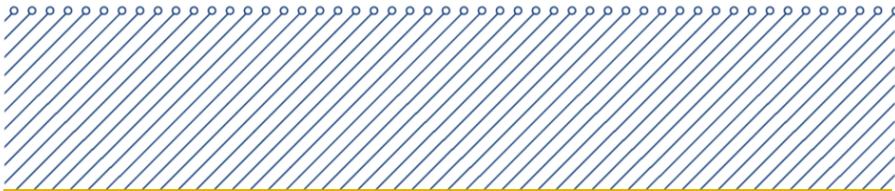




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REPORT  
2019

HELSINKI COMMITTEE  
FOR HUMAN RIGHTS

ANNUAL REPORT FOR 2019 OF THE HELSINKI COMMITTEE  
FOR HUMAN RIGHTS



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# INTRODUCTION

The year that the Helsinki Committee for Human Rights marked the 25th anniversary of its founding, one of the highlights was the successful Pride Parade, as a major step forward in the fight for equal treatment of LGBTI people in our society. This community, as well as other marginalized groups and citizens, received a new Law on Protection against and Prevention of Discrimination in 2019, even though the adoption was preceded by a shameful process of procrastination and sabotage by certain political entities, both from the government and the opposition. The postponement of the new measures for legal protection continued when the forming of the new Commission for Protection against Discrimination failed.

In the meantime, the systemic discrimination against Roma has continued in almost all social spheres and they are still facing difficulties in exercising their rights. As for the people with disabilities, a new model of functional assessment for children with disabilities has been introduced. The positive steps taken by the state to include these children in regular education have become problematic in practice due to the lack of educational and personal assistants. The efforts to implement deinstitutionalization have been more successful - by transferring all children from large institutions to small group homes and foster families.

Despite the positive developments in certain areas, negative phenomena have intensified, such as hate speech, which culminated in polarizing news and events. Ethnicity, sexual orientation, and political beliefs predominate. Hate cases registered by the Committee are on the rise, but the institutions continue to fail to treat them as such, ignoring the elements of bias.

The Helsinki Committee, as part of the Blueprint Group for monitoring judicial reforms, was an active factor in the reform processes, although on one of the most important issues, resolving the SPO status, our proposals were not included in any version of the bill. The situation escalated with the arrest of the Special Prosecutor Janeva in August 2019, with which the SPO ceased to exist and the powers were taken over by the regular prosecutor's office. Meanwhile, some of the cases filed by the SPO has become obsolete.

The European Commission in its 2019 report states that the country showed continued commitment in improving the judicial system and the implementation of the new legal framework is a solid foundation for continued progress, but that all judicial institutions should make additional efforts to restore public confidence in the judicial system. However, in terms of the reform process, the decision of the European Council made in October to return to the issue of expansion in May 2020 was demotivating, after which the country decided to call early parliamentary elections.

As far as workers' rights are concerned, we have noticed that the doubled number of cases and the significantly larger scope of workers in 2019 are a result of the active engagement of the Committee for raising workers' awareness and informing them about exercising and protecting their rights. The State Labour Inspectorate lacks promptness and that remains a major problem, as it has not implemented yet the Committee's recommendations based on regular monitoring of its work; hence, workers do not have adequate institutional protection against violations of

their rights, and there is no progress in occupational health and safety. The Committee, as part of the working group for drafting the new Law on Labour Relations, managed to address the proposals and ideas of textile workers. By doing so, for the first time they were represented in adopting policies and laws.

The struggle for gender equality has continued as well. In May, the Law on Abortion was adopted, which eliminated the problem caused by the previous law, which significantly obstructed the access to abortion. This year, a working group has been set up to draft a new Law on Equal Opportunities for women and men. Significant progress has been made in meeting the set goals and activities of the National Action Plan for the Implementation of the Istanbul Convention 2018-2023 (NAP), especially in the establishment of three centres for victims of sexual violence. However, one of the key acts, the Law on Prevention of and Protection against Violence against Women and Domestic Violence, was not put to a vote in Parliament due to the scheduled early parliamentary elections. As one of the most problematic points, based on the personal testimonies of the victims, the Committee found a high degree of insensitivity of CSR and MIA officials, judges, prosecutors, etc., whose attitude further contributes to double victimization of victims. Regarding international representation, the Helsinki Committee submitted a complaint to the CEDAW Committee this year, which is the first communication from the Republic of North Macedonia submitted to CEDAW. Also, the year was marked by increased digital activism through the first feminist platform in Macedonian language, Medusa, especially through the campaign #ЗоштоНеПријавив (Why I did not report), whose goal was to break the silence on sexual violence.

Finally, after many years of pointing out the shortcomings in the Law on Free Legal Aid, a new law was passed in 2019 that includes a wider scope of citizens who meet the conditions for receiving free legal aid. The Helsinki Committee systematically monitors the process of application of the new Law and one of the main remarks is the necessity of professional training of all service providers that contribute to the realization of citizens' rights.



# JUDICIAL SYSTEM

## REFORMS IN THE JUDICIAL SYSTEM

The European Commission **in its 2019 report** praised the progress of the country in resolving the "Urgent Reform Priorities" and the recommendations of the Venice Commission and the Senior Experts' Group on systemic Rule of Law issues. The report assessed that the state had made a continuous commitment to improving the judicial system and the implementation of the new legal framework is a solid foundation for continuous progress. In the report, the European Commission stressed that despite the legal changes, all judicial institutions should make additional efforts to restore the public confidence in the judiciary.

In the following year, the country should:

- continue implementing the Judicial Reform Strategy, prioritizing the development of the Human Resources Strategy and the improvement of the Automated Court Case Management Information System (ACCMIS) to ensure that it is fully functional and secure;
- to ensure consistent implementation of the new rules for appointment, promotion, disciplinary procedures, and dismissal of judges and to show that the independence of the judicial system is respected and promoted at all levels, protecting it from any risk of political interference;
- to fully implement the new legal framework related to the reform of the Judicial Council and to adopt a reform for the Council of Public Prosecutors;

However, it seems that 2019 again passed with turbulence in the field of justice and rule of law. For the most part, the focus was on the status of the Special Public Prosecutor's Office and its integration into the regular public prosecution system. The Blueprint Judiciary Group was not included in the working group in charge of drafting the Law on Public Prosecution, but repeatedly emphasized its commitment **that the SPO as an institution should continue working within the public prosecution system,** according to the hierarchical set-up and rules, but to be transformed into a public prosecutor's office on the same level as the Public Prosecutor's Office for Prosecution of Organized Crime and Corruption (PPOPOCC), and with a mandate to prosecute high corruption. The evidence video and audio materials need to be further used in the procedures if the judges deem it fit. The cases handled by the SPO must continue and have their own resolution. The Blueprint Group's proposals were not included in any of the versions of the bill released by the Ministry of Justice. The tensions over the SPO culminated in August 2019 with the arrest of the Special Public Prosecutor and the indictment of two crimes - receiving a reward for illegal influence and abuse of official position and authority. After this period, the SPO de facto ceased to exist, and the competencies were "transferred" to the regular Public Prosecutor's Office. As a result of these developments, some of the cases that were initiated by the SPO became **obsolete**.

As an additional demotivation was the decision of the European Council in October 2019, to return to the issue of accession of North Macedonia by May 2020, ignoring the recommendation of the European Commission for a green light to open negotiations with the country. Following this decision of the European Council, the leaders of the political parties agreed to call early parliamentary elections in April 2020, again questioning the continuity in the implementation of judicial reforms.

The Helsinki Committee, together with the partner organizations of the Blueprint Group, closely monitored the whole conducting and implementation of strategic judicial reforms, especially in terms of respecting the time frame for the implementation of the reforms, the involvement of the civil society, the affected sides and the public, as well as the transparency of the whole process. The general conclusion that can be drawn for the whole process of implementation of the measures and activities determined by the Reform Strategy of the Judicial System, is that the whole process was significantly delayed and that for certain segments there was insufficient involvement of civil society organizations; hence, it can be concluded that the whole reform process was partially transparent.

It is important to be noted that in 2019, several reform laws were passed and then entered into force, including amendments to the Criminal Code, the Law on the Judicial Council, the Law on the Council of Public Prosecutors, the Law on Misdemeanours, the Law on Administrative Disputes, The Law on Notaries, the Law on Enforcement and the Law on Free Legal Aid.

## NEW CONTENTS IN THE ADOPTED LAWS AND LEGAL AMENDMENTS

- **Criminal Code**

At the end of 2018, the Law on Amendments to the Criminal Code of the Republic of Macedonia was adopted, which entered into force in January 2019<sup>1</sup>. Some of the interventions provided by the Law were positive and substantial changes in the criminal law, especially the long-awaited changes for proper prosecution and sanctioning of hate crimes, as well as the introduction of new provisions for witness protection and provisions for sanctioning obstruction of justice.

However, some of the changes and amendments, without being properly justified by both the proposers and the legislator, left room for speculations, especially about the real reason for their adoption. The changes and amendments that entered into force were in regard to Article 40 (Sentence reduction), Article 275-c (Abuse of the public call procedure, assigning a public procurement contract or public-private partnership) and Article 279-a (Tax fraud).

- **Law on Courts**

With the latest amendments to the Law on Courts, for the first time the recommendations of the Venice Commission are fully implemented. The proposed amendments to this law were approved by the Venice Commission in December 2018. These amendments are aimed at fulfilling the recommendations given in the fourth round of evaluation and at fulfilling the measures set out in the Strategy, which, among other things, were welcomed in the last report of the European Commission for our country.

With the amendments, the Primary Court Skopje 1 - Skopje and the Primary Court Skopje 2 - Skopje are renamed into Primary Criminal Court Skopje and Primary Civil Court Skopje and the jurisdiction of the courts with primary jurisdiction is extended i.e. they can act on cases of international legal assistance.

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<sup>1</sup> Law on Changes and Amendments to the Criminal Code of RM, Official Gazette of RNM No. 248/2018 of 31.12.2018

Furthermore, the grounds for liability of the judges have been changed again, i.e. the grounds for dismissal are being graded, more precisely for a minor form of violation of the grounds for a more serious disciplinary violation, a disciplinary measure may be imposed on the judge. Regarding the grounds for dismissal of judges, the severity of the injury and the guilt of the judge are taken into account.

In accordance with the recommendations of GRECO, it is entailed the jurisdiction of the general session of the Supreme Court of the Republic of North Macedonia to enact a code of ethics for judges and lay judges. The criteria for selection and promotion of judges have been changed in accordance with Priebe's recommendations and with the TAIEX evaluation mission for the training of judges and public prosecutors. In this regard, the only point of entry into the judiciary will be the AJPP. The recommendations of the TAIEX evaluation mission allow a former judge of an international court to be elected in all instances of the judiciary, should they meet the general criteria for selection of a judge. For the first time the amendments entail the possibility for a judge elected for the area of one primary or appellate court to be elected for the area of another primary, i.e. appellate court but after the expiration of a certain number of years of uninterrupted judicial service in the respective court.

In accordance with the definitions of the Strategy for Reform of the Judicial Sector, judges with up to two years of experience are expected to judge on lighter cases. By doing so, judges with less experience will be prevented from adjudicating difficult cases, which used to be the case with the change of the annual schedules. With regard to the referral of judges to another court and reassignment to another department, in accordance with the amendments to the Law on Courts, a judge may be referred to another court or reassigned to another department for a period of one year, but not more than once in a period of five years. In this regard, upon the proposal of the Venice Commission, guarantees are introduced in case of referrals of judges to another court or in cases when they are assigned to a lower court due to certain situations. The current law stipulates that a judge can be referred or appointed for a maximum of one year. At the proposal of the Venice Commission, a limit is introduced until when that one year will be considered. With the proposed solution, referral and reassignment will be once in five years at the most. This solution prevents referrals and reassignments from being used as a form of pressure.

The amendments to the Law on Courts entail the establishment of a Council for Coordination and Management of Information and Communication Technology in the judicial bodies. The ICT Council makes a proposal for setting policy priorities and coordination of judicial bodies in the operation of the information and communication technology system.

The Strategy for Reform of the Judicial Sector entails preparation of an analysis of the judicial network and the number of courts in the country in order to optimize the number of courts through amendments to the Law on Courts. With the amendments to the Law on Courts, the Primary Court in Gevgelija, the Primary Court in Kavadarci, and the Primary Court in Kicevo will be courts with extended jurisdiction as of 2020. Also, in the latest amendments to the Law on Courts, the grounds for initiating a procedure for determining the responsibility of a judge were finally specified and a detailed distinction was made - which of these grounds lead to dismissal of a judge/court president, and which lead to a lighter or more severe disciplinary measure, and the procedure for acting on those grounds by the Judicial Council is elaborated in detail in the latest Law on the Judicial Council.

- **Law on Judicial Council**

For the first time the new law provides provisions that prescribe grounds for liability and a procedure for determining liability against members of the Judicial Council. Additionally, the criteria according to which the judges are evaluated in their promotion are finally specified; hence, the ratio of the qualitative criteria is significantly increased in relation to the quantitative criteria.

The procedure for determining the responsibility of judges and court presidents is specified and clarified. The President of the Supreme Court, as a member of the Judicial Council, will not have the right to vote.

Members of the Judicial Council from among prominent lawyers may not be elected from among judges and public prosecutors.

For the first time, civil society organizations relevant in the field of justice and human rights will participate in the procedure for electing members of the Judicial Council from among the judges.

When electing judges in the primary courts, for the first time the Judicial Council conducts an interview with the candidates, which is scored with 10% of the points received by the candidate.

A judge from another primary court may also be elected a judge in a primary court if there are no registered candidates from the Academy for Judges and Public Prosecutors.

