HUMAN RIGHTS WATCH

"As Though We Are Not Human Beings"

Police Brutality against Migrants and Asylum Seekers in Macedonia

HUMAN RIGHTS WATCH

"As Though We Are Not Human Beings"

Police Brutality against Migrants and Asylum Seekers in Macedonia

Copyright © 2015 Human Rights Watch
All rights reserved.
Printed in the United States of America
ISBN: 978-1-6231-32712
Cover design by Rafael Jimenez

Human Rights Watch defends the rights of people worldwide. We scrupulously investigate abuses, expose the facts widely, and pressure those with power to respect rights and secure justice. Human Rights Watch is an independent, international organization that works as part of a vibrant movement to uphold human dignity and advance the cause of human rights for all.

Human Rights Watch is an international organization with staff in more than 40 countries, and offices in Amsterdam, Beirut, Berlin, Brussels, Chicago, Geneva, Goma, Johannesburg, London, Los Angeles, Moscow, Nairobi, New York, Paris, San Francisco, Sydney, Tokyo, Toronto, Tunis, Washington DC, and Zurich.

For more information, please visit our website: http://www.hrw.org

SEPTEMBER 2015 978-1-6231-32712

"As Though We Are Not Human Beings"

Police Brutality against Migrants and Asylum Seekers in Macedonia

Map of Macedonia and Surrounding Countries i

Summary 1

Recommendations 6

To the Government of Macedonia 6

To The Prime Minister 6

To the Ministry of Interior 6

To the Ombudsman of Republic of Macedonia 7

To the European Union 8

To the Council of Europe 8

To United Nations Committee against Torture 9

To the United Nations High Commissioner for Refugees (UNHCR) 9

To the UN Special Rapporteur on the Human Rights of Migrants 9

Methodology 10

Police Abuse 12

Police Abuse at the Border with Greece 12

Police Abuse in Gazi Baba 14

Gender-based Violence against Women by Police Guards in Gazi Baba 16

Lack of Accountability for Abuse 18

International Law on Excessive Use of Force and Ill-treatment in Detention 20

I. Inhuman and Degrading Conditions in Gazi Baba 23

Overcrowding 27

Lack of Fresh Air 29

Limited Sanitation and Poor Hygiene 31

Poor Quality and Insufficient Quantity of Food and Safe Drinking Water 34

Impact of Detention on Health 35

Detention of Children 36

Macedonia's Legal Obligations 39

II. Arbitrary Detention 42

Legal Obligation: Freedom from Arbitrary Detention.....47

Acknowledgements.....49

Appendix 1: Ministry of Interior of Republic of Macedonia, Letter from July 23, 2015 50

Appendix 2: Ministry of Interior of Republic of Macedonia, Letter from August 26, 2015 . 57

Map of Macedonia and Surrounding Countries

Summary

Tariq, a 19-year-old Palestinian left his home in the Yarmouk Camp, close to the Syrian capital, Damascus, after his father was kidnapped in 2013: "I left so I could escape from the war and out of fear of being kidnapped, just like happened to members of my family, including my father. Also, I was afraid of the army. The situation of Palestinians is particularly difficult…Yarmouk camp is under siege. There is no food or anything."

Tariq made the Aegean Sea crossing from Turkey to Greece and traveled onwards to Macedonia in the hope of finding refuge in EU countries to the north. Once in Macedonia, the police promptly arrested him and took him to the Reception Center for Foreigners, a detention facility in Skopje, known as Gazi Baba after the municipality where it is located. Tariq was detained for two months in Gazi Baba, sleeping on the floor, in corridors, without beds or mattresses, huddled in a blanket. There were only two toilets for hundreds of detainees. Tariq could take a shower only once a week and there was only cold water. Every single day for two months, Tariq received one small can of tuna, a piece of bread, and sometimes cheese to last throughout the day. No one explained to him why he was detained or how long he would stay there. He was not allowed to see a lawyer. He couldn't even get in touch with his family. And, Tariq experienced and witnessed gratuitous violence at the hands of police guards in Gazi Baba:

> We would get beaten. If they see you in the hallway at night, they would beat you. And if you asked about your case, the boss, the chief, would beat you. He once found a mobile phone with a guy. He started beating him barbarically, by slapping him, kicking him. It was a brutal beating that resulted in nose-bleeding. There were others doing the beating, it was horrendous. They beat people too often. The beating itself is not the problem; it's rather the humiliation.

Tariq said he was "utterly shattered" mentally and emotionally after the two months he spent in Gazi Baba.

***

Men, women, and children from countries embroiled in conflicts such as Syria, Somalia, and Afghanistan have faced police violence and inhuman, degrading treatment and arbitrary detention in Macedonia.

Almost all have made an arduous journey, boarding overcrowded vessels to cross the Aegean Sea or making the land border crossings from Turkey to Greece and traveling onwards to northern EU countries through Greece, Macedonia, and Serbia. They typically reach Macedonia after walking for several days, often without enough food, water, or proper clothing. At least 26 people have been killed by trains on railway tracks in Macedonia since January 2015. Those apprehended by the police in Macedonia are often beaten with police batons, punched, kicked, and verbally insulted. They are either summarily returned to Greece amid more abuse or taken straight to detention where they are held in appalling conditions.

This report, based on 64 in-depth interviews with victims and witnesses, documents the abuses migrants and asylum seekers experience in Macedonia, a key transit country along the Balkans migration route and an aspiring member of the European Union (EU).

Twenty-seven interviewees, including three children, said they experienced abuse at the hands of Macedonian officials at the border with Greece. They said that once inside Macedonian territory they were apprehended, physically beaten, and taken to unofficial border areas and ordered to cross back into Greece. Nine people, in separate, private interviews, said police and border police made them and others with them run a gauntlet between two rows of police officers who struck them with police batons on their backs, shoulders, and heads.

Until July 2015, Macedonia routinely and systematically detained migrants and asylum seekers—including children and pregnant women—in the Gazi Baba detention facility. After July, due to a change in the law discussed below, the numbers of those detained in the center dropped significantly. At the time of this report at least 5 migrants were being held there. On August 26, 2015, the Macedonian government told Human Rights Watch it will continue to use the center in the future. In in-depth interviews, 30 former detainees described ill-treatment by guards, including physical and verbal abuse as well as gender-based violence against women detainees; inhuman and degrading detention conditions, including overcrowding, insufficient access to food and drinking water, and unsanitary

conditions. Conditions in Gazi Baba appeared to have had a negative impact on detainees' mental and physical health.

While Macedonia justified its detention of migrants and asylum seekers as a legitimate response to establish their identity and to deter smuggling, in practice, what is happening constitutes arbitrary detention prohibited by international law. Prolonged administrative custody, without a justification or the possibility of meaningful review, violates the prohibition on arbitrary detention in article 9 of the International Covenant on Civil and Political Rights, and Article 5 of the European Convention on Human Rights. Children enjoy particular protection under the law: migrant children should not be detained solely because of their immigration status, and where they are detained it must be as a last resort and for the shortest possible time.

According to Frontex, the EU's external border agency, in 2014 over 66,000 irregular border crossings were detected at the borders of five Western Balkan countries, Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Montenegro, and Serbia, an increase of 65 percent compared to 2013. Frontex also said that 2014 saw a significant increase in the number of Syrians and Afghans using the Greece-Macedonia border. Few asylum seekers choose to apply for asylum in Macedonia, and those who do often leave before a decision on their application. Some of those Human Rights Watch interviewed said they wanted to apply for asylum in an EU country where they have relatives or friends, while others said that the ill-treatment by police had deterred them from seeking asylum in Macedonia.

Macedonia is a candidate for EU membership. Under the Stabilization and Association Agreement, a step on the way to accession, Macedonia is expected to gradually bring its laws into conformity with those of the EU, including with respect to its asylum system and treatment of migrants under chapter 24 of the EU Acquis.

The EU has thus far not taken a strong stance on Macedonia's problematic treatment of migrants and asylum seekers. Its 2014 progress report on Macedonia urged the authorities to improve their efforts to combat increasing irregular migration "especially at the border with Greece and Serbia, which is the main onward transit route for illegal migration," without acknowledging that the vast majority of people crossing the Macedonian border are from Syria. Nationals of Syria had the highest asylum approval

rate of any nationality seeking asylum in the EU in 2014—95 percent. Furthermore, the progress report identified lack of capacity at the Gazi Baba facility but failed to criticize unsanitary conditions and ill-treatment.

In mid-2015, Macedonian authorities appeared to take steps to address some of the abuses documented in this report. In June, the national asylum law was amended to allow individuals who register the "intent" to apply for asylum with the police to remain lawfully in the country for 72 hours for the purposes of lodging an official asylum claim. The measure was designed to allow asylum seekers to travel legally through the country, as well as to dissuade them from risking their lives by walking the railway line. At this writing, it was unclear what effect this change would have on the police abuse, including at the border with Greece. However it does seem to have diminished the systematic, arbitrary detention documented in this report, as many migrants and asylum seekers decided to register their "intent" to apply for asylum and travel legally through the country instead of using smuggling networks.

Following pressure by the Ombudsman's Office and civil society groups such as the Macedonian Helsinki Committee and Legis, as well as the UN refugee agency, UNHCR, authorities also began transferring or releasing migrants and asylum seekers from the Gazi Baba detention center in June 2015. By mid-July, the facility was completely emptied for the purpose of its renovation and 50 people expected to appear as witnesses in criminal proceedings against smugglers were instead held in detention in the Asylum Center in Vizbegovo. By mid-August, there were no people held in detention in the Asylum Center in Vizbegovo. However, five migrants expected to appear as witnesses in criminal proceedings against a smuggler were held in detention in Gazi Baba.

More concerted steps are necessary to prevent and punish police abuses against migrants and asylum seekers on the streets and in detention in Macedonia. Authorities should put an immediate stop to police abuse against asylum seekers and migrants and ensure accountability for unjustified and excessive use of force.

Macedonia should ensure that migrants are detained only in exceptional circumstances, for the shortest period necessary, and with access to meaningful procedures to challenge their detention. The government should immediately cease detaining migrants and asylum seekers for the purpose of securing their testimony as witnesses in criminal proceedings

and ensure that any detention for migration purposes is necessary and proportionate, with all the procedures and safeguards set out in international and regional human rights standards. Alternatives to detention should be available. Conditions in Gazi Baba or any new immigration detention facilities should comport with international standards and ensure humane and dignified treatment.

The European Commission, as part of monitoring compliance with the EU accession requirements, should hold Macedonia to its obligations to respect the human rights of migrants and asylum seekers as a precondition for EU membership. In dialogues with Macedonian authorities, EU representatives should stress the importance of respect for the absolute prohibition on torture, inhuman, cruel or degrading treatment by the police or other government agents of migrants and asylum seekers.

Recommendations

To the Government of Macedonia

To The Prime Minister

- Publicly and unequivocally condemn all abuse against migrants and asylum seekers by the police, send a clear message that such acts are unacceptable, and ensure swift and thorough investigations into all such incidents and accountability for those found responsible.
- Ensure that all operations to identify, apprehend, and detain irregular migrants are conducted in a manner consistent with Macedonia's international human rights obligations.
- Ensure the Macedonian government promptly reviews the upcoming report by the European Committee for the Prevention of Torture and agrees to its publication.
- Ensure the Macedonian government promptly acts on the recommendations of the UN Committee against Torture (June 2015) and the UN Human Rights Committee (July 2015), with a particular attention to recommendations relating to torture and excessive use of force by law enforcement officials and recommendation pertaining to conditions of detention.

To the Ministry of Interior

- Ensure an end to police abuse against migrants and asylum seekers, whether at the border with Greece, in police stations, in facilities where migrants are held such as the Reception Center for Foreigners in Gazi Baba, or elsewhere in the country. Immediately investigate cases of police abuse and hold to account anyone found responsible.
- Give detainees access to an effective remedy whereby they can effectively challenge the lawfulness of their detention with the assistance of a lawyer, in line with standards laid out by the European Court of Human Rights.
- Issue clear guidance to police officers, including police guards inside Gazi Baba or any other facility where migrants and asylum seekers are held, that they should treat asylum seekers and migrants in a manner consistent with human rights obligations.

- Implement alternatives to detention and ensure asylum seekers are only detained as a measure of last resort and only if alternatives to detention cannot be applied effectively. Do not detain asylum seekers and migrants as a measure to secure their testimonies before court in proceedings against smugglers.
- Do not detain unaccompanied migrant children, pregnant women, or families with children. Provide all unaccompanied children with legal guardians, as required by Macedonian law, and ensure prompt and unfettered communication between guardians and the children.
- Provide competent interpreters to ensure that migrants and asylum seekers are able to communicate with staff and guards in their own languages while in custody at Gazi Baba and other facilities, including police stations.
- Ensure that detention conditions in Gazi Baba and any other facility that holds migrants meet international standards, including those relating to overcrowding, water, sanitation, hygiene, including women's specific hygiene needs during menstruation, nutrition, and access to fresh air, among others.
- Take steps toward ensuring that women detainees are attended to and supervised by female guards.
- Allow humanitarian and human rights nongovernmental organizations reasonable access to all detained migrants, in order to serve their humanitarian needs, inform and assist them regarding their rights, and monitor their conditions.
- Ensure that migrants in detention have the means to communicate with family members, the UNHCR, and legal representatives.

To the Ombudsman of Republic of Macedonia

- The Ombudsman should continue to monitor closely the situation in the Reception Center for Foreigners in Gazi Baba or any other migrant detention facilities, and investigate specific allegations of ill-treatment.

To the European Union

- As part of monitoring compliance with the EU accession acquis in general, and Chapter 24 in particular, the European Commission should ensure that respect for human rights of migrants and asylum seekers is an integral part of EU accession talks with Macedonia and a non-negotiable precondition for membership. Stress the importance of ensuring migrants and asylum seekers are not subjected to torture, inhuman, cruel or degrading treatment by the police.
- Use every opportunity to urge the Macedonian authorities to investigate cases of police abuse against migrants and asylum seekers and to bring to account those found responsible.
- Publicly communicate concerns about arbitrary detention, and the failure of current practices to meet international, regional, and EU standards, and call on the Macedonian government to end immigration detention of children.
- Assist the Macedonian government in ensuring that police treatment of migrants and asylum seekers respects fundamental rights, including non-discrimination. Allocate funds and provide technical support for specialized human rights and refugee law training for law enforcement officers.

