

REPUBLIC OF MACEDONIA

Committee on Elimination of All Forms of Discrimination against Women, 71st session

Information on the Former Yugoslav Republic of Macedonia for the adoption of the Concluding Observations

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Report from

Ad Hoc Coalition:

Association for Emancipation, Solidarity and Equality of Women - ESE

With:

Akcija Zdruzenska
Open Gate/La Strada, Macedonia
Coalition "Margins"

Article 2 (Policy measures)

Article 6 (Violence against women)

Article 11 (Employment)

Article 12 (Health)

Article 15 (Legal equality and legal capacity)

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INTRODUCTION

The Association for Emancipation, Solidarity and Equality of Women – ESE, has been working for 25 years on violence against women and equal opportunities for men and women through the provision of direct aid, representation in improvement of laws and policies, as well as documenting and reporting of cases of human rights violation. As part of its strategic goals aimed at improving access to justice for women who have suffered violence, in 2013, ESE Association started implementing monitoring of court cases related to different forms of VAW with a focus on domestic violence. The report includes findings from the ad-hock coalition comprised of ESE Association, Akcija Zdruzenska, Open Gate/La Strada Macedonia and Coalition “Margins“ regarding the level of implementation of Articles 2, 6, 11, 12 and 15 of the Convention. The submission aims at contributing to the preparation of the Concluding Recommendations for the R. Macedonia, scheduled to be considered at the 71th session.

POLICY MEASURES

The state failed to secure effective implementation of the Law on Equal Opportunities for Women and Men (LEOWM), including functionality and effectiveness of the gender equality machinery that has no legally prescribed autonomy, authority, expertise and resources to coordinate and influence the policy and legislative process and decision making. Obligations of the LEOWM were not treated seriously by the competent institutions, considering the small extent of taken measures and activities, as well as dysfunctional machinery¹. The practice of transfer of the obligations within the competences of state institutions to the MLSA and the gender equality machinery, despite its ineffectiveness continues. The governmental advisory and consultative gender equality mechanism is coordinated and administrated by MLSA² had only 4 sessions since its establishment in 2012, and have no influence on the governmental planning and decision making due to lack of regular information feed on the overall policy developments, low commitment and participation of the governmental representatives. In 2016, only 54% of the municipalities submitted reports for 2015, 12,9% developed plan with equal opportunity measures that consist of mainly promotional activities, while only 11,34% have small budget allocations for their implementation³. Most recent assessment findings of the local policy and budget planning indicate women’s complete exclusion from municipal planning and decision making, as well as serious marginalization and low level of attention and resources devoted to gender equality and women’s priorities⁴. The progress towards planned strategic goals, objectives and results of the Action Plan 2013-2016⁵ was not measured due to a lack of proper indicator structure, especially performance and impact indicators, as well as poorly used

¹ Akcija Zdruzenska, *Two Years After: Monitoring of the progress of Implementation of the Law on Equal Opportunities for Women and Men*, June 2014 <http://development.bitsia.com/zdruzenska/wp-content/uploads/2015/07/Final-Monitoring-2-godini-potoa-FINAL.pdf>

² <http://www.mtsp.gov.mk/inter-resorska-grupa-za-ednakvi-moznosti-na-zenite-i-mazite.nspix>

³Data from responded requests for access to public information distributed by Akcija Zdruzenska to 81 municipalities in 2016

⁴ Akcija Zdruzenska *Gender in municipal programs and budgets – Summary monitoring report*, 2018 [Третманотнародотвоопштинските програми и буџети-Сумаренизвештај од следење во општините Струмица, Кавадарци, Радовиш, Центар и Карпош](#), Akcija Zdruzenska 2018

⁵ <http://www.mtsp.gov.mk/dokumenti.nspix>

legal mechanism for annual Government reporting to Parliament⁶. The key objective of the Strategy for Gender Responsive Budgeting, advancement of the fiscal legislation was not implemented at all, neither formal obligation to apply the tools developed for the purpose of application of the gender responsive budgeting was introduced⁷. Implementation of the gender equality policy continues to exclusively depend on foreign financial assistance, as the new Action Plan for the period 2018-2020⁸ focuses on the activities whose implementation mainly depends on donations and projects of international organizations.

