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**HUMAN
RIGHTS**

IN THE REPUBLIC OF NORTH MACEDONIA
FOR 2020



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TABLE OF CONTENTS

INTRODUCTION 4

FREE LEGAL AID..... 7

LABOUR RIGHTS 8

FEMALE TEXTILE WORKERS20

DISCRIMINATION24

PEOPLE WITH DISABILITIES32

GENDER EQUALITY.....37

JUDICIARY43

SHELTERED INSTITUTIONS46

HATE SPEECH51

HATE CRIMES58

LGBTI SUPPORT CENTRE62

INTRODUCTION

The global health crisis of 2020 has put the world in a state of uncertainty and fear, with numerous social and economic consequences. The measures to protect public health and the efforts to prevent the spread of the coronavirus inevitably took precedence over the rights and freedoms of citizens. The declaration of quarantines and curfews also meant a direct violation of basic human rights, such as free movement. However, given the speed with which the COVID-19 pandemic took hold and the many mysteries associated with its nature, these restrictions were widely accepted as a "necessary evil". A more in-depth analysis of the effects of the global crisis on the human rights situation is yet to be made, given the profound implications of the crisis on political and economic constellations within and between countries. But the conclusion remains, which emerged in the first months of the crisis – that the poorer and marginalized people were and still are disproportionately more affected by the crisis. This is shown by the record number of requests for free legal aid submitted to the Helsinki Committee during the pandemic 2020.

Gross violations of workers' rights began immediately after the declaration of the state of emergency, and some companies began firing employees before the real effects of the crisis were felt. Most of the cases reported to the Committee concerned the termination of employment contracts, forced settlement for termination of contracts, illegal non-extension of fixed-term contracts and reduction and non-payment of salaries. The government measures to prevent and protect against the coronavirus were often violated, and the female textile workers were among the most at risk due to inadequate working conditions and transportation to work.

The crisis did not lack the profiteering of private health care institutions, but also other forms of abuse of the crisis. Cases of illegal profiting from budget aid were noted during the implementation of the anti-crisis package of measures of the Government of the RNM, despite numerous appeals that the purpose of the state financial support should be the preservation of jobs.

Regarding the changes in the labour legislation, although the new Labour Relations Law started to be drafted in the first half of 2018, it did not enter the parliamentary procedure in 2020 as well. In December, the new text of the Law on Prevention and Protection against Violence against Women and Domestic Violence re-entered the parliamentary procedure but was not passed by the end of the year. However, the Law on Prevention and Protection against Discrimination was finally adopted, after a laborious process and numerous obstacles, which mostly affected those who need to be protected by the regulations. The Commission for Prevention and Protection against Discrimination, as a protection mechanism, was inaccessible to the citizens from August 2019 and throughout 2020, which reduced the effective protection against discrimination.

During 2020, the Helsinki Committee continued to monitor the reforms and the work of the judiciary as an active member of the Blueprint Group. Regarding the overall procedures for adopting new legal solutions, the process of adopting some of the laws was assessed as transparent and inclusive, which contributes to increasing the trust of citizens in judicial institutions, but in some of the laws, the procedure and the process of adoption of the new legal solutions were not positively assessed. In most of the laws from the Strategy for Reform of the Judicial Sector (2017-2022) that were adopted and entered into force in the past period, the implementation of legal solutions in practice is assessed as correct and timely. The Ministry of Justice also undertook significant activities in order to promote the Law on Free Legal Aid and to increase the information of the citizens. However, there are remarks in the process of implementation of the Law on Public Prosecution, the Law on Administrative Disputes, the Law on the Judicial Council of the RSM, as well as parts of the Law on Free Legal Aid.

On 25 March 2020, the Council of the European Union, based on the recommendations of the European Commission, unconditionally made a political decision to start negotiations for membership of the Republic of North Macedonia in the European Union. At the same time, the European Commission started preparing the negotiating framework in the shortest possible time in accordance with the new negotiation methodology. This reaffirmed the importance of Chapter 23 – Judiciary and Fundamental Rights as a key basis for the progress of the negotiations, as well as its impact on the overall accession process. Therefore, monitoring CSOs' progress in Chapter 23 is essential. Taking this into account and following the developments, the Helsinki Committee appealed human rights to be respected by timely and transparently informing the public with accurate information in order to increase public oversight of the executive during the state of emergency.

Despite the efforts of the German Presidency and the intensive negotiations between the delegations from the Republic of North Macedonia and the Republic of Bulgaria, on 16 November the Council of the European Union did not reach unanimity for the start of negotiations and the first intergovernmental conference in December. Although Bulgaria insisted on including its demands in the negotiating framework, other member states unanimously rejected the request. The European Union, represented by the German Presidency, stressed that bilateral issues should be kept out of the negotiating framework.

On a political plan, the debate over the early parliamentary elections on 15 July also dominated. Through their observation mission, OSCE/ODIHR preliminary findings noted that the elections were generally conducted effectively, despite the pandemic response adjustments, but that legal stability was hindered by substantial revisions of the Electoral Code and subsequent ad hoc regulation adopted during the state of emergency. The campaign, although with a negative tone, was really competitive and the participants were able to convey their messages despite the limitations of the usual communication.

In a year when negative trends in many areas of human life have dominated, we are witnessing two positive results in international advocacy – the verdict for the little Leon, whose case set a precedent for accepting an application on behalf of a minor with a disability, without being able to give consent to be represented before the European Court of Human Rights. The second success is the complaint from last year submitted by the Helsinki Committee to the CEDAW Committee,¹ which found injustice and made recommendations to the state for structural changes and eradication of harmful practices in accessing gynaecological services for Roma women. The multiple systematic discrimination of the Roma in North Macedonia in 2020 was manifested through the cases of police brutality against members of this community, as well as the lack of access to clean water, sanitary materials, and health care during a pandemic.

The closure of day care centres, unadopted distance learning, as well as the impossibility of social distance for people dependent on support in their daily life, are just some of the challenges people with disabilities face. The only mitigating circumstance for them was the exclusion from decisions that prevent movement, as well as government decisions to reduce administrative procedures.

The Sanctions Enforcement Administration has generally dealt well with the pandemic caused by COVID-19. In the summer, during a period of loosened restrictive measures, the Helsinki Committee for Human Rights and the Macedonian Young Lawyers Association conducted field visits to monitor the situation in all penitentiaries and correctional facilities. In addition to the regular challenges faced by these institutions, the teams also documented the state of health care and the rights of the convicts which should be applicable to them during a pandemic.

¹ The Committee on the Elimination of Discrimination against Women is a body of independent UN experts that oversees the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

The series of restrictive measures that affected the entire population, including the recommendations for self-isolation, seriously increased the risk of violent behaviour in the home. These preconditions for domestic violence are followed by the stress caused by the uncertain existence and the difficult daily life of people. The home is not safe for many women, but also for many LGBTI people who have been forced to live in a homophobic and violent environment due to limited mobility. From the dangers of endangered mental health to the heteronormativity of certain virus prevention measures, this has undoubtedly been a difficult year for the LGBTI community as well.

The stress of endangered existence, the closure of kindergartens, schools, and other institutions and public facilities, the uncertain future – strongly affected the physical and mental health of citizens and shifted the collective dynamics in society. All this was reflected in the public communication, with an intensified negative charge, especially on social networks. In 2020, we registered a 130% increase in hate speech reports compared to the previous year. Still, most of the hatred is based on ethnic grounds, followed by political affiliation and sexual orientation. The crisis, unfortunately, has imposed a new basis for hate speech – the state of health. Regarding our reports of hate speech, the necessary response from the competent institutions, especially from the Public Prosecutor's Office, is still missing. Such inadmissible attitude of the prosecution bodies was noticed in the "Public Room" case, which was revealed in the first months of 2020, and after which the prosecution did not act until the end of the year. Impunity left open the possibility of a recurrence of such cases of abuse and sexual harassment of women and girls.

Rooted social segregations in societies manifested themselves from the very beginning of dealing with the pandemic. Not only class divisions, but gender, sexuality, and even age ones. And the evasion of the mechanisms of international solidarity in the distribution of vaccines, which was felt at the end of the year, indicated the uncertain further course of the fight against the global danger and the widening of the gap between the powerful and the powerless and globally. 2021 will undoubtedly be a year of prolonged fight against the coronavirus. We can only hope that it will bring recovery of people and communities, but also a rethinking of the priorities of humanity.

FREE LEGAL AID

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

Since the beginning of the pandemic in 2020, the Helsinki Committee has registered a significant increase in applicants for free legal aid. During the year, the Committee provided legal aid to 742 citizens (340 men and 402 women) in the areas of labour relations and access to employment, domestic and gender-based violence, family relations, social protection, discrimination, hate speech, and acts of hatred. In addition to these, requests for legal aid were directly present on issues directly or indirectly caused by the pandemic – questions on measures and recommendations for prevention and protection against the coronavirus, as well as questions on the health, economic, and social consequences of the pandemic. The largest percentage, i.e. about 80 percent of the respondents, are members of the Macedonian ethnic community, followed by members of the Albanian community with approximately 9 percent of the requests and the Roma community with 4.5 percent.²

Additionally, in 2020, we submitted three requests for secondary legal aid to the Ministry of Justice, for return to possession, physical separation, and legal support of a minor child. One of the submitted requests was approved, one was rejected and appealed before the second instance body, and after a request, the procedure is ongoing.

In the process of providing free legal aid to marginalized and vulnerable groups of citizens, the Committee has faced significant challenges. However, the office of free legal aid remained open to legal aid applicants throughout the year, with due observance of all measures and recommendations for prevention and protection against the coronavirus. The most critical were the first months of the declaration of the state of emergency, when the work had to be reorganized and adapted to the new circumstances. This meant restricting personal, direct communication with applicants. Direct meetings with the parties took place only as an exception, especially when communicating with older people, people living in extreme poverty, people who came from another place, as well as with people from other vulnerable categories.

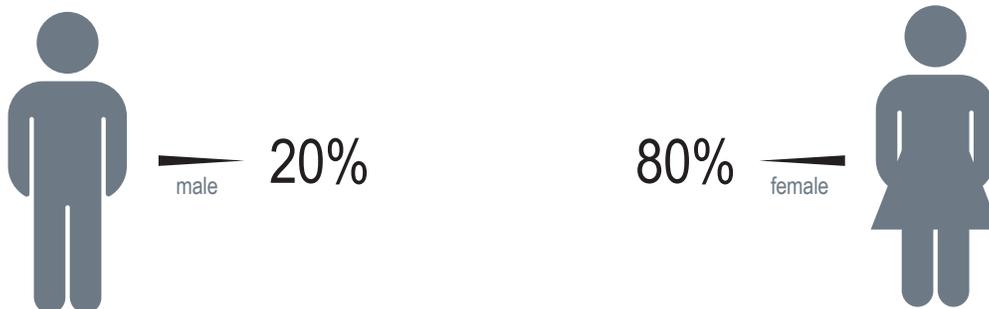
Throughout the year, the Committee published monthly reports on the pandemic situation. The reports were prepared on the basis of data collected from legal aid applicants and identified deficiencies in the system. These monitoring reports, distributed to the media and published on the Committee's official website, inform decision-makers (and in particular the Ministry of Justice, as the competent institution) of our recommendations for improving the free legal aid system.

² Kocevski G. (2021). *Protecting Human Rights by Promoting Free Legal Aid*. Helsinki Committee for Human Rights.

I. The most common injuries and grounds for action in 2020

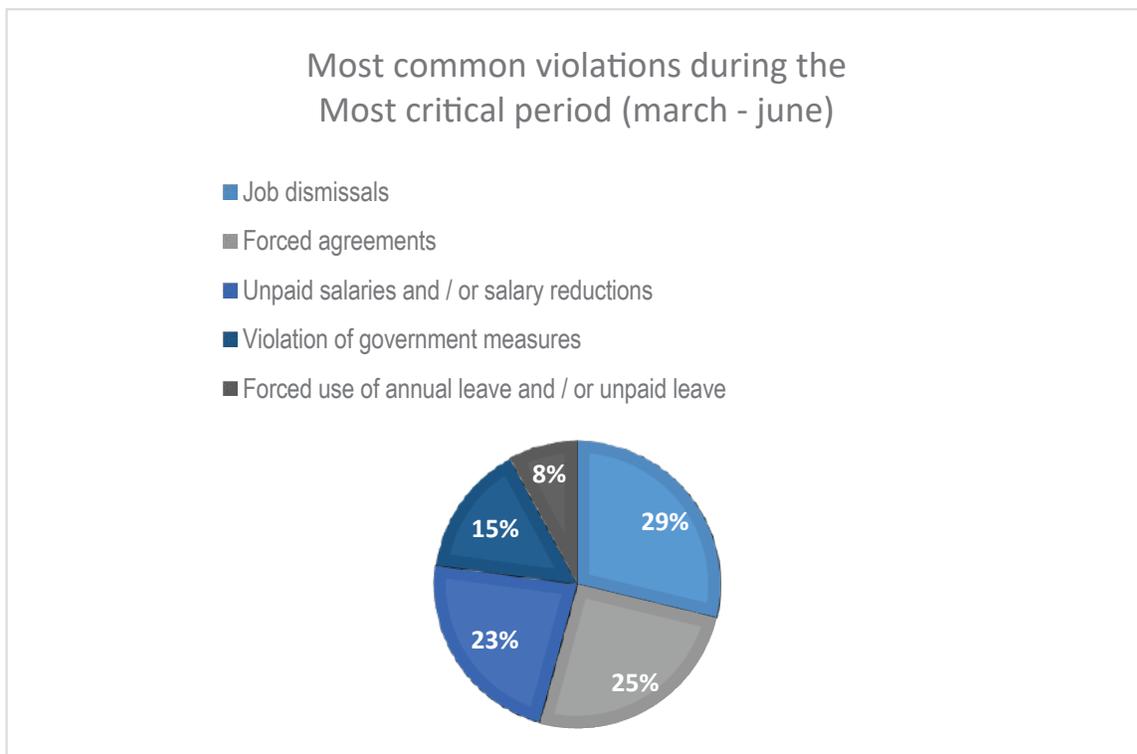
During 2020, we registered 395 cases of violations of labour rights, which covered at least 3368 workers in the country. Legal aid in documented cases consisted of legal counselling, informing workers of their rights, initiating administrative proceedings, guidelines for initiating litigation, and monitoring court proceedings.

Регистрирани случаи							Опфат на работници			
395							3368			
јануари	февруари	март	април	мај	јуни	јули	август - септември	октомври	ноември	декември
30/45	16/16	65/1583	85/920	20/218	31/31	27/27	42/400	23/23	21/70	35/35



During the year, we registered violations of labour rights related to:

- right to annual leave recourse;
- workplace injuries;
- initiating proceedings before the State Labour Inspectorate for protection of labour rights and/or conducting court proceedings for labour disputes;
- the proceeding for protection from harassment at work and
- overtime work.



The data collected on the labour crisis as a result of the pandemic show that the most characteristic violations of labour rights were the termination of employment contracts, forced settlement for termination of employment, illegal non-extension of fixed-term contracts; reduction and/or non-payment of salaries and non-compliance with government measures for prevention and protection against the coronavirus.

II. The impact of the COVID-19 crisis on labour rights

In December 2019, a new coronavirus appeared in the city of Wuhan, Hubei Province in the People's Republic of China, which soon began to spread to other parts of the world¹¹. The first positive case in Macedonia was registered on 26 February 2020. After several patients had been diagnosed with COVID-19, the Government adopted several measures and recommendations for protection and prevention against the coronavirus¹², and on 11 March 2020 the World Health Organization declared a pandemic.¹³

¹¹ World Health Organisation. (14 December 2020). *Timeline: WHO's COVID-19 response*. Available at: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/interactive-timeline#>.

¹² All measures and conclusions from the Government sessions related to prevention and protection against the coronavirus are available on the official website of the Government: <https://vlada.mk/covid19>.

¹³ World Health Organization. (18 March 2020). *WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020*. Available at: <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.

On 10 March, the Government adopted a measure that interrupted the educational process and teaching in all kindergartens and primary schools.¹⁴ At the same time, the Government decided that in order this measure to be implemented, one of the parents whose children are up to the age of ten and attend a kindergarten or primary school, will be released from work¹⁵. Immediately afterwards, the Government determined categories of people to be released from work and work activities due to certain health conditions.¹⁶ On 14 March, the Government recommended to all employers in the country, depending on the type of work and opportunities, to organize the work and the work tasks of the employees through the institute "work from home".¹⁷ On 18 March 2020, Macedonia declared a state of emergency throughout the country.¹⁸ As the number of the coronavirus cases increased, so did labour rights violations. Immediately after the introduction of the first measure by the Government, the Helsinki Committee registered the first irregularities reported by several workers.

Dismissals from work

Despite the need for solidarity and unity during such a crisis, many employers immediately resorted to terminating employment contracts without considering any other options. Thus, for example, the Company for production and post-production of video and film materials FHZH LLC Skopje notified 20 workers that their employment contracts would be terminated due to business reasons and that it would completely abolish one organizational unit. The employer informed the workers that: "...*The conducted analyses and all indicators do not imply the possibility of a significant change in this trend during this and the following years. Given that due to the global pandemic of the COVID-19 virus and the work of the largest Hollywood studios has been suspended indefinitely, these difficulties of the Company are further highlighted. With such a reduced volume of activities of this kind, the existence of this department within the overall organizational set-up of the Company is unsustainable and affects the overall rationality, economy, and efficiency of operations.*"

The incorrect attitude of the employers towards their employees and the asymmetric power between them were once again confirmed through the example of the Company for trade and services KAST INVEST LLC Skopje. The employer illegally and orally "terminated" the employment contracts of 120 employees due to business reasons. The employees were also notified that a bankruptcy procedure would be opened for the company. The termination contract did not contain any explanation regarding the business reasons for which their contracts were terminated. The employer, contrary to the Labour Relations Law,¹⁹ did not initiate a consultation procedure with the workers' representatives, at least one month before the beginning of the collective dismissal, nor did he provide the workers with all relevant information in order to reach an agreement.²⁰ The employer did not submit any notification to the service responsible for employment mediation regarding the planned collective redundancies and the consultations with the workers' representatives²¹. Consequently, the workers were not acquainted with the manner of implementation and the course of the procedure for termination of their employment contracts for business reasons, and therefore could not adequately protect their labour rights and legal interests. In addition, the employer did not specify the minimum notice period, which applies in the case of collective redundancies.²² Some of the workers did not receive a dismissal decision at all. In addition to the complaints, the workers also filed criminal charges with the competent Public Prosecutor's Office for violation of employment rights, through a lawyer hired by the Helsinki Committee for Human Rights. At the time of writing this report, there is still no response.

¹⁴ Government of the Republic of North Macedonia. (10 March 2020). Excerpt from the minutes taken during the Fifteenth Session of the Government of the Republic of North Macedonia, held on March 10, 2020. Available at: https://vlada.mk/sites/default/files/zakluchoci_covid-19.pdf.

¹⁵ Government of the Republic of North Macedonia (10 March 2020)

¹⁶ Government of the Republic of North Macedonia. (10 March 2020). Excerpt from the minutes taken during the Sixteenth Session of the Government of the Republic of North Macedonia, held on 10 March 2020. Available at: https://vlada.mk/sites/default/files/dokumenti/izadok_od_16_sednica_na_vrsm.pdf.

¹⁷ Government of the Republic of North Macedonia. (10 March 2020). Excerpt from the minutes taken during the Nineteenth Session of the Government of the Republic of North Macedonia, held on 10 March 2020. Available at: https://vlada.mk/sites/default/files/dokumenti/zaklucok_19_sednica_vrsm.pdf.

¹⁸ Decision on determining the existence of a state of emergency from 18 March 2020 of the President of the Republic of North Macedonia ("Official Gazette of the Republic of North Macedonia" no. 68/2020).

¹⁹ Labour Relations Law ("Official Gazette of the Republic of Macedonia" No. 62/05, 106/08, 161/08, 114/09, 130/09, 50/10, 52/10, 124/10, 47/11, 11/12, 39/12, 13/13, 25/13, 170/13, 187/13, 113/14, 20/15, 33/15, 72/15, 129/15, 27/16, 120 / 18 and "Official Gazette of the Republic of North Macedonia" No. 110/19).

²⁰ Article 95 paragraph 2 of the Labour Relations Law.

²¹ Article 95 paragraph 6 of the Labour Relations Law.

²² Article 88 paragraph 2 of the Labour Relations Law.

Due to the frequent mass layoffs of entire groups of workers, even with the appearance of the first violations, we appealed for the need for a moratorium on all terminations of employment contracts by employers (business reasons) and all salary cuts during the crisis.²³

Following the mass layoffs, employers circumvented public pressure and abused the state of emergency by influencing workers to terminate their employment through settlement. In April, a record of 265 workers reported to the Helsinki Committee that they had been forced to sign agreements to terminate their employment contracts. In this way, they were denied any access to a protection mechanism, and they remained to fight for a "naked" existence on the margins of the society. Another setback for them was the inability to earn cash benefits in case of unemployment because their employment was terminated amicably.²⁴ In response to this and given that the initial government measures failed to protect workers, the Committee, along with a dozen unions and other organizations, submitted a set of requests to the Government with appropriate concrete proposals for the implementation of each of them. In addition, the right to monetary compensation for unemployed persons in the crisis was requested to be exercised by those whose employment was terminated by their own statement, by agreement or due to alleged breach of discipline.²⁵

In May, the government presented the measure "Cash compensation for all those who lost their jobs from 11 March to 30 April 2020" as a compliance with the requirements of trade unions and civil society organizations.²⁶ This measure provided that all persons who lost their jobs, including those who terminated their employment through a written statement, by agreement or dismissal from the employer, would receive monetary compensation from the Employment Agency for a period of two months. The measure covered at least 8,000 workers whose livelihoods were seriously endangered because they were left without a single source of income.²⁷

Another group of workers who were cheated by their unscrupulous employers during the crisis are part-time workers. The employers decided that they no longer needed them, so after the end of the specified period, they did not extend their employment contracts. This is particularly worrying given that in 2018, 25.8% of employees were hired through fixed-term contracts, which means that every fourth employee in Macedonia is employed under this type of contract.²⁸ Legal employment contracts concluded for a definite period of time terminate upon the expiration of the period for which they occurred and the termination of the employment in this way does not constitute a violation of the labour legislation. However, the abuse of power by employers over workers whose fixed-term contracts expire during an economic crisis of this magnitude is a significant blow to the existence of one of the most vulnerable categories of workers.²⁹ For example, this is especially noticeable in the textile industry, where female workers often work on the basis of fixed-term employment contracts for a period of one month. This means that every month the fate of their employment is uncertain, and the fear of losing their job and livelihood violates the employee's right to a dignified job.

Reduction and/or non-payment of salaries

After the first months of the crisis layoffs began to decline but grew the number of complaints from workers who were not paid or their salary was reduced by as much as 50 percent, citing the "force majeure" institute. The

²³ Helsinki Committee for Human Rights. (2020, March 21). *Urgent Action against Dismissals during the Crisis*. Available at: <https://mhc.org.mk/news/itno-da-se-prezemat-merki-protiv-otpushanja-od-rabota-dodeka-trae-krizata/>.

²⁴ Drpljanin, V. (2020, December 2). *Pandemic Dismissals and the Right to Cash Benefits in the Event of Unemployment*. ResPublica. Available at: <https://respublica.edu.mk/mk/blog/2020-12-02-10-19-23>.