To the Council of Europe

- The European Committee for the Prevention of Torture should continue to monitor closely the situation in the Reception Center for Foreigners in Gazi Baba or any other migrant detention facilities, and investigate the specific allegations of ill-treatment.
- The Commissioner for Human Rights should make the plight of migrants and asylum seekers a priority area of concern in his work on Macedonia, highlighting the problems documented in this report and urging concrete steps to address the shortcomings identified.

To United Nations Committee against Torture

- In its follow-up procedure, carefully assess information on investigations undertaken on police ill-treatment against migrants and asylum seekers as documented in this report, as well as steps taken to end inhuman and degrading conditions of detention in immigration facilities.

To the United Nations High Commissioner for Refugees (UNHCR)

- UNHCR should continue to carry out visits to the Reception Center for Foreigners in Gazi Baba, the Asylum Center in Vizbegovo and any other facility where migrants and asylum seekers are or might be held to ensure that asylum seekers are identified and that they have access to refugee status determination procedures, as well as to work with authorities in ensuring that asylum seekers and migrants are not detained in inhuman and degrading conditions and are not subject to ill-treatment.

To the UN Special Rapporteur on the Human Rights of Migrants

- Conduct a visit to Macedonia and other countries in the Western Balkans to assess policies and practices with respect to irregular migrants and asylum seekers, including conditions and treatment in detention as well as during border enforcement operations.

Methodology

This report is based on field research in Serbia from November 11 to December 5, 2014 and in Macedonia from January 18 to January 27, 2015. Additional interviews were conducted in Serbia on January 27, and over the phone from February to July 2015.

Human Rights Watch researchers interviewed 64 asylum seekers and migrants in Serbia and in Macedonia, including 7 interviews conducted over the phone. Out of 64 people interviewed, 42 were from Syria (including Kurds and Palestinians), 12 from Afghanistan, 3 from Somalia, and the remainder were from 7 other nations. Human Rights Watch interviewed 59 males and 5 females, including 8 children, of whom 7 were unaccompanied and one was a girl. Interviews were all in private with no others present except, where noted, for 2 family interviews involving immediate family members.

In all cases, Human Rights Watch told interviewees they would receive no personal service or benefit for their testimonies and that the interviews were completely voluntary and confidential. Unless otherwise noted, we have used pseudonyms for all migrants and asylum seekers for their protection. In some cases we have concealed other details, such as the period of their detention. All interviews are on file with Human Rights Watch.

Human Rights Watch interviewed officials of the United Nations High Commissioner for Refugees, International Organization for Migration, and staff members of various nongovernmental organizations in Macedonia, including the Red Cross in Skopje, the Macedonian Helsinki Committee, Macedonian Young Lawyers Association, the Analytica, Legis, and the Delegation of the European Union to Macedonia. We also interviewed Marinko Kocovski, assistant director of the Sector for Border Control and Migration of the Ministry of Interior; Nikola Mircevski, senior police adviser, Sector for Border Control and Migration, Ministry of Interior; Petar Sarovski, director of the Reception Centre for Foreigners in Gazi Baba, Lidija Veskovska, police adviser at the Centre, and Nikola Redjevski, social worker at the Centre. Human Rights Watch also interviewed two police officers on condition of anonymity. An interview was conducted also with Dejan Ivkovski, Head of Unit on Asylum, Migration and Humanitarian Aid with the Ministry of Labor and Social Policy. Human Rights Watch also met with the representatives from the Macedonian Ombudsman Office. The Ministry of Interior denied Human Rights Watch permission to tour the Reception Center for

Foreigners in Gazi Baba, Skopje. The Ministry of Labor and Social Policy granted us the permission to visit the Center for Asylum Seekers in Vizbegovo, Skopje.

Additional phone interviews were conducted from April until August 2015 with Médecins Sans Frontières, Macedonian Helsinki Committee, the Red Cross in Skopje, the Delegation of the European Union to Macedonia, Legis, the Macedonian Ombudsman Office, and the UNHCR.

On June 1, 2015, Human Rights Watch sent a 6-page letter to the Ministry of Interior setting out concerns about the credible allegations of police ill-treatment and arbitrary detention in inhuman and degrading conditions. The Ministry of Interior formally responded on July 23 and its response is reflected in this report. The English version of the letter is attached as an appendix to the report.

On July 20, Human Rights Watch sent a new request to the Ministry of Interior for additional information on the transfer of people out of Gazi Baba, the legal basis for their detention in the Asylum Center in Vizbegovo, the ministry's plans in regard to Gazi Baba, whether the ministry is planning to build another detention facility, and what actions has the Ministry taken to investigate abuses in Gazi Baba. The Ministry of Interior formally responded on August 26 and its response is reflected in this report. The English version of the letter is also attached as an appendix to the report.

In line with international instruments, the term "child" as used in this report refers to a person under the age of 18. We use the term "migrant" to describe foreign nationals in Macedonia; the use of the term "migrant" does not exclude the possibility that a person may be an asylum seeker—a person seeking to be recognized as a refugee or establish a claim for protection on other grounds, although the person may not be seeking asylum in Macedonia, but rather in another country. Referring to a person in this report as a migrant or an asylum seeker also does not exclude the possibility that the person may, in fact be a refugee who has not been recognized by an authority as having established that status by virtue of being outside his country and being unable or unwilling to return on account of a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion."

Police Abuse

> There is no rule when and how they will beat you, it's not like a controlled thing. For example if we are laughing or speaking they just beat you until everyone is quiet and they beat you until they are satisfied.[1]
> —Malaz, 24-year-old man from Syria

Migrants and asylum seekers interviewed for this report between November 2014 and July 2015 described to Human Rights Watch violent physical abuse, and threatening, abusive or insulting language by the police in Macedonia.[2] Physical abuse described to Human Rights Watch included being forced to run a gauntlet between rows of police officers, beatings with police batons, punching, and kicking. We heard accounts of violence at police stations, at the border with Greece, and in the immigration detention center in Gazi Baba, Skopje.

Police Abuse at the Border with Greece

Twenty-seven interviewees, including three children, said they experienced abuse during arrest and at the border with Greece. They said they were apprehended once inside Macedonian territory, physically beaten, and taken to unofficial border areas and ordered to cross back into Greece. A Macedonian police officer told Human Rights Watch he witnessed another police officer beating a man with his baton to force him into a car for a return to Greece.[3]

Nine people, in separate, private interviews, said police and border police made them and others with them run one by one, between two rows of police officers who struck them with police batons on their backs, shoulders, and heads.

Hadad, a 25-year-old man from Afghanistan, said police beat him and 12 others in a police station in Skopje: "The commander would first punch you with his fists or kick you and then shout, 'Why did you come here?' and then kick again."[4] He also said police hit him

---

[1] Human Rights Watch phone interview with Malaz [real name used upon request], March 4, 2015.

[2] While the country prefers to be called by its constitutional name, Republic of Macedonia, the European Union has maintained a practice of recognizing it only as the "former Yugoslav Republic of Macedonia", introduced by the United Nations in 1993.

[3] Human Rights Watch interview with a police officer, name withheld, Macedonia, January 21, 2015.

[4] Human Rights Watch interview with Hadad, Serbia, November 27, 2014.

and the others with police batons to force them into a truck before taking them to the Macedonian-Greek border and then, at the border, made them run between rows of police officers who struck them with batons: "They were hitting us and shouting, 'fuck your family' and 'fuck Muslims."[5]

Ayesha, a 16-year-old girl from Afghanistan said that Macedonian police beat her, her 17-year-old brother and her father on two occasions. The first time, in early January 2015, Ayesha said she went with her family to a police station near the border with Greece to ask for asylum. Police officers instead took them back to the border with Greece and ordered them to leave. Once at the border, Ayesha's father protested against being sent back to Greece:

> He was telling them we spent so many nights in the woods and that we were completely exhausted. He sat down on the ground; he did not want to go any further. At that moment, one police officer approached my father and hit him with a police baton on his back and his arm. Another police officer hit my brother with a police baton on his shoulders and third police officer hit me with a police baton on my arms.[6]

The second time, also at the border with Greece, Ayesha witnessed her father and brother being forced to run between a row of police officers who struck them and other men arrested together with her family with police batons.

A 17-year-old boy from Afghanistan said that Macedonian police officers beat him and others during a summary return to Greece in November 2014:

> Without a word, they started kicking us. I was kicked on the waist, I fell to the ground and three officers started kicking me all over. When I got up, they forced me and the rest of the group into a police car. As we were pushed into the police car, police kept beating us with batons on the shoulders and kicked us on our legs. They kept beating us inside the car all the way to the border... When I tried to speak they would just hit me with the baton.[7]

---

[5] Ibid.

[6] Human Rights Watch interview with Ayesha, Serbia, January 27, 2015. Ayesha's mother was present during the interview.

[7] Human Rights Watch interview, name withheld, Serbia, November 25, 2014.

Police Abuse in Gazi Baba

As a rule, migrants apprehended after having entered Macedonia unlawfully, have been detained in the country's sole immigration detention facility: the Reception Center for Foreigners, more commonly known as Gazi Baba, after the Skopje municipality in which it is located. The facility operates under the authority of the Ministry of Interior.

Nineteen migrants and asylum seekers, including a 16-year-old Syrian boy, told Human Rights Watch they experienced or witnessed physical violence and verbal insults at the hands of police in the Gazi Baba facility. In all of the cases we documented, the use of force was neither justified nor proportionate. Often the violence began on the first day of detention.

Salim, a 22-year-old Syrian man, told Human Rights Watch that he and 23 other people were arrested together in the outskirts of Skopje and taken to Gazi Baba in October 2014:

> When we first entered we were met by a huge man holding a big wooden bat. This was not a regular, plastic police baton... The big man with the wooden bat was hitting us and yelling at us. He broke my front tooth. He hit me on the head. I was bruised and injured. My face was bloody.[8]

Dawud, a 22-year-old man from Syria, said two guards beat him with police batons and kicked him all over his body and face, causing his lips to bleed, on the very first day of his detention in Gazi Baba in early October 2014. He would later witness what he described as the brutal beating of another Syrian man who tried to escape: "They beat him so badly and then they just carried him to the shower and poured cold water on him. Then they threw him back into the room. He didn't move for two weeks. And you could see the blood in the hallway." Dawud said the 55 days of detention that followed were the worst period of his life, and he, like many others, described random beatings.[9]

Alim, a 24-year-old also from Syria, told us guards "were hitting us whenever they had a chance."

---

[8] Human Rights Watch interview with Salim, Serbia, November 21, 2014. Human Rights Watch researchers observed that he had a broken front tooth.

[9] Human Rights Watch interview with Dawud, Serbia, December 4, 2014.

> Sometimes when we would ask why we are there, they would first curse us and throw bad words at us and then they would hit us. One time they broke a man's arm for no reason. He was just standing in the corridor. The guard approached him and knocked him down to the ground and then hit him with his boots on the arms. One of his arms, the lower part, got broken.[10]

All former detainees said police guards in Gazi Baba used insulting and derogatory language. For example, Mohammed, a 22-year-old Syrian, told us guards, "called us 'pička materina' [mother's pussy] or 'majmuni' [monkeys] so often I came to learn these words."[11]

Human Rights Watch interviewed a Macedonian police officer who worked as a guard in Gazi Baba within the last three years.[12] He confirmed that guards often abused detainees, both by assaulting them physically and by making racists statements:

> Some police officers treated people detained there like they were animals. For example, some people have been detained there for four months, they are desperate, and so they ask, 'Why do you keep us this long? We want to be free.' Police guards… would curse them and if someone was insisting to get an answer, the guards would hit them, sometimes with a police baton, sometimes they would punch them in the face.
>
> One time there was one detainee who insisted on getting more food. One of my colleagues opens the door of his room, takes this man out and hits him until he silences him. He slapped him, that doesn't leave marks; he slapped him on his head and on the back. On another situation, a detainee was asking for drugs to ease his headache. The chief, that's how we call the head of the shift, took this man out and hit him with a police baton on his body, wherever he could reach.[13]

---

[10] Human Rights Watch interview with Alim, Serbia, December 4, 2014.

[11] Human Rights Watch phone interview with Mohammed [real name used upon request], July 27, 2015.

[12] Human Rights Watch decided to conceal the exact date of when the police officer worked as a guard in the Gazi Baba for his protection.

[13] Human Rights Watch interview with police officer, name withheld, Macedonia, January 21, 2015.

Gender-based Violence against Women by Police Guards in Gazi Baba

Women are detained separately from men in Gazi Baba. Petar Sarovski, director at the Gazi Baba facility, as well as officials at the Ministry of Interior said only female guards operate in the women's section. However, Human Rights Watch interviews with three women who were detained in Gazi Baba, former male detainees, and one former male guard indicate that male guards often guard the women's wing, especially during the night shift. The former guard said this was due to the low number of women police officers in Gazi Baba: "Some nights it was me who would go inside of women's rooms and count them."[14]

Fatima, a 24-year-old Palestinian woman from Syria, who had been detained for four months in the period from January until May 2015, said once or twice per week there were only male police guards present: "But, even if there is a woman police guard, men would still enter our section whenever they wanted."[15]

All of these interviews indicate that women detainees face similar physical abuse as men, as well as gender-specific violence.

Fatima said that police guards treated her and other detained women and children "as though we are not human beings." She told Human Rights Watch that she witnessed a police officer assault a Syrian woman and her 16-year-old daughter after the woman pled with police guards to take her 2-year-old sick daughter to the hospital:

> He entered our room, walked over to her and slapped her on the face. Not once, he was slapping her with both hands repeatedly and then took her arms behind her back pressing against her and handcuffing her. When her 16-year-old daughter saw what was happening she tried to interfere. He then slapped the girl and handcuffed her too. During the whole time he was cursing them shouting bad words in Macedonian.[16]

Lamia, a 43-year-old Palestinian woman from Yarmouk, Syria, who had been detained for 72 days in Gazi Baba in the period from October until December 2014 said she and other

---

[14] Human Rights Watch interview with police officer, name withheld, Macedonia, January 21, 2015.
[15] Human Rights Watch phone interview with Fatima, July 16, 2015.
[16] Ibid.

female detainees felt unsafe and vulnerable particularly because police guards in Gazi Baba were often drunk: "They drank and they would come at night in our room to count us. Whenever they were drunk and they came to us, we stuck together; we all stayed in one room. Sometimes they tried to put their hands on you."[17]

Male former detainees also said they observed that police guards were often drunk during the night shift.

