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# PRIORITY PROBLEMS CONCERNING THE RESPECT FOR HUMAN RIGHTS IN THE REPUBLIC OF NORTH MACEDONIA

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2020



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CONCERNING THE RESPECT  
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THE REPUBLIC OF NORTH  
MACEDONIA**

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# FOREWORD

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This Report has been made for the “Do We Resemble EU? - Film Documenting of Human Rights Monitoring & Protection in North Macedonia” project.

**The general objective of the “Do We Resemble EU? - Film Documenting of Human Rights Monitoring & Protection in North Macedonia” project** is raising the awareness of the general public about the existing obstacles in respecting, protection and monitoring of human rights in the country by producing short documentaries and animated videos.

Activities of the project are directed towards the development of mechanisms for monitoring the human rights and improving the protection in exercising the fundamental rights and freedoms, and revealing what the institutions should do in order to operate by the EU principles.

The Report has been made as a result of the Activity 1.1 Specifying the priority issues with the human rights in the Republic of North Macedonia. The objective of the Report is, by specifying the priority areas, to give an overview of where there is a need for reform and where our country lags behind the EU Member States with respect to exercising and protecting human rights. It presents the existing situation (focusing on the specified priority areas), gives an overview of the way in which the human rights are respected and protected in the specified areas in the country, what legislation, what bodies and institutions are responsible, and where the citizens may complain about any disrespect of their rights or seek protection, what kind of procedures they can expect if they are to receive an adequate reply, or response from competent institutions, if needed.

The Report raises questions that will get answers in the subsequent phase of the Project through the recorded documentaries as part of the project activities.

At the same time, it points to examples of EU Member States that have achieved the best results in the specified priority areas for the Republic of North Macedonia. Which Member States can the country learn and collect experience from in order to improve the condition with the human rights on different levels, which best practices can we use in order to improve our reality and thus to start implementing the EU policies from paper in reality?

Here, we specify the following priority areas and present an account thereof in different chapters.

- » **Rights of persons with disabilities** – Do persons with disabilities enjoy all the freedoms and rights in our country? What is guaranteed by the Constitution, legislation, and international agreements? What does the country undertake, and what should it undertake? Do persons with disabilities enjoy equal opportunities? Does the country comply with the international agreements it has ratified and undertook to respect and implement? What is the situation in the European Union Member States and how much do we look like the EU?
- » **Rights of the child** – Are the children’s rights respected in our country? Is enough attention paid to their maximum protection? Their inclusion in processes that really require for their opinion to also be heard, such as education, for example? Are the state mechanisms for protection of the children’s rights functioning?

- » **Workers' rights** – Are the workers' rights respected in our country? Are the legal provisions relating to the workers' rights designed in such a way as to be easily manipulated and abused at the expense of workers?
- » **Right to a healthy environment** – A bad situation in almost all aspects of the environment is ever more frequently mentioned as a problem that needs to be resolved before the countries of the Western Balkans can join the European Union. This chapter presents how the right to a healthy environment is exercised and protected in the Republic of North Macedonia.
- » **Gender equality** – Are the vocal commitments to gender equality factual or only declarative? What has our country achieved in the field of gender equality? Do men and women have the same salary for the same working position, is a sufficient number of women appointed to managerial positions, and what is the situation in the private and the public sectors respectively?
- » **Judiciary** – Is the judiciary independent? What is the reason that in spite of a large number of reports, trainings and grants, citizens' distrust of the judiciary is continuously growing? What is needed to place the judiciary system on a stable ground and thus make it immune to political and other harmful influences that destroy it and make it extremely inefficient and biased? The judiciary is the third power in the country, in addition to the legislative and executive powers, and is granted full autonomy and independence by the Constitution. Can the courts really provide efficient protection of the rights to ordinary citizens within reasonable time and in accordance with the rule of law principle?
- » **Right to fair trial** – Pursuant to the Constitution of the Republic of North Macedonia, the citizens of the country are guaranteed the fundamental freedoms and rights. Each citizen may invoke the protection of the freedoms and rights stipulated by the Constitution before the tribunals and the Constitutional Court of the Republic of North Macedonia, in a procedure based on the principles of priority and urgency. Everyone shall be entitled to equal access to the courts with regard to the protection of his/her rights and legal interests. When citizens' rights and obligations as well as any criminal liability are decided on, everyone shall be entitled to fair and public trial before an independent and impartial court established by law within a reasonable time. No one may be denied access before the courts in protecting his/her fundamental rights and liberties due to the lack of material resources.
- » **Public administration** – The capacity and functioning of the public administration is one of the key problems in the Republic of North Macedonia, which affects the quality of life of citizens and the efforts of the country to meet the standards for accession to the European Union. These problems are recorded in almost every report on the progress of the country towards the EU. The Union defines the right to good administration as a fundamental right of its citizens. What is the situation with us?
- » **Health and access to health care services** – One of the most criticised sectors in our country is – the health sector. Due to the problems it relates to, the insufficient health care staff in the state health care institutions, the level of salaries, the obsolescence of facilities and the poor equipment, and the chaotic organisation of work, this sector is one of the biggest risk factors for the occurrence and development of corruption. It has minimum reputation of the citizens and their great distrust. Can citizens get high quality and timely health care which they pay for and are entitled to? Why do the citizens, at least those who can afford it, bypass the public health care (although they pay contributions for it) and turn to private health services? Does the state health care system have the capacity, appropriate equipment and sufficient human resources to respond on a daily basis and provide the necessary health care to citizens in a timely and professional manner?
- » **Rights of elderly persons** – Due to its predominantly traditional way of functioning and its social setting, so far the country has avoided to face the problem of loneliness and abandonment of the elderly, which is common and receives appropriate treatment in developed countries. However, this problem is already at the door in poor regions where the migration rate is high, and parents and elderly persons stay at home while younger families seek a better life abroad. The right to a dignified life for elderly citizens is guaranteed by the European Union.

- » **Rights of the young in the society** – The European Union pays great attention to encouraging young people to participate, involve in democratic processes and the society. Young people create policies that affect quality of life from different aspects. However, the situation in which we are shows a picture where the party-based division is strongly involved with young people, students, school movements, and influences the cohesion of the voices of the youth. Independent young voices are marginalised and directed towards small NGOs that are quite active but dependent on funding. All in all, it is difficult to identify an authentic voice of young people in the society and on the political scene.
- » **Consumer rights and protection** – The protection of consumer rights also belongs to the group of fundamental rights in the European Union Member States. What are our fundamental rights as consumers? Where to refer if our rights as consumers are violated? Who is responsible if we do not receive the service we have paid for, if quality does not correspond to the declaration of the product we paid for? Another example is that great efforts have been made at the European level to resolve the issue of differences in quality of products distributed in the Western and Eastern Member States. A little has been done to change this condition. We examine why and how to improve the services for consumers.
- » **Rights of the LGBT community** – When it comes to the LGBT, the Balkans do not have an image of following the world's trends in relation to this issue, and are hardly at their dawn in terms of respecting the rights of the LGBTI community. It often happens that members of this community are harassed, do not have equal access to a job, and the associations championing the rights of the LGBTI community are under threat and their members are attacked. We examine through EU Member States what the way to go is, how to improve the position of the members of the LGBTI community in the society, the ways of encouragement and protection by institutions and raising the awareness of citizens, and we transfer the best practices to us. We detect obstacles and find out ways to overcome them. Though, large differences in the acceptance of the LGBT community can be also observed even in EU Member States.
- » **Right to business and protection of competition** – That the right to run a business is protected as a fundamental right by the European Union is often neglected. This right dates back to the 1789 French Revolution, when the outdated system of guilds restricting competition was abolished and all the citizens were given the right to engage in business. According to the most recent research and the latest studies, the Republic of North Macedonia needs to improve its legislation and harmonise it with the European one not only in practice but also on paper, as it has one of the least competitive economies in the whole of Europe, with a lot of limitations, all of which results in getting a job in the state administration being more desirable and attractive to citizens. This is most often connected with party affiliation, so it creates a feeling of alienation and a desire to emigrate in neutral citizens.
- » **Right to protection of privacy** – We bear witness daily violations of the citizens' rights to privacy in many ways, and sometimes even political campaigns are waged against people, NGO activists, journalists, and others, exposing their private lives. Organisations for protection of privacy and personal data do not react, so to say, or when they do, they do not have any real influence. We follow the best European experiences and make comparison of what should be done so that we start resembling the EU in this area as well.
- » **Right to freedom of expression** – Despite the guaranteed right to freedom of expression, media and citizens do not feel completely free to talk about all the problems, which leads to quiet acceptance of the poor conditions at one's workplace, in health care, administration, etc. On the other hand, the lack of responsibility, integrity and independence in practising this freedom leads to political manipulation in redirecting the moods or revolt of citizens towards directions desired by political forces with different goals than achieving the public interest.

- » **Rights of addicts** – Cases of discrimination against addicts in the country are frequent and often result in restricting their access to health care. The general perception of people struggling with addiction is that they are responsible for their condition, although medical and sociological research indicates that the development of dependence on substances is primarily the result of a number of social factors. Addicts in the country face restrictions of access to the basic health care, employment, face outdated treatments, and even absence of regular therapy to treat their addiction. Places where such therapy is distributed are very limited, and people even organise protests requiring relocation of treatment centres for addicts outside the urban areas. Attempts to expand the network of such centres are low in the lists of priorities, and due to the exposure to public attacks, one can say that they are completely abandoned.
- » **Rights of convicted persons** – Overcrowding in prisons, poor hygiene conditions that affect adversely prisoners' health, lack of minimum conditions in prison cells, a bad health condition faced by convicts, lack of opportunities for additional education, and quality of food that the convicts receive are but some of the large number of questions that require answers. The degree of discrimination on the grounds of nationality and ethnicity as well as on the basis of the material condition of prisoners, the use of excessive force by prison officials are questions that have been raised for all these years. Reports of the European Union on the situation with the penitentiary institutions and the correctional institutions in the past years have sent an alarm for action and resolution of these bitter issues related to the institutions. Some progress has been noted, the conditions have improved, however this is a far cry from being sufficient to bring us closer to the European standards.
- » **Right to vote (active and passive)** – One of the basic preconditions for the rule of law and the practice of democracy in a modern state is enabling the voting right. Free voting right, conducting free and democratic elections, and respect of the results of such elections allow for the legitimacy and legality of the government. On the other hand, elections give a realistic picture of the current level of democracy that has been achieved in a given society. Therefore, it is very important to ensure a quality and appropriate electoral system, as a set of principles and procedures in order to ensure free, direct, secret, and democratic elections, as a fundamental value of the constitutional order defined in Article 8 of the Constitution of the Republic of North Macedonia. Guaranteeing the right to vote is essential for establishing and maintaining the foundations of an effective democracy, governed by the respect for the rule of law principle. Nevertheless, deep divisions along the party lines have led to a large number of citizens not exercising their right to vote, as was the case with the low turnout of barely over 50 percent in the last early parliamentary elections in April 2020.
- » **Right to freedom of association** – The Constitution guarantees the freedom of association. Everyone has the right to freedom of peaceful assembly and freedom of association with others, in order to exercise and protect his/her political, economic, social, cultural, and other rights and beliefs. No restriction shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of the national security or public safety, for the prevention of disorder or crime, for the protection of health and morals or for the protection of rights and freedom of others. We have examined and compared the extent to which this right is respected in the Republic of North Macedonia, and the extent to which citizens are really free to associate.

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# INTRODUCTION

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The human rights are rights inherent to all humans regardless of their nationality, place of birth or residence, gender, national or ethnic origin, colour of skin, religion, language, or any other status. We all have an equal right to our human rights without discrimination. These rights are interrelated, interdependent and indivisible.

The basic starting point for all human rights is the protection of human dignity. The concept of human rights puts the human at the centre of attention. It is based on a common universal system of values, and is dedicated to the sanctity of life and provides a framework for development of a human rights system, protected by internationally accepted norms and standards.

The main document that protects the human rights in the world is the Universal Declaration of Human Rights. It is an act adopted by the UN General Assembly on 10 December 1948, and was created in the period after the Second World War marking the first global expression of the fundamental rights of all human beings. The Declaration consists of 30 articles that are included in subsequent international agreements, regional human right instruments, national constitutions, and laws.

With the adoption of the Declaration, 10 December was introduced as a day to celebrate the human rights on a global level because, according to the Declaration: “All human beings are born free and equal in dignity and rights.”

The Universal Declaration of Human Rights is a common standard to be achieved by all peoples and all nations, whereby each individual and a state authority, having constantly in mind this Declaration, would strive to contribute to the respect for human rights and freedoms of human beings through the processes of learning and education.

Article 1 of the Universal Declaration of Human Rights (UDHR) refers to the main pillars of the human rights system, i.e. freedom, equality and solidarity.

The universal human rights are expressed and guaranteed by legislation, in the form of agreements, customary international law, general principles, and other sources of international law. International human rights law establishes the obligation of governments to act in certain ways or refrain from certain acts in order to promote and protect the human rights and fundamental freedoms of individuals or groups.

Understanding the principles and procedures related to the human rights enables people to participate in decisions that determine their lives, act towards resolving conflicts and maintaining peace, guided by the human rights strategy, and all this represents an achievable strategy of the human, social and economic development at the centre of which are the people.

At the European level, an important international agreement is the European Convention on Human Rights. On 4 November 1950 in Rome, the Member States of the Council of Europe signed the European Convention on Human Rights, which entered into force in 1953. This international agreement obliges the Member States of the Council of Europe to constantly provide the fundamental civil and political rights and freedoms, not only of their inhabitants but of all persons under their jurisdiction. The Convention guarantees the right to life, right to fair trial, right to respect of private and family life, freedom of expression, freedom of thought, conscience and religion, and the right to property and protection of property. The Convention builds on and

is strongly influenced by the Universal Declaration of Human Rights, and its main objectives are mainly to ensure the general and effective recognition and respect for the human rights described therein. In addition, the Convention has its 15 Protocols that complement and build on it. The Republic of North Macedonia ratified the Convention on 10 April 1997.

The Charter of Fundamental Rights of the European Union (drafted in Nice on 7 December 2000) was adopted with the aim of the EU peoples creating an even closer union among each others, sharing a peaceful future based on common values. This document guarantees the human rights at the level of the Union. Its preamble emphasises that the Union is based on the indivisible and universal values of human dignity, freedom, equality, and solidarity; it is based on the principles of democracy and the rule of law. It puts the individual at the core of his/her activities. This Charter was adopted due to the need for strengthening the protection of the fundamental rights in terms of changes in the society, social development and scientific and technological development.

The Constitution is the pillar of the legislation in the Republic of North Macedonia. As the highest-level legal act, the Constitution specifies a list of freedoms and rights that are guaranteed protection, and with the ratified international agreements as part of the internal legal order, it is possible to include additional freedoms and rights not provided by the Constitution. Through ratification, international and European mechanisms have been integrated into the Macedonian legislation.

The Constitution treats the human rights individually and the goal of the constitutional protection is the citizen and his/her dignity. The basic feature of the human rights concept is equality. The fundamental values of the constitutional order of the Republic of North Macedonia are as follows:

- Fundamental freedoms and rights of the man and citizen recognised by international law and established by the Constitution;
- Free expression of one's nationality;
- Rule of law;
- Division of the state power into legislative, executive and judiciary;
- Political pluralism and free direct and democratic elections;
- Legal protection of property;
- Freedom of the market and entrepreneurship;
- Humanism, social justice and solidarity;
- Local self-governance;
- Landscaping and humanisation of space and protection and improvement of the environment and nature; and
- Respect for the generally accepted norms of international law.

In the Republic of North Macedonia, everything that the Constitution and the law do not prohibit is free.<sup>1</sup> Every citizen may invoke protection of the freedoms and rights determined by the Constitution before courts and before the Constitutional Court, in a procedure based on the principles of priority and urgency. The citizen has the right to be acquainted with human rights and fundamental freedoms and to actively contribute, individually or together with others to their promotion and protection.<sup>2</sup>

In accordance with the Constitution of the Republic of North Macedonia, the fundamental freedoms and rights of the man and citizen are divided into civil and political freedoms and rights, and economic, social and cultural rights.

Hence, citizens are equal in freedoms and rights regardless of their gender, race, colour of skin, national and social background, political and religious beliefs; property and social status. Under the Constitution and the laws, citizens are equal. The human life and freedom are inviolable, as is the physical and moral integrity. All forms of torture, inhuman or degrading treatment or punishment are prohibited. Forced labour is prohibited.

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1 Article 8 of the Constitution of the Republic of North Macedonia

2 Article 50 of the Constitution of the Republic of North Macedonia

Among other things, the right to ownership of property and the right to inheritance are guaranteed in the area of the economic, social and cultural rights. Ownership of property creates rights and duties and should serve the wellbeing of both the individual and the community. No person may be deprived of his/her property or of the rights deriving from it, except in cases concerning the public interest determined by law.<sup>3</sup> Everyone has the right to work, to free choice of employment, protection at work and material assistance during temporary unemployment. Every job is open to all under equal conditions. Every employee has the right to appropriate salary, the right to paid daily, weekly and annual leave. Employees cannot waive these rights.<sup>4</sup> Every citizen is guaranteed the right to health care, to the environment, to education.

The fundamental human rights and freedoms guaranteed by the Constitution and the ratified international documents are elaborated in special laws that regulate the subject of protection. This Report provides an overview of the important laws and regulations that govern and protect the rights of citizens guaranteed by the Constitution, and identified as the priority areas for the Republic of North Macedonia, and draws a parallel with the European Union and provides examples of the best practices in the EU in the priority areas.

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3 Article 30 of the Constitution of the Republic of North Macedonia

4 Article 32 of the Constitution of the Republic of North Macedonia



# RIGHTS OF PERSONS WITH DISABILITIES

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## Legislative framework

*The Convention on the Rights of Persons with Disabilities* marks the end of a long-lasting struggle to recognise disability as an issue and a part of the human rights. The Convention consists of 50 articles covering civil, political, economic, social, and cultural rights. It does not create new rights (outside the body of the fundamental human rights and freedoms) for persons with disabilities; rather, it clarifies the existing obligations for the State Parties to the Convention in relation to the possibility for actual exercising of these rights by persons with disabilities. The State Parties to the Convention undertake to promote, protect and ensure full enjoyment of all human rights by persons with disabilities and to ensure full legal equality.

The European Union ratified the **Convention on the Rights of Persons with Disabilities in 2010, and the Republic of North Macedonia in 2011**. By ratifying it, persons with disabilities are guaranteed<sup>5</sup>: respect for inherent dignity, individual autonomy, including the freedom to make one's own choice and independence of persons; non-discrimination; full and effective participation and inclusion in society; respect for differences and acceptance of persons with disabilities as part of human diversity and humanity; equality of opportunities; accessibility; equality between men and women; respect for the evolving capacities of children with disabilities to preserve their identities.

The Convention imposes specific obligations on the State Parties, through which it seeks to equate the position of persons with disabilities to all other individuals in society in the enjoyment and exercise of all freedoms and rights.

The Convention identifies two levels aimed at achieving this goal:

- Prohibition of discrimination on the grounds of disability, and
- Obligation to take proactive measures in order to create conditions for effective enjoyment and practice of all freedoms and rights by persons with disabilities.

Thus, to enable persons with disabilities to live independently and participate fully in all aspects of life, the Convention obliges state authorities to take a number of appropriate measures to eliminate obstacles and barriers that do not allow full exercise of the fundamental rights and freedoms of persons with disabilities. The first barrier indicated is accessibility, access of persons with disabilities to the physical environment, transportation, information and communications, including access to the information and communication technologies and systems, and to other facilities and services open or provided to the public, in both urban and rural areas. Persons with disabilities have the **right of access** to all buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces; information, communication and other services, including electronic services and emergency services.<sup>6</sup>

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5 See Article 3 of the Convention on the Rights of Persons with Disabilities adopted on 13 December 2006 at the United Nations Headquarters, [http://www.mtsp.gov.mk/WBStorage/Files/Convention on the Rights of Persons 20invalidnost.pdf](http://www.mtsp.gov.mk/WBStorage/Files/Convention%20on%20the%20Rights%20of%20Persons%20with%20Disabilities.pdf) [accessed on 16 March 2020]

6 See Article 9 of the Convention on the Rights of Persons with Disabilities

Likewise, the Convention stipulates that unjustified non-compliance with appropriate adjustment constitutes discrimination, which is ongoing with the developmental views of discrimination on the basis of disability, and obliges the State Parties to take all appropriate steps to ensure adequate adjustment (paragraph 3).

Equality of citizens in the Republic of North Macedonia is guaranteed by the Constitution, however disability is not a part of the generic article of the Constitution that guarantees equality.

The Law on Prevention and Protection against Discrimination, in terms of the bases of discrimination, mentions disability as a possible basis for discrimination, mental and physical; and an article of the same Law defines wide application of the Law in public life. This means that the Law covers the areas contained in the Convention, emphasising the measures for adjustment and accessibility of the infrastructure and services for persons with disabilities (mental and physical). However, this Law promotes the retroactive, instead of the proactive role of the state in this field, i.e. the state only reacts when a right is violated and the victim files a complaint to the institutions.

One of the rights of persons with disabilities guaranteed by the Convention is also the **right to employment**. In the Republic of North Macedonia, this right is also guaranteed by the Constitution, where Article 32 stipulates that everyone has the right to work. Hence, it can be concluded that persons with disabilities have the right to work on the same basis as all others. However, some experts believe that failure to mention disability as the basis for discrimination is a shortcoming in this field. On the other hand, when it comes to employment of a person with disability, the Labour Law prohibits in Article 6 discrimination in access to employment *inter alia* on the basis of disability.

In recent years, measures have been introduced that aimed at employment of persons with disabilities through certain active measures for employment, introduction of opportunities for self-employment, entrepreneurship, and starting one's own business.

Employment of persons with disabilities is regulated by the 2000 Law on Employment of Disabled Persons. Accessibility is also mentioned in this Law as the fundamental right of disabled persons in exercising their right to employment. **The Law on Employment of Disabled Persons** regulates the special requirements for employment and work of persons with disabilities, such as:

- Creating conditions for work and adaptation of the workplace;
- Exemption from taxes and provision of funds for contributions; and
- Financial support in operation.

When employing a disabled person, the employer is obliged to create appropriate conditions for work and adaptation of the workplace depending on the workplace, the type and level of education, and the type and degree of disability of the disabled person being employed. The compensation of the expenses for creating conditions for employment of the disabled person and for adaptation of the workplace are charged to the Special Fund for Provision of Conditions for Employment and Work of Persons with Disabilities.

The Law defines the term “disabled person” as any person whose disability has been determined by a competent authority. A **disabled person**, in terms of this Law, is a person with impaired vision, impaired hearing, with obstacles in the voice, speech and language, a physically disabled person, a person with disabilities in the intellectual development, and a person with combined obstacles that has specific needs in work due to the degree of disability. Disability based on a request submitted by a disabled person, his/her parent or guardian is determined by a commission for assessment of the legal capacity of the Pension and Disability Insurance Fund of North Macedonia, unless the impediment of the person has been determined by another competent authority.<sup>7</sup>

7 See Article 2 of the Law on Employment of Disabled Persons (Official Gazette of RNM No. 44/2000, 16/2004, 62/2005, 113/2005, 29/2007, 88/2008, 161/2008, 99/2009, 136/2011, 129/15, 147/15, and 27/16), link: [http://www.mtsp.gov.mk/content/pdf/pravilniciPenzii/10.11\\_zil.pdf](http://www.mtsp.gov.mk/content/pdf/pravilniciPenzii/10.11_zil.pdf) [accessed on 16 February 2020]

**Accessibility for persons with special needs is also ensured through the Law on Construction, which strictly stipulates in Article 11** that public and commercial buildings, residential buildings and buildings with residential and business purposes must be designed and constructed in such a way as to enable persons with disabilities unhampered access to, movement, stay, and work in the building. The same applies to the construction of new and reconstruction of the existing public areas – pedestrian paths in the central city core, as well as in parks where a path for the movement of persons with physical disabilities and persons with impaired vision must be provided.

To what extent is this Article complied with by public institutions and/or construction companies, and does the State Inspectorate for Construction and Urbanism impose sanctions on all those who have not complied with the law? In 2019, according to data of the Change Management Centre, collected by the municipalities within the Monitoring the Principles of the Public Administration Project, the accessibility for persons with disabilities to municipal buildings has not been achieved. Only 19% of the municipalities have full access whereas 34% are completely inaccessible. On the other hand, a survey by the Change Management Centre showed that 83% of the municipalities have designated a person to help citizens with disabilities, though 78% of them have not published this information on the municipal websites. Thus, it can be freely concluded that the laws guarantee the rights of persons with disabilities but the situation in the field is completely different. Persons with disabilities, despite their guaranteed rights to access, face daily barriers in performing their everyday activities, entry to and exit from residential and public buildings, public transportation, use of services, etc.

**Persons with intellectual disability make a particularly vulnerable category.** Support is either unavailable or is linked to certain living conditions, and the community infrastructure is not universally designed and accessible. Resources are invested in institutions instead of developing opportunities for people with disabilities to live independently in the community. This leads to abandonment of such persons, dependence on the family, their institutionalisation, isolation and segregation. Therefore, the right to independence and independent living embodied in Article 19 of the Convention is extremely important. The right enshrined in Article 19 of the Convention applies to all persons with disabilities without exception and encompasses two concepts, **the right to live independently** and **the right to be included in the community**. In addition, this right includes civil and political rights, as well as economic, social and cultural rights, and is an *example of the interconnectedness, interdependence and indivisibility of human rights*. Independent living and inclusion in the community means exercising the freedom of choice and control over the decisions that affect the life of a person with the maximum level of self-determination and interdependence in the society itself. This right needs to be effectively exercised in different economic, social, cultural and political contexts. This right includes the principle of innate dignity, autonomy and self-determination, i.e. prohibition on forcing persons with disabilities to live in ‘certain living conditions’, i.e. institutions. Actually, the Convention stipulates that persons with disabilities have the opportunity to choose their place of residence.

With a view of achieving greater rights of these persons, a process of deinstitutionalisation has begun. Experience gained from international cooperation with EU Member States has shown that the model of large institutions should be replaced with other forms of protection of beneficiaries. The deinstitutionalisation process launched in 2017 by the Ministry of Labour and Social Policy mapped the following problems for people with disabilities<sup>8</sup>:

- Insufficient support of biological families in their care of children with developmental disabilities;
- Insufficient support of children with developmental disabilities in relation to their inclusion in the environment in which they live;
- A large number of them accommodated in long-stay institutions and with broken contacts with their families;
- Insufficient number of non-institutional forms of care for children with developmental disabilities;
- There are architectural barriers that prevent the integration of these persons in the public environment.

The National Strategy on Deinstitutionalisation in the Republic of North Macedonia 2018-2027 “Timjanik” presents the vision, goals, the strategic approach and actions to be taken and improved in the implementation

<sup>8</sup> The National Strategy on Deinstitutionalisation in the Social Protection System in the Republic of Macedonia (2008-2018)

of the transition from the institutional care to a social care system in the family and community with support by social services.<sup>9</sup> The document covers two different but complementary aspects of deinstitutionalisation as public policy:

1. Strategic pillars – goals of the deinstitutionalisation process itself, as follows: a) Transformation and closure of institutions, b) Relocation of beneficiaries into the community, c) Development of services in the community, d) Prevention of institutionalisation;
2. Strategic tools – measures and policies to support the process: coordinated and complementary public policies, social inclusion and capacity strengthening.<sup>10</sup>

Besides the fact that the process of deinstitutionalisation and placement of persons with intellectual disabilities in small group homes is still ongoing, there are positive effects in this field and progress has been made. It has been noted that this process has a very positive effect on the persons themselves and has a number of advantages compared to the accommodation in large institutions. Deinstitutionalisation is a public good and provides common benefit since it provides better care and support to those in need, while strengthening the rights of beneficiaries and contributing to better quality of life for the whole community and to a better society as a whole.

Having in mind all the above problems of the persons with disabilities, the following questions are posed: What is the priority for resolving the problems that persons with disabilities face? Should the legislation be amended and how should legal solutions be improved? Is there cooperation between civil society organisations and the state authority to create better public policies that address the persons with disabilities? Are there enough financial resources in the budget that will enable appropriate conditions for normal functioning of the persons?

## EU practices

The EU and its Member States are committed to improving the social and economic situation of persons with disabilities, and their rights are guaranteed by the EU Charter of Fundamental Rights and the Treaty on the Functioning of the European Union. The most important EU documents guaranteeing the rights of persons with disabilities are:

- Directive (EU) 2019/882 on access to products and services, regulations on the rights of passengers with reduced mobility in the field of transport,
- Directive (EU) 2016/2102 on accessibility of the websites and mobile applications of public sector bodies, and
- Directive (EU) 2000/78/EC on establishing a general framework for equal treatment in employment and occupation.

The European Union and all its Member States are members of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). This important agreement entered into force for the EU in January 2011, and was the basis for the content of the European Disability Strategy 2010-2020.<sup>11</sup>

The Republic of Slovenia can be pointed out as a good example in the creation of policies for persons with disabilities. Support for employment in the Republic of Slovenia is regulated by the Slovenian Act on Vocational Rehabilitation and Employment of Disabled Persons adopted in 2004. Existing services, organised at the national level and funded through the Ministry of Labour of the Republic of Slovenia, include: vocational rehabilitation services, support services, employment in companies employing persons with special needs,

9 The National Strategy on Deinstitutionalisation in the Republic of Macedonia 2018-2027 “Timjanik” (Skopje, September 2018) link: [http://www.mtsp.gov.mk/content/pdf/strategii/Strategii%202018/Strategija\\_deinstitucionalizacija\\_Timjanik\\_2018-2027.pdf](http://www.mtsp.gov.mk/content/pdf/strategii/Strategii%202018/Strategija_deinstitucionalizacija_Timjanik_2018-2027.pdf) [accessed on 16 March 2020 година]

10 Ibid page 5

11 Persons with disabilities, see more on the link: <https://ec.europa.eu/social/main.jsp?catId=1137> [accessed on 24 July 2020]



employment in employment centres and social inclusion programmes. The service of guidance, care and employment under special conditions is provided at protective workshops (VDC) according to the Social Security Act.<sup>12</sup>

After 2006, the Republic of Slovenia has had a quota – obligation for public and private employers who have 20 or more employees to employ 2-6% of staff with disabilities, depending on the specific sector. Employers who do not meet the quota pay 70% of the minimum wage to the state-run Slovenian Foundation for Promotion of Employment of Disabled Persons, for each disabled person that is not employed, or they can cooperate with companies that employ persons with special needs or employment centres (both entities are enterprises for the social economy). If these companies for persons with special needs or employment centres make profit, they are obliged to use it as allowed by law, for further business development or to spend it on eligible activities (adapted jobs, support for employees with special needs, etc.).<sup>13</sup>

The companies that employ people with special needs in order to receive support from the state should employ at least 40% persons with special needs. At the end of 2017, 146 companies employed 5,878 persons with disabilities, and about the same number of people without disabilities.<sup>14</sup>

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12 Slovenia Fact Sheet on Social Care & Support Services Sector for Persons with Disabilities, link <https://www.easpd.eu/en/content/publications> , page 4 , accessed on 18 March 2020.

