



# ANNUAL REPORT 2013

ANNUAL REPORT ON HUMAN RIGHTS IN THE REPUBLIC OF MACEDONIA  
FOR 2013

SKOPJE, MAY 2014



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# INTRODUCTION

In accordance with its mission to monitor the situation in the area of human rights and freedoms in the Republic of Macedonia, the Helsinki Committee every year publishes an Annual report in which it presents its views and opinions regarding all the areas in which human rights and freedoms have been affected. The report for 2013 is a summary of the work of the Committee throughout the year in terms of monitoring human rights and freedoms, which are also reported in the monthly reports. The assessment is that in 2013, as well as in the previous few years, serious violations of the freedoms and the rights of the citizens and drastic violations of the rule of law and the legal state were ascertained. What is particularly worrying is that the registered violations of human rights and freedoms indicate not only systemic problems in the functioning of the bodies and institutions but also abuse of their competencies. The Annual report is a sublimated analysis of the identified human rights situation in the following areas:

- **Judiciary**
- **Legislation**
- **Police conduct**
- **Closed institutions**
- **Discrimination**
- **Hate crimes**
- **Economic and social rights**
- **The rights of the child**
- **Civil and political rights and freedoms**
- **LGBTI Community**

Considering that the Constitution and the ratified international agreements guarantee the possibility for realization and protection of the human rights and freedoms, the Helsinki Committee will continue to monitor the situation in the area of human rights, work on their promotion and provide legal protection to citizens whose rights and freedoms are violated.

# SUMMARY

## JUDICIARY

The tradition of the Helsinki Committee to observe court proceedings, as well as the program for free legal aid, opens the possibility for analysing and handling a large number of court cases. Compared to the past decade, the number of active court cases has significantly decreased, but there are still systemic problems that the judiciary fails to overcome, overcomes too slowly or makes even worse. The following systemic inconsistencies have been identified from the work of the Committee as an observer of court proceedings: violation of the presumption of innocence; the practice of adopting collective, identical and stereotyped decisions on detention; non-disclosure of the composition of the judicial council; non-compliance with the decisions of the President of the Supreme Court for recording the main hearings; exclusion of the public during the interrogation of endangered/protected witness and exceeding the deadlines for drafting verdicts; violation of the right to a trial within a reasonable time; exceeding the deadlines for publication and drafting of verdicts.

The Helsinki Committee of the Republic of Macedonia singles out the case of Martin Neshkovski in which Articles 2 (right to life) and Article 13 (right to an effective remedy) of the European Convention on Human Rights were violated, due to ineffective investigation of the murder by the police and the Public Prosecutor's Office and due to the refusal of the courts to conduct court proceeding. For that reason, the Helsinki Committee filed an appeal to the European Court of Human Rights.

From the aspect of the initiatives to the Constitutional Court and its decisions, the Helsinki Committee of the Republic of Macedonia regrettably concludes that the work of the Court violates the principle of separation of powers and violates the independence of the judicial system from the executive power. Namely, the Constitutional Court decided not to initiate a procedure for assessing the so-called Lustration law, which gave legitimacy to undoubtedly the most unconstitutional law ever adopted in Macedonia. In regards to the lustration, the expired Commission continues to persistently and arrogantly violate the Constitution and the decisions of the Constitutional Court of Macedonia (especially in the area of validity of the law after 1991), ignoring the opinion of the Venice Commission from 2012 and the recommendations contained in the Resolution 1096 (1996) of the Council of Europe, whereby the lustration process in Macedonia with these acts is completely contrary to all standards on which this

process should be based on and it has turned into an open “witch hunt”.

Furthermore, regarding the direct influence of the executive power in the work of the Constitutional Court and the violation of the rule of law, the constitutionally guaranteed autonomy of the University was violated by the decisions of the Constitutional Court regarding the external evaluation, self-evaluation, work and responsibilities of the Accreditation and Evaluation Board. The violation can be found in the Board’s right to determine the criteria and conditions for the first, second and third degree of studies, including the conditions for selection in scientific-teaching title, to independently decide on spending funds from the budget of the University and on the assessment of students’ knowledge.

## LEGISLATION

In regards to the practice of the Assembly of the Republic of Macedonia to produce laws that require a wide public debate and regulate sensitive areas, the Helsinki Committee emphasizes the excessive use of the urgent procedure and exclusion of the professional public, especially in cases when the proposed laws are insufficiently developed and contain too many novelties. This is the case with the Law on Bar Exam in which the used solutions do not correspond to the Macedonian legal system, i.e. have negative impacts on the judiciary and the work of the state administration.

On that line of criticism towards the process of adopting laws by urgent procedure, the adoption of the Law on Termination of Pregnancy stands out. The Law on Termination of Pregnancy contains many disputable articles and paragraphs such as: mandatory submission of a written request for termination of unwanted pregnancy by the woman to the health institution, mandatory counselling on the possible benefits of continuing the pregnancy and mandatory waiting of three days after counselling to make medical intervention to terminate a pregnancy. All these legal solutions are in direct collision with the Constitution of the Republic of Macedonia and the international documents ratified by the state. The Helsinki Committee of the Republic of Macedonia, together with other non-governmental organizations and Prof. Karolina Ristova Aasterud, PhD, submitted an initiative to the Constitutional Court to initiate a procedure for assessment of the constitutionality of the Law on Termination of Pregnancy, but the Constitutional Court has not adopted a decision yet.

## POLICE CONDUCT AND CLOSED INSTITUTIONS

Regarding the police conduct, referring to the submitted complaints from the victims of torture and their family members, the Helsinki Committee acts on its own initiative by offering free legal aid to the victims of physical and psychological torture in closed institutions (police stations, detention centres, prisons and psychiatric institutions), in which cases, due to the significant exclusion of media and public attention, the victims are often stuck in an institutional vacuum. Thus, from the allegations made in several cases, there are strong indications and grounded suspicion that the indicated and unknown police officers committed the crime of Torture and other cruel, inhuman, degrading treatment and punishment.

The Helsinki Committee recalls that the state still does not provide adequate legal, medical, psychological and social support for the victims of torture, so it is urgent to implement the EU Directive 2012/29 in order to establish minimum standards for the rights, support and protection of the victims of crime.

Finally, with regard to the closed institutions, it is important to note that the detention and the decisions for extending detention are sometimes used as punishment or as a method of intimidation. As an example, we would like to point out the case “Snake Eye” (Zmisko oko), in which the Helsinki Committee for Human Rights represented the defendants before the Court in Strasbourg, where this Macedonian practice was characterized as contrary to the European Convention on Human Rights.

## DISCRIMINATION

According to the received complaints, the Helsinki Committee concludes that during 2013, the most prevalent discrimination was the discrimination on the grounds of political affiliation, ethnicity to the Roma community and sexual orientation. The increased number of complaints of political discrimination is a result of the conduct of the local elections in April 2013 and the change of the local government in several municipalities (Karpos, Ohrid, Gostivar). The most specific case is the dismissal of eight principals of primary and secondary schools in the municipality of Gostivar by the new mayor, without respecting the dismissal procedure, i.e. the decision for dismissal to be adopted by the school boards of the specific schools.

Furthermore, in regards to the discrimination, the Helsinki Committee of the Republic of Macedonia has been reporting for years on the social and systemic discrimination against the members of the Roma ethnic community. As particularly sensitive topics are considered the discrimination against Roma people at the border crossings (as a



striking example of the likelihood of multiple discrimination, namely on the grounds of race and ethnicity), segregation and discriminatory treatment of Roma children in the education system, inaccessibility of goods and services, restrictions on the right to employment and the employment rights.

In addition, the Helsinki Committee of the Republic of Macedonia emphasizes the discrimination on the grounds of sexual orientation, having in mind the non-reaction and the selectivity in the actions of the institutions after multiple attacks on the members of the LGBTI community. Hence, the Helsinki Committee concludes that the institutions should recognize the sexual orientation and the gender identity as grounds for discrimination, so that the members of the LGBTI community can receive protection and support from the institutions, which should protect the rights of all citizens and prevent violence.

## HATE CRIMES

During 2013, the Helsinki Committee for Human Rights within the project “Monitoring and Reporting of Hate Crimes”, funded by the OSCE Mission to the country, recorded 116 hate crimes. About 84% of the hate crimes occurred because of the victim’s different ethnicity. Macedonians and Albanians were involved in almost all of these incidents. In a large number of the reported incidents (103), who qualify as hate crimes, the victims and perpetrators are usually members of different ethnic communities (Macedonian and Albanian), and the committed acts include: assault, possession and use of illegal weapons, property damage, vandalism, threat, violence, arson, etc. In relation to the above, the Committee would like to emphasize that the state does not collect data on hate crimes, thus this problem has not appeared in the public discourse and it is uncertain whether in the near future we will have comprehensive and comparable official data on committed hate crimes. In addition, the hate crimes are not properly reported or investigated by authorities who need to be trained in identifying and responding to hate crimes.

## ECONOMIC AND SOCIAL RIGHTS

The Helsinki Committee did not find any progress in the area of economic and social rights, although the public gets the impression that they are being promoted, especially in the area of social protection, the right to employment and the right to health care.

The institutional dysfunction in this area was also noticeable in the case of a larger

group of deaf persons and persons with hearing impairment, who were not able to exercise their rights in communication due to lack of interpreters provided by the state, despite the obligation under the Law on the Use of Sign Language. The Helsinki Committee for Human Rights of the Republic of Macedonia reacted to this issue to the Ministry of Labour and Social Policy, the Ministry of Justice and the Ministry of Finance with several letters, as an addition to the protests of this category of citizens, and the outcome was beginning of trainings for new interpreters, as well as trainings for employees in some of the pharmacies, in order for them to be able to use sign language in their work.

In the area of employment law, exceptional public interest was caused by the public advertisement for employment in PE Makedonski Sumi. The Helsinki Committee for Human Rights of the Republic of Macedonia received several complaints from citizens about non-transparency, injustice and selectivity in the selection. In this part, we would like to emphasize the non-functionality of the Administrative Court in the protection of these rights, which continues with the tendency not to decide within a reasonable time and not to make meritorious decisions in cases where there is sufficient evidence for such decision, which will effectively protect the social rights.

## CIVIL AND POLITICAL RIGHTS

In the field of civil and political rights, in the past year, the Helsinki Committee for Human Rights covered also the local elections (2013). The Committee through its open office enabled citizens to report violations of the right to vote and thus a number of inconsistencies in the electoral process were identified.

With regard to the freedom of assembly and association and the freedom of expression through the form of protest or public assembly, the Committee observed several protests in which the police reacted untimely or unprofessionally and identified violations or attempts to obstruct a public assembly, pointing to the practice of restricting the constitutionally guaranteed right to protest. This refers to two groups of citizens, which through the right to peaceful protest, wanted to express their dissatisfaction with the detention of the journalist Tomislav Kezarovski and the introduction of external testing.

The Committee also observed the violent protests in the past year and concluded that in the Republic of Macedonia certain groups, repeatedly and without punishment, violate the Constitution and the laws in the Republic of Macedonia by using violent forms of expression of dissatisfaction during public gatherings in the form of protest or other public assembly, which constitutes a criminal offense. This refers to the

protests that took place in early March, which were followed by hate speech on the ground of ethnicity and further, with hate crimes. Namely, for some acts of these protests, which included punishable violent forms in expressing dissatisfaction, as well as for the physical force used by the police officers, the institutions did not initiate a procedure against the perpetrators of the above acts, nor was responsibility taken for the inappropriate reaction of the police officers, which clashed with the revolted crowd.

On the other hand, the hate speech on the grounds of political affiliation was significantly expressed during the protests organized by the informal civil movement "Veritas".

The Helsinki Committee for Human Rights of the Republic of Macedonia, guided by paragraph 3 of the Resolution 1900 of the Council of Europe from 2012 – according to which a political prisoner is a person whose deprivation of liberty is a result of detention contrary to any of the fundamental guarantees contained in the European Convention on Human Rights and/or the detention is a result of a procedure that is obviously unfair and seems to be related to the political motives of the authorities - points out the cases of Jovan Vraniskovski, Ljube Boskovski, Tomislav Kezarovski and Miroslav Shipovic as politically mounted processes which violate the rights and freedoms of the convicts.

## LGBTI COMMUNITY

Last year, the hate crimes in which sexual orientation and gender identity appeared as motives, were second on the list of reported cases and statistics kept by the Helsinki Committee for Human Rights of the Republic of Macedonia. As many as ten cases have been reported in different cities such as Skopje, Bitola, Tetovo. But despite the homophobic violence in several cases known to the public (attacks on the LGBTI activists in Bitola, attacks on the home of Petar Stojkovic and attacks on the LGBTI Support Centre), the institutions failed to respond appropriately, and implicitly pointed out to the general discriminatory treatment of the members of the LGBTI community, who do not enjoy guarantees for the exercise of their rights and freedoms.

It is additionally aggravating that sexual orientation and/or gender identity are not explicitly provided as grounds for discrimination. They are not even indirectly provided as grounds in the Law on Prevention and Protection against Discrimination. Furthermore, the courts and the Commission for Protection against Discrimination do not consider them as grounds for discrimination, even though that is required by the European law in this area.

The reports of the Commission for Protection against Discrimination do not provide data on cases of discrimination based on sexual orientation and gender identity. In the practice of the state, there is an institutional obstruction of the visibility of this type of discrimination, and the incitement and spread of hatred and hate speech towards persons from the LGBTI community by governmental and pro-government media services, further aggravates the situation. We are witnessing more and more hate crimes, attacks on people participating in manifestations of the LGBTI population and for the countless time the premises of the LGBTI Support Centre were under attack.

The LGBTI Support Centre, as a subsidiary of the Helsinki Committee for Human Rights of the Republic of Macedonia, in cooperation with the National Democratic Institute (NDI), office in Skopje, started with the realization of the project "Strengthening the capacity of the civil organizations for participation in the legislative process". According to this project, the Centre will be dedicated to the implementation of the legislative initiative "Article 3" - Civil initiative for harmonization of the national anti-discrimination law with the EU law. The scope of the project is limited to Article 3 of the Law on Prevention and Protection against Discrimination, and the activities of the LGBTI Support Centre will be aimed at legally defining sexual orientation and gender identity as separate possible grounds for discrimination.

Given the absence of legal prevention and protection against discrimination based on sexual orientation and gender identities, the members of the LGBTI community are limited in their security, while facing inability to fully exercise their rights and freedoms. Such exposure of this community, in particular, emphasizes violence that is not treated institutionally, as well as lack of appropriate legislative framework and case law. This is best reflected in violence resulting from hate speech. Hence, reacting to the media abuse of freedom of expression as a justification for certain published content that, in fact, have elements of hate speech, the Helsinki Committee for Human Rights of the Republic of Macedonia called on the Government and the Assembly of the Republic of Macedonia to finally recognize the need to include sexual orientation and gender identity as grounds for hate speech and hate crimes in the Criminal Code of the Republic of Macedonia, which would be realization of the principle of respect for diversity as one of the basic principles in a democratic state.

# JUDICIARY

## 1. Introduction

One of the main activities of the Helsinki Committee is the monitoring of court proceedings throughout the country, especially in the criminal and civil field. Dozens of cases and several hundred court hearings were monitored during 2013. In addition, through its free legal aid program, the Helsinki Committee was able to observe and act on a number of court cases, including those before the Administrative Court. Although the number of active court cases has significantly decreased compared to the past decade (a fact that among other things is due to the transfer of cases to the jurisdiction of notaries public and enforcement agents), there are still systemic problems that the judiciary fails to overcome or makes even worse. The main problems of the criminal proceedings include: violation of the presumption of innocence; the practice of adopting collective, identical and stereotyped decisions on detention; non-disclosure of the composition of the judicial council; non-compliance with the decisions of the President of the Supreme Court for recording the main hearings, exclusion of the public during interrogation of endangered/protected witness and exceeding the deadlines for drafting verdicts. In civil cases, however, the most common problems include violation of the right to a trial within a reasonable time, exceeding the deadlines for announcement and drafting of verdicts and non-compliance with the “burden of proof” principle.

### 1.1 Criminal proceedings

#### *a) Violation of the principle of presumption of innocence*

In some of the court proceedings monitored by the Helsinki Committee, a measure of detention was imposed against the defendants. When reviewing the decisions for determination and extension of this measure, it was noticed that in the wording of the text regarding the reasons for detention, the judges violate the presumption of innocence. Namely, in several decisions for detention, which were all similar to one another, it was stated that detention is determined due to the “degree of criminal responsibility” and “the manner of execution and the motives for committing the acts.” The degree of criminal responsibility, the manner of execution and the motives for committing the acts can be determined only after the main hearing is over, and not during the investigation or during the trial.

### ***b) Collective, identical and stereotypical decisions for determining detention***

In the observed proceedings in which several persons appear as defendants, it can be concluded that the judges still determine and extend the duration of the detention through collective decisions. Although there has been noticeable progress in the determination of detention (judges refer to each defendant individually in separate paragraphs), the practice of collective extension of the detention for a group of defendants whose names are just mentioned in the decision persists, without offering individual review of the reasons why for each defendant separately the detention is extended.

### ***c) Failure to disclose the composition of the Judicial Council***

Both the old and the new Law on Criminal Procedure stipulate that at the beginning of the main trial, i.e. the main hearing, the president of the council, in addition to the other obligations, must also announce the composition of the council. In over 90% of the monitored procedures, the President did not disclose the composition of the council. Although, this does not represent a substantial violation of the law, the disclosure of the council is important both for the transparency of the procedure and for the accountability of the members of the judicial council.

### ***d) Disabling the recording during court hearings***

According to the Law on Criminal Procedure, it is not allowed to make film and television recording in the courtroom. As an exception, with the permission of the President of the Supreme Court of the Republic of Macedonia, the journalists may record a separate part of the main hearing. During the monitoring of the court proceedings in the Basic Court Skopje 1, the observers of the Helsinki Committee at several main hearings noticed that the council removes the journalists after filming short inserts before the main hearing starts at all. Due to this practice of the court, the public cannot get a complete picture of the conditions under which a criminal proceeding is conducted, and there is room for error in the reporting from the media. Although it is indisputable that the main judge, i.e. the judicial council may decide not to record certain parts of the main hearing, from the proceedings observed so far, it has been determined that the cameramen are removed from the courtrooms without a previous decision. These actions are not in accordance with the permission of the President of the Supreme Court.

### *e) Exclusion of the public during the interrogation of endangered/protected witness*

While monitoring court proceedings in which persons with concealed identities appear as witnesses, the Helsinki Committee concluded that in these proceedings usually the public is excluded. Example of this is the case known to the public as “Rover” (Rover) in which one of the defendants was the former Minister of Internal Affairs, Ljube Boskovski. Namely, in this court proceeding, Prof. Gordan Kalajdziev, PhD, sent a notification stating that he as a researcher and as a professor of criminal procedure at the Faculty of Law “Justinijan I” wants to observe the trial.

The Public Prosecutor, as proposer of the witness, also gave positive opinion for the professional public not to be excluded from the interrogation of the protected witness, which was the first time for the Public Prosecutor’s Office to show will for greater transparency in the procedure of interrogating protected witnesses. However, the Judicial Council decided to exclude the public as a whole, including the professional public. The constant decisions of the councils to exclude the public in cases where protected witnesses appear, does not provide enough space for determining whether the principle of fair and equitable trial is being implemented. Of particular concern is the exclusion of the professional public, which would only follow the special manner of interrogating the protected witness, in order to determine the application of the legal provisions that regulate the manner of witness protection in the Republic of Macedonia and its impact on the principle of fair and equitable trial.

