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## Introduction

The Helsinki Committee for Human Rights of the Republic of Macedonia (MHC), in accordance with its objectives and its mission, defined in the Statute and the Strategy of the Committee, each year publishes an Annual Report elaborating the situation with human rights and freedoms in the Republic Macedonia. The Annual Report for 2011 summarizes the work of the Committee throughout the year, and explains the state of the human rights and freedoms in the Republic of Macedonia. These conditions were actively monitored by the Helsinki Committee and were reported in the regular monthly reports. Based on the above mentioned, the overall estimate is that in 2011 there were serious violations to the basic civil and political rights. These were not isolated incidents, but on the contrary; they are an indicator of systemic problems existing in the area of protection of human rights and the rule of law in the Republic of Macedonia.

This report is an assessment and an analysis of the causes and conditions in the following areas:

- Judiciary
- Police
- Lustration process
- Protection and treatment of citizens, especially to marginalised groups in the society
- Freedom of media and freedom of expression
- Penitentiary institutions
- Economic and social justice

It is a well-known fact that all citizens, in accordance with the Constitution of the Republic of Macedonia, ratified international agreements and the legal framework have their fundamental rights and freedoms guaranteed and in cases of their violation they should be protected. Therefore, the Helsinki Committee of the Republic of Macedonia continues its mission for promotion and protection of human rights in 2012 as well. For this purpose, MHC will continue to actively monitor the human rights situation in the country, provide free legal assistance to citizens in cases of violation, to cooperate with other organizations and state institutions in order to increase promotion, respect and protection of human rights and freedoms.



# 1. Judiciary

## 1.1 Independent Judiciary

There are clear indications that the judiciary is still under permanent influence by the executive power and powerful political figures. The key points of interference are selection, dismissal and transfer of judges. The Judicial Council and the Council of Public Prosecutors are still used as a tool by the politicians to exercise explicit or implicit pressure on the judiciary. This creates a general climate of uncertainty and threat among judges and public prosecutors, as well as influence them in reaching verdicts and decisions.

The existing unclear criteria and procedures for dismissal of judges and prosecutors, through the provision of “unprofessionalism and negligence” still create opportunities for abuse. Serious efforts are needed to protect and preserve the independence of the judiciary in the future, and end politically motivated dismissal of judges and court presidents. In the course of election of judges, the system of merit should be applied and respected.

Although some progress is noted in the transparency of Courts’ functioning, thus greatly affecting public perception and trust in institutions, the relationship with the media remains controversial. There are serious violations to the presumption of innocence and privacy of citizens, who are defendants in court proceedings. The lack of clear standards for the manner and scope of reporting on court proceedings is worrying, as well as publishing data for the processes online.

On the other hand, the Ministry of Interior (Moi) still publishes press releases which serve for its own promotion, rather than informing the public on important issues. The manner in which this is done, directly endangers the principle of presumption of innocence and the interests of the investigation. Due to the above-mentioned, the Helsinki Committee (MHC) proposes creation and adoption of written standards for the manner of reporting criminal cases and trials. In this way, the Ministry of Interior will be allowed to organise press conferences only by approval and supervision of the Public Prosecutor’s Office, as it is the case in Croatia or other European Countries.

It is especially worrying that any public and scientific debate regarding most serious problems of the judiciary, like impartiality or protection of basic human rights is “paused” in the Republic of Macedonia. This is particularly worrying, bearing in mind the role of the judiciary as a protector of the basic human rights and freedoms. This concept is the basis for human rights, the rule of law and the modern democracy, based on separation of powers. The court should impose restrictions on freedom of movement and privacy

only in exceptional cases, rather than with ease, or almost any time when requested by the police.<sup>1</sup> The main reasons behind such weak protective functions of the court may be:

1. Dependence of the court on external influences (primarily from the executive) and
2. The position of the court in the existing system, and given an essentially inquisitorial role, whereas the court acts as a principal investigator, in contrast to its prime function, as a guardian of the rights.

## 1.2. Fight with organized crime and staged political processes

The continuation of the trend of politically motivated criminal charges is highly worrying. The case of Ljube Boskovski <sup>2</sup>, the “Spider web” case and many other similar cases raise the suspicion that under the premise of fight with organized crime and corruption, there is an underlying brutal clash with political opponents and other dissidents, who in one way or another, pose a threat to the current government. This is in order to ensure Government’s domination and survival at the political stage, followed by a struggle for capture of the economy. All of the above has led to serious cracks in the fragile democracy aimed at protecting the citizen from the state, by respecting fundamental rights and freedoms. In these cases the procedural rights of the defendants have been violated, with a justification that the crime is obvious, and there is no need to respect their rights. The case of Boskovski points to evident abuses of the special investigative measures and witness protection, and how the ruling political elite in this way deals with its opponents. Thus, instead of occasionally applying these measures, they are used regularly, and facilitate the conviction of defendants, by having complete disregard for the right to a fair trial, as well as for citizens’ trust in the courts and in the criminal justice system. The exclusion of the public in all of the cases where special investigative measures are applied, is avoidance of public control in these processes.

A fair trial implies the right of the parties in the proceedings to be familiarised and be able to comment on any evidence or statements presented. Having into consideration national legislation and the European Convention on Human Rights (ECHR), it is clear that the prosecution needs to submit all relevant evidence to the defence, in order to fully respect the right to equality in the proceedings. The purposeful negligence of the court for the legal obligations of the prosecution in the “Spider Web” case, points to double standards and unequal treatment of the defendants by the Court. The Helsinki Committee noted this in its monthly reports, and it was interpreted as the Court’s affection for the prosecution, and favouring the prosecution in the proceedings.

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<sup>1</sup> A recent survey by the application of the detention measure throughout many courts in the country, conducted by students at the Faculty of Law Iustinus Primus, in Skopje, has indicated that over 95% of the request for detention have been approved by the courts.

<sup>2</sup> Monthly Report on Human Rights in the Republic of Macedonia for August/September 2011 <http://www.mhc.org.mk/?ItemID=C88ECA9313E3FB48BF8639C7AE92DA67>

### 1.3 Blocking the reforms to the criminal justice system

The reforms to the criminal justice system defined in the Strategy for Reform of the Criminal Law and confirmed with the new Law on Criminal Procedure Code are aimed to harmonise national legislation in the area of human rights with the European legal systems. However these reforms have not been implemented, as the government did not have real commitment for them. The implementation of the reforms was expected to significantly accelerate the processing of criminal cases with observance of all standards of a fair trial; unfortunately a dramatic deadlock has taken place and the motives behind it can only be presumed. The lack of commitment and the unprofessional attitude to commitments undertaken with the reforms, causes delays in the proceedings and indicates the intention that the investigations remain within the Ministry of Interior's domain.

The Helsinki Committee is particularly concerned for the delay in implementation of guarantees for the rights of suspects in police and court proceedings, according to international standards. On the other hand, there is no real reason for the reform to be postponed for two years, as the Government is proposing.

