Monthly Report on Human Rights in the Republic of North Macedonia

MAY 2019

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JUNE 2019

JUDICIAL MONITORING

**MONITORING OF ONGOING CASES**

The Helsinki Committee continued its monitoring during this month of the court proceedings that are of importance for the protection of human rights in the country.

This month the evidence session continued for the criminal case against Milenko Nedelkovski, due to grounded doubt of committing a criminal offence under Article 394-d of the Criminal Code of the Republic of North Macedonia (Spread of racist and xenophobic materials through a computer ). Part of the material evidence of the defence was presented, as well as M.N. was questioned. Hence, the defendant Milenko Nedelkovski is charged with this offence, because in the summer of 2018, when a deadly fire broke out in a suburb of Athens, he posted a status that spreads hate speech against the fatalists from the Republic of Greece.

The Helsinki Committee has also been monitoring the case of the indicted medical staff and Health Insurance Fund employees, who were accused for the death of Tamara Dimoska. In May the fourth hearing took place of the mother of Tamara Dimoska, Zaklina Dimoska and it ended following the full interrogation by the Basic Public Prosecutor and the defence. For the next two trials, questioning was scheduled of Public Prosecutor’s witnesses. The court reproached in the Minutes part of the defenders for inappropriate behaviour and not respecting the court and the parties and the witnesses (one of the defenders by using a raised voice addressed the judge and behaved inappropriately with the Public Prosecutor’s Office and the witnesses).

The Helsinki Committee also monitored two trials on labour relations, one for unlawful dismissal from a workplace, and the other for mobbing at the workplace.

It’s been a long period of time since the Committee has been monitoring the trial for a criminal act of a foreign citizen, which is taking place for nearly 5 years; the defendant was confiscated his passport, he is not in detention, and since he has no employment permit and opportunity, he lives in a Monastery. The reason for such postponement of the procedure is the right to a fair trial (trial within a reasonable time) is due to the fact that this case has more co-defendants, of which part is unavailable or do not attend trials, and the procedure for the foreigner has still not been detached.

DISCRIMINATION

CPD ESTABLISHED DISCRIMINATION ON THE GROUNDS OF SEX IN A JOB ANNOUNCEMENT

Proceeding upon a complaint lodged by the Helsinki Committee for Human Rights, the Commission for Protection against Discrimination established direct discrimination on the ground of sex by the Centar Olympic Pool in Skopje, against the potential candidates for obtaining work engagement. The complaint submitted by the Committee to the CPD in March this year, refers to a job announcement published on 13 March 2019 on the Facebook page of the business entity, for two working positions - a full-time receptionist and a full-time cleaning lady.

As per the statements in the received opinion from CPD: "The Commission addressed Centar Olympic Pool with a request for explanation, so as to provide their statement on the complaint. On 3 April 2019, a response was submitted to the Commission denying the allegations in the complaint and stating that they enclosed as evidence a PPR form and employment contract on the work position of a cleaning person, concluded with a male person. However, the Commission cannot discern from the submitted evidence that it is not a matter of discrimination, that is, in the PPR form, no data are contained of any employee, except for the required number of workers. In addition to this the said employment contract is incomplete, without any signatures, concluded on 18 March 2019 and valid from 1 March 2019."

Given the established direct discrimination on the basis of sex in the field of labour and labour relations, that is, disabling male members to apply for the vacancy, CPD recommends that the job announcement is cancelled, and a new announcement is published, by excluding the stated discriminatory content. According to the Law on Prevention and Protection against Discrimination, the discriminator shall be obliged to act within 30 days from the receipt of the recommendation and inform the Commission thereof.

Recommendation: The Helsinki Committee shall continue to document and report discriminatory job announcements and it welcomes the practice of establishing discrimination in such advertisements by the CPD. We appeal to employers not to publish discriminatory job announcements and we invite everyone who felt discriminated to report the case to the Helsinki Committee for Human Rights.

