

**LEGISLATIVE –LEGAL COMMITTEE OF THE ASSEMBLY OF THE REPUBLIC OF
MACEDONIA**

383.

Pursuant to Article 33 of the Law Changing and Amending the Law on Asylum and Temporary Protection (“Official Gazette of the Republic of Macedonia”, No.142/2008), the Legislative – legal Committee of the Assembly of the Republic of Macedonia, at its session held on 4 and 5 February 2009, established the Revised Text of the Law on Asylum and Temporary Protection.

The Revised Text of the Law on Asylum and Temporary Protection encompasses the following: Law on Asylum and Temporary Protection (“Official Gazette of the Republic of Macedonia” No.49/2003), Law Changing and Amending the Law on Asylum and Temporary Protection (“Official Gazette of the Republic of Macedonia” No.66/2007) and the Law Changing and Amending the Law on Asylum and Temporary Protection (“Official Gazette of the Republic of Macedonia”, No. 142/2008) in which the time of their entry into force and application is indicated.

No. 10-526/2
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Skopje

President of the Legislative-legal
Committee of the Assembly of
the Republic of Macedonia
Blagrodna Dulic
(under her own hand)

LAW ON ASYLUM AND TEMPORARY PROTECTION
(Revised Text)

CHAPTER I
GENERAL PROVISIONS

Purpose of the Law

Article 1

This Law governs the conditions and procedure for granting and cessation of the right of asylum to an alien or a stateless person (hereinafter referred to as: alien), seeking recognition of the right of asylum in the Republic of Macedonia, as well as the rights and duties of the asylum seekers and persons who have been recognized the right of asylum in the Republic of Macedonia.

This Law governs also the conditions under which the Republic of Macedonia can grant temporary protection as well as the rights and duties of persons under temporary protection.

Right of Asylum

Article 2

The right of asylum is protection granted by the Republic of Macedonia, under the conditions and in the procedure defined by this Law, to the following categories of persons:

- recognised refugee (refugee according to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees) and

- person under subsidiary protection.

Asylum seeker

Article 3

Asylum seeker, pursuant to this Law, is an alien who seeks protection from the Republic of Macedonia from the day he has approached the Ministry of Interior until the day of issuance of a final decision in the procedure for recognition of the right of asylum.

Recognised Refugee

Article 4

Recognised refugee is an alien who, after examination of his claim, has been found to fulfil the requirements set out in the Convention of Article 2 sub-paragraph 1 of this law, that is, a person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or his political opinion, is outside the state of his nationality and is unable, or, owing to such fear, is unwilling to avail himself of the protection of that state, or who, not having a nationality and being outside the state in which he had a habitual place of residence, is unable, or, owing to such fear, is unwilling to return to it.

Person under Subsidiary Protection

Article 4-a

A Person under Subsidiary Protection is an alien who does not qualify as a recognised refugee but to whom the Republic of Macedonia shall recognize the right of asylum and shall allow to remain within its territory, because substantial grounds exist for believing that if he returns to the state of his nationality, or if he is a stateless person, to the state of his previous habitual residence, he would face a real risk of suffering serious harms.

Serious harms, in the sense of paragraph 1 of this Article are:

- death penalty or execution;
- torture or inhuman or degrading behaviour or punishment, or
- serious and individual threats to a civilian's life or person by reason of indiscriminate violence in situation of international or internal armed conflict.

Article 5 is deleted.

Reasons for Exclusion

Article 6

An alien cannot enjoy the right of asylum in the Republic of Macedonia if there is well-grounded suspicion that he has:

- committed a crime against peace, humanity or a war crime, according to the international acts in which such crimes are provided for;
- committed a serious (non-political) crime, outside the territory of the Republic of Macedonia prior to being admitted in it as a refugee; and,
- has been guilty of acts contrary to the purposes and principles of the United Nations.

Besides the reasons established in paragraph 1 of this Article, a Person under Subsidiary Protection cannot enjoy the right of asylum of the Republic of Macedonia, also if she or he:

- constitutes a danger to the security of the Republic of Macedonia and
- prior to his or her admission in the Republic of Macedonia has committed one or more crimes outside the scope of paragraph 1 of this Article, which would be punishable by imprisonment, had they been committed in the Republic of Macedonia, and if she or he has left her/his country of origin in order to avoid sanctions for the crimes committed.

Principle of Non-Refoulement

Article 7

The asylum seeker, recognised refugee or person under subsidiary protection cannot be expelled, or in any manner whatsoever be forced to return to the frontiers of the state:

- in which his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion and
- where he would be subjected to torture, inhuman or degrading treatment or punishment.

The prohibition referred to in paragraph 1, sub-paragraph 1 of this Article shall not apply to an alien who constitutes a danger to the security of the Republic of Macedonia, or who, after having been convicted by a final judgement of a crime or in particular of a serious crime, constitutes a danger for the citizens of the Republic of Macedonia.

