UNHCR
The UN Refugee Agency

The former Yugoslav Republic of Macedonia

As a Country of Asylum

Observations on the situation of asylum-seekers and refugees in the former Yugoslav Republic of Macedonia

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Contents

Introduction and Executive Summary

1. The Office of the United Nations High Commissioner for Refugees (UNHCR) is mandated to supervise the application of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (hereinafter jointly referred to as the 1951 Convention)[1] by virtue of its Statute in conjunction with Article 35 of the 1951 Convention and Article II of the 1967 Protocol.

2. In light of the recent significant increase in the number of asylum-seekers who arrive in the former Yugoslav Republic of Macedonia via Greece and the resulting increase in the number of asylum claims, this paper assesses key aspects of the Macedonian asylum system and their conformity with international standards. Among other issues, the paper looks at access to the territory and the asylum procedures, quality of asylum adjudication mechanisms, treatment of persons with specific needs, detention and reception conditions, while identifying shortcomings and making recommendations to address identified gaps.

3. Despite significant progress made to align the national legislative framework with international standards on asylum, UNHCR concludes that substantial shortcomings still persist when it comes to implementation. The government currently lacks capacity to ensure protection to the increasing number of asylum-seekers. There are concerns about access to the territory and the asylum procedure. The lack of timely issuance of adequate identification (ID) documents and concerns regarding the processing of claims exposes asylum-seekers to the risk of not being able to obtain international protection, or to exercise rights associated with international protection. The quality of decision-making of asylum claims remains inadequate, as decisions often do not contain clear reasoning, and reference to national security concerns is used excessively as a ground for rejection of applications for international protection. There is also a lack of access to effective legal remedies, as cases are not considered on their merits in the judicial review phase. Other basic procedural safeguards such as access to information and interpretation are not always ensured. Moreover, refugees and subsidiary protection holders have limited integration prospects.

4. UNHCR has observed recent positive developments in terms of amending the asylum legislation to foster access to the territory and the asylum procedure as well as towards finding viable solutions to address use of detention of persons in need of international protection. Notwithstanding these positive developments, considering the outstanding gaps in the asylum system in the former Yugoslav Republic of Macedonia, and taking into account the sharp increase of new arrivals of asylum-seekers in the country more recently, which presents major challenges notably as regards reception conditions, UNHCR concludes that the country does not as yet meet international standards for the protection of refugees, and does not qualify as a safe third country. Accordingly, UNHCR advises that other states should refrain from returning or sending asylum seekers to the former Yugoslav Republic of Macedonia, until further improvements to address these gaps have been made, in accordance with international standards.

[1] See respectively: UN General Assembly, *Convention Relating to the Status of Refugees,* 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, http://www.refworld.org/docid/3be01b964.html; and UN General Assembly, *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267, http://www.refworld.org/docid/3ae6b3ae4.html.

General background[2]

5. The former Yugoslav Republic of Macedonia has a national asylum law, the Law on Asylum and Temporary Protection.[3] This was substantially amended in 2012, with the amended version having come into force in 2013. UNHCR participated in the drafting process, in an effort to ensure that the legislation is in line with international standards. The law currently incorporates many key provisions of the 1951 Convention.[4] Furthermore, the provisions on subsidiary protection in the law are in conformity with relevant EU standards.[5] The law also provides for certain rights up to the standard of nationals for those who benefit from international protection, as well as free legal aid during all stages of the asylum procedure.[6] Nevertheless, some key provisions are still not in line with international standards.[7] In response to a sharp increase in irregular migration, the Law on Asylum and Temporary Protection was recently further amended to change the previously restrictive regulations for applying for asylum in the former Yugoslav Republic of Macedonia, which exposed asylum-seekers to a risk of arbitrary detention and push-backs at the border.[8] The new amendments, which were adopted on 18 June 2015, introduce a procedure for registration of the *intention* to submit an asylum application at the border, protect asylum-seekers from the risk of *refoulement*[9] and allow them to enter and be in the country legally for a short timeframe of 72 hours, before formally registering their asylum application.

6. The former Yugoslav Republic of Macedonia has hosted refugees since its independence in 1991, with the arrival of refugees from Bosnia and Herzegovina (BiH) and Croatia.[10] A further influx, of significant proportions, was experienced in 1999 as a result of the Kosovo[11] conflict. In total, temporary humanitarian protection was granted to 400,000 refugees from the region, out of which 360,000

2 This report analyses the current asylum system in the former Yugoslav Republic of Macedonia. Consequently information will be centered on asylum-seekers and refugees from outside the region, as they currently represent the new inflow. The situation in the former Yugoslav Republic of Macedonia for refugees and others of concern from the Western Balkan region will not be the focus of this paper.

3 *Law on Asylum and Temporary Protection*, published in the Official Gazette No. 54 on 15 April 2013, http://www.slvesnik.com.mk/Issues/3dff1ee8f23e4547ad198661fe794149.pdf. An unofficial English translation is available at http://www.refworld.org/docid/53072d144.html, see also *Amendments to the Law on Asylum and Temporary Protection*, published in the Official Gazette of the Republic of Macedonia No. 49/03, 66/07, 142/08, 146/09, 166/12 and 101/15.

4 Including, amongst others, reference to Art. 1 (Definition of the term "Refugee"), Art. 31 ("refugees unlawfully in the country of refugee") and Art. 33 ("non-refoulement").

5 Council of the European Union, *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast),* December 2011, OJ L 337; December 2011, pp 9-26; http://www.refworld.org/docid/4f197df02.html.

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

7 For example, in the *Law on Asylum and Temporary Protection*, the reasons for exclusion currently go beyoned the scope of Art. 1F of the 1951 Convention and should contain the same wording as the 1951 Convention. The law also make referrence to international organizations as potential "actors of protection", however non-state actors should in principle not be considered as actors of protection as they do not have the same attributes as the state and do not have the same obligations under international law; see also UNHCR, *UNHCR Comments on Recast Qualification Directive (COM) 2009) 551*, 21 October 2009; http://www.unhcr.org/4c5037f99.pdf.

8 *Amendments to the Law on Asylum and Temporary Protection*, published in the Official Gazette of the Republic of Macedonia No. 49/03, 66/07, 142/08, 146/09, 166/12 and 101/15.

9 The amendments entered into force on the day of adoption and publication of the amendments in the Official Gazette, on 18 June 2015, and the registration of *intentions* at the border entry points started on 19 June 2015.

10 This data reflects the number of hosted refugees since the independence of the country i.e. 8 September 1991. Prior to independence, a few political refugees from Albania had been recognized by the Socialist Federal Republic of Yugoslavia (SFRY) and were residing in the country at the time of dissolution of SFRY.

11 Any references to Kosovo are made under UN Security Council, *Security Council resolution 1244 (1999)* [on the deployment of international civil and security presences in Kosovo], 10 June 1999, S/RES/1244 (1999); http://www.refworld.org/docid/3b00f27216.html.

were from Kosovo. The majority of these have since returned; of the 812 individuals who remain, the majority belongs to the Roma, Ashkali and Egyptian (RAE) ethnic groups from Kosovo. Of this number, 19 persons have refugee status and 553 persons enjoy subsidiary protection;[12] members of both groups are in the process of local integration through acquiring permanent residence permits. Finally, 240 persons are Kosovars who either had their claim rejected or whose status ceased, but whose stay is tolerated in the country until they return voluntarily[13] or manage to regulate their stay in accordance with the Law on Foreigners based on family links with Macedonian nationals.[14]