### *f) Exceeding the deadlines for drafting of verdicts*

The general impression is that the courts sometimes do not respect the provisions of the Law on Criminal Procedure regarding the deadlines for drafting verdicts. The deadline for drafting of 15 days, calculated from the conclusion of the main hearing is not respected and there are even cases in which the deadline of 60 days for more complex cases is also exceeded. Despite the fact that this practice affects the length of the court proceedings, it particularly violates the rights of the defendants in custody, a situation for which the Law on Criminal Procedure stipulates urgent court proceedings.

## **1.2 Court proceedings in the field of civil and administrative law**

### *a) Violation of the right to trial within a reasonable time*

It was concluded that the courts do not comply with the legally prescribed deadlines and unnecessary delay the proceedings for which is stipulated urgent resolution before civil courts. A typical example of delay is found in the disputes where liability for insult and defamation is established, as well as in the labour relations, whose proceedings under the Law on Civil Procedure are considered urgent and must be

completed before the first instance court within deadline of six months. For example, in one case regarding labour relations, it was determined that from the day of filling the lawsuit until the day the verdict was passed, a period of two years and six months had passed, which is several times more than the established time frame.

The violation of the right to a trial within a reasonable time by the Administrative Court continued in 2013. Some of the proceedings before the Administrative court last 7 or 8 years and there is even one case that lasts 17 years, and is not effectively completed yet. The refusal of the Administrative Court to decide on the merits of the case, especially when it comes to the economic and social rights of citizens, affects the effective judicial protection in these cases, and thus violates the right to a trial within a reasonable time.

### ***b) Exceeding the deadlines for announcement and drafting of verdicts***

The general impression is that the courts very often do not respect the provisions of the Law on Civil Procedure regarding the deadlines for announcement and drafting of verdicts. The verdicts are almost never published immediately after the conclusion of the main hearing (in accordance with Article 324 paragraph 3 of the LCP), not even for the cases that are not very complex. The deadline for announcement of eight days for more complex cases, calculated from the conclusion of the main hearing, is not respected either (Article 324, paragraph 4 of the LCP). The case is similar with the drafting of the verdicts, i.e. also in this part it was noticed that there is non-compliance with the legal deadlines during the drafting and the delivery of the verdicts, in terms of Article 326 paragraph 1 of the Law on Civil Procedure.

### ***c) Non-compliance with the institute "burden of proof"***

The respect of the institute of shifting the burden of proof is of great importance, both from the aspect of protection of victims, and from the aspect of following the international practice and the legislation of the European Union. The Law on Prevention and Protection against Discrimination, the provisions of the Law on Labour Relations that referred to protection against harassment at the workplace, followed by the Law on Protection from Harassment at the Workplace and the Law on Civil Liability for Insult and Defamation, stipulated the burden of proof to fall on the defendant, if it is likely that he or she has been victim of discrimination, harassment in the workplace or insult or defamation. From the observed proceedings in these areas it can be concluded that the judges have no practice, nor do they try to create a practice for shifting the burden of proof on the part of the defendant. This is particularly important in the cases of discrimination and harassment at the workplace, because the collection of



evidence by the plaintiff is difficult given that the plaintiffs do not always have access to information that would prove the alleged discrimination, i.e. harassment. Additionally, this affects the effective initiation of a procedure for determining discrimination, i.e. harassment, through which temporary measures for protection against victimization may be requested.

## 2. The case of Martin Neshkoski

In June 2011, employees and officials from the Ministry of Internal Affairs of the Republic of Macedonia tried to cover up the murder of Martin Neshkoski that took place on the “Macedonia” Square in Skopje. The judicial authorities only prosecuted the murderer, who was sentenced to 14 years in prison. In March 2013, the Neshkoski family was handed over a final decision by the Appellate Court in Skopje, with which they rejected the initiation of a court proceeding through which it would be possible to establish the existence of possible guilt and to impose an appropriate criminal sanction against all those involved in the event. The ineffective investigation into the murder by the police and the public prosecutor’s office, as well as the refusal of the courts to prosecute, resulted in a violation of Article 2 (right to life) and Article 13 (right to an effective remedy) of the European Convention on Human Rights and Freedoms. For that reason, the Helsinki Committee filed an appeal to the European Court of Human Rights.

The attempt by the police officers present in the square, to cover up the murder by not using police authorizations such as identification, taking statements from witnesses, securing the crime scene, detaining the suspect and reporting the murder, points to the fact that the uniformed police officers not only that were not independent in their actions, but they themselves committed crimes. With the omission to act in accordance with their authorizations, they became accomplices in the murder, violating the right to life. In this case, there are striking flaws in the police investigation, but also a deliberate lack of coordination between the various police services involved in the murder. With regard to the investigation by the Public Prosecutor’s Office, the violation of Article 2 of the Convention refers to the unconditional trust to the version of the events as described by the police officers and the lack of self-initiative and effectiveness during the investigation. That the public prosecution’s office did not take all investigative measures, among other things, is indicated by the fact that the request for video footage from the cameras placed in the square was submitted several months after the murder. By doing so, the prosecution knowingly failed to undertake one of the most important investigative activities available to it.

None of the explanations due to which a court procedure was not initiated, by both,

the public prosecution's office and the court, has no legal support and is not based on the facts in the case. According to the judicial authorities, there are no grounds for suspicion that the police officers present in the square, committed the crimes they are charged with. This is not true for the simple reason that it cannot be believed that the officers thought that Martin was ill, because only a few minutes before they saw him unconscious, they spoke to him and he was in excellent health. They also saw that the murderer was chasing him, as they had to see that there were injuries on his body. One of these police officers admitted that he should have undertaken some of the police measures, but failed to do so. Also, it cannot be accepted that the courts have placed their trust in all the statements of the reported police officers without even hearing them during public and adversarial court proceeding.

### 3. Lustration

The lustration process continued to take place in a way that only confirms the repeatedly emphasized statement that the government uses this process to deal with political opponents and all those who have a critical attitude towards the policies of the current government. The cases that during 2013 were subject to action by the Commission for the Verification of Facts also illustrated the unprofessional way of working to the detriment of the honour and the reputation of the citizens. The Commission continued to operate and after the end of its five-year term. Namely, in January 2014, the Assembly of the Republic of Macedonia failed to provide a quorum for the election of new members of the Commission. Without the new election of members of the Commission and without the transfer of the mandate by the legislative power, the Commission had to dissolve itself. In April 2014, the Constitutional Court decided upon the submitted initiative for assessment of the so-called Lustration Law, submitted in 2012 by the Helsinki Committee. It was decided that no procedure for assessment of the Law would be initiated, with which the Constitutional Court gave legitimacy to undoubtedly the most unconstitutional law that has ever been adopted in Macedonia.

In the case of Petar Karajanov, the Commission adopted a decision in which it was determined that he "cooperated with the state security bodies in the capacity of a secret collaborator" and as evidence of his activities, the Commission used another person's file with the same name and surname. The facts about the mistake are indisputable having in mind the basic data about the "other Petar Karajanov". However, the Commission for the Verification of Facts, despite the publicly presented irregularities and the indications of the Helsinki Committee, remained on the adopted decision. Due to the obviousness of the wrongdoing, the Helsinki Committee provided Mr. Karajanov with legal assistance in drafting a lawsuit to the Administrative Court, which, without

argument, only confirmed the decision of the Commission. The Higher Administrative Court is currently deciding on the appeal filed by the Helsinki Committee.

The Commission for Verification of Facts also lustrated the professor and former Minister of Internal Affairs and Foreign Affairs, Ljubomir D. Frckovski, establishing that he was the commander and user of the information from the state security bodies, at the time when he was acting Minister of Internal Affairs. With this act of lustration, the Commission for the Verification of Facts only confirmed the tendency to prosecute and label all critics of the current government without taking into account the basic function and purpose of the Lustration Law in accordance with the international standards.

The lustration process in 2013 was marked also by lustration of deceased people, as was the case of the prominent Macedonian writer Slavko Janevski. The lustration of deceased people talks about the already transparent policy of prosecuting prominent figures from the former system, despite the fact that the lustration is primarily aimed at preventing persons who in the former system violated human rights and freedoms, to perform public office in the current system. Immediately afterwards, because of the reaction to the lustration of Slavko Janevski, the academic Tome Serafimovski and the writer Bozin Pavlovski were lustrated, which once more made it clear that it was intended for them to be punished for the publicly expressed condemnation of the lustration of Slavko Janevski.

With this, the executive power, through the Commission, persistently and arrogantly continues to violate the Constitution and the decisions of the Constitutional Court of Macedonia (especially in the area of validity of the law after 1991), ignoring the opinion of the Venice Commission from 2012 and the recommendations contained in the Resolution 1096 (1996) of the Council of Europe. With these acts, the lustration process in Macedonia has completely shifted from its moral basis and is contrary to all standards on which this process should be based on, which has turned it into an open “witch hunt” and dismissal of professors and intellectuals as in the dark days of communism and one-mindedness.

The Helsinki Committee would like to reiterate the indication of the Council of Europe that the process of clearing the past must be based on the principles of legality and fairness. Contrary to such postulates, the lustration process in Macedonia is a classic example of an inquisitorial procedure in which the defendants are not heard at all and do not have the opportunity to defend themselves. As a consequence, for a number of journalists, professors, academics and others, the result of this procedure is equal to the criminal sanction of the Criminal Code - prohibition on practicing profession, performing an activity or duty. This view is contained in several decisions of the European Court of Human Rights.

For all these reasons, the Helsinki Committee will continue to actively protect the fundamental rights and freedoms of all innocent victims of the unconstitutional lustration process. Unless the Administrative Court and the Higher Administrative Court ensure the confidentiality of personal data, the protection of personal integrity, respect for privacy, family life, dignity and reputation, the Committee is convinced that justice will be achieved before the European Court of Human Rights in Strasbourg.

## 4. The Constitutional Court and the autonomy of the University

The Constitutional Court of the Republic of Macedonia, almost 2 years after the submission of the initiatives by group of professors for evaluation of 18 provisions of the amendments to the Law on Higher Education and several decrees and rulebooks which regulate the higher education, adopted a decision for initiating a procedure for assessing the constitutionality only of Article 70 paragraph 6 of the Law on Higher Education, which refers to the appointment of the President of the Accreditation and Evaluation Board by the Government of the Republic of Macedonia and Article 96 paragraph 7, according to which the mentor of the doctoral thesis cannot be member of the Commission for defence of the doctoral thesis. A procedure was initiated also for Article 15 paragraph 2 of the Decree on the Norms and Standards for Establishment of Higher Education Institutions and for Performing Higher Education Activities, which is in correlation with Article 96 paragraph 7 according to which the mentor of the doctoral thesis cannot be a member of the Commission for defence of the doctoral thesis. With the reasoning that only these provisions can raise the issue of violation of the autonomy of the University and the rule of law, the Constitutional court did not manage to protect the autonomy of the University of the influence of the executive power regarding external evaluation, self-evaluation, the work and the obligations of the Accreditation and Evaluation Board, its right to determine the criteria and the conditions for first, second and third degree of studies, the conditions for promotion to teaching-scientific titles, as well as to independently to decide on spending the funds of the university and the evaluation of the knowledge of the students.

We believe that such decisions of the Constitutional Court strengthen the influence of the executive power on the work of the University, which according to the Constitution of the Republic of Macedonia has guaranteed autonomy. In addition, the autonomy of the university and the principles according to which each country should aim to ensure this autonomy are stipulated also by the Lisbon Declaration of the European University Association and Magna Carta of the universities, according to which the existence of academic freedom, financial autonomy, organizational autonomy and

staff autonomy of the university is essential.

That the reactions of the university professors and the senators regarding the violation of the autonomy of the University by the executive power were not taken into account, is proven also by the latest amendments to the Law on Higher Education, which at the proposal of the Government, were adopted by the Assembly of the Republic of Macedonia without prior expert discussion. Namely, the new amendments stipulate approval of the curriculum by the executive power, approval of the books from which the students will learn, the manner of voting in the decision making process and the manner of spending the funds of the University, which again violates the financial autonomy. Regarding these amendments, another initiative was submitted to the Constitutional Court, but the Court again failed to protect the autonomy of the University, rejecting the second initiative to initiate a procedure for assessing constitutionality (of Article 87-a paragraphs 1 and 2 and Article 99 paragraph 3 of the Law on Higher Education and the Law on Amendments and Additions to the Law on Higher Education, as whole). The Helsinki Committee is not surprised by this action of the Constitutional Court, if we take into account the previous decision on the same law and also the decisions made by this court during the whole of 2013. In the separate opinion of the Constitutional Court, despite the flagrant violation of the autonomy of the University with the latest amendments, it was stated: The basic position is that the guarantee of autonomy of the university established by Article 46 of the Constitution does not exclude the possibility of state influence in the operation of the university in every segment of its work, even in the manner of spending the funds, through the competent ministry, while respecting the Law on Higher Education and the Constitution.

# LEGISLATION

## 1. Law on Bar Exam

In October 2013, the new Law on Bar Exam was adopted. Despite the fact that the adopted law is a new solution, completely different from the current way of conducting the bar exam, the reviewing of the proposal in the Assembly was conducted in an urgent procedure. According to the new Law, there are changes regarding the composition of the commission for conducting the exam, the professional and scientific material, the subject for technical implementation of the exam (which is expected to be private, not public), electronic way of taking the exam via computer, scoring system, etc. The implementation of the Law is scheduled to start in October 2014, and no later than mid-February 2014, the Ministry of Justice was obliged to adopt a rulebook that would prescribe the manner of scoring on the exam. The rulebook was not adopted by the end of this report.

The adoption of an important law such as the Law on Bar Exam could not and should not have been done in an urgent procedure. Namely, the urgent procedure according to the Rules of Procedure of the Assembly is prescribed for law proposals that are not complex and extensive. The complexity of the Law on Bar Exam is reflected in the fact that this exam is one of the key elements for performing highly responsible legal professions in the private, and especially in the public sector. The bar exam checks the knowledge of the future judges, public prosecutors, state attorneys, notaries public, enforcement agents, lawyers and other senior positions in the state administration. The law was adopted without consulting the Judicial Council of the Republic of Macedonia, the Council of Public Prosecutors of the Republic of Macedonia, the Notary Chamber, the Chamber of Enforcement Agents, the Bar Association, the Ministry of Justice, the law faculties and other professional and scientific public.

The Law contains solutions that are not clear enough and can introduce confusion and ambiguity in their application. For example, there are solutions such as "The questions that are an integral part of the case studies are in the field of the case on which the case study is based and have ten possible answers, one of which is correct, five are similar and four are different" or the exam "contains 50 questions with five rounding options out of which one is correct, two are similar, one is incorrect on a small scale (it loses a small number of points) and one is incorrect on a large scale (it loses more points)." It is unclear according to which criteria the questioner will determine what is

similar and what is incorrect in “small scale” or “large scale”. During the drafting of the Law, certain options from the American bar exam were taken into account.

The Helsinki Committee believes that the proposed Law on Bar Exam is insufficiently developed, contains too many innovations to be adopted in an urgent procedure, uses solutions that do not correspond to our legal system, which is very different from the American one and can have negative impacts on the judiciary and the work of the state administration.

## 2. Law on the Termination of Pregnancy

The adoption of laws in an urgent procedure, even when it comes to regulating sensitive areas that require a broad public debate, has become a practice for the Assembly of the Republic of Macedonia. The regulation of the procedure for termination of pregnancy, a woman’s right guaranteed by the Constitution of the Republic of Macedonia, was not excluded from this way of acting.

The representatives of the Committee often warned about the unconstitutionality and restrictiveness of the proposed Law on the Termination of Pregnancy, as well as the fact that its adoption in an urgent procedure in accordance with the Rules of Procedure of the Assembly of the Republic of Macedonia will contribute to substantial violations of the human rights and freedoms of women. Despite the protests held in front of the Assembly of the Republic of Macedonia by several non-governmental organizations whose focus is on gender equality and protection of women’s rights and the negative opinion expressed at the public debate in the Assembly of the Republic of Macedonia, the proposed law was adopted without substantial change.

Hence, the Helsinki Committee together with the non-governmental organizations H.E.R.A. - Association for Health Education and Research, Coalition “Sexual and Health Rights of Marginalized Communities”, Reactor - Research in Action and Prof. Karolina Ristova Aasterud, PhD, jointly submitted an initiative to the Constitutional Court of the Republic of Macedonia for initiating a procedure for assessment of the constitutionality of the Law on the Termination of Pregnancy.

The submitted initiative challenges articles and views that are in direct collision with the Constitution of the Republic of Macedonia, as well as with the international documents that the state has ratified and which in accordance with Article 118 of the Constitution are part of the internal legal order and cannot be changed by law.

In this regard, the abovementioned initiators found that the addition of the wording

“procedure for approving termination of pregnancy”, as well as the procedure for termination of pregnancy itself, the ban on repeated intervention for termination of pregnancy within one year, the permission of the parent/guardian for underage girls and persons with no or limited capacity to contract, the submission of a written request for termination of pregnancy, the mandatory counselling, the duty of the doctors to advise on the benefits of pregnancy and the adoption of acts and regulations related to termination of pregnancy by the Minister of Health, the composition of the Commission that should act upon the submitted requests and the lack of judicial protection, create opportunities for state interference in the freedom of choice of women and is contrary to the Constitution of the Republic of Macedonia, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

In fact, the Law on the Termination of Pregnancy directly violates the right to privacy, which includes family life, represents discrimination according to the national law and international legislation, gross violation of the legal order, i.e. violation of the division of power into legislative, executive and judicial power, as well as basis for torture or inhuman treatment of vulnerable categories of citizens. Additionally, it violated the existing legislation or the Law on the Protection of Patients’ Rights and rudely enters the field of reproductive health, shortening the capacity to contract of women to independently take care of their health in accordance with Article 39 of the Constitution of the Republic of Macedonia.

### 3. Law on Protection against Harassment at the Workplace (Mobbing)

The Helsinki Committee commended the initiative to adopt a special Law on Protection against Harassment at the Workplace, because the existing articles in the Law on Labour Relations were not sufficient to protect employees from psychological and sexual harassment in the workplace. However, we believe that the Law is vague and incomprehensible, due to which it will not be able to protect employees from psychological and sexual harassment in the workplace. In the process of preparation of the Law, the Helsinki Committee submitted remarks on the draft law to the Ministry of Labour and Social Policy regarding:

The lack of definition of what constitutes sexual harassment; the need to supplement Article 3 with a paragraph stipulating that a person exposed to mobbing by the management body in a legal entity or a natural person as an employer may initiate court proceeding for protection against mobbing without having to send prior written



notice in order to indicate that that type of behaviour bothers him/her; the lack of precise conditions that the employer should provide in the work process in order for the work to be performed in an atmosphere of mutual respect, cooperation, without hostile, humiliating or offensive behaviour; precise indication of the professional profile, qualifications and the training of the persons who can be mediators in a conciliation procedure provided by the draft law; proposal for deletion of Article 19 which stipulates that the employee or any other person who considers himself exposed to mobbing has to give prior written notice to the person who is mobbing him, as a condition for initiating a procedure for protection from mobbing, the burden and the delay of the procedure for protection from mobbing and specification of the provisions that determine the burden of proof in case of a court dispute, in order for it to fall on the defendant.