A former guard said that at least two different police guards in the detention center bragged about having sex with women detainees:

> There were two or three colleagues who would brag about having sexual intercourse with women detained. They would say to me, 'If you want to do it, we can arrange it for you.' They were not hiding this. They were proud of this.[18]

Fatima, the 24-year-old Palestinian, said she witnessed one particular officer, "N," sexually harassing two women detained. Fatima described the police officer following a 25-year-old woman from Iraq wherever she would go, trying to touch her: "She would reject him, trying to stay away from him, but he wouldn't give up. When this man gets his eyes on someone he doesn't give up. I saw multiple times how he would touch her. The girl was very scared, she asked me to stay close to her. As she continued to reject him he started to insult her."[19]

Human Rights Watch also spoke directly with Asma, a 20-year-old Syrian woman Fatima had identified as another victim of harassment, who said that the same police officer, "N" harassed her "on a daily basis" during the 148 days she spent in Gazi Baba:

> He tried whatever he could to get me alone in a room with him. He used to approach me and whisper to me that I am very beautiful and that he would help me out, that he would personally look into my case. Then he would invite me to a room saying, 'Come with me and you can make phone calls.' Even if I had stayed [in detention] a year, I wouldn't have surrendered to

---

[17] Human Rights Watch phone interview with Lamia, April 17, 2015.

[18] Human Rights Watch interview with police officer, name withheld, Macedonia, January 21, 2015.

[19] Human Rights Watch phone interview with Fatima, July 16, 2015.

> him. Touching my hair was a daily thing for him. Often he would pinch my cheeks or touch my shoulders and my back and I would take a few steps to escape from him. Once he approached me and said, 'I want to kidnap you and take you to my house.' I was very scared.[20]

Asma confirmed that male police officers often entered women's rooms at night, and said that one night "N" came to her bed, took her blanket/cover, and asked her to accompany him to a private room suggesting she could make phone calls from there. Asma said neither "N" nor any other officer touched her physically while she was asleep.

Asma told Human Rights Watch another police officer, whom she identified as "O" verbally harassed her as well. She said he would often cross her way and say things such as, "What I would do to you if you were not with your group [people she was arrested with]." Mohammed, a 22-year-old Syrian who was detained in Gazi Baba in the same period as Asma, and whom we interviewed separately, said he witnessed this guard as well as "N" harassing Asma on several occasions.

Asma told Human Rights Watch that she complained to a ranking female police officer with three blue stars responsible for the women's section: "She told me to file a complaint, but I was afraid to do that while I was there. I was also afraid it will prolong my detention so I did not."[21] Asma then explained that she spoke in details about the harassment with a female representative from the local Red Cross. HRW could not confirm whether the female police officer to whom she reported the incident reported it to her superiors or took any further action.

Human Rights Watch did not speak directly with any other women detainees who said they had experienced sexual harassment or violence.

Lack of Accountability for Abuse

As far as Human Rights Watch is aware, none of the people we interviewed had ever made any formal complaints or reports to the authorities about any ill-treatment by guards. Former detainees gave various reasons for not reporting ill-treatment: lack of knowledge

---

[20] Human Rights Watch phone interview with Asma Barsa [real name used upon request], August 11, 2015.
[21] Ibid.

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). When Human Rights Watch asked the former guard who witnessed ill-treatment by colleagues if he had reported any incidents to competent authorities, he said: "There is no one to report to nor would it change anything. I would interfere and tell my colleagues how it is wrong the way they behave towards these people but they didn't listen. I was also afraid to report."[22]

Marinko Kocovski, assistant director for the Sector for Border Affairs and Migration in the Ministry of Interior, told Human Rights Watch that people detained in Gazi Baba can report any abuses to the head of the shift, and that the internal affairs division would then investigate. He said the division had investigated the only case ever reported by a Gazi Baba detainee (an allegation of robbery), adding, "We are careful when such cases are reported."[23]

In response to our concerns about accountability for police abuse, the Ministry of Interior wrote to Human Rights Watch:

> …the competent bodies are regularly acting not only upon specific complaints and reports, but also upon knowledge obtained from the media, social networks, by means of 'public knowledge' and the like. In most part, such knowledge is too general, without even basic information, and, in most cases, contradictory.[24]

The ministry explained that investigation includes conducting interviews with persons held in Gazi Baba and the staff, and viewing surveillance videos. Furthermore, the ministry reports that Gazi Baba is regularly visited by national and international organizations whose representatives are allowed to speak in private with people held there and that therefore "chances for possible cases of violence to go unregistered are minimal."[25]

---

[22] Human Rights Watch interview with police officer, name withheld, Macedonia, January 21, 2015.

[23] Human Rights Watch interview with Marinko Kocovski, assistant director, Sector for Border and Migration, Ministry of Interior, Macedonia, January 20, 2015.

[24] Ministry of Interior of Republic of Macedonia, Letter from July 22, 2015. Appendix 1, page 3.

[25] Ibid.

Human Rights Watch, Amnesty International, and Macedonian Helsinki Committee were all denied entry to Gazi Baba despite repeated requests.[26]

The ministry affirmed that border police take into "due consideration" the Convention for the Protection of Human Rights and Fundamental Freedoms, the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment of Punishment, the 1951 Convention relating to the Status of Refugees and 1967 Protocol relating to the Status of Refugees during the procedure of detention and processing of foreigners.[27]

On August 26, 2015, the ministry informed Human Rights Watch that its Sector on Internal Control and Professional Standards has initiated disciplinary proceedings against five police guards inside Gazi Baba and that one person has been suspended.[28]

The ministry did not provide any information on whether any specific investigation or disciplinary procedures have been initiated against individual border police.

International Law on Excessive Use of Force and Ill-treatment in Detention

The cases of physical and verbal abuse we documented in this report violate the prohibition of ill-treatment enshrined in Macedonian and international law. The International Covenant on Civil and Political Rights, the European Convention on Human Rights, and the Convention against Torture, all of which Macedonia has ratified, prohibit in absolute terms torture and cruel, inhuman and degrading treatment and punishment.[29]

Macedonia has obligations under international human rights law and its own national law to undertake effective measures to prevent such treatment and to investigate and prosecute offenders. According to the jurisprudence of the European Court of Human Rights, failure to adequately investigate allegations of excessive police force is a violation

---

[26] Amnesty International, *Europe's* Borderlands: Violations against refugees and migrants in Macedonia, Serbia and Hungary, 6 July 2015, EUR 70/1579/2015, available at: https://www.amnesty.org/en/documents/eur70/1579/2015/en/ [accessed July 23, 2015], page 8.

[27] Ministry of Interior or Republic of Macedonia, Letter from July 22, 2015, Appendix 1, page 5.

[28] Ministry of Interior of Republic of Macedonia, Letter from August 26, 2015, Appendix 2, page 4.

[29] International Covenant on Civil and Political Rights (ICCPR) adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 entered into force March 23, 1976, art.7; Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, Europ.T.S. No. 5; 213 U.N.T.S. 221, art. 3; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85.

of the prohibition on torture, inhuman or degrading treatment.[30] Mistreatment while performing a duty is a criminal offense under Macedonian law.[31]

International law recognizes that there are situations where police officers may be required to use force if other means are ineffective and the use of force is proportionate. In doing so, they should apply non-violent means before resorting to the use of force, and exercise restraint when using force in order to minimize injury and respect human life.[32] Recourse to unnecessary and disproportional physical force against a person amounts to cruel or inhuman treatment.[33]

In June 2015, the United Nations Committee against Torture expressed its concerns about reports of illegitimate use of force, torture and ill-treatment by police, including ill-treatment in prisons, and impunity for these crimes, pointing out lack of monitoring and documenting of abuse in prisons and lack of external supervision or independent oversight by the police.[34] The Committee against Torture urged Macedonia to "take immediate action to put an end to ill-treatment in prisons [and] to ensure prompt, thorough and impartial investigations into allegations of torture and ill-treatment by law enforcement officials leading to the prosecution and punishment of those responsible."[35] It requested follow-up information from the government by May 2016 on steps taken to respond to the Committee's recommendations.

In July 2015, the UN Human Rights Committee also expressed its concerns about reports of police brutality and excessive use of force by police as well as reports of ill-treatment and torture by prison staff in detention facilities, and about the lack of investigation and prosecution of crimes committed by law enforcement officials.[36] The Human Rights

---

[30] *Gramada v. Romania* [2014] ECHR, Application no. 1497/09, Judgment of February 11, 2014.

[31] Criminal Code of the Republic of Macedonia, available at: http://www.legislationline.org/documents/action/popup/id/16066/preview [accessed July 7, 2015], Article 143

[32] UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officers, http://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx [accessed July 7, 2015] Article 4.

[33] UN Human Rights Council, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak : Addendum*, 5 February 2010, A/HRC/13/39/Add.5, available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.39.Add.5_en.pdf [accessed July 7, 2015] , para 188.

[34] Ibid.

[35] Ibid.

[36] United Nations Human Rights Committee, Concluding observations on the third periodic report of the former Yugoslav Republic of Macedonia, adopted by the Committee at its 114th session (June 29 – July 24, 2015), para. 12.

Committee urged Macedonia to "strengthen its efforts to eliminate police brutality and the excessive use of force by law enforcement officials and ensure that the police force receive quality professional training which includes full respect for human rights."[37] The Committee further asked Macedonia to ensure that cases of torture and excessive use of force by police are "systematically investigated, that the perpetrators are prosecuted and punished, and that appropriate compensation is awarded to the victims."[38]

Regional and international standards and recommendations concerning the treatment of prisoners and of migrants in detention indicate that women detainees should be accommodated separately from men, and should be guarded by female guards.[39]

---

[37] Ibid.

[38] Ibid.

[39] See, e.g., United Nations, "Standard Minimum Rules for the Treatment of Prisoners," adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, para. 53(3) ("Standard Minimum Rules"). These rules provide, "Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women." The Standard Minimum Rules are relevant to the detention of migrants. See also, UNHCR, Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention (Geneva, 2012), para. 59 ("The use of female guards and warders should be promoted"); UN Committee on the Elimination of Discrimination against Women (CEDAW Committee), General Recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, para. 34 ("The use of female guards and warders should be promoted"); and UN General Assembly, *Report of the Special Rapporteur on the human rights of migrants, François Crépeau*, 2 April 2012, A/HRC/20/24, available at: http://www.refworld.org/docid/502e0bb62.html [accessed 7 July, 2015], para 36. EU law on detention of asylum seekers specifically requires that women be detained separately from men unless they are related. Directive 2013/33/EU of the European Parliament and of the Council, of June 26, 2013, laying down standards for the reception of applicants for international protection, [Reception Directive}, http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013L0033&from=EN [accessed July 10, 2015], Article 11(5).

I. Inhuman and Degrading Conditions in Gazi Baba

Human Rights Watch interviews with 30 former detainees indicate that migrants and asylum seekers were detained in the Gazi Baba center for weeks or months in overcrowded, unsanitary conditions that amount to inhuman and degrading treatment. Migrants and asylum seekers in Gazi Baba did not have beds, mattresses or blankets, were deprived of the right to adequate food, water, clothing, and a minimum of space, sanitation and hygiene, privacy and security necessary for a humane and dignified existence. They lived and slept in dirty and overcrowded rooms and corridors without natural light or fresh air. Those interviewed by Human Rights Watch had been detained for up to seven months in the period between June 2014 and July 2015.

Mattresses lining the floor in a room in Gazi Baba detention facility. Photo taken by former detainee. February 2015.

Human Rights Watch researchers were not allowed to visit the inside of the center when they visited in January 2015. During a tour of the building from the outside, however, researchers saw women and children, including newborn babies, watching from behind

the barred windows. One young girl opened the window, held out a paper with an S.O.S. sign and said: "Please, help us. They beat men, there are babies here and many children and it is dirty." On the backside of the facility researchers saw more than ten men pressing against what seemed to be the only window in the male section of the facility.

Human Rights Watch has collected over 70 photographs taken by former detainees with their cell phones clearly showing dirty and thin mattresses and blankets lining the floors in rooms and in the corridors and large groups of detainees, including very small children, seated on them.

In June 2015, there were signs that the Macedonian authorities were taking steps to reduce overcrowding in Gazi Baba. At the time of our visit in January, the center director told us the facility housed 250 people in a space designed for 100 detainees. The local Red Cross told us there were in fact as many as 400 detainees at that time. In early July, the Red Cross indicated the number had been reduced to 30 detainees.[40] Danica Stoshevska, a representative of the Delegation of the European Union in Macedonia told us the Ministry of Interior was decreasing the number of people detained in Gazi Baba and considering plans to convert a former military compound in Kumanovo into detention facility.[41] Stoshevska, who had previously told Human Rights Watch that the situation at Gazi Baba was not a priority for the EU, indicated that the EU was not currently planning to fund any new facilities. The UNHCR Representative in Macedonia told Human Rights Watch the Ministry of Interior communicated their plan on a new detention facility in Kumanovo to the UNHCR in early summer 2015.[42] The UNHCR at that time informed the ministry that the UNHCR was not willing to fund any detention facility.[43]

In response to our question on whether there are plans to build another facility, the Ministry of Interior told us in writing that it analyzed the possibilities for relocating the Gazi Baba "to a building with higher capacity" and that it selected a building in Kumanovo which would "allow twice the capacity of the current [facility]."[44]

---

[40] Human Rights Watch phone interview with Suzana Paunovska, Secretary of the Red Cross in Skopje, July 8, 2015.

