

# HELSINKI COMMITTEE FOR HUMAN RIGHTS

 ХЕЛСИНШКИ  КОМИТЕТИ И МАКЕДОНИЈА  КОМИТЕТ ДИ  HELSINKI  ХЕЛСИНШКИ   
КОМИТЕТ ЗА ЧОВЕКОВИ ПРАВА НА РЕПУБЛИКА МАКЕДОНИЈА  
PER TE DREJTAT E HEBRIUT I REPUBLIKES SE MAKEDONISEE  
CUMHURİYETİ'NİN HELSINKI  
INSAN HAKLARI KOMİTESİ  
TI- NDREPTULI-A E MANUSENGERE OMLUTIDIREPUBLICA NEJAMIJA KI  
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## REPUBLIC OF MACEDONIA

Submission to United Nations Committee on the Elimination of Discrimination Against Women in its adoption of a list of issue regarding the Sixth Periodical Report of the Republic of Macedonia under the Convention on the Elimination of All Forms of Discrimination Against Women

LoIPR – List of Issues Prior to Reporting

71<sup>st</sup> Session, 12-16 March, 2018

Submitted: 29 January 2018

by the Helsinki Committee for Human Rights of the Republic of Macedonia (MHC)

### CONTACTS

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**Submitting organization, The Helsinki Committee for Human Rights of the Republic of Macedonia (MHC)** was formed on 23 October, 1994 as a non-governmental organization working for the promotion and protection of human rights, without any political and religious orientation. MHC monitors the situation with human rights, provides legal aid to citizens in cases of violation or limitation of their rights and freedoms and cooperates with other organizations and state bodies for the purpose of increasing the promotion, respect and protection of human rights and freedoms.

In the following, MHC addresses a number of selected fields of implementation of the Convention which we suggest for the CEDAW to take into account in the preparation of a list of issues in March 2018. We think that many of the issues raised by MHC were not addressed by the Government.

## **Suggested topics to be taken into account for the preparation of a list of issues:**

### **1. Refugee women (Article 1, 2 and 6)**

During 2014, the Republic of Macedonia faced an unprecedented influx of refugees and migrants and was highly affected by the world's refugee crises. As one of the key countries in the so-called "Balkan route", Macedonia provided for the transition of, at times, 10.000 refugees per week, whose destination were Western Europe countries. In the period between June, 2015 (when the process of official registration began) and March, 2016 (official closing of the borders) there were in total 474.104 refugees who crossed through the country<sup>1</sup>. Out of these, 84.693 were women (18%), among which were encountered pregnant women, nursing mothers and women traveling alone.<sup>2</sup> Given the late registration procedures and the increased number of smuggling groups, the real number is much higher.

Following the closing of the borders refugees began using smugglers as the only way to continue their journey. At the same time, Macedonian authorities began with a practice of illegal deportation of groups of refugees towards Greece without any official procedure of deportation or re-admission.<sup>3</sup> Groups composed of men, women and children (boys and girls) are being "deported" to Greece if they are encountered by the police on illegal routes through the country, being literally loaded on trucks and transferred to an unknown location, on an open field or mountain. Women in these groups often travel with their families or close relatives. Nonetheless, they are put at serious risk of being the target of sexual harassment, violence and exploitation by smugglers, considering the testimonies of women throughout the whole refugee crises.<sup>4</sup> The practice of deportation of large groups is non-selective and without any consideration of the consequences that it might cause for women who are part of these groups.

Throughout the whole crises, mechanisms for reporting sexual or gender based violence were hardly available to refugee women, within the transit camps. The predominant number of male police officials and lack of capacity to recognize and talk to potential victims, made it impossible for women to be encouraged and report such cases in Macedonia.

**In light of this information, we respectfully invite The Committee to ask the Government of the Republic of Macedonia to please provide information on the following questions:**

1. What measures does the State take in order to prevent physical and gender-based violence of women and girls who are being transferred to Greece without any official procedure?
2. What steps has the State taken to educate, train and equip with knowledge police officials who have direct contact with women, possible victims of sexual or gender-based violence?

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<sup>1</sup> According to official statistics by the Ministry of Interior, available at: <http://moi.gov.mk/vest/1639> and <http://moi.gov.mk/vest/1193>

<sup>2</sup> Unfortunately, official statistics do not include separate numbers for boys and girls but registered them as minors or unaccompanied minors.

