



# EVALUATION OF HUMAN RIGHTS AND RULE OF LAW DURING THE PRESIDENCY OF THE OSCE

April, 2023

**Title:**

Evaluation of Human Rights and Rule of Law during the Macedonian Presidency of OSCE

**Publisher:**

Helsinki Committee for Human Rights

**Presented by:**

Prof. Dr. Neda Zdraveva

**Author:**

Election Observation - Simonida Kacarska

Protection of National Minorities - Arditia Abazi Imeri

Intolerance - Hate speech - Slavica Anastasovska

Hate crimes - Natasa Petkovska

Freedom of Expression and Association - Goce Kocovski

Trafficking in Human Beings - Irena zdravkova

Gender Equality - Bojana Jovanovska

**Editor:**

Natasa Boskova

**Translator:**

Katerina Ivansisevic

**Year of issue:**

2023

**Place of issue:**

Скопје

**Number of pages:**

69

**Graphic design:**

Masiva Creative Agency



FOUNDATION ФОНДАЦИЈА  
ОПЕН ОТВОРЕНО  
СОЦИЈЕТИ ОШТЕСТВО  
МАКЕДОНИЈА МАКЕДОНИЈА



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra



NETHERLANDS  
HELSINKI  
COMMITTEE



European  
Policy  
Institute.  
Skopje



MYLA



HELSINKI  
COMMITTEE  
FOR HUMAN  
RIGHTS

This report was created with the financial support of Netherlands Helsinki Committee, Foundation Open Society - Macedonia, Swiss Federal Department of Foreign Affairs. Its contents are the sole responsibility of Helsinki Committee for Human Rights, Macedonian Young Lawyers Association, Institute for European Politics, and do not necessarily reflect the views of Netherlands Helsinki Committee, Foundation Open Society - Macedonia, Swiss Federal Department of Foreign Affairs.

---

## Table of contents

### Chapter 1

ELECTION OBSERVATION ..... 5

### Chapter 2

PROTECTION OF NATIONAL MINORITIES ..... 10

### Chapter 3

INTOLERANCE ..... 19

### Chapter 4

FREEDOM OF EXPRESSION AND ASSOCIATION ..... 36

### Chapter 5

TRAFFICKING IN HUMAN BEINGS ..... 52

### Chapter 6

GENDER EQUALITY ..... 58

---

## **Abbreviations**

**SEC** - State Electoral Commission

**OSCE** - Organisation for Security and Cooperation in Europe

**ODIHR** - Office for Democratic Institutions and Human Rights

**MoJ** - Ministry of Justice

**IRI** - International Republican Institute

**UN** - United Nations

**COE** - Council of Europe

**EC** - European Commission

**US** - United States

**ACFC** - Advisory Committee on the Framework Convention

**SLAPP** - Strategic Lawsuit Against Public Participation

**LAF** - Law on Association and Foundation

**RIA** - Regulatory Impact Assessment

**MISA** - Ministry of Information Society and Administration

**THB** - Trafficking in Human Beings

**SOP** - Standard Operating Procedure

**NRM** - National Referral Mechanism

**OCCPO** - Organized Crime and Corruption Prosecution Office

**GRETA** - Group of Experts on Action Against Trafficking

**ILO** - International Labour Organization

**VoT** - Victims of Trafficking

**CEDAW** - Convention on Elimination of all forms of Discrimination Against Women

**LPPD** - Law on Prevention and Protection against Discrimination

---

## Chapter 1 – ELECTION OBSERVATION

### 1.1. Electoral system of North Macedonia

North Macedonia is a multi-party parliamentary democracy. Currently there are 57 registered political parties.<sup>1</sup> Given the country's multi-ethnic character, political parties are often organised around the interests of specific ethnic groups. The political parties can compete in parliamentary elections for members of Parliament, local elections for mayors and members of municipal councils, and presidential elections.

The legislative framework also allows for independent candidates to compete in elections. Submitting a candidature is preceded by a collection of a specific number of signatures (as envisaged in the Electoral Code), either from voters or from MPs, depending on who is submitting the candidature on behalf of the independent candidate(s). The signatures are collected in branch offices of the State Electoral Commission (SEC), and the procedure is determined by a Rulebook adopted by the SEC.

Presidential elections are held every five years, while local and parliamentary elections are held every four years. However, due to political uncertainty and frequent political crises -and at times due to political calculations - in 2020, the country held its fifth early parliamentary election in a row.

Since 2002, the parliamentary electoral system in North Macedonia has been proportional, with closed candidate lists.<sup>2</sup> The Assembly counts 120 MPs elected in six electoral districts, and results are calculated using **the d'Hondt formula**. Up to three additional MPs are elected through out-of-country voting<sup>3</sup> in one electoral district.<sup>4</sup> From the in-country voting, 20 MPs are selected from each of the six electoral districts. Further details about the electoral districts, the out-of-country voting, the types of lists and the Voters' Registry are provided in the following chapters.

Despite the large number of active political parties, the majority of small parties run in the elections in pre-electoral coalitions, usually led by one of the two major political parties – the Social-Democratic Union of North Macedonia (known as SDSM) or the Internal Macedonian Revolutionary Organization, Democratic Party for Macedonian Unity (known as VMRO-DPMNE), to increase their chances of being represented in the Assembly.

North Macedonia is a consociational democracy, which, among other key elements, is characterised by grand coalition governments that represent the different ethnic groups. In practice, post-electoral coalitions are formed between one of the two biggest Macedonian parties (which usually has won the biggest overall number of seats), and one (or more) of the winning Albanian parties. This practice is mainly based on the informal May agreement, which foresees that the winning parties from both ethnic groups should form the government.<sup>5</sup> However, this informal practice was broken in the 2016 early parliamentary elections, when the winning Albanian party, Democratic Union for Integration (DUI), formed the government with the Social Democrats, who received fewer votes than the right-wing VMRO-DPMNE. An interesting development in the forming of coalitions also happened in the 2020

---

<sup>1</sup> Agency for protection of the right to free access to public information. *List of information holders/Political parties*. Available at: <https://aspi.mk/imateli/8/>

<sup>2</sup> Pankovski M., Jovevska-Gjorgjevikj A., Janeska S., Ilievska M. and Mladenovska S. (2020). *The Republic of North Macedonia's 2020 Parliamentary Elections Handbook (second updated edition)*. Konrad Adenauer Foundation, Institute for Democracy "Societas Civilis" – Skopje. All changes in chronological order can be found in part two: *The history of parliamentary elections in the Republic of North Macedonia (1990 - 2016)*, including detailed information on the 2002 changes, available at: [https://izbornaarhiva.mk/dokumentacija/priracnici/Priracnik\\_zaparlamentarni\\_izbori\\_2020\\_ENG.pdf](https://izbornaarhiva.mk/dokumentacija/priracnici/Priracnik_zaparlamentarni_izbori_2020_ENG.pdf)

<sup>3</sup> Since 2011

<sup>4</sup> Since 2015

<sup>5</sup> Markovik N. and Popovik M. (2015). *Political dialogue*. Konrad Adenauer Foundation. Available at: [https://idscs.org.mk/wp-content/uploads/2009/08/Politicki\\_dijalog.pdf](https://idscs.org.mk/wp-content/uploads/2009/08/Politicki_dijalog.pdf)

---

early parliamentary elections, when the first pre-electoral governing coalition between SDSM a Macedonian party and BESA one of the biggest Albanian parties was agreed before the elections occurred.

## 1.2. Findings of international organisations

The latest local elections took place in October 2021. Several amendments to the Electoral Code related to these elections were adopted in September 2021 under an expedited procedure and without a public debate or consultation with key stakeholders, contrary to international good practice.

According to the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe (OSCE/ODIHR), these amendments partially addressed some prior OSCE/ODIHR recommendations, such as defining the term of the mandate of SEC members. In contrast, other recommendations, including those concerning a comprehensive revision of the electoral legal framework, remained unaddressed.<sup>6</sup>

The OSCE/ODIHR assessed that the elections were competitive and that the fundamental freedoms were widely respected.<sup>7</sup> On the other hand, the Freedom House Nations in Transit 2022 report found that while the elections were generally free and competitive, there was abuse of state resources by the ruling parties, and electoral campaigns were marred by divisive and hostile rhetoric.<sup>8</sup>

ODIHR drew attention to its priority recommendations, such as creating more equitable conditions for electoral campaigns and political advertising, enhancing the capacity of election management bodies, and creating additional mechanisms to ensure transparency in political and campaign financing. Implementing gender-related electoral reforms was also discussed during a dedicated stakeholder meeting.<sup>9</sup>

There has been limited progress in addressing the outstanding recommendations by the OSCE/ODIHR<sup>10</sup> and the Venice Commission.<sup>11</sup> As mentioned in their reports, the electoral legislation should be comprehensively reviewed to address existing inconsistencies, and relevant laws need to be adopted in a timely, inclusive, and transparent manner well before the next elections. In this regard, relevant authorities must step up their efforts and show the political will to improve the electoral process further.<sup>12</sup>

---

<sup>6</sup> OSCE Office for Democratic Institutions and Human Rights. (2022, March 25). *Republic of North Macedonia - Local elections 17 and 31 October 2021: ODIHR Election Observation Mission Final Report*. Available at: <https://www.osce.org/files/f/documents/9/3/514666.pdf>

<sup>7</sup> European Commission. (2022, October 12). *North Macedonia 2022 Report: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement policy*. Available at: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>

<sup>8</sup> Freedom house. (2022). *Nations in Transit report 2022 report*. Available at: <https://freedomhouse.org/country/north-macedonia/nations-transit/2022>

<sup>9</sup> OSCE Office for Democratic Institutions and Human Rights. (2022, June 28). *ODIHR experts discuss electoral recommendations in North Macedonia*. Available at: <https://www.osce.org/odihr/elections/north-macedonia/521380>

<sup>10</sup> Ibid.

<sup>11</sup> European Commission for Democracy Through Law (Venice Commission) and OSCE Office for Democratic Institutions and Human Rights. (2016, September 29). *The Former Yugoslav Republic of Macedonia: Draft Joint Opinion on the Electoral Code as amended on 9 November 2015*. Available at:

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2016\)030-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2016)030-e)

<sup>12</sup> European Commission. (2022, October 12). *North Macedonia 2022 Report: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement policy*. Available at: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>

---

## 1.3. Recent developments

During January - March 2022, discussions were held on electoral code reform as a response to the demands of the smaller political parties represented in the Assembly.<sup>13</sup> Their demands include introducing changes in the electoral code, more specifically introducing a one-constituency electoral system with a proportional electoral model without an electoral threshold.<sup>14</sup> In January 2022, MPs from five smaller parties in the ruling coalition conditioned their support of the new government with a request that amendments to the electoral code take place within the next three months, and requested the speaker of the Assembly to schedule a plenary session at the earliest date<sup>15</sup> The condition came as a result of not discussing the proposal for amendments of the electoral code submitted 11 months ago (05.03.2021) to the Assembly by the representatives of these smaller political parties.<sup>16</sup>

By the end of March 2022, the Committee on Political System and Inter-Community Relations in the Assembly held a session on the Draft Law on Amendments to the Electoral Code<sup>17</sup>, with members of the commission supporting the first phase of the proposal for a proportional model, without an election threshold, with the D'hondt model of distribution of mandates where the state would be one constituency.<sup>18</sup>

To enrich the discussion about the changes needed in the Electoral Law, a panel discussion<sup>19</sup> was organised by the Liberal Institute,<sup>20</sup> where participants largely expressed the view that having "one electoral unit instead of six" is very much needed. Also, at the beginning of June 2022, a deliberative poll<sup>21</sup> was organized by the European Policy Institute (EPI) in which a large number of citizens (150 from around the country) discussed and queried what kind of electoral system they want and what reforms are needed in the electoral process in the country. The citizens had the opportunity to discuss election models and election units, as well as the right to vote of the diaspora, with political representatives from the parliamentary parties<sup>22</sup>, and electoral lists and voter registration with relevant stakeholders<sup>23</sup> in this area. According to the evaluation of the event the opinion of the participants for wider involvement of the general public in the dialogue about electoral reforms is supported at a high level. According to the results of the deliberative poll, statistically significant differences appear with higher values after the debate only on the question of whether there should be one electoral unit that covers the entire territory of the state, but with a certain minimum percentage of votes that the parties/independent candidates should receive in order to win a parliamentary seat.<sup>24</sup>

---

<sup>13</sup> Political Party Demokratski Sojuz. (2022, January 29). *Demokratski Sojuz: Radical Reform of Electoral Rules*. Available at: <https://bit.ly/3SF7JTW>

<sup>14</sup> Deutsche Welle-North Macedonia. (2022, January 21). *Changing the electoral model is back on the table*. Available at: <https://bit.ly/35qNFAv>

<sup>15</sup> Blazhevska K. (2022, January 14). Five Parties Conditioned Their Support for the Government. *Deutsche Welle*. Available at: <https://bit.ly/3xdbpUr>

<sup>16</sup> Ibid.

<sup>17</sup> Assembly of the Republic of North Macedonia. (2022, March 22). *Session No. 39 of the Committee on Political System and Inter-Community Relations Scheduled for March 22, 2022 at 10:00 AM*. Details available at: <https://bit.ly/3J36oDq>.

<sup>18</sup> Ibid.

<sup>19</sup> Nikolovski M. (2022, June 2). One Electoral Unit – the Need for Radical Reform of the Electoral System. *Telma TV*. Available at: <https://bit.ly/3YeEJUj>

<sup>20</sup> Liberal Institute – Skopje. (2022, June 1). *One Constituency Instead of the Current Six – a More Appropriate Representation of the Citizen's Voice*. Available at: <https://www.facebook.com/liberalinstitutemk/videos/1736530570040094>

<sup>21</sup> European Policy Institute-Skopje. (2022, May 31). *Citizens Discuss and Ask: The Electoral System and Reforms in the Electoral Process in North Macedonia*. Available at: <https://epi.org.mk/post/20948>

<sup>22</sup> Pavle Trajanov, Arta Biljali-Zendeli, Dragan Kovachki, Viktorija Avramovska-Madikj, as well as the representative of the civil sector Sefer Selimi.

<sup>23</sup> Renata Deskoska, Sasho Klekovski, Halil Snopche, Fadil Zendeli and Gordan Georgiev.

<sup>24</sup> European Policy Institute -Skopje. *National Debate on Electoral Reforms in North Macedonia*. Available at: [https://epi.org.mk/wp-content/uploads/Summary\\_NED\\_ENG.pdf](https://epi.org.mk/wp-content/uploads/Summary_NED_ENG.pdf)

During July-September 2022, several discussions on electoral code reform were held with the OSCEs' support to the Ministry of Justice (MoJ), which is the lead governmental institution leading the reform discussions.<sup>25</sup> The Minister of Justice has also stated that "it is necessary to know the election rules in advance and not to adopt them immediately before the elections."

Concerning the election process, the Basic Civil Court Skopje found discrimination on the part of the Government and of the State Election Commission against persons with disabilities when exercising the right to vote<sup>26</sup>. This judgment was delivered based on an *actio popularis* lawsuit submitted by the Helsinki Committee for Human Rights of the Republic of Macedonia in which the Coalition Margins was a third party intervener.<sup>27</sup> At the same time, the Court obliged 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 access to flat roads, parking, and accessibility to the voting room, as well as accessibility in the voting room for persons with disabilities.

During April – June 2022, the largest parliamentary opposition party, VMRO-DPMNE, continuously requested early parliamentary elections and engaged in blocking the work of the Parliament. They also requested a leadership meeting between the leaders of the two largest parliamentary parties due to the exacerbated economic and energy crisis. This request was rejected by Prime Minister Kovacevski, and the leader of the ruling party<sup>28</sup> with the explanation that it was not the right time to hold early parliamentary elections. At the same time, Prime Minister Kovacevski emphasized the Government's plans to hold regular elections as scheduled in 2024, which will take place in the same year as the elections for Presidency.<sup>29</sup>

Regarding the 2021 local elections, there was a risk of disbanding the Municipal Council of the Municipality of Tetovo,<sup>30</sup> which eventually happened when the Government of North Macedonia dismissed the Council of the Municipality. The main reason for this step was their failure to adopt the annual account of the municipal budget for 2021.<sup>31</sup> The Municipality reacted by claiming that the dismissal of the Council was illegal because the deadline for the dismissal of the Council had expired, but confirmed that new elections for councillors should be held.<sup>32</sup> After the new elections for the Tetovo Municipal Council were held in August 2022, the independent members of the Council previously elected lost their seats.<sup>33</sup>

The 2021 local elections once again showed the weak representation of women, as only two women mayors were elected in the country, as opposed to 79 male mayors. In addition to the persistence of

---

<sup>25</sup> Ministry of Justice. (2022, June 6). *The OSCE mission in Skopje supports the initiative of the Ministry of Justice for the preparation of a new Electoral Code*. Available at: <https://pravda.gov.mk/vest/6365>

<sup>26</sup> Stojkova I. (2022, September 7). Verdict-the state discriminated against persons with disabilities when exercising the right to vote. *Radio Free Europe (in Macedonian)*. Available at: <https://bit.ly/3Sz4rjx>

<sup>27</sup> Helsinki Committee for Human Rights of the Republic of Macedonia. (2022, September 1). *The Government and the State Election Commission committed direct discrimination against persons with disabilities when exercising their right to vote*. Available at: <https://bit.ly/3f7WWmb>

<sup>28</sup> Lazova A. (2022, May 8). There Will Be No Leadership Meeting for Early Parliamentary Elections. *Kanal 5*. Available at: <https://kanal5.com.mk/nema-da-ima-liderska-sredba-za-predvremani-parlamentarni-izbori/a528975>

<sup>29</sup> TV 21. (2022, May 6). "There Will Be Elections in 2024," Kovacevski Says. Available at: <https://mk.tv21.tv/izbori-ke-ima-vo-2024-godina-veli-kovachevski/>

<sup>30</sup> Blazhevski B. (2022, April 29). Portalb: Tetovo Municipality Council before Dissolution, It Is Unclear If There Will Be New Elections. *Meta.Mk*. Available at: <https://meta.mk/portalb-sovetot-na-opshtina-tetovo-pred-raspushtanje-nejasno-e-dali-kje-ima-novi-izbori/>

<sup>31</sup> The Law on Financing the LSGUs stipulates the adoption of the annual account for the budget of the previous year until March 31st in the current year. Available at: <https://finance.gov.mk/wp-content/uploads/2009/02/Zakon-za-finansiranje-na-edinicite-na-lokalna-samouprava-Precisten-tekst.pdf>

<sup>32</sup> Alsat M. (2022, June 14). *The Government Dissolved the Tetovo Municipality Council*. Available at: <https://alsat.mk/mk/najnova-vest-vladata-go-raspusti-sovetot-na-opshtina-tetovo/>

<sup>33</sup> SDK.MK (2022, August 21). BESA won 121 seats in the municipal council of Tetovo, DUI 11, whereas SDSM and VMRO\_DPMNE have the same number of votes as last year. Available at: <https://sdk.mk/index.php/dopisna-mrezha/besa-osvoi-12-sovetnitsi-vo-sovetot-na-tetovo-a-dui-11-vmro-dpmne-i-sdsm-imaat-ist-broj-kako-na-lanskite-izbori/>



---

barriers for political participation of women, the 2021 outcome was also a result of the absence of quotas for gender representation at the level of municipal mayors.<sup>34</sup>

In the survey conducted by the International Republican Institute (IRI), whose results were published at the end of December 2022, the majority of citizens, or 70% in total (39% - very likely; 31% - likely), would vote if elections were held tomorrow, and they currently give the biggest support to the biggest opposition party VMRO-DPMNE (19%), while the ruling SDSM has seen a drop in support, and has a rating of just 11%.<sup>35</sup>

## 1.4. Recommendations

- The Government needs to show political will to improve the electoral process. There should be a broad consultative process for electoral reform. The existing proposals are unclear without in-depth research on what those changes would mean for the democracy of the country, while in public, the messages are confusing, which in return causes confusion among the general population;
- The electoral legislation should be amended to address OSCE/ODIHR recommendations with substantive discussion in the Assembly, public debates, and normal procedure;
- The relevant laws need to be adopted in a timely, inclusive and transparent manner.

---

<sup>34</sup> International Foundation on Electoral Systems (IFES). (2022) *Women's Participation In Political Processes in North Macedonia*. Available at: <https://electoralreforms.mk/wp-content/uploads/2022/06/ENG-Study-on-womens-participation-in-political-processes-in-North-Macedonia.pdf>

<sup>35</sup> International Republican Institute (IRI). (2022, December 19). *National Poll of North Macedonia - September – October 2022*. Available at: <https://bit.ly/3PNIAq3>.

---

## Chapter 2 – PROTECTION OF NATIONAL MINORITIES

### 2.1. International standards and legislation

North Macedonia is a multiethnic country and its main ethnic groups according to the Constitution are the Macedonian people, as well as citizens living within its borders who are part of the Albanian people, the Turkish people, the Vlach people, the Serbian people, the Roma people, the Bosniak people, and others<sup>36</sup>. There are broad opinions that the country is functioning through divided and separated communities, with ethnicity as the primary line of division.

North Macedonia has ratified major international human rights treaties, including the UN Convention on Elimination of all forms of Racial Discrimination; the European Convention for the Protection of Human Rights and Fundamental Freedoms; the Framework Convention for the Protection of National Minorities; the Ljubljana Guidelines on Integration of Diverse Societies of the OSCE; and all the fundamental human rights conventions of the UN and COE. International human rights standards ratified by the country take precedence over national legislation. North Macedonia has committed to, but has not yet ratified, the European Charter on Regional or Minority languages.<sup>37</sup>

The Constitution includes the principle of equality and prohibits discrimination, including on the grounds of race and ethnic origin. Furthermore, the Ohrid Framework Agreement, which ended the armed conflict in 2001, provided for a range of legislative and policy measures to ensure equality and minority<sup>38</sup> protection, among which official status is accorded to the Albanian language in areas where at least 20 per cent of the population speaks the language; required equitable and proportional representation; strengthened education in the Albanian language; adopted the ‘double majority’ rule<sup>39</sup>; and improved participation and employment of minorities in public life and state institutions. The Ohrid Framework Agreement Review on Social Cohesion (OFA), prepared in 2015, points to the fragile inter-ethnic situation, the lack of trust among communities, and the need for continued focus on social cohesion.<sup>40</sup>

In 2019 the Government of North Macedonia adopted the Strategy “One Society For All” which aims to further develop intercultural communication among its diverse cultures and communities, and to apply it as a tool for implementing the recommendations of the international bodies such as the United Nations, the Council of Europe, the European Commission, and the Organisation for Security and Cooperation in Europe.

### 2.2. State of play

According to the EC country report 2022, with regard to the protection of minorities, the authorities continued to implement the national strategy ‘One Society for All and Interculturalism’. The OSCE High Commissioner on National Minorities also expressed his support for North Macedonia’s ongoing efforts

---

<sup>36</sup> The Constitution of the Republic of North Macedonia. Available at: [https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns\\_article-constitution-of-the-republic-of-north-macedonia.nspix](https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspix)

<sup>37</sup> Council of Europe, *Promoting ratification of the European Charter for Regional and Minority languages* available at: <https://www.coe.int/en/web/european-charter-regional-or-minority-languages/promoting-ratification>

<sup>38</sup> The terminology adopted with the Ohrid Framework Agreement is “non-majority communities”.

<sup>39</sup> Parliamentary decisions affecting the rights of communities or local self-government must be passed both by a majority of all MPs and a majority of the total number of votes by MPs from the minority community.

<sup>40</sup> Government of the Republic of North Macedonia and Secretariat for the Implementation of the OFA. (2015). *Ohrid Framework Agreement Review on Social Cohesion*. Available at: <https://www.eip.org/wp-content/uploads/2020/07/OFA-Review-on-Social-Cohesion.pdf>

---

towards developing its strategy of *One Society for All* as an effective framework to help improve social cohesion. The EC finds that inter-ethnic relations remained stable and the Ohrid Framework Agreement continued to be implemented, while the Council of Europe stresses that though inter-ethnic relations have improved, ethnic and linguistic dividing lines come to the surface in moments of crisis. To ensure the sustainability of the strategy “One Society for All”, which takes a valuable intercultural approach, more high-level political support and solid financing are required.<sup>41</sup>

The Advisory Committee on the Council of Europe’s Framework Convention for the Protection of National Minorities, in its fifth opinion for North Macedonia in 2022, found that there has been progress in the legal protection of national minority rights by improving its policies in line with the Framework Convention, but their practical implementation needs to be enhanced. The Council of Europe’s Committee makes several recommendations to North Macedonia aimed at further strengthening anti-discrimination and equality, protecting national minorities from hostility and violence, promoting their cultures, improving their education and media representation as well as their linguistic, labour and housing rights.

According to the 2021 US Human Rights Country Report<sup>42</sup>, members of smaller ethnic minority groups continued to complain of inequitable representation within government and discriminatory practices that excluded them from political participation. There were eight ethnic Albanian ministers in the 20-member government cabinet. As of November 1, 2021 there were 32 ethnic Albanian members of parliament, including the Speaker of Parliament, and three Turkish, two Serb, one Roma, one Vlach, one Bosniak, and one Jewish member of parliament.

The implementation of the Law on the Use of Languages suffers from a considerable gap between the use of the Albanian language and the practical situation in the administration and courts. Considerable investment in training and recruitment of translators and bilingual staff is needed to remedy this.

The authorities are also urged to increase socio-economic participation of national minority members living in rural areas by investing in infrastructure and employment opportunities for minority youth.

## 2.3. Recent developments

Two decades after the last national census, in September 2021 the country finally conducted a census on the population and households<sup>43</sup>, the data of which was published at the end of March 2022, after months of data analysis.

According to the State Statistical Office<sup>44</sup>, the total resident population is 1,836,713 persons. The total non-resident population, which includes the citizens of the Republic of North Macedonia absent abroad for more than 12 months, as well as foreigners temporarily present in the Republic of North Macedonia for fewer than 12 months, is 260,606 persons included in the Census.

In the total enumerated population, 54.21% declared themselves as Macedonians, 29.52% as Albanians, 3.98% as Turks, 2.34% as Roma, 1.18% as Serbs, 0.87% as Bosniaks and 0.44% as Vlachs.

---

<sup>41</sup> Advisory Committee on the Framework Convention for the Protection of the National Minorities. (2022, September 21). *Fifth opinion on North Macedonia*. Available at: <https://rm.coe.int/5th-op-north-macedonia-en/1680a82967>

<sup>42</sup> U.S. Department of State. (2022, April 27). *North Macedonia 2021 Human Rights Report*. Available at: [https://www.state.gov/wp-content/uploads/2022/02/313615\\_NORTH-MACEDONIA-2021-HUMAN-RIGHTS-REPORT.pdf](https://www.state.gov/wp-content/uploads/2022/02/313615_NORTH-MACEDONIA-2021-HUMAN-RIGHTS-REPORT.pdf).

<sup>43</sup> State Statistical Office. (2022, March 30). *The Total Resident Population of the Republic of Northern Macedonia Is 1,836,713 Inhabitants. Popis2021*. Available at: <https://bit.ly/3uXfi3D>

<sup>44</sup> State Statistical Office. (2022, March 30). *Census of Population, Households and Dwellings in the Republic of North Macedonia, 2021 - first dataset*. Available at: [https://www.stat.gov.mk/PrikaziSooopstenie\\_en.aspx?rbtxt=146](https://www.stat.gov.mk/PrikaziSooopstenie_en.aspx?rbtxt=146)

---

In the total resident population in the Republic of North Macedonia, 58.44% of the population declared themselves as Macedonians, 24.30% as Albanians, 3.86% as Turks, 2.53% as Roma, 0.47% as Vlachs, 1.30% as Serbs and 0.87% as Bosniaks.