### 1.4 The measure of (pre-trial) detention

Despite numerous reactions by the Helsinki Committee and many other national and international governmental and non-governmental organizations for abuse of the measure of pre-trial detention and violation of the rights to freedom and security, guaranteed by Article 5 paragraph 3 from the European Convention on Human Rights, the courts did not respond to them. Apart from MHC's recommendations, recommendations from judges, were also not taken into consideration.<sup>3</sup>

According to the latest Annual Report of the Directorate for Execution of Sanctions, the total number of prisoners on 31.12.2010, was 2.487 of which 330 or 13.3% were (pre-trial) detainees.<sup>4</sup> The total number of detainees in 2010 was 1.219 persons. In comparison with the previous reports by the Directorate, the number of detained persons in 2009 was 955 persons, and in 2008 - 673 persons.

According to the above data, between 2008 and 2010, the number of pre-trial detainees increased by 546 persons, i.e. it increased by 45%. A clear example to demonstrate the ease with which this measure was imposed and continued without appropriate elaboration of the causes, are the cases "Spider Web", "Metastasis" and "Falanga". In the "Metastasis"

<sup>3</sup> See: Gordana Buzarovska et al. Manual for Detention Measure" Association of Judges, Skopje 2009.

<sup>4</sup> Ministry of Justice, Directorate for Sanctions, Annual report for the functioning of the Directorate for Sanctions for the state in the penitentiary institutions in the Republic of Macedonia, for 2010



case, from the total number of 36 defendants, 3 persons were detained for longer than one year.

The court has evidently violated the law, by extending the detention measure invoking national legislation. The European Court of Human Rights determined violations of the European Convention on Human Rights against the detainees, in the “Snake Eye” case as the Republic of Macedonia has not provided sufficient evidence for the pre-trial detention measure.<sup>5</sup>

In the end of the year, Basic Court Skopje 1 had an attempt to replace a pre-trial detention with softer measure - house arrest, in accordance with the legal possibilities, but the Court of Appeals Skopje, retorted to its practice, and did not approve the milder measure for house arrest. In addition, the case of Lazaroski against the Republic of Macedonia<sup>6</sup> indicates another serious weakness of national case-law regarding the right to personal freedom and security. Despite the strict constitutional and legal provisions that limit courts to deprive a person from his/her freedom, in practice, there is no real and functional procedure where the court would decide on such violations. Instead, declarative decisions were being made and they have not limited the arbitrary conduct of the police.

In the “Spider Web” case, involving 20 defendants for a criminal association and tax evasion, the detention measure for some of the defendants lasted for over one year. In this case, there was an incident regarding a pregnant defendant, where the detention measure was imposed with no regard to international and national standards. This is a case of inhuman treatment, and none of the institutions or parties has shown interest in it or has processed it. Legal professionals have pointed to the court to replace the measure of detention with milder measures, and not use it as a punishment for the defendants, however the court has shown no understanding for it.

The “Phalanga” case is last in the series of cases where we suspect inappropriate that the detention measure is abused. In this case, a total of 23 people were charged with criminal association and illegal appropriation of state-owned cultural heritage. The detention measure for some of the defendants lasted for over than a year. In this case, the explanation for the measure was same as in the previously mentioned cases, and it was “Possible danger of escape and a possibility of repetition of the crime.”

It is particularly worrying that in certain cases, there is a newly accepted practice (to some extent an agreement between the prosecutor and the investigating judge for organized crime cases) for the length and the termination of the detention measure. One of the imposed ways to end the detention on the defendants is requiring them to confess to the crime for which they are charged. In this case, the defendants who admit to committing the crime, their detention measure is replaced by a house arrest - as a more lenient measure. On the other hand, the defendants who do not admit committing the crime,

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<sup>5</sup> European Court of Human Rights “Vasilkoski and others, against R.Macedonia” Application No. 28169/08, Strasbourg 2010

<sup>6</sup> European Court of Human Rights, Application No. 4922/04

are kept in detention illegally, unnecessarily and for a long period. This indicates a kind of coercion into confession of a crime, and is against the law. In this way, the cases of organized crime, start with loads of attention, covered by the media, and the prosecution claiming to have strong evidence; and at the end they finish with coercion into confession by the defendants – as endure the length of detention.

The Committee reacts continuously to this ill-fitted practice of the courts regarding the measure of (pre-trial) detention. This measure was proclaimed and extended with unsubstantiated explanations for it; soft measures were not applied when possible, and mainly this has been used as punishment. MHC calls upon the courts to impose the measure of detention with due diligence, taking into account the standards defined by the European Court of Human Rights.



## 2. Abuse of Power by the Police

The reports by the Helsinki Committee<sup>7</sup>, reports by the Committee on Prevention of Torture of the Council of Europe (CPT)<sup>8</sup>, decisions by European Court of Human Rights<sup>9</sup>, and several other relevant governmental and non-governmental organizations have concluded that national authorities have not acted accordingly in order to remove sources of serious injuries to human rights violations. The Public Prosecutor's Office failed to annul its close relationship with the MoI and show that everyone is equally accountable before the law, even when it comes to cases where police officials are involved. The case of Martin Neskovski showed that the prosecution has no effective control and cannot initiate criminal investigations against alleged police abuses; and they have no clear guidelines and procedures for conducting such investigations.<sup>10</sup>

The Republic of Macedonia is obliged to conduct impartial and thorough investigation into

7 Annual, monthly and other reports of the Helsinki Committee of Human Rights <http://www.mhc.org.mk/?ItemID=74EADA1A2D23DB4FA76B70CF771766E4>

<http://www.icrc.org/themissi.nsf/b5a5eed1a93ca649c12569dd00505aca/448d147db779628ac1256b02005c3e62!OpenDocument>

8 <http://www.cpt.coe.int/en/states/mkd.htm>

9 <http://cmiskp.echr.coe.int/tkp197/search.asp?skin=hudoc-en>

10 There are international UN standards on such matters : Minnesota Protocol, UN Manual on the effective prevention and investigation of extra-legal, arbitrary and summary executions - ST/CSDHA/12 - 1991 - III. Model Protocol for a legal investigation of extra-legal arbitrary and summary executions ("Minnesota Protocol")

Istanbul Protocol Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN New York and Geneva, 2004, <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>

all cases of police brutality. Especially, when it comes to cases where victims are from the ethnic communities, deemed particularly vulnerable to police brutality. Unfortunately, the state yet again failed in its duty, and thus, it is still criticised by national and international institutions and organizations. The reports indicate that not only perpetrators of the crimes should be investigated, but also responsible officials who were aware of the act, but did nothing to prevent it, or report it.<sup>11</sup>

The Helsinki Committee has never received an answer regarding the criminal charges indicted in the case “Planinska Bura”. Will the authorities finally act in accordance with their legal obligations, and conduct full and independent investigation into the allegations of ill-treatment of detained persons by the special police forces? This is yet to be seen.