[41] Human Rights Watch phone interview with Danica Stoshevska, programme director on Home Affairs/EIDHR, Delegation of the European Union in the Former Yugoslav Republic of Macedonia, July 8, 2015.

[42] Human Rights Watch phone interview with the UNHCR Representative in Macedonia, August 18, 2015.

[43] Ibid.

[44] Ministry of Interior of Republic of Macedonia, Letter from August 26, 2015, Appendix 2, page 2.

Mersiha Smailović, representative of Legis, an NGO that provided humanitarian aid to people detained in Gazi Baba, and Voislav Stojkovski, a lawyer with the Macedonian Helsinki Committee, said the ministry had either released or transferred all detainees from Gazi Baba to the Centre for Asylum Seekers in Vizbegovo, Skopje, by mid-July. According to Smailović and Stojkovski, the last 50 people who were transferred to the asylum center in Vizbegovo and were expected to testify in criminal proceedings against smugglers were detained and guarded by police officers.[45] According to the UNHCR Representative and the local Red Cross these 50 people were released and by mid- August there were no people detained in the Asylum Center in Vizbegovo.[46] On August 20, 2015, Dejan Ivkovski, Head of Unit on Asylum, Migration and Humanitarian Aid with the Ministry of Labor and Social Policy, confirmed there were no people at the Asylum Center in Vizbegovo who had been transferred from Gazi Baba.[47] Six days later, the Ministry of Interior also informed Human Rights Watch, "there are no illegal migrants in the center for asylum seekers in Vizbegovo but only people from the category of asylum seekers."[48]

In a letter to Human Rights Watch dated July 23, 2015, the Ministry of Interior insisted that "at no time, including in the period when Human Rights Watch visited the Reception Centre in late January 2015," were there "even close" to 400 people in the facility.[49] The ministry acknowledged that the number of 250 people "caused serious problems for the operation" of Gazi Baba and that the Ministry of Interior increased the capacity of Gazi Baba by taking over one of the buildings within the Asylum Center complex in Vizbegovo, Skopje. The ministry said the building is "separated and secured from other buildings in the Asylum Center… and exclusively accommodates persons from vulnerable groups."[50]

The ministry said that the number of people at Gazi Baba had been "significantly reduced" by the end of July 2015 (with only eight detainees at the time of their letter) and that the center is "regularly maintained and subject to enhanced health and sanitary inspections."

---

[45] Human Rights Watch phone interview with Mersiha Smailović, representative of Legis, July 10, 2015; Human Rights Watch phone interview with Voislav Stojkovski, lawyer with the Macedonian Helsinki Committee, July 15, 2015.

[46] Human Rights Watch phone interview with the UNHCR Representative in Macedonia, August 18, 2015; Human Rights Watch e-mail communication with Suzana Paunovska, Secretary of the Red Cross in Skopje, August 18-19, 2015.

[47] Human Rights Watch e-mail communication with Dejan Ivkovski, Head of Unit on Asylum, Migration and Humanitarian Aid with the Ministry of Labor and Social Policy, August 20, 2015.

[48] Ministry of Interior of Republic of Macedonia, Letter from August 26, 2015, Appendix 2, page 3.

[49] Ministry of Interior of Macedonia, Letter from July 22, 2015, Appendix 1, page 1.

[50] Ibid.

The ministry added that it did not intend in the future to detain "illegal migrants from crisis regions" at Gazi Baba.[51]

РЕПУБЛИКА МАКЕДОНИЈА
МИНИСТЕРСТВО ЗА ВНАТРЕШНИ РАБОТИ
ПС Белградска
Број 08.2-315/13
30.06.2015 година
Скопје
Место

ПОТВРДА ЗА ИСКАЖАНАТА НАМЕРА ЗА ПОДНЕСУВАЊЕ НА БАРАЊЕ ЗА ПРИЗНАВАЊЕ ПРАВО НА АЗИЛ

1. име и презиме
2. датум на раѓање
3. пол
4. место и држава на раѓање Авганистан
5. државјанство Авганистан
6. документи кои лицето ги поседува Грчки

Лица кои го придружуваат носителот на оваа потврда (малолетни лица)

1. сродство син
2. сродство
3. сродство
4. сродство
5. сродство
6. сродство

Со овој документ се потврдува дека носителот на истиот е лице кое искажало намера да поднесе барање за признавање право на азил во Република Македонија и истото се упатува во рок од 72 (седумдесет и два часа) од моментот на неговото издавање да поднесе барање за признавање на азил пред овластеното службено лице во просториите на Одделението за азил кои се наоѓаат во Прифатниот центар за баратели на азил.

30.06.2015 година
18.00 час
Скопје
Место

М.П.

овластено службено лице

Photo of document entitled "Confirmation of the intention to apply for asylum protection" available since June 2015, to allow individuals who register the "intent" to apply for asylum to remain lawfully in the country for 72 hours. Photo by Mersiha Smailović, June 2015.

On August 18, the local Red Cross told Human Rights Watch that five migrants arrested inside of a car and without the 72-hours document that affirms their intent to seek asylum, had been detained in Gazi Baba and were expected to appear as witnesses in criminal proceedings against the driver.[52] Also on August 18, the UNHCR Representative confirmed that five migrants were detained in Gazi Baba.[53] On August 19, 2015, Human Rights Watch sent a new request to the Ministry of Interior for information on the reasons for detention of the five migrants. The Ministry of Interior did not provide a response in time to be included in this report.

Anica Tomshic Stojkovska, Counselor for Prevention of Torture with the Macedonian Ombudsman Office, told Human Rights Watch in a phone interview on July 22, 2015, that there were up to 400 people detained in Gazi Baba detention facility in June 2015 and that this had provoked an insurgence by the detainees.[54] Mersiha Smailović, representative of Legis, a

[51] Ibid, page 2.

[52] Human Rights Watch e-mail communication with Suzana Paunovska, Secretary of the Red Cross in Skopje, August 18-19, 2015.

[53] Human Rights Watch phone interview with the UNHCR Representative in Macedonia, August 18, 2015

[54] Human Rights Watch phone interview with Anica Tomshic Stojkovska, Counselor for Prevention of Torture with the Macedonian Ombudsman Office, July 22, 2015.

humanitarian NGO, said Legis delivered 350 meals during the first days of Ramadan (mid-July) for the fasting detainees.[55] Smailović explained that the deputy director of Gazi Baba provided Legis with the number of 350 fasting detainees and that they found at least as many when they went to deliver the food.

In response to our questions about the current status of Gazi Baba and whether Macedonia will continue detaining migrants, the Ministry of Interior told us in writing that the Gazi Baba is being renovated and "taking into account the current and expected situation as well as the category of people who will be accommodated [in Gazi Baba] in the future, [Gazi Baba] has met the standards for accommodation of people." [56]

Overcrowding

Male detainees sitting or lying down inside of a room in Gazi Baba detention facility. Photo taken by a former detainee. January 2015.

Out of 30 former detainees Human Rights Watch interviewed, only three people said they had access to a bed during their detention. Numerous detainees actually said they lived and slept on the floors of the corridors due to the overcrowding. They said they were forced

[55] Human Rights Watch phone interview with Mersiha Smailović, representative of Legis, July 28, 2015.
[56] Ministry of Interior of Republic of Macedonia, Letter from August 26, 2015, Appendix 2, page 1.

Due to overcrowding in Gazi Baba detention facility, many people were forced to sleep on corridors and stairs. Photo taken by a former detainee. April 2015.

to huddle up at night with no blankets. Others said they shared a room with at least 25 other people, with no bedding. Macedonian authorities confirmed that 30 to 40 people are placed in one room.[57] Photos provided by former detainees to Human Rights Watch show no floor space on which to walk and all the detainees sitting or lying down.

Mohammed, a 22-year-old man from Syria, who had been detained in Gazi Baba for five months in the period from February until July 2015, said he spent the first 21 days sleeping on the floor "with only my jacket to cover myself."[58]

Malaz, a 24-year-old man from Syria, said he spent three weeks in a humid, windowless room in the basement with 25 other people.

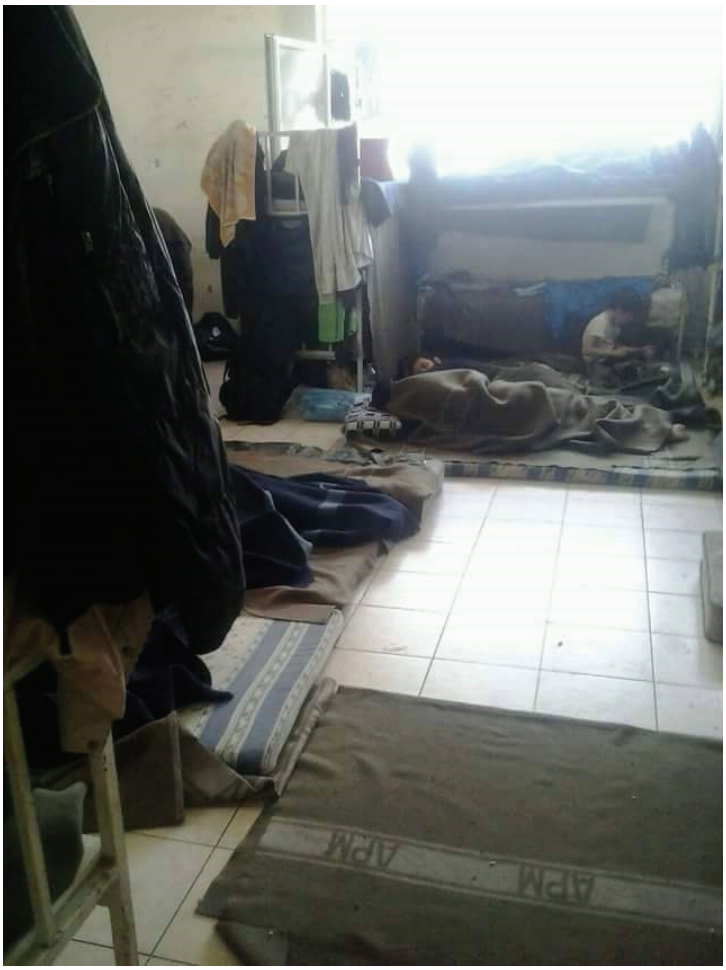
> The beds were iron beds but there were no mattresses, only small pieces of sponge, and this only for four people. The rest of the people were sleeping on the floor. For the first three days I couldn't even find a place on the floor

[57] Human Rights Watch interview with Marinko Kocovski, assistant director, Sector for Border and Migration, Ministry of Interior, and Nikola Mircevski, senior police adviser, Sector for Border Control and Migration, Ministry of Interior, Macedonia, January 20 2015.

[58] Human Rights Watch phone interview with Mohammed [real name used upon request], July 27, 2015

to sleep so I slept in the corridor. During those first three days, I did not even have a blanket. Later, some inmates gave me their blankets.[59]

Lamia, a 43-year-old Palestinian woman from Syria, who was detained in Gazi Baba for 72 days between November 2014 and January 2015, told Human Rights Watch the situation was the same in the women's section: "There were 35 or 40 women and children in my room. There were only two beds. Sometimes we would put these two beds together so four people could sleep on two beds. Each of us had two blankets only, one under you, one above you."[60]



Two detainees sleeping on mattresses huddled under a blanket as Gazi Baba detention facility. Up to 40 people are placed in one room, with no bedding. Photo taken by a former detainee. April 2015.

Lack of Fresh Air

Only 4 out of the 30 former detainees Human Rights Watch interviewed said they had been allowed outside during their months-long detention. Rashid, a 35-year-old Syrian, who was detained in Gazi Babi for two-and-a-half months, complained about the lack of light and fresh air: "We were in a lower part of the building and there was just one window with bars where you could get a little air. We were crowded there most of the time. We were not allowed to go out at all."[61]

---

[59] Human Rights Watch phone interview with Malaz [real name used upon request], March 4, 2015.

[60] Human Rights Watch phone interview with Lamia, April 17, 2015.

[61] Human Rights Watch interview with Rashid, Serbia, November 21, 2014.

Male detainees pressed against a window at the back of Gazi Baba detention facility, which witnesses say is the only window in the male section of the facility. Emina Ćerimović, January 21, 2015.

The four former detainees who were allowed to go out said they were allowed only under limited circumstances. Lamia, the Palestinian woman, said she was allowed out only three times during the 72 days she was detained. "They allowed me to see the sun only three times. But, we were not allowed to move around in the yard. We would just stand and ten minutes later they would take us in."[62]

Tariq, a 19-year-old Palestinian from Syria who was detained for two months, said, "We couldn't move around, unless when we wanted to take the trash out; and that is only time when we would get a chance to breathe some fresh air. Otherwise, it was impossible to go out."[63]

---

[62] Human Rights Watch phone interview with Lamia, April 17, 2015.

[63] Human Rights Watch interview with Tariq, Serbia, January 27, 2015.

Marinko Kocovski, assistant director of the Sector for Border Control and Migration and Lidija Veskovska, senior police adviser at Gazi Baba, said all detainees are allowed to go outside twice a day, once in the morning and again in the afternoon, in keeping with facility regulations.[64] However, Stojkovska from the Ombudsman's Office, told Human Rights Watch that Gazi Baba officials have confirmed to them that detainees were in fact not allowed out for "security reasons."[65] The Ombudsman's office published a report in April 2015 following a visit to the Center stating that detainees continue to be deprived of the right to go outside "due to the fact that this facility has not been secured with fences and lacks sufficient space for everyone housed in the Center."[66]

Limited Sanitation and Poor Hygiene

Former detainees said there were only two or three functioning, filthy toilets in the facility during their detention, and explained they had limited access to showers, and then only with cold water. Malaz, a 24-year-old man from Syria who was detained in Gazi Baba in January 2015, when the average temperature in Skopje is below zero degrees Celsius, said:

> Out of six toilets, only two were functioning. And these were nothing you would like to use. The toilet bowl was not working, it was terribly dirty, and the water there was bad. There was no hot water in the showers. You could take a shower if you could handle the cold water and it was cold in the center.[67]

---

[64] Human Rights Watch interview with Marinko Kocovski, assistant director, Sector for Border and Migration, Ministry of Interior, Macedonia, January 20 2015;Human Rights Watch interview with Lidija Veskovska, senior police adviser, January 21, 2015, Skopje, Macedonia; The Rulebook on House Rules of the Reception Center for Foreigners, Official Gazette of the Republic of Macedonia, 18 January, 2007, Article 14, also stipulates that detainees should be allowed to go out for fresh air twice per day.