In the total non-resident population included in the Census, which includes the citizens of the Republic of North Macedonia absent abroad for more than 12 months and foreigners temporarily present in the Republic of North Macedonia for fewer than 12 months, 24.45% declared themselves as Macedonians, 66.36% as Albanians, 4.79% as Turks, 1.02% as Roma, 0.19% as Vlachs, 0.35% as Serbs, 0.81% as Bosniaks, and others.

One of the main conclusions drawn from the census is that the population is reduced by about 10%. Even though the government has qualified this process as a successful one, the opposition has raised concerns, saying that they deem the census incomplete. Namely, VMRO-DPMNE claims that 7.2 % have not been registered and that the data have been taken from data bases.<sup>45</sup> Minorities have also voiced their dissatisfaction with the process.<sup>46</sup>

In line with the European Council conclusions of July 2022, North Macedonia is to amend its constitution to include in it citizens who live within the borders of the state and who are part of other people, such as Bulgarians.<sup>47</sup> The discussion on the constitutional changes is ongoing at the time of the writing of this report and is a condition for the holding of the second intergovernmental conference with the European Union and the continuation of the accession negotiations overall.

## 2.4. Equitable representation

In January 2022, the Ombudsman<sup>48</sup> presented the Monitoring Report on the implementation of the principle of equitable representation for 2020<sup>49</sup>, which was published in December 2021. According to the report for the period 2007 - 2020, there has been an overall improvement in terms of respecting the constitutional commitment,<sup>50</sup> however, the trend of unsatisfactory representation of smaller communities in the ministries still exists, especially in managerial positions.<sup>51</sup> In addition, the application of the principle of equitable representation is not respected in the judiciary and prosecution.<sup>52</sup> The EC Country report 2022 is along the same line, as it found that equitable representation of minorities remains inconsistent across the public sector and across all categories of civil servants. The report presents the concerns, including by the State Statistical Office, over the initiative of the Ministry of Information Society and Administration to revise the percentage in the formula of the so-called 'BalancER', a human resources tool, which determines the proportion of public employees from each ethnic group. Additionally, the transfer of employees from the Ministry of Political System and Relations between Communities to various institutions was not completed, thus continuing to undermine the principles of merit and effectiveness.

---

<sup>45</sup> Kanal 5. (2022, March 30). *Miloshoski: The census figures are devastating and the operation incomplete*. Available at: <https://kanal5.com.mk/miloshoski-brojkite-od-popisot-se-porazitelni-a-operacijata-nekompletna/a523370>

<sup>46</sup> 360 Stepeni. (2022, March 31). *The Turkish movement party requests the Law on the use of languages to be implemented appropriately according to the census results*. Available at: <https://bit.ly/3LA5VqG>

<sup>47</sup> See Conclusions of the Council of the European Union of 18 July 2022, Available at: <https://data.consilium.europa.eu/doc/document/ST-11440-2022-INIT/en/pdf>

<sup>48</sup> The Ombudsperson of the Republic of North Macedonia. (2022, January 28). Press Conference of the Ombudsman Mr. Nasser Ziberi on the Situation with the Degree of Respect for the Principle of Adequate and Equitable Representation of Communities. Available at: <https://bit.ly/3kKseSH>

<sup>49</sup> The Ombudsperson of the Republic of North Macedonia. (2021, December). *Report on Monitoring the Situation with the Application of the Principle of Adequate and Equitable Representation for 2020*. Available at: <https://bit.ly/3ra6jnZ>.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

---

The Ombudsman also presented the findings of the Special Report on the situation regarding gender representation of employees in the public sector in 2020, with the findings showing an improvement in the level of gender equality--unlike previous years--except in regard to managerial positions.<sup>53</sup>

## 2.5. Vulnerable groups and the principle of non-discrimination

The Commission for Prevention and Protection from Discrimination (CPPD) has contributed to the European Commission's consultations on the development of standards for equality bodies.<sup>54</sup> During April-June 2022 the CPPD initiated ex-officio proceedings against a public official, on the occasion of his statements on a debate show on a television outlet, indicating ethnic harassment against members of the Turkish ethnic community in the Republic of North Macedonia.<sup>55</sup>

The CPPD received a positive assessment of its work in the latest report from the State Department.<sup>56</sup> According to the report, in 2021 the CPPD worked to protect citizens from violations of their rights by public institutions, reduce discrimination against minority communities and persons with disabilities, promote fair representation in public life, and prevent the abuse of children's rights.<sup>57</sup>

Additionally, the CPPD participated in the preparation of the Fourth Periodic Report for the Republic of North Macedonia pursuant to the UN's International Covenant on Civil and Political Rights, which comes subsequent to the CPPD's participation in the report, pursuant to the Convention on the Elimination of Racial Discrimination.<sup>58</sup>

In mid-June, the CPPD signed Memorandums of Cooperation with the Subversive Front and the Institute for Good Governance and Euro-Atlantic Perspectives (IDUEP), in order to realise joint commitments to strengthen mutual cooperation, and to support efforts to deal with discriminatory speech and other negative phenomena on the internet.<sup>59</sup>

Toward the end of July, the CPPD and the Cabinet of the President of the Republic of North Macedonia signed a Memorandum of Cooperation with the aim of undertaking coordinated activities to promote protection against discrimination and ensuring the full and equal enjoyment of all human rights and fundamental freedoms for all citizens of the Republic of North Macedonia.<sup>60</sup>

The new opinion of the Advisory Committee of the Framework Convention for the Protection of National Minorities stated that North Macedonia has achieved significant progress in the legal protection of the rights of persons belonging to national minorities, especially in the field of anti-

---

<sup>53</sup> European Commission. (2022, October 12). North Macedonia 2022 Report: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement policy. Available at: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>

<sup>54</sup> Commission for Prevention and Protection against Discrimination. (2022, March 16). *Importance, Role and Challenges for Equality Bodies in the Promotion of Equality and the Fight against Discrimination Contribution to the Public Consultation Process "Equality Bodies – Binding Standards"*. Available at: <https://kszd.mk/wp-content/uploads/2022/03/CPPD-Contribution-EC.pdf>

<sup>55</sup> Commission for Prevention and Protection against Discrimination. (2022, April 18). *Ex Officio Proceedings Initiated against Valjon Bela*. Available at: <https://bit.ly/3SISQj>

<sup>56</sup> U.S. Department of State. (2022, April 27). *North Macedonia 2021 Human Rights Report*. Available at: [https://www.state.gov/wp-content/uploads/2022/02/313615\\_NORTH-MACEDONIA-2021-HUMAN-RIGHTS-REPORT.pdf](https://www.state.gov/wp-content/uploads/2022/02/313615_NORTH-MACEDONIA-2021-HUMAN-RIGHTS-REPORT.pdf)

<sup>57</sup> Commission for Prevention and Protection against Discrimination. (2022, April 27). *Positive Assessment of the Work of CPPD in the 2021 Report of the State Department*. Available at: <https://bit.ly/3EPeYJ>

<sup>58</sup> Commission for Prevention and Protection against Discrimination. (2022, April 27). *CPPD Involved in the Preparation of the "State Report Pursuant to UN International Covenant"*. Available at: <https://bit.ly/41QpUdV>

<sup>59</sup> Commission for Prevention and Protection against Discrimination. (2022, June 15). *CPPD Signed a Memorandum of Cooperation with Subversive Front and IDUEP*. Available at: <https://bit.ly/41Ar78S>

<sup>60</sup> Commission for Prevention and Protection against Discrimination. (2022, July 25). *CPPD and the Cabinet of the President of the Republic of North Macedonia Signed a Memorandum of Cooperation*. Available at: <https://bit.ly/3DeVeqS>

---

discrimination and the use of the Albanian language. It added that at the political level, the ‘One Society for All’ strategy provides a valuable roadmap towards an integrated multi-ethnic society and is in line with the principles of the Framework Convention as it promotes respect for diversity through intercultural dialogue. However, practical implementation of legislation and policies for national minorities should be improved.<sup>61</sup>

The 2022 EC Country Report on North Macedonia reiterated the same issues from the previous Country Report, these being numerous logistical and financial challenges hampering the work of the CPPD. Furthermore, it was stated that the Government has again cut the annual budget of the CPPD, and a lack of administrative staff still persists. There is also a remark about the lack of independence of the CPPD related to budget spending due to inconsistency in the current legal framework, and a lack of diversity in the composition of the CPPD, especially in terms of gender and persons with disabilities.<sup>62</sup>

In the beginning of November, following the resignation of the CPPD’s president and member, the members of the CPPD elected a new president and deputy president.<sup>63</sup> Currently there are two vacant seats in the CPPD. On the 15<sup>th</sup> of February 2023 the Parliament published a call for the election of new members of the CPPD. Until the finalization of this document, the Selection and Appointment Commission within the Parliament has failed to schedule a session and organize a public hearing for selecting the candidates and thus to complete the CPPD with seven members.<sup>64</sup>

## 2.6. Hate speech

According to the Advisory Committee of FCNM<sup>65</sup>, the legal framework on combating hate speech and hate crime was further improved, but its application continues to be unsatisfactory, and hate speech, particularly online, is a serious problem. There were several cases of human rights violations by police authorities, and sanctions against members of the police are rare. North Macedonia is, therefore, urged to ensure that hate crimes and hate speech are effectively investigated and that oversight mechanisms tackling police conduct are strengthened.<sup>66</sup>

According to a report from the monitoring of online hate speech against Roma, conducted by the Institute for Research and Policy Analysis ‘‘Romalitico’’ and the Regional Roma Educational Youth Association (RROMA),<sup>67</sup> it was found that the most common online hate speech against Roma is found on Facebook. A recommendation was also made that the institutions should be introduced to the term ‘anti-Gypsyism’ as a specific form of racism against Roma. This term has been officially accepted by the Government in the new Roma Strategy.<sup>68</sup>

Recently, changes were made to the Criminal Code and the act of ‘hatred on the basis of a law or a ratified international agreement’ was added to hate crimes, pursuant to the fight against hate speech

---

<sup>61</sup> Radio MOF. (2022, September 21). *N. Macedonia Has Made Significant Progress in the Legal Protection of Minorities*. Available at: <https://www.radiomof.mk/s-makedonija-postigna-znachitelen-napredok-vo-pravnata-zashtita-na-malcinstvata/>

<sup>62</sup> Commission on Prevention and Protection against Discrimination. (2022, October 18). *CPPD in the European Commission’s Progress Report*. Available at: <https://bit.ly/3ZEAS50>

<sup>63</sup> Commission on Prevention and Protection against Discrimination. (2022, November 3). *CPPD Has a New President*. Available at: <https://bit.ly/3klkxls>

<sup>64</sup> Network for protection against discrimination: The Parliament to urgently elect members of CPPD [https://mzd.mk/en/vesti/sobranie\\_izbor\\_kszd/](https://mzd.mk/en/vesti/sobranie_izbor_kszd/)

<sup>65</sup> Advisory Committee on the Framework Convention for the Protection of the National Minorities. (2022, September 21). *Fifth opinion on North Macedonia*. Available at: <https://rm.coe.int/5th-op-north-macedonia-en/1680a82967>

<sup>66</sup> Ibid.

<sup>67</sup> Regional Roma Educational Youth Association ‘PPOMA’ and Institute for Research & Policy Analyses ‘‘Romalitico’’. (2021, December). *Macedonian Report on Monitoring Online Hate Speech against Roma*. Available at: <https://bit.ly/3DMSMb4>

<sup>68</sup> Institute for Research & Policy Analyses – Romalitico. (2022, February 18). *Conference ‘‘Hate Speech against the Roma Community in the Online Sphere as Part of Anti-Gypsyism’’*. Available at: <https://romalitico.org/index.php/en/vesti/93-news/press-releases/471-konferencija-govor-omraza-kon-romi-mediumi>

---

being placed among the main segments of the bilateral protocol recently signed by Skopje and Sofia. Hate speech will not fall under the competence of diplomacy, but only the competent institutions will evaluate what is considered hate speech and, in such cases, will act according to the law; and this should not be associated only with Bulgaria, as explained by the Minister for Foreign Affairs and the Minister for Justice.<sup>69</sup>

The HCHR expressed its concern that the state celebration of the anniversary of the signing of the Ohrid Agreement organised by the Government of the Republic of North Macedonia, instead of having a unifying character, was another occasion for spreading hatred and inter-ethnic intolerance. The announcement of the presenter in the Macedonian language, which was booed by those present, directly contradicts the idea of a multicultural festival and causes hatred between the ethnic communities in the country.<sup>70</sup>

## 2.7. Roma

The EC finds that there was some progress on the inclusion of Roma. The new strategy for Roma inclusion 2022-2030 has been adopted. The Government reviewed and accepted the National Action Plan for the protection, promotion and fulfilment of human rights of Roma women and girls 2022-2024.<sup>71</sup> The new strategy was guided by the commitments of the Poznan Declaration for the Western Balkan countries for the integration of Roma within the EU enlargement process,<sup>72</sup> and following the guidelines provided by the EU Strategic Framework for Roma.<sup>73</sup> Additionally, the Government appointed an adviser to the Prime Minister in charge of Roma inclusion issues. Following the adoption of the Strategy, the Minister of Labour and Social Policy hosted a two-day working meeting where she presented the projects and legal solutions aimed at achieving specific goals, especially in areas such as education, employment, housing, and the provision of personal documents for persons who do not have them.<sup>74</sup> Preparations for the implementation of the green and digital agenda, and the ways for the inclusion of the Roma in them, were also emphasised at the meeting.<sup>75 76</sup>

Segregation in school remains high. On December 13, 2022 a judgment was made by the ECHR which found that two primary schools, Gjorgji Sugarev in Bitola and Goce Delchev in Štip, had violated the right to non-discrimination (Article 14) in conjunction with the right to education (Article 2 of Protocol 1) of Roma children. Namely, the children were taught in increasingly segregated classes for several years, a trend concluding with classes entirely made up of Roma children due to non-Roma parents

---

<sup>69</sup> Hristovska Ugrinovska S. (2022, July 26). Hate Speech Will Be Judged Only in the Most Severe Forms. *Sloboden Pecat*. Available at: <https://www.slobodenpecat.mk/govorot-na-omraza-kje-se-sudi-samo-pri-najteshkite-formi/>

<sup>70</sup> Helsinki Committee for Human Rights of the Republic of Macedonia. (2022, August 17). *We Demand Public Condemnation of the Spread of Inter-Ethnic Hatred*. Available at: <https://mhc.org.mk/news/barame-javna-osuda-za-shirenjeto-meguetnichka-omraza/>

<sup>71</sup> Ministry of Labor and Social Policy. (2021, November). *National Action Plan for Protection, Promotion and Fulfillment of Human Rights of Roma Women and Girls 2022-2024*. Available at: <https://bit.ly/3m7IWvF>

<sup>72</sup> Regional Cooperation Council. (2019, July 5). *Declaration of the Western Balkan Partners on Roma Integration in the EU Enlargement Process*. Available at:

<https://www.rcc.int/romaintegration2020/files/admin/docs/866ab25893dd6d9271ebccbfd195349e.pdf>

<sup>73</sup> European Commission. (2020, October 7). *Guidelines for Planning and Implementing National Roma Strategic Frameworks*. Available at: [https://commission.europa.eu/document/01d77607-55ef-4536-b08c-394e6ac0f5b9\\_en](https://commission.europa.eu/document/01d77607-55ef-4536-b08c-394e6ac0f5b9_en)

<sup>74</sup> The inclusion of 400 Roma children in the process of pre-school education with free stay in kindergartens, 700 scholarships for Roma high school students per year, the high employment rate of Roma in state and public administration, housing support, in terms of legalization of their homes, all stated as implemented goals that the Ministry together with the partners has been working on in the past period.

<sup>75</sup> Inclusion of Roma in the digital agenda primarily by raising access to digital assets, digital literacy, support for Roma children in the field of education, labor market in terms of acquiring and using appropriate skills, as well as supporting Roma entrepreneurs to digitize their activities. In the area of the green agenda, Roma's inclusion in the circular economy, with the transformation of management systems for various types of waste and other resources, and inclusion in innovative renewable energy models.

<sup>76</sup> Ministry of Labour and Social Policy. (2022, February 24). *Trenchevska: Full Inclusion of Roma in Society Is an Obligation We Work on Together*. Available at: <https://bit.ly/3r8AMmv>

---

removing their children and enrolling them in schools elsewhere. This resulted in the parents of the Roma children feeling that the quality of education offered to children in the Roma-majority schools declined. Thus, the ECHR established discriminatory treatment and awarded compensation to the households of these children.<sup>77</sup>

The ACFC regrets that mixed school and classroom environments remain the exception. A more intercultural approach should be pursued, including by training teachers and pupils about the cultures and history of the different minorities and ensuring more regular contacts among pupils with different ethnic backgrounds.<sup>78</sup>

Despite a moderate increase in enrolment rates, and a decrease in attendance of special schools, Roma children continue to have significantly lower educational outcomes. The authorities should resolutely address this de facto segregated education, by improving the enrolment of Roma children in preschools, as well as to promote their further access to quality education.

The CPPD has issued an opinion against an elementary school in Bitola, whereby the authorities have a deadline of six months to implement measures to reduce the segregation of Roma children in the school, which is done through the school's enrolment practices constituting indirect discrimination against Roma children who are segregated on the basis of their ethnicity, which is contrary to the Law on Basic Education. Namely, the parents of non-Roma students were enabled to enrol their children in schools outside of the environment in which they live due to selective application of the law by the school. This meant that the school became de facto ethnically segregated as a large number of non-Roma children were allowed to transfer to schools in other areas, thus prompting the CPPD to recommend to school principals in this area to enrol only those children who belong administratively to that school, while the MES was instructed to establish stricter criteria for enrolling children in a school that is outside their region.<sup>79</sup>

The members of the Roma community should enjoy the legally guaranteed free healthcare, with particular attention paid to access to reproductive health services and information for Roma women. Limited access to health services resulted in a case before CEDAW where the Committee found discrimination of two Roma women in their access to services for sexual and reproductive health.<sup>80</sup>

The geographic mapping of Roma settlements was completed, which provides an overview of the living conditions in Roma settlements in the 14 municipalities with the largest Roma population. However, housing for Roma has remained an issue of concern. The majority of Roma settlements are still not covered by urban plans. The Helsinki Committee for Human Rights reported that several Roma families face a return to social risk. Namely, they received a decision from the MLSP to leave their temporary stay in the reception centre Vizbegovo, without making plans for their further integration into society.<sup>81</sup> The purpose of the placement of Roma from Kale in temporary shelters in the reception centre in Vizbegovo was to help them in their inclusion in the labour market, to provide them with social protection and health care, identification documents, for the children to be included in the education system, and to find a permanent solution regarding their housing, with the ultimate goal of lifting them out of poverty. Their eviction at this time without any housing assistance plan, at least for a period of time after eviction from the reception centre, will immediately return them to poverty. Additionally, presenting the annual report for 2021, the Ombudsman pointed out that the Roma families whose

---

<sup>77</sup> ECtHR. (2022, December 13). *Case of Elmazova and Others v. North Macedonia*. Available at: <https://bit.ly/3i92CxS>

<sup>78</sup> Advisory Committee on the Framework Convention for the Protection of the National Minorities. (2022, September 21). *Fifth opinion on North Macedonia*. Available at: <https://rm.coe.int/5th-op-north-macedonia-en/1680a82967>

<sup>79</sup> Radio MOF. (2022, April 17). *ERRC: CPPD Ordered the Primary School "Giorgji Sugarev" to Stop the Segregation of Roma Children*. Available at: <https://www.radiomof.mk/ERRC-kszd-mu-naredi-na-osnovnoto-uchilishte-gjorgji-sugarev-da-ja-prekine-segregacijata-na-romskite-deca/>

<sup>80</sup> CEDAW. Communicatio no. 103/2016.

<sup>81</sup> Helsinki Committee for Human Rights of the Republic of Macedonia. (2022, March 30). *Roma Families Are Facing Forced Eviction from the Reception Center in Vizbegovo*. Available at: <https://bit.ly/3r45dKD>



improvised dwellings were burned down in November 2021 in Gostivar, are still without adequate accommodation.<sup>82</sup> The CPPD has acted on a complaint lodged by the European Centre for Roma Rights in Brussels regarding segregation on the basis of ethnicity<sup>83</sup> and has adopted a general recommendation<sup>84</sup> concerning local authorities, school principals, the Ministry of Education and Science and the SEI. The Committee on Elimination of all forms of Discrimination Against Women (CEDAW) has found violations in favour of six young Roma women who were evicted from their homes without warning whilst pregnant.<sup>85</sup> Roma women and girls remain particularly vulnerable, often due to unemployment.<sup>86</sup>

On April 8<sup>th</sup>, International Roma Day, the activities of the Roma Rights Network began. The network is intended to influence the protection of Roma human rights in Europe, strengthen rights-based advocacy efforts, stimulate debate on Roma rights, and pursue human rights litigation as a tool for activism. Its members are 18 human rights organisations from 15 different countries with the aim of uniting Roma and non-Roma activists fighting for the protection of Roma human rights across Europe, and the MYLA is the representative organisation from North Macedonia.<sup>87</sup>

The CPPD and the Institute for Research and Policy Analysis Romalitiko signed a Memorandum of Cooperation in order to promote, develop, and continue cooperation in terms of equality, promotion of human rights, and elimination of all types of discrimination pursuant to the common interests and goals of both entities. Furthermore, both entities agreed to periodically exchange information regarding cases related to discrimination directed at the Roma ethnic community.<sup>88</sup>

The association 'Initiative for Women's Rights from Shuto Orizari' reported that a young girl from the Roma community faced direct, intersectional discrimination based on race, skin colour, national and ethnic affiliation, by being banned from using a swimming pool on certain days. The Shuto Orizari Police Department responded to this by claiming that it is not discrimination. The association, together with the NGO HERA, submitted a petition to the CPPD and to the Ombudsperson.<sup>89</sup>

The European Roma Rights Centre (ERRC) reported that local authorities in the Municipality of Prilep received an order to provide access to clean water in the two Roma settlements in Prilep, following a petition submitted by ERRC, as well as a decision by the CPPD for direct discrimination based on race, skin colour, ethnicity, social origin and property status in the area of access to goods and services, since these Roma settlements have never been connected to the main water supply, despite the fact that Roma communities have been living there for a long time.<sup>90</sup>

---

<sup>82</sup> The Ombudsperson of the Republic of North Macedonia. (2022, March). *2021 Annual Report on the Level of Ensuring Compliance, Promotion and Protection of Human Rights and Freedoms*. Available at:

<https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Godisni%20izvestai/GI-2021/GI-2021.pdf>

<sup>83</sup> Commission for Prevention and Protection against Discrimination. (2022, February 11). *Adopted a General Recommendation for Desegregation of Roma Children When Enrolling in Schools*. Available at: <https://bit.ly/3ICD6Kq>

<sup>84</sup> Commission for Prevention and Protection against Discrimination. (2022, February 8). *Opinion*. Available at: <https://bit.ly/3NR2hL3>

<sup>85</sup> CEDAW. Communication no. 107/2016.

<sup>86</sup> European Commission. (2022, October 12). North Macedonia 2022 Report: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement policy. Available at: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/North%20Macedonia%20Report%202022.pdf>

<sup>87</sup> Macedonian Young Lawyers Association. (2022, April 8). *The ERRC Roma Protection Network Has Been Launched*. Available at: <https://bit.ly/3ZzTr9s>

<sup>88</sup> Commission for Prevention and Protection against Discrimination. (2022, April 14). *Signed Memorandum of Cooperation between CPPD and "Romalitiko"*. Available at: <https://bit.ly/3kMVyYN>

<sup>89</sup> Radio MOF. (2022, July 4). *Reported Discrimination – "Did You Know That Roma People Only Have the Right to Swim in the Pool One Day a Week?"*. Available at: <https://www.radiomof.mk/prijavena-diskriminacija-znaevte-li-deka-romite-imaat-pravo-samo-eden-den-vo-nedelata-da-se-kapat-na-bazen/>

<sup>90</sup> Radio MOF. (2022, August 25). *Subsequent to Determined Discrimination by CPPD, the Local Government in Prilep Received an Order to Provide Drinking Water for the Roma Settlements*. Available at: <https://www.radiomof.mk/po-utvrdena-diskriminacija-od-kszd-lokalnata-vlast-vo-prilep-dobi-naredba-da-obezbedi-pitka-voda-za-romskite-naselbi/>

---

According to official data from the Employment Service Agency of the Republic of North Macedonia, in the first half of 2022, there was a total of 11,923 Roma unemployed, of whom half were women (6,101). While the CPPD and the Ombudsperson have not received any complaints from Roma women about discrimination in the workplace, they are aware of this issue and recommend that institutions act systematically in order to overcome discrimination against Roma women. They also urge women to report discrimination without fear that someone will discover their personal data and, even if they are not authorized to act, they will refer the women to the appropriate authorities who can investigate the case.<sup>91</sup>

A work of research titled 'Attitudes and experiences with prejudice, social distance and equality in North Macedonia' conducted by the Macedonian Centre for International Cooperation (MCMS) showed that while the majority of citizens would like to have neighbours of different ethnicity or religious beliefs, they do not feel the same when asked if they would like to have Roma neighbours. A larger portion of the participants in the survey, 52.5%, answered they would not like this situation, showing that prejudice and discrimination toward Roma people still persist in the Macedonian society.<sup>92</sup>

## 2.8. Recommendations

- The Government should engage in genuine implementation of the Ohrid Framework Agreement and the Strategy "One Society for All";
- There should be a promotion of social cohesion policies and of an integrated society based on respect and trust among the various communities;
- The Government should act upon the recommendations of the Ombudsperson and CPPD;
- Efforts are needed to ensure implementation of the Strategy for Roma Inclusion 2022-2030 and the National Action Plan for protection, promotion and fulfillment of human rights of Roma women and girls 2022-2024.

---

<sup>91</sup> Association of Journalists of Macedonia. (2022, October 20). *Roma Women Still Discriminated against during Employment*. Available at: <https://bit.ly/3Gxs2x9>

<sup>92</sup> Dimova N. (2022, November 15). Tolerance and Values of Citizens. *MCMS*. Available at: <https://mcms.mk/images/docs/2022/tolerancija-i-vrednosti-na-graganite.pdf>

---

## Chapter 3 – INTOLERANCE

### 3.1. Hate speech

#### 3.1.1. International standards

For the most part, the phenomenon of hate speech began to be regulated at the international level after the genocide in the Second World War. The first mandate for the protection of human rights was governed by Article 55 of the Universal Declaration of the United Nations of 1948, which declared that the United Nations shall promote universal respect and observance of human rights and fundamental freedoms, without distinction of ethnic origin, race, gender, language or religious beliefs. This general mandate was elaborated in several documents:

- International Covenant on Civil and Political Rights of 1966;
- International Convention on the Elimination of All Forms of Racial Discrimination from 1966;
- Convention on the Prevention and Punishment of the Crime of Genocide from 1948;
- Convention on the elimination of all forms of religious intolerance from 1967.

