

Official Gazette of the Republic of Macedonia
Number 146, Year: LXV, Monday, 7 December 2009

2950.

Pursuant to Article 75 paragraphs 1 and 2 of the Constitution of the Republic of Macedonia, the President of the Republic of Macedonia and the President of the Assembly of the Republic of Macedonia, issue the:

PROMULGATION

DECLARING THE LAW CHANGING AND AMENDING THE LAW ON ASYLUM AND TEMPORARY PROTECTION

The Law Changing and Amending the Law on Asylum and Temporary Protection, adopted by the Assembly of the Republic of Macedonia at its session held on 3 December 2009, is hereby declared.

No. 07-5067/1
3 December 2009
Skopje

President of the
Republic of Macedonia
Gjorgje Ivanov
(given under his hand)

President of the
Assembly of the Republic of
Macedonia
Trajko Veljanoski
(given under his hand)

LAW CHANGING AND AMENDING THE LAW ON ASYLUM AND TEMPORARY PROTECTION

Article 1

In the Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia", no 49/2003, 66/2007 and 142/2008), in Article 4-a, paragraph 2 sub-paragraph 2, the word "behaviour" is replaced with the word "treatment".

Article 2

Following Article 4-a, a new heading and new Article 4-b are being added which read:

"Recognised refugee and person under subsidiary protection *sur place*

Article 4-b

Recognized refugee and person under subsidiary protection *sur place* is a foreigner who already finds himself in the territory of the Republic of Macedonia, whose right to asylum shall

Official Gazette of the Republic of Macedonia
Number 146, Year: LXV, Monday, 7 December 2009

be recognized pursuant to Article 4 and 4-a of this Law, also in cases when his well-founded fear of persecution or real risk of suffering serious harms is based on events which have taken place, or activities in which he has been engaged since he left the country of origin, in particular where it is established that the activities constitute the expression and continuation of convictions or orientations held in the country of origin.”

Article 3

In Article 9 paragraph 3 is being deleted.

Article 4

Following Article 9 a new heading and new Article 9-a are being added which read:

“First country of asylum

Article 9-a

First country of asylum is a state which has readmitted the asylum seeker given that:

- his refugee status has been recognized in that state and he can still avail himself of that protection, or
- he enjoys sufficient, that is effective protection in that state, including benefiting from the principle of non-refoulement.”

Article 5

In the heading of Article 10 the words: “(First country of asylum)” are being deleted.

Article 6

In Article 18, paragraph 1 is being changed and it reads:

“The asylum application shall be submitted in writing or orally upon minutes, in the Macedonian language, or if that is not possible, in the language of the country of origin, in some of the foreign languages in common use or in a language the asylum seeker may reasonably be supposed to understand ”.

Following paragraph 3 a new paragraph 4 is added which reads:

“The Section for Asylum of the Ministry of the Interior shall inform the asylum seekers in writing and orally, in a language which they may reasonably be supposed to understand and within a timeframe not exceeding 15 days from the day of submission of the asylum application on: the manner of implementation of the procedure for recognition of the right to asylum, on the rights and obligations of asylum seekers during that procedure and relating to the reception conditions, the right to legal assistance, as well as of the right to communicate with persons providing legal assistance, the representatives of the High Commissioner for Refugees and non-governmental humanitarian organizations, in all stages of the procedure and wherever the asylum-seekers are.”

Official Gazette of the Republic of Macedonia
Number 146, Year: LXV, Monday, 7 December 2009

Article 7

Following Article 22 a new heading and new Article 22-a are being added which read:

“Minors

Article 22-a

“The representative by law of the minors shall submit asylum application for them.

The best interests of the child shall be a primary consideration when implementing the provisions of this law.

It is necessary when assessing the application for recognition of the right to asylum of a child to have regard to child-specific forms of persecution”.

Article 8

The heading before Article 23 and Article 23 are being changed and they read:

“Unaccompanied Minors, Persons with Mental Disabilities and Persons with no Procedural Capacity

Article 23

Unaccompanied minors, persons with mental disabilities and persons with no procedural capacity, who are in need of protection pursuant to Article 2 of this Law shall be appointed a guardian, as soon as possible, pursuant to the Law on Family.

The unaccompanied minor in the sense of paragraph 1 of this Article is an alien below the age of 18, who arrives in the territory of the Republic of Macedonia, unaccompanied by his representative by law, or who is left without such accompaniment after he has entered the territory of the Republic of Macedonia.