VIOLENCE AGAINST WOMEN

Domestic violence. There is no valid strategic document on domestic violence in place, adopted by the Government of the Republic Macedonia, which would represent the continuity in the commitment of the State to a functional and effective response to domestic violence. Insufficient state funds are allocated to preventing and combating domestic violence. In addition, the foreign assistance secured by the UN agencies in the country was not spent adequately, thus not contributing towards overcoming the deficiencies detected⁹.

After four years of adoption of the Law on Prevention, Combating and Protection against Domestic Violence there is insufficient enforcement in practice. There are no appropriate mechanisms established for systematic monitoring and analysis of the situation and trends in domestic violence incidence by the relevant ministries. There is inadequate multi-sectoral action, information exchange and coordination among relevant institutions in domestic violence cases, especially in urgent cases, when it comes to the preparation and implementation of temporary measures of protection (TMP).

In spite of foreseen responsibility, only a few Centers for social welfare (CSW's) have established multi-sectoral teams, followed by a Security Plan for the victims in cases when victim's life is threatened. Moreover, taking measures for victim's protection by the CSWs depends on the victim's consent, which presents an unnecessary administrative burden having in mind that these measures should be unconditional.

⁶ The reports prepared by MLSP were made available only during public sessions for annual review of the reports by the Parliamentarian Committee for Equal opportunities for Women and Men and were regularly adopted despite the lack of elaborated measurable evidence on the scope and level of achieved progress and effects of the measures, including the budget spending.

⁷ Akcija Zdruzenska, [Assessment of the Implementation of the Strategy for Gender Responsive Budgeting for the period 2012-2013](http://zdruzenska.org.mk/wp-content/uploads/2016/07/%D0%9F%D1%80%D0%BE%D1%86%D0%B5%D0%BD%D0%BA%D0%B0-%D0%BD%D0%B0-%D1%81%D0%BF%D1%80%D0%BE%D0%B2%D0%B5%D0%B4%D1%83%D0%B2%D0%B0%D1%9A%D0%B5%D1%82%D0%BE-%D0%BD%D0%B0-%D0%A1%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D0%B8%D1%98%D0%B0%D1%82%D0%B0-%D0%B7%D0%B0-%D0%B2%D0%BE%D0%B2%D0%B5%D0%B4%D1%83%D0%B2%D0%B0%D1%9A%D0%B5-%D0%BD%D0%B0-%D1%80%D0%BE%D0%B4%D0%BE%D0%B2%D0%BE-%D0%BE%D0%B4%D0%B3%D0%BE%D0%B2%D0%BE%D1%80%D0%BD%D0%BE-%D0%B1%D1%83%D1%9F%D0%B5%D1%82%D0%B8%D1%80%D0%B0%D1%9A%D0%B5-%D0%B7%D0%B0-2012-2013.pdf), December, 2013

⁸ <http://www.mtsp.gov.mk/dokumenti.nspix>

⁹ Association ESE, *Analysis: Did the UN Joint Programme and UN Trust Fund contribute to implementation of the National Strategy for Protection against DV 2008- 2011*, Available on: <http://esem.org.mk/pdf/Publikacii/2017/National%20Strategy%20for%20Protection%20Against%20DV%202008-2011.pdf>

There is a low number of proposals submitted and TMP issued compared to the prevalence of the phenomenon.¹⁰ ¹¹ The police have failed to provide urgent protection and propose to the court TMP such as: „Removal of the Perpetrator from the Home and Restraining Order to Approach the Home” within 24 hours¹² due to the lack of skills to assess the risks and prepare the TMP. The civil court procedure for issuing TMP is still ineffective and with undue delays. Thus, one of the problems faced by women is the postponement of court hearings for issuing TMP due to the need for collecting and presenting additional evidence. In addition, urgent TMP (in 24 hours), can't been issued due to the lack of appointed judges on duty after working hours. On the other hand, once they are issued, there are no mechanisms in place to monitor their execution.

The Law itself contains contradictory provisions aimed for perpetrators if they are not respecting the temporary measures of protection (TMP) issued by the courts. On the one hand, the Law states that for violation of TMP, a criminal procedure for the criminal act “disregard of court order” should be initiated by the Centers for Social Work (CSW's) against the perpetrator and on the other hand, the Law stipulates that monetary fines shall be paid in case of violation of temporary measures of protection.

Legally guaranteed *free health protection for women who survived domestic violence* is not provided in the practice. Namely, medical institutions refuse to provide services to women who have suffered domestic violence or to issue medical documentation without charging for this service. In addition, sufficient institutional capacity for execution of the TMP-compulsory treatment of the perpetrator if he abuses alcohol, drugs and other psychotropic substances or has some psychological illnesses, is lacking.