#### European documents

The European Convention for the Protection of Human Rights from the Council of Europe of 1950 is the most commonly referenced European document, one that guarantees freedom of expression, but also foresees a limitation that is necessary for a democratic society.

Namely, in Article 10 of the European Convention for the Protection of Human Rights is the determination that everyone has the right to freedom of expression. This right includes the freedom to hold an opinion and to impart information and ideas without interference from public authorities. The exercise of these freedoms, as it carries with its duties and responsibilities, may be subject to formalities, conditions, restrictions or penalties as prescribed by law and which are necessary in a democratic society in the interest of national security, territorial integrity or public safety, for the prevention of disorder and crime, for the protection of health or morals, for the protection of the reputation or rights of others, for the prevention of disclosure of information obtained in secret, or for the maintenance of the authority and impartiality of the judiciary.

In 1997, the Committee of Ministers of the Council of Europe, bearing in mind the importance of freedom of expression, issued several recommendations and instruments for member-state governments to take measures to combat hate speech.

- Council of Europe, Recommendation (97)20 of 1997;
- Committee of Ministers, Declaration on Freedom of Political Debate in the Media from 2004;
- Council of Europe, Recommendation 1805(2007) on blasphemy, religious insults and hate speech against persons based on their religion;
- ECRI General Policy Recommendation No. 7 for combating racism, xenophobia, anti-Semitism and intolerance from 2002;
- ECRI's General Policy Recommendation No. 15 on Combating Hate Speech from 2015.

According to international and European standards, the state should distinguish between, first, the most serious cases of hate speech that should be prohibited by criminal law; secondly, hate speech that is subject to civil and administrative law; and finally, offensive or harmful types of expression that do not meet the threshold to be legitimately restricted, but still call for alternative responses.

---

### 3.1.2. National legislation

#### *Criminalization of hate speech in North Macedonia*

Taking into account the international commitments against hate speech and the recommendations given for a more effective fight against hate speech, North Macedonia foresees the criminalization of hate speech and its content in the Criminal Code. Criminal prohibitions on hate speech are focused on criminalizing the abuse of freedom of expression consisting of defamation, incitement to violence, or other violations of equal freedoms and rights; or expressing a discriminatory attitude towards others. Although the terminology of the Criminal Code does not use the term "hate speech", the criminalized actions constitute hate speech and they have been added in order to fulfil international obligations, in particular ECRI's General Policy Recommendation No. 7 on combating racism, xenophobia, anti-Semitism and intolerance.

General policy no. 7 on the national legislation to combat racism and racial discrimination recommends changes in the Criminal Code in order to combat various racist statements in the member states of the Council of Europe. Such statements refer to public incitement to violence, hatred or discrimination, public insults and defamation or threats against a person or threats against a person or group of people on the basis of their race, colour, language, religion, nationality or national or ethnic origin. Public expression with racist purpose or racist ideology or public denial with racist purpose, crime, genocide or crime against humanity or war crime, should also be punishable by law. Public dissemination with racist intent or material containing racist expressions should also be subject to criminal sanctions.

Legal prohibitions of hate speech are aimed at criminalizing abuses of freedom of expression that consist in: inciting violence or other violations of equal freedoms and rights, or expressing a discriminatory attitude towards others.

Recommendation No. 15 in relation to the general policy, notes that the term "hate speech" means: advocating, promoting or inciting, in any form, contempt, hatred or defamation of a person or group of persons, as well as any form of harassment, insulting, negatively stereotyping, stigmatizing or threatening against such a person or group of persons; and justifying all the aforementioned types of expressions on the basis of race, colour, origin, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.

The criminal acts in which hate speech is incriminated in the Criminal Code of the Republic of North Macedonia are: "Endangering security" from art. 144 paragraph 4; "Presentation of mockery of the Macedonian people and members of the communities" from art. 179; "Inciting hatred, discord or intolerance against national, racial, religious and other discriminatory grounds " from Art. 319; "Spreading racist and xenophobic material through a computer system" from art. 394d; "Approving or justifying genocide, crimes against humanity or war crimes" from art. 407a; and "Racial and other discrimination" from art. 417 paragraph 3 of the Criminal Code.

In the articles of the Criminal Code, the bases are taken from the Law on Prevention and Protection from Discrimination and refer to the basis of sex, race, skin colour, gender, belonging to a marginalized group, ethnicity, language, citizenship, social origin, religion or religious belief, other types of beliefs, education, political affiliation, personal or social status, mental or physical disability, age, family or marital status, property status, health status. In the articles "Inciting hatred, discord or intolerance against national, racial, religious and other discriminatory grounds " from art. 319, "Spreading racist and xenophobic material through a computer system " from Art. 394-d "Racial and other discrimination "from Art. 417 paragraph 3 of the Criminal Code, sexual orientation and gender identity are not specifically stated as grounds. For a better understanding of the concept of hate speech, as well as the

---

prevalence of hate speech based on sexual orientation and gender identity, it is necessary to add these grounds.

Based on the provisions of the Criminal Code, it can be concluded that the formal-legal framework for recognizing and sanctioning hate speech is dispersed in different articles, is not precise enough, and does not provide a clear framework for defining and encompassing hate speech. Conceptual ambiguities open space for excessive discretion of law enforcement authorities and potential abuses (for example, for political persecution of dissenters, or criminal liability for insults that do not fall within this concept). In that sense, a clear definition of the circumstances appropriate for the imposition of a criminal sanction for a specific case of the use of hate speech is needed. Conceptual ambiguities related to hate speech also affect the development of judicial practice.

The punishments foreseen in the provisions for hate speech in the Criminal Code of North Macedonia are fines, or prison sentences from one to five years, and for the crimes committed in aggravating circumstances, may impose one to ten years of imprisonment. However, imprisonment and high fines are unlikely to be considered proportionate under Article 10 of the European Convention on Human Rights, except in very serious cases of hate speech. In addition, the state should create conditions and practice for imposing a measure of community service according to Article 58-b(1) according to the basis of hatred towards the individual or the group, all with the aim of reintegration and rehabilitation of the perpetrators in addition to the prison sentence or fine.

### ***Law on prevention and protection against discrimination***

The first Law on Prevention and Protection against Discrimination was adopted in 2010. The law was adopted with several essential flaws, such as the fact that segregation and discrimination by association were not included; sexual orientation and gender identity were missing from the list of enumerated bases/protected characteristics; and the law did not give the opportunity to associations that have a legitimate interest in the fight against racism and racial discrimination (implying here also hate speech) to initiate lawsuits for protection against discrimination in the public interest (*actio popularis*).

The new Law on Prevention and Protection from Discrimination from 2020 has a good glossary and definitions and a broad and open list of discriminatory grounds. This law recognizes sexual orientation and gender identity as a prohibited ground, in addition to other protective features that were provided in the previous LPPD from 2010. The existing law protects the following characteristics from discrimination: race, colour, origin, national or ethnic origin, gender, sex, sexual orientation, gender identity, membership in a marginalized group, language, nationality, social origin, education, religion or religious belief, political assurance, other assurance, disability, age, family or marital status, property status, health status, personal characteristics and social status, or any other basis.

The Law on Prevention and Protection Against Discrimination Law from 2020 does not explicitly recognize hate speech as such, but contains elements through which hate speech can be prohibited. Namely, Article 9 regulates the incitement, incitement and instruction of discrimination, while Article 10 describes harassment as an attack on dignity and the creation of an intimidating environment. The mandate of the Commission for the Prevention and Protection of Discrimination to deal with hate speech derives from Articles 9 and 10 of the Law, but the Commission does not have an explicit mandate to deal with hate speech and therefore in practice there is a lack of concrete strategy for dealing with hate speech cases.

Hate speech, as a phenomenon directed at those groups covered by equal treatment legislation on protective features, inevitably touches equality bodies with their statutory mandates to promote equality, and to combat discrimination on these grounds both in prevention and in the section on prevention and protection against discrimination. So, according to European standards, the mandate

---

of equality bodies should be expanded to include all segments of dealing with hate speech, and this will enable the allocation of resources for the fight against hate speech.

### ***The Law on the Prevention of Violence and Indecent Behaviour at Sports Competitions***

This Law regulates issues related to violence and inappropriate behaviour at sports competitions, as well as measures to prevent them, ensuring the safety of spectators. Article 3 describes violence and misconduct as inter alia bringing in and displaying banners, flags and other objects with text, pictures, signs or other markings, as well as singing songs or publishing messages that cause and incite hatred or violence based on race, national and religious affiliation or based on other characteristics. The fine for this offense for a natural person is from 180 to 220 euros in denars.

Fans and fan groups are the biggest generators of hate speech. The frequency and intensity of hate speech that occurs in the stands has serious potential to provoke acts of hate. In that direction, relatively small fines are not enough to prevent this phenomenon.

### ***Audio and Audio-visual Media Services Act***

The Law on Audio and Audio-visual Media Services was adopted in 2013. It prohibits broadcasting media content that incites or spreads discrimination, intolerance or hatred. In the original version of the Law, this prohibition covered only discriminatory grounds such as race, sex, religion or nationality. With the Law on Amendments and Supplements to the Law on Audio and Audio-visual Media Services of December 31, 2018, key changes were made in the direction of compliance with European standards in the area. Thus, the Law on Audio and Audio-Visual Media Services now prohibits the broadcasting of media content that incites or spreads discrimination, intolerance or hatred based on race, colour, origin, national or ethnic origin, sex, gender, sexual orientation, gender identity, belonging to a marginalized group, language, nationality, social origin, education, religion or religious belief, political belief, other belief, disability, age, family or marital status, property status, health status, personal characteristic and social status, or any other basis. Furthermore, the Audio-Visual Agency media services can receive complaints about hate speech from audio-visual media, as well as act on official duty. More specifically, the Agency for Audio and Audio-visual Media Services "may take measures when it determines hate speech in the content of audio-visual media (Article 48), such as: public reprimand, request to initiate a misdemeanour procedure, a proposal to revoke a license and a decision to delete the medium from the register (Article 23)." For a violation of this article, a fine of up to 5,000 euros is provided for the legal entity, and criminal liability is not excluded (Article 147).

Technical development has changed the habits of viewing audio-visual content, especially among young people, and social media have become the main means of sharing and receiving information. From there, a change in hate speech from traditional media to the internet, over which there is no regulatory authority, has been observed. With the new names of the Law on Audio and Audio-visual Media Services, which is expected to be adopted in 2023, entities such as YouTube, Dailymotion, and other platforms will be covered by the regulation. Audio-visual content that is shared through social networks such as Facebook, Twitter, Tik Tok, Instagram, etc., but also independent parts of newspaper web pages or online media that contain audio-visual programmes or videos created by users, will be regulated if they meet the criteria for an audio-visual media service. The Agency for Audio and Audio-visual Media Services will be responsible for video sharing platforms that have been established or will be established in the country, as well as for those that will meet the conditions to be under the jurisdiction of North Macedonia. News portals' websites will continue to be unregulated.

---

### ***Tackling hate speech online***

There is no regulatory body for the Internet in the country, and this area does not fall under the jurisdiction of the regulatory body for audio-visual media. The Department of Cybercrime and Digital Forensics within the Ministry of Internal Affairs (MIA) is the body responsible for dealing with online incidents and preventing the further spread of hate speech. In 2015, the Ministry of the Interior established a Red Line through which complaints or cases of hate speech can be submitted easily online.

In practice, law enforcement agencies face challenges. Namely, even in cases where the Ministry of Internal Affairs recognizes the person behind the spread of hate speech, they cannot connect his digital and physical identity without the cooperation of social media.

Considering the development of new technological discoveries and the increasing use of the Internet both on a global and national level, it is necessary for North Macedonia to adopt effective legislation to prevent and fight against hate speech on the Internet.

### **3.1.3. General overview of the situation with hate speech**

#### ***Monitoring the situation with hate speech on social networks***

The Helsinki Committee for Human Rights in 2022, as it did in 2021, recorded a high number of cases of hate speech on social networks, registered on the portal [www.govornaomraza.mk](http://www.govornaomraza.mk). Hate speech based on political affiliation and ethnicity again topped the reports, defining two-thirds of all cases. At the same time, reports based on sexual orientation and gender identity saw growth and remained high in 2022. What is worrisome as a phenomenon in 2022 is the registered hate speech that is related to political affiliation, which indicates the additional division and polarization in society.

For illustration, in 2021 a total of 877 applications were registered on the platform. Ethnicity again topped the reports, describing 34% of all cases. Sexual orientation and gender identity accounted for 33% of reports, an increase commensurate with the increased visibility of the LGBTI community during Pride Month in June. This trend is just a continuation of the rhetoric that started in 2020.

With this report, the Helsinki Committee for Human Rights once again confirms the negative trend that began in 2019 and culminated in 2020 with the start of the global pandemic of Covid-19. Through the established systemic monitoring of social media, it becomes evident that public discourse is transferred to social media and used for emotional manipulation and clickbait without considering the negative consequences of this approach. The report coincides with key domestic and international events that have further contributed to intensifying negative rhetoric on social media. Despite the declarative support from the competent institutions, through the monitoring in 2022 it can be ascertained that there is no systemic and comprehensive mechanism for dealing with this phenomenon, as well as its sanctioning.

The largest number of cases in 2020 related to early parliamentary elections (held on July 15, 2020) and the overall negative political tone. This has resulted in a large number of reported cases of hate speech related to political affiliation and ethnicity. Due to the changes in the way of conducting this political campaign due to the pandemic, most of the messages from the political parties were broadcast and discussed on social networks. Although a large part of the campaign was carried out by virtual means, a traditional campaign was still held by organizing rallies, where protective measures were not fully respected (especially in terms of wearing face masks). This resulted in the exchange of hate speech on social networks which, apart from political contexts, also had an ethnic context. For comparison, from April 1, 2019 until the end of the second cycle of parliamentary elections, the Helsinki Committee registered 63 reports of hate speech. During these elections, an increase of over 80% was recorded in the applications for the same categories. The negative discourse from the post-election period in July

---

continued in August 2020 with much intensified and offensive rhetoric. Negotiations for a new government have produced hate speech, primarily related to ethnicity, which has emerged from negotiations between the Social Democratic Union of Macedonia (SDSM) and the Democratic Union for Integration (DUI). The largest number of cases were recorded on August 25, 2020, after the announcement of a post-election coalition between SDSM and DUI.

From the Annual Report of the Ministry of Internal Affairs, it follows that during 2021, a total of 25 crimes were registered in the area of hate crime, which represents a decrease of 13.8% compared to 2020, after the measures and activities taken in connection with the registered incriminations resulted in 24 criminal charges against 31 perpetrators. Looking at the areas, the largest number (or 12) of the crimes were registered in the area of SVR Ohrid, then 5 in the area of SVR Shtip, 3 in the area of SVR Tetovo, two in the area of SVR Bitola, 1 each in the areas SVR Skopje, SVR Veles, and SVR Strumica. The most numerous crimes are "spreading racist and xenophobic material through a computer system" - 17 crimes, then "endangering security" - 5 crimes, 2 crimes for "causing hatred, discord or intolerance on a national, racial, religious and other discriminatory basis" as well as 1 act on "racial and other discrimination". The trend of execution of works through an information system continues, which in 2021 increased by 8.7% compared to 2020, and is 88% of the total number of reported works. The actions were carried out with threats to life and body and incitement of violence towards the injured, with public office holders (prime minister, current ministers and politicians, former MPs) appearing as victims most of the time. This positioning of law enforcement agencies and the use of mechanisms to protect politicians is worrisome.

In recent years, especially since 2018, the Helsinki Committee filed dozens of charges against public figures, journalists, a mayoral candidate, a political party leader, due to the virulence of hate speech and the danger of hate acts during the Pride Parade, as well as against persons who call for violence and wish for the death of members of the LGBTI community and activists. Of all these reports that have been sent to the Ministry of Internal Affairs and the Prosecutor's Office, none of the reports has been charged, nor has there been a legal resolution.

### ***Hate Speech Database***

The Ministry of Internal Affairs, i.e., the law enforcement agencies, the public prosecutor's office, and the courts are primarily responsible for collecting information on criminal acts. The data should include the number of applications, number of cases processed and cases completed. However, there is no precise and clear provision in the national legislation that mandates the obligation of a certain body to systematically collect, record and process data related to hate speech and hate crimes.

The European Commission's report on North Macedonia 2019 states that "the collection of data on hate speech is not systematic, while the increase in cases of hate crimes is recorded in the database of civil society", which is followed by the same conclusion in the Report of the European Commission for North Macedonia 2020, which reports that "unsystematic data collection on hate speech continues to be a problem" with a continued upward trend in hate crime incidents registered in the civil society database in 2019. Even in 2021, the issue of the absence of systematic data collection on hate speech remains open.

### **3.1.4. Cooperation with institutions**

At the beginning of 2019, the Network for Combating Hate Speech in the Media was established, whose initiator and coordinator is the Council for Ethics in the Media (SEMM). Professional and media associations, decision-makers, state and regulatory bodies responsible for the protection of human rights, organizations from the civil sector and other media entities participated in the formation of the



---

network. This process was supported by the OSCE Mission in Skopje. The members of the Network signed a Declaration against hate speech in the media and the Internet, the signing of which marked the beginning of the functioning of the Network.

In November 2022, again with the support of the OSCE Mission in Skopje, a meeting was held with the members of the network where they discussed the signing of a Memorandum of Cooperation in dealing with hate speech in the media in the Republic of North Macedonia, all with the aim of better coordination of all stakeholders. This Memorandum is expected to be signed in 2023.

In the past period, the Helsinki Committee, in cooperation with the Academy for Judges and Public Prosecutors, conducted trainings for public prosecutors and judges on hate speech, as well as trainings with the Ministry of Internal Affairs. Although there is a general cooperation between the Helsinki Committee and law enforcement authorities, there is still a lack of practice that moves in the direction of protecting the weakest and most marginalized in society, such as the Roma, and people with different sexual orientation and gender identity, people with disabilities, etc.

The authorities should provide training for the Ministry of Internal Affairs and the Public Prosecutor's Office, in order to better understand the phenomenon of hate speech, as well as to establish a practice that will be in accordance with international documents and recommendations.

### 3.1.5. Recommendations

Hate speech is a consequence of deeply rooted prejudices and stereotypes among citizens, and internal political developments and political decisions for which there is often a lack of sufficient information or lack of education of the citizens, which further causes an escalation of the discourse. The monitoring by the Helsinki Committee indicates an increase in hate speech every year.

As a society in which prejudices and stereotypes are deeply rooted, the recommendations for improving the situation are as follows:

- Amendment of the Criminal Code and insertion of sexual orientation and gender identity as protected characteristics in all acts related to hate speech;
- Clear definition in which circumstances certain acts are subject to criminal prosecution;
- In terms of punishment, the courts should create conditions and establish a practice for imposing a measure of community service based on the basis of hatred towards the individual or the group, with the aim of reintegration and rehabilitation of the perpetrators in addition to the prison or fine;
- The Commission for Prevention and Protection against Discrimination, as an equality body, should receive an explicit mandate to deal with hate speech;
- Increasing the penalties in the Law on Prevention of Violence and Indecent Behaviour at Sports Competitions in order to deal with hate speech at sports competitions;
- Establishing a system and effective legal regulation for protection against hate speech on the internet;
- The authorities should provide training for the Ministry of Internal Affairs and the Public Prosecutor's Office, in order to better understand the phenomenon of hate speech, as well as to establish a practice that will be in accordance with international documents and recommendations;
- A proactive role of the Ministry of Internal Affairs is needed in monitoring hate speech on social media, as well as prompt response and reporting of such acts;
- Specifying an obligation in national legislation that mandates a certain body to systematically collect, record and process data related to hate speech and hate crimes.

---

## 3.2. Hate Crimes

### 3.2.1. International standards

The importance of recording and countering the problem of hate crimes was recognized as early as 1965 with the adoption of the International Convention on the Elimination of Racial Discrimination, while the adoption of the term ‘hate crime’, which welcomes other core characteristics into specific protections and obligations, was adopted much later by the international community. There has been an incremental development of an increasingly comprehensive – yet mainly non-legally binding – framework of norms, standards, guidelines and activities on hate crime reporting, recording and data collection in Europe and beyond. Gradually, a better awareness of the problem and closer conceptual and practical alignment across the major international organizations and agencies (IGOs) active in the area have led to practical actions and outputs, internationally applicable guidelines and training programmes, and national capacity building. There are a range of standards, some of them are legally binding, and some of them are ‘soft standards’ (such as policy recommendations and political commitments). The following part offers a preview of the most relevant international standards regulating this area.

#### Legal standards

- *International Convention on the Elimination of All Forms of Racial Discrimination*<sup>93</sup> – Article 4(a)
- *International Covenant on Civil and Political Rights*<sup>94</sup> - Article 20(2); Article 26
- *UN Convention on the Rights of Persons with Disabilities*<sup>95</sup>
- *European Convention for the Protection of Human Rights and Fundamental Freedoms*<sup>96</sup>
- *Convention on Preventing and Combating Violence against Women and Domestic Violence*<sup>97</sup>
- *The Council of the European Union Framework Decision 2008/913/JHA on Combating certain forms of racism and xenophobia*<sup>98</sup>
- *European Parliament and the Council’s Directive 2012/29/EU*<sup>99</sup>
- *Key judgments of the European Court of Human Rights*<sup>100</sup> - *Identoba and Others v. Georgia*<sup>101</sup>, *Secic v. Croatia*<sup>102</sup>, *Angelova and Iliev v. Bulgaria*<sup>103</sup>, *Sabalić v. Croatia*<sup>104</sup>

---

<sup>93</sup> United Nations General Assembly (1965).

<sup>94</sup> United Nations General Assembly (1966).

<sup>95</sup> United Nations General Assembly (2006).

<sup>96</sup> Council of Europe (1953).

<sup>97</sup> Council of Europe (2014).

<sup>98</sup> The Council of the European Union (2008).

<sup>99</sup> European Parliament and The Council of the European Union (2012).

<sup>100</sup> The key judgments of the European Court of Human Rights in the area of hate crimes (regarding several cases of racist violence, homophobic violence, religious violence and to some extent disability), look at victims right to be free from torture and inhuman and degrading treatment and their right to life. The Court has interrogated and investigated the actions of the police and the police investigation in the cases of hate crime and it has imposed a duty on national authorities to unmask bias motive through effective and timely investigation.

<sup>101</sup> Application no. 73235/12 from 12 May 2015.

<sup>102</sup> Application no. 40116/02 from 31 May 2007.

<sup>103</sup> Application no. 55523/00 from 26 July 2007.

<sup>104</sup> Application no. 50231/13 from 14 January 2021.

See more at Lazarova Trajkovska, M., Zhesko, M. (2021). *Analysis of the jurisprudence of the European court on human rights related to hate speech and hate crime*. OSCE. Available at <https://www.osce.org/files/f/documents/2/c/524601.pdf>.

---

North Macedonia is a member party to the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and to the International Covenant on Civil and Political Rights (ICCPR), by ratification in 1994.<sup>105</sup> The country has made a declaration<sup>106</sup> to the CERD, stating that “the Republic of Macedonia declares that it recognizes the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by the Republic of Macedonia of any of its rights set forth in this Convention, with the reservation that the Committee shall not consider any communication from individuals or groups of individuals, unless it has ascertained that the same matter has not been, and is not being, examined under another procedure of international investigation or settlement.”<sup>107</sup> The Republic of North Macedonia is a state party to the UN Convention on the Rights of Persons with Disabilities which it ratified on 29 December 2011.<sup>108</sup> North Macedonia ratified the Council of Europe’s (CoE) Convention for the Protection of Human Rights and Fundamental Freedoms on 10 April 1997. The country ratified the CoE’s Convention on Preventing and Combating Violence against Women and Domestic Violence on 23 March 2018, and the Convention entered into force on 01 July 2018,<sup>109</sup> with several reservations.<sup>110</sup> Considering the March 2020 conclusion of the Council of the European Union to open accession negotiations with the Republic of North Macedonia, the country committed to making its legislation compliant with the EU *acquis*, including the Framework Decision 2008/913/JHA on Combating certain forms of racism and xenophobia; and the Directive 2012/29/EU. Judgments adopted by the European Court of Human Rights are legally binding to the states concerned. However, the Court’s judgments and decisions serve to clarify, protect, and advance the rules established by the European Convention on Human Rights in addition to deciding the specific cases that are presented before it. This helps the States uphold the obligations they have taken on as High Contracting Parties. Therefore, the goal of the system established by the Convention is to determine, in the general interest, issues of public policy, raising the bar for the protection of human rights and extending human rights jurisprudence across the Convention States.<sup>111</sup>

#### Political commitments

- *OSCE’s MC Decision No. 12/04*<sup>112</sup>
- *OSCE’s Ministerial Decision 9/09*<sup>113</sup>
- *ECRI’s General Policy Recommendation No.1 on Combatting racism, xenophobia, antisemitism and intolerance*<sup>114</sup>
- *ECRI’s General Policy Recommendation No.11 on Combating racism and racial discrimination in policing*<sup>115</sup>

---

<sup>105</sup> United Nations Office of the High Commissioner. *Status of Ratification INTERACTIVE DASHBOARD*. Available at <https://indicators.ohchr.org/>.

<sup>106</sup> Sometimes states make “declarations” as to their understanding of some matter or as to the interpretation of a particular provision. Unlike reservations, declarations merely clarify the state’s position and do not purport to exclude or modify the legal effect of a treaty. Usually, declarations are made at the time of the deposit of the corresponding instrument or at the time of signature.

<sup>107</sup> Declaration made on 22 December 1999.

<sup>108</sup> OHCHR. *Status of Ratification INTERACTIVE DASHBOARD*. Available at <https://indicators.ohchr.org/>.

<sup>109</sup> Council of Europe. *Chart of signatures and ratifications of Treaty 210*. Available at <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=210>.

<sup>110</sup> Council of Europe. *Reservations and Declarations for Treaty No.210*. Available at <https://www.coe.int/en/web/conventions/full-list?module=declarations-by-treaty&numSte=210&codeNature=2&codePays=TFY>.

<sup>111</sup> Council of Europe/European Court of Human Rights. (2022, August 31). *Guide on Article 46 of the Convention – Binding Force and Execution of Judgments*. Available at [https://www.echr.coe.int/Documents/Guide\\_Art\\_46\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Art_46_ENG.pdf).

<sup>112</sup> OSCE Ministerial Council (2004, 7 December).

<sup>113</sup> OSCE Ministerial Council (2009).

<sup>114</sup> European Commission against Racism and Intolerance (ECRI) (1996).

<sup>115</sup> European Commission against Racism and Intolerance (ECRI) (2007).

- 
- *ECRI Recommendations No.2<sup>116</sup>, 5<sup>117</sup>, 7<sup>118</sup> and 15<sup>119</sup>*

The Ministerial Council is composed of the Ministers for Foreign Affairs of the OSCE participating States and is the central decision-making and governing body of the Organization. OSCE decisions are adopted by consensus by the participating States and reflect their agreed views.<sup>120</sup> They are politically binding for the Republic of North Macedonia, as a participating State to the OSCE.<sup>121</sup> Statements, declarations, reports, letters or other types of documents adopted by an OSCE decision-making body are considered to be official OSCE documents.

The European Commission against Racism and Intolerance (ECRI) elaborates General Policy Recommendations (GPR) addressed to the governments of all member States of the Council of Europe, including the Republic of North Macedonia. They provide detailed guidelines which policy-makers are invited to use when drawing up national strategies and policies in a variety of fields.

