and gender identity³³ as being a basis for protection, the introduction of this change in the Law can be considered a huge step forward.

Furthermore, in Article 46 and 47, the Law stipulates the inadmissible requests and the apparently unfounded requests. Furthermore, it foresees that the request for recognizing the right of asylum will be considered inadmissible if the person has arrived from a third safe country, which leaves room for the person to “prove” that that given country is not safe for him/her. This formulation is different from the provision in Article 19 for a safe third country in the segment where it is anticipated that the person is allowed to “dispute” that the third safe country is not safe for him/her. There is an essential difference between the possibility of disproving and proving the safety of the third country for the person – asylum seeker because the burden of proving this is placed on the asylum seeker and the legal provisions do not specify what type of evidence need to be provided (whether they should provide solid, factual evidence for their claim that the country is not safe). The Directive 2013/32/EU in Article 39, Paragraph 3 explains that the asylum seeker will be allowed to “disprove” that the third country is not safe for him/her, considering his/her individual circumstances. The changing of terminology from “disprove” to “prove” leaves room for an increased number of rejected requests of asylum under the pretext that the person – asylum seeker has not managed to appropriately prove that the third country is not safe for him/her. Even more so, in Article 47 – Apparently Unfounded Requests, Article 1 Section 4, there is a reintroduction of the concept that a safe country of origin will be considered every European Union member-state, if the person is unable to prove otherwise. In both articles, the procedure concerning the time frame and in front of whom will the person – asylum seeker need to “prove” that the country of origin or third country is not safe for him/her has not been fully explained, which leaves room for abuse by the state intuitions.

Among the submitted comments on the proposed law, the Helsinki Committee also pointed out the practical problems which appear when it comes to asylum seekers and the exercising of their rights. Namely, Article 54 anticipates issuing of identification documents for the asylum seekers, which approves the right of residence until the effective decision for the request of asylum. This identification document enables the asylum seekers to exercise their basic rights as long as they stay on the territory of the Republic of Macedonia. However, the problems in practice appear when exercising the rights in separate areas is impossible without possessing a unique personal identification number, which the identification document does not contain. So, for example, the exercising of right to social protection has been called into question, as well as that of secondary health care, if there is such a need (because the Law anticipates only the provision of primary health care), and also segments from inclusion into programs for early intervention for which programs the precondition is to possess a unique personal identification number. Although the foreseen deadline for deciding on the request of asylum by the Sector for Asylum is nine months (Article 38), practice shows that the time needed for the entire procedure (including the Administrative Court) may last relatively longer, sometimes up to 2 years. This is an additional problem for exercising the rights of asylum seekers during while they are waiting for the final decision on their request of asylum.

33 http://mhc.org.mk/system/uploads/redactor_assets/documents/2473/Analiza_na_zakonska_Ramka_vo_odnos_na_pravata_na_LGBTI_MK_02.pdf

Hence, the Helsinki Committee indicates that it is necessary to find an appropriate systemic solution which might include changes to several laws or by-laws, but which will remove the obstacles to fully exercise and enjoy the rights of asylum seekers, and will also increase their legal security.

A novelty in the text of the Law is the anticipated possibility of restricting the freedom of movement of asylum seekers. Namely, Article 63 anticipates that in exceptional cases the freedom of movement might be restricted in order to determine identity and citizenship, to determine the facts and circumstances of the submitted request of asylum, especially if it is estimated that there is risk of flight so as to protect the public peace and national safety or when a foreigner is detained in order to prepare him/her for the procedure of returning back or exiling. These exceptional cases for restricting the freedom of movement may lead to arbitrary deprivation of freedom from several aspects, especially taking into consideration the estimation for risk of flight as a condition for restricting freedom of movement.

Considering the increased wave of refugees in the past three years, using the possibility for restricting the movement of asylum seekers may cause significant burdens on the country in terms of the capacities of the reception centers for asylum seekers and foreigners. This would lead to a bigger and more serious violation of their fundamental human rights and freedoms, especially the absolute prohibition of torture, degrading and humiliating treatment, which, as experience has shown, is not inevitable. Even more so, the Law anticipates the initial possibility of restricting freedom for the duration of three months the most, with a possibility to extend it for another six months.

In the submitted comments to the Ministry, the Helsinki Committee appealed that the possibility for restricting the freedom of movement in the case of risk of flight be reduced, as well as to reduce the foreseen deadline for it. It is evident from the delivered response that the Ministry considers the deadlines reasonable and in accordance with the European directives. All that remains is to see how this provided possibility will be used in practice after the adoption of the Law.