DOMESTIC AND GENDER-BASED VIOLENCE

RECOGNITION OF ALL FORMS OF DOMESTIC VIOLENCE

During the month of May, two women reported to the Helsinki Committee for Human Rights that they are victims of domestic and gender-based violence. These two women are long-year victims of physical and psychological domestic violence by their spouses, which frequently resulted in assaults.

The legal team of the Helsinki Committee provided one of the victims with legal advice on where to denounce the domestic violence, it elaborated the procedure for her and informed her of the opportunity that the Helsinki Committee may escort her before the authorities so as to denounce the act, seeking to safeguard her integrity in the procedure, assist her in finding a solution to her case, as well as ensuring support.

The other victim informed us that already, through the Public Institution Inter-municipal Centre for Social Work Bitola, she ran a procedure for passing temporary measures for protection against violence. The violence and the safety endangerment by her spouse continued even after the expiration of the deadline for which the temporary measures for protection against discrimination were passed, which is the reason why the victim reported the case to a police station and to the Centre for Social Work. The victim informed us that the staff of the Centre for Social Work in Bitola told them that due to not possessing relevant medical documents, they could not raise a procedure for protection against domestic violence. As the abuser has been continuously exercising violence over the victim and her closest family and he has been threatening to commit outrage, the staff of the Centre for Social Work were contacted by a civil society organisation from Bitola, in cooperation with the Helsinki Committee, whereby we were informed that a proposal shall be submitted before a competent court in the shortest time possible, for protection against domestic violence.

**Recommendation:** The domestic violence does not imply physical violence only. To raise a procedure for protection against domestic violence it is not necessary that the victim possesses relevant medical documents. Domestic violence implies torture, insult, and endangerment of safety, assault, sex-based or any other psychological, physical or economic violence, hence causing the feeling of insecurity, endangerment or fear, including threats for such actions against the victim. The competent institutions undertaking measures for protection of victims are obliged to recognise any form of domestic violence, and especially take into account the fact that domestic violence rarely occurs in one single form.

HATE CRIME

THE TREND CONTINUES OF MINORS INVOLVED IN INCIDENTS MOTIVATED BY HATE

In May 2019, a total of 22 hate incidents were registered, of which 20 were committed due to ethnic background and 2 due to political affiliation. Most incidents were registered in Skopje (19), and from the criminal charges filed, one is for the criminal act Spreading Racist and Xenophobic Materials and the other for Violence. The trend of the majority of perpetrators and victims to be children (persons under 18) and young people continues, with a significant decrease in the age limit of the involved children, especially for the victims (the youngest is 12 years) in the recent period.

For this month we shall single out the case of violence committed due to ethnic hate. On 17 May 2019 at 22.10 hrs, it was reported to the Sector for Internal Affairs Skopje that two minors aged 12 and 13 were physically attacked by few unknown persons on Metodija Andonov Cento Street. Measures are underway to resolve the case.

HATE SPEECH

INCREASED TREND OF HATE SPEECH ON THE GROUNDS OF SEXUAL ORIENTATION AND GENDER IDENTITY

During the month of May, the Helsinki Committee for Human Rights on the platform [www.govornaomraza.mk](http://www.govornaomraza.mk) registered 61 reports of hate speech on the social networks/media. For comparison, since the beginning of the year, when some 40 reports on the average per month were registered, during May a dramatically increased trend of hate speech was noted. The largest number of reports (or 30%) relates to hate speech due to sexual orientation and gender identity in the period when the Helsinki Committee held a press-conference on the organisation of the first Pride Parade in June 2019. Except for this ground, the hate speech due to ethnic background remained present on the social networks (or 29% of the total number of reports). Following the completion of the second round of the presidential elections on 5 May, reduction of the number of reports due to political affiliation was noted (or 20%) and due to sex and gender (11%) that were present during the political campaign during the month of April.

