

## Former Yugoslav Republic of Macedonia Immigration Detention Profile

June 2017

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### INTRODUCTION<sup>1</sup>

The Former Yugoslav Republic of Macedonia (FYROM) borders Greece to the South, Bulgaria to the East, Albania to the West, and Kosovo and Serbia to the North. An important refugee source country in the past, FYROM is now regarded as a key transit country by EU migration agency authorities.<sup>2</sup> The Western Balkan Route that crosses FYROM is one of the main migration routes into the European Union. During 2015, roughly one million people transited the country. The closure of the Balkan route in March 2016 left some 1,200 migrants and asylum seekers stranded in Macedonia. In October 2016, the government extended the state of emergency, introduced in 2015, which provides for military police patrols along the border.<sup>3</sup> According to the Ministry of Interior, during 2016 the police “prevented”—a euphemism for “pushbacks”—more than 25,000 irregular entry attempts from Greece.<sup>4</sup>

Attempts by authorities to curb the flows proved largely ineffective until the introduction of changes to the law on asylum in June 2015 and the creation of a “humanitarian corridor” in August 2015. In the months leading up to these changes, officials deemed new arrivals to be “smuggled” people, which led to sharp increases in detention

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<sup>1</sup> The Global Detention Project would like to thank David Scheuing for his assistance researching and drafting this profile. The GDP would also like to acknowledge the helpful comments and suggestions we received from the Macedonian Young Lawyers Association.

<sup>2</sup> Frontex, Western Balkan Route, 2017, <http://frontex.europa.eu/trends-and-routes/western-balkan-route/>

<sup>3</sup> Bodo Weber, “The EU-Turkey Refugee Deal and the Not Quite Closed Balkan Route,” *Friedrich Ebert Stiftung*, June 2017, <http://library.fes.de/pdf-files/bueros/sarajevo/13436.pdf>

<sup>4</sup> Macedonian Young Lawyers Association, “Irregular Migration in Macedonia in Numbers: Official Statistics Provided to the Macedonian Young Lawyers Association by the Ministry of Interior,” June 2017, <http://myla.org.mk/wp-content/uploads/2017/06/IRREGULAR-MIGRATION-IN-MACEDONIA-IN-NUMBERS-2-2.png>

numbers. According to a new Law on Criminal Procedure, smuggled people are to remain in detention until they give court testimony against their alleged smugglers. Official statistics provided by the Ministry of Interior indicate that 1,346 people were detained at the country's sole official detention centre in 2015.<sup>5</sup> After the introduction of the corridor, the numbers reported at the center dropped significantly, totalling less than 400 during 2016.<sup>6</sup>

Detainee numbers in the country remained low if stable, varying between 30-35 detainees, during the period mid-2015 to mid-2016. Closure of the corridor in early 2016 coincided with increased push-backs at the southern border,<sup>7</sup> which appear to have contributed to keeping detainee numbers down even as more people turned to smugglers to help them cross the country.<sup>8</sup> Instead of being brought to Skopje from the southern border, border guards began detaining refugees at ad hoc "transit" camps, where people are reportedly pushed back to Greece.<sup>9</sup> There are reports that the ad hoc camps are slated for closure, but as of mid-2017 the Global Detention Project was unable to verify when this was to take place.

Refugees from the Kosovo War also continue to reside in FYROM, some of whom—especially Roma families—live adjacent to an asylum seekers centre in Vizbegovo Municipality on the outskirts of Skopje. Additionally many ethnic Macedonian, Albanian, and Vlachs have in recent years returned to FYROM from elsewhere in Europe after failing to receive asylum.

