



Republic of North Macedonia
Information on the Implementation of the Convention on the Rights of the Child

Status of children who use drugs in the Republic of North Macedonia

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NOTE: This information can be posted on the website of the Committee of the Rights of the Child for public information purposes.

HOPS- Healthy Options Project Skopje introduced the first needle exchange program for prevention against HIV among people who use drugs in 1997 and in 2000 it began implementing the first program for support of sex workers in Skopje. HOPS is a recipient of the 2010 International Award for Action on HIV/AIDS and Human Rights awarded by the Canadian HIV/AIDS Legal Network and Human Rights Watch.

I. General information: Drug policy and the right of children

North Macedonia is a party to the three main UN drug control conventions which aim to control certain psychoactive substances by restricting their supply and demand for medical or scientific purposes. The UN Convention on the Rights of the Child (CRC) in Article 33 provides that “States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.”¹ While there arguably exists a certain degree of effort in a State party’s approach to implementing these obligations, the treaties require the adoption of restrictive measures towards controlled substances.² However, North Macedonia must also fulfil its domestic obligations under the Constitution of the Former Yugoslav Republic of Macedonia³, as well as those under international human rights law, including the Convention of the Rights of the Child, which North Macedonia has ratified. These human rights obligations bind the state in its response to drugs.

The Law on the Control of Narcotic Drugs and Psychotropic Substances aims to prevent and suppress the misuse of narcotic drugs and psychotropic substances.⁴ In 2016, it was amended without inclusive public consultation, and introduced highly restrictive provisions that regulate the medical use of cannabis. The law introduced criminal sanctions for possession of cannabis, which would effectively criminalise consumers possessing certain amounts of the substance for agricultural, medical and non-medical uses alike. The ESCR Committee is concerned with the introduction of provisions in the Law on the Control of Narcotic Drugs and Psychotropic Substances and recommends a review.⁵

1 United Nations, Convention on the Rights of the Child, 1989, Article 33.

2 United Nations, Single Convention on Narcotic Drugs (1961), as amended by the 1972 Protocol amending the Single Convention on Narcotic Drugs; United Nations, Convention on Psychotropic Substances (1971); United Nations, Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988).

3 The Constitution of the Republic of Macedonia, Section II (2).

4 Official Gazette of the Republic of Macedonia (103/2008; 124/2010; 164/2013; 149/2015; 37/2016 and 53/2016). Law on the Control of Narcotic Drugs and Psychotropic Substances, Article 2.

5 Committee on Economic, Social and Cultural Rights, Concluding observations on the combined second to fourth periodic reports of the former Yugoslav Republic of Macedonia E/C.12/MKD/CO/2-4, par. 51, 52, June 2016.

The criminalisation of drug possession for personal use has contributed to a significant increase in the incarceration of people who use drugs, many of whom are in need of medical help. The new amendments to the national drug law that criminalize low-threshold possession will additionally deteriorate the situation for people who use drugs and has troubling implications for minority communities. The previous 2006 - 2012 National Strategy on Drugs called for a scaleup in existing harm reduction programmes, broadening the number and regions covered. The new National Strategy on Drugs (2014-2020) is an unfortunate step back, removing all reference to harm reduction.⁶ Besides the numerous information on drug use and drug addiction of children, the National Drug Strategy fails to address this problem as well.

The ESPAD survey conducted in 2015 among 2,430 students aged 15/16 showed that 5% of the students had used marijuana throughout their lives, most of them had tried marijuana once to twice, 2.1% of the students had used ecstasy throughout their lives, 1.1% of whom had used it once to twice. A total of 1.9% of students had used inhalant drugs. In a 2012 research, HOPS identified how prominent the practice of starting drug use at a very young age is among Roma people who use drugs, most frequently between the age of 8 and 12, but outreach workers identified cases of children using drugs as early as at the age of 5. An especially noticeable case is that of a 2-year old child with a habit of inhaling glue.⁷ HOPS, in the period 2014-2019, only on the territory of the City of Skopje, identified 73 children who use drugs (25-48). Most of these children, 83%, are Roma. Obviously, poorly developed and implemented, drug policies can contribute to an environment where children are exposed at an increased risk of experiencing violations of their rights set forth in the Convention.