<sup>3</sup> One of the monthly reports of MHC, criticizing the illegal deportation of refugees

<sup>4</sup> <https://www.amnesty.org/en/latest/news/2016/01/female-refugees-face-physical-assault-exploitation-and-sexual-harassment-on-their-journey-through-europe/>  
<http://www.unhcr.org/protection/operations/569f8f419/initial-assessment-report-protection-risks-women-girls-european-refugee.html>

## 2. Gender based violence (Article 3, Article 5)

The legal framework for violence against women does not recognize all forms of gender based violence. Domestic violence is the only form of gender based violence which is regulated with special Law on Prevention, combating and protection from domestic violence. The Law is not gender sensitive, does not define domestic violence as gender based violence and does not recognize girls and women as a particularly vulnerable group to gender-based violence<sup>5</sup>.

Despite the established legal obligation, the Republic of Macedonia did not succeed to improve the existing system of data collection to provide detailed statistics on domestic violence and to ensure availability of data to the public. Moreover, the state does not provide statistics of victims and forms of gender based violence.

The State has not adopted any strategy for prevention and protection from gender based violence. The absence of such strategy is especially critical because with the strategy the concrete steps to improve the system of protection of women victims of violence were to be envisaged, and specific budget plan for its implementation was to be prepared.

The State provides shelter only for victims of domestic violence, but this is also not sufficient<sup>6</sup>. During 2015 only 4.51% of total number of female victims who reported violence were accommodated in the centers. Therefore, many women are not provided with accommodation in centers for domestic violence and they are not able to leave the home. Geographically, one shelter is located in Skopje, and the rest are located in Sveti Nikole, Kochani and Bitola. The two crisis centers run by NGOs are also located in Skopje.

Three organizations provide free, national SOS help-line operating 24/7. None of the national help-lines provides service in all languages spoken in the communities.

In the area of access to justice, one of the main problems in acquiring the right to free legal aid is the establishment of the status of victim. Law on Free Legal Aid requires the authorized association of citizens for providing free legal aid to submit confirmations that they are reported and identified as victims of domestic violence in the Ministry of Interior and in the Center for Social Work. This practice is upsetting for the victims, who are not always willing to report in CSW and MOI, or in any institution. Due to this practice, many victims do not apply for free legal aid at the MOJ. The exercise of the right to free legal aid is also limited due to the long time needed for adopting a decision upon submitted request. Although the Law states that the deadline for adopting a decision is within 20 days, this deadline is not respected by the Ministry of Justice and the average time to decide upon requests for legal aid is 30-60 days. Discrimination against women based on gender stereotypes, stigma, patriarchal norms and gender-based violence impedes and/or hinders women's access to justice on an equal basis as men. State institutions are not sufficiently sensitive to gender-

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<sup>5</sup> Monitoring report on the implementation on the Law on Prevention, Combating and Protection from Domestic Violence [http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2016/12/Monitoring-of-the-Law-for-DV\\_final-eng.pdf](http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2016/12/Monitoring-of-the-Law-for-DV_final-eng.pdf)

<sup>6</sup> Mapping the available services for women victims of violence in Republic of Macedonia [http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2016/06/Mapiran-e-na-servisi\\_final.pdf](http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2016/06/Mapiran-e-na-servisi_final.pdf)

specific needs of women for providing equal access to justice. Access to justice in relation to issuing temporary measures for protection from domestic violence is further complicated by the fact that the victims and the institutions submitting proposals on behalf of the victims are not exempt from paying court fees, which are necessary to initiate court proceedings.

**In light of this information, we respectfully invite the Committee to ask the Government of the Republic of Macedonia the following questions:**

1. Please explain the existing law framework, services and their capacities for prevention and protection of all forms of gender based violence
2. Please provide information about the results of the Law on Free Legal Aid in providing access to justice to women victims of violence, especially about the confirmation of their status as victims, the time needed for adopting a decision upon submitted request for free legal aid and the number of approved requests for free legal aid on victims of domestic violence

### **3. Discrimination and violation of the labor rights of the garment workers (Article 11)**

The garment industry in the Republic of Macedonia is generally composed of women workers, which face perennial violation of their labor rights. A research of State statistical office from 2015<sup>7</sup> indicates that 81% of the workers in the garment industry are women. Garment workers are one of the least paid workers in Republic of Macedonia. Official data<sup>8</sup> shows that the average salary in the garment industry in the 2017 was approximately 60% lower than the average salary on national level. During 2017 MHC documented 715 cases of violation of labor rights involving 2.466 garment workers from 72 garment factories across the country<sup>9</sup>. The violations were mostly related to unpaid salaries or paid salaries in amount lower than legally determined minimum salary, unpaid overtime hours of work, overtime work beyond the legally permissible maximum, unlawful termination of employment, mobbing, working in inadequate health and sanitary conditions etc.