13 Ibid page 4

14 Ibid page 5

# RIGHTS OF THE CHILD

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## Legislative framework

An important international document concerning the rights of the child is the *UN Convention on the Rights of the Child* (adopted on 20 November 1989, and entered into force on 2 September 1990), ratified by our country in November 1993. The Convention is based on and its preamble refers to previously adopted important acts concerning children, including: the Geneva Declaration of the Rights of the Child of 1924, the Declaration of the Rights of the Child adopted by the United Nations in 1959, the International Covenant on Civil and Political Rights, in particular Articles 23 and 24, and the International Covenant on Economic, Social and Cultural Rights, in particular in Article 10.<sup>15</sup>

With the ratification of the Convention, our country is obliged to respect and ensure the rights of every child, without any discrimination and without regard to race, colour of skin, gender, language, religion, political or other affiliation, national, ethnic or social origin, property status, incapacity, birth or other status of the child or his/her parent or legal guardian.<sup>16</sup>

The national **Law on Protection of Children**, which is guided by the principles for protection of the right to life and development of the child, protection of the best interests of the child, ensuring minimum standard for every child under equal conditions, exclusion of any form of discrimination, respect for the child's right to liberty and security of person, to self-opinion and free expression, association and education, conditions for healthy living and the exercise of other social rights and freedoms of the child,<sup>17</sup> also focuses on that.

The rights for protection of the children, in terms of the above Law, Article 6, are as follows:

- Child benefit;
- Special allowance;
- One-time pecuniary allowance for newborns;
- Parental allowance for a child;
- Education allowance;
- Participation.<sup>18</sup>

Whenever public or private social welfare institutions, courts, administrative authorities and legislatures undertake child-related activities, they must be guided by the best interests of children.<sup>19</sup>

According to the Convention,<sup>20</sup> a child is any human being below the age of eighteen years, unless under the law applicable to the child, majority is attained earlier. The Family Law (Article 10) also states that the majority begins at the age of 18, when the adult acquires the legal capacity. According to the Law on Protection of Children, a child is considered to be any person by 18 years of age, as well as persons with disabilities in physical or mental development by 26 years of age.

15 Preamble to the Convention on Protection of the Child

16 See Article 2 paragraph 1 of the Convention

17 See Article 4 of the Law on Protection of Children

18 See Article 6 of the Law on Protection of Children (Official Gazette of RNM No. 198/2018, with amendments published in the Official Gazette No. 104/19, 146/19, and 275/19.

19 See Article 3 paragraph 1 of the Convention

20 See Article 1 of the Convention on the Rights of the Child

According to the Constitution of the Republic of North Macedonia, the state provides special care and protection to the family, and the parents have the right and duty to take care of the sustenance and upbringing of the children.<sup>21</sup>

Hearing and protecting the rights of children requires a strong system of support by the line ministries, the Ombudsman, active civil society organisations, and other associations dedicated to the promotion of the rights of children, as well as laws incorporating international human rights conventions.

Mechanisms for the protection of the rights of children are:

- Ministry of Internal Affairs (upon a report by any person);
- Ombudsman (by filing a petition);
- Centre for Social Work (ex officio or upon a report by any person);
- Competent court (by filing a lawsuit).

Under Article 5 of the Law on Protection of Children: the state ensures the right of the child to express his/her own opinion on all issues related to him/her and that the child's opinion is given due attention in accordance with his/her age and maturity. The expression of the child may be direct or through a representative or an appropriate body in a manner and in accordance with an established procedure and law. The question is whether this is really the case.

The Law on Protection of Children stipulates that the state and the institutions of the system are obliged to take all the necessary measures to ensure the rights of the child and to prevent all forms of discrimination and abuse regardless of the place where these actions were committed, their gravity, intensity and duration. It is the duty of every citizen to report to the competent authority any form of discrimination, abuse and exploitation of a child, immediately upon he/she becomes aware of the event.

The **Ombudsman** has a great role in the protection of all rights of children, in case of their violation or endangering.

The Ombudsman should take care of<sup>22</sup>:

- The rights of children in terms of exercising the parental rights when protection is needed by the social protection centres, which are obliged by law to take measures to protect the personality, rights and interests of children;
- The rights of children exercised within the framework of societal protection, which should be provided at competent state institutions;
- The rights of children without parents or without parental care, rights that are exercised in specialised institutions for accommodation and care in the Republic;
- The rights of children in the field of education exercised in primary and secondary schools, in terms of their treatment in schools, in relation to their rights to equality and non-discrimination, the prohibition of physical and mental abuse in schools;
- The rights of children exercised in health care institutions, especially in view of the legal guarantee based on the principle of reciprocity and solidarity to provide them with compulsory health care, in the performance of mandatory systematic medical examinations provided by the state and in the exercise of other rights guaranteed with laws and by-laws in the field of health care, etc.

The 2019 Annual Report of the Ombudsman states, *inter alia*:

*“The inter-municipal centres for social work of the City of Skopje, when making decisions on exercising the right to personal relations and child-parent contacts, insufficiently pay attention to the child's opinion. In cases where the child's contacts with the parent have been interrupted for a long time, they fail to effectively re-establish them or to influence improvement of the relationship between the*

21 Article 40 of the Constitution of the Republic of North Macedonia

22 Official website of the Ombudsman, link: [http://ombudsman.mk/MK/zashtita\\_na\\_pravata\\_na\\_decata/oddelenie\\_zashtita\\_na\\_pravata\\_na\\_decata.aspx](http://ombudsman.mk/MK/zashtita_na_pravata_na_decata/oddelenie_zashtita_na_pravata_na_decata.aspx) [accessed on 12 March 2020]

*parents, which is again to the detriment of the child and his/her right to be with both parents. ....The lack of marriage and family counselling significantly affects the family relations, the overcoming of intolerance and conflict communication between the spouses, and in such circumstances, the children are in the middle of the parents and suffer harmful consequences for their health and development. ....Violence among students is on the rise. Schools fail to deal effectively with this phenomenon, and some of them see the violent behaviour of children as a children's game.*

**Therefore, we identify the following priorities for the Republic of North Macedonia:**

→ **Peer violence**

Protection of children from violence is a fundamental right of every child. Violence hinders children's development, learning ability and performance at school; it limits relationships, contributes to low levels of self-esteem, emotional pain and depression, leads to risky situations, self-harm and aggressive behaviour.

Pursuant to Article 19 of the Convention on the Rights of the Child, State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse. Peer violence is also prohibited by Article 65 of the Law on Primary Education, according to which: *"everyone employed at the school is obliged to take care of the best interests of the student and to respect his/her dignity, as well as the Convention on the Rights of the Child."* Physical, mental and sexual abuse and punishment of the student and humiliating actions and treatment are prohibited, and the school principal is obliged to report any form of violence, abuse or neglect committed against a student by another student, professional associate or any other person employed in the school, to the competent institutions determined by law.

Recently, **peer violence** has become widespread as a large-scale phenomenon in schools, and no effective mechanisms for its prevention have been found yet. Peer violence most often occurs within schools (during the long recess, on the way to and from school, at excursions and in many other places). It most frequently occurs in the absence of adults. It entails a number of consequences not only for the child the violence is directed to but for the child committing it. A serious approach to the problem is needed in terms of preventing and reducing peer violence. This violence can be committed by an individual or a group of children. When detecting the occurrence of peer violence, professionals must work with both the child victim of peer violence and the child abuser. As a result of peer violence, the child victim most often experiences: withdrawal, aggression, shame, feeling of insecurity. Therefore, work with professionals and cooperation of the parents (cooperation at all levels) is very important for overcoming the problems with peer violence, i.e. mitigating its consequences. Peer violence is characterised by continuous, repeated, most often physical or verbal mistreatment, directed at the same child. Verbal peer violence is very difficult to notice, detect and recognise, and is also difficult to prove. **Numerous campaigns are needed to inform the general public about the occurrence of peer violence, because this type of violence is expected to decrease through education and prevention of the conditions.**

The Ombudsman of the Republic of North Macedonia is of opinion that *"of special importance is timely prevention of such negative phenomena, through a joint action of all actors, starting from the family, i.e. parents through teachers and professional services at school, as well as the wider community (local self-government), recognising the signs of violent behaviour or changes in the behaviour of the child victim, because children exposed to violence very often hide the violence and are ashamed to talk about their "weakness" to oppose the abuser"*.<sup>23</sup> Starting from the knowledge that peer violence is most often ignored as it is considered a "child's play", and unfortunately it is often present, the Ombudsman conducted a survey in order to investigate the situation with the occurrence of peer violence in primary education that included

23 SPECIAL REPORT from the conducted survey on violence among students in primary schools (peer violence), Skopje, October 2019, link <http://ombudsman.mk/upload/Posebni%20izvestai/2019/Poseben%20izvestaj-Megjuvrnsnicko%20nasilstvo-10.2019%20.pdf> [accessed on 17 March 2020]

two school years, 2016/2017 and 2017/2018.<sup>24</sup> The survey states the following: *“Physical, emotional and verbal violence is very common among primary school students (very often among male children, and cases of violence among female children have also been recorded). Of particular concern is the finding that intolerance, hatred, jealousy and envy are the most common reasons for students using violence against other students, from the same or other classes, as well as the fact that, although in a smaller number of cases, the reason for peer violence is misunderstanding and intolerance among children, or their social, family status as well as ethnicity.”*<sup>25</sup>

Also, daily bulletins of the Ministry of Interior for 2019 as well as reports by other organisations noted an increasing number of cases of peer violence and the spread of hate speech among children and classmates.<sup>26</sup>

### → **Domestic violence against children**

In our country, domestic violence against children is considered to be present to a large extent; it has its roots in the past when it was considered normal to use beatings to discipline your child, which relativises the problem.

According to the Family Law, violence in marriage and family is considered to be behaviour of a family member who, by force, threat and intimidation commits bodily injuries, emotional or sexual abuse and material, sexual or labour exploitation of another family member.<sup>27</sup> The Centre for Social Work, when it becomes aware of the domestic violence in a family against a minor child or a person with limited or deprived legal capacity, always takes protection measures.<sup>28</sup> The Centre for Social Work submits a request to a court for minors and persons with deprived legal capacity to impose a temporary measure for protection from domestic violence whenever a parent, a guardian or a legal representative will not do so. The court, upon request of the Centre, may impose the following temporary measures for protection of a victim of domestic violence:

- Forbid the guardian to threaten;
- Forbid them to harass, phone, contact or otherwise communicate with a family member, directly or indirectly;
- Forbid them to approach the place of residence, school, workplace or a designated place that is regularly visited by another member of the family;
- Order removal from the home regardless of the ownership, until a final decision is made in court;
- Forbid them to possess firearms or other weapons or to have it confiscated;
- Oblige them to return the items needed to meet the daily needs of the family;
- Impose compulsory sustenance of the family;
- Order them to visit an appropriate counselling centre; to order compulsory treatment if they are users of alcohol or other substances or have a disease;
- Oblige them to reimburse the costs of treatment from violence; or
- Impose any other measure that the court deems necessary to ensure the safety and well-being of the other members of the family.

These legal provisions apply to all victims of domestic violence and do not provide for special measures to be applied only when the victims are children. The temporary measures imposed by the court may last for maximum one year, whereby it is envisaged that, if the domestic violence continues after the expiration of the measure taken, the Centre for Social Work may submit a proposal for extension of any of the measures.

24 SPECIAL REPORT from the conducted survey on violence among students in primary schools (peer violence), Skopje, October 2019, link <http://ombudsman.mk/upload/Posebni%20izvestai/2019/Poseben%20izvestaj-Megjuvrnsnicko%20nasilstvo-10.2019%20.pdf> [accessed on 17 March 2020]

25 Ibid page 84

26 Link to recorded cases: <https://mvr.gov.mk/izvadok-od-dnevni-nastani/1452>  
<https://mvr.gov.mk/izvadok-od-dnevni-nastani/1453>  
<https://mvr.gov.mk/izvadok-od-dnevni-nastani/1454>

27 See Article 94-b paragraph 2 of the Family Law

28 Ibid Article 94-d paragraph 2

### → *Rights of children of divorced parents*

Pursuant to Article 9 paragraph 3 of the Convention on the Rights of the Child, the State Parties shall respect the right of the child that is separated from one or both parents to maintain personal relations and direct contacts with both parents on a regular basis, except if it is contrary to the child's best interests.<sup>29</sup>

According to Article 47 paragraphs 2 and 3: Minor children may live separately from their parents only when it is in the immediate interest of the children or when it is in the common interest of both the children and the parents. The child has the right to maintain personal relations and direct contacts with the parent with whom he or she does not live.<sup>30</sup> Unfortunately, the law does not provide for joint custody of both parents in the event of divorce.

In reality, in our country, in case of divorce one parent has full custody of the child/children, while the presence of the other parent in the child's life is counted in exactly specified days, hours. Hence, the problem is raised as to whether with the divorce of the parents, the child in any case loses one parent. The problem is deeper, **it is necessary to intervene in the legal provisions, and intersectoral cooperation of the interested parties is needed, in terms of protection of the best interests of the child.** The courts should change the practice of granting custody to only one parent, and in all cases where the circumstances allow it, in the interest of children's rights, to grant joint custody, i.e. both parents should be responsible and take care of the development and the needs of the child. Interventions in the legal provisions are needed if the courts are to act in that way.

### → *Children with disabilities*

Article 23 of the Convention on the Rights of the Child states that a mentally or physically disabled child shall enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

Children with disabilities do not have access adapted to their needs either in schools or in any other place. There is a lack of professional staff according to their needs, so most often parents are the ones who have to accompany the child during school activities (that is, they leave their jobs without having another way out).

A process of deinstitutionalisation and placement of children without parents and parental care in small group homes has recently begun. With this move, the state has shown willingness to take care of these children and provide them with family care in the community. With regards to the benefits of small group homes as opposed to accommodation in large institutions, we will certainly emphasise the care, love and protection they have at the individual level, which ensures healthy psychophysical growth and development.

## EU practices

The rights of the child are a part of the human rights: rights that the EU and EU Member States must respect, protect and fulfil. As set out in the UN Convention on the Rights of the Child, a child is any human being below the age of 18 years. The Commission is guided by the principles set out in the UN Convention on the Rights of the Child, ratified by all EU States. Article 3 of the Treaty on the European Union sets out the goal of the EU to promote the protection of the rights of the child. The EU Charter of Fundamental Rights guarantees the protection of the rights of the child by the EU institutions and by the EU Member States when they apply EU law. Article 24 on the rights of the child and Article 31 on the prohibition of child labour specifically cover the rights of the children.<sup>31</sup>

29 Article 9 paragraph 3 of the Convention on the Rights of the Child

30 Article 47 paragraphs 2 and 3

31 EU policies on the protection of the child, see more on the link: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/eu-action-rights-child\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/eu-action-rights-child_en) [accessed on 24 July 2020]

We can point out Sweden as a good example in this field. Almost one-fifth of the Swedish population of 10 million are under 18 years of age. The Swedish law guarantees that children are well protected and their rights are defended. In 1993, the Swedish government appointed an Ombudsman to protect the rights of the children and take care of their interests. The Ombudsman for Children in Sweden is obliged to follow the United Nations Convention on the Rights of the Child of 1989 and implement it in the Swedish society. Sweden was one of the first countries to ratify this Convention. This year, i.e. on 1 January 2020, Sweden incorporated the UN Convention into the Swedish law.

In 1979, Sweden became the first country to ban corporal punishment of children. By introducing a ban in parental laws, which is a civil code, the Swedish law explicitly states that parents may not use any form of violence or other degrading treatment as part of their children's upbringing. The goal is not to criminalise parents, but to change the attitudes. Let us say that beating a child is also a crime under the Swedish Criminal Code.

There are a number of organisations that young people in Sweden can turn to if they need help. Children's Rights in Society is an organisation offering support services such as telephone calls, conversations and counselling via e-mail. Friends is an organisation dedicated to publishing material on peer violence, child mistreatment, mainly in schools as well as outdoors, for example during organised sports activities. Save the Children Sweden is another organisation that defends the rights of children. Also interesting is the Finn upp, a youth programme that promotes teaching methods designed to instigate a desire for knowledge in children. The programme encourages them to invent things – innovations that would help them in studying. This programme also organises competitions for young inventors aged 12 to 15 each year, an event that aims to inspire a new generation of inventors, innovators and entrepreneurs and to release the power of fresh ideas.

In relation to the peer violence topic, one of the most successful programmes in Europe is the KiVa programme in Finland. KiVa is an innovative programme based on the fight against peer violence, developed through top research in the field of peer violence. The effects of this programme have been analysed in numerous studies at the European level (The Netherlands, Estonia, Italy, Wales). In addition to the studies, data on the effects of KiVa were analysed by the KiVA research group, and by independent experts from the National Institute of Health and Welfare in Finland, and their analysis indicates that bullying and victimisation have decreased in Finland since the start of the KiVA programme. As the best practice in this field, the programme is now being implemented in other European countries. The programme is based on prevention, intervention and monitoring, and targets students and the teaching staff at the same time.

The National Anti-Bullying Policy in the Republic of Bulgaria, which is implemented within the framework of the National Programme for Child Protection funded and supervised by the Ministry of Education, Youth and Science of the Republic of Bulgaria, which supports the current reforms for protection and support of children and family is also positive and contributes to the coordination and implementation of relative policies. The Commission of Special Experts acting under the auspices of the Council of Ministers collects and analyses statistics on issues related to violence, children and schools and proposes activities, in cooperation with various non-governmental organisations and other national bodies and institutions. In addition, the Child Protection Act established the State Agency for Child Protection (1 January, 2001). The Ministry of Education has a long-term strategy for dealing with violence, special programmes for educating children with problems related to aggressive behaviour and "pedagogical centres." The School Programme for Prevention of Aggression and Bullying is developed on the basis of the Programme for Development of Education, Science and Youth Policy in Bulgaria.<sup>32</sup>

The ENABLE programme in Greece (European Network Against Bullying in Learning and Leisure) also has good results. It aims at addressing bullying in a holistic way, helping young people to exercise their fundamental rights at home, school, class, and community. Using a unique approach that combines social and emotional learning with peer support, the ENABLE team strives to provide school staff with the skills, knowledge and self-confidence that can help them establish an effective support scheme for students in their schools and develop social and emotional skills of their students.

32 European Guide of Anti-bullying Good Practices, April 2014, link <https://cesie.org/media/ean-pb-web-en.pdf> , [accessed on 18 March 2020]

## Conclusion

The Republic of North Macedonia needs serious commitment of the state for protection of children's rights and protection of the innate dignity of children. Legislation that will not only declaratively, but also essentially ensure the protection of children's rights is needed. Education of children about their rights and their inclusion in decision-making should necessarily be a constituent part of the teaching process. Children should know their rights in order to be able to exercise them without hindrance, but also to protect them.

There is generally no developed human rights culture in society and the norms for children's rights are not embedded in the social behaviour or service planning. Reports of UNICEF note that the civil society is still very weak and there is no strong lobby for children among NGOs, the academic community or the media. There is a tendency to see them as passive recipients of care and protection, rather than as young citizens, and their views are rarely sought to be heard. There are very few mechanisms for children to contribute to decisions that affect them, or are not involved at all, or even when there are some mechanisms, they are often ignored by adults. A growing number of youth organisations contradict it, working to change this mentality, but it seems that their focus is on young people, not children.

The problems faced by children, which directly violate their rights, are numerous, and there is still no way at the national or local level to alleviate and reduce them. Do we close our eyes as a society with regard to peer violence, domestic violence against children, are children invisible in the street, children with disabilities... Can we detect and solve problems that directly violate the rights of the children?



## Legislative framework and current problems

The current situation with workers' rights in the Republic of North Macedonia is worrying. What we all talk about loudly but not all of us dare to report, is a series of violations of the rights of workers. One of the many examples that exists in the country as a phenomenon is the misuse of people who are registered for part-time work, but actually work full-time (the goal is for the employer to pay lower contributions). The blame can also be found with workers, who do not report this considering that they do not have a way out, and because of the difficulties in getting a job they often agree to be misused in this way. However, the main fault lies with employers that, wanting to make more profit, trample on workers' rights, and with the state institutions that often turn a blind eye to the violation of workers' rights by employers, for one reason or another, instead of taking the side of the law. Such occurrences should be detected, reported and prevented through the State Labour Inspectorate (frequent field inspections by the inspectorate are required), as well as by raising the awareness of workers about the rights they have and their protection, i.e. timely reporting of any misuse or irregularity. Certainly, a good part of the responsibility falls on the trade unions as well. If they exist, they are rarely active, and it is a public secret that in some companies and organisations the owner or the management do not allow the formation of a trade union, even though it is a right and obligation prescribed by law.

Overtime work that is not paid as extra work is another common phenomenon and a characteristic of the present time, though unfortunately it remains unreported. Another direct violation of the workers' rights is the payment of the legal minimum salary, with the rest being given as cash to the worker (in order to avoid contributions) or, cases where the worker returns a part of the salary, where the return of K15 (vacation allowance), which the employer is obliged to pay to the employee, is particularly characteristic. All these anomalies are known to the public, but rarely any of the workers dare to take concrete steps to enable their sanctioning. They are really hard to prove, no one wants to speak in public or report irregularities.

Harassment at workplace, hereinafter referred to as mobbing, is a frequent occurrence at work in the real life, but it is not only difficult to prove, and people rarely dare to report mobbing (there are very few such processed cases in the judiciary and fewer positive verdicts for the victims of mobbing).

The Law on Protection from Harassment at the Work Place<sup>33</sup> in Article 5, paragraphs 1 and 2, defines mobbing as psychological and/or sexual harassment at the workplace, as a way to strategically, continuously, systematically threaten the honour, reputation and dignity of an employee or a group of employees. Mobbing can be demonstrated through reassignment to another and lower job or reassignment to a job far from the place of residence, deprivation from and/or non-assignment of tasks, unjustified evaluation with lower grades, making decisions for imposing a fine, cancelling the addition to the basic salary for a career degree, constant criticism of the work, control in the work, inability to express, ignoring, persecution, humiliation, ridicule, and the like.

Preventive protection against mobbing is organised as: primary, secondary and tertiary, i.e. assistance within the workplace can be requested from: colleagues, the line manager (immediate superior), the human resources department, the social care officer, through an appeal procedure (most appeals should be composed according to written rules), harassment counsellors, health and safety officers, a representative of the unions.

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33 Law on Protection from Harassment at the Work Place, Official Gazette of RNM No. 79/13 and 147/15)

To be able to help and protect a worker who is the victim of mobbing at the organisation level, it is **necessary to educate** both workers and managers and create and use codes of ethics whose content will specify how to act in a given situation. Also, it is necessary to appoint a person who a worker victim of mobbing will be able to turn to and entrust the situation in which they find themselves, in order to enable the designated person to help the victim of mobbing resolve it. It is necessary to comply with the legal and constitutional provisions that guarantee the rights of employees and their physical and mental health at work.

On the other hand, the Employment Agency of the Republic of North Macedonia, instead of being an intermediary between the labour demand and supply, is often only an agency for keeping statistics on unemployed persons (the public has an impression that in addition to records – with the exception of active employment measures – EARSMS does not contribute significantly to reducing unemployment, which is a burning problem in the society).

Citizens do not see resolution for the endangered human rights in the judiciary and the competent institutions (most often due to distrust in the system), but they rather see their future in emigration to some of the developed countries. Due to the values and the systems of order that prevail in highly developed countries, the higher standard and the excellent conditions offered for living and working, an increasing number of citizens who also have a “comfortable” life here leave the country, most often forever.

What does the legislation say, which laws cover the workers’ rights?

- Labour Law;
- Law on Employment and Insurance in Case of Unemployment;
- Law on Internship;
- Law on Labour Inspection;
- Law on Employment of Disabled People;
- Law on the Agencies for Temporary Employment;
- Law on the Peaceful Settlement of Labour Disputes;
- Law on Safety and Health at Work.

The Labour Law<sup>34</sup> regulates the employment relations between employees and employers that are established by an employment contract. The employment relations are regulated by law, the collective agreement and the employment contract. The purpose of the law is to include workers in the work process, as well as to ensure coordinated conduct of that process while respecting the right of workers to freedom of labour, dignity and protection of the interests of workers in the employment relations.

Under the provisions of the Labour Law, all forms of psychological harassment at the workplace (mobbing) are prohibited. According to the Law, psychological harassment at work (mobbing) is any negative behaviour by an individual or a group of persons that is often repeated (at least for a period of six months), and is violation of the dignity, integrity, reputation, and honour of employees, causing fear or creating hostile, degrading or abusive behaviour, whereby the ultimate goal may be termination of employment or leaving the workplace. Psychological harassment at the workplace (mobbing) can be committed by one or more persons with negative behaviour, regardless of their capacity (employer as a natural person, a responsible person or an employee).

Mediation is a good procedure for amicable settlement of labour disputes but it is still not sufficiently present in our society, although it has many positive sides (reduced financial costs, time savings...).

In his 2018 Annual Report, the Ombudsman states the following:<sup>35</sup>

- Lack of professionalism, especially in managerial jobs in all spheres and levels in the field of labour relations, leads to a decrease in efficiency in work, but also a loss of trust of citizens;

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

35 2018 Annual Report of the Ombudsman, <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2017/GI-2018.pdf> [accessed on 25 May 2020]

- Frequent occurrence of signing fixed-term contracts in the bodies of the state administration, with persons without experience being employed for specific jobs, the acquired work experience of the previous ones not being used, and the employee whose employment is terminated in such a way is brought to a state of existential insecurity;
- In public enterprises as well as in primary schools, during the selection of candidates for advertised positions, candidates with the best competencies are not always selected, i.e. there is no equivalence between the required qualifications of the candidate and the selected one;
- When assigning employees from a higher to a lower position, employers make decisions that do not contain or have insufficiently substantiated explanations.

In case of violation of the workers' rights, the State Labour Inspectorate is a competent body that works in the field in order to determine the factual situation. The Law on Labour Inspection regulates the organisation and work of the State Labour Inspectorate, which inspects the application of the laws and other regulations on labour relations, employment and protection at work, as well as on collective agreements, employment contracts and other acts that regulate and enable the rights, obligations and responsibilities of workers and employers in the field of labour relations, employment and protection at work, and inspection supervision over the performance of unregistered activities.

Mechanisms of protection

- State Labour Inspectorate
- Ombudsman
- Competent court

## EU practices

Every worker in the EU has certain minimum rights relating to:

- Health and safety at work: general rights and obligations, workplaces, work equipment, specific risks, and vulnerable workers;
- Equal possibilities for women and men: equal treatment at work, pregnancy, maternity leave, parental leave;
- Protection against discrimination based on sex, race, religion, age, disability, and sexual orientation;
- Labour law: part-time work, fixed-term agreements, working hours, employment of young people, information and consultation with employees.

EU Member States must ensure that their national laws protect these rights provided for in the EU employment law.<sup>36</sup>

The best examples that can be pointed out are as follows:

**Austria** is one of the countries with the least violations of the workers' rights. Although the country does not provide for a total minimum salary, certain sectors, such as domestic work or education, set a minimum salary for their workers. Austrian workers are also among the happiest in terms of paid holidays, with up to 43 days a year, and parental leaves. The regulations of the country concerning employment of the disabled are also very strict and provide for at least one disabled worker on every 25 workers.

**Belgium** also does a pretty good job in protecting the workers' rights with violations being kept to a minimum. In this country, determining a minimum salary is also subject to different sectors, although salaries in the country are usually higher than in any other European country. With regard to parental leave, however, Belgium should attract its European counterparts as it offers only three months maternity leave and 10 days paternity leave.

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36 Employment and social work, more on the link: <https://ec.europa.eu/social/main.jsp?catId=82&langId=en> [accessed on 24 July 2020]

In **Denmark**, there is no minimum salary in the cross-sectoral sector, and determination of salaries by employers is subject to certain collective agreements. The law is also very strict with regards to discrimination in employment or termination of contracts against workers who are a part of unions. Employees are entitled to 25 days paid leave per year.

**Finland** has great respect for the workers' rights. The country values the freedom of workers to join and form unions, as well as a safe and healthy work environment. Although there is no minimum salary in Finland, workers should be paid according to collective agreements relevant to their sectors.

The workers' rights are a priority in **Germany** where workers are entitled to at least 20 days paid leave in a year. Germany is also the only country in this top 5 with a minimum wage of EUR 9.35 per hour. Employed mothers are entitled to 13 weeks maternity leave in all six weeks before pregnancy. As for the fathers, they are encouraged to share a three-year leave with their wives – they entitle the right to both parents until the child reaches the age of three.<sup>37</sup>

## Conclusion

No violation of workers' rights should go unpunished. However, it mostly depends on the workers, who, fearing for their own existence and future decide to keep silent about all the injustices that happen to them at work. Awareness-raising needs to be done, as well as controls and punishment for everyone who dares to violate the workers' rights.

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37 The countries that cater the most for workers' rights, link <https://www.expats.com/en/expat-mag/2543-the-five-best-countries-for-workers-rights.html> , [accessed on 12 March 2020]



## THE RIGHT TO THE ENVIRONMENT

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### Definitions<sup>38</sup>

The **environment** is the space with all living organisms and natural resources, i.e. the natural and created values, their mutual relations and the total space in which human beings live and settlements, goods in general use, industrial and other facilities, including media and areas of the environment are located.

**Protection and improvement of the environment** is a system of measures and activities (societal, political, social, economic, technical, educational, and other) that provide support and create conditions for protection against pollution, degradation and impact on individual areas of the environment (protection against ozone depletion, prevention of harmful noise and vibration, protection against ionising and non-ionising radiation, protection against unpleasant odours and use and disposal of waste, and other types of the environmental protection).

**Environmental pollution** is emission of pollutants and substances, which is the result of human activity, in the air, water or soil, which can be harmful to the quality of the environment, life and health of people or emission of pollutants and substances that may result in damage to the property or disrupts or affects the biological and landscape diversity and other ways of use of the environment.

### Legislative framework

Wild dumps and waste are all around us, big industrial pollutants are also a reality, and polluted air affects adversely people's life and health. In the field, very few national and local measures are taken to protect and preserve the environment. Legislation do exist but due to insufficient coordination between competent institutions and bodies, the lack of human, technical and other types of resources, impunity of polluters, non-allocation of sufficient budget funds for the environment and for a number of other reasons, the state and the local governments fail to take action in this area. Low awareness of the citizens themselves, who additionally contribute to the pollution by dumping waste in inappropriate places and their negligence towards the environment in which they live also contribute to a great extent. There is a lack of repressive measures and high penalties for environmental polluters, and polluters often go unpunished.

The environmental protection is of great importance at the European and generally at the international levels. The international Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, known as the Aarhus Convention, links the responsibility of the authorities to the protection of the environment. It focuses on the interaction between the general public and the authorities, in a democratic context. The so-called Aarhus Convention gives the public rights, and on the other hand, it imposes obligations on the authorities in connection to access to information, public participation and access to justice. The Convention contains three broad themes or "pillars": access to information, public participation and access to justice.<sup>39</sup>

The Republic of North Macedonia ratified this Convention in 1999. With the ratification of this international instrument, the public authorities are in a position to directly apply the Convention and its provisions.

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38 See Article 5 of the Law on Environment, Official Gazette of RNM No. 53 of 5 July 2005)

39 Analysis of access to information and participation of the public, Aarhus Convention in Macedonia (June 2010), Macedonian Green Centre

However, this is not the case in practice. The ratification of this important international document opened the possibility for the public to have the right, and for the state authorities to be obliged to provide the public with access to all information in the field of the environment, except in strictly defined cases when this is not possible. The intention of this Convention is to strengthen the cooperation between the state and the civil sector by giving the citizens an opportunity to directly participate in decision-making in the field of the environment. The environment is in the public interest and every citizen is concerned about the issues related to this area.

In addition to this Convention, the Republic of North Macedonia has ratified the following international conventions:

- Convention on the Conservation of European Wildlife and Natural Habitats (Bern);
- United Nations Framework Convention on Climate Change (New York, May);
- Kyoto Protocol to the UN Framework Convention on Climate Change;
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal;
- Amendment to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, and Amendment to Annex I, Annex VIII and Annex IX (Kuching, Malaysia, 23-27 February 1998).