²⁵ Helsinki Committee for Human Rights. (2020, April 13). *Requests to the Government for the Protection of Workers and the Poor*. Available at: <https://mhc.org.mk/news/baranja-do-vladata-za-zashtita-na-rabotnicite-i-siromashnite/>.

²⁶ Government of the Republic of North Macedonia. (28 May 2020). *MLSP: Financial aid for all unemployed who received a termination of employment in the period from 11 March to 30 April*. Available at: <https://vlada.mk/node/21537?ln=mk>.

²⁷ Petkovska, N. (30 November 2020). *Overview of Government Measures for Prevention and Protection against Coronavirus and Their Impact on Labour Rights*. Helsinki Committee for Human Rights. Available at: <https://mhc.org.mk/reports/pregled-na-vladinite-merki-za-prevenczi%1%98a-i-zashtita-od-korona-virusot-i-nivnoto-vli%1%98anie-vrz-rabotnichkite-prava/>.

²⁸ Saveski Z. (16 March 2020). *Fixed-term Contracts - a Tool for Extorting Obedience*. Helsinki Committee for Human Rights. Available at: <https://mhc.org.mk/kolumni/dogovorite-na-opredeleno-vreme-alatka-za-iznuduvanje-pokornost/>.

²⁹ Saveski Z. (16 March 2020).

Ministry of Labour and Social Policy has given its interpretation to Article 112 of the Labour Relations Law. According to the Ministry, the employee is entitled to salary compensation for the entire period of leave, and the amount of compensation varies in different situations. Namely, the Ministry pointed out that in order to prevent the dismissal of workers, under certain circumstances workers can use the institute of "forced leave" with a salary compensation in the amount of 70 percent. Additionally, the Ministry interprets the institute of "force majeure" as a situation in which in order to prevent the spread of the coronavirus, the work of legal entities in certain activities was completely banned – hence, employers can use the provision of Article 112 paragraph 7 of the Labour Relations Law during the period in which there are no job opportunities and pay the workers compensation in the amount of 50 percent of the salary.³⁰

In this regard, it is inevitable to mention that the Constitution of the Republic of North Macedonia, as the highest legal act, provides that only the Assembly is competent for authentic interpretation of legal provisions.³¹ This interpretation is particularly worrying because the goal of a Ministry of Labour and Social Policy should be to ensure and establish safe, fair and harmonious practices and policies for workers in the workplace, which are essential for social and economic well-being.³² The announcement for the interpretation of this provision at the time of preparation of this report has been removed from the website of the Ministry.³³

The Federation of Trade Unions of Macedonia (SSM) reacted that the decisions of the Government, which completely banned the work of legal entities in certain activities, in order to prevent the spread of the coronavirus, are not a force majeure.³⁴ Hence, together with SSM, we asked the Government to adopt a decree that will regulate all workers' salaries i.e. not to be reduced by more than 20 percent during this crisis, as defined by the General Collective Agreement (GCA) for the private sector in the area of the economy.³⁵ In this case, the GCA for the private sector contains provisions that provide for more favourable rights for workers than the Labour Relations Law and they should be applied.³⁶

Since the beginning of the crisis, more than 700 workers have reported to the Helsinki Committee that they were not paid or had their salaries reduced last year. In addition, with the non-payment of salaries and contributions, in one of the most critical moments for human health, a huge number of workers and their families were left without health insurance.

Non-compliance with the measures for prevention and protection against the coronavirus

- Measure for releasing from work one of the parents of children up to the age of ten

One of the government's gender-sensitive measures to tackle the pandemic caused by SARS-CoV-2 was the allowing one of the parents who has children under the age of ten to stay at home. After the Government suspended the educational process and teaching in all kindergartens and primary schools in March 2020, for the purposeful implementation of this measure, the Government decided that one of the parents whose children attend kindergarten or primary school, children up to the age of ten, to be released from work. The data obtained through

³⁰ Saveski Z. (16 March 2020).

³¹ Article 68 paragraph 1 line 2 of the Constitution of the Republic of North Macedonia.

³² Drpljanin, V. (6 May 2020). *The Labour and Sweat are Ours, the Money and Capital Belong to 900 People in the Country*. ResPublica. Available at: <https://respublica.edu.mk/mk/blog/900> (last accessed on 10.03.2021)

³³ Pravdiko (15 April 2020). *MLSP: Compensation of Workers' Salaries During Forced Leave and Absence from Work due to Force Majeure*. Available at: <https://www.pravdiko.mk/mtsp-nadomestok-na-plata-na-rabotnitsite-za-vreme-na-prinuden-odmor-i-otsustvo-od-rabota-poradi-visha-sila/> (last accessed on 12.02.2021)

³⁴ Federation of Trade Unions of Macedonia (2020). *The Reaction of CCM to the Interpretation of the Labour Relations Law by the MLSP for Payment of the Salary Compensation*. Available at: <http://www.ssm.org.mk/mk/reakcija-na-ssm-na-tolkuvanajeto-na-zakonot-za-rabotnite-odnosi-od-strana-na-mtsp-za-isplata-na> (last accessed on 20.03.2021)

³⁵ Helsinki Committee for Human Rights (13 April 2020). *Requests to the Government for the Protection of Workers and the Poor*. Available at: <https://mhc.org.mk/news/baranja-do-vladata-za-zashtita-na-rabotnicite-i-siromashnite/>

³⁶ The employment contract, i.e. the collective agreement can determine the rights that are more favourable for the workers, than those determined by this law. – Article 12 paragraph 3 of the Labour Relations Law.

reports of violations of labour rights show that this measure was mostly used by mothers.³⁷ Workers faced situations in which employers did not release them from work obligations or, when they did, reduced their salaries. Some employers even threatened female workers with layoffs and non-renewal of fixed-term employment contracts. These were the most common violations of labour rights reported in our country in July 2020.

Such data have again brought to the surface gender inequality in our society, which is in fact a direct result of insufficient commitment and work in this field in the pre-crisis period.³⁸ This is evident in the data of the State Labour Inspectorate (SLI), which in the first months of the crisis, most often acted upon reports of violations of the measure of releasing from work one of the parents who have children up to the age of ten. These reports are represented by as much as 28 percent of the total number of reports for violation of workers' rights.³⁹

Employers tried to circumvent the legal rules for the payment of full salaries and/or minimum salaries to workers exempted from this measure and incorrectly referred to the institute of "forced leave". In this case, the employee is provided with a salary compensation in the amount of 70 percent of the salary, which means that the employee can receive compensation lower than the legally prescribed amount of the minimum salary. However, the State Labour Inspectorate was adamant that workers who use government layoffs receive full pay.

Measure for releasing from work obligations workers with chronic diseases

On 11 March 2020, the Government adopted the measure for determining the categories of persons who should be released from work and work activities due to certain health conditions. Among them were workers with chronic respiratory and severe cardiovascular disease, Type 1 diabetes, malignancies, and immune-compromising conditions. Based on this, the Ministry of Health and the Commission for Infectious Diseases prepared a list of diagnoses related to the abovementioned health conditions.⁴⁰

On the other hand, a state of emergency was declared five times in a row,⁴¹ with the exception of the period from 13 to 15 June. In these two days, all deadlines ran again, such as the deadlines in the employment procedures. A state of emergency was last declared from 15 to 22 June.⁴² Due to the insecurity that prevailed among the workers after the end of the state of emergency, the Government decided that even after the cessation of the state of emergency, the measures remain in force, which, among other things, relieve chronically ill workers from their work responsibilities.⁴³ During the period of this measure, the Committee registered 17 cases where workers continued to go to work at the request of their employers, contrary to the adopted measures. The other violations are related to non-payment of salaries and/or reduction of salaries of workers released from work under this measure.

³⁷ Petkovska, N. (30 November 2020). *Overview of Government Measures for Prevention and Protection against the Coronavirus and their Impact on Labour Rights*. Helsinki Committee for Human Rights. Available at: <https://mhc.org.mk/reports/pregled-na-vladinite-merki-za-preveniczi%20i%20zashtita-od-korona-virusot-i-nivnoto-vli%20i%2098anie-vrz-rabotnichkite-prava/>

³⁸ Bashevska, M. (2019). *Gender Equality Index in North Macedonia*. UNDP-UN Women.

³⁹ Petkovska, N. (30 November 2020). *Overview of Government Measures for Prevention and Protection against the Coronavirus and their Impact on Labour Rights*. Helsinki Committee for Human Rights. Available at: <https://mhc.org.mk/reports/pregled-na-vladinite-merki-za-preveniczi%20i%20zashtita-od-korona-virusot-i-nivnoto-vli%20i%2098anie-vrz-rabotnichkite-prava/>

⁴⁰ Ministry of Health (11 March 2020). *List of chronic diseases with diagnoses that are exempt from work responsibilities*. Available at: <http://zdravstvo.gov.mk/wp-content/uploads/2020/03/LISTA-NA-HRONICHNI-BOLESTI-SO-DIJAGNOZI-KOI-SE-OSLOBODENI-OD-RABOTNI-OBVRSKI> (last accessed 10.01.2021)

⁴¹ Decision on determining the existence of a state of emergency from 18.03.2020 by the President of the Republic of North Macedonia ("Official Gazette of the Republic of North Macedonia" no. 68/20120), Decision on determining the existence of a state of emergency from 17.04.2020 by the President of the Republic of North Macedonia ("Official Gazette of the Republic of North Macedonia" no. 104/2020), Decision on determining the existence of a state of emergency from 17.05.2020 by the President of the Republic of North Macedonia ("Official Gazette of the Republic of North Macedonia" no. 127/2020), Decision on determining the existence of a state of emergency from 31.05.2020 by the President of the Republic of North Macedonia ("Official Gazette of the Republic of North Macedonia" no. 142/20120), and Decision on determining the existence of a state of emergency of 15.6.2020 by the President of the Republic of North Macedonia ("Official Gazette of the Republic of North Macedonia" no. 159/2020).

⁴² Decision on determining the existence of a state of emergency from 15.06.2020 by the President of the Republic of North Macedonia ("Official Gazette of the Republic of North Macedonia" no. 159/20.20)

⁴³ Government of the Republic of North Macedonia (12 June 2020). *From the 65th session of the Government: The measures that release from work obligationa the parents who have children up to the age od 10 or children that are in the fourth grade remain in force; The malls will be open until 22:00*. Available at: <https://vlada.mk/node/21729> (last accessed on 10.01.2021)

Some employers cheated the measure by forcing workers to take sick leave and thus paid them a salary of 70 percent. The rest of the employers directly reduced the salaries of the chronically ill workers. One such example is a group of 200 chronically ill workers who reported that their employer reduced their salaries by 30 percent during the time they were released from work. Such a reduction in the salaries of those workers who are objectively unable to perform their duties is illegal, affects their and their families' livelihoods, and constitutes an abuse of the pandemic emergency. We reported the case to the State Labour Inspectorate, and after conducting an extraordinary inspection, it was determined that the employer had violated the labour rights. The employer followed the instructions, eliminated the irregularities, and gave the chronically ill workers their full salary.

Termination of the measures for prevention and protection against the coronavirus

At its fourth session, the Government decided that from 23 September 2020, ceases the validity of measures for prevention and protection against the coronavirus affecting chronically ill workers, employees who used the measure for extended maternity leave and parents of children up to the age of ten. Thus, the workers with chronic diseases who were dismissed from work, starting from 23 September returned to their jobs and to the regular performance of their work tasks. The only exception provided in this regard is in relation to people who have a malignant disease and/or to people whose disease is in a state of deterioration and can prove that with a confirmation of the findings and opinion of a specialist.⁴⁴

The measure for an extended maternity leave also ceased to apply, so the workers who were released from work on this basis, resumed their work tasks. This decision was made at the government session, despite the fact that only a few days earlier it was announced that the Commission for Infectious Diseases submitted to the Government a proposal for the validity of the measure for extended maternity leave to last until the end of the year.⁴⁵ Employees who used the measure to release a parent of a child up to the age of ten who attends classes at any level of the educational process in kindergarten or primary school also returned to their jobs. The release from work measure continued to apply only to pregnant workers.⁴⁶

Abuse of economic packages to deal with the crisis

To deal with the consequences of the coronavirus, the Government adopted four packages of economic measures that provide direct financial support to liquidity in micro, small, and medium companies by the Development Bank. So, the measures also referred to the support for the companies in the part of the payment of salaries by subsidizing the contributions for the employees in the affected companies. The measures were directly aimed at helping companies that achieved poorer financial results in 2020 due to the coronavirus.⁴⁷

According to the data of the Public Revenue Office, in April, 281 employers that received financial support in the amount of 9,995,565 million denars (about 162,300 euros), did not fulfil the obligation to pay salaries to 722 employees. In May, 427 employers did not pay salaries to 984 employees, although they received financial support in the amount of 13,698,998 million denars (or 222,430 euros). Other companies also cut the minimum wage to 52,465 workers and paid 1.5m euros less into their accounts.⁴⁸ The Public Revenue Office issued warnings for unpaid salaries to employers who used financial support but did not make a payment. Violations were also imposed

⁴⁴ Government of the Republic of North Macedonia (14 September 2020). *Fourth session of the Government: Employees dismissed according to the list of the chronically ill, with the exception of those with a confirmation from a specialist, all parents of children who have been dismissed so far return to work from 23 September*. Available at: <https://vlada.mk/node/22484> (last accessed on 10.01.2021)

⁴⁵ A1on (7 September 2020). *Infectious Diseases Commission: Maternity leave to be extended until the end of the year, and pregnant women to be released from work*. Available at: <https://a1on.mk/macedonia/komisija-za-zarazni-bolesti-porodilnoto-otsustvo-prodolzeno-do-krajot-na-godinata-od-rabota-oslobodeni-i-bremenite-zheni/> (last time accessed on 15.01.2021)

⁴⁶ Government of the Republic of North Macedonia (15 September 2020). *Pregnant women continue to use the measures adopted by the Government; starting from 23 September, the employees who used the measure for the extended maternity leave are returning*. Available at: <https://vlada.mk/node/22487?ln=mk> (last accessed on 15.01.2021)

⁴⁷ Government of the Republic of Macedonia (2020). *Government economic measures to deal with the COVID-19 crisis*. Available at: <https://vlada.mk/ekonomski-merki-covid19> (last accessed on 15.01.2021)

⁴⁸ Public Revenue Office (July 2020). *Analysis of utilization of the measure for financial support for salary payment for April and May 2020*. Available at: <http://www.ujp.gov.mk/mk/javnost/soopstenija/pogledni/808> (last accessed 14.12.2020)

on these employers, and the Office, in cooperation with the State Labour Inspectorate, conducted proceedings against the employers to pay them back the received funds in full.

Due to the data on the abuse of economic measures, together with several trade unions and citizens' associations, the Helsinki Committee reacted that in the future, the financial aid should be directed directly to workers, to avoid the possibility of re-abuse.⁴⁹ We appealed that the purpose of state financial support should be to preserve the jobs of workers, and not employers to illegally profit on their backs during the biggest health, social, and financial crisis today.

During August and September, the government announced that it was holding regular meetings with chambers, employers' organizations, trade unions, university professors, and practitioners to adopt the fourth package of economic measures.⁵⁰ The representatives of the chambers of commerce were pleased that they were involved in the creation of the measures this time and that the Government accepted a number of their proposals.⁵¹ In contrast, the needs of workers that were reflected in the demands of trade unions and civil society organizations were not considered in this package of measures. The financial measures that seem to be intended to help and support the workers, again did not pay off directly, thus leaving the real danger of recurrence of abuse.

Unlearned mistakes cost workers dearly and further endangered their livelihoods. In December, the Public Revenue Office published an Analysis of the financial support of employers for the payment of salaries to employees for the month of October 2020.⁵² A total of 179 employers who received financial support in the amount of 5,271,771 denars did not fulfil the obligation to pay the salary to 338 employees for October. At the employers that received state financial support, but did not pay the workers' salaries, the Administration and the State Labour Inspectorate announced that they would perform detailed controls.

The controls were expected to be followed by inspections at companies that paid a salary lower than the legally established minimum amount. The list of companies that abused state support was submitted to the General Secretariat of the Government, for public and transparent announcement of non-payers and it could not be changed, regardless of whether a taxpayer made a payment to its employees after the announcement.⁵³

At the end of December 2020, the fifth package of economic measures was announced, this time targeting companies. Problems and shortcomings that are ignored in the implementation of economic measures suggest that workers will once again bear the consequences of a corrupt system.⁵⁴

⁴⁹ Helsinki Committee for Human Rights (29 July 2020). *Criminal liability for companies that used state financial support and did not pay salaries to their employees*. Available at: <https://mhc.org.mk/news/krivichna-odgovornost-za-firmite-koi-koristele-drzhavna-finansiska-poddrshka-a-ne-im-isplatile-plati-na-svoite-vrbotenil>

⁵⁰ MIA (10 September 2020). *Zaev: The fourth package of measures covers the poorest; hiring back the fired workers, a new stimulant measure*. Available at: <https://mia.mk/zaev-so-chetvrtiot-paket-merki-opfateni-na-siromashnite-stimulativna-merka-ei-vra-ae-na-otpushteni-rabotnici/> (last accessed on 04.02.2021)

⁵¹ Government of the Republic of North Macedonia (25 September 2020). *The Chambers of Commerce are satisfied with the measures provided in the fourth package to support companies and citizens and with the fact that their suggestions and proposals have been accepted*. Available at: <https://vlada.mk/node/22624> (last accessed on 04.02.2021)

⁵² Public Revenue Office (14 December 2020). *Analysis of the financial support of the employers for the payment of salaries to the employees for the month of October*. Available at: <http://www.ujp.gov.mk/mk/javnost/soopstenija/pogledni/831> (last accessed 08.03.2021)

⁵³ Government of the Republic of North Macedonia. (15 December 2020). *Updated analysis of unpaid state aid for October for the minimum wage by the employers, beneficiaries of this aid* (15.12.2020). Available at: <https://vlada.mk/node/23553>. (last accessed on 08.03.2021)

⁵⁴ TV 21 (24 December 2020). *Prime Minister Zaev: The fifth package of measures is intended for the most affected, the state is here to help all citizens*. Available at: https://mk.tv21.tv/premierot-zaev-pettiot-paket-merki-e-namenet-za-najpogodenite-drzhavata-e-tuka-da-im-pomaga-na-site-gragani/?fbclid=IwAR20b1IPFZPmp5QUqTftu4ZwAkU-1EGHGZHe_Q1-X2UzbfQaFcfKob39g (last accessed 20.03.2021)

Field action for raising awareness about labour rights, Kicevo, 2020



III. The new Labour Relations Law

Despite the fact that the new Labour Relations Law started to be drafted in the first half of 2018, it had not yet entered the parliamentary procedure by the end of 2020. After a long period, on 23 September 2020 was held a coordination meeting of the working group for drafting this law. The working group for drafting the law agreed to act through weekly working meetings with the physical presence of the representatives of the relevant stakeholders. The Minister of Labour and Social Policy proposed to have one representative from each relevant stakeholder in the group, seeing the representative unions as separate stakeholders, and the civil society organizations as one, which means that the civil society organizations will act jointly, after previous mutual coordination meetings. The Helsinki Committee participates as a representative of the entire civil society sector.

At the coordination meeting, the attempt to reach a compromise on several controversial articles of the new law was discussed, on which the representatives of the workers and the Organization of Employers have opposing views. The meeting also discussed the need for more detailed elaboration of the parts of the law that will regulate flexible working hours and the institute "work from home" – a need imposed by the specific situation in which workers were found, caused by the spread of the coronavirus.

The Ministry of Labour and Social Policy shared its expectations that the new law will enter the parliamentary procedure in February next year and will be adopted in the first quarter of the year. In the second half of 2020, the work on the new Law was intensified and regular meetings of active stakeholders were held in the process of its preparation.

Some of the novelties to be introduced by the new Labour Relations Law:

- ✓ Expanding the definition of an employee: "**employee is any natural person who is part of an employment relationship and/or has an employment contract with an employer**".⁵⁵ In this way, the legal protection will cover the workers who do not have an employment contract but are in real employment. The expanded definition will protect citizens from vulnerable categories who are unfamiliar with the different types of contracts and the consequences they produce. In addition, in this way our labour legislation⁵⁶ will be harmonized with European legislation and ILO Recommendation No. 198 on employment.⁵⁷
- ✓ The possibility to **work remotely**, i.e. the employee to perform their work tasks **outside the employer's workplace**. Thereby, the employee will determine the working hours and rest periods and working remotely means that the employee will have daily and weekly rest. This new type of employment provides **greater flexibility in work** and is of particular importance to young people, students, parents caring for children and workers in certain professions such as the IT industry.
- ✓ **Fixed-term employment** can be concluded for a **maximum of three years** instead of five years as before and in this way more than 20 percent of the total number of employees cannot be employed within the same employer.
- ✓ **Increasing the deadline for appealing** against decisions where the employee considers that their right has been violated, from eight to **fifteen days**. These innovations will contribute to **effective access to justice for workers** while protecting their labour rights.
- ✓ Introduction of **parental leave**, which can be transferred **between mother and father** and used in their **mutual agreement**, for a period of nine months, i.e. fifteen months continuously. This will directly affect **the more equitable distribution of domestic responsibilities, the equal contribution to childcare and the presence of both parents in the labour market** and is of particular importance for **gender equality among workers**.
- ✓ **All unions will have the status of a legal entity**. For example, if in a company the workers decide to form a trade union, it will acquire the status of a legal entity at the moment of registration in the Central Register.
- ✓ Precise regulation and broader interpretation of the institute **equal pay for work of equal value**, instead of equal pay for equal work. This institute will also be applied to cases in which **men and women do different work with equal value**.
- ✓ **Increasing the statute of limitations for monetary claims from employment**, from three to **five years**, calculated from the day of occurrence of the obligation.

⁵⁵ Drpljanin, V. (October 26, 2020). *Invisible workers*. ResPublica. Available at: <https://respublica.edu.mk/mk/blog/2020-10-26-11-16-26> (last accessed on 15.03.2021)

⁵⁶ European Parliament and Council (5 July 2020). *Treaty on the Functioning of the European Union C-326/49 and Directive 2006/54/EC*.

⁵⁷ International Labour Organization (2019). *Recommendation No. 2, item 3 of the ILO Technical Memorandum*.