The number of criminal charges filed with reference to acts of violence against women (2012 – 2014) shows a trend of increase¹³, unlike the trend of indictments¹⁴. The trend of petitions submitted for criminal prosecution filed is disconcerting (bodily injury, which is the most frequent grounds for sanctioning domestic violence¹⁵ over the same period is on the decrease¹⁶). This even more so given that out of the 169 petitions filed in 2014, 117 were withdrawn by the victim. One of the main reasons for this is the inefficiency of the police and public prosecutors¹⁷ that take 112 days on average to make the indictments.

¹⁰ Analysis of domestic violence in Macedonia in the first half-year of 2015, State Institute of Social Activities.

¹¹ Analysis of domestic violence in Macedonia in the first half-year of 2015, State Institute of Social Activities.

¹² In a situation where there is a serious threat to the life and health of the woman survivor of domestic violence or a family member, a police officer shall come to the scene and prepare a police report immediately, or within 12 hours based on an adequate assessment of violence risk and then file a proposal to the competent court to impose a temporary protection measure.

¹³ In 2012, a total of 640 criminal charges were filed; in 2013-685, and in 2014, the number of criminal charges was 843. Data were gathered from thirteen of the total of 22 public prosecutor's offices in RM within the USAID's Women's Legal Protection Project implemented by the ESE Association.

¹⁴ In 2012, 429 indictments were issued, in 2013-436, and in 2014-315. Data were made available by 18 of the total of 27 basic courts within the USAID's Women's Legal Protection Project implemented by the ESE Association.

¹⁵ According to the data from the court monitoring, the most common crime is bodily injury (59.6%) with 328 hearings, followed by the crime of endangering safety with 110 hearings (20%) and the offence of grievous bodily harm with 62 hearings (11.2%). The process of court monitoring (March 2015- March 2017) was conducted within the USAID's Women's Legal Protection Project (2014-2017) implemented by the ESE Association.

¹⁶ In 2012, a total of 218 petitions for criminal prosecution were filed, in 2013-199, and in 2014-169. Data were made available by 18 of the total of 27 basic courts within the USAID's Women's Legal Protection Project implemented by the ESE Association.

¹⁷ Court analysis of 33 court procedures related to domestic violence in the period 2016-2017 from 4 Basic Courts in the country, Association ESE, 2018

Women who have suffered domestic violence are not satisfied with the actions of police officers¹⁸. According to them, the police show no understanding of their problem and hence, their response is belated and overdue. The statement of one of the victims speaks in favor of this claim: *“The police have a late reaction - from the day I reported him, the police waited for two weeks to summon him”*.

The penal policy in terms of “ex officio” (state prosecution) of all crimes related to domestic violence has remained inconsistent with the exclusion of the principle of formality in respect of the offense of **bodily injury** in domestic violence. Hence, if there is no motion for prosecution, or it is withdrawn by the woman who has suffered domestic violence, the public prosecutor’s office will have no legal assumptions to prosecute and act on such criminal charges. Proceedings of criminal court judges contribute to victim’s re-victimization, including: the previously provided statement of the victim is taken again at the main hearing; impossibility for the victim to testify without the presence of the accused; the court does not take actions to protect the victim as a witness if she refrains from giving a statement and inappropriate application of cross-examination in criminal hearings. Criminal justice sanctions in many of the monitored cases¹⁹ are not equivalent to the gravity and circumstances of domestic violence committed. In most convictions, the penalties imposed are monetary fines and suspended sentences even in cases of severe bodily injury during domestic violence²⁰. Most alarming is the data on 19 cases of murder in domestic violence monitored in a two-year period of court monitoring²¹.

Sex work. There are no special programs that provide social welfare and health care for sex workers. They exercise these rights in the existing system of social and health care. Sex workers face difficulties in obtaining health care services because of the stigma and prejudices arising from their status. With the support of the Association HOPS-Healthy Options Skopje, some sex workers accessible to the organization receive free gynecological examinations regardless of whether they have health insurance. Also, they get free, voluntary and confidential testing for HIV/AIDS. Regarding their exercise of social rights, sex workers also receive support from HOPS in terms of getting ID documents, health insurance and social protection in front of competent institutions.