7. Until 2010, the majority of persons entering the former Yugoslav Republic of Macedonia were from countries of the former Yugoslavia, Albania and Turkey. Since then, the former Yugoslav Republic of Macedonia has been receiving and hosting an increasing number of asylum-seekers from outside the region, primarily from Afghanistan, Pakistan, Somalia and more recently from the Syrian Arab Republic. In 2011, the former Yugoslav Republic of Macedonia received 744 asylum applications from individuals from outside the region, four times more than in 2010. In 2012, 638 applications were received and in 2013 a total of 1,353 new asylum applications were submitted. In 2014, some 1,289 new asylum-seekers from 19 different countries were registered in the country and as of end June 2015, 1,446 persons had applied for asylum, out of whom over 50 per cent were Syrian nationals. Currently about 80 per cent of those who apply for asylum are single men (18-35 years of age), but there is an increasing trend of unaccompanied and separated children (UASC) arriving.[15]

8. It is reported that over 90 per cent of those who apply for asylum in the former Yugoslav Republic of Macedonia leave the country on their way to EU Member States, before interviews are held and the first instance decision is taken.[16] For example, out of the 1,353 asylum applications lodged in 2013, only one interview was held and had a decision taken, which was the granting of subsidiary protection. In 2014, out of 1,289 applications lodged, only 16 decisions on asylum claims were made, with 12 asylum-seekers from Syria being recognized as refugees, while one person was granted subsidiary protection; despite the small numbers, this was a positive step compared to previous years. In 2015, despite the high number of asylum applications, so far only one person has been recognized as a refugee. Since many asylum-seekers leave, the majority of cases in 2013, 2014 and 2015 were dismissed due to 'withdrawal' of asylum requests, although some cases were also pending decision to be taken by the Section for Asylum. Meanwhile, in the period between the adoption of the amendments to the Law on Asylum and Temporary Protection on 18 June 2015 and the end July 2015, the authorities have registered 18,750 persons expressing an intention to seek asylum in the country, with a steady trend of some 1,000 new arrivals every day.

[12] As regulated in the *Law on Asylum and Temporary Protection* published in the Official Gazette No. 54 on 15 April 2013, http://www.slvesnik.com.mk/Issues/3dff1ee8f23e4547ad198661fe794149.pdf. An unofficial English translation is available at http://www.refworld.org/docid/53072d144.html.

[13] Currently, returns to Kosovo remain difficult to implement due to transition challenges and development needs. The lack of adequate funds for housing and/or land allocation remains one of the main obstacles to voluntary return.

[14] The "tolerated stay" was granted by the Ministry of Interior and implies that any forced return of this group is suspended until further notice. Those granted "tolerated stay" must either return voluntarily to Kosovo or regulate their stay in the former Yugoslav Republic of Macedonia, which is mainly acquired through family links with Macedonian nationals.

[15] In 2012, 55 UASC were registered, compared to 108 in 2013. The majority of the children were boys. In 2014 the number of UASC was 75, again the majority boys.

[16] Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA), *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by "the former Yugoslav Republic of Macedonia"*, March 2014, http://goo.gl/TjyBW6, para 141. This information has also been confirmed by the Section for Asylum, Ministry of Interior.

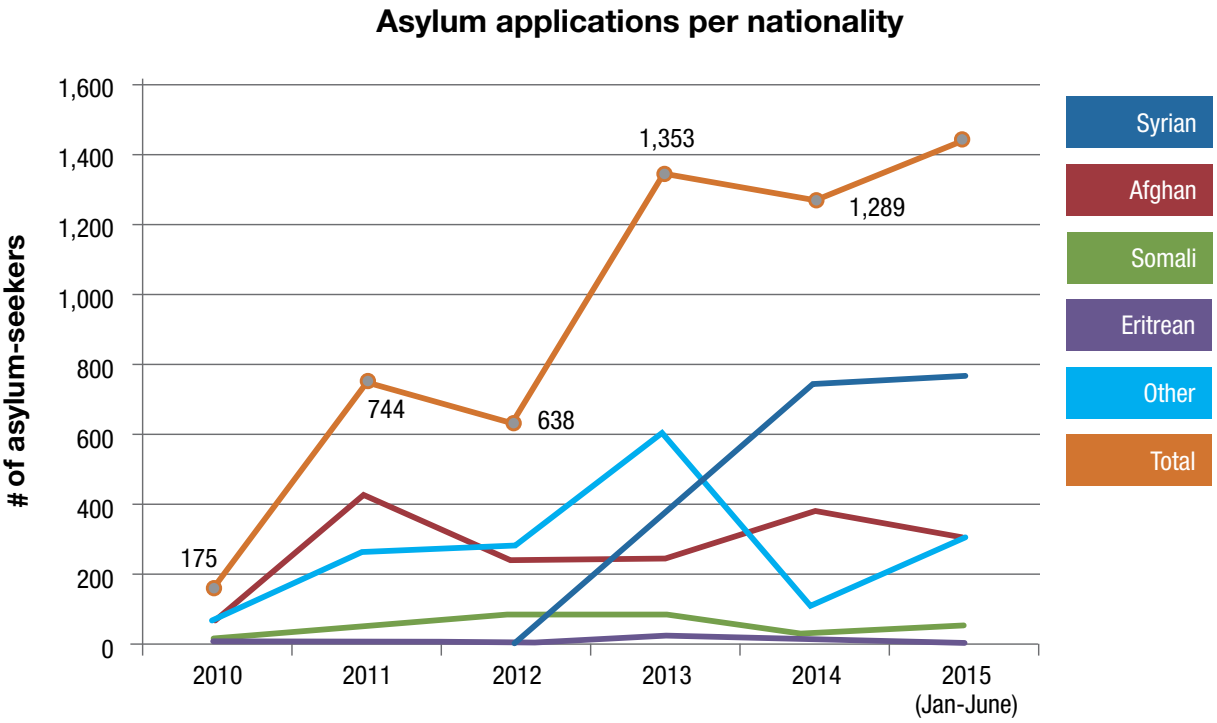

Figure 1: Asylum applications in the former Yugoslav Republic of Macedonia, by country of origin[17]

9. Since 2005, the former Yugoslav Republic of Macedonia has been an EU candidate country, and in March 2012 it began a "High-Level Accession Dialogue"[18] with the EU. The European Commission monitors the former Yugoslav Republic of Macedonia's progress and the accession process is expected to lead to the strengthening of the asylum system, in particular by bringing the legislation in line with the legal instruments that jointly form the Common European Asylum System. In 2015 the government initiated the drafting of a new asylum law, in line with the [recast] EU asylum instruments, to be adopted in 2016. As per past practice, UNHCR is participating in the drafting process.[19]

[17] The figures only include asylum applications formally lodged with the Section for Asylum and does not refer to the larger number of individuals who express an intention to seek asylum, as registered at the border from June 2015 onwards. In 2015, there has also been an increase of Iraqi asylum-seekers, with a total of 130 individual applications from January to June 2015.

[18] European Commission *Start of the High Level Accession Dialogue with the government of the former Yugoslav Republic of Macedonia*, March 2012, see http://europa.eu/rapid/press-release_MEMO-12-187_en.htm?locale=en.

[19] UNHCR Skopje takes part in the Working Group drafting the new *Law on Asylum* and the final draft of the new law will also be submitted to UNHCR officially for comments. The key members of the working group include the Ministry of Interior, Ministry of Labour and Social Policy, Ministry of Education, Ministry of Health and the Secretariat for European Affairs.