IV. Institutional protection of workers' rights

Based on the collected data through daily communication with employees, we monitor and analyse the work of the State Labour Inspectorate (SLI), as the primary institutional protection of employment rights. **During 2020, the Helsinki Committee submitted 90 requests to the State Labour Inspectorate.**⁵⁸ In 32 cases out of the total number of submitted requests, some violation of labour rights was determined, in 27 cases the response from the SLI was negative, and in 31 requests the Inspectorate did not submit a response. In only one case did the Inspectorate inform us that it had filed criminal charges against the employer for a workplace injury with fatal consequences.⁵⁹

The pandemic caused by COVID-19 and the labour crisis as its immediate consequence tested the functionality and effectiveness of the SLI. According to the report on the work of the SLI for the period January – June 2020, the Inspectorate in this period had 105 inspectors in the areas of labour relations and safety and health at work located in 30 areas. During this period, the SLI performed a total of 16,892 inspections, i.e. one inspector performed an average of 1 inspection per day.⁶⁰ Although during the state of emergency the SLI showed a positive trend of fast, up-to-date, and efficient action, the general conclusion is that it does not have sufficient human and material resources to act promptly and efficiently upon the submitted requests for extraordinary inspection. The current number of employees in the SLI is not adequate to deal with the workload, further increased during the crisis.⁶¹

Another institutional problem is that the SLI rarely uses the legal opportunity to initiate extraordinary inspections *ex officio*.⁶² This practice has improved during the state of emergency, especially for employers who worked during curfew.⁶³

During 2020, the Committee registered several cases where labour inspectors violated the principles of conduct in conducting inspections.⁶⁴ Namely, the inspectors are responsible if they fail to perform obligations or to take measures, which according to the law they were obliged to perform, i.e. to undertake, in the supervision procedure.⁶⁵ Therefore, the director of the State Labour Inspectorate was requested to initiate disciplinary proceedings against the inspectors who acted in these two cases, if they did not eliminate the irregularities. In one of these cases, we were informed that a disciplinary procedure had been initiated against the labour inspector who acted upon the request for extraordinary inspection.

⁵⁸ Requests for inspections and requests for information in registered cases of violation of labour rights.

⁵⁹ Helsinki Committee for Human Rights (19 December 2020). **The lack of a preventive culture for safety and health at work takes workers' lives.** Available at: <https://mhc.org.mk/news/nedostigot-na-preventivna-kultura-na-bezbednost-i-zdravje-pri-rabota-odzema-rabotnichki-zhivoti/>

⁶⁰ Jadrovski, I. (3 January 2021). *(In)efficiency of the State Labour Inspectorate in the protection of labour rights.* Helsinki Committee for Human Rights. Available at: <https://mhc.org.mk/reports/special-report/neefikasnost-na-drzhavniot-inspektorat-za-trud-vo-zashtitata-na-rabotnichkite-prava/>

⁶¹ Jadrovski, I. (3 January 2021).

⁶² Drpljanin, V. (11 March 2020). "Everything is in accordance with the Constitution and the laws." ResPublica. Available at: <https://respublica.edu.mk/mk/blog/e-1-3> (last accessed on 20.03.2021)

⁶³ Jadrovski, I. (3 January 2021).

⁶⁴ Helsinki Committee for Human Rights (22 January 2021). *Monthly report on human rights in the Republic of North Macedonia – December 2020.* Available at: <https://mhc.org.mk/reports/mesechen-izveshta%20d1%98-za-chovekovite-prava-vo-republika-severna-makedoni%20d1%98a-dekemvri-2020/>

⁶⁵ Article 9 of the Law on Labour Inspection ("Official Gazette of the Republic of Macedonia" No. 35/97, 29/02, 36/11, 164/13, 44/14, 33/15, 147/15 and 21/18).

FEMALE TEXTILE WORKERS

The International Labour Organization (ILO) has published a survey of the four sectors most affected by the crisis with the virus: housing and the food industry; real estate, business, and administrative sector; processing – textile industry; and trade. In 2020, 527 million women (or 41 percent of the total number of workers) were employed in these sectors, compared to 35 percent of the total number of male workers. This indicates that the crisis will hit the female workforce much harder, and in poorer countries there is a risk that many jobs will disappear in the manufacturing industry.⁶⁶ Women in our country are predominantly represented in the labour force in the textile industry,⁶⁷ which is by far the lowest paid industry, and textile workers often receive a salary that is not much higher than the minimum. Thus, the female workforce in this sector is among the most affected by the economic crisis caused by dealing with the pandemic.

In 2020, the Helsinki Committee provided legal and paralegal aid in 691 cases of textile workers whose rights were violated, in 16 cities in the country. In order to protect labour rights, we initiated 32 procedures for conducting extraordinary inspections, and in 12 of them violations were identified by the regional inspectorates. The paralegal aid mostly covered the eastern region: Delchevo (90), Kochani (61), and Shtip (56). Legal advice and/or information was most common in relation to the violations of the rights of the textile workers in Shtip, i.e. it covers 187 of the total number of cases. The fact that the workers in the textile industry were one of the most affected during this period is evidenced by the significantly increased number of reports of violations compared to the past three years. In 2017, 2018 and 2019, the total number of documented cases of violations of the rights of textile workers was 474.⁶⁸ **Compared to 2019, the number of reports in 2020 has increased by 329 percent.**

2017	2018	2019	2020
134	179	161	691

Women carry the burden when it comes to household chores and childcare, and in cities where the textile industry predominates as the main source of income, they are also the main sources of household income (*breadwinners*). Abuses of labour legislation and illegal payments of lower salaries due to improper referral to the institute of "forced leave",⁶⁹ meant that in the textile industry workers with children up to the age of 10, released from work obligations, in some cases, received a salary of about 7500 denars.⁷⁰ Hence, this illegal reduction of salaries meant that the female workers receive an amount that fails to meet the basic existential needs of a family.⁷¹ In one such case, a

⁶⁶ International Labour Organization (maj 2020). *The COVID-19 response: Getting gender equality right for a better future for women at work*. Available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_744374.pdf (last accessed on 12.01.2021)

⁶⁷ As much as 90 percent of the total number of employees in the textile factories in Shtip are women. Centre for Research and Policy Making (2006). *Macedonian Clothes for Europe*. Available at: <http://www.crpm.org.mk/wp-content/uploads/2012/03/MACEDONIAN-CLOTHES-FOR-EUROPE1.pdf> (last accessed on 01.01.2021)

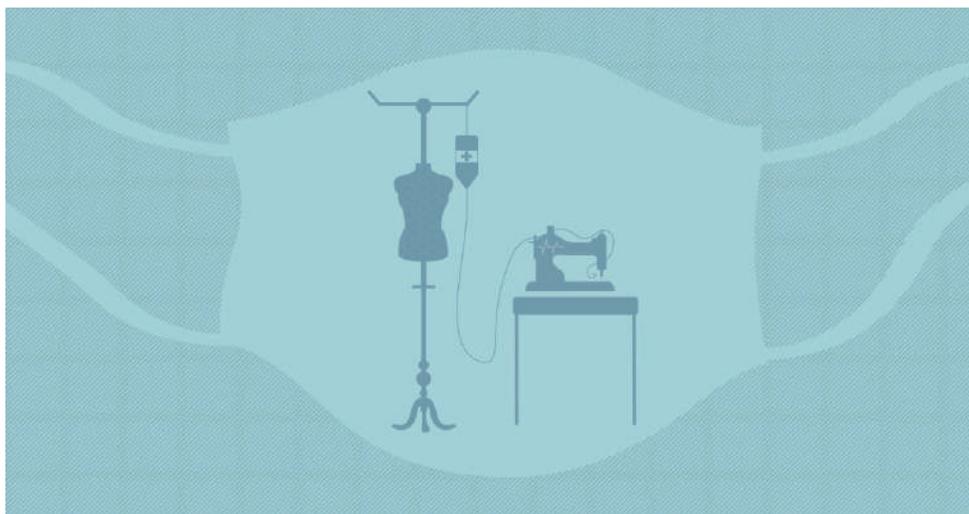
⁶⁸ In 2017 the number of applications was 134, in 2018 – 179 and in 2019 – 161. Jadrovski, I. (24 January 2020). **Analysis for provided legal and paralegal aid to textile workers in the period 2017 – 2019**. Helsinki Committee for Human Rights. Available at: <https://mhc.org.mk/publicationsanalyzes/analiza-za-obezbedena-pravna-i-parappravna-pomosh-na-tekstilnite-rabotnichki-vo-periodot-2017-2019/>

⁶⁹ In this case, the employee is provided with a salary compensation in the amount of 70 per cent of the salary, which means that the employee can receive compensation lower than the legally prescribed amount of the minimum salary. See more p. 7–8.

⁷⁰ Petkovska, N. (30 November 2020). *Overview of government measures for prevention and protection against the coronavirus and their impact on labour rights*. Helsinki Committee for Human Rights. Available at: <https://mhc.org.mk/reports/pregled-na-vladinite-merki-za-prevenciju-i-zashtita-od-korona-virusot-i-nivnotovlii%1%98anie-vrz-rabotnichkite-right/>

⁷¹ Petkovska, N. (30 November 2020).

textile worker – the mother of a child up to the age of ten – who was released from work responsibilities, was paid a salary by the employer in the amount of 50 per cent of the full amount of the salary for the months of April and May. At our initiative, the State Labour Inspectorate conducted an extraordinary inspection and found violations of labour rights. The employer followed the instructions given by the Inspectorate, removed the irregularities, and paid the employee the difference in the salaries for these months.⁷²



*Pandemic testimonies of textile workers by Medusa
author: Agnes Sarachini⁷³*

“With these trying times, with this corona that caught us, I go to work with fear; it's difficult to earn money for livelihood, let alone for medicine for my sick husband... I want to cry so much, even scream out loud, but I grit my teeth and I'm silent.”

“How many times in the morning when I go to work, I think of Racine's DAYS and with a lump of my soul I ask myself if it is possible for it not to fade over the years, but on the contrary, we say it more and more as if we were in primary school, but now as an essential reality of our lives.”

“I'm walking with my bag on my shoulder, and I feel like my legs are coming back, but my soul hurts, how will I endure the day when my thoughts will be at home, because the worries I have are big and painful, but when I have to, I have to!”

“We get on the bus, squeezed next to each other; distance? – nonsense!; precautions?; we wear masks, but we breathe next to each other, in each other's necks. Our bosses' excuse is that there are no buses, that there will be more the next day, that we will have enough distance from each other....”

“The space inside the plants is cleared so that we have space between us; we are given two, three masks and we wash them because there are no others, and we started buying gloves by ourselves; we whisper to each other in fear because someone might tell on us, might tell our supervisor, then the manager will find out, later the director... You work with your head down and you hear shouting: tell the women who are at home with small children to come to work, let them manage with their children as before, and those with older children have no reasons to sit at home, the children can look after themselves, and to tell them that we don't know how they are going to be paid.”

⁷² Petkovska, N. (30 November 2020).

⁷³ The struggle for existence of female textile workers, available on Medusa: <https://meduza.mk/fem-101/borbata-za-egzistentsi%D1%98a-na-tekstilnite-rabotnichki/> (last accessed 12.01.2021)

Measures to Protect Textile Workers' Health

*No worker is expendable. Every worker is essential, no matter what category is applied to them by States or businesses. Every worker has the right to be protected from exposure to hazards in the workplace, including the coronavirus*⁷⁴.

The neglect of labour regulations related to safety and protection at work has proved calamitous for textile workers. Immediately following the announcement to impose state of emergency in the first half of the year, the blatant non-compliance with the Government's and Ministry of Health's recommendations and measures, adopted for prevention and protection against the coronavirus, put textile workers' health and life at serious risk.

The consequences of employers' non-compliance with the measures were felt in several garment factories in Shtip. A total of five garment factories were closed in Shtip on June 1st, after the first garment factory was closed in this town in late May due to workers therein who had tested positive to COVID-19. The Shtip Municipal Crisis Staff proposed closing garment factories on the same day when the municipality recorded 27 COVID-19 positive cases – the highest number of cases thus far. This decision was approved by the Infectious Diseases Commission and the Government Crisis Staff. Notably, several COVID-19 positive cases have been registered in the five garment factories, which have approximately 500 employed textile workers.

The employers organized joint transportation for the workers to and from work, whereby they were transported together with COVID-positive workers from another factory, thus contributing to virus transmission. What is more, the employers and the transporters did not comply with the Decree with Legal Force on Application of the Law on Transportation in Traffic during State of Emergency⁷⁵, which anticipated that when transporting passengers by means of public transport during state of emergency, the transporter is obliged to organize the transport in the vehicle by instructing the passengers and the crew to wear masks in the vehicle, regularly disinfecting the vehicles and ensuring distance of at least two meters between passengers. The Decree anticipated that public transport vehicles may have at most 50 percent of passengers from the total number of seats, not including the driver's seat.

The Mayor of the Municipality of Shtip, Blagoj Bocharovski, announced that half (55) of the 110 workers employed with the first garment factory tested positive to the coronavirus⁷⁶. Thus, the State Labour Inspectorate, in coordination with the police, conducted enhanced controls on the territory of the Municipality of Shtip, where the main Coordinative Crisis Staff announced that all textile and leather factories must shut down during the lockdown period. From the enhanced controls, it was observed that employers in these fields in Shtip fully complied with the order.⁷⁷

However, media reported testimonies of workers from these factories talking about the pressure they suffered from their employers during this period: *"They told me – infected or not, you will come to work, and whoever survives – survives. I decided not to go to work, but I don't know who will feed the children, who are left without a father"* and *"There's no proving to them how afraid we are. We travel in the bus that was used to transport five COVID-positive women. I'm afraid I would be left penniless if they find out we complain, and I have two children"*. Employers did not provide textile workers with protective masks, disinfectants, nor with the opportunity to maintain the required two-meter

⁷⁴ The Office of the United Nations High Commissioner for Human Rights (2020, May 18). *Every worker is essential and must be protected from COVID-19, no matter what*. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25892&LangID=E> (last accessed on 17.2.2021)

⁷⁵ Government of the Republic of North Macedonia (May 29th 2020). *Decree with Legal Force Amending the Decree with Legal Force on Application of the Law on Transportation in Traffic during State of Emergency*. Official Gazette of the Republic of North Macedonia no.140.

⁷⁶ Sakam da kazham (June 1st 2020). *Five Garment Factories Closed in Shtip Following Announcement of 27 COVID-19 Positive Cases*. Available at: <https://sdk.mk/index.php/dopisna-mrezha/zatvoreni-5-konfektsii-vo-shtip-otkako-denes-se-registrirani-novi-27-sluchai-na-kovid-19> (last accessed on 20.12.2020)

⁷⁷ Government of the Republic of North Macedonia (June 5th, 2020). *From 61st Government session: Adopted programme for financing programme activities of associations and foundations for measures to handle the COVID-19 crisis*. Available at: <https://vlada.mk/node/21647> (last accessed on 22.2.2021)

distance, given that they had been forced to travel by several buses.⁷⁸ No data is available on whether the State Labour Inspectorate filed appropriate charges for such gross violation of workers' rights, which reaches a level of cruel, inhuman and degrading treatment.

Our employers ignored our calls for preventive and precautionary measures and continued to circumvent legal obligations to ensure workplace safety and health for employees, from every work-related aspect. These obligations are particularly highlighted during a pandemic, which is a threat to the workers' lives. Still, during 2020, the employers were not held responsible for the blatant non-compliance with their obligations and no criminal charges were filed against them.

Violations of workers' rights are also violations of women's rights, which further confirms the multidimensional and intersectional character of this crisis. Hence, any solution that does not take into consideration the class and gender as intertwined and cross-cutting elements is inadequate for handling and preventing the consequences. Women are structurally oppressed by the very fact that they constitute the majority of the labour force in an industry that is among those offering the lowest paying jobs. In addition, during a crisis of these proportions, they are most likely to be affected because the system, created to allow and put them in such a submissive and oppressed position, does not offer any mechanisms for their protection.⁷⁹

РАБОТНИЦИТЕ ДА НЕ ПОТПИШУВААТ ПРИНУДНИ СПОГОДБИ ИЛИ БЛАНКО-ЛИСТОВИ!

ПРЕД ПОТПИШУВАЊЕ НА КАКОВ БИЛО ДОКУМЕНТ ИМАШ ПРАВО ДА СЕ КОНСУЛТИРАШ СО АДВОКАТ И/ИЛИ ПРАВНИК.

Обрати се за правна помош во Хелсиншки комитет за човекови права
02 3119 073 и 072 278 436
 helkom@mhc.org.mk

ПОВИК ЗА ПРИЈАВУВАЊЕ НА

БЕСПЛАТНА ОБУКА ЗА РАБОТНИЧКИ ПРАВА

ДИСКРИМИНИРАН/А СИ НА РАБОТНОТО МЕСТО?
ТРПИШ МОБИНГ?

ДОКОЛКУ ТЕ ИНТЕРЕСИРА ПОСТАПКАТА ЗА ЗАШТИТА ОД МОБИНГ И ПОСТАПКАТА ПРЕД КОМИСИЈАТА ЗА СПРЕЧУВАЊЕ И ЗАШТИТА ОД ДИСКРИМИНАЦИЈА

ПРИЈАВИ СЕ НА БЕСПЛАТНА ОНЛАЈН ОБУКА!

17 ФЕВРУАРИ 2021

18:00 - 19:00

1. Прати мејл со име и презиме на metstata.petkovska@mhc.org.mk
 2. Ке добивеш потврден мејл со линк од ZOOM платформата и понатамошни инструкции.

ПРИЈАВУВАЊЕТО ТРАЕ ДО 16 ФЕВРУАРИ 2021 ГОДИНА

ХЕЛСИНШКИ КОМИТЕТ ЗА ЧОВЕКОВИ ПРАВА

Оваа промоција е подготвена со поддршка на проектот „Поддршка на работниците во време на пандемија“ и проектот „Финансирање на Философски Центар за истражување на човекови права“ од Фондацијата „Отворена Македонија“.

⁷⁸ A1on (June 4th, 2020). *Employers to workers in Shtip: Infected or not, you will come to work, and whoever survives – survives*. Available at: <https://a1on.mk/macedonia/gazdite-kon-rabotnichkite-vo-shtip-zarazeni-nezarazeni-kje-sedite-tuka-koj-prezhivee-prezhivee/?fbclid=IwAR2bZKi0qVc5Am4oMGjwtklsA3qeXLrsehgcxvWfi41VVEqLdelWrwduHU> (last accessed on 26.2.2021)

⁷⁹ Petkovska, N. (November 30th, 2020).

DISCRIMINATION

During 2020, we received 38 unequal treatment complaints. Of those, 30 concerned discriminations on one discrimination basis: 18 complaints on sex-based discrimination, 5 on gender-based discrimination, 4 on disability-based discrimination, and one complaint concerning discrimination based on healthcare status, education and religion, respectively. Additional 8 complaints concerned multiple or inter-sectoral discrimination cases: six complaints on ethnicity and race-based discrimination, one complaint on sex-based discrimination, and one on gender-based discrimination, discrimination based on sexual orientation, social status, family and marital status, respectively.

The painstaking process of legislative antidiscriminatory regulation

The Law on Prevention and Protection against Discrimination was finally adopted on October 27th, 2020, and entered into force upon publication thereof in the Official Gazette of the Republic of North Macedonia on October 30th, 2020⁸⁰. The legal regulation of the protection against discrimination underwent a rather painstaking process whose consequences mostly affected those that should be protected by these regulations.

Repeal of the 2019 Law on Prevention and Protection against Discrimination

The Law on Prevention and Protection against Discrimination was lodged to Parliament in May 2018, adopted on May 16th 2019 and entered into force on May 23rd of the same year. A year later, the Constitutional Court repealed the Law on its 14th Court session held on May 14th, 2020⁸¹. The Constitutional Court adopted the decision to repeal the Law on Prevention and Protection against Discrimination in the midst of state of emergency imposed over the entire territory of the country, as result of the COVID-19 pandemic. Notably, this occurred in times when the country was led by a technical Government and had a dissolved Parliament. This meant that the most marginalized groups of people in the country were left with no protection.

The Constitutional Court initiated a proceeding to assess the constitutionality of the Law on Prevention and Protection against Discrimination, following an initiative lodged by the Commission for Protection against Discrimination in January 2020. Notably, the initiative was aimed at examining the Law's compliance with Article 75 paragraph 3 of the Constitution of the Republic of North Macedonia. Article 75 covers the proceeding for promulgation of laws by decree. Paragraph 3 under this Article anticipates that the Parliament shall reconsider the law and, should it be adopted by majority of votes from the total number of MPs, the President of the Republic shall sign the decree.⁸² As result of this Constitutional Court decision, in cooperation with the Blueprint Judicial Reform Group, a review was conducted of the entire proceeding before the Constitutional Court, and it concerned procedural and substantive omissions.

Procedural omissions

The Court made a procedural omission by failing to verify the procedural presumptions for conducting the proceeding. At the time, the Commission for Protection against Discrimination did not exist as a legal entity, and thus did not have the right to lodge initiatives to the Constitutional Court. The 2019 Law stipulated that the mandate of Commission members ends on the date of the Law's entry into force, whereby the members would continue their work until election of new members, but no longer than three months.⁸³ The Commission, acting as initiative lodger, ceased

⁸⁰ Law on Prevention and Protection against Discrimination ("Official Gazette of the Republic of North Macedonia no. 258/2020" dated 30.10.2020).

⁸¹ Constitutional Court of the Republic of North Macedonia. (May 14th 2020). *Decision U.no.115/2019-1*. The entire decision is available at: <http://ustavensud.mk/?p=19246>.

⁸² Article 75 paragraph 3 of the Constitution of the Republic of North Macedonia.

⁸³ Article 48 paragraph 1 of the Law on Prevention and Protection against Discrimination ("Official Gazette of the Republic of North Macedonia no.101/2019" dated 22.5.2019).

its operations after the expiration of three months from the date on which the Law entered into force – August 21st, 2019. At that moment, the procedural presumption of the initiative lodger’s legal entity status ceased to exist, and the Constitutional Court was obliged to stop the proceeding, pursuant to the Rules of Procedure thereof.⁸⁴

Material omissions

For the Constitutional Court, the disputed law was unmistakably and unequivocally contrary to Article 75 paragraph 3 of the Constitution. The reasoning behind this position was based on the fact that the matter in question concerned adoption of a law that is reconsidered by the Parliament and that was returned to Parliament because the President of the Republic did not sign the Law Decree. The Court found that, in such cases, pursuant to Article 75 paragraph 3 of the Constitution, the Law must be adopted by absolute majority of votes, meaning that at least 61 MPs should vote for adoption of the law.

The Constitutional Court explained that, should the President of the Republic decide not to proceed with signing a law, as was the case with this specific occasion, the law is then returned to Parliament for reconsideration and, if the Parliament adopts the law by majority of votes from the total number of MPs (absolute majority), the President of the Republic must sign the Decree. Hence, according to the Court, it is clear that the basic criteria for adoption of the returned law is by absolute majority of votes, i.e. the law must receive at least 61 votes to be validly adopted. In addition, the Court states that the President of the Republic has no right to veto laws adopted by two-third majority of votes from the total number of MPs (qualified majority), pursuant to the Constitution.

In this specific case, on March 18th 2019 the President of the Republic informed the Parliament on his decision not to proceed with signing the Decree Promulgating the Law on Prevention and Protection against Discrimination, passed at Parliament session held on March 11th 2019. Once again, the Law was put on the agenda to be voted during the 94th Parliament session held on May 16th 2019. During the session, a total of 55 MPs voted “for” adoption of the Law, with no votes “against” and “abstained”. Given that of the required 61 votes (absolute majority), only 55 MPs voted for adoption of the Law, the Constitutional Court ruled that the Law was contrary to the Constitution of the Republic of North Macedonia.