The Ministry of the Interior shall take all necessary measures to trace the members of the family of the unaccompanied minor.

The best interests of the child shall be a primary consideration when examining applications for recognition of the right to asylum of unaccompanied minors.”

Article 9

Following Article 23 a new heading and new Article 23-a are being added which read:

“Vulnerable persons with special needs

Article 23-a

Official Gazette of the Republic of Macedonia
Number 146, Year: LXV, Monday, 7 December 2009

In the implementation of this Law, the special needs of vulnerable persons who are asylum seekers, recognized refugees, persons under subsidiary protection or persons under temporary protection, shall be taken into account.

Vulnerable persons, in the sense of paragraph 1 of this Article, are persons with no procedural capacity, minors, unaccompanied minors, persons with serious medical condition, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.

The special needs of vulnerable persons of paragraph 1 of this Article shall be established after an individual evaluation of their situation, undertaken by the competent public institution for social protection.

When accommodating and meeting the standard of living of persons of paragraph 2 of this Article their condition shall be taken into account with the provision of appropriate medical, psycho-social and other assistance.

It is necessary when assessing the application for recognition of the right to asylum to have regard to gender-specific forms of persecution. “

Article 10

In Article 32, paragraph 4 is being deleted.

Article 11

In Article 35 paragraph 1 sub-paragraph 3 the conjunction “and” is being replaced with a semi column.

In sub-paragraph 4, the full stop at the end of the sentence is being replaced with the conjunction “and”, and a new sub-paragraph 5 is being added which reads:

“-the person has arrived from a safe country of origin which is a Member State of the European Union, unless he/she proves that the country of origin is not safe for him/her.”

Article 12

In Article 37 paragraph 3 the number “15” is being replaced with the number “30”.

Article 13

In Article 38 paragraph 1 the sub-paragraphs 5, 6, 7 and 8 are being deleted.

Official Gazette of the Republic of Macedonia
Number 146, Year: LXV, Monday, 7 December 2009

Article 14

In Article 47 following paragraph 1 a new paragraph 2 is being added which reads:
“The Ministry of Labour and Social Policy in order to facilitate the integration of asylum seekers or of persons whose right to asylum has been recognized in the Republic of Macedonia shall be preparing appropriate integration programmes”.

Article 15

In Article 52 following paragraph 1, a new paragraph 2 is being added which reads:
“The Minister of Labour and Social Policy prescribes the criteria and the manner of use of appropriate flat for accommodation or of financial assistance necessary to provide premises for accommodation of the recognized refugee.”

Paragraph 2 becomes paragraph 3.

Article 16

The heading before Article 53 and Article 53 are being changed and they read:

“Rights of Social Protection

Article 53

The recognized refugee, from the day of delivery of the decision for recognition of the status of a recognized refugee shall be equal with the citizens of the Republic of Macedonia in relation to the exercise of the rights of social protection established with the Law on Social Protection.”

Article 17

Article 55 is being changed and it reads:
“The funds for accommodation, social protection and health care of Articles 23-a, 52, 53, 54 and 60 of this law shall be provided in the Budget of the Republic of Macedonia.

The Ministry of Labour and Social Policy takes care of the accommodation, exercise of the rights of social protection and health care of Articles 23-a, 52, 53, 54 and 60 of this law”.

Article 18

In Article 56 paragraph 1 is being changed and it reads:
“The recognized refugees shall exercise the right to work pursuant to this Law and the regulations for employment and work of foreigners.”

Article 19

Official Gazette of the Republic of Macedonia
Number 146, Year: LXV, Monday, 7 December 2009

In Article 58, the words “up to one year” are being replaced with the words “of at least one year”.

Article 20

Article 60 is being changed and it reads:

“Article 60

The person under subsidiary protection, from the day of delivery of the decision for recognition of the status of a person under subsidiary protection shall be equal with the citizens of the Republic of Macedonia in relation to the exercise of the rights of social protection established with the Law on Social Protection, while he shall exercise the right to basic health services pursuant to Article 54 of this law.

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

Article 21

The sub-legislative regulation of Article 15 paragraph 1 of this law shall be enacted within three months from the day of entry into force of this Law.

Article 22

This law enters into force on the eighth day from the day of its publication in the “Official Gazette of the Republic of Macedonia”.