At last the grounds for initiating a procedure for determining the responsibility of a judge have been specified and a detailed distinction has been made which of these grounds lead to dismissal of a judge/court president, and which to impose a lighter or more severe disciplinary measure;

and the procedure for acting on those grounds by the Judicial Council is elaborated in detail in the latest Law on the Judicial Council. At the same time, the conditions for promotion of judges have been strengthened.

- **Law on Free Legal Aid**

With the adoption of the law, the range of FLA beneficiaries expanded. In terms of areas, the expansion is only partly due to the fact that in Article 22 Paragraph 1 certain legal issues of interest to the poorest social groups are exempt from free legal aid (issues relating to public and communal services - for example, electricity, water, and so on, property issues in administrative procedure, etc.).

- **Law on Administrative Disputes**

The need for adoption of a completely new LAD resulted from the requests of citizens and legal entities to enjoy efficient, effective, and economical administrative-judicial protection in the exercise of their rights, as well as in cases where public bodies impose obligations on them. The Law on Administrative Disputes was passed in March 2019 by a two-thirds majority of MPs. Due to the non-signing of the decree for promulgation of the Law on Administrative Disputes by the then President of the RNM and the scheduled presidential elections, its entry into force was also delayed. Finally, on 17<sup>th</sup> May 2019, the new President of the RNM signed the decree. The Law on Administrative Disputes will enter into force on the eighth day from the day of its publication in the "Official Gazette of the Republic of North Macedonia", and will be applied one year from the day of its entry into force.

Key novelties provided by the new Law on Administrative Disputes, which will be implemented on 17<sup>th</sup> May 2020 are:

- Expanding the subject of an administrative dispute in the part of establishing the competence of the administrative courts to assess the legality of the final acts that are not by their nature administrations, but final individual acts which decide on the election, appointment, and dismissal of holders of public office adopted by The Assembly of the Republic of North Macedonia, the President of the Republic of North Macedonia, the Government of the Republic of North Macedonia, the state administration bodies, the organizations determined by law, other state bodies, as well as the bodies of the local self-government units. In fact, this novelty gives a new concept of the competence of the administrative courts because with this competence the administrative courts are placed in the position of controllers of the constitutional competencies and discretion of the Assembly of the Republic of Northern Macedonia, as well as the Government of the RNM, thus abandoning the current system of administrative disputes, which

was based exclusively on the assessment of the legality of the final administrative acts of the public bodies.

- For the first time, the new law on administrative disputes introduces a limitation of the deadline for filing a lawsuit against the silence of the administration. Namely, LAD stipulates that in case of an administrative dispute, due to silence, the administration is not initiated; LAD stipulates that the plaintiff should file the lawsuit within 30 days after the expiration of the legally determined deadline for adoption of the act. This solution shows a restriction of the protection provided by the LAD because the burden of interpreting this provision is placed on the citizens.

- This Law introduces public hearing as a rule, with the possibility of its exception.

- Introduction of a model decision in cases when lawsuits will be filed in the Administrative Court against more than 20 administrative acts in which the rights and obligations of the plaintiffs are based on equal or similar factual situation and have the same legal basis. At the same time, the Administrative Court is obliged to adopt the model decision after holding a hearing and to publish it as a sententia of court practice of the court.

- Prediction of the possibility a single judge to act in disputes whose case expressed in monetary value does not exceed the amount of 10,000 euros in denar counter value or disputes in which only procedural actions in the procedures of adopting the administrative act are disputed. After the adoption of the LAD, it is necessary to prepare a methodology for determining the value of administrative disputes in order to determine the composition of the court in a specific administrative dispute.

- Ensuring enforceability of the judgments of the administrative courts by introducing fines in case of non-compliance with the court decisions, in the amount of 20% of the authorized person's monthly salary in the public body.

- Abolishment of the possibility for the public bodies to be represented by the State Attorney's Office in the appeal procedure. This competence passes to the public body that passed the disputed administrative act, which should lead to more economical and efficient conduct of the administrative procedure because the administrative act that is challenged with a lawsuit before the Administrative Court will be represented by the official authorized person of the public body who, in fact, passed the administrative act; thus, it is assumed that the authorized official is most familiar with the nature of the administrative act and the reason for its adoption.

- The new law stipulates that the administrative courts act in accordance with the Law on Civil Procedure when deciding on the costs of the procedure. This means that the client who will succeed in the procedure of the administrative dispute, will be reimbursed the costs of the procedure, according to the decision of the administrative courts.

Потребата за донесување на целосно нов ЗУС произлезе од барањата на граѓаните и правните лица да уживаат ефикасна, ефективна и економична управно-судска заштита во

остварувањата на своите права, како и во случаите што им се наметнуваат обврски од страна на јавните органи.

- **Law on Misdemeanours**

The Law on Misdemeanours entered into force on 25<sup>th</sup> May 2019. The new law introduces a rule - issuing a reprimand before a fine is imposed. In this way, the efficiency of the misdemeanour procedure will be improved, and the citizens will be more effectively protected. The reprimand will be issued if the misdemeanour consists of non-fulfilment of the prescribed obligation or damage is caused, but the perpetrator fulfilled the prescribed obligation before the decision on the misdemeanour or when the misdemeanour was committed for the first time and did not cause harmful consequences or endangered the public interest.

The law provides reduction of fines for individuals by 75%. With the new legal solution, the minimum fine for a private person is 15 euros and the maximum is 250 euros, instead of the current 1,000 euros. At the same time, it entails reduction of the fines for the legal entities, considering the realized income in the previous year, the number of employees, and the previous sanctioning for the same or similar violations.

The new law also provides for a gradation among small, medium, and large companies. For small companies, the minimum fine will be 50 euros and the maximum 2000 euros. For comparison, with the old law, the maximum fine was 5,000 euros, which means that fines for small businesses are reduced by two and a half times. For medium and large companies, the minimum fine will be 250 euros, while the maximum amount of the fine cannot exceed 10,000 euros.

For certain violations in the field of competition, energy, electronic communications, and trade in prohibited and/or restricted goods for use, or in other areas that are in compliance or are being in compliance with the legislation of the European Union, a fine may be given in a percentage amount, but up to 10% of the income of the legal entity realized in the previous fiscal year.

The Law on Misdemeanours predicts higher fines for misdemeanours that provide social danger, as well as those that are against the environment and the destruction of cultural heritage. Higher fines for misdemeanours of public character and public interest are also predicted in the areas of taxes, customs, public procurement, public finances, and public debt.

The new law abolishes the State Commission for second-instance decisions in the field of inspection and misdemeanour procedure. The law establishes jurisdiction of the regular courts for most of the cases of misdemeanours, so that the administrative courts will decide on a small number of misdemeanours, unlike the current situation, when the jurisdiction of the regular courts and the administrative courts is balanced.

## ADVICE ON MONITORING AND IMPLEMENTATION OF THE JUSTICE REFORM STRATEGY 2017-2022

The Helsinki Committee, together with the other members of the Blueprint Judiciary Group, participated with its representative in the work of the Council for Monitoring the Implementation of the Judicial Reform Strategy. The Committee evaluates the participation and work in this council as a positive example, because through it the civil society organizations had the opportunity to directly present to the decision makers their views and insights on the reforms in the judicial system, as well as to give direct proposals, which in several occasions were accepted. By doing so, the members of the Blueprint Judiciary Group were active doers in the overall reform process.



**БЛУПРИНТ ГРУПА**  
за реформи во правосудството

Blueprint Group for reforms in the judicial system



# EQUAL TREATMANT

## POLITICAL GAMES AND OBSTRUCTIONS ON THE LAW ON PREVENTION OF AND PROTECTION AGAINST DISCRIMINATION

2019 was marked by obstructions and the difficult adoption of the Law on Prevention of and Protection against Discrimination and the failure to form the Commission for Prevention and Protection against Discrimination. The state once again failed to fully prioritize, improve, and advance the situation of discrimination in society, as one of the key points in the section on fundamental rights from Chapter 23 - Judiciary and Fundamental Rights, in order to become a member of the European Union.

The bill on prevention of and protection against discrimination was submitted to the Parliament in May 2018 and since then it has been facing a series of obstructions, barriers, and obstacles in the procedure for its adoption. At the beginning of the year, several scandalous statements and political views of senior government officials and MPs only confirmed that there was no significant change in the attitudes of most political parties towards the most marginalized groups of citizens, for whom this law should provide protection. Deputy

Prime Minister Osmani appeared on the TV show "Top Tema" in January and while talking about the news brought by the new bill, described the LGBTI community as a "disputable category" and said that the explicit inclusion of sexual orientation and gender identity in the bill is one of the many dilemmas that DUI and other political parties had about this law. Additional obstructions in the adoption of the law were made by the Chairman of the parliamentary Committee on Labour and Social Policy, Vlatko Gjorcev, who refused to put the bill on the agenda of the Committee because the bill was "problematic", as MP Maja Moracanin from DOM claimed.

In February 2019, hundreds of civil society organizations, networks, and coalitions of organizations protested in front of the Parliament demanding an immediate adoption of the Law on Prevention of and Protection against Discrimination, which at that time had been in parliamentary procedure for more than eight months



*1 Protest of civil society organizations, 28th February 2019*

The bill was passed under expedited procedure at a session of the Assembly, held on 11<sup>th</sup> March 2019. However, the then President of the Republic of North Macedonia, Gjorge Ivanov, refused to sign the decree promulgating the Law on Prevention of and Protection against Discrimination and the law was returned to a second vote. The law was re-voted at a session of the Assembly, held on 16<sup>th</sup> May 2019 to enter into force on 23<sup>rd</sup> May 2019, immediately after the signing of the decree for its promulgation by the newly elected President of the Republic of North Macedonia, Stevo Pendarovski.

The Helsinki Committee continued monitoring the process of establishing a new Commission for Prevention of and Protection against Discrimination, as a

fundamental condition for the functioning of the Law on Prevention of and Protection against Discrimination and the improvement and promotion of prevention on and protection against discrimination in the country. The Assembly of the Republic of North Macedonia announced a public announcement for election of members (commissioners) of the Commission for Prevention on and Protection against Discrimination.

In December 2019, the Assembly, without explaining the reasons for the annulment of the published announcement, in a non-transparent manner decided to republish a new announcement for election of members of the Commission for Prevention of and Protection against Discrimination. The Assembly not even once came up with an

official explanation and rationale why for almost four months did not elect new members of the Commission for Prevention of and Protection against Discrimination and why the citizens still do not have this protection mechanism available. From the publishing of the new announcement until the dissolution of the Assembly on 16<sup>th</sup> February 2020, before the parliamentary elections, the MPs failed to elect new members of the Commission for Prevention of and Protection against Discrimination, despite many appeals for conducting the election of members in a transparent manner, taking into account the quality of

the selected candidates, with an obligation for the composition of this body to represent the composition of the society as a whole. This omission, the lack of interest, and passivity of the MPs mean that the citizens of the Republic of North Macedonia will be left without a Commission for Prevention of and Protection against Discrimination for at least eight months, from the moment of dissolution of the previous composition of the Commission until the end of the parliamentary elections in April 2020, which shows violation of the access to justice and prevention in cases of discrimination.

## **LEGAL AID FOR VICTIMS OF DISCRIMINATION**

In 2019, the Helsinki Committee for Human Rights continuously monitored the situation in the field of discrimination throughout the territory of the Republic of North Macedonia, in order to prevent of and protect against discrimination, by providing legal assistance to victims of discrimination, informing the public about cases of discrimination, and the efficacy of anti-discrimination mechanisms.

This year, the Helsinki Committee has also worked on building the capacity of civil society organizations to provide free legal aid in cases of discrimination and to conduct situation testing, as a method of proving discrimination.

Regarding the documented cases, the Committee acted on received allegations of discrimination, as well as on cases recorded by monitoring of the media, social networks, job advertisements, and by monitoring the state of the society, the existing policies, and practices.



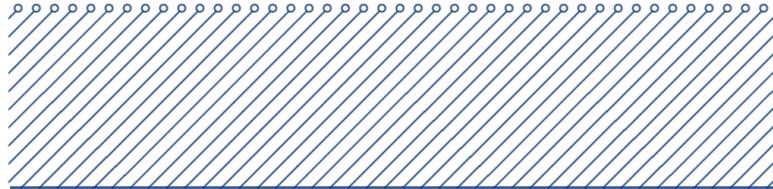
Throughout the year, a total of 31 cases of discrimination were documented, which reflect systemic problems for Roma, women, especially women in public office and women from minority ethnic groups, LGBTI people, people with disabilities, and non-majority religious communities.

According to the statistics, it is obvious that most of the cases refer to multiple discrimination (cumulative and intersectional), i.e. discrimination based on sex and gender, disability, and ethnicity. Regarding the areas in which discrimination took place, the most common is the access to goods and services, followed by workplace relationships, education, and health, something that corresponds to the situation in 2018. The civil society organizations are still the most active in raising awareness and informing citizens about discrimination and protection mechanisms.

In April 2019, the Commission for Protection against Discrimination, following an initiated process by the Helsinki Committee, adopted the first opinion establishing discrimination based on a conducted situation testing, as a method of proving discrimination.

# For the system for prevention of and protection against discrimination to be improved, we need:

- Urgent and transparent selection of quality and professional members of the Commission for Prevention of and Protection against Discrimination, who will reflect the composition of society as a whole.
- Increasing state information campaigns to raise awareness of the phenomenon of discrimination, its manifestations, and protection mechanisms against discrimination.
- Immediate and transparent establishment of an expert administrative service of the Commission for Protection against Discrimination.
- Improving the systems of state bodies and the courts for collecting and segregating data related to cases of discrimination.



# HATE SPEECH

## MONITORING HATE SPEECH IN 2019

In 2019, a total of 605 cases related to hate speech were registered on the internet portal [www.govornaomraza.mk](http://www.govornaomraza.mk). From the analysis conducted by the Helsinki Committee for Human Rights, four categories were identified as the most sensitive in the social context - hate speech based on ethnicity (30%), sexual orientation (30%), political affiliation (or 18%) of all cases.