The alien referred to paragraph 1, sub-paragraph 2 of this Article, who for the reasons referred to in Article 6 of this Law cannot enjoy the right of asylum in the Republic of Macedonia, shall be allowed to remain within the territory of the Republic of Macedonia as long as in the state of his nationality, or in which, not having a nationality he has had a habitual place of residence, he would be subjected to torture, inhuman or degrading treatment or punishment.

The alien referred to in paragraph 3 of this Article, during his stay in the Republic of Macedonia has the same rights and duties as the persons under temporary protection in the Republic of Macedonia.

Family Reunification

Article 8

The members of the nuclear family of the recognised refugee and a person under subsidiary protection, upon their request, shall have the right of asylum recognised.

Members of the nuclear family, in the sense of paragraph 1 of this Article, are considered as being the spouse, if the marriage has been stipulated prior to the arrival in the Republic of Macedonia, and the minor children who are not married, as well as the parents of the minor children, if the minor children have acquired the right of asylum.

The principle of family reunification of paragraph 1 of this Article shall not be applied if:

- the reasons for exclusion referred to in Article 6 of this Law exist; and,
- the persons of paragraph 2 of this Article are nationals of another state which can grant protection to them.

Safe Country of Origin

Article 9

Safe country of origin is a state in which its citizens or stateless persons, having there their last habitual place of residence, are safe from persecution for reasons referred to in Article 4 of this Law or from suffering serious harms as defined in Article 4-a of this Law, or from torture, inhuman or degrading treatment or punishment which is determined particularly based upon the respect for human rights defined by the international acts, existence of democratic institutions (democratic processes, elections, political pluralism, freedom of thought and public expression of the thought, availability and effectiveness of the legal protection) and the stability of the country.

The asylum seeker, during the procedure for recognition of the right of asylum, may prove that the country of origin is not safe for him.

The Government of the Republic of Macedonia shall establish the list of safe country of origin.

Safe Third Country (First country of asylum)

Article 10

Safe third country is a state in which the asylum seeker delayed himself, prior to his arrival in the Republic of Macedonia, and in which it may be presumed that he can return safe from persecution pursuant to Article 4 of this Law or from suffering serious harms as defined in Article 4-a of this law, or from torture, inhuman or degrading treatment or punishment.

As a safe third country shall be considered the state:

- in which there is no serious risk of persecution in the sense of Article 9 paragraph 1 of this Law;
- which respects and implements the principle of non-refoulement; and,
- which will admit the asylum-seeker, provide him access to a procedure for recognition of the right of asylum which provides the basic procedural safeguards and will examine the application for recognition of the right of asylum in substance.

During the procedure for recognition of the right of asylum, the asylum seeker may prove that the third country is not safe for him.

The safe third country principle of paragraph 1 of this Article shall not be applied if the spouse of the asylum seeker, the children or the parents lawfully reside in the Republic of Macedonia.

Principle of Local Contribution

Article 11

The principle of local contribution implies an obligation of the local self-government units to accept the responsibility of accommodating recognised refugees and persons under subsidiary protection depending on their economic development and the number of their inhabitants, on which the Government of the Republic of Macedonia (hereinafter referred to as: Government) will decide.

Asylum Bodies

Article 12

The Ministry of Interior, through its organisational unit in charge of asylum (hereinafter referred to as: Section for Asylum), shall implement the procedure for recognition of the right of asylum and make a decision in the first instance.

Against the decision of paragraph 1 of this Article an administrative dispute may be initiated before the competent court.

The Role of the United Nations High Commissioner for Refugees in the Asylum Procedure

Article 13

The bodies from Article 12 of this Law shall co-operate with the United Nations High Commissioner for Refugees (hereinafter: High Commissioner for Refugees) in all stages of the procedure for recognition of the right of asylum.

The Ministry of Interior shall prepare and provide the High Commissioner for Refugees with reports and statistical data relating to the status of the asylum seekers and persons who have been recognised the right of asylum in the Republic of Macedonia, as well as to the implementation of the Convention of Article 2 sub-paragraph 1 of this Law, this Law and other regulations in the field of asylum.

Legal Assistance

Article 14

The asylum seekers have the right of legal assistance and explanation regarding the conditions and procedure for recognition of the right of asylum.

The asylum seekers in all stages of the procedure may communicate with persons who provide legal assistance, with the representatives of the High Commissioner for Refugees as well as with non-governmental humanitarian organisations.

The representatives of the High Commissioner for Refugees have the right of access to and communication with the asylum seekers, in all stages of the procedure, wherever they are staying.

CHAPTER II

PROCEDURE FOR RECOGNITION OF THE RIGHT OF ASYLUM

1. COMMON PROVISIONS

Application of the Law on General Administrative Procedure

Article 15

In the procedure for recognition of the right of asylum, the provisions of the Law on General Administrative Procedure apply accordingly, if not defined in another way by this Law.