Access to the territory and to the asylum procedure

10. According to the Law on Foreigners, a foreigner who shows an intention to seek asylum should not be denied entry to the country.[20] In accordance with the June 2015 amendments to the Law on Asylum and Temporary Protection, asylum-seekers can now register an intention to apply for asylum at the border entry points, in which case the asylum-seeker is provided with a travel permit valid for 72 hours, for the purpose of travelling to a police station to formally register the asylum claim. If already inside the country, the asylum-seeker must register his or her asylum application at the nearest police station.[21] After the initial registration, the police are responsible for referring the asylum-seeker to the Section for Asylum within the Ministry of Interior (MoI), which is the primary governmental body responsible for implementation of the reception and asylum procedure, including escorting the asylum-seeker(s) to the country's only reception centre for asylum-seekers.[22]

11. In practice, the authorities are facing a number of challenges with regards to the effective management of mixed migration flows.[23] Currently there is no protection-sensitive screening of persons entering the country, to ensure a standard procedure for identification, profiling, referral and follow up on specific needs (including UASC, victims of trafficking, victims of sexual and gender-based violence (SGBV), older people or persons with disabilities).[24] Although the law allows for registration at the border, border officials have limited capacity to identify persons with international protection needs, including asylum-seekers and victims of trafficking.[25] There is also a lack of interpretation services and information about the right to seek asylum available at the border. In practice, only about 15 per cent of the asylum applications have been registered at the border, while the other 85 per cent of claims have been submitted at police stations in Skopje.[26] While not conclusive, this information suggests that there is a lack of effective mechanisms to identify persons potentially in need of international protection at the border entry points.

12. The Section for Asylum (MoI) regularly trains police officers on asylum matters, however the training focuses on the asylum procedures and not on the procedures for identification, profiling and referrals.[27] A positive development that started in September 2014 is the fact that some asylum-seekers are referred to the asylum procedure directly from police stations outside of Skopje.[28] Nevertheless, UNHCR observes that police stations outside of Skopje generally do not prioritize asylum applica-

[20] *Law on Foreigners*, published in the Official Gazette of the Republic of Macedonia No. 35 on 25 March 2006, Art. 25, http://goo.gl/pwJvYo. An unofficial translation of the Law on Foreigners (revised text) in English is available at http://www.refworld.org/docid/44b2668a4.html, see also *Amendments to the Law on Asylum and Temporary Protection*, published in the Official Gazette of the Republic of Macedonia No. 49/03, 66/07, 142/08, 146/09, 166/12 and 101/15.

[21] *Amendments to the Law on Asylum and Temporary Protection*, published in the Official Gazette of the Republic of Macedonia No. 49/03, 66/07, 142/08, 146/09 and 166/12, 101/15, Art. 16. According to Art. 16(3) of the Law, if the asylum-seeker is already on the territory, he/she should apply for asylum directly with the Section for Asylum (MoI) in Skopje. In practice, the Section for Asylum does not receive persons applying for asylum. Instead, the Section for Asylum allows applications to be filed at police stations.

[22] *Amendments to the Law on Asylum and Temporary Protection*, published in the Official Gazette of the Republic of Macedonia No. 49/03, 66/07, 142/08, 146/09 and 166/12, 101/15, Art. 16.

[23] European Commission, The Former Yugoslav Republic of Macedonia 2014 Progress Report, October 2014 p. 49, http://goo.gl/3ezAS4.

[24] Information obtained by UNHCR through border monitoring. For more on protection-sensitive screening, see UNHCR, *Refugee Protection and Mixed Migration: A 10-Point Plan of Action,* January 2007, Rev.1, http://www.refworld.org/docid/45b0c09b2.html.

[25] In 2013, a total of 15 victims of trafficking were identified by the authorities, nine nationals and six foreign nationals, all female. The government has taken legislative initiatives and policy measures to address trafficking in human beings, among others by the amending the *Law on Asylum and Temporary Protection* to include human trafficking as a special category, see *Law on Asylum and Temporary Protection*, Official Gazette No 54 of 15 April 2013, Art. 23-a. See also *The National Rapporteur on Trafficking in Human Beings and Illegal Migration Annual Report 2013*; http://goo.gl/3UCA6d.

[26] Until September 2014 no one had registered their asylum claim at the border. However, as a result of UNHCR's advocacy efforts, between September 2014 and June 2015 at least 25 groups of asylum-seekers (360 persons) have been registered at the border and taken to the Reception Centre for Asylum Seekers directly from the border entry points. Information based on data provided by the Section for Asylum in June 2015.

[27] The training includes both police officers at the border crossing points, as well as those situated in the police stations.

[28] Information based on data provided for persons being transferred from the border to police stations outside of Skopje, by the Section for Border Affairs and Migration and Section for Asylum for the period of September 2014 – June 2015.

tions due to other competing priorities, and instead direct any such persons to the police stations in Skopje to pursue their application there. Interpretation is also not available at the police stations, which means that registration of the asylum applications tends to only include very basic biographical data.[29] There is a lack of a gender sensitive approach, and specific needs are not identified or taken into account at this initial stage of the asylum procedure. Currently all persons expressing an intention to seek asylum are hence treated in the same manner without follow up related to their age, gender, or other specific needs.[30]

Recommendations:

- Ensure that all relevant laws related to access to the territory and asylum procedures are applied in practice and further amend national legislation to ensure full respect of relevant standards in refugee and human rights law;
- Ensure that information on access to the asylum procedures is available at the border entry points and detention centres, in languages asylum-seekers can understand;
- Establish mechanisms at the border for timely and standard protection-sensitive screening, profiling and referral of irregular migrants and persons potentially in need of international protection so as to ensure appropriate follow-up by competent officials, in particular timely assistance for persons with specific needs;
- Allow for independent observers to monitor the work of border officials and police officers to ensure that they meet their obligation to provide asylum-seekers with access to the asylum procedure;
- Provide regular training and on-the job capacity building to border officials and police officers to ensure that all entry officials understand the meaning of "protection-sensitive entry systems", as well as training in international human rights and refugee law and other relevant subjects. Mechanisms need to be in place to ensure that junior and more senior, new and long-serving officials receive training on a regular basis.

[29] UNHCR observes that access to interpretation remains a gap in all instances of the asylum procedure, including registration by the police. The European Commission also refers to the lack of interpretation in the asylum procedure in their report; European Commission, The Former Yugoslav Republic of Macedonia 2014 Progress Report, October 2014 p. 49, http://goo.gl/mmVdDQ.

[30] UN Committee on the Elimination of Discrimination Against Women (CEDAW), *UN Committee on the Elimination of Discrimination against Women: Concluding observations on the combined fourth and fifth periodic report of the former Yugoslav Republic of Macedonia adopted by the Committee at its fifty-fourth session (11 February – 1 March 2013)*, CEDAW/C/MKD/CO/4-5, 22 March 2013, paras. 37 and 38, http://goo.gl/Ys18ah.

Detention

13. Under the applicable legal framework, asylum-seekers are entitled to enjoy freedom of movement and to be protected from arbitrary arrest or detention.[31] "Illegal entry" into the former Yugoslav Republic of Macedonia is however punishable by detention and expulsion from the country.[32] An irregular migrant who is not identified as an asylum-seeker by the police is handed over to the High Inspector for Illegal Migration (MoI), who transfers the person for further processing to the closed "Reception Centre for Foreigners" in Gazi Baba.

14. The national authorities have reported that all individuals held at the Gazi Baba reception centre have access to information on their right to seek asylum. If an individual claims asylum while in detention, his/her claim should be recorded and the asylum-seeker should be transported to the Reception Centre for Asylum Seekers in Vizbegovo (hereafter Vizbegovo RC) and the Section for Asylum (MoI) is informed.[33] While UNHCR monitoring suggests that asylum-seekers are indeed being transferred to Vizbegovo RC to proceed with their asylum request, on average it has taken 30-60 days for such individuals to be released from detention and moved to the Vizbegovo RC.[34] UNHCR does not have permanent access to the detention centre, but is provided with access upon request to monitor the situation.[35]

15. The Minister of Justice is responsible for the provision of free legal aid to those who express an intention to apply for asylum. However, until June 2015 legal aid was not provided to those in detention. As a result of advocacy efforts by UNHCR and partners, as of end June 2015 legal aid has been made available to those in detention who have expressed a wish to apply for international protection. Currently legal aid is being provided through UNHCR's legal aid partner organization, the Macedonian Young Lawyer's Association (MYLA). The MYLA has been granted regular access to Gazi Baba to monitor the situation and provide legal aid. Interpretation services are however often not available in the detention centre. Given the lack of interpreters, national authorities are using the assistance of other detainees who understand English to communicate with detainees wanting to apply for asylum in the detention centre. These facts raise concerns about the extent to which persons in detention who wish to claim asylum are identified and provided with access to the asylum procedures.