The Ministry of Labour and Social Policy informed us that the remarks regarding the lack of definition of what constitutes sexual harassment, the need to supplement Article 3 with a paragraph stipulating that a person exposed to mobbing by a management body in a legal entity or a natural person as an employer may initiate court proceeding for protection against mobbing without written notice in order to indicate that that behaviour bothers him/her, are accepted and that the draft law is amended in accordance with the accepted remarks.

The Helsinki Committee was also invited to the public debate on the law in the Assembly of the Republic of Macedonia, where the above remarks were re-emphasized, including the remarks on changing the collective agreements for the public and private sector, the burden of proof in case of litigation and the dysfunction of the law when it comes to small companies with several employees.

However, the remarks of the Helsinki Committee were not accepted and the Law was adopted in the proposed form. Hence, we believe that the provisions stipulated in this way do not fully protect the rights of the victims of mobbing and do not facilitate the procedure of proving mobbing, which can easily lead to confusion among workers, employers, but also in the judiciary.

# POLICE CONDUCT AND CLOSED INSTITUTIONS

## 1. Introduction

In 2009, the amendments to the Criminal Code tightened the penal policy for the crime of torture and other cruel, inhuman or degrading treatment or punishment. According to the current provisions, the prescribed sanction for torture is from three to ten years of imprisonment, while “harassment while performing the service” is punishable by one to five years in prison. The Republic of Macedonia has signed and ratified all the conventions related to prevention of torture. Hence, the national legislation is formally harmonized with international standards. However, the Law on Execution of Sanctions and the Law on Police, as well as the bylaws arising from them, although harmonized with international standards, are not fully implemented. In conclusion, the state fails to implement its own international obligations.

In the period 2009-2012, only eight people were convicted of harassment while performing the service, two of whom were sentenced to prison, while the other six were given probation sentence. In these years, including 2013, there are no verdicts for the crime of torture. On the other hand, in the last three years, the Helsinki Committee has received dozens of complaints from victims of torture and members of their families, but the Committee has also acted on its own initiative by meeting with victims and offering them legal aid. Many of these victims were subjected to physical and psychological torture in closed institutions (police stations, detention units, prisons and psychiatric institutions), away from the attention of the public and the media.

The oversight mechanisms are only partially functional and cannot be considered independent. With the entry into force of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2009, the Ombudsman was designated as the National preventive mechanism, which began exercising its powers in 2011. The effectiveness of this mechanism in the first three years is unsatisfactory, especially due to lack of professional staff and the lack of participation of civil organizations, which, even though is possible, is not applied in practice. The work of the Ministry of Internal Affairs (MOI) is subject to internal and external control. The Assembly of the Republic of Macedonia and the Ombudsman perform the external control, while the Sector for Internal Control and

Professional Standards within the Ministry of Internal Affairs performs the internal control and supervision. The State Commission for Supervising the Penitentiary and Educational and Correctional Institutions, whose decisions are binding to all those to whom they refer, is formed only on paper. It is not active and does not perform its competencies. Therefore, with the exception of the Ombudsman, in Macedonia there is no other permanent mechanism for supervision of prisons and the Administration for Execution of Sanctions.

Due to the stated inconsistencies, the main problems identified in the field of closed institutions persist: overcrowding, substandard living conditions, inadequate hygiene, insufficient access to legal services, etc. In 2013, a significant number of convicts and detainees complained to the Helsinki Committee that they could not exercise their right to health care. These citizens, as a result of their deteriorating health condition, on their own initiative and at their own expense, requested to be provided with appropriate therapy or to be examined by their family doctors. Through several examples, the Helsinki Committee found that the employees in the closed institutions unnecessarily delay the procedures on such requests and very often do not provide examinations outside the institutions.

## 2. Police torture in Ohrid

During the month of April, Jane Milososki from Ohrid addressed the Helsinki Committee for Human Rights. According to his allegations supported by evidence (notary statement of a witness and medical report), in March 2013, Mr Milososki was physically assaulted, harassed and humiliated by several police officers. The indicated persons, all employees of the Ministry of Internal Affairs, in the special unit "Alfa" Skopje, on the evening one day before the local elections in Ohrid, stopped Mr Milososki and forcibly removed him from his vehicle. With three passenger motor vehicles, without any reason and explanation, about twelve armed special forces, with aimed automatic rifles, handcuffed Mr Milososki, laid him down on the asphalt and started kicking him, punching him and hitting him with the back side of the automatic weapon all over his body. During the physical harassment, one of the police officers with an automatic rifle was chasing the pedestrians who were passing by and were wondering why they were beating him. This event was witnessed by two eyewitnesses who were just observers of what was happening because even though they tried to help Mr Milososki, they were forcibly expelled by the armed police officers, during which they were cursed and threatened.

After that, Mr Milososki with a jacket that was put on his head, was forcibly put in a vehicle and taken to the PS UV Ohrid for no reason, where his physical torture

continued. After the physical torture, his health deteriorated and he was taken to the hospital in Ohrid. Due to the severity of the injuries, with visible external and internal injuries all over his body, he was immediately transported to the hospital in Struga, where he underwent surgery and was detained for about 15 days for intensive treatment in the hospital. After the arrest, the officials from SIA Ohrid made a detailed inspection of the passenger vehicle of Mr Milososki, but there were no traces for an alleged crime.

The police officers registered this case as “Attack on an official while performing security duties”, which according to Mr. Milososki is a notorious lie, in order for the police officers to protect themselves from their abuse. In this regard, it is unclear for the Helsinki Committee what would be the motivation of one person to attack a dozen officials who according to Mr Milososki, but also according to witnesses, were armed with automatic weapons.

From the above allegations, according to the Helsinki Committee, there are strong indications and grounded suspicion that the indicated and unknown police officers committed the crime of Torture and other cruel, inhuman, degrading treatment and punishment (Article 142 paragraph 1 of the Criminal Code of the Republic of Macedonia). For that reason, the Helsinki Committee sent a complaint to the Sector for Internal Control and Professional Standards, requesting the Sector, in accordance with its legal competencies, to take urgent measures to investigate this case. After a short inspection, according to the Sector, no violations of police powers were found. The Helsinki Committee monitors the on-going trial in which Mr Milososki appears as a defendant instead of as a damaged party.

### 3. Police torture in Demir Hisar

In August 2013, Miroslav Vasilevski, a victim of police torture, addressed the Helsinki Committee. In June 2013, he was summoned for an informative interview by the police officers at the police station in Demir Hisar, without being told the reason. According to his claims, immediately after entering the station, a police inspector started shouting and insulting him, accusing him of stealing batteries. Then, another police officer entered the room and hit him in the ribs with his knee for no reason. Although Mr. Vasilevski fell to the floor, the police inspector continued to hit him on the head and trample him on the body.

After this first attack, the inspector left the room, but after a short time he returned and continued with the physical attack, during which Miroslav was punched in the temple area and then in the back of the head and in the knee. After this attack, he

fell to the floor again, but the police inspector picked him up and took him to another room where other suspects suspected of stealing batteries were staying. The inspector started threatening them and pressuring them to admit that the victim was with them when they stole the batteries. Despite the pressure, the suspects did not confirm this theory, so the police inspector started beating them. In the presence of the other suspects, he first pushed Mr Vasilevski in the door, then in the wall, and finally hit him once more with his head from the table.

Finally, the inspector who carried out the torture informed Mr Vasilevski that his truck was checked, and that there were no stolen batteries in it, after which he released him. Upon leaving the police station, the inspector threatened that if the case was reported, Mr Vasilevski will never see his village again. Miroslav together with his father immediately went to the hospital in Demir Hisar from where he was sent to the surgical department at the PHI Bitola. Due to pain and severe injuries, he was detained for two days.

After verifying the allegations that were supported by medical documentation (for surgery and psychiatric expertise), the Helsinki Committee started following the ongoing trial initiated by a private lawsuit of the victim who initiated the procedure himself due to lack of information that the crime "Torture and other cruel acting and punishing" (Article 142, paragraph 1 of the CC) is an act that should have been prosecuted by the Public Prosecutor's Office, ex officio.

## 4. Police harassment in the service in Skopje

In May 2013, in the suburb "Topansko Pole" in Skopje, the Ministry of Internal Affairs conducted an action to arrest a convicted person who did not return to serve his prison sentence after taking advantage of the weekend outside of the Idrizovo Penitentiary. After receiving information about the excessive use of force by the police officers, representatives of the Helsinki Committee visited the suburb "Topansko Pole" and talked to the victims, all members of the Roma community. Four of them were arrested and brought before an investigative judge who opened an investigation in which they were accused of allegedly committing the act of "Attack upon an official person, when performing security activities".

According to a great number of citizens who witnessed the event, a large group of police officers appeared on the 376th Street, including members of special police units. Immediately afterwards, the police started to attack the citizens who were found on the street in an organized and lightning manner. According to the witnesses, about 50 police officers took part in the action, and in the first moment a dozen citizens were

attacked. The action did not take place only along the street, but the police officers, without a court order and without any knowledge or indications of a crime, entered two houses and two shops. In the first shop a video was made, which shows the police attacking surprised citizens. In the second shop, three more people were attacked. In one of the houses, a person who was sitting on the balcony of his house was attacked, even though he did nothing to challenge the police officers.

Four people were transferred to the “Kisela Voda” Police Station. They were placed in two cells and although they were closed, the handcuffs were not removed from their hands. They remained handcuffed for 2 hours, and at their request for removal, they received an answer from the police officers that the handcuffs could not be removed, because only members of the special unit “Alpha” had keys. The information of the reasons for their arrest was not given until five hours after the arrest. They were not given the mandatory advice regarding the possibility of informing a family member, and one inspector told them that they would not need a lawyer for their statement.

After the discussion and the inspection of the Decision for conducting an investigation, the Helsinki Committee assisted the abovementioned four persons in filing an appeal against the decision for conducting an investigation. In June 2013, the investigative judge in the case, at the request of the Public Prosecutor’s Office Skopje, stopped the investigation, thus confirming that the persons were not perpetrators of a crime as claimed by the police officers in the criminal charges. With such actions, the police officers committed the crimes: Harassment in the performance of duty (Art. 143 CC), Unlawful deprivation of liberty (Art. 140 CC), Violation of the inviolability of the home (Art. 145), False reporting of a crime (366 CC). In addition, the police officers violated the procedural rights of notifying a family member and the right to a criminal defence lawyer to the detainees, and at the police station, they were treated inhumanely and unworthily. For all the stated reasons, the Helsinki Committee submitted a complaint to the Sector for Internal Control at the Ministry of Internal Affairs and received an answer that the police acted in accordance to their competencies.

## 5. Torture in the Idrizovo Penitentiary

The Helsinki Committee actively monitored and acted in the case of torture in the Idrizovo Penitentiary in which the convicted person Zuher Ibraimov, after the attack by a member of the prison police, had his kidney and spleen surgically removed. The incident happened in the Idrizovo Penitentiary in March 2013 when Mr Ibraimov together with another convicted person were repairing a TV set. When Mr Ibraimov was spotted by a member of the prison police, he was asked what he was doing there, after which the police officer immediately and without any reason started beating him.

After the brutal beating, Mr Ibraimov was locked in his cell, but in the evening after a sharp deterioration in his health, he noticed that there was blood in his urine and he immediately called his father. The next day he was hospitalized in a urology clinic outside the prison. Given the nature and severity of the injury, urgent surgery was indicated and required removal of the left kidney and the spleen. According to the medical findings, this health condition could be life threatening for Mr Ibraimov and for this reason, the director of the Directorate for Execution of Sanctions allowed a 30-day suspension of the prison sentence. In cooperation with the defence attorney of Mr Ibraimov, the Helsinki Committee demanded from the director of the Idrizovo Penitentiary and the judge for execution of sanctions a longer leave from prison. In both cases, the response was positive.

The Basic Public Prosecutor's Office, instead of identifying this case as a classic example of torture and prosecuting it in accordance with Article 142 of the CC - Torture and other cruel, inhuman or degrading treatment and punishment, filed an indictment for the crime - Serious bodily injury. Despite the fact that for the latter crime, when an important organ is damaged, a prison sentence of up to 10 years is prescribed, Basic Court Skopje 1 passed a verdict sentencing the defendant to 6 months in prison. Following an appeal by the Basic Public Prosecutor's Office, the Appellate court in Skopje increased the sentence to 1.5 years. In the meantime, Mr Ibraimov was returned to serve his prison sentence in living conditions that pose a danger to further deterioration of his health.

The Helsinki Committee points out that the state still does not provide adequate legal, medical, psychological and social support for the victims of torture. It is therefore necessary to urgently implement the EU Directive 2012/29 for establishing minimum standards for the rights, the support and the protection of the victims of crime.

## 6. Overcrowding in the prison detention units

During 2013, a dozen complaints and requests for free legal aid regarding the determination of detention were submitted to the Helsinki Committee. The complaints refer to the procedures for determining and extending the duration of detention by the investigative judges, the durability of the measure, the non-use of milder alternative measures, the overcrowding, the living conditions and the inadequate health care. The Committee addressed the Directorate for Execution of Sanctions and requested information on the capacity of the detention facilities and the number of detainees staying there. According to the Office, the situation with the overcrowding in detention centres is as follows:

Detention Unit	Capacity	The situation on 31.10.13	The overcrowding
Prison Skopje	290	378	130%
Prison Bitola	11	30	270%
Prison Prilep	17	29	170%
Prison Tetovo	11	27	245%
Prison Gevgelija	6	2	/
<b>IN TOTAL</b>	<b>335</b>	<b>466</b>	<b>139%</b>

Although the domestic law and the international standards require detention to be used as an exception rather than as a rule, the duration of the detention to be reduced to the shortest necessary time and the possibility of using milder preventive measures to be considered first, the Helsinki Committee feels that the detention is sometimes used as a punitive measure, and in some cases as a method of intimidation.

This attitude is based on examples in which detention is determined for minor crimes, court decisions in which the defendants are prejudged as guilty even before the trial starts, the imposition of prison sentences that correspond to the time spent in detention, as well as the manner in which the special police forces escort suspects in court in front of television cameras.

The examination of the reasons for determining detention is an activity of the investigative judge whose obligation is to elaborate why he considers detention necessary and why the securing of the suspect during the trial would not be possible with a milder preventive measure. In Macedonia, the practice of extremely scarce decisions which lack a more specific analysis and explanation on each separate basis due to which detention is determined, still exists. The decisions for extending detention are usually identical to one another and are based on a simple paraphrase of the conditions set out in the Law on criminal procedure. In the "Snake Eye" (Zmisko oko) case, in which the Committee represented the defendants before the Court in Strasbourg, this Macedonian practice was characterized as contrary to the European Convention on Human Rights.



## 7. Court precedent with the international oversight of detention

During the month of September, the International Committee of the Red Cross (ICRC) submitted a request to the Criminal Court in Skopje for a visit of the detainees during one of the court hearings in the case “Monster” (Monstrum). During one of the hearings in this case, the President of the judicial council informed that the request was rejected because the ICRC did not agree with the conditions set by the court, regarding the manner in which the visit was to take place. The public present at the hearing was not informed about the details regarding the set conditions.

Even though the rejection of requests to visit detainees by NGOs and independent organizations (including the Helsinki Committee) is nothing new, the fact that this time one of the most respected international organizations has been rejected is worrying. The activities of the ICRC are of a purely humanitarian nature and refer to the protection of the rights of prisoners. Through regular visits to closed institutions, the ICRC seeks to prevent all forms of torture and other inhumane treatment and punishment. In 2012, this organization visited over half a million prisoners worldwide. In the Republic of Macedonia, only four visits to closed institutions were made and sixteen prisoners were visited. These visits are made according to a standardized methodology, according to which visits in Macedonia have been allowed in recent years. Hence, the need for different treatment in this particular case compared to other cases is unclear.

The importance for the human rights that ICRC has in overseeing the authorities in the realization of the detention is also confirmed in Article 211 of the Law on criminal procedure, which stipulates that “Representatives of the International Committee of the Red Cross have the right, after they gain an approval from the investigative judge, to visit and talk to detainees without supervision.” In addition, the ICRC’s international mandate arises from the Geneva Conventions from 1949, to which the Republic of Macedonia is a signatory.

This rejection of the request to visit detainees, as well as the recent rejection of Mr Frank La Rue - UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression to visit the journalist Tomislav Kezarovski and the several other rejections of similar requests submitted by the Helsinki Committee, only straighten the suspicion that the Macedonian detention facilities are places where the international and domestic standards for the treatment of detainees are not respected.

# DISCRIMINATION

## 1. Discrimination based on political affiliation

According to the received number of complaints regarding discrimination during 2013, we can conclude that the most common discrimination was the one based on political orientation, i.e. affiliation. We believe that the increased number of complaints of discrimination based on political affiliation is a result of the conduct of the local elections in April 2013 and the change of the local government in several municipalities. Most of the complaints were submitted by the municipality of Gostivar, but there were also complaints from the municipalities of Ohrid and Karposh. The most specific case is the dismissal of eight principals of primary and secondary schools in the municipality of Gostivar by the new mayor, without respecting the dismissal procedure, i.e. the decision for dismissal to be made by the school boards in the specific schools. The dismissed directors submitted complaints to the Helsinki Committee and were provided with free legal aid. In addition, a court proceeding to establish discrimination was initiated, which is still on-going. Furthermore, a court procedure for determining discrimination due to political affiliation was initiated in the case regarding the heads of the departments in the company PE Komunalec - Gostivar, in which case the discrimination was committed by the acting director.

The proceeding before the first instance court has been completed with a negative decision and with a note from the judicial council that the plaintiffs should have submitted a complaint to the Commission for Protection against Discrimination before filing a lawsuit. Through this example we want to point out to the judges in the Republic of Macedonia that the Commission for Protection against Discrimination is an independent body that adopts opinions and recommendations on complaints of alleged discrimination and is not related at all to the judicial protection against discrimination. Regardless of the fact if the victims of discrimination have addressed the Commission for Protection against Discrimination or not, they have the right to initiate a court proceeding. However, in the cases where a court proceeding has been initiated and the Commission for Protection against Discrimination later adopts an opinion that there is discrimination in the particular case, the opinion may be used as evidence in the court proceeding, but is not binding to the court.

In this regard, in case a procedure has been initiated before the Commission for Protection against Discrimination which is not yet completed, the victim is still allowed

to initiate a court proceeding and inform the Commission about the proceeding, in which case the procedure before the Commission will be suspended.

## 2. Discrimination against ethnic communities

### 2.1 Roma people

For years, the Helsinki Committee has been reporting on marginalization, social and systemic discrimination against Roma as an ethnic community. As particularly sensitive topics, we would like to point out the discrimination against Roma at border crossings, segregation of Roma children in the education system, inaccessibility of goods and services and the restrictions on the right to employment and the employment rights. We would especially like to highlight the case of discrimination against Roma at border crossings, which is a striking example that the situation is beginning to take a dimension of racial discrimination, because it is based on the skin colour of citizens.