Submission of Asylum Application

Article 16

An asylum seeker must apply for recognition of the right of asylum when entering the Republic of Macedonia. The request shall be declared to the police at the border crossing point or to the nearest police station, who are obliged to escort the asylum seeker to the Section for Asylum.

An asylum seeker who resides within the territory of the Republic of Macedonia shall submit an asylum application to the Section for Asylum.

Regarding cases referred to in Article 8 of this Law, the application for family reunification can be submitted to the diplomatic/consular mission of the Republic of Macedonia abroad.

Illegal Entry and Stay in the Republic of Macedonia

Article 17

An asylum-seeker who has illegally entered or has been illegally staying in the territory of the Republic of Macedonia, and is coming directly from a state where his life or freedom have been threatened in the sense of Articles 4 and 4-a of this Law, shall not be punished, provided that he immediately applies for the recognition of the right of asylum at the Section for Asylum or reports himself at the nearest police station and give explanations for his application for recognition of the right of asylum as well as valid reasons for his illegal entry or stay.

In the case of paragraph 1 of this Article the police shall immediately escort the person to the Section for Asylum.

Manner of Submission of Asylum Application

Article 18

The asylum application shall be submitted in writing or orally noted in minutes in the Macedonian language, or if this is not possible, in the language of the country of origin or in some of the foreign languages in common use.

While submitting an asylum application, the asylum seeker shall be photographed and fingerprinted.

While submitting an asylum application, the Section for Asylum shall issue to the asylum seeker a sealed attestation, with the number and date of submission.

Article 19

Relation to the Procedure for Granting Residence Permit of the Law on Aliens

From the day of submission of the asylum application to the day of issuing of the final decision, the Law on Aliens shall not apply.

The submitted asylum application shall be regarded as a withdrawal of the application for issuance of residence permit to an alien, pursuant to the provisions of the Law on Aliens.

Obligation of Document Submission

Article 20

If the asylum-seeker is in possession of documents, the same need to be attached to the asylum application when they are necessary for the procedure for recognition of the right of asylum, and in particular:

- travel document;
- visas, residence permits, or other similar documents;
- identity card or other identification documents;
- a birth and marriage certificate (where possible);
- travel tickets and similar, as well as,
- other papers or documents that could be of significance in the procedure for recognition of the right of asylum.

Papers referred to in paragraph 1 of this Article are kept at the Section for Asylum during the procedure for recognition of the right of asylum, and the asylum seeker will be provided with photocopies of the submitted documents and issued with an attestation that the originals are with the Section for Asylum.

Right to Interpreter

Article 21

When the asylum seeker does not understand the language of the procedure, the Section for Asylum shall provide an interpreter for that person in the language of his country of origin or in the language he understands.

The Ministry of Interior shall cover the costs for the interpreter.

The interpreter is bound to keep as confidential the data learned during the procedure.

Asylum seekers are entitled to an interpreter of the same sex, within the boundaries of possibilities.

Publicity during the Procedure

Article 22

In the interview of the asylum seeker, the public is excluded.

The person who gives legal assistance authorised by the applicant, the interpreter and the representative of the High Commissioner for Refugees, shall not be regarded, as public in the sense of paragraph 1 of this Article.

Persons referred to in paragraph 2 of this Article shall be informed in writing about the date, the time and the place of the interview.

Persons present at the interviewing are bound to keep confidential the data learned during the procedure, unless the asylum seeker explicitly allows them to communicate with the public, and the competent official of the Section for Asylum is of the opinion that this would not harm the course of the procedure.

The Section for Asylum can share the information regarding policy and practice in the field of asylum, which are of significance for particular scientific researches.

Unaccompanied Minors and Mentally Disabled Persons **Article 23**

To unaccompanied minors and mentally disabled persons who are seeking recognition of the right of asylum in accordance with Article 2 of this Law, a guardian shall be assigned in accordance with the Law on Family.

Withdrawal of Asylum Application **Article 24**

The asylum application shall be considered as withdrawn and the procedure shall be discontinued with a conclusion, if the asylum seeker, without a valid reason, fails to report upon invitation to the Section for Asylum.

Against the conclusion set forth in paragraph 1 of this Article, the asylum seeker may submit a lawsuit for instigating an administrative dispute before the competent court, within 30 days from the day of delivery of the conclusion.

The lawsuit suspends the execution of the conclusion.

Application of Expulsion Provisions of the Law on Aliens **Article 25**

Should the rejected person, asylum seeker, not leave the territory of the Republic of Macedonia within the time limit foreseen in the decision of the Section for Asylum, the expulsion from the Republic of Macedonia will be carried out in compliance with this Law and the provisions of the Law on Aliens.

Delivery

Article 26

The written correspondence in the procedure for recognition of the right of asylum shall be delivered personally to the asylum seeker or to his legal representative or proxy.