## 2.1. Control over wiretapping

For a certain period of time, the Helsinki Committee and other national and international civil society organisations have demanded establishment of concrete (not just formal) control and supervision over the secret services, and especially over the application of the measure of wiretapping. Thus far, there has been no political interest or will, neither responsibility taken, to apply constitutional and legal control mechanisms by the Parliament (and Parliament committees) on the legality of interception of communications, and the security sector in general. As a matter of fact, in the Republic of Macedonia no institution has established control over the legality of the wiretapping. The role of the court is to approve the measure only, when there is a request by a competent state body, thus giving the national legislation and established practice not a significant guarantee. Namely, the amendments to the Law on Criminal Procedure, from 2008, placed the approval of special investigative measures, including wiretapping, at a very early stage of the criminal proceedings. Thus, the police can easily persuade the court to allow the measure on the basis of unsubstantiated suspicions or clues. This places the court in a position to legitimize arbitrariness in allowing this measure, rather than minimizing it. All of the above is contrary to the principle of the right to privacy and the role of the court as a protector of the fundamental personal freedoms, and its goal to minimise the arbitrariness of the state. This solution, on the other hand, prevents this measure from being used only as a last resort, and only if other measures and activities have not yielded results. The measure currently is used very often, mostly violating the rights and limiting citizens' freedoms.

In practice, the courts in the Republic of Macedonia have not responded to the gravity of the task of defence and protect human rights and freedoms of citizens against the state. The court, unfortunately, in almost all cases fails in its role as a regulator over the police and

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<sup>11</sup> The lack of thorough investigation and the attempt to cover up the cases of police brutality were also reported in the EU Commission reports and the Committee for Prevention of Torture and the decisions by the European Court of Human Rights against the Republic of Macedonia.

the public prosecutor's office. This is also proven in its approval of searches, confiscation and freezing of property, apprehension and detention, control over prosecution etc.

The law-maker has allowed continuous control and oversight of the practical implementation of the wiretapping measure by a competent public prosecutor. This in itself is not a functional solution, as the public prosecutor has great powers in the procedure of proposing and continuing application of the measure, and in a way this poses a conflict of interests for the public prosecutor, as he/she is not an impartial entity to exercise control and supervision over the practical implementation of the measure. Apart from this, the Public Prosecutor's Office in our country has demonstrated, apart from partnership, even servile attitude towards the Ministry of Interior, and has not demonstrated interest for control and supervision over the police.

Hence, one concludes that there is still no system for efficient and constant external supervision over the use of special investigative measures, which would ensure that these measures are indeed applied only by a court order and in a legal manner with no arbitrariness and abuse.

The Helsinki Committee advocates for establishment of new democratic mechanisms and procedures for parliamentary control and oversight of wiretapping, and over the security sector as a whole. The Parliamentary committees for control of the application of interception of communications, and having oversight of the Security Directorate and the Intelligence Agency, must be supported so they can perform their crucial role in preserving the rule of law in the country. To this aim, it is obvious that a different political climate is needed in the country, as well as creation of appropriate tools for effective control and oversight.

## 2.2. Control over security services

When it comes to the area of defence and security, in the Republic Macedonia, in the past period, two significant negative trends are observed:

1. Absence of a systematic law for completion of the normative legal framework to regulate the functioning of the security sector institutions, ruled by the principle of rule of law, and
2. Absence of *lex specialis* for democratic and civil control over security sector.

The lack of political will to introduce European standards into this area, in itself shows how marginal this segment is, in the official agendas and strategies of the Macedonian authorities. This happens despite the indisputable fact that Europeanization in the field of defence and security directly contributes to the observance of fundamental human rights and freedoms, the rule of law, the development of democratic processes and European integration processes. An analysis of the existing model of functioning of the security sector in the Republic of Macedonia deviates from the practices established in the EU. The executive government, at no given point, indicates interest and democratic capacity to reduce its impact on the functioning of key security institutions: Security and

Counterintelligence Directorate, the Intelligence Agency, Military Security and Intelligence Service within the Ministry of Defence. Contrary to the well-established experience from the neighbouring and other countries, where the counterintelligence service is an independent body, in our country it functions as a body within the Ministry of Interior. The new organizational proposals even have further negative implications – they propose that the Intelligence Agency is placed under direct authority by the Ministry of Interior. It is obvious that the Government does not want to give up exclusive privileges and powers on the security and intelligence services, and use them for daily political purposes, party confrontations and invoking fear and insecurity among the public.

The analysis of the existing model of democratic and civil control over the security sector shows serious weaknesses in this area. In essence, the perception of who controls whom is unclear; the relationship of object and subject of control (especially with the last regulation, where the report to the parliamentary bodies should be primarily submitted for approval to the director of the respective institution due to the classified nature of the information); the constitutional and legal mechanisms of control are abused in practice, they are trivialised and lose their democratic values and significance. There are no mechanisms in place for sanctioning powerful directors of intelligence and counterintelligence bodies (mostly due to their unprofessional and ignorant attitude towards the parliamentary oversight bodies and committees). In addition, certain forms of control, such as local government oversight of local police (arising from the decentralization process) are not existing, and there is no interest for this area among the municipal councils. All of the above- mentioned, points to the fact that the democratization of defence and security, both in terms of protecting the rule of law, as well as guaranteeing human rights and freedoms is not happening.





## 3. Process of Lustration

### 3.1 Lustration out of control

*The lustration continues to take place, going directly against the decisions of the Constitutional Court, and it becomes an instrument for violation of human rights.*

Lustration became unconstitutional when parliamentarians voted for changes to the Law on determining an additional condition for performing a public function (Law on Lustration)<sup>12</sup>; this was going against the previous Decision of the Constitutional Court of 2010, which determined that “Lustration after 1991 questions the existing democratic constitutional order of the Republic of Macedonia and that the lustration of NGOs, universities, the Macedonian Academy of Sciences and arts, etc. is interference of the state in a sphere where it has no competencies prescribed by the Constitution.”

Additionally, the process of lustration contravened constitutional principles when it stipulated that all universities, NGOs, the Macedonian Academy of Sciences and Arts, religious communities and other organizations, should incorporate the results of the lustration as a condition for employment. This became a system of punishment i.e. losing a job position, if the statement of non-cooperation is not verified. This goes against the legal principle, which states that there can be no punishment for an offense which is not defined as a criminal deed by the Criminal Code. The Constitutional Court announced its latest decision, on 28<sup>th</sup> of March 2012<sup>13</sup>, which states that 12 articles of the new Lustration Law are violating the Constitution. This is also a legal precedent of unconstitutionality in Macedonia, as it ruled yet again on previously-abolished provisions.

- Lustration has got out of constitutional and legal control when it started verifying statements for non-cooperation from victims’ files and from informative conversations with security authorities, rather than from files of the associates. In other words, it was done without the existence of any written document for cooperation with the services (and this in itself is an explicit legal requirement).
- Data from the Commission on Facts Verification started to leak information about current cases to the media, thus violating the presumption of innocence of the persons who have signed statements of non-cooperation.

<sup>12</sup> Law on determining an additional condition for performing a public function, Official Gazette of the republic of Macedonia 14/2008, 64/2009 и 23/2011.

