

HELSINKI COMMITTEE FOR HUMAN RIGHTS

 ХЕЛСИНШКИ КОМИТЕТ ЗА ЧОВЕКОВИ ПРАВА НА РЕПУБЛИКА МАКЕДОНИЈА
 HELSINKI PER TEDRETTAT I REPUBLIKES SE MAKEDONISE
 HELSINKI CUMHURİYETİ'NİN TI-NDREPTULI-A E MANUSENGERE OMLUIDI REPUBLICA NEJAMIJA KI INSAN HAKLARI KOMİTESİ M A S C H E D O N I A
 HELSINSKO
 ХЕЛСИНШКИ КОМИТЕТ ЗАЉУДСКА ПРАВА РЕПУБЛИКЕ МАКЕДОНИЈЕ

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MONTHLY REPORT ON HUMAN RIGHTS IN THE REPUBLIC OF MACEDONIA

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CONTENT

PUBLIC EVENTS AND VIOLATIONS OF DEMOCRATIC PRINCIPLES

- High school and Teachers' Plenum
- Civil Initiative "I love GTC"

COURT CASES

- The case "Museum of Macedonia"
- The case "Triple homicide in Kavadarci"

LUSTRATION

- The case of Jadranka Kostova

HATE SPEECH

- Hate speech

APRIL 2015

PUBLIC EVENTS AND VIOLATIONS OF DEMOCRATIC PRINCIPLES

HIGH SCHOOL AND TEACHERS' PLENUM

The Helsinki Committee follows the activities of the High school and Teachers' Plenum, apropos their demands for dismissal and withdrawal of the so-called high school education reforms. The protests of the High School Plenums in several cities across the country were announced in March. The high school students demanded to have the Ministry of Education and Science heartheir arguments regarding the abolition of external testing and re-introduction of the old system of state exam. However, already during the announcements of the protests, the Committee was approached by high school students from several cities who stated that they had been exposed to pressure and threats in order to stop their activities. These acts of exerting pressure and threatening once again disclose the well-known practices and forms which certain interest groups have been using in the past few years with the goal to suppress the informal civil movements.

The high school students were not spared the aggressive negative campaign,¹led by as of yet unknown perpetrators, who were distributing disturbing content through posters and leaflets in the cities where the high school students demonstrated stronger resistance. The greatest pressure was noted in Skopje, Bitola, Veles and Resen. The Committee expressed its concern about the distributed materials, because the leaflets and the posters contained allegations aimed at identifying the alleged organizers and depicting them as corrupt and politically motivated youths, with the goal to delegitimize the entire movement. Moreover, after the failure of the negative campaign, the pressure escalated and took the form of direct threats, locking up the students in schools, allegations of bribe and indecent proposals addressed by the ruling party to some of the parents.²

The Committee reminds that the Constitution of the Republic of Macedonia guarantees freedom of association, freedom of expression, as well as the right to organize public gatherings. The Constitution also guarantees protection in the case when a citizen's dignity and reputation are violated. Taking in consideration the fact that in this specific case rights of persons under the age of 18 are violated, it must be noted that here the provisions of the Convention on the Rights of the Child become applicable. Namely, in Article 14 and Article 15 of the Convention on the Rights of the Child it is stated that children have right to freedom of thought, freedom of association, and freedom of peaceful gathering. Therefore, the institutions must demonstrate that they are seriously safeguarding these rights, and they must instigate investigation in order to identify the perpetrators, and thus enable the persons whose rights were violated to initiate adequate court procedures, as well as to help them receive befitting protection.

Finally, the Committee holds that such acts represent the substance of the criminal offences endangerment of safety of multiple persons, prevention and obstruction of public gathering, and violence, and in this regard remains at disposal of all those who need legal advice in pressing the adequate charges.