### 3.2.2. National legislation

The Macedonian Criminal Code, adopted in 1996, amended in September 2009<sup>122</sup> and then in December 2018 was amended particularly in the area of hate crime. The adopted amendments reflect many international standards and good practices in the area of bias-motivated crime legislation and constitute a major improvement to the previous legal framework for the punishment of such crimes in North Macedonia.

The need to "counter pervasive prejudice against certain groups and compensate for the harm this causes to victims, other members of the same group, and society as a whole" justifies punishing crimes that are at least partially motivated by bias more harshly than crimes committed without such motivation. Potential threats to public order and security resulting from conflicts between various groups, which might cause interethnic or societal unrest, are another aspect of the potential harm to society as a whole. In this sense, hate crimes are "message crimes," in which the perpetrator conveys a message that members of the victim's group are not wanted and do not fit into society, not only to the specific victim but also to other members of the victim's (perceived or actual) group and to society at large.<sup>123</sup> It is required that the perpetrator chooses their victims based on a shared characteristic - referred to as "protected characteristics" in the context of "hate crime" legislation - in order to have a bias purpose. These traits, such as nationality, national or ethnic origin, colour, language, religion or belief, sexual orientation, gender identity, or disability, are either immutable or otherwise fundamental to a person's identity.<sup>124</sup> The concept of bias-motivated crime requires a base offence, an action which is in and of itself prohibited and sanctioned by criminal law.

The Criminal Code includes a general provision in Article 39(5) obliging courts to take certain bias motives into account during sentencing discussions. Currently, the provision in Article 39(6) requires the courts to put on record the reasons for not applying sentence-enhancing provisions in cases of bias-motivated crime. However, this provision should be strengthened by providing that the courts would be obliged to put on record reasons even when applying the sentence-enhancing provisions in cases of

---

<sup>116</sup> ECRI - adopted on 13 June 1997 and revised on 7 December 2017.

<sup>117</sup> ECRI (2000).

<sup>118</sup> ECRI (2002).

<sup>119</sup> ECRI (2015).

<sup>120</sup> The decision-making processes of the OSCE negotiating bodies are governed by the Rules of Procedure. OSCE (2006, November 1). *Rules of Procedure*. Available at <https://www.osce.org/files/f/documents/5/0/22775.pdf>.

<sup>121</sup> See full list of participating states. OSCE. *Participating States*. Available at <https://www.osce.org/participating-states>.

<sup>122</sup> Criminal Code (Official Gazette of the Republic of Macedonia No. 114/09) adopted in September 2009, amendments December 2018.

<sup>123</sup> OSCE/ODIHR. (2009). *Hate Crime Laws: A Practical Guide*. Available at <https://www.osce.org/files/f/documents/3/e/36426.pdf>.

<sup>124</sup> Ibid.

---

bias-motivated crime. This would make bias-motivated crimes more visible within the judiciary and would inform investigative authorities of past of bias-motivated crimes. It can be used to show the victim that the bias motivation was considered, as well as to demonstrate to the general public that courts have a zero-tolerance policy for crimes that are motivated by prejudice in society.

### ***Article 39 [Aggravating circumstances]***

(5) When the court metes out the sentence, it shall especially consider whether the crime has been committed against a person or a group of persons or property, directly or indirectly, because of his or their sex, race, skin colour, class, membership of a marginalized group, ethnic background, language, nationality, social background, religious belief, other types of beliefs, education, political affiliation, personal or social condition, mental or physical disability, age, family or marital status, property status, health condition, or any other ground foreseen by law or ratified international agreement.

(6) If the court does not apply the provision of paragraph (5) of this Article, it shall be obliged to explain the reasons for such decision.

A new paragraph was introduced to Article 122 of the Criminal Code, defining a hate crime as a criminal act against a person or legal entity and persons or property related to it, that is committed entirely or partially because of the actual or presumed characteristic of the person that refers to race, colour of skin, nationality, ethnic origin, religion or belief, mental or physical disability, sex, gender identity, sexual orientation, political affiliation. This definition, rightly so, acknowledges the concept of mixed motives covering acts which are only partially committed with a bias motivation. Acts with “mixed motives” are considered to be “hate crimes” as long as a bias motivation is one of the motives behind the act.<sup>125</sup> Considering that a crime should be classified as a bias-motivated crime when the perpetrator wrongly assumes that the victim belongs to a certain protected group, the inclusion of the element of “presumed” characteristic strengthens the definition of a hate crime.

### ***Article 122 [Hate crime definition]***

(42) A hate crime, as defined with the provisions of this law, is a criminal act against a person or legal entity and persons or property related to it, that is committed entirely or partially because of the actual or presumed characteristic of the person that refers to race, colour of skin, nationality, ethnic origin, religion or belief, mental or physical disability, sex, gender identity, sexual orientation, or political affiliation.

Characteristics protected by legislation should fulfil three criteria: the characteristics are noticeable from the outside, either from a person’s appearance or from contextual circumstances; they are immutable or fundamental to a person; and, they are markers of group identity, setting an individual into a broader group context with a common group identity.<sup>126</sup> The list of protected characteristics set out in Article 122(42) covers most of those groups which are most frequently targeted and is significantly advanced in relation to the list in Article 39(5), which includes several characteristics that are not immutable or markers of group identity.

Additionally, such a broad scope of protected characteristics is concerning, since it may be, although unintentionally, weakening the concept. The rationale behind this is that bias-motivated crimes are message crimes and sanctioning them in criminal legislation implies that criminal justice systems, and the societies they belong to, will not tolerate crimes committed against someone for the mere fact that this person was a member of a specific group or associated with this group. This message might be lost when the number of protected groups are too large and when the understanding of what actually constitutes a group is too broad. For example, while political affiliation is sometimes included as a

---

<sup>125</sup> OSCE/ODIHR. (2009). *Hate Crime Laws: A Practical Guide*.

<sup>126</sup> *Ibid*.

---

protected characteristic in hate crime legislations, it is not an immutable or fundamental characteristic and can often change over time. In this regard, the OSCE Office for Democratic Institutions and Human Rights, when commenting upon the Draft Amendments on the Criminal Code in 2016, recommended that political affiliation should be removed as a protected characteristic. Additionally, for OSCE/ODIHR it was questionable whether age alone is truly a marker of group identity, since including this characteristic might pose particular difficulties when distinguishing between a mere opportunistic crime and a hate crime.<sup>127</sup> ODIHR recommends that vague and open-ended lists of protected characteristics as “belonging to a marginalized group” should be avoided, as they might be in conflict with the fundamental principle of legality.<sup>128</sup>

The majority of the fundamental offences currently covered by the Criminal Code are those that are ordinarily subject to special penalty enhancements in order to combat crimes motivated by bias. This list includes Murder (Article 123), Bodily Injury (Article 130), Severe Bodily Injury (Article 131), Coercion (Article 139), Unlawful Deprivation of Liberty (Article 140), Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (Article 142), Threatening the Safety (Article 144), Prevention or Disturbance of Public Gathering (Article 155), Rape (Article 186), Sexual Assault of a Helpless Person (Article 187), Using Force, Maltreatment, Endangering the Security, Damage of Property to Cause Hatred, Discord or Intolerance (Article 319). However, this can be strengthened by providing specific penalty enhancements to further property crimes, such as arson, theft, severe theft, robbery, armed robbery or burglary, which can often be considered as base offences for hate crimes.

### 3.2.3. General overview of the situation with hate crimes

In 2022, MHC registered<sup>129</sup> a total of 160 hate crimes/incidents, immediately after they were reported by the media or the Ministry of Interior in their daily bulletins. 26 out of the total registered incidents had clear bias indicators, while the rest are potential incidents with unclear bias indicators, and the Helsinki Committee was not able to confirm the bias motivation in those cases. The potential incidents are included in this report due to the occurrence of bias indicators, including: victim/witness perception; comments made on the spot; the difference between the victim and the perpetrator on ethnic grounds; pattern/frequency of previous incidents; the nature of the violence; the absence of other motives; and location and timing. Details regarding most of the incidents, such as brief description, date, time, location, source of information, victim(s) involved, perpetrators, status of the case, response by authorities, and impact on the victim(s) and the community can be found in Annex 2.

The Advisory Committee on the Framework Convention for the Protection of National Minorities notes that the police records between 29 and 51 cases of alleged hate crimes per year, many of them with a racist or xenophobic bias motivation, while civil society organisations recorded an even higher number of alleged hate crimes (between 70 and 144 per year).<sup>130</sup> The OSCE/ODIHR data on hate crime shows that the police reported on 22 cases in 2021, and the public prosecutors’ offices prosecuted 125

---

<sup>127</sup> OSCE/ODIHR. (2016, April 14). *Comments on Draft Amendments to certain Provisions of the Criminal Code of the former Yugoslav Republic of Macedonia regarding Bias-motivated Crimes*. Available at <https://www.osce.org/odihr/313271>.

<sup>128</sup> Ibid.

<sup>129</sup> MHC monitors and gathers data on hate crimes and hate motivated incidents through its daily work, reported directly from the victims. MHC also monitors the bulletins published by the Ministry of Interior (MoI) on a monthly basis. MHC is cooperating with two national networks – the Network for Protection against Discrimination and the National Network against Homophobia and Transphobia (NNHT), which broadens the scope of the monitoring, as well as the access to potential victims of hate crimes and incidents. MHC continuously monitors a number of daily newspapers with different ideological leanings and political affiliation. Monitoring of electronic media is being done on a daily basis, through the two most popular internet news generators ([www.time.mk](http://www.time.mk) and [www.grid.mk](http://www.grid.mk)), as well as by using the advanced search options under the “News” section at [www.google.com](http://www.google.com).







<sup>130</sup> Secretariat of the Framework Convention for the Protection of National Minorities/Council of Europe. (2022, September 21). *Fifth Opinion on North Macedonia*. Available at <https://rm.coe.int/5th-op-north-macedonia-en/1680a82967>.

cases.<sup>131</sup> The country did not account for the discrepancy in the numbers of registered cases by the police and the prosecuted cases, and detailed information is not available to OSCE/ODIHR nor the public. This is a concerning issue since no integrated data collection system is available which would allow one to assess trends in hate crime cases and the way they have been addressed by the competent authorities. Hence, the Advisory Committee recommended that authorities should ensure prompt identification, recording and effectively investigating incidents of hate crimes, and that those responsible are brought to justice.<sup>132</sup> However, the Ministry's annual report for 2022 notes progress in the fight against hate speech and hate crime in general, so in 2022 a total of 54 crimes with 'elements of hate' were registered. After the measures and activities taken, 50 crimes were solved, for which 48 criminal charges were filed against 51 perpetrators.<sup>133</sup>

### ***Victims' characteristics***

Incidents occurring based on ethnicity (134 incidents) are the most represented with 83.75% of the overall number of registered incidents in 2022. Furthermore, 7 hate crimes were targeted at migrants or refugees because of their status; 6 incidents were motivated by political affiliation and political belief; 2 incidents occurred due to religious beliefs; 2 incidents were motivated by sexual orientation; and 9 incidents occurred due to other protected characteristics.

The data gathered from the web platform [www.zlostorstvaodomraza.com](http://www.zlostorstvaodomraza.com) show the following information regarding the cases with clear bias indicators:

	Incidents due to ethnic belonging, citizenship, or language .....	<b>134</b>
	Incidents due to political affiliation or political belief .....	<b>6</b>
	Incidents due to migrant/refugee status .....	<b>7</b>
	Incidents due to religious belief .....	<b>2</b>
	Sexual orientation .....	<b>2</b>
	Other .....	<b>9</b>

### ***Type of incidents***

According to MHC's data, the majority of incidents were committed by young people and there are also a large number of unknown perpetrators. Victims and perpetrators are usually members of different ethnic communities, whilst the reported incidents were related to some of the criminal acts laid down in the Criminal Code. Most of the alleged crimes include: Violence (116), Bodily and severe bodily harm (20), Damaging other's property (14), Robbery (5), Serious threat (2), Causing national, racial or religious hate, discord or intolerance (6), Causing public danger (2) and Threatening the safety (2). It often happens that one incident meets the criteria for two or more alleged crimes and that is why there might be a greater number of crimes than incidents present in the data.<sup>134</sup>

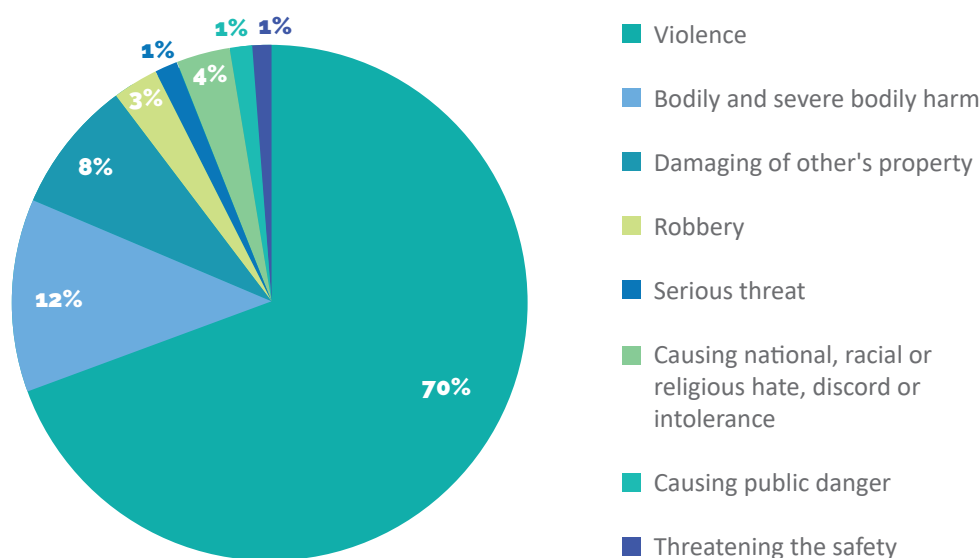
<sup>131</sup> OSCE/ODIHR. *Hate crime reporting - North Macedonia*. Available at <https://hatecrime.osce.org/north-macedonia>.

<sup>132</sup> Secretariat of the Framework Convention for the Protection of National Minorities/Council of Europe. *Fifth Opinion on North Macedonia*.

<sup>133</sup> Ministry of Interior's Annual Report 2022, p.45-46. Available at: [https://mvr.gov.mk/Upload/Editor\\_Upload/Godisen%20izvestaj/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD%20%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98\\_2022\\_%D0%9C%D0%92%D0%A0.pdf](https://mvr.gov.mk/Upload/Editor_Upload/Godisen%20izvestaj/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD%20%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98_2022_%D0%9C%D0%92%D0%A0.pdf)

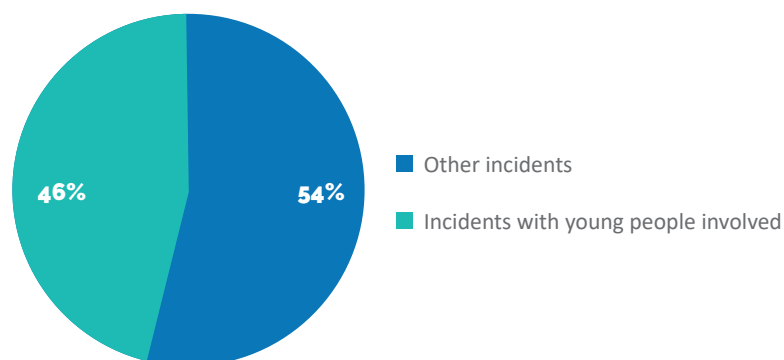
<sup>134</sup> Hate crimes are determined by the Criminal Code, while incidents comprehend a broader range of cases that are inclusive of offences such as hate graffiti, nationalistic chants, and so on.

## Types of incidents



### Victims vs perpetrators

MHC notes that victims and perpetrators are usually young people and members of different ethnic backgrounds (Macedonian and Albanian), members of sports fan groups or supporters of political parties, and persons with a refugee or migrant status. MHC registers that almost half of the incidents (46%) involved minors, either as victims (73 cases) or as perpetrators (70 cases). In over 60% of the total number of cases, more than one perpetrator was involved. The precise number of perpetrators cannot be accounted for due to lack of information by the authorities published for the general public, where several perpetrators were involved.



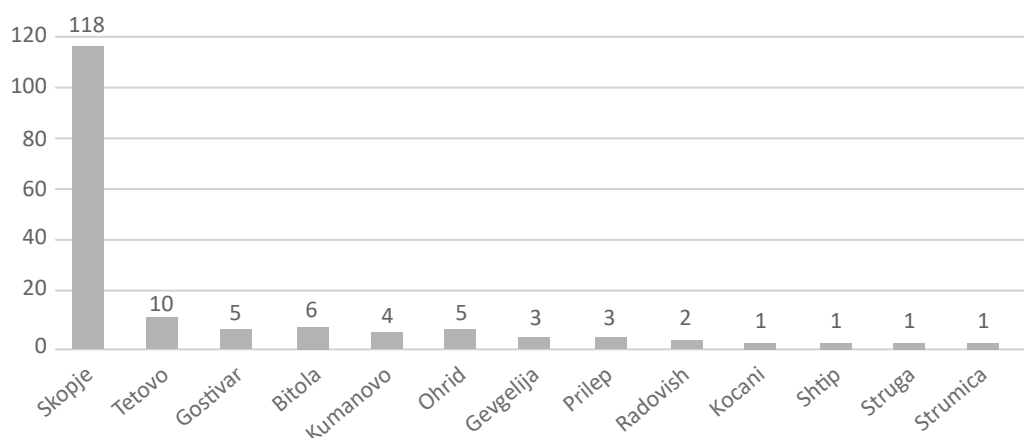
### Incidents by location

MHC's data shows that the majority of incidents (118) occurred in Skopje and its surrounding municipalities. There were 10 incidents in Tetovo, 6 in Bitola, 5 in Gostivar and Ohrid, 4 incidents in Kumanovo, 3 in Gevgelija, and Prilep, 2 in Radoviš, and 1 incident each in Kočani, Struga, Štip, and Strumica. Similar to previous years, the increased number and percentage of incidents in the capital city persist.

Most of the cities are located in regions in which there are significant minorities of ethnic Albanians (Skopje, Kumanovo, Kičevo, and Struga), ethnic Macedonians (Tetovo and Gostivar), ethnic Vlachs (Kruševo) or several minorities that together constitute a significant part of the population (Bitola, Ohrid, Strumica, and Kočani). Debar is one of the rare towns where Macedonians and Albanians live together and which registered no hate crimes in 2022.



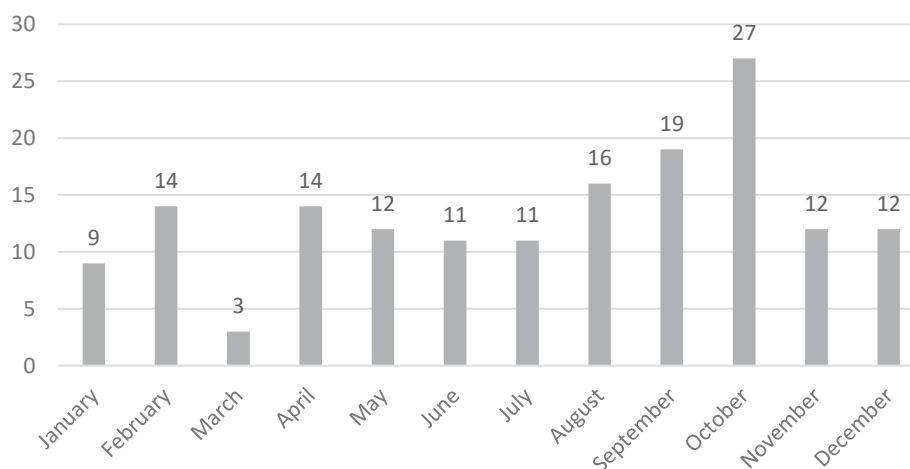
## Location of the incidents



### *Incidents by month*

The highest number of incidents occurred in October (27) and September (19). These were the months during which MHC registered increased violence between young people from ethnically mixed neighbourhoods and schools, assaults on bus routes, bus stations, and buses used by members of different ethnic communities. There were 16 incidents in August, 14 in February and April, 12 in May, November and December, 11 in July and June, 9 in January, and 3 in March (the lowest).

## Incidents by month



### *Free legal aid provided to victims of hate crime in 2022*

In 2022, MHC provided free legal aid in four cases; three of the incidents happened due to sexual orientation and/or gender identity. The free legal aid included legal counselling and providing information about the legal mechanisms for victims' protection; communication with the competent authorities and accompanying the victims in front of the relevant institutions; drafting and submitting criminal charges to the public prosecutors' office; and monitoring the court proceedings in cases of hate crimes. One of those cases concerned an attack that happened on August 8, 2022 in the centre of Strumica, when an LGBTI+ activist was physically attacked while holding a public event with several volunteers for the promotion of their organization. An older male started to verbally threaten him and insult him, after which, he physically attacked him causing him bodily injuries. The volunteers left the place due to fear that they too would be assaulted. The Helsinki Committee contacted the victim and provided him with free legal aid, after which MHC requested the SIA Strumica to properly investigate

---

and sanction the perpetrator, as well as to undertake all adequate measures considering the police treatment of the victim. Shortly after, the SIA Strumica filed criminal charges and the indictment was initiated by the Public Prosecutor's office in Strumica. The defendant pleaded guilty and the Basic Court in Strumica on 28 November 2022 declared the defendant guilty of bodily injury committed based on a hate crime against the victim. The Court concluded that by physically attacking and imposing bodily harm on the LGBTI+ activist in the city centre biased by the victim's sexual orientation, the perpetrator committed the criminal offense "Bodily Injury" according to Article 130 para (3) of the Criminal Code in relation to the paragraphs (2) and (1) of the same Article. Thus, the Court properly qualified the committed criminal offense as a hate crime under the Macedonian criminal law and the bias motive was taken into account in the sentencing. The perpetrator was sentenced to six months' imprisonment.

In another case free legal aid was offered in May 2022 to a gay man who identifies as queer. He informed MHC that on June 26, 2021, immediately after the Skopje Pride 2021, on Miroslav Krleža Street in Skopje, he was physically attacked by three minors. He reported the incident to the nearest police station, and there is an appropriate medical report for the bodily injuries he suffered. Almost a year later, on May 5, 2022, he was summoned to the Primary Public Prosecutor's Office Skopje to give a statement as a victim of the event that occurred on June 26, 2021. A representative from the Helsinki Committee accompanied him to the Public Prosecutor's Office, but due to the private character of the investigation, the public prosecutor did not allow the presence of the Helsinki Committee. A representative from the Helsinki Committee monitored the court proceeding on June 21, 2022 in the Basic Criminal Court of Skopje, where the victim was supposed to appear as an injured party, but the judge informed us that because the perpetrators are minors, he would exclude the public from the trial. The representative of the Helsinki Committee pointed out Article 92 paragraph 3 of the Law on Justice for Children, which stipulates that the court can allow the presence in the trial of other persons involved in the protection and upbringing of children, persons for the protection of children's rights at the Ombudsperson, persons close to the child, representatives of organizations for the protection of children's rights, as well as scholars. The judge proposed postponing the hearing to July 2022, in order for the Helsinki Committee to submit a written explanation on the issue to the court. However, due to the fact that it was in the best interest of the victim that the procedure be completed on the same day, the representative of the Committee left the courtroom. Due to the fact that the victim still has no information about the crime that the perpetrators are accused of, and also due to the fact that he will be out of the country applying for asylum, the Helsinki Committee contacted a lawyer willing to work pro-bono with a special power of attorney, who will request the minutes of the hearing held on June 21 directly from the Basic Criminal Court. To date the lawyer has tried to obtain the minutes on several occasions, however the Court still has not provided the minutes for the proceedings in order to inform the party if he has been granted the victim status.

In May 2022, two perpetrators physically assaulted and harassed an LGBTI+ activist in front of his mother, and according to the victim, the incident happened because of his sexual orientation. In this incident the bias motive is sexual orientation, with the bias indicators being sexual orientation – the victim belonged to a different sexual orientation and a pattern of previous incidents – previous incidents towards individuals from the LGBTI+ community, specifically previous assaults towards the victim on the grounds of his sexual orientation. MHC reached out to the victims offering them free legal aid and shelter protection, but it was declined.

The Helsinki Committee followed up on a hate crime on the basis of a disability reported to our legal team in 2020. A parent of a child with autism reported to MHC that the whole family are victims of harassment and serious threats by two neighbours in the apartment building where they live. The neighbours repeatedly knocked on the family's door, shouting that they would kill them and their nine-year-old autistic child, to whom they were referring as "mentally retarded". The background of these attacks is the noise allegedly caused by the child. The family reported the case to the police station, but

---

it all ended with a police report, after which no follow-up action was taken by the authorities for the harassment the family and the child with intellectual disability suffer, caused by the neighbours. In 2018, the police filed criminal charges for 'Endangering security' under Article 144 of the Criminal Code, which was rejected by the Public Prosecutor's Office because the specific event did not meet the elements of a crime prosecuted *ex officio*. The criminal offense of endangering the safety of a child, on the ground of his intellectual disability, which is obviously motivated by the already existing intolerance and prejudice against members of this vulnerable group, can be qualified as hate crime. The Public Prosecutor's Office incorrectly rejected the criminal charges by wrongly qualifying the crime. Having this in mind, MHC will file criminal charges against the perpetrators for the crime of endangering security, as a hate crime, which under the Criminal Code is prosecuted *ex officio*. To this date the lawyer and the victims have not been informed of the status of the case, which leads to the conclusion that no criminal complaint has been lodged yet.

### 3.2.4. Recommendations

- Provide that the courts would be obliged to put on record reasons even when applying the sentence-enhancing provisions in cases of bias-motivated crime;
- Provide specific penalty enhancements to further property crimes, such as arson, theft, severe theft, robbery, armed robbery or burglary, which can often be considered as base offences for hate crimes;
- Ensure prompt and effective investigation and prosecution of hate crimes by ensuring that bias motives are taken into consideration throughout criminal proceedings;
- Take appropriate measures to facilitate the reporting of hate crimes by victims, including measures to build trust in the police and other state institutions;
- Collect and publish comprehensive and comparable data on hate crimes, as far as possible including the number of such incidents reported by the public and registered by law enforcement authorities; the number of convictions; the bias motives behind these crimes; and the sentences handed down;
- Establish and maintain cooperation between public authorities and civil society organizations on various aspects of hate crime work, such as training, victim support and increasing reporting;
- This cooperation should be based on exchanging data and information; working together to uncover the dark figure of hate crime; cooperating on the development of instructions, guidance or training on recording HC, including exchanging expertise to develop, refine and revise bias indicators;
- Ensure that victims of hate crime are supported and protected;
- Improve communication and coordination across public authorities and institutions on hate crime issues;
- Carry out national crime surveys that include measures on hate crime as a key source of information about the prevalence of hate crime in the country;
- Promote training for relevant practitioners coming into contact with victims of hate crime, thereby enabling them to efficiently assist these victims; and
- Enhance preventative measures, *inter alia* by reflecting remembrance in human rights education, history curricula and relevant training, taking steps to educate the public especially minors and young people on the values of cultural diversity and inclusion, and aiming for all sectors of society to have a role in combating such intolerance.

