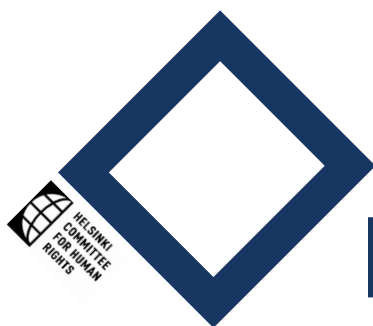


2022

ANNUAL REPORT ON HUMAN RIGHTS





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RIGHTS

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INTRODUCTION

The beginning of 2022 was marked by Russia's military invasion of Ukraine, which resulted in numerous human casualties and continued uncertainty and fear amidst the ongoing pandemic worldwide. Over half a million children have become refugees, with the number of displaced people and refugees steadily rising. The war in Ukraine caused an economic and energy crisis, an even wider gap between the rich and the poor and vulnerable groups are bearing the brunt of the socio-economic consequences.

According to the Helsinki Committee, there was a slight decrease in requests for legal assistance related to labor relations in 2022 compared to the previous year. However, there was an increase in requests for assistance with property-law issues, domestic violence and family relations, and the protection of human rights. One glaring example in the field of labor rights is a case involving a worker from Skopje who turned to the Helsinki Committee for legal assistance. Acting on a complaint filed on her behalf by the Helsinki Committee the State Labor Inspectorate carried out an extraordinary inspection of her employer and determined that for the period while she was employed, not only did she not receive the full amount of her salary, but was also paid sums as low as one, two or ten denars.

After all the demands from trade unions and all the protests by employees in various sectors, a new Law on Labor Relations has not been adopted yet despite the initial efforts made in 2018 to draft the law.

Considering the shaken trust of the citizens in the judiciary, the Helsinki Committee at the request of citizens monitored court proceedings or proceedings of wider social interest.

Although cases of violations of health rights are still prevalent in our daily lives, the covid-pandemic has brought to light deep systemic anomalies that have severe consequences for people's health and lives and enable profiting from the suffering of patients and their families. The Helsinki Committee together with the Investigative Reporting Lab (IRL), the Macedonian Young Lawyers Association and the Young Doctors Club produced a "Report on the treatment of citizens in private and public health institutions following the call for legal aid by civil society organizations".

When it comes to gender-based violence, even though a law was put in place in 2021 to define gender-based violence, many institutions still do not recognize it as a form of violence. Instead, they only consider it as domestic violence. This is evident from the reports of civil society organizations, mainly in the provision of free legal aid and/or the monitoring of court cases of gender-based violence. The lenient penal policy, the inefficiency of the judiciary and the prolongation of court proceedings in cases of violence make it more challenging and limit access to justice for victims, which further negatively affects the reporting of gender-based violence. In 2022, the slogan "Poverty has a female face" was a reminder that women still do not enjoy equal rights in almost any aspect of life, at work or at home, in politics and social life, and that they are more susceptible to the impact of poverty.

From all the cases that show insufficient awareness of the human rights of those who are different and a lack of empathy, the most egregious example was the petition filed by parents against a child with Down

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syndrome, which represents a defeat for our society when it comes to the attitude towards the most vulnerable among us. These include the incidents and increased hate speech directed against members of the Jewish religious group "Lev Tahor", during their temporary stay in North Macedonia, which shows the low level of tolerance towards those who are different and the high level of xenophobia in the society.

In 2022, the Basic Civil Court in Skopje determined that the Government of the Republic of North Macedonia and the State Election Commission committed direct discrimination against persons with disabilities when exercising their right to vote. The court determined that the direct discrimination was committed by not taking, that is, by failing to take actions to adapt the infrastructure and space to and in part of the polling stations and violated the principle of appropriate adaptation. In this way, the defendants made it impossible for persons with disabilities to exercise their right to vote, and thus hindered the active participation of persons with disabilities in the political life of the state. The basic civil court passed this judgment after the Helsinki Committee for Human Rights, in 2021, filed a lawsuit for protection against discrimination in the public interest (*actio popularis*).

During 2022, the Helsinki Committee maintained its oversight of punitive-correctional institutions. Despite the states', as well as international and domestic organizations' efforts to improve the conditions of punitive-correctional institutions, systemic inadequacies persist. Prisoners are still unable to access health care, education, adequate living conditions, programs for resocialization and post-penal assistance. Corruption and bribery continue to be a common occurrence in the daily lives of those serving a prison sentence.

The "Committee" social center celebrated the 10th anniversary of the LGBTI Support Center's opening. As a subsidiary of the Helsinki Committee for Human Rights, the Center has become a well-known safe haven for LGBTI individuals in the country, offering legal and psychosocial assistance over the past decade.

However, hate speech directed towards LGBTI individuals is on the rise. Last year, a total of 36 cases of hate speech based on sexual orientation and/or gender identity were reported, making up 22% of all registered cases of hate speech.

The transgender community remains one of the most vulnerable and at risk of additional stigma, discrimination and violence. During the last year, the state again failed to gather the strength to implement the decision of the Court of Human Rights from Strasbourg, which pertains to regulating the legal recognition of gender.

A shelter called Safe House that offers protection to victims of domestic violence and at risk of homelessness also recorded high rates of hate crimes and hate speech based on sexual orientation and/or gender identity in 2022. The number of individual cases that were taken in by the shelter center Safe House confirms that family and gender-based violence, that is, violence based on sexual orientation and/or gender identity, is the dominant form of violence.

In 2022, a shelter called Safe House that provides refuge to victims of domestic violence and those at risk of homelessness, experienced a concerning number of hate crimes and hate speech incidents based on sexual orientation and/or gender identity. The shelter reported a high number of cases related to family and gender-based violence, emphasizing that violence based on sexual orientation and/or gender identity is the most prominent form of violence.

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The annual report of the Helsinki Committee for 2022 features individual cases that highlight deep-seated systemic issues and their impact on citizens' rights in our country.

Based on the findings resulting from the work of the Helsinki Committee, we conclude that no significant improvements have been made in the legal and institutional system for the protection and promotion of human rights.

FREE LEGAL AID

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

During 2022, the Helsinki Committee for Human Rights provided legal aid to citizens in various fields including labor relations, social and health care, child protection, family and gender-based violence, pension and disability insurance, property and legal affairs, criminal law as well as other areas related to the Committee's mission in protecting human rights.

Based on the collected data, **a total of 515 citizens applied to the Helsinki Committee for Human Rights for free legal aid**. According to the gender structure, a relatively larger part of the applicants for free legal aid were men (graph no. 1), while according to the ethnic structure, a significantly larger part of the applicants were Macedonians, and the smallest number of applicants were Turks and Serbs (graph no. 2).

Chart no. 1. Gender of applicants for free legal aid

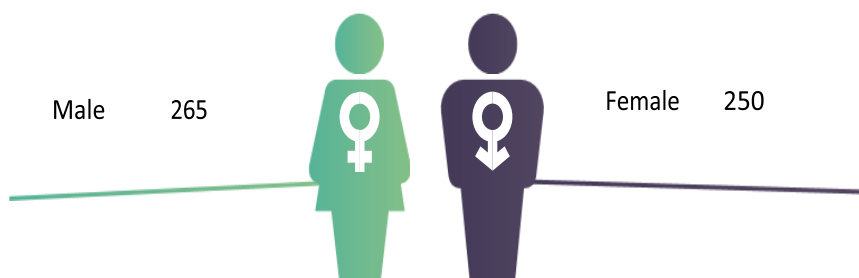


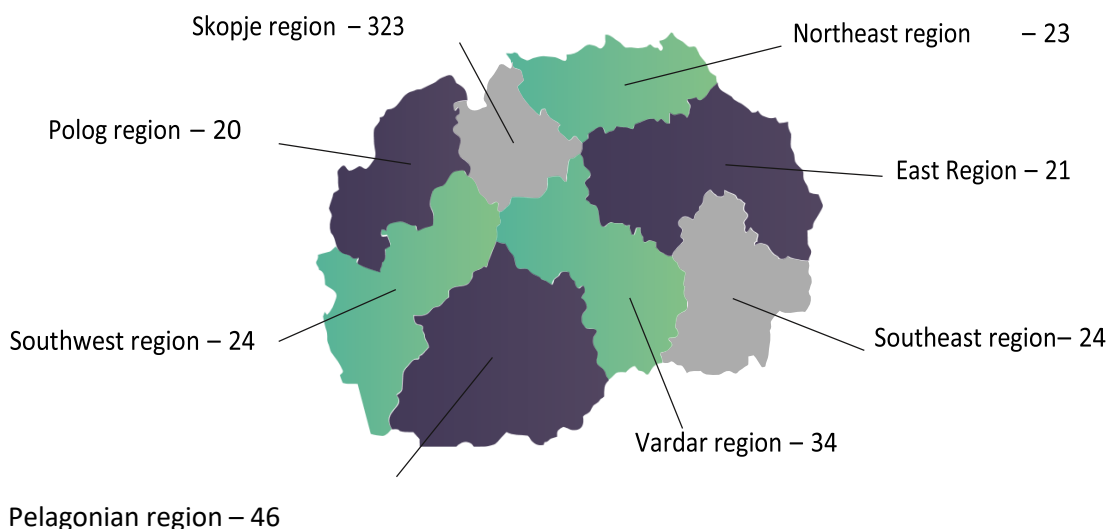
Chart no. 2. Ethnicity of applicants for free legal aid

Macedonians	Albanians	Roma	Turks	Serbs	Others
450	37	21	1	1	5

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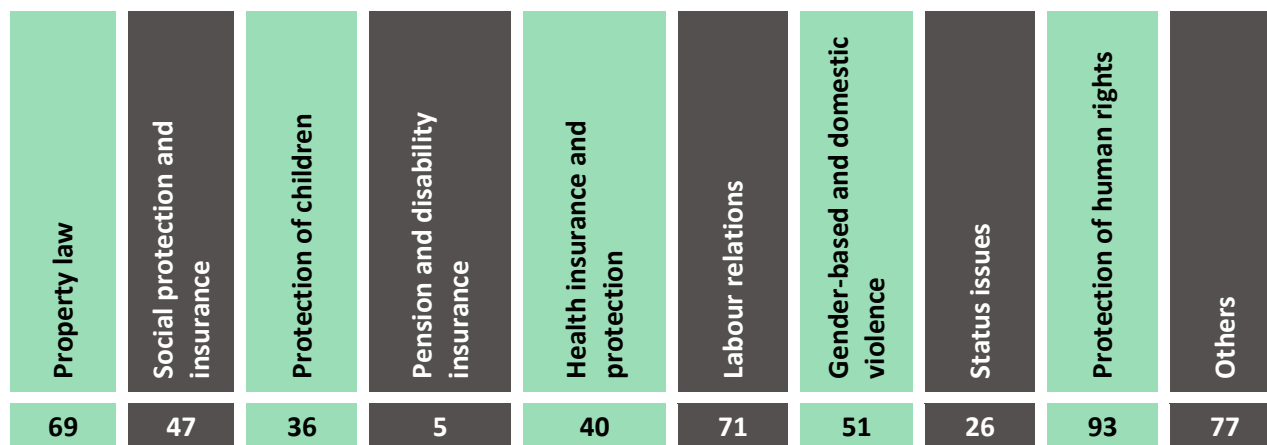
According to the place of residence, most of the applicants for free legal aid are from the Skopje region, bearing in mind that the office of the Helsinki Committee is located in the City of Skopje (chart no. 3).