FYROM's immigration detention system had until recently not received much attention. No international or national human rights bodies reported on the country's sole detention facility until 2014, when the European Committee for the Prevention of Torture (CPT) made its first visit to the Reception Centre for Foreigners.<sup>10</sup> Since the onset of recent

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<sup>5</sup> Macedonian Young Lawyers Association, "Irregular Migration in Macedonia in Numbers: Official Statistics Provided to the Macedonian Young Lawyers Association by the Ministry of Interior," June 2017, <http://myla.org.mk/wp-content/uploads/2017/06/IRREGULAR-MIGRATION-IN-MACEDONIA-IN-NUMBERS-2-2.png>

<sup>6</sup> Macedonian Young Lawyers Association, "Irregular Migration in Macedonia in Numbers: Official Statistics Provided to the Macedonian Young Lawyers Association by the Ministry of Interior," June 2017, <http://myla.org.mk/wp-content/uploads/2017/06/IRREGULAR-MIGRATION-IN-MACEDONIA-IN-NUMBERS-2-2.png>

<sup>7</sup> European Center for Constitutional and Human Rights, September 2016, Case Report, Push-backs at the Greek-Macedonian border violating human rights; and MYLA (2016): *Annual Report on Immigration Detention in Macedonia*. Online at: <<http://myla.org.mk/wp-content/uploads/2016/09/MYLA-2016-Report-on-Immigration-Detention-in-Macedonia.pdf>> p. 2: "However, not all of the persons from the groups were detained in the Reception Centre for Foreigners. Specifically, out of 39 groups, 553 persons were returned to Greece, and only 100 (15,31%) were detained."

<sup>8</sup> Patrick Kingsley, "Tens of thousands migrate through Balkans since route declared shut," *The Guardian*, 30 August, 2016, <https://www.theguardian.com/world/2016/aug/30/tens-of-thousands-migrate-through-balkans-since-route-declared-shut>.

<sup>9</sup> David Scheuing, Interview with Human Rights Adviser at the UN Country Team, 27/9/2016.

<sup>10</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of "the former Yugoslav Republic of Macedonia" on the visit to "the former Yugoslav Republic of Macedonia" carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016,

migration and refugee challenges, several NGOs and international human rights bodies have begun reviewing the system and reporting on problems.

## LAWS, POLICIES, PRACTICES

**Key norms.**<sup>11</sup> The Law on Foreigners (Законот за странци, 2006)<sup>12</sup> and the Law on Border Control (законот за гранична контрола, 2011)<sup>13</sup> provide for the legal framework of immigration detention in FYROM.

The “Rulebook for the Reception Center for Foreigners” (куќниот ред на Прифатниот центар, or House Rules of the Detention Center) supplements the legal mandate for the detention centre and provides operating rules.<sup>14</sup> The Law on Asylum and Temporary Protection (законот за азил и привремена заштита, 2003)<sup>15</sup>, regulates the asylum system and refugee status determination, as well as provisions for places of accommodation of asylum seekers.

**Grounds for detention.** Under article 13 of the Law on Border Control, a person can be detained for up to 24 hours to enable border control procedures. According to article 108 of the Law on Foreigners, the Ministry of Interior may detain a person for up to 24 hours to ensure his deportation. A foreigner can be detained until the reasons preventing his/her deportation from the territory of the Republic of Macedonia cease to exist, but not longer than 12 months. Under article 132, a person who refuses or is unable to prove his identity may be detained for the purpose of establishing his identity. If the foreigner refuses or is unable to prove his/her identity, the authorized officers of the Ministry of the Interior may detain him/her for the purposes of establishing his/her identity for a period not longer than 12 hours.

**Length of detention.** For administrative purposes (Law on Border Control, Article 13) or for the purpose of an immediate deportation (Law on Foreigners, Article 108) foreigners can be temporarily detained for no longer than 24 hours. Detention orders must be provided for periods that exceed this length. Article 109 of the Law on Foreigners states that no person should be detained for more than 12 months. A 2016 report by MYLA cites a case of a person being detained for 301 days (more than 10 months). The same report states that the average length of detention during 2016 was 38 days.<sup>16</sup> The

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<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0>.

<sup>11</sup> Versions of the legal documents can be obtained at Pravo MK, Database on Macedonian Law, <http://pravo.org.mk/>. See also Official Gazette of the Republic of Macedonia, [www.slvesnik.com.mk/](http://www.slvesnik.com.mk/). Alternative source for translated, but sometimes outdated versions of the laws available at <http://www.ecoi.net/macedonia-former-yugoslav-republic/nationallaw>

<sup>12</sup> Official Gazette of the Republic of Macedonia, No. 35/2006, last amendment: 31.08.2015.