¹http://mhc.org.mk/announcements/272#.VSTQX_yUepc

²<http://mhc.org.mk/announcements/273#.VSTPTvyUepc>

STUDENTS' AND PROFESSORS' PLENUMS

After two months of protests, which were almost completely ignored by the authorities and the executive power responsible for drafting the amendments to the Law on Higher Education, the Student's Plenum, supported by the Professors' Plenum, declared autonomous zone on the premises of the Philosophy/Philology Departments of the University in Skopje. In this way the students offered an alternative cultural-educational program, holding fast to the principles of equality, inclusiveness and solidarity. Despite the problems they were facing, the students managed, during a one month period, to hold classes, as well as to coordinated activities beyond the scope of the existent curriculum. In this way they managed to facilitate discussion and exchange of arguments regarding numerous open question in the area of education. The practice of holding regular open meetings, lectures and cultural and entertainment events as part of their daily program made possible for the students to meet the executive authorities, but also to convince them to withdraw completely the draft amendments to the Law on Higher Education. During the month of February, the Students' Plenum and the autonomous zone spread over several Departments and Colleges in Skopje, but also in other cities, like Bitola and Štip. Through this way of practicing direct democracy within the frames of the University, and, above all, defending the autonomy of the institutions for higher education, the Students' Plenum demonstrated that the young people manifest significant knowledge of their rights and obligations and knowledge how to improve the students' life, standard, education and political culture, as well as that they possess sufficient political maturity to take part in the processes of making decisions that are of special public interest.

CIVIL INITIATIVE "I LOVE GTC"

The Helsinki Committee compliments the civil initiative for preservation the City Trade Center through local referendum, in accordance with the Law on Referendums, and other forms of direct statements of the citizens' outlooks, in accordance with Article 3, Paragraph 6 and Article 6, Paragraph 2 of the above Law. This Law facilitates practice of direct democracy and participation of the citizens in the process of making decisions which are of public interest, as well as freedom of expression, as constitutional rights of the citizens.

The Committee remains at the civil initiative's organizers disposal, provided they deem they are in need of legal advice regarding the implementation of the referendum. At the same time, we encourage the citizens of Center Municipality to utilize their democratic right to vote and thus take active participation in making the decisions which have direct bearing on all citizens in the country. Moreover, the utilizations of the forms of direct democracy allows for establishing of good practices and inclusion of the citizens in the decision-making process as their civil and political right.

JUDICIARY

THE CASE “MUSEUM OF MACEDONIA”

The Helsinki Committee for Human Rights of the Republic of Macedonia received two requests for free legal assistance, submitted by Biljana Josifovska, spouse of Pero Josifovski, and Marija Videvska, spouse of Zlatko Vidovski, both defendants in the case called “Museum of Macedonia”.

This case was prosecuted at the Basic Court Skopje I, on the charges of theft of 162 artefacts from the Museum of Macedonia, when seven persons were indicted, almost all of them employees of the Museum. With the first-instance ruling, passed on 20 March 2015, all defendants were found guilty and sentenced to high imprisonment penalties, ranging from one year to eight years and eight months. The highest imprisonment penalty of eight years and eight months was pronounced on the third defendant Pero Josifovski.

Three of the defendants have been in detention since the day of their arrest in February 2014.

After reviewing the case’s documentation the Helsinki Committee noted serious infringements with regard to the evaluation and argumentation of the necessity for appointing and extending detention measure by the Basic Court Skopje I in Skopje. The ruling on detention in this case was passed without explanation of the reasons for the alleged danger of escape, which is a violation of the European Convention on Human Rights. By extending the detention measures, the Criminal Council of the Basic Court Skopje I in Skopje violated the provisions of Article 5, Paragraph 3 of the Convention, because with it the Council directly endangered the defendants’ right to liberty. The judges are obliged to describe the particular situation of the detained person elaborately, and especially to take in consideration their individual situation and family relations. The Law on Criminal Procedure also prescribes other measures for securing the defendant’s presence and successful prosecution of the case, which are not at all applied in the judicial practice. In this particular case, although the Court was offered bail, as one of the most adequate possibilities for avoiding detention, it was nevertheless rejected by the Court.