Chart no. 3. Origin of applicants for free legal aid by region



The latest data from the Helsinki Committee shows that issues related to property law, domestic violence and family relations, labor relations, and the protection of human rights are the most common topics for requests of free legal aid. (graph no. 4).

Chart no. 4. Requests for free legal aid by legal area



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Various actions taken by the Department for Free Legal Aid at the Helsinki Committee are considered primary legal aid including providing citizens with oral legal advice and initial information on their rights and the procedures for exercising them. When it comes to rights for which there is a possibility of extrajudicial settlement through a general administrative procedure before the state authorities or an internal procedure before the employer, after receiving the necessary documents, we assisted the parties in preparing submissions (objections, appeals, etc.) or submitting requests for extraordinary inspection supervision to the appropriate inspectorates (Labor Inspectorate, Administrative Inspectorate, Sanitary and Health Inspectorate, Communal Inspectorates, Ministry Supervision Departments, Inspection Council).

To ensure legal protection in administrative or civil proceedings, we facilitated the process of obtaining a lawyer from the Ministry of Justice's approved list. In 2022, we made 8 requests for secondary legal assistance, including 3 for property law, 2 for domestic violence, 2 for family law, and 1 for social protection.

Implementation of the project "Improving access to justice in the Republic of North Macedonia"

The Helsinki Committee for Human Rights, with the support of the Ministry of Foreign Affairs and International Cooperation of the Republic of Italy, in December 2021 started the implementation of the one-year project "Improving access to justice in the Republic of North Macedonia". The goal of this project was to contribute to the improvement of citizens' access to legal mechanisms and services for the protection and promotion of their legal and constitutionally guaranteed rights. From there, the activities undertaken during the realization of the project included the provision of data and relevant information regarding the provided primary legal aid, as well as understanding the shortcomings of the legal framework for secondary legal aid, as well as giving recommendations for its improvement in the following period.

In doing so, special attention was given to the categories of citizens who in the period before the implementation of this project, had less interest in the services of authorized associations for free legal aid due to their ethnicity, place of residence, or social status. In order to improve access to justice for these citizens, open days¹ for free legal aid were held in more remote settlements and municipalities in the vicinity of the city of Skopje, that is, in the municipalities of Saraj, Sopsishte, Gazi Baba, and Ilinden. In addition to presenting the work of the organization and the way in which citizens can receive free legal aid during the open days, the legal advisers produced and distributed informative brochures² in Macedonian, Albanian and Romani languages for the population in these municipalities, namely: "Protected labor - productive worker" – a brochure on labor rights; "Inclusion without obstacles" - a

¹<https://www.facebook.com/MacedonianHelsinkiCommittee/posts/pfbid02wGtMQkZWowgdAmbKPrFbvE2W1dkWVucHpTMSBLsGiESwB4KGEbAWHCgot9yB7rxHl>

² <https://mhc.org.mk/publicationsanalyzes/podobruvanje-na-pristapot-do-pravdata-vo-republika-severna-makedonija/>

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brochure on the rights of persons with disabilities and "Life without violence" - a brochure on the rights of victims of domestic and gender-based violence.

In order to increase the transparency of court proceedings, and taking into account the shaken trust of the citizens in the judiciary, the project involved monitoring of court proceedings at the request of the parties or for proceedings of wider social interest, following a previously announced call³ for observers in appellate areas.

An information campaign was conducted to spread awareness about the free legal aid provided by the Helsinki Committee. Quarterly⁴ and half-yearly reports⁵ were shared, and the project was concluded with a final event in November 2022 when the findings were presented in a publication⁶ called "Access to Justice: Analysis of Free Legal Aid Provided by the Helsinki Committee for Human Rights" (available in MK and ALB versions).

In relation to the implementation of the provisions of the Law on Free Legal Aid, the National Coordinating Body (an informal body consisting of representatives of the Ministry of Justice, representatives of citizens' associations authorized for free legal aid, and lawyers) convened four times in 2022 to address the challenges and shortcomings in the fulfillment of obligations, both by the Ministry of Justice and by the providers of primary legal aid (authorized associations and legal clinics).

The experiences of the legal advisers of the Helsinki Committee, obtained while working with applicants for free legal aid, were of particular importance in specifying the recommendations for improving the legal framework that regulates the conditions for granting free secondary legal aid, improving the practice within the existing legal framework on primary legal aid, as well as modalities for improving communication between regional departments of the Ministry of Justice and authorized associations and legal clinics. From the regular meetings emerged the necessity of a legal and infrastructural basis for establishing a permanent formal body for cooperation and decision-making between the Department for Free Legal Aid at the Ministry of Justice, regional units of the Ministry, authorized associations for free legal aid, and legal clinics.

³ <https://mhc.org.mk/news/povik-za-angazhiranje-na-nabljuduvachi-na-sudski-postapki-vo-skopje-kumanovo-shtip-tetovo-i-bitola/>

⁴ <https://mhc.org.mk/reports/special-report/besplatna-pravna-pomosh-prv-kvartal/>
<https://mhc.org.mk/reports/besplatna-pravna-pomosh-vtor-kvartal/>
<https://mhc.org.mk/reports/besplatna-pravna-pomosh-tret-kvartal/>
<https://mhc.org.mk/reports/besplatna-pravna-pomosh-chetvrti-kvartal/>

⁵ <https://mhc.org.mk/reports/podobruvanje-na-pristapot-do-pravda-vo-rs-makedonija-polugodishen-infografik/>
<https://mhc.org.mk/reports/podobruvanje-na-pristapot-do-pravda-vo-rs-makedonija-vtor-polugodishen-infografik/>

⁶ <https://mhc.org.mk/wp-content/uploads/2022/11/pristap-do-pravda.pdf>

JUDICIARY

The Judicial Sector Reform Strategy (Strategy) was scheduled to be implemented from 2017 to 2022. The Helsinki Committee for Human Rights, working with the Blueprint Group, monitored the implementation of the Strategy during this time. They analyzed the progress and prepared reports and documents to share their findings with the public and help citizens understand the process of judicial reform.

In the area of independence and impartiality, it should be noted that a new Law for Regulating the Procedure of Court Trials was prepared and adopted, and the process of digitization in the judiciary began to be implemented in the past year.

The issue regarding the independence of the courts' budget has not been resolved yet. Additionally, the text of the new Rules of Procedure of the Court has not been finalized.

In terms of quality measures outlined in the Strategy, the unification of court practice has been consistently implemented in the recent past. Furthermore, court decisions are now published on the court's web portal sud.mk.

On one hand, the Judicial Council of the Republic of North Macedonia (JCRNM) has successfully met the requirements for making clear and reasoned decisions regarding the election and promotion of judges. On the other hand, the Council of Public Prosecutors of the Republic of North Macedonia (CPRNM) has continued not to publish on its web-site decisions on the election and promotion of public prosecutors, as well as other decisions made by the council.

The key challenge faced by the probation system was the very small number of cases, but in 2021 there was progress with the adoption of a special Strategy for the Development of the Probation Service (2021-2025), which provides a roadmap of measures to be implemented in the next period, and which address the previously mentioned challenges.

Since the adoption of the Strategy, no significant actions have been taken to improve the situation with human resources in the judiciary.

Despite the fact that in 2019, for the first time, judges were given the opportunity to directly submit a request to initiate a procedure for disciplinary liability against a member of the JCRNM they elected, so far no request has been submitted to initiate such a procedure. With the adopted legal amendments, the overall jurisdiction for the liability of the judges and the court presidents was transferred, as before, to the JCRNM. As for the liability of the public prosecutors, it is necessary to note that when a decision is made on a certain disciplinary matter, the CPRNM has decided to exclude the public from it, and because of this, there is no possibility to monitor the entire procedure.

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The measure for monitoring the efficiency of the judiciary is directly related to the establishment of the Center for Information-Communication Technology, Analytics and Statistics, but it has not been implemented.

The proposed amendments to the relevant laws achieve equality for employees in the private and public sectors by establishing the same amount of legal minimum wage and gradually harmonizing the remaining salaries of judicial officers and public prosecutors of all levels, as well as ensuring the continuity of wage changes in the judicial administration and in the public prosecutor's administration in relation to the minimum wage at the national level. However, the proposed changes have not yet been adopted.

The measure to establish clear criteria, rules, and procedures for the public at the meetings of the JCRNM was formally fulfilled in May 2019. A positive change in the way of work of the JCRNM after the adoption of the new law is the way of reporting on the election, promotion, and dismissal of judges and court presidents, as well as the decisions on determining disciplinary liability. The revision of the Methodology for judicial statistics in terms of the form for the annual work reports can be considered fulfilled because the JCRNM has established a practice of uniform reports on the work of the courts for a long time. The CPPRNM publishes the dates for the sessions on its website in a timely manner, but what is worrying is the non-transparent announcement of the budget of the CPPRNM.

Concerning access to justice, progress can be noted in the preparation of the relevant laws, although there is also a delay in relation to the deadlines set in the Action Plan of the Strategy.

It is evident that there is no progress in the establishment of investigative centers in public prosecutor's offices, the system for electronic distribution of cases in public prosecutor's offices has not been established, and the retirement of 10 public prosecutors as of June 30, 2022, also negatively affects the efficient operation of the Public Prosecutor's Office.

Relevant criminal laws are in different stages of preparation, whereby deviations from the deadlines specified in the Strategy can be observed. However, due to the complexity of these laws and to meet the quality criterion, it is clear why more time is needed for their adoption.

Progress has been observed in the area of administrative law following the innovations introduced by the Law on Administrative Disputes (LAD) of 2019, although non-compliance with the Law on General Administrative Procedure (LGAP) remains a burning problem.

The strategy envisaged a comprehensive legislative reform in the area of the Civil Substantive Law. The preparation of the relevant laws in this area has started, however, several of them have stalled in the process.

A general assessment of the implementation of the Strategy could be that the foreseen measures have been partially implemented, with varying degrees of progress in certain areas. However, it is necessary to emphasize that there are still many steps ahead to fulfill the strategic goals of the state, which will be foreseen in the next strategy for the reform of the judicial sector.