---

## Chapter 4 – FREEDOM OF EXPRESSION AND ASSOCIATION

### 4.1. Freedom of expression

#### 4.1.1. Key international standards

Indissociable from democracy, the freedom of expression is enshrined in a number of national, European,<sup>135</sup> and International<sup>136</sup> instruments which promote this political system, recognized as the only one capable of guaranteeing the protection of human rights. North Macedonia has ratified all these international agreements on freedom of expression. With the ratification, they became an integral part of the country's legal order.

The content and the scope of protection of the freedom of expression are to a great extent developed with the jurisprudence of the European Court of Human Rights (the Court). The Court, by explaining and interpreting Article 10 of the *European Convention on Human Rights*<sup>137</sup> holds that “*freedom of expression constitutes one of the essential foundations of [democratic] society, one of the basic conditions for its progress and for the development of every man*”<sup>138</sup>. The Court has emphasized on several occasions that “*Article 10 is applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference but also to those that offend, shock or disturb; such are the demands of that pluralism, tolerance and broadmindedness without which there is no “democratic society”*”.<sup>139</sup>

As set forth in Article 10, freedom of expression is subject to exceptions, which must be construed strictly, and the need for any restrictions must be established convincingly.<sup>140</sup> In addition to those general considerations, the Court has explored in its case law the States' positive obligations in protecting the exercise of this right. These positive obligations imply, among other things, that the States are required to establish an effective mechanism for the protection of authors and journalists in order to create a favourable environment for participation in a public debate of all those concerned, enabling them to express their opinions and ideas without fear, even if they run counter to those defended by the official authorities or by a significant part of public opinion, or even if they are irritating or shocking to the latter.<sup>141</sup>

Further on, the OSCE reinvigorated and defined the specific state obligations with regards to protection of freedom of expression. It required that the state reaffirm everyone will have the right to freedom of

---

<sup>135</sup> See for example Article 10 par. 1 of the European Convention of Human Rights “*Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises*”. Also see Article 11 of the Charter of Fundamental Rights of the European Union (2000), which reads as follows: “*1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. 2. The freedom and pluralism of the media shall be respected.*”

<sup>136</sup> See Article 19 from the Universal Declaration of Human Rights that states “*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers*” further elaborated in Article 19 from the International Covenant on Civil and Political Rights and in the General Comment 10 [19] (Article 19) of the Human Rights Committee (CCPR/C/21/Rev.1 of 19 May 1989).

<sup>137</sup> For a comprehensive overview on the scope of protection under Article 10 of the ECHR see Bychawska-Siniarska, D. (2017) Protecting the Right to Freedom of Expression under the European Convention on Human Rights. Council of Europe.

<sup>138</sup> *Handyside v. the United Kingdom*, No. 5493/72. Par. 49.

<sup>139</sup> *Handyside v. the United Kingdom*, No. 5493/72. Par. 49; *Observer and Guardian v. the United Kingdom*, No. 13585/88. Par. 59.

<sup>140</sup> *Stoll v. Switzerland*, No. 69698/01, Par. 101; *Morice v. France*, No. 29369/10, Par. 124; and *Pentikäinen v. Finland* No. 11882/10, Par. 87.

<sup>141</sup> *Dink v. Turkey*, No. 2668/07, Par. 137. *Khadija Ismayilova v. Azerbaijan*, No. 65286/13, Par. 158).

---

expression including the right to communication.<sup>142</sup> In doing this, at a minimum, the states are obliged to:

- *respect the right of everyone, individually or in association with others, to seek, receive and impart freely views and information on human rights and fundamental freedoms, including the rights to disseminate and publish such views and information.*
- *respect the rights of everyone, individually or in association with others, to study and discuss the observance of human rights and fundamental freedoms and to develop and discuss ideas for improved protection of human rights and better means for ensuring compliance with international human rights standards.*<sup>143</sup>

These fundamental principles are further developed and operationalized in numerous other documents and declaration of the organization<sup>144</sup> including introducing specific standards and guidelines of new challenges such as freedom of expression on the internet<sup>145</sup> as well as artificial intelligence<sup>146</sup>.

## 4.1.2. Overview of key developments and challenges

### **General information**

The **Constitution** takes a liberal and permissive approach in guaranteeing freedom of expression<sup>147</sup> by introducing several constitutional safeguards in the realization of this right<sup>148</sup>. Furthermore, by recognizing ratified international agreements as integral parts of the internal legal order<sup>149</sup> and directly applicable by the courts<sup>150</sup>, it paved the way for integrating key international human rights standards (i.e. for freedom of expression) as part of the normative framework in force.

The general context in the country in 2022 is assessed as favourable to media freedom and allowing critical media reporting.<sup>151</sup> The overwhelming number of international independent observers<sup>152</sup> of freedom of expression conclude that the country had made some progress in this area compared with the period from 2012 – 2017. According to the Reporters Without Borders' index on press freedom, N.

---

<sup>142</sup> See Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE from 29 June 1990, Copenhagen. Section 9.1 from the Document states that: *everyone will have the right to freedom of expression including the right to communication. This right will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of this right may be subject only to such restrictions as are prescribed by law and are consistent with international standards. In particular, no limitation will be imposed on access to, and use of, means of reproducing documents of any kind, while respecting, however, rights relating to intellectual property, including copyright.*

<sup>143</sup> Ibid. Section 10.1 & 10.2.

<sup>144</sup> Some of the other key documents within OSCE's framework include: Decision No. 193. Establishment of the Office of the OSCE Representative on Freedom of the Media, Mandate of the OSCE Representative on Freedom of the Media (PC.DEC/193) & JOINT DECLARATION by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression. A more comprehensive list of documents is available in OSCE, COMMITMENTS: Freedom of the Media, Freedom of Expression, Free Flow of Information 1975 – 2017, 4<sup>th</sup> edition.

<sup>145</sup> OSCE. (2011). REPORT Freedom of Expression on the Internet A study of legal provisions and practices related to freedom of expression, the free flow of information and media pluralism on the Internet in OSCE participating States.

<sup>146</sup> OSCE. (2022). Spotlight on artificial intelligence and freedom of expression – A policy manual.

<sup>147</sup> Constitution of Republic of North Macedonia, Art. 16.

<sup>148</sup> The freedom of expression entails: freedom of speech, public address, public information and free establishment of institutions for public information; free access to information, freedom to receive and impart information; the right to reply and correction; protection of the source of information; general ban on censorship; See Constitution of RNM, art. 16.

<sup>149</sup> Constitution of Republic of North Macedonia, Art. 118.

<sup>150</sup> Ibid, Art. 98 par. 2.

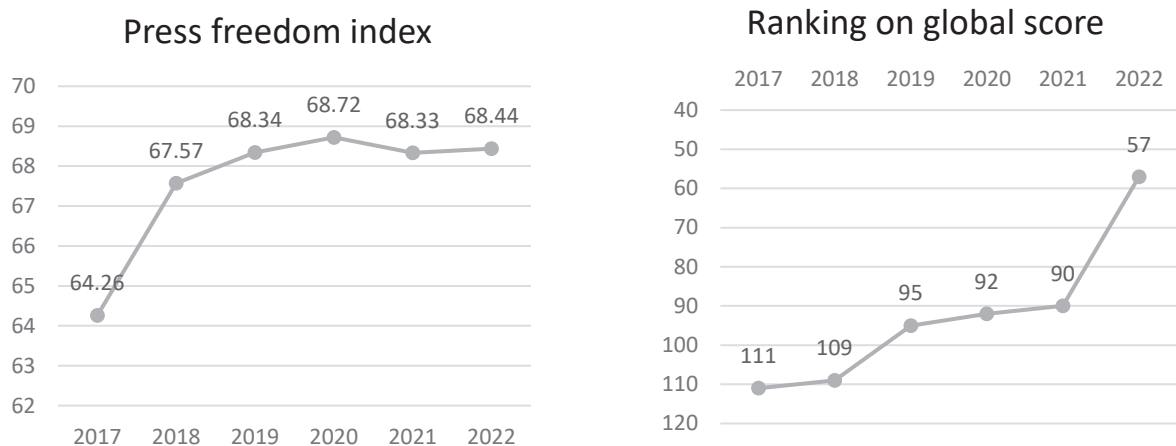
<sup>151</sup> European Commission. North Macedonia 2022 Report. Brussels, 12.10.2022.

<sup>152</sup> See: European Commission's reports on N. Macedonia, US State Department Reports on Human Rights Practices, Freedom House's Freedom in the World Reports, & Reporters without borders' Press freedom index.

Macedonia in 2022, compared with 2017, has experienced a slight improvement in press freedom and a steady increase in the global ranking, from 111<sup>th</sup> place in 2017, to the current 57<sup>th</sup> place.<sup>153</sup>

However, notwithstanding the limited improvement, there are still very significant problems and challenges that are affecting the media and press freedom as key components of the freedom of expression. Moreover, in the past period, social media and new technologies have paved the way for misinformation<sup>154</sup>, lack of professionalism, as well as online intimidation and smear campaigns against journalists.

***Press freedom in N. Macedonia (Reporters without borders)<sup>155</sup>***



***Attacks and intimidation against journalists and human rights defenders***

Attacks and intimidation of journalists (particularly women) and human rights defenders in general are a very concerning challenge.<sup>156</sup> In realizing their work or mission they face threats, public discrediting on social media, public attacks, and would attract lynch mobs and in some more extreme cases, even physical attacks.

According to the Association of Journalists of Macedonia, in 2022 the number of incidents has increased compared with 2021 (seven serious incidents). For only one of the reported cases has the Public Prosecutor has indicted the perpetrator. Since 2014 more than 80 attacks on journalists (physical and verbal) have been reported. Of these 24 include physical attacks; while the final judicial resolution in favour of the journalists/media workers occurred only in four cases.<sup>157</sup> Verbal attacks are most common (with 60%) of all attacks, followed by physical attacks with 33%.<sup>158</sup> Female journalists and media workers are far more common victims of such incidents, especially in the online space.<sup>159</sup> The most common perpetrators are public officials, politicians, businessmen as well as participants in public gatherings.

<sup>153</sup> The lowest score N. Macedonia had in 2014 when it was ranked on the 123<sup>rd</sup> place.

<sup>154</sup> European Parliament (2021) Mapping Fake News and Disinformation in the Western Balkans and Identifying Ways to Effectively Counter Them. Policy Department for External Relations. Directorate General for External Policies of the Union. pp. 28 – 30.

<sup>155</sup> Source: <https://rsf.org/en/index>.

<sup>156</sup> Kotevska, B. Kamberi, I. (2019). *Country report on North Macedonia. Human Rights Defenders in the Western Balkans Intimidation Instead of Recognition*. pp- 68 – 82.

<sup>157</sup> Kalinski, V. Prison for attackers on journalists. *Radio Free Europe*. 28 November 2022.

<sup>158</sup> Ibid. p. 12.

<sup>159</sup> Sabrioski, S. Atovska, K. *14 Attacks on Journalists – 14 Daggers on the Democracy*. Association of Journalists of Macedonia. April, 2021.

### *Number of recorded attacks on journalists<sup>160</sup>*

<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>16</b>	<b>3</b>	<b>24</b>	<b>14</b>	<b>5</b>

The risk of violence impacts the quality of the work of the journalists and the lack of criminal responsibility leads to self-censure. On a broader, societal level it creates barriers to informing the public and a decrease in the confidence of the public in the media.<sup>161</sup> The journalists are advocating for greater responsiveness of the public prosecutor as well as amendments to the Criminal Code by ensuring that any security threats are prosecuted by the prosecutor as an official duty, and not privately by the journalists.

In 2021 the Government submitted a proposal for amendments to the Criminal Code that, among other things, introduced harsher sentencing for acts of violence (*murder, coercion, threat, preventing an official person in performing an official act*) when the victims are journalists or media workers.<sup>162</sup> After over a year and a half, the Parliament adopted the proposal in February 2023.<sup>163</sup> With regard to the procedure, the current legal framework provides sufficient mechanisms for law enforcement authorities and the Public Prosecutor's Office to bring perpetrators of violent acts against journalists to justice.

A quite particular challenge is the significantly greater prevalence of threats, smear campaigns, public shaming, and sexual harassment of women journalists and human rights defenders. The incidence of sexual harassment and violence is much higher against women than against men. This disproportionate impact on women is not adequately addressed by the institutions. Neither the police nor the public prosecutor recognizes the hate crimes against women who are human rights defenders. The lack of processing and (in some of the cases) the low penalties reflect the particularly aggravating circumstances in these cases, and thus do not discourage future potential attackers.<sup>164</sup>

### ***A surge of misinformation and lack of professionalism among online media outlets***

Online media and social media platforms are considered the main source of disinformation, misinformation, hate speech, breaches of professional standards, and intellectual property rights infringements.<sup>165</sup> Spreading misinformation is not something new within the national media landscape. It was present to a great extent in mainstream media; however since the change of government in 2017, the disinformation and smear campaigns moved to the online space<sup>166</sup>, either in the form of social media accounts or online media outlets.

The key cause for the problem with online media outlets is the vagueness of their legal status and the lack of accountability for compliance with professional standards. Still, a distinction should be made between professional online outlets that employ professional journalists and publish original content,

<sup>160</sup> Sulejman, D. Brehkovski, I. *Attacks on Journalists and Media Workers (2017 – 2021) – Trends and Recommendations*. Association of Journalists of Macedonia. March, 2022. p. 30.

<sup>161</sup> Tuneva, M. Sandev, L. *Safety of Journalists and Media Workers – Reality or Continuous Threat*. Association of Journalists of Macedonia. March, 2022. p-p. 39 – 40.

<sup>162</sup> Government of RNM. Proposal for a Law amending the Criminal Code No. 08-3784/1 from 18.08.2021.

<sup>163</sup> Law amending the Criminal Code. Official Gazette of RNM No. 36/2023.

<sup>164</sup> Kotevska, B. Kamberi, I. (2019). *Country report on North Macedonia. Human Rights Defenders in the Western Balkans Intimidation Instead of Recognition*. pp- 68 – 82.

<sup>165</sup> European Commission. (2022, October 12). North Macedonia 2022 Report. Brussels. p. 30.

<sup>166</sup> European Parliament. (2021). Mapping Fake News and Disinformation in the Western Balkans and Identifying Ways to Effectively Counter Them. Policy Department for External Relations. Directorate General for External Policies of the Union. pp. 28 – 30.

and individual portals that plagiarize and copy-paste such content. The problems are overwhelmingly caused by the second ones.

Online media are not regulated by a specific law, and there are divergent views on the need for regulation<sup>167</sup>. This has raised several dilemmas regarding the accountability of the media, the protection of copyrights of the content as well as the liability for defamation. The Law on Media<sup>168</sup> identifies only printed media while the Law on Audio and Audio-visual Media<sup>169</sup> with its most current amendments only partially tackles the status of web pages that stream content. In 2019 and 2022, in an attempt to encourage self-regulation of online media, the Association of Journalists of Macedonia and the Council for Ethics in the Media established and published an online register<sup>170</sup> for professional online media. Enlistment in the registry is voluntary and conditioned upon meeting certain basic criteria.<sup>171</sup> Currently, there are 152 web pages registered. Nevertheless, despite the attempts for self-regulation, the problem still persists, and causes a lack of trust in the media and spreading misinformation.

The spreading of misinformation in the online space is to a great extent attributed to the so-called anti-gender movement. Informal anti-gender groups are active on social media (Facebook) and one registered organization “Od nas za nas”<sup>4</sup> (“From Us For Us”) is targeting individuals and CSOs working on gender and LGBTIQ+ equality advocacy. Within a closer focus of their activities is opposition to gender equality, gender sensitive education and comprehensive sexuality education and spreading transphobic content. In one of the posts, the organization “Od nas za nas” claimed that the CSO Health Education and Research Association () wanted to create “gender confusion” in children, to encourage their sexualization and promote abortion.<sup>172</sup>

### ***Use of defamation lawsuits against journalists (SLAP)***

In 2012, the country decriminalized the liability for insult and defamation by introducing a special civil procedure for processing these cases<sup>173</sup>. The initiative for decriminalization was instigated by professional journalist associations.<sup>174</sup> It was argued with the detrimental effect of the threat of prison sentence has on freedom of expression<sup>175</sup> as expressed by the European Court on Human Rights. In several of its judgments, the Court held that “imposition of a prison sentence for a press offense will be compatible with journalists’ freedom of expression as guaranteed by Article 10 of the Convention only in exceptional circumstances, notably where other fundamental rights have been seriously impaired, as, for example, in the case of hate speech or incitement to violence.”<sup>176</sup>

---

<sup>167</sup> Regulatory Framework for Media and On-line Media – The Macedonian Case – Comparative assessment and recommendations for amending the legal framework. Study for the Agency for Audio and Audiovisual Media Services. 2018.

<sup>168</sup> Law on Media, Official Gazette, No. 184/2013 & 13/2014.

<sup>169</sup> Law on Audio and Audio-visual Media, No. 184/2013,... & 77/2021.

<sup>170</sup> <https://promedia.mk>

<sup>171</sup> 1. Published Impressum with information about the editor and contact information; 2. Declared consent to adhere to the Ethic Code of Journalists; 3. On-line media who regularly publish content of public interest; 4. Registered legal entity and transparent ownership; 5. Transparent funding; 6. Obligation for publication of the Decision of the Media Ethics Council and to participate in mediation procedures; 7. Published banner with pledge to respect the ethical rules and the self-regulation principle; 8. Obligation for indicating authors of text and if content is taken from other sources, it should be adequately noted.

<sup>172</sup> HERA (2021) ‘Reaction: If “From Us for Us” does not retract the lies about sex education and about HERA, we will request that civil liability for slander is established’.

<sup>173</sup> Law on Civil Liability for Insult and Defamation, Official Gazette No. 143/2012.

<sup>174</sup> Medarski, F. Selmani, N. (2018) *Manual on Defamation and Insult*. Association of Journalist of Macedonia. p. 37.

<sup>175</sup> The country specific circumstances have built a strong case for decriminalization. Firstly, there were significant number of cases against journalists (By the end of 2012 300 cases were pending). Secondly, the majority of the plaintiffs were public officials and politicians. Thirdly, the procedures were very long and caused continuous pressure and uncertainty of the defendants (journalists). Fourthly the courts awarded very high compensatory damages for journalists. Fifthly and lastly, the courts did not apply the standards of the European Court of Human Rights in their judgements.

<sup>176</sup> See *Cumpăna and Mazăre v. Romania* [GC], § 115; *Ruokanen and Others v. Finland*, § 50; *Balaskas v. Greece*, § 51; and *Fatullayev v. Azerbaijan*, §§ 129 and 177.



The decriminalization of defamation by itself did not contribute to improving the freedom of expression in the country.<sup>177</sup> Aside from external factors (political climate, polarization in the society), one of the key internal shortcomings of the law was the high threshold of maximal compensation that might be awarded against journalists and media (see table below). Inadequate application of the Law on Civil Liability for Defamation by the courts encouraged self-censorship in the media. Lawsuits were used in certain cases as a tool for intimidation and pressure on independent media. Under the pretext of protecting state secrets and personal data, they were exposed to legal pressure and abusive lawsuits (gag proceedings or SLAPPs).

This was confirmed in a recent decision of the European Court of Human Rights<sup>178</sup> where the Court found that the judicial authorities in North Macedonia violated the freedom of expression of journalists by adjudicating a high compensation claim because, among other things, “such amounts... could be seen as having a chilling effect of discouraging open discussion of matters of public concern”.

In order to address this problem, in 2022, the Parliament adopted a new Law on Civil Liability for Insult and Defamation.<sup>179</sup> One of the key changes introduced with this law is decreasing the maximal amounts of non-pecuniary damage that can be awarded by a judge in a defamation procedure against journalists. It remains uncertain whether the amendments to the law will contribute to decreasing the use of threats or defamation lawsuits as a means for the intimidation of journalists.

#### ***Comparison of the maximal amounts of non-pecuniary damage***

	<b>Law from 2012</b>	<b>Law from 2022</b>
Journalist	2.000 EUR	400 EUR
Editor	10.000 EUR	2.000 EUR
Legal entity (Media)	15.000 EUR	5.000 EUR

#### ***Poor working conditions for journalists***

A recent survey conducted by the Independent Trade Union of Journalists showed that 23% of media workers have no health and social insurance, 19% answered that the media management does not allow workers to form a trade union, and 69 % receive monthly salaries lower than the national average.<sup>180</sup> The low income, as well as disrespect of employment legislation by the employers, are also very common and persisting challenges for journalists. Labour rights, such as the right to annual leave, paid overtime hours, and paid night shifts, are often disregarded. Due to these undignified conditions, the affected journalists and media workers are either vulnerable to self-censorship or unable to perform their duties. Journalists from the local media are especially vulnerable to this problem. The unions’ dialogue with both the employers and the government needs to be improved, in order to find acceptable solutions to persisting challenges, such as the high number of short-term or part-time contracts without health and social insurance.

#### ***Government advertising in private media***

In the early 2010s, government advertising provided the largest single source of funding and was a major influence on the media market at both national and local levels. It was done with a lack of transparency and there was no systematic or detailed reporting on government advertising. The

<sup>177</sup> European Commission.(2014). EU Progress Report on the Former Yugoslav Republic of Macedonia 2014. p. 14.

<sup>178</sup> Kostova and Apostolov v. North Macedonia. Application No. 38549/16.

<sup>179</sup> Law on Civil Liability for Insult and Defamation, Official Gazette No. 251/2022.

<sup>180</sup> Lazareska, D. (2022, December 6) *Survey: With Salary Under the Average, a Half of the Young Journalist Wish to Leave the Profession*. Independent Union of Journalists and Media Workers.

---

advertising caused concerns about spending, which was claimed by many to be directed only toward pro-government media, giving them a significant financial advantage. In 2017 with the need for implementing the '*Urgent Reform Priorities*'<sup>181</sup>, the Government pledged to include a commitment to ensure full transparency on government advertising and to develop a mechanism for unpaid public service announcements of a truly public interest character.

In 2018, by amending the Law on Audio and Audio-visual Services<sup>182</sup>, the Parliament introduced a ban on the advertising of state organs, public enterprises, local government units, and other state-affiliated subjects for planning and using funds for informing and promoting its activities at the private broadcasters. However, some media outlets have lobbied actively to remove the ban on government advertising in private media, in order to increase their revenues. Additionally, the COVID-19 pandemic has raised the issue of public interest campaigns and whether the current ban is too rigid, preventing providing adequate and necessary information to the public.

In November 2022, a group of representatives proposed a law<sup>183</sup> in the Parliament by which the existing ban on advertising should be weakened by introducing so-called "Campaigns of Public Interest" on a central and local level. For the realization of these campaigns, the state organs and other affiliated entities will be able to distribute budgetary funds to private media. Since the law was proposed by representatives, and not by the Government, the draft law was not published nor were any public consultations held. Media associations have criticized the prospect of amending the Law on Audio and Audio-visual Services, which would allow advertising of public institutions in the media, highlighting the risk that it could undermine the independence of the media and disrupt the media market.<sup>184</sup>

## 4.2. Freedom of association

### 4.2.1. International standards

Freedom of association is a fundamental human right that is crucial for the functioning of a democracy and a precondition for the exercise of other human rights. Because of this, it is vital that the right to freedom of association is effectively facilitated and protected by national laws. Due to the importance of this right for a democratic society, it has been enshrined in the fundamental international human rights instruments<sup>185</sup> adopted within the system of the UN.

On European soil, the Council of Europe and the OSCE have further developed a robust body of guiding principles and standards for the *freedom of association*. This body provides a strong case for recognition that the right of persons to associate is intrinsic to the democratic societies that OSCE participating States, and Council of Europe member states, have committed to building. The standards of both international organizations are summarized and codified in a joint guideline<sup>186</sup> on freedom of

---

<sup>181</sup> Plan for immediate reform priorities "3 - 6 - 9".

<sup>182</sup> Law amending the Law on Audio and Audiovisual Services No. 248/2018.

<sup>183</sup> See: <https://sobranie.mk/detali-na-materijal.nsp?param=9322cb9d-c68a-496d-8844-4078c317060c>

<sup>184</sup> Blazhevska, K. (2022, November 11) Governmental Advertising is Coming Back. *Deutsche Welle*.

<sup>185</sup> Article 20 par. 1 from the Universal Declaration of Human Rights recognizes that "*Everyone has the right to freedom of peaceful assembly and association*". Article 22 par. 1 and 2 from the International Covenant on Civil and Political Rights reiterate by stating that "*Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests*" and by limiting any restrictions solely those prescribed by law which are necessary in a democratic society that pursue one of the state legitimate aims. The additional relevant UN standards are broadening the scope and the content of freedom of association (Ex. General Comment 25 (Article 25) of the Human Rights Committee (participation in public affairs and the right to vote); International Covenant on Economic, Social and Cultural Rights: article 8). The freedom of association is recognized also in the specific conventions (ex. International Convention on the Elimination of All Forms of Racial Discrimination: articles 4 and 5(ix); Convention on the Elimination of All Forms of Discrimination against Women: article 7(c); & Convention on the Rights of the Child: article 15).

<sup>186</sup> OSCE ODIHR (2015, January 1) *Joint Guidelines on Freedom of Association*.

---

association published in 2015. What's common for both systems of standards is that they do not require the states solely to allow people to associate with and form organizations, but they are going a step forward by requiring a positive obligation of creating an enabling environment in which associations can operate. This may include simplifying regulatory requirements, ensuring that those requirements are not unduly burdensome, facilitating access to resources, and taking positive measures to overcome specific challenges confronting disadvantaged or vulnerable persons or groups.<sup>187</sup>

A legal ground of the comprehensive body of standards within the Council of Europe's is Article 11 of the ECHR.<sup>188</sup> The ECHR, in interpreting this article, has affirmed the direct relationship between democracy, pluralism and the freedom of association.<sup>189</sup> Though political parties are one of the key elements of a pluralistic society, the Court recognizes the role of associations formed for other purposes, including those protecting cultural or spiritual heritage, pursuing various socio-economic aims, proclaiming or teaching religion, seeking an ethnic identity or asserting a minority consciousness, which are also important to the proper functioning of the democracy. Freedom of association, analogously to freedom of expression, is also applicable not only to persons or associations whose views are favourably received or regarded as inoffensive or as a matter of indifference, but also those whose views offend, shock, or disturb<sup>190</sup>.

The ECHR recognizes that the state has also a positive obligation to secure the enjoyment of the right to freedom of association. In particular, it has found that a *"genuine and effective respect for freedom of association cannot be reduced to a mere duty on the part of the State not to interfere"*.<sup>191</sup> Accordingly, it is incumbent upon public authorities to guarantee the proper functioning of an association or political party, even when they annoy or give offense to persons opposed to the lawful ideas they are seeking to promote. Aside from the ECHR case law, an important document is also the Recommendation on the legal status of NGOs<sup>192</sup> which sets standards to shape legislation and practice and defines the minimum standards to be respected concerning the creation, management and general activities of NGOs in member states of the organization.

The 1990 CSCE/OSCE Copenhagen Document outlines among other things, the following standards in relation to freedom of association:

*"(9.3) the right of the association will be guaranteed. The right to form and — subject to the general right of a trade union to determine its own membership — freely to join a trade union will be guaranteed. These rights will exclude any prior control. Freedom of association for workers, including the freedom to strike, will be guaranteed, subject to limitations prescribed by law and consistent with international standards;*

...

*States express their commitment to:*

*(10.3) — ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including trade unions and human rights monitoring groups;"*

---

<sup>187</sup> Ibid. par. 27.