[65] Human Rights Watch interview with Anica Tomshic Stojkovska, Counselor for Prevention of Torture at the Macedonian Ombudsman's office, Macedonia, January 22, 2015.

[66] Ombudsman of the Republic of Macedonia, Report following an ad-hoc visit to Centre for Foreigners on April 2, 2014: http://ombudsman.mk/upload/NPM-dokumenti/2015/Vonredna%20poseta%20PC%20za%20stranci-02.04.2015-Ang.pdf [accessed July 13,2015]

[67] Human Rights Watch phone interview with Malaz [real name used upon request], March 4, 2015.

Toilets at Gazi Baba detention facility. Photo taken by a former detainee. February 2015.

Other detainees complained to Human Rights Watch they could not use the toilets when they needed them due to overcrowding and that there was no hot water in the showers. The Ministry of Internal Affairs confirmed that some toilets and showers in Gazi Baba were not functioning properly, but denied the accounts of no hot water in the showers: "There is heating and there is hot water in the shower. They can use the showers whenever they want. However, due to the overcrowding, some showers and toilets broke down."[68] Gazi Baba staff told Human Rights Watch that six out of ten toilets in the center were functional at the time of our visit in January 2015, and said detainees were responsible for the damage to the four non-functioning ones.[69]

[68] Human Rights Watch interview with Marinko Kocovski, assistant director, Sector for Border and Migration, Ministry of Interior, Macedonia, January 20, 2015.

[69] Human Rights Watch interview with Petar Sarovski, director of the Reception Center for Foreigners – Gazi Baba, Macedonia January 21, 2015.

Showers at Gazi Baba detention facility. Photo taken by a former detainee. February 2015.

All former detainees interviewed by Human Rights Watch said they had to buy hygiene products, such as soap and toilet paper, from the guards at exorbitant prices. Malaz, the 24-year-old Syrian, explained, "In the prison there is a market – that's how they call it. Once per week you can write on a paper [the] things you need. The police officer tells you the price. You don't pay less than €10 for anything."[70] Daahir, a 26-year-old man from Somalia, said: "It was a typical black market. Something costs €5 but they will charge you €20."[71]

Lamia said women detained at Gazi Baba did not have access to sanitary products, such as pads for menstruation: "We could get pads only if we pay. The prices were extremely high. I spent €500 [for basic necessities, including food and hygiene products,] for the time [72 days] I was there."

Fatima, the 24-year-old Palestinian woman, said she had to pay for any hygiene products, including toilet paper, soap, and sanitary napkins for menstruation.[72]

---

[70] Human Rights Watch phone interview with Malaz [real name used upon request], March 4, 2015.

[71] Human Rights Watch interview with Daahir, Serbia, November 27, 2014.

[72] Human Rights Watch phone interview with Fatima, July 16, 2015.

In response to our concerns about poor hygiene and sanitary conditions, the Ministry of Interior told us in writing that "the maintenance of hygiene in the building is entrusted to a private company, while epidemiological and immunological protection is realized in cooperation with public health institutions."[73]

Poor Quality and Insufficient Quantity of Food and Safe Drinking Water

Each detainee at Gazi Baba is given a daily ration of only one small can of food and a piece of bread, and two additional cans on Fridays to last through the weekend. The director of the center explained that there is no kitchen in the facility and no possibility to prepare proper meals.[74] Eight people who were detained there for a short time in the so-called "deportation room" told us they were given food only if they could pay. Detained children are not provided with the needed age-appropriate nutrition and care.

Malaz explained, "One day you will get canned tuna or cheese, or sardines, sometimes jam. So, every single day, only once per day, this is all the food you get."[75]

All former detainees said they had no choice but to buy additional food from police officers. Ahad, the 16-year-old boy from Syria, said, "It was never enough and we had to purchase additional food from police officers. If you want to buy something you write it down and police will buy it for you. It was very expensive."[76]

Hafes, a 22-year-old Syrian, said he spent €250 on basic necessities during the 55 days he spent in Gazi Baba.[77]

The Rulebook on House Rules of the Reception Center was amended in May 2013 as to allow police officers to use money of detainees that was confiscated upon detention "upon oral request from foreigners, to buy them food, clothes and other items for personal use."[78]

---

[73] Ministry of Interior of Republic of Macedonia, Letter from July 22, 2015, Appendix 1, page 1.

[74] Human Rights Watch interview with Petar Sarovski, director of the Reception Center for Foreigners – Gazi Baba, Macedonia January 21, 2015.

[75] Human Rights Watch phone interview with Malaz [real name used upon request], March 4, 2015.

[76] Human Rights Watch interview with Ahad, Macedonia, January 22, 2015.

[77] Human Rights Watch interview with Hafes, Serbia, December 4, 2014.

[78] Ministry of Internal Affairs, Rulebook on Amending the Rulebook on House Rules of the Reception Center for Foreigners, Official Gazette of the Republic of Macedonia issue 75, 21 May 2013, Article 3.

Virtually all former detainees said they were not given bottled water and drank from the kitchen and toilet sinks, if they could not afford to buy water from the guards. For example, Tariq said, "We used to drink water from the bathroom. We weren't given drinking water."[79] Because all the former detainees said the water did not appear to be potable, those who could had to buy water. For example, Fatima said, "The water in the toilet was dirty to drink so I and other women detained had to buy bottled water from guards."[80]

Impact of Detention on Health

Conditions and treatment in Gazi Baba may have had serious consequences for detainees' mental and physical health. Many of those interviewed by Human Rights Watch complained about depression, sleep problems, and skin diseases during and after release that they associated with their detention at Gazi Baba.

Lamia, the Palestinian woman from Syria, described depression and suicidal thoughts she had because of her detention: "I tried to kill myself. I wanted to take pills but my friend stopped me."[81] She said she is still traumatized by her experience in Gazi Baba: "Sometimes I wake up at night and at first I don't know where I am. I am afraid often. I have a phobia of the police wherever I go."[82]

Tariq, a 19-year-old Palestinian man from Syria, said he witnessed a detainee trying to commit suicide.[83]

Fatima, the 24-year-old Palestinian woman from Syria, who had been detained for four months in Gazi Baba, said she experienced severe depression during the last month of the detention: "I came to believe I would never get out. I refused to eat or drink for days. I was sleeping all days. I refused to speak. I did not want even to speak with my mother when they offered me to call her in Syria." [84] Fatima said she also missed two menstrual cycles during her detention, which she thought was because of the stress.

---

[79] Human Rights Watch interview with Tariq, Serbia, January 27, 2015.
[80] Human Rights Watch phone interview with Fatima, July 17, 2015.
[81] Human Rights Watch phone interview with Lamia, April 17, 2015.
[82] Ibid.
[83] Human Rights Watch interview with Tariq, Serbia, January 27, 2015.
[84] Human Rights Watch phone interview with Fatima, July 17, 2015.

Interviewees said poor sanitary and hygiene conditions lead to physical health problems. Malaz, explained, "I have genetic asthma, but usually I do not have problems. But, the environment in Gazi Baba made it very hard, it was terrible."[85]

Five former detainees, including Malaz, said they had contracted skin diseases while in Gazi Baba, which they attributed to unsanitary conditions, poor hygiene, and the lack of fresh air and sunlight. Daahir, from Somalia, said he contracted a skin disease. He said he couldn't take a shower when he needed and he was never allowed to go outside for fresh air: "I went to see the doctor in prison and he told me I needed the sun. Police officers didn't let me out even then."[86]

Stojkovska told Human Rights Watch that the Ombudsman Office found cases of infectious conditions, including contagious skin diseases such as scabies and head lice during their visit in June 2015.[87]

Detention of Children

Families with children and unaccompanied children were detained in Gazi Baba. Petar Sarovski, the director of Gazi Baba, told Human Rights Watch that 146 children were detained in the facility in 2014, of whom 64 were unaccompanied. [88] While Sarovski was unable to tell us how many children were present at the time of our visit in January 2015, a representative of the local Red Cross said 46 women and children were detained in Gazi Baba at that time, including five newborn babies and ten older children, two of whom were unaccompanied by an adult relative.[89]

When we spoke in January 2015, Kemal, a 30-year-old Syrian, told us his wife, at the time in her fourth month of pregnancy, and his 3-year-old child were detained in Gazi Baba. Kemal said, "The child can't endure staying there. What is the child guilty of?"[90]

---

[85] Human Rights Watch phone interview with Malaz [real name used upon request], March 4, 2015.

[86] Human Rights Watch interview with Daahir, December 1, 2014.

[87] Human Rights Watch phone interview with Anica Tomshic Stojkovska, Counselor for Prevention of Torture with the Macedonian Ombudsman Office, July 22, 2015.

[88] Human Rights Watch interview with Petar Sarovski, director of the Reception Center for Foreigners – Gazi Baba, Macedonia January 21, 2015.

[89] Human Rights Watch interview with Suzana Paunovska, Secretary of the Red Cross in Skopje, Macedonia, January 20, 2015.

[90] Human Rights Watch interview with Kemal, Serbia, January 27, 2015.

Human Rights Watch was able to speak to only one unaccompanied child, a 16-year-old Syrian boy, Ahad, who was detained in the center for four months. Ahad said Macedonian police arrested him and seven other unaccompanied Syrian children early in the morning in front of the Asylum Center in Vizbegovo where they had spent the night outdoors awaiting the chance to apply for asylum.

> At 7 a.m. two police officers came and they arrested all of us. They told us they will take us to asylum. I told them I was sixteen and I showed them the papers I had from Greece. They then took us to Gazi Baba.[91]

Ahad said he and his seven friends were then detained in a room with 20 unrelated adults for the four months they spent there.[92]

In keeping with international law and best practices, Macedonian law provides that children separated from parents or guardians should be assigned a legal guardian. Such assistance is not, in practice, provided.

Staff from the Macedonian Ombudsman's Office interviewed 17 unaccompanied children detained in Gazi Baba at the time of their visit in November 2014.[93] While files indicated that all had been appointed legal guardians, interviews with all these children confirmed that none had ever been visited by or had any knowledge of having a guardian.[94]

Ahad did not even understand when a Human Rights Watch researcher asked whether he or any of his friends were assigned a guardian during detention in Gazi Baba. "I was never visited by anyone. They did not give me a lawyer or an interpreter. They wouldn't allow us to speak. I was not even allowed to call my family. During the four months I was allowed to use the phone only once."[95]

---

[91] Human Rights Watch interview with Ahad, Macedonia, January 22, 2015.
[92] Ibid.
[93] Human Rights Watch meeting with the representatives of the Ombudsman office, Macedonia January 22, 2015.
[94] Ibid.
[95] Human Rights Watch interview with Ahad, Macedonia, January 22, 2015.

The Ministry of Interior told Human Rights Watch that the Ministry of Labour and Social Policy is informed when unaccompanied migrant children are detained for the purpose of "immediate appointment of guardians."[96]

However, Stojkovska told Human Rights Watch that the Ombudsman's Office had encountered an 11-year-old unaccompanied boy in Gazi Baba in June 2015. Stojkovksa said he had been detained for three weeks by the time of their visit with unrelated adults and without any protection mechanism or specific care.[97] It was only following the Ombudsman Office's intervention that the boy was provided with a guardian and placed with a foster family.

The Convention on the Rights of the Child (CRC), to which Macedonia is a party, stipulates that the detention of children "shall be used only as a measure of last resort and for the shortest appropriate period of time."[98] The UN Committee on the Rights of the Child, the body charged with overseeing implementation of the CRC, has found that detention of children based on their migration status is always a violation of child rights and has called on countries to "expeditiously and completely" cease detaining children on that basis.[99]

The detention of children with unrelated adults is also a violation of international law and standards.[100]

---

[96] Ministry of Interior of Republic of Macedonia, Letter from July 22, 2015, Appendix 1, page 4.

[97] Human Rights Watch phone interview with Anica Tomshic Stojkovska, Counselor for Prevention of Torture with the Macedonian Ombudsman Office, July 22, 2015.

[98] Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 37(b).

[99] Committee on the Right of the Child, Report of the 2012 days General Discussion, The Rights of All Children in the Context of International Migration, http://www2.ohchr.org/english/bodies/crc/docs/discussion2012/2012CRC_DGD-Childrens_Rights_InternationalMigration.pdf. The UN Special Rapporteur on torture and the Council of Europe's Commissioner for Human Rights have made similar calls. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan Mendez. March 5, 2015, http://www.refworld.org/pdfid/550824454.pdf, para 80; Commissioner for Human Rights. Positions on the rights of minor migrants in an irregular situation. Strasbourg June 25, 2010. CommDH/PositionPaper (2010)6, available at: https://wcd.coe.int/ViewDoc.jsp?id=1654377. The European Court of Human Rights has found that even short-term detention of migrant children was a violation of the prohibition on torture and ill-treatment. *Popov v. France*, ECtHR, Judgement of January 19m, 2012; *Rahimi v. Greece*, Judgment of April 5, 2011; *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, Judgment of October 12, 2002.

[100] Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 37(c); UN Rules for the Protection of Juveniles Deprived of their Liberty, *resolution / adopted by the General Assembly.*, 2 April 1991, A/RES/45/113, Rule 29; United Nations, *Standard Minimum Rules for the Treatment of Prisoners*, 30 August 1955, available at: http://www.refworld.org/docid/3ae6b36e8.html [accessed 29 July 2015], rule 8 (d).