In addition to the international law being implemented, the domestic system guarantees the protection of the environment beginning with the Constitution. The Constitution defines the environment as a fundamental value of our legal system, and it also stipulates that everyone has the right to a healthy environment. According to the Constitution of the Republic of North Macedonia, the **healthy environment is the right** of every human being. Everyone is obliged to improve and protect the environment and nature, and the state is the one that provides conditions for exercising the right of citizens to a healthy environment.<sup>40</sup> In addition, many laws and by-laws have been adopted in this area, and the Law on Environment is the basic one. Other important laws are also: Law on Nature Protection; Law on Ambient Air Quality; Law on Protection Against Environmental Noise; Law on Waste Management; Law on Waters; Law on Spatial and Urban Planning.

The Law on the Environment regulates the rights and duties of the state, the municipalities, the City of Skopje and the municipalities in the City of Skopje as well as the rights and duties of legal and natural persons in providing conditions for protection and improvement of the environment, with a purpose of exercising the right of the citizens to a healthy environment.<sup>41</sup>

In addition to the provisions of the Law on Environment, the protection and improvement of the quality and condition of the environment: soil, water, air; the areas of the environment, of the biodiversity and other natural resources, as well as the protection of the ozone layer and the protection from the negative impact of humans on the climate system are also governed by the provisions of special laws (Law on Ambient Air Quality, Law on Waters, Law on Protection from Environmental Noise...)<sup>42</sup>

Measures and activities for protection and improvement of the environment are of public interest, and the state and local government are obliged to provide financial resources for protection and improvement of the environment from the Budget of the Republic of North Macedonia, i.e. from the municipal budget, the budget of the City of Skopje and the budgets of the municipalities in the City of Skopje.<sup>43</sup> However, despite such provisions of the law, some municipalities do not provide funding from the municipal budget for the environment at all, while others provide very little funding for that purpose.

40 See Article 43 of the Constitution of the Republic of North Macedonia

41 See Article 1 of the Law on Environment, link: <http://www.moep.gov.mk/wp-content/uploads/2014/10/%D0%97%D0%B0%D0%BA%D0%BE%D0%BD-%D0%B7%D0%B0-%D0%B6%D0%B8%D0%B2%D0%BE%D1%82%D0%BD%D0%B0%D1%82%D0%B0-%D1%81%D1%80%D0%B5%D0%B4%D0%B8%D0%BD%D0%B0-%D0%BF%D1%80%D0%B5%D1%87%D0%B8%D1%81%D1%82%D0%B5%D0%BD-%D1%82%D0%B5%D0%BA%D1%81%D1%82.pdf> [accessed on 16 March 2020]

42 See Article 2 of the Law on Environment

43 See Article 3 of the Law on Environment

The Ministry of Environment and Physical Planning supervises the application of the Law on Environment and the regulations adopted on the basis of this law. The inspection supervision over the application of the law and by-laws is performed by the State Environmental Inspectorate, through state environmental inspectors and state inspectors for the nature protection. For the activities within the competence of the municipality, the City of Skopje and the municipalities in the City of Skopje, the inspection supervision over the application of the law and by-laws is performed by authorised environmental inspectors of the municipality, authorised environmental inspectors of the City of Skopje and authorised environmental inspectors in the municipalities in the City of Skopje. Inspection supervision over the application of the law in the part of the trade of products, semi-finished products, raw materials, chemical substances, waste materials intended for processing and recycling, and packaging and labelling of products and packaging with information on the impact on the environment is performed by the State Market Inspectorate through state market inspectors, the State Sanitary and Health Inspectorate through state sanitary and health inspectors, the Phytosanitary Administration through phytosanitary inspectors, and the State Agriculture Inspectorate through state inspectors for agriculture. Inspection supervision over the application of the law in the part of the trade of products, semi-finished products and raw materials intended for human use as food and drinks and their packaging and labelling with information on the impact on the environment is performed by the Food Directorate through food inspectors. The State Environmental Inspectorate supervises the work of the authorised environmental inspectors in the application of regulations for the environment during the performance of the inspection supervision.<sup>44</sup>

Despite the provided legal framework, the devastating factual situation – high level of pollution of the ambient air, soil and water, destruction of natural rarities, criminal urbanisation in practice, usurpation of public areas and goods of general use point to shortcomings in exercising this right. The 2019 Annual Report on the Efficiency of Legal Protection of Human Rights in the Republic of North Macedonia, prepared and published by the Macedonian Young Lawyers Association, points out in the field of the environment that polluted air is still one of the biggest problems in most of the cities. Despite the fact that the authorities claim that they are taking measures in accordance with the Clean Air Plan, which should contribute to the reduction of air pollution, the situation in the field is the same, as shown by the increased number of PM 2.5 and PM 10 particles in the air.

Problems with more than a thousand illegal landfills where every type of waste that is not pre-selected is incinerated, which has negative impact on the environment and human health, are also underlined. Furthermore, illegal and unplanned construction on the territory of Ohrid is emphasized, and this has brought into question the protection of Ohrid by UNESCO.<sup>45</sup>

Thus, it can be concluded that the comprehensive legislation related to the environment is adequate to a great extent, but its application in practice is missing. Uncontrolled and unplanned construction of facilities is another serious problem that contributes to the pollution of the ambient air, and also of the environment as a whole. “Wild” landfills remain an unresolved problem in the country, regional landfills have not been established yet, though they are needed by the state as an efficient way to deal with waste. Strong and continuous cooperation of all stakeholders is necessary, with established effective strategy whose measures and activities will lead to the real preservation and protection of the environment.

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44 See Article 194 of the Law on Environment

45 2019 Annual Report on the Efficiency of the Legal Protection of Human Rights in the Republic of North Macedonia, Macedonian Young Lawyers Association, [www.myla.org.mk](http://www.myla.org.mk)

## Practices in the EU and beyond

In the EU, the right to the environment is regulated by a number of regulations, and some of which are as follows:

- Directive 2009/147/EC on the conservation of wild birds<sup>46</sup> and Directive 92/43/EEC<sup>47</sup> on the conservation of natural habitats and of wild fauna and flora, which relate to the conservation of the nature;
- The European Green Deal for transformation with a purpose of improving the life of people by providing cleaner air and water and cleaner environment and improving health
- Directive 2003/4/EC on public access to environmental information, concerning the right of access to environmental information held by public authorities, as well as the Council Decision 2005/370/EC of 17 February 2005 ratifying the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters;<sup>48</sup>
- Directive 2001/42/EC, which aims to ensure a high level of environmental protection, i.e. to guarantee the implementation of an assessment of the impact of plans and programmes that may have significant effects on the environment;<sup>49</sup>
- Assessment of the effects on the environment (Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment);<sup>50</sup>
- Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control).<sup>51</sup>

Highly developed countries have long ago developed the awareness of preservation of public cleanliness, which is visible through clean streets, public areas, and parks.

**Sweden** is first on the list of the greenest countries for 2020. Sweden was the first country in the world to pass the Environmental Protection Act, and also hosted the first UN Conference on the Human Environment in 1972. Since then, Sweden has not looked back, managing to boost its economy significantly while reducing carbon emissions and limiting pollution. More than half of the national energy supply in Sweden comes from renewable sources and the basic legislation aims to further reduce greenhouse gas emissions. For more than a decade, Sweden has been in the top ten of the global Environmental Performance Index, produced by the universities of Colombia and Yale, with exceptionally clean air and clean water along with low emissions.

Of the Member States, at the country level, **Germany** leads and is in the first place when it comes to waste recycling, with 61% of waste being recycled. This is a result of many years of efforts beginning in the 1990s in Germany. Austria is immediately behind.

One of the most important aspects of recycling exists in **Norway**, and is called the PANT system. Basically, it is a reward system for returning plastic bottles and aluminum cans. For example, when a plastic bottle of juice or a can of soda is bought, a few Norwegian kroner are paid in addition and those will be refunded when they are recycled. The price of the “PANT System” is written on the bottle or the can, and is usually around 1-2.5 Norwegian kroner depending on the size. There are machines for refunding in every supermarket, so when you put bottles and cans in the slot, you receive a receipt with the amount for the returned plastic bottles and

46 Directive 2009/147/EC, more on the link: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0147&rid=1> [accessed on 24 July 2020]

47 Directive 92/43/EEC, more on the link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31992L0043> [accessed on 24 July 2020]

48 Directive 2003/4/EC and Decision 2005/370/EC, more on the link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:l28091>, [accessed on 24 July 2020]

49 Directive 2001/42/EC, more on the link: <http://ec.europa.eu/environment/eia/sea-legalcontext.htm> [accessed on 24 July 2020]

50 Directive 2011/92/EU, more on the link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011L0092>, [accessed on 24 July 2020]

51 Directive 2010/75/EU, more on the link: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010L0075&rid=1>, [accessed on 24 July 2020]



cans, which can be donated to charity or used to pay for goods in the supermarket. A similar system exists in Croatia.

### Conclusion

Although laws on the protection and improvement of the environment have been adopted, these laws in the Republic of North Macedonia exist only on paper. Every day is a struggle for fundamental rights from the regulation and humanisation of the living space. We are witnessing abuse, “rape,” and usurpation of green areas, where concrete settlements emerge, along with frequently illegal constructions that are later legalised. Competent institutions do not function, and rarely is anyone called to account for failure to work or violation of the right to a clean and humane environment. It takes political will to enforce the laws and effective enforcement mechanisms for exercising the right, not fierce pressure on the environment by building and failing to make concept and lacking vision for the future, as has been the case so far. Efforts are made to put pressure on the competent institutions by citizens, civic organizations, but with very little success. The way of financing the municipalities, which see the filling of the municipal budget only through payment of the construction fee is partly to be blamed. But this must not be a priority since the land is as much as it is, it is an irreplaceable resource.

## Legislative framework

The principle of gender equality and non-discrimination is established in the highest legal act – the Constitution of the Republic of North Macedonia. Following the international trends, our country has adopted a large number of international documents that concern gender equality and equal opportunities for women and men, which have been adopted by the UN, the EU, the Council of Europe and others. In the Republic of North Macedonia, the existing laws, strategies and action plans reflect a tendency to promote gender equality.

It is necessary to raise the awareness of the citizens to recognise gender inequality and act with a purpose of achieving gender equality in order to reduce dismissals due to pregnancy, and to allow that less paid work, mobbing and violence remain in the past.

Strengthening the position of women in every segment of social activity is a necessary basis for prosperity and sustainability, because strong women mean a strong society. At the world's level, the tendency for gender equality is progressing in all spheres of public life; in our country, women are “fighting” on a number of fields to get at least a little closer in the process of gaining equality. Here, of course, is the unpaid household work of women in urban and rural areas, and in that respect the situation remains unchanged.

Gender equality is one of the fundamental values regulated in the constitutional order. The Republic of North Macedonia has developed a good legal and institutional framework, which enables accomplishment of greater gender equality in all domains of societal actions.

The principle of gender equality and non-discrimination is established in the Constitution of the Republic of North Macedonia, which guarantees under Article 9 the rights and freedoms of citizens regardless of gender, ethnicity or social status. The values enshrined in the Constitution of the Republic of North Macedonia have been passed on through a series of laws and acts based on the principles of equality and non-discrimination:

- Constitution of the Republic of North Macedonia
- Law of Equal Opportunities of Women and Men
- Law on Prevention and Protection against Discrimination
- Electoral Code
- Labour Law

With regard to the gender equality, the Republic of North Macedonia has ratified the following international conventions:

- International Covenant on Economic, Social and Cultural Rights;
- International Covenant on Civil and Political Rights;
- Convention No. 111 on Discrimination (in respect of employment and occupation), 1958;
- Council of Europe Convention on preventing and combating violence against women and domestic violence of 11 May 2011 (Istanbul Convention);
- Convention on the Elimination of All Forms of Discrimination against Women;
- Beijing Declaration and the Platform for Action.

The Istanbul Convention sets goals for the effective fight against violence against women and domestic violence, and what is particularly significant is that the Convention defines violence against women as violation of human rights, while domestic violence refers to all acts of physical, sexual, psychological or economic violence that occurs within the family or household.

The **Law on Equal Opportunities of Women and Men** regulates the establishment of equal opportunities and equal treatment of women and men, the basic and special measures for the establishment of equal opportunities for women and men, the rights and obligations of the responsible entities for ensuring equal opportunities for women and men, the procedure for determining the unequal treatment of women and men, as well as the rights and duties of the Legal Representative for Equal Opportunities for Women and Men as a designated person for the implementation of the procedure for determining the unequal treatment of women and men.

The purpose of the law is to establish equal opportunities for women and men in the political, economic, social, educational, cultural, health, civic and any other area of public life. Establishment of equal opportunities is the concern of the whole society, i.e. of all subjects in the public and private sector and represents the removal of the obstacles and the creation of conditions for the realisation of complete equality between women and men<sup>52</sup>.

The establishment of equal opportunities for women and men is additionally regulated by laws that regulate issues of interest for equal opportunities for women and men in the field of health care and health insurance, social protection, access to goods and services, economy, labour relations, and employment, education and professional training, economic and ownership relations, use of public products and services (consumer rights), culture and sports, information and communication technologies, defence and security, judiciary and administration, housing, public information and media, state and public administration, and in other areas of public life.<sup>53</sup>

Definitions in line with the Law of Equal Opportunities of Women and Men:<sup>54</sup>

- **Equal opportunities for women and men** is promotion of the principle of introduction of equal participation of women and men in all spheres of the public and private sector, equal status and treatment in the exercise of all rights and in the development of their individual potentials through which they contribute to the social development, as well as equal benefits from the results arising from that development;
- **Equal treatment** is the absence of direct or indirect discrimination on grounds of gender, in accordance with this or another law;
- **Gender based discrimination** is any differentiation, exclusion or limitation on grounds of gender, resulting in or aiming at endangering or disabling the recognition, achievement or exercise of the human rights and the fundamental freedoms on the grounds of equality of the women and men in the political, economic, social, cultural and civil or other sphere, regardless of their race, colour of skin, gender, belonging to a marginalised group, ethnicity, language, citizenship, social background, religion or religious belief, education, political belonging, personal or social status, mental and physical disability, age, family or marital status, material condition, health condition or any other ground;
- **Direct gender based discrimination** is when one person has been treated, is treated, or would be treated less favourably on the grounds of sex than another person in a comparable situation;

52 Ibid Article 2

53 See Article 1 of the Law on Equal Opportunities of Women and Men (Official Gazette of the Republic of Macedonia No. 6/2012). Law Amending the Law on Equal Opportunities of Women and Men (Official Gazette of the Republic of North Macedonia No. 166/2014), link: [http://www.mtsp.gov.mk/content/pdf/zakoni/2017/precisten%20tekst%202015%20na%20ZEM\\_nov.pdf](http://www.mtsp.gov.mk/content/pdf/zakoni/2017/precisten%20tekst%202015%20na%20ZEM_nov.pdf) [accessed on 16 March 2020]

54 Ibid Article 4

- **Indirect gender based discrimination** is when apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared to persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means for achieving that aim are appropriate and necessary.
- **Gender based harassment** is unwanted conduct related to the sex of a person with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment;
- **Gender based sexual harassment** is where any form of unwanted verbal, nonverbal or physical conduct of a sexual nature occurs, with a purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.
- **Full equality of women and men** means equal rights, opportunities, conditions and treatment in all spheres of public and private life and absence of cultural, social, economic and political conditions producing disproportion of the power and unequal distribution of the social goods between women and men;
- **Equitable representation** is any percentile representation of particular gender which is not lower than the percentile representation of that gender in the total population;
- **Gender mainstreaming** is integration of the gender perspective in each phase of the process of building, adopting, implementing, monitoring and evaluating policies – in the same time, considering the promotion and improvement of the equality of women and men.

The Assembly of the Republic of North Macedonia, within its competences, takes care of elimination of all forms of discrimination on the grounds of sex and the improvement of the social status of women; integrates the principle of equal opportunities of women and men into the legal initiatives, policies and programmes; organises public debates and discussions on issues of equal opportunities of women and men; analyses and gives opinions on the impact of legal provisions on the status of women and men, requests reports and documentation from the competent institutions in relation to the field of work and prepares and publishes reports on its work. The Assembly respects the principle of equal participation of women and men in the election of the composition of the working bodies and in the determination of the composition of its delegations for cooperation with international organisations and in cooperation with the parliaments of other countries. It also adopts a Gender Equality Strategy and follows its implementation in the sectoral policies and programmes and cooperates with the social partners, non-governmental organisations and other public institutions in the respective field. The Assembly establishes and determines the composition and competencies of the **Commission for Equal Opportunities of Women and Men** as a permanent working body<sup>55</sup>.

## Mechanisms for the protection of the right

The protection of the right to equal treatment on grounds of sex is exercised by filing a petition to: Legal representative in accordance with the law, the Ombudsman, the Commission for Protection against Discrimination or a competent court<sup>56</sup>. The petition has to be submitted within a period of six months from the day of becoming aware of the act of discrimination or at the latest one year from the day when the violation was committed.<sup>57</sup>

The **Ministry of Labour and Social Policy** supervises the implementation of the provisions of the law and by-laws. Inspection supervision over the implementation of the provisions of the law and by-laws is performed by the **State Labour Inspectorate**, which is obliged to propose to the perpetrator of the misdemeanor a settlement procedure, in accordance with the Law on Misdemeanours. The state labour inspector is

55 Ibid Article 9

56 Ibid Article 20

57 Ibid Article 23

obliged to issue a misdemeanour payment order to the perpetrator for the committed misdemeanour. As for the misdemeanour proceedings, they are conducted and the misdemeanour sanction is imposed by the competent court.<sup>58</sup>

The purpose of the **Law on Prevention and Protection against Discrimination** is to ensure the principle of equality and prevention and protection against discrimination in exercising the human rights and freedoms<sup>59</sup>. This Law applies to all natural persons and legal entities, and is applied by all state bodies, bodies of the local self-government units, legal entities with public authorisations and all other legal entities and natural persons in the field of:<sup>60</sup>

1. Labour and labour relations;
2. Education, science and sport;
3. Social security, including the area of social protection, pension and disability insurance, health insurance and health protection;
4. Judiciary and administration;
5. Housing;
6. Public information and media;
7. Access to goods and services;
8. Membership and activity in unions, political parties, citizens' associations and foundations, trade union or other membership-based organisations;
9. Culture, and
10. All other areas.

The law prohibits any discrimination based on race, colour, origin, national or ethnic origin, sex, gender, sexual orientation, gender identity, belonging to a marginalised group, language, citizenship, social origin, education, religion or religious belief, political affiliation, other affiliations, disability, age, family or marital status, property status, health condition, personal status and social status or any other basis (hereinafter: discriminatory basis) shall be prohibited.<sup>61</sup>

**Discrimination** is any differentiation, exclusion, limitation or giving priority based on a discriminatory basis, by doing or not doing, which have the purpose or result of preventing, restricting, recognising, enjoying or exercising the rights and freedoms of a certain person or a group on an equal basis with others. This includes all forms of discrimination, including disabling appropriate adaptation and disabling the accessibility and availability of infrastructure, goods and services<sup>62</sup>.

Persons who consider that they have suffered discrimination may submit a complaint to the **Commission for Prevention and Protection against Discrimination**, in writing or orally on the minutes, without any obligation to pay fees and other compensation. A person who considers that he/she has been discriminated may be represented before the Commission by an association, foundation or trade union upon his/her prior consent.<sup>63</sup> The misdemeanour procedure before the misdemeanour body is conducted by the **Commission for Decision-Making on Misdemeanour** formed by the Minister who manages the Ministry of Labour and Social Policy.<sup>64</sup>

Judicial protection – Associations, foundations, trade unions or other civil society organisations and informal groups that have a legitimate interest in protecting the interests of a particular group or are concerned their activities with protection against discrimination, may file a lawsuit if they can make it probable that the actions of the defendant have discriminated a number of persons.<sup>65</sup>

58 Ibid Article 37

59 See Article 2 of the Law on Prevention and Protection against Discrimination (Official Gazette of RNM, No. 101 of 22 May 2019), link: <http://www.mtsp.gov.mk/content/pdf/zakoni/2019/27,5-Zakon%20za%20zastita%20od%20diskriminacija.pdf> [accessed on 16 March 2020]

60 Ibid Article 3

61 Ibid Article 5

62 Ibid Article 6

63 Ibid Article 23

64 Ibid Article 46

65 Ibid Article 35

## EU practices

In the EU, the so-called Renewed Directive (2006/54/EC) on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation joined some older directives. This Directive requires the implementation of the prohibition on direct and indirect sexual discrimination, harassment and sexual harassment in the areas of employment, social security and receiving salary. Prohibition of direct or indirect sexual discrimination applies to social security (Directive 79/7/EEC) and to self-employment (Directive 2010/41/EU). Sexual discrimination is also prohibited in access to and supply with goods and services (Directive 2004/113/EC). In addition, some directives apply to specific groups, such as the Pregnancy Directive (92/85/EEC), the Parental Leave Directive (2010/18/EU) or the Part-Time Work Directive (97/81/EC). A large number of part-time workers in the EU are women; the request for equal treatment for those with full-time and part-time work is as important for them.<sup>66</sup>

Finland ranks third in the world in terms of gender equality. It is considered that power is equally divided between men and women. It is also the third country in the world with the largest number of women involved in politics.

When it comes to parental rights, **Finland** believes that fathers play a key role in a child's development. The government gives the fathers nine weeks of maternity leave, and during that period they receive 70 percent of their salary. As for us, fathers are entitled to a paid leave due to personal and family circumstances, specifically for the birth of a child up to seven working days. The number of days is determined by a collective agreement and for all circumstances provided for by law it may not exceed a period of seven working days. If the mother does not use the maternity leave to the end, the father can use it. Both cannot use it at the same time.

### Conclusion

Advancement of gender equality is crucial for the well-being of societies, however, women still face discrimination in many areas in the 21<sup>st</sup> century. The international and the national legal frameworks for gender equality are dynamic and comprehensively regulate this matter. However, in reality, there is a need for practical implementation of all documents dedicated to the equality of men and women. There are also legal acts that provide only for equal treatment of men and women in an ineffective manner. Although the two genders do not have the same starting position, equal treatment of the two genders will not yield the desired results, having in mind that the normative and legal framework must provide the same starting position for different genders, given their natural differences.

<sup>66</sup> Key directives on gender equality and non-discrimination, more on the link: <https://www.equalitylaw.eu/legal-developments/16-law/76-key-eu-directives-in-gender-equality-and-non-discrimination>, [accessed on 24 July 2020]

## Legislative framework and recommendations

**Justice** – One of the fundamental rights – the right to an efficient and fair trial is guaranteed by the European Union and international agreements signed by the state. However, the judiciary remains one of the most challenging problems in the country, as noted in almost every progress report published by the European Commission.

Chapter 23 in the Report for the Republic of North Macedonia for 2019 makes special reference to the judiciary and the fundamental rights – “...**The EU’s founding values include the rule of law and respect for human rights. A proper functioning judicial system and an effective fight against corruption are of paramount importance, as is the respect for human rights in law and in practice...**” The Report states that the country has reached some level of preparation, i.e. it is moderately prepared to apply the *acquis* and the European standards in this area. The recent legislative changes have largely addressed the “Urgent Reform Priorities”, recommendations of the Venice Commission and the Senior Experts’ Group on systemic Rule of Law issues. This led to good progress in completing the amendments to the legal framework, particularly in the area of judiciary and non-discrimination, to address the police impunity and to reinforce protection of fundamental rights. The courts have pronounced final convictions in high profile cases under the remit of the Special Prosecutor’s Office. The legal and political framework for fundamental rights is generally in place and the Ombudsman’s Office has been granted additional responsibilities. Efforts have been made to further improve the human rights situation in practice but a substantial allocation of funds and strong leadership are needed to ensure implementation and sustainability of measures taken.

The Venice Commission praised the authorities’ constant efforts to bring the rules governing the judicial system in line with international standards and practices. The country stepped up the implementation of the judicial reform strategy and revised its action plan. Regular monitoring at all levels is needed to ensure that timelines are respected. All stakeholders need to remain engaged to deliver a reform that will benefit citizens. Implementation of the new legal framework provides a firm basis for lasting change. Beyond legal changes, it is essential that all judicial institutions demonstrate their exemplarity and contribute, through additional efforts, to restoring public trust in judiciary.

In 2020, the Republic of North Macedonia should place a special emphasis to:

- Continuing implementation of the judicial reform strategy, prioritising the development of a human resources strategy and improving the automated court case management information system (ACCMIS) to ensure it is fully functional and reliable;
- Ensuring consistent implementation of the new rules for appointment, promotion, discipline and dismissal of judges, and demonstrating that the independence of the judicial system is respected and promoted at all levels, shielding it from any risk of political interference;
- Fully implementing the new legal framework related to the reform of the Judicial Council and adopting reform of the Council of Public Prosecutors.

**The 2017-2022 Strategy on Judicial Reform** is the guiding document for reform in this sector and the implementation of related action plan, updated in October 2018. The Republic of North Macedonia adopted amendments to many laws governing this sector, notably the Laws on Courts and on the Judicial Council in

line with Venice Commission recommendations as well as the Criminal Code and the Law on Misdemeanours. The country's consistent efforts to bring the rules governing the judicial system in line with international standards and practices have been noted by the Venice Commission in its March 2019 Opinion on the Law on the Judicial Council.

Judicial independence is enshrined in the Constitution. Measures taken during previous years in relation to impartiality and independence have a positive impact on the independence of the judiciary, but constant efforts are needed to eliminate the risk or perception of political interference. The provisions of the new amendments to the laws, provided they are properly implemented, can ensure the independence of the judiciary.

Power in the Republic of North Macedonia is divided into legislative, executive and judicial. In accordance with the Constitution of the Republic of North Macedonia, the judiciary is run by the courts as autonomous and independent state bodies. The courts judge on the basis of the Constitution, laws and international agreements ratified by the Assembly of the Republic of North Macedonia.

The basic goals and functions of the judiciary are as follows:

- Impartial application of the law, regardless of the position and nature of the parties,
- Protection, respect and promotion of human rights and freedoms,
- Ensuring equality and non-discrimination on any grounds, and
- Providing legal certainty based on the rule of law.

The types, jurisdiction, establishment, abolition, organisation and composition of the courts, as well as the procedure before them are regulated by law. In the judicial system, the judicial power is exercised by the basic courts, the appellate courts, the Administrative Court, the Higher Administrative Court and the Supreme Court of the Republic of North Macedonia. Basic courts are established for one or more municipalities and adjudicate in the first instance as courts with the basic jurisdiction and courts with extended jurisdiction. Appellate courts are established for the area of several courts of first instance (basic courts). On the territory of the Republic of North Macedonia, there are four appellate courts with the seats in Bitola, Gostivar, Skopje and Shtip.

The Administrative Court, the Higher Administrative Court and the Supreme Court of the Republic of North Macedonia exercise judicial power over the entire territory of the country and have their seats in Skopje. Hearings before the courts and the pronouncement of verdicts are public, except in cases determined by law. Court decisions are rendered on behalf of the citizens of the Republic of North Macedonia. Final court decisions have inviolable legal effect, they are binding for all legal entities and natural persons, have greater force in relation to the decisions of other state bodies and in doing so everyone is obliged to respect them and ensure their execution. The amendments also stipulate that appointments in the first instance give importance to the ranking of candidates upon their completion of the training at the Academy for Judges and Public Prosecutors in the appointment procedure.

In 2018, the Judicial Council appointed 4 judges and 2 court presidents. The amendments introduced an appeal procedure to the Supreme Court in connection with the appointment procedures. The Public Prosecutors' Council appointed 25 prosecutors at various levels and enabled a total of 21 prosecutors to carry out their tasks beyond the retirement age in order to address staff shortages. According to figures received from the authorities, in 2018, the budget allocated to the courts increased by about 2% and amounted to 0.29% of the GDP. The budget for prosecutor's offices increased by a similar rate. In the middle of 2018, the country had 25 judges and 8.4 prosecutors per 100,000 inhabitants, compared to the European average of 21.5 judges and 11.7 prosecutors in 2016 (according to reports of the European Commission for the efficiency of justice).

The situation with information technology in the judiciary is improving along with the implementation of the IT strategy for the justice sector but remains largely dependent on donor funding. The lack of resources and quality staff continues to hinder the renewal and maintenance of the IT tools. The physical condition of the courts is very different and accessibility remains a challenge throughout the country, for example, in the Civil



Court in Skopje. Given that the Supreme Court began to hold regular meetings with the four appellate courts on the consistency of case law in civil law cases, not all courts were able to immediately transfer the verdicts to the database for online access to the case law. Courts do not always have access to verdicts of other courts, which prevents consistency.

## EU practices

Estonia became a Member State of the European Union on 1 May 2004. The Ministry of Justice has a significant role in managing the judicial system in Estonia. The Estonian judicial system consists of three levels: county and administrative courts; circuit courts are second instance courts, and the Supreme Court is a third instance court. **The structure of the court system of Estonia is one of the simplest in Europe. The peculiarity of the system lies in the fact that the Supreme Court simultaneously performs the functions of the highest court of general jurisdiction of the supreme administrative court as well as of the constitutional court.**

Total of 242 judges are employed in the court system of Estonia. There are a total of 43 judges in the circuit courts. The county courts are the courts of first instance and cover all civil, criminal and misdemeanour cases. There are 4 county courts (in Harju, Viru, Pärnu, Tartu) with 153 judges. The county courts are divided into court palaces. Administrative courts as courts of first instance cover administrative issues. There are 2 administrative courts (in Tallinn and Tartu) with 27 judges. The administrative courts are divided into court palaces. On 19 June 2002, a new Law on Courts was enacted and entered into force on 29 July 2002. The new law introduced a very significant change, i.e. it established the Council for Administration of Courts. The purpose of the establishment of the Council was to involve judges from all levels of the judiciary in decision-making in relation to the entire judicial system as until then, only the Ministry of Justice managed the courts of the first and the second instance. The establishment of the Council for Administration of Courts was a significant step in the creation of an integrated and independent judicial system as set out in the Constitution.

Estonia is considered one of the most progressive new Member States in terms of the development and use of information and communication technologies in the public sector, especially in justice. A great achievement in Estonia is the e-File system – a central information system that provides an overview of the various stages of criminal, civil, administrative and misdemeanour proceedings, procedural acts and judicial review of all parties involved, including the citizens and their representatives. The e-File saves time and money, as the data is entered only once and the communication between the parties is electronic. The e-File is a project funded by the European Union and provides accurate statistics in the field of legal protection. The e-File project received a special award at the European 2014 Crystal Scales of Justice Prize.<sup>67</sup>

### Conclusion

An efficient and independent judiciary, by definition, is not provided by the legal solutions themselves, which often change in practice. Their implementation and application is important, as well as certainty, predictability guaranteed by the laws and their observance and implementation. Despite the fact that it is assumed that there is a high degree of corruption and incompetence of judges who are appointed on a party proposal, even though they are elected by the Assembly, judges are not the only “culprits” for the inefficient judiciary. In the shadow is the court administration, on which quality and professional work of the courts largely depends, as well as the political will of those in power. It is inevitable to strengthen the human resources capacity at all levels of the judiciary. On the other hand, through concrete steps and commitments, the judiciary needs to gain the trust of citizens in the judiciary and in the rule of law. The citizens will gradually gain trust in the judiciary when it rises beyond political and other influences and party interests, gets free of corrupt behaviour and scandals that “shake” it and despite that takes care of its basic function – proper administration of justice and ensuring access to justice for all.