<sup>13</sup> Official Gazette of the Republic of Macedonia, No. 171/2010, last amendment: 31.08.2015.

<sup>14</sup> Official Gazette of the Republic of Macedonia, No. 06/2007, amended 53/2009 and 75/2013.

<sup>15</sup> Official Gazette of the Republic of Macedonia, No. 49/2003, last amendment: 11.04.2016

<sup>16</sup> MYLA (2016): *Annual Report on Immigration Detention in Macedonia*. Online at: <http://myla.org.mk/wp-content/uploads/2016/09/MYLA-2016-Report-on-Immigration-Detention-in-Macedonia.pdf>

Ministry of Interior indicated in 2015 that the country would shorten the maximum length to six months but this has yet to be adopted.<sup>17</sup>

**Asylum seekers.** The Law on Foreigners exempts asylum seekers from immigration control measures.<sup>18</sup> There are, however, reports of people being detained *after* lodging asylum claims. Potential claimants have been kept in the detention centre when a court regards them as witnesses in other cases. Human rights organisations have repeatedly criticised this practice.<sup>19</sup> The Law on Foreigners does not specify whether recognized refugees can be detained.<sup>20</sup> There are also no regulations in national law safeguarding the rights of stateless persons.<sup>21</sup>

In early April 2016 the National Assembly adopted amendments on the Law on Asylum and Temporary Protection. These amendments addressed two issues: family reunification and the concept of safe third country. The amendments introduced a new article as an addition to the already existing safe third country concept, providing that asylum seekers can be returned to a safe third country without substantively assessing their asylum claims if they have entered the country from an EU, NATO or EFTA member state that has ratified and implements the 1951 Refugee Convention, the ECHR and has an asylum procedure in accordance with the Convention. This leaves only a land-crossing from Kosovo as a legitimate crossing.

**Children and victims of trafficking.** There are no provisions prohibiting the detention of minors (accompanied or unaccompanied), elderly people, women or trafficked persons. Even though minors who are not seeking asylum are to be assigned a legal guardian and the respective embassy or consular mission is to be informed, they are nonetheless placed in detention. According to official statistics, 22 children (four of whom unaccompanied) were detained at the official detention centre in 2016, down from 251 (22 unaccompanied) in 2015.<sup>22</sup> The law specifies that children should be placed in a separate section of the detention centre.<sup>23</sup> However, observers who have visited the centre have highlighted that this separation is not actually put in practice.<sup>24</sup> These

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<sup>17</sup> Statement by the Macedonian Government, Ministry of the Interior, Letter to Human Rights Watch, 23.7.2015, in: Human Rights Watch (HRW) *“As Though We Are Not Human Beings” Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015. pp.55.

<sup>18</sup> Law on Foreigners, Article 3.

<sup>19</sup> Marinko Kocovski, assistant director of the Sector for Border Control and Migration, Ministry of the Interior, as quoted in Human Rights Watch (HRW), *“As Though We Are Not Human Beings” Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015, pp. 43.

<sup>20</sup> Article 87 only grants them the right to residence, and – if they can sustain themselves – the right to reside outside the “Reception Center for Asylum Seekers.”

<sup>21</sup> FYROM is signatory and party to both the Convention relating to the Status of Refugees as well as the Convention relating to the Status of Stateless Persons.

<sup>22</sup> Macedonian Young Lawyers Association, “Irregular Migration in Macedonia in Numbers: Official Statistics Provided to the Macedonian Young Lawyers Association by the Ministry of Interior,” June 2017, <http://myla.org.mk/wp-content/uploads/2017/06/IRREGULAR-MIGRATION-IN-MACEDONIA-IN-NUMBERS-2-2.png>

<sup>23</sup> Law on Foreigners, Article 112.