One of the remarks concerning the text of the Law was the restriction of the local participation which it anticipates, i.e. the anticipated obligation only means the acceptance of responsibility for accommodating persons with a refugee status and people under subsidiary protection, according to the economic development and the decision of the Government of the Republic of Macedonia. However, experience with the recent refugee crisis has shown that the concern of the local self-government and the municipalities is far greater than only the accommodation of people with a recognized refugee status or subsidiary protection. Hence, we consider that it is necessary to extend this Article and to anticipate the responsibilities of the local self-government in the entire process of integration of people with a recognized refugee status or subsidiary protection.

Registered incidents and human rights violations

Apart from the established daily practice of illegal deportation of refugees and migrants, which is contrary to Article 4 of the Fourth Protocol of the ECHM, the Helsinki Committee has registered several other violations of refugees and migrants' rights in individual cases or incidents. In two of the three registered incidents, there has been a violation of Article 5 of the ECHM noted in the reception-transit centers, i.e. illegal restriction of freedom of movement. In several cases, the violation of Article 3 of the ECHM has also been registered, i.e. inhuman or degrading treatment of refugees by the police officers who frequently overstep their legal powers.

>> Unjustified restriction of freedom (Article 5 ECHR)

There is an important case of a refugee originating from Pakistan who during July 2016 was brought to RTC Vinojug, Gevgelija by the police and was immediately placed in a special container, separated from the others. After observing for several days, it was noticed that the person was not allowed to leave the container (except for food and physiological needs) and that he was moving through the camp only if necessary and escorted by police officers. According to information from various sources, there was suspicion that the person was infected with Hepatitis C, which is why he was isolated from the others present in the camp while medical examinations were performed. The Helsinki Committee addressed the Ministry of Internal Affairs in a written form asking for information about the reasons why this person is detained, as well as the legality of his custody. In its response, the Ministry indicated that due to suspicion of disease and according to the recommendations of the medical personnel, the person was put in quarantine, even though a layman would know how Hepatitis C can be transmitted. Also, the Ministry indicates a much shorter period of detention in its response, which is contrary to the observation in the field. After more than 5 days in isolation and after the intervention by the Helsinki Committee to the Ombudsman, the person was finally released. After several days and upon his own request, he was transferred to Greece. This type of restriction of freedom is completely contrary to Article 5 from the ECHM, as well as Article 12 from the Constitution of the Republic of Macedonia, which clearly stipulates in which cases a person can be deprived of their freedom and under what circumstances. The recommendation of the doctors and medical personnel for complete isolation of a person infected with Hepatitis C is unclear.

>> Torture, degrading treatment and unjustified restriction of freedom (Article 3 and Article 5 of the ECHM)

One of the worrying cases is the police action of detaining around ten refugees and migrants accommodated in RTC Tabanovce, Kumanovo. Namely, during July 2017, in the early morning hours (around 5 a.m.), a police action was conducted in the camp in which police officers detained around 10 refugees accommodated in the camp by using physical force and means of coercion. Only a few of them managed to escape the police and the rest were arrested in their containers and taken to the police vehicles in handcuffs. Apart from the other refugees and migrants who were accommodated in the camp at that moment, there were no other witnesses to the event. The representatives of the civil society organizations were also not present during this time of night. The Helsinki Committee addressed the Ministry of Internal Affairs in a written form requesting a full explanation of the event, as well as determining abuse of police powers. The response from the Ministry indicated that appropriate force was used on the refugees, as well as necessary means for coercion because there was suspicion that the persons will show signs of violence and aggression, as well as that in the conducted action there was no overstepping of police mandate. The Ministry also notifies "that 10 migrants were detected and caught" (as if there were an element of surprise), which is contradictory because during the previous day the police officers brought and settled the refugees in the camp. The Ombudsman was also informed about the case and he initiated procedures in the Sector for Internal Control and Professional Standards in order to determine the responsibility of the police officers who participated in the action.