The Helsinki Committee repeatedly reacts to such practice of the judges to pass decisions on appointing and extending detention measure, done without offering well-argued explanation of the need for such measure. In this regard we once again appeal to the judges to consider the guidelines and recommendations offered by the European Court of Human Rights with due care and attention.

THE CASE “TRIPLE HOMICIDE IN KAVADARCI”

By the end of 2014 the public learned of the multiple murder of family members of a woman who was a victim of domestic violence. This vicious crime took place in Kavadarci, and was committed by the woman’s former husband, who made use of firearms in the act.

This is yet another case in which the competent authorities failed to provide protection to the victim of violence, inflicted upon her and upon the members of her family by her former husband for a prolonged time period. The attacks escalated on 09. November 2014 when her mother, father and sister were murdered.

Prompted by the inefficiency and the negligence of the institutions in this particular case, the Public Prosecution Office initiated investigation against the police officers and the employees of the Center for Social Work who were in charge of the case. The trial of the police officers is now closed and those individuals are convicted on the charge of professional negligence, due to the fact that they failed to take away from the former husband the firearms, for which he did not hold any special license. The above mentioned individuals were put on probation, such that imprisonment sentence in duration of six months was pronounced, which the defendants would not serve provided they do not commit another criminal act within the time span of one year after the verdict becomes final. Additionally, the defendants were ordered to pay a fine in the amount of 12. 300 denars, with the provision that this penalty will not be enforced if they do not commit another criminal offence within the time span of one year.

The victim was not invited to participate in the proceedings, although she was the aggrieved party in this case of professional negligence of the police officers. The Basic Court Kavadarci failed to even consider her at all as a victim of criminal offences, although it was her who filed the request to the Police to seize the weapon of the perpetrator, due to the repeated attacks against her as his spouse, as well as against the members of her family. Besides, she was not even informed about the proceedings against the convicts, and learned about the court decision from the media. Her family members were killed with that weapon. Therefore, the victim suffered losses due to failure to act and negligence of the police officers, who inflicted enormous emotional suffering upon her by omitting to seize the weapon.

On account of the restriction of her right to participate in the proceedings as victim, i.e. aggrieved party, as well as on account of the fact that the police officers should have been prosecuted for more severe criminal offence, the Helsinki Committee provided legal assistance to the victim, so that she could file a Request for Protection of Legality, which was delivered to the Public Prosecutor of the Republic of Macedonia. With this Request, the victim demanded overturning of the above ruling and reinstating of the proceedings, in which she as well would be involved, while the police officers would be prosecuted on the charges of Abuse of Official Capacity and Authority, due to severe violation of the rights of another party.

The fact that the victim was not involved in the procedure, which was closed urgently, as well as the fact that the police officers were charged with lesser criminal offence than the one they should have been prosecuted for, give rise to suspicion in the sincerity of the intention of the Public Prosecution and the Courts to determine and sanction the factual responsibility of the police officers.

LUSTRATION

THE CASE OF JADRANKA KOSTOVA

The latest Decision no. 08-214/1 of the Commission for Fact Verification, adopted on 26 March 2015, with which the journalist Jadranka Kostova is being lustrated, represents yet another standard act of political revenge against those who do not share the views of the present Government and dare to criticize it. The adoption of this Decision follows a week after the broadcast of the documentary: “Macedonia: behind the façade”, presented by the Al Jazeera TV Channel. In it, the journalist and editor in chief of the weekly “Focus” puts forward some critical views of the developments in the country. The date on which the Decision was adopted, i.e. 26 March, is the same date on which in 2013, the former editor in chief of the weekly “Focus” lost his life in a car accident, under suspicious circumstances.