Notably, Article 75 of the Constitution does not stipulate prohibition or obstacle for the President to sign a decree of a law. This provision does not regulate the issue of majority needed to adopt a law, but rather only focuses on the issue of adoption of laws⁸⁵. In addition, according to the President of the Constitutional Court, account should also be taken of the language used in the provision, i.e. of the used term “adopted” instead of the term “passed” used in the Constitution in the context of majorities of votes needed to adopt laws, which, according to the President, is a fundamental difference.⁸⁶ Notably, the Constitution does not anticipate a separate majority for adoption of this law. Thus, if the President had decided to sign it, there is no obstacle thereto in terms of Article 75. Paragraph 3 of this Article does not stipulate that a law adopted by simple majority must be adopted by absolute majority when it is adopted for the second time, in cases when the President of the Republic had decided not to sign the decree. This provision highlights the obligation and duty of the President to sign the decree promulgating a law adopted by absolute majority during the process of reconsideration thereof. This means that absolute majority is anticipated solely as a duty of the President for signing a decree of a law that was adopted with the stipulated majority.⁸⁷

⁸⁴ The Constitutional Court shall terminate the procedure if procedural assumptions for further conduct thereof terminate during the procedure. - Article 47 paragraph 1 indent 5 of the Constitutional Court Rules of Procedure (“Official Gazette of the Republic of Macedonia no.70/1992”).

⁸⁵ This is also regarded in the Separate Opinion on case U.no.115/2019 of the President of the Constitutional Court of the Republic of North Macedonia – Sali Murati, dated May 14th 2019. The entire opinion is available at: <http://ustavensud.mk/?p=19247>

⁸⁶ *Ibid.*

⁸⁷ Blueprint Judiciary Reform Group (June 12th 2020). *When law keepers fail, citizens bear the burden*. Available at: <https://mhc.org.mk/news/odluka-za-ukinuvanje-na-zakonot-za-sprechuvanje-i-zashtita-od-diskriminaczija/>

On the new Law on Prevention and Protection against Discrimination adopted in 2020

As a result of the situation whereby the Law on Prevention and Protection against Discrimination was repealed when the Parliament was dissolved, there was an urgent need to adopt a new law immediately after parliamentary elections scheduled to take place on July 15th 2020. Taking into account the state-of-affairs in the country prior to the elections, citizen associations turned to political parties participating in the parliamentary elections and urged them to support the Declaration on Priority Adoption of the Law on Prevention and Protection against Discrimination by the Future Parliament Composition.⁸⁸ The underlying aim of the Declaration was to oblige the political parties to adopt the Law immediately after establishment of the Parliament of the Republic of North Macedonia without any additional delays and to elect the new members of the Commission for Prevention and Protection against Discrimination, pursuant to the law-stipulated deadline. A total of 17 political parties signed this Declaration on Priority Adoption of the Law.⁸⁹

The Helsinki Committee, together with other civil society organizations, gave its contribution in the process of adoption of the Law in parliamentary procedure. Being cautious due to previous experiences, when election of members of the Commission for Prevention and Protection against Discrimination was followed by a series of omissions (such as non-compliance with law-stipulated deadlines for announcement of call and election, the practice of non-publication of CVs of candidates and non-publication of files from initial verification of candidacies), we supported lodging an amendment to the Law related to the procedure for election of Commission members. Notably, on October 21st 2020, session of the Commission for European Affairs and the Parliament Legislative Committee included a second reading of the Law and review of lodged amendments. None of the lodged amendments was adopted. One of the lodged amendments was the amendment to Article 18, lodged by MPs Maja Morachanin and Miroslav Bogdanovski, which was also advocated by the Network for Protection against Discrimination. Namely, Article 18 of the Law on Prevention and Protection against Discrimination regulates the procedure for election of Commission members. The aim of the lodged amendment was to guarantee the Commission's independence, to ensure transparent and inclusive election procedure that would be in line with all international standards and recommendations, as well as with the Venice Commission opinion⁹⁰.

The proposed amendment to Article 18 was initially accepted and proposed by the Ministry of Labour and Social Policy, but the Government rejected it and submitted the Proposed Law with the same text adopted in 2019, without providing a rationale thereto⁹¹. Nonetheless, long after the parliamentary elections, the Parliament adopted the Law on Prevention and Protection against Discrimination on October 27th 2020. The Law entered into force on October 30th 2020.

⁸⁸ Network for Protection against Discrimination et al. (July 1st 2020). *Call for political parties to sign the Declaration on Priority Adoption of the Law on Prevention and Protection against Discrimination by the Parliament of the Republic of North Macedonia*. Available at: <https://mhc.org.mk/news/povik-do-politichkite-partii-za-potpishuvanje-na-deklaracija-za-prioritetno-donesuvanje-na-zakonot-za-sprechuvanje-i-zashtita-od-diskriminacija-od-strana-na-sobranieto-na-republika-severna-makedonija/>

⁸⁹ Political parties – signatories of this Declaration are the following (in Macedonian alphabetic order): Alliance for Albanians, VMRO-DPMNE, Glas za Makedonija, DEMOKRATI, Democratic Union (DS), Green Party Democratic Renewal of Macedonia (DOM), Liberal Democratic Party (LDP), New Social Democratic Party (NSDP), United Party for Equality of Roma (OPER), Party for Movement of the Turks (THP), Party for Democratic Prosperity of Roma (PDPR), Party for Economic Change 21 (PEP21), Party of Pensioners (PP), Party for Full Emancipation of Roma (PCER), Roma Alliance of Macedonia, Social Democratic Union of Macedonia (SDSM) and Your Party. – Network for Protection against Discrimination (July 11th 2020). *17 political parties signed the Declaration on Priority Adoption of the Law on Prevention and Protection against Discrimination*. Available at: <https://mhc.org.mk/news/17-politichki-partii-ja-potpishaa-deklaracijata-za-prioritetno-donesuvanje-na-zakonot-za-sprechuvanje-i-zashtita-od-diskriminacija/>

⁹⁰ European Commission for Democracy through Law (Venice Commission) (2018, March 18). Opinion no. 915 / 2018 on the Draft Law on Prevention and Protection against Discrimination. Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad\(2018\)001-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad(2018)001-e)

⁹¹ Network for Protection against Discrimination (October 28th 2020). *The Commission for Prevention and Protection against Discrimination remains to be elected by partisan agreement?!* Available at: <https://mhc.org.mk/news/komisijata-za-sprechuvanje-i-zashtita-od-diskriminacija-ostanuva-da-se-izbira-po-pat-na-partiski-dogovor/>

Amendments anticipated under the new Law

Some of the amendments anticipated under the new Law included expansion of the list of grounds of discrimination, by including sexual orientation and gender identity in this list; increase of deadlines anticipated for lodging complaints to the Commission for Prevention and Protection against Discrimination; introduction of segregation as new type of discrimination; reduction of the duration of the procedure after a lodged complaints, among others.



Во законот од 2020 година нов вид на дискриминација е **сегрегацијата**, која значи физичко одделување на лице или група лица врз дискриминаторска основа без легитимна или објективно оправдана цел. Воведена е и **интерсекциската дискриминација**, која претставува дискриминација врз две или повеќе дискриминаторски основи што се истовремено и неразделно поврзани.



Законот од 2020 година во таксативно наборените основи за дискриминација ги содржи и **сексуалната ориентација и родовиот идентитет, потеклото, националната припадност и политичко уверување.**



Претставка може да се поднесе **најдоцна во рок од шест месеци од денот кога била сторена повредата или најдоцна една година од дознавањето за актот на дискриминација.**

Комисијата дава мислење за наводната дискриминација во рок од **60 дена од денот на поднесувањето на претставката.**

Лицето на кое препораката е упатена, е должно да постапи по препораката и да ја отстрани повредата на правото во рок од **30 дена од денот на приемот на препораката** или во подолг рок, доколку постојат причини за тоа, но не подолго од шест месеци. Во спротивно Комисијата има законска обврска да поднесе барање за повредување на прекршочна постапка пред надлежен суд за прекршоци.*



Комисијата согласно законот од 2020 година има 26 таксативно наборени надлежности и овластувања кои се однесуваат на:

- засилување на превентивната функција,
- зголемено учество при изготвување на закони и политики од областа на недискриминацијата,
- проширени надлежности за постапување по службена должност во случаи на дискриминација,
- активно учество и иницирање судски постапки за заштита од дискриминација.

About the Commission for Prevention and Protection against Discrimination

As a mechanism for protection, the Commission for Prevention and Protection against Discrimination was unavailable to citizens since August 2019 and during the entire 2020, thereby decreasing effective protection against discrimination. With its entry into force, the new Law on Prevention and Protection against Discrimination imposed the need to elect members of the Commission for Prevention and Protection against Discrimination as a body anticipated under the Law. Notably, the Law stipulates that the Parliament will announce the public call on election of Commission members within 15 days from the date of entry into force thereof.⁹² On November 24th 2020, the Parliament adopted a Decision to announce a public call for election of members of the Commission for Prevention and Protection against Discrimination, whereby the call was open 30 days after announcement thereof.⁹³

During this entire period since the adoption of the Law, together with other civil society organizations, the Helsinki Committee actively monitored the process of election of Commission members.⁹⁴ Given the lack of transparency in the election of partisan and non-professional individuals as members in the previous two Commission mandates, the Network for Protection against Discrimination requested the Parliament to conduct a transparent, accountable and fair procedure for election of eligible members, taking into account their quality and experience in the field.

In addition, timely and consistent provision of information about the developments in the procedure was requested for citizens, citizens' association and media. One of our requests were also conducting a public discussion whereby member candidates would be introduced and citizens' associations, media and other interested parties would have the opportunity to ask the candidates questions and to discuss after election thereof. To attain this, it was necessary for the Parliament to publish the CVs of the applied candidates on its designated website before the public discussion. For full transparency of the procedure, one request also concerned live broadcasting of the public discussion, i.e. the hearing/interviewing process of candidates who have applied to the call, on the Parliament TV channel. Referring to Article 16 paragraph 5 under the Law, which stipulates that Commission members should reflect the constitution of society as a whole, the Network for Protection against Discrimination requested that the Parliament take in to consideration the principles of adequate and equitable representation of all groups and communities, as well as gender-balanced participation and election of individuals who are in no way connected to political parties.⁹⁵

At the time of preparation of this report – February 2021, the Commission for Prevention and Protection against Discrimination has been established. Notably, with 61 votes for, and no votes against or abstained, on January 25th 2021 the Parliament adopted the decision on election of the seven Commission members.

⁹² Article 45 paragraph 1 of the Law on Prevention and Protection against Discrimination ("Official Gazette of the Republic of North Macedonia" no.258/2020 dated 30.10.2020).

⁹³ Decision to announce public call on election of members of the Commission for Prevention and Protection against Discrimination ("Official Gazette of the Republic of North Macedonia" no.279/2020).

⁹⁴ Network for Protection against Discrimination (September 19th 2020). *The Network for Protection against Discrimination requests transparent election of CPPD members*. Available at: <https://mhc.org.mk/news/mrezhata-za-zashtita-od-diskriminacija-bara-transparenten-izbor-na-chlenovi-na-kszd/>. Network for Protection against Discrimination (October 28th 2020). *The Commission for Prevention and Protection against Discrimination remains to be elected by partisan agreement?! Available at: https://mhc.org.mk/news/komisijata-za-sprechuvanje-i-zashtita-od-diskriminacija-ostanuva-da-se-izbira-po-pat-na-partiski-dogovor/*

Network for Protection against Discrimination (November 17th 2020). *The Parliament should urgently initiate procedures for election of members of the Commission for Prevention and Protection against Discrimination and New Ombudsman*. Available at: <https://mhc.org.mk/news/sobraniето-itno-da-gi-zapochne-postapkite-za-izbor-na-chlenovi-na-komisijata-za-sprechuvanje-i-zashtita-od-diskriminacija-i-nov-naroden-pravobranitel/>

⁹⁵ Network for Protection against Discrimination (December 23rd 2020). *We request the Parliament to elect professional and independent members of the Commission for Prevention and Protection against Discrimination in a transparent procedure*. Available at: <https://mhc.org.mk/news/baramе-sobraniето-vo-transparentna-postapka-da-izbere-profesionalni-i-nezavisni-chlenovi-na-komisi%20d1%98ata-za-sprechuva%20d1%9ae-i-zashtita-od-diskriminaczi%20d1%98a/>

SYSTEMIC DISCRIMINATION OF ROMA CONTINUES

Roma are among the most vulnerable groups amidst a pandemic, given that many do not have access to clean and safe drinking water and sanitation, which, in turn, prevents effective compliance with recommended hygiene measures as key for ensuring protection against the coronavirus.⁹⁶ Given this fact, and taking into account that vulnerable and marginalized groups of citizens do not have equal opportunities to practice preventative hygiene measures for protection against the coronavirus, such as hygiene maintenance, physical distance and self-isolation, civil society organizations lodged a series of requests on adopting measures that would be adapted and would suit the needs of these citizens.⁹⁷ Some of the lodged requests included:

- Request to promote protection of the population of the Municipality of Shuto Orizari against spread of the COVID-19 pandemic by adding testing, disinfection and information point;
- Request to take preventative measures to prevent the spread of the COVID-19 pandemic in the Municipality of Shuto Orizari;
- Request to take preventative measures to prevent the spread of the COVID-19 pandemic in substandard settlements and substandard habitats in the Republic of North Macedonia.⁹⁸

Police brutality and racial profiling of Roma

Since the beginning of the pandemic, the public was left agitated by the case of a group of musicians – Roma, who took an organized trip back from Italy. They were taken to quarantine in Pepelishte, and after reactions of poor accommodation conditions, they were transferred to other rooms located in Demir Kapija. On the other hand, all remaining passengers (around 200) who entered the country that day were instructed to quarantine in their homes. In addition to the evident racial profiling, the past year also noted serious incidents that speak volumes of the presence of racist prejudice in police officers, which leads to self-willed, unprofessional and illegal conduct.

Police brutality against the homeless

On June 10th 2020, several media outlets published an article that featured statements of persons who have been victims of police violence. The persons in question were homeless, members of the Roma ethnic community, who lived nearby the PDIF building in Skopje. The event occurred during curfew when, according to the persons affected, approximately 20 members of the intervention police unit used physical force against persons that were found at the aforementioned location, including against women, children and elderly persons who were not involved in the case. Suzana Demir, who was left with bruises on her arms as a result of the battery, in an interview for CIVIL Media stated that “[police officers] gave no regard to who they are hitting, whether those were men, women, elderly people or children”.⁹⁹ The Ministry of Interior informed the media that police officers employed with PS Aerodrom took measures and activities to handle breaches of curfew order by a group of citizens who were gathered in a public location and disturbed the public order and peace by playing loud music.¹⁰⁰ According to Mol’s statement, five persons physically

⁹⁶ Council of Europe Commissioner for Human Rights (2020, April 7). *Governments must ensure equal protection and care for Roma and Travellers during the COVID-19 crisis*. Available at: <https://www.coe.int/en/web/commissioner/-/governments-must-ensure-equal-protection-and-care-for-roma-and-travellers-during-the-covid-19-crisis> (last accessed on 20.3.2021)

⁹⁷ Helsinki Committee for Human Rights et al (May 5th 2020). *(Ir)responsibility of institutions towards the most vulnerable people amidst a crisis*. Available at: <https://mhc.org.mk/news/neodgovornosta-na-institucite-za-najranlivite-gragani-vo-uslovi-na-kriza/>

⁹⁸ All requests and responses from institutions are available at: <https://fosm.mk/baranja-i-itni-preporaki-isprateni-do-nadlezhnite-institucii/> (last accessed on 22.2.2021)

⁹⁹ CIVIL Media “Police Brutality against Homeless Persons, Mol state – they were playing loud music and acted violently!” <https://civilmedia.mk/politsiska-brutalnost-vrz-bezdomnitsi-od-mvr-velat-pushtaa-glasna-muzika-i-bea-nasilni/> (last accessed on 27.12.2020)

¹⁰⁰ Ibid.

attacked the police officers and those persons were identified, deprived from their liberty, and proceedings were initiated against them on determining misdemeanor or criminal liability. Hence, there are suspicions that, by using excessive and unfounded use of force against persons who were in no way involved in the event, police officers had committed the crime “Harrassing conduct while on duty”. By doing this, police officers violated the dignity and physical integrity of Roma present during the event and, if motivated by racist prejudice, the police officers’ actions are discriminatory. A request was made via the Network for Protection against Discrimination to the Department of Internal Control, Criminal Investigations and Professional Standards under Mol to investigate the case and establish personal liability for every police officer who had exceeded their official authority, as well as for all persons who had issued an order to do so. In that, the request also noted that, should it be found that police officers have abused their authority, criminal proceedings should be initiated thereto and the police officers should be given the most severe sanction.

Police brutality against Roma in Bitola

In September, a video was published on social media, which featured a clear image of police officers using serious physical force over members of the Roma community in Bitola. The event occurred on September 22nd 2020, when three Roma had a car accident, whereby they hit a concrete wall. Nearby officers employed with the traffic police unit then unwarrantedly pulled the persons out of the vehicle and started brutally battering them. In addition, the persons were detained in the police station until five o’clock in the morning, where they were insulted and harassed. They wanted to report the case to the Department of Internal Control, Criminal Investigations and Professional Standards, but they were not allowed to do so. Due to the apparent racist and discriminatory motives, we requested that the Ministry of Interior take intensive action to clear the case and to establish criminal liability of the police officers pursuant to articles 142 “Torture and other cruel, inhuman or degrading treatment and punishment” and 143 “Harrassing conduct while on duty”. In that, we also requested that the public is timely informed on the entire investigation process and actions taken against the police officers. Considering that the practice of impunity of police officers who break the law and exceed their authority is one of the reasons behind such brutal behavior, the Helsinki Committee requested that Mol immediately initiate an inclusive process of amendments to the Law on Police and the Rulebook on the Manner of Performing Police Duties, as well as to adopt bylaws that would address the structural issue of racist behavior in the police.

Following the investigation, on September 25th 2020, the Department for Internal Control notified the Committee that criminal charges were raised against police officer G.P. on suspicion of having committed the crime “Harrassing conduct while on duty”. As stated in the letter of notice, the police officer was physically attacked, and PPO Bitola was formally informed thereto. However, after taking appropriate action, upon cessation of the reasons for further use of physical force, he had crossed the line of his official authority and continued to use physical force over the injured party while they laid on the ground (whilst they did not use any physical force as resistance), thus degrading their human dignity and their person. Internal Control also proposed a job suspension. In terms of the police officer who passively observed the case and did not take any action to stop it, Internal Control proposed a proceeding to determine disciplinary liability for severe breach of work order and discipline and initiation of job suspension proceeding. For the other police officers present at the scene, immediate supervisors thereof were proposed to inform the officers about their inappropriate behavior and performance of work tasks, but also about the possibility to be found disciplinary liable if they do not improve their job performance.¹⁰¹

Police brutality against mother and son in Bitola

Following the registered case in Bitola in September, information was shared with the public about a new case in this town with indications of violence against Roma by police officers. According to AVAJA, in this case, the police used excessive force against a Roma woman and her son. They were detained because the son did not have an ID

¹⁰¹ Helsinki Committee for Human Rights (October 22nd 2020). *Criminal charges and suspension for the police officer who battered Roma in Bitola*. Available at: <https://mhc.org.mk/news/krivichna-prijava-i-suspenzija-za-policaecot-koj-tepashe-romi-vo-bitola/>

card when the police officers asked him to show an identification document. They were then escorted to a police van, where they were allegedly violently battered by police officers and offended on grounds of their ethnicity. The Helsinki Committee, in cooperation with the Macedonian Young Lawyers Association, provided legal aid and attorney-at-law to represent the victims of police brutality before competent authorities. The woman and her son were not kept in detention, but the police refused to accept an appeal even after several attempts made by the attorney-at-law. In addition to the investigation of this specific case of police officers' brutal behavior motivated by racist and discriminatory motives, we made an appeal to the Ministry of Interior to assume all preventative measures to put an end to the long-standing practice of unprofessional behaviour, racial profiling, hate crime, police brutality and self-willingness when handling cases involving Roma and other categories of poor and marginalized citizens.

Bearing in mind that Mol's swift reaction to the previous case of police brutality against Roma in Bitola is rather an exception than a rule of thumb, a request was made to sanction all such cases in which police officers break the law and exceed their authority.

General Recommendation no. 36 of the Committee on Elimination of Racial Discrimination

On its 102 session held from 16th to 22nd November 2020, the Committee on Elimination of Racial Discrimination adopted its General Recommendation no. 36 on prevention and fight against racial profiling by police officers.¹⁰²

In this recommendation, the Committee recognizes the practice of racial profiling in police as a violation of fundamental values and human rights based on 1) non-discrimination based on race, skin color, origin, nationality, or ethnicity (and other intersectional grounds) and 2) equality before laws. Racial profiling violates procedural rights and the right to fair and just trial. The Committee additionally stresses the obligation of the states under the Convention on Elimination of All Forms of Racial Discrimination not to take part in activities and practices of racial profiling against individuals or groups of people. The recommendation anticipates an obligation for states to consistently change policies, laws, and other regulations with a view to prevent the occurrence of racial profiling. States are obliged to secure adequate and effective protective mechanisms against racial profiling in domestic legal order and to secure redress mechanisms in such practices (at individual or collective level).¹⁰³

Racial profiling has negative and cumulative effects over the wellbeing of individuals and communities, considering that a person may be subject to daily racial profiling in their life. Victims of racial profiling often internalize its effect in absence of effective remedies and means for compensation of the damages inflicted. Simultaneously, this causes significant lack of trust among victims of racial profiling in institutions competent to enforce laws. They are left with a feeling of injustice, humiliation, and fear of repetition, and additionally become potential victims of secondary victimization.¹⁰⁴

Racial profiling, inter alia, may lead to excessive criminalization of certain categories of persons, reinforcing stereotypical associations between a crime and the perpetrator's ethnicity, disproportionate rates of incarcerations of members of categories protected with the Convention, increase of vulnerability of persons belonging to groups protected with the Convention, lack of reporting cases of racial discrimination and hate crimes, and imposition of more severe penalties by courts against members of targeted communities.¹⁰⁵

¹⁰² Committee on the Elimination of Racial Discrimination (2020, November 24). *General recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials*. Available at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/GC/36&Lang=en

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

PERSONS WITH DISABILITIES

Persons with disabilities and the pandemic

Persons with disabilities are still one of the most marginalized groups in society that were disproportionately affected by the pandemic effects, both in our country and across the world¹⁰⁶.

Although disability in and of itself does not imply greater risk of contracting the virus, majority of persons with disabilities have more vulnerable health conditions, putting them at greater risk of the disease itself. Lack of access to information concerning the virus, closure of daycare support centers, non-adapted distance learning, and the lack of possibility to maintain social distancing for person's dependent on support in performing daily activities are a mere portion of challenges persons with disabilities have faced.

Since the beginning of the pandemic, the World Health Organization issued a warning on the increased risks of contracting the virus for persons with disabilities, primarily due to existing barriers for applying basic hygiene measures, difficulties in practicing social distancing due to the need to have additional support or to live in an institution, the need of touching as means to receive information from the environment, previous health-related issues etc.¹⁰⁷ A particularly unenviable situation is that of persons with disabilities who have poor health status and/or live in an institution, which is an indicator of the weaknesses of the public service system and the unequal access thereto for certain vulnerable categories.¹⁰⁸

Given that even in "normal" conditions persons with disabilities face difficulties in terms of access to healthcare services, education, employment, means to receive information etc., access to certain rights for these persons can be significantly hindered amidst a health crisis.