16. The conditions in Gazi Baba have been criticized by a number of independent observers. Among others, the UN Committee Against Torture has recommended that the former Yugoslav Republic of Macedonia take steps towards improvement of the conditions in Gazi Baba, including by *"[immediately taking] measures to put an end to the inhuman and degrading conditions of detention in the Gazi Baba detention center, for example by closing it, establishing alternative punishments, and similar actions"*.[36] The Ombudsman of the former Yugoslav Republic of Macedonia has reported that accommodation arrangements for persons with specific needs in detention do not meet international standards, recommending that the MoI at least put in place psychosocial programmes and improve daily recreational activities available to detainees.[37] The Red Cross is the only civil society organization with a daily presence in the detention centre, providing first aid and medical assistance on a daily basis. In 2014, some 900 persons were detained in Gazi Baba. Of those, about 600 were

[31] *Law on Foreigners*, Art. 3.

[32] *Law on Foreigners*, Art. 153.

[33] As long as s/he is coming directly from the country of origin or habitual residence, provided that s/he immediately applies for asylum or reports to the police and explains the reasons for an asylum application as well as valid reasons for the illegal entry or stay, see *Law on Asylum and Temporary Protection*, Art. 17.

[34] According to information available to UNHCR as of July 2015, asylum-seekers who were captured together with their smugglers were held in Gazi Baba for months, in order to act as witnesses in criminal cases against the smugglers. This practice has now changed; see paragraph 17 below.

[35] UNHCR is provided with access upon prior request, which has to be submitted one day in advance.

[36] OHCHR, Committee Against Torture, *Concluding observations on the third periodic report of the former Yugoslav Republic of Macedonia*, May 2015; http://goo.gl/fAJccu.

[37] Ombudsman of the Republic of Macedonia, *Report on Unannounced Visit to Admission Centre for Aliens*, 26 July 2012, http://goo.gl/ybRHkx and 2013 Annual Report of the National Preventive Mechanism http://goo.gl/Uii7y1. See also; European Commission, *The Former Yugoslav Republic of Macedonia 2014 Progress Report,* October 2014, p. 45; http://goo.gl/mmVdDQ.

transferred to the Vizbegovo RC. On average, 20 per cent of the total population detained in Gazi Baba have been women and children (including UASCs), and they were undergoing the same procedures for detention as men. Although they were accommodated in a separate part of the building, there are no separate, child-friendly facilities for families and UASC in Gazi Baba.

17. Under the new Criminal Procedure Code, which was introduced in January 2014,[38] migrants and asylum-seekers apprehended together with their smugglers were considered to be witnesses in the criminal cases subsequently pursued against the latter. As a consequence, asylum-seekers were detained in Gazi Baba for the purposes of 'securing evidence', which resulted in their deprivation of liberty for the entire criminal process (which could last three months and sometimes even longer), despite the prohibition under Macedonian law of detaining asylum-seekers.[39] However, as a result of the amendments of the Law on Asylum and Temporary Protection, allowing asylum-seekers to register their asylum application at the border, there has been a sharp decrease in asylum-seekers being arrested on charges of irregular entry or stay in the country. In addition, following extensive advocacy efforts by humanitarian actors, including UNHCR, the authorities have refrained from detaining women and children in Gazi Baba, but are referring them all directly to the Vizbegovo RC. Since the of end June 2015 the MoI and the Public Prosecution Office have also accelerated their processing of asylum-seekers held in detention in order to serve as witnesses in criminal cases, as a result of which almost all asylum-seekers held in detention (some 350 individuals as of June 2015) have been referred to the open Vizbegovo RC.[40] As a consequence, as of mid-July 2015 there were only 5-10 asylum-seekers in detention in Gazi Baba. Nevertheless, it remains unclear at this stage whether the national authorities will still resort to the use of these facilities for the detention of asylum-seekers in the future. UNHCR continues to advocate with the authorities for the Criminal Code to be amended in order to ensure that asylum-seekers are not detained if summoned to act as witnesses in court cases.

Recommendations:

- Establish mechanisms to ensure the timely release from detention of persons who have expressed an intent to apply for asylum and for whom no other legal grounds for their continued detention exist;
- Provide for and ensure the implementation of alternatives to detention for children, persons with specific needs, and asylum-seekers who are detained solely on the ground of being summoned as a witness in criminal cases against smugglers;
- Ensure regular procedures for access to legal advice for foreign nationals who are detained on charges of irregular entry and provide access to interpretation in a language they understand, in order to ensure that the persons concerned can apply for judicial review of detention decisions;
- Continue to facilitate unhindered access of UNHCR and MYLA to all persons in immigration detention facilities in order to identify asylum-seekers, and establish an independent framework for monitoring of detention conditions, including the establishment of referral mechanisms for persons with specific needs.

[38] *Criminal Procedure Code*, published in the Official gazette No. 150 on 18 November 2010, an unofficial translation in English could be found here; http://goo.gl/232MC7.

[39] The long detention period was mainly due to the lack of interpreters in relevant languages for criminal court cases. According to the law, the police cannot detain a person without a court order, which needs to be produced within 24 hours. However, in practice those detained in order to serve as witnesses were not considered to be formally detained. Since the detention was not formalized with a court order, it was also impossible to appeal against the decision to detain the person. Upon release from detention, the persons concerned often left the former Yugoslav Republic of Macedonia immediately. In the absence of witness statements, the smugglers were released, as the police was often unable to gather enough evidence to charge the smugglers. UNHCR has been working with the authorities to accelerate the court procedure in order to reduce the period in detention, as well as to advocate for alternatives to detention.

[40] One of the buildings in the Vizbegovo RC was previously functioning as a closed centre for women and children summoned to witness in court, administrated as an extension of Gazi Baba reception centre. This building has now been handed over to the Ministry of Labour and Social Policy (MLSP) and all the buildings in Vizbegovo are now open centres.

Reception Conditions

18. Asylum-seekers have the right to reside in the country and are entitled to accommodation in a reception centre for asylum-seekers or other accommodation assigned by the Ministry of Labour and Social Policy (MLSP).[41] Asylum-seekers may also submit a request to the MLSP to reside outside the reception centre, as long as the costs for alternative accommodation are covered by the asylum-seekers themselves. The MLSP manages Vizbegovo RC on the outskirts of Skopje, which is the only reception centre in the country. It can accommodate a maximum of 150 asylum-seekers. While to date the centre has never been fully occupied, there is a risk of its capacity being exceeded if greater numbers of asylum-seekers continue to arrive (as in the first few months of 2015, when there was a sharp increase in the number of persons declaring an intention to apply for asylum).[42] As of mid-July 2015 the average length of stay for asylum-seekers in the centre was three days, with asylum-seekers leaving the Vizbegovo RC and the country before a decision on their asylum claim has been made. Meanwhile, at the time of writing this report, construction of a temporary reception facility in Gevgelija (the main registration point near the border with Greece) has commenced. However, the absorption capacity of this site is limited to 105 persons only, which is inadequate for the current arrival rate of some 1,000 persons daily.

19. The two buildings of Vizbegovo RC were renovated in 2014, with the support of UNHCR, and now include separate dormitories for single women and UASC, as well as separate sections for families for them to stay together. The centre is equipped with a kitchen and dining room. Further, the centre has premises for medical care, a nursery as well as administrative offices for the MLSP and interview rooms where the Section for Asylum receives asylum-seekers. In addition, MYLA and Jesuit Refugee Service (JRS) have their own offices in the Centre. MYLA offers free legal aid and also supports asylum-seekers with various administrative procedures. The JRS provides the centre with medication and medical personnel (including a medical doctor and a nurse), and also runs the nursery. Basic assistance, including food, clothing and primary medical care, is available to all asylum-seekers in Vizbegovo RC.