⁶ Committee on Economic, Social and Cultural Rights, Concluding observations on the combined second to fourth periodic reports of the former Yugoslav Republic of Macedonia E/C.12/MKD/CO/2-4, par. 51, 52, June 2016.

⁷ Dimitrievski V. Improving drug using Roma's right to access to social and health services, HOPS-Healthy Options Project Skopje, 2011.

II. Issues related to the general provisions of the Convention

Non-discrimination (Article 2)

Discrimination, be it direct or indirect, against people on the basis of health condition was prohibited under the 2010 Law on Prevention and Protection against Discrimination (LPPD) and the new LPPD from 2019.⁸ In May 2020, the latter law was dismissed by the Constitutional Court of North Macedonia and currently there is a legal vacuum in the efficient protection of discrimination in the country.

The discrimination against people who use drugs remains an ongoing and under-reported concern. People who use drugs are criminalised, rigorously pursued by law enforcement, and viewed as ‘undesirable’ by the broader Macedonian society.⁹ Consequently, people who use drugs are a highly stigmatised and vulnerable group. In 2011, almost 97% of Macedonian citizens admitted they would not accept a person who uses drugs as a neighbour and 92.3% reported intolerance towards drug treatment health institutions, while similar intolerance and discrimination has been documented on the part of health professionals responsible for caring and treating people who use drugs.¹⁰ There are three particular groups of people who belong to other marginalised groups, but who suffer intersectional discrimination due to their drug use, which undermines their economic, social, and cultural rights: adolescents, women, and ethnic minorities.¹¹

Discrimination against women and girls who use drugs is reflected by the lack of gender-sensitive planning and programming of drug dependence treatments. The current National Drug Strategy fails to incorporate a gender perspective and to consider the structural dimensions of women’s and girl’s vulnerability to HIV transmission.¹² There is no explicit obligation for the collection and

⁸ The Law on Prevention and Protection against Discrimination (the LPPD), Official Gazette of RM, no. 50, 8 April 2010. The LPPD can be found on this following link: https://www.ecoi.net/file_upload/1226_1317212111_fyrom-law-on-protection-against-discrimination-2010-en.pdf

⁹ Simoska E., Gaber N. and others. How Inclusive is the Macedonian Society, 2008

¹⁰ Klekovski S., Krzalovski A. Stojanova D. Macedonian Societal Values, MCIC 2011.

¹¹ Dimitrievski V., Boskova N., Improvement of the Quality of Drug Dependence Treatment Programms in Skopje: Assessment of the Quality of Drug Dependence Treatment Programs with A Community-based Monitoring by Persons Treated for Drug Dependence, 2012, p.

¹² Badarevski B., Savovska M, Dimitrievski V. Assessment of gender related issues and their connection to the risk of HIV/AIDS and the barriers conditioning the equal access to adequate HIV/AIDS prevention and treatment services, 2012, p. 11 – 13.

analysis of gender-sensitive data.¹³ The lack of available and accessible gender-sensitive drug dependence treatments has discouraged women and girls from accessing treatment and other harm reduction services.¹⁴ The CEDAW Committee expressed its concern about the lack of information on health and rehabilitation services available to women and girls drug users.¹⁵

According to the 2006 – 2012 National Drug Strategy, Roma people who use drugs are an insufficiently analyzed group.¹⁶ In 2016, there were 599 people without citizenship living in North Macedonia.¹⁷ Within Macedonia's population of people with no citizenship, 23% are Roma.¹⁸ Without a citizenship status individuals have no access to social services and health insurance. In the context of Roma people who use drugs, this situation leads to their inability to access drug dependence treatments, despite a significant number of Roma reportedly in need of services each year.¹⁹ There is clear evidence of entrenched discrimination towards these groups, made more vulnerable as their status as women, children, or Roma intersects with their status as a person who uses drugs.

13 Badarevski B., Savovska M, Dimitrievski V. Assessment of gender related issues and their connection to the risk of HIV/AIDS and the barriers conditioning the equal access to adequate HIV/AIDS prevention and treatment services, 2012, p. 21.