In the past period, no improvement of the situation of sex workers has been noted. Although there is legal distinction between sex work or resorting to prostitution and the features of the crime of human trafficking, still in practice, institutions consider prostitution as equal to human trafficking. Usually, by taking measures to combat trafficking, measures are undertaken to combat prostitution as well, which puts sex workers in a more vulnerable position, thus making the existing civil society’s health, psycho-social and legal services less accessible to them.

¹⁸ Focus groups with women survivors of domestic violence were organized for the purpose of preparation of the Analysis of legal framework and institutional response towards domestic violence within the USAID’s Women’s Legal Protection Project.

¹⁹ Association ESE, *Findings regarding the court monitoring conducted in terms of cases of violence against women*, November 2017 available on: <http://esem.org.mk/en/pdf/Publikacii/2017/Findings%20Court%20Monitoring%20 DV.pdf>.

²⁰ As for the crime of serious bodily injury, out of 6 convictions, 5 suspended sentences were issued.

²¹ Association ESE, *Findings regarding the court monitoring conducted in terms of cases of violence against women*, November 2017 available on: <http://esem.org.mk/en/pdf/Publikacii/2017/Findings%20Court%20Monitoring%20 DV.pdf>. The process of court monitoring (March 2015- March 2017) was conducted within the USAID’s Women’s Legal Protection Project (2014-2017) implemented by the Association ESE.

A serious problem that constantly increases the vulnerability of sex workers is the gender-based violence against them.²² Often, sex workers are victims of violence by their partners, family members, customers and the police.²³ The biggest problem is the reporting and lack of further processing of cases and adequate punishment/lack thereof of the perpetrators. Due to the lack of a system for protection of sex workers' rights and violence against them, especially when such violence comes from authorized officials, sex workers are not encouraged to report such cases. Therefore, many cases of violence against sex workers remain unregistered and undocumented.

Trafficking in human beings. The identification of victims of trafficking and the criminal prosecution of perpetrators is worryingly low, although statistics from the NGO sector show that this figure is much higher. Officially, from the institutions in 2016, 6 victims of human trafficking were identified, while in 2017 only 2 victims. In 2016/2017, the legal representative of Open Gate provided legal counseling and representation when giving a statement before a public prosecutor for 3 minor girls who were victims of trafficking for which no indictment has been issued against the perpetrators of the crime. Poor identification and criminal prosecution seriously violate the rights of victims of trafficking in human beings, especially with regard to the protection and compensation of damages. Additionally, for 2016 and 2017, the government did not provide funding for the implementation of the programs of specialized NGOs that provide services to victims of trafficking. In 2016/17, the trend of moving migrants across the country continued. Among the migrants, it was particularly girls, women and unaccompanied or separated children that were travelling in groups or alone without adults who were an "easy prey" for traffickers and smugglers. Unfortunately, most such cases remained invisible and those involved did not receive appropriate assistance from the relevant service providers, because of the lack of a system to provide protection or intervene otherwise.

Although there are cases where victims of trafficking have received a ruling to the effect that they are entitled to compensation, it cannot be enforced because the offenders do not own property or have any money. At present, this method of compensation (through a state fund) is available only to minors who are victims of trafficking. Nonetheless, the functionality of this option provided in the law has been brought into question. In case of adult victims of trafficking, the compensation by the State will be postponed until the moment of establishing of the State Fund.

EMPLOYMENT

The high unemployment rate and very high and persistent inactivity rate of women. The last available data shows that the employment rate of women has not significantly changed from 2013²⁴ when it was estimated on 32.5%. In 2016²⁵ the employment rate was 33.8%, out of which 39% work on full-time basis, while 44,3% of the women were part-time employed. Some researchers argue that females on average receive lower wages than males by 12.5%, even though this gap disappears among employees with tertiary education. The worrisome trend of high share of women in the total number of inactive population remained. The activity rate of women in 2013 was 48.5% and in 2016

²² Reactor – research in action. *Scoping Study on gender based violence and discrimination against women and girls in urban public spaces of the City of Skopje*, 2012. <http://www.reactor.org.mk/CMS/Files/Publications/Documents/scoping%20study%20%20VAW%20public%20spaces%20Skopje.pdf>

²³ Natasha Boshkova, Hajdi Shterjova Simonovikj. *Analysis of the attitude of sex workers on the needs to change the legal framework on sex work in Macedonia*, 2015. Available at: www.hops.org.mk.