<sup>24</sup> Human Rights Watch (HRW) *“As Though We Are Not Human Beings” Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015, pp. 38. European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of

reports also highlight that children do not know about their rights to legal guardianship.<sup>25</sup>

The Law on Foreigners provides that potential victims of trafficking can be placed in detention for up to two months.<sup>26</sup> They are supposed to be placed in a separate part of the detention centre. Contrary to these provisions, however, the CPT found that “victims of trafficking were mixed with the rest of the detainee population” and detained for reasons related to the prosecution of alleged smugglers.<sup>27</sup>

**Procedural safeguards and access to detainees.** The right to be notified reasons for detention does not appear to be respected in practice. According to Macedonian Young Lawyers Association (MYLA), during interviews with detainees in 2016, it found that almost none of the detainees had been told that they were being detained for immigration-related reasons. Rather, “They were told by the police that they are held in detention because the Court needs their presence in the criminal procedure against the migrant smugglers.”

Translations of detention orders and related documents are not available and most detainees cannot understand them.<sup>28</sup> In addition, the procedures at the detention centre are only displayed in some boards along the walls.<sup>29</sup>

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Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016,

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> pp.67; Ombudsman (2014): Annual report on the level of respect, promotion and protection of human rights and freedoms 2014, published in Skopje, March 2015, pp.14, online at:

<<http://ombudsman.mk/upload/Godisni%20izvestai/GI-2014/GI%202014-Ang.pdf>>; Ombudsman (2015): Annual report on the degree of provision, respect, advancement and protection of human rights and freedoms 2015, published in Skopje, March 2016, pp.36, online at:

<<http://ombudsman.mk/upload/Godisni%20izvestai/GI-2015/GI%202015-Ang-za%20pecat.pdf>>.

<sup>25</sup> Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015. pp. 37.

<sup>26</sup> Law on Foreigners, Article 81.

<sup>27</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016,

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> pp. 65.; on grounds of detention, Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015 , pp. 47.

<sup>28</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016,

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> pp. 71, paragraph 129; HRW (2015) *As though we are not human beings, Police brutality against migrants and asylum seekers in Macedonia*, pp.45, online at:

<[https://www.hrw.org/sites/default/files/report\\_pdf/macedonia0915\\_4up.pdf](https://www.hrw.org/sites/default/files/report_pdf/macedonia0915_4up.pdf)>.

Also see: UNHCR, *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*. Report from August 2015, <<http://www.refworld.org/docid/55c9c70e4.html>>, pp.10.

<sup>29</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or

Access to legal counsel is guaranteed in the Law on Foreigners.<sup>30</sup> Until relatively recently, however, this access appears to have been limited or non-existent.<sup>31</sup> According to the CPT, during the time of its 2014 visit “it appeared that no automatic review of the detention was contemplated by the legislation. The vast majority of detained persons the CPT’s delegation had spoken to did not have access to legal aid at any stage of their proceedings.”<sup>32</sup>

Although, the law provides detainees with the right to appeal detention decisions, there are concerns about the efficacy of this process.<sup>33</sup> MYLA reported in 2016 that during the first half of that year detainees were not provided with copies of their detention decisions and were only issued confirmation of personal items that were confiscated at the detention centre. “After intervention from MYLA and the Ombudsman ... all of the persons detained were provided with copies of their detention decisions. ... However, it remained problematic that the persons were not able to understand the content of the document nor had they been properly informed of the right to legal representation and the right to appeal.”

Detainees have the right to consular assistance and the government claims that there are “frequent visits by representatives of foreign embassies.”<sup>34</sup> According to the CPT, however, its delegation “met a number of detained persons who alleged that they had not been allowed to inform a third party of their situation. In some cases, persons could not inform a family member or a consular representative for weeks and even months.”<sup>35</sup>

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Punishment (CPT) from 7 to 17 October 2014, 17 March 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> pp. 71, paragraph 129, Human Rights Watch (HRW) *“As Though We Are Not Human Beings” Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015, pp.45.

<sup>30</sup> Law on Foreigners, Article 142 (legal aid), Article 141 (right to translation).