20. The living conditions for asylum-seekers in Vizbegovo RC have improved significantly as a result of the renovations and a programme which involves asylum-seekers in the daily maintenance of the centre.[43] In the past, the absence of legally binding reception standards, an increase in the number of new arrivals and a high turnover of asylum-seekers, with many leaving within a few days after arrival often towards Western European countries, all contributed to a deterioration of the living conditions; dedicated efforts are required to ensure this does not recur.[44] Lack of security at the Vizbegovo RC remains a problem, as the centre continues to be targeted by organized crime groups involved in smuggling of migrants. The criminals enter the centre illegally after regular working hours when there is only one guard available at the centre.[45]

21. According to the law, asylum-seekers are supposed to receive information relating to the asylum procedure, their rights and obligations, in a language that s/he is reasonably supposed to understand.[46] However, in practice interpretation in several rare languages spoken by the asylum-seekers is not available. The fact that asylum-seekers often leave the reception centre within only a few days seems to have influenced the authorities' decision not to pursue solutions to cover the lack of interpreters in rare languages. With UNHCR's support the MOI produced brochures on the reception and asylum procedure in six key languages in 2014 (Arabic, Farsi, French, Somali, Urdu and Pashto), in addition to the existing information in Macedonian, English and Albanian. Information posters have also been displayed in the RC, to provide information on the asylum procedure. The house rules for the RC are however only available in Macedonian, English, Arabic and French.

41 *Law on Asylum and Temporary Protection*, Art 48 and 49.

42 Information obtained by UNHCR through observations.

43 Jesuit Refugee Services, *From Back Door to Front Door: Forced Migration Routes Through Macedonia to Croatia*, June 2013, p.12; http://www.refworld.org/docid/52453e7e4.html.

44 Ombudsman's Office, National Prevention Mechanism, *2013 Annual Report,* 20 March 2014, available in Macedonian, Albanian and English at http://goo.gl/Uii7y1.

45 The criminals often force their entry by jumping over the fence, or by being helped to enter the centre by asylum-seekers inside the centre. See further information; European Commission (EC), *Former Yugoslav Republic of Macedonia 2014 Progress Report*, October 2014, p. 48, http://goo.gl/mmVdDQ.

46 *Law on Asylum and Temporary Protection*, Art 18 and 48.

22. As a consequence of the lack of interpreters, and despite the above efforts to make written information available in several languages spoken by asylum-seekers, MLSP staff and NGOs present at the centre have difficulties communicating with many of the asylum-seekers.[47] Asylum-seekers have reported that they encounter difficulties in understanding the house rules, access to entitlements, and reasons for delay of services. This contributes to the building up of frustration and tensions in their communication with the RC's administration.

23. There is no systematic profiling of asylum-seekers in order to identify specific needs (including for persons with disabilities, single women, children and older people), which affects the quality of services available at the centre. UASC asylum-seekers identified by the police or the Section for Asylum are referred to the Centre for Social Welfare within the MLSP for the appointment of a guardian.[48] There is no age assessment procedure, but it is reported that statements made by UASC regarding their age are generally accepted as true. The process of appointing a guardian is however often lengthy,[49] or is not carried out at all. In 2014, out of 75 UASC asylum-seekers identified, only 10 had guardians appointed. Moreover, even when a guardian has been appointed, the guardian rarely appears before the relevant authorities in the course of the asylum procedure.[50] Although prescribed by law, best interest determinations (BIDs) are rarely carried out in practice.[51] In 2014, BIDs were carried out only for a few UASCs.[52] The only representation provided to UASCs is legal aid through MYLA. At the RC, there is no specialized care for UASC and children above 16 years of age are accommodated with adults at the reception centre.[53] The only child-friendly space is the kindergarten organized by JRS for children under school age. No facilities, services or activities are geared specifically towards school-age children, including teenagers. Currently the MoI does not undertake family tracing for UASCs, which is not in keeping with international law standards.[54]

[47] Jesuit Refugee Services, *From Back Door to Front Door: Forced Migration Routes Through Macedonia to Croatia*, June 2013, p. 15; http://www.refworld.org/docid/52453e7e4.html.

[48] *Law on Family,* Art 173, published in the Official Gazette No. 153 on 20 October 2014, http://www.slvesnik.com.mk/Issues/3907f46bf2924d1ba2b71d4685a5080f.pdf.

[49] Based on the dates of applications and the dates of the decisions, it can be inferred that the procedure for the appointment of a legal guardian generally takes an average of 21 days.

[50] The UN Committee on the Rights of the Child (CRC) has expressed concern that UASCs are not always provided with guardians, calling on the former Yugoslav Republic of Macedonia to take into account the Committee's General Comment No. 6 (2005), *Treatment of unaccompanied and separated children outside their country of* origin (CRC/GC/2005/6), http://www.refworld.org/docid/42dd174b4.html, and CRC, *Consideration of reports submitted by States parties under Art. 44 of the Convention: concluding observations of the Committee on the Rights of the Child: the former Yugoslav Republic of Macedonia*, CRC/C/MKD/CO/2, 23 June 2010, paras. 67 and 68, http://www.refworld.org/docid/4c32dd432.html.

[51] *Law on Asylum and Temporary Protection*, Art 22-a, paragraph 2, "The best interests of the child shall be a primary consideration when implementing the provisions of this law"; Art 23-a, paragraph 5, "The best interests of the child shall be a primary consideration when examining applications for recognition of the right to asylum of unaccompanied minors."

[52] According to information available to UNHCR, a best interest determination (BID) procedure was conducted in only one individual case which was supported by UNHCR. Currently BID procedures are not officially established, but Standard Operating Procedures are in preparation and are expected to be established by the authorities in the near future.

[53] Besides separated dormitories for children and UASC under the age of 16 years, there are no other common areas reserved for children in Vizbegovo RC. For additional information see CRC, *Consideration of reports submitted by States parties under Art. 44 of the Convention: concluding observations of the Committee on the Rights of the Child: the former Yugoslav Republic of Macedonia*, CRC/C/MKD/CO/2, 23 June 2010, paras. 67 and 68, http://www.refworld.org/docid/4c32dd432.html.

[54] UNICEF, *Inter-Agency Guiding Principles on Unaccompanied and Separated Children,* January 2004, p.35; http://www.refworld.org/docid/4113abc14.html.

24. Under the Law on Asylum, in conjunction with the Health Insurance Law[55], asylum-seekers are entitled to basic health care, which includes mental health care. Currently, the RC has a small health clinic, supported by JRS, equipped with basic medical equipment and medicine. The MLSP has contracted a local health clinic to provide basic health services by having one doctor present in the RC twice a week, and additionally upon request. A nurse supported by JRS is present in the centre three times per week. The Ombudsman concluded in 2013 that the availability of medical care inside the RC was insufficient.[56] The situation has not improved since the publication of the Ombudsman's report. In addition to the medical services in the centre, asylum-seekers have access to one local clinic situated in a nearby settlement. The costs for consultation and treatment in this clinic are covered by the MLSP. While asylum-seekers can access secondary medical care, they have to pay for services on the same basis as citizens of the former Yugoslav Republic of Macedonia. In practice, the authorities are unable to meet medical needs beyond basic health care for those staying in the Vizbegovo RC.[57] Persons in need of urgent medical assistance are referred in an *ad hoc* manner without a proper follow-up mechanism; related costs are covered by the MLSP.