²⁴ Women and men in Macedonia, Skopje 2014 available at <http://www.stat.gov.mk/Publikacii/Gender2014.pdf>

²⁵ Women and men in Macedonia, Skopje 2017 available at <http://www.stat.gov.mk/Publikacii/Gender2017.pdf>

slightly decreased to 43.8%. **Very low level of knowledge and use of the active employment measures by women.** In a response to this situation from 2007 onwards, state institutions started with the planning, design and implementation of active labor market programs that aimed at decreasing the rate of unemployment. In 2015, the first impact evaluation study²⁶ was conducted showing that some of the programs are effective, while some need to undergo major revisions or need to be discontinued. Wanting to assess whether and how active employment measures reach and impact women, CSO's ESE and AZ²⁷ initiated a process of community assessment in four municipalities (Bitola, Tetovo, Strumica and Sveti Nikole) on implementation of these measures. Of the total surveyed population, a quarter (25.2%)²⁸ reported that they know that they have the right to access the services and programs, that is, to the active measures and services provided by the Employment Agency. Of the women who reported that they know that they have the right to access these measures, they are mostly familiar with the measure of self-employment (95.2%), followed by the measure for subsidized employment "Macedonia employs 2" (71%), while they are lesser familiar with the training for satisfying demanded occupations (19.4%). Only 54.1% of the women were familiar with mediation services, while 42.6% are acquainted with the service for preparation for employment and for work provided by the Employment Agency. The lack of knowledge of the measures logically indicates the low level of use of the measures, which is proved by the data for using the measures among the surveyed population. A total of 604 employees were identified by the survey, out of which 56 persons (9.3%) reported that they are employed as a result of all active measures for employment in the period from 2014 to 2017. Out of these 56 people, 33 are men (58.9%), while 23 are women (41.1%).

HEALTH

Women in the RM are insufficiently covered with primary level health care services, including primary gynecological health care and patronage nurse visits. The main reason for this is the insufficient number of registered gynecologists in primary health care and their uneven territorial distribution. In September 2018, there are only 151 registered gynecologists in primary health care²⁹. The prescribed standard in Macedonia is one gynecologist in primary care per 3000 women aged 14+. Thus there should be 287 gynecologists in primary care, which means that there is a lack of 136 gynecologists³⁰. In 42 municipalities there is no gynecologist in primary care and in 27 municipalities, there is insufficient number³¹. As a result, the estimated percentage of only 56.8% of women aged

²⁶ *Impact Evaluation of Active Labor Markets Programs in FYR Macedonia: Key Findings* available at http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_384854.pdf.

²⁷ Association for Emancipation, Solidarity and Equality of Women -ESE in partnership with CSO Akcija Zdruzenska implements a 2 year project named Social Accountability for Gender Equality. So far, the initial findings have shown that the responsible state institutions are not having the needed comprehensive data on programs' funds spent; the implementation of these programs largely depends on foreign donors and creditors; most decisions on the way in which these programs are implemented in the country are led by UNDP, which is also involved as an implementing agency of these measures with public funds.

²⁸ The analysis is in the process of preparation. The presented data are available on the request of the CEDAW Committee.

²⁹ Analysis, conducted by ESE according to the publicly available data on the web site of the Health Insurance Fund of R. of Macedonia (accessed 27th September 2018) - <http://www.fzo.org.mk/?section=lekaripzz&tipDog=3>

³⁰ Analysis conducted by ESE according to the publicly available data in the MAKSTAT Data base . State Statistical Office of R. Macedonia (accessed 27th September 2018) -

http://makstat.stat.gov.mk/PXWeb/pxweb/mk/MakStat/MakStat_PoloviStat/125_PoloviStatistiki_mk.px/?rxid=46ee0f64-2992-4b45-a2d9-cb4e5f7ec5ef

³¹Analysis, conducted by ESE according to the publicly available data on the web site of the Health Insurance Fund of R. of Macedonia (accessed 27th September 2018) - <http://www.fzo.org.mk/?section=lekaripzz&tipDog=3> , and on the data from

14+ have registered gynecologists at the primary health care level³². The coverage of women with patronage (outreach) nurse visits in their homes in the period during pregnancy and one year after the delivery is very low on a national level. Namely, 35.9% of Roma women and 27.8% of women from other ethnicities who gave birth in the last 24 months were never visited by a patronage nurse in the period of their pregnancy and after delivery. The average number of visits among women which were visited by patronage nurses was 2.6 visits among Roma women and 3 visits among other women³³. The number of visits by patronage nurse (twice during pregnancy and five after the delivery) was prescribed in Program for Active Health Care for Mothers and Children (PAHCMC) until 2015. In 2016 Ministry of Health removed these provisions from the program and at the moment there is no legal document which prescribes the number of visits.