In June 2015, the UN Committee against Torture also expressed its concerns about detention of unaccompanied migrant children in Macedonia, including children being kept in the same facilities as adults, and about lack of contacts between appointed guardians and children.[101] The Committee against Torture urged Macedonia to find alternative accommodation for unaccompanied children to ensure they are not kept together with adults and to ensure legal guardians regularly contact the children and take measures to provide legal aid for them.[102]

Macedonia's Legal Obligations

International human rights law requires authorities to provide safe and humane conditions of confinement. The International Covenant on Civil and Political Rights (ICCPR), which Macedonia has ratified, mandates that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person (Article 10).[103] The ICCPR, the Convention against Torture, and the European Convention on Human Rights all prohibit torture and cruel, inhuman, or degrading treatment, as does the Convention on the Rights of the Child.[104] The European Court of Human Rights has found that overcrowding of prison cells and detention facilities, lack of natural light and ventilation, insufficient food, inadequate medical care and unsatisfactory conditions of hygiene and sanitation, denial of daily outdoor exercise, and lack of mattresses and beds taken together with the duration of detention, amount to degrading treatment.[105]

---

[101] UN Committee against torture, Concluding observations on the third periodic report of the former Yugoslav Republic of Macedonia, adopted by the Committee at its fifty-fourth session (20 April–15 May 2015), CAT/C/MKD/CO/3, available at: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/114/89/PDF/G1511489.pdf?OpenElement [accessed August 3, 2015], para 19.

[102] Ibid.

[103] International Covenant on Civil and Political Rights (ICCPR) adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 entered into force March 32, 1976, art. 10.

[104] International Covenant on Civil and Political Rights (ICCPR) adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 entered into force March 32, 1976, art.7; Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, Europ.T.S. No. 5; 213 U.N.T.S. 221, art. 3; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85; Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 37 (a)

[105] European Court of Human Rights, *Melnik v. Ukraine,* application no. 72286/01, judgment of March 28, 2006, available at: hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-72886#{"itemid":["001-72886"]*;* European Court of Human Rights, A*bdolk and Karimnia v. Turkey,* application no. 30471/08, judgment of September 22, 2009, available at: http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-94127#{"itemid":["001-94127"]}; European Court of Human Rights, *Petriks v Latvia*, application no. 19619/03, judgment of December 4, 2011., http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-114935; European Court of Hyman Rights, *Varga and others v. Hungary,* application nos. 14097/12, 45135/12, 73712/12, 34001/13, 44055/13, and 64586/13, judgment of March 10, 2015, available at: http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-152784

The UN Special Rapporteur on Torture has concluded that the combination of the deprivation of liberty and the deprivation of basic rights such as the rights to food, water, health care, and a minimum of space, hygiene, and privacy "amount to a systematic practice of inhuman or degrading treatment or punishment."[106]

International standards and UN treaty body interpretations addressing the treatment of prisoners and migrant detainees provide that they should have access to facilities and materials required to meet women's specific hygiene needs, including sanitary napkins during menstruation and a regular supply of water.[107]

Macedonia is a candidate for EU membership and is expected to gradually bring its laws into conformity with those of the EU, including with respect to detention. EU law requires that detained asylum seekers have access to open-air spaces and are enabled to communicate and be visited by the UNHCR, non-governmental organizations, legal advisers or counselors and family members.[108]

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has found that overcrowding, inadequate health care, inaccessibility of sanitary and washing facilities, and lack of hygienic items for women can amount to inhuman and degrading conditions of detention.[109] The European Committee for the Prevention of Torture carried out a visit to Gazi Baba in October 2014 and discussed the

---

[106] Report of the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, *Study on the phenomena of torture, cruel, inhuman or degrading treatment or punishment in the world, including an assessment of conditions of detention,* para 230 http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.39.Add.5_en.pdf

[107] The "Standard Minimum Rules for the Treatment of Prisoners," provide in para. 12, "The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner." The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (General Assembly resolution 65/229, annex, Rule 5) provide, "The accommodation of women prisoners shall have facilities and materials required to meet women's specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating." The UNHCR Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives, para. 59, provide that facilities and materials are required to meet women's specific hygiene needs. CEDAW Committee General Recommendation No. 32, paras. 34 and 48, also addresses sanitary facilities and women's specific hygiene needs.

[108] Directive 2013/33/EU of the European Parliament and of the Council, of June 26, 2013, laying down standards for the reception of applicants for international protection, (Reception Directive), http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013L0033&from=EN, Article 10 (2), (3), and (4).

[109] Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 2nd General Report [CPT/Inf (92) 3], para 46; 7th General Report [CPT/Inf (97) 10], para 13; 3rd General Report [CPT/Inf (93) 12], para 30; 10th General Report [CPT/Inf (2000) 13], para 3.

findings with Macedonian officials in March 2015. The Committee's report had not been published at the time of the writing of this report.

In June 2015, the UN Committee against Torture expressed its concerns about detention of migrants in Gazi Baba "where conditions of detention reportedly amount to inhuman and degrading treatment in violation of the Convention, including overcrowding."[110] The Committee urged Macedonia to "immediately take measures to put an end to the inhuman and degrading conditions of detention in the Gazi Baba detention center."[111]

In July 2015, the UN Human Rights Committee expressed concerns about "reports of poor living conditions in [Macedonian] detention facilities, including a high rate of overcrowding, security concerns, and poor sanitary and health conditions.[112] The Committee urged Macedonia to improve the living conditions in detention facilities with a view to achieving full compliance with the requirements of article 10. It should also take measures to reduce overcrowding, including by using alternatives to detention.[113]

---

[110] UN Committee against torture, Concluding observations on the third periodic report of the former Yugoslav Republic of Macedonia, adopted by the Committee at its fifty-fourth session (20 April–15 May 2015), CAT/C/MKD/CO/3, available at: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/114/89/PDF/G1511489.pdf?OpenElement [accessed August 3, 2015], para 19.

[111] Ibid.

[112] United Nations Human Rights Committee, Concluding observations on the third periodic report of the former Yugoslav Republic of Macedonia, adopted by the Committee at its 114th session (June 29 – July 24, 2015), para. 13.

[113] Ibid.

II. Arbitrary Detention

> I kept asking every day, 'Why am I in prison? Why am I here? I am a victim?' They [the guards] said, 'You are not in a prison. If you want, we will take you to a real prison' … I didn't talk to anybody … They didn't ask me anything about Syria or who I was with. I was never issued any papers, no documents.[114]
> — Rashid, 34-year-old from Syria.

Systematic, open-ended detention in deplorable conditions in Gazi Baba, without any meaningful ability to challenge the detention constitutes arbitrary detention in violation of international law and contributes dramatically to detainees' mental anguish.

Macedonian law allows the Ministry of Interior to remand into temporary detention in Gazi Baba undocumented migrants who cannot be "forcibly removed" or whose identity cannot be established.[115] Although the same law explicitly excludes asylums seekers, in practice asylum seekers are detained in Gazi Baba.[116] According to Sarovski, the facility's director, out of 869 people detained in 2014, 600 of them applied for asylum protection once detained.[117]

Macedonian authorities told Human Rights Watch that migrants and asylum seekers are detained in order to establish their identity and to ensure their availability to testify in criminal proceedings against people suspected of committing the criminal offense of smuggling of migrants. Sarovski said: "We accommodate migrants in Gazi Baba in order to establish their identity. Once they are accommodated, we contact the court. They are usually witnesses for two months. In case the procedure lasts longer, they will stay longer. Some stay here for more than five months."[118]

---

[114] Human Rights Watch interview with Rashid, Serbia, November 20, 2014

[115] Law on Foreigners, Official Gazzette of the Republic of Macedonia No. 35, 23 March 2006, Article 108.

[116] Ibid., Article 3.

[117] Human Rights Watch interview with Petar Sarovski, director of the Reception Center for Foreigners – Gazi Baba, Macedonia January 21, 2015.

[118] Ibid.

Detainees may be held long after they appear in court. Mohammed, a 22-year-old Syrian who was detained in Gazi Baba for five months, told us he testified in court a month after he was detained, but was released only four months later.[119]

Marinko Kocovski, assistant director of the Sector for Border Control and Migration in the Ministry of Interior, acknowledged that people are kept in detention even after they lodge asylum claims: "In cases where they express their intention to apply for asylum but the court requests them as witnesses, we keep them here. It would otherwise be difficult to secure these people as witnesses."[120] Žarko Hadži-Zafirov, attorney at law, told Human Rights Watch, "it is a discretionary right of the Public Prosecutor or judge to decide when they will be released."[121] The UNHCR Representative and Anica Tomshic Stojkovska, of the Macedonian Ombudsman Office, confirmed the practice of detaining people, including asylum seekers, in order to secure their testimony before a court in criminal proceedings against smugglers.[122] Stojkovska indicated that pressure from the Ombudsman Office and the nongovernmental organization Legis on the Interior Ministry as well as the Public Prosecutor's office, led to steps to speed up proceedings and to the release of many people in June and July 2015.[123]

None of the former detainees interviewed by Human Rights Watch were aware of steps taken by the authorities to establish or verify their identity. Fourteen said they had their passports or other ID documents with them when they were detained. Such documents were routinely confiscated from the detainees, and not always returned upon release.

Formally, detainees in Gazi Baba may challenge the Ministry of Interior decision to place them in detention.[124] The law stipulates that detainees can appeal the decision within eight days to the State Commission for Decision-making in Administrative Procedure and Labor Relations Procedure, an administrative body, and provides for a second instance appeal.[125]

---

[119] Human Rights Watch phone interview with Mohammed [real name used upon request], July 27, 2015.

[120] Human Rights Watch interview with Marinko Kocovski, assistant director, Sector for Border and Migration, Ministry of Interior, Macedonia, January 20 2015.

[121] Human Rights Watch Interview with Zarko Hadzi Zafirov, lawyer, Macedonia, January 21, 2015.

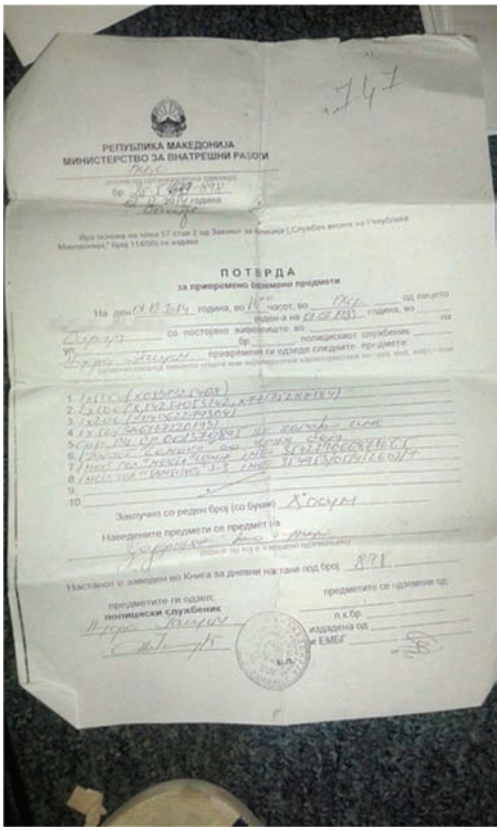
[122] Human Rights Watch meeting with the UNHCR Representative to Macedonia, Macedonia, January 22, 2015; Human Rights Watch Interview with Anica Tomsic Stojkovska, Counselor for Prevention of Torture at the Macedonian Ombudsman office, Macedonia, January 22, 2015.

[123] Human Rights Watch phone interview with Anica Tomshic Stojkovska, Counselor for Prevention of Torture with the Macedonian Ombudsman Office, July 22, 2015.

[124] Law on Foreigners, Official Gazette of the Republic of Macedonia No. 35, 23 March 2006, Article 108.

[125] Ibid.

In practice, however, not a single former detainee interviewed by Human Rights Watch had received a copy of the decision on detention or had access to information about their rights or to a lawyer for the purposes of challenging their detention. Dawud, a 22-year-old Syrian man who spent 55 days in Gazi Baba, said that despite the ill-treatment he experienced and witnessed and the terrible conditions of confinement, the worst part was the lack of information and communication with the outside world: "It was a prison, but worse. No one came to visit us. No lawyer. No interpreter. Each and every day we would just be waiting for when we would get released or when we would be taken before a judge."[126]


РЕПУБЛИКА МАКЕДОНИЈА
МИНИСТЕРСТВО ЗА ВНАТРЕШНИ РАБОТИ

ПОТВРДА
за привремено одземени предмети

"Confirmation of temporary forfeiture" which includes the date, name of the detainee, and a list of belongings that were confiscated. This is the only document detainees received from authorities in Gazi Baba detention facility. Photo taken by a former detainee. December 2014.

Seven former detainees showed Human Rights Watch researchers the only document they received from authorities inside of Gazi Baba. The document, in Macedonian, is titled "Confirmation of temporary forfeiture" and includes the date, name of the detainee, and a list of belongings that were confiscated.

Alim, a 24-year-old man from Syria said police officers in Gazi Baba beat him and others when they inquired about their detention: "They did not explain anything to us. When we asked questions, they beat us, so nobody asked."[127] Malaz, a 24-year old Syrian also said that guards would become violent when detainees asked for an explanation for their detention: "Whenever I asked 'why am I here' or 'when will I get out' they would beat me."[128]

As a consequence, Malaz said, the only information he received was from other

[126] Human Rights Watch interview with Dawud, Serbia, December 4, 2014.
[127] Human Rights Watch interview with Alim, Serbia, December 4, 2014.
[128] Human Rights Watch phone interview with Malaz [real name used upon request], March 4, 2015.

detainees. The lack of information from official sources is exacerbated by detainees' limited access to lawyers. None of the former detainees we interviewed had been able to speak with a lawyer. Lamia, the 43-year-old Palestinian woman from Syria, said, "They told us if you want a lawyer we will take you back to Greece or you will have to stay longer here."[129]

Hadži-Zafirov, the attorney at law, told Human Rights Watch he had submitted several requests to visit people detained but that these requests were not approved.[130]

Former detainees also said they had limited access to telephones, were not allowed to communicate with their families, and were not allowed to have visits. For example, Daahir, a 27-year-old man from Somalia, said:

> I wasn't even allowed to let my family know where I am. Usually what we would do is give numbers of our families to people who are about to leave the prison so that they could call and inform our families about our whereabouts and wellbeing.[131]

Some, like Dawud, a 22-year-old Syrian, were able to call only after bribing a police officer: "I paid €30 for one minute to call my family."[132]

As mentioned above, Human Rights Watch was denied authorization to tour Gazi Baba and talk to detainees. Local non-governmental organizations, such as the Macedonian Helsinki Committee and Legis were also long banned from accessing people held there despite official requests. Legis, a humanitarian NGO, was granted authorization to bring hygienic supplies and food to Gazi Baba in May 2015 after repeated requests. The Association of Macedonian Young Lawyers, an NGO that provides free legal aid to asylum seekers, told Human Rights Watch they could also not visit people held in Gazi Baba. The UNHCR and the Red Cross in Skopje were the only organizations to confirm they were allowed to regularly visit Gazi Baba.