25. A psychologist is present in the RC every working day (Monday-Friday), to provide support to persons with specific needs.[58] In practice, however, there is no mechanism in place to identify and address the needs of persons with psychological, social or other counselling needs in a systematic manner. The absence of interpretation services further aggravates this problem. There is also no system for the identification and referral of survivors of SGBV, nor for the prevention of SGBV. As of September 2014, the NGO Open Gate-La Strada has been engaged under a Memorandum of Understanding with the MLSP to deliver psychosocial and counselling services, as well as language classes to the asylum-seekers accommodated in the Vizbegovo RC. The main goal of the engagement is to strengthen the capacities of the management of the RC to deliver better quality services to the asylum-seekers and respond more effectively and efficiently to the needs of persons with specific needs.

26. With regards to documentation, the Section for Asylum should provide asylum-seekers with attestations within three days of the submission of their asylum application, certifying the asylum-seeker's status, their residence and legal stay in the former Yugoslav Republic of Macedonia.[59] Asylum-seekers should also be provided with a reception centre entry/exit permit to allow freedom of movement.[60] According to the law, within a period of a maximum of 15 days, asylum-seekers should also be photographed and fingerprinted, and an ID document with photo should be issued to ensure freedom of movement.[61] However, in practice, the Section for Asylum delays the issuance of documentation and most asylum-seekers thus remain without proper documentation.[62] In 2014, only 38 registered asylum-seekers were provided with a photo ID document, although 1,289 individuals were registered as asylum-seekers in 2014.[63] Delayed issuance of documentation negatively impacts the management of the RC. To remedy delays with registration and documentation, UNHCR has as an interim solution provided the MLSP with hardware for the production of ID documents and database software. As of January 2015, interim photo-ID cards have been printed for all asylum-seekers registered in Vizbegovo RC. The interim ID documents issued by the MLSP are not recognized as an official national document and cannot be used for administrative purposes.[64] The document does however provide the asylum-seeker with a ID, protecting them from detention and *refoulement*.

55 The former Yugoslav Republic of Macedonia: *Health Insurance Law,* http://goo.gl/3iyF58.

56 See Ombudsman's Office, *National Prevention Mechanism Report*, 20 March 2013 http://goo.gl/Uii7y1.

57 Jesuit Refugee Services, *From Back Door to Front Door: Forced Migration Routes Through Macedonia to Croatia*, June 2013, p. 14-15; http://www.refworld.org/docid/52453e7e4.html.

58 *Law on Asylum and Temporary Protection*, Art 23-a.

59 *Law on Asylum and Temporary Protection*, Art 18.

60 According to authorities, asylum-seekers are entitled to exit the centre every day from 8 am to 10 pm and once a week for a maximum of 24 hours.

61 According to the *Law on Asylum and Temporary Protection*, Art 40. However, the ID cards are not machine-readable, in contrast to documents issued to other regular foreigners in the country.

62 Information obtained by UNHCR through direct observations.

63 According to information provided to UNHCR by the national authorities.

64 For example to open bank accounts or if a person wishes to travel outside country.

27. Asylum-seekers have access to education according to national regulations for primary and secondary education.[65] Nevertheless, in practice asylum-seeker children do not attend school, since they do not speak Macedonian and there are no special national programmes in place to support them with language classes. National schooling is not offered in the RC, however NGOs at the RC offer some informal educational activities for children below the age of 10, including a nursery supported by the JRS. Macedonian language classes are offered by Open Gate – La Strada. No education or vocational training is available for children above the age of 10 or adults at the RC. Financial assistance is not provided, but food, clothing and hygiene parcels are distributed to asylum-seekers at the centre.

Recommendations:

- Develop a contingency plan on how to accommodate a larger influx of asylum-seekers;
- Develop a bylaw and/or Standard Operating Procedures on reception conditions and procedures, to ensure that minimum standards are met and maintained, including but not limited to the provision of information in a language the asylum-seeker understands, interpretation, as well as separate accommodation facilities for UASCs, women and others with specific needs;
- Enhance security at the Vizbegovo RC including through an increased presence of security guards, and monitoring and surveillance equipment to prevent criminals, including persons involved in smuggling networks, from having access to the RC;
- Provide access to education for all children residing in Vizbegovo RC, with specialized programmes to overcome or bypass the language barriers;
- Facilitate access to primary health care for registered asylum-seekers residing outside Vizbegovo RC; facilitate access to secondary health care for all asylum-seekers;
- Establish a mechanism for the identification, referral and provision of appropriate follow-up for persons with specific needs. This should include provision for the timely appointment of guardians, tracing of family members and best interest determination for UASCs;
- Ensure that the Section for Asylum provides all registered asylum-seekers with a photo-ID according to the requirements of the law, to facilitate their identification, ensure protection and freedom of movement, and provide access to administrative procedure.

[65] There are no specific regulations for asylum-seekers; they are covered under the national regulation for education.

Quality of the asylum procedure

28. The Section for Asylum, within the Ministry of Interior, is responsible for the asylum procedure.[66] The asylum procedure is carried out in accordance with the Law on General Administrative Procedure.[67] The Law on Asylum and Temporary Protection allows for an accelerated or a regular procedure, where an accelerated procedure is initiated for those claims who are considered to be manifestly unfounded.[68] The Section for Asylum decides whether a case should be processed in the regular or accelerated procedure based on information obtained during registration and based on provisions in the law. The majority of cases are referred for regular processing.[69]

29. The Section for Asylum currently employs 14 staff, of whom 11 are caseworkers conducting interviews and taking decisions on individual asylum applications. One of the main impediments to a fair, effective and efficient asylum system is the weak administrative capacity; in particular the lack of proper equipment and adequate budgetary support. The experience and knowledge of adjudicators at this level has also an adverse effect on the outcome of the interviews and legal assessments. The increase in asylum applications in the last few years has exacerbated these shortcomings.

30. The law indicates that interpretation should be provided to the asylum-seeker in his/her language, or a language he/she is "reasonably supposed to understand," which is decided upon by the caseworker.[70] Still, interpretation is often problematic or not available at all; the assumption that an asylum-seeker speaks or understands a particular language may be incorrect and is likely to have a negative impact on the asylum procedure.[71] The Ministry of Interior considers the absence of quality interpretation services to be a significant problem.[72]

31. There is also a lack of consideration for the needs of persons with specific needs in the asylum procedure, including for children and women. Children, including UASCs, are treated in the same manner as adults, although the law calls for due regard to child-specific forms of persecution in the decision-making process. Child specific forms and manifestations of persecution[73] are not considered in asylum claims.

[66] The refugee definition in *Law on Asylum and Temporary Protection* is in line with the definition of the 1951 Convention and the definition of subsidiary protection is in line with the EU Qualification Directive. The *Law on Asylum and Temporary Protection* provides for conducting regular procedure for recognition of refugee status and for granting status of a person under subsidiary protection. The *Law on Asylum and Temporary Protection*, Articles 62-66, also provides for temporary protection in cases of mass influx. The authorities are required to act in accordance with the *Law on General Administrative Procedure*, which provides that the principles of legality, equality, impartiality and objectivity must be applied in decision-making. The Law also guarantees the right of appeal to the Administrative Court.

[67] *Law on Asylum and Temporary Protection*, Art. 15.

[68] *Law on Asylum and Temporary Protection*, Art. 34 and 35, published in the Official Gazette No. 54 on 15 April 2013, http://goo.gl/efKyoi. An unofficial English translation is available at http://www.refworld.org/docid/53072d144.html.

[69] Information obtained by UNHCR through systematic review of the national RSD procedure and individual decision-making.

[70] *Law on Asylum and Temporary Protection*, Arts 21 and 28 differ in that the former sets out the right to interpretation in a language that the asylum-seeker "understands", while the latter refers to the right to interpretation in a language the asylum-seeker is "reasonably supposed to understand".

[71] UNHCR, *UNHCR comments on the European Commission's Amended Proposal for a Directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection status (Recast) COM (2011) 319 final*, January 2012, p. 12-13, http://www.refworld.org/docid/4f3281762.html.