2. REGULAR PROCEDURE

Implementation of Regular Procedure

Article 27

The Section for Asylum implements the regular procedure for recognition of the right of asylum in the first instance and is obliged to take the decision within two months from the day of submission of the application.

Interview of Asylum seeker

Article 28

The asylum seeker shall be interviewed in person, and the interview may be audio recorded.

The asylum seekers, upon their request, have the right to be interviewed by a competent same sex official of the Section for Asylum.

During the interview, the person from paragraph 1 of this Article shall present all facts and evidence that are of relevance for establishing the existence of well-founded fear of persecution in the sense of Article 4 of this Law.

During the interview, minutes shall be kept. The persons who participated in the hearing shall sign the minutes.

Reasons for Rejection

Article 29

The asylum application shall be rejected in the course of regular procedure when it is established that:

- there is no well-founded fear of persecution in the sense of Article 4 of this Law;
- there are reasons for exclusion of Article 6 of this Law; and,
- the persecution for reasons of Article 4 of this Law is limited only to a particular geographic area of the state of his nationality, or in which, if not having a nationality, he had a habitual place of residence, and there is a possibility for effective protection in another part of the state, unless in light of all circumstances it cannot be expected that the person will seek protection there.

**Investigation of Grounds for Recognition of the Right of Asylum for Subsidiary Protection
Article 30**

In cases when it will be established that the asylum seeker does not meet the conditions for recognition of the right of asylum in compliance with Article 2 sub-paragraph 1 of this Law, the Section for Asylum shall, in the line of duty, investigate the existence of reasons and conditions for recognition of the right of asylum for subsidiary protection, pursuant to Article 2, sub-paragraph 2 of this Law.

Decision Taking and Types of Decisions

Article 31

On the basis of the facts and evidence established during the procedure, the Section for Asylum shall take a decision to recognise the status of recognised refugee, a decision for recognition of the status of a person under subsidiary protection or a decision rejecting the application for recognition of the right of asylum.

The decision by which the asylum application is rejected shall state the reasons, owing to which the application has not been accepted, the advice on legal remedy and the time frame within which the person is obliged to leave the territory of Republic of Macedonia, which cannot be less than 15 days from the day on which the decision will become effective.

Right to Lawsuit and Taking of Decision

Article 32

The asylum seeker may instigate an administrative dispute against the decision of the Section for Asylum to a competent court within 30 days from the day of delivery of the decision.

The lawsuit shall suspend the execution of the decision.

The competent court shall take the decision within two months from the day of submission of the lawsuit.

Upon request of the plaintiff, the Section for Asylum shall suspend the execution of the decision, until the final court verdict, in the cases and in a manner established by the Law on Administrative Disputes.

New Asylum Application

Article 33

Should the asylum seeker submit a new asylum application, he must provide evidence that his circumstances have altered substantially since the moment of issuance of the former decision by which his application has been rejected. If he fails to do so, the Section for Asylum shall reject the application.

3. ACCELERATED PROCEDURE

Purpose of the Procedure

Article 34

The accelerated procedure shall be implemented when the asylum application is manifestly unfounded, unless an unaccompanied minor or a mentally disabled person has submitted the application.

Article 35

Manifestly Unfounded Applications

The asylum application is considered to be manifestly unfounded if:

- in the claim there are no grounds for fear of persecution because the application has not been submitted for reasons established by this law, but for the possibility of employment and better living conditions or when the asylum seeker gives no data that he would be subjected to persecution or when his claims are impossible or contradictory;
- the application is based on a deliberate deception or an abuse of the procedure for recognition of the right of asylum;
- the person has arrived from a safe country of origin, unless he proves that the country of origin is not safe for him and
- the person has arrived from a safe third country, where he could have applied for asylum, unless he proves that the third country is not safe for him.

The asylum seeker commits a deliberate act of deception and abuse of the procedure for recognition of the right of asylum in compliance with paragraph 1 sub-paragraph 2 of this Article, in cases if:

- without reasonable explanation, deliberately makes false statements in his asylum application, orally or in written form, and these statements are of crucial nature and significance for the determination of his status of recognised refugee;
- without reasonable explanation, has based his application on a false identity or on forged documents which he maintains are authentic;
- deliberately destroys, damages or conceals a travel document, other document or evidence of importance for the procedure, in order to obstruct the course of the procedure and to deceive the asylum bodies regarding his identity;
- the asylum application is submitted in order to obstruct the execution of the decision for expulsion from the territory of the Republic of Macedonia, and the asylum seeker has had ample possibility to previously apply for recognition of the right of asylum;
- the asylum seeker's application has been rejected in another country, following an examination on the substance of the claim, in a procedure comprising adequate procedural safeguards, in accordance with the Convention of Article 2 sub-paragraph 1 of this law; and,
- he has been granted asylum in another country and continues to enjoy protection in that country.