<sup>13</sup> Decision by the Constitutional Court of the Republic of Macedonia, No 52/2011, and 76/2011.

- Lustration was performed on the basis of classified documents and by hiding documents received by the relevant authorities (even for members of the Commission), thus violating the principle of equality of arms.
- The statements of non-cooperation were signed under threat of dramatic punishments, which is contrary to the principle that lustration must not be retaliation or punishment.
- In this way, lustration becomes an instrument for violating human rights and it has been noted as a problem in almost all reports on the state of human rights in Macedonia.

However, the latest Draft Law on defining the conditions for restrictions on performing public office, accessing files and announcing cooperation with state security bodies, which is currently in a parliamentary procedure, set a precedent in the recent history of the country. This was addressed in the latest decision by the Constitutional Court, as the law not only continues to violate human rights defined by the Constitution, but it contains provisions which are a direct refusal to implement a decision by the Constitutional Court. This act undermines the principle of constitutionality of law and the political system of the Republic of Macedonia in an unprecedented way and with unforeseeable consequences. This draft Law (we are writing this with reservations, as this law is in a procedure when this report is being written) contains a series of previously repealed provisions by the Constitutional Court. It also adds few more provisions, extremely problematic from the human rights perspective; for instance, it allows lustration of persons who in the process of privatization, in the last 20 years, have acquired shares of more than 5% of the capital in the companies. Such provisions violate the right to freedom, to entrepreneurship, the right to property, legal certainty and the principle of protection against retroactive effect of laws guaranteed with the Constitution. The law also allows for a significantly problematic authority of the Lustration Commission, and that is, analyse and research, i.e. construct situations and theses, and not verify facts of cooperation or non-cooperation with the communist secret services.

The Helsinki Committee is quite vocal in its warnings about the gravity of human rights violations and problems with regards to the principle of constitutionality and legality created with the current lustration process in the Republic of Macedonia.





## 4. Discrimination

The first year of implementation of the Law on Prevention and Protection from Discrimination<sup>14</sup> indicated all of the shortcomings of this Law, which were noted by the civil society in the process of its adoption. Its weak applicability increases discrimination, and with it, the intolerance between different groups and individuals, leading to increased tensions in the society.

### 4.1 Protection Mechanisms

The composition and the mandate of the Commission for Protection against Discrimination<sup>15</sup> is extremely worrying. The Commission is composed contrary to international standards, and representatives from state bodies have dominant role. Its president is a civil servant, holding simultaneously two positions, at the Commission and in the Ministry of Labour and Social Policy.

The civil society and experts have warned that this weakness of the Commission will damage its impartiality, and later, the results from its functioning have indicated that. In addition, the Commission has a very limited budget and is unable to perform to its function. It is especially worrying that its preventive role is inexistent, and it is not able to monitor and respond preventively to trends of discrimination emerging in our society. Also the small budget contributes to weak logistical support to the Commission members, and this ultimately leads to inefficacy and victims of discrimination do not receive adequate and effective protection.

Additional disregard for the role of the Commission is the non-application of its decisions. For example, there was a decision reached in May 2011, determining that textbooks in secondary school curriculum discriminate on the basis of sexual orientation. Although the Ministry of Education was notified by the Commission that these textbooks should be removed from the curriculum, the Ministry of Education and Science (MES) is refusing to do so, and secondary school students are still taught from these textbooks.

In the first months of implementation of the Law on Prevention and Protection of discrimination, if a person wanted to file a complaint, it was an almost impossible mission to find the headquarters of the Commission. Once it was announced that the main office of the Commission was at the building of Macedonian Radio and Television, it became clear it was inaccessible. The Commission is located on the 20th floor of MRTV, and there is an elevator going up to the 19th floor. This itself is unacceptable for such a key protection mechanism from discrimination.

<sup>14</sup> Official Gazette of RM, No. 50/2010.

<sup>15</sup> [www.kzd.mk](http://www.kzd.mk)



Equal Opportunities Commissions at local level<sup>16</sup> as basic units that need to be recognised as a local mechanism for protection of discrimination, and should propose measures for protection of discrimination to citizens, exist only formally. They are established within the municipalities due to existing legal obligation, however they do not perform their function - with the exception of few local commissions in several municipalities.

## 4.2 Trends and Vulnerable Groups

In the course of 2011, political affiliation was one of the leading grounds on which discrimination took place, especially in public administration. This finding of the Committee, which was based on research done among local self-government units, was confirmed by the European Commission progress Report as well. The 2011 EC Progress Report for the country<sup>17</sup>, in the chapter on public administration clearly states that “the main shortcomings remain, especially in the criteria of employment, assessment and promotion of staff; appointment of senior managers and termination of employment. Furthermore, improvements on key legal framework are needed, so that the principles of transparency, political neutrality and merit in employment and promotion in the administration are ensured. “

The conclusion that “There is a serious concern that the principle of employment based on merit and with no political influence is not met sufficiently” should raise the alarm among state institutions, and they should respond and draw up an action plan for overcoming this condition.

The trend of worsening gender equality was also visible in 2011. Strong patriarchal subliminal messages are received every day, from various sources. It is particularly worrying that these messages come from state institutions, which is contrast to the declarative commitment to gender equality. In its campaigns, the government constantly presents women as subordinated citizens. For instance, in the campaign for promotion of entrepreneurship, most of the portrayed successful people are men, and women are often “secretaries and confectioners.” Promoting this pattern of behaviour and thinking from an early age is particularly worrying. For example, the second grade textbook “My Environment”<sup>18</sup> illustrates men with a TV remote control in their hands, while women with cleaning utensils.

Since very early age, children have been instructed to look through strict “patriarchal glasses”, where stereotypical depictions of “male and female” things pervade. This will certainly influence their attitude in life towards gender equality and equal opportunities

16 [The Helsinki Committee for Human Rights : Хелсиншки комитет за човекови права \(mhc.org.mk\)](http://www.helsinki.org.mk)

17 [https://www.sep.gov.mk/content/Dokumenti/MK/PR\\_2011\\_mk.pdf](https://www.sep.gov.mk/content/Dokumenti/MK/PR_2011_mk.pdf)

18 My Environment 2: Textbook on familiarising students with the environment, for second grade, for nine- year primary education; Eli Makazlieva, Biljana Kamchevska, Katica Dukovska – Muratovska – Prosvetno Delo 20028

in the future.

The trend of discrimination and marginalization of communities representing less than 20%, is also worrying, both at state and local level. Insufficient political, media and cultural representation of communities, comprising less than 20% of the population, is an indicator of a closed and discriminatory society, accepting no diversity. There are no affirmative measures in place to achieve de facto equality and integration of these communities in the society. Roma people, despite the activities from the Roma Decade, are still one of the most marginalized communities in the Republic of Macedonia. The need to implement the “National Roma Strategy of the Republic of Macedonia” still remains. The strategy happens to coincide with the Roma Decade 2005-2015, as part of the UN millennium goals, and in our country it has not yielded clear results. With regards to the position of Roma in the country, 2011 was marked with the asylum applications from Roma to various European Union countries, with the visa-free regime, due to the poor economic conditions they live in.

