



Macedonian Young Lawyers Association

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Final Statement for the UPR Pre-session for Macedonia

Dear representatives of the Permanent Missions, representatives of national NGOs and colleagues.

My name is Svetlana Crvenkovska and I represent the Macedonian Young Lawyers Association. We work on providing free legal aid and advocate and strategically litigate on cases related to protection of human rights. The organization participated in the previous UPR cycle with a submission on asylum and migration. This cycle we addressed two topics. First, the issue of asylum and migration. On this topic we filed a submission alone. Second, the issue of statelessness upon which we filed a submission as a part of a coalition together with the **Institute on Statelessness and Inclusion, the European Network on Statelessness, the European Roma Rights Centre and the Minority Rights Group International**. For the submission on statelessness, we had one national consultation with Roma-led organizations.

1. Asylum and migration

On the topic of asylum and migration, Macedonia received recommendations in the second cycle. Cambodia recommended that Macedonia should continue its effort in the active implementation of the National Strategy for the Fight against Human Trafficking and Illegal Migration. Hungary recommended the country to establish a procedure for determining the best interest of the children during all asylum and refugee processes, and the Philippines recommended that Macedonia should continue to improve the condition of all migrants particularly with regard to access to health, education and other social services. Germany and Switzerland had recommendation towards the detention conditions emphasizing the importance of respecting international obligations and standards.

There were many challenges in these 5 years when it comes to the topic of asylum and migration. We faced one of the biggest refugee and migrant crisis. Macedonia was part of the Western-Balkan Route and more than one million people crossed its borders that represents half of the population in the country a figure which it itself may well describe the unprecedented burden this crisis posed for the Macedonian administrative structures.

Regarding the access to territory and procedure for refugees and migrants, we faced foreigners being detained for a purpose of establishing identity and forced removal, police officers not always recorded asylum applications, push backs without any legal and official procedure, and lack of access to free legal aid.

When it comes to freedom of movement and detention, according to the new Law on International and Temporary protection adopted in April 2018 it is allowed to detain asylum seekers with a decision of the Ministry of Interior, and thus violating the Constitution of the country and the



international obligations accepted and ratified in this regard. Giving the authority of the Ministry of Interior, as a state administrative body, to decide on restricting the freedom of movement of asylum seekers, instead of the court to bring such decisions, violates Article 12 of the Constitution which is: “No individual's freedom can be restricted, except by a court decision and in cases and a procedure determined by a law” and the standards set with the European Convention of Human Rights.

Moreover, in practice foreigners are being held in the Reception Centre for Foreigners to be witnesses in the criminal procedure against the smugglers, although there is no legal provision that permits detention of witnesses.

Macedonia still lacks a Strategy and Action Plans for Integration of Refugees and Foreigners.

During the crisis there was improper care for children especially towards unaccompanied minors facing problems with the appointment of guardians and proper registration. They also lack access to education in the country. The principle of the best child interest in the country is not defined in any law.

Thus we propose the following recommendations:

- Establishment of an effective asylum system with proper coordination and division of responsibilities among duty bearers, plus improving the national legislation in that matter.
- The Law on Foreigners and the Law on International and Temporary Protection should be amended and harmonized with the Constitution with respect of the competence of the body deciding on the deprivation of liberty.
- Establishment of a protection-sensitive screening mechanisms to identify and refer those who may be in need of protection, as well to respond to the needs of the most vulnerable. Children and victims of human trafficking should have special care and assistance.
- The best interest of the child has to be define.
- An independent border monitoring system to be established and introduced in the new Law on Foreigners as written in the Return Directive.

2. Statelessness

Moving to the second issue ... statelessness. In the first cycle, Argentina recommended that Macedonia should: “Put in place a national comprehensive plan for civil status registration and the right to identity.” Mexico recommended that Macedonia should: “promote the exercise by the Roma of their rights, in particular by implementing programs to facilitate birth registration and the issuing of identity documents”.

The recommendations under the second cycle were in the same line. Mexico recommended that the country should “Launch a campaign for the birth registration of children and adults living on the streets and for those belonging to ethnic minorities to facilitate the obtaining of identification documents”. Namibia and Slovenia recommended that Macedonia should strengthen the efforts to ensure retroactive birth registrations and access to public services, including issuance of documents



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for children lacking such documentation as well as to ensure that children lacking documents are not refused access to health, education and other public services”.

What is the situation now?

In April 2018, the Government demonstrated a greater interest in resolving this issue and a political will to systematically approach the problem. A public call was announced inviting all persons that are not registered in the birth register to apply for additional inscription, regardless of whether they possess all the necessary documents to evidence and substantiate their application. The Minister of Labor and Social Affairs, gave an official statement that every person identified in this action will receive a temporary identification number and the same can be used for acquiring health and other social services. After the civil registration is done the person will have a permanent identification number, regulated status and access to all rights guaranteed under the Constitution and the laws in the country. The call ended on the 1st of November and the non-official number is that around 700 persons are stateless in the country. Now the authorities will proceed on changing the legislation and adoption of new mechanisms to resolve this issue.

Thus we propose the following recommendations:

- The Government of Macedonia should amend the Law on Records of Births, Deaths and Marriage in order to provide sustainable method for prevention on statelessness and address any legal gaps, in particular to guarantee universal, free and immediate birth registration for every child irrespective of the parents' status, documentation, insurance or whether the child was born in a medical institution.
- The Government of Macedonia should introduce a special non-contentious procedure, for determining the time and place of birth for children born at home and who cannot therefore be enrolled in the civil records.
- The Government should adopt a statelessness determination procedure and simplify complex civil registration procedures that are mostly effecting the Roma population and guarantee them proper access to health, education and public services including social allowances.