<sup>31</sup> Human Rights Watch (HRW) *“As Though We Are Not Human Beings” Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015. pp.44f.: MYLA 2016, pp.1, online at: <<http://myla.org.mk/wp-content/uploads/2016/09/MYLA-2016-Report-on-Immigration-Detention-in-Macedonia.pdf>>

<sup>32</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> pp. 71, paragraph 130.

<sup>33</sup> Law on Foreigners, Article 108.

<sup>34</sup> Human Rights Watch (HRW) *“As Though We Are Not Human Beings” Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015.pp.53.

<sup>35</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> pp. 72, paragraph 131.



Although detainees can claim asylum during their detention<sup>36</sup> they are reportedly often not sufficiently informed about their rights. In its 2014 Annual Report, the Ombudsman stated that it “acted upon a complaint of persons accommodated in the Reception Centre for Foreigners and was thereby informed that these people are not allowed to exercise their right to asylum and the right to visits and contacts with families, until the proceedings managed by investigation and judicial authorities where they had a capacity of witnesses were in progress.” During 2016, MYLA was able to assist 68 detainees with asylum procedures. However, the detainees are still only allowed access to asylum once the reasons for detention cease to exist.

There is limited access to detainees. During 2016, the most frequent visits were conducted by MYLA. The National Ombudsman makes several visits yearly<sup>37</sup> and UNHCR reports that it has access to detainees.<sup>38</sup> Numerous other groups have been denied access to detainees, most notably HRW and Macedonian Helsinki Committee.

While the Ombudsman has noted that detainees have filed complaints, other sources have indicated that in practice this right is curtailed. In its 2015 report, HRW said formal complaints were not lodged because there was a “lack of knowledge how to do so and to whom, fear of reprisal, and fear of endangering relations with guards and losing any minimal benefits good relations offered (for example being able to go outside for fresh air).” A former guard who witnessed ill-treatment told HRW that “There is no one to report to nor would it change anything.”<sup>39</sup>

There does not appear to be any evidence indicating whether people have been compensated in cases of unlawful detention.<sup>40</sup> Additionally, some detainees have alleged that their IDs were not returned when their detention ended.<sup>41</sup>

**Criminalization.** Articles 153 and 154 of the Law on Foreigners provide fines of up to 1,000 euros for foreigners found in violation of immigration procedures, including

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<sup>36</sup> Ombudsman (2014): Annual report on the level of respect, promotion and protection of human rights and freedoms 2014, published in Skopje, March 2015, pp.14, online at:

<<http://ombudsman.mk/upload/Godisni%20izvestai/GI-2014/GI%202014-Ang.pdf>>; pp. 62.

<sup>37</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016,

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> and >; Ombudsman (2015): Annual report on the degree of provision, respect, advancement and protection of human rights and freedoms 2015, published in Skopje, March 2016, pp.36, online at:

<<http://ombudsman.mk/upload/Godisni%20izvestai/GI-2015/GI%202015-Ang-za%20pecat.pdf>>.

<sup>38</sup> Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015. pp. 45.

<sup>39</sup> Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015.pp. 18f.

<sup>40</sup> Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015. pp.33. One woman spent over 500€ for basic necessities in her 72 day incarceration.

<sup>41</sup> Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015. pp. 43.

entering the country without permission.<sup>42</sup> The Interior Ministry has claimed that officials rarely insist on the payment of fines.<sup>43</sup>

**Designated sites of detention, detaining authorities, regulations.** The Law on Foreigners stipulates that the “Reception Center for Foreigners” is to be used for detention purposes but does not provide details on location or operations. Other custodial places such as police stations can hold people for immigration-related grounds for no longer than 24 hours.