The Blueprint Group for Justice Reforms through the previous monitoring of the Strategy for Justice Reforms (2017-2022) has proven its relevant and professional expertise in assessing the quality of proposed measures and policies in the judicial sector and positioned itself as a key stakeholder from

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the civil sector that participates in reforms in this sector. During 2022, the Blueprint Group was involved in the preparation of the new development strategy for the judicial sector for the period 2023-2027.

LABOR RIGHTS

To fully understand the situation of workers in the Republic of North Macedonia, it's important to consider the unequal distribution of wealth. Recent data indicates that the Gini index, which measures income inequality, has risen to 33.5%.⁷ This is the result of the rapidly growing health crisis and the consequences of the pandemic that produced economic and social implications of enormous proportions. Workers were hit hardest by this crisis, inevitably giving this situation the character of a labor crisis. The crisis situation for the workers meant a struggle to preserve their health and the health of their loved ones, but also a struggle to save their livelihood. This crisis had a different impact on different social groups, in proportion to their power. So, the less powerful social groups were significantly more affected by the negative implications of the crisis because they consist of mostly people with precarious employment relationships. For example, textile workers often have employment contracts that are concluded for a duration of only one month.

Another reason for the increase in inequality in the distribution of income during and after the pandemic is the significant decrease in the incomes of employees in the sectors most affected by the crisis, in contrast to the incomes from capital that represent the main source of income of the wealthier. The conclusions of the research on the effects of the pandemic on the less powerful social groups say that the most affected are people with incomes around the minimum wage, young people, and women, whose incomes have decreased significantly during this period compared to the incomes of the rest of the citizens, and more affected are poorer regions and labor-intensive industries.⁸

According to data from the State Statistical Office, out of a total of 808,078 active population, 692,034 are employed, and 116,045 are unemployed. The employment rate in 2022 was 47.3%, and the unemployment rate was 14.4%.⁹ In 2022, 112,733 people were registered as unemployed in the RNM Employment Agency, of which 67,939 people were in urban areas and 44,794 people were in rural areas.¹⁰ According to the latest available data, in Macedonia in recent years, about 450,000 people lived below the relative poverty line and approximately 100,000 people lived below the absolute poverty line.¹¹

⁷ Data Bank "Gini index - North Macedonia". Available at: <https://databank.worldbank.org/source/world-development-indicators/Series/SI.POV.GINI>.

⁸ Biljana Jovanovikj, Branimir Jovanovikj, Viktor Mitevski, Viktor Stojkoski, "Inequality in the Time of Corona - Effects of the Covid-19 Pandemic on the Macedonian Economy: Policy Brief" (2021) <https://zmai.mk/wp-content/uploads/2021/01/Efektite-od-Kovid-vrz-MK-ekonomija-MK.pdf>.

⁹ State Statistical Office "Active population in the Republic of North Macedonia1) Results of the Labor Force Survey, 2022" (March 17, 2023). Available at <https://www.stat.gov.mk/PrikaziSoopstenie.aspx?id=98&rbr=14266>.

¹⁰ RNM Employment Agency "Review of registered unemployed persons". Available at: <https://av.gov.mk/pregled-na-evidentirani-nevraboteni-lica.nspix>.

¹¹ Institute for Economic Research and Policy Finance Think, "How much will Covid-19 increase poverty in North Macedonia?".

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In 2022, a total of 71 requests for free legal aid were submitted to the Helsinki Committee for Human Rights in relation to labor rights, most of which were individual and, to a lesser extent, collective requests of two or more workers. The share of these requests accounted for 15% of the total number of requests for free legal aid in the designated period. The requests to the greatest extent related to issues arising from the daily relationship between workers and employers, such as workplace harassment (mobbing), late payment of wages and vacation pay, issues related to withholding or unpaid overtime, issues related to wage supplements, health and social insurance during maternity leave or sick leave, overtime work, safety and health measures at work, various grounds for establishing and terminating the employment relationship (from candidate selection threw job adds, to termination of contracts for work).

The free legal aid included oral legal advice on current issues of rights and obligations from employment, and according to the merits and procedural possibility – the claimants were provided with legal aid in drafting objections against specific decisions of the employer. In the area of individual and collective rights and obligations from the employment relationship, based on the legal problem and the available documentation, the Helsinki Committee submitted requests for inspection to the State Labor Inspectorate (SLI), the Administrative Inspectorate, and the Inspection Council.

In some cases where workers requested free legal aid, they had already reported their employer to the State Labor Inspectorate (SLI) either electronically or orally. However, the inspectorate's action was lacking, prompting the Helsinki Committee to urgently seek information on the actions taken by the SLI.

Regarding the requests for special inspection supervision made by the Helsinki Committee, the SLI acted in a timely manner, that is, within the period of 30 days, by sending a written notification to the worker or to the Helsinki Committee. In some cases, the detected irregularities temporarily encouraged the workers, but finally, such inspection findings were more beneficial for the employers, to correct their actions within the legal framework, but without a positive impact on the labor rights of the employees. However, there were also cases in which the extraordinary inspection supervision of the SLI directly benefited the employee, through explicit inspection measures - warnings with a deadline for removing the detected irregularity in relation to compensation and insurance during sick leave, decisions to use annual vacation, annual vacation pay in full.

The Inspection Council submitted four requests for extraordinary inspection supervision of SLI due to their dissatisfaction with the labor inspectors' performed supervision in cases where obvious irregularities were not ascertained. However, in two cases, no irregularities were found, while in the other two cases, there were obvious breaches of action deadlines as parties did not receive written notifications from the Inspection Council even nine months after the requests were submitted.

When it comes to legal protection for workers, having a lawyer to represent them in court has proven to be crucial. Workers with incomes above the stipulated minimum for free secondary legal aid are faced with the dilemma of whether to lead an uncertain court case and wait for a decision and recovery, considering the expensive fees associated with hiring a lawyer for labor disputes. This is because labor disputes have strict legal deadlines for employees to file objections, lawsuits or appeals against a decision in the court procedure or in the previous procedure before the employer, and so the legally determined urgent nature of labor disputes continues to be played out. As an exception, court proceedings end within 6 months before the first-instance civil court and 2 months before the Court of Appeals. In most cases, court proceedings last 2 years or more.

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The promotion of labor rights and the improvement of the overall condition of workers are overshadowed by the protection of already existing rights that are violated daily. The health crisis caused by the coronavirus is the best indicator of the consequences and the absence of any security or guarantee of dignified treatment of non-union workers. In such conditions, the disorganization of the workers and union disunity were felt the most, and thus the inadequate representation and advocacy for the defense of labor rights.

Although there are no extreme differences between employers from different sectors, certain phenomena are more prevalent in the public and others in the private sector. While in the public sector workers face discrimination on ethnic and political grounds, in the private sector workers often work overtime. Those who are unionized have a higher degree of protection. Some unions even have their own legal aid fund for members who do not qualify for a free lawyer through the Department of Justice. Workers face more problems in the private sector precisely because of the rare union organization. In the public sector, on the other hand, unions are much more common and can influence the arrangement of the workplace, in that, in order to make certain decisions, the employer must have the consent of the union representative.

Law on labor relations

In addition to the fact that the new Law on Labor Relations began to be drafted in the first half of 2018, it has not yet entered the parliamentary procedure. After a long period, towards the end of 2022, the Ministry of Labor and Social Policy started holding public hearings with the stakeholders concerned about the latest version of the text of the Law. Since 2018, the Network for Protection against Discrimination and the Platform for Gender Equality have been continuously monitoring the process of drafting the new text of the Law on Labor Relations. Taking into account the latest developments and the public hearings on the text of the Law, organized by the Ministry of Labor and Social Policy in several cities in the country, the two networks, of which the Helsinki Committee for Human Rights is also a member, provided a legal opinion on several key aspects in the overall process and for the text of the law, including:

1. The new, as well as the old LLR, defines an employee as a natural person who is in an employment relationship based on an employment contract. This definition is incorrect and does not provide protection for a large number of workers who actually work, without an employment contract or with a different contract, and is not in accordance with European legislation and international standards. We suggest that the Law be harmonized with European legislation and ILO Recommendation No. 198 on the employment relationship and that the definition be expanded to include workers who do not have an employment contract but are in a real employment relationship, which can be proven on the basis of related facts. Such facts are the daily arrival of the employee at the workplace, payment of wages and/or rewards, subordination, control, and behavior as if an employment relationship was based on an employment contract, regardless of the type of contract – including oral contract, part-time work contracts, agreement, services, etc. In that direction, the position of the EU Court of Justice is that "employee" means anyone who actually works, regardless of the legal basis (type of contract) for the employment relationship and whether it exists at all. Such a legal change will contribute to the inclusion of workers in the formal economy, with more stable jobs and more effective legal protection of their labor rights, and in turn, employers will be demotivated to abuse workers' labor. In this way, labor rights will be fully implemented, that is, the right to pension, health and social insurance. In addition, the

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legal amendment will provide an expedient response to the gray economy in labor relations, and the state budget will benefit from it.

2. Stereotypes and prejudices towards different and marginalized groups are also present in the labor market. The labor market is not a safe or accessible place for people from marginalized communities, and hence they face unemployment, and later poverty, which carries risks of other social problems. The most common forms of discrimination in labor relations are political party hirings (unfounded preference on a discriminatory basis); discrimination based on gender (employment of women, gender pay gap; fewer opportunities for promotion of women; discrimination in the context of pregnancy and motherhood, employment of older women - intersectional discrimination, gender segregation in the labor market; labor market tailored to men's needs, i.e. according to the assumption that family care should take place outside the labor market); discrimination against Roma (racial discrimination); workplace harassment in the form of sexual harassment of women and LGBTI; discrimination in the employment of transgender persons; inaccessibility of workplaces for persons with disabilities and discrimination and prejudices against them; discrimination against people who use drugs, that is, people who are being treated for addiction; discrimination of different groups of patients who, due to chronic diseases and conditions, need to use sick leave more often. In this direction, we propose that the LLR be harmonized with the Law on prevention and protection against discrimination through the extensive model, which implies: the separation of "equality and non-discrimination" in a separate chapter in the legal text; removal of the provisions in the various areas of labor relations (advertisements for employment, dismissal, job security, etc.), which due to improper application lead to discrimination and violation of other rights, and introduction of the so-called "guards"; An example of such a provision is the dismissal without a notice period for the employee who imports, uses or is under the influence of alcohol and narcotics. The needs and health rights of workers who are being treated for addiction and patients who use narcotic drugs prescribed and/or administered by a health facility as part of the treatment of diseases are not taken into account, thus enabling discrimination of these groups. Another example is the requirement that, upon the establishment of the employment relationship, the candidate must submit to the employer evidence of fulfillment of the conditions for performing the work. This includes disclosing any medical conditions or other circumstances that may in any way make it impossible or significantly limit the performance of their work obligations or can endanger the life or health of the persons with whom they come into contact in the performance of their duties. This provision may lead to discrimination on the basis of health status and should be changed to confirm that the person does not have a disease that is transmitted through contact or that is aggravated by the employment; predicting obligations for employers, SLI, MLSP, and other key stakeholders to take specific actions to prevent and protect against discrimination (establishing internal procedures for reporting discrimination; measures to educate employers and workers about equality and non-discrimination; temporary affirmative measures for marginalized communities and procedure for their adoption and application; etc.); and introducing misdemeanor provisions for non-compliance with the articles regulating equality and non-discrimination, which will provide for proportional penalties and the express competence of the SLI to act in these cases, while applying the LPPAD in the part of the procedure (for example, for shifting the burden of proof).