Kocovski, from the Ministry of Interior, denied these allegations saying detainees have access to lawyers but choose not to avail themselves of that right: "They don't want

---

[129] Human Rights Watch phone interview with Lamia, April 17, 2015.
[130] Human Rights Watch Interview with Zarko Hadzi Zafirov, lawyer, Macedonia, January 21, 2015.
[131] Human Rights Watch interview with Daahir, Serbia, December 1, 2014.
[132] Human Rights Watch interview with Dawud, Serbia, December 4, 2014.

lawyers. Most people are informed: with or without a lawyer they will be released."[133] Gazi Baba director Sarovski also told Human Rights Watch that detainees are allowed to receive visits by lawyers, consular officials, and NGOs.[134] In a July 2015 letter, the Ministry of Interior reiterated that detainees in Gazi Baba are entitled to visits from family members, friends, and legal representatives, and may make telephone calls.[135]

In a July 2015 letter to Human Rights Watch, the Ministry of Interior argued that detention in Gazi Baba was not arbitrary because it was based on the Law on Foreigners which allows "accommodation" of foreigners who cannot be forcibly deported from the country and of foreigners who lack valid travel documents.[136] The letter further referred to the provisions of the Law on Foreigners, which obliges the Ministry of Interior to issue a decision on "temporary holding" and provisions on the right to appeal.

In the July and August 2015 letters to Human Rights Watch, the Ministry of Interior does not talk about migrants being "detained," but rather "accommodated."[137] According to UNHCR, the Public Prosecutor also does not consider migrants who are held in Gazi Baba as witnesses to be "detained," but "accommodated" as injured parties to cases against smugglers.[138]

The ministry asserted that all people held in Gazi Baba are "immediately upon admission […] informed of their rights and obligations" and that these rights and obligations have been translated into several languages, including Arabic.[139] The ministry further said that interpreters are available during visits by legal representatives. However, the ministry also acknowledged there are shortcomings due to insufficient numbers of available interpreters. The ministry informed Human Rights Watch they are trying to find a solution to solve this problem.[140]

---

[133] Human Rights Watch interview with Marinko Kocovski, assistant director, Sector for Border and Migration, Ministry of Interior, Macedonia, January 20 2015.

[134] Human Rights Watch interview with Petar Sarovski, director of the Reception Center for Foreigners – Gazi Baba, Macedonia January 21, 2015.

[135] Human Rights Watch interview with Marinko Kocovski, assistant director, Sector for Border and Migration, Ministry of Interior, and Nikola Mircevski, senior police adviser, Sector for Border Control and Migration, Ministry of Interior, Macedonia, January 20 2015.

[136] Ministry of Interior of Republic of Macedonia, Letter from July 22, 2015, Appendix 1, pages 2-4.

[137] Ibid. Ministry of Interior of Republic of Macedonia, Letter from August 26, 2015, Appendix 2.

[138] Human Rights Watch phone interview with UNHCR Representative in Macedonia, August 18, 2015.

[139] Ibid, pages 4-5.

[140] Ibid, page 5.

Legal Obligation: Freedom from Arbitrary Detention

Macedonia's policy of systematic, prolonged detention of migrants and asylum seekers without a meaningful possibility of judicial review or remedy amounts to arbitrary detention prohibited by international law. The International Covenant on Civil and Political Rights (ICCPR) forbids arbitrary detention and provides that no one shall be deprived of liberty except on such grounds and in accordance with such procedures as are established by law.[141] The European Convention on Human Rights (ECHR) permits detention to prevent unauthorized entry into the country and for the purposes of deportation or extradition, but requires that everyone be informed of the reason for the detention in a language he or she can understand, and have a meaningful right to contest the lawfulness of the detention.[142]

Systematic detention in Gazi Baba for the purpose of securing witnesses in criminal proceedings against smugglers is not prescribed in national law.

Furthermore, the UN Human Rights Committee, tasked with interpreting and monitoring compliance with the ICCPR, has stated that "the notion of 'arbitrariness" must not be equated solely with 'against the law,' but be interpreted more broadly to include such elements as inappropriateness and injustice.[143] The UN Working Group on Arbitrary Detention considers prolonged administrative custody of asylum seekers and migrants without the possibility of administrative or judicial review or remedy to be arbitrary detention."[144]

Human Rights Watch takes the view that systematic detention of asylum seekers and migrants in inhuman and degrading conditions in Gazi Baba in order to ensure their presence as witnesses in criminal proceedings is not only unlawful, but also disproportionate and unnecessary to the aim of prosecuting smugglers.

Macedonia's detention policies also do not correspond with the limited circumstances in which detention of asylum seekers is permissible. UNHCR's guidelines emphasize that the

---

[141] International Covenant on Civil and Political Rights (ICCPR) adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 entered into force March 32, 1976, art. 9.

[142] Convention for the Protection of Human Rights and Fundamental Freedoms, CETS No.: 005, Rome November 4, 1950, article 5. Macedonia has been a party to the Convention since 1997.

[143] *A. v. Australia*, CCPR/C/59/D/560/1993, UN Human Rights Committee (HRC), 3 April 1997, available at: http://www.refworld.org/docid/3ae6b71a0.html [accessed 17 July 2015], para 9 (2).

[144] Report of the Working Group on Arbitrary Detention, Annex, para. 8(d), January 17, 2011, http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-47.pdf, (accessed May 21, 2015).

detention of asylum seekers should only be a measure of last resort, when justified by a legitimate purpose and based on an individual assessment of its necessity.[145]

Arbitrary detention also runs afoul of European Union laws with which Macedonia must comply if it wishes to become a member of the EU. Undocumented migrants may be detained pending removal when there exists the risk of absconding or the migrant obstructs the removal process; such detention must be for the shortest period possible, subject to periodic review, and authorities must show due diligence.[146] Detention of asylum seekers is only permissible when less coercive alternative measures prove ineffective and on the basis of an individual assessment.[147] All detainees must receive detention orders in writing, and have access to legal representatives and speedy judicial review when detention is ordered by an administrative authority.[148]

In June 2015, the UN Committee against Torture urged Macedonia to ensure that detention is applied only as a last resort, when "determined to be strictly necessary in each individual case and for as short a period as possible, and that alternatives to detention are available in law and implemented in practice." [149] The Committee further urged Macedonia to ensure that asylum seekers, irregular migrant and refugees are not held in detention indefinitely, by including statutory time limits for detention and access to an effective judicial remedy to review the necessity of the detention.[150] In a sign of the seriousness with which the Committee approaches this issue, it required Macedonia to report back by May 2016 on the steps undertaken to fulfill these recommendations.

---

[145] Office of the United Nations High Commissioner for Refugees, Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, 2012, available at: http://www.unhcr.org/505b10ee9.html (accessed July 21, 2015), guidelines 1, 2 and 4.

[146] Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (Returns Directive), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF, Article 15.

[147] Directive 2013/33/EU of the European Parliament and of the Council of June 26, 2013, laying down standards for the reception of applicants for international protection (Reception Directive), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0096:0116:EN:PDF, Article 8.

[148] Reception Directive, Articles 9 (2) and (3); Returns Directive, Article 15 (2). Detainees must be immediately informed in a language they understand, or are reasonably supposed to understand, the reasons for their detention and the possibilities for challenging their detention (Art 9.4), EU Return Directive, Article 15(2).

[149] UN Committee against torture, Concluding observations on the third periodic report of the former Yugoslav Republic of Macedonia, adopted by the Committee at its fifty-fourth session (20 April–15 May 2015), CAT/C/MKD/CO/3, available at: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/114/89/PDF/G1511489.pdf?OpenElement [accessed August 3, 2015], para 19.

[150] Ibid.

Acknowledgements

Emina Ćerimović, Koenig fellow in the Europe and Central Asia Division, researched and authored this report. Bill Frelick, Refugee Program Director, Judith Sunderland, associate Europe and Central Asia director, Benjamin Ward, deputy Europe and Central Asia director, and Lydia Gall, Europe and Central Asia researcher, participated in the field research.

This report was edited by Judith Sunderland, associate Europe and Central Asia director, and reviewed by Bill Frelick, Refugee Program Director, Benjamin Ward, deputy Europe and Central Asia director, Michael Garcia Bochenek, senior Children's Rights counsel, Hillary Margolis, Women's Rights researcher, Janet Walsh, deputy Women's Rights director, Amanda Klasing, senior Women's Rights researcher, and Diederik Lohman, associate Health and Human Rights director. Veronika Szente Goldston, Europe and Central Asia advocacy director, reviewed the report and contributed to the recommendations.

Senior legal advisor Aisling Reidy provided legal review and Tom Porteous, deputy program director, provided program review. Anže Močilnik, Europe and Central Asia associate, provided editorial assistance. Grace Choi, director of publications; Kathy Mills, publications specialist; and Fitzroy Hepkins, administrative manager, provided production assistance.

We are grateful to the Legis, Macedonian Helsinki Committee, Macedonian Red Cross, the UNHCR Representative to Macedonia, the Delegation of the European Union to Macedonia, and to the Ombudsman Office for their assistance with our research. We also thank the Ministry of Labor and Social Policy for giving us permission to visit the Asylum Center. We thank the Ministry of Labour and Social Policy and the Ministry of Interior for giving generously of their time in extended and frank discussions at the time of our mission as well as for providing detailed written responses to follow-up letters of inquiry. Finally, we would like to thank all of the refugees, migrants, and asylum seekers who gave their time to share their experiences with us; we recognize their courage and resilience in the face of great hardship and suffering.

Appendix 1: Ministry of Interior of Republic of Macedonia, Letter from July 23, 2015[151]

Република Македонија
Министерство за внатрешни работи

Dear Sir/Madam,

In regard to findings on treatment of migrants and asylum seekers in the Republic of Macedonia enlisted in the letter submitted by the non-governmental organization Human Rights Watch from 1st June 2015 addressed to the Minister of Interior, we inform you that:

1. *Situation at the Reception Center for Foreigners*

In the course of January 2015, the Reception Center for Foreigners had accommodated total of 447 persons, but at no moment, including the time period when HRW's delegation visited the Reception Centre in late January 2015, the number of people staying in the facility at same time has never been even close to 400 persons, as had been allegedly reported by the Red Cross. This piece of information can be easily cross-checked, because the Center of Public Health is regularly informed of newly admitted persons at the Reception Center for Foreigners.

Of course, even the number of 250 accommodated persons has caused serious problems for the operation of the Reception Center for Foreigners and affected accommodation conditions for these persons, having in mind that in the course of entire 2011 it accommodated only 211 persons, in 2012 – 460 persons, in 2013 – 584 persons, and in 2014 – 896 persons.

For the purpose of addressing this situation, we had analyzed possibilities for dislocation of the Reception Centre for Foreigners to a building of greater capacity. In the meantime, temporary solution was found to increase its capacity and accommodation conditions were improved, so the Reception Center for Foreigners - Gazi Baba was given an additional building within the Reception Center for Asylum Seekers - Vizbegovo, which falls within competences of the Ministry of Transport and Communications. The said building is separated and secured from other facilities/buildings pertaining to the Reception Center for Asylum Seekers (which is open-type facility) and it exclusively accommodates persons from vulnerable categories, and thus capacity of the Reception Center for Foreigners was increased and up to 100 persons of this category were secured better accommodation conditions.

Moreover, daily cooperation at operational level was established with other line ministries and competent institutions (Ministry of Health, Ministry of Transport and Communications, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Labor and Social Policy, the Red Cross,

[151] Unofficial translation for Human Rights Watch.

etc.), as a result of which the number of persons staying at the Reception Center for Foreigners was significantly reduced, the current building is regularly maintained and is subject of enhanced health and sanitary inspections, special regime of nutrition is provided during the Muslim fasting calendar, etc.

At the moment, the Reception Center for Foreigners accommodates 8 people, 3 of which are nationals of European countries. In the last month, the Reception Center for Foreigners has not admitted new persons – illegal migrants from crisis regions and the intention is for this practice to continue in the future.

In regard to allegations on "arbitrary detention of people at the center", we inform you that the legal status and time period for holding foreign nationals at the Reception Center for Foreigners are regulated under the Law on Foreigners and the Rulebook on Foreigners (Articles 108, 109 and 112 of the Law on Foreigners). According to Article 108, paragraph 2 of this Law, the Reception Center for Foreigners within the Ministry of Interior is established *"to accommodate foreigners who, from any reasons, cannot be forcefully evicted from the territory of the Republic of Macedonia within the deadline referred to in paragraph 1 of this article".* According to paragraph 4 of the same article *"foreigners for whom deportation decision has been adopted, but they are not in possession of valid and recognized travelling document, may also be held at the Reception Center",* while according to Article 109, paragraph 2 *"foreigners for whom deportation decision has been taken, but they are not in possession of valid and recognized travelling document, shall be held at the Reception Center until they obtain valid and recognized travelling document issued by the state whose nationals they are, i.e. until they are issued the passport referred to in Article 119, paragraph 2 of this Law".*

Furthermore, according to Article 108, paragraph 3 *"the Ministry of Interior shall adopt decision on temporary holding of foreigners referred to in paragraph 2 of this article at the Reception Center",* while the right to appeal is regulated under Article 108, paragraphs 5, 6 and 7.[1] Finally, Article 109, paragraph 1 regulates the maximum time period

---

[1] Article 108, paragraphs 5, 6 and 7 – Foreigners shall have the right to appeal the decision referred to in paragraphs 3 and 4 of this article, within a deadline of eight days from the decision's receipt in front of the competent commission within the Government of Republic of Macedonia. The appeal shall not postpone execution of the decision.