The existence of racial discrimination was proven by the event in the Shopping Centre “Skopje City Mall”. The management of the shopping centre sent an e-mail to the company “Land Service” and asked them to not engage members of the Roma community to maintain hygiene in the department of food. We believe that such behaviour constitutes racial discrimination and direct discrimination based on ethnicity, which restricts the right to work and performance of work duties due to the stated grounds and it is prohibited under the Constitution of the Republic of Macedonia, the Criminal Code and the Law on Prevention and Protection against Discrimination. Additionally, such treatment directly endangers the moral integrity, which according to the Constitution of the Republic of Macedonia is inviolable, endangers the reputation and dignity of the Roma people and violates basic human rights. For these reasons, the Helsinki Committee, as a member of the Network for Protection against Discrimination, together with the other members condemned this event and called on the Public Prosecutor’s Office and the Commission for Protection against Discrimination to investigate it and initiate proceedings to determine responsibility for unequal treatment to Roma people, in order to ensure legal protection of the victims of discrimination.

Due to the fact that there was no reaction from the Public Prosecutor’s Office for initiating a procedure in order to investigate the event and determine the possible responsibility of the defendants, the Helsinki Committee, together with the other members of the Network for Protection against Discrimination, filed criminal charges to the Public Prosecutor’s Office against the Shopping Centre “Skopje City Mall” and its management. However, even after eight months from the filing of the criminal charges, there is no public response whether this case is being acted upon at all and whether a court proceeding has been initiated.

This is just one of the cases of discrimination that Roma people reported to the Committee, which proves that in the Republic of Macedonia this community is still on the margins, excluded from the social processes. The exclusion is not accidental, because the Roma people are still one of the most vulnerable social groups facing discrimination and ghettoization, which negatively affects the inclusion processes and limits their progress and equalization with other social groups.

Regarding the discrimination against Roma children in the education system, several complaints were submitted to the Committee. Birhan Kasupi and Senat Emini, parents of students at the Strasho Pindzur primary school, applied for legal aid. Namely, Birhan Kasumi informed us that on November 6, 2012, before the start of the second shift at the school, around 13:10, his son and another child from the sixth grade pushed each other in the school, and the child addressed him with the words "You are not a man, you are a gypsy." Immediately afterwards, the same child called his parent who entered the classroom and started insulting Birhan's son because of his Roma nationality and slapped and kicked the minor child. The parent informed us that the police officer who acted at the scene also showed inappropriate, unprofessional behaviour, insults and discriminatory attitude towards him and his child. Very similar is the case of Senat Emini's child, who in the physical education class, was first insulted by a parent of his classmate because of his ethnicity, and then the parent started hitting him on the head and body, after which the child fell to the ground. In both cases, the police was not called by the school authorities, but by the parents of the children, when they found out about the events. Due to these cases, the parents of the Roma children submitted a petition for discrimination against the Roma children in this school.

Acting on the request for free legal aid, the Helsinki Committee for Human Rights sent a request for notification to the principal of the primary school "Strasho Pindzur" regarding the undertaken actions in order to clear the cases, as well as the actions undertaken to promote and educate students and their parents for tolerance and non-discrimination on the grounds of nationality. The school principal informed us that a school board had been convened, that it was talked to the teachers and that the school was constantly promoting interculturalism, respect for nationality and the principle of non-discrimination on any grounds.

A letter was also sent to the Minister of Labour and Social Policy, who gave a statement to the media that he condemns violence against children and that the institutions of the system will undertake all the necessary measures to sanction the violence. However, we received a reply from the Ministry that they are not competent to act on these cases, except in the area of discrimination.

In addition, the Ombudsman was informed about the case of Birhan Kasupi and the alleged discrimination based on nationality by the school and the police officer. Furthermore, Birhan Kasupi submitted a complaint to the Commission for Protection against Discrimination, but the Commission did not find discrimination in this case.

We believe that these cases show that education on the principle of equal treatment of all people, regardless of their differences, is necessary for parents and students in primary and secondary school. Trainings on the same topic should be organized for teachers and professors too. Furthermore, the municipalities should provide funds intended for hiring security in the schools, in order to prevent future incidents of violence against children. All this is necessary in order to ensure respect for all rights of the citizens recognized by the Constitution of the Republic of Macedonia and ratified international agreements and to achieve greater tolerance for diversity on any basis among students and thus greater school security.

## ***2.2 Bosniaks***

In January 2013, the Helsinki Committee submitted a complaint to the Commission for Protection against Discrimination for discrimination against the Bosniak people on the grounds of ethnicity due to the omission of the Bosniaks as people living in the Republic of Macedonia in the textbook “Getting to know the environment” for 3rd grade in primary education. Namely, the lesson for the people living in the Republic of Macedonia shows that Macedonians, Albanians, Turks, Roma, Vlachs and Serbs live in our region and describes their cultural peculiarities and traditions, while the Bosniak people are left out. The complaint was filed against the Ministry of Education and Science of the Republic of Macedonia and the authors of the textbook, upon a previously submitted request for free legal aid. Acting upon the submitted complaint, the Commission for Protection against Discrimination adopted an opinion that in the specific case discrimination on the ground of ethnicity was committed, in accordance with Article 3 of the Law on Prevention and Protection against Discrimination.

The Helsinki Committee commended the opinion, but at the same time asked the Commission to make some additions and clarifications to the opinion, because the opinion did not specify where the event took place, whether it was a matter of direct or indirect discrimination, whether it was a matter of prolonged discrimination, because it has been going on for a long time since the textbook “Getting to know the environment”, with which the violation was committed, was published in 2011. This request was submitted in September 2013, but even after 7 months from the submission, we have not received any response or amended opinion from the Commission for Protection against Discrimination

### 3. Discrimination against women and violations of rights

The Helsinki Committee in the past year noticed an increase of the negative campaign aimed at the status and the position of the woman in the Republic of Macedonia, public discrimination, discreditation, labelling and minimization of human rights and freedoms, as well as violation of specific rights such as freedom of choice, privacy, independence in the decision making regarding one's own body and subordination to the role of the man. This type of open discrimination culminated with the adoption of the Law on the Termination of Pregnancy, which severely restricts the reproductive rights of the woman and the freedom to decide on the creation of children, guaranteed by the Constitution of the Republic of Macedonia.

#### *3.1 Statement of the Metropolitan Peter*

The Helsinki Committee condemned the statement of Metropolitan Petar through which he reiterated allegations that women are the reason for the increased number of divorces in the Republic of Macedonia because they do not want to accept that the man is the head of the house and that the women should be subordinate to the men. According to Metropolitan Petar, women will either save or destroy the Macedonian nation and the church, because what is conceived in the wombs of the mothers should be born if we want to survive as a nation, people, state and church.

Through such publicly expressed views, Metropolitan Petar directly violated Article 9 of the Constitution of the Republic of Macedonia, which stipulates that all citizens are equal in their freedoms and rights regardless of gender, Article 25 which guarantees respect and protection of privacy, personal and family life of every citizen, his dignity and reputation and Article 41 which stipulates the human right to freely decide on the creation of children, as well as violation of the provisions of the Law on Prevention and Protection against Discrimination and the Law on Equal Opportunities for Women and Men. Additionally, such statements violate the secularity of the state from the church, which is a constitutional category and according to which churches, religious communities and other religious groups are separated from the state.

Such misogynistic statements are contrary to all international mechanisms that guarantee the equality of women, their freedom of choice and reproductive rights, especially the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, to which the Republic of Macedonia is a signatory. Namely, Article 5 of the Convention stipulates that states are obliged to take all the appropriate measures to change the social and cultural customs regarding the behaviour of men and women in order to remove prejudices, as well as the usual or

any other practice based on the understanding of the inferiority or superiority of one or the other sex or the traditional role of men or women.

The Helsinki Committee called on the Commission for Protection against Discrimination and the Legal representative in the unequal treatment of women and men, as part of the Ministry of Labour and Social Policy, to initiate a procedure for determining discrimination on the grounds of sex and gender, committed by the Metropolitan Peter, but there was no reaction from the representatives of these bodies for equality.

### ***3.2 Unpaid parental leave that applies only to the woman - mother***

The Network for protection against discrimination, coordinated by the Helsinki Committee, found that the introduction of the new right to unpaid parental leave in the Law on Labour Relations, which applies only to women - mothers, represents an unequal position of women - mothers in relation to men - fathers and emphasizes and encourages the traditional role of the women as mothers and caregivers.

In the Republic of Macedonia, women workers face violations of their rights both during the employment process and in the workplace, while women's labour is less paid and unprotected. Women workers do not have at their disposal effective and efficient legal and institutional mechanisms and bodies that they can use to protect their rights, so it often happens for them to receive a decision for dismissal motivated by pregnancy or to face victimization when reporting a violation of the provisions of the Law on Labour Relations.

The Network for protection against discrimination, which monitors the situation regarding all forms of discrimination, believes that in the absence of effective protection mechanisms, the right to unpaid parental leave will further increase the opportunities for abuse and violation of workers' rights by employers.

Hence, we believe that the Government of the Republic of Macedonia and the Ministry of Labour and Social Policy should find appropriate legal solutions that will help solve such problems and that they should show strong political will to implement the existing legislation that protects women from discrimination on the grounds of gender in labour relations.

The Network for protection against discrimination supports the idea of amendments and additions to the Law on Labour Relations in order to recognize the need of the parents to spend more time with their children and to take care of their proper growth

and development. However, the role in the proper growth and development of the child belongs not exclusively to the mother, but also to the father. The proposed legal solution discriminates men by denying them the right to unpaid parental leave, and only emphasizes the role of the women in the home, in caring for the growth and development of the children.

Gender equality and the prohibition of discrimination on grounds of sex is part of the positive regulations of the Republic of Macedonia and is a basic principle of numerous international conventions to which the Republic of Macedonia is a signatory.

## 4. Discrimination against marginalized groups - LGBTI people

Throughout 2013, the LGBTI community was under constant public attacks and hate speech, which culminated in hate crimes against specific activists and also against the LGBTI Support Centre. Namely, the multiple attacks on the Support Centre, the attack on the attendees at the LGBTI Centre during the "Pride Week", the attacks in Bitola on activists fighting for the rights of LGBTI people, the homophobic threats on social networks, the beating of two boys in the centre in Skopje, including the attack on the home of the actor who spoke publicly about his sexual orientation, speak of social discrimination against this community.

The silence of the institutions in the abovementioned cases proved the open discrimination against the LGBTI community and the selectivity in the actions of the institutions. Due to this, the Helsinki Committee and the other members of the Network for protection against discrimination on 08.10.2013 filed criminal charges to the Basic Public Prosecutor's Office - Skopje. The criminal charges were filed against unknown persons due to the existence of grounded suspicion that, among others, they committed the criminal offenses "Violence", "Racial and Other Discrimination", "Violation of the Equality of Citizens" and "Causing General Danger". Although six months have passed since the filing of the criminal charges, to this day there is still no response from the Public Prosecutor's Office.

We would also like to point out that a year and a half has passed since the first attack on the LGBTI Support Centre, and the Helsinki Committee and the public have no answer as to whether the competent institutions have taken measures to identify the perpetrators and whether a procedure has been initiated for invoking responsibility of the perpetrators.

The only case in which the LGBTI Support Centre was attacked and for which the



institutions reacted quickly, was the attack on March 2. We commend the verdict of the Basic Court Skopje 1 according to which the attackers of the Centre were found guilty of the crime “Participation in a crowd that will commit a crime”. In deciding on the amount and duration of the punishment for the perpetrators, the court took into account the aggravating circumstances for hate crimes based on national and social origin, political and religious beliefs, gender, race or skin colour, but avoided to include or recognize the basics of sexual orientation and gender identity as motive for the act.

The attacks by the perpetrators caused significant danger to the life and the body of those present in the Centre, violation of the equality of citizens and discrimination (based on sexual orientation and gender identity). As a result, the personal and moral integrity, the dignity and the reputation of the LGBTI people were violated.

We believe that the institutions must recognize sexual orientation and gender identity as grounds for violence and discrimination, so that finally the LGBTI community can receive protection and support from the institutions that should protect the rights of all citizens and prevent such violence in the future.

## 5. Discrimination on the grounds of physical disability - blind people

The Helsinki Committee determined unequal treatment of the blind by the banks in the Republic of Macedonia, when using banking services and products for which the signature of the user is required and the banks do not recognize the signature of the blind, do not allow the use of facsimiles and force them to authorize a third party to sign on their behalf and for their account. The blind people also face problems when using online banking due to the internal regulations of the banks (use of tokens, codes and similar security tools that blind people are not able to use).

Additionally, the banks do not provide the use of assistive technology, such as voice ATM, bracket printer, software solutions for access to electronic services, etc. Based on this, a complaint was submitted to the Commission for Protection against Discrimination, which was supported by all members of the Network for Protection against Discrimination, as well as by the National Union of the Blind of the Republic of Macedonia and the National Union of Civil War Invalids of Macedonia. Additionally, a memorandum of cooperation was signed between the Helsinki Committee, the National Union of the Blind of the Republic of Macedonia and Komercijalna Banka AD Skopje, which envisages close cooperation between the two civil associations and the specific bank, in order to overcome the problems that the blind and visually impaired people face. For this purpose, Komercijalna Banka trained six employees who are

already operating in the field of electronic banking, opening current accounts and opening a safe.

Also, the bank has so far trained 22 blind and visually impaired people to use the services and the products of electronic banking (internet, applications, etc.). The bank also adjusted the procedure for renting a safe for the blind and visually impaired people, so that they can now open a safe in the presence of two bank clerks.

We believe that this practice of Komercijalna Banka should be a positive example for other banks to adapt their services to the needs of this group of people. At the same time, we want to emphasize that the Commission for Protection against Discrimination in this case did not make a decision within the legally prescribed period of 90 days.

## 6. Commission for Protection against Discrimination

Inefficiency in protection against discrimination and non-compliance with the 90-day deadline for decision-making by the Commission for Protection against Discrimination continued in 2013 same as in the previous two years. The fact that the Commission has not yet decided upon the complaint submitted by the Helsinki Committee in April 2011 for discrimination, i.e. segregation of Roma children in certain primary schools in Bitola, proves the capacity of the Commission to combat more severe forms of discrimination and protect children and adult citizens from any form of discrimination.

In addition, in the case of discrimination against Bosniaks, the Commission has shown flatness in adopting opinions, even in those cases where it finds discrimination. We believe that not specifying the form of discrimination may negatively affect the practice that the Commission will create in the future period of its work.

All remarks of the Helsinki Committee on the Law on Prevention and Protection against Discrimination, especially those related to the provisions that allow employees in the state administration to be members of the Commission for Protection against Discrimination, the non-inclusion of sexual orientation and gender identity as grounds for protection from non-discrimination, the non-existence of a mechanism that will ensure compliance with the 90-day deadline for adoption of opinions by the Commission, remained in 2013 because there was no initiative by the Government of the Republic of Macedonia to amend the provisions of this Law.

# HATE CRIMES

During 2013, in the period from 28 February to 31 December, the Helsinki Committee within the project “Monitoring and Reporting on Hate Crimes”, funded by the OSCE Mission to the country, recorded 116 committed hate crimes/incidents.

Three of these incidents were reported to the Helsinki Committee for Human Rights, while the media reported all the other incidents. In addition, 60 incidents were confirmed through contact with the police, through police bulletins, media coverage, meetings with victims, as well as by witnesses of the incident. Fifty-six of the reported incidents were not verified, but are still included in the report due to information received about the crime scene (for example, ethnically mixed neighbourhoods and schools, bus routes used by members of different ethnic communities, places where hate crime occurred previously, etc.), type of incident (for example, a large group of minors attacking one or more victims without provocation, group fights, attack on a bus or bus station, etc.), time of the incident (after a previous fight as a form of revenge, after school, during or after sports events, etc.) and property damaged during the incident (for example, churches, mosques, multicultural buildings, etc.). Unverified and verified reports of incidents can be viewed individually on the website for reporting hate crime: [www.zlostorstvaodomraza.com](http://www.zlostorstvaodomraza.com).

Many of the registered incidents (103) qualify as hate crimes due to their status as criminal offenses according to the national law and the fact that they were committed due to a certain bias. Most of these crimes are committed by minors. The victims and perpetrators are usually members of different ethnic communities (Macedonian and Albanian). The committed crimes include attack, possession and use of illegal weapons, damage of property, vandalism, threat, violence, burning of flags, arson, etc. Incidents that do not qualify as hate crimes are usually treated as misdemeanours (13) and in such case, it is usually offensive graffiti, inappropriate and nationalistic chanting during sports events and more.

About 72% of the total numbers of registered incidents were registered in Skopje and its surrounding municipalities. Seven incidents were registered in the cities of Kumanovo and Tetovo, five in Gostivar and four in Struga. All these cities are located in regions where there is a significant minority of ethnic Macedonians (Tetovo and Gostivar) or ethnic Albanians (Skopje, Kumanovo and Struga). Debar is the only city where Albanians and Macedonians live together, in which there were no registered incidents during the period covered by this report. Except in Shuto Orizari, a municipality mostly

populated by members of the Roma ethnic community, hate crimes were registered in all nine other municipalities in Skopje. The fact that there were no registered incidents involving members of the Roma ethnic community, should not lead us to the conclusion that these incidents do not occur, but rather that they are not reported.

Most of the incidents registered in Skopje took place in Cair (a predominantly Albanian municipality), Centar and Aerodrom (predominantly Macedonian municipalities). The percentage of registered incidents for these three municipalities is 72% of the total number of incidents that occurred in the city area of Skopje. At least 21 incidents in Skopje occurred on buses (the media sometimes reported the location of the bus that was attacked, but not the number of the bus). Most of the buses run on a route between Macedonian and Albanian suburbs, and of all bus attacks, 66% occurred on buses number 9 and 65. Many of the physical attacks took place near bus stops or the bus itself was the target of the attack. In addition to the attacks on and in buses, six attacks on trains were reported. Four attacks took place near the railway station in Skopje North, and the attacked trains were running on the route between Skopje-Kicevo and Skopje-Pristina.

Fourteen of the incidents involve an attack by a group of students against one student or fights between two opposing groups, which occurred inside or near six (6) high schools in Skopje. Three of these schools are located on the same boulevard in the Municipality of Aerodrom. In all schools where incidents were registered, Macedonian and Albanian students study together. Additionally, at the national level, the registered incidents include attacks on three churches, one mosque, one multicultural centre and one museum (dedicated to the Albanian alphabet) which was attacked twice.

Almost half of the registered incidents occurred in March, September and October. Most of the incidents in March occurred due to protests and counter-protests over the appointment of Talat Xhaferi (former NLA commander) as Minister of Defence in the Government of the Republic of Macedonia. In September and October, on average, an incident occurred every other day, due to the fact that this period marks the beginning of the school year and students return to school, so in many cases high school students were involved, while the usual time of occurrence of the incidents was during after school hours. During the local elections in the country that were held in 2013, it is interesting to note that between the two rounds, where the first round of voting took place on March 24, while the second round on April 7, no incident was registered between these two dates. During the month of June, the month in which the school year ends, only seven incidents occurred.

About 84% of the hate crimes were committed because of the victim's different ethnicity. Macedonians and Albanians are involved in almost all of these incidents. Sexual orientation, along with gender identity, was the cause of 9% of incidents, while

the religious affiliation was the cause for 7% of the incidents.