67 The comparative study Measuring the Progress of Judicial Reforms: Key principles, standards and practices in Macedonia and 7 EU Member States: Croatia, Estonia, France, Hungary, Lithuania, Slovenia and the United Kingdom, issued by the Centre for Legal Research and Analysis. More on the link: <http://cpia.mk/media/files/104350--na-napredokot-na-sudskite-reformi-kluchni-principi-standardi-i-praktiki-vo-makedonija-i-7-zemji-chlenki-na-eu.pdf> [accessed on 1 June 2020]



# THE RIGHT TO A FAIR TRIAL

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## Legislative framework

The Law on Courts stipulate that every citizen has the right to equal access before the court for the protection of their rights and legally based interests. When deciding on citizen's rights and obligations as well as deciding on criminal liability, everyone shall be entitled to fair and public trial before an independent and impartial tribunal established by law within a reasonable time. No one may be denied access before the courts for protecting their fundamental rights and liberties due to lack of material resources.

The court adjudicates in a procedure prescribed by law on:

- Humans and citizens' rights and legal interests,
- Disputes between citizens and other legal entities,
- Crimes and misdemeanours, and – other matters that, under the law, fall within the competence of the court.

The judge shall decide impartially by applying the law on the basis of free evaluation of the evidence. Any form of influence on the independence, impartiality and autonomy of the judge in the exercise of judicial office on any grounds and by any entity shall be prohibited.

The right to the fair trial covers the administration of justice in both the civil and criminal spheres.

In **litigation procedure**, the court shall, as a general rule, decide on a petition on the basis of an oral, direct or public contend. The court shall grant each party the possibility to declare itself regarding the claims and allegations of the opposing party. The parties in the litigation procedure shall be obliged to state all the facts on grounds of which their claims are based, and to propose evidence confirming such facts. The court shall also be authorised to confirm facts not being stated by the parties, and to exhibit the evidence not being proposed by the parties, if the outcome of the contention and the substantiation results in the parties being headed towards disposing with claims they cannot dispose with, but it cannot base its decision on facts and evidence wherefore the parties have not been granted the possibility to declare themselves. According to its own belief the court shall decide which facts it will consider substantiated, based on a conscientious and thoughtful assessment of each proof separately and all of them together, as well as based on the results of the complete procedure. The court shall be obliged to insist the procedure to be conducted without delay, in a reasonable time frame, with the least possible costs, and to prevent any abuse of the rights of the parties in the procedure. Due to the so-called "equality of arms", each party is obliged to present the facts and offer evidence on which it bases its petition or with which it refutes the allegations and evidence of the opponent. The court may, in the course of the proceedings, when it deems it appropriate for the proper resolution of the dispute, warn the parties of their duty, and in particular of the need of presenting decisive facts and proposing certain evidence. In this regard, the evidencing covers all the facts that are important for decision making. The court decides which of the proposed evidence will be presented in order to establish the decisive facts. The main hearing is public, i.e. the public can be excluded only in precisely defined cases determined by law. Following the issuance of the court decision in the procedure, a dissatisfied party is guaranteed a right to appeal to the second-instance court.

Depending on the outcome of the litigation, the parties are subject to payment of the costs of the procedure. With a purpose of fair trial, the financially incapable persons cannot be denied the right to access to justice just because they are unable to pay the court costs. Therefore, the court will release them from paying the costs of the procedure if according to its general property status, the party is not able to bear these costs without prejudice to its necessary sustenance or the necessary sustenance of its family.<sup>68</sup>

The purpose of the **Law on Criminal Procedure** is to enable, through the application of its provisions, a fair criminal procedure, thus ensuring that no innocent person is ever convicted and the perpetrator of the criminal offence is criminally sanctioned according to the terms provided in the Criminal Code and on the basis of a lawfully conducted procedure. Any person charged with a criminal offence shall be presumed innocent until his or her guilt is established by a valid and final court verdict (presumption of innocence). State authorities, media and other entities shall be obliged to observe this rule and their public statements about the ongoing procedure shall neither violate the rights of the defendant and the injured party nor harm the judicial independence and partiality. Prior to passing a valid and final verdict, the freedoms and rights of the defendant and other persons, proportional with the severity of the criminal offence and the degree of suspicion may be limited only to the extent that is necessary and under circumstances provided for in the Constitution of the Republic of North Macedonia, international agreements that have been ratified in accordance with the Constitution of the Republic of North Macedonia and the provisions of the Law on Criminal Procedure. Only a competent court may impose criminal sanctions on the perpetrator of the criminal offence with a decision, in a procedure conducted according to this Law.

Any person charged with a criminal offence shall have the right to a fair and public trial before an independent and impartial tribunal, in an adversarial procedure, with a possibility to challenge the accusations against him/her and tender and present evidence in his/her defence. Any person that is subject of the procedure shall have the right to be taken before the court within a reasonable time and tried without any unjustified delays. The court shall be obliged to conduct the proceeding without any delay and to preclude any abuse of the rights that belong to the persons that participate in the proceedings. No person shall be tried again and sentenced for a criminal offence for which he or she has already stood trial and a final and valid judicial verdict exists. Extorting a confession or any other statement from the defendant or any other person who participate in the procedure shall be prohibited. Any evidence collected in an unlawful manner or by violation of the rights and freedoms established in the Constitution of the Republic of North Macedonia, the laws and international agreements, as well as any evidence resulting thereof, may not be used and may not provide the ground for the judicial verdict. Any person who has been unlawfully arrested, detained or unlawfully convicted shall have the right for compensation of damages from the budget, the right to be rehabilitated, as well as other rights established by law. The body that conducts the proceedings shall advise the defendant or any other person who participate in the procedure, who might miss out on any part of the proceedings out of ignorance, and thus not exercise his/her rights, of the rights that a person has in accordance with this Law and of the possible consequences of his/her lack of action. The court and the state authorities shall be obliged to pay equal attention to the investigation and determination of both aggravating and exculpatory facts. The right to appeal against the first instance court decisions is guaranteed, and the appeal shall be decided directly by the higher competent court.<sup>69</sup>

According to Article 4 of the Criminal Code, criminal sanctions shall be: punishments, alternative measures, safety measures and educational measures. Nobody can be imposed a sentence or another criminal sanction for an act, which prior its commission is not determined by law as a crime and for which no sentence is prescribed by law. Crime shall be considered an unlawful act that is determined by law to be a crime, and whose characteristics are determined by law. An offender, who is considered accountable and who has committed a premeditated crime or crime due to negligence and who was aware or was obliged and could have been aware for the prohibition of the activity, shall bear criminal liability. The offender shall bear criminal liability for crime committed out of negligence only when this is so determined by law. An act shall not be considered a crime even though it contains characteristics of a crime, when it is an act of minor significance, due to

68 Law on Litigation Procedure (Published in Official Gazette of RNM No. 07 of 20 January 2011), [accessed on 17 July 2020]

69 Law on Criminal Procedure (Published in Official Gazette of RNM No. 07 of 20 January 2011), [accessed on 17 July 2020]

the lack or insignificance of the harmful consequences and the low level of criminal liability of the offender. An act shall not be considered criminal, should it be committed in self-defence. Self-defence shall be the defence, necessary for the offender to avert a simultaneous unlawful attack upon himself or upon another. The offender who has exceeded the limits of self-defence may be punished more leniently, and if exceeding was done due to a strong irritation or fear caused by the attack, he/she may be acquitted from sentence.<sup>70</sup>

The **Law on Misdemeanours** regulate the general conditions for the misdemeanours and misdemeanour sanctions, general conditions for determination of the misdemeanour responsibility, issuance and enforcement of the misdemeanour sanctions and stipulates misdemeanour procedures. Nobody shall be punished for misdemeanour for an act which, before it was done, has not been determined by law as a misdemeanour and for which a sanction has not been prescribed by law. Nobody may be sanctioned again for a misdemeanour for which a procedure has already been conducted and for the same act a criminal or misdemeanour sanction has been imposed on him/her. When conducting the misdemeanour proceedings, the court, i.e. the misdemeanour body should enable the party to exercise and protect its rights and legal interests, as long as they are not to the detriment of the rights and legal interests of other parties or third parties and are not to the detriment of the public interest established by law. When the parties to the misdemeanour proceedings are imposed obligations, the court or the misdemeanour body is obliged to apply those actions that are more favourable for the parties, if such actions are sufficient to achieve the goal established by law. The perpetrator of the misdemeanour is imposed a misdemeanour sanction within the limits prescribed by law for the committed misdemeanour, having in mind the misdemeanour responsibility of the perpetrator and the gravity of the misdemeanour. In determining the misdemeanour sanction, all circumstances that influence the misdemeanour sanction to be easier or more severe (facilitating and mitigating factors) are taken into account, especially: the degree of responsibility of the misdemeanour perpetrator, the motives for the offense, the severity of the threat or the damage of protected good, the circumstances under which the offense was committed, the previous life of the perpetrator, his/her personal circumstances and his/her behaviour after the offense, especially whether he/she compensated for the damage, as well as other circumstances related to the perpetrator's personality. The imposition of the fine takes into account the property status of the perpetrator, the amount of his/her salary, other income, property and family obligations; as for the offenses in the field of taxes and custom duties the proportionality of the unpaid amount of duties to which he/she was obliged by law are taken into account. The misdemeanour sanctions imposed for a previously committed misdemeanour cannot be considered as an aggravating factor if more than one year has elapsed from the day of the validity of the decision for misdemeanour until the commission of the new misdemeanour.

The following shall be imposed for misdemeanour perpetrated under the conditions of this Law:

- Misdemeanour sanctions for natural persons,
- Misdemeanour sanctions for legal entities, and
- Special misdemeanour measures.<sup>71</sup>

## EU practices

The right to a fair trial is guaranteed by Article 47 of the EU Charter of Fundamental Rights. The article states that everyone whose rights and freedoms are guaranteed by the law of the Union has the right to an effective remedy before a tribunal, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented. This article also guarantees that legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.

70 Criminal Code (Published in Official Gazette of RNM No. 37/96, 80/99, 4/2002, 43/03, 19/04, and Decision of the Constitutional Court: Official Gazette 48/01), [accessed on 17 July 2020]

71 Law on Misdemeanours (Published in the Official Gazette of RNM No. 96/2019 of 17 May 2020), [accessed on 18 July 2020]

## Conclusion

In recent years, we have witnessed cases where detention lasts too long, although this is contrary to the recommendations of the European Union. Some court proceedings drag on for years, while others end surprisingly quickly. One cannot get rid of the impression that a fair trial exists but only as a selected one. A large number of cases are closed without receiving the punishment provided for the committed act. The impression is that representatives of the government (regardless of the current situation) are rarely responsible for the committed crimes and misdemeanours), while the court punishments exist only for citizens or, as is generally accepted, the ordinary person. Stronger monitoring of the strong processes, political will and strong efforts of the NGO sector and civil society organisations is needed to put pressure on the judiciary in a positive direction of the respect of laws and the principle that all people are same before the law.

## Legislative framework

The capacity and functioning of the public administration is one of the key problems in the Republic of North Macedonia, which affects the quality of life of the citizens and the efforts of the country to meet the standards for accession to the European Union. These problems are registered in almost every progress report of the country towards the EU. The EU defines the right to good administration as a fundamental right of its citizens.

The public administration in the country has been the subject of debate for years. Its overcrowding and partisanship leaves a bad image and directly causes distrust of the citizens in the state and the institutions, but at the same time it is the subject of discussions and negative reports at the European level. EU reports related to our country regularly point out the weaknesses of the public administration and its inefficiency. Citizens are becoming louder in their statements that the public administration, which as a rule should be a service to the citizens, still remains labelled as “unkind, slow and unprofessional.” This image will not change in the near future, especially due to the fact that no government has so far tried to implement genuine and serious reforms of the public administration. Everyone sees the public administration, with its large number of employees, as a large electorate that plays its role in every election. On the other hand, the creation of a professional and efficient, accountable and transparent administration is a necessary precondition for providing quality services for citizens and the business sector in terms of protection of their rights.

Out of a total of 3775 petitions received during 2016 by the Ombudsman as the public advocate and the promoter of human rights, as well as authorised to participate in all phases of the court proceedings, the highest number, i.e. 1764 (46%), referred to the violation of rights by the public services and institutions, 1142 (30%) referred to the violation of rights by the central government, whereas in 306 petitions (8%) the rights were violated by the local government. Out of the 3756 petitions completed in 2016, the Ombudsman found violations of human freedoms and rights in 1358 cases (36%) whereby appropriate measures were taken and his interventions were accepted.<sup>72</sup>

With regard to the indicators used, the public sector in the Republic of North Macedonia does not differ much from the other countries in the Western Balkans in terms of the total number of employees.

Salaries in the state administration, on average, are higher than salaries in other public sector activities, but these differences are not large. Compared to the private sector, salaries in the state administration are lower than salaries in the IT sector, financial services, and the energy sector, but they are higher than salaries in agriculture, processing industry and hospitality services. According to the total population in North Macedonia, the employees in the public sector represented 6.26% in 2017. Thus, the public sector in North Macedonia is similar in scope to Serbia, larger than the public sector in Bosnia and Herzegovina, and smaller than the public sector in Croatia and Slovenia. The average of the EU Member States is 9.96%. Countries in Europe where the share of employees in the public sector is slightly higher than 10% are Germany, Finland, Ireland, Malta, the Netherlands, and Austria. The Scandinavian countries have the largest public sector in relation to the total population, Norway 14.78%, Iceland, Sweden and Denmark just over 13%. North Macedonia has a smaller public sector than most developed countries in Europe, and does not differ much from the countries of the Western Balkans.

72 Public Administration Reform Strategy 2018-2022, February, 2018, link: [http://mioa.gov.mk/sites/default/files/pbl\\_files/documents/strategies/srja\\_2018-2022\\_20022018\\_mk.pdf](http://mioa.gov.mk/sites/default/files/pbl_files/documents/strategies/srja_2018-2022_20022018_mk.pdf)

Administrative servants are employees in the state and public administration and they perform administrative work: professional-administrative, normative-legal, executive, statistical, administrative-supervisory, planning, information, personnel, material, financial, accounting, information and other works of administrative nature.<sup>73</sup> In other words, these employees resolve cases on requests of citizens and legal entities when they exercise their rights or fulfil legal obligations towards the state, conduct supervision (inspection, expert, etc.), perform expert analyses, prepare regulations for the needs of state authorities, etc. **Civil servants** are employed in the state and local government bodies and other state bodies: ministries, bodies within the ministries such as inspectorates, bureaus, administrations, etc., in the professional services of the Government, the Assembly, the President of the state, the Ombudsman; administrative organisations, such as the State Statistical Office and the State Archives of the Republic of North Macedonia; and expert services of the local self-government units. **Public sector servants** are administrative servants employed in institutions that perform activities in the field of education, science, health, culture, labour, social protection and child protection, sports, as well as in other activities of public interest established by law, and organised as agencies, funds, public institutions and public enterprises founded by the Republic of North Macedonia or by the municipalities, by the City of Skopje, as well as by the municipalities in the City of Skopje.

In relation to the latest report of the European Union for 2019, North Macedonia is moderately prepared in relation to the reform of the public administration. Good progress has been made, in particular with the implementation of the strategic framework for public administration reform, improved public consultation and increased transparency in policy-making, as well as in the area of policy development and coordination. It was stated that additional steps have been taken to improve transparency, including by announcing the number of employees in the public service and increasing the use of public consultations, i.e. steps have been taken to address the alleged politicised appointments. However, further efforts are needed to increase the accountability of the administration and prevent its politicization. Compliance with the principles of transparency, merits and equitable representation remains essential.<sup>74</sup>

The report<sup>75</sup> exhaustively lists that during 2020 the Republic of North Macedonia should:

- Ensure full respect of the merit-based recruitment for senior civil service and other positions;
- Finalise the horizontal functional review and start implementing it to ensure clear accountability lines between institutions;
- Ensure full implementation of the Law on General Administrative Procedures.

**The 2018-2022 Public Administration Reform Strategy** and the **2018-2021 Public Financial Management Reform Programme** are the umbrella strategies for the public administration reform.

Professional development has not been systematised yet, and a centralised database of the training offered by various institutions is yet to be established. While integrity in the public service is sufficiently regulated, including whistle-blower legislation, data needs to be made available on how integrity mechanisms are implemented in practice.

Citizens' right to good administration is protected by the independent institutions, especially the Ombudsman and the State Audit Office.

Subject of the Law on Administrative Servants<sup>76</sup> are the status, classification, employment, promotion, professional development and training, measurement of the effect and other issues related to the employment of administrative servants, the status and competence of the Administration Agency.

73 Article 2 of the Law on Administrative Servants, Official Gazette of the Republic of Macedonia No. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 and 11/18 and Official Gazette of the Republic of North Macedonia No. 275/19 and 14/20

74 2019 North Macedonia Report, <http://www.sep.gov.mk/data/file/Dokumenti/lzveshtaj%202019-F.pdf> [accessed on 4 June 2020]

75 2019 North Macedonia Report, <http://www.sep.gov.mk/data/file/Dokumenti/lzveshtaj%202019-F.pdf> [accessed on 4 June 2020]

76 Law on Administrative Servants (Official Gazette of the Republic of Macedonia No. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16 and 11/18 and Official Gazette of the Republic of North Macedonia No. 275/19 and 14/20)

The organisational structure in relation to the coordination of the public sector is structured in accordance with Article 6 of the Law on Administration Agency.

At the level of the public sector, the competent institutions for coordination of the work of the administrative servants are as follows:

- Ministry of Information Society and Administration,
- Ministry of Finance,
- Ministry of Political System and Inter-Community Relations, and
- Administration Agency, especially regulated in Chapter III.

At the level of the institution, the following are responsible for human resource management:

- Managing person,
- Secretary, and
- Organisational units for human resource management.

## Conclusion

The institutions do not do the work they are paid for by the citizens, or they do it with very poor results and low quality. One cannot get the answer who is responsible for generally poor and slow services, since the principle of the Macedonian institutions is “It is not up to me.” Sufficiently long bad work leaves serious consequences for civil behaviour. Bad practices are not sanctioned, so even those who want order and receiving quality services for which they pay taxes are demotivated. More than needed is a professional and efficient public administration, which will quickly and effectively provide services to the citizens in the country. The public administration should be free from all pressures (whether political or other forms of pressure) and it should be reduced to the number of employees in this sector that is the most adequate as well as professional in performing the work tasks on a daily basis. Verification of the work, ability, regular and continuous training of the employees in the public administration is something that the country lacks, though this is expected to place the administration on solid foundations so that it may fulfil the role for which it exists.





# HEALTH AND ACCESS TO HEALTH SERVICES

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## Current situation

Due to the problems it refers to, health care may be at the very top of the sectors that the citizens are not satisfied with. With its poor equipment, organisation, along with the lack of quality health care staff in the country, health care institutions, the level of salaries, etc., the health care is a fertile ground for fostering corruption. Numerous surveys and research show that this sector enjoys minimum reputation and complete distrust of the citizens. On the one hand, citizens trust the doctors, and not the system, even that according to the law, every citizen has the right to health care, regardless of their status and the position in which they are.

Health care in the Republic of North Macedonia has been the subject of discussions for years. All its shortcomings can be looked at from several aspects. In rural areas across the country this problem is most pronounced, there is a lack of the infrastructure and human resources, and thus it is very difficult for citizens to exercise the right to health care, as their fundamental and guaranteed human right.

Statistics also show that the outflow of medical staff is large, which in turn directly affects the quality of the health care provision. Unfortunately, the negative consequences of this problem are most felt by patients.

The picture in the field shows that the health care institutions in our country are not renovated, they generally have obsolete equipment and apparatus. New equipment procured by certain institutions usually remains unused since there is rarely someone who knows how to work with it or for unknown reasons, it is not put in the function of the patients for whose needs it should be used every day. Hygiene and conditions, either in the general or in the specialist institutions, are under all standards and do not meet even the minimum requirements, with very rare exceptions.

Thus, although having health insurance, a large number of people who are financially stable opt for private clinics, being dissatisfied with the state-run clinics both because of the doctor-patient relationship, and because of the drastic difference in the conditions, care, equipment and services offered by private and public health facilities respectively, along with the time they need to get to the required service.

It appears that the access to health services for the unemployed does not apply equally to everybody. Actually, a newly unemployed family is not entitled to free health care if in the previous 12 months, the total earnings of the household were higher than the amount of the average salary in the stated period. In such a situation, when a family is suddenly left without income, it faces another problem, lack of health insurance.

We have seen that the Macedonian healthcare not only faces a lot of problems, but it faces basic problems. Citizens face basic problems such as: inability to receive quality health care even though they pay health insurance contributions; quality medicines from western countries that used to be present in the Macedonian pharmaceutical market and are now becoming short off; the industry is turning to cheaper medicines with lower quality from other countries, which for one reason or another are put in the register of medicines by the health authorities. Urgent medical care, which often does not arrive on time since it has few vehicles and crews; the on-call services in the polyclinics that do not have infusions and appropriate therapy, so that they refer the patients to hospitals or to clinics in Skopje. Citizens who have faced hospital conditions complain through electronic media about the poor condition of hospital facilities and catastrophic hygiene conditions

that certainly do not benefit their health. If the public health is supposed to survive, it must offer better conditions for treatment and patient care, otherwise they will be reoriented to private hospitals. In such a situation, not only will the health care system decline, but public health will lose its role at the risk of becoming completely dysfunctional.

The poor health situation is also reflected in the Reports of the State Audit Office, which found irregularities and deficiencies in the health care through certified auditors. In its latest report, among other things, the certified state auditor found inconsistencies in the procedures for referring persons for treatment abroad. The procedure for referral for treatment abroad is not regulated as a special type of procedure but is treated as a general administrative procedure. For 30% of the issued decisions for treatment abroad, the legal deadline of 45 days provided for resolution has been breached. Having in mind the gravity of the problem, but also the manner of the procedure regulated in such a way, which delays the referral of treatment abroad, it directly contradicts Article 7 of the Law on Health Protection and Article 31 of the Law on Health Insurance.

According to the EU Report for the Republic of North Macedonia, some shortcomings in the health sector are emphasised in the part relating to the public health sector. Regarding Macedonian public health, the report notes that by anticipating higher salaries for medical staff and improved policies, efforts are being made to maintain this staff in the country, but the outflow of health workers continues unabated. Inadequate use of sophisticated medical equipment remains an issue. Lack of financial resources continues to seriously hamper the implementation of public health policies. The Report also refers to the unsatisfactory sanitary conditions and the lack of human resource capacities. Concerning social and economic determinants of health, it was noted that no additional efforts have been made to improve nutrition and physical activity and decrease obesity.

No progress has been made on patients' rights in cross-border healthcare, and the national legislation is still not aligned with the EU legislation. Similarly to previous years, the national legislation on medicinal products for human and veterinary use remains partially aligned to the EU legislation. The practice that medicines covered by the national health insurance are available for patients only in the first days of a month continues. The country still needs to introduce supplementary measures to ensure proper quality and traceability checks of medicines for human and veterinary use subject to parallel trade, i.e. medicines bought in other countries at a cheaper rate.

## Legislative framework

Pursuant to the Constitution of the Republic of North Macedonia<sup>77</sup>, Article 39 states: *Every citizen is guaranteed the right to health care. Citizens have the right and duty to protect and promote their own health and the health of others.*

This constitutional provision is also implemented in the Law on Health Protection, where Article 3 confirms that everyone shall be entitled to health protection and shall be obliged to care for and to maintain and promote his/her health. No one must endanger the health of the others and in states of emergency everyone shall be obliged to provide first aid according to his/her abilities, and in a life-threatening situation to notify the closest health care institution and to enable access to emergency medical care.

A healthcare institution may be established as public and private. The public healthcare institution may be established by the Government of the Republic of North Macedonia. The private healthcare institution may be established by domestic and foreign legal entities and natural persons.

Health insurance in our country, in accordance with the Law on Health Insurance, is established as **mandatory** and **voluntary**. Mandatory health insurance is established for all the citizens of the Republic of North Macedonia for the purpose of providing health services and monetary compensations based on the principles of thoroughness, solidarity, equality and efficient usage of funds under conditions determined by this Law.

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77 Article 39 of the Constitution of the Republic of North Macedonia

Voluntary health insurance is established for the purpose of providing health services that are not included in the mandatory health insurance. The mandatory health insurance is implemented by the Health Insurance Fund of Macedonia, while the voluntary health insurance may be implemented by insurance companies founded according to the insurance regulations.

Article 5 of the Law on Health Insurance<sup>78</sup> lists persons that are mandatorily insured, who are: a worker employed in a legal entity, a self-employed person, a person employed in an institution, in another legal entity performing public service activity, state body and body of the units of local self-government and the City of Skopje, a citizen of the Republic of North Macedonia who is employed on the territory of the Republic of North Macedonia in foreign or international bodies, organisations and institutions, in foreign diplomatic and consular offices, in personal service of foreign diplomatic and consular offices or in personal service of foreigners, unless otherwise determined by international agreements; a self-employed person, a holder of agricultural holding and other subjects in accordance with the above Article of the Law.

The citizens who are not included in the mandatory health insurance can access the mandatory health insurance for the purpose of exercising the right to health services.

The citizens who receive pension or disability pension from a foreign insurance holder, that is, if the Republic of North Macedonia and that foreign state have signed/acceded to an agreement for social insurance that regulates the possibility for exercising the rights to health insurance and who have a residence on the territory of the Republic may join the mandatory health insurance for the purpose of exercising the right to health services, pursuant to the provisions of the international agreement.

Lately, an increasing number of people have referred to one of the private hospitals, not only when they have to, but sometimes when they can afford it. Actually, it has become a common practice for a large part of the citizens, who opt to seek alternative treatment in private health care facilities due to lack of public health services or due to dissatisfaction with the services and not of their choice. Distrust in the public health system caused by a number of reasons is still great, a large part of the citizens think that it does not provide them with everything they need, so patients are forced to manage as they know and can, and this affects their budget because they eventually end up in one of the private hospitals whose service they consider to be of higher quality.

## Practices in the EU and beyond

Every year, the Consumer Health Centre publishes a study on health systems across Europe: Euro Health Consumer Index (EHCI). According to this report, the countries with the best healthcare system are ranked and the first ten European countries according to the quality of their healthcare systems, based on 48 indicators, are listed below.

1. Switzerland
2. The Netherlands
3. Norway
4. Denmark
5. Belgium
6. Finland
7. Luxembourg
8. Sweden
9. Austria
10. Iceland

<sup>78</sup> Article 5 of the Law on Health Insurance, (Official Gazette of the Republic of Macedonia No. 25/00, 34/00, 96/00, 50/01, 11/02, 31/03, 84/05, 37/06, 18/07, 36/07, 82/08, 98/08, 6/09, 67/09, 50/10, 156/10, 53/11, 26/12, 16/13, 91/13, 187/13, 43/14, 44/14, 97/14, 112/14, 113/14, 188/14, 20/15, 61/15, 98/15, 129/15, 150/15, 154/15, 192/15, 217/15, 27/16, 37/16, 120/16, 142/16, 171/17 and Official Gazette of the Republic of North Macedonia No. 275/19)

The Republic of North Macedonia is ranked as the 25<sup>th</sup>. Among the neighbouring countries, before us on the list are the Republic of Serbia at the 18<sup>th</sup>, Slovenia at the 21<sup>st</sup>, Montenegro at the 23<sup>rd</sup>, and Croatia at the 24<sup>th</sup> positions. Behind us is Greece at the 29<sup>th</sup> place, Bulgaria at the 31<sup>st</sup> place, and Albania at the 35<sup>th</sup> place. Globally, the Republic of North Macedonia ranks 60<sup>th</sup> with the rating of 37.16<sup>79</sup> among 89 countries.

*Switzerland – the first country in terms of quality of the health system in the world*

Health care in Switzerland is universal, and health insurance is available to all persons living in Switzerland. Unlike other European countries, the Swiss healthcare is not tax-based or employer-funded, but it is paid by individuals through their contribution to the Swiss health schemes. There are no free health services provided by the state, but the basic coverage for health insurance covers 80-90% of the costs for health care, including outpatient treatment, emergency treatment, prescriptions, medicines for pregnant women and mothers, vaccinations, rehabilitation after surgery and more. Switzerland combines private, subsidised private and public health systems to provide its citizens with a large network of qualified doctors, best-equipped medical facilities and hospitals and no waiting lists.

Of the EU Member States, the healthcare system of Finland is believed to be one of the best in the world. Healthcare in Finland is a highly decentralised, three-tier, publicly funded system. Municipalities are responsible to offer their residents health services. Funding comes from two sources: tax-based municipal funding used to provide primary health services and National Health Insurance, which is funded by mandatory fees. The National Health Insurance funds the private health care, occupational health care and outpatient clinics. In a survey conducted by the European Commission, 88% of Finnish respondents said they were satisfied with their health care.

We will also point out Slovenia as a good example from the neighbourhood. Public health services in Slovenia have over time developed into a strong and sustainable part of the health system, with clear roles for the key stakeholders. Centralised and modernised in recent years, they have contributed to the new health systems developments and developed into a competent partner in intersectoral cooperation. One of the key developments in recent years has been the introduction of new preventive and public health services, including health promotion centres, model practices and screening programmes in the primary health care, focusing on noncommunicable diseases and risk factors. This has improved access for all population groups across the country to prevention and public health services. On the other hand, institutional centralisation in 2013 has improved leadership and strengthened planning procedures, which accelerated cooperation with other parts of the health system and with other sectors. It also contributed to a more equal distribution of services across the country and strengthened monitoring and reporting capacities.

Nationally, the Ministry of Health of Slovenia is responsible for the overall stewardship of the health system, encompassing both health policy and health protection. As part of this role, it monitors public health and develops and coordinates the implementation of public health policies, such as national plans or strategies on nutrition and physical activities, diabetes, cancer, illicit drugs and environmental health. The policies are implemented through yearly or biennial action plans that provide a mechanism to ensure vertical and horizontal coordination of all stakeholders in public health, including NGOs. The Ministry is also responsible for the implementation of legislation and guidelines in different public health domains, including legal and illicit drugs, safety and health promotion at work and in traffic, preventive programmes in primary health care, chemicals, cosmetic products, radiation protection, food and safety and environment and health.

The Ministry of Health has established a Directorate of Public Health which has two divisions, the Division for Control of Communicable Diseases, Food and the Environment and the Division for Health Promotion and Control of Noncommunicable Diseases. The Directorate has a mandate to prevent disease and to reduce its burden on individuals and society through the protection and promotion of mental and physical health and the prevention and control of communicable and noncommunicable diseases. Its remit cover strategic oversight of all public health areas, including prevention of HIV/AIDS, tobacco control, alcohol policy, nutrition and

79 Countries With The Best Health Care Systems, 2019, <https://ceoworld.biz/2019/08/05/revealed-countries-with-the-best-health-care-systems-2019/> [accessed on 6 June 2020]

physical activity, drug dependence prevention and harm reduction, vaccinations, food safety, environmental health and the coordination of activities in case of outbreaks. It is responsible for formulating policies in these areas and for their implementation.

The Ministry is supported in its health care and public health planning tasks by a special advisory body, the Health Council, whose remit includes considering proposals of health care and public health programmes, new technologies and health education and research initiatives from the point of view of their feasibility, accessibility, the balanced development of all professions and their financial impact, in accordance with the needs of the population.