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3. Provisions for the institute Equal pay for equal work or work of equal value to be provided in the aforementioned chapter "equality and non-discrimination". In order to adequately regulate this right (in accordance with EU law and Convention No. 100 of the ILO) it is necessary to add provisions that will provide for: an obligation for salary transparency (every employer has an obligation to inform employees about everyone's salary, salaries by positions to be easily accessible (for example published on the web, notice boards, etc.); obligation for employers to conduct an objective evaluation of the workplace and data analysis once a year, obligation to detect the gap in wage equality according to the size of the employer, as well as an obligation to take measures to reduce the gap detected by the analysis, to publicly announce the measures that are planned to be taken and to report to SLI; in the definition of salary, apart from payment in money, all types of insurance should be included, ` and other types of benefits (transportation, food, etc.); the right should accrue to anyone who actually works, not only to the one who has an employment contract.
4. It is necessary for the LLR to provide a separate chapter for self-employed persons - "Self-Employment" where the employment rights that belong to them will be regulated in detail, and at the same time the LLR must be in line with existing international standards, and provide adequate protection for all workers, **especially the special categories of workers.**

DISCRIMINATION

During 2022, the Network for Protection against Discrimination, of which the Helsinki Committee for Human Rights is an active member, registered 71 cases of unequal treatment on various discriminatory grounds, the most common of which were: belonging to a marginalized group, health status, gender identity and sexual orientation, political affiliation, ethnicity and others.

Following the adoption of the new Law on Prevention and Protection from Discrimination and the appointment of the new Commission for Prevention and Protection from Discrimination, the commission is currently operating with one less member, due to the resignation of one of its elected members. Furthermore, in 2022, another member resigned, but the Assembly has yet to initiate the process of electing new replacements.

A few years after the implementation of the law, certain shortcomings were determined, for which civil society organizations working in this area initiated a procedure for legal amendments.

Taking into account the numerous logistical and financial challenges faced by the Commission, the question of increasing the Commission's budget was raised in order to guarantee the functional independence of the CPPD, by providing adequate financial resources for its smooth and comprehensive functioning. It is precisely the low budget, the insufficient and inappropriately allocated financial resources for the performance of its competences that threaten the Commission's autonomy and independence. This means that the most marginalized are significantly limited in their access to an effective protection mechanism, while simultaneously reinforcing and perpetuating systemic discrimination in our society.

Public interest lawsuits (actio popularis)

The Helsinki Committee submitted two public interest lawsuits (actio popularis) to the Basic Civil Court Skopje on February 1, 2021, taking advantage of the new opportunity provided by the Law on Prevention and Protection from Discrimination.

The first lawsuit was filed against the Government of the Republic of North Macedonia, the State Election Commission, and the Ministry of Local Self-Government on the basis of protection against discrimination in the public interest. The lawsuit was filed for the purpose of establishing that the defendants committed direct discrimination against persons with disabilities by not taking, that is, failing to take actions to adjust the infrastructure and space to and in the polling stations - accessibility of persons with disabilities. With that, the defendants made it impossible for people with disabilities to exercise their right to vote. At the same time, the defendants did not take, that is, failed to take actions for appropriate adjustment of the legal acts, by-laws, and the election process itself, with the aim of active participation of persons with disabilities in the political life of the state.

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The basic civil court in Skopje determined that the Government of the Republic of North Macedonia and the State Election Commission committed direct discrimination against persons with disabilities in exercising their right to vote. The court determined that the direct discrimination was committed by not taking, that is, by failing to take actions to adapt the infrastructure and space to and in part of the polling stations and violated the principle of appropriate adaptation. In this way, the defendants made it impossible for persons with disabilities to exercise their right to vote and thus hindered the active participation of persons with disabilities in the political life of the state.

The court has issued an order for the Government and the State Election Commission, until the announcement of the next elections, at the polling stations where this has not been possible so far, to ensure:

§ accessibility, flat roads, parking spaces properly marked with high-contrast color, placement of signs and numbers in a visible place in a larger format with high contrast or sound signaling devices at the polling stations;

§ accessibility to the voting room by installing handrails along the stairs and walls, installing access ramps, handrails, wider entrances, an accessible elevator or platforms that are leveled with the steps;

§ accessibility in the voting room, its equal lighting, redistribution of furniture due to greater possibility of movement; installing properly adapted voting screens and placing the voting box at an appropriate height for persons with physical disabilities.

Furthermore, the Basic Civil Court in Skopje has mandated that the Government and the State Election Commission must publish the judgment, in an easily accessible format, through the media. This judgment establishes that they have engaged in direct discrimination against persons with disabilities, in terms of their right to vote and participate actively in political life. The publication must take place within 15 days of the verdict becoming final.

The Helsinki Committee's request for the defendants to make changes to legal regulations was rejected by the civil court in Skopje. The court stated that the adoption or amendment of legal acts and by-laws follow specific procedures within the executive and legislative powers, and therefore cannot be decided upon in civil proceedings.

The Court of Appeals, ruling on an appeal filed by the State Attorney's Office, issued a Verdict in which it accepted the appeal, and sent the case back to the first-instance court for re-decision. The procedure is still ongoing.

The second lawsuit was also filed on the basis of protection against discrimination in the public interest against the Government of the Republic of North Macedonia, the Ministry of Education and Science, the Ministry of Labor and Social Policy, the Ministry of Health, the State Education Inspectorate, the Municipality of Bitola and the Municipality of Shtip.

This lawsuit was filed in order to establish that the defendants committed discrimination - segregation against Roma children in the educational process due to the lack of activities to regulate the method of rezoning in order to avoid possible segregation. They also failed to take appropriate actions to oversee the decisions on rezoning made by the municipalities of Bitola and Shtip, the implementation of these

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decisions in practice, and the enrolling of Roma children in schools. In addition, the defendants did not take action for an even and appropriate distribution of Roma students with other ethnic communities in the classes, which led to separate classes with Roma children. This lawsuit is still ongoing.

Individual female farmers without a systemic solution for enabling paid maternity leave and leave due to illness.

Women registered as individual farmers are not entitled to benefits under the Law on Health Insurance for illness, workplace injury, or absence due to pregnancy, childbirth, or maternity. As insured, in accordance with Article 5 paragraph 1 point 4 of the Law on Health Insurance (hereinafter referred to as the LHI) individual farmers have the right to health care, but not the right to compensation in case of temporary inability to work due to illness, injury, pregnancy, childbirth, or motherhood (articles 13 and 14 of the LHI).

Individual farmers pay 20% contributions, have no salary, and earn their income from agricultural activity on an annual basis, which is irregular and conditioned by weather conditions and similar factors. The Law on Labor Relations regulates the right to maternity leave, but the holders of this right are the insured persons regulated by the LHI. According to existing legal solutions, self-employed persons also have the right to paid maternity leave, although they are not recognized in the Law on Labor Relations (for example, lawyers, notaries, artists, sole traders, etc.). Farmers are de facto workers, that is, self-employed persons, but the legislation does not recognize them as such, and introduces the category of "individual farmer" which is granted fewer rights compared to other workers and self-employed persons. The fact that individual farmers pay fewer contributions cannot be seen as a reason for their exclusion from health insurance rights, but quite the opposite, as an affirmative measure aiming to include a marginalized category in the social and health insurance system and as an economic measure, focused on encouraging the development of agriculture as one of the most important economic activities.

Hence, female farmers are discriminated against compared to other female workers and self-employed women who acquire the right to paid maternity leave and sick leave in accordance with the LHI. This inhumane policy has severe consequences on their reproductive, psychological, and physical health as well as on the health of newborns and children from rural areas. According to research, most women working in agriculture cannot afford to reduce the amount of work before and after childbirth, forcing them to work late into pregnancy or return to work too soon after childbirth. This puts them at significant health risks, such as premature birth, unwanted abortion, increased risk of pathological pregnancy, premature termination of breastfeeding, and inability to provide adequate care for newborns, which leads to numerous health problems in children. If we take into account the difficult access to health and social services and deeply rooted patriarchal norms, we can see the marginalization of rural women whose opportunities and rights are much more limited compared to the population in urban areas.

Maternal protection is a fundamental right of women which is enshrined in the Constitution, key universal human rights treaties, and international conventions. Maternal protection should be accompanied by the right to monetary compensation during maternity leave which will ensure that the woman can maintain herself and her child in adequate health conditions and with an adequate standard of living.

Improving protection against discrimination against marginalized communities - Recognition and addressing of intersectional discrimination by civil society organizations.

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As part of the "Intersectional discrimination in North Macedonia," project, supported by Civica Mobilitas, and implemented in partnership with HOPS - Healthy Options Project Skopje and L.E.T. Station Prilep, a document was created - Improving protection against discrimination against marginalized communities - Recognition and addressing of intersectional discrimination by civil society organizations.

The document aims to highlight the key problems faced by the Roma, people living in rural areas, people who use drugs, sex workers, civil society organizations working to provide free legal aid to these groups, and the possibility of improving the situation through the application of the concept of intersectional cooperation according to the Law on Prevention and Protection from Discrimination.

The long-term work of civil society organizations that provide services for marginalized communities, the research conducted in the field, and the mapping of the situation, realized for the needs of this document, show that certain groups still face challenges in exercising their basic rights and freedoms. Ensuring formal equality with the Constitution and laws and recognizing that all people are equal before the law can help combat negative stereotypes and prejudices against certain people, but cannot offer a solution to the historical and nurtured problems that arise from differences between women and men, different ethnic communities, people with different sexual orientation and gender identity.

Council of Europe Standards for the Protection and Prevention against Discrimination on the Basis of Sexual Orientation and Gender Identity

The publication "Council of Europe Standards for the Protection and Prevention against Discrimination on the Basis of Sexual Orientation and Gender Identity" is an attempt to consolidate the existing relevant acts of the Council of Europe institutions in this area. Documents that represent advocacy instruments and provide clear instructions on the rights of LGBTI persons have been selected. An insight into the evolution of the equality of LGBTI persons through the legal practice of the European Court of Human Rights is also given, and attention is paid to the decisions of the European Committee for Social Rights.

Special focus is placed on the Recommendations of the European Commission against Racism and Intolerance (ECRI), which began monitoring the situation of LGBTI persons in 2012, as part of its regular monitoring of all member states of the Council of Europe. ECRI is currently working on its first General Recommendation on non-discrimination of LGBTI persons, which should be ready by the end of the year and will be a useful guide for states in harmonizing their laws, policies, and actions with the standards of the Council of Europe in the area of protection of the human rights of LGBTI persons.