With this last case, in the publicly available Registry of the Commission for Fact Verification, personal data (name, surname and ID number) and former professions of 147 persons are made known to the public, while 23 persons are lustrated post-mortem, without disclosing their personal data. The personal data of 10 lustrated person was erased after the cancelation of the Commission’s Decisions by the Administrative of Higher Administrative Court. In the Registry are also featured 3 persons whose identity is concealed upon a request of the Security and Counter-Intelligence Directorate.

In the case of the journalist Kostova, the Commission concluded that she willfully stepped forward as a source of information regarding two persons who were of interest for the Service, due to their different political and other affiliation. As an argument for its findings the Commission cites the Questionnaire for revision of personal files from 1967 (a time period when the journalist was beginning her primary education), the Official Note of 1993, and a Reproduction of conversation from 1996. On the basis of the last two documents, the Commission concludes that the journalist Kostova, during the time when she was an employee in MRTV, due to political and ideological reasons, consciously, secretly, continuously and in organized manner cooperated with the state security agencies. According to the Commission, the journalist undertook such activities in order to advance her professional career. As far as the Official Note of 1993 is concerned, according to the journalist Kostova, she contacted the MI and SCID believing that the person regarding whom she was allegedly sharing information was part of the police provocation aimed at effectuating her suspension from her work post – editor of the TV programme “Without Title, but for a Reason”, as well as at canceling the programme in which taboo topics used to be discussed, e.g. freedom of expressing one’s convictions, as it the case of a citizen who deemed that the Macedonians are Bulgarians. In the file Reproduction of conversation from 1996, a telephone conversation between two persons is presented. One of those persons claims that the journalist visited Rome accompanied by secret services, while the other one disbelieves such statement. The findings of the Commission drawn from the

Reproduction of conversation are nothing but hearsay allegations and as such are unsuited to be used as evidence, much less as facts.

The Helsinki Committee would like to once again draw attention to the Council of Europe's direction that the process of clearing up the past must be based upon the principles of legality and justice. In opposition to these postulates, the process of lustration in Macedonia is a classic example of Inquisition procedure, in which the accused are neither summoned to hearing nor allowed to defend themselves. As a consequence, in the case of a whole range of professions, like journalist, professors, etc., the result of this procedure is non-different from a criminal sanction stipulated in the Criminal Code – prohibition to practice profession, activity or duty. This outlook is also encapsulated in several rulings of the European Court of Human Rights.³ Due to the reasons listed above, the Helsinki Committee shall continue to actively protect the basic rights and freedoms of all innocent victims of the unjust process of lustration. If the Administrative Court in this case fails to ensure secrecy of personal data, protection of personal integrity, respect of privacy, family life, dignity and reputation, the Committee is convinced that the justice will be served at the European Court of Human Rights.

HATE SPEECH

After the mass wiretapping scandal had been made public by the opposition parties, the Helsinki Committee noted rise in hate speech directed at citizens who participate in civil movements, citizens associations, as well as at citizen who are members of certain political parties. They are exposed to aggressive campaign on daily bases, being labeled as traitors, “commies“, “Sorosoids“, “rats”, etc., all that with the goal to impose the perception that they are working against the interests of the country. Especially worrisome are the public appearances of certain civil movements and public figures, who use the media as a tool for spreading hate towards individuals or groups, on account of the their opposing views regarding the operation of the executive power and the ruling parties. Additionally, the Committee expresses its concern about the instigations to violence flared by some public figures who claim to be journalists, as well as about the utilization of the social networks and media for settling accounts with the citizens of the Republic of Macedonia who do not share their opinions. The Committee appeals to the competent institutions to at last undertake measures within their competencies, and to publicly distant themselves from such positions. Else, we shall consider them direct accomplices in the creation of fear ambience and responsible for approving of such practices.

³Matyjek v Poland, Application no.38184/03, para. 48, and Bobek v Poland, Applicationno. 68761/01, para. 2.