14 Badarevski B., Savovska M, Dimitrievski V. Assessment of gender related issues and their connection to the risk of HIV/AIDS and the barriers conditioning the equal access to adequate HIV/AIDS prevention and treatment services, 2012, p. 23.

15 United Nations. Committee on Elimination of All Forms of Discrimination Against Women. Concluding observations on the combined fourth and fifth periodic report of the former Yugoslav Republic of Macedonia, adopted by the Committee at its fifty-fourth session, CEDAW/C/MKD/CO/4-5, March 2013, par.33.

16 Ministry of Health. National Drug Strategy 2006-2012, December 2006.

17 Macedonian Ypung Lawyers Association. Invisible children, 2016. Available at: <https://myla.org.mk/wp-content/uploads/2016/09/Nasite-nevidlivi-deca.pdf>

18 Dimitrievski V., Improving drug using Romas' right to access to social and health services. Skopje: HOPS, 2011, p. 9.

19 From the total number of people who use drugs and are accessing harm reduction programmes in Skopje, 16% are Roma

III. Issues related to specific provisions of the Covenant (Article 24, 33, 34)

The right to health of children who use drugs

The lack of relevant statistics on the number of people who use drugs was also identified in 2013 by the CEDAW Committee²⁰ and there is no improvement in this area. More than 80% of people who are reported to be opioid-dependent have no access to drug dependence treatments. Harm reduction coverage is limited in scale and geographic scope, with only 14 harm reduction programmes country-wide, 22% of which are concentrated in the capital.

The Committee ESCR has articulated that health services should include drug dependence treatments and harm reduction interventions such as opioid substitution therapy, needle and syringe exchange programmes, and access to naloxone for the prevention of opiate overdose.²¹ These services should be accessible geographically to all populations, particularly to vulnerable and marginalised groups.²² Accessibility also means prevention, harm reduction and drug treatment services must be affordable for the population, with particular attention to the most vulnerable groups. The CRC in 2010 expressed its concern about the absence of prevention measures and rehabilitation services for children using drugs or alcohol and recommended that North Macedonia should develop prevention measures and rehabilitation services for children abusing drugs and alcohol. The NGO HOPS developed a program for children who use drugs at the rehabilitation day centre supported by the City of Skopje and partially by the Ministry for Labor and Social Policy. The psychosocial support from the psychologist and the psychiatrist is more effective when the children are included in the education system and have the support of their family and peers.

20 United Nations. Committee on Elimination of All Forms of Discrimination against Women. Concluding observations on the combined fourth and fifth periodic report of the former Yugoslav Republic of Macedonia, adopted by the Committee at its fifty-fourth session, CEDAW/C/MKD/CO/4-5, March 2013, par.33.

21 UN Committee on Economic, Social and Cultural Rights. 'Concluding Observations on Ukraine' (E/C.12/UKR/CO/6) 2014; UN Committee on Economic, Social and Cultural Rights, 'Concluding Observations on Uzbekistan' (E/C.12/UZB/CO/2) 2014; UN Committee on Economic, Social and Cultural Rights. 'Concluding Observations on Belarus' (E/C.12/BLR/CO/4-6) 2013; UN Committee on Economic, Social and Cultural Rights. 'Concluding Observations on Mauritius' (2010) E/C.12/MUS/CO/4; UN Committee on Economic, Social and Cultural Rights. 'Concluding Observations on the Russian Federation' (2011) E/C.12/RUS/CO/5

22 CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Article 12 of the Covenant), 11 August 2000, UN Doc. E/C.12/2000/4, para. 12.

Based on the Law on Health Care and the Law on Patients' Rights children cannot receive any medical services without parental or guardians' consent, which deprives them of services. The opioid substitution treatment (OST) programs are not available to children. The Protocol²³ allows people over the age of 16 to access the treatment if they: (1) have been demonstrating drug dependence for over 1 year, (2) demonstrate previous unsuccessful attempts at detoxification using another government approved program, (3) consent to sign a therapy contract, (4) have a written consent from a parent/guardian, and (4) are HIV-positive.²⁴ The Statute of the Psychiatric Hospital that provides the treatment limits the age of the patients to over 18. Another problem is that methadone is registered for people who are minimum 16 years of age and only few people under 18 have been admitted so far. There are only five children treated at the Center for Prevention and Treatment of People Who Use Drugs Methadone. However, the Clinic of Toxicology, in the period of 2001-2005, had 1,436 overdose interventions, 42.2 % of which were on children. In the period from January 2005 to April 2012, the University Clinic of Pediatrics, the Ward for Children and Adolescence, 38 children with comorbidity with drug use were hospitalized. 39% of these children were female.²⁵ These criteria effectively exclude a large number of children in urgent need of medical treatment and raise a question of their compliance with Article 2 and Article 24 of CRC.