The Ministry's Health Inspectorate has an important role in overseeing the implementation of national public health legislation and policies. Through its nine regional units (established in 1995), the Inspectorate supervises, *inter alia*, sanitation, hygiene, the implementation of tobacco and alcohol regulations, and the environmental protection of the population at the national, regional and local levels. Other Ministry of Health bodies that play a public health role are the Chemical Office, responsible for preparing and implementing measures to protect the natural environment and health of the population against the harmful effects of chemicals, and the Radiation Protection Administration, performing tasks related to the protection of human health against the harmful effects of ionizing and non-ionizing radiation. Since 2014, public health services have been provided by the National Institute of Public Health, based in Ljubljana, and its nine regional offices, as well as by the National Laboratory for Health, Environment and Food, based in Maribor. Both institutions are public institutions funded by the government. The National Institute of Public Health is the central public health institution in Slovenia, carrying out a wide range of public health functions, as well as research, education and post-graduate training. It has broad responsibilities, including assessing population health, health care, and health system resources and performance. Public health specialists have the highest salaries in the area of public health and often hold the leading positions within organisations. Public health also attracts many other professions, with jobs relatively safe, working conditions comparably good, and career opportunities broad, with many opportunities for international cooperation and research.

All residents of Slovenia are entitled to benefits covered by the compulsory health insurance system and the coverage is almost universal. Less than 1% of the population is not covered, and these are mainly individuals whose residence status is unclear (homeless, illegal migrants and asylum seekers). However, people without compulsory health insurance are still entitled to emergency medical services.

## Conclusion

Citizens' money should end up in the right place, so that better services are provided. Greater control is needed in the operation of clinics, the Health Fund and the implementation of laws written on paper. The health infrastructure must be urgently improved and adapted to the countries with modern and quality health care. There are often cases in the country where due to negligence and lack of appropriate conditions, patients die from banal causes. The good practices of the countries of the European Union, especially, as stated in the example, Slovenia as a country with which our country has been in a common state for almost half a century, and it is assumed that the fundamentals and the established infrastructure in some sectors are similar. According to the conditions, capacities and staff, the public health should get closer to the private health in order to gain the trust of the citizens, and to motivate the medical staff to work in the public health institutions.

# 10 RIGHTS OF THE ELDERLY

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## Current situation

The family functioning, i.e. living within the extended family in the Republic of North Macedonia functions much differently compared to the developed countries. While young people in other countries become independent by the time they reach the age of majority, the living conditions are different here. The fact is that in the Republic of North Macedonia, it is difficult to solve the housing issue, especially when it comes to young people who are either unemployed or at the beginning of their career, so for financial reasons they cannot afford to buy property of their own. On the other hand, the traditional Macedonian family actually lives in a community, where several generations of people who are blood relatives function and live under the same roof.

The moment of increasing abandonment of the concept of the Macedonian traditional family is caused by the unfavourable social and economic situation, when more and more young people see the escape from poverty by going abroad.

The number of young people who leave our country every year for a better life is huge. The tendency of emigration of the young population from our country puts the elderly people who are left to themselves in an unfavourable condition.

## Legislative framework

Pursuant to Article 2 of the Law on Family<sup>80</sup>, the family is a living community of parents and children and other relatives provided they live in a common household. Article 3 of the same Law specifies that the relationships in the family shall be based on equality, mutual respect, mutual assistance and sustenance and protection of the interests of the minor children. Article 181<sup>81</sup> of the Law on Family stipulates that the children have the duty to sustain their parents who are incompetent for work, and do not have enough means of sustenance or cannot obtain means of sustenance from their property. All these provisions are derived from the highest act of the state – the Constitution.

Article 40<sup>82</sup> of the Constitution of the Republic of North Macedonia stipulates that: *The Republic provides particular care and protection for the family. The legal relations in marriage, the family and cohabitation are regulated by law. Parents have the right and duty to take care of the sustenance and upbringing of the children. Children are responsible for the care of their old and infirm parents. The Republic provides the particular protection for parentless children and children without parental care.*

A rather new law passed on 21 May last year is the Law on Social Security for the Elderly.<sup>83</sup> This law regulates the social security for the elderly, the conditions and the procedure for exercising and financing the right to social security for the elderly. The principles on which the social security is based are social justice, humanity

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80 Article 2 of the Law on Family, (Official Gazette of the Republic of Macedonia No. 80/92, 9/96, 38/04, 33/06, 84/08, 67/10, 156/10, 39/12, 44/12, 38/14, 115/14, 104/15 and 150/15)

81 Article 181 of the Law on Family, (Official Gazette of the Republic of Macedonia No. 80/92, 9/96, 38/04, 33/06, 84/08, 67/10, 156/10, 39/12, 44/12, 38/14, 115/14, 104/15 and 150/15)

82 Article 40 of the Constitution of the Republic of North Macedonia

83 Law on Social Security for the Elderly, Official Gazette no. 104/2010 of 23 May 2019

and solidarity. This right applies only to persons who have reached the age of 65, as long as they meet the requirements of the law.

The person exercises the right to social security for the elderly if he/she:

- Has citizenship of the Republic of North Macedonia;
- Has had a permanent place of residence in the Republic of North Macedonia for the last 15 years prior to the filing of the application;
- Does not own property and property rights from which he/she can support himself/herself;
- Is not a beneficiary of a pension from the Republic of North Macedonia or a kind of payment based on age, disability or experience from another country and the Official Gazette of RSM, no. 104 dated 23 May 2019;
- Did not generate income on all bases in the last three months before submitting the request.

In accordance to Article 6<sup>84</sup> of the Law, the monthly amount of the right to social security for the elderly is MKD 6000. The monthly amount of social security for the elderly shall be adjusted with the increase of the cost of living for the previous year, announced by the State Statistical Office in January of the current year. If there is no increase of the cost of living for the previous year, no adjustment of the amount of the right to social security for the elderly is made.

Due to the declining population, and also due to the migration of young people to other countries, they are less able to take care of their old and infirm parents. Hence, it is necessary to abandon the old concept and introduce a new system of social protection by the state taking care through a series of activities and measures aimed at the elderly. Such institutional measures would lead to a fulfilled and dignified life of the elderly.

The National Strategy for Senior Citizens 2010-2020 emphasises that: *Two factors have the greatest impact on people's sense of security and quality of life*<sup>85</sup>:

- *Home*
- *Environment in which they live*

For old people, the importance of the home and the environment in which they live is great, as they spend more time in their homes than other age groups. The environment as a social element in life, acquaintances in the streets and neighbourhood, shopping habits, habitual daily movements, etc., play a particularly important role in the feeling of security. According to the Law on Housing (Official Gazette No. 99/2009), the right to be allocated a non-profit apartment for rent (housing unit that meets the minimum standards for adequate housing), owned by the state, municipality or a non-profit housing organisation, belongs to persons at social risk who are most represented in percentages in the area of the local self-government unit. These are low-income families, young people who stand out in certain areas, young married couples, single parents, pensioners at the age of over 60 who do not own an apartment, and other categories of persons at social risk, citizens of the Republic of North Macedonia who do not have a home.

In addition to the four state homes, in the Republic of North Macedonia there are 39 retirement homes and 20 retirement clubs under the jurisdiction of PIOM (Pension and Disability Insurance) and pensioners' associations. They accommodate only pensioners who do not have their own home or accommodation, while all other needs are met independently<sup>86</sup>.

Pensioners in our country have received some minimum benefits from the state, such as *free bus transportation* on certain days of the week, as well as a *10-day stay in some of the thermal spas in the country*, and everything ends here. A series of measures and activities are needed that will lead to a society equal for all.

84 Article 6 of the Law on Social Security of Elderly, Number of the Official Gazette: 104/2010 of 23 May 2019

85 National Strategy for Senior Citizens, link: <http://mtsp.gov.mk/WBStorage/Files/Strategija%20za%20stari%20lica%20juni.pdf> [accessed on 2 May 2020]

86 The National Strategy for Senior Citizens, link: <http://mtsp.gov.mk/WBStorage/Files/Strategija%20za%20stari%20lica%20juni.pdf> [accessed on 2 May 2020]

Socialisation of the elderly through a large number of day care centres that will enable their mutual company and the provision of lifelong learning that the elderly need is a part of the series of their needs. On the other hand, social and health care should be at an extremely high level and a priority in the agenda for the protection of the rights of the elderly.

There is a lack of public awareness for eradicating age discrimination, so that everyone, regardless of their age and gender, has the right to enjoy the fundamental human rights, have a dignified and independent life and participate in the social and cultural life.

A positive attitude towards aging is more than necessary in our society, and the society should always take care of providing services available to all, enabling active participation and inclusion, protection, support and strengthening of all categories of citizens, including the elderly. It is more than necessary to improve the application of the universal human standards for people of all ages, as well as for people who have reached the old age, and especially the most vulnerable elderly people, people at risk of poverty, abuse, loneliness.

### Practices in the EU and beyond

With its Charter of Fundamental Rights, the European Union recognises and respects the rights of older persons to lead a life of dignity and independence and to participate in social and cultural life. This right is guaranteed by Article 25 of the EU Charter of Fundamental Rights. The authorities of the EU countries are obliged to respect the Charter of Fundamental Rights in the implementation of EU law.

**Norway** is at the top of the list with the best income and employment rates for the elderly. With 100% pension coverage, only 1.8% of the elderly population has income in the lowest quarter of the national income. Only 56% of older people feel satisfied with the public transport system and 89% feel that they have someone they can count on in times of need. As a whole, older people in Norway are expected to enjoy another 24 years of life after reaching the age of 60, 17.4 years of these years in good health.

**Sweden** has a high rating in terms of public policies and care for the elderly, which makes it one of the best countries overall for the quality of life of the elderly. Old people in Sweden point out the benefits for them in the public transport and the security provided by the state, in terms that they always have someone they can count on at all times. Income security is still high, with 100% pension coverage, but a slightly higher number of elderly people are below half of the average income per capita. Although the Swedes have the same life expectancy as the Norwegians, it is considered that, unlike them, they will live 9.6 months longer, which they will spend in good general health.

**Switzerland** has lower income and job security than many other high-income countries, 17% lower than the national average, but compensates for this in terms of health care. As a top country in terms of affordable living, 83% of the Swiss elderly are satisfied with their public transport options, 70% feel safe in their homes and neighbourhoods and 91% think they have someone they can count on when they need help. Excellent affordable health care means that upon reaching the age of 60, older people in Switzerland can expect to live another 25 years on average, 19 of them in good health.

### Good national practices in the field of social services

A coordinated cooperation has been launched to open services for the elderly. Two day care centres for the elderly and one Home Help Centre have been established. For the realisation of this activity, an agreement for mutual cooperation is signed between the Ministry of Labour and Social Policy, the municipalities and the centres for social work, which specifies mutual rights and obligations of the contracting parties for provision of space and its reconstruction and adaptation, as well as for providing the necessary equipment and hiring professionals. In the modern practice of social work, a large part of the services are combined, hence it is difficult to single out the dominant activity or the dominant environment in which the services are provided. For example, a day centre for persons with disabilities may be established in the local community providing services that are delivered directly to the user's home and services that are provided in the local community (the user receives the services in specific places in the community-clubs, centres, etc., but lives in his/her



home), as well as services that are provided in residential institutions (the user receives the services in the institution in which he/she lives). Any combination of the three previous groups of services is possible: home help services, local community services, and institutional services (combined services in a local community), and this concurrently provides home visits and home care (home service). Or, within a home for the elderly (service in an institution), day centres or clubs for the elderly are established very often and are open for non-institutionalised elderly people from the community as well (service in the local community); as well as alarm systems for calls that require interventions and assistance in the homes of elderly people (home service). All these centres or institutions usually employ experts from several fields, social workers, defectologists, doctors, pedagogues, psychologists, each of whom has a role in improving the social well-being of service users, due to which it is sometimes difficult to determine the dominant activity that is performed. On the other hand, when analysing the good practices in the field of social services in different countries, one encounters a huge variety of social services in which social services incidentally have unique functions or are organised in the same way. They differ according to the organisational set-up, functions, staffing, methods of financing, methods of work, and perhaps mostly in relation to the variety of services they offer. Concerning the above, the implementation of the strategies, measures and programmes involving the elderly is of exceptional importance.

**A good example in our country – Humana S. Social Enterprise** – Due to the increase in the percentage of the elderly population, the small number of accommodation capacities as well as insufficiently developed social non-institutional forms of care for the elderly, Humana S is an enterprise that solves the above problems by providing professional care for the elderly at home. The goal is to enable, through this type of services, the elderly to stay longer in their homes, preserve family harmony without the need for institutional accommodation.

Humana S has a dual social component, on the one hand it solves the problem of the elderly and offers them professional care at home, and on the other hand, the providers of this type of services are long-term unemployed persons and persons at social risk who attend dynamic training to acquire professional skills and competencies. Clients are elderly people over 60 years of age (active elderly people, old people with disabilities, as well as infirm old people) who need care from a third party, as well as their families.<sup>87</sup>

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87 Official website of the social enterprise Humana S, more on the link: <https://humanost.org.mk/humanas/%D1%81%D0%BE%D1%86%D0%B8%D1%98%D0%B0%D0%BB%D0%BD%D0%BE-%D0%BF%D1%80%D0%B5%D1%82%D1%80%D0%B8%D1%98%D0%B0%D1%82%D0%B8%D0%B5-%D1%85%D1%83%D0%BC%D0%B0%D0%BD%D0%B0%D1%81/> [accessed on 10 June 2020]

## Conclusion

Under appropriate circumstances, long-term household care can have enormous benefits for individuals – socially, mentally and physically. However, numerous surveys show that people tend to have a quality life as long as they have the opportunity to make the decision to enter a nursing home, choose a nursing home, and discuss their care plan with the director and staff of the nursing home.

European research has found that almost half of older people apply to nursing homes near the end of their lives. Fortunately, human rights protection also covers people in need of long-term care at this critical time and provides guidance to caregivers to ensure that the transition to living care is based on the rights of each individual. Despite the fact that there is currently no explicit right to long-term care, articulated in any binding human rights convention, the international human rights framework strongly protects the right of the elderly to have access to health and medical care, as required.

All individuals are entitled to the highest attainable standard of physical and mental health. This means that a sufficient amount of health services (e.g. hospitals, clinics, medicines and doctors' services) must be available and of good quality for everyone, on an equitable basis, where and when needed. In particular, states should recognise and provide for the specific needs of groups that generally face specific health challenges such as higher mortality rates or vulnerability to specific diseases, including the elderly. Even in times of severe resource constraints, states must protect the most vulnerable and marginalised members or groups in the society and should always provide the necessary health care to those who cannot afford to pay for it.

The UN Convention on the Rights of Persons with Disabilities (CRPD) also provides for persons with special needs (including the elderly who need long-term care) to live independently in the community, with a choice of where and with whom to live and with support to enable them to do so. This means that all older Europeans (with the exception of individuals living in Ireland, which has not yet ratified the CRPD) have the right to refuse to enter a long-term care centre for accommodation, if they wish not to do so.

The protection of human rights certainly includes the protection of the rights of every individual who passes to long-term care, including the right to choose and to be a part of the decision-making process, to have access to information (in accessible formats), the right to dignity and privacy. The right to private life also includes the individual's relationship with others, which is especially important in the context of long-term care, as residents often rely on others to facilitate contact with family and friends.

Caregivers are asked to take reasonable steps to help those in their care maintain contact with family members and accommodate spouses or same-sex couples who want to live together to continue their relationship in the nursing home. The right to privacy is a qualified right, indicating that interference with these rights is permitted in special circumstances.



# RIGHTS OF THE YOUNG IN THE SOCIETY

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## Current situation

Young people in the country are still not sufficiently recognised as a category of people who can make important and positive political, social, cultural, and economic changes in the society, re-examining tirelessly the established norms, values and policies. Faced with the huge rate of youth unemployment, insufficient involvement in policy-making, only the decorative youth participation in various social and political trends, the continuous decrease of the quality of education, the almost non-existent benefits for healthy social, cultural and economic development, etc., the young people migrate from the country in a mass.

For this purpose, it is most important that all subjects and stakeholders such as the National Youth Council of the Republic of North Macedonia, institutions at all levels, civil society organizations, business sector, media, general public, and especially young people work on improvement of the living standard in the Republic of North Macedonia, on building a healthy and stable future, a future with more opportunities that promise the present without a challenge for dealing with the particular vulnerability of young people to the social and economic changes in the society<sup>88</sup>.

The main model of internal migration in developing countries is young people from rural areas to migrate to urban areas, while the model of external migration is young people from less developed countries to migrate to developed countries. In both cases, the unequal distribution of resources and opportunities affects the flow of migrants (Piore, 1979; Todaro, 1969). Several factors motivate young people to migrate, some of which are direct motives – a desire for employment and education, but also, these motives can be rooted in ideological components, such as cultural and psychosocial factors (Massey et al., 1993; Punch, 2007). The youth unemployment rate in the country (about 50% continuously) is twice as high as the general unemployment rate in the country (which is also high), a large part of the population lives in poverty – 21.9%, the percentage of households that sustain children and are at risk of poverty (two adults with two dependent children – 20.2%, two adults with three or more dependent children – 51.2%, single parents with dependent children – 37.5%), the average salary in the country is EU 400, and the uneven distribution of income, expressed through the Gini coefficient is 33.6 (State Statistical Office, 2017; 2018). The young people see the emigration as an opportunity to acquire financial independence from their parents and their own place of residence, unable to achieve that through employment in their home country. According to research, 80% of young adults still live in their parents' homes. Despite the importance of this issue for the state, there is still a lack of concrete data on the extent to which this trend is widespread. The website of the State Statistical Office of North Macedonia, in the MAXTAT database part provides information, identically as the publication *Migration* by the State Statistical Office, that officially, in 2016, 140 young people (at the age of 15 to 29 years) permanently moved out from the country to other countries, with no major deviations in the number compared to other years of the last decade. There are no official data on student mobility/number of students studied/studying abroad (Bozhinoska, Jakasanovski and Mirchevska, 2015)<sup>89</sup>.

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88 European Framework for Youth Policy, <http://www.nms.org.mk/mk/nie-mladite/> [accessed on 1 June 2020]

89 Study on the Youth of North Macedonia, 2018/2019, authors Marija Topuzovska Latković, Mirjana Borota Popovska, Eleonora Serafimovska, Aneta Cekić, Nita Starova [10 June 2020]

## Legislative framework

The **National Youth Strategy 2016-2025**, the only document on young people in the Republic of North Macedonia, defines all persons aged 15-29 as young people. This is a social category that carries the future within it and perceives the present as a great challenge for dealing with the special vulnerability to social and economic changes in society.

Young people bring positive changes, both in the Republic of North Macedonia and around the world. They are a resource for innovation and a future driving force of social and economic development. The young people challenge the established norms and values and build the foundations for the future of our country. The role of young people in society is extremely important and therefore it is necessary to constantly and systematically invest in their development, but also in the establishment of mechanisms for their active participation in social processes. Only building a genuine partnership between institutions and young people can ensure inclusive policies that reflect and address real needs and foster social integration. The 2016-2025 National Youth Strategy of the Republic of North Macedonia sets out the basic principles and guidelines for action of all actors in the society that will lead to improving the social and economic situation of young people and creating an environment that will enable young people to exercise their rights, needs and interests.

The strategic goals of the document<sup>90</sup> are as follows:

- Enabling a better living standard and equal opportunities for quality life.
- Creating conditions for respect and protection of fundamental rights and freedoms, and systematic integration and interaction of different categories of youth.
- Creating opportunities for involving young people in monitoring and implementation of policies and decisions that concern them.
- Equal access to quality education and other forms of personal and professional development.

The value formulations in the Strategy<sup>91</sup> are as follows:

- **PARTICIPATION** – Young people will be active actors and key partners in all processes of development and building of a democratic and progressive society. Participation means creating opportunities for true and meaningful inclusion of different groups of young women and men in the processes of decision-making and implementation at all levels and in all aspects of public life that affect them.
- **STRENGTHENING** – Every involvement and cooperation with young people will be recognised as a unique opportunity for development and building of their capacities and their strengthening with a purpose of taking on important roles in their own lives and in society as a whole.
- **AUTHENTIC PERSONAL AND PROFESSIONAL DEVELOPMENT** – Young people are unique individuals who are in an intensive process of learning and development. It is our duty to provide young people with educational and life opportunities and experiences that will contribute to the full realisation of their potentials, fostering the individual specifics and differences of each young person.
- **SOCIAL INCLUSION** – Social integration and inclusion is a necessary minimum and condition without which the integral development of every young person cannot be ensured, as well as a fundamental right that should be enjoyed by all young people.
- **MULTICULTURALISM** – Multiculturalism is a key feature of our society and will be recognised as a resource and potential added value of development in all spheres of social action.

90 The National Youth Strategy 2016-2025, <http://strategijazamladi.mk/sites/default/files/%D0%9D%D0%B0%D1%86%D0%B8%D0%BE%D0%BD%D0%B0%D0%BB%D0%BD%D0%B0-%D1%81%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D0%B8%D1%98%D0%B0-%D0%B7%D0%B0-%D0%BC%D0%BB%D0%B0%D0%B4%D0%B8-2016-2025.pdf> [accessed on 29 May 2020]

91 The National Youth Strategy 2016-2025, <http://strategijazamladi.mk/sites/default/files/%D0%9D%D0%B0%D1%86%D0%B8%D0%BE%D0%BD%D0%B0%D0%BB%D0%BD%D0%B0-%D1%81%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D0%B8%D1%98%D0%B0-%D0%B7%D0%B0-%D0%BC%D0%BB%D0%B0%D0%B4%D0%B8-2016-2025.pdf> [accessed on 29 May 2020]

## EU practices:

The EU Youth Strategy is a framework for cooperation with the young people in the European Union for 2019-2027, based on the Council Resolution of 26 November 2018. The aim of EU cooperation with young people is to use the potential of young people, encourage the participation of young people in the democratic life; support the social and civic engagement of young people and to ensure that all young people have the necessary resources to participate in society. The strategy was developed in cooperation with young people from all over Europe and through dialogue and debates in the period 2017-2018 and 11 European youth goals were developed. These goals identify cross-sectoral areas that affect the lives of young people and point to the challenges the young people face. The EU Youth Strategy should contribute to the realisation of this vision of young people<sup>92</sup>.

Youth participation is well represented in **Cyprus**. An example of a representative youth institution at the national level is the Steering Committee of the Cyprus Youth Council. The Committee consists of a representative of youth organisations of each political party with parliamentary teams in the House of Representatives and three members appointed directly by the Council of Ministers. The budget of the Youth Council is covered by the state. The Youth Council has an advisory role and is able to liaise with the Council of Ministers through the Minister of Education and Culture. The Youth Council was established in 1994.

### Conclusion

Young people have the right to be actively involved in all spheres of public life and planning. Through national and local policies, young people should be given the right and opportunity to be the key actors in creating a modern and contemporary society. Their role in society is inviolable, young people, through strengthening their capacities and recognising their integrity, can be one of the main drivers of social changes. Therefore, they have the right to information, since the appropriate informing of young people leads to their responsible decision-making, advocacy and implementation of rights in their daily lives. This is the difficult task facing the workers for youth information: to help the younger generation survive the crisis of our time responsibly and as human beings. National and local support through specific policies will contribute to active and healthy youth that will contribute to a better society equally with others.

There is a large number of examples of young and capable people, graduated from prestigious schools abroad, who cannot find a job in their home country. Most often due to the fact that instead of spending time in a party, they used the time to go to school and upgrade professionally. These examples are daily examples and are great demotivation for young people who want to stay in their own country, but are forced to leave it.

If the country wants to support and encourage young people to participate in public life, including elections, ways and information on how to participate should be provided. Not only being members of parties, a voting machine and hoping for a job through a party, gained through party merits. Young people have the right not only to vote, but also to be elected.

In many European countries, young people can appear as candidates in parliamentary elections at the age of 18, although in some countries the limit is 21 (e.g. Belgium and the Czech Republic) or even 25 (Lithuania). Different limits can be set for senatorial elections (e.g. 24 in Austria), although in the Czech Republic the possibility of being elected to the Senate is closed to the young people, with the age threshold of 40 years.<sup>93</sup>

92 EU Youth Strategy, more on the link: [https://ec.europa.eu/youth/policy/youth-strategy\\_en](https://ec.europa.eu/youth/policy/youth-strategy_en), [accessed on 24 July 2020]

93 Young people's access to rights through youth information and counselling , <https://rm.coe.int/16807023d9> [29 May 2020]

# CONSUMERS RIGHTS AND PROTECTION

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## Current situation

Even though some progress might have been made on this issue in our country in recent years, the consumer right protection still remains very low and this is largely due to the ignorance of their rights by consumers, and hence the lack of demand for their protection. The state should promote the rights of consumers at the institutional and local levels and act educationally on consumers since in that way higher goals are achieved, such as improving the standard and quality of life of citizens. If the rule “the client is always right” applies in western countries, it is not even close in our country. People often pay for products and services whose quality does not correspond to what is shown at the time of purchase. And usually this is where the story ends. Capitalism has imposed a fast pace of life and the race against time has increasingly forced people to order products and services without wasting time, i.e. quickly and without the need for physical presence. Thus, in recent times, large-scale internet sales have taken place in our country, more and more companies or individuals act as traders (the status often remains unknown), and due to the lack of precise legislation in this area, frauds that largely occur through online sales have increased. Although this type of purchase has a number of advantages, it is still necessary to adopt specific legal solutions that will regulate this way of trading, and on the other hand, protect consumers from abuse of their consumer rights.

## Legislative framework

Consumer rights date back to 1985, when the United Nations (UN) adopted the Resolution 39/248 setting out the basic guidelines for consumer protection, which were adopted by the World Consumers' International as eight fundamental consumer rights. These guidelines are the basis for the development of the consumer protection legislation in Europe and worldwide. In the Republic of North Macedonia, the rights of consumers were regulated for the first time with the enactment of the Law on Consumer Protection in 2000; the enactment of a new law followed in 2004, but over the years it has undergone a number of amendments, which have made it more complex and thus its consistent application difficult.

The law gives a precise definition of the term “consumer,” so a consumer is any natural person who buys products or uses services for his/her own direct consumption in the business premises of the trader, outside the business premises, as well as with distance agreements for purposes that do not belong within the scope of his trade, business, craft or professional activity.

The Law on Consumer Protection protects consumers and their rights, having in mind that it does not apply to contractual relations between two natural persons, but it applies when an agreement is concluded between a consumer (natural person) and a legal entity or entrepreneur. The Law defines and regulates the fundamental rights of consumers:

- The right to information is a fundamental consumer right that imposes an obligation on traders to provide timely, accurate and credible information on all aspects related to the product or service they offer, in order not to mislead consumers so that they can be able to make the right choice of products and services. In doing so, the trader should provide information and inform about the main characteristics of the product and service; the price, the composition, the way of use and the quality of the products, the minimum warranty period, as well as the sales conditions; the impact of certain

products on the environment and human health, in accordance with the regulations and standards, as well as for the protection measures, through instructions given with the product, indicated on the packaging of the product or in another appropriate manner; the need for servicing, spare parts, replacement or repair of a defective product, i.e. return of money, etc.

- The right to education enables consumers to be educated about their rights from an early age, while obliging the Government of the Republic of North Macedonia to carry out a two-year consumer protection programme which will provide for the production of brochures, carrying out workshops and campaigns, with the aim of raising awareness of consumer rights. In this regard, the Consumers' Organisation of the Republic of North Macedonia, through its Advisory Bureau, continuously advises consumers, organises seminars and publishes brochures for educating consumers about their consumer rights;
- The right to protection of health and safety implies that the products consumed by consumers must be safe when placed on the market, put into use or used, especially for the sake of realisation and protection of the public interest, protection of human health, but also of animals and plants, and the protection of the environment and nature. All this is achieved through the implementation of regulations that standardise the conditions for placement of products, their packaging, distribution, as well as the use of pesticides and other chemicals that may affect our health and the overall environment;
- The right to protection of economic interests includes the right to access to a variety of goods and services in order to meet basic needs, at affordable prices and appropriate quality; protection against unfair contractual provisions which reduce, aggravate or exclude consumer rights; protection against fraudulent and aggressive market practices; manufacturer's liability for defective products and the right to service products;
- The right to compensation is one of the most important consumer rights, which implies the right to seek compensation for the damage caused by a defective product, for which the manufacturer is responsible;
- The right to representation means that all citizens as consumers have the right to organise themselves in consumer organisations at local, national and European Union levels, which will protect their interests, organisations in which they can express their complaints, their proposals for improving the rights, where advice can be obtained, as well as their representation in state bodies, where the rights and interests of consumers are discussed.

According to the Law, the obligation of the trader is to inform the consumers, especially the trader is obliged<sup>94</sup>:

- Before concluding a sales contract, conscientiously and honestly to give the consumer accurate and useful information regarding the quality, characteristics of the product or service and regarding the conditions of sale, as well as all other information requested by the consumer contained in the product declaration, and
- To inform the consumer about the impact of certain products on the environment and human health, in accordance with the regulations and standards, as well as about the protection measures, through instructions given with the product, indicated on the packaging of the product or in another appropriate manner.

The trader who did not act in accordance with the above at the request of the consumer is obliged to return the amount paid for the purchased product and to compensate him/her for any damage. In such a case, the consumer is obliged to return the purchased product, and the trader should to receive the returned product from the consumer.

<sup>94</sup> Article 5 of the Law on Consumer Protection (Official Gazette of the Republic of Macedonia No. 38/04, 77/07, 103/08, 24/11, 164/13, 97/15, 152/15 and 140/18)

Pursuant to the Law, fines are stipulated for legal entities. Pursuant to the Law, the conditions laid out for the sale of products and the provision of services stipulate that the trader must display the conditions of sale clearly and in a visible place in the sales area. In addition, the special sales conditions for individual products and services must be clearly and prominently displayed at the points of sale of those products and services.

If the trader offers products under special sales conditions to certain groups of consumers (newlyweds, the disabled, pensioners, students, etc.), those conditions should be clearly and prominently displayed in the sales area.

It is prohibited to condition the purchase of one product with the purchase of other products or another way of conditioning the purchase and sale of products.

It is the legal duty of traders to publicly state the price of products at points of sale. Pursuant to Article 8<sup>95</sup> of the Law on Consumer Protection, the trader must indicate in a clear, visible, legible and unambiguous manner the selling price of the products and services, i.e. at the point of sale where the products are displayed, of the products in bulk, the services which he provides and of the spare parts he sells. The selling price is the final unit price of a product or service or of a given quantity of the product, including value added tax and all other public fees. The price of the product or the service must be indicated in MKD, unless otherwise regulated by another law.

Pursuant to Article 9 of the Law<sup>96</sup>, if the trader sells products that have a flaw or defect, he must physically separate such products from other products and clearly and legibly mark it on the product, and should display a note at the point of sale stating that this is about sale of products with flaw or defect.

The consumer to whom a defective product was sold has the right to choose at his/her discretion:

- Free removal of product defects or reimbursement of costs incurred to remove the defect;
- Proportional decreasing of the selling price;
- Replacement of the product with a corresponding product with the same trademark, type, industrial design or designation of origin and geographical indication of the product;
- Replacement of the product with a corresponding product with another trademark, type, industrial design or designation of origin and geographical indication of the product with corresponding decrease or increase of the producer price, or
- Termination of the contract, refund of the amount paid and compensation for the damage suffered.

The consumer has no right to terminate the agreement if the defect of the product is minimal. If the consumer buys food products with defect, the trader is obliged to replace them with products of appropriate quality or to return the amount paid to the consumer, if the defects are determined within the period by which the product can be used. The consumer is obliged to enclose a fiscal receipt for the product, and for the products for which there are warranty periods, also a guarantee certificate or another document that replaces it.