A particularly important segment for the functioning of persons with disabilities, particularly for persons with intellectual disability and persons with autism spectrum disorders, is their daily routine. In conditions when movement is limited both in time and physically, changes to daily routines inevitably occur, which can cause anxiety in many persons with disabilities. Thus, persons caring for children and adults with disabilities faced the challenge of finding alternative ways to daily functioning and establishing new routines. The closing of daycare centers posed an additional challenge for persons with disabilities who made regular visits of daycare centers as part of their daily functioning routine. This was also a challenge for people caring for persons with disabilities, given that they had to stay home, which, in turn, frequently implies job loss.

Bearing in mind that for majority of persons with disabilities moving is a therapeutic activity and part of an established habit, the Government of North Macedonia adopted a decree establishing a separate regime of movement during curfew for persons with disabilities.¹⁰⁹ Persons with disabilities were allowed to leave their home with one

¹⁰⁶ Data on state-of-affairs concerning rights of persons with disabilities amidst state of emergency are available under the *Special Report on State-of-Affairs Concerning Human Rights During COVID-19* issued by the Helsinki Committee for Human Rights in October 2020. Available at: https://mhc.org.mk/wp-content/uploads/2020/10/izvestaj-mk_compressed.pdf

¹⁰⁷ WHO (March 26th 2020). *Disability considerations during the COVID-19 outbreak*. Available at: <https://www.who.int/publications-detail/disability-considerations-during-the-covid-19-outbreak> (last accessed on 23.12.2020)

¹⁰⁸ UN (April 23rd 2020). *COVID-19 and Human Rights- We are all in this together*. Available at: https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2020/04/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf (last accessed on 23.12.2020)

¹⁰⁹ Available at: <https://vlada.mk/node/20925> (last accessed on 23.12.2020)

companion in specified movement periods, whereby they did not need to request a special movement permit, but rather only needed to show medical disability verification form.¹¹⁰

Restrictive measures, which primarily included self-isolation and social distancing recommendations, were exceptionally difficult to comply with for many persons with disabilities, particularly bearing in mind that a significant number of them depend on support from other persons, and this sometimes implies support in carrying out basic physiological needs. In terms of measures for support of persons with disabilities, only 27 municipalities in the country were covered under the measure for in-home assistance, issued by the Ministry of Labor and Social Policy.¹¹¹ This measure was aimed at facilitating the daily functioning of persons with disabilities, including assistance in completion of urgent administrative procedures, purchasing and delivery of various items and other types of support in accordance with the person's needs.

A mitigating circumstance was the Government decision to reduce administrative procedures related to use of certain social protection rights, whereby users were not obliged to renew the required documents should they wish to continue using certain benefits. Moreover, they could electronically submit documents to use certain services.

In terms of the educational process, the United Nations issued a warning that the current crisis will contribute to serious increase in exclusion of children with disabilities from the educational process. According to these estimates, children with disabilities would have the least benefit from use of alternative remote learning solutions, which is further reinforced by the lack of in-home support, lack of Internet access, lack of accessible software and learning materials.¹¹² Taking all these barriers into account, there is a significant risks of complete termination of education for children with disabilities during this period, which would further hinder their return in the educational process even after the end of the crisis. In the long run, this gap in the educational process would further deepen the gap in engagement in the labor market, which is already significantly wide for persons with disabilities.

In our country, children with special educational needs, and particularly children with disabilities have faced many challenges with the onset of the pandemic. Online remote learning platforms that replaced the standard education process excluded most of the children with disabilities with the introduction of isolation measures. During this period, their education was left entirely to their parents and to the will of several education assistants. Over a month since school closures, in late April 2020 an online learning and development platform was promoted for children with disabilities. Notably, the platform was anticipated to provide additional support, individualized approach and modified classes for the children to continue their educational process at home.

The inclusive Law on Primary Education was adopted in August 2019 and application thereof commenced in the school year 2019/2020. The Law stipulated organized in terms of institutionalization, personnel and content in a manner that would ensure inclusion of all children in full-time education. However, at the beginning of the school year, adoption was still lacking of the bylaws anticipated to secure adequate implementation of the Law and inclusion of children with special educational needs in every aspect of the educational process. Notably, the bylaws were particularly aimed to eliminate numerous shortcomings for which the Helsinki Committee has consistently alarmed from the very onset of implementation of the Law.

¹¹⁰ Available at: http://www.mtsp.gov.mk/pocetna-ns_article-licata-so-poprecenost-ne-treba-da-vadat-dozvola-za-dvizenje-so-sebe-da-nosat-naod.nspix (last accessed on 23.12.2020)

¹¹¹ Available at: http://mtsp.gov.mk/pocetna-ns_article-licata-so-poprecenost-i-starite-lica-vo-27-opštini-kje-dobijat-asistencija-za-polesno-spravuvanje-s.nspix (last accessed on 23.12.2020)

¹¹² UN (May 2020). *Policy Brief: A Disability-Inclusive Response to COVID-19*. Available at: https://www.un.org/sites/un2.un.org/files/sg_policy_brief_on_persons_with_disabilities_final.pdf (last accessed on 23.12.2020)

SUPPORT IN THE COMMUNITY

Despite the fact that the country has relatively good legal solutions which stipulate the rights of persons with disabilities, as well as standards for ensuring access to public goods and services, application thereof is still very poor. From physical access to the infrastructure itself, to utilization of public services, persons with disabilities and persons caring for them suffer serious obstacles for daily societal functioning. Helsinki Committee's years-long work in this field points to the fact that persons with disabilities and their families face discrimination on a daily basis, as well as other legal issues in various fields for which they lack information on where to resolve, or on mechanisms for protection available to them.

The report on implementation of the project "Legal Empowerment in the Community during the Deinstitutionalization Process"¹¹³, implemented August 2019 – August 2020, covers several barriers persons caring for children and/or persons with disabilities most frequently face when exercising their rights, particularly in terms of the degree of recognizing discrimination, i.e. breaches of certain rights. As part of the project, beneficiaries of a total of six daycare centers for children and adults with disabilities (from a total of 32 in the country), i.e. people caring for persons with disabilities that use services offered by the daycare centers shared their experiences related to most common issues they face when exercising their rights, as well as manners in which they deal with such issues.

When contacted directly, parents and persons caring for children and adults with disability discuss their problems relatively freely. Most of them demonstrated a relatively high level of awareness and ability to recognize cases of discrimination and violation of their rights, even in cases of indirect discrimination, i.e. discrimination by association. However, only a small portion of them had reported cases to relevant institutions. Notably, 55.6 % stated they had been in a situation in which they were discriminated or experienced breach of certain rights, of which only 36% had reported the case, whereas only 37.5% stated they were satisfied with the proceeding. In terms of reasons behind the lack of reporting cases of discrimination, 29.8% have expressed they do not trust that something would change if they report the case, whereas 21.3% did not report cases due to lack of trust in institutions. Furthermore, 17% stated they had not reported cases of discrimination because they feared further harmful consequences, whereas 14.9 % did not know where to report the case. Majority of the persons who request free legal aid in the Helsinki Committee initially seem encouraged to assume further legal action; however, most of them give up after the initial contact due to lack of trust in institutions.

In terms of areas, these persons had faced discrimination in pre-primary education (42.5%) and social protection (38.3%), followed by healthcare (34%), primary education (31.9%) and public transport (29.8%). Compared to other areas, nearly 40% point to discrimination at some level of the educational process.

Lack of accessibility to infrastructure remains one of the most pressing issues, from the institutions themselves to streets, pavements, parking lots and public facilities. Lack of accessibility is a serious issues, even in cases when a person moves with the help of a companion. Part of the statements pointed to the fact that there are still cases of non-compliance with laws related to construction and urban planning during construction of residential and other buildings.

A large number of persons stated that they are unable to exercise rights in their workplace, despite being well informed of those rights. In terms of the right to part-time salary allowance, despite being informed, part of the participants had questions about how the salary allowance is paid, whereby most of them stated they still fear they will lose their jobs (especially if they are employed with private companies). Some of them had never even requested to use some of their rights, even despite the fact that some already had a document allowing them to work part-time.

¹¹³ Jovanovska, B. (2020). *Legal empowerment in the community during the deinstitutionalization process: Report*. Helsinki Committee for Human Rights. Available at: <https://mhc.org.mk/wp-content/uploads/2020/10/finalen-izveshta%D1%98-uniczef-mk.pdf>

Most common problems of persons caring for children with disabilities lie within the educational process. One of the listed problems was the resistance of some preschools and schools to enroll their children, consistent transfer of their children between educational institutions, as well as the need to employ specialized personnel in all preschools and schools. Lack of accessibility is also noted as a problem in educational institutions.

Significant portion of people caring for persons with disabilities believe they are insufficiently informed of their rights and of the processes of adopting new measures and laws, whereby they expressed dissatisfaction in terms of insufficient involvement and lack of consideration for their needs and demands in the process of adoption thereof. Hence, the high degree of resistance and skepticism of these persons about introduction of changes, i.e. new laws, measures and/or standards, regardless of whether the changes involve novelties introduced to facilitate their daily functioning. Given the general discouragement and lack of trust to seek their rights before relevant institutions, action needs to be taken to work on strengthening trust in institutions of persons with disabilities and their families, as well as active involvement thereof in the processes of adopting decisions which are pivotal for exercising their rights and for meeting specific needs.



Campaign for free legal aid to persons with disabilities

INTERNATIONAL REPRESENTATION

During the course of 2015, on behalf of L.R., a minor with combined disability, the Helsinki Committee lodged an application to the European Court of Human Rights listing protection of human rights due to inhuman and degrading treatment from employees of Rehabilitation Center “Banja BANSKO”. On January 23rd, 2020, the European Court of Human Rights reached a verdict unanimously ruling violation of Article 3 under the European Convention on Human Rights - Prohibition of torture. This verdict acts as a precedent of accepting an application on behalf of a minor with disability without possibility to give consent to be represented before the European Court.

The case in question concerns an eight-year old child who, during a visit by the Ombudsman in 2013, was found tied to a bed in Rehabilitation Center “Banja BANSKO”. The case was made public in 2014, whereby immediately after L.R. was visited by representatives of the Helsinki Committee that initiated a proceeding before the Public Prosecutor’s Office.

L.R. was abandoned by his parents (persons with intellectual disability) following his birth in 2004 and was placed under guardianship of the Center for Social Work that placed the minor in care of several state social protection institutions. L.R. has been diagnosed with developmental disabilities at the age of one, and when he was three-and-a-half years old, a team of doctors diagnosed him with intellectual and physical disability (cerebral palsy) and speech impediments. Based on this diagnosis, in 2012 the child was placed in the Rehabilitation Center, an open-type institution for persons with physical disabilities, inadequate to meet the needs of the minor L.R. Moreover, both before his admission and during his stay therein, the Center repeatedly lodged reactions to the authorities stating that it cannot admit persons with intellectual disabilities because of the lack of personnel therein, reiterating that the existing personnel is not qualified to communicate with L.R. who has hearing and speech impediments.

Acting on the case, the Public Prosecutor’s Office launched an investigation on the basis on which it was determined that L.R.’s placement in this institutions was inadequate and that he was at times tied to his bed with a rope for “safety reasons”, i.e. to prevent him from escaping and, thus, putting his life in danger. However, despite the identified irregularities, the Public Prosecutor’s Office did not find grounds for criminal charges, explaining there was no intent among the employees to subject the child to inhuman and degrading treatment. The Helsinki Committee appealed this decision. However, the appeal did not have a positive outcome, and the decision was confirmed by the Public Prosecutor’s Office.

The European Court ruled that, in the case of L.R. v. North Macedonia, the state had failed to conduct an adequate investigation of the case and systemically failed and acted contrary to the prohibition of inhuman and degrading treatment. In addition, the European Court ruled that North Macedonia should pay the applicant 18,000 EUR in damages and 1,650 EUR for costs. To be able to discuss the enforcement of this ruling, it is of utmost importance in the upcoming period that the state provides adequate rehabilitation and to ensure that the funds will be used for the child’s protection. Meanwhile, L.R. is placed in a small group home under the competence of the Special Institution Demir Kapija, where he was visited by representatives of the Helsinki Committee for Human Rights at the beginning of the year.

GENDER EQUALITY

AMENDMENTS TO THE LEGISLATION

In 2020, activities commenced of the working group for preparation of the new **Law on Gender Equality** (previously Law on Equal Opportunities between Women and Men), wherein a representative of the Helsinki Committee is also a member. The need to adopt a new law stemmed from the limited effectiveness of the law in place, particularly at local level. According to recommendations listed under the report of the UN Committee on Elimination of Discrimination against Women (CEDAW) issued in 2018, there is a need to define a timeframe and thematic priorities in terms of the amendments to the Law, pursuant to the principles of equality and non-discrimination in all areas covered under the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), in cooperation with all relevant stakeholders, including civil society.¹¹⁴ The recommendations point to the need to develop a plan for targeted implementation of the Law, with focus on women from rural areas, Roma women, women migrants, seekers of asylum and refugees, sex workers and women with disabilities.

During 2020, no significant achievements were noted in terms of meeting set objectives and activities under the National Action Plan on Implementation of the Istanbul Convention 2018 – 2023 (NAP). An example of this is one of the key laws anticipated under NAP – **the Law on Prevention and Protection from Violence against Women and Domestic Violence**, the preparation of which was carried out with representatives of the Helsinki Committee. Notably, the Law was anticipated to be adopted by late of 2019, but due to the scheduling of early parliamentary elections on April 12th 2020, was not put on voting in Parliament. Additionally, the crisis caused by the COVID-19 pandemic resulted in further delay of adoption of this law, and after establishment of the new Government in August 2020 the law was withdrawn by the Ministry of Labour and Social Policy without prior notice thereto to organizations that were part of the working group. The Ministry of Labour and Social Policy listed identified inconsistencies and the need to impose certain amendments to improve the Law as reasons for withdrawal thereof. Following intense reactions from civil society organizations, the working group was convened again and the text of the Law was made available to work on. In December 2020, the new text of the Law re-entered parliamentary procedure, but was not passed by the end of the year.

The underlying aim of adoption of this Law is to overcome obstacles and shortcomings noted in the existing Law on Prevention, Combating and Protection from Domestic Violence by ensuring equality, elimination of stereotypes on gender roles, prevention of all forms of gender-based violence against women, domestic violence, and defining measures and activities to protect victims of this type of violence. This law stipulates actions to be taken from institutions and coordination thereof with organizations and, for the first time, anticipates that the institutions should take action with due care. The text of the new Law covers new forms of violence introduced by the Istanbul Convention and unequivocally defines the terms “violence against women” and “gender-based violence”, and anticipates support to all categories of vulnerable women, such as transgender women, drug users, pregnant women, Roma women etc.

By ratifying the Istanbul Convention, the Republic of North Macedonia also assumed the obligation to amend the Criminal Code and other laws and bylaws. Notably, it is of utmost importance to meet this obligation during the upcoming period, i.e. before the planned evaluation procedure of our country by the Group of Experts on Action against

¹¹⁴ CEDAW (November 14th 2018). *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/MKD/CO/6&Lang=En (last accessed on 2.3.2021)

Violence against Women and Domestic Violence (GREVIO)¹¹⁵, which was delayed and scheduled for 2022, as result of the COVID-19 pandemic.

INTERNATIONAL REPRESENTATION

As part of the project “Women have rights!” implemented during 2018 and 2019, on May 25th 2019 the Helsinki Committee lodged a complaint to CEDAW. The case was identified as eligible to be presented before the CEDAW, implying that it met admissibility criteria, i.e. criteria required to initiate a procedure before the CEDAW. Notably, the case was previously brought before domestic courts, and was supported with funds secured by the Association for Health Education and Research HERA.

The case concerned two Roma women who were denied their healthcare rights by being restricted to access gynecological services. In September 2016, S.B. and M.B. filed a lawsuit to the Primary Court in Skopje against a private gynecology practice, after an incident in 2015 whereby they were denied to choose a gynecologist as their family physician and to exercise their right to healthcare, with an explanation given by the nurse that the practice no longer admits young patients. Both women requested the Court to determine that they were victims of discrimination on the grounds of ethnicity and that their right to equal treatment for reproductive health protection was violated. During that same period, women from the Macedonian ethnic community also lodged a request to choose the gynecologist as a family physician and were immediately admitted and examined.

The Primary Court Skopje rejected the lawsuit for discrimination of S.B. and M.B. as unfounded. An appeal was lodged against this decision to the Court of Appeals, which confirmed the first-instance decision that this specific case is not one of discrimination. After using all national legal remedies, in 2019, the Initiative of Women from Shuto Orizari, with support of Hera and the Helsinki Committee for Human Rights, lodged an individual complaint to CEDAW, claiming discrimination of the two Roma women.

On December 2nd 2020, CEDAW ruled in violation of the right to equal treatment and discrimination of the two women from Shuto Orizari who were denied gynecological services. After a five-year battle, the Committee recognized the injustice and issued a series of recommendations to the state, including structural changes and eradication of harmful practices in Roma women’s access to gynecological services. This Committee decision is first of its kind against our state, which is of particular importance because it demonstrates clear recognition of the discrimination against Roma women and the need of available healthcare related to their sexual and reproductive health. The Committee also points to the lack of specific measures assumed by the state, the need to raise awareness of judges about discrimination, as well as to legal aspects of the burden of proof.

The Committee found violations of the rights of the two Roma women, guaranteed pursuant to articles 1, 2 and 12 under the Convention, involving violation of rights and discrimination in access to sexual and reproductive health services. Specifically, the Committee found that the state failed to secure: a) on-field realization of the principle of non-discrimination in access to reproductive health services, b) effective protection against discrimination against women within the judiciary system, and c) adequate measures to eliminate discrimination against these women committed by the other involved party, i.e. the private gynecological practice. Part of the Committee recommendations to the member state include ensuring adequate reparations to the damaged parties, including by admitting material and moral damages they had suffered as consequence of their inadequate access to sexual and reproductive health services, particularly to regular gynecological services.

Additionally, the Initiative of Women from Shuto Orizari, with support from HERA and the Helsinki Committee for Human Rights, will lodge a request to reinstate the court proceeding at national level, with a view to protect the

¹¹⁵ Group of Experts on Action against Violence against Women and Domestic Violence

dignity and honor of Roma women. In the upcoming period, the Helsinki Committee will continue monitoring the process of implementation of the Committee recommendations by competent institutions, as well as implementation of systemic measures for promotion of Roma women's reproductive rights.

GENDER-BASED VIOLENCE AMIDST THE PANDEMIC¹¹⁶

The state-of-affairs concerning gender-based violence in the past year was largely influenced by the various types of measures adopted as result of the pandemic. If we take into account that a home is the least safe place for women even in times with no global crisis, evident from statistical data in our country¹¹⁷, women's vulnerability in their homes amidst a pandemic is increased, as expected.

Warnings about the risks of increase in cases of domestic violence during states of emergency have been issued as early as March. Despite the lack of sufficient official data for this relatively brief period, initial statistical data from countries in which virus transmission had already been significantly high, point to significant increase of domestic violence cases. That was undoubtedly one of the adverse effects of the application of restrictive measures for prevention and protection against the virus. The fact that the states placed all their attention towards protection from virus transmission led to neglect of challenges of many citizens who are already in a vulnerable position, as well as hindrance of the access to certain services. Moreover, the transfer of a large amount of funds towards the healthcare system fell to the burden of access to certain rights and services affecting a large number of marginalized citizens.

Restrictive measures that were adopted daily by the Government of RNM since the beginning of the pandemic, including self-isolation recommendations as one of the most efficient manners of prevention, were a serious factor for increase of the risk of violent at-home behavior. In addition, the stress caused by job-loss, closure of preschools and schools, the uncertain financial status, existing health problems, were and are fertile ground for increase in domestic violence cases, which does not necessarily imply increase in the number of cases, but rather danger of intensifying existing violence. One in five women in EU member-states is a victim of domestic violence, and the risk is even higher for women living in households that have issues in meeting basic existential needs.¹¹⁸

Since the beginning of the pandemic, the Helsinki Committee for Human Rights issued appeals to institutions to take adequate and timely action with regards to reports of domestic and gender-based violence, with a view to prevent increase thereof and fatal outcomes. What was particularly important during this period is to provide support and encouragement to victims to report violence, because on-field experience points to the fact that one of the most pressing issues is non-reporting of violence. The rate of reporting violence cases accounts to approximately 14% in Europe¹¹⁹, compared to merely 2% of women in our country who have reported to the police violence they experienced from their partner¹²⁰, which is a result of the lack of trust in institutions, non-conviction of the perpetrations, but also fear and shame, as well as non-recognition of violence by the victims themselves.

¹¹⁶ Data on state-of-affairs concerning gender-based violence amidst state of emergency are available under the *Special Report on State-of-Affairs Concerning Human Rights During COVID-19* issued by the Helsinki Committee for Human Rights in October 2020. Available at: https://mhc.org.mk/wp-content/uploads/2020/10/izvestaj-mk_compressed.pdf

¹¹⁷ Dimushevska, E. (2018). *Analysis of cases of femicide – murder of women in the Republic of Macedonia*. National Network against Violence against Women and Domestic Violence – Voice against Violence. Available at: http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2013/11/Femicidi-mk.final_.pdf (last accessed on 13.2.2021)

¹¹⁸ European Institute for Gender Equality (April 29th 2020). *EU rights and equality agency heads: Let's step up our efforts to end domestic violence*. Available at: <https://eige.europa.eu/news/eu-rights-and-equality-agency-heads-lets-step-our-efforts-end-domestic-violence> (last accessed on 4.3.2021)

¹¹⁹ UNDP (22 maj 2020). *Justice for Women Amidst COVID-19*. Available at: <https://www.undp.org/content/undp/en/home/librarypage/womens-empowerment/justice-for-women-amidst-covid-19.html> (last accessed on 4.3.2021)

¹²⁰ OSCE (2019). *OSCE Research of Violence against Women in North Macedonia – Women Wellbeing and Safety*. Available at: <https://www.osce.org/mk/secretariat/424409?download=true> (last accessed on 4.03.2021)

In terms of services for reporting domestic violence, during the isolation period, the victims had the opportunity to report cases of violence on the Free National Mobile S.O.S. Line for victims of domestic violence. The S.O.S. Line provided 24-hour confidential information for protection of victims, available services and telephone counselling for the victims, as well as in the nearest police station of the competent Center for Social Work. The Free Legal Aid Service under the Helsinki Committee was also available to the victims.

On April 9th 2020, the National Network against Violence against Women and Domestic Violence, whose member, among others, is the Helsinki Committee for Human Rights, lodged a request to the Government of RNM to amend the decision on banning citizens' movement throughout the entire territory of the country¹²¹, with a view to adopt measures that would make an exception from sanctioning women-victims of violence and their children, who live their homes due to threat and direct risk of violence. Not long after having received the request, the Ministry of Interior published an announcement¹²² stating that victims of violence may freely go to the nearest police station, or to the nearest healthcare institution should they need medical assistance, without having to obtain special movement permits for these needs.

On April 13th 2020, the Network also lodged an official request to the Government of RNM for imposition of urgent measures to protect women and children victims of domestic violence during the state of emergency in the country¹²³, including a list of proposed measures whose adoption would provide adequate protection to victims of violence, in accordance with the new conditions. The request listed specific risks of domestic violence and a proposal of urgent measures to handle violence, as well as to prepare the protection system to act in cases of domestic violence following the end of the pandemic.