<sup>188</sup> Article 11 par. 1 read as follow *"Everyone has the right to... freedom of association with others, including the right to form and to join trade unions for the protection of his interests"*.

<sup>189</sup> See *Gorzelik and Others v. Poland* [GC], App. no. 44158/98, p. 88; *Sidiropoulos and Others v. Greece*, App. no. 57/1997, p. 40.

<sup>190</sup> *Redfearn v. the United Kingdom*, App. no. 47335/06, p. 56; *Vona v. Hungary*, 35943/10, p. 57.

<sup>191</sup> *Ouranio Toxo and Others v. Greece*, App. no. 74989/01, p.37.

<sup>192</sup> *Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe*. Adopted by the Committee of Ministers on 10 October 2007 at the 1006th meeting of the Ministers' Deputies.

In 2015 OSCE set a comprehensive list of recommendations on enhancing the participation of association in decision-making processes.<sup>193</sup> It states among other points:

*8. Associations should be provided with opportunities to participate in public decision-making processes at all levels (local, national, regional and international) and at all stages, from the planning and policy stage until the time when decisions are implemented, monitored and evaluated;*

*15. State authorities shall not exclude certain persons, groups or associations from participation in public decision-making processes without a well-founded, reasonable and objective justification and should be responsive to requests to explain the reasons for such exclusion;*

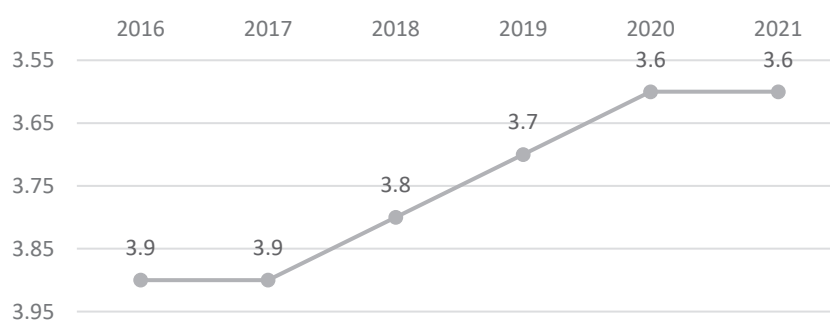
*23. The participation of associations in public decision-making processes should be secured through a public, transparent and open selection process and shall be based on clear and predefined criteria; associations should be able to choose their representatives to take part in public decision-making processes; basic information on associations participating in public decision-making processes should be made available to the public.*

## 4.2.2. Overview of key developments and challenges

### General information

The legislation pertaining to freedom of association, especially the basic law regulating the establishment of associations, is assessed by the European Commission as “in line with the European Charter on Human Rights and the European Convention on Human Rights”.<sup>194</sup> Adopted in 2010, the Law on Association and Foundation<sup>195</sup> (LAF) regulates the manner, requirements and the procedure for the establishment, registration and termination of NGOs, the forms of NGOs, the assets, the supervision, the status changes and the status of organizations of public interest. The LAF recognized the right of legal persons and foreigners to form associations and the right to associate without the need for formal registration and introduced the concept of public benefit status.<sup>196</sup> According to the *CSO Sustainability Index*, the environment in which NGOs operate is slightly improved since 2017<sup>197</sup>.

**CSO Sustainability Index of North Macedonia (2016 – 2021)<sup>198</sup>**



<sup>193</sup> OSCE. Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes. 22 September 2015.

<sup>194</sup> European Commission. North Macedonia 2022 Report. p.31.

<sup>195</sup> Official Gazette 135/2011 and 55/2016.

<sup>196</sup> Macedonia adopts a revised NGO law. International Center for Not-For Profit Law. 26.04.2010.

<sup>197</sup> In a public statement from February 2017, the then ruling party leader and former Prime Minister Nikola Gruevski warned civil society organizations to get ready for a ‘final showdown.’ and that there is need for the “de-Sorosization” of Macedonian civil society. Coinciding with these claims has been the appearance of a “Stop Operation Soros” campaign, which promoted a similar message. In the same period there were personal threats against CSO’s activists, leaking personal information about their income. The culmination of the campaign happened when the Public Revenue Office performed targeted audits of 21 CSOs conducting campaigns to help monitor and ensure free and fair elections. Thirteen CSOs were investigated by the public prosecution. See: Biddle, E.R (2017, 25 February) *Macedonia’s Ruling Party Is Draining Civil Society Groups’ Time—and Money*. Global Voices.

<sup>198</sup> See FHI 360 Civil Society Organization Sustainability Index reports from 2016 to 2021.

Compared with the countries of the region, North Macedonia is in the middle, though significantly lagging behind the countries with a higher ranking.

### 2021 CSO Sustainability Index – Comparison

Slovenia	<b>3.0</b>
Croatia	<b>3.3</b>
Bulgaria	<b>3.4</b>
North Macedonia	<b>3.6</b>
Kosovo	<b>3.6</b>
Albania	<b>3.7</b>
Bosnia and Hercegovina	<b>3.8</b>
Montenegro	<b>4.0</b>
Serbia	<b>4.3</b>

The measures for improving the enabling environment for NGOs and the cooperation between the Government and civil society are regularly planned in a strategic document. The current Strategy for Cooperation with and Development of Civil Society was adopted in 2022.<sup>199</sup> For the purpose of enhancing the dialogue between civil society and the Government, a Council for Cooperation as an advisory body was re-established in 2016.<sup>200</sup>

#### *Naming associations by disputed historical figures – The “Bulgarian clubs” issue*

Since 2019 several “cultural clubs” of the Bulgarians in North Macedonia applied for legal registration at the Central Registry and were registered as associations. In 2022 their activity became more publicly visible through the ceremonial opening of the clubs with the participation of high dignitaries of the Republic of Bulgaria. The clubs and associations were named after historical persons. Two of them, particularly the club *Ivan Mihailov* in Bitola<sup>201</sup> and the *Tsar Boris III club* in Ohrid<sup>202</sup> provoked significant hostile sentiments among the population<sup>203</sup> who perceived them as a reincarnation of the fascistic ideology of WW2. Their registration caused fierce debate (even among the expert public<sup>204</sup>) on the legality of their registration since the use and celebration of the aforementioned historical figures instigate ethnic hate, violate the rights of others, and infringe the constitutional order of the country.

This problem unravelled several systemic flaws, to a lesser extent in the manner of regulation of the registration process, and much more in the implementation of the duties and competencies of each of the specific institutions engaged in the registration process. Firstly, on a legislative level, the LAF prohibits the establishment of an organization directed towards, among other things, the instigation of ethnic, racial or religious hatred or intolerance, if it undertakes activities against the Constitution or

<sup>199</sup> Government of RNM. Strategy for Cooperation with and Development of Civil Society. December 2021.

<sup>200</sup> Government of RNM. Decision for Establishment of a Council for Cooperation between the Government and Civic sector. Official Gazette No. 98/2016.

<sup>201</sup> <https://www.facebook.com/profile.php?id=100064038543612>.

<sup>202</sup> <https://www.facebook.com/profile.php?id=100082550076937>

<sup>203</sup> The cause for such feelings was the fact that both persons are personification of the WWII occupation of the Tsardom of Bulgaria (an ally of the axis) of the part of the territory that now constitutes North Macedonia. The Ivan Mihajlov who negated the existence of a separate Macedonian nationhood and cooperated with fascist Italy and Nazi Germany while the Tsar Boris III for his compliance in the exodus of over 7.000 Jews from Macedonia.

<sup>204</sup> I.S. *Who and under whose directive put a blind eye on the registration of “Boris III” (club)*. Vecer. 12.10.2022.

law and violates the freedom and rights of other persons.<sup>205</sup> With regard to the use of historical persons as names of organizations, the LAF refers to the Law on Companies.<sup>206</sup> According to the second, using a name of a historical or other renowned person is conditioned by the consent of the person (if alive) or his/her heirs. If there are no heirs, the Ministry of Justice should give consent for using the name.<sup>207</sup> However, there are no additional rules on the principles that the Ministry should follow and apply in determining whether to give consent or not for a specific person and name.<sup>208</sup>

The LAF on the other hand provides sufficient grounds for the refusal of registration of an organization if its actions are prohibited by law. This can be done either by the Central Registry or through the procedure for banning an organization by a court upon a proposal from the public prosecutor.<sup>209</sup> Additionally, the Constitutional Court has the competence to assess the constitutionality of statutes and programmes (where the name is one of the key elements).<sup>210</sup> However, even with these existing procedures in place, neither of the competent institutions has assessed whether the acts and actions of the associations are in violation of Art. 4 par. 2 from the LAF or not.

Instigated by the public outrage the Government strived to address the problem. The Government established a short-lived advisory body for providing opinions on historical figures in September 2022.<sup>211</sup> Concurrently, the shortcomings of the registration and the actions of one of the clubs (*Ivan Mihailov*) were under scrutiny by the Commission for Prevention and Protection against Discrimination. The Commission, acting upon a complaint, issued an opinion where it found that the club has committed continued and multiple harassment as aggravated forms of discrimination against the members of the Union of war veterans from WWII, their families, the Macedonian people as well as all ethnic communities. The Commission also found that the Ministry of Justice, by omitting to perform its lawful duties, has enabled the club to conduct the discrimination.<sup>212</sup>

In October 2022, a group of representatives introduced a proposal for amending the LAF. The Assembly adopted the amendments<sup>213</sup> that banned the use of names<sup>214</sup> of persons who on any basis, manner or form, “were or are related to” racial, religious, national, ethnic and other intolerance, hatred, genocide, extremism, spreading or supporting fascism, Nazism, National Socialism and the Third Reich.<sup>215</sup> The law established a “Commission for the Use of Names” whose function will be to give consent for using names of historical persons. The consent shall be a precondition for registration of the organization.<sup>216</sup> The Commission shall be formed by the Government and be composed of five members<sup>217</sup>. The law set an obligation for the organizations, already registered, to ensure compliance with the provisions of the new law. Failure to meet this obligation shall result in deletion from the Registry<sup>218</sup>.

These amendments did not go through the regulatory impact assessment, nor were they subject to a public consultation process. The process of amendments was not transparent nor inclusive and civil society did not participate in it. The amendments as adopted have raised some questions concerning

---

<sup>205</sup> Law on Associations and Foundations, Art. 4 par. 2.

<sup>206</sup> Law on Associations and Foundations, Art. 8 par. 4.

<sup>207</sup> Law on Trade Companies, art. 49 par. 2.

<sup>208</sup> The registration of the association Club Ivan Mihailov – Bitola was completed without the consent of the Ministry of Justice (See Ministry of Justice: We have not give consent for use of the name Ivan Mihailov. Telma TV. 14.10.2022), while for the association Club Boris III – Ohrid, the .

<sup>209</sup> Law on Associations and Foundations, Art. 65 – 67.

<sup>210</sup> Constitution of Republic of North Macedonia, Art. 110.

<sup>211</sup> Official Gazette of RNM No. 200/2022.

<sup>212</sup> Commission for Prevention and Protection of Discrimination. Opinion No. 08-368/20 from 13.10.2022.

<sup>213</sup> Law amending the Law on Associations and Foundations. Official Gazette No. 239/2022.

<sup>214</sup> Including nicknames, pseudonyms, initials.

<sup>215</sup> Law amending the Law on Associations and Foundations. Official Gazette No. 239/2022. Art. 3.

<sup>216</sup> Ibid.

<sup>217</sup> One member proposed by the Ministry of Justice, Ministry of Culture, Institute of National History and two members from the Macedonian Academy for Sciences and Arts.

<sup>218</sup> Law amending the Law on Associations and Foundations. Official Gazette No. 239/2022. Art. 5.

---

their compliance with international standards. Rushed and adopted as a reaction to public pressure, it contains some unsound terminology (ex. Listing separately Nazism with National Socialism, which is the same ideology and adding the phrase Third Reich). Setting the obligation for the organizations, already registered, to ensure compliance with the provisions of the new law with the consequence of erasing the associations from the registry (effectively banning them) can raise a serious argument for the ex-post facto application of the law, which is generally not allowed by the Constitution. The amendments also instituted a non-judicial body (A “Commission for the Use of Names”) that should provide consent for the registration of association without an effective appeal procedure.

The right to freely choose a name for the organization, without unnecessary and unjustifiable restrictions from the Government, is one of the key elements of the *freedom of association* as part of the internationally recognized and protected corpus of human rights. Any restriction or limitation on the right to name the association should be in strict compliance with international standards<sup>219</sup>. In particular, any restriction should be a. prescribed by law, b. have a legitimate aim and c. be necessary in a democratic society. Furthermore, the law concerned must be precise, certain and foreseeable. The Venice Commission states that the laws should refrain from restricting the use of names of associations. Restrictions can be allowed if, among other things, the name impinges on the rights of others.<sup>220</sup> Furthermore, ECHR in a case concerning N. Macedonia has found that “*the association’s name cannot, by itself, justify its dissolution, even if the name is liable to arouse hostile sentiments in the majority of the population, but where there is no concrete evidence of a real threat to public order.*”<sup>221</sup> The failure of the institutions to implement the laws should not be the cause for their amendment. The existing legislative framework (before the amendments) was sufficient, if implemented cautiously, to ensure that all associations that violate the rights of other are either non-registered or banned.

### ***Lack of a precise definition of the non-partisan principle for NGOs***

The LAF sets the *principle of non-party activity*<sup>222</sup>. It prohibits organizations from *performing activities for a political party* and *impacting elections* as well as *providing direct or indirect financing to a particular political party*. The wording used for the former two prohibitions is vague and insufficiently precise. NGOs may (and should) have a say and participate in public debates on policies proposed during or related to election campaigns in order to ensure their participation in democratic processes. This however does not mean that NGOs should act as political parties in any way whatsoever.

This principle, as currently framed, bears the risk of limiting the key role of NGOs in a democratic society, that is, to enhance public debate on relevant issues. NGOs’ participation in framing and debating issues on public policy depends on their freedom to speak freely on all matters of public interest, including on legislation, state actions, and policies. In order to do so NGOs should have the right to criticize state officials and candidates for political office. International law does not allow prohibition of NGOs from expressing policy judgments or political opinions.<sup>223</sup> The principle as set in

---

<sup>219</sup> Article 22 of the ICCPR states that restrictions are permissible only when “prescribed by law and [...] necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” Similarly, Article 11 of the ECHR states that the only restrictions permissible are those that are “prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.” These standards also embody a proportionality test, meaning that the least intrusive means should govern the framing of restrictions.

<sup>220</sup> European Commission for Democracy Through Law (Venice Commission). (2014) Joint Guidelines on Freedom of Association. Par. 159.

<sup>221</sup> Association of Citizens “Radko” and Paunkovski v. the former Yugoslav Republic of Macedonia.

<sup>222</sup> Article 13 of the LAF states (1) *Organizations cannot perform activities for a political party, i.e. cannot provide direct or indirect financing to a particular political party and influence the elections.* (2) *Influencing elections, in terms of paragraph (1) of this Article, shall be considered participation of the organizations in elections and election campaign for a particular political party and direct or indirect financing of election campaign of a political party.*

<sup>223</sup> Karla W. Simon (2004). *Guidelines for Laws Affecting Civic Organizations*. Open Society Institute & Center for Non-Profit Law

---

the LAF is also not in line with the recommendations of the Council of Europe.<sup>224</sup> Furthermore, according to the representatives of NGOs who were subjected to malicious financial inspections and criminal investigations in 2016 and 2017, the legal ground of the investigation was this specific principle.

### ***Insufficient participation in policy-making processes***

The principles for the participation of associations in policy-making processes are laid down in the *Code for good practices for the participation of civil society in the policy-making process*<sup>225</sup>. It is not a law *per se*, but a list of non-obligatory recommendations, issued by the Government to the public administration, for the inclusion and participation of civil society in the policy-making process. To a certain extent, this gap should have been covered with the framework<sup>226</sup> governing the regulatory impact assessment process (where public consultations are an integral component). However, the annual reports of the Ministry of Information Society and Administration on the RIA process are showing concerning findings with regard to the application of the process in practice. For example, of the 16 Ministries in the Government, from which 15 had a legislative activity in 2021, only 2 published the required Annual Plan for RIA. The draft RIA reports are still not filled adequately. Of the 111 legislative proposals adopted by the Government, only 49 draft RIA reports were submitted to the MISA, while over 40% were adopted without RIA reports.

The key cause of this is the lack of solid legal ground set in law (as an act of Parliament) for these rules. Currently, they are dispersed among several different bylaws<sup>227</sup> with limited binding force. Experience has shown that the participation of CSOs is still seen more as a burden, an obligation, instead of as useful input to increase the legitimacy of the laws and policies. Perceiving the participation as solely related to the regulatory impact assessment process also misses the point of it. One of the key causes in this situation, from the point of view of the legislative framework, is the fact that the only general act, setting best practices on public participation, is not of legal nature. In order for cooperation to be realized in practice, it is necessary to ensure that participation is not only a good practice but a precondition for good laws and policies. The legal nature of the document is important as it can impact how much the provisions can be enforced in practice and the types of measures that will need to be undertaken to ensure compliance by the responsible state bodies.

### ***The inadequate legislative framework for enabling environment for civil society***

The LAF does not stipulate any specific obligations for the state organs to create and support a favourable enabling environment<sup>228</sup> for the operation and development of the CSOs. There are several exceptions with regard to the possibility for tax and customs exemptions in accordance with a special law, the opportunity for state funding as well as the ground for delegation of public services to CSOs. The LAF fails to enact obligations and competencies to the state organs accountable for securing

---

(ICNL). p.55.

<sup>224</sup> Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe 12. NGOs should be free to undertake research, education and advocacy on issues of public debate, regardless of whether the position taken is in accord with government policy or requires a change in the law. 13. NGOs should be free to support a particular candidate or party in an election or a referendum provided that they are transparent in declaring their motivation. Any such support should also be subject to legislation on the funding of elections and political parties.

<sup>225</sup> Code for good practices for participation of the civil society in the policy making process (*Кодекс на добри практики за учество на граѓанскиот сектор во процесот на креирање политики*). Official Gazette No. 99/2011.

<sup>226</sup> Guidelines on the Manner of Acting in the Ministries in the Process of Conducting a Regulatory Impact Assessment, Official Gazette, No. 106/2013 & Methodology for Regulatory Impact Assessment, Official Gazette, No. 107/2013.

<sup>227</sup> Rules of Procedure of the Government; Guidelines on the manner of acting in the ministries in the process of conducting a regulatory impact assessment; & Methodology for regulatory impact assessment.

<sup>228</sup> The enabling environment for civil society is broadly defined as the conditions within which civil society works. Specifically, enabling environment is viewed as the varied array of conditions – economic, political, social, cultural, legal, and otherwise – that affect the capacity of citizens, whether individually or collectively, to voluntarily participate in civil society. It encompasses three key elements: 1. Basic legal guarantees of freedom, 2. Supportive legal and regulatory framework for CSOs' financial viability and sustainability and 3. Government – CSO relationship.



---

favourable support environment for civil society. It does not delegate authority regarding the process of preparation, implementation, and evaluation of policies, regulations, and measures that influence the development and operation of CSOs. Though some of the measures that are impacting the environment are of non-regulatory nature, it is necessary that certain foundations are set in the basic law regulating the status and functioning of the organizations. For example, the existing mechanism for cooperation between the government and the CSOs, the Council for Cooperation between the Government and Civil Society, is founded by a governmental decision<sup>229</sup> and its competences are set by this act which has a lower legal power compared with a law. The process of planning and implementing the strategic document for the development of civil society is also guided by the guidelines for strategic documents which are a type of soft law. The mandatory nature of the legal provisions will enable these measures to be planned and implemented if they are transformed in the LAF.

### ***Lack of transparency in the new developments about the state funding for CSOs***

With the budget proposal for 2022, the Government (without any prior consultations with civil society) and the Council for Cooperation between the Government and Civil Society, allocated the funds for distribution to CSOs to the Ministry for Political System and Communities Relations. This deviation from the previously established practice, where the funds were allocated by the Government on the basis of an open call, was not justified nor elaborated. Without taking in consideration the reactions of the Council<sup>230</sup> and civil society, the Parliament adopted the budget as proposed.<sup>231</sup> This alteration was not in line with the ongoing process of reforming the state funding for CSOs system.<sup>232</sup> The Council asked<sup>233</sup> the Government to reconsider the decision but without any success. The Government's ignoring of the Council resulted in a boycott of the work of the Council by its member representatives of CSOs. This further caused a cessation of structured dialogue between civil society and the Government. The intention of avoiding consultations with CSOs on issues of their interest was repeated in September 2022 when the Government, without any prior notice nor inclusion, adopted a new decision for allocating funds for programme activities of CSOs<sup>234</sup> vesting authority within the Ministry for Political System and Communities Relations to announce the public call, evaluate proposals, and select project for funding. Though the funds were allocated for 2022, the public call was announced in October 2022. The selected projects were not published on the Ministry's webpage or another webpage. The information was published in the Official Gazette.<sup>235</sup>

### ***Council for Cooperation between the Government and Civil Society in a boycott***

Due to the reasons elaborated in the previous paragraph, the members of the Council for Cooperation between the Government and Civil Society from the CSOs boycotted the work of the Council as a sign of protest. The boycott was a result of the avoidance of the Government to consult the Council on a matter within its scope of competence. This was done in violation of the Governmental Decision<sup>236</sup> which constituted the Council as an advisory body for all issues and processes concerning CSOs. The

---

<sup>229</sup> Decision for establishment of a Council for cooperation between the Government and civil society and subsequent amendments.

<sup>230</sup> <https://www.nvosorobotka.gov.mk/?q=mk/node/549>

<sup>231</sup> Budget of Republic of North Macedonia for 2022. p. 229.

<sup>232</sup> The Government pledged to reform the system of state funding for CSOs in its Program for work for the period 2020 – 2024 (p. 27). For that purpose, in the second half of 2021 a working group was formed with a task to proposed a reformed model for allocating funds to CSOs.

<sup>233</sup> <https://fosm.mk/current-project/sovetot-za-sorabotka-megu-vladata-i-graganskoto-opshtestvo-bara-itent-rebalans-na-budhetot-na-generalniot-sekretarijat-na-vladata-za-finansirane-na-zdruzhenija-i-fondaczii-za-2022-godina/>

<sup>234</sup> Official Gazette No. 210/2022.

<sup>235</sup> Official Gazette No. 275/2022

<sup>236</sup> Some of the tasks of the Council are to provide an opinion on among other things programs and legal acts who are related or have an impact on the development and the civil society as well gives proposals for budgeting of areas and specific priorities for funding of activities of CSOs (Art. 2 from the Decision).

---

boycott started in March 2022 and continued over the whole year. As a result, the level of structured dialogue between both parties was almost non-existent, to the detriment of the enabling environment for civil society. In early 2023 there were some initiatives from the civil society members to reinstate the communication with the Government, unfortunately to no avail.<sup>237</sup>

### 4.2.3. Recommendations related to freedom of expression

- Enforce a zero-tolerance approach regarding intimidation, threats, and acts of violence against journalists in the exercise of their profession, and conduct effective investigation to any allegations and ensure that the perpetrators are brought to justice;
- Support self-regulation efforts of online media platforms in order to ensure high professional standards in reporting in line with good international practices;
- The courts should advance in the application of the case law of the European Court on Human Rights when processing lawsuits against journalists and human rights defenders and prevent their use for purposes of intimidation;
- Revise the legal framework in the area of media in accordance with the EU *acquis* and European standards in particular by continuing the efforts for the harmonization of national laws with the revised European Directive on Audio-visual Media Services with regards to the online media outlets and copyright protection;
- Make the necessary efforts for the implementation of the strategy for reforming the public broadcaster, and finalize appointments for the public service broadcaster's programme council and the media regulator's council.

### 4.2.4. Recommendations related to freedom of association

- Amend the Law on Associations and Foundations by introducing, among other things, an obligation for state organs for creating and supporting favourable enabling environment for civil society;
- Review the amendments on the LAF from October 2022 concerning the names of associations by ensuring that any ban of registration of an organization is subject to the general rules on banning an organization and within the competence of the public prosecution and the court in accordance with the international standards;
- Improve the wording of article 13 from the LAF by defining in greater details the terms “activities of a political party” and the “participation in election campaign” due to their vagueness and potential of misinterpretation, and rephrase the provision by using a more specific language that will define more precise delineation between the indisputable freedom of expression and association rights and the activities that are reserved solely for political parties;
- The requirement for conducting a regulatory impact assessment of all regulations (laws and bylaws proposed by the Government and ministries), including the obligations for mandatory public consultations, should be set in law (the act of the Assembly). The law must foresee sanctions for failure to comply with its regulations;

---

<sup>237</sup> Dimitieski, A. (2023) Civil Society: The Government formed a Council but it does not want to consult it. [www.360stepeni.mk](http://www.360stepeni.mk). Available at: <https://360stepeni.mk/video-gragansko-opshtestvo-vladata-formirashe-sovet-no-ne-saka-da-se-sovetuva-so-nego/>.

- 
- Adopting of a detailed Regulation by the Government that will regulate in detail the following topics: principles of participation; types of participation and phases of participation; mechanisms of participation; setting an obligation for consultation for all documents of both legal and programmatic nature; regulating the manner & criteria and procedure for appointing members of CSOs in working groups;
  - Restore the structured dialogue with the CSOs through the Council for Cooperation between the Government and civil society. The first step in restoring the dialogue should be the revision of the decision to vest the authority of allocating funds for programme activities for CSOs to the Ministry for Political System and Community Relations. After that, the process for reform of state funding should pursue as planned in the Governmental programme in an inclusive and transparent manner.