The negative aspect is based on the established trend of increased hate speech on social media, as a reaction to the social trends that were characterized as polarizing in 2019 - the adoption of constitutional changes in the Assembly, the promulgation of the Law on the Use of Languages and the Law on Prevention of and Protection against Discrimination.

Most cases were registered in May and June, after the announcement of the Pride Parade that took place in June 2019. Until the end of the year, political topics dominated, especially with the announcement of the case "Reket".

The Helsinki Committee for Human Rights has submitted 19 complaints to the Ministry of Internal Affairs, based on the prioritization of cases. However, despite the increased public awareness in the recognition and reporting of hate speech, there is a lack of systemic approach by the institutions that will lead to the strengthening of national preventive mechanisms to combat hate speech.

This phenomenon was also actualized at the level of the European Union, especially through the adoption of the Code of Conduct for large IT companies<sup>2</sup>, which aims to sanction hate speech on social media. The recommendations contained in the Code largely correspond to the findings of the Committee, particularly in the need for partnership between national institutions and civil society organizations in establishing a monitoring network. The need for public campaigns for public education is also noted, as well as specialized trainings for all officials working on this topic.

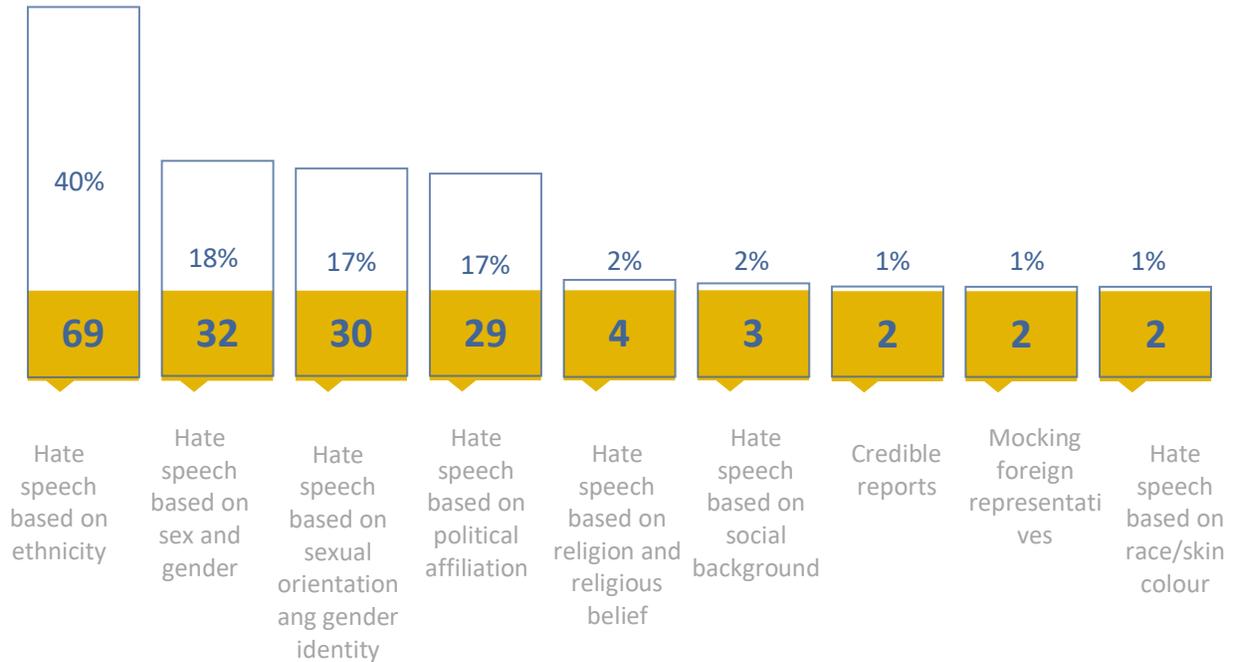
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<sup>2</sup> [https://ec.europa.eu/info/sites/info/files/hatespeech\\_infographic3\\_web.pdf](https://ec.europa.eu/info/sites/info/files/hatespeech_infographic3_web.pdf)

## QUARTERLY CHART ON THE STATE OF HATE SPEECH

### January - March 2019

In the first quarter of 2019, a total of 138 reports of hate speech on social media were registered. Most of them (40%) referred to hate speech based on ethnicity, while 17% referred to three categories - 1). sex and gender, 2). sexual orientation and gender identity and 3). political affiliation.



For this period, the increased growth also coincides with two key political developments in the country - the adoption of the Constitutional Amendments under the Prespa Agreement on 11<sup>th</sup>

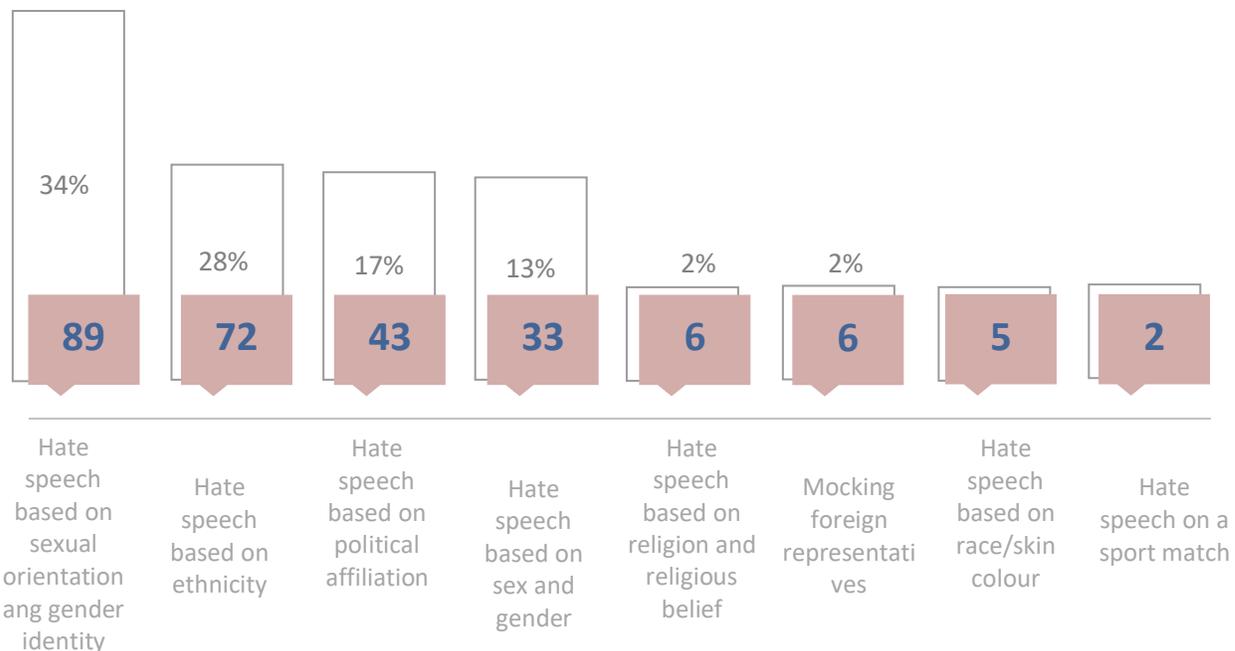
November 2019 and the publication of the Law on the Use of Languages in the middle of the month. During that period, an increase based on ethnicity and political affiliation was registered. Compared to 2018, there is an increased number of reports based on sexual orientation, gender and sex, which according to the structure of the reported cases reached 1/3 of the total number of reports.

Based on our own monitoring of hate speech for January, a weak reaction can be determined from the competent institutions to sanction this phenomenon. Based on hate speech reports, the largest number of reports were registered in the period from 12<sup>th</sup> to 17<sup>th</sup> February. The drastically increased number of hate speech based on ethnicity on social media corresponds to the bus accident that occurred on the highway Skopje-Gostivar (Laskarci) and the decision on the distribution of money from the annual programme of the Ministry of Culture for 2019. Also, in February, there was an increase in hate speech on social media due to sex and gender. Compared to the last quarter of 2018, it can be concluded that the public awareness for recognizing hate speech has a positive trend and citizens are increasingly encouraged to report this phenomenon. Although there is an increased reaction by the competent authorities in handling reports of hate speech, it can still be noted that there is a need for a proactive approach and timely sanctioning of this phenomenon and informing the public.

Based on the reports of hate speech, the largest number of reports were registered in the period after the adoption of the Law on Prevention of and Protection against Discrimination. There is an increase in hate speech on social media due to sex and gender in the context of the adoption of the new law and the negative discourse that dominated on social media. Despite the high number of reports, there is a lack of systematic approach by the competent institutions to sanction and punish this phenomenon.

#### **April - June 2019**

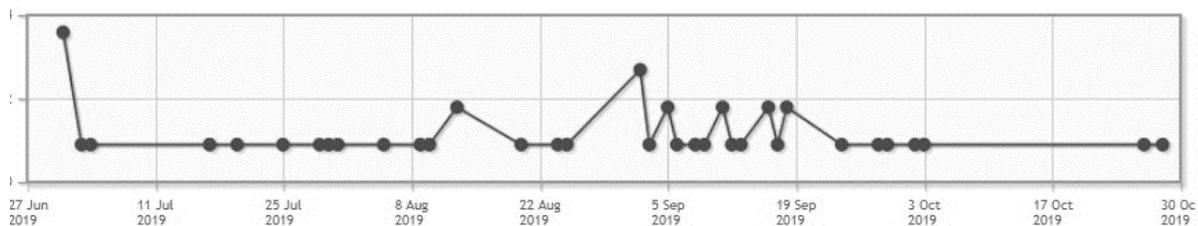
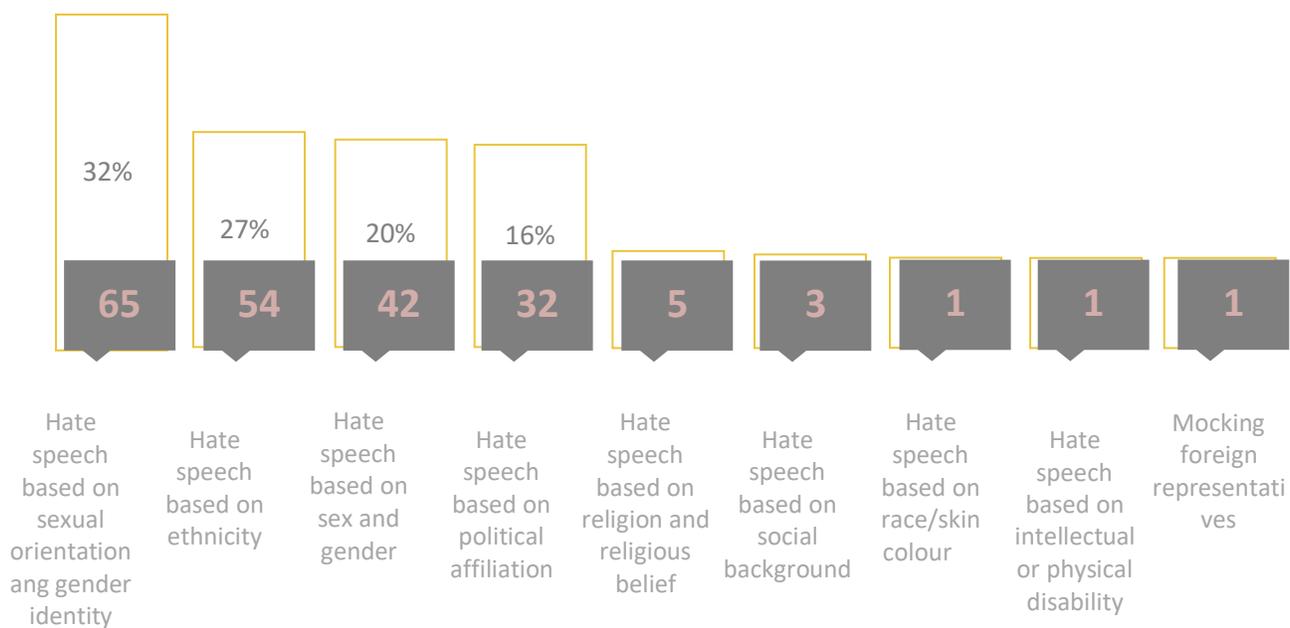
In the second quarter of 2019, the Helsinki Committee for Human Rights registered 211 reports of hate speech. Compared to the first quarter, there was a drastic increase in hate speech based on sexual orientation and gender identity (34%) and ethnicity (28%).



Discriminatory speech and hate speech based on ethnicity and political affiliation were recorded on social media Facebook and Twitter by the public. In the period from 1<sup>st</sup> April 2019, including the day of the second round of the presidential elections, a total of 69 cases of hate speech were registered on the internet portal [www.govornaomraza.mk](http://www.govornaomraza.mk). Most of the verified cases referred to hate speech based on ethnicity (31% of the total number of reports), hate speech based on political affiliation and based on sex and gender (with 21% of the total number of reports) and 14 reports on hate speech based on sexual orientation and gender identity (16%). Most of the reports on hate speech were registered during the political campaign. After the presidential elections, the number of hate speech reports drastically reduced. The hate speech drastically increased on the day of the ceremonial reception of RK Vardar organised by the fan group Komiti, when we detected discriminatory hate speech based on ethnicity. The Helsinki Committee published its reaction to the competent institutions. The largest increase was registered in the

period of the Pride Parade, i.e. 50% of the total number of all reports. The Helsinki Committee duly documented the reports and forwarded them to the Ministry of Internal Affairs.

### July - November 2019



The team of the Helsinki Committee for Human Rights registered an increased trend of hate speech on social media related to the celebration of the Republic Day - Ilinden, especially in the context of the joint celebration with the Republic of Bulgaria. Calls for public lynching of public figures were also recorded. The trend of hate speech based on sexual orientation and gender identity, i.e. sex and gender, continued in August due to the "Racket" case. Hate speech focused

on the suspect Bojan Jovanovski (Boki 13) in the case and the implication of senior public officials being involved in the scandal.