The law does not empower specific law enforcement bodies to arrest or detain people for immigration-related reasons. In practice, the police, border guard, and the army apprehend migrants and asylum seekers. The Interior Ministry, the official custodial authority,<sup>44</sup> places operations of the detention centre under the control of the police.<sup>45</sup>

**Trends and statistics.** Even though the Interior Ministry is bound by law to keep a database on migration indicators<sup>46</sup> there is little publicly available data. There does not appear to be a coherent set of statistics available on immigration detainees or on the costs of detention operations. The latest available figures from MYLA show that during 2016, no fewer than 438 persons were detained, with an average of 20-30 people detained at any point during the year.<sup>47</sup> However, this is not based on systematic data collection. Numbers previously reported by HRW and the CPT provide only snapshots at a given time.

## DETENTION INFRASTRUCTURE

There is only one official detention centre in FYROM, the “Reception Center for Foreigners” (Прифатниот центар за странци) in Gazi Baba. The centre is a dedicated immigration detention facility operated by the police under the authority of the Interior Ministry.<sup>48</sup> There seem to be no other official long-term detention places, although numerous facilities are used to hold non-citizens for very short periods, including police stations and airport control rooms. However, there are a number of ad hoc detention sites near Macedonia’s borders, called “transit centres.” There are reports that these ad hoc camps are slated for closure, but as of mid-2017 the Global Detention Project was unable to verify when this was to take place.

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<sup>42</sup> In Accordance with the Law on Misdemeanours.

<sup>43</sup> Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015. pp. 55.

<sup>44</sup> Law on Foreigners, Article 108.

<sup>45</sup> Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015.

<sup>46</sup> The Law on Foreigners, Article 147.

<sup>47</sup> MYLA (2016): *Annual Report on Immigration Detention in Macedonia*. Online at: <<http://myla.org.mk/wp-content/uploads/2016/09/MYLA-2016-Report-on-Immigration-Detention-in-Macedonia.pdf>> pp.1 and 3.

<sup>48</sup> Law on Foreigners, Article 108.



**Gazi Baba.** The Gazi Baba specialised detention facility is a former kindergarten located in a suburb of Skopje. Officially called the “Reception Center for Foreigners,” the facility is commonly referred to using the name of the suburb in which it is located. It was opened in 2007, even though the building dates back to the early 1990s. According to sources, the building was used as a temporary shelter for Bosnian refugees in 1993-1994 and was used as a shelter for victims of trafficking in the late 1990s.<sup>49</sup> Since it began operating as a detention centre it has had little national or international monitoring. There were no publicly available reports about the facility until 2014.<sup>50</sup> Although there is no official report about its capacity, unofficial reports put it at 80-100 people. There have been numerous reports of police violence at the facility.<sup>51</sup>

In early 2015 as increasing numbers of refugees tried to pass through Macedonia, the detainee population at Gazi Baba skyrocketed. At its peak there were reportedly some 400 held in the building, five times its presumed capacity.<sup>52</sup> When delegations from Human Rights Watch and lawyers groups visited the detention centre in the summer of 2015 they were not allowed contact with any of the detainees. The sole purpose of the visits was to demonstrate the centre’s capacities.<sup>53</sup> At the time, officials rejected reports of severe overcrowding, claiming that there were no more than 250 people detained there at any given time.<sup>54</sup>

Bowing to mounting national and international pressure, in the summer of 2015 the detention facility was temporarily shut down. Authorities claimed that the temporary closure was a merely a result of a change in policies, as the Law on Asylum and Temporary Protection was amended to allow the 72-hours passage through the country. However, the centre reopened only a few months after having been shut down.<sup>55</sup>

The most recent reports available from the Ombudsman, the CPT, and HRW provide details about the conditions of detention during 2014 and 2015. While there have been renovations at the facility since these reports came out, the conditions described in these report provide some general conclusions. The facility has criticized for having poor

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<sup>49</sup> David Scheuing, Interview with Red Cross official, 26.8.2016, Skopje.