Taking of Decision

Article 36

In cases where the asylum application is rejected as manifestly unfounded, the Section for Asylum takes a decision rejecting the asylum application and sets a time limit within which the person is

obliged to leave the territory of Republic of Macedonia, which cannot be shorter than three days from the day on which the decision will become effective.

In the explanation of the decision of paragraph 1 of this Article, the reasons for rejection of the asylum application shall be stated, as well as that, the reasons of Article 4 of this Law have not been taken into consideration when deciding upon the asylum application.

The decision of paragraph 1 of this Article shall be issued within 15 days from the day of the submission of the asylum application.

Lawsuit against the Decision Rejecting the Asylum Application

Article 37

The asylum seeker has the right to a lawsuit against the decision rejecting the asylum application in accelerated procedure within three days from the day of delivery of the decision.

The lawsuit of paragraph 1 of this Article shall suspend the execution of the decision.

The competent court shall decide upon the lawsuit of paragraph 1 of this Article within 15 days from the day of submission of the lawsuit

CHAPTER III

CESSATION OF THE RIGHT OF ASYLUM

Article 38

Cessation of the Right of Asylum

The right of asylum recognised in the Republic of Macedonia ceases for a person:

- who has voluntarily re-availed himself of the protection of the country of his nationality;
- who has, after loosing the nationality of that country, voluntarily re-acquired it;
- who has acquired a new nationality and enjoys the protection of the state of his new nationality;
- who has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution;
- who will pass away;
- who has acquired citizenship of the Republic of Macedonia;
- who has been issued a residence permit pursuant to the provisions of the Law on Aliens;
- who will voluntarily leave the territory of the Republic of Macedonia;
- who can no longer, because the circumstances in connection with which he has been granted asylum have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; and,
- who has no nationality, and is able to return to the state of his former habitual place of residence, because the circumstances in connection with which he has been granted asylum have ceased to exist.

On the cessation of the right of asylum for reasons of paragraph 1 of this Article, a procedure is implemented, as for recognition of the right of asylum, established by this Law.

CHAPTER IV
DOCUMENTS

Issue of Documents

Article 39

As documents in the sense of this Law shall be considered:

- identification document for asylum seeker;
- identity card for recognised refugee and a person under subsidiary protection and,
- travel document for recognised refugee, in accordance with the Convention of Article 2 sub-paragraph 1 of this Law.

In compliance with this Law, the Ministry of Interior shall issue the documents referred to in paragraph 1 of this Article.

The documents referred to in paragraph 1 sub-paragraphs 1 and 2 of this Article are identification documents which should always be carried by the person and should be presented upon request of the competent official who in compliance with the law is authorised to ask for identity cards.

It is forbidden to give the documents referred to in paragraph 1 of this Article for use to another person, or that a person make use of an identification document of another person as his own.

Identification Document for Asylum Seeker

Article 40

The identification document for asylum seeker is valid until the issue of a final decision in the asylum procedure, that is until the expiration of the time period within which the person is obliged to leave the territory of the Republic of Macedonia after the final decision rejecting his application comes into legal force.

Identity Card

Article 41

The recognised refugee and person under subsidiary protection over 18 years of age, are obliged to apply for the issuance of identity card.

The identity card for recognised refugee shall be issued with validity of five years and for a person under 27 years of age with validity of three years.

The identity card for person under subsidiary protection shall be issued with validity of up to one year.

The recognised refugee and person under subsidiary protection shall be determined a personal registration number for an alien.

Travel Document

Article 42

Upon application of the recognised refugee over 18 years of age, a travel document with two-year validity shall be issued. The validity of the travel document may be extended. The application for issuance of a travel document for a person under 18 years of age, shall be made by his legal guardian.

With the issuance of the travel document in compliance with paragraph 1 of this Article, the recognised refugee shall not acquire the right to ask for the protection of the diplomatic-consular missions of the Republic of Macedonia abroad.

Rejection of Issue and Seizure of Travel Document

Article 43

A travel document shall not be issued to a recognised refugee:

- against whom penal or misdemeanour proceedings have been instituted, upon demand by a competent court;
- who has been given an unsuspended sentence to imprisonment, until he has served the sentence and,
- upon the demand of a competent body in case he has not cleared his legal-property obligations or financial obligations towards the Republic of Macedonia.

If the reasons referred to in paragraph 1 of this Article have existed before the day of issuance of the travel document, and they were discovered at later stage, or if the reasons occurred after the day of the issuance, the travel document shall be seized.

In the decision by which the application for issuance of a travel document has been rejected, or respectively the travel document has been seized, the reasons for it shall be stated.

Against the decision referred to in paragraph 3 of this Article, an administrative dispute may be instigated before a competent court.

The lawsuit against the decision for seizure of a travel document shall not delay its execution.

Return of Travel Document and Identity Card

Article 44

After the final decision for cessation of the right of asylum comes into legal force the person is obliged to return the issued travel document and the identity card to the Ministry of Interior.