During the state of emergency in the country, the Helsinki Committee for Human Rights registered a total of 5 report of domestic violence, which does not indicate an increasing trend in cases. According to statistics of the Ministry of Interior and the Ministry of Labour and Social Policy, our country does not note an increase in the number of domestic violence cases compared to the same period of the previous year. Weekly, the only increase was noted during the first week of April, whereas the number of domestic violence cases noted a stagnation during the remaining weeks¹²⁴. Compared to many countries both in Europe and globally, where increase of domestic violence had reached over 25% since the very introduction of isolation measures¹²⁵, we have a reason to believe that data further confirm the long-standing problem of victims not reporting the crimes, but also the inadequate way of recording crimes and conducting gender-divided statistics. Another reason behind this number is also the inadequate manner of qualifying cases of domestic violence that are often treated as misdemeanors against the public order and peace, instead of being qualified as crimes. This is further supported by information of the Ministry of Interior, according to which, portion of the victims who had reported the case to the police had later revoked the report, accounting for the decrease of the number of domestic violence crimes and misdemeanors in this period.¹²⁶

¹²¹ Available at: <https://mhc.org.mk/news/baranje-do-vlada-na-rsm-za-dopolnuvanje-na-odlukata-za-zabrana-za-dvizhenje-na-graganite-vo-celata-teritorija-na-drzhavata/>

¹²² Available at: https://mvr.gov.mk/vest/11716?fbclid=IwAR22dRPTvDTbXfoYH_G93_i2vY21o4tz0qHkt-1I3qy7-U8A14EZgBFnWK0 (last accessed on 4.03.2021)

¹²³ Available at: <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/04/ltni-merki-za-zashtita-na-zhenite-i-detsata-zhrvti-na-semejno-nasilstvo-vo-kriza.pdf> (last accessed on 1.2.2021)

¹²⁴ Blazhevska, K. (April 30th 2020). *Which stories are hidden behind Mol figures?* DW. Available at: <https://www.dw.com/mk/%D0> (last accessed on 5.2.2021)

¹²⁵ UN (April 9th 2020). *Policy Brief: The Impact of COVID-19 on Women*. Available at: <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=1406> (last accessed on 1.2.2021)

¹²⁶ Dimovska, M. (April 29th 2020). *Restrictive measures also increased the number of domestic violence cases in Macedonia*. Kanal 5. Available at: <https://kanal5.com.mk/restruktivnite-merki-gi-zgolomija-i-brojot-na-semejno-nasilstvo-vo-makedonija/a419964> (last accessed on 3.12.2020)

In the period from January 1st to December 31st 2020, the Helsinki Committee registered a total of 32 cases of domestic and gender-based violence, for which free legal aid was provided. Compared to previous years, the figures do not indicate an increasing trend in the number of reports, which inevitably raises doubts about the ever present low level of victims' trust in institutions.

At the onset of the isolation period, the Ministry of Labour and Social Policy warned about the risk of increase of domestic violence cases, by sharing contacts of services for reporting and support for victims, and also launched a campaign in early May for reporting domestic violence during state of emergency¹²⁷. However, despite the submitted proposed measures, except for the measure for uninterrupted reporting during curfew, the state failed to implement any creative solutions to prevent violence or to facilitate reporting of cases.

In cases when domestic violence is left unreported, or when relevant institutions fail to provide adequate protection to the victim, there is an increased probability that the violence would escalate to femicide. This year also notes cases of femicide in our country, including the murder of a woman for being a woman. According to research in our country¹²⁸, in over 80% of cases, the murder took place in the joint household or, in cases of ongoing divorce procedure, in the victim's parents' household, and in most cases the murder has been committed by a current or previous partner. In 2020, there were reports of total of 4 femicides during the pandemic (Prilep, Skopje, Arachinovo and Gostivar) and 1 case of attempted murder (Veles). The most recent case of femicide in Gostivar further confirmed that one of the most common reasons behind physical violence resulting in murder is the lack of urgency in the approach of institutions towards gender-based violence, i.e. the inadequate action taken to handle reports, which only further decreases victims' trust in the competent institutions. In this case, suspicions were confirmed that the reason behind the violence escalating into murder was the lack of action taken by the police upon previous report of violence. The femicide is still not recognized by our legislation as separate crime with separate dedicated statistics, despite the fact that it is the most severe form of violence against women.

In this period, it was of utmost importance to find new and creative solutions to support and protect victims of violence, with a view to prevent violence and the fatal outcomes thereof. Taking into consideration the limited possibilities to report domestic violence in cases when the partner is at home for the majority of time, and outside movement is minimized, a large number of countries introduced alternative ways to report domestic violence, by using existing tools such as social media, SMS-messages, WhatsApp, and by developing new free applications, sending messages to locate victims via GPS and using secret codes when visiting pharmacies and shops¹²⁹. Despite the major delay, in December 2020, UNDP and the Ministry of Labour and Social Policy, together with other relevant institutions and civil associations working on such issues, including the Helsinki Committee, promoted the application "Bidi bezbedna (Be Safe)"¹³⁰. This form of digitalization in reporting violence is expected to contribute to swift reaction by all relevant institutions, and to improvement of inter-sectoral cooperation. The application is available in three languages: Macedonian, Albanian and Romani. In addition to reporting violence, victims can use the application to receive information about all services available to them and the ways to use them. The application also includes advice, protocol and testimonials of victims of violence.

¹²⁷ Достапно на: http://www.mtsp.gov.mk/pocetna-ns_article-kako-da-se-zashtitite-od-semejno-nasilstvo-kade-da-pobarame-pomosh.nsp (last accessed on 22.12.2020)

¹²⁸ Dimushevska, E. (2018). *Analysis of cases of femicide – murder of women in the Republic of Macedonia*. National Network against Violence against Women and Domestic Violence – Voice against Violence. Available at: http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2013/11/Femicidi-mk.final_.pdf (last accessed on 22.12.2020)

¹²⁹ UNDP (22 maj 2020). *Justice for Women Amidst COVID-19*. Available at: <https://www.undp.org/content/undp/en/home/librarypage/womens-empowerment/justice-for-women-amidst-covid-19.html> (last accessed on 4.12.2020)

¹³⁰ Application „Bidi bezbedna”. Available at: <https://play.google.com/store/apps/details?id=budi.sigurna.mk&hl=mk&gl=US>

JAVNA SOBA (PUBLIC ROOM)

January 2020 shed light on the scandal titled “Javna soba (Public Room)”, which currently stands as case in the domain of gender-based violence with the highest number of victims wherein, according to public knowledge thus far, all victims are women. The information on the existence of a closed (private) group of the communication network Telegram, titled “Javna soba”, where members shared and commented on explicit photographs and videos of girls and women from the country, was first revealed by a teacher in a secondary school in Skopje. Notably, the teacher was made aware of this group by her female students. Some of the photographs in the group had been downloaded from girls’ open profiles on social media, but many were sent in private, probably to intimate partners, and were then shared to the group, members of which were also adult men.

The case received both media and institutional attention in a brief period of time. The Public Security Bureau stated they had immediately launched an investigation of motives and goals behind the creation of this group, and that appropriate charges will be filed against the lawbreakers. The additional Deputy Minister of Labour and Social Policy Sanela Shkrijelj encouraged affected children and parents to seek adequate help from the centers for social work. However, although the institutions initially acted relatively quickly, the reaction was far from sufficient, given the severity and the nature of this problem.

The group “Javna soba” immediately started losing members after the information of the existence thereof was made public. The first group was successfully shut down, but in the meantime new groups were opened with the same goal and principle of operation. The organizations working in this field alarmed that “Javna soba” and any other group of this type should be treated as crimes, and the administrators and members who had violated the law should face criminal liability.

On January 27th 2020, the Helsinki Committee reported the group to the Sector for Computer Crime and Digital Forensics, quoting article 149 under the Criminal Code on “Personal Data Violation” and article 193 paragraph 3 on “Production and Distribution of Child Pornography”. This report was immediately followed by response that the case is still in the Basic Public Prosecutor’s Office in Skopje, which had not issued any indictment, i.e. verdict a year after the report had been made.

During the year, the public was made aware of other groups of this type, such as GevgelijaHub. Some of the victims from Gevgelija whose personal data were abused, had lodged a report to MoI and pointed to specific persons who had these materials, i.e. victims’ intimate photographs, in their possession and could be the initiators. However, similar to the case of “Javna soba”, the institutions failed to take measures to sanction the perpetrators.

The silence and lack of action on part of the institutions, specifically of MoI and BPPO, reinforced by the double victimization from the public stating that “it was the victims’ own fault”, further discouraged girls and women to report such types of gender-based violence. In addressing these cases, the institutions did not give the needed gender context and focus on the cases, even though these cases were blatant examples of gender-based violence and harassment perpetuated both in the physical and in the cyber-space. Thorough and comprehensive solutions are needed to eliminate this type of violence.

JUDICIARY

The Helsinki Committee monitors judicial reforms and operations as active member of the Blueprint Judicial Reform Group. Organizations participating in this group monitor the process of implementation of the Strategy for Judicial Reform and Strengthening Judiciary Independence and Impartiality. The Blueprint Group published a separate analysis on the application and implementation of this Strategy in 2020. Listed below are the conclusions and recommendations from this analysis, which also includes reviews of the work of the Constitutional Court, the Judicial Council and the Council of Public Prosecutors¹³¹.



Figure 1 – Analysis cover page, designed by Relativ

¹³¹ Blueprint Judiciary Reform Group (2019), “Analysis of Implementation of the Strategy for Judicial Reform (2017 – 2022) for the period 2018/2019”, available at: <https://mhc.org.mk/wp-content/uploads/2019/06/Analiza-na-sproveduvanje-na-Strategijata-za-reforma-na-pravosudniot-sektor-2017-2022-za-periodot-2019-2019.pdf>.

On-field implementation of legal solutions was assessed as correct and timely in most of the laws anticipated under the Judiciary Reform Strategy (2017 – 2022) that were adopted and entered into force in the past period. In a relatively short period of time, alignment and harmonization was attained of provisions on imposing fines under the new Law of Misdemeanors with other material laws in the area of environment, culture, education, science and tourism. Moreover, the Ministry of Justice continuously adopted rulebooks and other bylaws deriving from the Law on Execution of Sanctions. In addition, the Ministry of Justice also implemented significant activities to promote the Law on Free Legal Aid and to increase the knowledge among citizens on the manner in which they could acquire primary and secondary legal aid. Still, not all laws under the Strategy received the same treatment in their application in practice. Specifically, remarks in the process of implementation of legal solutions were noted in the Law on Public Prosecutor's Office, the Law on Administrative Disputes, the Law on Judicial Council of RNM, and parts of the Law on Free Legal Aid:

- The new Law on Judicial Council of the Republic of North Macedonia significantly changes the criteria and procedure for election of judges in primary and higher courts, qualitative and quantitative criteria for assessment of the work of judges and court presidents in case of promotion thereof, as well as grounds and procedure for determining disciplinary liability of judges and dismissal thereof.

- There are certain instances of contradiction in provisions under the Law on Public Prosecutor's Office in terms of materials and transcripts of materials from wiretapped conversations. They are anticipated to be used only as indicia, rather than grounds to initiate charges, which collides with provisions under the Law on Criminal Procedure. Henceforth, only domestic courts and the European Court of Human Rights are competent to assess which evidence can be taken into account during a criminal procedure.

- Almost a year after the Law on Administrative Disputes entered into force, the new Administrative Court building has still not been assigned for use, which would allow meeting duties deriving from the new law in order to regularly hold mandatory public discussions.

- The new Law on Free Legal Aid is a significant improvement of the legal framework, compared to the previous law. Nonetheless, some of the solutions are restrictive in terms of access to justice for the most financially disadvantaged citizens. Legal problems eligible for secondary legal aid must correspond to legal problems citizens with low incomes face.

- A pertaining pressing challenge is the establishment of functional system for providing free legal aid for at-risk children and child perpetrators who are unable to reimburse attorney fees. Legal solution without appropriate budget is not sufficient to solve this issue that significantly impacts the right to free trial.

In terms of overall procedures for adopting new legal solution, the process of adopting part of the laws was deemed transparent and inclusive, which contributes to increase of citizens' trust in judiciary institutions, and to adoption of quality legal solution. However, for some of the laws, the procedure and process of adopting new legal solution were not deemed transparent and inclusive. The lack of uniformity in the approach of adopting laws from the Judiciary Reform Strategy leaves room for doubt in terms of the quality of the legal solutions. This manner of work poses risk of stagnation rather than promotion of the rule of law, whereas the state moves further away from returning citizens' trust in the judicial system and promotion of human right protection. General recommendations for promotion of the state-of-affairs in judiciary and consistent implementation of measures and goals anticipated under the Strategy point to the following:

- Despite the promotion of the legal framework regulating competences of the Judicial Council of RNM, it is of utmost importance that the Judicial Council of RNM adequately and consistently implements in practice the legal provisions. Moreover, the Council should continuously employ diligence, whereas the work thereof should be further monitored by citizen associations operating in this field.

- It is necessary to assign a building for use by the Administrative Court of RNM as soon as possible. Notably, the building in question must fully meet space requirements necessary to hold regular public discussions.

- The period of entry into force of the Law on Public Prosecutor's Office must not be related to the course of the criminal proceedings and the future of already initiated cases, nor to evidence available to the Public Prosecutor's Office. In terms of conducting criminal procedures, *lex specialis* are procedural laws, i.e. the Law on Criminal Procedure, used as grounds to conduct the proceedings.

- Based on data from 2020, it is necessary to conduct in-depth analysis on the application of the Law on Free Legal Aid, with a view to identify the need to improve the law's text based on best practices noted in EU member-states.

- It is necessary to continue the procedure of adopting the Law on Civil Procedure and to leave adequate *vacatio legis*, given the significance of this law for the functioning of the judiciary in general.

- By introducing the law-stipulated obligation for mandatory beginner-level and consistent training for attorneys-at-law, it is necessary to anticipate adoption of acts by BARNM that would closely regulate the manner and programme used to implement the training.

- The COVID-19 pandemic and the three-month state of emergency declared in RNM for the first time were also an indicator of the judiciary's preparedness to work in emergency situations. Given that the organization of courts and court administration during states of emergency or war is not regulated, nor anticipated under any law or bylaw, it is proposed to define the organization and functioning of courts during state of emergency under the Court Rules of Procedure or the Law on State of Emergency.

- In some of the laws (Law on Court Expertise, Law on Ownership and Other Real Rights), the processes of adopting legislative amendments were stopped 2 years ago without publication of plan or activities to finalize the process. The working group for the Law on Inheritance is still not formed, nor has it begun working.

SHELTERED INSTITUTIONS

The penitentiary facilities and the correctional facility faced a major challenge in 2020 in terms of enabling convicted persons to enjoy their rights and benefits, whilst taking measures to prevent the spread of COVID-19 in prisons. Prisons pose a high risk of spreading the coronavirus due to the closed spaces, placing convicted persons in groups, poor material and hygienic conditions, among other issues. By declaring a state of emergency and enforcing specific measures for prevention and protection against COVID-19, the penitentiary facilities turned to limiting, i.e. banning visits and benefits of persons deprived of their liberty.

On March 15th 2020, the World Health Organization (WHO) published a document titled “Preparedness, Prevention and Control of COVID-19 in Prisons and Other Places of Detention: Interim Guidance” with an aim to “help countries develop specific plans and/or devise additional activities for prisons and other places of detention, as response to the international COVID-19 epidemic”¹³².

In terms of minors deprived of their liberty, the Committee on the Rights of the Child called on states to take into consideration that “While these restrictive measures can be seen as necessary in the short term, over long periods they will have a marked negative effect on children. Children should at all times be allowed to maintain regular contact with their families, and if not in person, through electronic communication or telephone. If during the period of emergency, disaster or State-ordered confinement is extended, consideration should be given to reassessing the measures that prohibit such visits”¹³³.

Following the recommendations issued by international organizations and bodies, and the Government measures for prevention and protection against the coronavirus, on March 10th the Directorate for Execution of Sanctions adopted a decision curtailing the rights and benefits of convicted persons, such as: visits by families in and outside institutions, weekend leave, work engagement outside the institution and annual leave. This decision was a reason for penitentiary facilities to find other alternative solutions to allow contact between the convicted persons and their families. Some of the institutions provided mobile telephones and tablets, whereas detained persons in PI Skopje were allowed individual, contactless visits in premises intended for visits, which were disinfected afterwards.

In cooperation with the Macedonian Young Lawyers Association, the Helsinki Committee lodged to competent institutions joint recommendations for enforcement of intensified protective measures for persons deprived of their liberty amidst a pandemic. The recommendations generally concern prevention with proposals for decreasing the number of persons deprived of their liberty (by employing alternative measures and probation – parole etc.), as well as assuming measures that would guarantee protection of human rights and dignity of persons deprived of their liberty amidst a pandemic.

The following measures are applied to implement protocols in each penitentiary and correctional facility: daily disinfection of spaces in which convicted persons stay, provision of personal hygiene packages to all convicted persons, hand and shoe disinfectants available at entry in each facility, contactless thermometers to regularly control convicts’ body temperature, and available room for every new convicted or detained person to complete 14-day isolation.

¹³² Fundamental rights agency (FRA), Coronavirus pandemic in the EU – fundamental rights implications – <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1> (last accessed on 12.3.2021)

¹³³ Committee on the Rights of the Child (CRC), Statement: The Committee on the Rights of the Child warns of the grave physical, emotional and psychological effect of the COVID-19 pandemic on children and calls on States to protect the rights of children – https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/1_Global/INT_CRC_STA_9095_E.pdf (last accessed on 12.3.2021)

The Directorate for Execution of Sanctions handled the COVID-19 pandemic generally well, and as a result thereof, our country notes a small number of convicted persons testing positive to the virus. The highest number of COVID-19 positive persons were registered in PF Idrizovo, where one person had died from the virus, and in PF Shtip. Still, concerns remain about the efficiency of implementing protective measures in penitentiary facilities that still face a risk of overcrowding in terms of securing rooms to isolate persons, which should in no way be confused with rooms for solitary confinement. Concerns also remain in terms of institutions with lowest levels of hygienic conditions due to regular water supply problems.

To prevent the spread of COVID-19 in penitentiary facilities, only one decree with legal force was adopted during the state of emergency, concerning the Law on Execution of Sanctions. The decree extended the period of issuance of referral acts by September 1st 2020 and delayed the enforcement of issued referrals by September 1st 2020.

MONITORING VISITS

Since the easing of restrictive measures in August, the Helsinki Committee for Human Rights, together with the Macedonian Young Lawyers Association, began conducting on-field monitoring visits to all penitentiary facilities and the correctional facility. By late 2020, a total of 29 visits were made in all institutions. A report has been prepared for the visits¹³⁴, covering the conducted on-field monitoring and focusing on the progress and main challenge documented during the visits, as well as challenges related to healthcare and rights that convicted persons should enjoy even amidst the COVID-19 pandemic. The report, inter alia, covers recommendations for each penitentiary and correctional facility, and general recommendations for competent institutions aimed to improve state-of-affairs and conditions in penitentiary and correctional facilities. Report findings indicate that, despite the noted improvements, the penitentiary system still faced pressing issues and challenges, especially in terms of material conditions, healthcare, education and resocialization of convicted persons, which require systemic solutions and finances that, in turn, primarily depend on political will.

In 2020, new facilities were open in PF Idrizovo, intended to accommodate 546 convicted persons. The new buildings are anticipated as open and semi-open department facilities, with four-bed cells and in accordance with international standards. At the time of the visit, approximately 200 persons were accommodated in the new facilities. Improved material conditions are also secured for convicted persons serving a sentence of imprisonment in PF Bitola. Notably, this year marked the completion of activities taken to reconstruct Prison Bitola, which were funded by the European Union. The reconstruction included construction works and completely new layout of bedroom, thereby decreasing the number of convicted persons staying in one room, as well as complete equipment of premises where convicted persons would stay.

Some of the main recommendations stemming from the report include the following: immediate and urgent measures should be taken by the Ministry of Health to ensure uninterrupted access to healthcare for all convicted persons; all reports of torture, harassment and inhuman behavior against the convicted persons should be recorded, whether the incidents occurred by the persons employed with the facility or amongst the convicted persons; adequate staff should be employed in the facilities, in terms of resocialization and developing and implementing suitable resocialization programmes; and access to education should be provided. In addition, post-penal assistance and the need of cooperation between the Employment Service Agency and the centers for social work remain a challenges.

¹³⁴ Report on the state-of-affairs and conditions in penitentiary and correctional facilities in the Republic of North Macedonia (2021). Available at: <https://mhc.org.mk/wp-content/uploads/2021/02/izvestaj-helsinki-popravni-domovi-mk-1.pdf>

LEGAL AID TO CONVICTED PERSONS

During 2020, the Helsinki Committee for Human Rights and the Macedonian Young Lawyers Association provided direct legal aid to 119 convicted persons, as well as legal aid related to utilization of mechanisms for protection against torture and inhuman treatment of 151 persons.

Most common legal issues for which legal aid was requested included: parole, access to healthcare, access to psychiatric and psychological aid, complaints related to inadequate material conditions or inadequate meals, limited benefits etc. With consent and power-of-attorney provided by the convicted persons, attorneys-at-law engaged by the Macedonian Young Lawyers Association lodged 24 various requests to state institutions, concerning protection of the rights of convicted persons.

ПРАВЕН СОВЕТ ЗА ОСУДЕНИ ЛИЦА

ПРИЛАВИ НА 075 277 824 ОСУДЕНО ЛИЦЕ КОЕ ИМА ПОТРЕБА ОД ПРАВЕН СОВЕТ ВО ВРСКА СО ИЗДРЖУВАЊЕ НА КАЗНАТА ЗАТВОР
Përveç të kësaj, nukom ne ofrojmë edhe shërbime të tjera siç janë: shërbime të juridike.

Донбас бр.14-1/В
02/3228-870
contact@myla.org.mk

Наум Неумовски Борче бр.83
02/3119-873
helkom@mhc.org.mk

KËSHILLA JURIDIKE PËR PERSONAT TË DËNUAR

PARAQIT NË 075 277 824 NJË PERSON TË DËNUAR QË KA NEVOJË PËR KËSHILLA JURIDIKE NË LIDHJE ME VUAJTJEN E DËNIMIT ME BURG
Nuk do të ofrojmë ndihmë juridike për veçrën penale për të cilën personi është dënuar.

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(from the joint campaign with the Macedonian Young Lawyers Association)

CORRECTIONAL FACILITY TETOVO

The beginning of November marked the official opening of the Correctional Facility Tetovo located in the village of Volkovija, which previously operated within the Prison Ohrid. Even though the facility in Volkovija has a capacity for 100 children and may temporarily accommodate all children, including children sentenced to juvenile imprisonment, only children serving correctional sentences were transferred therein. Children sentenced to imprisonment were left accommodated within the Prison Ohrid that does not meet all aspects of the international standards.

The new facility in the village of Volkovija offers more adequate material conditions for children, but several challenges still remain long-standing systemic issues, those being education, the process of resocialization and post-penal assistance for children.

For the purposes of resocialization, the Netherlands Helsinki Committee and the Helsinki Committee for Human Rights are jointly implementing a project whose aim is to improve the process of resocialization of children by enhancing internal capacities of persons employed with the facility. As initial step thereto, a total of 5 trainings will be conducted in 2021 for employees in CF Tetovo. The trainings will be conducted by experts from the Netherlands, and will cover: professional approach, integrity, rules, procedures, security and awareness about security, rights and obligations of minors, and handling juvenile behavior and anger management.