Roma people are still the most vulnerable community, according to their economic situation, the level of poverty and unemployment, low level of education and social crisis, in comparison with others ethnic communities.<sup>19</sup>

International reports puts special emphasis on general living conditions and standards<sup>20</sup>, health and social care and access to education, as they have been assessed as minimal or inexistent.<sup>21</sup>

Having in mind the low employment rate, high poverty rate and the low level of education among Roma community, unlike other ethnic groups, they are more susceptible to work in the black and grey economy, or become victims of human trafficking, drugs, sale of organs and children etc.<sup>22</sup> Racial discrimination, prejudice and stereotypes are pervading in the society. This is indicated in a survey by the Helsinki Committee, conducted in January and February 2011, in several primary schools for children with special needs.<sup>23</sup> The research findings reveal that Roma children are not “welcome” in the primary schools in the country; instead they are sent to schools for children with special needs without adequate evidence that they belong there. This trend is confirmed by the fact that most

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19 Ministry of Interior, statement by the Minister Ms Gordana Jankulovska regarding the situation with visa liberalisation in the Republic of Macedonia, as part of an organised crime where Roma people are victims of asylum scam <http://vlada.mk/node/621?language=en-gb>, and Amnesty International report 2011 <http://www.amnesty.org/en/region/macedonia/report-2011#section-83-7>

20 General remarks in reports of international organisations on the position of Roma in the Republic of Macedonia, European centre for Roma Rights in Budapest, Hungary <http://www.errc.org/cms/upload/file/ecprogress-macedonia-2011.pdf>, and European Commission against Racism and Intolerance - Report on the Former Yugoslav Republic and ECRI general policy recommendation No.3, On combating racism and intolerance against Roma/Gypsies”, 1998, pg. 36

21 Ibid, pg 35

22 European centre for Roma Rights in Budapest, Hungary, Factsheet: Roma Rights in Jeopardy <http://www.errc.org/cms/upload/file/factsheet-roma-rights-record.pdf>, 2011, UNHCR, „Trafficking in Persons Report” – Macedonia, 2011.

23 Research by the Helsinki Committee for Human Rights of the Republic of Macedonia, conducted in several schools for children with special needs, regarding ethnicity and presence of children in schools. The data have been published by the European centre for Roma Rights in Budapest, Hungary in their report for 2011. Please see the table at the following link: <http://www.errc.org/cms/upload/file/ecprogress-macedonia2011.pdf>

children with special needs are of Roma nationality, although this community is one of the smallest ethnic communities in the Republic of Macedonia.

Furthermore, LGBTI<sup>24</sup> community is still one of the most vulnerable communities in our society, subject to manipulation and discrimination. At the beginning of the year, heads of religious communities in synergy with the government have requested changes of the state Constitution, in order to define marital union as a community uniquely between a man and a woman. Failing to bring this initiative into an official proposal to the Parliament of the Republic of Macedonia, shows daily abuse of the LGBTI community for political goals, and defocusing the public from real problems. The legal framework still needs to be reformed in order to provide equality for LGBTI people. The lack of medical practice or a legal framework protecting transgender people is worrying. This makes their daily functioning even more difficult, and deprives them of the right to health care. The state still has no data on intersex, nor has legal or health regulation for these citizens, i.e. Intersex people are entirely invisible in society.

### 4.3. Strategy for Fighting Discrimination

The Sector for Equal Opportunities within the Ministry of Labour and Social Policy, in 2011, drafted a Strategy for Equality and Non-Discrimination (based on gender, age, ethnicity and disability)<sup>25</sup>. The process itself was transparent and participatory, involving several institutions and civil society organizations, as well as human rights experts, and was supported by the OSCE and coordinated by the Sector for Equal Opportunities.

This med-term strategy offers a good framework towards equality on these four grounds. Nevertheless, it is precisely this reductive approach, of preventing discrimination on only four grounds, that MHC fundamentally disagrees with. Such structure of the Strategy is unacceptable, by prioritizing only grounds for discrimination acceptable to the majority. This is contrary to the principle for creating strategies to fight discrimination. The fight against discrimination is governed by the standard for affirmation, the fight against discrimination and exclusion of the marginalized in the society, protection of those who are subject of discrimination and victimisation by the majority. The above Strategy works after a reversed order - dealing with those that are acceptable to the majority in the country. With its limitation to prevent and protect against discrimination on four grounds only, it raises the question, whether it will produce even limited action plans. In this case, European law is being circumvented and not being implemented. Directive 2000/78 / EC speaks unequivocally of equality and fight against discrimination on the grounds of religion or belief, age, special needs and sexual orientation. Directive 2000/43/EC is

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<sup>24</sup> Lesbian, gay men, bisexuals, transgender and intersexual

<sup>25</sup> For more detail, please see The Report on Human Rights of MHC, November 2011  
<http://mhc.org.mk/default-MK.asp?ItemID=2352048B21FE744EB92F2BF12DFB5912>

protection against discrimination on grounds of racial or ethnic origin. The country is obliged to implement the above directives, if it really wants to gain the status of an EU member state.

It is also not the first time that a problem has arisen from using non-synchronised terminology, a problem also present in other documents and laws in the country. This process could have been an opportunity to unify the terminology as well, which would be used in the future in relation to the rights of different groups. However, having in mind the fact that the Strategy itself is limited to only four bases, the solution to this problem would be part of a more comprehensive document for fight against discrimination created according to actual anti-discrimination standards.

In implementation of the Directive for Equality and Non-Discrimination in Labour Relations, we see problems with the terminology used in the Law on Labour Relations. Thus, in this Law, sexual orientation is translated with its derogatory term: gender orientation - which is outdated terminology and not used in the EU, as well as, it differs from the terminology in other national laws, such as Law on Protection of Patients' Rights.

By adopting a Strategy containing only four discrimination grounds, acceptable for the majority, instead of creating a strategy that will protect those who are discriminated against, precisely by the majority, the state is sending a message that it protects only these four groups of citizens. In this way, it will further discriminate on all other grounds, which persist in the country. At the very least, it is problematic to create a Strategy based on the opposite principle, calling question the principles to fight discrimination.





## 5. Freedom of Media and Expression

In 2011, the Committee registered major fall-back in protection and promotion on freedom of expression and the freedom of the media. Namely, the first independent TV station A1, on 30.07.2011, stopped broadcasting its programme, after 18 years of existence.<sup>26</sup> Within the framework of freedom of information, the Helsinki Committee opposes the proposals for changes to media legislation and regulating the media market in the country. This was also met with strong reactions by the general and expert audience, as well by international media.

There were strong reactions to the legal proposals by the government from media organizations and journalists. The OSCE Special Representative for Freedom of Media, Ms. Dunja Mijatovic, criticized the proposals by the government for the new Law on Media, which restricts freedom of expression and freedoms of the media. Globus, the weekly newspaper critical of the Government, ceased its printed publication, leaving only its online edition in a significantly reduced form. Of the printed weekly magazines, only the independent newspaper Focus has survived by now.