<sup>50</sup> In early 2017 legal scholars published a research article about the detention at Gazi Baba and the detention system of FYROM which evaluates the situation closely and is in sync with evaluations in this report: Charles Veigel, Olga Koshevaliska Gurkova, Borka Tushevska & Ana Nikodinovska Krstevska (2017) The ‘Gazi Baba’ Reception Centre for Foreigners in Macedonia: migrants caught at the crossroad between hypocrisy and complying with the rule of law, *The International Journal of Human Rights*, 21:2, 103-119, DOI: 10.1080/13642987.2016.1257987

<sup>51</sup> Human Rights Watch (HRW) *“As Though We Are Not Human Beings” Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015 And HRW (22/12/2015): *Macedonia: New Move to Lock up Asylum Seekers. Detained Without Proper Safeguards*. Online at: <<https://www.hrw.org/news/2015/12/22/macedonia-new-move-lock-asylum-seekers>>.

<sup>52</sup> Human Rights Watch (HRW) *“As Though We Are Not Human Beings” Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015.

<sup>53</sup> Human Rights Watch (HRW) *“As Though We Are Not Human Beings” Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015.

<sup>54</sup> Human Rights Watch (HRW) *“As Though We Are Not Human Beings” Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015. pp. 50

<sup>55</sup> Human Rights Watch (HRW) (22/12/2015): *Macedonia: New Move to Lock up Asylum Seekers. Detained Without Proper Safeguards*. Online at: <<https://www.hrw.org/news/2015/12/22/macedonia-new-move-lock-asylum-seekers>>.

hygienic standards and failing to qualify as a dignified shelter.<sup>56</sup> According to the CPT: “The whole establishment offered extremely poor conditions of detention in terms of its state of repair and level of hygiene. One particular room in the male detention unit measuring 22 m<sup>2</sup> and lacking access to natural light and ventilation was accommodating three children together with ten adults, most of whom smoked. Basic furniture such as metal closets, chairs and tables, televisions, and electric bulbs, as well as windows and walls, were seriously damaged or dilapidated and had not been repaired for months. The lockable space available to detained persons was limited to one closet for approximately 20 foreign nationals in the male detention unit. Further, cutlery was not systematically provided to detainees.”<sup>57</sup>

The CPT also found facilities to be derelict: “The three sanitary facilities of the male detention unit all had broken toilets and shower heads and malfunctioning boilers. In sum, approximately 162 detained persons (including 13 unaccompanied minors) were sharing a total of three showers and four toilets which were properly functioning in the centre’s male detention unit.”<sup>58</sup>

Independent observers repeatedly reported that during 2014 and 2015 the facility was continually overcrowded.<sup>59</sup> The “number of beds ... was limited to 60 for a total of 162 detainees, most of whom were compelled to sleep on mattresses or directly on the floor,

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<sup>56</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> pp. 65. pp. 63-66, para 113 – 120, and MYLA (2016): *Annual Report on Immigration Detention in Macedonia*. Online at: <<http://myla.org.mk/wp-content/uploads/2016/09/MYLA-2016-Report-on-Immigration-Detention-in-Macedonia.pdf>> pp. 2.

<sup>57</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> pp. 65., para 114.; Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015. pp.23.

<sup>58</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> pp. 65., para 114.; Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015. pp.23, 31-34.

<sup>59</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> pp. 65. para 115, Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015. pp.27ff.; Ombudsman (2014): *Annual report on the level of respect, promotion and protection of human rights and freedoms 2014*, published in Skopje, March 2015, pp.14, online at: <<http://ombudsman.mk/upload/Godisni%20izvestai/GI-2014/GI%202014-Ang.pdf>> .

often in improvised locations such as stairways and corridors adjacent to the sanitary facilities.”<sup>60</sup> Basic needs like light and activities and special accommodation needs for families, unaccompanied minors and victims of trafficking, which are established in the Rulebook of the detention centre, were not met.<sup>61</sup> There were also few contacts with the outside world, a problem exasperated by the lack of access to telephones. “Telephone calls were rarely permitted by staff members and in the case of problems of connection with their countries of origin repeated attempts would not be permitted. Further, mobile phones were taken away from detainees upon admission.”<sup>62</sup> Food has been reported as being scarce, invariant in its diet (the same products every day) and people have been beaten up for asking for additional cans or items.<sup>63</sup> Some detainees reported serious consequences for their physical and mental well-being due to the conditions of the centre.<sup>64</sup>