May, 2019



Текстот во графиконот:

Hate speech due to sexual orientation and gender identity

Hate speech due to ethnic background

Hate speech due to political affiliation

Hate speech due to sex and gender

Hate speech due to race/colour

Foreign citizens subject to mocking

Hate speech due to intellectual or physical disability

Hate speech due to religion and belief

Based on the monitoring system of the Helsinki Committee, the increased number of reports is due to the raised awareness of the users of social networks. The hate speech that increased dramatically with the announcement of the Pride Parade has been documented and the competent institutions are informed of this phenomenon. We urge the competent institutions to closely monitor the growing trend and react accordingly, taking into account that we expect the trend to continue in the month of June.

LABOUR RIGHTS

Mobbing established in a court proceeding

The Helsinki Committee for Human Rights during the month of May was approached by six workers with a request for free legal aid. The Committee’s legal team provided legal information and advice on:

* raising a procedure before the State Labour Inspectorate for declared workers;
* assignment at another work position out of any written decision;
* cancellation of employment contract due to business reasons;
* remuneration provided by the employer in the case of death of a workers’ family member, and
* running disciplinary procedure against the worker due to abuse of sick leave.

A representative of the Helsinki Committee during this month monitored a trial in a proceeding for protection against harassment at the workplace (mobbing) before the First Instance Civil Rights Court in Skopje. During the trial, witnesses were heard, which were proposed by both parties and the Committee representative noted that the participants in the proceedings do not recognise all the behaviours that may imply mobbing. Namely, the wider public recognises as mobbing only inappropriate behaviour of the employer towards the workers, such as, raising the voice towards the worker, insult, degradation and/or other behaviours that may be interpreted as inappropriate treatment. Although such behaviours represent direct attack on the workers’ dignity, mobbing in some cases may be manifested also as giving too many or too little tasks or disabling or preventing the completion of the tasks by the worker, by making ungrounded critics and remarks. In essence, any continuous behaviour with final goal may be deterioration of the physical and mental health, discrediting the professional future of the employee, termination of the labour relation or abandonment of the work position, is considered as mobbing.

The Law on Protection against Harassment at the Workplace envisages that during the court proceeding, the burden of proof that there was no concrete behaviour representing mobbing shall fall on the mobbing perpetrator. Disobeying to this provision in the labour dispute procedures, which is frequently noted by the Helsinki Committee representatives, endangers the provision of efficient mechanism for protection against mobbing.

**Recommendation:** Recognising all forms in which the mobbing may be manifested is of utmost importance for enforcement of effective protection. The employees and employers, as well as the judges deciding in the procedures for protection against harassment at the workplace should be familiarised with all the behaviours that may be listed in this category.

FEMALE TEXTILE WORKERS

A TEXTILE FACTORY IN PROBISHTIP WITH MORE THAN 25 EMPLOYEES DOES NOT RUN ELECTRONIC RECORDING On WORKING HOURS

The Helsinki Committee was notified that the textile factory in Probishtip, in the capacity of an employer, does not run electronic recording for its employees and the work they perform, and on the other hand, it has more than 25 employees.

Pursuant to the Law on Labour Relations, the employer shall be obliged to run records on the full working hours and the employer with more than 25 employees and whose work process is conducted in one or more locations, shall be obliged to run electroning recording of the full working hours and the overtime work for each location.

In this specific case, the employer performs the work process in two locations, of which one is in Probishtip and employs more than 25 workers, and it does not run electronic recording of the working hours. As a result to such omision, the exact hours that the employees work may not be determined, neither whether they do overtime work and if yes, if any fees for overtime work is paid to them, in accordance with a law.

The Helsinki Committee for this specific case submitted a request for extraordinary inspection to the State Labour Inspectorate.

**Recommendation:** We appeal to all employers to record the working hours of their employees, in compliance with a law. We invite all female and male workers confronting such violations of labour rights, to report such cases to the Helsinki Committee.