During the project period, a minimum of 130 victims and 490 perpetrators of hate crimes were registered. For the purposes of this report, whenever the media reported an unspecified number of perpetrators (for example between 10 and 15), the smaller number of perpetrators was taken into account. When it was reported that a “group” of perpetrators had committed a hate crime, the number used for this report was three. It is also important to mention that many of the victims are minors. The youngest victim is 10 years old and among the victims there are five girls under the age of 18.

Regarding the reaction of the institutions in response to this negative phenomenon, it should be mentioned that the police managed to find the suspected perpetrators related to at least 27 of the 116 incidents. As there is currently no database of hate crimes, the Helsinki Committee registered the resolved cases by obtaining information from the police, by following the media, and in some cases it was directly informed by the victims. Fifty-six other incidents have been reported to the police and are under investigation. With regard to the other 33 incidents, the Committee has no information on their status. So far, only one incident has been resolved and that was a case related to one of the many attacks on the LGBTI Centre, in which the Helsinki Committee participated as a damaged party.

In relation to the abovementioned, the Committee would like to emphasize that the state does not collect data on hate crimes and given that this problem has not appeared in public discourse, it is uncertain whether in the near future we will have comprehensive and comparable official data available on committed hate crimes. Also, very little effort has been made to take preventive measures, including human rights education and raising public awareness.

In addition, hate crimes are not properly reported or investigated by the authorities who need to be trained on how to identify and how to respond to hate crimes. By not treating hate crimes as a separate issue, the state does not offer special protection and support to the victims. The most affected members of the society are young people, but also the members of the LGBTI community, due to the fact that sexual orientation and gender identity are not recognized as grounds on which hate crimes can be committed. Hate crimes usually take place in public places and as mentioned, a large number of incidents have occurred on buses, near bus stops, in schoolyards and near schools, as well as in cases where trains have been attacked. Many hate crimes were committed out of revenge or as a consequence of a previous incident between Macedonian and Albanian youth. In addition, a large number of incidents occurred after school hours.

Out of the total number of registered incidents, only two incidents were registered

in Eastern Macedonia. The small number of incidents in this part of the country may be due to the fact that this part of the country is predominantly populated by ethnic Macedonians, but also due to the lower number of reported incidents and the low level of public awareness regarding hate crimes and the prejudices that arise as a motive for these crimes.

## ECONOMIC AND SOCIAL RIGHTS

From the aspect of the social and economic rights of the citizens, in the past year the Helsinki Committee received a large number of complaints from citizens whose rights from social protection, the right to employment and the right to health care were violated.

In general, the Centres for Social Affairs, as public service to all citizens, with an emphasis on their role in facilitating access to the rights of the citizens at social risk, fail in their work. They also fail in their necessary task to inform the citizens about their rights and obligations in the social area. The beneficiaries of social protection rights were often faced with solutions that deprive them of certain rights, precisely because of the general lack of information on how to report financial changes to their transaction accounts and consequently, due to dysfunctional professional services at the Centres for Social Affairs. Thus, it often happened that the right to social financial assistance was terminated, regardless of the insignificant undeclared amount in relation to the well-being of the citizens. Despite the initiated appeal proceedings and also the proceedings before the Administrative Court of the Republic of Macedonia, in the field of social protection, due to the long procedures and inefficient operation, the citizens are still prevented from exercising their economic and social rights.

The institutional dysfunction is also noted in the case of a large group of deaf and hearing-impaired people who cannot exercise their rights in communication, due to the lack of provided interpreters by the state, despite the obligation under the Law on the Use of Sign Language. The Helsinki Committee expresses concern for the access to rights and justice of this vulnerable category of citizens, especially because the Republic of Macedonia with the ratification of the Convention on the Rights of Persons with Disabilities has an obligation to provide conditions for full access and realization of civil, political, economic, social and cultural rights. Hence, the Committee reacted to this issue to the Ministry of Labour and Social Policy, the Ministry of Justice and the Ministry of Finance with several letters, as an addition to the protests of this category of citizens, which resulted in beginning of trainings for new interpreters and trainings for the employees in some of the pharmacies, in order to learn how to use sign language in their work.

The internally displaced people are also considered a vulnerable category of citizens, due to the unresolved status even after 12 years from the 2001 conflict. Several of these

individuals appealed to the Helsinki Committee for their deletion from the records, which caused a change in their status, leading to some of the internally displaced persons being in a systemic vacuum that excludes them from social life and disables the benefits for these people. Beside the fact that some of them have effectively completed court cases in which damages have been awarded, the compensation payment rewarded to them does not meet the standards for creating basic living conditions. Given the fact that the status of the internally displaced persons who are accommodated in the remaining four reception centres is unknown, the Helsinki Committee requested information from the Ministry of Labour and Social Policy on the situation of these persons and believes that the Government of the Republic of Macedonia should take other actions to decide the final status of the internally displaced. It is indisputable that the deletion from the records and the termination of the status of “internally displaced” is not an effective and long-term solution for this category of citizens.

In the area of employment law, the case of the public advertisement for employment in the PE Makedonski Sumi caused exceptional public interest, which resulted in several complaints from citizens about non-transparency, injustice and selectivity in the selection. After the first announcement, several citizens addressed the Helsinki Committee, with complaints that even after the election by the enterprise, they have not yet been informed about their employment status in this enterprise, nor have they been informed about the distribution of jobs and the same citizens still apply to the Employment Agency. Criticism of the manner of election was also noticed in the reactions of the citizens who applied for the second public advertisement for employment, intended for people with disabilities.

## 1. Deterioration of the status of the internally displaced persons

Acting on a request for legal aid, the Helsinki Committee during the months of July and August actively monitored the situation of the two remaining families in the reception centre (student dormitory) “Professor Mijalkovic” - Kumanovo, who are registered as internally displaced persons from the 2001 conflict.

The Ministry of Labour and Social Policy through the director of the dormitory informed the families to leave the reception centre as of 31.07.2013, due to full payment of the debt by the state in relation to the court disputes for damages. The families received about three thousand euros in damages from the Republic of Macedonia, in the name of material damage caused by acts of violence and terror and for partially damaged



house during the 2001 conflict, and based on the payment, their status as internally displaced persons was terminated.

For these reasons, a family of five with three minor children, since August this year has already moved to their own home in the v. Debarshane - Kumanovo, which was built with the funds paid by the state as compensation. The paid amount could not provide even the minimum living conditions, for which the Helsinki Committee informed the Ministry of Labour and Social Policy. This family lives without electricity, water and without basic household items.

## 2. People with hearing impairment

Following the protest of the hearing impaired (deaf and people with partial hearing impairment), held on 25.09.2013, the Helsinki Committee for Human Rights noted the demands and problems that this vulnerable category of citizens faces every day. The protest went peacefully, without any incidents, and the representatives of the Ministry of Internal Affairs acted in accordance with their legal competence.

The expressed revolt is due to the non-transparent work of the National Association of Deaf and Hard of Hearing, its leadership and the way it provides access to rights for the members of the Union, even though according to the statute and the activities, it should provide legal aid and counselling for these people. For these reasons, the resignation of the President of the National Association of Deaf and Hard of Hearing was requested, as well as a review of the work of this organization by the Ministry of Labour and Social Policy and other relevant institutions. The main problem pointed out by the people with hearing impairments is the inability to exercise the legally guaranteed right to use an interpreter. The availability of interpreters is extremely small, which is understandable given the fact that for a group of 6000 people, there are only 12 interpreters who have a certificate, according to the registry kept by the Ministry of Labour and Social Policy.

The work of the National Association of Deaf and Hard of Hearing of Macedonia is regulated by the Law on the Use of Sign Language, which establishes the cooperation with the Ministry of Labour and Social Policy, especially in the area of training interpreters and obtaining work certificates. Considering that the Ministry of Labour and Social Policy, in accordance with Article 22, is obliged to supervise the implementation of this law, it is also obliged to monitor the work of the Association in the implementation of the activities in the area of providing any possible assistance to persons with hearing impairment, including the procedure for obtaining an interpreter certificate.

The Helsinki Committee commends the revision of the National Strategy for Equalization

of the Rights of Persons with Disabilities 2010-2018 and at the same time reminds of its systematic implementation in practice, in order not to allow this category of citizens to remain invisible, locked in their homes and without the opportunity for socialization and interaction in social life. The Committee already provides free legal advice to some of this category of citizens, informs them about their rights and obligations and helps them to establish communication with state institutions in accordance with national legislation.

### 3. Non-transparent employment of vulnerable categories of citizens

Following the initial reactions to the manner of selection of candidates for employment in the Public Enterprise “Makedonski shumi”, the Helsinki Committee was contacted by several citizens who applied for the announced public advertisement and who were informed that they were not selected for the job for which they have applied.

From the allegations and statements of the parties, we concluded that the procedure for public electronic selection of candidates is unclear for the affected citizens, especially because the selection and the decision-making did not take into account the criteria for scoring, published in the public announcement. As a result, the citizens of the smaller settlements in the Republic of Macedonia, where the information that the candidates were “lucky” to be selected for employment quickly spread, reacted that among the selected, there are more members of the same family, as well as people who are in much better socio-economic status of those not elected.

From the strong reactions and grievances of the citizens, we concluded that the electronic selection provided as a public and objective mechanism for selection of candidates, which would remove suspicions of subjectivity, favouritism and injustice in the procedure - turned into just the opposite. It is uncertain whether the applications have passed through the initial filter for selection of applications in accordance with the published application criteria, which opens the possibility of unfair competition in the selection.

Additional confusion is created by the notifications from PE “Makedonski Sumi” for rejection of the candidates, which were sent outside the legally prescribed period of five days and in which the only explanation is pointing to the website where the data and the applications can be inspected. This directly violates Article 27 of the Law on Labour Relations, which, among other things, obliges the employer to indicate in the notification the candidate who has been selected for the advertised position.

Some of the citizens reacted to the published data which do not correspond at all with the real ones that they submitted in the application. The Helsinki Committee

pointed out to the parties the available legal remedies, which they can use in the further appeal procedure.

## 4. Legal labyrinths in the field of social protection

Acting on a request for free legal aid, the Helsinki Committee identified a series of inconsistencies and omissions by the competent authorities in the procedure for exercising the rights from the social and health protection.

Due to submitted request for permanent financial assistance before the Inter-Municipal Centre for Social Affairs of the City of Skopje (Centre), the experts conducted a direct inspection in order to determine the actual situation of the person/applicant and his family. After two months from the inspection, the applicant addressed the Centre, where he was informed that the decision on his request was positive and that it is waiting for a signature by the legal entity. However, even after ten months from the day of submitting the request, the Centre did not deliver the decision to the party.

After the urgency notification sent by the Committee to the Centre, which indicated the prescribed deadline of 60 days in which the Centre is obliged to make a decision in accordance with the Law on Social Protection, the party was summoned to submit the decision approving the request for permanent financial help. In parallel with this procedure, the same person is in a legal maze regarding an appeal procedure before the Ministry of Health, initiated against a decision of the Regional Office of the Health Insurance Fund. This case is about a request for reimbursement of costs due to surgery, but the second instance body has not adopted a decision yet, even though more than ten months have passed. The Helsinki Committee in this case also sent an urgency notification to the Ministry of Health, which indicated the envisaged deadline of 60 days in accordance with the Law on Health Insurance, but until the closing of this report, we did not receive a response.

# CHILDREN'S RIGHTS

During 2013, the Helsinki Committee received a large number of requests for legal aid by parents that do not live together with their children. They identified an issue while exercising the right to visit their children, thus violating the rights of children, as well as the rights of the aforementioned parents. A large number of cases include circumstances in which one of the parents is a foreign national or is living abroad, but the Committee also reported cases of flagrant violation of the rights of the child, such as cases in which the child was taken away by one parent or his/her family, or even taken abroad. In all these cases, the competent Centre for Social Affairs, within its powers, regulated the meetings of the child with the parent with whom it does not live. However, as can be determined from the circumstances of all cases, the biggest problem is the execution or the non-execution of the decisions made by competent Centre for Social Affairs, thus shortening the right of the child to have contact with the parent with whom it does not live.

## 1. Regulation of family relations in cases with a foreign element

During 2013, the Helsinki Committee on several occasions has determined that in cases of divorce in which it is necessary to regulate family relations between spouses (where one of the parents, in addition to Macedonian citizenship, also holds citizenship of a foreign country or is a foreign citizen) and their children, there is some inefficiency in the implementation of the legal provisions by the competent institutions.

In the cases when the child is assigned to the care and upbringing of one parent, and that is usually the parent who lives and works in the Republic of Macedonia, the meetings between the second parent and the child, according to the law, are regulated by a decision made by the competent centre for social affairs. However, the problem is that the solutions adopted in this way are not implemented in practice. The Helsinki Committee considers that due to the fact that the parent whose meetings with his child are regulated by a decision of the competent centre for social affairs, and who, in addition to the Macedonian citizenship also has a citizenship of a foreign country, there is a certain fear in the other parent that the child can be taken away or can be taken to a foreign country. Because of this, the other parent does not allow these meetings to take place, despite the fact that there is a legally binding decision.

However, this often unjustified fear of one of the parents must not be a basis for non-compliance with a legally adopted decision by a competent authority, especially if we take in account that it is also a crime. According to this, the Committee considers that the competent institutions responsible for regulating family relations and relations between parents and their children should find the best solution in the situation where one of the parents, in addition to Macedonian citizenship, also has citizenship of a foreign country or is a foreign citizen, in order to enable the child to have contact with both parents. Moreover, this way the rights of the child are not respected in accordance with the domestic legislation and the international agreements, to which the Republic of Macedonia is bound, especially the Convention on the Rights of the Child. In Article 9 paragraph 3 of this Convention, it is stated that "States Parties shall respect the right of a child separated from one or both parents to maintain personal relations and direct contact with both parents on a permanent basis, unless it is contrary to the best interests of the child." In the context of the abovementioned circumstances, if one of the parents lives and works abroad, he or she still has the right to maintain permanent contact with his or her child, in accordance with Article 10 paragraph 2 of this Convention.

## 2. The case of Atanas Iliev - gross violation of the child's rights

The case of Atanas Iliev is a case that testifies to a gross violation of the rights of the child and at the same time of his rights as the father of the child. Namely, Atanas Iliev in 2008 married a citizen of the Republic of Serbia and after a few months later, a daughter was born. In 2011, under the pretext that she is leaving to find a job, Atanas Iliev's wife, with his consent, left for the Republic of Serbia together with their underage daughter, while promising that she will return to the Republic of Macedonia in three months at the latest and will continue to live in the marital union.

After several months and after the termination of all contacts, Atanas Iliev determined that his wife, who had travelled to the Republic of Serbia together with their daughter, did not intend to return to the Republic of Macedonia, so he addressed the PI Inter-Municipal Centre for Social Affairs - Skopje, in order to inform them about the situation and to ask for help regarding the meetings with his daughter and at the same time asked for his daughter to be returned to the Republic of Macedonia. In the meantime, he also learnt that his wife had already filed for divorce before the Basic Court in Shabac.

After using all the legal mechanisms at his disposal, Atanas Iliev in 2012 additionally submitted a request to the PI Inter-Municipal Centre for Social Affairs - Skopje to act

in accordance with the Hague Convention on the Civil Aspects of International Child Abduction<sup>1</sup>, with which he asked the authorities to act accordingly to the request so that the child can be returned to him, because it has already been determined that she was abducted by the mother. That request was forwarded to the Ministry of Labour and Social Policy, which as a central body is obliged to act on these requests.

After the competent authorities took all the necessary measures in the Republic of Macedonia, Atanas Iliev was informed that the Basic Court in Shabac, Republic of Serbia, had already decided on the request to act in accordance with the Hague Convention on the Civil Aspects of International Child Abduction and adopted a decision rejecting the request for the return of his minor daughter to the Republic of Macedonia. According to the allegations of the competent authorities in the Republic of Macedonia, the rejection of the request for return of the child to the Republic of Macedonia is due to the unwillingness of the competent authorities in the Republic of Serbia to assist in resolving this case. However, it is important to note that the decision rejecting this request was delivered to Atanas Iliev by the competent authorities in the Republic of Macedonia with a delay of one year after the Basic Court in Shabac acted on that request.

Additionally, in order to protect his rights as a parent and the rights of his child, in 2011 Atanas Iliev filed for divorce in the Basic Court Skopje 2 Skopje and asked the court to entrust him as a father with the care, the upbringing and the partial child support of his daughter and to oblige the mother to pay child support in the amount of 3.000,00 denars.

After a 20-month postponement of the divorce proceedings, the Basic Court Skopje 2 Skopje, adopted a decision rejecting the claim of Atanas Iliev, with the explanation that even though according to the Law on Civil Procedure and the Private International Law Act, the Basic Court Skopje 2 Skopje is competent to act on this lawsuit, cannot do so, given the fact that a divorce proceeding has already been initiated before the Basic Court in Shabac, Republic of Serbia.

Exercising his right to appeal, Atanas Iliev filed an appeal to the Appellate Court in Skopje against the decision of the Basic Court Skopje 2 Skopje. At the time of writing of this report, the Appellate Court has not yet decided on the appeal.

Following this factual situation, the Helsinki Committee would like to call on all competent institutions and bodies to act with care and seriousness in this case, in order to fully resolve it, taking into account the rights and the interests of the minor child, as well as the protection of the rights of a parent who has not seen his child for more than 2.5 years.

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1 [http://www.hcch.net/index\\_en.php?act=conventions.text&cid=24](http://www.hcch.net/index_en.php?act=conventions.text&cid=24)

### 3. The case of Tatjana Bosnjakovska

Acting in the case of the minor A.B., who had not seen her mother Tatjana Bosnjakovska for more than 2 years, the Helsinki Committee found passivity and inefficiency of the institutions, even when it comes to exercising the rights of the child.

Namely, despite the fact that the decision by the Basic Court Skopje 2 Skopje, with which the minor A.B. was assigned to the care and the upbringing of her mother, was enforceable, it could not be enforced in practise and the mother even after two years was not able to get in touch with the child. Due to this, the Basic Court Skopje 2, adopted a decision for the authorized official from the court to act upon the final enforceable verdict in a way that will forcibly implement it in the presence of the PI Inter-Municipal Centre for Social Work - Skopje (IMCSW), with the assistance from the Ministry of Internal Affairs.

Considering the fact that this case is about a child who has not had contact with the mother for more than two years and in which the father, who had the child at the moment, refused to voluntarily hand him over to the mother, the Helsinki Committee immediately addressed the competent institutions with a request for urgent reaction to the implementation of the court decision.

We received notifications from the enforcement agent and the police that the girl would be found soon, but even after two months from the decision for forced enforcement, no results were achieved. We also wrote a letter to the Minister of Internal Affairs, in order to inform her about the case and the fact that to this date there are no results in the procedure, nor has the mother been informed about the undertaken actions and to ask whether there is any progress in the search for the girl.

The mother was instructed to obtain a certificate from the school where the minor A.B. was supposed to attend classes on the number of absences and it was concluded that in the school year 2012/2013, the child was continuously absent from school for seven months, due to which it is scheduled for her to take the first grade exam in August. This confirmation was submitted to the enforcement agent, the services of the Ministry of Internal Affairs and the Minister of Internal Affairs.

The Committee concluded that in this case there is a violation of the rights of the child who does not live in normal family conditions and has been unable to contact the mother for more than two years, as well as to the right to education which is limited in this case.