GENDER EQUALITY

AMENDMENTS TO THE LEGISLATION

A completely new version of the Law on Equal Opportunities for Women and Men, now called the Law on Gender Equality, is currently in the works for 2023. Although the Ministry of Labor and Social Policy established a working group including the Helsinki Committee representative to draft the law in 2020, and the draft text was made public and open for discussion in 2022, it has yet to be passed as the year comes to a close.¹² The need to adopt the new law arose from the limited effectiveness of the previous one, particularly at the local level, which was pointed out in the last recommendations of the CEDAW Committee.¹³

Although the new Law on Gender Equality is still in the process of preparation, the new National Strategy for Gender Equality 2022-2027 was adopted in July 2022.¹⁴ The strategy identified three general goals to be achieved by 2027: to establish an effective and efficient system for promoting gender equality at the central and local level; improving the position of women in all areas of public and private life and suppressing gender stereotypes; and building a culture of non-violence and non-discrimination based on sex, gender, and gender identity. However, taking into account that the Strategy was adopted on the basis of the current Law on Equal Opportunities for Women and Men, its adjustment after the adoption of the new law should be taken into account.

Another important law that did not enter the parliamentary procedure in 2022, although the working group and drafting began in 2018, is the new Law on Labor Relations. This law should introduce important concepts, such as mandatory paternity leave, equal pay, etc. in accordance with the recommendations of CEDAW and the conventions of the International Labor Organization (ILO). In addition, what is still missing in the labor sector is data on incidents of sexual harassment at the workplace and a system for investigating such cases, as the new Law on Prevention and Protection from

¹²Draft Law on Gender Equality. Available at:

https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=75591

¹³Committee on the Elimination of Discrimination against Women. (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

¹⁴Ministry of Labor and Social Policy. (2022). *National strategy for gender equality 2022-2027*. Available at :

<https://www.mtsp.gov.mk/content/pdf/2022/strategija/>

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Harassment at the Workplace has not yet been passed although the task force has already been established. The country has yet to align its labor legislation with international standards, such as EU directives and ILO Convention 190 which is in the process of ratification.¹⁵

Although **the Law on Prevention and Protection from Violence against Women and Domestic Violence** entered into force on May 6, 2021, its enactment was not accompanied by the criminalization of new forms of gender-based violence. This legal gap has left many victims of gender-based violence unprotected, especially since police officers and social work centers do not implement the provisions of the new law in practice.

With the ratification of the Istanbul Convention, the Republic of North Macedonia undertook the obligation to amend and supplement the Criminal Code, as well as other laws and by-laws. However, the announced changes to **the Criminal Code**, in the direction of incriminating the new criminal acts and amending the existing provisions provided for by the new Law on Prevention and Protection from Violence against Women and Domestic Violence and the Istanbul Convention, were not implemented during 2022. Thus, the Criminal Code does not treat and sanction the crime of sexual harassment, both in the public space and online, which systematically prevents the protection of women and girls from sexual violence, as was the case in the "Public Room" case. In addition, femicide, as the most serious form of gender-based violence against a woman because she is a woman, is not yet recognized as a separate crime in the Criminal Code, as a more serious form of murder when committed during domestic violence.

On November 17, 2022, **the Law on Payment of Monetary Compensation to Victims of Violent Crimes** was passed, which will enter into force on May 17, 2023.¹⁶ This law aims to provide better protection and access to justice for victims of violence, including victims of gender-based and family violence. With this law, the victim of violence will be able to exercise the right to monetary compensation to mitigate the consequences of the crime, before the procedure is legally completed.

INSTITUTIONAL PROCEDURE IN CASES OF GENDER-BASED VIOLENCE

The Law on Prevention and Protection from Violence against Women and Domestic Violence was expected to improve institutional and comprehensive support for victims of gender-based violence. The law also introduced the principle of acting with due care, mutual coordination of institutions and organizations, prohibition of victimization, collection of statistical data on gender-based violence against women and family violence, as well as reintegration of victims.

¹⁵ Draft Law on the Ratification of the Convention on the Elimination of Violence and Harassment in the World of Work, 2019 (C 190). Available at: <https://www.sobranie.mk/detali-na-materijal.nsp?param=0b06bb23-3d4f-4c99-a8cd-e5d269c94d9e>

¹⁶ The Law on Payment of Monetary Compensation to Victims of Violent Crimes. Official Gazette number 247/2022.

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However, the adoption of legal solutions is only the first step towards systemic changes in solving the problem of gender-based violence. The mode of implementation, i.e. whether the victims of this type of violence will be protected, will depend on the primary institutions that will have the task of acting on such reports, and in particular the centers for social work, the Ministry of Internal Affairs, the Basic Public Prosecutor's Office, etc. Considering that the implementation of legal provisions in practice still is one of the most serious shortcomings in providing adequate protection to victims of gender-based violence, the Helsinki Committee remains to monitor their application after adoption and to assess how much these provisions will be in favor of the victims.

Although defined by a 2021 law, most relevant institutions still do not recognize gender-based violence as a form of violence, but only as domestic violence. This is evident from the reports of civil society organizations that work with cases of gender-based violence, mainly in providing free legal aid and/or monitoring court cases of gender-based violence.¹⁷

The work of the Helsinki Committee indicates the existence of unprofessionalism, contradictions and inconsistencies in the actions of some social work centers, their failure to act in cases of violence committed by an ex-partner, failure of the public prosecutor's office to act on a criminal complaint for gender-based violence (with the rationale that it is not a crime that is prosecuted ex officio) and the failure of the Ministry of Internal Affairs to act on received reports of domestic violence.

In 2022, social work centers were still using risk assessment questionnaires intended only for victims of domestic violence, and victims of gender-based violence could not even be accommodated in existing shelters for victims of domestic violence. Also, social work centers do not perform a proper risk assessment and do not create a safety plan, nor individual plans to work with each victim. Another weakness in the response to gender-based violence is the slow process of filing motions for temporary measures of protection in civil court, which is an important step for proper law enforcement and accountability of social work centers.

According to the latest survey of the Helsinki Committee conducted in 2022, citizens generally have a high degree of mistrust in the actions of competent institutions, including the police, social work centers, and the judiciary, which significantly demotivates citizens to report violence.¹⁸ At the same time, there is still low awareness among citizens of everyone's obligation to report domestic violence and even less knowledge that it is legally regulated. Citizens still treat domestic violence as a private matter, outside the realm of public life. Hence, it is considered that the reporting of violence by a third party represents an interference in someone else's life.

Based on the data obtained from this research, police officers do not act on anonymous reports of violence, with the baseless excuse that they do not have enough data or legal basis for domestic

¹⁷Vasilevski, Z. and Kareva, T. (2022). *Access to justice - Analysis of free legal aid provided by the Helsinki Committee for Human Rights*. Helsinki Committee for Human Rights. Available at: <https://mhc.org.mk/wp-content/uploads/2022/11/pristap-do-pravda.pdf>

¹⁸Helsinki Committee for Human Rights. (2022). *Who (can't) report violence?* Available at: <https://mhc.org.mk/wp-content/uploads/2022/07/koi-nemozhe-da-prijavi-nasilstvo-mkd-finalna.pdf>

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violence investigators to go out in the field. This makes the reporting procedure more complicated and usually deters people who want to report a case. Reports from third parties are often not treated seriously unless a civil organization or a lawyer working in this area intervenes in the case, which indicates the unequal treatment of citizens by the competent institutions, and thus the access to protection. As a result, citizens often rely on civil society organizations as mediators in reporting cases and communicating with institutions. However, even in cases where a civil organization or a lawyer managed to file a case, the entire procedure was often hindered by numerous barriers. One of the problems that the complainants face is the danger of being punished for false reporting, which significantly discourages them from contacting competent institutions. It was found that police officers acted untimely on reports of violence, which leads to a serious risk for the victim, with the possibility of the situation escalating to murder or of a change in the situation, that is, discouraging the victim from reporting the perpetrator.

Reports by third parties are not always documented by the competent institutions, which may affect the further course and outcome of the procedure. This creates problems for the victims, especially in court proceedings, because they have no proof that the violence was reported. Despite the legal obligation, institutions do not always report violence ex officio upon receiving a report, except when it comes to cases that have been covered by the media or where there are serious bodily injuries to the victim. In addition, health institutions at the request of the victims do not report the violence, which indicates their distrust in the further action of the institutions that have the obligation to protect them. Institutions are not accessible for reporting violence by persons with disabilities, which is not in accordance with the principle of adequate adaptation of measures, activities and services for victims of violence to the specific needs of women with disabilities.

The lenient penal policy, i.e. the inadequate sanctioning of perpetrators of domestic violence, as well as the inefficiency of the judiciary and the prolongation of court proceedings in cases of violence, makes access to justice difficult and limited for the victims, which additionally negatively affects the reporting itself.

INTERNATIONAL REPRESENTATION

Four years after entry into force, in April 2022, the country submitted its report on the implementation of the Istanbul Convention to the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO).¹⁹ In 2021, the Helsinki Committee for Human Rights, as part of the Platform for Gender Equality, began coordinating the process of producing a joint shadow report on the implementation of the Istanbul Convention, in accordance with the GREVIO questionnaire. The first draft of the shadow report was prepared in August 2021 and was intended to serve as a starting point

¹⁹Report submitted by North Macedonia pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report). Available at : <https://rm.coe.int/grevio-inf-2022-5-state-report-north-macedonia/1680a618d5>

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for the final shadow report that the Platform for Gender Equality prepared and submitted to the GREVIO Committee in April 2022.²⁰ In order to assess the situation on the ground, in September 2022 the GREVIO Committee with representatives of the Helsinki Committee conducted evaluation visits in North Macedonia. The country evaluation report is expected to be prepared and adopted in 2023.

²⁰ Platform for gender equality . (2022). *Shadow Report on the Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in North Macedonia*. Available at : <https://rm.coe.int/shadow-report-grevio-2022-gender-equality-platform/1680a64ae6>

CLOSED INSTITUTIONS

MONITORING OF PUNITIVE-CORRECTIONAL FACILITIES

During 2022, the Helsinki Committee for Human Rights in partnership with the Macedonian Young Lawyers Association conducted **14** visits to all punitive-correctional institutions and educational institutions in the country.

It's notable that despite many efforts by the state, international and domestic organizations to improve conditions in punitive and correctional facilities, systemic deficiencies still exist. It is obvious that the competent institutions still do not have adequate cross-sectoral cooperation for the problems faced by individuals deprived of their liberty in these institutions, and because of this they are failing to fulfill their legal obligations to overcome the problems that have been going on for a long time and make it impossible for convicted individuals to enjoy their rights and resocialize.