Compared to the last quarter of 2018, it can be concluded that the public awareness for recognizing hate speech has a positive trend and citizens are becoming more encouraged to report this phenomenon. Although there is an increased reaction by the competent authorities in handling reports of hate speech, it is still appreciated that there is need for a proactive approach and timely sanctioning of this phenomenon and informing the public.

The negative aspect is the established trend of increasing hate speech on social networks which occurs as a result of the political context in the country:

- the constitutional changes for the implementation of the Prespa Agreement with Greece and the polarized political affiliation during the presidential elections;
- interethnic relations that are continuously present on social media;
- reaction of the conservative public regarding the progress in the field of LGBTI rights, in accordance with the legal changes.
- On the other hand, the increased awareness of the public to recognize and report hate speech online can be treated as a positive aspect.



*(Did you offend/Is it worth it? Report and oppose! Hate speech*  
2 Helsinki Committee Platform for reporting hate speech



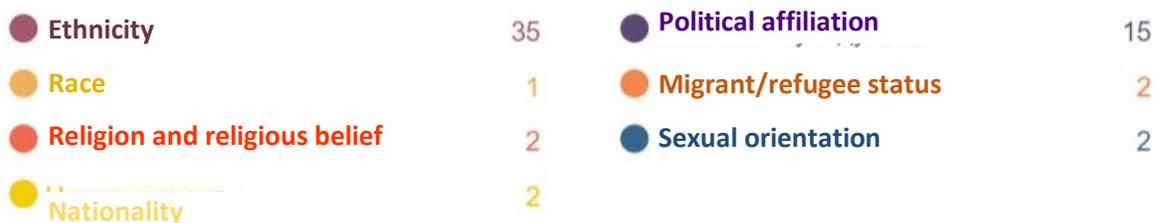
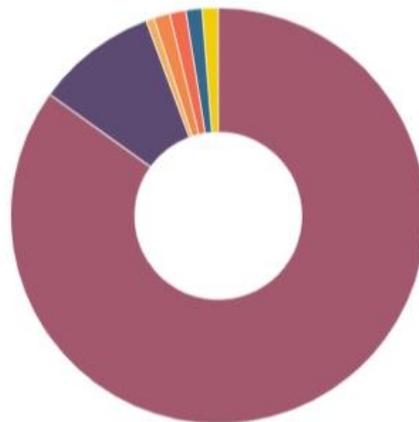
**HATE  
CRIMES**

## RISE OF HATE CRIME - ETHNICITY AND POLITICAL AFFILIATION ARE THE MOST COMMON BASIS

The Helsinki Committee for Human Rights registered 159 hate crimes in 2019. This figure indicates an increase in hate crime, given the significant increase in incidents registered in 2018 (123). Out of the total number of incidents, 33 (20%) were verified, while 126 incidents (80%) remained unconfirmed. Most of the cases that remain unconfirmed are the ones where, according to the other indicators (location, manner of committing the crime, involvement of high school students, etc.), there is a reasonable suspicion that these acts were committed due to the ethnicity of the victim. Despite the data requests so the Helsinki Committee could confirm the indications, the Ministry of Internal Affairs did not respond positively, so the verification of these hate crimes remained absent.

Ethnicity and political belief are the most common grounds for hate crimes in 2019. Ethnicity appears as a basis for hate crime in 85% of registered cases, political affiliation 9.4%, migrant or refugee status 1.2%, religion and belief 1.2%, nationality 1.2%, sexual orientation 1.2% and race 1%. In 2019, 2 cases of hate crimes were registered that were committed due to the sexual orientation/gender identity of the victim. The individual incidents occurred during the period when the first Pride Parade was being organized in Skopje. During this period, hate speech and threats against the LGBTI community were significantly present in the public.

### Biased motivation



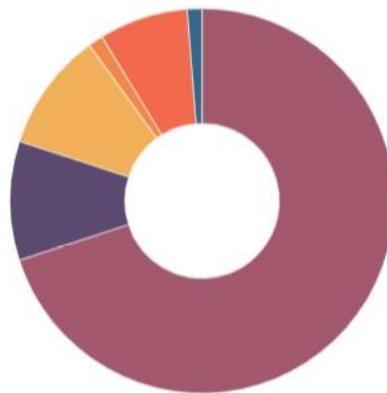
This year is the same - the victims and perpetrators of hate crimes are mostly youngsters and members of different ethnic communities (mostly Macedonians and Albanians), members of sports fan clubs or supporters of one of the three largest political parties in the country. It is important to be noted that in 2019, the Helsinki Committee for the first time registered a larger number of juveniles - victims of hate crimes compared to juveniles - perpetrators of hate crimes. Namely, out of 81 registered incidents involving juveniles, 104 juvenile victims were registered, compared to more than 93 juvenile perpetrators of hate crimes.

Most of the incidents (115) meet the elements of violence as a criminal act, although most law enforcement agencies classify these incidents as misdemeanours, contributing to the practice of inefficient prosecution of hate crime.

Damaged property was registered in 16 incidents, most often in incidents committed due to political affiliation or religion and religious belief (damage to vehicles, homes, other objects, religious or state buildings, as well as political party headquarters).

The amendments to the Criminal Code related to hate crimes were passed in December 2018 and entered into force on 8<sup>th</sup> January 2019. These changes are a significant novelty in our

**Type of criminal acts**



● Violence	112	● Damaged property	16
● Personal injury	16	● Endangering the security	2
● Inciting national, racial and religious hatred, and discord and intolerance	12	● Robbery	2

legislation and with their entry into force is expected criminal prosecution of hate crimes in the future to be increased.

## THE INSTITUTIONS IGNORE HATE CRIMES

In 2019, the Helsinki Committee for Human Rights provided legal assistance to victims of hate crimes, and we cite two of those cases as an illustration of the attitude of the institutions towards such acts:



One of the cases that reached the Committee was related to a physical assault on a person because of his **sexual orientation**. The legal team of the Helsinki Committee accompanied the person to the police station to report the case, where despite insisting that the case be registered as a hate crime, the police qualified it as a misdemeanour.

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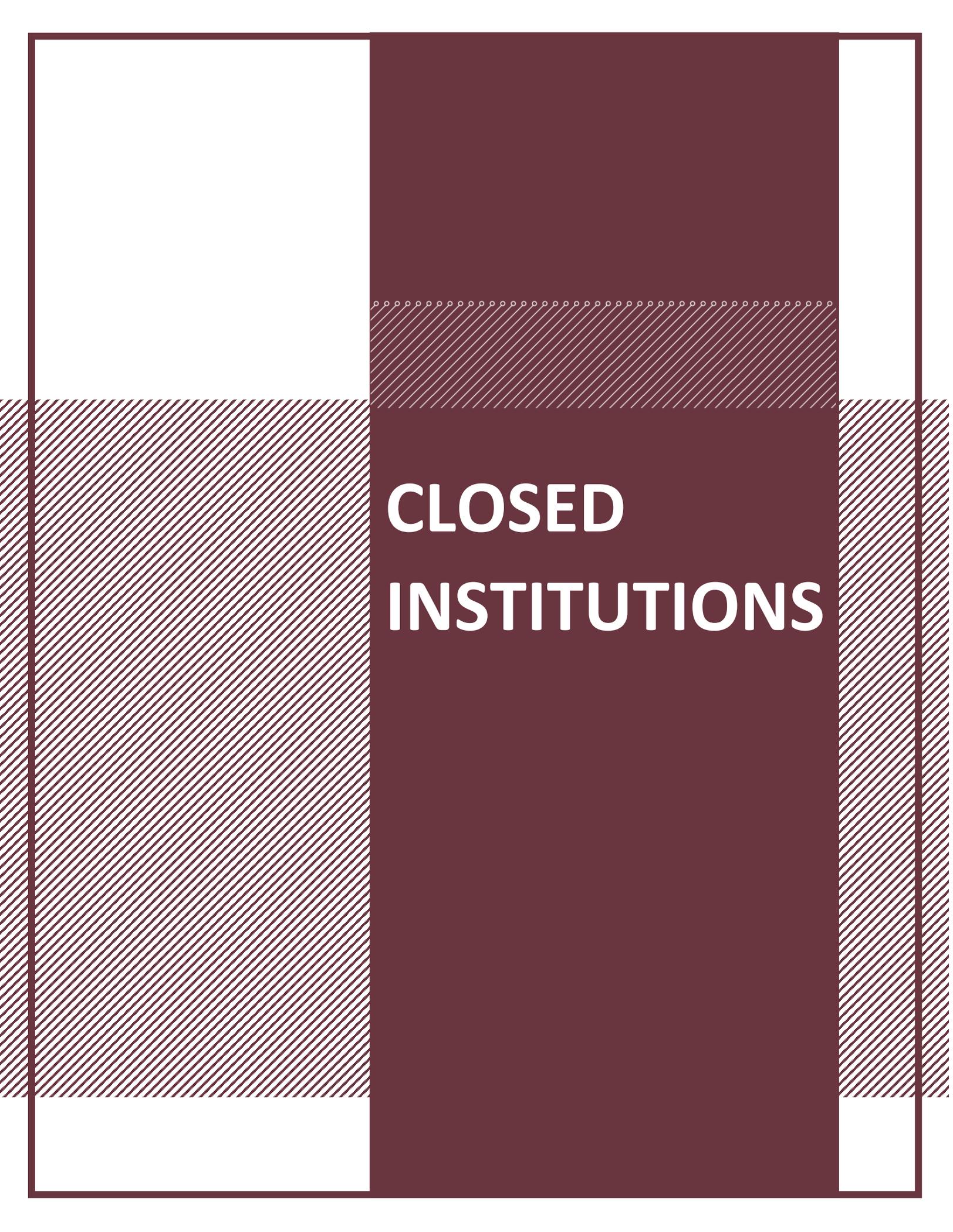
In June 2019, the Helsinki Committee filed criminal charges with the Primary Public Prosecutor's Office. The case involved a physical attack on a young boy in the city centre because of his **skin colour and race**. The case was reported by the victim's mother after the incident was previously registered at the police station as a disturbance of public order and peace. As the police did not recognize this case as a hate crime, in June 2019, the Helsinki Committee together with the victim's mother filed criminal charges with the Primary Public Prosecutor's Office in Skopje. Although more than six months have passed since the report was filed, the case is still before the prosecution.

The actions of the law enforcement agencies, the police, and the public prosecutor's office, in these cases failed in terms of fast, up-to-date, and effective investigation and prosecution of hate crimes, completely ignoring the biased motives in individual cases.

#### **What it takes to deal with hate speech and how to prevent it:**

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- Ensuring prompt, up-to-date, and effective investigation and prosecution of hate crimes, ensuring that biased motives are taken into account during criminal procedures;
- Taking appropriate measures to help victims report hate crimes, including measures to build trust in the police and other state institutions;
- Collecting and publishing comprehensive and compatible data on hate crimes as much as possible, including the number of such incidents reported by the public and recorded by law enforcement agencies; the number of convictions; the biased motives behind those crimes and the punishments imposed on the perpetrators;
- Ensuring that victims of hate crimes are supported and protected;
- Improving the training of relevant practitioners who contact with victims of hate crimes, while enabling them to effectively assist these victims; and
- Strengthening preventive measures through reflection on human rights education, history curricula and relevant training, taking steps to educate the public, especially children and young people, about the values of cultural diversity and inclusion, so all social sectors can play a certain role in combating such intolerance.



**CLOSED  
INSTITUTIONS**

The Helsinki Committee for Human Rights continued monitoring the conditions in the prisons in 2019. With the change of the management in the Administration for Execution of Sanctions, unhindered access to the penal-correctional institutions was enabled, in comparison with the previous practice of completely ignoring the submitted requests to visit these institutions. In the period from February to September 2019, the representatives of the Helsinki Committee for Human Rights made one-day visits to the penitentiary institutions in the Republic of North Macedonia, as well as three additional visits to PCI, PCF Kumanovo and PCF Ohrid. As a result of the cooperation with the Directorate for Execution of Sanctions, the Helsinki Committee prepared a special [report on the circumstances and conditions in the penal-correctional institutions in the Republic of North Macedonia](#).

During 2019, progress was made in reducing overcrowding due to the adopted Law on Amnesty, but also a new pavilion to all standards was built for about 600 prisoners in the largest prison in the country, and soon the new juvenile prison in Tetovo will be open. However, many challenges remain related to the penal-correctional institutions that need a systematic approach. The budget for the penal-correctional institutions, compared to the previous year, was reduced by 60%, which is reflected in the food supply and hygiene conditions. The people who work in the institutions face challenges, low salaries, and impacts on their mental state. Serious problems regarding access to education, health, resocialization, and material conditions are still ongoing.

The special report contains a summary of the field monitoring and addresses the progress and challenges documented during the visits and provides general recommendations to the relevant institutions in order to improve the conditions in the penal-correctional institutions.