Under conditions of violated consumer rights, there are mechanisms for consumer protection, so consumers can refer to:

- The State Market Inspectorate (SMI), which inspects the application of laws, other regulations and acts by companies, other legal and natural persons, as well as citizens operating in the territory of the Republic of North Macedonia, which most often refer to the safety of products, consumer protection, activities in the field of trade, hospitality, tourism, crafts, protection of industrial property rights, as well as other activities determined by law;
- The Food and Veterinary Agency (FVA), which functions as the sole competent authority for the control of food and feed safety, for the implementation, control, supervision and monitoring of veterinary

95 Article 8 of the Law on Consumer Protection (Official Gazette of the Republic of Macedonia No. 38/04, 77/07, 103/08, 24/11, 164/13, 97/15, 152/15 and 140/18)

96 Article 9 of the Law on Consumer Protection (Official Gazette of the Republic of Macedonia No. 38/04, 77/07, 103/08, 24/11, 164/13, 97/15, 152/15 and 140/18)



activities in the field of animal health, their welfare, veterinary public health, as well as control of the laboratories that provide support for the needs of the Agency;

- The Agency for Electronic Communications (AEC), which has the task of creating favourable conditions for effective and sustainable competition in the market of telecommunications services that cover mobile telephony, television and Internet services with maximum respect of consumer rights, and it is the competent regulatory body in this domain;
- The Directorate for Personal Data Protection (DPDP), which is responsible for supervising the legality of the undertaken activities in the processing of personal data and their protection, on the territory of the Republic of North Macedonia;
- The Regulatory Commission for Housing (RCH), which is responsible for issuing, changing and revoking the licenses of managers, keeps a register of managers of residential buildings and mediates in resolving disputes between tenants and managers;
- The Agency for Audio and Audiovisual Media Services (AAVMS), which is an independent and non-profit regulatory body with the status of a legal entity with public authorisations that protects the rights and interests in the field of audio and audiovisual media services. If one thinks that a certain advertisement has a harmful effect on minor children, i.e. when the level of the tone in the background of the advertisements is too high, they can contact the Agency for Audio and Audiovisual Media Services.
- For violated rights in the field of financial services, the competence is divided between several institutions, as follows:
  - Supervision over the operation of banks and savings banks is performed by the National Bank of the Republic of North Macedonia;
  - Supervision over the operation of financial companies that offer consumer loans is performed by the Ministry of Finance;
  - Supervision over all other companies that are not registered as financial companies and offer consumer loans is performed by the State Market Inspectorate;
  - Supervision over the work of the insurance companies is performed by the Insurance Supervision Agency.
- The Agency for Medicines and Medical Devices (MALMED) monitors the situation with the supply of medicines, auxiliary medicines, medical devices;
- The Ombudsman is a special, professional and independent body with powers to protect the rights of citizens. Its significance and specifics of the function is precisely in the way of its action and behaviour. The method and the way of acting consists of giving proposals, advice, suggestions, cooperation, teaching of the way of exercising the rights of the citizens.

The **consumer organisation** in our country was formed to protect consumers in the exercise of their fundamental rights, such as:

- Availability of the most necessary products and services;
- Safe and quality products and services;
- True and timely information and education of consumers, with a purpose of their right choice of products and services;
- Compensation for damages when consumer rights are violated;
- Healthy environment and sustainable consumption.

The purpose of the Consumers' Organisation of North Macedonia (CONM) is achieved through the provision of advice, information and education of consumers in relation to their individual and collective consumer rights, and through representation of their interests in policy-making processes and legislation.

The Consumers' Organisation of North Macedonia (CONM) – Skopje and other consumer organisations based in Ohrid, Bitola, Shtip, Tetovo and Kochani provided a significant number of consultations during 2019, and it can be concluded that the number of total advice did not deviate much compared to 2018. In the period from January to December 2019, 2707 consultations were realised, 80.9% by telephone, 13.7% were personal consultations, and 3.1% were via e-mail or via the Facebook profile of the organisation. Regular mail consultations accounted for only 2.3% of the total number of consultations.

The largest number of complaints received by the Consumers' Organisation refers to the category of products, with the most represented being the technical products, home appliances and household products. Products for which the largest number of complaints are submitted fall into the category: "home appliances" and mostly refer to washing machines, inverters and refrigerators; and the furniture is singled out as the most represented product in the home for which the largest number of complaints is submitted. As for the services, the most represented are the tourist services (of which the most impressive are the cases for lost suitcases during bus transfers). Of the public services, almost all subcategories pose problems, the most common of which are telecommunications services (for bills), electricity and heat (for bills and for obsolete bills).<sup>97</sup>

## EU practices

The EU Consumer Rights Directive gives the consumers the same rights across all EU Member States. The Directive applies to all agreements concluded between a "consumer" and a "trader". Member States may not depart from the Directive by imposing more or less stringent provisions, unless there is a specific possibility to derogate its rules in the Directive itself.

The Directive was amended by the Directive (EU) 2019/2161 of 27 November 2019 on the better enforcement and modernisation of Union consumer protection rules, a part of the "Deal for Consumers."

At the level of the European Union, there is also a European Consumer Centres Network, which has its centre in each Member State. The network provides advice and explains consumer rights in the EU, provides information on how a dispute can and should be resolved in accordance with the EU law, provides information on where to refer to and who can help you if your rights are violated. In 2019, the Network participated in more than 120,000 open cases, of which 85% were requesting advice and assistance, and in 15% of cases, it contacted the manufacturer or the trader.

## Case study – same products, but with poor quality for the countries of Eastern Europe<sup>98</sup>

At the level of the European Union, the question is relevant with regard to the same products but with poor quality for the countries of Eastern Europe. In this field, the struggle for equalisation of the quality of the same products in the old and new Member States of the European Union continues, to which the Republic of Croatia is especially committed; there, research has already been under way concerning quality of the products that foreign producers and distributors place on the Croatian market. Other EU Member States are also making such research, so the Hungarian Food Agency has published the results of testing 24 products sold by international chain stores such as Lidl and Aldi in Hungary and Austria. The results showed that, for example, the Hungarian version of Manner wafers is less crunchy, while Nutella, which is sold as a product in Hungarian stores, is hardly to spread, unlike that in Austria. However, this is just continuation of early Czech and Slovak research that showed similar results. Thus, there were cases in the Czech Republic where chicken meat was contained in luncheon meat instead of pork. Consumers also often find differences in cars, agricultural products, detergents and the like. The research in Croatia does not only cover food products, but also non-food products, such as: detergents, toothpastes, shower gels etc. from the Croatian and German markets, which is the first such research in the EU.

97 Report on implemented activities in 2019 [https://opm.org.mk/wp-content/uploads/2020/02/izvestaj\\_opm\\_2019.pdf](https://opm.org.mk/wp-content/uploads/2020/02/izvestaj_opm_2019.pdf)

98 Dual Food Quality: Commission releases study assessing differences in the composition of EU food products, <https://ec.europa.eu/jrc/en/news/dual-food-quality-commission-releases-study-assessing-differences-composition-eu-food-products> [accessed on 5 June 2020]

Similarly, the latest analyses by inspectors from the Slovak Veterinary Service show that a half of the products such as dairy, fish meat products, chocolate, pastries, cheese and beverages on their market are of poorer quality than the Austrian one.

In the Republic of North Macedonia, there is no data whether anyone makes comparison of the known producers and comparison of the same products in order to compare quality of those products in our country in relation to those from Western Europe. As even EU Members complain about products of poor quality, the question arises as to what is placed on the Macedonian market, especially that the Republic of North Macedonia is not an EU member. The Food and Veterinary Agency has not conducted a laboratory test to compare the quality of products of large companies sold here with those in developed western countries so far. Research in Croatia shows a difference in the quality of the same food products intended for its market in relation to other markets.

The issue of what is eaten in different countries and whether the same product is of the same quality in different countries has been widely discussed for months among the Member States of the European Union, and there are also reactions in the countries that want to be a part of the EU. It now remains to be seen whether measures will be taken in relation to the double standards.

### **What did the analyses in the Republic of Croatia reveal?**

Member of the European Parliament Biljana Borozan presented the results of the laboratory analysis of engineers of the Croatian Food Agency for products that are placed on the Croatian and German markets, and whose composition and quality should be the same. As expected, the analysis showed that more than a half of the tested products have a serious difference in quality, which is a serious indicator of double standards which the European Union is expected to take very seriously in the coming period. The research showed that only 4 of the analysed 26 products (15 percent) had no difference in quality and price. A difference in quality was found in 54 percent of the products, while more than 60 percent at the time of purchase were more expensive on the Croatian market. The biggest differences were observed in five food products and one detergent. Examination of chicken and turkey hot dog samples on the Croatian market, contrary to the name, showed that they were made from the so-called "boneless meat", which according to EU regulations must not be labelled as meat. The German product was made from real chicken and turkey meat. Furthermore, differences were detected in the weaning food, for which it was determined that on the Croatian market, there were much less vegetables than those sold in Germany, and much more rice. Both products were placed under the same code for the commodity, and the one for the Croatian market was more expensive by more than 50 percent. Research of laundry detergent, on the other hand, showed that the one sold in Germany is more efficient at lower temperatures. This research, as well as the earlier European ones, confirmed the justification of the attitude of more than 80 percent of Croatian citizens who think that multinational companies treat them as second-class citizens.

The wide range of products (mostly food, and also other) originating from one producer are of different quality depending on whether they are placed on the markets of Eastern Europe, or are intended for the markets in countries of Western Europe. Unlike other countries that have become preoccupied with research and comparative analysis in terms of the degree of quality of the same food in different countries, the Republic of North Macedonia is far from dealing with this issue.

There is no official data or research on the quality of imported products. The Macedonian Food and Veterinary Agency examines safety of products, checks quality, but does not compare whether it is the same with the same product that is sold in another country. It is not clear why no research has been carried out in our country that will show if the same products offer different quality for different markets.

There are rumours about double standards among the general public, but the competent institutions have not addressed these issues yet. Safety and quality of the products are tested in laboratories in our country, but in terms of checking whether what is written on the declaration corresponds to the composition. The problem with unequal quality of food and goods was opened in February last year by the Slovak Prime Minister Robert Fico. He asked the European Commission to urgently solve the problem of low quality food and goods of

poor quality from the West, which are offered to the citizens of the post-communist countries. The Visegrád Group of Countries (Hungary, Poland, the Czech Republic and Slovakia) is already asking the European Union to prevent the unacceptable practice of large producers to be able to market the same products of different quality in different countries.

The Czech Republic was the first to conduct an official test of the composition and quality of food and selected goods to prove the practice of double standards. Slovakia did the same, and recently Romania also published product testing results. The outcome of the tests shows that the products differ depending on the market in which they are sold, and the citizens of the post-communist EU Member States get products of poorer quality under the same name from companies, for their own money. The European Commission considers that the problem with different products with the same name is not insignificant and will pay attention to it. For example, this practice that meat products for the new Europeans have less meat and more additives, even though the price is the same, or the practice of washing powder washing better in the West than in the East is unacceptable for the European Commission, although for now, this not requires new legislation – says Jean-Claude Juncker, President of the European Commission.

## Conclusion

Although consumers have recently become more aware of their rights, regular and continuous education is needed through campaigns at the local level, as well as through manuals and brochures available to consumers, so that they can be clearly and appropriately informed and know where to complain or report if their rights as consumers are violated, and on the other hand, to receive professional and timely help so as not to be discouraged to react the next time. We live in a modern society, where the rules, ways and conditions on the market of goods and services are constantly changing. Online sales are becoming more and more relevant on the Macedonian market, and for that reason intervention in the legal provisions is needed, where greater consumer protection would be provided through effective mechanisms. Increased supervision and controls would lead to greater security for their end consumers and users.

# 13 RIGHTS OF THE LGBTI COMMUNITY

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Every year, 17 May, the International Day against Homophobia and Transphobia, reminds all citizens around the world that there is a great need to take action. In more than 80 countries around the world, homosexual acts are still illegal. In certain situations, they are even legally punished with life imprisonment. Even death penalty is still applied in seven countries. In countries where homosexuality is not illegal, discrimination and physical assault are common. Although significant progress can be recorded in some countries, it is under constant threat.

## Legislative framework

The Law on Prevention and Protection against Discrimination, adopted in May 2019, received positive opinions from the Venice Commission, the United Nations, the EU and the OSCE – ODIHR. They point out that the Republic of North Macedonia makes a significant step forward in the fight against all forms of discrimination with this new legal solution, respecting and including the EU legislation and international human rights standards.

In May 2020, the Constitutional Court of the Republic of North Macedonia repealed the above-mentioned Law on Prevention and Protection against Discrimination. The Constitutional Court was of opinion that in the specific case, the compliance of the challenged law with the Constitution of the Republic of North Macedonia, i.e. with Article 75 paragraph 3 of the Constitution, could reasonably be doubted due to the fact that it was passed, according to the Court, without the required majority provided in the said Article 75 paragraph 3 of the Constitution, i.e. 61 members of the Parliament did not vote for it, as is exclusively required by the said Article of the Constitution.

“Namely, due to the fact that this law was put again for vote after the previous veto by the President of the Republic, the Court found that in that case the law gains greater legitimacy and it should be passed by an absolute majority of votes as provided by Article 75 paragraph 3 of the Constitution, a norm which, in the opinion of the Court, is an imperative legal norm ... the law in question was passed without the required majority within the meaning of Article 75 paragraph 3 of the Constitution, the Court reasonably doubted the compliance of the contested law with the Constitution of the Republic of North Macedonia”, reads the decision of the Court.<sup>99</sup>

This Law introduces for the first time sexual orientation and gender identity as grounds for discrimination. New terms were inserted in the glossary, including “person with disability,” “appropriate adaptation” and “accessibility to infrastructure, goods and services.” Further, a new form of discrimination – segregation, as well as “instructions” for discrimination, was added.

It can also be noted that the latest report of the European Commission for 2019 welcomes the progress of the rights of LGBTI people, noting that they are better protected by the amendments to the Criminal Code. However, it concludes that public prejudice, hate speech, discrimination and widespread intolerance prevail against LGBTI people. Incitement to homophobic/transphobic hatred and violence should be prevented and prosecuted more effectively.<sup>100</sup>

99 Decision U.no.115/2019, <http://ustavensud.mk/?p=18839> [Accessed on 03 June 2020]

100 2019 Report of the European Commission, <http://www.sep.gov.mk/data/file/Dokumenti/lzveshtaj%202019-F.pdf> [accessed on 24 June 2020]

On the other hand, *the 2019 ILGA Europe's Annual Review of the Human Rights Situation of LGBT*<sup>101</sup> provides an overview of several areas in which progress has been made in our country, i.e. criticism of the violation of the human rights of the LGBT community.

With regard to hate speech, the review states that the Criminal Code does not yet regulate the hate speech and hate crimes based on sexual orientation and gender identity; NGOs documented 43 hate crimes against LGBTI people in 2018 (until November). Transgender people, especially transgender sexual workers, are most exposed to violence. The Republic of North Macedonia ratified the Istanbul Convention in March 2018 and adopted an action plan for its implementation, which could provide broader protection for transgender people.

There is also positive emphasis on organising the Pride Parade and cultural events that went on without any incidents, which would mean that in general, the conditions are changing, although very slowly, in the direction of better acceptance of the LGBTI community.

## EU practices

Although the EU commitment is to combat discrimination based on sexual orientation and gender identity, it is still a daily reality for many people in Europe. The European Commission is committed to measures against discrimination, prejudice and hatred and to diversity. The Eurobarometer for discrimination in 2019 shows that 69% of EU citizens believe that same-sex marriages should be allowed everywhere in Europe. This significantly shows that the opinion of EU citizens is changing. A high 2/3 of the population believe that the LGBTI community should have equal rights as all others.

Currently, 14 EU Member States allow same-sex marriage (Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Luxembourg, Malta, the Netherlands, Portugal, Spain, Sweden, and Great Britain). In other 8 EU Member States, same-sex couples can enter into a registered partnership (Croatia, Cyprus, Czech Republic, Estonia, Greece, Hungary, Italy, and Slovenia). Six Member States do not provide for legal recognition of same-sex couples (Bulgaria, Latvia, Lithuania, Poland, Romania, and Slovakia). Member States also have different legally recognised procedures for transgender people and intersex people to obtain the preferred gender.

**Croatia** – On 15 July 2014, the Croatian Parliament adopted the Life Partnership Act, and thus the marriage, cohabitation, life partnership and informal life partnership are legally recognised in the Republic of Croatia as communities representing family life. Thus, the family life of same-sex couples and life partners is protected by the Constitution of the Republic of Croatia, the European Convention on Human Rights and the Constitutional Court of the Republic of Croatia. In this way, the equality of all types of families was ensured and it was officially confirmed that human dignity, regardless of sexual orientation or gender identity, is inalienable. Thus, the same-sex couple marriages in the Republic of Croatia were enabled to enter into a life partnership in a public and solemn way, in front of the registrar, with which the Republic of Croatia symbolically treats the family communities, marriage and life partnership.

Apart from the fact that this law completely equalises the rights of LGBT people and their families, it also fulfils the preconditions for social stability of same-sex couples.

Namely, most of the rights and obligations regulated by the Life Partnership Act relate to social rights: the right to a survivor's pension, health insurance through a life partner, the right and obligation to support a partner, guarantees freedom of movement and accompanying rights throughout the territory of the European Union, non-discrimination and equality in the field of public and private services, ensures equality in the field of housing and tax relief, gives the employed life partners the right to paid leave and care for the other partner, regulates the inheritance and family life of same-sex couples with children whose number in Croatia is increasing.

101 ILGA Europe's Annual review the human rights situation of lesbian, gay, bisexual, trans and intersex people, <https://ilga-europe.org/annualreview/2019>, [accessed on 25 June 2020]

Such changes have been extremely important for many same-sex families with children, as they are now more protected, and eventually this must lead to the development of tolerance and support for children growing up in same-sex families. Although this law brings many positive changes, it does not guarantee complete equality – there is still discrimination, as there are social institutions for heterosexual and homosexual couples (marriage and life partnership), which is divided into “one” and “the other”. There is another restriction, regarding the adoption of children. Namely, the same-sex couples are not allowed to adopt children. However, the Life Partnership Act, after the Law on Same-Sex Civil Unions, is the second important step in the Croatian society towards complete equality for same-sex families – marital equality.

**The Netherlands** – As the first country to legalise the same-sex marriage in 2001, the Netherlands has an emotional connection to LGBT + people. The Netherlands decriminalised homosexuality back in 1811; the first gay bar was opened in Amsterdam in 1927; and in 1987, Amsterdam unveiled the Homomonument, a memorial to gays and lesbians killed by the Nazis. Religious solemnisation of the same-sex marriages has been practiced since the 1960s. Civil servants cannot refuse same-sex couples for the civil marriage. However, the same-sex marriage is not possible in Aruba, Curaçao and Sint Maarten.

The same-sex couples can serve as or use surrogate services. Discrimination on sexual orientation in employment and housing is illegal. Same-sex couples enjoy equal rights and inheritance. Children can change their gender. Adults can identify themselves without a doctor’s statement. Dutch citizens can apply for gender-neutral passports. Activists say that more needs to be done in relation to mutual rights.

74% of the population has a positive attitude towards homosexuality and bisexuality. 57% are positive in relation to transgender people and gender diversity, according to a 2017 study by the Netherlands Institute for Social Research.

The capital of the Netherlands, often called the gay path to Europe, has a vibrant LGBT + culture and satisfies all appetites and fetishes. However, the scene stretches far beyond Amsterdam, with bars, saunas and cinemas in several Dutch cities, including Rotterdam, The Hague (Den Haag), Amersfoort, Enschede and Groningen. Many cities also organise their pride events, culminating with the participation of local politicians. PRIDE Amsterdam, with its canal parade, is the largest and attracts around 350,000 people in August every year. Dutch LGBT + support groups have a nationwide network; there are also specific organisations that support refugees.

**Belgium** – LGBT + rights in Belgium are among the most progressive in the world. Discrimination based on sexual orientation has been banned since 2003, the year when Belgium legalised same-sex marriage. Couples enjoy the same rights as couples of the opposite sex; they can adopt children, and lesbians have access to in vitro fertilisation. Same-sex marriages account for 2.5% of all weddings in Belgium.

**France is also a positive example for protecting the LGBTI community.** In France, protection against discrimination on the grounds of sexual orientation was introduced by law in 1985, and homophobic insults are punishable by the 2004 law. In 1998, Bertrand Delanoë was one of the first political figures to publicly announce his homosexuality three years before his election as the Mayor of Paris. Same-sex couples are recognised by the coexistence and adoption of the Civil Solidarity Pact in 1999.

Today, only 8% of French people believe that homosexuality is a “disease that must be cured” compared to 42% in 1975.

The marriage of same-sex couples and the adoption by these couples were adopted by the French Parliament on 23 April 2013 and published in the Official Journal of the French Republic on 17 May 2013. In 5 years, 40,000 gay couples got married<sup>102</sup>.

**Civil Solidarity Pact** – The Civil Solidarity Pact (PACS) in France is an agreement between two adults, of different sexes or of the same sex, to organise their cohabitation. It was enacted by law on 15 November 1999. This Pact sets out the rights and obligations of the parties in relation to material support, housing, real estate, taxes, and social rights. However, this has no effect on parenting rules and parental rights, as long as one of

102 Official site, <https://www.parisbyemy.com/lgbt-paris/> [accessed on 24 July 2020]

the parties is already a parent. Initially, the pact between the parties was concluded/registered by the court, but as of 28 March 2011, it can be registered by a notary public or a court. The jurisdiction for registration of this type of agreement has been transferred from the courts to the municipalities from 1 November 2017. Thus, this type of pact is registered in the city halls or by a notary public.

By its nature, such a pact has a form of agreement on a civil union between two adults to organise their life together. It implies rights and responsibilities, but not to the extent that is the case with marriage. Since 2013, the pact as an agreement has remained available for same-sex and opposite-sex couples, after marriage and adoption of children were declared legal for same-sex couples in May 2013.

The pact can be terminated on the request of one or both parties by sending a declaration to the municipality where they were registered (or to the municipality where the court registered them before 1 November 2017) or to the notary public. The pact is automatically abolished in cases where one of the partners marry or if one of the two partners dies.<sup>103</sup>

## Conclusion

Although the country and society have made some progress, the situation needs to change radically in the direction of creating a better atmosphere to eradicate discrimination based on sexual orientation, supported by the compliance with the law. Cases of attacks on members of the LGBTI community and their headquarters and offices that took place a few years ago have not been resolved yet, nor have the culprits been found. Institutions should generally show greater agility in protecting and promoting the rights of the LGBTI community after the examples in the most advanced European countries. It should be made both with the adoption of new legislation, and with their implementation in real life and everyday life.

103 INSEE (National Institute of Statistics and Economic Studies) <https://www.insee.fr/en/metadonnees/definition/c1281> [accessed on 24 July 2020]



# 4 RIGHT TO BUSINESS AND PROTECTION OF COMPETITION

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A criterion of the market economy is free, effective and fair competition. The protection of competition protects the rights of consumers, since one of the fundamental rights of consumers is the right to choose. The state is responsible for fulfilling this right by securing various choices. This can only be achieved through a free market and effective competition. Existence of free competition means existence of equal competitive conditions for all participants in the market, existence and development of companies through the introduction of new products with better quality and design, satisfying different tastes of consumers. The purpose of competition protection is to maintain the level of competition in the market. For end consumers, this is reflected in low prices, a wide choice of product range and technological innovation.

The policy for protection of competition aims to prevent various harmful forms of connection and action of economic entities, in order to cause restriction and distortion of competition on the market. The cartel binding and the abuse of the dominant position of enterprises on the market cause distortions in the functioning of the free market in its most important components (information, selection and distribution, and the right of availability), which causes harmful consequences for the consumer, and is manifested in the form of higher prices, less choice and lower quality products and services.

The policy for protection of the competition, for the realisation of its most important task – protection of the market competition, fights against the three basic forms of restriction of the competition, such as:

1. Horizontal and vertical restrictions of competition through agreements and agreed practices (agreement concluded between companies which in normal conditions are competitors with each other, and which are concluded for the realisation of mutual benefit);
2. Factual restrictions of competition through market power: monopolies, oligopolies, enterprises with a dominant position on the market (monopoly is a condition when there is one supplier or buyer on the market);
3. Disruption of the market structure through concentration of independent companies (may lead to the creation or strengthening of a dominant market position).

## Legislative framework

**Constitution** – Pursuant to Article 55 of the Constitution of the Republic of North Macedonia, the Republic guarantees freedom of the market and entrepreneurship, i.e. ensures equal legal status for all subjects on the market. In this system of market economy, everyone has the right to freedom and has an opportunity to realise their abilities and their way of life. Hence, the system of market economy is a constitutional framework and a basic condition for the development of the human personality, i.e. the realisation of human rights. The basic rules for guaranteeing and developing a competitive market economy, especially in case of complete

transformation of each sector of the economy into a market economy, are most often supported by the establishment of favourable conditions for free entry into the market<sup>104</sup>.

**Law on Protection of Competition** – The Law<sup>105</sup> regulates the prohibited forms of prevention, restriction or distortion of competition, protection of competition, as well as measures and procedures related to restrictions of competition. The purpose of the law is to ensure free competition on the domestic market in order to encourage economic efficiency and consumer welfare. The law regulates three main areas where competition may be distorted: restrictive agreements, decisions and agreed practice; abuse of a dominant position and control of concentrations.

**Commission for Protection of Competition** – The main competencies of the Commission, *inter alia*, are as follows:

- Control the application of the provisions of the Law on Protection of Competition and the regulations adopted on the basis thereof;
- Monitor and analyse market conditions to the extent necessary for development of free and efficient competition, and
- Conduct proceedings and make decisions in cases of prohibited agreements, abuse of a dominant position and control of concentrations.

The decisions of the Commission deciding on a misdemeanour are final, and such a decision can be complained against by filing a complaint for initiating an administrative dispute before a competent court. The complaint for initiating an administrative dispute should be filed within eight days from the day of receipt of the decision and it will postpone the execution of the decision.

The decisions of the Commission for Protection of Competition made in the administrative procedure are final. Such decisions of the Commission for Protection of Competition may be complained against by filing a complaint for initiation of an administrative dispute before a competent court. The complaint for initiating an administrative dispute should be filed within 30 days from the day of receipt of the decision and it will not postpone the execution of the decision.

**Misdemeanours** – The Law on Protection of Competition also envisages misdemeanour provisions, which refer to committed serious and minor breaches of the legal provisions. Serious breaches of legal provisions are breaches aimed at preventing, restricting or distorting competition. A fine is provided for serious violations of the law.

**Criminal Code** – The Criminal Code of the Republic of North Macedonia also protects competition. Among other things, the penalty provisions stipulate that the responsible person in a legal entity who shall conclude an agreement or shall participate in the concluding of an agreement, decision or an agreed behaviour, prohibited by law, and aiming to prevent, limit or cause competition disorder, and thus the legal entity obtains property benefit of greater extent or causes damage of greater extent, shall be sentenced to imprisonment from one to ten years. The responsible person in the legal entity shall be released from the punishment, provided that he/she discovered or has contributed considerably to discovery of the conclusion of the agreement, the adopted decision or the agreed behaviour prohibited by law, which has resulted in the competent authority

104 Constitution of the Republic of North Macedonia (adopted on 17 November 1991 and published in the Official Gazette of the Republic of North Macedonia number 52 of 22 November 1991), with Amendments from I to XXXII, published in the Official Gazette of the Republic of North Macedonia, as follows: Amendments I and II, in number 1 of 10 January 1992; Amendment III, in number 31 of 2 July 1998; Amendments IV to XVIII, in number 91 of 20 November 2001; Amendment XIX, in number 84 of 30 December 2003; Amendment XX to XXX, in number 107 of 9 December 2005; Amendment XXXI, in number 3 of 9 January 2009, and correction in number 13 of 29 January 2009; and Amendment XXXII, in number 49 of 12 April 2011.

105 Law on Protection of Competition (Official Gazette of RNM No. 145/2010, No. 136/11, 41/14, 53/16 and 83/18)

for protection of competition, in a procedure for the existence of a cartel in accordance with the rules for protection of competition, to determine the release, i.e. reduction of the fine of the legal entity.<sup>106</sup>

## EU practices

The competition policy is a key pillar of the single market of the EU. Investing in the single market gives access to half a billion consumers and more than 20 million businesses at once. Creating an original single market does not prevent only one company – or country – from gaining a competitive advantage over others by circumventing regulations; it also means that EU-wide companies can sell their products and services anywhere in the single market.

EU competition policy aims at ensuring the efficient functioning of markets, while protecting them from distortions of competition, whether or not the distortions stem from Member States (through state aid), from different market players (through unilateral or coordinated behaviour), or mergers aimed at preventing effective competition. Such protection against unfair competition is provided through the enforcement of competition rules, in the form of antitrust/cartels, merger control and state aid control when the Commission determines that there is evidence of unlawful conduct and through direct activities aimed at ensuring the efficient functioning of the markets.

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106 Article 283 of the Criminal Code of the Republic of North Macedonia, (Official Gazette of RNM Nos. 80/99, 4/2002, 43/2003, 19/2004, 81/2005, 60/06, 73/06, 7/08, 139/08, 114/09, 51/11, 135/11, 185/11, 142/12, 166/12, 55/13, 82/13, 14/14, 27/14, 28/14, 115/14, and 132/14)

# 15 RIGHT TO PROTECTION OF PRIVACY

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The Constitution of the Republic of North Macedonia guarantees to every citizen respect and protection of the privacy of his/her personal and family life, of dignity and reputation<sup>107</sup>, and guarantees the inviolability of the home. The right to inviolability of the home may be restricted only by a court decision in cases of detection or prevention of criminal offenses or protection of people's health.<sup>108</sup>

The right to privacy is enshrined in Article 12 of the **Universal Declaration of Human Rights**: *"No one shall be subjected to arbitrary interference with his privacy and family life, home or correspondence, or to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."*

The right to protection of personal data is one of the fundamental human freedoms and rights guaranteed by the 1951 European Convention on Human Rights and the 2000 Convention on Fundamental Rights of the European Union, as well as by the Constitution of the Republic of North Macedonia.

The right to privacy is enshrined in Article 8 of the European Convention on Human Rights, and thus:

1. Everyone has the right to respect for his private and family life, his home and his correspondence;
2. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health and morals, or for the protection of the rights and freedoms of others.

## Legislative framework

The basic and most important law for the protection of personal data in the Republic of North Macedonia is the Law on Personal Data Protection, adopted in 2005, which regulates the protection of personal data as fundamental freedoms and rights of natural persons, and especially the rights to privacy as related to the personal data processing<sup>109</sup>. The main purpose of the Law is to protect the privacy of individuals in the personal data processing. The law protects citizens from unlawful collection and processing of personal data and their misuse. An important feature of this law is that it creates only rights for citizens, and obligations for the state bodies and other entities that keep collections of personal data. The legal framework for the protection of personal data are both the European Convention on Human Rights and the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of the Council of Europe No. 108/81 which the Republic of North Macedonia has ratified and which are two legal documents for the protection of the privacy of citizens and of each individual separately.

The Directorate for Personal Data Protection (DPDP) is a supervisory body in the field of personal data protection. The Directorate is managed by a director, who is elected and dismissed by the Assembly of the Republic of Macedonia, on a proposal by the Committee for Elections and Appointment Issues of the Assembly of the Republic of Macedonia, through a public announcement, for a period of five years.