The police managed to find the minor A.B. on 05.09.2013 in a taxi near Mavrovi Anovi,

Mavrovo. Criminal charges were filed against the grandfather, the grandmother and the father of the child A.B. for kidnapping a minor and neglecting and harassing a minor, on the basis of which a court procedure was initiated. The Basic Court Skopje 1 found the aforementioned persons guilty of the criminal offense of kidnaping a minor and sentenced them to a probation prison sentence of one year, if they do not repeat the crime within four years.

Although the minor A.B. was found and handed over to her mother, however we believe that the enforcement agent and the police failed to quickly and efficiently implement the court decision and complete the procedure for finding the minor A.B., due to which we conclude that this case is proof that institutions cannot provide effective protection even when it comes to the rights of the child. This especially refers to the PI Inter-Municipal Centre for Social Work - Skopje (IMCSW) which as an institution is directly responsible to determine the dynamics of the meetings between the child and the mother, as well as to enable those meetings. In this case, the IMCSW failed to carry out the enforcement for more than two years and to protect the rights and the interests of the child.



# CIVIL AND POLITICAL RIGHTS

## 1. Civil initiative “AMAN”

The Helsinki Committee monitored the process of collecting and handing over 13,169 citizen's signatures to the Assembly of the Republic of Macedonia as a result of the first successfully implemented civil initiative, initiated by an informal civil organization. Also, the Committee, while following the practicing of the right of citizens to participate in the decision-making in public interest, also followed with particular interest the work of the institutions and their reactions towards the civil initiatives.

The Committee commended the work of the State Election Commission as an authorized body for implementation of civil initiatives. For a large part of the process, the Commission was in communication with the authorized signatory of the initiative, which overcame several problems that were largely due to a lack of practice in implementing civil initiatives. At the same time, the biggest burden of the implementation of the initiative falls on the authorized proposer, i.e. the citizens. The State Election Commission has not provided a budget for civil initiatives, i.e. it included only a small part of technical competencies while the printing, delivery and uploading of forms throughout the territory of the Republic of Macedonia is left to the citizens.

After collecting the forms, the citizens handed them over to the competent institution - the Assembly of the Republic of Macedonia. The Committee noted a general lack of developed awareness of parliamentary democracy among some MPs through the insults they directed at the representatives of the civil initiative “AMAN”. Namely, the initiative passed the parliamentary procedures in accordance with the Rules of Procedure of the Assembly and was reviewed by two parliamentary committees on February 7, 2013, as follows:

- Committee on Economy, as the parent body in which energy issues are considered;
- Legislative Committee, which determines whether the requested changes are in accordance with the Constitution and the laws of the Republic of Macedonia.

The Committee commends the attitude of the representatives of the parliamentary parties DPA and NDP who tried to support the citizens' initiative, especially expressing doubts about the work of the institutions under whose jurisdiction falls the energy sector and requesting a public debate on the views of the citizens against the Energy

and Water Services Regulatory Commission, the Energy Agency and the Ministry of Economy. Regarding the remarks on the work of the commissions, the Committee expresses dissatisfaction with the attitude of the MPs from the parliamentary group VMRO-DPMNE for the expressed insults towards the representatives of "AMAN", especially towards the authorized proposer of the amendments to the Law on Energy. The Legislative Committee did not discuss whether the requested changes are in accordance with the Constitution and the laws of the Republic of Macedonia. After the discussions in the two commissions, the proposal was put on the agenda of the plenary session where the authorized proposer Zorica Dimovska was unpleasantly welcomed by several MPs who addressed her with the words "Communist leave!", "Which party do you belong to?", "Who taught you?", etc.

Despite these circumstances, the Helsinki Committee considers this initiative to have been successfully implemented and at the same time, it represents the first significant attempt for citizen participation in the decision-making in public interest through the forms of direct democracy.

## 2. Local elections 2013

The Helsinki Committee for Human Rights of the Republic of Macedonia, during the two rounds of local elections 2013, through its open office enabled the citizens to report violations of the right to vote. Complaints were received by telephone, e-mail and by citizens who contacted the open office. At the same time, the Committee cooperated with the non-governmental organization "Civil", which was authorized/accredited to conduct monitoring of the election process by the State Election Commission, in order to receive timely information from their field observers. During the elections, it was noticed:

- Agitation by members and supporters of political parties in front of a polling station;
- Violation of election silence through delivery of advertising materials in residential buildings;
- Issuance of personal documents, provision of services and transfer of residents from the town of Pustec, Republic of Albania to the polling stations in the municipality of Centar;
- Intimidation of citizens and accredited observers from a political party and observers from non-governmental organizations;
- Bribery of voters;

- Inadequate marking of ballot boxes and loud reading of personal data by members of election commissions;
- Pressure on citizens employed in public institutions and violation of inviolability and secrecy of the right to vote;
- Presence of police officers in a polling station, contrary to the Electoral Code, which affects the development of democracy and the protection of political and civil rights. Additionally, the irregularities during the local elections affect the overall image of the country in the international policy and, thus, the overall democratic development of the country.

The Committee reminds that most of the violations were made in the Municipality of Centar, a case for which a proper investigation was not conducted by the competent institutions. Despite the call from the Committee to the competent institutions to investigate the allegations and find out the facts about the residents of the town of Pustec, Republic of Albania, until the publication of this report, the investigation has not been conducted. This enables manipulation of the Electoral Code and the people who were involved in the process of securing votes from the diaspora.

The Committee notes with regret that in the Republic of Macedonia the citizens' right to vote is still endangered by the direct participants in the election process, i.e. political parties and activists. Having in mind the overall election atmosphere, the violation of the secrecy and inviolability of the right to vote indicates a democratic deficit in the system and thus a lack of capacity to improve the legislative framework and enable free, fair and democratic elections in the Republic of Macedonia.

### **3. Violations of the freedom of assembly and association and the freedom of expression**

The Helsinki Committee over the past year has been paying close attention to violations of the freedom to assembly and association and freedom of expression in the form of protests or public assemblies. In this regard, in 2013 the Committee followed several protests during which the police reacted untimely or unprofessionally, but also found violations or attempts to obstruct a public gathering, which introduced the practice of restricting the constitutionally guaranteed right to protest. More worrying is the fact that in many of the observed peaceful protests and public assemblies, the police officers imposed restrictions by denying access to the protest location. Also, what frightens is the lack of efficiency in protecting a group of high school students

protesting in Skopje against external testing, especially when during one of their protests, the group was physically attacked by several young people who managed to escape in front of the police officers, who for unknown reasons did not make more serious attempt to identify and detain them.

The abovementioned refers to two groups of citizens who exercised their right to peaceful protest in order to express dissatisfaction with the detention of the journalist Tomislav Kezarovski and a group of high school students who protested against the introduction of the "External testing".

The Committee concludes that the protest that was organized and announced through the media on October 23, 2013 by the Initiative Board for the Release of the Journalist Tomislav Kezarovski, was blocked by the police officers. Namely, before the announced gathering, around the Museum of the Macedonian Struggle for Statehood and Independence (also known as the Museum of VMRO) there was visible presence of about fifty police officers from the ranks of regular police services, but also from the Rapid Deployment Unit. The restriction of the movement of the citizens to the place provided for a peaceful protest was done by placing a cordon with which all accesses to the Museum were completely blocked and neither the movement of the citizens, nor the realizations of the announced protest were allowed.

Regarding the high school protests against the introduction of external testing by the Ministry of Education and Science, the Committee notes that the police officers failed to respond to their duty to ensure the right to peaceful protest, exposing the high school students to serious risks twice. During the first protest, the high school students did not receive timely support from the police officers in regulating traffic; hence, they exposed themselves to verbal attacks by other road users. During the second protest, the high school students were physically attacked by a small group of young people who tried to scare and hurt them with glass bottles and stones. The police officers witnessed the event but unfortunately did not take appropriate measures to detain the perpetrators. In this case, it is not known who the perpetrators were and whether they were sanctioned by the competent institutions.

The Helsinki Committee points out that the right to public assembly and the freedom of movement of citizens are fundamental values of the Macedonian constitutional order. The Law on Public Gatherings stipulates that a public assembly, for the purpose of peaceful expression of opinion or protest, may be held in any place that is suitable for that purpose, except for health institutions, kindergartens and schools. Therefore, museums are not prohibited zones, but public institutions. The Criminal Code stipulates that if an official abuses his official position or authority, by force or in any other way prevents or obstructs the realization of a peaceful public gathering, he will be punished with imprisonment of three months to three years.

## 4. Violent protests

The past 2013 was also marked by a series of violent protests that resulted in violence, disturbance of public order and material damage to public and private property. According to the Constitution and the laws in the Republic of Macedonia, the use of violent forms of expression of dissatisfaction during public gatherings is a punishable criminal offense. The Committee followed all the violent protests in the past year and concluded that in the Republic of Macedonia certain groups are allowed, while certain groups are not allowed to use violence, i.e. have or have not been punished for this crime.

### *4.1 Violent protests and ethnic hatred*

The first violent protests took place in March, one after another. Namely, the Committee followed the protests on March 2, 3 and 8, which were followed by hate speech and hate crimes committed towards a certain ethnic group. The first protest on 02/03/2013 was organized by a group of young people belonging to the Macedonian ethnic group who expressed their dissatisfaction with the election of Talat Xhaferi as Minister of Defence of the Republic of Macedonia. In response to the protests of this day and the serious injuries inflicted on several bystanders, young people belonging to the Albanian ethnic community organized the second violent protest which took place in the square "Macedonia" on 03/03/2013. Namely, a group of young people belonging to the Albanian ethnic community protested against violence which resulted in disturbance of public order and peace and serious damage to public and private property. The last protest or attempted violent protest was on 08/03/2013, but was prevented in a timely manner by the police officers who, unlike the two previous protests, were better prepared to respond to the task.

### *4.2 The omissions of the police officers and undertaking responsibility of institutions and participants in violent protests*

#### **March 1, 2013**

According to the findings of the team of the Helsinki Committee regarding the possible prevention and escalation of the protests, the police officers had no control over the group gathered in front of the Government of the Republic of Macedonia. Among the noted omissions was the dispersal of the crowd. Namely, the crowd ended up in the square "Macedonia" after the police officers began to chase them in that direction.

Then, in the square “Macedonia” there was another clash between the police and the crowd, in which many bystanders were injured. Also, the police officers on several occasions used physical force on already overpowered and detained persons, holding them in the street in handcuffs, kicking and beating the detainees. The representatives of the Committee witnessed exactly such an event and were instructed to leave the scene immediately and not to document the harassment of the detained participants in the protest. In addition, a large number of police officers were injured by protesters due to insufficient coordination and willingness of the police officers to respond to the task. Regarding this protest, the institutions did not initiate a procedure against the perpetrators of the above acts, nor was any responsibility taken for the inappropriate reaction of the police officers who clashed with the revolted crowd.

### **March 2, 2013**

For the Committee’s observers, the division of the crowd into larger and smaller groups, the smaller of which visibly secured by police officers, remains unclear. At the same time, the Committee notes that in addition to the imagined protest against violence against the Albanian community, there was an internal clash within the crowd between the two groups. No major omissions were seen by the police officers other than the escort and defence of the smaller group, which showed dissatisfaction with the tearing up of the billboard and causing a clash with the larger group. The police officers used coercive force to suppress the crowd and deter it from continuing its violent actions. At this protest, as well as at the previous one, a large number of police officers were injured by the participants in the protest. In relation to this violent protest, the participants were identified and brought before the competent authorities and sanctioned with imprisonment, but also financially due to the damage to public and private property.

### **March 08, 2013**

The protests scheduled for March 8, as stated in the text above, passed without significant consequences and the attempted violence was adequately prevented. Instructed by the previous two protests, the police officers were prepared to respond appropriately, if a relatively small group with a tendency to violence decided to take any action.

### ***4.3 Violent protests organized by the informal civil movement “Veritas”***

The representatives of the Committee noted a series of inconsistencies in the behaviour of citizens who expressed their dissatisfaction with the alleged stopping and demolition of the construction of the church “St. Constantine” in the Municipality of Centar. Namely, although the mayor of the Municipality of Centar informed the public that the construction of the indicated building will not be stopped or demolished, the citizens still went in front of the Municipality to protest. Shortly afterwards, the peaceful protests escalated, as protesters entered the municipal yard, while breaking the fence. After the intrusion, the police reacted without using physical force and without detaining or identifying any person, which is contrary to Article 47, paragraph 4 of the Law on Police.

The protest continued until late in the afternoon, followed by hate speech on national and political grounds and anti-Semitic salutes - a sharp handshake known as “hail”. Due to the occasional stoning of the building, material damage was caused to the public property, but no participant was detained in any of the attacks. In addition to the abovementioned violations, the Committee representatives noticed a significant amount of alcohol among the protesters, contrary to Article 5 of the Law on Public Gatherings.

The Helsinki Committee concludes that in the abovementioned cases, despite the series of inconsistencies in the actions of the police officers, there is a tendency for selective punishment or justice when it comes to disturbing public order and peace and causing material and non-material damage during violent protests. Namely, the protests from March 1 in the Municipality of Centar do not have any misdemeanour or criminal ending against the perpetrators whose identity can be determined, having in mind the video materials that were shared by several media in the Republic of Macedonia.

## **5. Hate speech**

The hate speech in the past year was generally present in the public space and was especially expressed through interethnic hatred and intolerance. As a result of the tense violent protests in March last year, many hate crimes were committed in public. What is particularly worrying is the expressed hate speech on national and political basis. However, most frightening is the emergence of the anti-Semitic salutes - a sharp handshake known as “hail” and the use of Nazi symbols in the form of graffiti throughout the Republic of Macedonia. Additionally, very worrying is the hate speech

in the public space directed against the citizens - members of the LGBTI community.

## 6. Initiative for constitutional definition of marriage as a union between a man and a woman

The Constitution of the Republic of Macedonia is the highest legal act that contains the basic human rights and freedoms. Unlike laws, the procedure for changing the general rules and norms contained in the Constitution requires wider political support due to the purpose and maintenance of a system of rule of law and equality. At the same time, it provides the citizens with legal security from direct interference and restrictions of the state i.e. the executive power in the fundamental rights and freedoms, the principle of equality in rights and freedoms and the rule of law in a democratic system. According to the aforementioned, the fundamental rights and freedoms such as the right to self-identification, the right to privacy with a special emphasis on family life, status and at the same time the right to free choice, should not be subject to restrictions. This especially refers to restrictions that may affect the establishment of unequal treatment and discrimination in society as a whole, given the heterogeneity of the social groups and the individual (non) belonging to a group.

In that regard, the parliamentary group of VMRO-DPMNE submitted an initiative for amendments to Article 40 paragraph 1 and 2 of the Constitution. According to Article 40, "The Republic provides special care and protection to the family. The legal relations in marriage, family and extramarital union are regulated by law." This initiative is not legally justified because:

The Family Law of the Republic of Macedonia regulates this issue in an identical way, as the proposed initiative to change the Constitution, i.e. that marriage and extramarital union are unions between a man and a woman. Hence, the submitter has no legal justification and arguments that would indicate the need to change Article 40 of the Constitution and that represent threat to the Family Law that regulates this issue.

Having in mind the secularity of the country or the separation of the church from the state as a Constitutional principle, the reference to "the centuries-old tradition and the ethical, moral and religious principles of all religions in the Republic of Macedonia define marriage as a union between a man and a woman" - p.7 means direct interference of a parallel system of regulation that is not based on the principle of the rule of law. At the same time, the argument that in the Republic of Macedonia all religions define marriage as a union between a man and a woman is not correct from a religious and customary point of view among members of the



Islamic community. Especially because according to the religious teaching in this community, marriage of one man and more women was traditionally allowed. This religious practice according to the Criminal Code in the Republic of Macedonia is not allowed because it indicates bigamy and polygamy, which are considered a crime and in modern society is not practiced by members of the Islamic religious community. Hence, the justification for respecting the principle of secularism of the state should be taken seriously by the representatives of all political parties in order not to manipulate the religious feelings and the affiliation of the citizens to a religious community.

In addition, any restriction of this right would mean direct interference of the state in the private and family life of the individual, engaging in a restrictive definition of social and family ties, imposing an obligation that is contrary to the law. At the same time, such restriction will directly affect the citizens belonging to the LGBTI community whose private and family life is not in accordance with the proposed change. Having in mind that all citizens in the Republic of Macedonia, according to the Constitution, are equal in their rights and obligations, the direct interference of the state in their privacy would cause unequal treatment and thus discrimination against a certain group of citizens contrary to the rule of law and the democratic principles on which the system of governance of the Republic of Macedonia is based. At the same time, such proposals affect the spread of negative propaganda by the majority of the population towards people from the LGBTI community who have been victims of psychological and physical violence in the past.

## 7. Political prisoners

### 7.1 *Jovan Vraniskovski*

The archbishop Jovan Vranishkovski is the first political prisoner in the Republic of Macedonia after its independence. During 2013, Mr Vraniskovski, along with 18 other people (including his mother, sister and uncle, clergymen, followers and supporters of the unregistered Orthodox Ohrid Archbishopric) were charged with alleged money laundering through a civil organization that planned to build a meeting place for worshipers. The police action was called “Schismatic” (Raskolnik), which is equal to prejudice and a direct violation of the principle of presumption of innocence of the defendants. With an invalid verdict of the Criminal Court in Skopje, Mr Vraniskovski was sentenced to three years in prison, while everyone else were sentenced to two years of imprisonment, which will not be executed if the persons do not commit a new crime within five years. Representatives of the Helsinki Committee followed all court hearings, but were not convinced by the arguments offered by the Public Prosecutor’s Office in order to prove the guilt of any of the defendants.

On the day the verdict was announced, the judicial council decided to return the case to the phase of main hearing and at the same time, without the knowledge of the defendants and their defence attorney, announced that a person, who had allegedly negotiated sale of property with Mr Vraniskovski, will testify as witness. The witness claimed that he had negotiated the land on his behalf and on behalf of his neighbours who authorized him through a written power of attorney. The first defendant denied that he had ever met the witness, after which the defence attorney requested that the power of attorney be presented as evidence before the court. At that moment, the judicial council left the courtroom and after 20 minutes of deliberation announced that the motion was rejected and the court proceedings were over. The first-instance verdict was appealed, and it took the Appellate Court of Skopje more than seven months to schedule a public hearing in April 2014. When the public hearing was finally to take place, the court adjourned it to May because Mr Vraniskovski was not escorted by the Idrizovo Penitentiary. In May, the prison administration, without informing the court of the reasons, again did not escort the defendant.

The Republic of Macedonia has refused to register the Orthodox Ohrid Archbishopric as a church or religious group since 2004. This violates Article 9 (freedom of religion), Article 11 (freedom of assembly and association) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights. The Helsinki Committee has been representing the Orthodox Ohrid Archbishopric before the European Court of Human Rights since 2006 and expects a verdict in 2014. In addition to the discrimination and the administrative barriers faced by the members of this church who are publicly stigmatized and called “traitors, schismatics and criminals”, Mr Vraniskovski is under continuous criminal prosecution by the authorities. In the last 11 years, he has been sent to prison six times, and is currently serving his sentence in the Idrizovo Penitentiary in Skopje.