# ИЗВЕШТАЈ



ЗА СОСТОЈБАТА И УСЛОВИТЕ  
ВО КАЗНЕНО-ПОПРАВНИТЕ УСТАНОВИ  
ВО РЕПУБЛИКА СЕВЕРНА МАКЕДОНИЈА

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## Recommendations for improving the conditions in the penal-correctional institutions:

- Urgent and immediate fulfilment of the legal obligation of the Ministry of Education and Science regarding the access to education of convicts, especially regarding juveniles deprived of liberty;
- Coordinated and immediate undertaking of the obligation the Ministry of Health to provide health care to all convicted people;
- Developing and implementing appropriate resocialization programmes for convicts, as opposed to the current technical management of a convict's progress record;
- Continuation of the efforts for reconstruction of the old facilities of the penal-correctional institutions in order to provide humane conditions in the prisons;
- Undertaking serious efforts for reactivation of the economic units, vocational workshops in the penal-correctional institutions in order to enable work engagement of the convicts and developing work skills that are beneficial for their resocialization;
- Engaging appropriate staff in penal-correctional institutions, especially in terms of resocialization and individual work with prisoners such as educators, social workers, and psychologists.
- Development of modules of post-criminal assistance to convicts who are at the end of serving a prison sentence, through the involvement of relevant institutions and bodies of local self-government, centres for social work, the Employment Agency and non-governmental organizations;
- The rooms where juveniles deprived of their liberty are accommodated should be equipped in a way that will provide positive and personalized conditions for juveniles, while respecting their dignity and privacy;
- The prison police need to be trained and made more sensitive so they can work with juveniles;
- Immediate opening of the new Tetovo Correctional Institution facility in Volkovija and transfer of the children accommodated in PCI Ohrid;
- Serious, timely, and appropriate inspection of any indication of inhumane treatment, degrading treatment or punishment;

**ТВОИТЕ  
ЧОВЕКОВИ  
ПРАВА  
НЕ  
ИСЧЕЗНУВААТ  
ЗАД  
РЕШЕТКИ!**

Информирај се  
за своите права и добиј  
правна помош од тимот  
на Хелсиншкиот комитет  
за човекови права.

**HELSENKI**  
COMMITTEE FOR HUMAN  
RIGHTS OF THE REPUBLIC OF  
MACEDONIA

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изнесени овде се на имплементаторот и не ги одразуваат  
оние на Владата на САД.

During 2019, the Helsinki Committee conducted a campaign "Your human rights do not disappear behind bars" aimed at informing about the rights of the people who are serving a sentence in the penal-correctional institutions in the country and the opportunity to turn to the Committee for legal aid.

A rectangular area with a yellow background and diagonal hatching lines, containing the text 'PEOPLE WITH DISABILITIES'.

**PEOPLE WITH  
DISABILITIES**

## VUNERABLE CATEGORIES

### Assessment of functionality versus disability

Starting from April this year, a new Expert Body was established in the country to implement the new model of functional assessment of children with disabilities, according to the International Classification of Functioning, Disability and Health (ICF). Contrary to the current model of categorization of disability in children, which focused on the degree of disability, the new model of assessment according to the ICF is aimed at developing the existing potential of the child by analysing the level of functionality and existing barriers in the environment. In addition to the opportunities for more appropriate inclusion of children with disabilities by detecting and developing their individual capacities, the new assessment model also contributes to reducing auto stigmatization by families of children with disabilities, which was one of the reasons for avoiding categorization according to the long-outdated model.

The new Centre for Functional Assessment and Support of Children and Youngsters, within which there is one national and two professional assessment bodies, is located in the building of the former Home for Orphans and Parental Care "11 Oktomvri" in Skopje,

which is part of the plan for conversion of the premises within the home with the process of deinstitutionalization. Depending on the needs of the child, the assessment, besides the Centre, can be conducted in the Home, as well as in the educational institutions in which the child is involved. The assessment procedure also involves parents, guardians, or other caregivers of the child.

Considering that the Expert Assessment Body that acts as part of the project activity, according to the ICF, ends by the end of this year, it is necessary to find an appropriate solution for its establishment as a permanent body that is of particular importance for preparing recommendations for inclusion of children with disabilities in the educational process.

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### Inclusive education

In August this year, the new Law on Primary Education<sup>3</sup> was adopted, which started in

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<sup>3</sup> Official Gazette of RNM, No. 161/2019.

September, with the beginning of the new 2019/2020 school year, with which primary education is institutionally, personnel, and content organized so to be able to include all children in regular primary education. In order to provide adequate support throughout the overall educational process for children with disabilities, the Law provides for different type of support at several levels. Support is provided through the provision of educational and personal assistants, the formation of inclusive school teams, the provision of assistive technology, the preparation of individual educational plans, as well as the obligation to reasonably adjust and ensure access to infrastructure and services in education. The new law provides clear definitions for students with special educational needs, including three categories of students: students with disabilities, students with behavioural disorders or emotional problems or with specific learning difficulties, and students who come from disadvantaged socio-economic, cultural, and/or linguistically deprived environments.

Although the inclusion of children with disabilities in regular education is for the first time regulated and the Law provides for a series of changes to adjust the overall educational process, from the very beginning of the school year there were numerous shortcomings in its implementation. One of the biggest

problems noted by the Helsinki Committee occurred from the inadequate number of educational and personal assistants available to schools, which to a large extent did not meet the needs of students. According to the findings of the research conducted by the Ombudsman for the first three months of the implementation of the Law in the schools in Skopje, only 26% of the needs for educational assistants and 73% of the needs for personal assistants were met<sup>4</sup>. According to the same research, the most important factors that contribute to the aggravation of inclusion are the unpreparedness of the schools to implement the legal provisions, i.e. insufficiently professional teaching staff, inadequate learning environment, and inaccessibility of school infrastructure.

An additional difficulty in the implementation of the new Law is the non-adoption of the entailed bylaws. The concept of inclusive education, which is expected to be adopted no later than 6 months after the adoption of the Law, was not adopted in the current year, as well as the bylaws for which the deadline is 1 year from its adoption. The responsible institutions should adopt the bylaws as soon as possible in order to ensure proper implementation of the Law and inclusion in the educational process from every aspect. At the same time, there is a danger of creating a new trend of segregation in the

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<sup>4</sup><http://ombudsman.mk/upload/Posebni%20izvestaji/2019/Poseben%20izvestaj->

[Deca%20so%20posebni%20potrebi%20vo%20skopski%20region-2019.pdf](#)

schools if they completely leave the children with disabilities to the educational assistants and/or special educators and rehabilitators.

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## Social protection

The new Law on Social Protection<sup>5</sup> was adopted in May this year. With the new text of the Law, part of the rights and services contained in the previous Law were changed and/or reformulated and at the same time a significant number of completely new rights and services for social protection were provided, such as home, community and extra-family protection services. The development of this type of services is in line with the goals of the deinstitutionalization process, which should contribute to facilitating and supporting the process of relocation of beneficiaries from social protection institutions on the one hand, but also to prevent further institutionalization and reinstitutionalization, through home and community support, on the other. In the context of the deinstitutionalization process, the Law entails the transformation of the existing social protection institutions into new social services.

The collected data from the applicants for legal aid as well as the conversations with beneficiaries of social protection rights

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<sup>5</sup> Official Gazette of RNM, No. 104/2019

showed that beneficiaries are insufficiently informed about the changes introduced by the new Law and some of them believe that they are denied some rights they had with the previous Law. The Helsinki Committee considers that the inadequate given information to the users results from the insufficient knowledge of the legal changes by the service providers responsible for implementation of the Law and it is necessary to unify and correct use of the legal provisions.

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## Deinstitutionalization

In 2019, the Helsinki Committee continued to actively monitor the process of deinstitutionalization and the implementation of the National Strategy for Deinstitutionalization(2018-2027) Timjanik". The process of deinstitutionalization, whose focus in the past was on children looked after in social protection institutions, during 2019 continued to be implemented for adults. The accelerated pace of the process in 2018 continued in 2019, with the opening of new small group homes, where existing institutions were transformed, and the development of services within the local community. Activities for the development of local services, among others, included the beginning of the process of transformation of day care centres for children and people

with disabilities, which means separation of users according to age, reorganisation of work, preparation of new individual plans for user development , providing staff and appropriate professional training, as well as improving the infrastructure of the centres.

With the relocation of the children from the Home for Infants and Young Children "Majchin dom" Bitola, the last children under the age of three were taken care of, while with the relocation of the children accommodated in the Institute for care, upbringing, and education of children and youngsters "Ranka Milanovich", by the end of 2019, all children under the age of 18 left the institutional life and were placed in alternative forms of non-institutional care, such as foster families and small group homes. Small group homes provide 24-hour care and/or supervision, as well as professional support for the proper development of children and their reintegration into the environment. With the process of transformation of the infrastructure of the already closed institutions, one part of the home in Bitola is in the process of being converted into a kindergarten, while another part into a regional Centre for support of foster families.

With the start of the relocation of the users from the Special Institute Demir Kapija in 2018 within the three small group homes in Negotino, the village of Timjanik, and Skopje, in 2019 the process of deinstitutionalization continued with the opening of two new

small group homes in the village of Koreshnica on 31<sup>st</sup> July and another home in Skopje on 8<sup>th</sup> October. The opening of the second small group home in Skopje is also the first example of cooperation between a public institution for social protection (Special Institute Demir Kapija), local self-government (City of Skopje), and a civil society organization (Union of Special Rehabilitators and Educators) in providing social services protection in the local community. This year, the process of deinstitutionalization started in the Institute for Protection and Rehabilitation "Banja BANSKO" with the relocation of 7 users with physical disabilities in new housing units for independent living and living with support.

The current predictions of the Ministry of Labour and Social Policy regarding the deinstitutionalization process are that by the end of 2023, with the support of the EU Delegation and UN agencies in the country, there will be no persons housed in social protection institutions.

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## ROMA PEOPLE

The systemic discrimination against Roma in almost all social spheres continues. Roma are still facing continuing difficulties in exercising their rights in almost all areas of social action. There is no change or improvement in the implementation of the activities of the current Roma Strategy; the

state continues failing to ensure full and effective implementation of the Strategy, which is in the last year of its importance.

In the past year, systemic discrimination was registered against Roma, especially in the inaccessibility of Roma in the swimming pools. The segregation of Roma children in education continues, as well as the frequent discrimination in access to goods and services, and there is still discrimination in access to health services. The state fails to take active measures to prevent discrimination based on ethnicity, skin colour, and marginalized group.

In November 2019, representatives of the Helsinki Committee attended the 12th session of the United Nations Forum on Minority Rights, held in Geneva, which focused on education, language, and human

rights of minorities. The Helsinki Committee, together with four other organizations from the Network for the Protection of Roma Rights, submitted a petition to the Special Rapporteur on Minority Issues informing him of three key issues regarding the use of the Roma language in education: there is a problem because students and parents are not informed enough and do not have enough information that students can choose Roma language and culture as an optional subject in primary education, and there is a lack of textbooks on the Roma language and culture for grades 6-9 and the lack of Roma language departments and Roma language teachers. At the forum itself, a representative of the Helsinki Committee had the opportunity to meet with the Special Rapporteur on Minority Issues, Fernand de Varennes, and personally informed him about the identified problems.

# **WORKERS' RIGHTS**

## BESIDES THE POSITIVE HAPPENINGS, LABOUR RIGHTS ARE BEING BROKEN DAILY

In the previous year, it could easily be seen the triumphant tone with which government officials reported on the falling unemployment rate, the bigger salaries, and the success of government measures. For a country like ours, which since its independence until today has been facing a high unemployment rate, this figure is inevitably one of the main social factors that dictate the relations, culture, and functioning of institutions. That is why it is important to acknowledge the positive developments of the past year, but it is even more important to seriously analyse the still burning violations of workers' rights, which occur on an almost daily basis.

The doubled number of cases and the significantly higher scope of workers in 2019 is a result of the active case of the Committee to raise workers' awareness and inform them about the exercise and protection of their rights. The data collected from the workers who addressed the Helsinki Committee showed that one of the main problems is the ignorance of workers' rights.

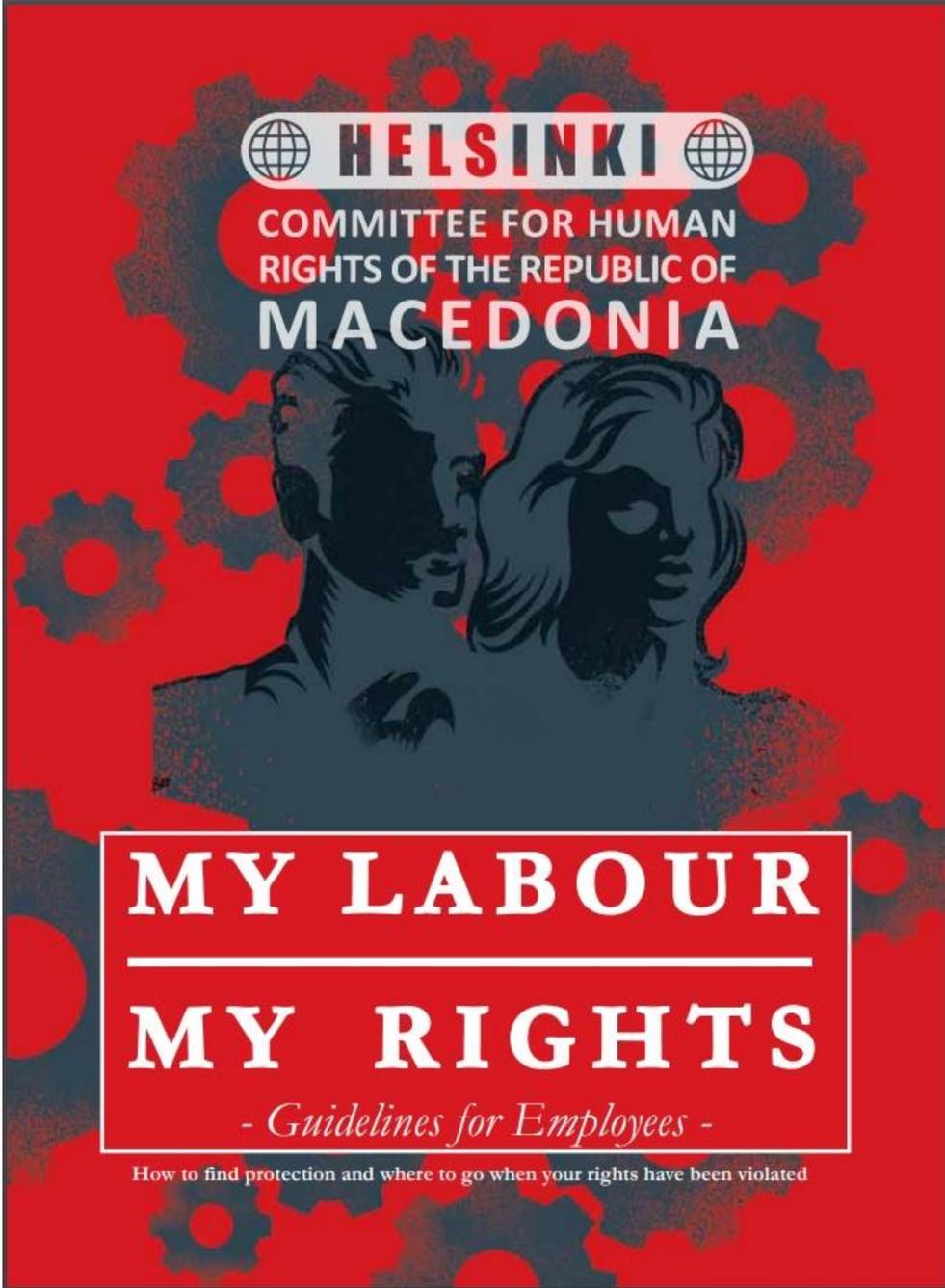


In 2019, the Helsinki Committee for Human Rights registered 166 cases of workers' rights violations, which covered at least 5,401 workers in the country.