Crossing of the State Border

Article 45

The asylum-seeker and person under subsidiary protection may be issued a travel document, in accordance with the provisions of the Law on Aliens.

Disappearance or Damaging of a Document

Article 46

The person who has been issued with a document in compliance with this Law is obliged to report to the Ministry of Interior its disappearance or damaging within 2 days from the moment he has noticed it.

To the person referred to in paragraph 1 of this Article, an attestation shall be issued for reporting disappearance or damaging of its document.

CHAPTER V LEGAL STATUS

Article 47

General Obligations

Every asylum seeker or a person who has had the right of asylum in the Republic of Macedonia recognised is obliged to conform to the Constitution of the Republic of Macedonia, the laws, other regulations and decisions of the state organs, as well as in compliance with the obligations established by international treaties, ratified in accordance with the Constitution during his stay in the Republic of Macedonia.

1. RIGHTS AND DUTIES OF ASYLUM SEEKERS

Rights of Asylum seekers

Article 48

The asylum seekers until the taking of a final decision in the procedure for recognition of the right of asylum have the right to:

- residence;
- accommodation and care in a Reception Centre or other place of accommodation assigned by the Ministry of Labour and Social Policy;

- basic health services;
- right to social protection;
- work only within the Reception Centre or the other place of accommodation assigned by the Ministry of Labour and Social Policy and as well as the right of free access to the labour market for an asylum-seeker whose application for recognition of the right of asylum has not been decided upon during the period of one year, after the expiry of the one year period.
- communication with the High Commissioner for Refugees, as well as with non governmental humanitarian organisations for the purpose of providing legal assistance in the course of the procedure for recognition of the right of asylum.

The Ministry of Labour and Social Policy takes care for the provision of means of subsistence and healthcare for the asylum seekers, while they find themselves in the Reception Centre or other place of accommodation assigned by this Ministry.

Duties of Asylum seekers

Article 49

The asylum seeker is obliged to:

- reside in the Reception Centre or other place of accommodation assigned by the Ministry of Labour and Social Policy;
- co-operate with the asylum bodies, in particular to give his personal data, to hand over the identity and other documents which he may possess, to allow his photographing and fingerprinting, his person searched as well as the search of his luggage and the vehicle by which he has arrived in the Republic of Macedonia, as well as to give data about his property and income;
- subject himself to medical examinations, treatment and omitted immunisation upon request of the bodies competent for the activities in the field of the healthcare, in case of a threat for the public health; and,
- to respect the house rules of the Reception Centre or other place of accommodation assigned by the Ministry of Labour and Social Policy.

2. RIGHTS AND DUTIES OF RECOGNISED REFUGEES

Personal Status and the Right of Residence

Article 50

The personal status of the recognised refugee shall be established according to the laws of the Republic of Macedonia.

The recognised refugee has the right of residence in the territory of the Republic of Macedonia.

Rights and Duties

Article 51

If not otherwise determined by this or any other law, the recognised refugees have the same rights and duties as the nationals of the Republic of Macedonia, exclusive of the following:

- they do not have the right to vote;
- they are not subject to the military draft; and,
- they cannot practise a profession, engage in wage-earning employment or found associations of citizens or political parties in cases when, as a condition, it is prescribed by law that the person is to be a national of the Republic of Macedonia.

Recognised refugees may acquire the right of possession of movable and immovable property, to engage in wage-earning employment or practice a profession, under conditions defined by the law which regulates this right for aliens in the Republic of Macedonia.

Accommodation

Article 52

The recognised refugee will be provided with accommodation, according to the principle of local contribution, through giving an appropriate flat for use or financial assistance necessary for provision of accommodation facilities until the moment when he will secure his means of subsistence but for a maximum period of two years from the day of delivery of the decision for recognition of the status of recognised refugee.

Should the recognised refugee refuse the allocated accommodation facilities in the municipality, he loses the right of accommodation and he may settle in another municipality of his own choice at his own expense.

Financial Assistance

Article 53

A recognised refugee who does not have an income or cannot obtain it out of his property is entitled to financial assistance in a monthly amount, in the form of a basic financial assistance as a bearer of the right and allowance for the other members of the family who do not have the means of subsistence (co-beneficiaries of the assistance) until the moment of provision of their own means of subsistence, but for a maximum period of two years from the day of delivery of the decision for recognition of the status of recognised refugee.

The financial assistance of paragraph 1 of this Article, is determined by the average monthly net salary per employee in the Republic of Macedonia realised in the last three months and amounts to:

- basic financial assistance (recognised refugee-single) 18%;
- recognised refugee with one co-beneficiary of the right 23%; and,
- recognised refugee with two and more co-beneficiaries of the right 30%.

After the expiry of the time limit of paragraph 1 of this Article, the recognised refugees are equalised with the nationals of the Republic of Macedonia, as regards the right to permanent financial assistance and other social welfare rights.