Individuals serving prison sentences still struggle to access health care, education, adequate material living conditions, resocialization programs and post-penal assistance. Corruption and bribery are commonplace in the lives of convicts who regularly inform us about it, but for fear of losing their rights and conveniences in the institution, they do not want to formally report these cases. Occasional actions on the part of the state authorities that reveal illegal items for which the expert and the general public are aware of in these 7 institutions are insufficient. Knives, sharp objects, cell phones, drugs and money will continue to be present in correctional facilities until those responsible are held accountable. Otherwise, not only corruption, but also violence between convicts and violence by convicts against members of the prison police will continue to be a common practice.

The issue of corruption is exacerbated by the state's habit of appointing unqualified individuals to management positions without experience and knowledge to manage punitive-correctional institutions, leading to long-term consequences and direct damage to convicted individuals. Thus, the largest punitive-correctional institution PCI Idrizovo was and is currently managed by individuals with no prior experience in the prison system.

It is particularly concerning that only a small number of convicted individuals have submitted appeals regarding disciplinary measures imposed on them. It is often a practice for convicted individuals not to have received the decision to impose a disciplinary measure; for example, if they are in solitary confinement, the decision is attached to the solitary confinement door, and the convicted individuals manage to get in touch with an NGO, jurist and/or lawyer only after they have served the disciplinary measure. Thus, in the period from January to August 2022, only 15 complaints from convicted individuals were submitted to the Administration for the Execution of Sanctions, with 6 from PCI Shtip, 5 from PCI

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Prison Skopje, 2 from PCI Prison Bitola and 2 from PCI Prison Kumanovo. 5 of the appeals were confirmed and 9 were rejected. The most common reasons for filing complaints are a found cell phone, physical altercation, physical assault, untimely return from using amenities, and alcohol/drug intake.

Not a single complaint has been received From PCI Idrizovo, the largest punitive-correctional institution in the country, which only speaks to the fact that convicted individuals do not have adequate access to the right to appeal and have not been taught how to use the right to appeal.

It's worth noting that the the Training Center for PCI Idrizovo's personnel training is finally operational and this year new members of the prison police underwent several days of training at the Center before commencing work. Although it is insufficient for proper familiarization of the new staff of 8, with the work in the prison system, it is still a significant and positive achievement that the implementation of these trainings has finally started.

Furthermore, the state continued to invest in the improvement of material conditions in punitive-correctional institutions, but some of the institutions, such as the closed departments in PCI Idrizovo, PCI Zatvor Skopje, and PCI Zatvor Ohrid, do not have any opportunities to improve living conditions. Not only do they have no conditions for improvement in terms of infrastructure, but some of the institutions are once again facing the problem of overcrowding, such as the institutions PCI Idrizovo, PCI Prilep, PCI Zatvor Tetovo, PCI Stip, PCI Zatvor Strumica, and some of them are at risk of being overcrowded, like PCI Prison Bitola.

The issue of overcrowding especially in PCI Idrizovo, where high-risk convicted individuals are mainly located, is alarming. The state needs to find a prompt solution for this problem, along with other systemic issues that if left unresolved, could hinder the resocialization goal of the prison sentence and therefore we cannot expect the crime rate in the country to decrease.

PROVISION OF LEGAL AND PSYCHIATRIC/PSYCHOTHERAPEUTIC ASSISTANCE

In the period from December 2021 to November 2022, the Helsinki Committee together with the Macedonian Young Lawyers Association provided legal assistance to **154** convicted individuals, including **18** female convicts. Expert psychiatrists who were part of the team for conducting monitoring visits in the institutions provided psychiatric counseling to a total of **121** convicted individuals, including **9** female convicts.

The most common complaints of those who requested legal advice were regarding: health care, use of amenities, material conditions, the right to parole, food and water, transfer to another punitive-correctional, conducting court proceedings, etc.

EXCESSIVE USE OF FORCE AND MEANS OF COERCION

During the course of 2022, one procedure was initiated before the Basic Public Prosecutor's Office for Prosecuting Organized Crime and Corruption for the excessive use of force and means of coercion by a police officer, and one complaint was submitted to the Higher Public Prosecutor's Office against a decision to dismiss a criminal complaint filed for the excessive use of force and means of coercion.

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JUDICIAL AND INSTITUTIONAL PRACTICE – CASES INITIATED BY THE HELSINKI COMMITTEE AND THE MACEDONIAN YOUNG LAWYERS ASSOCIATION

In 2022, at the initiative of the two organizations, several people were convicted of the use of excessive force and means of coercion, and as a result of their efforts, patients in psychiatric institutions who had been unjustly confined for extended periods of time were granted the opportunity to receive treatment outside of the institution. Additionally, the Administration for Execution of Sanctions ruled in one case that disciplinary action, such as solitary confinement, was unjustly imposed upon a convicted individual.

A brief account of the cases

On May 30, 2022, the Basic Criminal Court of Skopje issued a verdict that found G.P., a uniformed police officer employed at the DIA Bitola, guilty of the crime "Harassment in the performance of service" under article 143 of the Criminal Code. The accused was sentenced to one year in prison.

In October 2022, the Basic Criminal Court in Skopje issued a verdict that found police officers guilty of the crime "Harassment in the performance of service" under article 143 paragraph 1 i.c.w. 22 of the Criminal Code and imposed an alternative measure - Probationary sentence, which establishes an effective prison sentence of 1 year, that will not be carried out if the defendants do not commit a new crime for a period of 3 years.

In October 2022, the Skopje Court of Appeal made a decision accepting the appeal of the convicted person and amending the decision of the criminal council of the Basic Criminal Court in Skopje, which reads - the convicted person is released from serving a prison sentence, on the condition he does not commit a crime by the end of the prison sentence.

In November 2022, the Basic Criminal Court in Skopje issued a verdict accepting the proposal of the PHI Psychiatric Hospital Skopje - Skopje to replace the measure - Mandatory psychiatric treatment and confinement in a health facility with the measure - Mandatory psychiatric treatment at liberty.

The Basic Criminal Court in Skopje made a decision accepting the proposal of the PHI Psychiatric Hospital Skopje - Skopje to replace the measure - Mandatory psychiatric treatment and confinement in a health facility with the measure - Mandatory psychiatric treatment at liberty. **This decision was made after a notice submitted by the European Court of Human Rights in Strasbourg.**

The Administration for Execution of Sanctions confirmed a complaint filed against a decision imposing solitary confinement for a period of 14 days without the right to work, and the case was sent back for reevaluating before the PCI Zatvor Skopje.

HEALTH CARE OF CONVICTED INDIVIDUALS

Health care remains the most pressing problem in punitive-correctional institutions, which is why the largest number of convicted individuals turn to the Helsinki Committee for legal assistance. One of the reasons for this situation is the deficit of health staff employed in these institutions, due to the lack of will and motivation among doctors to work in these institutions. For these reasons, the Program Office of the Council of Europe in Skopje informed that in cooperation with the Ministry of Health and the trade union,

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the health workers working in punitive-correctional institutions in North Macedonia will receive 30% higher wages, as a result of the risk allowance.

During 2022, numerous deficiencies were noted in access to health care for convicted individuals, especially for drug users. Namely, these individuals regularly face a lack of medical therapy, which they often receive intermittently, and in some institutions, the therapy they need to treat addiction is not available at all. The "black market" of buprenorphine trading is a common practice in institutions due to a lack of medical therapy and medical personnel who should perform regular screenings for depression, suicidality, and substance abuse among convicted individuals.

EDUCATION IN THE CORRECTIONAL FACILITIES

The children who are undergoing a correctional measure in the CF Tetovo, as well as in the women's department at the PCI Idrizovo, did not attend classes from September 2021 to June 2022. This is a consequence of a long-standing systemic problem, that the Ministry of Education and Science has not yet resolved. According to the Law on the Execution of Sanctions, the Ministry of Education and Science has a legal obligation to organize, plan, and finance education in punitive-correctional institutions and correctional institutions. In addition to the legal obligation of the state, the educational process is financed by the UNDP and it is realized with a series of interruptions.

Education is of crucial importance for the resocialization of children and their reintegration in society, especially if you take into account the fact that a large part of the wards, who undergo a correctional measure, are illiterate and have not completed even primary education. Children in these institutions have the right to equal treatment in access to education as children outside. They have every right to be educated, to acquire basic habits, to develop a sense of responsibility, etc. Education in correctional institutions is not an added value in the juvenile justice system, but an indispensable component. The most important and fundamental role of education is for children to leave the institution more educated, more informed, and more capable. The lack of education leaves harmful consequences and directly contributes to the non-fulfillment of the goals for which the children are sent to undergo correctional measures in the first place.

DIGITAL RIGHTS AND FREEDOMS

In 2022, the Helsinki Committee in North Macedonia launched the "Larger Digital Freedoms" project in order to address the rapid development of technology as well as the massive use of digital tools in everyday life, as well as the increasing need for the protection of human rights and freedoms in the digital space in North Macedonia. The Helsinki Committee monitored violations in the digital space in North Macedonia and recorded them on the platform (Share Monitoring), available at the link: <https://monitoring.bird.tools/>. Between August and November 2022, a total of 62 violations were reported in the digital space.²¹

As part of a regional study on the digital rights ranking, the Helsinki Committee conducted a research called "Ranking of digital rights of citizens in the Republic of North Macedonia and the compliance of telecommunications operators with legal obligations". The research identified shortcomings in the operations of telecommunications companies. To improve, these companies should better adhere to their legal obligations and make more efforts towards transparency and proactive publication of information relevant to both freedom of expression and user privacy. This information should be easily accessible and available to the public.