TORTURE AND INHUMAN BEHAVIOUR

Using the mechanism for free access to public information to lodge information requests, the Helsinki Committee received information that, in 2020, a total of nine criminal charges were lodged by the Department on Internal Control, Criminal Investigations and Professional Standards to the Basic Public Prosecutor's Office – Department for Investigation and Prosecution of Criminal Offences Committed by Persons with Police Authorizations and Members of Prison Police Unit, with two additional criminal charges lodged by the Ombudsman. The competent prosecutor's office informed that proceedings are ongoing in **39** cases against **80** police officers.

The total number of cases of torture and inhuman behavior by members of the prison police unit accounts to **four**, against **eight** members of the prison police unit. Proceedings are ongoing for **three** cases, and the Public Prosecutor's Office has adopted a decision for **one** case.

The Primary Criminal Court in Skopje informed that, in 2020, only eight court proceedings against police officers and members of the prison police unit are ongoing or completed, and they all concern the crime "Harrassing conduct while on duty".

The Helsinki Committee for Human Rights and the Macedonian Young Lawyers Association filed three police brutality criminal charges to the competent prosecutor's office and provided attorneys-at-law for two victims of police brutality who were to appear as injured parties before the competent prosecutor's office.

SUPERVISORY MECHANISM

The Republic of North Macedonia is still struggling to establish efficient internal and external mechanisms for prevention and prosecution of perpetrators in all cases of torture and inhuman behavior in prisons and detention institutions. Two years after amendments to the Law on Ombudsman, the citizen control mechanism is still not operational, which is due to inadequate coordination and communication with the previous Ombudsman. To create conditions for onset of operations of the external control body under the Ombudsman, it is of particular importance to prepare and adopt a methodology covering the work of the body as soon as possible, whereby the methodology should be accepted and approved by all stakeholders.

INADEQUATE STAFF APPOINTED ON MANAGMENT POSITIONS

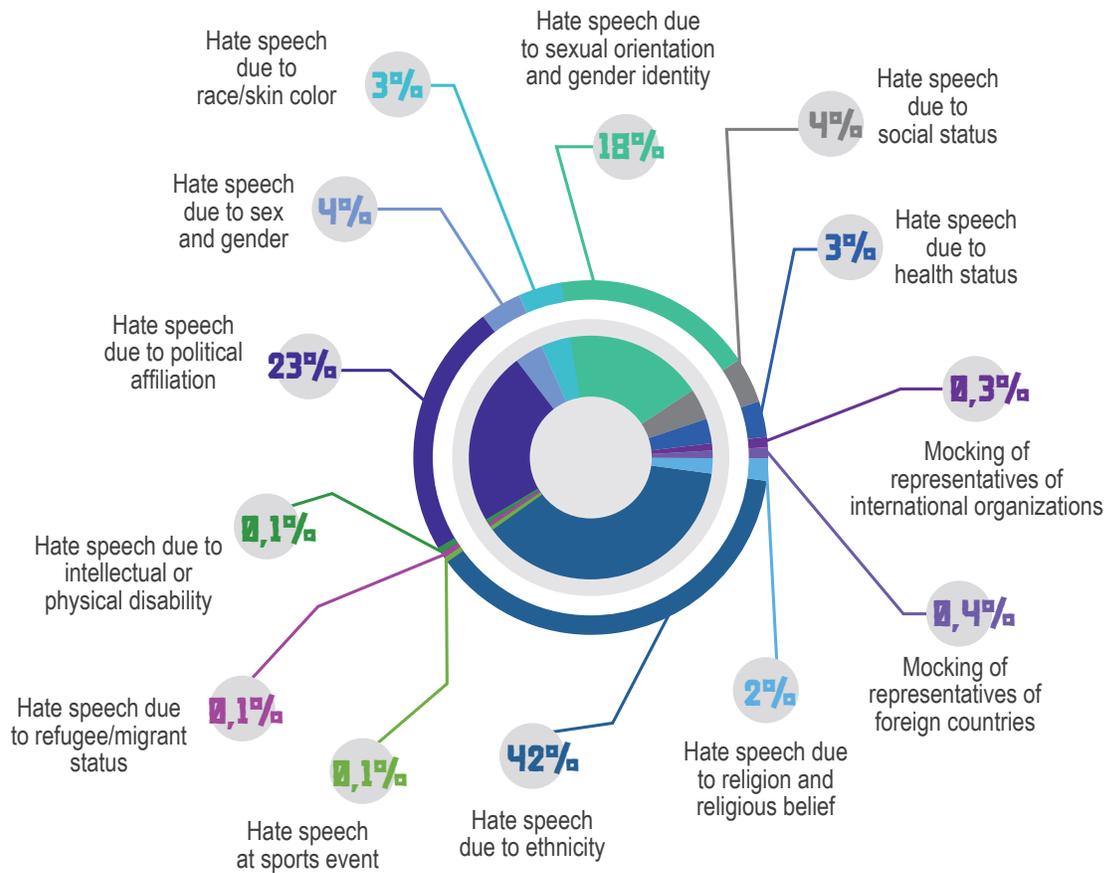
During 2020, several changes were made in terms of management positions in penitentiary facilities in RNM. The Helsinki Committee for Human Rights raised concerns¹³⁵ on whether the newly appointed persons have sufficient competencies to meet the task at hand. Notably, persons managing these institutions must have previous experience in the field of execution of sanctions. They must be well versed in the problematics to represent the institutions, to care for promotion of the rights of detained and convicted persons, to decide on their benefits and duties, their treatment and work engagement to attain their resocialization and further social integration in social life. For several years we have raised concerns about the need to appoint persons on management positions in penitentiary facilities that would not only have expertise and experience in the penitentiary system, but would also be sensitized to the need to promote and protect fundamental human rights of detained and convicted persons. Appointing inadequate staff is contrary to these efforts and may lead to setbacks, rather than promotion of the penitentiary system in the country.

¹³⁵ Helsinki Committee for Human Rights (December 16th 2020). Available at: <https://mhc.org.mk/news/naznachuvanjetona-nesoodvetni-rakovodni-kadri-e-sprotivno-na-zalozhbite-za-podobar-kazneno-popraven-sistem/>

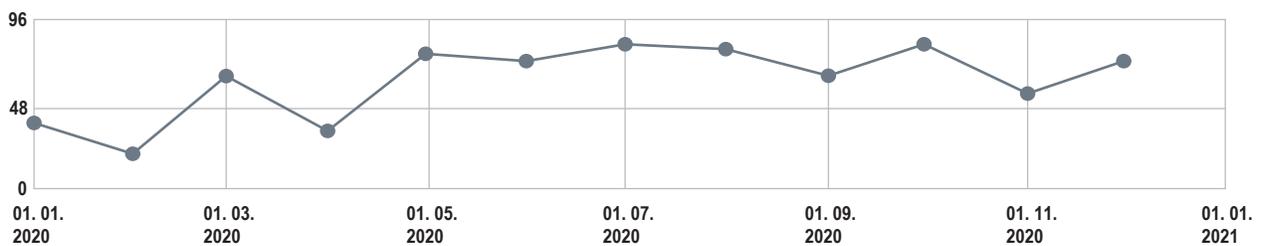
HATE SPEECH

In 2020, a total of 1.233 reports related to hate speech were registered on the Internet portal www.govnaomraza.mk, which is an increase of 130% compared to 2019. The analysis conducted by the Helsinki Committee identified four categories as most sensitive in societal context: *hate speech due to ethnicity (42%), political affiliation (23%), sexual orientation (18%)* from all reports in 2020.

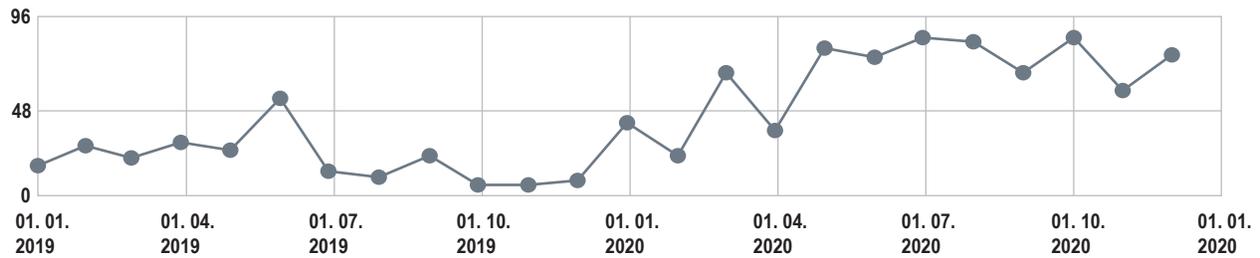
Graph 1 – Overview of hate speech for 2020 per category



Graph 2 – Annual hate speech trend for 2020



Graph 3 – Increase of hate speech rates from 2019 to 2020



The negative aspect is based on the COVID-19 pandemic and the measures adopted by the Government to handle the healthcare crisis, as well as the public's reaction to these measures. The year 2020 was a year of elections, with the early parliamentary elections being held in July 2020, leading to additional political polarization in society. A characteristic occurrence in 2020 is the drastic increase of reports of hate speech related to ethnicity. The reasons behind this trend are further elaborated in the text below.

During the entire year, the Helsinki Committee for Human Rights urged the Government of the Republic of North Macedonia, particularly the Ministry of Interior, to urgently take measures under their competence to sanction this phenomenon – or to engage in more intensive work with civil society organizations and to launch a public campaign to further educate citizens. No court practice in this area is in place in the country yet.

This phenomenon had also gathered attention at European Union level, particularly by adoption of a Code of Conduct for major IT companies, which aim to sanction hate speech on social media¹³⁶. The recommendations covered under the Code largely correspond with Committee findings, particularly concerning the need to foster partnership between national institutions and civil society organizations aimed to establish a monitoring network. A need is also recognized of public campaigns to educate the public, and of specialized trainings for all servants working on this topic.

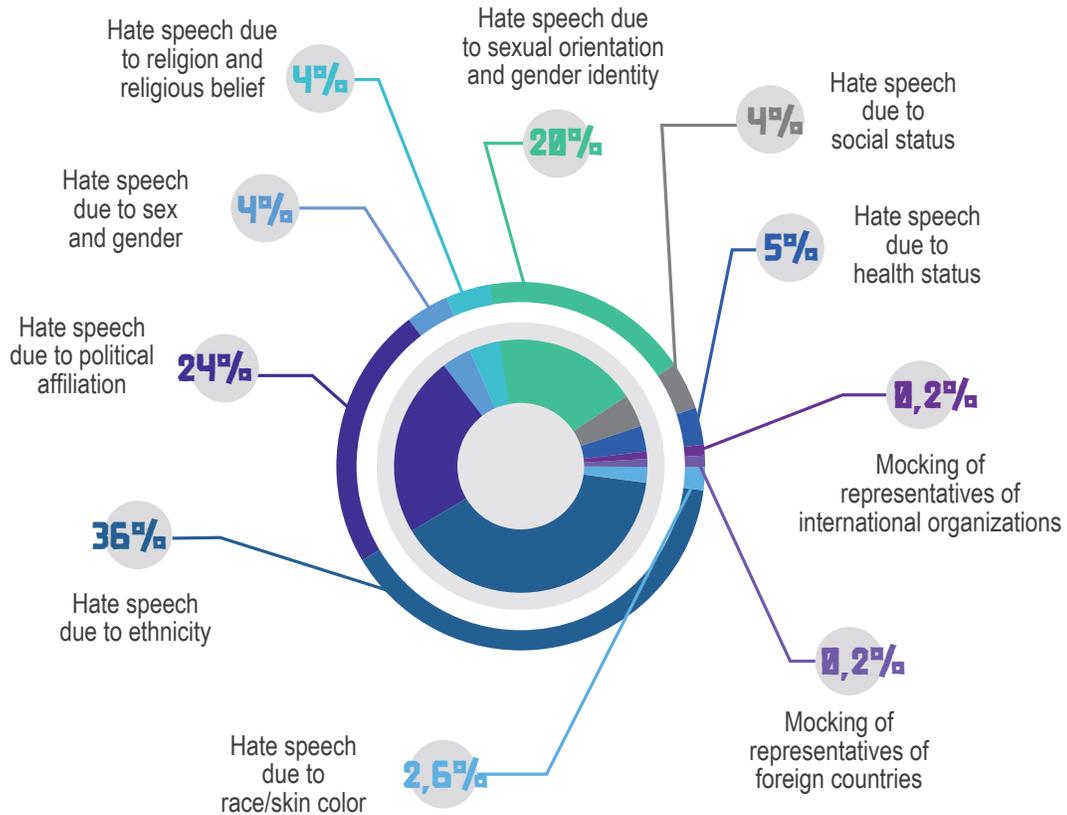
January – April 2020

This period noted an increase of hate speech aimed at sexual orientation and gender identity, as response to the public campaign “Discrimination Ends with Me!” organized by the Network for Protection against Discrimination. one of the three promotional videos of this campaign concerns promoting the rights and protection of the LGBTI community, which prompted hate speech on social media, use of discriminatory language and humiliation.

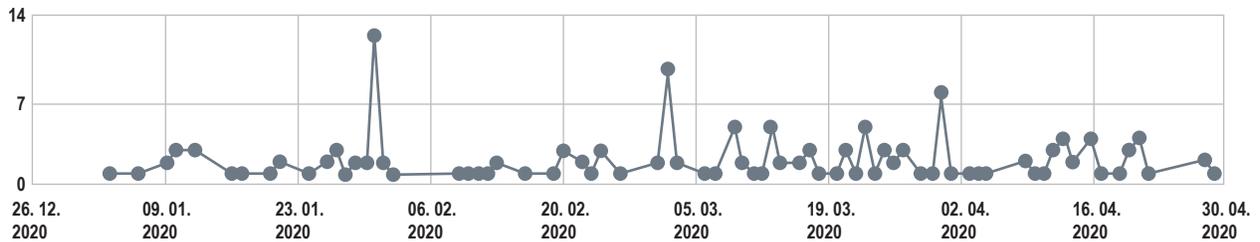
Based on analysis conducted in 2019, the Helsinki Committee constantly issued warnings on increase of hate speech, particularly after dissolution of Parliament and onset of political campaign in light of the early parliamentary elections 2020. Most of the cases registered in March concerned the COVID-19 pandemic situation, declaration of state of emergency by the President of the Republic of North Macedonia and reactions from the public related to measures imposed by the Government. The highest frequency of digital traffic and, in turn, social media reactions, was noted after completion of the official press-conferences held by the minister of health on behalf of the Crisis Staff (see Graph 5).

¹³⁶ European Commission (February 2019). *How the Code of conduct helped countering illegal hate speech online*. Available at https://ec.europa.eu/info/sites/info/files/hatespeech_infographic3_web.pdf (last accessed on 12.12.2020)

Graph 4 – Overview of hate speech for 2020 per category (January – April 2020)



Graph 5 – Hate speech trend (January – April 2020)

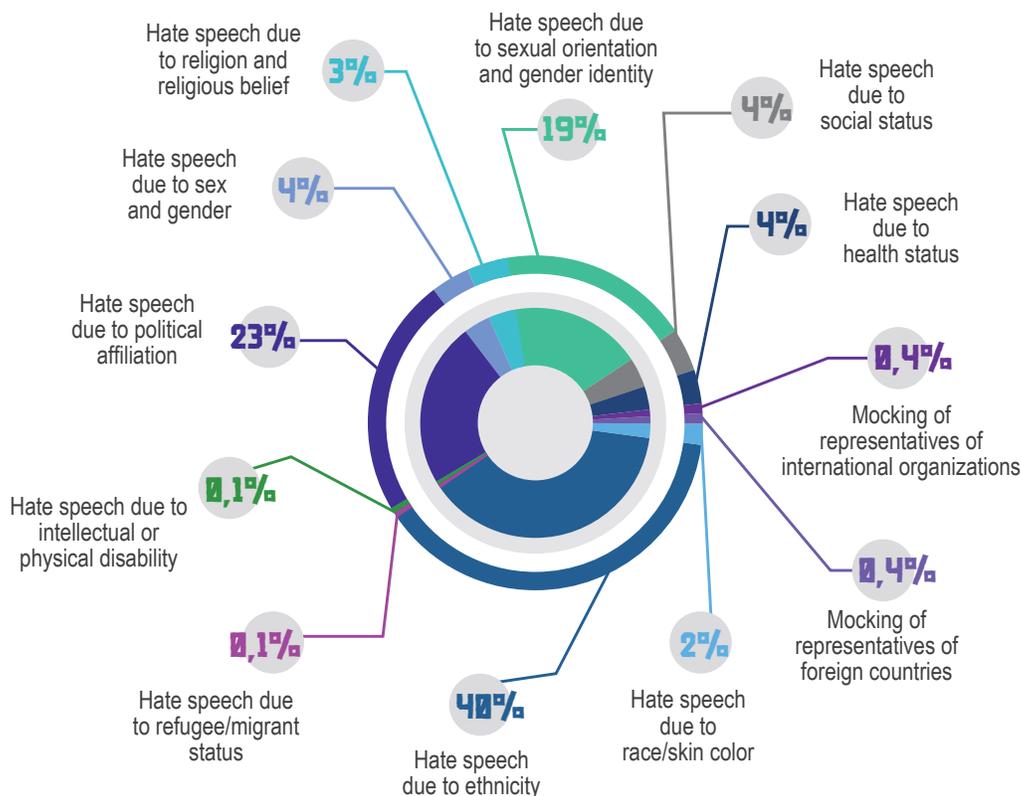


Similar to March, the largest number of hate speech reports lodged in April (61%) concern ethnicity and political affiliation. Encouraged by the new situation, with introduction of the category “hate speech based on health status”, the Helsinki Committee promoted its monitoring system. In April, 11% of the total number of reports were lodged on these grounds. A longer period after reviewing the methodology on monitoring of hate speech, reports were verified concerning hate speech based on social status, and based on religion and religious beliefs. As noted above, the increased number is due to the extended state of emergency in the country imposed to prevent the spreading of COVID-19. Moreover, an active negative discussion was noted between supporters of the ruling party and those of the opposition, particularly around the manner in which the state handles the crisis, as well as the initiative of a group of

members of parliaments calling to convene the Parliament of the Republic of North Macedonia to verify the decision of the President of the country to extend the state of emergency.

In this period, the Helsinki Committee issued warnings of drastic increase of hate speech, specifically in the new context with announcing the onset of a pandemic and introduction of state of emergency in the country. Moreover, the Committee warned against violation of mechanisms available to the executive branch of government and urged them to regularly notify the President of the state, media and civil society organizations on taken measures and effect thereof. This was particularly important in absence of a functional Parliament and opportunity to employ efficient supervision over the work of the executive branch of government during states of emergency.

Graph 6 – Hate speech trend (May – August 2020)



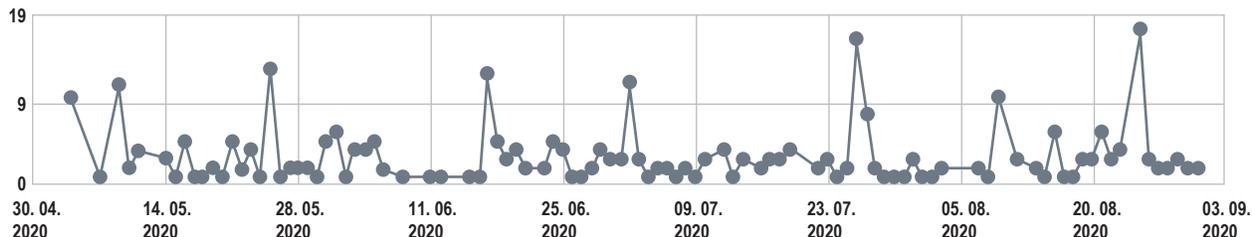
As evident from the table on the hate speech trend on social media for May 2020, the largest number of reports is noted in two distinct periods – the organization of St. George’s Day litany in Struga, contrary to Government recommendations to maintain social distancing and to respect adopted protocols¹³⁷, and before the muslim holiday Eid-al-Fitr, similar to reports lodged in April before the Orthodox Easter holiday. Despite Government recommendations to comply with measures for prevention of the spread of COVID-19, some of the religious leaders had opposing views and recommendations in that period and proceeded to allow holding religious rituals.

The largest number of hate speech reports lodged in May (67% of the total number of verified reports) once again concerned two categories, religious beliefs and political affiliation. This is due to the extended state-of-emergency in the country as measure to prevent spread of COVID-19. повторно се однесуваат на две категории, етничка припадност и политичка припадност. Moreover, an active negative discussion was noted between supporters of the

¹³⁷ Safety protocols issued by the Government of the Republic of North Macedonia aimed to prevent the spread of COVID-19. Available at: <https://vlada.mk/protokoli-koronavirus?fbclid=IwAR1w6Y8bSmsKrVT-W2Jl9XhweWRFuHK4tOeQcRSC6kGVuDSems65nYS-hhw>

ruling party and those of the opposition, particularly around the manner in which the state handles the crisis, as well as discussions about the potential date of early parliamentary elections.

Graph 7 – Hate speech trend (May – August 2020)

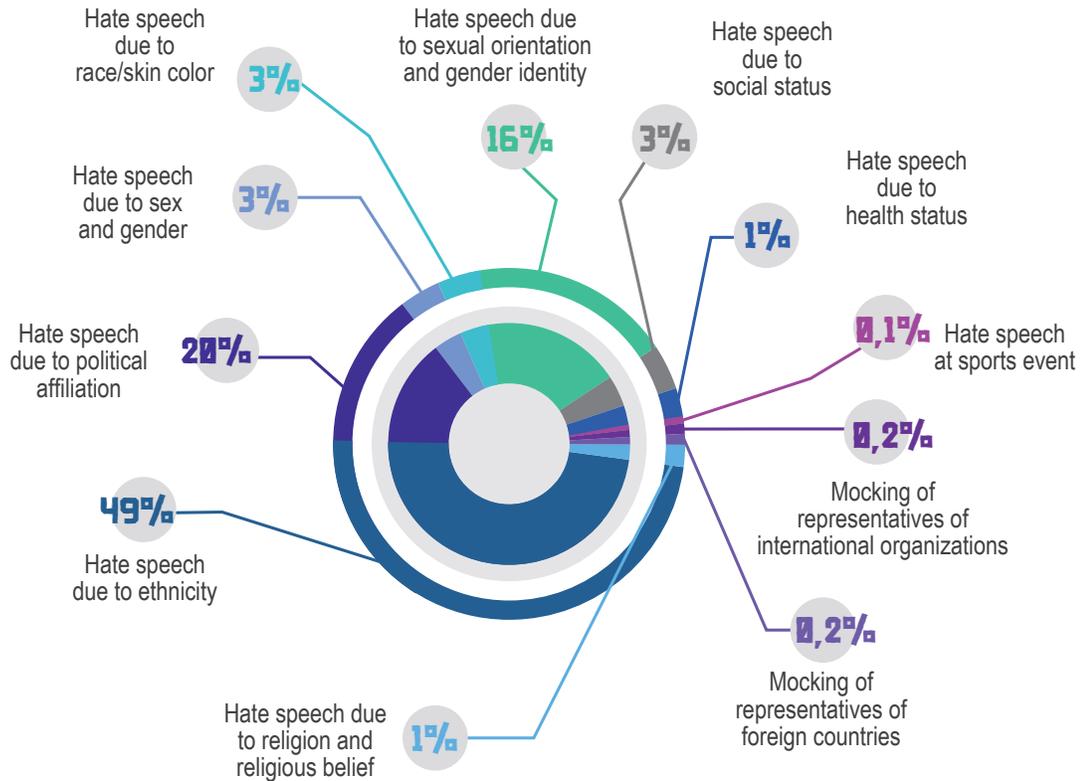


In June, the Helsinki Committee for Human Rights recorded a large number of reports (105) concerning hate speech on social media. Most of the cases registered in this month concerned the situation with the COVID-19 pandemic and the decisions to hold early parliamentary elections in July. Reactions across social media were related to the drastic increase in the number of COVID-positive cases since the beginning of the month. These developments also gained an ethnic overtone and caused an increase in hate speech on social media. The highest number of reports is registered after the last quarantine related to the Orthodox holiday Pentecost (16th – 19th June). Similar to June of the previous year (2019) when the Pride Parade was organized in RNM, in the last three days of the month the Helsinki Committee recorded an increased trend of hate speech based on sexual orientation and gender identity, related to a series of events related to celebration of Pride Month.