During 2011, a large number of private lawsuits were initiated by public officials or senior government officials against journalists. A fine of 15.000 EUR was imposed to a journalist for defamation, and this is only a second such case in the case-law of independent Macedonia (the highest fine for intellectuals writing in the media, and for a media editor – there were fines of 30.000 EUR each). Such cases are and apparent and brutal pressure on the freedom of expression in Macedonia. This year only, there was a record number of 200 lawsuits against journalists and intellectuals writing for the media. Due to the above-mentioned, the Committee particularly emphasizes the need to decriminalize defamation, and also the need for compliance with the jurisprudence of the Court in Strasbourg.

At the same time, the Committee considers that the negotiations of the Government and the media associations are blocked by the Government, despite international proposals and backing for a positive outcome.

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<sup>26</sup> [A1 телевизија престана да зрачи во етерот \(daily.mk\)](#)

## 5.1 Electronic Media

### 5.1.1 TV Stations

The independent TV station A1, which had the highest watching ratings, was shut down in 2011. The closure took place after A1 TV intensified its critical reporting on the Government, prior to the early parliamentary elections in June 2011. According to the government, A1 TV was closed because of unpaid taxes, as well as for criminal association and organised crime.

The situation of media freedom was aggravated also by the unbalanced Government's advertising campaigns (certain TV stations received huge financial support) i.e. TV stations where the Government exercises huge control.

The Helsinki Committee determines that the role of the state media service (MRTV) is completely marginalized and politicised by the authorities. This media network serves only to promote government propaganda, and is financed by forced collection of MRTV bills from all citizens. The situation is worrying due to the fact that three of the larger so-called independent televisions have owners who are party members or government officials.

### 5.1.2 Printed Media

The continuing deterioration of media pluralism occurred when the daily newspapers Vreme and Shpic (published in Macedonian language) and Koha e Re (in Albanian languages) stopped being published in 2011. They were owned by Velija Ramkovski, the owner of TV A1, and were closed due to unpaid debts to the state.<sup>27</sup>

The Helsinki Committee also registers shifts in the editorial policies and the manner of informing by the largest and most widely circulated newspapers, owned by Media Print Macedonia. They changed their editorial policy, and at the end of the year MPM was sold to a business group close to the ruling authorities. The Committee also recorded the increasingly pronounced phenomenon of defaming and unfounded attacks on independent columnists and intellectuals, who due to pressure from the government stopped writing publicly. With it, freedom of speech and expression was directly affected. The situation with media freedom partially improved on 14<sup>th</sup> October 2011, when the new independent daily newspaper Focus appeared.<sup>28</sup> However, due to pressure by the government to this independent medium its survival remains a question.

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<sup>27</sup> <https://daily.mk/vesti/protest-na-novinarite>

<sup>28</sup> [Page not found – plusinfo.mk](#)

### 5.1.3 Social Media and Blogs

On one hand, the Committee has noticed increased use of the so-called new media by the citizens, especially in the second half of 2011. On the other hand, the more pronounced the use of social media, the more attacks on opinion makers took place. However, the situation with information sharing and publishing through internet has significantly improved, with the appearance of a larger number of information portals. They contribute to improve freedom of speech and the right to informing.

In June, the Unit for technological and cybercrime within the Ministry of Interior has deleted groups on the social network Facebook, having over 7.000 followers. These groups were used for spontaneous organisation of protests against police brutality. With this act, the Ministry of Internal Affairs, has violated the right to free assembly and has directly violated the right to public protest. This is also mentioned in one of OSCE reports on the state of the media.

On one hand, a slight decline in the use of blogs as a way of expression is recorded in 2011; and on the other, increased use of the social network Facebook by citizens of various age groups is recorded. According to the latest official data by the Facebook.com Corporation, the number of officially registered users from Macedonia, is over 800.000 citizens. This leads to the conclusion that citizens feel free to share their own views and opinions through such new communication channels. Having said this, one concludes that the number of citizens who follow the traditional media is gradually decreasing.

There are indications that the freedom of blogging and expression on social network sites, which reached its peak in 2011, has its own dark side. Namely with its expansion, the use of hate speech increased dramatically. In multicultural state, such as Macedonia, the effects of hateful, discriminatory and hurtful speech quickly reverberates. It is especially worrying that the most vocal promoters of hate speech are several journalists close to the authorities. The Committee considers that urgent and effective implementation of international standards is needed to prevent the spread of racist material and sanctioning hate speech.

### 5.2. Hate Speech

This past year, the trend of escalation of hate speech in the media was recorded. Hate speech was, in most part, directed those who publicly criticized the government and the ruling party. Dozens of intellectuals were exposed to hate speech, mainly promoted by media and journalists with public pro-government loyalty. In their articles and shows, opponents and critics of the government were labeled as traitors, or mercenaries of foreign countries. Such labeling contributed to additional divisions in the society. The spread of hatred towards certain individuals has resulted in an atmosphere of fear. This

further affected the already endangered freedom of expression. It is important to mention that public debate, as par excellence democratic value, disappeared completely from the media, during the campaign for early parliamentary elections. For the first time in recent history, no single debate was organized thus allowing citizens to hear an exchange of opposing views by political opponents. Intellectuals withdrew from public view and debate, fearing the label of the pro-government media as disloyal to the state.

## **National Broadcasting Council**

The National Broadcasting Council, in the last year, gained new members on the basis of a new law adopted by the Parliament, without prior public debate and consultation with the affected segments of the society. By increasing the number of Council members, the government's influence over this important regulatory body increased. With it, the role and efficacy of the Council in exercising its legal powers and obligations became irrelevant. In this regard, it is important to mention that the Broadcasting Council, despite attempts by some of its members, failed to seriously sanction and prevent growing hate speech. Also its influence on the functioning of the public broadcaster, in accordance with the Constitution and the laws, was almost suspended. However, it is positive to note its last decision on regulating the structure of ownership in the media, and is seeking to remove direct political interference from media owners who are also political party leaders. The deadline to resolve this issue is September 2012, and it will yet to be seen whether this decision will be effectively implemented.

## **Public Broadcasting Service**

Unfortunately, as in the previous years, the influence of the ruling parties on the editorial policy of the Macedonian Radio Television (MRTV), not only that it did not disappear, but it become even more pronounced. Therefore, the public broadcasting service is unable to perform its functions defined by the law. MRTV does not enable promotion and affirmation of pluralism, as well as political, cultural, ethnic and social diversity. Instead, it is completely captured and serves the function of promoting government policies, and criticizing all individuals and groups who disagree with it. In these regard, MRTV lags behind the reforms that have already taken placed in our neighboring countries, as well as in the whole region, where public services are put in motion to promote the democratic values of societies.