For comparison, in 2018 the Committee documented 70 cases involving 300 workers.

For workers to be better informed about their rights guaranteed by law, in the period from January to April, the Committee published **information cards** that reached over 140,000 people through Facebook and our website.

Additionally, during July and August, the Helsinki Committee prepared a Handbook for Workers **"My Labour - My Rights"** (translated into Albanian, Roma and English), bringing the dispersed labour legislation closer to the needs of workers, in order to comprehensively explain the most important elements in the protection of their rights.



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<https://mhc.org.mk/wp-content/uploads/2019/07/Prirachnik-Mk.pdf>

## THE MOST COMMON VIOLATIONS AND GROUNDS FOR TREATMENT IN 2019

The legal aid in the documented cases consisted of legal advice, informing workers of their workers' rights, initiating administrative procedures, guidelines for initiating labour disputes, and monitoring court procedures. During the year, the Helsinki Committee registered the largest number of violations of workers' rights in relation to:

- The right of annual leave allowance;
- Injuries in the workplace;
- Initiating a procedure before the State Labour Inspectorate for protection of workers' rights and/or conducting court procedures for labour disputes;
- Unfounded reasons for cancellation;
- Signing blank statements which the employer later uses to impose termination settlement agreements;
- Discrimination in the workplace;
- The procedure for protection from harassment in the workplace;
- Unpaid salaries and contributions by the employer;
- Registration and payment of overtime work;
- Exercising the rights of the employer and eliminating the actions that violate workers' rights;
- Rules that regulate part-time work; and
- The possibility of submitting an application to the European Court of Human Rights when all domestic law remedies have been used.

The most common violations of workers' rights, registered by the Committee, relate to the right of annual leave allowance and workplace injuries, which are improperly processed by the State Labour Inspectorate.

## Equal pay for equal work between men and women

The labour market in the country did not notice significant changes in terms of reducing the gender gap in the past year. Salary and wage differences still prevail between men and women and, although they are slightly higher than the proportions in the European Union, the differences grow when we compare the salaries for equal work and equal value for men and women. This means that the main areas in which gender discrimination is highlighted are access to employment, equal pay for equal work and work of equal value, and the effects of the "hidden" characteristics of men and women. Such a situation burdens women more and makes them more affected than men by the unequal opportunities in the market. They are less active in the labour market, less employed, earn lower salaries, and often face higher poverty than men.

Women with lower education, women from rural area, and women engaged in agriculture are extremely vulnerable on the Macedonian labour market. For example, women are more likely to work as unpaid family workers, as many as 9.4% of women compared to 4% of men - and are much more likely to be self-employed. In addition, unpaid family workers make up approximately a quarter of the employed poor women. The unadjusted pay gap in North Macedonia is 17%, which is comparable to the average wage gap in the EU (16.2% in 2016). However, unlike the EU, the adjusted wage gap in the Republic of North Macedonia (which takes into account the characteristics of workers) is higher than the unadjusted (raw) gap, because employed women have better education than employed men. Available studies estimate that the adjusted gender pay gap in the Republic of North Macedonia is approximately 17-20%.

The data show that only half of the fit-for-work women (51%) are active in the state labour market compared to the EU average of 67.3%. Similarly, the gender gap in the market participation (at 27 percentage points) is much larger than the EU average gender gap (11.2 percentage points in 2016). The gender gap is relatively low for young people and increases for older workers. However, even for young people, the gap is significant, indicating that in the absence of government measures, it will persist. A typical inactive woman in the Republic of North Macedonia is over 50 years old, of Albanian ethnicity, married (or in partnership), lives in a poor household, lives in a small town, and has only primary education. Having children at home increases a woman's likelihood of being left out of the job market. The traditional division of labour in households in which the burden of household care automatically falls on women is a significant obstacle to women's activity in the labour market in North Macedonia. In other words, high demand, and expectations for women to care for the household and dependent family members (children and the elderly) lead to weak attachment of women to the labour market. Hence the significant gender inequality in the incomes of men and women<sup>6</sup>. However, when they

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<sup>6</sup> In 2015, men had an average of 20% higher average income (15,692 denars) than women (13,000 denars).

are employed, men and women seem to face similar violations of workers' rights, so the most common of them will be discussed below.

## The right of annual leave allowance (K15)

During 2019, the Committee registered 10 cases of unpaid annual leave allowance annual leave allowance in an amount lower than the legally established, contrary to the General Collective Agreement for the private sector in the field of economy. Some of the workers reported the violations of their labour rights to the State Labour Inspectorate, and in 8 cases the legal team of the Committee addressed the Inspectorate with a request for conducting an extraordinary inspection. The Inspectorate found a violation of the right of annual leave allowance in only one case, while all other responses were negative.

The employee, who worked under an employer for at least 6 months in a calendar year, is entitled to annual leave allowance in the amount of at least 40% of the base salary.

Employers who have difficulties in operating, considering the economic and financial situation of the employer, can go below this guaranteed minimum, in accordance with the Agreement amending the Collective Agreement for the private sector in the field of economy<sup>7</sup>. Due to the lack of clear criteria for determining whether there were indeed objective difficulties in the work and proper assessment of the magnitude of the problems, employers often abuse and circumvent the obligation to pay annual leave allowance. Very often, employers pay insignificant amounts in the name of annual leave allowance, as evidenced by the documented cases of the Helsinki Committee, in which employers often pay 1000, 500, and even 100 denars annual leave allowance. About 7% of all cases of workers' rights violations reported to the Helsinki Committee for Human Rights relate to cases regarding the payment of annual leave allowance.

This results in legal uncertainty of the workers and inability of the State Labour Inspectorate to determine the violation of workers' rights from a collective agreement, due to the lack of precise criteria and procedures for determining the difficulties in the work of the employer.

In addition, due to incorrect and uneven usage of the provisions relating to annual leave allowance in relation to female workers who used maternity leave, the Helsinki Committee for Human Rights initiated a procedure. The procedure was conducted before the Interpretation

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<sup>7</sup> Agreement for amending the General Collective Agreement for the private sector in the field of economy ("Official Gazette of the Republic of Macedonia" No. 119/2015).

Commission of the collective agreement for the private sector in the field of economy, for interpretation of the disputed provisions for the purpose of uniform usage. The Interpretation Commission decided that women who use leave due to pregnancy and childbirth and are employed for 6 months under the same employer in a calendar year, are entitled to payment of annual allowance leave.

**Recommendation:**

Due to the trend of payment of annual allowance leave in a very small and insignificant amount, it is necessary for clear criteria and procedures to be introduced so it can be determined whether the employer is really facing financial difficulties in their workload, and if so to what extent. Only in that way will the current normative paradoxes be avoided, with which it is possible for the employer to have continuously increased workload, and at the same time to face financial difficulties, thus paying annual allowance leave in an amount less than the established salary base.

## Safety and health at work

Workers' frequent injuries in their workplaces call into question the functionality of the occupational safety and health system. From the collected data on workplace injuries and from the information on the treatment of the State Labour Inspectorate in these cases, it emerged that the problem is not in the lack of legislation, but in the inconsistent implementation of laws - both in terms of prevention of accidents at work and in terms of sanction of the mistakes that led to such incidents.

According to the information that the Helsinki Committee constantly collects from the media and the daily bulletins of the Ministry of Internal Affairs, most accidents at work occur in the field of construction, followed by injuries to self-employed persons, i.e. farmers - tractor drivers. Over the last three years there has been a worrying trend in terms of protection of workers.

In 2018, according to the annual report of the Macedonian Work Protection Association (MWPA), there were at least 124 accidents at work, of which 33 were fatal<sup>8</sup>. In 2019, the media and the Ministry of Internal Affairs reported at least 19 workplace injuries that led to fatal consequences, while the Helsinki Committee for Human Rights was directly notified of only one processed case of accident at work that led to fatal consequences. In the specific case, the State Labour Inspectorate, after determining numerous irregularities, filed criminal charges against the contractor as a legal entity and against the responsible person in the legal entity where the employee worked.

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<sup>8</sup> The data of the Institute of Public Health of the Republic of North Macedonia indicate that in 2018 there were at least 846 injuries at work. This disparity shows that there are serious problems and differences in the very collection of data. The information of the Institute is available on their website

## Recommendation:

without thorough engagement of all factors in the system of safety and health at work, the situation will not change but on the contrary, will further deteriorate. In this regard, the Helsinki Committee recommends that the State Labour Inspectorate conduct a thorough investigation into all cases of injury at work - SLI to locate the responsibility for accidents and appropriately sanction all those who by not acting in accordance with the law or violation of laws and procedures increases the number of such tragedies in order for employers to consistently comply with the laws and regulations that provide safe working conditions, as the only way to prevent such and similar incidents.

## Institutional protection of workers' rights

Based on the collected data through daily direct communication with the workers, the Helsinki Committee monitors and analyses the work of the State Labour Inspectorate as the primary institutional protection of the employment rights.

During 2019, the Committee submitted 47 complaints to the State Labour Inspectorate. The small number of cases in which the DIT found violations of workers' rights is worrying. Namely, only in 12 cases out of the total number of complaints, some violation of workers' rights was determined, while in 33 the response from the SLI is negative, and in 2 complaints the SLI did not submit a response. In only one case did the SLI file criminal charges against the employer for a workplace injury with fatal consequences.

The labour inspection has an important role in the protection of workers' rights and in the process of guaranteeing consistent observance and application of labour regulations. When an employee's right is violated or they are prevented from exercising their right from the employment or in relation to employment, they can submit a request to the SLI. The SLI should respond to the request and immediately conduct a special inspection, and no later than 10 working days from the receiving of the initiative and no later than 15 days after the end of the inspection to inform the seeker about the results of the inspection. Such a deadline is inappropriate because it is a matter of protection of workers' rights that are directly related to the existential status of workers and such protection requires special priority and urgency. The long deadline further complicates the employee's situation as at the same time run the 8-day time limit for filing a complaint or request to the employer regarding the violation and the 15-day deadline for initiating a lawsuit.

The research conducted by the Helsinki Committee have shown that satisfaction with this type of institutional protection is extremely low among workers. From the survey conducted on a total of 839 examinees, 64.2% of them expressed complete dissatisfaction with the work of the SLI, while 12.6% of them expressed partial dissatisfaction. The conclusion is that labour inspectorates do not enjoy trust among citizens<sup>9</sup>.

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<sup>9</sup> Analysis of the level of satisfaction with the mechanisms for protection of workers' rights in the Republic of Macedonia (2019), Helsinki Committee for Human Rights of the Republic of Macedonia.

## Recommendation:

during 2019, the State Labour Inspectorate neither accepted nor implemented the recommendations of the Helsinki Committee to improve its work, which would have led to effective protection of workers in exercising their rights. Therefore, we restate that the State Labour Inspectorate should:

- to act quickly and promptly upon the submitted requests for special inspection;
- to submit complete documentation from the performed inspection (minutes for performed inspection, decision, payment order, etc.) to the submitters of requests for special inspection;
- to introduce functional telephone lines in all regional units;
- to promote cooperation with trade unions, the organization of employers, and to be more open to cooperation with civil society organizations;
- to inform the submitters in all cases of the requests for special inspection for the outcome of the initiated misdemeanour procedures and the amount of the fine given to the employers who did not act upon the decisions of the inspectorate and did not eliminate the determined violations of the workers' rights.

## International comparative experiences and achievements

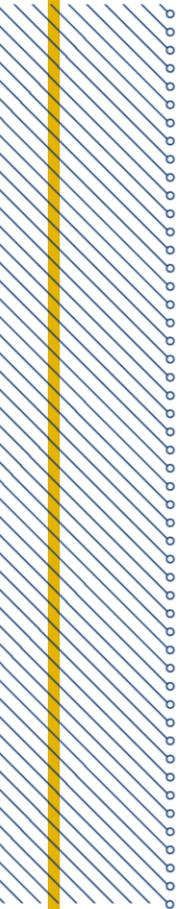
In 2019, the International Labour Organization published its annual Report on the implementation of its conventions and recommendations, prepared by the Committee of Experts<sup>10</sup>. The Republic of North Macedonia was requested to submit 16 reports, of which the state submitted only 10. From the conventions for which the state did not submit a statement, the report singles out:

- *Convention No. 98 on the Right to Organize and Collective Bargaining 1949* - the Committee requested that the Government of the RNM continue providing information on the implementation of the Convention in practice, including the submission of statistics on the number of collective agreements and private sector collective agreements, and the number of employees covered by those agreements.
- *Convention No. 111 on Discrimination (in respect of Employment and Occupation) of 1958* - The Republic of North Macedonia has not responded to or implemented the Committee's 2015 comments on the application of this Convention. Therefore, the Committee once again requested the Government to provide information on the measures taken in the implementation of the Law on Equal Opportunities for Men and Women and their contribution to achieving gender equality in the private and public sectors. At the same time, the Committee requested the Government to submit information on the undertaken practical measures for prevention and addressing sexual harassment in the workplace and to report on procedures for protection against sexual harassment in the workplace before the competent authorities.
- *Convention No. 81 on Labour Inspection of 1947 and Convention No. 129 on Labour Inspection (in Agriculture) of 1969* - The Committee requested the Government to provide information on actions taken by labour inspectors to protect the rights of foreign workers in cases where they find themselves in unfavourable situations. The committee further requested information on the number of cases in which foreign workers have been able to protect their workers' rights, such as the payment of unpaid salaries and social security contributions.