The competent commission within the Government of Republic of Macedonia shall adopt the decision within a deadline of 15 days from the day the appeal was lodged.

for which foreign nationals can be held at the Reception Center for Foreigners.[2] Although the Law on Foreigners anticipates that foreigners can be kept at the Reception Center for Foreigners for time period of up to 12 months, no such cases have been observed in practice. Even in cases of persons being held for more than 5 months (which did happen in reality), they are exceptions rather than common practice.

In regard to allegations on physical, sexual, gender-based violence, etc., we inform you that competent bodies are regularly acting not only upon specific complaints and repots, but also upon knowledge obtained from the media, social networks, by means of "public knowledge" and the like. In most part, such knowledge is too general, without even basic information, and, in most cases, contradictory. Checks performed also include interviews with persons accommodated at the center, staff employed, viewing indoor video surveillance tapes, etc.

In addition to measures enlisted, the Reception Centre is subject of regular visits from many national and international organizations whose representatives are able to talk with people held without police officers' presence, the facility is visited daily by medical doctors contracted by the Red Cross and with support from UNHCR (one medical doctor has Syrian background) and they also perform medical examinations without police officers' presence, and therefore we believe that chances for possible cases of violence to go by unregistered are minimal.

Terms and conditions and asylum procedure for foreigners or apartrides (stateless persons), as well as terms and conditions under which Republic of Macedonia can provide temporary protection are regulated under the Law on Asylum and Temporary Protection. This law anticipates the right to protection for categories "recognized refugee" (refugee according to 1951 Convention relating to the Status of Refugees and 1967 Protocol relating to the Status of Refugees) and "beneficiaries of subsidiary protection".

As regards procedural protection, according to Article 108 of the Law on Foreigners, foreigners have the right to appeal the decision on

---

Administrative lawsuit can be motioned before competent court against the decision of the competent commission within the Government, in compliance with the Law on Administrative Disputes.

[2] Article 109, paragraph 1 – Foreigners shall be temporarily held at the Reception Center until cessation of reasons that have prevented their forceful eviction from the territory of the Republic of Macedonia, but not longer than 12 months.

holding at the Reception Center within a deadline of 8 days from the decision's receipt in front of the competent commission within the Government of Republic of Macedonia, and have the right to motion administrative lawsuit before competent court against the decision of the competent commission within the Government of Republic of Macedonia in compliance with the Law on Administrative Disputes.

Immediately upon admission at the Reception Center, foreigners are informed of their rights and obligations, as stipulated in the Rulebook on House Rules of the Reception Center for Foreigners. Information of their admission is submitted to the Ministry of Foreign Affairs (for the purpose of informing their country of origin), and to the Center of Public Health, while in cases of unaccompanied minors, information is submitted also to the Ministry of Labor and Social Policy and the Social Work Center, for the purpose of immediate appointment of guardians. Admitted persons are entitled to visits, telephone calls and have the right to receive packages and money, under terms and conditions regulated in the Rulebook on House Rules of the Reception Center for Foreigners.

Rulebook on Amending the Rulebook on House Rules of the Reception Center for Foreigners from 21.05.2013 increased duration of visits from 30 to 60 minutes, and allows these visits to last longer. In addition to visits from family members and friends, persons held at the Reception Center are entitled to visits from their legal representatives, and frequent visits are also made by representatives of foreign embassies in Republic of Macedonia, the Ombudsman Office, international and national non-governmental organizations, etc. Only in the period starting from 1st January 2015 to date, the Reception Center for Foreigners was visited by delegations from IOM, UNHCR, UNICEF, Doctors without Borders, OSCE, EC Delegation in Republic of Macedonia, the Ombudsman Office, representatives of the Council of Europe's Committee for Prevention of Torture.

In regard to medical care and public health protection, these services are provided in cooperation with other competent state bodies (Ministry of Health) and other organizations (Red Cross Organization of the City of Skopje, UNHCR). Namely, the package of services, including medical care, which the City of Skopje's Red Cross Organization provides for the needs of persons accommodated at the Reception Centre for Foreigners is defined in the Memorandum of Understanding signed between the Ministry of Interior of Republic of Macedonia and Red Cross Organization of the City of Skopje. Thanks to this cooperation and with support from UNHCR Office in Skopje, two medical doctors have been contracted for the needs of the Reception Center, by means of which the Reception Center for Foreigners has secured presence of medical persons 7 days a week. Medical doctors are given separate room in the building of the Reception Center to

which police officers do not have access. Primary health care falls within competences of medical staff that has exclusive right to decide which persons and when will be referred to clinical examinations at specialized medical facilities. Secondary and tertiary health care are provided at medical facilities and are available to all persons accommodated at the Reception Center for Foreigners. Until recently, all costs incurred for clinical tests and inpatient care for illegal migrants were covered by the Ministry of Interior; however, by means of decision taken by the Government of Republic of Macedonia on 28.4.2015 the Ministry of Health is obliged not to charge services concerning interventions performed in relation to health of migrants.

Maintenance of hygiene in the building is entrusted to private company, while epidemiological and immunological protection is realized in cooperation with public health institutions.

Rights and obligations of persons held have been translated into several languages, including in Arabic, one medical doctor engaged at the Reception Centre is of Syrian background, and visits from legal representatives are attended by translators. However, these are just temporary solutions. Given the fact that insufficient number of translators is one of problems faced by several countries in the region, we are attempting, by means of regional approach, to find an adequate and long-term solution to this shortcoming.

2. *Migration policy*

Prevention and detection of illegal migration and human trafficking is one of goals pursued by the border police (Article 2 of the Law on Border Control). Overall procedure on detection and further processing of foreigners that have illegally entered or are illegally staying in the Republic of Macedonia is pursued in compliance with applicable national legislation, including admission of foreign nationals at the Reception Center for Foreigners. Legal basis for their admission is enlisted under item 1.

The entire body of legislation governing border operations (Law on Foreigners, Law on Border Control, Law on Asylum and Temporary Protection and relevant bylaws) is, to great extent, aligned with the EU *acquis* and novelties at EU level are continuously followed and transposed in the national legislation. When legal provisions are drafted and implemented in practice, due consideration is made of 1950 Convention for the Protection of Human Rights and Fundamental Freedoms, 1984 Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, 1951 Convention relating to the Status of Refugees and 1967 Protocol relating to the Status of Refugees.

At the moment, the new Law on Foreigners is in the final stage of drafting and, *inter alia*, will implement several EU Directives, including Directive no. 2008/115/EC of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals. Among other things, these changes will reduce the maximum duration of stay at the Reception Centre for Foreigners to 6 months, compared to current 12 months.

Moreover, underway is development of the new Law on Asylum and Temporary Protection that will make due consideration of EU Directives no. 2011/95, 2013/32, 2013/33 and 2001/55.

Having in mind the situation in the region of origin for illegal migrants, MOI of Republic of Macedonia does not take measures for returning them to their country of origin, and does not issue misdemeanor sanctions stipulated under Article 153 of the Law on Foreigners, although both measures have legal basis in the national legislation.

Additional measures have been taken with a view to reduce risks on life and health of illegal migrants, encourage them not to use railway tracks and other risky rod sections for travelling on foot and, instead, use public transportation, and in order to reduce smuggling of migrants on the part of criminal groups and individuals.

Namely, the Law on Amending the Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia" no. 101 from 18 June 2015) entered in effect on 18th June 2015 and allows people who have illegally entered the territory of the Republic of Macedonia to express intention on asylum seeking. Accordingly, they are given period of 72 hours to submit an asylum application or transit through the Republic of Macedonia and acquire the right to use public transportation in that period. Persons are immunized (on voluntary basis) and need for their admission at closed-type facilities is avoided.

From the moment the Law entered in effect to date, intention to submit asylum application was expressed by more than 12,000 foreign nationals. In the same period, the number of registered cases of smuggling migrants has been reduced, and there are no accidents with casualties among illegal migrants.

This document is presented to you for your information and further processing.

Respectfully,

Република Македонија
Министерство за внатрешни работи

рег. бр. 16-
дата: 02/09/2015

ASSISTANT TO MINISTER OF INTERIOR

Ivo KOTEVSKI

Ministry of Interior
Sector on Public Relations and Access to Public Information
Dimce Mircev no.9
1000 Скопје,
Republic of Macedonia
Tel. (02) 3231 557
Fax: (02) 3231 370
e-mail:kontakt@moi.gov.mk
website: www.mvr.gov.mk

T

Appendix 2: Ministry of Interior of Republic of Macedonia, Letter from August 26, 2015[152]

Република Македонија
Министерство за внатрешни работи

Dear Sir/Madam,

In regard to the additional questions, we inform you that:

In the period 1st January – 3rd June 2015, the Reception Centre for Foreigners has accommodated a total of 1003 persons.

By mid-July 2015, the Reception Centre for Foreigners were completely emptied.

In the meantime, the building of the Reception Centre for Foreigners in Gazi Baba is being renovated, and in cooperation with partner organizations plans are in place to undertake activities aimed at enriching its contents. Taking into account the current and expected situation as well as the category of people who will be accommodated there in the future, standards for accommodation of persons are fulfilled.

As regards the status of persons from the crisis regions, having in mind the situation in the region from which illegal migrants usually come from, Ministry of Interior of the Republic of Macedonia: does not take measures to return them to their countries of origin and does not issue misdemeanor sanctions anticipated under Article 153 of the Law on Foreigners, although the national legislation provides legal grounds for both measures.

In addition and for the purpose of decreasing risks on life and health of illegal migrants, encouraging them not to use railways tracks and other risky highway sections for moving on feet and instead use the public transportation, as well as for the purpose of reducing smuggling of migrants on the part of criminal groups and individuals, additional measures have been taken.

[152] Unofficial translation for Human Rights Watch.

Namely, the Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia" no. 101 of 18th June 2015) entered in effect on 18th June 2015, and it allows people who have illegally entered the territory of the Republic of Macedonia to express an intent for submission of application. In that, they are given a period of 72 hours to submit an asylum application or transit through the Republic of Macedonia and acquire the right to use public transportation. Persons are vaccinated (on voluntary basis) and their holding at closed-type facilities is avoided, i.e. this category of persons are not held at the Reception Centre for Foreigners.

In the period 19th June – 26th August 2015, receipts have been issued for total of **46,706** foreign nationals, of which **32,307** are male, **6,393** are female, **7,259** are children accompanying the receipt's holder, and addition **747** are children travelling without parents, who have been issued a receipt for expressed intention to submit application for having their right to asylum recognized.

In the first half of 2015, possibilities for dislocation of the Reception for Foreigners into a building of higher capacity were analyzed and several locations and existing buildings that would be suitable for such purpose were analyzed. Selection was made of a particular location, i.e. building in Kumanovo, and by means of adequate adaptations, this building would allow twice the of the current.

Building of the Reception Centre for Foreigners in Gazi Baba is under reconstruction and in cooperation with partner organizations activities are taken to enrich its contents. Given the current and expected numbers, as well as the category of persons who will be accommodated there in the future, the standards for accommodation of persons are fulfilled.

Upon previously submitted individual applications for having the right to asylum recognized, persons staying at the Reception Centre for Foreigners were referred to the Reception Centre for Asylum Seekers in Vizbegovo, which falls under the competences of the Ministry of Labor and Social Policy. This building is of open type, persons hold the status of asylum seekers and enjoy all rights anticipated for this

category of persons, including the right to freedom of movement, i.e. not a single person is being "held" at the center.

There are no Illegal migrants in Reception Centre for Asylum Seekers in Vizbegovo, but only people from the category of asylum seekers.

The building that was temporarily given to be used by the Reception Centre for Foreigners – Gazi Baba, for the purpose of increasing its capacity and improving conditions for accommodation of persons (migrants) from vulnerable categories, is no longer used for that purpose, because there is no need for it.

As regards your question by means of which you request information whether and how many procedures have been initiated against police officers employed at the Transit Centre for Foreigners in Gazi Baba in the last 12 months, we inform you that the Sector on Internal Control and Professional Standards issued mandatory measures on initiating proposals for disciplinary procedures against five police officers in total, and at the same time one police officer, in addition to the disciplinary procedure, was issued a measure on removal (suspension) from his job position.

"As Though We Are Not Human Beings"

Police Brutality against Migrants and Asylum Seekers in Macedonia

Men, women, and children – many from Syria, Somalia, and Afghanistan – have experienced police violence and inhumane, degrading treatment and arbitrary detention in Macedonia, a key transit country along the Western Balkans migration route into the European Union. Many migrants and asylum seekers have already made an arduous journey, boarding overcrowded vessels to cross the Aegean Sea or making the land border crossings from Turkey to Greece planning to travel onwards to northern EU countries. They typically reached Macedonia after walking for several days, often without enough food, water, or proper clothing. Many apprehended by the police in Macedonia were beaten with police batons, punched, kicked, and verbally insulted. They were either summarily returned to Greece amid more abuse or taken straight to detention where they were held in appalling conditions.

As Though We Are Not Human Beings, based on interviews with migrants and asylum seekers, experts, and government officials, documents physical and verbal abuse at the hands of Macedonian officials at the border with Greece and ill-treatment by police guards in the Gazi Baba detention center, including physical and verbal abuse as well as gender-based violence. In addition to ill-treatment in Gazi Baba, the report finds that migrants and asylum seekers have been arbitrarily detained in Macedonia in inhumane and degrading conditions, including overcrowding; insufficient access to food and drinking water; and unhygienic and unsanitary conditions.

The report calls on Macedonian authorities to stop police abuse, promptly investigate allegations of ill-treatment, and cease arbitrarily detaining migrants and asylum seekers in degrading conditions. It also calls on the European Union to press Macedonia to improve its treatment of migrants and asylum seekers and to assist with Macedonian authorities to respect the human rights of migrants and asylum seekers present in the country.

hrw.org

(above) Macedonian special police guard the border as more than a thousand asylum seekers and migrants wait at the border with Greece to enter Macedonia near the Gevgelija railway station August 20, 2015.

© 2015 REUTERS/Ognen Teofilovski

(front cover) Women and children watching behind the barred windows in Gazi Baba, January 21, 2015.

© 2015 Emina Ćerimović/ Human Rights Watch