[72] Information obtained by UNHCR from discussion with the Section for Asylum, April 2015.

[73] UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees,* HCR/GIP/09/08, 22 December 2009, http://www.refworld.org/docid/4b2f4f6d2.html.

32. According to the Law on Free Legal Aid,[74] asylum-seekers should benefit from free legal aid, from the moment of the submission of the asylum application throughout all stages of the asylum procedure.[75] In 2014, the Ministry of Justice received over 50 requests from asylum-seekers for appointing a free legal aid provider through their established mechanisms. Only one such request was approved by the Ministry.[76] In most cases, asylum-seekers receive free legal aid and counselling from MYLA, funded by UNHCR. However, the absence of interpretation services stands in the way of effective communication between asylum-seekers and legal aid providers.

33. According to the Law on Asylum and Temporary Protection, the Section for Asylum must arrange individual interviews with each asylum-seeker in order to establish the facts of the claim.[77] Overall, the first instance asylum procedure remains slow as the registration is often delayed (including fingerprinting, verification of personal data and photographing) and difficulties persist in finding interpreters for the interviews.[78] It further often appears that interviews are primarily used to establish the identity and the travel route of the asylum-seeker, for security and border management purposes. The Section for Asylum rarely issues decisions on the merits, and if they do selected statements of the asylum-seeker are used to justify the decision, without sufficient analysis of the full facts of the claim or adequate use of country of origin information. Generally, the credibility assessments and legal reasoning are inadequate, resulting in poorly reasoned decisions.[79]

34. Furthermore, reference to national security concerns appears to be used excessively as a ground for rejection of applications for international protection, without adequate justification. In practice, all asylum-seekers are systematically checked by the Security Agency and only once a case is cleared by the Security Agency will the Section for Asylum process an asylum claim. However, if the Security Agency considers an asylum-seeker to constitute a "threat to national security", the Section for Asylum appears to resort automatically to this rejection ground upon the receipt of advice from the security services, without further interview and without any decision made on the claim itself. These decisions are hence made regardless of whether the asylum-seeker otherwise meets the criteria to be granted international protection, and it is further noted that the reference to the exclusion clause in the Law on Asylum and Temporary Protection is not in line with the 1951 Convention.[80] In 2014, 13 cases were rejected on grounds related to national security concerns.[81]

35. The asylum authorities also appear to have an inadequate understanding of claims involving gender related persecution.[82] UNHCR is aware of cases in which asylum-seekers presented credible claims that they suffered sexual violence or other forms of gender-based violence, including rape, for reason of a 1951 Convention ground. However, in the Macedonian asylum practice, this has never been considered sufficient ground for refugee recognition; instead, applicants have been granted subsidiary protection, based on a reference to the situation of generalized violence in the country of origin.

[74] The former Yugoslav Republic of Macedonia: *Law on Free Legal Aid*, 2012, http://www.refworld.org/docid/54edf00d4.html.

[75] *Law on Free Legal Aid*, Art. 12(3).

[76] Z. Hadzi-Zafirov and G. Kocevski, Macedonian Young Lawyer's Association, *Fairy Tale or Reality: Free Legal Aid in the Republic of Macedonia*, March 2012, p. 44, http://www.myla.org.mk/images/pdf/besplatnapravnapomos.pdf.

[77] *Law on Asylum and Temporary Protection*, Art. 28.

[78] Information obtained by UNHCR through direct observations. For further information see also, European Commission, *Former Yugoslav Republic of Macedonia 2014 Progress Report,* October 2014, p. 49, http://goo.gl/mmVdDQ.

[79] Information obtained by UNHCR through direct observations. UNHCR systematically reviews all individual decisions taken by the Section for Asylum in order to review the quality of the RSD.

[80] Information obtained by UNHCR through systematic and regular review of first instance decisions. The *Law on Asylum and Temporary Protection*, Art. 6 on "Reasons for Exclusion" is also not in line with the 1951 Convention. The grounds for exclusion enumerated in article 1D, 1E and 1F of the 1951 Convention are exhaustive and should contain the same wording.

[81] Figures obtained from the Section for Asylum, MoI. According to information available to UNHCR, 9 out of the 13 cases were asylum-seekers from outside the region.

[82] UN Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined fourth and fifth periodic report of the former Yugoslav Republic of Macedonia adopted by the Committee at its fifty-fourth session* (11 February–1 March 2013), 22 March 2013, CEDAW/C/MKD/CO/4-5, paras. 37 and 38, http://goo.gl/Ys18ah, see also UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees,* 7 May 2002, HCR/GIP/02/01, http://www.refworld.org/docid/3d36f1c64.html.

36. The fact that up to 90 per cent of asylum-seekers leave the country before the asylum procedure is completed reinforces the perception of the government that asylum claims submitted in the country are not genuine and that the country is used as transit stage on the way to Western Europe. The authorities close the case files of asylum-seekers who have left the country as "unfounded" on procedural grounds. In 2014, the Section for Asylum decided to discontinue the asylum procedure in 893 cases out of 1,289 applications, closing the cases of all asylum-seekers who left the country almost immediately after applying for asylum. The MLSP notifies the Section for Asylum whether an asylum-seeker has left the RC, upon which the Section for Asylum immediately close the file.[83] National authorities consider the intensified migratory movements to be a regional issue and have called for a strengthened regional cooperation and response to address challenges related to both security and financial concerns associated with the increasing numbers.[84]

37. The law indicates that the Section for Asylum has to notify the asylum-seeker of the decision in her/his case within 10 to 25 days after the personal interview. In practice asylum-seekers wait between 30-60 days before receiving a reply.[85] Since the last quarter of 2014, the Section for Asylum has increased the presence of refugee status determination (RSD) caseworkers at the Vizbegovo RC, which has accelerated the processing of asylum applications in terms of registration and notification of the asylum-seekers. The fact that many asylum-seekers leave before being interviewed has also reduced the workload of the caseworker and hence also the processing time for other cases.

38. The combination of slow and inadequate processing of asylum claim, in addition to the fact that many asylum-seekers leave the country before the being interviewed, has resulted in low recognition rates. Between 2009 and 2013 the authorities did not recognize any asylum-seekers as refugees and only granted subsidiary protection in one case. In the same period, almost 3,000 asylum-seekers applied for asylum in the country. In 2014, out of 1,289 asylum applications submitted, 16 asylum-seekers went through the asylum procedure and had their case decided on the merits. Out of these, 12 were Syrians all recognized as refugees, and subsidiary protection was granted to one person.[86] This is a positive step forward compared to previous years. Nevertheless, as of June 2015, and despite the influx of asylum-seekers, so far only one person has been recognized as a refugee. It should be noted that the majority of the asylum requests were dismissed due to 'withdrawal' of asylum requests, which is often the decision taken by the Sector for Asylum when asylum-seeker leave Vizbegovo RC.

[83] Information obtained by UNHCR through discussions with the Section for Asylum.

[84] Statement of the former Minister of Interior of the Republic of Macedonia Gordana Jankuloska at MARRI Regional Initiative Diplomatic Briefing on 10 March 2015.

[85] Information obtained by UNHCR through monitoring of the RSD processing.

[86] In 2014, a total of 746 Syrians lodged asylum applications in the former Yugoslav Republic of Macedonia, see UNHCR 2014 Asylum Trends; http://www.unhcr.org/pages/49c3646c4d6.html.