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<sup>10</sup> International Labour Organization, *Report of the Committee of Experts on the Implementation of Conventions and Recommendations*, 2019 [the report is available on: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_670146.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_670146.pdf), last accessed on 26.01.2020]

In the report, the Committee emphasizes that the lack of reporting by our country regarding the ILO conventions and recommendations is worrying.





**FEMALE  
TEXTILE  
WORKERS**

The long-standing problems with constant violations of the workers' rights of female textile workers and mobbing by employers, the relatively low awareness and information about their workers' rights and the lack of trust in the institutions of the system make them particularly vulnerable and susceptible to violations of their workers' rights. Female workers in the textile industry are among the lowest paid women in the country, with almost 60% lower average salaries than the average salary at the state level in the past year; so, due to low incomes, they have limited access to justice and face difficulties in addressing violations of their workers' rights. In addition, female textile workers have never been directly involved in policy-making processes that directly affect them, such as the Labour Law, the Law on Minimum Wage, the General Collective Bargaining Agreement for the Private Sector in the Economy, etc., resulting in enacting restrictive policies governing the workers' rights of female textile workers.

Therefore, the Helsinki Committee for Human Rights in 2019 continued working to prevent and reduce violations of workers' rights of female textile workers through their legal strengthening and strengthening their self-representation. Important components for achieving such goals are the provision of free legal and paralegal assistance to female textile workers who have suffered violations of their workers' rights, which will result in improved access to justice for textile workers, will raise awareness of the state of workers' rights of female textile workers,

and will increase their participation in policy-making processes governing workers' rights.

## Self-representation

In 2019, for the first-time female textile workers were involved in advocacy processes for the adoption of policies and laws at the national level that regulate their workers' rights. The Helsinki Committee for Human Rights, as part of the working group for drafting amendments to the Law on Labour Relations, managed to address the proposals and ideas of female textile workers for changes and improvement of laws, which were detected through the field work of the engaged paralegals from the order of textile workers.

The proposals were related to defining the cases in which employers can conclude a fixed-term employment contract with workers; the transformation of the employment contract from a fixed-term contract to an indefinite-term contract to be a legal obligation of the employer, when the legal conditions for it are met; specifying the deadline in which the employee should improve their work, in case the employer has informed them that they are not satisfied with the manner of performing the work obligations; increasing the deadline for filing an objection against the decisions for termination of the employment contract with a notice period and termination of the employment contract without a notice

period or the decision for removal from the employer from 8 to 15 days; specifying the disciplinary procedure for determining a violation of work obligations, work order and discipline by an employee, before imposing a fine; increasing the statute of limitations for monetary claims from employment from 3 to 5 years. All these recommendations are incorporated in the latest working version of the draft law on amendments to the Law on Labour Relations.

In 2019, there was an increase in awareness among female textile workers for trade union organization. With the help and mediation of the Helsinki Committee for Human Rights, a trade union unit was established at the level of employer in a textile factory in Delchevo. Last year, the Helsinki Committee for Human Rights worked on informing the female textile workers about their workers' rights by holding information workshops, mostly in the cities in the eastern part of the country. The Committee also supported the protest in Stip, organized after the announcements of the Textile Cluster for increasing the working hours and other demands that directly affect the workers' rights in the textile industry.

## Free legal and paralegal aid

In 2019, 634 cases of violation of workers' rights were documented of 1871 female textile workers and workers from 60 factories and clothing industry in the country. The violations referred to: unpaid salaries, unpaid supplemental pay, unpaid

overtime work, overtime work above the legally allowed maximum, violation of the right to use annual and weekly leave, illegal termination of employment, mobbing, work in inadequate health, sanitary, and safety conditions, non-payment of annual leave allowance (k-15).

Legal aid in the documented cases consisted of legal advice, informing the workers about their workers' rights and initiating procedures for extraordinary inspection before the State Labour Inspectorate. The Helsinki Committee initiates 22 administrative procedures for extraordinary inspection before the State Labour Inspectorate. From the initiated procedures, the inspectorate found a violation of workers' rights in 9 cases and obliged the employers to eliminate the violations, in 12 cases it did not find a violation of workers' rights, and only 1 procedure is still ongoing. This is a positive change and improvement of the efficiency in the actions of the State Labour Inspectorate, which in 2017 and 2018 conducted significantly longer and slower procedures for extraordinary inspection, even though at time was not responding at all to a request for initiating extraordinary inspection.

However, the question remains about the effectiveness of the protection offered by the Inspectorate, i.e. whether and to what extent the real factual situation during the inspections is ascertained, how much the employers respect the given orders of the Inspectorate and what is the level of satisfaction of the female textile workers in terms of quality of justice received. There are still situations when irregularities and

shortcomings are identified with the employer, and the only sanction is the imposition of a fine, which the employer has no problem paying and continues to violate the workers' rights of employees. Using the administrative procedures, which are free and easily accessible, female workers are still

unable to get their payment from their employers. On the other hand, due to the relatively low incomes and social risk, female textile workers still have limited access to justice in terms of judicial protection, despite the amendments to the Law on Free Legal Aid.



5 From the protest of the textile workers in November 2019

## Recommendations:

- The State Labour Inspectorate should introduce a system for submitting anonymous initiatives to initiate special inspections, in order to encourage female textile workers to report violations of workers' rights.
- The regional units of the Ministry of Justice in cooperation with the trade unions and citizens' associations, through informative meetings, should acquaint the female textile workers with the possibilities for obtaining free legal aid in accordance with the Law on Free Legal Aid in cases of violation of workers' rights. In that way, the female textile workers will be motivated to initiate legal procedures when their workers' rights are violated.
- The State Labour Inspectorate, the Public Revenue Office, and the Financial Police should establish coordinated cooperation in dealing with cases of violations of workers' rights, especially in those where employees should return a sum of money to their employers, payment in cash, non-payment of salaries, contributions, and supplemental pay.
- Greater involvement of the Trade Union of Workers in the textile, leather, and shoe industry in informing, raising awareness, and protecting workers' rights. The Union should more often organize trainings and meetings with female textile workers where they work on their legal strengthening, but also on raising awareness for protection of workers' rights. Additionally, the Union should work on motivating the textile workers for union organization, informing them about the benefits of union organization.

**GENDER  
EQUALITY**

## Amendments to the legislation

The draft **Law on abortion**<sup>11</sup>, which was submitted in 2018, was adopted in May this year. The law of 2013, which with its content and quick adoption provoked violent reactions from a large part of the non-governmental sector and the general population, significantly made access to abortion more difficult by complicating and bureaucratizing the procedure for termination of pregnancy.

The new Law removes some of the administrative obstacles such as mandatory counselling and the three-day waiting period after counselling, as well as the submission of certificates by women in cases of rape or unfavourable social status, where women's personal statements will be enough for the health institution to provide the required health service. The Law stipulates that termination of pregnancy can be performed until the expiration of the 12<sup>th</sup> week of gestation with a written consent of the pregnant woman, while the formation of the First Instance Commission has been moved from the 12<sup>th</sup> to the 22<sup>nd</sup> week of gestation. If the pregnant woman is a minor or has been deprived of legal capacity, the termination of the pregnancy can be done with a written consent of the parent, i.e. the guardian of the pregnant woman. The new Law introduces abortion pill, which for the first time offers the possibility of termination of pregnancy until the ninth week of gestation with an abortion pill in a health care institution of primary health care. In this way, access to abortion will be expanded to more cities, which will contribute to reducing women's travel costs.

In 2019, a working group was formed to draft a new **Law on Equal Opportunities for Women and Men**, in which the Helsinki Committee will participate with its female representative. The need to adopt a new law arose from the limited effectiveness of the previous one, especially at a local level. According to the recommendations of the report of the Committee on Elimination of Discrimination against Women (CEDAW<sup>12</sup> Committee) from 2018, it is necessary to set a time frame and thematic priorities in relation to the amendments to the Law, in accordance with the principles of equality and non-discrimination in all areas covered by the Convention on Elimination on all forms of Discrimination against Women (CEDAW), in cooperation with all relevant factors, including civil society<sup>13</sup>. The recommendations point to the need to develop a plan for targeted law enforcement, focusing on women in rural areas, Roma women, migrants, asylum seekers and refugees, women in prostitution, and women with disabilities.

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<sup>11</sup> Official Gazette of RNM, No. 101/2019

<sup>12</sup> CEDAW - Convention on Elimination on all Forms of Discrimination against Women

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[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/MKD/CO/6&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/MKD/CO/6&Lang=En)

During this year, significant achievements have been made in terms of meeting the set goals and activities of the National Action Plan for the implementation of the Istanbul Convention 2018-2023 (NAP). In that regard, in 2018, three Centres for Referral of Victims of Sexual Violence were established. Three cases were reported in the Centre in Skopje in 2018, while five cases in 2019, of which in only one case was proven to the crime of "rape". The Helsinki Committee, together with the National Network against Violence against Women and Domestic Violence and the relevant institutional actors, is continuously working to raise awareness of their existence, as well as to improve the protocols for their functioning.

However, one of the key laws provided by the NAP - **the Law on Prevention of and Protection against Violence towards Women and Domestic Violence**, which was prepared by representatives of the Helsinki Committee, and which was expected to be adopted by the end of the year, because of the scheduled early parliamentary elections on 12<sup>th</sup> April 2020, was not put to a vote in Parliament. The adoption of this law would have significantly improved the institutional and comprehensive support of victims of gender-based violence.

The purpose of enacting this Law is to overcome the obstacles and shortcomings that we have with the existing Law on Prevention of and Protection against Domestic Violence by ensuring equality, eliminating stereotypes about gender roles, prevention of all forms of gender-based violence against women, domestic violence and determination of measures, and activities for protection of the victims of this type of violence. This Law regulates the actions of the institutions and their coordination with the organizations and for the first time stipulates that they should act with due care. The text of the new law covers new forms of violence introduced by the Istanbul Convention and explicitly defines the terms "violence against women" and "gender-based violence", while also providing support to all categories of vulnerable women, such as transgender women, drug users, pregnant women, Roma women, etc.

With the ratification of the Istanbul Convention, the Republic of North Macedonia undertakes the obligation to amend the Criminal Code, as well as other laws and bylaws, which is of particular importance in order to be completed in the next two years, before the planned evaluation procedure of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO)<sup>14</sup> for our country. In the meantime, a working group was set up to amend the Criminal Code to prescribe new criminal acts and implement the provisions of the Istanbul Convention, such as domestic violence, psychological violence, sexual harassment, genital mutilation, stalking, and incestuous sex. At the same time, the Criminal Code is gender neutral in relation to the language it uses, i.e. it does not recognize gender inequality and gender stereotypes, which are the main reason for some of the crimes regulated by the Convention. In addition, the Criminal Code needs to clearly define what is meant by "gender-based violence" and what is meant by "violence against women".

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<sup>14</sup> Group of Experts on Action against Violence against Women and Domestic Violence

Identification of violence against women/gender-based violence and domestic violence, and trust in the institutions responsible for it are still at an exceptionally low level. The OSCE regional survey on the situation with gender-based violence in the country indicates that three out of five women (60%) consider violence against women to be common, and almost three out of ten consider it to be a very common phenomenon<sup>15</sup>. This speaks to the need for comprehensive education and awareness raising, above all to recognizing violence, as well as increasing the level of trust in institutions. During 2019, the Helsinki Committee actively operated in this area by working with 60 representatives of institutions involved in the system of prevention of gender-based violence and protection of victims, but what was identified as necessary is the establishment of a systematic approach to the problem.

In order to meet the standards, set by the Istanbul Convention, it is necessary additional centres for victims of sexual and gender-based violence<sup>16</sup> to be opened. At the same time, the Helsinki Committee appeals to the institutions to start adopting this law as soon as possible, immediately after the elections and the formation of the new Government.

## International representation

Although the Republic of North Macedonia is one of the countries that have agreed to the Convention on Elimination on all Forms of Discrimination against Women (CEDAW), as well as the Optional Protocol to it, in practice, the state obligations under the Convention did not come to life, which was criticized by civil society organizations, legal experts, and legal practitioners.

Within the project "Women have rights!", The Helsinki Committee on 25<sup>th</sup> May 2019 submitted a complaint to the CEDAW Committee, which is the first communication from the Republic of North Macedonia submitted to the Committee. The case, which was identified as suitable for representation before the Committee, had previously been brought before domestic courts, and was supported with funding from the H.E.R.A. Association for Health Education and Research. The case concerns two Roma women who were denied the right to health care, i.e. their access to gynaecological services was restricted. The submission of the complaint was preceded by a series of trainings involving several organizations working on this issue, and the Helsinki

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<sup>15</sup> <https://www.osce.org/mk/secretariat/424409?download=true>

<sup>16</sup> <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-north-macedonia-report.pdf>

Committee prepared a Manual for submitting complaints to the CEDAW Committee<sup>17</sup>. If the complaint is accepted as well-justified, the state will have to provide equal access to health services for all categories of citizens and implement the recommendations of the Committee.