## ***7.2 Ljube Boshkoski***

In May 2013, the Supreme Court in Skopje passed a verdict regarding the case “Campaign” (Kampanja) with which the appeals of the defendant and his defence attorneys were rejected as unfounded and the verdict of the Appellate Court was confirmed. Mr Boskoski was sentenced to five years in prison for abuse of funds for financing the electoral campaign. All verdicts in this case are result of a rigged and political process in which the executive power has a large share and all of them were adopted in a procedure and in a manner contrary to the national and international law. The Helsinki Committee has been monitoring this case from the very beginning, and because of violation of Article 6 (right to a fair trial) of the European Convention on Human Rights and Freedoms, submitted an appeal to the European Court of Human Rights.

The aforementioned appeal was submitted because the trial of Mr Boskoski was not conducted by an impartial court, his presumption of innocence was violated, the public was excluded from the trial in an illegal manner, the proceeding was not in accordance with the adversarial principle and was conducted contrary to the principle of “equality of arms”, the defendant’s participation was ineffective (without the possibility to interrogate the endangered witness) and illegal evidence was used in the proceeding.

The Helsinki Committee monitored the trial for the murders of Marijan Tushevski and Kiro Janev that happened in 2001, in which 15 people were charged, three of them for direct execution of the crime and the other 12 for assisting, including Ljube Boshkovski (then Minister of Internal Affairs), popularly known as the “Rover” (Rover) case. As in the court proceedings in the “Campaign” case, in the “Rover” case, we again witnessed the exclusion of the public from the interrogation of the protected witness under the pseudonym “FF15”. The public prosecutor, as a representative of the prosecution and proposer of the witness, gave a positive opinion on the fact that the professional public should not be excluded from the interrogation of the protected witness, which for the first time showed the will of the public prosecution’s office for greater transparency in the procedure of interrogation of a protected witness. However, the council decided to exclude the public completely, including prof. Gordan Kalajdziev, PhD, Professor of Criminal Procedure at the Faculty of Law Justinian I, Ss. Cyril and Methodius University, as a representative of the professional public.

The Helsinki Committee reacted in its monthly reports that the constant decisions of the judicial councils to exclude the public in cases where protected witnesses appear do not provide room for determining whether the principle of fair and equitable trial is being achieved. In particular, we do not consider it justified to exclude the professional public, which would only observe the special way of interrogation of the protected witness, in order to determine the implementation of the legal provisions, which regulate the manner of protection of witnesses in the Republic of Macedonia and its impact on the principle of fair and equitable trial.

Another characteristic thing is the necessary time for drafting i.e. for the delivery of the first instance verdict to the defendants who were found guilty and who were in custody. Namely, the announcement of the verdict was on July 12, 2013 and according to the allegations of the defendants, the verdict was delivered to them after four months, i.e. in November 2013. We consider that this seriously affects the delay of the proceeding and the right to a trial within a reasonable time, especially when it comes to cases in which some of the defendants are in custody.

### ***7.3 Tomislav Kezarovski***

The Helsinki Committee has been following the case of the illegally convicted journalist Tomislav Kezarovski from the very beginning and with particular concern. At the very beginning of the investigation procedure, the Committee concluded that the criminal council of the Basic Court Skopje 1 made the decision to extend the detention in a procedure contrary to the European Convention on Human Rights and the practice of the European Court of Human Rights. Substantial and procedural violations were made by the Basic Court Skopje, in connection with the assessment and the argumentation on the necessity of the extension of detention, and by the Appellate Court Skopje with the failure to act on the appeal. In the case of Tomislav Kezarovski, the decisions for extending the detention were all drafted in an identical manner, through stereotypical wording of the sentences and without explanation of the reasons why there is a danger of escape or repetition of the crime, which violates the European Convention on Human Rights and Freedoms.

In October 2013, the Criminal Court in Skopje sentenced the journalist Tomislav Kezarovski to four years and six months in prison. This verdict is a serious precedent, if we take into account that in the region there is no case of a journalist being sentenced to such high prison sentence for performing journalistic activities. In conditions when the freedom of the media and the freedom of expression in the Republic of Macedonia are seriously endangered, such verdict is another message for silence and censorship of all those who have a critical attitude and opinion. One of the essential elements for which the Public Prosecutor's Office should have reacted in a timely manner and initiated a new procedure, is to check the allegations of the protected witness in the "Oreshe" (Oreshe) case, because according to his statement, he was pressured to give a prepared statement by the representatives of the police. If the truth of the allegations of the protected witness is confirmed, then the journalist Kezarovski is the one who discovered commission of a crime, not the perpetrator of such an act.

### ***7.4 Miroslav Shipovikj***

The chairman of the Council of the Municipality of Centar, Miroslav Shipovikj, is another one in the list of political prisoners whose arrest and detention are defined as political according to the Resolution 1900 (2012) of the Council of Europe. Namely, according to paragraph 3 of the aforementioned Resolution, a person whose deprivation of liberty is a result of a detention contrary to any of the fundamental guarantees contained in the European Convention on Human Rights and/or is a result of a procedure which is manifestly unfair and appears to be linked to the political motives of the authorities, is considered a political prisoner.

The Helsinki Committee concluded that in order to determine and extend the detention for Mr Shipovic, the legal requirements were not met. Namely, he faced the prosecution and gave his defence, he travelled from USA to Macedonia voluntarily and earlier than planned and did not appeal to the request for extradition sent by Republic of Macedonia to Austria, thus excluding the possibility of escape. Miroslav Shipovikj is no longer an authorized person in the company where the crime was allegedly committed and there is no possibility to repeat or complete the crime, and the danger of possible influence on witnesses is non-existent because the investigation is over and all defendants and witnesses have already been heard by the investigative judge, while some of the defendants have been heard by the judicial council that decides upon the case. The extension of the detention is contrary to the European Convention on Human Rights due to the non-use of milder alternative measures such as non-acceptance of the guarantee of around 300,000 euros, and due to the obvious political motives of the authorities which on this way practically obstruct the decision-making and the operation of one of the few municipalities in the country where opposition parties have a majority at the national level.

# [ LGBTI COMMUNITY ]

# INTRODUCTION

The past 2013 will be remembered as a year of spreading hatred, violence and increased risk for human rights defenders, as well as for all lesbians, bisexuals, gay men, and transgender and intersex people. The good news is that 2013 will also be remembered for strengthening the LGBTI community and strengthening cooperation between organizations working for LGBTI people. These processes indicate the complexity of the momentum which we live in. All the aspects of a violent society that we experience are not incidental, but a well-designed strategy for suffocation of the individual by a system, which due to that violent approach is not legitimate, is manipulative and as such is (will be) short-lived. The oppression and the organized homophobic campaign of this system was unsuccessful, because what it has achieved (apart from violence) is the strengthening of the LGBTI community itself (although the goal was to intimidate and stop the organization of a community, which would make it a relevant political entity), as well as connecting the various organizations working in this field.

What is most worrying is the passivity of state institutions and the impunity of the perpetrators. From the several attacks on the Centre and on the activists, so far there are no results from the investigation led by the Ministry of Internal Affairs. Only the investigation and the trial against the attackers of the Centre from March 2 ended, but primarily because of the ethnic sign of this incident. Even though, in this case one of the main evidences were the recordings from the security cameras of the Centre, in other cases the recordings did not seem to help. This passivity of the institutions is worrying because it gives the impression that not only do they support violence against LGBT people, but they also promote it with their passivity.

## 1. Homophobia and violence

Last year, hate crimes where sexual orientation or gender identity appeared as a motive were second on the list of reported cases and statistics kept by the Helsinki Committee for Human Rights of the Republic of Macedonia. As many as ten cases have been reported in different cities such as Skopje, Bitola, Tetovo.

### 1.1 Domestic violence

In February, representatives of the Centre visited groups in other cities outside Skopje, due to the necessary intervention in the case of a young girl who was a victim of

domestic violence due to her sexual orientation. Apart from the psychological and physical violence, the girl was left on the street without any financial assistance to complete the compulsory education. The Centre intervened as a mediator between the girl and the Centre for Social Affairs, where the case was accepted and is still pending.

We received a notification of another case of domestic violence due to sexual orientation, which was reported to the police by the victim, but soon after, the victim refused to continue the process because of the newly calmed domestic situation.

This shows that we must respond at the national level by strengthening the legal protection of victims of domestic violence on the grounds of sexual orientation and gender identity, launching a campaign to reduce violence in general caused by hatred due to sexual orientation or gender identity, with special emphasis of domestic violence. We also expect the state institutions to take actions regarding training and sensitization of the topic of sexual orientation and gender identity, to all those who work in bodies and institutions for prevention and protection from violence. The LGBTI Support Centre is available to develop appropriate curricula in this regard.

The violence will occur while the lack of practice in the system and the institutions leave room for a selective approach that reduces protection for victims of violence.

## ***1.2 Violence against activists in Bitola***

On April 20, 2013, activists from “LGBT United” and the Coalition “Sexual and Health Rights of Marginalized Communities” conducted public activities in Bitola, within the project “Civil Initiative for LGBT Rights”. The human rights activists displayed posters with promotional content about the human rights of LGBT people, and walked through the street “Shirok Sokak” with a rainbow-colored flag.

Immediately after leaving the crowded “Shirok Sokak”, in front of the “Diamond” hostel, the activists were first attacked by four attackers, who were later joined by three other attackers. The posters promoting equality, non-discrimination and non-violence were forcibly confiscated. Three of the activists were humiliated, spat at, pushed, slapped in the face and hit with the posters on the head. After one of the activists shouted “Don’t hit him”, she received threats and an answer: “You can put posters for fagots in Skopje, not here in Bitola!!... I will beat you, tell this to all! Did they come to seek equality in Bitola?!” When one of the attacked activists tried to ask for help over the phone, one of the attackers took the phone from his hand and threatened him with the words: “I will tear you apart!” The attackers took the posters, threw the phone on



the ground and left. The violence against the LGBT activists was immediately reported to the police station in Bitola.

As soon as the attackers left, the activists reported the attack to the police, and called on the Ministry of Internal Affairs to find the attackers and bring them to justice.

Following the attack, the LGBT United group received several threats of physical attacks, sometimes death threats, on its Facebook page. A picture of the activists was posted on the Facebook page of the fan group, with the caption “Gay feet will not step in Bitola.”

### ***1.3 Attacks on the LGBTI Support Centre***

The LGBTI Support Centre was attacked three times, but for the first time, at the opening of the Pride Week, the attack took place while there were people inside. Although security for this event was requested from the Ministry of Internal Affairs in time and a security assessment was submitted, the Ministry of Internal Affairs failed to protect the Centre and the people who came to the opening of the Pride Week. The atmosphere was previously fuelled by the media, which announced a “gay parade” in June, although only Pride Week was organized with more film screenings, promotions, etc. This distortion of information led to violence in the last third of the month. The LGBTI Centre was attacked for the fourth time, and this attack was the first to occur during day, while the Centre had about forty visitors. The groups were also violent towards the random passengers on the “Macedonia” Square, as it was registered in four such cases. Namely, on June 22, 2013, after the announcement, the counter-gay march at 2 pm started in front of the Cathedral “Kliment Ohridski”, continued to the Assembly of the Republic of Macedonia and ended at the “Macedonia” Square. At around 15:10 on “Macedonia” Square, four minors were attacked by a group of people from the counter-gay march. The incident was reported to the police, with the Ministry of Internal Affairs denying that the attack was carried out on a minor who had more serious injuries inflicted by a group of people. However, the recordings from the mobile phones and some of the media show how after the attack the group of people fled towards the City Shopping Centre. There is still no information about the attack in the bulletin of the Ministry of Internal Affairs, while the spokesman of SIA gave a statement that the police is taking all measures to find the perpetrators. After this attack on a minor, during a film screening, promotion of a manual and a debate on transgender people in the premises of the LGBTI Support Centre, the Centre was attacked by a group of about 40 masked people. The group ran past the Centre, throwing glass bottles, stones and other objects at the Centre’s shop window, shattering the glass. At the time of the attack, there were also forty people in the

premises of the Centre, ten of whom were downstairs, and some of them were sitting in the space next to the glass, where their lives were directly endangered. A police officer was also present at the Centre during the attack.

While trying to escape from the thrown objects and the glass, the attendees headed to the back rooms, whereupon the executive director of the Helsinki Committee was slightly injured, while the police officer came out in front of the Centre and was a direct target of some of the attackers. The attack ended quickly and on the upper floor where the promotion of the manual took place, the panic was prevented and the event continued in a peaceful atmosphere. The Helsinki Committee took care of the safety of all those present until their departure.

The Helsinki Committee officially reacted to the daily bulletin of the Ministry of Internal Affairs from 23.06.2013, due to the incomplete and incorrect description and classification of the facts about the event. Also, it was not mentioned that the crowd who attacked the cultural and social event that started the Pride Week caused a violation of the right to equality of the citizens. In addition, the bulletin does not mention the fact that at the time of the attack, forty people, guests and organizers of the Pride Week were present in the Centre, as well as employees of the Helsinki Committee for Human Rights, which leaves room for reasonable suspicion that the target of the attack was not the LGBTI Support Centre itself, but also the persons who were currently in the premises of the Centre, which caused significant danger to the life and the body of those present. It is also not mentioned at all that the uniformed police officer was injured while securing the event.

### **An attempt to set fire to the Centre after the meeting with representatives of the diplomatic corps**

On July 4, 2013, in the premises of the LGBTI Support Centre in the Old Skopje Bazaar, representatives of the diplomatic corps met with members of the LGBTI community and representatives of the Helsinki Committee.

Despite the calls from the LGBTI Support Centre and the Helsinki Committee, there were no reactions from state institutions, nor from the President and the Prime Minister, which makes them supporters of violence, while the lives of a large group of people are in daily danger. Only a few hours after the meeting with the diplomatic corps in the Centre, a new attempt was made to set fire to the Support Centre. The institutions remained silent.

## *1.4 Attacks on the home of the actor Petar Stojkovikj*

The increasing level of publicly expressed homophobia is seen in other aspects as well. Three days after the attack on the LGBTI Centre, on June 25, the home of the actor Petar Stojkovikj was attacked, who a few days earlier had publicly declared his sexual orientation. The attack was in fact stoning of the house, which happened at 22:50 in the evening, followed by shouts: “Gays! We will fuck your gay mommy!” Fortunately, no one was injured and no damage was done. The case was reported to the police and the investigation is still on-going.

## 2. Institutions

In the Republic of Macedonia, the experiences with discrimination based on sexual orientation are ignorant and full of prejudice, hatred and violence. There is no specific legislation to protect the rights of transgender people, sexual orientation is mentioned in only a few laws, without being explicitly defined as a ground for discrimination and the Courts and the Commission for Protection against Discrimination do not consider it as a ground for discrimination, nor it is indirectly provided as ground in the Law on Protection against Discrimination, even though that is required by the European legislation in this area.

The reports of the Commission for Protection against Discrimination do not provide data on cases of discrimination based on sexual orientation and/or gender identity. In the practice of the state, there is an institutional obstruction of the visibility of this type of discrimination. In addition, the incitement and spread of hatred and hate speech towards persons from the LGBTI community by governmental and pro-government media services, further aggravates the situation. We are witnessing more and more hate crimes, attacks on people who participate in manifestations of the LGBTI population and who knows how many times the premises of the LGBTI Support Centre were under attack.

Cases of violence against members of the LGBTI population should be urgently prosecuted, especially those where there is passivity of the state authorities in the detection and prosecution of the perpetrators. The case of the demolition and the burning of the LGBTI Support Centre in the Old Skopje Bazaar is an appropriate example of a case that should be processed by highlighting the aggravating circumstances of hatred towards the LGBTI population from which it is “inspired”, and the passivity of the police and the ignoring by the government. Among the cases that need to be urgently processed is the case of violence against an activist, a participant in an LGBTI manifestation, emphasizing the aggravating circumstances of violence inspired by

hatred towards a member of the vulnerable LGBTI population.

Following the attacks on the Centre, on the activists in Bitola and other violent incidents, the activists called on the Ministry of Internal Affairs to find the perpetrators and bring them to justice. "LGBT United", the Coalition "Sexual and Health Rights of Marginalized Communities", the LGBTI Support Centre and the Helsinki Committee for Human Rights of the Republic of Macedonia called on the Government to publicly condemn violence and hate speech against LGBTI people and to stop discriminatory campaigns which promote hatred, intolerance, social exclusion and violence against LGBTI people. There is still no public condemnation by the institutions. Also, the Network for Protection against Discrimination asked the Assembly of the Republic of Macedonia to review the Report of the Commission for Protection against Discrimination and to request detailed information on the indicated weaknesses. The Network concluded that the report has a number of shortcomings that it does not determine the trends of discrimination in 2012 and does not determine the reasons why on a certain ground for discrimination there is an increased number of complaints. The Commission creates a situation of unrealistic presentation of the situation regarding discrimination, but this is certainly not the first time that the manner of work of the Commission itself has been questioned. It has already been pointed out on several occasions in previous reports that the Commission does not function as an independent body.

Furthermore, the functioning of the institutions marks another violation of the rights, this time in relation to the trans people. Namely, one member of the group for support of transgender people submitted a request for gender recognition and change of personal documentation. The request was answered negatively, which is an arbitrary decision, given the fact that in the Republic of Macedonia there is no law which regulates the specific status of the trans people, so the decisions of the institutions, as in this case, depend on the degree of prejudice of the public officials. This is absolutely impermissible and unfortunately it is not the first case in which a request for a change of social security number by a trans person has been rejected without any legal basis.

The promotion of the Shadow Report, which took place on 23.05.2013, was attended by, among others, representatives of the Ministry of Foreign Affairs, as well as the Broadcasting Council. The Broadcasting Council was the only entity to publish on its website the Recommendation on Discrimination on the Grounds of Sexual Orientation and Gender Identity of the Council of Europe. However, the Shadow Report itself is an evidence of the lack of willingness for cooperation of the institutions. The Report has repeatedly stated that the institutions do not respond to the requests for public information sent by the Helsinki Committee. The Report also reflects the need to enact laws that include sexual orientation and gender identity. The need for sensitization of public officials is obvious, in order for them to stop acting exclusively according to

their personal convictions, but to transfer the concept of human rights in the practice of the institutions, which also needs to be regulated by legal acts in all areas.

During June, the institutions fell silent again after the violence against the LGBTI community. No government official came out with a public condemnation of the violence against the minors in the town square or the attack on the LGBTI Support Centre and the people who were currently in it. The Ombudsman also did not react, not even to the attacks on young people in the town square. Although, these types of attacks are considered a crime which is prosecuted ex officio, the inefficiency of the competent authorities and law enforcement mechanisms was evident on several occasions. The attack of 22.06 was just another attack on the LGBTI Centre, which was added to the list of attacks for which no person has yet been arrested or charged.

We will emphasize again, that this treatment by the Ministry of Internal Affairs shows their irresponsibility and their lack of will to fulfil their obligations and protect the citizens of the Republic of Macedonia, which gives a false legitimacy of individuals and groups who decided to manifest their rejection through violence. In a direct sense they are practicing impunity of the perpetrators and silence in a situation which represents direct threat to the life of some of the citizens of the Republic of Macedonia.

The only political entities that have spoken out after the violence against the LGBTI community are DOM, the Liberal Democratic Party and the Liberal Party, which said that they publicly condemn the vandalism and expect the police to find the perpetrators, because impunity for the perpetrators will encourage violence and on other citizens of this state.

In the heated discussion on the Law on the Termination of Pregnancy, the Minister of Health, Nikola Todorov, further heated up the atmosphere, trying to discredit the civil organizations that voted against the Law, solely due to the fact that some of those organizations work, among the others, with the LGBTI population in the Republic of Macedonia.