In 2017 the State adopted the Law on Amending the Law on Minimum Salary<sup>10</sup> in a shortened procedure without consulting experts and non-governmental organizations. Although the amendments of the Law increased the nominal amount of the minimum salary, the biggest issue and restrictive article from the old Law on Minimum Salary – achieved predefined work results, remained in the Amended Law on Minimum Salary with slight and insignificant modifications. Garment workers are most affected by this article because the amount of their monthly salary is determined on whether they have achieved the predefined work results or not. According to the Article 3 of the Law on Minimum Salary<sup>11</sup>, minimum salary shall be the lowest monthly amount of the basic salary which the employer is obliged to pay to the employee for a work done during full-

<sup>7</sup> "Employees and net wages", <http://www.stat.gov.mk/Publikacii/2.4.15.05.pdf>

<sup>8</sup> Data from the State statistical office regarding average wage in 2017  
<http://www.stat.gov.mk/PrethodniSooptstenijaOblast.aspx?id=40&rbrObl=14>

<sup>9</sup> Infographic on violation of the labor rights of the garment workers in 2017  
[http://www.mhc.org.mk/system/uploads/redactor\\_assets/documents/2675/5.pdf](http://www.mhc.org.mk/system/uploads/redactor_assets/documents/2675/5.pdf)

<sup>10</sup> Law on Amending the Law on Minimum Salary, Official Gazette of Republic of Macedonia, No. 132/17

<sup>11</sup> Law on Amending the Law on Minimum Salary, Official Gazette of Republic of Macedonia, No. 132/17

time hours and achieved predefined work results. The predefined work results shall be determined by the employer, every year, in February, on the basis of production process efficiency criteria, determined by the employer in cooperation with the employees. The predefined work results should be achievable for at least 80% of the employees in each technical and technological whole separately. The employer is obliged, at the end of every month, to issue a certificate to the employee about the predefined work results that are achieved together with the written calculation of the salary.

Such definition of the minimum salary in the Law on Minimum Salary and its conditionality with achieving the predefined work results in the garment industry puts the garment workers in non-equal position with the rest of the workers. This leaves space for misuse of the Law by the employers by determining unrealistically high and unachievable predefined work results for the garment workers which results with failure to achieve these predefined work results by the workers and gives employers legal option to pay the garment workers' salaries in amount lower than the legally determined minimum salary. During 2017, MHC documented 308 cases of garment workers which received salaries in amount lower than the legally determined minimum salary, because they have failed to achieve the unrealistically high and unachievable predefined work results.

Furthermore, the State failed to specify the procedure of determination of the predefined work results by the employer on the basis of production process efficiency criteria, determined by the employer in cooperation with the employees. The Law does not specify who will negotiate for the determining of the production process efficiency criteria on behalf of the workers, the procedure for selecting the workers' representative and the involvement of the syndicate in this process.

**In light of this information, we respectfully invite The Committee to ask the Government of the Republic of Macedonia to please provide information on the following questions:**

1. Please explain what were the reasons behind the decision to adopt the Law on Amending the Law on Minimum Salary in a speedy procedure without consulting experts and non-governmental organizations? Indicate the research, statistics and strategies developed by the State that preceded the adoption of the Law on Amending the Law on Minimum Salary.
2. Please explain the rationale for the provision on the achieved predefined work results of the Law with regard to its impact on women garment worker's rights to equal remuneration, including benefits, and to equal treatment in respect of work of equal value.

#### **4. Discrimination of women in rural areas (Article 14)**

The emancipation of the woman is not happening with the same intensity across the state, and needless to say women from rural areas are often forgotten by the state. In order to achieve full equality of the rural woman in society, greater economic autonomy and independence is needed, as well as greater representation in political life. Due to the inadequate access to education these women are less educated and consequently are less included in the economic and political life. They are still perceived through their traditional role of a mother and wife in the family which is the main

obstacle. The government fails to implement the existing national legislation considering issues which are targeting these women and consider changes in the legislation. This in relation with providing adequate access to education and prevention of early school drop offs, providing additional social measures for these women, establishing fund for support of women from rural areas, preventing early marriage and lack of sufficient number of gynecologists for these women.