As digital technologies continue to advance, there is a growing risk of digital human rights violations. To address this issue, the Helsinki Committee recently held a public event attended by civil society representatives, media professionals, and law enforcement officials, all with the aim raising awareness of potential violations, dealing with the consequences thereof, and the state's responsibilities for dealing with this new trend of digital violations.²²

²¹ Helsinki Committee on Human Rights (December, 2022). Available at: https://mhc.org.mk/reports/narushuvanja-na-digitalnite-prava-i-slobodi-vo-severna-makedonija-avgust-septemvri-2022/?fbclid=IwAR2I2J505wR4vWb9gJyDZiCamqXxUWtdEFD5ALzMS0dWXe_JI5lv5wq_Fo4
-<https://mhc.org.mk/reports/narushuvanja-na-digitalnite-prava-i-slobodi-vo-severna-makedonija-oktomvri-noemvri-2022/?fbclid=IwAR09K8zTxI7I2G5S7mO8Q4TuyEluZ4O7YA6X3-0Cq5CNbgW64JQgAMS-UNA>

²² Helsinki Committee for Human Rights (December, 2022). Available at: <https://mhc.org.mk/news/otvoren-forum-za-pogolemi-internet-slobodi-i-digitalni-prava/?fbclid=IwAR3-50uD-INR9U1gKzW4A9V4IZrOZlnAl85q7mYqQ2NtCbFVITjqd3RdfV4>

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To educate and raise awareness of the general public during December 2022, the Helsinki Committee conducted a social media campaign to recognize human rights violations in the digital space, protect privacy and personal data, and freedom of expression, and raise awareness for the reporting of these violations, all with the aim of more effective protection of human rights in the digital space.²³

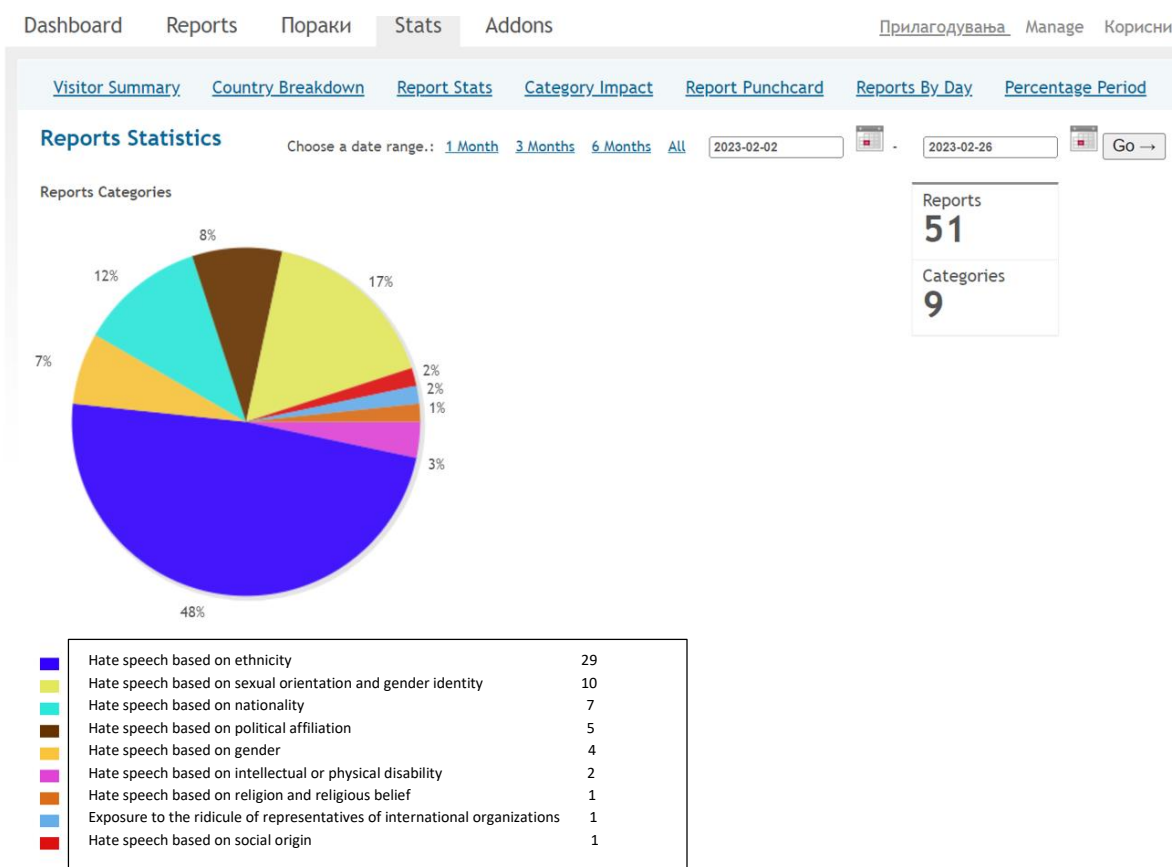
²³Helsinki Committee for Human Rights (December, 2022). Available at:

<https://www.facebook.com/MacedonianHelsinkiCommittee/photos/a.10150093152311111/10160693526121111/>
<https://www.facebook.com/MacedonianHelsinkiCommittee/photos/a.10150093152311111/10160693537261111/>
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HATE SPEECH

The Helsinki Committee for Human Rights has been systematically monitoring hate speech since October 2018, focusing on hate speech on social media such as Facebook, Instagram, Twitter and TikTok. Namely, during this year the Helsinki Committee of the web platform [www. govornaomraza.mk](http://www.govornaomraza.mk) registered a total of 150 cases, of which 61 were based on political affiliation, 52 based on ethnicity, 39 based on sexual orientation and gender identity, and 8 based on sex and gender.

Graphic display of registered hate speech for the period January 1, 2022 – December 31, 2022

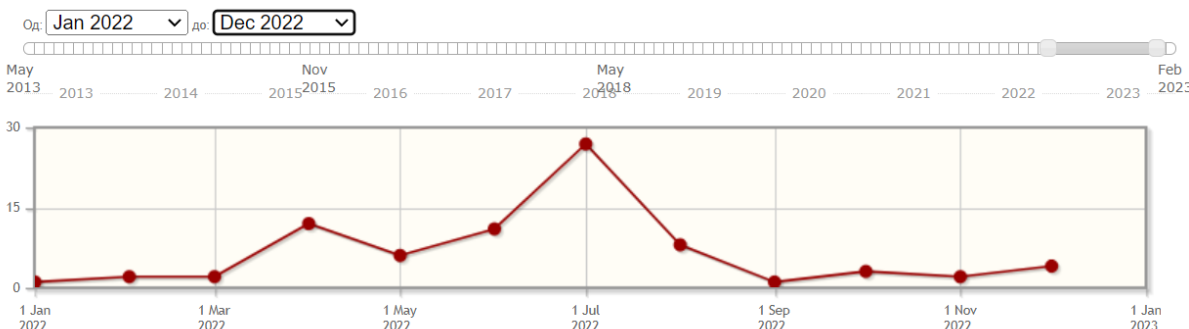


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Due to the prevalence and intensity of the hate speech registered, the Helsinki Committee reacted publicly on two occasions. The first public condemnation for the spread of inter-ethnic tension referred to the celebration on the occasion of the anniversary of the signing of the Ohrid Agreement organized by the Government of the Republic of North Macedonia and the lack of response by the Government to the booing of the hostess during her announcement in Macedonian.²⁴

The second reaction²⁵ by the Helsinki Committee referred to Jagnula Kunovska's column, "What awaits the Albanians?" published on the Plusinfo portal on August 21, 2022. Namely, the Helsinki Committee considered that this kind of speech is extremely harmful, due to the fact that the author is a public figure, and in her column, through a series of interpretations, she analyzed current political events through the prism of inter-ethnic relations, especially by pointing out culprits and imaginary enemies, which leads to additional social paranoia and directly influences a discourse that in turn leads to discord between groups.

The most intense hate speech was observed and registered in June - during pride month, before and after the parade, when in proportion to the increase in the visibility of the LGBTI community, the hate speech directed at this community also increased with comments on social networks calling for violence against activists and members of the community. During this period, the Helsinki Committee submitted a total of 5 criminal charges to the Department for Computer Crime and Digital Forensics, under the provisions of Article 349d from the Criminal Code - dissemination of xenophobic and racist material.



Following the prevalence of hate speech on social media and reports being filed with relevant authorities, there has been a noticeable lack of prompt and efficient response from law enforcement. Additionally, a member of the LGBTI community was subjected to an attack following the Skopje Pride event.

²⁴Helsinki Committee, 2022 - available at: <https://mhc.org.mk/news/barama-javna-osuda-za-shirenjeto-meguetnichka-omraza/>

²⁵Helsinki Committee, 2022, available at: <https://mhc.org.mk/news/odgovornost-za-javnite-licnosti-i-mediumite-koi-predizvikuvat-razdor/>

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At the end of October 2022, following the news about the death of two boys from Armenia, who committed suicide due to isolation and non-acceptance from family and society of their mutual love and relationship, virulent speech of hatred and incitement to suicide of young people who have a different sexual orientation was registered. The Helsinki Committee believes that this type of speech contributes to further impairment of mental health among young people and considers it to be extremely harmful. For these reasons the Helsinki Committee filed a criminal complaint under Article 349d of the Criminal Code - dissemination of xenophobic and racist material through a computer system.

No charges have yet been brought against the reports filed by the Helsinki Committee related to hate speech in 2022.

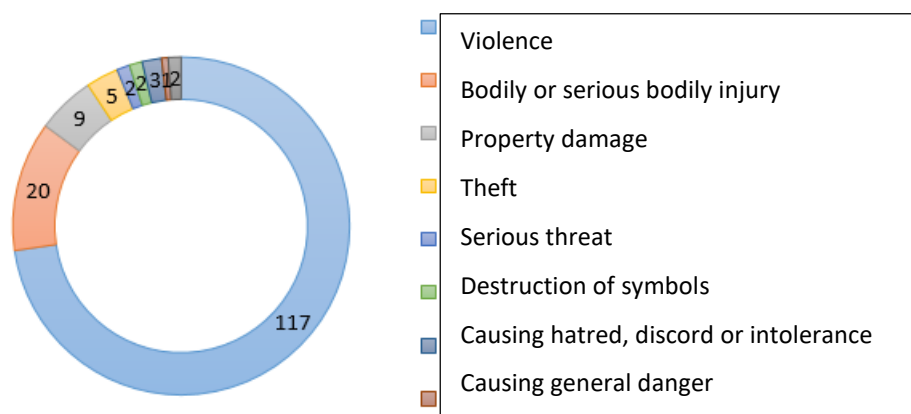
Negative discourse regarding the integrations in the European Union and the bilateral relations with Bulgaria was present during this year. The Helsinki Committee believes that due to the lack of transparency and certainty of the processes that follow, a negative discourse is visible in the public, which is followed by hate speech based on political affiliation and insults to those who disagree.

HATE CRIMES

In 2022, the Helsinki Committee for Human Rights registered a total of 158 incidents with a biased motive. The incidents were registered immediately after they were reported by the media or the Ministry of Internal Affairs. Of the total number of incidents, 23 were confirmed, and the remaining 135 are potential hate incidents, which have not yet been confirmed.²⁶ Potential incidents are shown in this report because there is an indication that they were committed with a biased motive. These indicators relate to the perception of the victim and/or witnesses, comments made at the time of the incident, the different ethnicity between the victim and the perpetrator, pattern of previous incidents, nature of the violence, absence of other motives, place, and time. More specifically, potential incidents are shown due to information obtained regarding the location of the incident (e.g., mixed ethnic neighborhoods and schools, bus routes used by members of different ethnicities, places where hate incidents have occurred before, etc.), the type of the incident (e.g., when a large group of young people attack one or more victims without provocation, group fights, attacks on buses or at bus stations, etc.) time of occurrence of the incident (e.g., after a previous fight as a form of revenge, after the end of school classes, during or after a sporting event, etc) and damage to property during the incident (e.g. places of religious rites, etc).

The largest number of incidents, also in 2022, occurred on the basis of ethnicity - 83.54%. In 4.43% the target is migrants or refugees as a result of their status, the motive in 3.79% was political conviction, 1.26% of incidents occurred as a result of religious beliefs and 1.26% were motivated by sexual orientation.