In 2019, the Government established a working group to develop a program for treatment and care of children who use drugs and assigned the Ministry of Health to coordinate the group. The group consists of representatives of institutions and NGOs that work in the field and so far they have drafted the program, but it's uncertain when the Government will adopt. The adoption is the first step and there is a need for allocating sufficient amount of resources for implementation of the program.

23 Official Gazette of the Republic of Macedonia no. 36/2012. Directive on health activity related to use of methadone in treatment of opioid dependence.

24 GAJDADZIS-Knezevic, Slavica, Liliana Ignjatova and Stavre grams, Guide Protocol on the application of methadone in the treatment of opioid dependence, Skopje: Ministry of Health of the Republic of Macedonia, 2005.

25 HOPS- Healthy Options Project Skopje. Guidelines for treatment and care of children who use drugs, 2015.

The National Drugs Strategy and corresponding 2014-2017 Action Plan has no reference to measures tailored for children who use drugs. The National Drug Strategy 2006-2012 took into consideration the age related to treatment, social help and reintegration, emphasizing that the treatment of people who use drugs should be in accordance with the scientific and expert-confirmed therapeutic procedures, adjusted to the specific needs of certain groups based on gender and age and the need to introduce different evidence-based therapeutic models.²⁶

Protection of children from sexual exploitation (Article 34)

Since 2000, HOPS has been providing outreach services to sex workers during which often young girls are spotted without parental care and are mostly sheltered in childcare institutions where they start offering sex services. These children are an easy target for traffickers, and in the last five years there have been six identified cases of trafficking of children at the age of 12-16. Based on the good cooperation with the institutions and organizations that protect victims of trafficking, most of these cases were processed and the perpetrators were sanctioned, but the victims failed to get any compensation. The Law on Criminal Procedure includes an entire chapter dedicated to the rights of the victims and injured parties in procedures, and special procedural protection is provided to vulnerable categories of victims. The court is obliged to determine special measures of procedural protection in cases when the victim is a child that requires special care and protection or if the child is a victim of human trafficking, violence or sexual abuse.²⁷ The Law stipulates the right to compensation for damages for a victim of a criminal offence punishable by at least four years of imprisonment from a state fund, unless the damages can be compensated from the convicted. The procedure for the enjoyment of this right is additionally regulated with the Law on Justice for Children, which provides that the funds are ensured from a special program of the Ministry of Justice.²⁸ The Law on Free Legal Aid, from 2009 and 2019, guarantees the victims of trafficking the right to free legal aid and representation in the procedures for protection of their rights²⁹, as well as in the procedure for compensation of damages to victims of criminal offences.³⁰ Several procedures for compensation of damages to victims of child trafficking are

²⁶ Ministry of Health. National Drug Strategy 2006-2012, 2007.

²⁷ The Official Gazette No. 150/2010. Law on the Criminal Proceedings, Article 54.

²⁸ The Official Gazette No. 148/2013. Law on Justice for Children, Article 145.

²⁹ The Official Gazette No. 161/2009. Law on Free Legal Aid, Article 8.

³⁰ The Official Gazette No. 101/2019. Law on Free Legal Aid, Article 22.

pending, however, so far, no funds have been paid to any of the victims due to procedural obstacles in the realisation of this right.

Suggested questions:

What measures have been taken to accelerate the adoption and implementation of the Program for Treatment and Rehabilitation of Children Who Use Drugs?

What measures have been taken to ensure that the new National Drug Strategy will have a specific objective on children who use drugs and on sustainability of harm reduction programs?

What measures has the State Party put in place to prevent trafficking of children in child-care institutions?

What measures are taken to provide accessible mechanism for compensation of children victims of crime?