Increase in infant mortality rate was noted in Macedonia in the period 2010 – 2016. The infant mortality rate in Macedonia in 2010 was 7.6 per 1000 live births and in 2016, it was 11.9 per 1000 live births³⁴, which is almost three times than the rates in the European Union countries³⁵. There is slight decrease of the rate on 9.2 in 2017. Barriers exist in the health care for mothers and children, only 44% of women received first medical control in the first trimester of pregnancy in 2015³⁶. Factors contributing are lack of gynecologists, lack of patronage nurse visits and non-existing activities for health promotion and health education regarding reproductive health by the State. Another noted issue is the lack of medical staff and equipment in maternity wards in Macedonia, which results in a situation where 40% of the deliveries in the country in 2017 were conducted in two hospitals in the capital of Skopje (University clinic for gynecology and Special hospital for gynecology)³⁷. In 2018, the State invited a Joint MOH/WHO/UNICEF/UNFPA assessment mission on reversing neonatal mortality trends and improving pregnancy outcome and child health. This mission performed rapid assessment and provided recommendations to the State. Currently, measures for training of medical staff are being performed.

There is a lack of coverage of women on a national level with the Program for Cervical Cancer Screening (PCCS). Each year, the Government adopts the PCCS, yet it allocates a budget that covers only around 20% of the target female population (age 24 – 60) and the actual coverage for four year period (2012–2016) is only 18% of women³⁸. Factors contributing to this situation are: lack of gynecologists, lack of coordination and oversight mechanisms of the Program, lack of medical staff from other relevant fields, lack of activities for education and awareness raising among women.

State Statistical office. Estimation for the population on 30.06.2015 and 31.12.2018 according to the sex and age, divided by municipalities and statistical regions (2016) - <http://www.stat.gov.mk/Publikacii/2.4.16.10.pdf>

³² Analysis of Association ESE based on “Annual Report for 2017” of the Health Insurance Fund of the R. Macedonia - <http://www.fzo.org.mk/WBStorage/Files/Godisen%20izvestaj%20za%202017%20godina%20KONECEN.pdf> and on “Women and Men in Macedonia” issued by State Statistical Office - <http://www.stat.gov.mk/Publikacii/Gender2017.pdf>.

³³ *We are all human: Health care for all people regardless of their ethnicity*, Association ESE and FOSM, 2014 <http://esem.org.mk/en/pdf/Publikacii/2014/We%20are%20all%20human.pdf>.

³⁴ State Statistical Office. “Women and Men in Macedonia” - <http://www.stat.gov.mk/Publikacii/Gender2017.pdf>

³⁵ Source: WHO Regional Office for Europe. Health for all data base. <http://data.euro.who.int/hfad/b/>

³⁶ Analysis conducted by ESE on the publicly available data

³⁷ State Center for reproductive health of the Republic of Macedonia. Perinatal results in Macedonia for 2017.

³⁸ Report prepared by ESE from the process of monitoring and analysis of programmatic and budget implementation of the Program for cervical cancer screening. 2018 -

<http://www.esem.org.mk/pdf/Publikacii/2018/%D0%9A%D0%B0%D1%80%D1%86%D0%B8%D0%BD%D0%BE%D0%BC%20%D0%BD%D0%B0%20%D0%B3%D1%80%D0%BB%D0%BE%20%D0%BD%D0%B0%20%D0%BC%D0%B0%D1%82%D0%BA%D0%B0.pdf>

LEGAL EQUALITY AND LEGAL CAPACITY OF WOMEN

Access to justice in Macedonia is limited for the poorer, making them more vulnerable. The 2013 national survey of Macedonians' experience of legal ("justiciable") problems³⁹ found that almost half of the respondents had experienced at least one legal problem over the past three years. Poorer people were less likely than the better-off ones to report that they had had a justiciable problem. Two thirds of respondents who reported problems said that they had not taken steps to resolve them, mostly due to skepticism or a belief that nothing could be done or the loss of confidence that someone can help. One third of these sought legal advice, and the majority of those who sought advice had to pay for the advice. In addition, one fifth of those who had a problem did not do anything because they did not have the money to do so. The number of people who receive free legal aid under the Law on Free Legal Aid (LFLA)⁴⁰ is only a tiny fraction of the real need⁴¹.