## 6. Conditions in Penitentiary Institutions

The Helsinki Committee considers that penitentiary institutions in the Republic of Macedonia face considerable problems, in the following areas:

- Living conditions in penitentiary institutions (prison and detention)
- Professional management and staff
- Health protection
- Disciplinary measures
- Torture, inhuman and degrading treatment and implementation of legislative measures (laws, regulations, projects, etc.) by the competent authorities

### 6.1 Living conditions in the penitentiary institutions (prisons and detention centres)

Accommodation conditions in penitentiary institutions (prisons and detention centres) are below the minimum required standards according to international and domestic legislation. Besides general remarks on the need to reconstruction and expand their capacities and space, overcrowding in these institutions still remains a big problem.<sup>29</sup>

However, overcrowding is not the major problem prisoners face. Reports of state institutions, complaints arriving at the Helsinki Committee in 2011, and the report of the Committee for Prevention of Torture (CPT) note that receiving adequate medical care, as well as mental and physical health care of prisoners and detainees is the most alarming problem in these institutions. In addition to inadequate premises (hospitals), lack of equipment, medicines and medical staff, prisoners have major objections to health workers regarding their professionalism and their availability to people who need urgent help. CPT's report contains remarks related to the admission and examination of new prisoners. This also includes regular check-ups for sexually transmitted diseases, as well as prevention of further spread of Hepatitis C, present among the prisoners and dangerous to the staff in constant contact with them.<sup>30</sup>

Additionally, in terms of management of the institutions, new employments are needed, i.e. increasing the number of employees, providing them with training for treatment of prisoners, from the moment of arrival, reporting to prisons and detention centers,

<sup>29</sup> Annual Report for 2011 by the Ombudsman of the Republic of Macedonia p.48-51, <http://www.ombudsman.mk/ombudsman/upload/documents/2012/lzvestaj%202011-MK.pdf>

<sup>30</sup> Report to the Government of "the former Yugoslav Republic of Macedonia" on the visit to "the former Yugoslav Republic of Macedonia" carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 21 September to 1 October 2010, Conditions in institutions , Chapter 5 Health care

and further care for resocialization and reintegration after prison. Lack of staff, financial resources and time required for additional training of the employees in these institutions are the cause for these problems, but also could be a solution yielding positive results and improving the general conditions in these institutions in the long run.

Regarding disciplinary measures in penitentiary institutions, such as the measure of isolation - solitary confinement, according to the Ombudsman's report, the CPT report and complaints from detainees submitted to the Helsinki Committee, we consider that persons responsible for determining this measure should be especially careful in assessing the psycho-physical condition of prisoners and follow medical recommendations. The measure of isolation - solitary confinement has a serious impact on mental health of prisoners, and as a result of negligence from the employees in these institutions, a prisoner took his own life in 2011.<sup>31</sup> The Helsinki Committee sent a reaction to The Directorate for Execution of Sanctions and the Ombudsman and its remarks are present in the reports of both institutions. However, there is a lack of timely response of both medical staff and penitentiary staff, particularly in determining disciplinary measures for sanctioning the behaviour of the prisoners.

In addition, after the large number of complaints and appeals addressed to the Ombudsman and the Helsinki Committee against the employees of the penitentiary institutions, for torture, cruel and inhuman treatment of prisoners,<sup>32</sup> we consider that there should be greater control over prison staff, as well as a quick response from the Ombudsman and the Directorate for Execution of Sanctions for initiation of procedures and disciplinary measures for perpetrators of these acts. As stated in CPT's 2010 report, special attention should be paid to selection, training of employees and their professionalism, with emphasis on the prevention of torture, inhuman and degrading treatment of prisoners. The largest number of cases and complaints for torture submitted to the Helsinki Committee come from KPU Idrizovo and KPD-Stip - mentioned in the reports of the CPT as an institution with most problems in this area. However, the report also includes the rest of the penitentiary institutions in the Republic of Macedonia.<sup>33</sup>

## 6.2. Implementation of legislative measures by the competent institutions (laws, regulations, projects, etc.)

Considering the position of the Helsinki Committee which cannot supervise the work in the penitentiary Institutions in R. Macedonia, last year marked the abuse of the use of the measure detention by the courts in several cases.<sup>34</sup> The Helsinki Committee

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31 Annual Report for 2011 of the Ombudsman of the Republic of North Macedonia p. 49, Helsinki Committee- "The case of Simon Stankovski", the person has died as a result of disciplinary punishment - sent to solitary confinement without the right to work for a period of 15 days contrary to the medical recommendations. His death was confirmed after four days in solitary confinement. This case was reported by the Helsinki Committee in 2011

32 Ibid. P. 50-51

33 Ibid. 3

34 Application of the measure detention - See chapter 4, "Annual Report for 2011 of the Helsinki Committee for Hu-

believes that the courts should pay more attention to alternative measures of detention,<sup>35</sup> because they prevent other problems that emerge in prisons. Alternative detention measures can prevent problems such as overcrowding in prisons and detention centres, thus avoiding consequences such as the “Spider Web” affair in which one of the detainees lost her baby due to the court’s late reaction but also due to poor quality of health care in institutions.<sup>36</sup>

The Helsinki Committee supports the efforts of the Directorate for Execution of Sanctions in implementation of the “Program for mandatory initial and continuous training for employees in penitentiary institutions for 2011”, the preparation of the “Action Plan for training and education of the employees in prisons and juvenile detentions in 2011”, a project of the MATRA ENPAP program - “Capacity building of the employees in the Administration for Execution of Sanctions”, trainings for implementation of the “OASys” method (system for assessment of convicts’ risk exposure), workshops for employees in resocialization and security sectors for prevention of torture of convicts, as well as trainings for dealing with corruption.<sup>37</sup>

At the same time, we encourage the efforts of this institution in the area of reconstruction and expansion of capacities of the penitentiary institutions in the Republic of North Macedonia in order to improve the general conditions and hygiene of persons deprived from freedom, which violate their basic human rights. However, the Helsinki Committee considers that the Office and the Ombudsman should improve their cooperation with the civil society sector, especially in the area of allowing unannounced visits to these institutions, in order to increase transparency of their operations, and with joint efforts to improve conditions in prisons, that often have been criticized in the reports of international organizations as one of the biggest problems in the Republic of North Macedonia.

The Ministry of Internal Affairs and Ministry of Justice continue to refuse CSOs to conduct monitoring on police stations and prisons. This would improve the conditions and procedures that guarantee protection of the minimum standards of persons deprived of their freedom as a particularly vulnerable group. So, practically there is a regression compared to the situation from a few years ago, when the cooperation between the state and NGOs for protection of human rights was at higher level, compared to today. The resistance by the Ombudsman to involve NGOs in the so-called preventive Mechanism against torture and other inhuman or degrading treatment or punishment, is also confusing. Although this was an agreement at the ratification of the Optional Protocol, the text of the

man Rights”

35 Law on Criminal Procedure articles 189-197- alternative measures for detention: house arrest, the guarantee, the ban on leaving the place of residence, the ban on contact of the defendant with their environment or a ban on access to the workplace, etc.