Healthcare

Article 54

Until the acquisition of the capacity of an insured person pursuant to the Law on Health Insurance, the recognised refugee has the right to basic health services, same as the nationals of the Republic of Macedonia.

Sources of Financing and Competent Body in Charge of the Realisation of the Rights

Article 55

The funds for accommodation, financial assistance and healthcare of articles 52, 53 and 54 of this law shall be provided from the Budget of the Republic.

The Ministry of Labour and Social Policy takes care of the accommodation, allocation of financial assistance and healthcare of the recognised refugees.

Labour Legislation and Social Security Rights

Article 56

Recognised refugees shall exercise the right to work under the same conditions that are prescribed by appropriate law regulations for the aliens under permanent residence permit in the Republic of Macedonia.

In the case of application of restrictive measures for employment of aliens, the same will not be applicable for the recognised refugees, coming from a state towards the nationals of which those measures are directed, if the recognised refugee meets one of the following conditions:

- resides for at least three years in the territory of the Republic of Macedonia;
- is married with a national of the Republic of Macedonia; and,
- has one or more children who are nationals of the Republic of Macedonia.

As regards the rights in the labour legislation, healthcare, pension and invalid insurance, the recognised refugees have equal treatment as the nationals of the Republic of Macedonia.

Transfer of Property, Invested Capital and Profit

Article 57

In compliance with the legislative regulations of the Republic of Macedonia, the recognised refugee has the right to transfer the property which has been brought into the territory of the Republic of Macedonia and to freely take out the invested capital and profit in another state to which he has been admitted for resettlement.

3. RIGHTS AND DUTIES OF PERSONS UNDER SUBSIDIARY PROTECTION

Right of Residence

Article 58

With the day of delivery of decision for recognition of the right of asylum for subsidiary protection the person under subsidiary protection shall acquire the right of residence in the territory of the Republic of Macedonia for a period of up to one year and the same shall be extended should the reasons of Article 4-a of this Law still exist.

Accommodation

Article 59

The person under subsidiary protection, shall be provided with accommodation pursuant to Article 52 of this law, but for a maximum period of one year from the day of delivery of the decision for recognition of the status of person under subsidiary protection.

Rights and Duties

Article 60

The person under subsidiary protection is entitled to financial assistance under conditions and in the amount established in the Article 53 of this Law and to basic health services pursuant to Article 54 of this Law.

If not otherwise determined by this or any other law, the persons under subsidiary protection have the same rights and obligations as the aliens under temporary residence permit in the territory of the Republic of Macedonia.

Voluntary Repatriation

Article 61

After the cessation of right of asylum in the Republic of Macedonia, the Ministry of Interior in cooperation with the High Commissioner for Refugees will make possible the organised voluntary repatriation of the persons in their country of origin.

CHAPTER VI
RIGHT OF TEMPORARY PROTECTION

Article 62

Conditions for Granting Temporary Protection

In the event of a mass influx, the Government may grant temporary protection to persons coming directly from a state where their life, safety or freedom have been threatened by war, civil war, occupation, internal conflict linked with violence or mass violation of human rights.

The Government re-examines periodically the existence of the conditions of paragraph 1 of this Article, and decides on the extension of the temporary protection.

The temporary protection in the Republic of Macedonia cannot last longer than two years.

Application of the Provisions of this Law

Article 63

The provisions of Article 6, 7, 8, 14, 17 and 47 of this Law, also apply to persons under temporary protection.

The Rights of Persons under Temporary Protection

Article 64

The persons under temporary protection have the right to:

- residence and care in the Republic of Macedonia in the course of duration of the temporary protection, in accordance with the economic possibilities of the Republic of Macedonia;
- the rights to work, healthcare, pension and invalid insurance, under the same conditions prescribed by appropriate regulations for aliens under temporary residence permit in the Republic of Macedonia;
- humanitarian assistance and basic health services for unemployed persons under temporary protection; and,
- primary and secondary education, and as regards the higher levels of education, the persons under temporary protection are equal to the aliens under temporary residence permit in the Republic of Macedonia.

The residence of paragraph 1 sub-paragraph 1 of this Article shall not be considered as lawful residence in the sense of the Law on Aliens and the Law on Citizenship of the Republic of Macedonia.

The Ministry of Labour and Social Policy of the Republic of Macedonia takes care of the realisation of the rights of paragraph 1 of this Article.

Identification Document

Article 65

The Ministry of Interior shall keep records on the persons under temporary protection and shall issue them with an identification document.

The identification document of paragraph 1 of this Article is valid until the cessation of the temporary protection in the Republic of Macedonia.

The provisions of Article 39, paragraphs 2, 3 and 4 of this Law, also refer to the identification document for persons under temporary protection.

Submission of Application for Recognition of the Right of Asylum

Article 66

The person under temporary protection has the right to submit an application for recognition of the right of asylum at any time.

The person under temporary protection, whose application for recognition of the right of asylum has been rejected, shall enjoy the temporary protection until the expiration of the time for which it has been granted.