>> Right to life, liberty and security (Article 2 and Article 5 from the ECHM)

During December 2017, an incident was registered in RTC Tabanovce in which one of the refugees showed aggressive behavior under the influence of alcohol. The person had been staying in the camp for few days and possessed medical documentation from Serbia. The responsible institutions in the camp were familiar with his vulnerable state. After having left the camp for several hours, the person returned under the influence of alcohol and because of a banal argument with another person, started threatening the rest. The police present at RTC Tabanovce are significantly few in number and the reaction of the police officers present there was almost non-existent, even though they were close to the person and

had monitored the situation from the very beginning. After a short time, the person started injuring himself. Once the representatives of the civil society organizations and the Red Cross who were present there were able to overcome him, the person was transferred to the hospital in Kumanovo where they treated his injuries and kept him for a short while so that he can sober up. The police officers who were present at the camp and who observed the entire situation, significantly endangered the safety, before all, of the person himself, but also the safety of everyone present at the camp by not acting in any way. It is inadmissible for the only authoritative institution which is responsible for guaranteeing the safety of all the people in the camp not to intervene in such a situation.

Hate speech and hate crimes against the refugees

During 2017, although the dynamics of the refugee crisis was reduced, the calls of violence, the offences and the xenophobic speech against refugees and migrants were not lacking among the public, especially provoked by the political propaganda and the everyday social happenings.

So, for example, the Helsinki Committee registered five cases of hate speech against refugees and migrants on the platform www.govornaomraza.mk which have been noted as a consequence of political abuse of the refugee issue and the imposed public debate about the National Strategy for Integration of Refugees and Foreigners. The intensity of the hate speech and offenses against the refugees was especially present on the social media. One of the registered cases has to do with a published article on an internet portal which supposedly tells the experience of a doctor from Germany.³⁴ The doctor's testimony can be found in the article in which she shares that "the Muslim and African immigrants are frighteningly difficult people who are not easy to deal with". The article also explains how the doctor warns that "apart from AIDS and syphilis, the immigrants into Europe also carry with them a lot of exotic diseases which the European doctors do not know how to treat". Apart from the prejudice, the discriminatory speech and offences, the article is filled with unconfirmed facts, lies and untruths which mislead the reader and create a negative image of the refugees comparing them to animals, murderers and criminals.

In the other registered examples, it is a matter of hate speech that appeared on the social media Facebook published by various groups (youths of political parties and other municipal fan-pages). The problematic photographs which were shared in the posts were always accompanied by a text which implicitly presented hate speech stating that "the settling of refugees among us must not be allowed".³⁵ Additionally, the shared contents significantly provoked hate speech in the comments below, i.e. people calling for violence, the extermination of refugees, as well as people who call the refugees terrorists, which presents explicit hate speech. Apart from reporting these posts to the social media itself, the Helsinki Committee reported them to the Sector for Computer and Digital Forensics.

Considering the vulnerable state in which the refugees are, especially when they are moving across unregulated paths through the country without any protection or witnesses, they are often exposed to physical attacks. During 2017, there were 4 registered cases of hatred against refugees, i.e. physical assaults and muggings in which the refugees were the victims. In one of the assaults, a refugee died due to serious injuries.

The first instance is a matter of assault on three people originating from Algeria who were attacked near Kumanovo. According to their testimonies, the assailants were Macedonian citizens and during the assault their mobile phones and money were taken from them. Taking into consideration the fact that the refugees were moving on an unregulated path, they reported the event to the police officers at RTC Tabanovce only after several days of the incident. Due to the language barrier, they were not able to provide more details about the case, and they were also not interested to continue the procedure so that they are not detained by the police. The second case is reported by a refugee from Morocco who was travelling on foot with another person, his friend. According to his testimonies, near Gradsko, they were attacked by a group of four, according to him, Macedonian citizens. One of them had a gun and forced them to give them all their money. He managed to escape and after that he reached the railway station in Gevgelija by train. Apart from the information he gave the police, he did not want to initiate a procedure so as not to be detained on Macedonian territory. The last registered case³⁶ is a matter of a person originating from Pakistan who was found by a team from the Red Cross. According to his testimony, he arrived in the village of Vaksince together with several people from Pakistan. They were intercepted by three people also from Pakistan, who were part of a smuggling group acting in the Kumanovo region in charge of receiving and sending the refugees who arrive. The smugglers wanted 2.000 Euros per person in order to get them to Serbia. After the people told them that they had no money, they physically attacked them and took the money they had - 150 Euros. After contacting the police, the person was taken to a police station in order to give a testimony of the event. The last registered case is a robbery reported by two refugees originating from Pakistan who illegally entered the country. During February 2017, in a police station in Skopje it was reported that two people had been seen on the Kumanovo-Skopje highway with visible head and body injuries. According to their testimonies, they were attacked by five people with bats and iron rods, and their money was taken from them. After they were transferred to a hospital in Skopje, they were given medical aid and serious bodily injuries were determined. After several days, one of them succumbed to the injuries. The police reported that they were working on clearing the case.