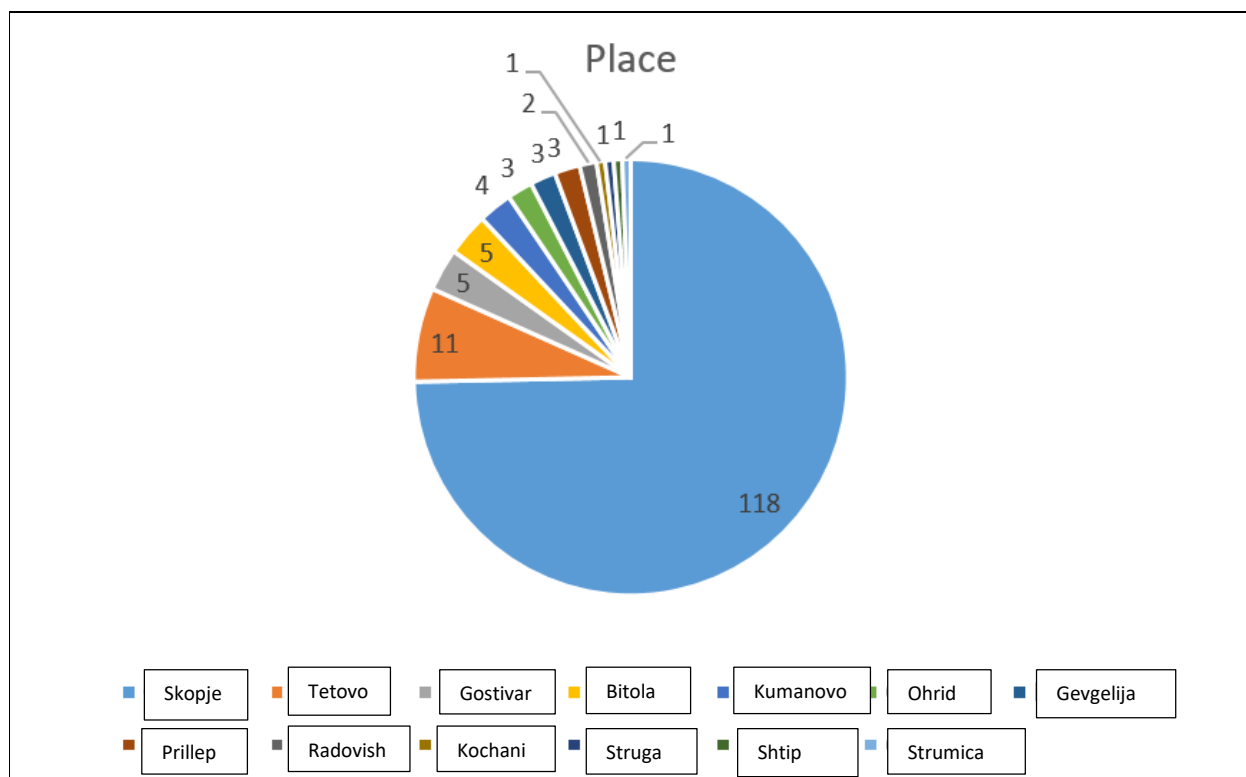
Type of incident



²⁶A confirmed incident is considered to be an incident in which a hate crime has been confirmed based on the data presented by the affected persons, the media and/or the Ministry of the Internal Affairs. Unconfirmed cases are related to situations where, according to other indicators, there is a basis for believing that these biased incidents are motivated by the ethnicity of the victim, but it cannot be confirmed with certainty that it is a hate crime.

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Most of the incidents were committed by young people belonging to different ethnic communities or sports fans. In 73 of the 158 registered incidents, the victims were individuals under 18 years of age. Juvenile perpetrators were involved in 70 of the total number of incidents. In 60.12% of the total number of incidents, more than one perpetrator was involved, but the exact number cannot be determined because a large part of the perpetrators are unknown.



The greater number of incidents - 118 occurred in Skopje and the surrounding municipalities. There were 11 incidents in Tetovo, 5 in Gostivar and Bitola, 4 in Kumanovo, 3 each in Ohrid, Gevgelija, and Prilep, 2 in Radovish, and one incident each in Kochani, Struga, Shtip, and Strumica.

The stated data is an extract from the Special Annual Report on Hate Crimes, prepared by the Helsinki Committee for Human Rights, which contains a more detailed overview of the situation and descriptions of the registered incidents.

LGBTI SUPPORT CENTER

Transgender community under attack

Hate speech against LGBTI people is constantly on the rise and just last year we registered 36 cases of hate speech based on sexual orientation and/or gender identity, which is 22% of the total number of registered cases of hate speech. As part of the hybrid attacks, efforts to pass gender recognition legislation were used to further target the transgender community, as a "front" to target and attack gender equality in general. Anti-gender movements in our country seem to be a tool for blocking the integration process of the state and it is becoming more and more obvious that the domestic anti-gender structures are connected and act in coordination with external factors and use ready-made narratives. In this development, the transsexual community remains one of the most vulnerable and at risk of additional stigma, discrimination, and violence. Unfortunately, last year the state was again unable to implement the decision of the Strasbourg Court of Human Rights, which refers to the regulation of the legal recognition of gender and enabling minimum conditions for the functioning of transsexual people in our country, which at the same time would cushion the effects of the aggressive campaign of anti-gender structures.

In the area of hate crimes based on sexual orientation and/or gender identity, although legally regulated by the Criminal Code, no positive change has been observed in the actions of the institutions. The main problem remains with the police, who continue not to register these acts as acts of hate, but as other acts punishable by the Criminal Code and the Law on Misdemeanors. The registration of reported acts as acts of hate committed precisely because of the sexual orientation and/or gender identity of the victim is crucial for their further appropriate processing by the Public Prosecutor's Office and protection of the victim, and of course also for the purpose of providing accurate data on this type of criminal acts in the form of statistical data on which further representation in this area will be based. The Safe House, as a safe hub for LGBTI victims of violence and/or at risk of homelessness, managed to respond to the challenges and offer a safe space, training in social and life skills, preparing its proteges for resocialization and participation in the labor market, in order to help them achieve personal independence and break the "circle of violence".

On the other hand, last year's Skopje Pride saw a turnout of around 3,000 people, which is a 30% increase from the previous year. This demonstrates a growing support for the LGBTI community and gives us hope that citizens are becoming more aware of the hybrid threats to social cohesion and indicates that an additional effort is needed from the state to raise awareness about modern risks. These two seemingly contradictory processes reflect the growing division in society, fueled by the war in Ukraine. The same, anti-gender structures, are the ones that relativize the military aggression against Ukraine, try to justify it, and even reverse the roles of the aggressor and the victims.

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In 2022, the shelter center Safe House received a permit to work in social protection, providing social services in the community - temporary stay in a Center for victims of gender-based violence.

The Safe House has a capacity for 5 beneficiaries and operates 24 hours, 365 days. Beneficiaries are provided with: housing, food, personal hygiene products, basic medicines, then: psychosocial help and support, which includes services from a social worker and psychologist as well as free legal aid. All services listed are free and confidential.

Number of beneficiaries cared for in the shelter center – Safe House

In the period from January to December 2022, 10 beneficiaries were taken care of:

Table 1. Number of beneficiaries and description by gender, nationality and origin, for 2022

Period	Gender	Nationality	Origin
Jan – Dec 2022	M – male 6 F – female 4	Macedonian 7 Afghan 1 Azerbaijani 2	Afghanistan 1
			Makedonski Brod 1
			Azerbaijan 2
			Krushevo 2
			Skopje 2
			Struga 1
			Kriva Palanka 1

As can be seen from Table 1, in the period from January to December 2022, 10 beneficiaries were cared for, as follows: Lesbian ²⁷: 1; Gay male ²⁸: 5 ; Transgender person MTF ²⁹: 4 ; Transgender person FTM ³⁰: 1

²⁷ Lesbian, refers to women whose sexual, emotional, affective attraction is mainly directed towards persons of the same sex. "Butch" is a derogatory word used to name lesbians with pronounced (gender-stereotypical) masculine features, gestures and behaviors. The meaning of this word expresses the heterosexist stereotypes of lesbians, but at the same time, the stereotypical representations of gender. "Lipstick lesbians" or "femme", are terms used to name lesbians with emphasized (gender-stereotyped) feminine features, gestures and behaviors.

²⁸ Gay refers to men whose sexual, emotional, affective attraction is mainly directed towards persons of the same sex. "Faggot" is a term that is often used with a derogatory, offensive meaning, and is used in homophobic groups in which homosexual men are belittled and discriminated against. Lately, with the development of the "queer" concept and the political movement, this term has been deliberately used by homosexuals themselves in self-naming, in order to give it a new meaning and value, to empty it of derogatory meanings, and taking everything into a new context for political/activist purposes to express pride in one's identity and reject the shame that this term carries.

²⁹The label MTF (male to female) refers to a person who has not made a physical transformation/or not yet (medical gender reassignment), but in gender terms identifies as a woman.

³⁰ The designation FTM (female to male) refers to a person who has not made a physical transformation/or not yet (medical gender reassignment), but in gender terms identifies as male.

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Age of the beneficiaries in the shelter center - Safe House

Table 2. Age of the beneficiaries in the shelter center Safe House for 2022

Period		Period		Period	
Jan - Dec 2022	18-23 years 5 24-29 years 3 30-35 years 1 Over 35 years 1	Jan – Dec 2021	18-23 years 3 24-29 years 3 30-35 years 2 Over 35 years 1	Jan – Dec 2020	18-23 years 4 24-29 years 3 30-35 years 1 Over 35 years 2

Table 3. Number of the users of services in Safe House, for 2022

Period	Crisis accommodation (24 – 72 hours)	Long-term accommodation (3-6 months)
Jan - Dec 2022	2	8

Programs and activities realized in 2022

- 1. Provision of housing in a safe and secure space for a period of 3-6 months, for victims of family and gender-based violence and violence based on sexual orientation and gender identity**
- 2. Helpline 0800 66 6 66**, which is open 24/7 and during 2022 has received 15 (fifteen) calls, part of which were intended for direct support of victims of violence and part for information about the Safe House services.
- 3. Provision of psycho-social assistance to the victims who are placed in the shelter center**
- 4. Provision of free legal aid**
- 5. Provision of educational-creative trainings, trainings for life skills and sports-recreational activities for beneficiaries of the Safe House**

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6. Providing assistance to beneficiaries for acquiring work skills and employment skills, as well as ensuring inclusion in the labor market

Table 4. Number of Safe House realized training sessions for 2022

Trainings for work and life skills	Educational-creative trainings	Sports - recreational trainings	Informal gatherings of a social nature
22	19	2	11

7. Raising awareness and promoting the services of the shelter center