CHAPTER VII

PROCESSING AND PROTECTION OF PERSONAL DATA

Central Database

Article 67

The Section for Asylum pursuant to the Law on Protection of Personal Data, establishes, processes and uses a Central Database which contains the personal data of the asylum seekers, recognised refugees and persons under subsidiary protection, data about their residence and rights which they enjoy in the Republic of Macedonia.

Data Exchange

Article 68

The data of the Central Database may not be exchanged with the country of origin of the person to whom these data are related or with the country of origin of the members of his family.

For the purpose of execution of the decision for expulsion from the territory of the Republic of Macedonia of a person whose asylum application has been effectively rejected or whose asylum in the Republic of Macedonia has ceased with an effective decision, the Section for Asylum may exchange with the competent bodies of other states the following data:

- Name and family name, date and place of birth, sex, citizenship, last place of domicile and address of the flat, data on the number of family members and documents issued by the country of origin; and,
- Fingerprints and photography.

CHAPTER VIII MISDEMEANOR PROVISIONS

Article 69

A fine in the amount of 20 up to 80 euro in denar counter value shall be declared for an offence to a natural person who:

- gives the documents of Article 39 paragraph 1 for use, respectively shall make use of another person's identification document as his own (Article 39 paragraph 4);
- at 18 years of age shall not submit application for issuance of an identity card (Article 41 paragraph 1) and
- shall not return the issued travel document and identity card to the Ministry of Interior at the cessation of asylum (Article 44) .

Article 70

A fine in the amount of 300 euro in denar counter value shall be declared for an offence to a natural person who:

- shall not keep as confidential the data learnt in the course of the procedure (Article 21 paragraph 3 and Article 22 paragraph 4);
- shall not carry with him the identification document or shall refuse to show it upon the request of an official authorised by law to ask for identity cards (Article 39 paragraph 3);
- shall not report the disappearance or damage of the document issued pursuant to this Law to the Ministry of Interior within two days from the moment they have noticed it (Article 46 paragraph 1); and,
- shall act contrary to Article 49 of this Law.

Article 70-a

A Commission of the Ministry of the Interior conducts the misdemeanour procedure for the offences defined in the provisions of Article 69 and 70 of this law.

The Commission of paragraph 1 of this Article consists of two Members and a President of the Commission.

The Members of the Commission have completed high education and a working experience of at least four years on the subject matter, while the President of the Commission is a graduate lawyer who has passed the judicial exam and has a working experience of at least six years in the subject matter.

CHAPTER IX
TRANSITIONAL AND FINAL PROVISIONS

Article 71

(Transitional provision Article 71 of the Law published in the “Official Gazette of the Republic of Macedonia” No. 49/2003)

Within six months from the day of entry into force of this Law, the Minister of Interior shall adopt a sub-legislative regulation on: the form for asylum application, the manner of fingerprinting and photographing and asylum seekers, the form and procedure for issuance and replacement of documents of asylum seekers and persons who have been recognised the right of asylum, or temporary protection in the Republic of Macedonia and on the manner of keeping the records.

Article 72

(Transitional provision Article 72 of the Law published in the “Official Gazette of the Republic of Macedonia” No. 49/2003)

With the day of entry into force of this Law, the procedures for recognition of the right of asylum and for recognition of refugee status, which have not been finalised pursuant to the Law on Movement and Residence of Aliens (“Official Gazette of the Republic of Macedonia” No. 36/92, 66/92, 26/93 and 45/2002), shall be finalised pursuant to the provisions for regular procedure for recognition of the right of asylum, of this Law.

Article 73

(Transitional provision Article 73 of the Law published in the “Official Gazette of the Republic of Macedonia” No. 49/2003)

The right of asylum or refugee status granted to an alien or a stateless person pursuant to the Law on Movement and Residence of Aliens shall continue if the person has been residing in the territory of the Republic of Macedonia after the entry into force of this Law.

Article 74

(Transitional provision Article 74 of the Law published in the “Official Gazette of the Republic of Macedonia” No. 49/2003)

From the day of entry into force of this Law, the persons from the Serbia and Montenegro from Kosovo, with the status of temporary humanitarian assisted persons in the Republic of Macedonia, shall be considered as persons under temporary protection, in accordance with this Law.

Article 75

(Transitional provision Article 75 of the Law published in the “Official Gazette of the Republic of Macedonia” No. 49/2003)

With the day of entry into force of this Law, the provisions of Articles 40 - 55, Article 56 paragraph 3, Article 58 paragraph 1, Article 59 paragraph 1, Article 60 paragraph 1 and Article 61

in the section relating to the travel document for refugees, Article 77 paragraph 1 sub-paragraph 7 and 8 and Article 79 paragraph 1 sub-paragraph 1, 2 and 7 of the Law on Movement and Residence of Aliens, shall cease to be valid.