The State fails to provide effective legal protection for women who suffered violence, although, the LFLA declaratively stipulates that domestic violence victims and victims of human trafficking are one of the beneficiaries of free legal aid. The limited scope of free legal aid, the restrictive criteria and the exceeding of the decision-making deadlines are the main obstacles that are seriously affecting women's access to free legal aid in this regard⁴². Of particular concern is the fact that the most disadvantaged are the women victims who are not beneficiaries of social cash assistance, are unemployed and find themselves in a poor socio-economic situation. Their exclusion from the social protection system, i.e. their inability to get social welfare is further exacerbated by the lack of access to free legal aid. **There was not a single case of domestic violence where the State has provided free legal aid in the specialized civil and criminal court procedures for protection of women who suffered domestic violence.** While applying for their right to free legal aid, women survivors of domestic violence shall also submit a certificate by the CSW or MOI which establishes their status of a domestic violence victim. This particular criterion is an obstacle to exercising the right to free legal aid by those women who have not previously reported the violence to some institution. **The legal protection is ineffective even in cases where domestic violence victims have implemented their right to free legal aid.** Namely, after the approval of free legal aid, women who have suffered domestic violence are entitled to representation by an authorized lawyer, but still they have to pay the costs of initiating proceedings, as well as the cost of evidence presentation.

³⁹ *Legal needs and path to justice in the Republic of Macedonia*, Research in Action, 2013

⁴⁰ Official gazette of the Republic of Macedonia, no. 161/2009, 185/2011, 27/2014, 104/2015.

⁴¹ As a response, three different modalities of legal aid provided by CSOs were developed, i.e. initial legal aid under the LFLA, free legal aid outside LFLA and paralegals. Unfortunately, these sources of free legal aid are much less than the estimated need. The latest study on cost benefit analysis of provision of the three existing free legal aid possibilities and services in the Republic of Macedonia, first of its kind, showed how much the State should support these services in order to provide effective legal aid. The analysis was prepared as part of the 2016 FOSM Action Plan under the Shared Framework by Association ESE and Debbie Budlender. The study is in a phase of publishing and therefore, it is not available online.

⁴² These are the general obstacles that are seriously affecting access to justice for all the beneficiaries under this law. The number of approved applications for free legal aid is insignificant in comparison with the number of people with legal needs in the country and the law is totally ineffective in this regard.

Recommendations:

In light of this information, we recommend that the CEDAW Committee will consider making the following recommendations to the Government of the Republic of Macedonia:

POLICY MEASURES

- Strengthen the gender machinery through legally established appointment criteria in line with the level of professional expertise and mandate for compulsory planning and decision-making input, implement and evaluate the legislation and policies of government agencies at all levels;
- To allocate appropriate annual budgets and to locate the responsibility for implementing legal obligations through plans in the area of women's human rights and gender equality in all state institutions;
- Develop standard procedures for the coordination and accountability of state institutions in their annual planning, implementation and evaluation of their annual program outcomes, and budgeting based on women's rights and gender equality;
- Develop a list of standard general and specific qualitative and quantitative indicators regarding the situation and progress in the realization of women's rights and status, for state institutions, in accordance with their specific responsibilities;

VIOLENCE AGAINST WOMEN:

Domestic violence

- Improve the system for collecting data on violence against women, i.e. provide data disaggregated by type of violence, such as domestic violence, human trafficking, violence against sex workers, harassment in the workplace and other forms of violence against women, as well as by the relationship between the perpetrator and the victim and ensure the data are available to the public; Furthermore state should establish appropriate mechanisms for systematically monitoring and analyzing the collected data;
- Amend the Criminal Code regarding the manner of prosecuting the criminal offense of "bodily injury", such that instead of prosecuting this offence by a proposal, i.e. written consent of the victim, it shall be prosecuted ex officio;
- The provisions for misdemeanor liability stipulated in the Law on Prevention and Protection from Domestic Violence regarding the disregard of TPMs imposed by the court should be repealed, because their disregard is a separate criminal act, i.e. contempt of court decision;
- Strengthen the capacity of the police in terms of their role in the immediate implementation of the temporary protection measure "removal from the home and restraining order to approach the place of residence";
- Ministry of Health urgently to implement the legal responsibility to provide free health services and issue medical documents to women who have suffered domestic violence. It should take the necessary measures to effectively implement the temporary protection measure of "mandatory treatment of domestic violence perpetrator if he abuses alcohol, drugs and other psychotropic substances or has psychological illnesses";
- Strengthen the capacity of the judges and their sensibility in order to improve the proceeding and protection of the victim's rights in the procedures;