---

## Chapter 5 – TRAFFICKING IN HUMAN BEINGS

### 5.1. New trends, characteristics of the human trafficking at national level

The Republic of North Macedonia remains an initial destination, transit and a final destination country for victims of trafficking in human beings (THB). The prevailing form is sexual exploitation, which typically takes place in hospitality establishments and nightclubs in the western part of the country. There is a low number of identified cases of labour exploitation, which indicates that the prevalent focus is still on other forms, such as sexual exploitation.<sup>238</sup> Consequently, exploitation in agricultural seasonal work, or forced begging, continue to be unregistered in the official statistics. Forced marriages are also an issue, usually as a combination of sexual and labour exploitation. The identification of the potential THB victims is significantly difficult because there are many cases of internal trafficking (from one to another part inside the country) of children, cases where the traffickers are their close relatives or persons well known to the children. For the low number of identified victims also contributes the fact that recruitment methods are changing, so instead of physical violence there is intimidation and coercion, and which are difficult to detect. Also, child victims are particularly vulnerable and are unable to report the trafficking by themselves. In 2022, eight victims of human trafficking were identified, out of which seven are children. Seven victims are domestic citizens and one victim is foreigner. The prevailing form is forced marriage (7 cases) and one is sexual exploitation.<sup>239</sup> The new *modus operandi* of the traffickers is to recruit the victims through social media. The fact that the age limit of the victims is decreasing is worrying, taking in consideration that ten years ago, the victims were from 16 years old and up, and now they are from 10 to 17 years old.<sup>240</sup>

In 2021, a larger group of 40 foreign victims of labour exploitation were identified, 35 men and 4 women, as well as one Russian citizen<sup>241</sup>. Taiwanese traffickers recruited Taiwanese workers with false promises of work in North Macedonia for the purpose of forced labour. Traffickers confiscated passports, withheld wages, restricted movement, and set up a call centre where they forced the Taiwanese victims to make fraudulent calls<sup>242</sup>. However, the number of cases of trafficking in human beings for the purpose of labour exploitation in North Macedonia is rather low and cases are greater and for the most part unrecognized by the public due to the lack of a clear boundary between the violation of the provisions of labour law and labour exploitation. The Strategy for Combating Trafficking in Human Beings notes that the number of identified victims of trafficking for labour exploitation is “insignificant and limits the ability for identification of the risk sectors and risk groups”.<sup>243</sup>

---

<sup>238</sup> Ristovski G, Zdravkova I, Skrivankova K, Amet K, Jovevski L, Risteska M, (2022) Labour trafficking in North Macedonia: risk factors, trends and challenges, Council of Europe, available at: <https://rm.coe.int/report-labour-trafficking-north-macedonia-2022/1680a81842>

<sup>239</sup> Information received by the National Commission for Combating Trafficking in Human Beings for the period 01 Jan 2022-24 Nov 2022

<sup>240</sup> MIA (2022, October 18), Out of 8 victims of human trafficking, 7 are minors, predators are increasingly using the Internet. MIA, available at

[https://www.fakulteti.mk/news/18102022/od-osum-zhrtvi-na-trgovija-so-lugje-godinava-sedum-se-maloletni-predatorite-se-povekje-go-koristat-internetot?fbclid=IwAR3o\\_6EewWPXF6zkbZXXGqmTIO2jBEcTi8xHoC9A6jzXX33hYKRQieUQkIY](https://www.fakulteti.mk/news/18102022/od-osum-zhrtvi-na-trgovija-so-lugje-godinava-sedum-se-maloletni-predatorite-se-povekje-go-koristat-internetot?fbclid=IwAR3o_6EewWPXF6zkbZXXGqmTIO2jBEcTi8xHoC9A6jzXX33hYKRQieUQkIY)

<sup>241</sup> Information received by the National Commission for Combating Trafficking in Human Beings for the period 01 Jan 2021-31Dec2021

<sup>242</sup> Spasoski S, (2021, May 28), Deceived Taiwanese worked as slaves in Bardovci, carried out phone scams for the "bosses", Meta.mk, available at: <https://meta.mk/izmameni-tajvanci-rabotele-kako-robovi-vo-bardovci-vrshele-telefonski-izmami-za-gazdite/>

<sup>243</sup> National Commission for the Fight against Trafficking in Human Beings and Illegal Migration, Strategy for Combatting Trafficking in Human Beings (2021-2025)

---

### ***Identification of THB victims among migrants and refugees***

The Republic of North Macedonia is mainly a transit country for migrants and refugees. Many continue to pass through the territory or stay for a while, waiting for the next opportunity to move further to the EU. Only a small number apply for asylum. Still, proper registration of the migrants who are transiting through the country is missing and the exact numbers are not available. Adequate protection and screening of the needs of the people who are transiting especially for the vulnerable groups is still a challenge.<sup>244</sup>

### ***Identification among women and girls found during inspections in night bars***

The National Strategy for Combating Trafficking in Human Beings identifies bars and restaurants in the Western part of the country as the most common location for exploiting victims. Although there are police raids and controls, none of them have so far resulted in convictions for labour exploitation, but only in misdemeanour proceedings against the migrant women working illegally as singers, dancers or waitresses, and with their deportation and a ban on entering the country. No criminal charges were filed against owners of the bars and restaurants for involvement in human trafficking and labour exploitation. Local police deported foreign potential THB victims before their two-month reflection period expired. The law on foreigners permits foreign THB victims a two-month reflection period to decide whether to testify against their traffickers, followed by a six-month temporary residence permit, regardless of whether or not they testify. No foreign THB victim requested residence permits in 2021.

## **5.2. Legislation and institutional capacities**

The Republic of North Macedonia has adopted legislation which is broadly in line with European standards, criminalizes trafficking in human beings and strictly prohibits forced labour, and protects the rights to free movement, choice of employment, and safety at one's place of employment. In 2022, the state adopted the *Law on monetary compensation for victims of violent crimes*,<sup>245</sup> which provides possibilities for the victim to be paid for medical expenses incurred, for lost earnings, and "solidarity assistance" (essentially, moral damages) for a total amount not to exceed €5,000 per victim. It requires as necessary for the victim to report the crime to the police. The willingness of the victim to cooperate with law enforcement agencies and to participate in the criminal procedure is not a precondition for the realization of the victim's right of monetary compensation.

The new *Law on criminal procedure* has been drafted and contains provisions for strengthening of the victim protection, referring to their access to free legal and protection rights. In 2018, the government amended legislation to accommodate domestic and foreign potential THB victims at the shelter. The government adopted the 2021-2025 *National Strategy and National Action Plan (NAP)* and revised the SOPs for the identification and referral of victims according to the current needs. The National Commission for combating trafficking in human beings and illegal migration is the responsible body for monitoring the implementation of the Strategy.

The Office of the National Referral Mechanism (NRM), within the Ministry of Labour and Social Policy, is the main institution for coordinating the classification and reporting of victims of trafficking. To address concerns over a lack of proactive investigation, *mobile teams* responsible for detection, identification and referral of potential victims of human trafficking were established, both to report victims of trafficking as well as to discover at-risk individuals before they are victimized. The mobile

---

<sup>244</sup> Macedonian Young Lawyers Association (2022), The state of asylum in the Republic of North Macedonia in 2021, available at: <https://myla.org.mk/wp-content/uploads/pdf/Sostojbata-so-azilot-vo-RSM-2021-1.pdf>

<sup>245</sup> Its implementation will start in May 2023.

---

teams are composed of social workers, members of the special police unit-task force and CSO staff to detect and identify vulnerable populations, including trafficking victims. These teams temporarily ceased to operate in 2020 as a result of the pandemic, but they resumed their regular monitoring sessions in 2021. In 2022, the state established an *Operational team* with representatives of prosecution, police, ministry of labour and social policy and civil society. The Operational team is responsible for the formal identification of victims of trafficking.

In 2022, the Ministry of the Interior signed a Memorandum for cooperation with the Labour Inspectorate regarding conducting joint visits in the places which are deemed riskier based on the knowledge and practice of the experts: construction, textile and shoe industry, night clubs (especially those located in the western parts of the country), agriculture, tourism, cleaning and maintenance services etc.

Despite some progress in this area still there is insufficient capacity of the state to deal with this problem. Significant challenges contribute to the low reporting and identification rates, despite the mechanisms created as part of the government's institutional framework for combating trafficking. Police continued to lack adequate funding and equipment to conduct proactive investigations. Similarly, the Organized Crime and Corruption Prosecution Office (OCCPO) did not have sufficient resources, including staff and a digital case management system, to handle all cases under its jurisdiction.<sup>246</sup>

### 5.3. Access to justice and remedies, including compensation

#### ***Right to information***

THB victims are informed of their rights, including the right to compensation, from the earliest stage of their preliminary identification. Information is provided by the representatives of the mobile teams which operate in five regions in the country. The mobile teams identified the majority of potential victims every year, and many national experts and GRETA assessed the teams as a best practice in proactive identification and cooperation between civil society and government. During criminal proceedings involving foreign THB victims, an interpreter is usually engaged with the support of an international organization.

#### ***Legal assistance and free legal aid***

Existing legislation does not provide effective access to legal aid for victims of trafficking for the purpose of labour exploitation.<sup>247</sup> Legal counselling for victims is provided from an early stage of the proceedings by the representatives of mobile teams. However, providing an attorney for the victim from the first contact with a state body, and before giving a statement, as well as during the criminal proceedings, is still a challenge. Regarding the right to free legal aid, no victim was assigned an attorney at the expense of the state as the *Law on Free Legal Aid*<sup>248</sup> excludes criminal proceedings.<sup>249</sup> In the absence of free legal aid that needs to be provided by the state, legal aid and representation of victims is provided by

---

<sup>246</sup> US Department of State, Trafficking persons Report, North Macedonia, 2022, available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/north-macedonia/>

<sup>247</sup> Council of Europe (March 2020) 9th General Report on GRETA'S Activities, 01.01-31.12.2019, paras.162-165, Greta finding are the following: 1) absence of legal regulation for free legal aid; (2) there is no effective access to legal aid, including for compensation; (3) lack of training and capacity of lawyers to support victims to seek redress.

<sup>248</sup> Law on Free Legal Aid, 2019, Official Gazette of the Republic of North Macedonia, No. 101/2019

<sup>249</sup> Position of the Ministry of Justice after request for free legal aid submitted by the victim of criminal offence

---

various funds.<sup>250</sup> The new *Law on Criminal Procedure*,<sup>251</sup> which is drafted, will improve the access of victims to legal aid. Also, amendments of the Law on Free Legal Aid are needed. It is necessary to adopt provisions whereby the state will guarantee that the victim will have access to timely and quality legal aid. In addition, the conditions and the procedure to access legal aid free of charge should be further specified. Clear and precise legal norms will remove ambiguous interpretations regarding the responsible state authority for the appointing of the attorney as well as the applicable law for the provision of free legal aid for the victims of human trafficking.

### ***Compensation from the perpetrators***

Compensation by the perpetrator can be obtained only if the perpetrator has property and there is a court decision to seize or confiscate the perpetrator's property. The claim for compensation can be decided in the criminal procedure against the perpetrator or the criminal court can refer the victim to the civil court for the compensation claim. In 2020, a judgment was passed awarding a victim compensation in the amount of 300,000 denars (€4,800) which was executed from the funds of the perpetrator, confiscated by the court.<sup>252</sup> Also, in 2021 compensation was awarded to a child victim of forced marriage in the amount of 300,000 denars (€4.800).<sup>253</sup> The most common obstacles in the execution of the final judgment for receiving compensation is a lack of property in the name of the perpetrator. Additionally, the procedure for selling the property of the perpetrators takes a long time and is often unsuccessful, as few persons want to purchase the property of a criminal, who might cause trouble for them.

### ***State compensation***

If the compensation cannot be provided by the convicted person, the law provides the possibility for a victim of crime punishable with at least four years of imprisonment to receive compensation for pecuniary and non-pecuniary damage from a state fund under conditions and in a manner prescribed by a separate law.<sup>254</sup> The victims were unable to exercise this right in practice. The Assembly finally adopted the Law on Compensation for Victims of Violent Crimes, considering that the draft law was prepared in 2016. It is especially important because the victim could receive compensation by the state at the earliest stage, even before the criminal procedure begins. The Compensation law would not replace the right to file a suit in civil procedure against a perpetrator who was convicted, but it would ensure that the right to some form of monetary compensation is not dependent on the pursuit or the outcome of a civil trial.

### ***Special procedural rights for THB victims (especially for child victims)***

However, from the analysis of the court judgments related to the crime of trafficking in human beings and child trafficking, the conclusion is that in practice the special procedural measures for the protection of child victims, aimed at avoiding secondary victimization, are rarely applied.<sup>255</sup> None of the judges used the opportunity to examine a child victim by using technical means of image and sound transmission. Many of the judgments are not anonymised and contain personal data of the victim. However, improvements have been noted in recent practice. In 2018, a judgment was passed based on

---

<sup>250</sup> National Commission for Combating Trafficking in Human Beings(2021) Annual report for 2021, available at: [shorturl.at/tAHP3](https://shorturl.at/tAHP3)

<sup>251</sup>Law on Criminal Procedure, Official Gazette of the Republic of North Macedonia, Nos. 150/2010, 100/2012, 142/2016, 193/2016, 198/2018

<sup>252</sup> Case number KOK 86/19 issued on 26 03 2020

<sup>253</sup> Case number KOK 20/18 issued on 19 04 2021

<sup>254</sup> Law on criminal procedure, Official Gazette of the Republic of North Macedonia, Nos. 150/2010, 100/2012, 142/2016, 193/2016, 198/2018, Article 53 paragraph 3 line 2

<sup>255</sup> Lazetik & Zdravkova (2020), The rights of the victims of human trafficking during the court proceedings. Available at: <https://rm.coe.int/hf29-research-thb-mkd/16809f035d>

---

a recorded audio and video interview by the prosecutor of a child victim with a mild mental impairment. The child was interviewed only once.<sup>256</sup> In 2020, the court excluded the public from the trial in order to protect the privacy of the child victim.<sup>257</sup> An interpreter is generally provided for foreign victims during criminal proceedings.

### **Shelter**

The shelter for THB victims accommodates female and child victims with the capacity to house six victims, but the Government did not have additional capacity to accommodate victims if the shelter was full, and it lacked longer-term housing options.<sup>258</sup> The NGO-Open Gate La Strada Macedonia manages the shelter with limited funds provided by the Government. The transit centre for foreigners Gazi Baba, which is a detention centre, continued to accommodate most foreign potential THB victims including children. It needs to be underlined that this detention centre is not an appropriate place for the accommodation of the foreign THB victims, as it lacks legal and psychosocial services for the victims.

## 5.4. Recommendations

- Constant transposition of the EU Directives (2004/81/EC, 2008/115/EC, 2011/36/EU, 2011/92/EU, 2012/29/EU) and fulfilment of the recommendations contained in GRETA's reports from the first, second and third rounds of evaluation and especially consistent implementation of the existing legal framework;
- Ratify and implement the 2014 Protocol to the ILO Forced Labour Convention, 1930;
- Adoption of the new Law on Criminal Procedure, drafted in 2018;
- Proper implementation of the Law on Compensation, adopted in 2022 (drafted in 2016);
- Amendments to the labour legislation in order to recognize the practice of labour exploitation in many risk areas as human trafficking rather than recognition only of violation of the provisions of labour laws (in situations when it is required from the person to work without pay, or for pay that is manifestly disproportionate with the work performed, or when his human dignity is violated due to the working conditions);
- Increase proactive identification efforts for trafficking victims and consistently screen for trafficking among individuals in commercial sex, irregular migrants, refugees, and other at-risk populations;
- Conduct more joint inspections by the responsible authorities (Ministry of the Interior, members of the task force, labour inspectorate, mobile teams) in the places which are deemed riskier based on the knowledge and practice of the experts: construction, textile and shoe industry, night clubs (especially those located in the western parts of the country), agriculture, tourism, cleaning and maintenance services, etc.);
- Increase cooperation between state authorities, CSOs, trade unions and private companies in the identification of victims of labour exploitation;
- Increase the capacity of the Labour Inspectorate to carry out proactive investigations to identify and prevent trafficking in identified areas of risk;

---

<sup>256</sup> Case number KOK 92/18 issued verdict on 25.10.2019

<sup>257</sup> Number of the case is KOK 86/19 issued in May 2020

<sup>258</sup> US Department of State(2022) Trafficking persons Report, North Macedonia, available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/north-macedonia/>



- 
- Establishment of special shelters for the accommodation of VoT children and men as well as adequate shelter for foreign victims of human trafficking;
  - The government and CSOs to continue to provide potential and officially recognized victims with protection and assistance, including food, clothing, medical assistance, psycho-social support, legal assistance;
  - Increase the mobile teams responsible for the identification of victims of human trafficking as a successful practice;
  - Providing advanced training for judges, prosecutors and police officers for investigations, prosecutions and convictions for human and child trafficking;
  - Providing continuous trainings for labour inspectors, judges for offenses, border police, health workers, trainings in relation to identification and protection of labour exploitation;
  - To improve access to legal and psycho-social support for foreign victims of human trafficking placed in the Centre for foreigners in Gazi Baba through conducting periodical visits by the representatives of the mobile teams;
  - Adequate application of the provisions for procedural and non-procedural protection of THB victims depending on the circumstances of the case and the danger that threatens the victim and her/his family;
  - To find solutions for providing an interpreter for foreign victims of human trafficking upon need and in a timely manner;
  - Consider women and girls found during inspections in night bars as potential victims of human trafficking and provide them with information, access to interpreters, legal aid, safe accommodation as well as medical and psychological assistance. Ensure that they are not returned/deported immediately to their country of origin.

---

## Chapter 6 – GENDER EQUALITY

### 6.1. Gender-based discrimination

#### 6.1.1. Legal framework

The Constitution of the Republic of North Macedonia<sup>259</sup> is the highest legal act in the country and it guarantees equality in its Preamble. In Article 9 the Constitution provides for the equality of all citizens regardless of sex, race, skin colour, national and social origin, political and religious beliefs, property and social status. However, it does not contain a provision on gender equality, nor does it include the grounds of gender and gender identity.

As one of the key documents on gender equality, North Macedonia has acceded by succession to the United Nations' Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Optional Protocol in 1994. Till now, in accordance with the obligations regarding CEDAW, the country has submitted the sixth periodic report in 2017 to the Committee on the Elimination of Discrimination Against Women (CEDAW Committee). In 2018 the CEDAW Committee published the concluding observations for the realization of *de jure* and *de facto* gender equality, in accordance with the provisions of CEDAW.<sup>260</sup> The recommendations from the last concluding observations highlight the need for the country to take a comprehensive approach to promoting gender equality and addressing gender-based discrimination, encompassing various areas of life including politics, the workplace and violence against women. Some of the key recommendations include: strengthening of institutional mechanisms for gender equality; intensifying efforts to prevent and address gender-based violence, including domestic violence and sexual harassment; promoting women's political participation; promoting women's economic empowerment; and addressing discrimination in the workplace.

More than 10 years after the ratification of the Convention of the Rights of Persons with Disabilities (CRPD) in 2011, the state is slowly moving towards aligning and harmonizing the legislation with the obligations arising from the Convention. Women and girls with disabilities are still one of the most discriminated groups in the society, which is also one of the categories of citizens most vulnerable to violence, harassment and abuse.

The first Law on Equal Opportunities for Women and Men<sup>261</sup> was adopted in 2006 and was replaced with an improved text in 2012. The main purpose of the law was to establish equal opportunities for women and men in all spheres of life, both in the private and in the public sector, and to eliminate obstacles for achieving full gender equality. The law defined equal opportunities for women and men, equal treatment, discrimination on grounds of sex, direct and indirect discrimination, harassment and sexual harassment, full equality of women and men, equal representation, and gender mainstreaming. However, the need to adopt a new law arose from the limited effectiveness of the current one, especially at the local level. According to the 2018 recommendations by the CEDAW Committee, it was necessary to set a timeframe and thematic priorities in relation to the amendments to the law, in accordance with the principles of equality and non-discrimination in all areas covered by CEDAW, in

---

<sup>259</sup> Constitution of the Republic of North Macedonia.

<sup>260</sup> Committee 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](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/MKD/CO/6&Lang=En)

<sup>261</sup> Law on Equal Opportunities for Women and Men, Official Gazette of the Republic of Macedonia, No. 06/2012, 30/2013, 166/2014, 150/2015.

---

cooperation with all relevant factors, including civil society.<sup>262</sup> The recommendations pointed to the need to develop a plan for targeted law enforcement, focusing on women in rural areas, Roma women, migrants, asylum seekers and refugees, women in prostitution, and women with disabilities. At the moment, a completely new text of the law, renamed as the Law on Gender Equality, is in the process of preparation. The working group for drafting of the law was established by the Ministry of Labour and Social Policy in 2020 and the draft text was published and opened for public discussion in late 2022.<sup>263</sup> The process of drafting the new Law on Gender Equality instigated anti-gender rhetoric in the society, problematizing gender as a key concept for gender equality. The anti-gender discourse supported by the religious institutions, conservative political parties, CSOs and informal groups, lead to retrograde policies in certain municipalities which rename documents and substituted the concept of gender equality with equal opportunity of women and men. The misinformation spread by the anti-gender groups resulted in the withdrawal of the amendments of the Law on Civil Registry from the Parliament that aimed to provide quick, transparent and accessible procedures for legal gender recognition.

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.<sup>264</sup> The strategy identified three general objectives to be achieved until 2027: to establish an effective and efficient system for promoting gender equality at the central and local level; improve the position of women in all areas of public and private life and to suppress gender stereotypes; and build a culture of non-violence and non-discrimination on the basis of sex, gender and gender identity. However, no clear and public monitoring over the implementation of the Strategy has been established.

Following the revoked Law on Prevention and Protection from Discrimination in 2019, after many years of public pressure, the new law entered into force in October 2020.<sup>265</sup> The law is rather aligned with the EU standards for equality legislation. The law comprises twenty-two grounds of discrimination, including sex, gender and gender identity and expanded the list of prohibited forms of discrimination, including segregation, presumptive discrimination, discrimination by association and intersectional discrimination. In the law, the definitions of both harassment and sexual harassment are transposed fully, in line with the EU directives.<sup>266</sup> A few years after the implementation of the law, certain shortcomings were determined, for which CSOs working in this area started advocating for additional changes. What is significant is that one of the proposed amendments is related to the introduction of new discriminatory grounds such as pregnancy, maternity and sex characteristics.<sup>267</sup>

In 2013, following a series of gender-regressive activities (such as a public campaign demonizing abortion), in a closed off legislative process, the demo-Christian government of VMRO-DPMNE adopted overnight a new Law on Termination of Pregnancy, a more restrictive one, replacing the old, more progressive, legislation that had been in place since the 1970s. After the change of government in 2017, a new Law on Termination of Pregnancy was adopted in May 2019, which removed some administrative obstacles, such as mandatory counselling and the three-day waiting period after counselling, as well as the submission of certificates by women in cases of rape or unfavourable social status, where women's personal statements are sufficient for the health institution to provide the required health service. The

---

<sup>262</sup> Committee 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](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/MKD/CO/6&Lang=En)

<sup>263</sup> Draft text of the new Law on Gender Equality. Available at:

[https://ener.gov.mk/Default.aspx?item=pub\\_regulation&subitem=view\\_reg\\_detail&itemid=75591](https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=75591)

<sup>264</sup> Ministry of Labour and Social Policy. (2022). *National Strategy for Gender Equality 2022-2027*. Available at:

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

<sup>265</sup> Law on the Prevention of and Protection against Discrimination, Official Gazette of the Republic of North Macedonia, No. 258/2020.

<sup>266</sup> Kotevska, B. (2022). *Country report - gender equality – North Macedonia – 2022*.

<sup>267</sup> Information from interview with representative of the Network for protection against discrimination.

---

law stipulates that termination of pregnancy can be performed until the expiration of the 12th week of gestation with the written consent of the pregnant woman, while the formation of the First Instance Commission has been moved from the 12<sup>th</sup> to the 22<sup>nd</sup> week of gestation. If the pregnant woman was a minor or has been deprived of legal capacity, the termination of the pregnancy can be done with the written consent of the parent, i.e. the guardian of the pregnant woman. The law also introduced medical abortion as an alternative way to terminate a pregnancy up to the ninth week of gestation, but its availability is still limited to the University Clinic for Gynaecology and Obstetrics in the capital of North Macedonia.

Another important law that had not yet entered the parliamentary procedure - although the working group and the drafting started in 2018 - is the new Law on Labour Relations. This law should introduce important concepts, such as compulsory paternity leave, equal pay, etc. in line with the CEDAW recommendations and the conventions of the International Labour Organization (ILO). Additionally, what is still lacking in the labour sector are data on incidents of sexual harassment in the workplace and a system to investigate such cases, as the new Law on Prevention and Protection from Harassment at Work is still not adopted, although the working group has already been established. The country is yet to harmonize the labour legislation with international standards, such as EU directives and the ILO Convention 190, which is in the process of ratification.<sup>268</sup>

### 6.1.2. Vulnerable women

One of the most vulnerable categories of women in North Macedonia are **Roma women**. Roma women have lower rates of utilization of health services compared to the general population, and often face discrimination and stigmatization when seeking care. Discrimination can take various forms, including denial of care, rude or disrespectful treatment, and segregation or isolation within health facilities. Some of the challenges Roma women are facing in accessing health care include: limited access to health insurance due to persisting systemic obstacles, such as lack of access to IDs and burdening administrative procedure; language barriers and lack of education, which can make it difficult to communicate with health care providers and understand health information, as well as imposing difficulties for them to navigate the health care system; cultural barriers, including taboos around discussing reproductive health or seeking care from male health care providers; and financial barriers, as many Roma women live in poverty, which forces them to travel to access health services.

After using all national legal remedies, on May 25<sup>th</sup> 2019, the Initiative of Women from Shuto Orizari, with support of the Association for Health Education and Research – HERA and the Helsinki Committee for Human Rights, submitted a complaint to the CEDAW Committee, claiming discrimination against two Roma women, who were denied their healthcare rights by being restricted in accessing gynaecological services after the national courts rejected their claims. On December 2<sup>nd</sup> 2020, the CEDAW Committee ruled in favour of the Roma women's application, finding a violation of the right to equal treatment and discrimination against the two women who were denied gynaecological services.<sup>269</sup> The CEDAW Committee recognized the injustice and issued a series of recommendations to the state, including the need for structural changes and eradication of harmful practices in Roma women's access to gynaecological services. This decision is the first of its kind against North Macedonia, which is of particular importance because it demonstrates a clear recognition of the intersectional discrimination against Roma women and the need of available healthcare related to their sexual and reproductive health. The Committee also pointed to the lack of specific measures assumed by the state,

---

<sup>268</sup> Draft Law on the ratification of the Convention on the Elimination of Violence and Harassment at Work, 2019 (C 190). Available at: <https://www.sobranie.mk/detali-na-materijal.nsp?param=0b06bb23-3d4f-4c99-a8cd-e5d269c94d9e>

<sup>269</sup> Committee on the Elimination of Discrimination against Women. (2020). *Views adopted by the Committee under article 7 (3) of the Optional Protocol, concerning communication No. 143/2019*.

---

the need to raise awareness of judges about discrimination, as well as to legal aspects of the burden of proof. The Committee found violations of the rights of the two Roma women, guaranteed pursuant to articles 1, 2 and 12 under CEDAW, involving the violation of rights and discrimination in access to sexual and reproductive health services. Specifically, the Committee found that the state failed to secure: a) on-field realization of the principle of non-discrimination in access to reproductive health services, b) effective protection against discrimination against women within the judiciary system, and c) adequate measures to eliminate discrimination against these women committed by the other involved party, i.e. the private gynaecological practice. Part of the Committee recommendations to the member state include ensuring adequate reparations to the damaged parties, including by admitting material and moral damages they had suffered as consequence of their inadequate access to sexual and reproductive health services, particularly to regular gynaecological services. Additionally, the Initiative of Women from Shuto Orizari, with support from HERA and the Helsinki Committee for Human Rights, submitted a request to reinstate the court proceeding at the national level, which was later denied by the court.

Although employment rates show slow and unstable growth, the **gender gap in employment** is constantly high. Data shows that 51.9% of the inactive female population (aged 15 to 64) does not seek employment due to family obligations, i.e. taking care of the family, while 55% of them are registered as "housewives" - a category that persistently includes women.<sup>270</sup> Women in North Macedonia perform 72% of unpaid domestic and care work, which further confirmed the unequal distribution of unpaid labour that hinders equal access to paid jobs for women.<sup>271</sup> Furthermore, women in the labour market are usually more exposed to violations of their workers' rights, as they constitute the majority of the labour force in industries that have the lowest paying jobs in the country, such as the textile, garment and leather industry. Women working in the textile industry were also among the most affected by the health crisis caused by the pandemic of COVID-19, as a large part of the employers did not respect the measures and recommendations adopted by the Government and the Ministry of Health for the prevention of and protection against the virus.<sup>272</sup>

The gap in employment rates is even greater among **rural women** and men, implying multifaceted barriers for some women and potentially intersectional discrimination. Furthermore, only a very small number of women from rural areas are property owners (around 4%) and they are more likely to be involved in informal work. Additionally, one of the most significant problems faced by female farmers is deprivation of the right to paid parental leave and sick leave. In 2023, the Government adopted the Programme for support of social security of women engaged in agricultural activity for 2023,<sup>273</sup> which for the first time included the right to use maternity benefits for female farmers. Still, this programme solution is only temporary, as it is provided only for 2023, and therefore needs to be addressed with appropriate changes of the Law on Health Insurance. Furthermore, in March, 2023, the Commission for Prevention and Protection against Discrimination determined indirect, prolonged, intersectional discrimination on the basis of sex, gender, personal status and belonging to a marginalized group in exercising the right to compensation for absence from work due to pregnancy, birth and motherhood committed by the Ministry of Health through the Law on Health Insurance for the Individual farmers - insured in terms of the Law on Health Insurance.<sup>274</sup>

---

<sup>270</sup> Ministry of Labour and Social Policy. (2022). *Annual report on the activities undertaken and the progress achieved in establishing equal opportunities for women and men in the Republic of North Macedonia in 2021*. Available at: <https://www.mtsp.gov.mk/content/pdf/ednakvi%20moznosti/>

<sup>271</sup> Leshoska, V. et.al. (2022). *Gender-based Discrimination and Labour in North Macedonia*. REAKTOR.