MYLA has reported on conditions based on more recent visits to the facility.<sup>65</sup> Some improvement was noted in June 2016, when detained women stated that they are sometimes allowed to walk around the Centre for one hour in the presence of a police officer. This right is stipulated in the House Rules, however it has not been respected properly in most of the cases. MYLA reports that phone calls are allowed every 7-10 days on average. MYLA also states that detainees have not complained about police violence during recent interviews. However, some detainees reportedly are afraid to talk about treatment in detention. The HRW report highlights the gendered nature of the police violence employed at the centre. <sup>66</sup> Provision of food, hygiene, medical aid and social and legal counselling does not appear to have improved.<sup>67</sup>

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<sup>60</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> pp. 65. para 115/116/117/119, and Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015.pp.29ff.

<sup>61</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> pp. 65. para 115/116/117/119, and Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015.pp.29ff.

<sup>62</sup> European Committee for the Prevention of Torture (CPT), Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 17 October 2014, 17 March 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806974f0> para 133, pp.74

<sup>63</sup> CoE-CPT, para 118, HRW 2015 , pp.34f.

<sup>64</sup> Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015. 35f.

<sup>65</sup> MYLA (2016): *Annual Report on Immigration Detention in Macedonia*. Online at: <http://myla.org.mk/wp-content/uploads/2016/09/MYLA-2016-Report-on-Immigration-Detention-in-Macedonia.pdf> pp. 1

<sup>66</sup> HRW 2015, pp.14f and pp.16-18.

<sup>67</sup> Human Rights Watch (HRW) “*As Though We Are Not Human Beings*” *Police Brutality against Migrants and Asylum Seekers in Macedonia*. 2015, 18f.

**“Transit centres” at Gevgelija and Tabanovce.** In early 2016, FYROM broadened its detention capacity when it began depriving people of liberty at an ad hoc “transit centre” in the south of the country; in addition, it started accommodating people in an non-secure transit centre in the north, in Tabanovce. These operations are not provided for in law. These centres were originally built to assist the transit of refugees during the border tensions in 2014-2016.<sup>68</sup> Yet, they have become semi-open or closed detention centres since March 2016. After the official re-closure of the borders with Serbia and Greece, some 1,500 people were stranded in the northern camp of Tabanovce and an additional 200 in the southern facility at Gevgelija.<sup>69</sup> These people do not have access to legal pathways to claim any kind of status.<sup>70</sup>

The two centres have very different operations: Tabanovce operates largely as an open, no-secure facility, where people are strongly encouraged not to leave the camp but have been seen leaving and entering the camp at will. Even though the centre never has its gates closed during daytime, people are afraid to leave for fear of not being allowed back in.

At the facility in the south in Gevgelija, called the “Vinojug” Transit Centre, people are not allowed to leave. This appears to be an arbitrary decision by the camp management. Some people have been held the facility for nearly a year without any status, no pending asylum cases, and no means to challenge detention. Some detainees have allowed themselves to be deported back to Greece.<sup>71</sup>

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<sup>68</sup> MYLA (2016) *Closed Borders. Programme Report on the impact of the borders closures on people on the move, with a focus on Women and Children in Serbia and Macedonia*, online at: <[http://myla.org.mk/wp-content/uploads/2016/09/Closed\\_Borders\\_ENG\\_low.pdf](http://myla.org.mk/wp-content/uploads/2016/09/Closed_Borders_ENG_low.pdf)>

<sup>69</sup> The monitoring reports on the human rights situation of refugees in said camps on the homepage of the Helsinki Committee for Human Rights, <http://www.mhc.org.mk/reports>

<sup>70</sup> MYLA, field report January, February, March 2016, <http://myla.org.mk/publications/reports/>

<sup>71</sup> Macedonian Helsinki Committee for Human Rights, report: The situation at the border crossings Gevgelija and Kumanovo for the period 07.11.2016 – 13.11.2016, <<http://www.mhc.org.mk/reports/487>>.

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