- Penal policy should be implemented in a way that criminal justice sanctions should be proportionate to the gravity and circumstances of domestic violence committed, taking into account both the special and general prevention. In most convictions, the penalties imposed are suspended sentences even in cases of severe bodily injury during domestic violence;

Sex work

- Introduce legislation to repeal penalization of soliciting for sex work;
- Revise the provision from the Criminal Code on mediation in prostitution to prevent its use to promote arbitrary harassment of women engaged in consensual sex work or criminalize sex workers who work together.
- Introduce special programs for social welfare and health care for sex workers
- Ensure domestic violence services available to sex workers.
- Ensure sex workers can report violence and pursue cases against perpetrators without being victimized.
- Take all appropriate measures to prevent violation, humiliation and disenfranchisement of sex workers during police raids.

Trafficking in human beings

- Enhance identification and prosecution of cases of trafficking through education of professionals (judges, prosecutors, police officers, social workers etc.) that will enable protection and justice for victims.
- Ensure that all assistance and protection measures for victims of trafficking set out in the law and the respective policies and programs are guaranteed in practice; when assistance is delegated to NGOs, the state has an obligation to provide adequate finances and to ensure the quality of services provided by NGOs.
- Adopt a new Law on Litigation for compensation of victims of human trafficking that will considerably simplify the procedure for claiming compensation in line with Western European principals. At the same time, it is necessary to establish a state fund for compensation of victims of trafficking in human beings.

EMPLOYMENT

- The state shall undertake specific measures to increase employment and inactivity rate among women;
- The state shall undertake major revision of the active employment measures based on assessment of their effectiveness and impact over women's unemployment and employability;

HEALTH

- Adopt and implement short term and long term measures with proper budget allocation to enable access of all women in Macedonia to the gynaecological health care, especially on primary level, as well as improve the health care in maternity wards on the entire territory of the country;

- Increase budget allocation for all preventive programs under the Ministry of health concerning health of women in order to ensure maximum coverage of the women with these programs;
- To enforce the recommendations from the Joint MOH/WHO/ UNICEF /UNFPA assessment mission on reversing neonatal mortality trends and improving pregnancy outcome and child health;
- Take measures for improving the availability of contraception, such as placing the oral hormonal contraceptive preparations on the positive list of medicines of the Health Insurance Fund of Macedonia and reducing the prices for the barrier contraception means and condoms.
- Introduce a system of comprehensive health education for young people, including sexual and reproductive health, and special targeted measures for education of vulnerable groups
- Introduce system for health statistics disaggregated by ethnicity.
- Conduct nationwide research in order to determine the root causes related to the poorer health outcomes of Roma in general and of Roma women specifically in comparison to the majority of population.
- Introduce mechanisms and procedure for regular monitoring and evaluation regarding the entire Strategy for Roma inclusion and specifically for the National Action Plan for Roma health.
- Ensure Roma community participation in the processes of preparation, implementation and evaluation of policies aimed at Roma women health improvement.
- Adopt and implement measures for increased coverage of Roma women with proper budget allocation within all of the preventive Programs under the Ministry of health.
- Adopt mechanisms for strengthening the primary health care delivery in Roma communities, with main emphasis on Roma women, mothers and children.
- Adopt and implement activities for increased coverage of Roma women with reproductive health services, including health promotion and health education.
- Introduce an efficient system for protection of the rights of Roma people, i.e. system for prevention and elimination of discrimination in health care.

LEGAL EQUALITY AND LEGAL CAPACITY OF WOMEN

- To ensure effective access to legal aid for women who have suffered violence, including legal assistance for the provision of the right to indemnification by engaging legal representation for women, and especially equal treatment and access to justice for sex workers in cases where they are victims of violations of their rights and are accused of committing a crime or misdemeanor.
- To set up a special Fund earmarked for women victims of violence in order to cover their cost for court proceedings.
- It is necessary to allocate funds to support the work of civil society organizations providing free legal assistance and representation for women who have suffered violence.