The number of unregistered cases is significantly higher considering the fear among refugees to report these cases, as well as lack of legal security that there would be any kind of positive outcome for them from the attack.

34 <http://govornaomraza.mk/reports/view/912>

35 <http://govornaomraza.mk/reports/view/907>

<http://govornaomraza.mk/reports/view/911>

<http://govornaomraza.mk/reports/view/909>

36 <http://www.zlostorstvaodomraza.mk/reports/view/407>

Conclusion

Monitoring the events connected with the refugee crisis during 2017, it can be concluded that despite the reduction of the dynamics compared to the previous year, the refugee crisis can in no way be considered as finished considering the vulnerable state that they are in, and the risk and danger of the lives of refugees and migrants who are still moving. The official number of refugees and migrants in the Republic of Macedonia who are present in the camps has not surpassed 200 during the entire year, but the number of refugees and migrants, men, women and children who are moving via unregulated paths is significantly higher. They are invisible to the protection of the state apparatuses and are left to the smuggling groups or their own ability to survive.

Compared to the violations noticed during 2016, in 2017 the country has made less violations of the refugees and migrants' rights through direct actions. However, the country was not able to refrain itself when it comes to establishing practices which are against the principles and standards of human rights stipulated in the international documents. A fact that is more alarming is that refugees whose rights have been violated will never receive justice and compensation for the violation of their rights, even for the loss of life.

Even though the refugee crisis is a complex political issue which the entire world is facing, what remains for the country is to continue to build its capacities so that it can provide all people an uninterrupted guarantee and enjoyment of their fundamental human rights on its territory, no matter where these people come from and where they are going.

Recommendations

1. To urgently and without delay stop the practice of illegal, group “deportation” of refugees and migrants to the neighboring countries, without an established transboundary cooperation with the security forces. It is a violation of the fundamental human rights and freedoms of migrants and an inhuman treatment. All action of returning (readmission) must be in accordance with the human rights standards and must be conducted through cooperation among the countries.
2. In the shortest period of time, the National Strategy for Integration of Refugees and Migrants (2017-2027) has to be adopted, which will enable the quickest conducting of the measures for integration of the anticipated Action Plan and will contribute to an increased respect of the rights of recognized refugees and asylum seekers in the country.
3. The new Law for International and Temporary Protection has to be adopted as soon as possible which will eliminate the bad amendments and restrictions adopted in 2016.
4. To establish a system of regular, timely and regulated registering of all refugees and migrants transiting the country in order to monitor their movement and increase the possibility of protecting their human rights.
5. Measures to influence the public opinion concerning the refugee crisis are necessary, considering the noticed high level of xenophobia among citizens, the lack of awareness concerning refugees and migrants’ rights, the reasons for their flight and the problems that they are facing. It is necessary to increase the public awareness, as well as the access to information about the crisis which will in turn reduce intolerance and hate speech.
6. The right to seek asylum must constantly be guaranteed to all refugees, migrants and foreigners who are detained on the territory of the Republic of Macedonia, without delay or conditioning on the part of the institutions.
7. The police treatment has to be in accordance with the national laws and standards, and in accordance with the principle of respecting the human rights and freedoms of refugees and migrants. All police actions where physical force or means of coercion are used must be strictly monitored. All accusations for use of excessive force by the police officers must be thoroughly investigated and the police officers must take full responsibility.
8. There is a significant necessity of increasing the surveillance of the unaccompanied minors who are transiting the country and can be found in both reception-transit camps. They are exposed to serious risks and are in a vulnerable state and thus cannot be left without surveillance and protection from the system.
9. The educational and recreational activities within the reception and transit centers have to be maintained no matter the number of migrants, their age or status in the country.
10. The selective admission of refugees in the reception-transit centers must not be allowed. Humanitarian aid and protection from safety risks must be provided to all refugees and migrants moving through the country in order to avoid placing them under additional risk.
11. Refugees and migrants transiting the country must not be restricted their freedom of movement and must not illegally be held in custody as witnesses in criminal procedures against smugglers.
12. To increase the presence of police officers in the reception-transit centers which will guarantee the safety of everyone present in the camps.



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