39. Negative decisions by the Section for Asylum can be appealed to the Administrative Court. An appeal must be lodged within 30 days of the first instance decision, or within seven days for accelerated procedures. A decision from the Administrative Court must be issued within two months of the appeal being lodged, or within 30 days in accelerated procedures. The appeal suspends a deportation, which is issued when an asylum claim has been rejected in the first instance decision.[87] The Administrative Court generally renders decisions relating to procedural aspects of the decision at first instance and without hearing the applicant.[88] However, there have also been some cases in which the Court annulled first instance decisions as erroneous on substantive grounds.[89] At the time of writing, some 72 cases are pending before the Administrative Court. Decisions of the Administrative Court can be appealed to the High Administrative Court. Since it started operating in July 2011, the High Administrative Court has upheld 17 Administrative Court decisions, while at the time of writing 35 cases were pending before the High Administrative Court. The High Administrative Court has not yet rendered any decisions on substantive grounds and the Court's rulings have not yet impacted the practice of the Section for Asylum. There is currently a lack of expertise in asylum at the appellate level.

Recommendations:

- Take steps to strengthen the training and qualification of Section of Asylum staff to conduct all individual asylum interviews. Interviews to focus on establishing all relevant facts of the claim, allowing for and leading to merits-based and well-reasoned decisions;
- Limit the role of national security concerns in the asylum procedure in accordance with international refugee law and with respect for due process;
- Ensure that the asylum procedure respects the timeframe established by law, including where necessary through the enhancement of the capacity of the Section for Asylum, to comply with the provisions of the Law on Asylum and Temporary Protection;
- Establish mechanisms, in co-operation with UNHCR, for ongoing decision-making quality review and assurance, including refresher training programmes for staff at the Section for Asylum;
- In cooperation with UNHCR review the appeal system to make it fair, efficient and ensure the requisite level of expertise;
- Offer professional development opportunities for competent judges, regarding relevant international standards pertaining to asylum and refugee protection;
- Ensure the provision of legal aid to asylum-seekers in accordance with the Law on Free Legal Aid and seek to develop mechanisms to enhance the availability of interpretation services throughout the asylum procedure.

[87] *Law on Asylum and Temporary Protection*, Art 37.

[88] European Commission, *Commission Staff Working Document: The Former Yugoslav Republic of Macedonia 2012 Progress Report,* 10 October 2012, SWD (2012) 332 final, p. 56; http://goo.gl/gLOUyT.

[89] In 2012, the Administrative Court granted three out of nine appeals against first instance decisions taken in 2011 where asylum claims had been rejected on the grounds of "threat to national security"; all nine cases concerned applicants from Kosovo. The Administrative Court also granted nine appeals against first instance decisions that had been rejected on other grounds, and upheld ten decisions. In 2013, the Administrative Court granted 20 appeals and upheld 22 first instance decisions. In 2014, appeals against 21 first instance decisions were granted, while 32 decisions were upheld by the Administrative Court.

40. In December 2008, the Government, through the Ministry of Labour and Social Policy (MLSP), adopted an *Integration Strategy for Refugees and Foreigners* for the period 2008-2015. The strategy covers six main areas: 1) housing/accommodation; 2) education and training; 3) employment and vocational trainings; 4) health protection; 5) social services and social protection; and 6) community development.[90] The strategy was primarily aimed at facilitating the local integration of Roma, Ashkali and Egyptians (RAE) from the region who were granted international protection, without special consideration for refugees from outside the region.

41. At present, there are seven persons from outside the region who have been granted international protection and who reside in the country and have access to services under the Integration Strategy for Refugees and Foreigners.[91] The socio-economic integration of refugees falls under the authority of the MLSP, Section for Asylum, Migration and Humanitarian Assistance and the Centre for Social Welfare. According to the law, refugees and persons who have been granted subsidiary or temporary protection are entitled to socio-economic rights such as access to accommodation, health care, education and employment at nearly the level of citizens of the former Yugoslav Republic of Macedonia.[92] However, although policies for integration are in place, these policies have generally been devised with persons from within the region in mind. Persons from outside the region who have been granted international protection do not have the same integration possibilities or access to integration programmes, mostly due to language barriers, which influences the practical implementation of services.

42. One of the main obstacles for integration is the fact that language-learning opportunities are not offered by the State. Access to employment is granted by law,[93] but extremely difficult to obtain in practice due to language barriers, cumbersome administrative procedures, and the already high national unemployment rate (27.3 per cent at the time of writing).[94] As a result, persons who have been granted international protection generally remain unemployed and dependent on financial assistance provided under the Law on Social Protection. No specialized programmes are in place to facilitate access to education for refugee children and others who have been granted international protection.

43. The Law on Citizenship provides for facilitated naturalization of recognized refugees and stateless persons.[95] However, the persons concerned continue to experience many challenges in the process, including when seeking to obtain the necessary personal documents that are required to apply. Since the adoption of the Law on Asylum and Temporary Protection in 2003, only one refugee from outside the region has been granted Macedonian citizenship.

90 The former Yugoslav Republic of Macedonia Strategy for Integration of Refugees and Foreigners (2008-2015) and its Action Plan, which enables persons granted international protection to benefit from Government's integration measures. http://mtsp.gov.mk/WBStorage/Files/strategija_begalci.pdf.

91 The number refers to the persons who are still present in Macedonia, as some of those who were granted international protection in the former Yugoslav Republic of Macedonia already left the country.

92 Persons recognized as refugee or granted subsidiary protection are granted the same rights as nationals in accordance with relevant laws, with a few exceptions as highlighted in footnote number 6. Nevertheless the actual implementation of the provisions in practice is of concern.

93 *Law on Employment and Work of Foreigners,* Art 12, para. 3. In practice, the provisions in the law are not implemented. The administrative procedure is cumbersome and it is often difficult to verify previous diplomas and qualifications.

94 State Statistical Office – Republic of Macedonia – http://www.stat.gov.mk/Default_en.aspx.

95 *Law on Citizenship*, Art 7-a.

44. The Law on Asylum and Temporary Protection provides for family reunification to members of the nuclear family of recognized refugees and of persons who have been granted subsidiary protection.[96] The process is initiated by a request of the person granted international protection. The family reunification procedure has not been used so far as no applications have been received.

Recommendations:

- Revise the former Yugoslav Republic of Macedonia's Strategy for Integration of Refugees, to ensure it reflects the needs of persons from outside the region who are granted international protection;
- Ensure that vocational training and Macedonian language courses are available and can be accessed by asylum-seekers, refugees and others who are granted international protection from an early stage of the procedure, so as to promote their local integration;
- Institute comprehensive local integration programmes, including but not limited to, housing for refugees and others who are granted international protection.

[96] *Law on Asylum and Temporary Protection*, Art 8.

Conclusions

45. UNHCR observes that the former Yugoslav Republic of Macedonia has steadily strengthened its asylum system over the years. The legislative framework has seen continued improvement and is today largely in line with international standards. Infrastructure, as well as the administrative and judicial capacity on asylum issues, have continuously improved.

46. Despite these positive developments, UNHCR considers that significant weaknesses persist in the asylum system in practice. At the time of writing, the former Yugoslav Republic of Macedonia has not been able to ensure that asylum-seekers have access to a fair and efficient asylum procedure. This is reflected, amongst others, by the fact that the former Yugoslav Republic of Macedonia has not yet put in place protection sensitive screening mechanisms at the border to identify those who may be in need of protection and to refer the individuals concerned to appropriate procedures. Inadequate asylum procedures result in low recognition rates, even for the minority of asylum-seekers who stay in the former Yugoslav Republic of Macedonia to wait for the outcome of their asylum claim. For those asylum-seekers from outside the region who have been recognized as in need of international protection, there is no explicit integration programme, resulting in limited local integration prospects.

47. Considering the outstanding gaps in the asylum system in the former Yugoslav Republic of Macedonia, as described in this report, and taking into account the sharp increase in the number of new arrivals in the country more recently which presents major challenges to the asylum environment, UNHCR considers that the country does not as yet meet international standards for the protection of refugees, and does not qualify as a safe third country. Accordingly, UNHCR advises that other states should refrain from returning or sending asylum-seekers to the country, until further improvements to address these gaps have been made by the Government of the former Yugoslav Republic of Macedonia.