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107 Article 25 of the Constitution of the Republic of North Macedonia

108 Article 26 of the Constitution of the Republic of North Macedonia

109 Article 1 of the Law on Personal Data Protection (Official Gazette of the Republic of North Macedonia No. 7/2005, 103/2008, 124/2008, 124/2010, 135/2011, 43/2014, 153/2015, 99/2016, and 64/2018)

If citizens consider that their right to protection of personal data are violated, they may file a request for determining the violation of the right to personal data protection. To this end, they need to provide their personal data as well as the data of the controller whom they consider that has violated their right to protection of personal data. Requests are submitted to the Directorate for Personal Data Protection, which decides by adopting a decision on these requests. Another procedure that citizens can take is to submit an Initiative for Inspection Supervision. Such a procedure is submitted in case it is considered that the right to protection of personal data has been violated to a larger group of citizens. The initiative is also submitted to the Directorate for Personal Data Protection.

What is worrying are the constant indications in many reports that the Law does not function on the whole or it functions partially. Actually, the Annual Report on the Efficiency of Legal Protection of Human Rights for 2019, prepared by the Association of Young Lawyers, points out, among other things, that *“The Directorate for Personal Data Protection has not had a deputy director for more than two and a half years, and six months have passed since it has been without a director. This situation leads to the fact that the Directorate cannot implement its work programme for 2019, nor can it adopt the programme for 2020 at all. This especially refers to the programme for conducting supervision over the legality of personal data processing, which brings into question the real protection of the right to protection of personal data and the security and confidentiality of personal data, guaranteed by the Constitution of the Republic of North Macedonia. As a consequence of not having the director and his deputy, the Directorate has not been able and has not realised any regular supervision since 20 May, has not issued a single opinion on a law or by-laws regulating the processing of personal data, has not issued an opinion on internal acts of controllers who process personal data, and no longer conduct trainings in the field of personal data protection. This situation also leads to a situation where the projects of the Directorate are completely endangered and their realisation does not start at all, and thus already allocated funds for this purpose will not be used.”* In addition to this problem, failure to adopt the new Law on Personal Data Protection has been identified, which should reflect the EU General Data Protection Regulation, which has been applied in the EU Member States since 2018.

## EU practices

The Charter of Fundamental Rights of the European Union, adopted on 7 December 2000 in Nice, is the sum of the fundamental human values of the Union. Its purpose is set out in the Preamble, which states that the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity, it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice. Protection of privacy and the family life and the personal data protection are regulated by Articles 7 and 8 *“... Everyone has the right to respect for his or her private or family life, home and communications.”*

According to Article 8 of the Charter, in the part of protection of data of personal character, it provides *“... Everyone has the right for the protection of personal data concerning him or her. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has a right of access to data which has been collected concerning him or her, and the right to have it rectified.”*

Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data is a reference text which regulates the protection of personal data at European level and sets the regulatory framework for the purpose of establishing a balance between the high degree of protection of the privacy of the individual and the free movement of such data. In order to achieve this balance, the Directive imposes strict restrictions on the collection and use of personal data collected, and provides for each EU Member State to establish an independent body in charge of supervising the processing of personal data. In general, the Directive applies to personal data that is processed automatically but also to data that is collected on paper. The provisions of the Directive do not apply to the processing of personal data by natural persons, personal data collected for various activities in the home as well as to activities related to public safety. The Directive clearly specifies

the principles of personal data protection that should be contained in every national law on personal data protection.

Ireland, France, Portugal and Denmark are at the forefront of the European Union when it comes to personal data protection.

Ireland is at the top of the list when it comes to the privacy and surveillance because of:

- An active role played by the Data Protection Commission in Ireland in protecting privacy (for example, 18 ongoing investigations in US technology companies);
- The resilience shown as society towards biometrics of the ID cards, despite it being the EU regulation;
- Ireland is not a part of any data sharing agreement, i.e. The Prom Agreement or the Schengen Agreement;
- An active role in repealing the EU Data Retention Directive for its violation of privacy and human rights.



# RIGHT TO FREEDOM OF EXPRESSION

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## Legislative framework

The Universal Declaration of Human Rights<sup>110</sup>, International Covenant on Civil and Political Rights<sup>111</sup> and the European Convention on Human Rights<sup>112</sup> are the most significant international documents that guarantee human freedom and rights, including the right to expression and freedom of opinion. Freedom of opinion and the right to expression are also guaranteed by the Declaration of Human Rights of the European Union.

According to the Constitution, the international conventions ratified by our country are directly applicable, they are part of the domestic legal order and they cannot be changed by law.

Freedom of expression, as one of the fundamental rights of citizens and mechanisms for its protection are guaranteed by the Constitution of the Republic of North Macedonia. The Constitution<sup>113</sup> guarantees freedom of personal conviction, conscience, thought and public expression of thought. Freedom of speech, public address, public information and the establishment of institutions for public information are guaranteed. Freedom of the media, professional reporting, free access to information, freedom to receive and transmit information are guaranteed. The right to reply via the mass media is guaranteed. The right to a correction in the mass media is guaranteed. The right to protect a source of information in the mass media is guaranteed. Censorship is prohibited.

According to the Law on Media, the freedom of research, publication, selection, and imparting of information is guaranteed, i.e. the expression and freedom of the media is guaranteed. Media freedom in particular includes: freedom of expression of opinion, independence of the media, freedom to collect, research, publish, select and impart information with a purpose of informing the public, pluralism and diversity of the media. The openness and freedom of the media should guarantee freedom of flow of information and different opinions, beliefs, transmission of various contents, the media should have access to information of public interest, and should respect the privacy and dignity of the interlocutors. Freedom of establishing legal entities for performing activities for public information, printing and distribution of printed media and other media from the country and abroad, production and broadcasting of audio/audio visual programmes is guaranteed. The internal organisation guarantees the independence of the editor, journalist, authors or creators of contents or programme associates and other persons, in accordance with the rules of the profession and the prescribed laws.<sup>114</sup>

Apart from regulating the establishment and operation of the media, the Law on Audio Visual Media Services also provides for freedom of expression, the right to correction and reply, access to information and protection of the source of information.

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110 Universal Declaration of Human Rights, <http://bezomrazno.mk/wp-content/uploads/2013/10/Univerzalna-deklaracija-za-pravata-na-covekot.pdf> [accessed on 29 May 2020]

111 International Covenant on Civil and Political Rights <http://bezomrazno.mk/wp-content/uploads/2013/10/Megjunaroden-pakt-za-gragjanski-i-politicki-prava.pdf> [accessed on 29 May 2020]

112 European Convention on Human Rights, [https://www.echr.coe.int/Documents/Convention\\_MKD.pdf](https://www.echr.coe.int/Documents/Convention_MKD.pdf) [accessed on 29 May 2020]

113 Article 16 of the Constitution of the Republic of North Macedonia

114 Article 3 of the Law on Media (Official Gazette of RNM No. 184/13, 13/14)

One of the most important laws on freedom of expression is the **Law on Civil Liability for Insult and Defamation**, which decriminalises the liability for the so-called defamation for public figures. Although it still exists in isolated cases, there have been countless cases in the past in which politicians, businessmen and party officials have filed lawsuits against journalists and the media for alleged damage to honour and reputation. The law guarantees freedom of expression and information as one of the essential foundations of a democratic society. Restrictions of the freedom of expression and information are legally regulated by stipulating strict conditions for civil liability for insult and defamation, in accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 10) and the case law of the European Court of Human Rights.<sup>115</sup>

Media, journalists and media workers have associations that regulate the nature of professional reporting through a journalistic code and similar written and unwritten regulations in the profession. There is also a Court of Honour and an Ethics Council which discuss certain complaints, whether a journalist or the media tendentiously take one side violating the rights of the other party, especially the right of the other party to be heard, *audiatur et altera pars*, which is a necessity that makes the journalistic work impossible. The protection of the freedom of expression of the citizens can be exercised before the Constitutional Court, before the regular courts and extrajudicially.

**Constitutional Court** – If the citizens consider that a certain act or action violates a certain right or freedom, considering here the right to opinion and expression, they can initiate a procedure by submitting a request for protection of freedoms and rights to the Constitutional Court. In its decision, the Constitutional Court shall determine the manner in which the consequences of the application of the individual act or action by which the right to opinion and expression has been violated shall be eliminated.

**Judicial protection** – The Constitution guarantees the right to judicial protection. Every citizen who considers that his/her right to opinion and expression has been violated may initiate proceedings before the domestic courts, such as: civil, criminal, misdemeanour proceedings or an administrative dispute. The right to appeal against the first instance court decisions is guaranteed.

**Extrajudicial protection** – The protection of freedoms and rights, and thus also the freedom of expression, is guaranteed and is realised through extrajudicial mechanisms.

**The Inquiry Committee for the Protection of Civil Freedoms and Rights** – This Committee was established as a standing working body within the Assembly. It is responsible for reviewing questions and opinions related to the implementation of the regulations and makes proposals for adoption of legal acts for the protection of the civil freedoms and rights. For its work, it adopts conclusion.

**The Ombudsman** – The Ombudsman is an independent body that protects the constitutional and legal rights of citizens, when they are violated by state administration bodies and other bodies that have public authority. If the Ombudsman finds violation of rights, they may, *inter alia*, issue a recommendation or opinion to remedy the violation, as well as to initiate disciplinary proceedings.

**The Commission for Protection of the Right to Free Access to Public Information** – The Commission for Protection of the Right to Free Access to Public Information decides on citizens' appeals against a specific decision by which the holder of the information refused a request for access to the information to information seekers.

The latest report of the European Commission on the progress in North Macedonia points out, *inter alia*, that progress has been made on freedom of expression, especially in the area of freedom of the media “... *the climate for media freedom and freedom of expression continued to improve. Open political debate and critical media reporting continued. Further self-regulation efforts are required to improve professional standards and the quality of journalism...*”

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115 Article 2 of the Law on Civil Liability (Official Gazette of RNM No. 143/12)



## Media freedom in the Republic of North Macedonia

In one year, the Republic of North Macedonia improved its ranking by three places on the list of the World Press Freedom Index for 2020, prepared by non-governmental Paris-based Reporters Without Borders. From the 95<sup>th</sup> position, the country is now ranked 92<sup>nd</sup> with an average score of 31.28 points. However, as a candidate country for EU membership, it is considered that the EU will seek substantial media reforms in the Republic of North Macedonia during the negotiations. Although, unlike the previous year, there was a slight jump of three places in the ranking of the media freedom, it is still considered that journalists and other media workers have not reached the freedom that seems necessary for open, independent and transparent placement of information in the media space. The assessment of press freedom for the country also states that high-ranking government officials often direct threats and insults at journalists. In its latest report, the organisation Reporters Without Borders assesses that the culture of impunity is firmly rooted and is still an obstacle to the safety of journalists. On the one hand, the positive point is the fact that the number of physical attacks on journalists has decreased, but on the other hand, the report itself records an increased practice of cyber-mobbing and verbal abuse. Reporters Without Borders emphasises that the current government has significantly reduced advertising in the media, which was a powerful instrument of the authorities in exerting control over the media and misusing the state funds. However, it is stated that since the municipalities are still able to advertise in the local media it still represents an instrument for putting pressure on the media. The report assessed as positive the improvements in the field of self-regulation and working standards of journalists, such as the Register of Professional Online media, the Charter on Working Conditions for Journalists, and the draft agreement for fair employment of journalists and media workers in digital media.

The ranking for the freedom of the media was made on the basis of a questionnaire for various aspects of journalistic work, as well as on the basis of the number of physical attacks and acts of violence against media assistants, and sentences for imprisonment imposed against them in 2019. On the list of 180 countries, compared to the countries in the region, North Macedonia is behind Bosnia and Herzegovina (ranked 58<sup>th</sup>), Greece (ranked 65<sup>th</sup>) and Albania (ranked 84<sup>th</sup>), and is better ranked than Serbia (ranked 93<sup>rd</sup>), Montenegro (ranked 105<sup>th</sup>) and Bulgaria (ranked 111<sup>th</sup>). The first on the list is Norway, followed by Finland, Denmark, Sweden and the Netherlands. The last countries, ranked at the 177<sup>th</sup> position, are China, Eritrea and Turkmenistan.<sup>116</sup>

The Independent Trade Union of Journalists and Media Workers (ITUJM) constantly reminds that the labour rights of journalists and media workers are under constant threat, they face legal, social and economic insecurity, job insecurity, and the precariat is seriously widespread especially in digital media. A recent survey conducted by ITUJM on a representative sample of 150 respondents from the journalist community, came out with the following conclusions, which, by the way, reflect the true state of journalists and media workers in the country:

- 35% of media workers have salary of MKD 15,000 to 20,000, which is far below the average
- 67% are not satisfied with the salary or the fee
- 63% answered that they have never used a sick leave
- 23% do not have health and social insurance
- 62% answered that there is a social gap in the editorial office
- 19% answered that the management does not allow trade union organisation
- 21% is not familiar with the Labour Law

Low income as well as the full disregard of the Labour Law by employers, are the most common problems that the media community has been facing for years.

According to the State Statistical Office, in April 2020 the average salary was MKD 25,830. Accordingly, the large majority of journalists have monthly income far below the average salary in the country. According to the latest report of the Reporters Without Borders on 180 countries, Macedonia ranks 93<sup>rd</sup>, which in itself speaks about the atmosphere in which media workers work.

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116 Non-governmental organisation Reporters Without Borders. More on the link: <https://rsf.org/en/north-macedonia> [accessed on 14 July 2020]

The largest part of the journalists and media workers receive a salary of MKD 15,000 to 25,000. This is shown by the survey of the Independent Trade Union of Journalists and Media Workers, conducted on 150 respondents, who were asked about the labour rights and conditions in the newsrooms in the country.<sup>117</sup>

## EU practices

The right to freedom of expression includes freedom of opinion, freedom to receive and impart information and ideas without interference by public authority and regardless of frontiers. This right is guaranteed by Article 11 of the EU Charter of Fundamental Rights. This right also means that freedom and pluralism of the media shall be respected.

When it comes to media freedom, according to the Reporters Without Borders index, Norway, Finland, Denmark, and Sweden rank the highest. Portugal is ranked 10<sup>th</sup>, where media freedom is ranked with the index of 11.83 for 2020. Macedonia ranks at the 92<sup>nd</sup> position in the world on this list. The lowest ranked EU Member State is Bulgaria, at the 111<sup>th</sup> place.

In Denmark, the most media outlets are owned by foundations and associations. Hence, in Denmark there are no problems with politically connected business owners who would have control over the central media and would be able to directly or indirectly have political influence. Such is the case with one of the largest media houses in Denmark, JP/Politikens hus, which publishes the newspapers Politiken, Ekstra Bladet and Jyllands-Posten. They emphasise that the role of the foundation as a medium owner is to ensure the name, maximum independence, and thus to avoid the dependence of the medium on the state, individual owners or businesses. On the other hand, in practice, the editor enjoys special protection. He/she is not even required to report to the Board if he/she has decided to publish certain issues. Theoretically, they can be fired for a story, but in practice such a case has not been noticed. The foundation itself takes 5% of the profit of the medium in order to provide reserve, the remaining 95% is owned by the medium.

## Conclusion

Despite numerous media, the media sphere in the country lacks real competition, professionalism, independent editorial policy and professional and modern working conditions. Media owners driven by their own business interests and their party affiliation impose a way of working and interfering in editorial policy, which an editor-in-chief can rarely oppose to and stand up in defence of free information. Although, thanks to professional organisations such as the Association of Journalists and the Union of Journalists and Media Workers, these conditions have improved significantly over the past decade, journalism in the country remains low and journalists are exposed to pressure and threats. The low salaries in journalism have contributed to a large number of journalists with experience shifting to other jobs in other fields, and to making journalism an unattractive and low-paid profession. Unfortunately, the great responsibility media have does not correspond to low salaries and exposure to pressures. However, despite these circumstances, journalists continue to be the only ones who fight against irregularities in the society and the state, reveal scandals, and put pressure on the institutions to do their job.

Not only in comparison with the European countries but also in comparison with neighbouring countries, the Macedonian media lag behind, not only in equipment and professional standards, but in the salaries of journalists that are among the lowest. A positive trend is that there is more frequent cooperation with professional associations and colleagues from European countries, which help not only in raising the standards and criteria in journalism, but in raising the voice against bad policies in the media sphere and attempts to put pressure on journalists and media.

117 Independent Trade Union of Journalists and Media Workers. More on link: <https://ssnm.org.mk/komentari/%d0%bd%d0%be%d0%b2%d0%b8%d0%bd%d0%b0%d1%80%d0%b8%d1%82%d0%b5-%d0%b8-%d0%bc%d0%b5%d0%b4%d0%b8%d1%83%d0%bc%d1%81%d0%ba%d0%b8%d1%82%d0%b5-%d1%80%d0%b0%d0%b1%d0%be%d1%82%d0%bd%d0%b8%d1%86%d0%b8-%d1%81-2> 1. [accessed on 14 July 2020]



## RIGHTS OF DRUG ADDICTS

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All citizens of the Republic of North Macedonia are ensured exercising of their rights, identified needs and interests in the prevention and treatment of drug addiction. Treatment should be available to all without discrimination. No one should be discriminated because of their current or past history of drug use or drug addiction. Non-discrimination means that all drug addicts who want to be treated should have access to drug treatment, regardless of their gender, race, skin colour, language, religion, political or any other opinion, national or social origin, belonging to a national minority, material status, birth origin, sexual orientation or any other status.

The patient should be provided with appropriate care, treatment and rehabilitation, according to his/her individual needs and abilities in accordance with the available methods and possibilities of medicine, in line with the regulations for health care and health insurance. In addition, psycho-social support for treated addicts is a very important part of the treatment process. The treatment should include professionals from multiple fields, and in addition to medical persons from several fields (psychiatrist, psychologist ...), it should include a social worker; furthermore an individual plan should be made for treatment, referring to a specific person and mostly responding to his/her needs, all with a purpose of successful treatment and achieving the best results in terms of the outcome of the treatment.

The patient has the right to conditions that ensure privacy in medical interventions, and especially when personal care is provided. The medical intervention should be applied only in the presence of those persons who are necessary for the execution of the intervention. This right is violated if the persons receive methadone in front of a counter or in any other place where third parties can be found.

**Mechanism/procedure for exercising this right** – If a person considers that his/her certain right has been violated or restricted in one of the public health institutions (hospital, clinic, institute), he/she should necessarily request a counsellor for protection of the rights of patients within that hospital/clinic. The counsellor can give legal advice or help the person file an oral/written complaint. If there is no counsellor in the hospital/clinic, or the violation occurred in a non-hospital health institution (health centre, health station), the complaint can be submitted directly to the director of that institution. The director of the institution, having examined the allegations in the complaint, is obliged to inform the applicant about the measures taken within 15 days. If the person considers that the director has not taken the necessary measures, he/she may submit a complaint to the Ministry of Health, which is obliged to examine the allegations in the complaint within 15 days and give notification of the measures taken. At the same time, a request may be submitted for inspection to the State Sanitary and Health Inspectorate, which, after conducting the inspection, has the authority to order the health institution and the health worker to take appropriate measures and activities depending on the type of violation of the right<sup>118</sup>. These mechanisms should work effectively to protect patients' rights whenever they are violated. Especially drug addicts who need treatment, among other things with methadone therapy, should be provided with infrastructural and technical possibilities where they could be treated, as well as with guaranteed protection of all their rights, with sufficiently provided available professional medical staff that will follow the new trends and research in medicine with a purpose of successful treatment of addictions. This is not only an institutional but also a local problem, and it is necessary to create efficient public policies that will cover this category of persons, who certainly represent an important part of the society and must not be invisible to it.

118 Protection of patients' rights, with a focus on drug addicts, more on the link: <http://coalition.org.mk/wp-content/uploads/2015/10/Zashtita-na-prava-na-patsienti-so-fokus-na-litsata-korisnitsi-na-drogi.pdf> [accessed on 9 June 2020]

In the Republic of North Macedonia, “treatment” of persons using drugs with a methadone substitution therapy is carried out throughout the country through the services for prevention and treatment of drug abuse, in: Tetovo, Ohrid, Bitola, Gevgelija, Strumica, Kavadarci, Kumanovo, Shtip and Veles. At the level of the City of Skopje, drug addicts are treated with a methadone therapy at the Centre for Prevention and Treatment of Drugs and Other Psychoactive Substance Abuse in Kisela Voda – Skopje (which is a department of the Psychiatric Hospital Skopje) and the Service located in the former Clinical Centre Skopje, which is under the jurisdiction of the Centre for Prevention and Treatment of Drugs and Other Psychoactive Substances in Kisela Voda – Skopje. Methadone treatment is performed on the basis of instructions on how to perform the health activity related to the use of methadone in the treatment of opioid addiction. Methadone treatment in public health facilities is free. There is no efficacy of methadone therapy. Only ten percent of patients can be “cured,” while 90 to 96 percent remain on methadone until the end of life.

One of the basic preconditions for successful treatment of addiction in specialised institutions, as conceived in Macedonia, is the possibility of integration of pharmacological treatment with medical, psycho-social and other support with a purpose of rehabilitation and resocialisation of the treated persons. But this is far from the reality in our country. Treatment centres have been reduced to counters for distribution of the substitution therapy, while medical/psychiatric and psycho-social support seems not to exist at all. This condition stems from the fact that not any Centre is equipped with the sufficient number of staff with appropriate professional training to enable quality and comprehensive evidence-based treatment for the large number of patients. For example, at the Centre in Kisela Voda, patients recognise only four psychiatrists, two social workers, two psychologists and other staff with secondary education, which is not even close enough for appropriate treatment of about 530 patients who take therapy at least once a week. In most of the Centres in the other cities, there are no psychiatrists to follow the treatment. The Shtip Centre, for example, employs only two nurses who provide therapy, and occasionally specialists in other fields (orthopaedics, gynaecology, etc.) come and are expected to monitor patients and adjust the therapeutic dose, although that is out of their expert training.<sup>119</sup>

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119 The quality of addiction treatment programs in Macedonia, HOPS Association - Healthy Living Options Skopje, 2019. More on the link: <https://hops.org.mk/wp-content/uploads/2019/06/KVALITETOT-NA-PROGRAMITE-ZA-LEKUVANE-NA-ZAVISNOSTI-VO-MAKEDONIJA-1.pdf> [accessed on 1 June 2020]

# 18 RIGHT OF CONVICTED PERSONS

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The European Union has clearly noted in its reports over the years that the situation in penitentiaries and correctional facilities needs to improve. The 2019 report states that putting the most derelict facilities out of operation in order to address the inhumane conditions noted by the Committee for the Prevention of Torture in certain detention<sup>120</sup> facilities is absolutely necessary. They emphasise that poor conditions in police stations, social care facilities and psychiatric institutions need to be urgently addressed. Despite reinforcements in terms of staff, the National Preventive Mechanism against torture continues to be hindered by insufficient resources. The European Commission notes that the penitentiary sector remains underfunded, understaffed and overly reliant on donor assistance. Healthcare in prisons remains deficient, and transfer to the Ministry of Health is still not finalised. The release of 795 persons based on the December 2017 Law on Amnesty reduced prison overcrowding but is not a sustainable solution as the probation system is still at an early stage of development.<sup>121</sup>

The report, prepared on the basis of the visit of CPT to Macedonia in December 2016, stated that the prison conditions observed in several wings in Idrizovo could be considered inhumane.

The findings from the visit of December 2016 show that little progress has been made in dealing with the problems in the penitentiary system. In addition, the healthcare provided in the Idrizovo prison is inadequate and puts the lives of prisoners at risk. Access to the healthcare for convicted and detained persons is almost non-existent. Insufficient medical staff, lack of medical equipment and medicines, inability to provide dental services are just some of the problems in prisons throughout the territory of the Republic of North Macedonia.

The report also describes the observed high level of corruption in the prison system. CPT found that in Idrizovo any aspect of imprisonment could be “paid for”, such as being placed in an appropriate cell or a leave permit, access to medicine, a mobile phone or drug use.

The report states that a persistent problem is: ill-treatment of prisoners, inter-mate violence, corruption and lack of activities for prisoners, which in Idrizovo Prison are essentially related to the staff shortages and lack of training and support for the prison staff.

In relation to the Skopje Prison Investigation Department, CPT wrote that defendants are restricted in their cells for 23 hours a day, and detention can last up to two years without any activity other than reading, playing cards or listening to the radio. This puts into question the concept of re-socialisation of convicted persons, and also points to the extreme disrespect and direct violation of the fundamental rights of the convicted persons.

## Legislative framework

**Constitution** – According to Article 9 of the Constitution of the Republic of North Macedonia, citizens are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religious beliefs; property and social status. All citizens are equal before the Constitution and law. The human right to life is irrevocable. The death penalty may not be imposed on any ground in the Republic

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120 2019 Report of the European Union for the Republic of North Macedonia, <http://www.sep.gov.mk/data/file/Dokumenti/Izveshtaj%202019-F.pdf> [accessed on 25 June 2020]

121 Ibid.

of North Macedonia. The human right to physical and moral dignity is irrevocable. Any form of torture, or inhuman or humiliating conduct or punishment is prohibited. Forced labour is prohibited.

The National Preventive Mechanism (NPM) in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is a national body that regularly examines the treatment of persons deprived of their liberty in order to strengthen, if necessary, their protection from torture and other cruel, inhuman or degrading treatment or punishment, makes recommendations to the relevant authorities in order to improve the treatment and conditions of persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into account the relevant norms of the United Nations, submits proposals and views in connection with the existing or the draft legislation.

With the Law on Ratification of the Optional Protocol, the Republic of North Macedonia stated that the Ombudsman was appointed to act as the National Preventive Mechanism, while in cooperation and upon prior consent of the Ombudsman, the non-governmental organisations and organisations having the status of humanitarian organisations in the Republic of North Macedonia may take over some of the competencies of the National Preventive Mechanism. Following the adoption of the Law on Ratification of the Optional Protocol by the Republic of North Macedonia, by which the Ombudsman was appointed the national body for the prevention of torture, the necessary steps for its establishment were taken. Following the recommendations of the Subcommittee on Prevention of Torture of the United Nations, a special unit – the National Preventive Mechanism (NPM) was established within the Ombudsman Office, with its main task being prevention of torture and other forms of cruel, inhuman and degrading treatment or punishment.

The **Directorate for the Execution of Sanctions** operates within the Ministry of Justice and has the status of a legal entity. It performs direct and indirect supervision over the work of the penitentiary and correctional institutions. It follows and studies the implementation of the regulations for execution of sanctions and the measure of detention, directly undertakes or suggests measures for improvement of the conditions for execution of sanctions and detention, provides expert assistance for the execution of sanctions, collects and processes statistical data and performs other works provided for by this law or other regulations. The Directorate provides and organises initial and continuous training and advanced training of the employees in the Directorate, as well as of the employees in the institutions. In addition, it cooperates with institutions, associations and organisations that deal with the problems of execution of sanctions and detention and cooperates with other state bodies, scientific and other institutions and associations in order to improve the conditions for execution of sanctions and assistance in the release of convicted persons. Pursuant to the Law, the Directorate submits an annual report related to the condition and operation of the penitentiary and correctional institutions to the Government of the Republic of North Macedonia for information purposes and publishes it on its website.

**Law on Execution of Sanctions** – The basic legal act that regulates the execution of sanctions imposed for criminal offenses in the Republic of North Macedonia is the Law on Execution of Sanctions. According to the law, criminal offences and misdemeanours are considered to be punishable acts.

Discrimination on the grounds of race, colour of skin, origin, national or ethnic origin, sex, gender, sexual orientation, gender identity, belonging to a marginalised group, language, citizenship, social origin, education, religion or belief, political belief, other belief, disability, age, family or marital status, property status, health status, personal status and social status or any other basis against a person to whom sanctions are applied, is prohibited.

Persons accommodated in the penitentiary or correctional institutions are treated humanely, with respect for the human personality and dignity, protection of their physical and mental health, taking into account the achievement of the goals of certain sanctions and measures.

The execution of sanctions is the responsibility of the Directorate for the Execution of Sanctions, while the state provides the funds necessary for the execution of sanctions. The work of the penitentiary institutions in the country is monitored by the Directorate for Execution of Sanctions, which is part of the Ministry of

Justice. The Directorate is obliged to follow and study the implementation of the regulations for execution of sanctions and the measure of detention, directly undertake or suggest measures for improvement of the conditions in which sanctions and detention are executed, provides expert assistance for the execution of sanctions, collects and processes statistical data and performs other jobs provided for by this law or other regulations.

The process of re-socialisation has a key role in the penitentiary institutions, and hence the goals of the execution of the prison sentence are directed towards enabling the convicted persons to join the society with the best prospects for independent living.

Depending on the degree of security, the degree of restriction of freedom of movement and the types of treatment applied to convicted persons, penitentiary institutions may be of the closed, semi-open and open types.

Every convicted person has the following rights in accordance with the law:

- Right to accommodation – the premises in which the convicted persons are accommodated must meet the minimum hygienic conditions, have sufficient daylight, ventilation, must be free of moisture, and must provide at least 9 m<sup>3</sup>/4 m<sup>2</sup> for each person on average. Every convicted person should be provided with a bed, a chair and a closet;
- Right to clothing and bedding – Convicted persons may use their own clothing, footwear and bedding, but if they do not have one, the institution is obliged to provide them;
- Right to personal hygiene – The institution is obliged to provide conditions and accessories necessary for maintaining the hygiene and protection of the health of convicted persons;
- Right to food – Convicted persons are provided with food that must have at least 12,500 joules per person per day. The food is given in three meals a day, in the usual time for it and decently served;
- Right to treatment – Convicted persons have the right to participate in regular (general) and/or specific programmes, measures and activities such as work, education, leisure activities, sports and recreation of convicted persons, medical and psychological treatment;
- Right to rest – Convicted persons have the right to eight hour uninterrupted break during the day and one day off on Sunday. They also have the right to stay at least two hours a day outside the indoor premises of the institution;
- Right to pension insurance – The time that they will continuously spend at their full-time job shall be recognised as the pension service in accordance with the general regulations, insofar as they pay the defined contributions from the income for their work;
- Right to health care – They are guaranteed the right to health care and are provided with the necessary medical care and hospital treatment in accordance with the regulations in the field of health care and health insurance;
- Right to information – They should have access to the laws and by-laws related to the manner of serving the sentence of imprisonment;
- Right to satisfy religious needs – They are allowed to satisfy their religious feelings and needs in accordance with the conditions and possibilities of the institution;
- Right to contact the outside world (correspondence, telephone calls, visits) The convicted person has the right to write, make telephone calls, receive visits two times a month by the immediate family;
- Right to receive shipments – Convicted persons have the right to receive shipments sent by members of the immediate family;
- Right to marry – During serving the sentence, the convicted person may marry;
- Right to legal aid – The institution provides information and legal aid to convicted persons in relation to the use of legal remedies and undertaking of actions for the protection of their rights. Convicted persons have the right to an oral complaint for a violated right or other irregularity to the director of the institution or a person authorised by him/her.

## Practices

Prisons in Norway are often considered “models”, largely because they reflect the Norwegian approach to the welfare punishment. The penitentiary system is organised by the so-called model: prisoners lose their freedom of movement, but they are still part of the Norwegian state for social assistance. The Norwegian Correctional Service, under the Ministry of Justice and Public Safety, is responsible for enforcing the sentence, but the social protection services (such as education, health care, social protection services, etc.) are under the jurisdiction of the same competent authorities as for all those outside.

A research story developed by the BBC<sup>122</sup> depicts the model of prison rehabilitation of prisoners in Norway. About twenty-five years ago, the Norwegian Service for Execution of Sanction carried out a series of reforms, in order to focus on the rehabilitation and re-socialisation of prisoners instead of “revenge.” Prisoners who had previously spent most of the day locked up in cells now have the opportunity to be trained and educated, and the role of guards has changed radically.