<sup>272</sup> Helsinki Committee for Human Rights Skopje. (2021). *Annual report on human rights in the Republic of North Macedonia 2020*. Available at: <https://mhc.org.mk/wp-content/uploads/2021/08/izvestaj-mkd.pdf>

<sup>273</sup> Program for support of social security of women engaged in agricultural activity for 2023, Official Gazette, no. 31 from 10.2.2023. Available at: <https://www.mtsp.gov.mk/content/pdf/2023/programa%20majcinstvo.pdf>

<sup>274</sup> Commission for Prevention and Protection against Discrimination. Available at: <https://kszd.mk/wp-content/uploads/2023/03/08>

---

**Women in prison** can serve their sentence in only one penitentiary institution in the country - the Prison Idrizovo in Skopje. According to the 2021 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) the prison in Skopje was designed for male prisoners to be managed by male staff and that there were no specific rules and regulations to address the particular needs of women prisoners.<sup>275</sup> Women hardly have any conditions for sports and vocational activities, due to the fact that they have only one small yard (for spending their free time at their disposal), which is equipped with benches and chairs. Imprisoned women face a series of challenges to make contact with the outside world because the telephone speakers do not work, and most recently the tablet in the institution does not work either. In addition to this, imprisoned women who live further from the city of Skopje do not have the opportunity to be accommodated in an institution closer to their place of residence, so their family members are forced to travel much longer, unlike men who, depending on the sentence they have committed, can be placed in an institution that is close to their place of residence.<sup>276</sup>

Until some time ago, gynaecological services in Idrizovo were implemented through a project supported by the civil society organization HERA. Currently, the Ministry of Health has undertaken that obligation. Considering that access to health care is the most pressing problem in the prison system, the risk for female convicts not to have adequate access to gynaecological services is high.

Girls who serve educational correctional terms are also housed in the Prison Idrizovo. They are only a few metres away from the adult convicts, which is why they often come into contact with them. The conditions in which the girls undergo the educational correctional terms do not even come close to meeting the standards.<sup>277</sup> They do not have any conditions for sports and vocational activities, they do not have enough group and individual activities, educational process, nor adequate material conditions. Girls spend their free time - only for two hours - in the yard of the institution. In addition, only one social worker works with convicts, and has the obligation to work with adult convicts as well. In contrast, the wards in the Correctional facility – Tetovo, where boys are housed, have neat, equipped rooms, toilets, classrooms, gym, outdoor playgrounds, canteen, workshops and many other alternatives with which they fill their free time in creative ways. Currently, there are no girls in Idrizovo because their measures have expired, but the systemic problem has not yet been solved because there is still no institution for them.

On March 17th, 2022, the Commission for Prevention and Protection from Discrimination made a decision to initiate ex officio proceedings due to existing evidence of discrimination based on sex, gender and discrimination in the access to education based on personal status.

Although North Macedonia has made certain progress in increasing **women's participation in politics**, women still face barriers to their full and equal participation in decision-making. The principle of equitable representation is still implemented without a gender perspective in mind. Women are underrepresented in key positions and/or members of the national human rights institutions, such as the Ombudsperson and the Commission for Prevention and Protection against Discrimination.

The current government is composed of the Prime Minister, four Deputy Prime Ministers and 16 ministers, a total of 21 persons, of which four (20%) are women (none from the ethnic minorities), while in the Parliament, the number of women MPs is 51 out of 120 (42%), thanks to the mandatory 40% quota.

---

<sup>275</sup> Council of Europe. (2021). *Report to the authorities of North Macedonia on the visit to North Macedonia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 10 December 2019*. Available at: <https://rm.coe.int/1680a26b8f>

<sup>276</sup> Report from the visit of the Helsinki Committee for Human Rights in the Correctional facility for women at the Prison Idrizovo in March 2022.

<sup>277</sup> Report from the visit of the Helsinki Committee for Human Rights in the Correctional facility for women at the Prison Idrizovo in March 2022.

---

The local elections that were held in 2021 showed regress in women's political participation, and revealed that whenever there are no gender quotas no women are present either. Among a total of 299 mayoral candidates, only 8% were women, and 92% were men. The election outcome was 79 men mayors and only 2 (2.5%) women mayors elected, which is almost equal to the results of local elections two decades ago. These low results occur despite the fact that women comprise approximately 45% of all councillor candidates and head 19% (111) of candidate lists, with men heading 81% of all lists.

A study on the local elections in 2021 showed that the limited number of women candidates is the reason for the lower representation of women in politics, not the lack of voter support.<sup>278</sup> The data from the State Election Commission show a strong (almost linear) correlation between the number of candidates and the number of women elected, which were confirmed on the local elections in 2021. This clearly locates the obstacle for women's political participation in the political parties.

Women are often very active in political parties during election campaigns, but are deprived of the nomination and mandate-sharing. True power lies in the hands of the leaders of political parties and their closest associates who are predominantly men. When it comes to the election of mayors, the role of political parties is essential, and the way in which political parties nominate candidates for seats where they have a greater or lesser chance of winning plays a significant role in the limited success of selecting more women than the available candidates. Almost all parties nominated women for those municipalities where their chances of victory were insignificant according to previous experiences and political context. The government's commitment for 50/50 representation of women remains only declarative.

Another important reason for the low participation of women is the insufficient protection of women in politics. Political parties lack fundamental protections for women members, activists, and political representatives. Party statutes or codes of conduct are silent on any form of gender-based violence. In North Macedonia; 65% of women politicians have faced a form of violence while conducting their party duties.<sup>279</sup>

Following the decision of the European Court of Human Rights (ECHR) *X v. FYROM* where the court ruled that North Macedonia violated the right to private life of the applicant due to the lack of law that provide clear, transparent, and accessible procedures for **legal gender recognition**, in September 2020, certain progress was made regarding the implementation of the ECHR judgment, and the Civil Registry Office changed the gender marker of the *Person X*. As a result, the practice has improved and 14 more people managed to change their gender marker, while other cases are pending. Nevertheless, the complete implementation of the ECHR judgment includes the adoption of a legal framework that will guarantee fast, transparent, and accessible legal gender recognition procedures based on self-determination. The Ministry of Justice established a task force with representatives from CSOs and other relevant institutions, and it was working for two years on drafting the amendments of the Law on Civil Registry, including regulation of the legal gender recognition procedure. However, one day before opening a debate on the proposal, which was already in the Parliament for several months the Government withdrew the law without any public consultation. MPs from various (conservative) parliamentary groups managed to disseminate disinformation about the law, spreading homophobic and transphobic speech by stating that the law's hidden agenda was to legalize same-sex marriage, and therefore managed to pressure the Government to revoke the law. This was a direct result of ongoing advocacy activities by several anti-gender groups, that became more visible in 2020 with the opening of public discussions on the new Concept for Primary Education. Using terms such as "gender ideology" and "gender indoctrination", as a point of mobilization in the Macedonian context, these groups

---

<sup>278</sup> Petkovska, N. (2021). *Lokalni izbori 2021*. REAKTOR. Available at: <https://reactor.org.mk/en/publication-all/local-elections-2021-review-of-candidate-lists-for-mayors-and-selected-representatives-from-gender-aspect/>

<sup>279</sup> National Democratic Institute. (2021). *North Macedonia Violence Against Women in Politics Assessment*.

---

advocated against the introduction of gender-sensitive education and sexuality education, and other reforms regarding several laws and policies advocated by women's and LGBTIQ organizations.<sup>280</sup>

In June 2022 the Ministry of Justice established a task force for drafting a new Law on Civil Registry, and only after intensive advocacy have the representatives from CSOs working on LGBTIQ+ rights been invited to the group.

## 6.2. Gender- based violence

### 6.2.1. Legal framework

In the last five years North Macedonia has taken some important steps to address gender-based violence, mainly through development and harmonization of the national legislation with international standards.

The Council of Europe's **Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)**, which is a comprehensive international treaty on preventing and combating violence against women and domestic violence, and which provides a framework for states to develop and implement measures to address gender-based violence, was ratified on December 22<sup>nd</sup>, 2017, and entered into force July 1<sup>st</sup>, 2018. That same year, the Government adopted a decision on establishing a national coordinating body to combat domestic violence within the framework of the Ministry of Labour and Social Policy. The adoption of the Istanbul Convention initiated several processes, mainly regarding harmonization with the national legislation, which included the drafting and adoption of completely new laws and bylaws.

On October 9<sup>th</sup>, 2018 the Government adopted the **National Action Plan (NAP) for implementation of the Convention on preventing and combating violence against women and domestic violence 2018-2023**.<sup>281</sup> The NAP generally covers all forms of gender-based violence and defines three main objectives: harmonization of the national law with the Istanbul Convention; creating general and specialized services for the protection of victims; and activities for the prevention of gender-based violence. However, most of the activities from the NAP have not started nor been fulfilled. The findings from the monitoring of the NAP implementation show that some institutions have not prepared annual operation plans and are not transparent enough in the implementation of activities: the operational plans do not have a specific budget for the implementation of activities, and the implementation of preventive activities is very poor or non-existent.<sup>282</sup>

The new **Law on Prevention and Protection from Violence against Women and Domestic Violence**<sup>283</sup> came into force on May 6<sup>th</sup>, 2021, as a comprehensive law against gender-based violence, aligned with the provisions of the Istanbul Convention. The law expanded the system for the prevention and protection of all forms of gender-based and domestic violence, including physical violence, psychological violence, stalking, economic violence, sexual violence and rape, sexual harassment, sexual harassment online, forced marriage, female genital mutilation, forced abortion and forced sterilization.

---

<sup>280</sup> Cvetkovik, I. and Velickovska, M. (2022). *Koj se plasi od rodot?* Coalition MARGINS. Available at: [http://coalition.org.mk/wp-content/uploads/2022/10/koj-se-plashi-od-rodot\\_-interactive.pdf](http://coalition.org.mk/wp-content/uploads/2022/10/koj-se-plashi-od-rodot_-interactive.pdf)

<sup>281</sup> Ministry of Labour and Social Policy. (2018). Action Plan for implementation of the Convention on preventing and combating violence against women and domestic violence 2018 – 2023. Available at: [https://mtsp.gov.mk/pocetna-ns\\_article-nacionalniot-plan-za-sproveduvanje-na-konvencijata-za-sprecuvanje-i-borba-protiv-nasilstvoto-vrz-zen.nspix](https://mtsp.gov.mk/pocetna-ns_article-nacionalniot-plan-za-sproveduvanje-na-konvencijata-za-sprecuvanje-i-borba-protiv-nasilstvoto-vrz-zen.nspix)

<sup>282</sup> National network to end violence against women and domestic violence. (2020). *Report on the progress of the Republic of North Macedonia in implementation of the National Action Plan for implementation of the Istanbul Convention – October 2018 – October 2020*. Available at: <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2021/02/NAP-finalen.pdf>

<sup>283</sup> Law on Prevention of and Protection against Violence against Women and Domestic Violence, Official Gazette, No. 24/2021.



---

The law, for the first time, introduced the principle of action with *due diligence* to the interests and needs of the victim by the institutions in taking measures for the prevention and protection against gender-based violence. Additionally, with this law, the victim has the right to file a lawsuit before a civil court to determine the responsibility of the institutions to act with due diligence, while the costs for the proceeding are not borne by the victim. The law also introduces other novelties, such as multisector coordination of institutions, prohibition of victimization, collection of statistics on gender-based violence against women and domestic violence, as well as the reintegration of victims.

However, the adoption of the new Law on Prevention and Protection from Violence against Women and Domestic Violence was not followed by criminalization of the new forms of gender-based violence. This legal gap left many victims of gender-based violence unprotected; moreover the public officials from the police, as well as the centres for social work, did not implement the provisions of the new law in practice. Two years after the adoption of the law, the amendments of the **Criminal Code**, that were in the Parliament for a very long time, were finally passed in February, 2023.<sup>284</sup> This included the introduction of new criminal acts, but also changes to the existing ones. With the amendments, gender-based violence is recognized and defined, as well as a qualifying form of the crime *murder*, which contributes to the recognition of femicides as the most severe form of gender-based violence. The definition of domestic violence is supplemented by psychological and economic violence. Sexual harassment and stalking are introduced as new crimes, which also includes the use of electronic means of communication. Also, the act of rape is changed entirely, as sexual assault and rape, where the lack of clearly expressed will assessed in the context of the circumstances of the case is a key feature, and the use of force or threat is a qualifying form, according to international standards. The provision on rape still does not recognize the aggravating act committed in the context of domestic violence, which needs to be addressed in future. There is a need for further improvement of the text, which is expected with the adoption of the new Criminal Code, which is in process. It should be noted that the working group that was working on the amendments, but was also developing the new text of the Criminal Code, is very closed and has only a very limited number of CSO representatives as members, and lacks gender expertise.

Four years after entering into force, in April 2022 the country submitted its report for the implementation of the Istanbul Convention to the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO).<sup>285</sup> At the same time, the Platform for Gender Equality, which is an informal platform of 28 civil society organizations who work in the field of gender equality in North Macedonia, have submitted a joint shadow report on the implementation of the Istanbul Convention.<sup>286</sup> In order to assess the situation on the ground, GREVIO conducted evaluation visits in North Macedonia during September, 2022. In May 2023 GREVIO adopted the baseline report for North Macedonia and shared it with the Government.

The efforts to harmonize the national legislation with the international standards, especially the Istanbul Convention, demonstrate commitment to preventing and combating gender-based violence and protecting the rights of women and girls. However, effective implementation and enforcement of the legal framework still remains a challenge.

With the adoption of the new **Law on Free Legal Aid**<sup>287</sup> in 2019 victims of domestic violence were introduced as a special category of beneficiaries of free legal aid. The new law guarantees access to

---

<sup>284</sup> Law on Amendments and Additions to the Criminal Code, Official Gazette of Republic of North Macedonia, No. 36/23.

<sup>285</sup> Report 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>

<sup>286</sup> Gender Equality Platform. (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>

<sup>287</sup> Law on Free Legal Aid, Official Gazette of the Republic of North Macedonia No. 101/2019.

---

legal aid and representation for victims of violence, irrespective of their income, ethnic background or social status. The provision of free legal aid mostly refers to victims of domestic violence as women victims of other forms of gender-based violence are not specifically defined as beneficiaries.

As an important international framework that aims to promote the participation of women in conflict prevention, peacekeeping, and peacebuilding efforts, and to protect women and girls from gender-based violence during and after armed conflicts, North Macedonia has taken several steps to harmonize its national legislation with the United Nations Security Council Resolution 1325 on Women, Peace and Security. The country has developed a **National Action Plan (NAP) for the implementation of Resolution 1325**. The NAP outlines specific measures and actions to be taken by various government institutions and civil society organizations to promote the participation of women in peace and security efforts and to address gender-based violence in conflict and post-conflict situations.

## 6.2.2. Reporting and institutional response

One of the longstanding problems regarding gender-based violence in the country in general is underreporting by the victims. A recent study shows that only 2% of women who have experienced violence at the hands of their current partner reported what they considered their most serious incident to the police.<sup>288</sup> Violence against women is perceived as a fairly prevalent phenomenon in the country, as 60% of women in the country think that violence against women is common.<sup>289</sup> The perception of gender-based violence as a private matter and its normalization contributes to violence not being reported.

Data on femicides shows that in more than 80% of the cases, none of the murdered women reported to the relevant institutions the violence they experienced, although it existed and was later confirmed in the procedure by close relatives and/or friends of the victims, with most of the murdered women being exposed to more than one form of gender-based violence, and some of them had received death threats.<sup>290</sup>

However, one of the main factors contributing to the low rate of reporting is the inefficiency of the relevant institutions to act in cases of gender-based violence, reinforced by the double victimization, which discourages many women to report.

According to data from the study on the legal obligation for institutions to act upon an anonymous report or report by a third side, police officers do not act on these reports of violence, with the ungrounded reasoning that they do not have enough data or a legal basis for domestic violence investigators to go to the field.<sup>291</sup> In this way, they complicate the reporting procedure and usually discourage people who want to report a case.

Another factor that is contributing to the low rate of reporting is the inadequate way of qualifying cases of gender-based violence by the police, which are often treated as violations against public order and peace instead of as crimes.

Although it has been recognized with the 2021 law, most of the relevant institutions still do not recognize gender-based violence as a form of violence, but only domestic violence. This is evident from

---

<sup>288</sup> OSCE. (2019). *Survey on violence against women: Main report. Well-being and safety of women for North Macedonia*. Available at: <https://www.osce.org/secretariat/419264?download=true>.

<sup>289</sup> Ibid.

<sup>290</sup> National Network to End Violence against Women and Domestic Violence. (2021). *Analysis of Cases of Femicides Murders of Women in the Republic of North Macedonia 2017-2020*. UNDP. Available at: [https://glasprotivnasilstvo.org.mk/wp-content/uploads/2021/12/Femicid\\_14\\_MK.pdf](https://glasprotivnasilstvo.org.mk/wp-content/uploads/2021/12/Femicid_14_MK.pdf)

<sup>291</sup> Helsinki Committee for Human Rights. (2022). *Who can(not) report violence? Public Policy Document*. Available at: <https://mhc.org.mk/wp-content/uploads/2022/07/koj-nemozhe-da-prijavi-nasilstvo-mkd-finalna.pdf>

the reports of CSOs that work with cases of gender-based violence, mainly in providing free legal aid and/or monitoring of court cases of gender-based violence.<sup>292</sup>

The Centres for Social Work use only risk assessment questionnaires for victims of domestic violence, and victims of gender-based violence cannot be accommodated in the existing shelters for victims of domestic violence. Also, the Centres for Social Work do not do a proper risk assessment and do not create a security plan, nor are there individual plans for work with each victim.<sup>293</sup> Another weakness in the response to gender-based violence is the slow process of submission of proposals for temporary measures of protection to the civil court, which is an important step in the proper implementation of the law and the responsibility of the Centres for Social Work.<sup>294</sup>

Reporting and protection is even more challenging for women who are more vulnerable in the society. Recent research on gender-based violence and women with disabilities shows that, as one of the most vulnerable groups, women and girls with disabilities do not trust the institutions and rarely report violence.<sup>295</sup> Women who have reported have stated that it is not perceived as serious due to stereotypes and prejudices, as it is thought that the person cannot recognize what violence is, and even in cases when the police intervene, the cases were later not resolved and the violence continued with the same intensity or worse, for several days.<sup>296</sup>

The level of coordination among institutions involved in the system of protection is very low. Victims of gender-based violence report the difficulties they face in communication with institutions, finding them inadequate and harmful. There is also an evident lack of coordination between the Centres for Social Work, police, courts and health institutions.<sup>297</sup>

A significant obstacle to encouraging victims to report violence is the inefficiency of court proceedings. The monitoring of the court procedures indicates that this form of crime is generally undeclared and undetected and has a large dark number; meaning that a small number of criminal proceedings are conducted for these crimes.<sup>298</sup> Additionally, the treatment of the perpetrators of these crimes, after the completion of the criminal proceedings and the serving of their sentence, as well as the mild penal policy of the Macedonian courts, is a significant inhibiting factor for victims of domestic violence in reporting these crimes to the authorities.<sup>299</sup>

In addition, the penal policy practiced by the courts for this type of violence falls largely short of contributing to the reduction and elimination of the severe forms of violence and of leading to ensuring protection against this type of violence, as the sanctions for the perpetrators are not proportional to the severity and circumstances under which the act has occurred.<sup>300</sup>

---

<sup>292</sup> Vasileski, Z. and Kareva, T. (2022). *Access to Justice – Analysis of free legal aid provided by the Helsinki Committee for Human Rights*. Available at: <https://mhc.org.mk/wp-content/uploads/2022/11/pristap-do-pravda.pdf>

<sup>293</sup> National Network to End Violence against Women and Domestic Violence. (2021). *Basic study on the satisfaction of women victims of violence as beneficiaries of the services from the Centers for Social Work*. Available at: <https://glasprotivnasilstvo.org.mk/wp-content/uploads/2021/12/Bazichna-studija-za-zadovolstvoto-na-zheni-zhrtvi-na-nasilstvo-kako-korisnichki-na-uslugi-na-TSentrite-za-sotsijalna-rabota-1.pdf>

<sup>294</sup> Dacic Kostic, N. et al. (2022). *Women's Rights in the Western Balkans*. Kvinna till Kvinna Foundation. Available at:

<sup>295</sup> Kocoska, E. and Dimitrovska, N. (2022). *Preventing gender-based violence against women and girls with disabilities - Investigative report*. OSCE Mission to Skopje. Available at: [https://www.osce.org/files/f/documents/5/d/513253\\_0.pdf](https://www.osce.org/files/f/documents/5/d/513253_0.pdf)

<sup>296</sup> Ibid.

<sup>297</sup> ESE, Coalition MARGINS, Open Gate and EJI. (2022). *Shadow report on the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in the Republic of North Macedonia*. Available at: <http://esem.org.mk/pdf/Publikacii/2022/1/CSO%20shadow%20REPORT%20ON%20MACEDONIA.pdf>

<sup>298</sup> Coalition All for Fair Trials. (2019). *Data Analysis from the Monitoring of Court Procedures in Domestic Violence Cases in 2019*. Available at <https://all4fairtrials.org.mk/wp-content/uploads/2019/12/OSCE-2019-SN-MKD-ENG-ALB.pdf>.

<sup>299</sup> Ibid.

<sup>300</sup> Mihov, S. (2019). *Is domestic violence sanctioned? Do perpetrators of domestic violence receive the sanction deserved?* ESE. Available at: <http://www.esem.org.mk/en/pdf/Publikacii/2019/Is%20domestic%20violence%20sanctioned.pdf>

---

### 6.2.3. Services for victims of gender-based violence and domestic violence

Support services for women victims of violence are provided by public institutions and civil society organizations, such as social assistance, housing, employment, legal aid, psychological support, and health services. Additionally, there are various specialist support services that are provided in shelter and crisis centres.

There are 10 shelters and three crisis centres, of which five are run by CSOs and the rest by the Ministry of Labour and Social Policy. There are 8 centres where victims can obtain counselling and advice, of which one is funded by the Ministry. The main issue is the geographical distribution of the shelter centres and the provision of other services (such as free legal aid and psychosocial support) as most of the shelters are located in a few, larger cities and are thus out of reach for women from remote areas. While officially the service providers are not understaffed, there seems to be a lack of trained professionals available to provide support 24/7. They operate a capacity of less than less than 20% of the capacity required according to the guidelines for the Istanbul Convention and they lack an intersectional approach, in design and access to services.<sup>301</sup>

One of the main concerns is the inaccessibility of services for victims of gender-based violence, especially for women from marginalized groups. Most services, including shelters, are not accessible for women and girls with disabilities.<sup>302</sup> There is only one shelter in the country for LGBTIQ+ victims of gender-based violence in Skopje, which is run by a CSO.

There are three national SOS helplines, run by CSOs that should provide support 24/7. However, this is not the case, because only one of the SOS lines is partially funded by the Ministry of Labour and Social Policy, and the other two are project funded, which imposes difficulties in securing sustainability and engaging trained professionals.<sup>303</sup> The helplines remain largely inaccessible for women that do not speak the majority (Macedonian) language, and only one helpline provides limited support in the Albanian language.<sup>304</sup>

By 2018, three Referral centres for victims of sexual violence were established in the Gynaecological clinics in Skopje, Tetovo, and Kumanovo and are run by the Ministry of Health. According to a recent study, the referral centres do not have the necessary conditions nor financial and human resources, and do not act fully in accordance with the standard operating procedure (SOP) for providing a comprehensive multi-sectoral response, therefore victims of sexual violence do not get the necessary protection in these centres.<sup>305</sup>

---

<sup>301</sup> Gender Equality Platform. (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>

<sup>302</sup> Dimitrovska, N. and Kocoska, E. (2022). *Research report - Prevention of gender based violence against women with disabilities*. OSCE Mission in Skopje. Available at: [https://www.osce.org/files/f/documents/5/d/513253\\_0.pdf](https://www.osce.org/files/f/documents/5/d/513253_0.pdf)

<sup>303</sup> Gender Equality Platform. (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>

<sup>304</sup> Ibid.

<sup>305</sup> Djugumanova, I. (2022). *Efficiency of the functioning of the Referral centers for victims of sexual violence*. National Network to End Violence against Women and Domestic Violence. Available at: <https://glasprotivnasilstvo.org.mk/wp-content/uploads/2022/11/Analiza-za-upatuvane-na-zhrtvite.pdf>

---

## 6.2.4. Recommendations

- Regularly publishing and updating information on the implementation of the strategic documents in the area;
- Implementation of the recommendations by the CEDAW Committee, including measures for the elimination of discrimination against all vulnerable categories of women in the society;
- Adoption of the new Law on Gender Equality;
- Adoption of the new Law on Labour and Law on Prevention and Protection from Harassment at Work;
- Adopt the amendments of the Law on Prevention and Protection from Discrimination to improve the protection against discrimination and to Introduce new discriminatory grounds (pregnancy, maternity and sex characteristics);
- Provide systemic solutions for female farmers to gain the right to paid maternity and sick leave through appropriate changes of the Law on Health Insurance;
- Develop a gender specific approach towards female remand prisoners at Skopje Prison and, where appropriate, in other prisons, as well as to provide suitable conditions for girls who are serving an educational correctional measure;
- Revision of the Electoral Code to support balanced representation of women and men candidates for mayors;
- Implementation of the ECHR judgment by adopting the amendments of the Law on Civil Registry;
- Revision of the National Action Plan for implementation of the Istanbul Convention 2018-2023, with allocation of appropriate financial resources for its implementation;
- Adoption and harmonization of all necessary laws and bylaws with the Law on prevention and protection from violence against women and domestic violence and the Istanbul Convention;
- Establishment of specialized services in accordance with the standards of the Istanbul Convention;
- Relevant institutions to provide safe access to protection and justice for victims at all levels, including reporting and institutional response to violence, through adequate implementation and conduct of the laws in this area;
- Appropriate sanctioning of the perpetrators of gender-based violence, strengthening the efficiency of the judiciary and respecting the urgency of procedures for protection from gender-based violence by the courts;
- Continuous capacity building of the representatives of all relevant institutions for proper recognition, qualification and response to all forms of gender-based violence, according to the Law on Prevention and Protection of Violence against Women and Domestic Violence and the Criminal Code.