The Basic Court Skopje 1 passed a verdict finding the members of the crowd guilty of committing the crime "Participation in a crowd which commits a crime" during the March 2 protests (protests against Minister Talat Xhaferi). The LGBTI Support Centre was also attacked during the protests. Fourteen defendants in the March 2 protests were sentenced to a total of 12 years in prison. The Helsinki Committee and the LGBTI Support Centre commended the decision.

On August 1, one day before the Assembly went on vacation, the governing party VMRO-DPMNE submitted to the Assembly a proposal for amendments to the Constitution according to which the marriage is defined exclusively as a union between a man and

a woman. With the new changes, the adoption of children would be allowed only to a union composed of parents of different sexes, as well as single parents.

The debate over the draft law on constitutional redefinition of marriage continued in September. On September 23, the MPs in the Assembly started the debate on the proposal for amendments to the Constitution in the part of defining marriage exclusively as a union between a man and a woman, submitted by MPs from the governing majority. The main argument of Vladimir Gjorcev, MP of the governing VMRO-DPMNE, who is proposing the law, was that the changes in the Constitution will prevent a future government with a simple majority of 42 MPs to change the Family Law, which already defines marriage as a union between a man and a woman, while changes in the Constitution require a two-thirds majority, in order to preserve traditional family values. This was followed by the MP Dragisha Miletikj, from the opposition coalition, who in his speech clearly stated that he considers homosexuality a disease and that he justifies its punishment. This was followed by several homophobic jokes by the MP at the expense of the LGBTI population. The Liberal Party MP Ivon Velickovski objected with a statement that the governing party's actions do not go in favour of preserving traditional values and called for a more tolerant approach to vulnerable and marginalized groups. The debate between Miletic and Velickovski provoked a reaction from the head of the parliamentary group of SDSM, Igor Ivanovski, who in protest demanded a half-hour break and said that such debates "turned the Assembly into a cloth." The statements of the MP Miletic were criticized by the civil organizations that consider Miletic's speech as homophobic, discriminatory and devaluing for the LGBTI community and believe that in a democratic society as the Macedonian is aspiring to be, there is no place for such speech. A complaint to the Commission for Protection against Discrimination was also announced. The Director of the Commission, Dushko Minovski, said that they will wait for the complaint, review the case of hate speech in the Assembly and react accordingly. There was no independent initiative and will for a deeper consideration of the case by the Commission.

### 3. Legal framework

The LGBTI Support Centre, as a subsidiary of the Helsinki Committee for Human Rights of the Republic of Macedonia, in cooperation with the National Democratic Institute (NDI), office in Skopje, started with the project "Strengthening the capacities of the civil organizations to participate in the legislative process", where the Centre will be dedicated to the implementation of the legislative initiative "Article 3" - Civil initiative for harmonization of national anti-discrimination law with EU law. The scope of the project is limited to Article 3 of the Law on Prevention and Protection against Discrimination, and the activities of the LGBTI Support Centre will be aimed at legally

defining sexual orientation and gender identity as separate possible grounds for discrimination, through the adoption of a Law on amendments and additions to the Law on Prevention and Protection against Discrimination. In order to promote human rights as a universal value of interest to all citizens of the Republic of Macedonia, and given the principled openness of the Centre for participation of as many stakeholders, the implementation of the project will be coordinated through a working group, consisting of several organizations, active in the field of promotion and protection of the rights of marginalized communities. Thus, this opportunity can be used to introduce all the other grounds that were omitted in Article 3, extending the necessary protection against discrimination of the most marginalized groups in our society.

### **Law on the Termination of Pregnancy**

At the end of May, the Draft Law on the Termination of Pregnancy was submitted by the Government of the Republic of Macedonia, in an urgent procedure to the Assembly of the Republic of Macedonia. Despite the numerous media reactions and protests by representatives of several civil, domestic and foreign organizations, including representatives of the LGBTI Support Centre, the Helsinki Committee for Human Rights of the Republic of Macedonia, the Coalition "Sexual and Health Rights of Marginalized Communities", H.E.R.A. and others, the Draft-Law on the Termination of Pregnancy was adopted on 10.06.2013, by urgent procedure.

In response to the protests by the LGBTI community regarding the adoption of the new Law on the Termination of Pregnancy, the Minister of Health, Nikola Todorov, used the parliamentary rostrum to say that "One cannot believe that with organizations representing such [LGBTI] rights, we can agree on the issue of abortion" and that "Yesterday debated organizations dealing with the men's rights with men, women with women and those who have changed gender ... and how with such an organization you will harmonize your position." The statements of the Minister Todorov are homophobic, discriminatory and aim to give the debate on the law a value dimension that is not subject to regulation, which distracts the public from the discussion. As such, the statements of the Minister are unacceptable, especially due to his position - member of the Government of the Republic of Macedonia. The Government of the Republic of Macedonia, in addition to other competencies, has a duty to monitor and analyse the situation for the realization and promotion of human rights and civil liberties, which the Government certainly cannot do by spreading hate speech through homophobic and discriminatory public statements by its ministers.

The new Law, instead of making certain changes in favour of women, to educate and inform them about their reproductive rights, on the contrary, it complicates the procedure, delegitimizes the freedom of choice, underestimates the intelligence of a woman who is aware and knows when and with who wants to have children. The

abortion is primarily an intimate decision of every woman and every woman should have the right to freely choose to plan her own family, free from bureaucratization.

The initial draft law underwent certain changes in the final legal text, by deleting or changing some provisions, including the provisions on the mandatory presence of the spouse in counselling, the establishment of first instance commissions in health institutions by the Minister of Health, and high monetary penalties and introduction of imprisonment for doctors who do not comply with the provisions of the Law on non-life-threatening procedures such as keeping records.

The provision for informing the spouse directly violates the right to freedom of choice of the woman, so this provision was removed from the Law, i.e. it was accepted that only at the request of the wife, the spouse will have the opportunity to attend the session of the first instance commission. If the obligatory informing of the man, without respecting the will of the woman was accepted, there would be real possibility for the women to be morally sanctioned, especially the socially vulnerable categories of women, as well as the women who live in rural areas with lower awareness.

After the change of the text of the draft Law, it was accepted that the director of the health institution in which the abortion will be performed, would form the first instance Commission for Termination of Pregnancy. This is a more acceptable solution than the establishment of first instance commissions in the health institutions to be under the authority of the Minister of Health, which will further bureaucratize the procedure for the woman who submitted the request, and indirectly the Minister would have the role of deciding whether to accept the woman's request or not.

The introduction of high fines for not keeping records contained in the Law did not correspond to the penalties for performing other medical interventions and at the same time damaged the reputation of the doctors and medical profession, so they were excluded from the adopted legal text.

Although the above-mentioned amendments to the legal text were made, the opinion remains that the new Law on the Termination of Pregnancy interferes in the basic human rights and freedoms and since it is a complex law that regulates a specific matter, it should have been adopted in a regular procedure with the inclusion of the professional public, civil organizations and all the other relevant actors in the society. By controlling female reproduction, women are directly discriminated against and their inequality in the society is emphasized.



## 4. Media

The general conclusion is that in the past year, the media mostly reported in a sensationalistic manner, negatively and even inciting at certain moments, thus bearing part of the responsibility for the violence and exclusion of LGBTI people in our society. A small number of independent media reported ethically, promoting the principle of human rights.

In June, especially in the second half of the month, the media space seemed to be flooded with articles and reports on topics that directly or indirectly addressed issues of interest to the LGBTI community. The articles mainly referred to the reports on the Pride Week event, the organization and implementation of the counter-gay protest, the anti-LGBTI violence that took place in June, the reactions of the NGO sector and the political parties regarding the same and the homophobic opinions and attitudes that the Minister of Health of the Republic of Macedonia, Mr Nikola Todorov, shared with the public through the parliamentary rostrum. However, it should be noted that the media space has seen an increase in the coverage of topics that really attempt to analyse the wider social impact of the violence against the LGBTI community. But in the media as well, it can be noticed a degree of fundamental misunderstanding of issues affecting the LGBTI community, which may have played a key role in escalating homophobia, hate speech and open calls for violence against the LGBTI community, that preceded the attack on the LGBTI Centre for Support.

The LGBTI community was covered by the media coverage of the homophobic and discriminatory statements of the Minister of Health, Mr. Nikola Todorov, who used the parliamentary rostrum to say that “One cannot believe that with organizations that advocate such [LGBTI] rights we can agree on the issue of abortion” and that “Yesterday debated organizations dealing with men’s rights with men, women with women and those who have changed gender ... and how with such an organization you will harmonize your position”, as well as by covering the reaction of the NGO sector to the homophobic statements of the Minister. What is characteristic of the media coverage of the statement itself is that no media characterizes the Minister’s speech as homophobic or discriminatory, but on the contrary, the part of the speech referring to the LGBTI community was sensationally used and placed in the very titles of the articles, which referred to the speech of the Minister as a whole.

The media coverage of the attack on the LGBTI Support Centre on 22.06.2013, as well as the police (non)activities that followed, were done in a neutral and ethical manner by a small number of independent media. It should be noted that the attacks on the members of the LGBTI community caused a certain level of media interest in reporting on the deeper social impact of violence against the LGBTI community.

In the media space, we could see articles that referred to the beaten minors after the (non) realization of the counter-gay parade and the stoning of the home of Petar Stojkovikj. What could also be noticed is the condemnation of these attacks by some of the media, as well as the reaction of certain media to the lack of results from the measures taken by the Ministry of Internal Affairs in order to identify the perpetrators of the violence.

The media coverage of the parliamentary debate on the constitutional changes proposed by the governing party can be divided into two parts: covering the debate itself and covering the reactions of the NGO sector that referred to it. As for the part that covers the debate itself, we can say that the media coverage was incomplete, sensationalistic, and very superficial. We must also mention that some media noted that the “threat” of legalizing gay marriage was abstract and took a condemnatory stance towards the first part of the debate, which was full of hate speech and homophobia. In addition, some of the media recognized that the proposal for constitutional changes is nothing more than a strategy for political points, but unfortunately, their number was too small. The incomplete presentation of the facts refers to the fact that no media read and analysed the Initiative for Change of the Family Law of the Helsinki Committee for Human Rights, but only transmitted the information from the governing party, which was untrue. The sensationalism and tendentiousness are evident in the media selection of parliamentary statements and speeches published in the articles, where the media dominantly or exclusively reported the statements and argumentation of the proposer of the constitutional changes. The objective and ethical way of reporting was characteristic of the media coverage of the reactions of the NGO sector in relation to the parliamentary debate.

In November, the special interest for the LGBTI community in the Republic of Macedonia was caused by the realization of the fifth “Tolerance March”, which officially ended and crowned the campaign “Macedonia has love for all”, organized by the LGBTI Support Centre and the Helsinki Committee for Human rights of the Republic of Macedonia (MHC), with the support of Front Line Defenders (FLD). However, the media interest that caused this event, in the end fell in the shadow of the sensationalism of the media, the distortion of facts and the selective presentation of information. Namely, during the campaign itself (before the announcement and the realization of the March), the existing media coverage, although deprived of the attention of most of the national television media, was done mainly ethically, neutrally and in a balanced way. Nevertheless, things started to change with the announcement of the “March of Tolerance” (which took place on November 16, 2013).

Although the radio campaign itself was directed against the violence to the LGBTI population in the Republic of Macedonia, the March was a joint action of fourteen non-governmental organizations with which they all protested against the violence we face

every day in our society. The support of the LGBTI population and the condemnation of the violence against them was only one of the few aspects through which the violence and impunity of the perpetrators in the Republic of Macedonia were condemned, but five of our media on seven different occasions saw an opportunity to characterize the whole event as “(mini) gay parade”. For the contradiction and the sensationalism to be even bigger, none of these media mentioned “gay parade” elsewhere in the text, except in the headline, leaving room for such media behaviour to be classified as “editorial” freedom. However, with this selectivity, the reader is misled and the journalistic duty of comprehensive reporting is not observed, which at the end makes the whole text confusing, incomprehensible and full of contradictions and ambiguities. Furthermore, another media gave a political classification of the event, claiming that “in defence of the gay population” stood several small non-governmental organizations, ideologically close to the opposition, and that “among the homosexuals and bisexuals were journalists employed in opposition portals.” With this step, the mentioned media again misinformed the public, politically colouring and discrediting the entire non-governmental sector in the Republic of Macedonia, again humiliating and mocking the LGBTI people in Macedonia, presenting them as the negative comparator among whom were “journalists employed in opposition portals”. During the rest of the coverage of the radio campaign and the “March of Tolerance” with which it ended, we can say that the basic principles of journalistic reporting were respected, although the lack of a substantive analysis of the social impact of the campaign theme was again noticeable.

## 5. Hate speech

On 01.02.2013, on the front page of the daily newspaper “Vecer” appeared the headline “Are there homosexuals among the journalists”, followed by a text, which called for a hidden lynching through public labelling, in order to disparage individuals due to meaningless emphasis on one’s sexual orientation. Due to the above, the Helsinki Committee for Human Rights reacted to this headline and sent a statement to the media, in which, among other things, it strongly condemned the edition of the newspaper “Vecer” from 01.02.2013.

As part of its response to the statement sent to the media, the Committee recalled the difference between news and commentary and the difference between freedom of expression and hate speech. At the same time, it reminded about the significance of the call for lynching, which is bent in a call to the citizens to report individuals, journalists who are suspected of being persons of homosexual orientation. Protecting the right to freedom of expression does not mean protecting hate speech, nor does it mean protecting expressions that incite hatred and violence.

In addition, the Committee noted that the commitment of certain journalists to responsible journalism and independent public information, where hate speech must be omitted, was attacked as a campaign for a gay parade that is beyond all bounds of truth. The truth that is forgotten through the manipulative game of this daily newspaper is distracting the public from the real problem of the decline of journalistic freedom by directing hatred towards certain journalists portrayed as homosexuals. The homosexuality is presented as a degrading trait in order to degrade individuals without any facts and at the same time violate their right to privacy, which is totally absurd for a modern newspaper that exists in a democratic state, that promotes values of equality and diversity for the people and a state that is member of the Council of Europe.

Finally, in its statement, the Committee called on the Government and the Assembly of the Republic of Macedonia to finally recognize the need to include sexual orientation and gender identity as grounds for hate speech and hate crimes in the Criminal Code of the Republic of Macedonia, which would be the beginning in the realization of the principle of respect for diversity, which should be one of the basic principles of a democratic state. Through this statement, the Committee addressed the citizens of the Republic of Macedonia not to participate in activities that will give legitimacy to the hatred that certain media are trying to incite, because anyone who contributes to the call becomes a direct accomplice in these acts.

## 6. International support

### **Meeting with representatives of the diplomatic corps at the LGBTI Support Centre**

On July 4, 2013, in the premises of the LGBTI Support Centre in the Old Skopje Bazaar, representatives of the diplomatic corps met with members of the LGBTI community and representatives of the Helsinki Committee. The meeting was attended by representatives of the US Embassy, the Embassy of the Netherlands, the Embassy of Sweden, the Embassy of Germany, OSCE and representatives of the Delegation of the European Union to Macedonia. They were introduced to the attack on the LGBTI Support Centre on 22.06.2013, which took place at the very beginning of the "Pride Week", when a group of about 30 masked people attacked the Centre while in its premises there were around 40 people - organizers, collaborators and guests. The representatives of the diplomatic corps also watched the video from the security cameras of the LGBTI Support Centre, recorded during the attack. The ambassadors

supported the LGBTI community, condemned the June 22 attack on the LGBTI Support Centre, called on Macedonian institutions to ensure equal rights for LGBTI people, to be actively involved in the fight against discrimination, and said that such violence should not go unpunished by the legal system and expressed hope that the perpetrators would be found.

### **Letter to Prime Minister Nikola Gruevski sent by Human Rights Watch**

On July 10, 2013, the international human rights organization “Human Rights Watch” sent a letter to the Prime Minister of the Republic of Macedonia, Nikola Gruevski, the President Ivanov and the Minister of Justice Bexheti. In the letter, they expressed concern about the current homophobic atmosphere in which the LGBTI community lives in the Republic Macedonia, followed by a series of attacks in June and July this year on its representatives, activists and premises. Concerned about the fact that neither the Prime Minister, nor anyone else from the Government of the Republic of Macedonia has condemned these attacks in public, nor addressed the Macedonian people to refrain from discrimination based on sexual orientation or gender identity, “Human Rights Watch” believes that the lack of government response to these attacks further endangers LGBTI people in Macedonia and calls into question the government’s commitment to the principles of non-discrimination and equality.

### **Meeting with the Rapporteur of the European Parliament for the Republic of Macedonia**

The Special Rapporteur of the European Parliament for the Republic of Macedonia, Mr Richard Howitt, strongly condemned the anti-LGBTI violence in Macedonia at the meeting held on October 29, 2013 at the LGBTI Support Centre between the EP delegation, the representatives of the Helsinki Committee for Human Rights and the LGBTI Support Centre.

At the meeting, Mr Howitt was notified of the lack of progress in the investigations for four out of five attacks on the LGBTI Support Centre, even though the first attack took place exactly one year ago. The institutional silence and the general lack of dialogue on threats and hate crimes based on sexual orientation and gender identity, whose rate is rising sharply, were also discussed. The lack of public condemnation by the competent institutions that are obliged to protect all their citizens without discrimination, as well as the low rate of initiating court proceedings in cases of anti-LGBTI violence, indicate that the anti-LGBTI violence in the Republic of Macedonia not only that is tolerated, but also encouraged.

At the meeting, the EP Rapporteur for the Republic of Macedonia, Mr Howitt, stressed the support of the European Union for the rights of LGBTI people and expressed regret for the increased violence motivated by hatred towards LGBTI people in the Republic of Macedonia. He also spoke about the EU policies regarding the enjoyment of fundamental human rights and equality of citizens before the law and also mentioned the duty of the states to protect all their citizens without selective approach.

### **Radio campaign - Macedonia has love for all**

After the created frightening homophobic atmosphere and the five attacks, the LGBTI Support Centre continues on its path and strives to achieve the goal - equality for all people in the Republic of Macedonia. In anticipation of the reopening of the centre in the Old Skopje Bazaar and the realization of the fifth March of Tolerance, the LGBTI Support Centre and the Helsinki Committee for Human Rights of the Republic of Macedonia (MHC), with the support of Front Line Defenders (FLD) made a radio campaign "Macedonia has love for all", which is primarily focused on condemning violence and supporting LGBTI people.

The most important thing is that in this process of reviving the LGBTI community and continuing the fight for equality, the LGBTI community did not retreat and did not succumb to the continuous attacks, but on the contrary, in greater numbers, much stronger and proud, went out in public to seek their rights. The organizers of this campaign are grateful to all LGBTI people who proudly and openly defended their rights and participated in this campaign, their parents and all the public figures who appear in solidarity in this campaign, defending equality, freedom and dignity.

Regarding the preparation and the launch of this campaign, FLD stated that they proudly support this radio campaign in support of the defenders of LGBTI rights in Macedonia and believe that violence and discrimination against the LGBTI community and targeting those who work to improve human rights is something for which there is no room in any society today. For FLD, the radio is a medium that can reach a wider audience, so this campaign can help change public discourse and put pressure on the authorities to prevent violence and hold perpetrators accountable.