Under the old system, the rate of returnees in crime after serving a prison sentence was 60-70 percent, and two years after the introduction of reforms it dropped to only 20%, and five years later to 25%.

Prisoners in Norway today practice yoga that calms them down. The cost of accommodation per prisoner is around EUR 100,000 per year, while in England and Wales, for example, it is EUR 45,000-55,000.

Prisons are organised on the basis of the so-called “dynamic security” principle, which means that the guards and the prisoners work together: they eat together, play volleyball, rest, which allows the guards to talk to them and motivate them. Prison cells are designed to minimise the feeling that prisoners are behind bars in order to alleviate their psychological stress and the architecture is in harmony with the environment. Every prisoner has the right to his/her own cell, with a toilet, shower, refrigerator, table, TV and a forest view, as well as a kitchenette.

Training for a prison officer in Norway lasts for 2-3 years, starting from the first day after arriving at the prison. Students study law, ethics, criminology, English, reintegration and social work. Afterwards, they attend a year of practice, and then return to the school to take the final exams.

### Conclusion

In addition to the good strategy and policies at the national level, large financial resources are needed, which the state will have to provide in order to improve the conditions that currently exist in penitentiaries and correctional facilities throughout the country. The will of the state, the full implementation of the legislation and the amount of financial resources are essential in overcoming the current problems and shortcomings in the prisons. Within a prison, one can see extremely ruined buildings to modern cells that meet international standards. Such unequal conditions are fertile ground for the “fight” of the convicts for access to a better cell. With the improvement of all conditions in prisons, corruption in them is expected to decrease. On the other hand, by creating good policies and programmes, convicts will be able to re-socialise, which would reduce the number of returnees in prisons, but would also reduce violence among prisoners themselves, which is currently common. Prison staff needs to be educated so that they can deal with all the challenges in prisons.

122 How Norway turns criminals into good neighbours, <https://www.bbc.com/news/stories-48885846> [accessed on 24 June 2020]





# RIGHT TO VOTE (ACTIVE AND PASSIVE)

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## Legislative framework

The right to vote is one of the basic preconditions for the rule of law and the practice of democracy in a modern state. Namely, respect for free suffrage enables the legitimacy and legality of the government, and the elections, in general, reflect the current level of democracy that has been achieved in a certain society. To this end, it is very important to ensure effective protection of the electoral system, as a set of principles and procedures to ensure free, direct, secret and democratic elections, as a fundamental value of the constitutional order as defined in Article 8 of the Constitution of the Republic of North Macedonia. Guaranteeing active and passive suffrage, i.e. equal, universal and direct suffrage, as well as the right of every citizen to participate in the exercise of public office, is crucial for the establishment and maintenance of the foundations of effective democracy, governed by respect for the principle of rule of law.

Pursuant to Articles 22 and 23 of the Constitution of the Republic of North Macedonia, every citizen who has reached the age of 18 acquires the right to vote. The right to vote is equal, universal and direct, and is exercised in free elections by secret ballot. The secrecy of voting means that no one can in any way find out how the citizen has exercised his/her right. Such secrecy is achieved through voting behind the screen and with appropriate folding of the ballot in order to preserve this secrecy. Violation of the secrecy of voting is punishable by imprisonment, which means that this is a criminal offense and is seriously sanctioned. Those who know the electoral process know that when they go behind the screen, they have complete freedom to make their choice, without anyone knowing.

The identity of a person with the right to vote will usually be established by his or her name and surname and the date of birth. In addition, other data is also used to determine the identity of a person, such as the father's or mother's name and place of birth, as well as the comparison of a unique personal identification number.

**Active suffrage** – Every citizen of the Republic of North Macedonia who has reached the age of 18, has the legal capacity and has a permanent residence in the constituency where the election takes place has the right to elect. At the elections for members of the Assembly, the citizens of the Republic of North Macedonia, who are temporarily working or staying abroad, also vote at the election day. They exercise their right to vote in the diplomatic and consular missions of the Republic of North Macedonia abroad. Voting is not compulsory.

**Passive suffrage** – A candidate for a member of the Assembly may be a citizen of the Republic of North Macedonia with 18 years of age and legal capacity, as long as he/she is not serving a prison sentence for a committed crime and if he/she has not been sentenced to unconditional imprisonment over six months, the serving of which has not begun yet.

In cases of violation of the right to vote, it is very important for citizens to be well informed where such violations can be reported. One of the institutions where one can apply is the Ombudsman, who has his local offices in several cities across the Republic of North Macedonia, or the Helsinki Committee for Human Rights. Additionally, election irregularities may be reported to the official observers of the elections who have applied for official observation of the elections, to the police by submitting a report.

In the last parliamentary elections in July 2020, 1,814,263 voters registered in the voter list were eligible to vote, while the elections were monitored by 550 domestic and 102 international observers.

# RIGHT TO FREEDOM OF ASSOCIATION

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## Legislative framework

Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and join trade unions for the protection of his/her interests.<sup>123</sup>

No restriction shall be placed on the exercise of this rights other than such as 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 and morals or for protection of rights and freedom of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.<sup>124</sup>

The right of association is guaranteed by the Constitution of the Republic of North Macedonia, in Article 20: “Citizens are guaranteed freedom of association to exercise and protect their political, economic, social, cultural, and other rights and convictions.”<sup>125</sup>, while Article 21 of the Constitution of the Republic of North Macedonia says that citizens have a right to assemble peacefully and to express protest without prior announcement or a special license.<sup>126</sup>

- *Article 20*  
*Citizens are guaranteed freedom of association to exercise and protect their political, economic, social, cultural, and other rights and convictions. Citizens may freely establish association of citizens and political parties, join them or resign from them. The programmes and activities of political parties and other associations of citizens may not be directed at the violent destruction of the constitutional order of the Republic, or at encouragement or incitement to military aggression or ethnic, racial or religious hatred or intolerance. Military or paramilitary associations which do not belong to the Armed Forces of the Republic of North Macedonia are prohibited.*
- *Article 21*  
*Citizens have the right to assemble peacefully and to express public protest without prior announcement or a special license. The exercise of this right may be restricted only during a state of emergency or war.*

According to the **Labour Relations Law**, workers have the right, at their own discretion, to form a trade union and join it, under the conditions prescribed by the statute or rules of that trade union. The trade union is an independent, democratic organisation of workers in which they voluntarily unite for the purpose of representation, promotion, and protection of their economic, social and other individual and collective interests. Employers have the right, at their own discretion, to form an association and to join it, under

123 Article 11, paragraph 1, European Convention on Human Rights, [https://www.echr.coe.int/Documents/Convention\\_MKD.pdf](https://www.echr.coe.int/Documents/Convention_MKD.pdf) [accessed on 14 July 2020]

124 Article 11, paragraph 2, European Convention on Human Rights, [https://www.echr.coe.int/Documents/Convention\\_MKD.pdf](https://www.echr.coe.int/Documents/Convention_MKD.pdf) [accessed on 14 July 2020]

125 Article 20, Constitution of the Republic of North Macedonia, <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

126 Article 21, Constitution of the Republic of North Macedonia, <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

the conditions prescribed by the statute or rules of that association. An association of employers is an independent, democratic organisation which employers voluntarily join in order to represent, promote and protect their economic, social and other interests. Trade unions and associations may be established without any prior approval. The employee, i.e. the employer, freely decides on his joining and leaving the trade union, i.e. the association of employers. No one may be put in a disadvantaged position due to membership or non-membership in the trade union, i.e. the employers' association, i.e. participation or non-participation in the activities of the trade union, i.e. the employers' association. The trade union, i.e. the association of employers may not be dissolved or their activity suspended by administrative means, if they are established and the activity is performed in accordance with the law. The activity of the trade union and their representative cannot be limited by an act of the employer, if it is in accordance with the law and the collective agreement. Trade unions, i.e. employers' associations may establish their own unions or other forms of association in which their interests are linked at a higher level (trade unions and employers' associations at a higher level). Trade unions and employers' associations at a higher level enjoy all the rights and freedoms guaranteed for the trade union, i.e. the employers' association. Trade unions and employers' associations have the right to freely associate and cooperate with international organisations established for the purpose of exercising their rights and interest.<sup>127</sup>

According to the **Law on Citizen Associations and Foundations**, the right to free association is exercised through uniting in associations, foundations, unions and organisational forms of foreign organisations to achieve their goals, activities and protection of rights, interests and beliefs in accordance with the Constitution and the law. Establishment of an organisation is prohibited if its programme and activities are aimed at violently overthrowing the constitutional order of the Republic of North Macedonia, instigation and calling out for military aggression and incitement to national, racial or religious hatred or intolerance, taking activities related to terrorism, or activities contrary to the Constitution or the law and freedoms and rights of others are violated. Two or more organisations may unite into an alliance or another form of association, which may acquire the status of a legal entity, with registration in accordance with the law. Organisations can be members of international organisations or otherwise cooperate with them. Organisations that unite in an alliance or other form of association do not lose the status of a legal entity with the association. The organisations acquire the status of a legal entity by the entry in the register kept by the Central Registry of the Republic of North Macedonia. Associations and foundations cannot be transformed into other types of legal entities. If the founding act, i.e. the statute of the organisation does not determine the duration of the organisation, it is considered that the organisation is established for an indefinite period. Organisations have tax and customs reliefs in accordance with law.<sup>128</sup>

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127 Labour Relations Law (Official Gazette of the Republic of Macedonia Nos. 62/05, 106/08, 161/08, 114/09, 130/09, 50/10, 52/10, 124/10, 47/11, 11/12, 39/12, 13/13, 25/13, 170/13, 187/13, 113/14, 20/15, 33/15, 72/15, 129/15, 27/16, 120/18 and Official Gazette of the Republic of North Macedonia No. 110/19), [accessed on 16 July 2020]

128 Law on Citizen Associations and Foundations, (Official Gazette of the Republic of Macedonia No. 52/10, 135/11, and 55/16), [accessed on 16 July 2020]

## REFERENCE

1. Устав на Република Северна Македонија (Constitution of the Republic of North Macedonia) (adopted on 17 November 1991, and published in the Official Gazette of RNM No. 52 of 22 November 1991), with Amendments from I to XXXII, published in the Official Gazette of RNM as follows: Amendments I and II, in the number 1 of 10 January 1992; Amendment III, in the number 31 of 2 July 1998; Amendments IV to XVIII, in the number 91 of 20 November 2001; Amendment XIX, in the number 84 of 30 December 2003; Amendments XX to XXX, in the number 107 of 9 December 2005; Amendment XXXI, in the number 3 of 9 January 2009, and corrigent. in the number 13 of 29 January 2009; and Amendment XXXII, in the number 49 of 12 April 2011.

Convention on the Rights of Persons with Disabilities adopted on 13 December 2006 in the United Nations Headquarters, <http://www.mtsp.gov.mk/WBStorage/Files/Konvencija%20za%20pravata%20na%20licata%20so%20invalidnost.pdf> [accessed on 16 March 2020]

2. Закон за спречување и заштита од дискриминација (Law on Prevention and Protection against Discrimination) (Official Gazette of RNM No. 101 of 22 May 2019)

Закон за вработување на инвалидни лица (Law on Employment of Disabled People) (Official Gazette of RNM No. 44/2000, 16/2004, 62/2005, 113/2005, 29/2007, 88/2008, 161/2008, 99/2009, 136/2011, 129/15, 147/15, and 27/16), link: [http://www.mtsp.gov.mk/content/pdf/pravilniciPenzii/10.11\\_zil.pdf](http://www.mtsp.gov.mk/content/pdf/pravilniciPenzii/10.11_zil.pdf) [accessed on 16 February 2020]

Slovenia Fact Sheet on Social Care & Support Services Sector for Persons with Disabilities, link <https://www.easpd.eu/en/content/publications> , page. 4, accessed on 18 March 2020.

3. Национална стратегија за деинституционализација во системот на социјална заштита во Република Северна Македонија (2008-2018) (The National Strategy on Deinstitutionalisation in the Social Protection System in the Republic of North Macedonia (2008-2018))

Национална стратегија за деинституционализација во Република Северна Македонија 2018–2027 „Тимјаник“ (The National Strategy on Deinstitutionalisation in the Republic of North Macedonia 2018-2027 “Timjanik” (Skopje, September 2018) link: [http://www.mtsp.gov.mk/content/pdf/strategii/Strategii%202018/Strategija\\_deinstitucionalizacija\\_Timjanik\\_2018-2027.pdf](http://www.mtsp.gov.mk/content/pdf/strategii/Strategii%202018/Strategija_deinstitucionalizacija_Timjanik_2018-2027.pdf) [accessed on 16 March 2020]

Convention on the Rights of the Child, <http://healthrights.mk/pdf/Pravnici/Megjunarodni%20dokumenti%20i%20mehanizmi%20za%20zastita%20na%20covekovite%20prava/%D0%9EN/8-%20%D0%9A%D0%BE%D0%BD%D0%B2%D0%B5%D0%BD%D1%86%D0%B8%D1%98%D0%B0%20%D0%B7%D0%B0%20%D0%BF%D1%80%D0%B0%D0%B2%D0%B0%D1%82%D0%B0%20%D0%BD%D0%B0%20%D0%B4%D0%B5%D1%82%D0%B5%D1%82%D0%BE.pdf>

4. Закон за правата на детето (Law on Child Protection) (Official Gazette of RNM No. 198/2018, with amendments published in the Official Gazette No. 104/19, 146/19, and 275/19).

ПОСЕБЕН ИЗВЕШТАЈ од спроведеното истражување за насилство меѓу учениците во основните училишта (меѓуврсничко насилство) (SPECIAL REPORT from conducted research on violence among students in

primary schools (peer violence), Skopje, October 2019, link: <http://ombudsman.mk/upload/Posebni%20izvestai/2019/Poseben%20izvestaj-Megjuvrnsnicko%20nasilstvo-10.2019%20.pdf> [accessed on 17 March 2020]

5. Закон за семејство (Family Law), (Official Gazette of the Republic of North Macedonia No. 80/92, 9/96, 38/04, 33/06, 84/08, 67/10, 156/10, 39/12, 44/12, 38/14, 115/14, 104/15, and 150/15)

Официјална веб страна на Народниот правобранител (Official web page of the Ombudsman), link: [http://ombudsman.mk/MK/zashtita\\_na\\_pravata\\_na\\_decata/oddelenie\\_za\\_zashtita\\_na\\_pravata\\_na\\_decata.aspx](http://ombudsman.mk/MK/zashtita_na_pravata_na_decata/oddelenie_za_zashtita_na_pravata_na_decata.aspx) [accessed on 12 March 2020]

European Guide of Anti-bullying Good practices, April 2014, link <https://cesie.org/media/ean-pb-web-en.pdf> , [accessed on 18 March 2020]

6. Закон за заштита од вознемирување на работно место (Law on Protection against Harassment in the Workplace), (Official Gazette of RNM No. 79/13 and 147/15)
7. Закон за работните односи (Labour Law), (Official Gazette of RNM No. 62/05, 106/08, 161/08, 114/09, 130/09, 50/10, 52/10, 124/10, 47/11, 11/12, 39/12, 13/13, 25/13, 170/13, 187/13, 113/14, 20/15, 33/15, 72/15, 129/15, 27/16, 120/18, 110/19)

Годишен извештај за 2018 година на Народен правобранител (2018 Annual Report of the Ombudsman <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2017/GI-2018.pdf> [accessed on 25 May 2020]

The countries that cater the most for workers' rights, link <https://www.expats.com/en/expat-mag/2543-the-five-best-countries-for-workers-rights.html> , [accessed on 12 March 2020]

Закон за животната средина и просторно планирање (Law on Environment and Spatial Planning), Official Gazette of RNM No. 53 of 5 July 2005) <http://www.moep.gov.mk/wp-content/uploads/2014/10/%D0%97%D0%B0%D0%BA%D0%BE%D0%BD-%D0%B7%D0%B0-%D0%B6%D0%B8%D0%B2%D0%BE%D1%82%D0%BD%D0%B0%D1%82%D0%B0-%D1%81%D1%80%D0%B5%D0%B4%D0%B8%D0%BD%D0%B0-%D0%BF%D1%80%D0%B5%D1%87%D0%B8%D1%81%D1%82%D0%B5%D0%BD-%D1%82%D0%B5%D0%BA%D1%81%D1%82.pdf> [accessed on 16 March 2020]

8. Анализа на пристапот до информации и учество на јавноста (Analysis of Access to Information and Public Participation), Aarhus Convention in Macedonia (June, 2010), Macedonian Green Centre

Годишен извештај за ефикасноста на правната заштита на човековите права во РСМ 2019 (2019 Annual Report on the Effectiveness of Human Rights Protection in the Republic of North Macedonia), Young Lawyers Association, [www.myla.org.mk](http://www.myla.org.mk)

Закон за еднакви можности на жените и мажите (Law of Equal Opportunities for Women and Men) (Official Gazette of the Republic of North Macedonia No. 6/2012). Закон за изменување и дополнување на Законот за еднакви можности на жените и мажите (Law on Amendments of the Law on Equal Opportunities for Women and Men) (Official Gazette of RNM No. 166/2014), link: [http://www.mtsp.gov.mk/content/pdf/zakoni/2017/precisten%20tekst%202015%20na%20ZEM\\_nov.pdf](http://www.mtsp.gov.mk/content/pdf/zakoni/2017/precisten%20tekst%202015%20na%20ZEM_nov.pdf) [accessed on 16 March 2020]

Закон за спречување и заштита од дискриминација (Law on Prevention and Protection against Discrimination) (Official Gazette of RNM No. 101 of 22 May 2019), link: <http://www.mtsp.gov.mk/content/pdf/zakoni/2019/27,5-Zakon%20za%20zastita%20od%20diskriminacija.pdf> [accessed on 16 March 2020]

Компаративна студија Мерење на напредокот на судските реформи: Клучни принципи, стандарди и практики во Македонија и 7 земји-членки на ЕУ: (Comparative Study Measuring the Progress of Judicial Reforms: Key Principles, Standards and Practices in Macedonia and 7 EU Member States: Croatia, Estonia,

France, Hungary, Lithuania, Slovenia, and the United Kingdom), issued by the Centre for Legal Research and Analysis. More on the link: <http://cpia.mk/media/files/104350--na-napredokot-na-sudskite-reformi-kluchni-principi-standardi-i-praktiki-vo-makedonija-i-7-zemji-chlenki-na-eu.pdf> [accessed on 1 June 2020]

Стратегија за реформа на јавната администрација 2018-2022 (Public Administration Reform Strategy 2018-2022), February 2018, link: [http://mioa.gov.mk/sites/default/files/pbl\\_files/documents/strategies/srja\\_2018-2022\\_20022018\\_mk.pdf](http://mioa.gov.mk/sites/default/files/pbl_files/documents/strategies/srja_2018-2022_20022018_mk.pdf)

9. Закон за административни службеници (Law on Administrative Servants) (Official Gazette of the Republic of Macedonia No. 27/14, 199/14, 48/15, 154/15, 5/16, 142/16, and 11/18 and Official Gazette of the Republic of North Macedonia No. 275/19 and 14/20)

Извештај за Северна Македонија за 2019 година (North Macedonia Report 2019), <http://www.sep.gov.mk/data/file/Dokumenti/Izveshtaj%202019-F.pdf> [accessed on 4 June 2020]

10. Закон за здравствено осигурување (Law on Health Insurance), (Official Gazette of the Republic of Macedonia No. 25/00, 34/00, 96/00, 50/01, 11/02, 31/03, 84/05, 37/06, 18/07, 36/07, 82/08, 98/08, 6/09, 67/09, 50/10, 156/10, 53/11, 26/12, 16/13, 91/13, 187/13, 43/14, 44/14, 97/14, 112/14, 113/14, 188/14, 20/15, 61/15, 98/15, 129/15, 150/15, 154/15, 192/15, 217/15, 27/16, 37/16, 120/16, 142/16, 171/17 and Official Gazette of the Republic of North Macedonia No. 275/19)

Countries With The Best Health Care Systems, 2019, <https://ceoworld.biz/2019/08/05/revealed-countries-with-the-best-health-care-systems-2019/> [accessed on 6 June 2020]

11. Закон за социјална сигурност за старите лица (Law on Social Security of Elderly), Official Gazette No.: 104/2010 of 23 May 2019

Национална стратегија за стари лица (National Strategy for Senior Citizens), link: <http://mtsp.gov.mk/WBStorage/Files/Strategija%20za%20stari%20lica%20juni.pdf> [accessed on 2 May 2020]

Прирачник за развој на социјални услуги за ранливите групи во локалните заедници (Handbook for Development of Social Services for Vulnerable Groups in Local Communities), March 2013, Ministry of Labour and Social Policy, more on the link: [http://www.mtsp.gov.mk/WBStorage/Files/priracnik\\_socijalni\\_usligi.pdf](http://www.mtsp.gov.mk/WBStorage/Files/priracnik_socijalni_usligi.pdf) [accessed on 10 June 2020]

Official web site of the social enterprise Humana S, more on the link: <https://humanost.org.mk/humanas/%D1%81%D0%BE%D1%86%D0%B8%D1%98%D0%B0%D0%BB%D0%BD%D0%BE-%D0%BF%D1%80%D0%B5%D1%82%D1%80%D0%B8%D1%98%D0%B0%D1%82%D0%B8%D0%B5-%D1%85%D1%83%D0%BC%D0%B0%D0%BD%D0%B0%D1%81/> [accessed on 10 June 2020]

European Framework for Youth Policy, <http://www.nms.org.mk/mk/nie-mladite/> [accessed on 1 June 2020]

12. Студија за млади на Северна Македонија 2018/2019 (Study on the Youth of North Macedonia 2018/2019), authors Marija Topuzovska Latkovikj, Mirjana Borota Popovska, Eleonora Serafimovska, Aneta Cekikj, Nita Starova [10 June 2020]

Национална Стратегија за млади 2016-2025 година (National Youth Strategy 2016-2025), <http://strategijazamladi.mk/sites/default/files/%D0%9D%D0%B0%D1%86%D0%B8%D0%BE%D0%BD%D0%B0%D0%BB%D0%BD%D0%B0-%D1%81%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D0%B8%D1%98%D0%B0-%D0%B7%D0%B0-%D0%BC%D0%BB%D0%B0%D0%B4%D0%B8-2016-2025.pdf> [accessed on 29 May 2020]

Young people's access to rights through youth information and counselling, <https://rm.coe.int/16807023d9> [29 May 2020]

13. Закон за заштита на потрошувачите (Law on Consumer Protection) (Official Gazette of the Republic of North Macedonia No. 38/04, 77/07, 103/08, 24/11, 164/13, 97/15, 152/15 and 140/18)

Кои се вашите права како потрошувач? (What are your fundamental rights as consumers?), <https://www.pravdiko.mk/vasite-prava-kako-potrosuvaci/> [accessed on 2 June 2020]

Извештај за спроведени активности во 2019 г. (Report on Implemented Activities in 2019) [https://opm.org.mk/wp-content/uploads/2020/02/izvestaj\\_opm\\_2019.pdf](https://opm.org.mk/wp-content/uploads/2020/02/izvestaj_opm_2019.pdf)

Dual Food Quality: Commission releases study assessing differences in the composition of EU food products, <https://ec.europa.eu/jrc/en/news/dual-food-quality-commission-releases-study-assessing-differences-composition-eu-food-products> [accessed on 5 June 2020]

Годишен извештај на состојба на човековите права на ЛГБТ и интерсекс народи 2019 на ИЛГА Европа (ILGA Europe's Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People, <https://ilga-europe.org/annualreview/2019> , [accessed on 25 June 2020]

International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA), <https://ilga.org/> [accessed on 24 June 2020]

Directive 2000/78 EC (27 November 2000, EU), link: <https://eur-lex.europa.eu/eli/dir/2000/78/oj> [accessed on 11 June 2020]

Council of Europe, official website: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance> [accessed on 11 June 2020]

14. Закон за заштита на конкуренцијата (Law on Protection of Competition) (Official Gazette of RNM No. 145/2010, 136/11, 41/14, 53/16, and 83/18)

15. Кривичен Законик на Република Северна Македонија (Criminal Code of the Republic of North Macedonia) (Official Gazette of RNM No. 80/99, 4/2002, 43/2003, 19/2004, 81/2005, 60/06, 73/06, 7/08, 139/08, 114/09, 51/11, 135/11 , 185/11, 142/12, 166/12, 55/13, 82/13, 14/14, 27/14, 28/14, 115/14, and 132/14)

16. Закон за заштита на личните податоци (Law on Personal Data Protection) (Official Gazette of the Republic of North Macedonia No. 7/2005, 103/2008, 124/2008, 124/2010, 135/2011, 43/2014, 153/2015, 99/2016, and 64/2018)

Универзалната декларација за човекови права (Universal Declaration of Human Rights), <http://bezomrazno.mk/wp-content/uploads/2013/10/Univerzalna-deklaracija-za-pravata-na-covekot.pdf> [accessed on 29 May 2020]

Меѓународен пакт за граѓански и политички права (International Covenant on Civil and Political Rights) <http://bezomrazno.mk/wp-content/uploads/2013/10/Megjunaroden-pakt-za-gragjanski-i-politicki-prava.pdf> [accessed on 29 May 2020]

Европска конвенција за човекови права (European Convention on Human Rights) [https://www.echr.coe.int/Documents/Convention\\_MKD.pdf](https://www.echr.coe.int/Documents/Convention_MKD.pdf) [accessed on 29 May 2020]

17. Закон за медиуми (Law on Media) (Official Gazette of RNM No. 184/13, 13/14)

18. Закон за граѓанска одговорност (Law on Civil Liability) (Official Gazette of RNM No. 143/12)

Заштита на правата на пациентите, со фокус на лицата корисници на дроги (Protection of patients' rights, with a focus on persons drug addicts), more on the link: <http://coalition.org.mk/wp-content/uploads/2015/10/Zashtita-na-prava-na-patsienti-so-fokus-na-litsata-korisnitsi-na-drogi.pdf> [accessed on 9 June 2020]

Извештај од биобихевиоралното истражување и процена на бројноста на лица кои инјектираат дроги во Скопје, Република Северна Македонија, 2017 (Report from the biobehavioral research and assessment of the number of persons injecting drugs in Skopje, Republic of North Macedonia, 2017 / [prepared by Vladimir Mikikj at al.]. - Skopje: Institute of Public Health of the Republic of North Macedonia, 2018. More on the link: <http://iph.mk/wp-content/uploads/2019/03/RDS-LID-2018.pdf> [accessed on 1 June 2020]

Квалитетот на програмите за лекување на зависности во Македонија, Здружение ХОПС – Опции за здрав живот Скопје, 2019 година (The quality of addiction treatment programmes in Macedonia, HOPS Association – Healthy Living Options Skopje, 2019). More on the link: <https://hops.org.mk/wp-content/uploads/2019/06/KVALITETOT-NA-PROGRAMITE-ZA-LEKUVANE-NA-ZAVISNOSTI-VO-MAKEDONIJA-1.pdf> [accessed on 1 June 2020]

How Norway turns criminals into good neighbours, <https://www.bbc.com/news/stories-48885846> [accessed on 24 June 2020]

Non-governmental organisation Reporters Without Borders. More on the link: <https://rsf.org/en/north-macedonia> [accessed on 14 July 2020]

Самостоен синдикат на новинари и медиумски работници. (Independent Trade Union of Journalists and Media Workers). More on the link: <https://ssnm.org.mk/komentari/%d0%bd%d0%be%d0%b2%d0%b8%d0%bd%d0%b0%d1%80%d0%b8%d1%82%d0%b5-%d0%b8-%d0%bc%d0%b5%d0%b4%d0%b8%d1%83%d0%bc%d1%81%d0%ba%d0%b8%d1%82%d0%b5-%d1%80%d0%b0%d0%b1%d0%be%d1%82%d0%bd%d0%b8%d1%86%d0%b8-%d1%81-2> [accessed on 14 July 2020]

Handbook for the Observation of Voter Registration, OSCE – Office for Democratic Institutions and Human Rights (ODIHR). More on the link: <https://www.osce.org/files/f/documents/1/d/384915.pdf> [accessed on 14 July 2020]

European Convention on Human Rights, [https://www.echr.coe.int/Documents/Convention\\_MKD.pdf](https://www.echr.coe.int/Documents/Convention_MKD.pdf) [accessed on 14 July 2020]

19. Закон за работни односи (Labour Law) (Official Gazette of the Republic of Macedonia No. 62/05, 106/08, 161/08, 114/09, 130/09, 50/10, 52/10, 124/10, 47/11, 11/12, 39/12, 13/13, 25/13, 170/13, 187/13, 113/14, 20/15, 33/15, 72/15, 129/15, 27/16, 120/18 and Official Gazette of the Republic of North Macedonia No. 110/19), [accessed on 16 July 2020]
20. Закон за здруженија и фондации (Law on Associations and Foundations), (Official Gazette of the Republic of North Macedonia No. 52/10, 135/11 and 55/16), [accessed on 16 July 2020]
21. Закон за парнична постапка (Law on Litigation Procedure) (Published in Official Gazette of RNM No. 07 of 20 January 2011), [accessed on 17 July 2020]
22. Закон за кривична постапка (Law on Criminal Procedure) (Published in the Official Gazette of RNM No. 150 of 18 November 2010), [accessed on 17 July 2020]
23. Кривичен законик (Criminal Code) (Published in the Official Gazette of RNM No. 37/96, 80/99, 4/2002, 43/03, 19/04, and the Decision of the Constitutional Court: Official Gazette No. 48/01), [accessed on 17 July 2020]



24. Закон за прекршоци (Law on Misdemeanours) (Published in the Official Gazette of RNM No. 96/2019 of 17 May 2020), [accessed on 18 July 2020]

25. Закон за општа управна постапка (Law on General Administrative Procedure) (Published in Official Gazette of RNM No. 145 of 23 July 2015), [accessed on 18 July 2020]

INSEE (National Institute of Statistics and Economic Studies) <https://www.insee.fr/en/metadonnees/definition/c1281> [accessed on 24 July 2020]

Official site, <https://www.parisbyemy.com/lgbt-paris/> [accessed on 24 July 2020]

Persons with disability, more on the link: <https://ec.europa.eu/social/main.jsp?catId=1137> [accessed on 24 July 2020]

EU Policy for Protection of Children, more on the link: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/eu-action-rights-child\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/eu-action-rights-child_en) [accessed on 24 July 2020]

Employment and Social Work, more on the link: <https://ec.europa.eu/social/main.jsp?catId=82&langId=en> [accessed on 24 July 2020]

Directive 2009/147/EC, more on the link: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0147&rid=1> [accessed on 24 July 2020]

Directive 92/43/EEC, more on the link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:%3A31992L0043> [accessed on 24 July 2020]

Directive 2003/4/EC and Decision 2005/370/EC, more on the link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:l28091>, [accessed on 24 July 2020]

Directive 2001/42/EC, more on the link: <http://ec.europa.eu/environment/eia/sea-legalcontext.htm> [accessed on 24 July 2020]

Directive 2011/92/EU, more on the link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:%3A32011L0092>, [accessed on 24 July 2020]

Directive 2010/75/EU, more on the link: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010L0075&rid=1>, [accessed on 24 July 2020]

Key directives on gender equality and non-discrimination, more on the link: <https://www.equalitylaw.eu/legal-developments/16-law/76-key-eu-directives-in-gender-equality-and-non-discrimination>, [accessed on 24 July 2020]

EU Youth Strategy, more on the link: [https://ec.europa.eu/youth/policy/youth-strategy\\_en](https://ec.europa.eu/youth/policy/youth-strategy_en), [accessed on 24 July 2020]