36 Ibid 7

37 Annual Report for 2010 of the Directorate for Executions of Sanctions p.16-39  
<http://www.pravda.gov.mk/documents/godlzvestaj2010UIS.pdf>

law on ratification of the so-called model “Ombudsman plus” turned from an obligation into an “opportunity” to involve NGOs. Finally, in the implementation of this model, NGOs were ignored and excluded, and the Ombudsman devalued their involvement by involvement of external experts, which is circumvention of the law and international standards.



## 7. Violations of economic and social rights

The Helsinki Committee for Human Rights of the Republic of Macedonia in its annual report notes several categories of violations of human rights and freedoms in the economic and social rights, and they are as follows:

- Rights of employees (labor relations and protection at work)
- Health Insurance Law
- Right to education
- Rights of the child and domestic violence (Common Protocol in cases of domestic violence)

Regarding employee’s rights, in its monthly reports, the Helsinki Committee considers that attention should be placed to the disputed legal provisions for transformation of the employment from definite to indefinite, after meeting certain conditions provided by the Law on Labor Relations (related to the expiration of a certain period of time).<sup>38</sup>

The Committee points to the need of a comprehensive strategic document that will review all detected problems and proposed measures aimed at improving the Law. The emphasis will be placed on strengthening the implementation of the Law, especially by the

<sup>38</sup> Monthly Report for 2011 of the Helsinki Committee for Human Rights, February/March- act 3.1 “Implementation the transformation of the labour relation from definite to indefinite time “.The Assembly of the Republic of Macedonia gave the green light and voted for the proposed amendments to Article 46 of the Law on Labour Relations which regulates the subject matter. Except for the condition already provided in Article 46 (... the employee continues to work after the expiration of 5 years ...), according to the new paragraph 4, the labour relations established with a definite term contract may exceptionally be transformed if the employee has been working for more than two years in a job position on the basis of retirement or other grounds and for which funds are provided, if the employer has determined that there is a permanent need of the employee ... “ Law on Labour Relations <http://www.mtsp.gov.mk/?ItemID=58596FFAE257704BBF545EDD4B790749>

State Labour Inspectorate. The Helsinki Committee points out that the strict controls and inspections of the State Labour Inspectorate should result in appropriate investigations and be forwarded to the courts, especially when it comes to workers who have lost their lives at the work place.<sup>39</sup> Law on Labour Relations will continue to be freely interpreted by employers if they are not sanctioned in accordance with the legal provisions. The Helsinki Committee also considers that the closure of the cases marked by accident or force majeure indicate passive attitude and continuous negligence by the State Labour Inspectorate, as well as the Ministry of Labour and Social Policy, especially regarding the right to safety and health of workers stipulated in the Law on Safety and Health at Work.

The Helsinki Committee considers that the biggest threat to social security of the citizens, especially of the most vulnerable groups of citizens - the unemployed and their families, was done with the amendments to the Law on Health Insurance,<sup>40</sup> adopted on 14.04.2011, and applied on 01.09.2011. With these changes, unemployed persons who are actively looking for work and whose family monthly income is higher than 11.000 denars, loses the right to compulsory health insurance as unemployed. We believe that such innovations in the Law on health insurance restrict the constitutional right to health care of every citizen of the Republic of North Macedonia,<sup>41</sup> and that such changes are contrary to the principle of social justice,<sup>42</sup> which provides social protection and security to all citizens of the Republic of Macedonia.

Regarding the violation of the right to education, the Helsinki Committee considers that the case of Sefadin Emini<sup>43</sup> marked 2011 in terms of the inapplicability of the provisions of the Law on Education for Educational Institutions, to religious schools. Thus, the Religious High School in Skopje "Isa Beg Medrese" is not registered in the Secondary schools Register. This opens two questions: Whether religious schools operate outside

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39 Monthly Report of the Helsinki Committee for Human Rights, August/September- act 3.5 " Situation safety at work", 2011, "... a worker fell off a roof of a building under construction in the village of Buchim in Radovis and died on the spot; worker from EVN fell from a pole while installing an electrical installation, gaining heavy injuries, an electric shock killed a worker who was performing his work duties at the Zoo in Skopje; a worker cut off his finger with a sharp object at his workplace while working with a bottle machine; A worker was injured on Ivo Lola Ribar Street in Skopje performing construction work and suffered severe injuries; one worker died, another seriously injured in an accident near the Jaja-Pasha mosque in Skopje, when during the construction of building, the collapsing wall covered the two workers; a worker from Veles died in Skopje when digging a sewer with a working machine-excavator, when part of the ground collapsed....."

40 Monthly Report for 2011 of the Helsinki Committee for Human Rights, August/September- Chapter 3.2

41 Article 39 of the Constitution of the Republic of Macedonia

42 Article 39 of the Constitution of the Republic of Macedonia

43 Monthly Report of the Helsinki Committee for Human Rights of the Republic of Macedonia, act 3.3, April/ May,2011 "Right to judicial protection of the right to secondary education - Sefadin Emini case", ... the case of a part-time student in the third year in the above mentioned Islamic school - Sefadin Emini, whose secondary education on 23.01.2008, while applying for exams, is interrupted by the responsible persons of the school, with an explanation by the school principal that he was allegedly against the Islamic community. In accordance with the application for termination of schooling of Sefadin Emini submitted complaint to the State Education inspectorate, it declared itself incompetent to supervise this school, referring that the problem should be resolved internally within the school. For that reason, the student Sefadin Emini during May 2008 decided to practise his right in court by filing a lawsuit on grounds for annulment of the decision.

the legal regulations of the Republic of Macedonia, and whether in this case, the parents should be punished for misdemeanor, in accordance with Article 118 paragraph 4 of The Law on Secondary Education? The Helsinki Committee submitted these questions to the State Education Inspectorate, which declared itself incompetent. Accordingly, we expect that the Minister of Education and Science and the Judicial Council of the Republic of Macedonia will find an appropriate solution to this problem and the legal vacuum in the education system to the detriment of citizens' rights.

In 2011, the Helsinki Committee actively monitored the situation of the rights of children and their protection<sup>44</sup>, as well as the protection of victims of domestic violence<sup>45</sup>, and repeatedly pointing out incoordination and sloppiness in working of state institutions: health, education, social work centres and the judiciary. We think that children's rights and the protection of rights of the victims of domestic violence are particularly sensitive and this is why cooperation and quick response of competent institutions is inevitable to act jointly in their interest.

We emphasize that for effective action and cooperation in cases of domestic violence, centers for social work, the Ministry of Internal Affairs and the courts should be governed by the Common Protocol to Action in case of domestic violence<sup>46</sup> and we have repeatedly raised this issue in 2011.



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44 Monthly Report of the Helsinki Committee for Human Rights of the Republic of Macedonia, act 3.46 June/July, 2011

45 Monthly Report of the Helsinki Committee for Human Rights of the Republic of Macedonia, act 3.6 June/July, 2011

46 Common Protocol on act in case of domestic violence", 2010 [http://nkt.mtsp.gov.mk/nkt/content/Documents/PROTOKOL\\_MKD.pdf](http://nkt.mtsp.gov.mk/nkt/content/Documents/PROTOKOL_MKD.pdf)





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