In 2019, 31 victims of gender-based and domestic violence sought help from the Helsinki Committee. 12 of them contacted us by phone, and 19 contacted us in person at the free legal aid office.

7 victims were accompanied by representatives of the Helsinki Committee in front of the competent institutions (police stations and the centre for social work), in order to report domestic violence.

During this year, the Helsinki Committee launched a video campaign entitled "Do you know?"<sup>18</sup>, which consists of eight informative and educational videos aimed at raising awareness of the Convention and presenting data on gender inequality in the country in various areas: domestic violence, labour market, education, politics, etc.

Based on the personal testimonies of the victims, as well as the cases of escorting victims of violence, the Helsinki Committee determined a high degree of intolerance in SWC and MIA officials, judges, prosecutors, etc., whose attitude further contributes to double victimization of

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<sup>17</sup> <https://mhc.org.mk/publicationsanalyzes/priracnik-za-fakultativniot-protokol-kon-cedav/>

<sup>18</sup> <https://mhc.org.mk/news/promocziya-na-video-kampanjata-dali-zna/>

the victims. Apart from the fact that their relationship is intolerant their reactions are very often slow, illegal, and unprofessional. The real number of victims of violence does not correspond to the number of reported cases in the Helsinki Committee, which is due to fact that the institutions do not inform enough the victims, as well as their attitude towards the victims, which is often discouraging. In that direction, it is necessary to work on providing effective protection from violence that will contribute to increasing trust in institutions.



6 How officials from different institutions communicate with victims

CSW: "Why did you give him two children if he beats you?"

MIA: "If your brother doesn't come while we are here, we can't wait any longer." (police officers in the home of the victim and the abuser)

MIA: "You cannot file a report for domestic violence, you have no visible injuries, unlike him who has scratches from you." (the scratches are from self-defence)

Court: "Both of you are young, you have children, you should get back together."

CSW: "Why are you reporting now if he's been beating you for a long time?"

Court: "If you are not sure you want a domestic violence procedure, give up now, don't waste the country's money."

CSW: "Why did you marry him if you knew he was a drug addict and aggressive?"

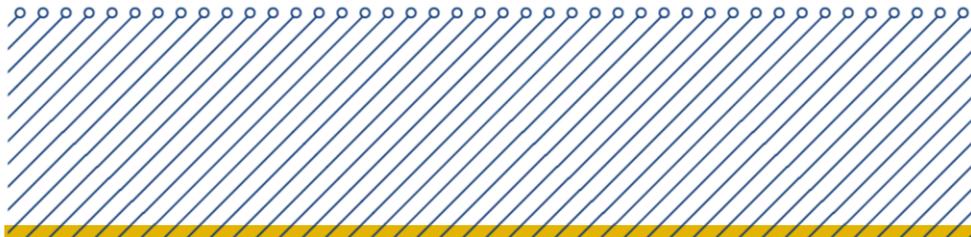
CSW: "Why did you move in with him and gave birth to two children if you knew he was a professional boxer?"

MIA: "Since this is your first time reporting domestic violence, we will only warn him, there's nothing else we can do."

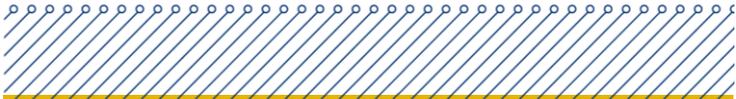
## Digital activism

As part of the "16 Days of Activism against Gender-Based Violence" campaign, which this year focused on sexual harassment, violence, and rape, under the slogan "Generation equality stands against rape!", the feminist platform "Medusa" conducted a guerrilla activity under the hashtag #ЗоштоНеПријавив (why I did not report). On pieces of paper with the hashtag #ЗоштоНеПријавив, victims shared stories of violence at several locations in Skopje, which were further shared on social networks and media. The campaign aimed to break the silence about sexual violence by opening a public space for all those who did not have the courage to talk about what happened to them, as well as the reasons why they did not report the violence. The social media campaign covered about half a million people, which pointed to the ever-presented taboo nature of the violence, as well as the fear and shame of reporting it. The results of the campaign pointed out several devastating facts, namely that sexual violence is much more widespread than what is visible and reported, and that the victims still do not have the courage to talk about the surviving trauma, much less to report the violence.





**FREE  
LEGAL  
AID**



In matters of truth and justice, there is no difference between large and small problems, for issues concerning the treatment of people are all the same.

Albert Einstein

The provision of free legal aid to vulnerable and marginalized groups and citizens at social risk is one of the foundations of the Helsinki Committee for Human Rights. According to the Survey on Public Perception and Citizens' Awareness with the Law on Free Legal Aid<sup>19</sup> prepared by Reactor - Research in Action, 92.5% of the examinees said

they had not heard of associations and organizations that provide free legal aid. However, the Research points out that the Helsinki Committee is the leader in this field, as an organization that is most recognized and most accessible for providing free legal aid. This makes the Helsinki Committee the most appropriate organization for collecting representative data on for free legal aid seekers.

During 2019, the Committee was publishing monthly reports on its website on the state of human rights protection. The reports were prepared based on the data collected from legal aid seekers and identified deficiencies in the system. These monitoring reports, promoted on electronic media and available for wider public use, informed decision makers (especially the Ministry of Justice, as a competent institution) of our recommendations for improving the free legal aid system.

Prioritizing the issues important for the European Union, and in order to harmonize our legislation with that of the Union and protect its core values, in 2009 the first Law on Free Legal Aid was adopted, which entered into force the following year. The latest survey on public perception and citizens' awareness with LFLA, showed that only 1.1% of the total population in the Republic of North Macedonia meets all legal requirements for obtaining FLA<sup>20</sup>. The system for providing free legal aid had serious shortcomings and weaknesses, and the Law failed to achieve its goal - protection of the principle of equal access to justice for all citizens.

Due to this, the new Law on Free Legal Aid was adopted in 2019, which entered into force in October of the same year. The improved text of the Law includes a wider range of citizens who

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<sup>19</sup> Reactor - research in action, *Survey on Public Perception and Citizens' Awareness with the Law on Free Legal Aid*.

<sup>20</sup> Ibid.

qualify for free legal aid. The Helsinki Committee systematically monitors the process of implementation of the new Law, but also the system of free legal aid.

The Helsinki Committee has been working on legal strengthening and legal support of the citizens since its establishment in 1994. Since 2016, the Committee has been registered as an authorized association for providing primary legal aid in accordance with the Law on Free Legal Aid.

- During 2019, the Committee provided legal assistance to 400 citizens in the areas of working relations and access to employment, domestic and gender-based violence, family relations, social protection, discrimination, hate speech, and hate crimes.
- In 2019, 224 men and 176 women sought free legal aid. Out of these, 346 were Macedonians, 17 Roma, 22 Albanians, 7 Bosniaks, 6 Turks, and 2 Serbs.
- Additionally, the Committee submitted 4 requests for secondary legal assistance to the Ministry of Justice for a divorce due to domestic violence, deprivation of parental rights, child support, and obstruction of in possessory. Three of the submitted requests were approved, while only one was rejected and appealed to a competent institution.

The Committee reaches out to the most vulnerable and marginalized groups, strengthens their knowledge of their rights and the mechanisms for their protection, and contributes to the smooth enjoyment of their rights in the society as a whole. But this obligation is primarily within the state. The Republic of North Macedonia has an obligation to provide all individuals with unhindered and equal access to appropriate, independent, and impartial judicial and extrajudicial mechanisms. Access to justice is not just a basic human right. It is at the same time an essential precondition for the protection and promotion of all other civil, cultural, economic, political, and social rights.

According to the latest data from the State Statistical Office<sup>21</sup>, in 2018, the rate of poor people in the Republic of North Macedonia was 21.9%. The number of people living below the poverty line was 455,000, i.e. 1/5 of the total population. Hence, the establishment of an inclusive judicial system that considers the income-power imbalance is crucial to ensuring access to justice for the poor. This implies well-functioning judicial and extrajudicial mechanisms and laws, which will reflect everyone's interests and needs, and above all the citizens at social risk. The state is obliged to take all the necessary measures to ensure that people living in poverty enjoy their rights indefinitely.

In that regard, the Republic of North Macedonia has not taken sufficient measures this year to acquaint citizens with their rights and mechanisms for their protection. The data collected through conversations with the legal aid seekers, showed that even the civil servants do not know enough the rights of the citizens to enable their realization or protection. During 2019, the Ministry of Justice conducted trainings for the officials from the regional departments so they can decide in the procedure for approval of secondary legal aid. But so far this has proved insufficient to overcome the systemic crisis in effective access to justice. Namely, it is necessary to provide professional training to all service providers that contribute to the realization of citizens' rights. This means that in addition to the staff of the Ministry of Justice, additional training is needed for the judiciary, including police officers, judges, and court clerks and lawyers, as well as civil servants and public service providers. Additionally, they need to be more sensitive so they can work with a vulnerable category of citizens such as people living in poverty.

Only the elimination of all these shortcomings can lead to effective and equal access to justice for all citizens, which considers the individual experiences, needs, and limitations of the most vulnerable categories.

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<sup>21</sup> State Statistical Office, *Laeken poverty indicators in 2018 - definite data*, 23.12.2019 [the whole announcement is available at: [http://www.stat.gov.mk/pdf/2019/4.1.19.116\\_mk.pdf](http://www.stat.gov.mk/pdf/2019/4.1.19.116_mk.pdf)].



During 2019, the Committee conducted a campaign called “Be Someone's Hero! Donate for legal aid”. The campaign is intended to create a sustainable fund for legal aid, through which the Helsinki Committee will act on field outside Skopje to meet the needs of those citizens who are not able to visit our office, and to whom such support is really necessary.



# LGBTI SUPPORT CENTRE

During 2019, we are noticing significant movements towards the promotion of the human rights of LGBTI people in the country. The activities within the LGBTI Advocacy Centre Support Programme were aimed at promoting legislation and access to justice for LGBTI people in the country through cooperation with the institutions, the Inter-Party Parliamentary Group for LGBTI in the Assembly of the RNM and the international community.

The advocacy was mostly focused on the adoption of the new Law on Prevention of and Protection against Discrimination, which for the first time explicitly prohibits discrimination based on sexual orientation and gender identity, but was protracting through the parliamentary procedural labyrinths until May when it finally came into force. Part of the activities within this programme were aimed at introducing the legal recognition of the gender of transgender people through participation in a working group for creating appropriate legal solutions, organizing a public conference, working meetings with concerned sides, and campaign support.

The organization and holding of the first Pride Parade was on side a rather challenging experience, but, on the other hand, it showed that change can be achieved if there is a real commitment to something. The state has shown that LGBTI people can freely gather, organise, and express, and the security of the parade was a confirmation that the Ministry of Internal Affairs showed visible progress. On the other hand, it is inevitable to mention the fact that this event, which caused the greatest visibility of LGBTI people so far, was accompanied by increased hate speech which unfortunately was not sanctioned by the Ministry.

In 2019, the LGBTI Support Centre continued with regular monthly reporting on the human rights situation of LGBTI people in the country, and actively worked on reporting on the situation to international organizations and networks.





# GENDER EQUALITY IN SPORTS

Part of the campaign "16 days of activism against gender-based violence" was the panel discussion organized by the Association for Promotion of Mutual Trust - TACT, in cooperation with the National Network against Violence against Women and Domestic Violence. The topic of the panel discussion was "Sexual harassment of women engaged in recreational sports"<sup>22</sup>, in which one of the speakers was a representative of the Helsinki Committee for Human Rights. Considering that the focus of this year's campaign was sexual harassment, the speakers, both professional and recreational athletes, shared their personal experiences, noting that the topic of sexual violence and sexual harassment against women involved in sports is insufficiently present in our country. RNM still lacks research on this topic, and at the same time there is no legislation and system of protection for girls and women who practise sports and are victims of sexual harassment and violence. TACT has raised the issue and the challenge with gender-based violence in sports, which is very rarely mentioned and is still a taboo topic in our country. The sports and the general public are not at all informed about this challenge athletes face, and very often even athletes themselves cannot recognize that they have been victims of some kind of sexual harassment or violence.

Bearing in mind the efforts of the Helsinki Committee for Human Rights for gender equality in all spheres of social life, as well as the actualization of the issue of gender equality in sports through the feminist

platform "Medusa" from its very beginning, in December 2019 the Helsinki Committee started an informal cooperation with TACT. In the next period, the two organizations, through mutual support and exchange of expertise, will work to advocate for women's rights in sports and prevention and protection of athletes from gender-based violence.

Hence, through the cooperation with TACT, in the next period the Helsinki Committee will strive to raise awareness of the importance of gender equality in sports, as well as to conduct research on this topic in order to adequately respond to the problem, i.e. to prepare appropriate measures and solutions. In this regard, we believe that it will be necessary to create regulations and strategies for dealing with gender-based violence in all national federations and sports clubs, as well as the creation of preventive mechanisms that will protect women and girls who play sports recreationally and professionally. This problem should be treated as a priority within the new Sports Strategy, as well as in all internal documents of sports entities. At the same time, in addition to the measures for dealing with gender-based violence in sports, the new Strategy for Sports, whose draft text states that gender equality is a special priority, it is necessary to represent several important segments such as: mandatory percentage of women in the governing bodies and their representation in relevant management positions, affirmation of women's sports, equal financial support of

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<sup>22</sup> <https://www.glasprotivnasilstvo.org.mk/06-12-2019-panel-diskusija-seksualno-voznemiruvane-na-zheni-koi-se-zanimavaat-so-rekreativen-sport/>

women's and men's sports and equal representation of women's sports in the media space.

ANNUAL REPORT FOR 2019 OF THE HELSINKI COMMITTEE  
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