The highest number of cases in July concerned the early parliamentary elections (held on July 15th 2020) and the overall negative political tone. This resulted in a high number of reports of hate speech related to political affiliation and ethnicity. Due to the changes in the manner of conducting this political campaign due to the pandemic, most messages issued by the political parties were aired and discussed on social media. Even though a large portion of the campaign was conducted by virtual means, a traditional campaign was still held by organizing rallies, whereby protective measures were not fully complied with (particularly in terms of wearing face masks). This resulted in exchange of hate speech on social media that, in addition to political, also had an ethnic context. In comparison, from April 1st 2019 to completion of the second parliamentary election cycle, the Helsinki Committee recorded 63 hate speech reports. During these elections, an increase is noted of over 80% of reports for the same categories.

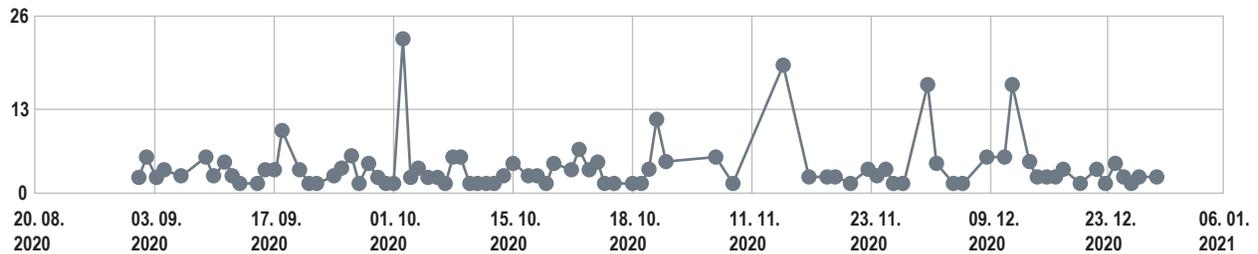
The negative discourse of the post-election period in July continued in August 2020 with vastly intensified and offensive rhetoric. Negotiations over the new government produced hate-fueled speech primarily related to ethnicity, stemming from negotiations between the Social Democratic Union of Macedonia (SDSM) and the Democratic Union for Integration (DUI). Offensive speech was aimed directly toward several politicians, whilst they had been labeled “sellouts”, “traitors” etc. during these months, the Helsinki Committee for Human Rights noted an utmost nationalistic hate-fueled speech. The highest number of cases was noted on August 25th 2020, following publication about post-electoral coalition between SDSM and DUI.

Graph 8 – Hate speech trend (September – December 2020)



Similar to the previous period, in September 2020 the Committee registered a high number of reports related to hate speech, which had also escalated in cases of hate crimes. Two violent incidents in one week, perpetrated by supporters' group in Skopje, reiterated the fact that the need of actual handling of this destructive phenomenon must not be ignored. Despite the numerous public appeals for active on-field and social media action, inertia and unresponsiveness is still noted in institutions, particularly in the Ministry of Interior and the Public Prosecutor's Office.

Nonetheless, during its 4th Government session, the Government of the Republic of North Macedonia reviewed the hate speech case that occurred on "Macedonia" square, and "strongly condemned the group's behavior that caused hatred, discord and intolerance on ethnic grounds". The Helsinki Committee for Human Rights welcomed this political effort and pointed to the fact that it expects specific measures to be taken by competent institutions in charge of prevention and sanctioning of this phenomenon. Moreover, the Helsinki Committee also believes that this issue should undergo a wider public debate with participation of all interested parties. The process of creating public policies in the field should be promoted, bearing in mind that hate speech is adequately covered under Chapter 23 – Judiciary and Fundamental Rights and Chapter 24 – Justice, Freedom and Security. The Helsinki Committee believes that the consistent high number of cases related to hate speech is due to lack of knowledge of the matter, the treatment thereof within the European Union and its member-states and the lack of case law (as well as persistent impunity for violation of Article 319 under the Criminal Code).



One of the key recommendations of the European Commission¹³⁸ points to the legal inconsistencies in regulating hate speech. Hence, review of the legislative framework pursuant to best European practices is requested. The Commission concludes that hate speech is a crime, but is nevertheless widely spread on social media. Moreover, from its monitoring findings, the Helsinki Committee agrees that the legislative framework should be reviewed and that specific measures should be taken to ensure sanctioning of hate crime by building capacities of the Ministry of Interior and the Public Prosecutor's Office. This further confirms Helsinki Committee's findings that national preventative mechanisms for handling hate speech are inadequate.

The highest number of cases reported towards the end of the year concerned reports of hate speech related to ethnicity. On average 45% of the total share of hate crime reports lodged in October, November and December listed these grounds. On the occasion of the International Tolerance Day on November 16th 2020, the Helsinki Committee published a series of appeals to competent institutions, urging them to take prompt action, both on field and on social media. The message of the Helsinki Committee is that we live in part of the world that throughout the past had suffered the disruptive consequences of intolerance and its outcomes: hatred and violence and *"...thus, it must be reiterated every time and everywhere that tolerance is key for keeping the peace and for the economic and social prosperity of all people, and this specifically concerns multiethnic and multicultural societies. On the other hand, social inequality, discrimination and hate speech and hate crimes, stemming precisely from the intolerant treatment of other and different people, must not be ignored"*¹³⁹.

The Helsinki Committee continued noting the use of exceptionally homophobic tone in the public, characterized by the use of offensive and discriminatory words. By the end of the year, an increase of hate speech was noted, concerning sexual orientation and gender identity, particularly after the announcement that an Inter-Parliamentary Group for Support of the Rights of the LGBTI Community will be established within the new Parliament composition.

The negative trends of spreading hatred in the country may only be prevented with radical changes, both in terms of treating such cases by competent institutions and in terms of necessary reforms in education and the communication culture as a whole. Of particular importance is the fight against disinformation and fake news that regularly fuel the tone of hatred in public discourse, especially in situations lacking accurate, timely and verified information from relevant sources.

¹³⁸ European Commission Report on North Macedonia. https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north_macedonia_report_2020.pdf, pg. 30.

¹³⁹Helsinki Committee for Human Rights (November 2020). *Monthly Human Rights Report for November 2020* <https://mhc.org.mk/reports/mesechen-izveshta%d1%98-za-chovekovite-prava-vo-republika-severna-makedoni%d1%98a-noemvri-2020/>

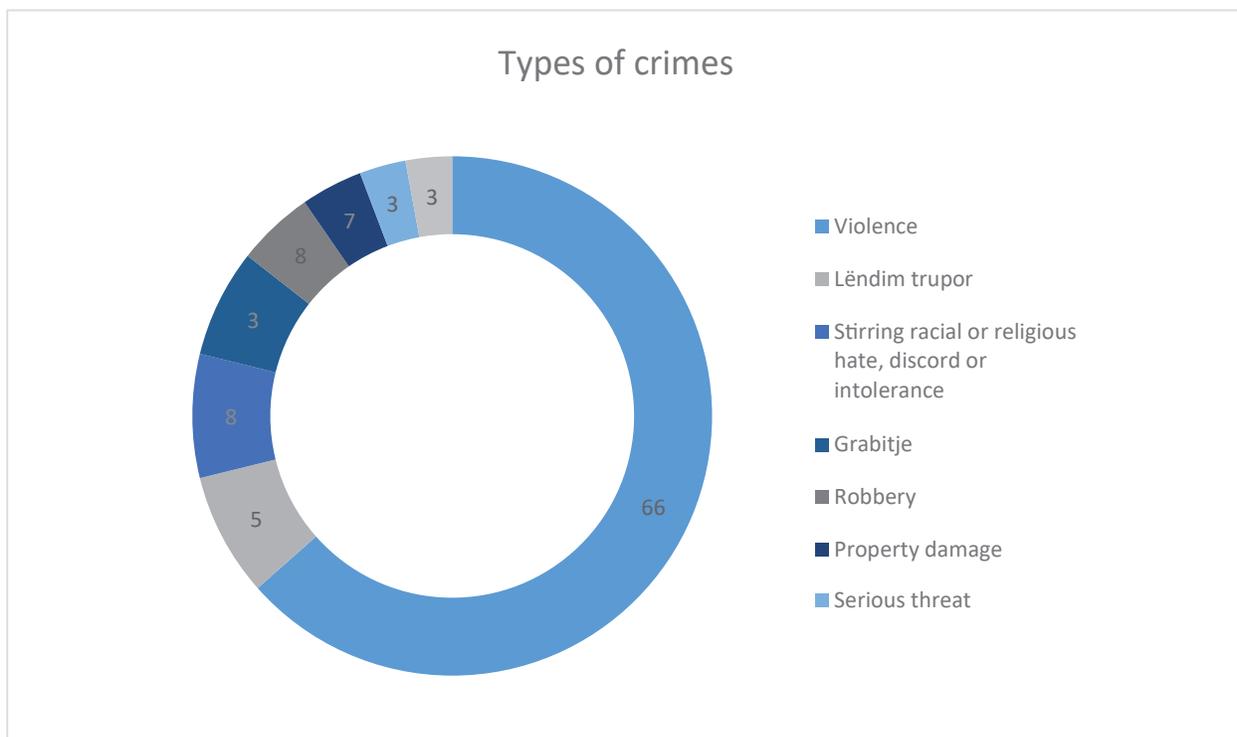


During 2020, the Helsinki Committee also launched a pilot-project for monitoring hate speech at local level. The process of gathering data in the towns of Tetovo, Bitola and Shtip indicated that ethnicity is also the predominant basis of hate speech at local level¹⁴⁰.

¹⁴⁰ Annual Monitoring Report on Hate Speech in the Towns of Tetovo, Bitola and Shtip. Available at: <https://mhc.org.mk/reports/godishen-izveshta%20od-monitoring-na-govor-na-omraza-na-lokalno-nivo-vo-gradovite-tetovo-bitola-i-shtip-2020/>

HATE CRIMES

In 2020, the Committee registered a total of 104 hate crime incidents. The incidents in question were registered immediately after reporting thereof by media or by the Ministry of Interior. Simultaneously, 37 incidents (36%) were confirmed, whereas 67 (64%) still remain unconfirmed¹⁴¹. Most unconfirmed cases are related to situations in which, according to other indicators¹⁴² there is reason to believe that these bias incidents are motivated by the victim's ethnicity. Despite our request to confirm indicators, Mol has still not confirmed these hate crimes/incidents. Ethnicity (76 incidents) and political affiliation (12 incidents) are still the predominant grounds for the committed hate crimes in 2020. Moreover, 5 hate crimes targeted migrants or refugees due to their status, differing nationality is a motive in 4 incidents, 3 incidents occurred as result of religious beliefs, 2 incidents concern sexual orientation, 1 incident occurred on grounds of intellectual disability, and 1 incident was related to gender. Victims and perpetrators are predominantly young persons and members of different ethnic communities.¹⁴³ Frequently, an incident may meet criteria for suspecting commitment of two or more crimes, and thus the number of crimes is higher than the number of incidents. Most incidents occurred as result of political affiliation or political belief, whereby the victims are not people, but rather legal entities, such as political party offices. Notably, this stems from the fact that most of these incidents concern property damage and material damage.

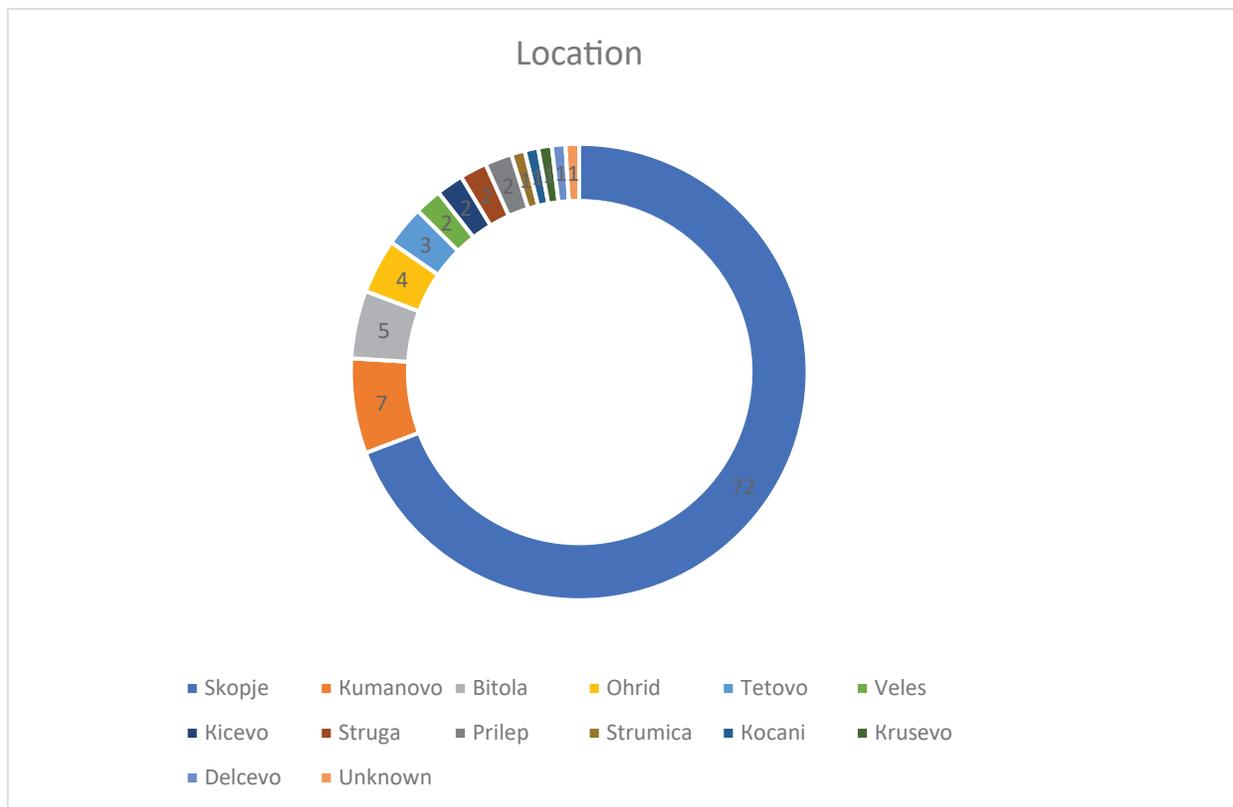


¹⁴¹ The incidents were registered immediately after reporting thereof by media or by the Ministry of Interior. Confirmed incidents are those wherein hate crimes are confirmed based on data presented by the affected persons, media and/or Mol. Unconfirmed cases are related to situations in which, according to other indicators, there is reason to believe that these bias incidents are motivated by the victim's ethnicity, but hate crime cannot be confirmed with certainty.

¹⁴² Location, manner of execution, involvement of minors and secondary school students.

¹⁴³ Primarily between Macedonians and Albanians.

Most of the incidents were committed by young people, whereby the majority of perpetrators are unidentified. The victims and the perpetrators are usually members of differing ethnic communities,¹⁴⁴ whereas reported incidents are related to certain crimes covered under the Criminal Code.



The majority of incidents – 72 (69.2% of the total number of registered incidents) occurred in Skopje and surrounding municipalities. A total of 7 incidents occurred in Kumanovo, 5 in Bitola, 4 in Ohrid, 3 in Tetovo, 2 in Kicevo, Veles, Struga and Prilep, respectively, and 1 incident in Krushevo, Kochani, Delchevo and Strumica, respectively. The location of occurrence of 1 incident remains unidentified.

The listed data are an excerpt from the special Annual Report on Hate Crimes¹⁴⁵, prepared by the Helsinki Committee 8 consecutive years. The report covers a more in-depth overview of the state-of-affairs, as well as detailed descriptions of recorded incidents.

¹⁴⁴ Primarily, but not limited to: Macedonians and Albanians.

¹⁴⁵ Annual Report on Hate Crimes 2020 issued by the Helsinki Committee for Human Rights, available at: <https://mhc.org.mk/reports/godishen-izveshtaj-za-kriminalot-od-omraza-vo-2020/>



Photographs from autumn actions for removing hate speech from public property

Photographed by: Vildan Drpljanin

LGBTI SUPPORT CENTER

Effects of the pandemic over the LGBTI community

The COVID-19 pandemic is not only a healthcare problem, but it also comes as shock for any society and strongly impacts the wellbeing and quality of life of LGBTI persons. In times of crises, marginalized communities are more vulnerable, and violence against gender and sexual minorities notes an increase. With its safety and health at risk, the community is further stigmatized. The disproportionate impact of the pandemic over marginalized groups affected the LGBTI communities, LGBTI youth and adolescents, which are also among the most vulnerable groups in other situations. The state of emergency increased the risk of multifaceted and cross-sectoral discrimination in various areas – the labor market, healthcare, social service, and access to other services (determined by temporary measures implemented to decrease the consequences of handling the health and economic crisis caused by COVID-19 for the identified vulnerable groups).

Due to the restrictive measures imposed to mitigate the effects of the pandemic, LGBTI persons suffered additional fear and risks – forced living in homophobic environment due to the restrictions of movement, curfews and lockdowns; unsupportive families; increased risk of homelessness and violence; poor health and hygiene and increased risk of mental issues. In that regards, the secure and reliable environment provided by the Shelter Center “Safe House” was paramount for the process of strengthening users’ physical and mental health. What is most important amidst the new crisis is the fact that this shelter addressed the need of holistic approach towards the needs and rights of victims of domestic, gender-based violence and violence on the basis of sexual orientation and/or gender identity, i.e. the need to secure a minimal package of services with characteristics and qualities suited to the victims’ needs.

Measures for protection against COVID-19 related to restrictions of movement were discriminating, particularly for LGBTI couples. A typical example of this is the Government decision on easing measures in terms of seating arrangements in catering facilities, whereby only persons who could prove they are members of the same family were allowed to socialize therein. LGBTI persons who still hide their gender/sexual identity, which particularly affects LGBTI youth, had to stay in households of their parents or families, who often treat them in a hostile and even violent manner. LGBTI persons mostly build their community and social circles in socialization centers, which are few and far between in our country and remained closed during this period. The aforementioned impacted and pressured the mental health of LGBTI persons, who are more susceptible to depression, anxiety, isolation and suicidal tendencies due to social stigma even in normal circumstances.

As response to these problems and the need of socialization, solidarity and mutual support, an online group was created, named “LGBTI Together in Self-Isolation”. This platform found many uses. Notably, persons from the community were encouraged to discuss their problems and battles stemming from self-isolation, and also began organizing virtual events within the group, including online discussions on various topics, drag shows, musical performances. The existence of a “virtual” LGBTI community helped decrease the negative effects of isolation. Many events anticipated under “Skopje Pride 2020 – Virtual Edition” were organized on this online platform.

On the other hand, 2020 noted strengthening of the lesbian and feminist movement in the country. The informal group LezFem organized a campaign in celebration of April 26, the International Lesbian Visibility Day, under the hashtag #LezbejkaeUbavZbor (#LesbianIsAPrettyWord). In September, the group organized a two-day lesbian camp wherein participants had the opportunity to participate in trainings for protection against domestic violence, protection against discrimination, recognition of hate speech and hate crimes, and to take part in discussion for exchange of personal stories and experiences. The participants had the opportunity to gain knowledge about creative

activism and to develop ideas they would like to implement in the future. During December, LezFem conducted a research case on the needs and wishes of the LB+ community, the results of which will be used as grounds for further activities aimed to strengthen this community.

Advocacy

Advocacy for promotion of LGBTI human rights in the country posed a major challenge during 2020. In addition to the ongoing health crisis that leaves behind permanent consequences, particularly over the most marginalized communities, we have also faced an unstable political scene. Due to postponement of the early parliamentary elections, the legislature house was left inactive for over eight months. This situation posed further difficulties in the advocacy process, in the sense of improvements in the legislation. Advocacy with the previous Parliament constitution was developed and conducted by support with the Inter-Party Parliamentary Group for Promotion of the Rights of LGBTI persons, which offered the largest support in the overall advocacy for improvement of legislation related to LGBTI rights in the country, whose existence became uncertain with the dissolution of the Parliament due to the early parliamentary elections.

Meanwhile, in May 2020 the Constitutional Court adopted a decision to repeal the adopted Law on Prevention and Protection against Discrimination, due to lack of majority required to vote for the Law. The Law was adopted in 2019 after a long advocacy process and, for the first time, it covered sexual orientation and gender identity as protected discriminatory grounds. This created a gap in the legislation, which, in turn, resulted in further destabilization of the state-of-affairs concerning protection of the human rights of the LGBTI community amidst a pandemic. The elections took place in July, whereas the new Government and Parliament were formed in August. After formation of the Parliament, advocacy activities were aimed at reproposing the Law and ensuring support for adoption thereof by the newly appointed members of Parliament. Simultaneously, the other existing problem stemming from the repeal of the law was the election of members of the Commission for Prevention and Protection against Discrimination. Election of new Commission members was delayed once again pending readoption of the law, which practically implied that the country would be left without a body regulating equality for over a year. In that regard, in addition to readoption of the law, advocacy was extended to election of new Commission members, as well as to re-establishment of Inter-Party Parliamentary Group. After a series of advocacy activities aimed to meet these three priorities, the Anti-Discrimination Law was readopted in October, and a new public call was announced near the year's end for election of Commission members. Moreover, a constitutive session was held concerning establishment of Inter-Party Parliamentary Group, which noted participation of 14 members of Parliament.

Furthermore, advocacy for introduction of legal acknowledgment of transgender persons' gender in the national legislation continued during the entire year at both national and international level. The final version of the draft-law was finalized in late 2020 and is pending adoption in the first half of 2021.

Hate speech aimed at LGBTI persons noted an increase during the year (detailed information are available under section "Hate Speech" of this report), whereby numerous reactions were issued by the Center, together with the National Network against Homophobia and Transphobia. The LGBTI Support Center continued regularly reporting on the state-of-affairs in terms of human rights of LGBTI persons and lodged its contribution to the Report on the Situation with Human Rights of LGBTI Persons at European level, prepared by ILGA Europe. Moreover, the LGBTI Support Center also gave its contribution to the European Commission Report.

ANNUAL REPORT ON

HUMAN RIGHTS

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FOR 2020