According to the data given in the publication “Women and Men in Macedonia” from 2017, an increased number of students who leave their education can be noticed, especially during the primary education, while that number decreases in secondary education.<sup>12</sup>, which leads to women still being economically dependent. The problems faced by women in rural areas are most often neglected by the trusted institutions or treated with regular measures that do not always lead to the desired result.

In relation to the access to education, is it significant to emphasize the rural families live relatively far from public schools, and girls' trip to schools in the nearest inhabited place further burdens the family budget, and at the same time exposes girls to the risks of potential violence. The State informs that It has taken measures that enable mobility in education such as accommodation, transport and financial means, but practice shows that this is not the case, because in some municipalities there is no organized student transport from rural settlements to major cities or settlements. According to the available data 1.408 students "dropped out" during the 2015/2016 school year, out of which 656 are female students.<sup>13</sup>

**In light of this information, we respectfully invite The Committee to ask the Government of the Republic of Macedonia the following questions:**

1. Please provide information about the measures taken by the State to ensure education in rural areas for young girls?
2. What special measures were conducted during the reporting period or are currently under preparation to ensure improved labor market, integration and independence of this category of women?

## **5. Juvenile marriages (Article 16)**

The early termination of education affects negatively on the lives of girls because it limits their opportunities for equal participation in society and further influences on the increase of the number of juvenile marriages. The proper education of girls at the youngest age in terms of the importance and impact of completed secondary education on their further quality of life, and the appropriate education of parents due to their initial role in the development of their children, can affect girls and their decisions not to interrupt their education. There is a lack of statistics on juvenile marriages and

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<sup>12</sup> "Women and man in Macedonia" 2017, State Statistical Office, Skopje, pg. 42, <http://www.stat.gov.mk/Publikacii/Gender2017.pdf>

<sup>13</sup> “Women in rural areas - more obstacles than opportunities”, Analysis of the situation of the women in rural areas, Helsinki Committee for Human Rights of RM, 2018

due to the lack of precision, the law leaves space for unlawful extramarital communities between an older minor and an adult. There is no system for registering extramarital communities, especially those in which one or both partners are juveniles by the Ministry of Labor and Social Policy. The irregularity of extramarital communities prevents the institutions of the system from acting in the best interest of the child.

According to data obtained from field survey conducted in the Roma settlement Trizla 2, Prilep within the project "Citizens in the Assembly: Legislative Human Rights Initiatives" there is an increase in this phenomenon. This survey shows that a total of 122 marital communities in which at least one spouse was a minor were established between 2011 and 2016, "while 67% were communities among juveniles, and 37% were communities where juvenile girls were married to adult men aged 18 to 40 years"<sup>14</sup>

Another problem is that different institutions have different data on the same problem - juvenile marriages.<sup>15</sup> Due to this noncompliance and probably a weak or non-existent cooperation between the institutions on this issue, from the obtained data it cannot be concluded which is the total number, and whether all recorded cases received the necessary information and support, and if they exercised all the rights through these institutions. There is another phenomenon related to the juvenile marriages which is called "Buying" brides, mostly under aged brides from undeveloped regions and is connected with the high rate of poverty in these regions. The law fails to prevent and sanction people who are mediating in this process and discourage people who decide to enter such marriage.

**In light of this information, we respectfully invite The Committee to ask the Government of the Republic of Macedonia to please provide information on the following questions:**

1. Please provide information about the measures taken by the State to prevent the occurrence of juvenile marriages?
2. Please provide information how is the Government preventing minors from interruption of education due to premature marriages?
3. Please explain the system of collecting data of extramarital communities between minors or when one of the partners is a minor?

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<sup>14</sup> Early marriages, Westminster Foundation for democracy Skopje 2016, available on Macedonian at: <http://medium.edu.mk/attach/ROMA-preview2.pdf>

<sup>15</sup> „The grey zone“ research for the early marriages made by ROMA SOS, Roma civil society organization, available at: [http://romasosprilep.org/wp-content/uploads/2016/05/Roma-SOS\\_Sivata-zona\\_ANG\\_002.pdf](http://romasosprilep.org/wp-content/uploads/2016/05/Roma-SOS_Sivata-zona_ANG_002.pdf)