



HOPS
HEALTHY OPTIONS PROJECT SKOPJE



Republic of Macedonia
Updated Information on the Implementation of the Convention on
Elimination of All Forms of Discrimination Against Women
Status of Sex Workers in the Republic of Macedonia

Authors: Star-Star Skopje, HOPS- Healthy Options Project Skopje, Coalition Margins, Stronger Together, European Coalition on Male Health

Date of Report: September 2018

Relevant CEDAW Committee session: 71st Session

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

Executive summary

STAR-STAR initially operated as an activists' movement of a group of young people who shared a common goal – improvement and promotion of sex workers' rights; and towards the middle of 2010 STAR-STAR was formally registered as first sex worker-led organization. Today, STAR-STAR is an integral part of the civil sector promoting their aspirations, contributions and needs, striving towards an open society which would recognize, accept and respect differences.

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.

The Coalition Sexual and Health Rights of Marginalized Communities MARGINI was founded in 2007 as a non-formal, joint platform and the result of the joint efforts of several organizations: HOPS – Healthy Options Project Skopje, HERA, IZBOR – Strumica and EGAL. Since 2011, the Coalition has been registered as an individual legal entity, i.e. as an NGO whose founders include: HOPS – Healthy Options Project Skopje, HERA, IZBOR – Strumica, EGAL and STAR-STAR and Stronger Together. Since then, MARGINI has been working on equal access and enjoyment of human rights of marginalized communities (sex workers, people living with HIV, people who use drugs, marginalized women and LGBT people) and better life quality in different social spheres.

Stronger Together Association for Support of People Living with HIV was founded in 2010, first as a community-led autonomous body (non-legal entity) within NGO HERA - Health Education and Research Association, which provided administrative support and fiscal sponsorship, and afterwards, was registered as an independent association in 2013. It provides peer support for people living with HIV in the form of individual counseling by trained peer counselors, as well as self-help groups; psycho-social support, including modest financial support to socially disadvantaged people with HIV in relation to their HIV treatment, as well as legal support in dealing with cases of discrimination.

1. We have jointly prepared this report to supplement the information available to the Committee for Elimination of All Forms of Discrimination Against Women in the examination of Republic of Macedonia on its implementation of the Convention on the Elimination of All Forms of Discrimination Against Women.
2. The Government's reply to the LOI (paragraphs 58 and 103) provides partial information on the Criminal Code provision on Mediation in Prostitution and partially refers to the harm reduction services for sex workers who use drugs without giving complete responses to the questions of the Committee related to women sex workers.

3. In this submission, we provide information that will give the Committee a clearer overview on the situation of sex workers, and by extension, information on other intersecting communities that are relevant to sex workers' enjoyment of their rights, such as trans* sex workers, sex workers who inject drugs and sex workers living with HIV.
4. Therefore, the report includes information on the situation of women who live with HIV and policies related to HIV in general, since this affects the policies and practices of the institutions toward sex work. Furthermore, many women who offer sex services use drugs, which suggests that policies related to drug use also affect the rights of the sex workers.
5. The legal framework does not recognize sex work as prohibited ground for discrimination. By neglecting an intersectional approach in tackling inequality, sex workers are left outside the legal and political framework for protection against discrimination.
6. Sex work itself is regulated as a misdemeanour within Article 19 of the Law on Misdemeanours Against the Public Order. The law bans the provision of sex services and fines sex workers for soliciting. On the other hand, mediation in prostitution is a criminal offence regulated by Article 191 of the Criminal Code.
7. The rights of sex workers are not recognized by the State, except in the context of public health and HIV/STI prevention. Recognition in this area was introduced in the discourse through the grant supported by the Global Fund for AIDS, Tuberculosis and Malaria (GFATM). Since 2018 the Ministry of Health took over the financing of most of the activities for prevention against HIV among sex workers, but failed to allocate money for legal services for the sex workers. In the absence of a functional social and legal system, sex workers mostly trust the NGOs, which are the major provider of legal aid to sex workers.
8. 68% of sex workers encounter some form of violence as a result of their work, and individuals posing as clients and police are the most frequent perpetrators. Being a victim of domestic violence is one of the most frequent reasons for sex workers to undertake legal action, but as a result of the inert system, this action ceases at the level of submitting a police report.
9. Sex workers do not have access to laws and legal remedies without discrimination. Research shows that the police do not conduct prompt and effective investigation of reports made by sex workers, especially in cases of violence.

Article 1- Definition of discrimination

1. The Constitution of the Republic of Macedonia guarantees equality based on sex, race, color of skin, national and social background, political and religious beliefs, property and social status¹, but its restrictive interpretations result in depriving vulnerable groups of Constitutional protection.
2. The Law on Prevention and Protection Against Discrimination prohibits both direct and indirect forms of discrimination based on sex, race, color, gender, belonging to a marginalized group, ethnic origin, language, nationality, social background, religion or religious beliefs, other types of beliefs, education, political affiliation, personal or social status, mental and physical impediment, age, family or marital status, property status, health condition or any other bases anticipated by a law or ratified international agreement.² "Belonging to a marginalized group" is an important ground for addressing discrimination against sex workers. However, stipulating it in a definition is not sufficient to achieve substantive equality if the state fails to undertake additional measures to implement this provision. The Draft Law on Prevention and Protection Against Discrimination includes sexual orientation and gender identity as prohibited grounds and recognizes intersecting discrimination, however, the postponement of the adoption of the new law perpetuates the widespread discrimination against LGBT people, which additionally affects the rights of LBT sex workers.
3. The Law on Equal Opportunities for Women and Men excludes protection of lesbians, bisexual women and transgender people by reducing the understanding of gender equality solely to the biological sense. Neglecting the intersectional approach in tackling gender inequality also leaves sex workers, women who use drugs and women who live with HIV outside the legal and political framework for protection against discrimination.
4. Women sex workers are discriminated against because of their intersectional identities as women (both cis and trans*) and sex workers. The discrimination and human rights violations they experience are due to the intersections of their identities as women and as sex workers. These two elements are used by the state and its officials as a tool to justify violations (see par. 46).

Article 2 -Policy measures to eliminate discrimination

5. There are no available official statistics on the number of sex workers disaggregated by sex. Based on the 2010 Bio-behavioral study of the Public Health Institute there is an estimation of 3,588 sex workers who operate on the territory of the Republic of Macedonia.³ Having in mind that this study was conducted only in City of Skopje and it included sex workers that

¹ Constitution of the Republic of Macedonia, Article 9.

² The Law on Prevention and Protection against Discrimination, Article 3.

³ Kuzmanovska G., Mikikj V., Memeti Sh. Report from the bio-behavioral research and estimation of the number of population of sex workers in Macedonia, 2010. Mikikj V., Arnikov A. and Kuzmanovska G. Report from the bio-behavioral research of the sex workers in Macedonia, 2014.

are mostly in contact with organizations working with sex workers, the extent of this population is much broader than the number presented in the study. There are six programs for support of sex workers throughout the country operated by NGOs and they contact and provide direct services to 30% of the estimated number of sex workers.⁴

6. Sex work in Macedonia is regulated by two laws. The Law on Misdemeanors Against Public Order from (2007)⁵ that provides administrative sanction for soliciting and the Criminal Code (1996)⁶ that bans mediation in prostitution.
7. According to the Law on Misdemeanors Against Public Order, only sex workers are sanctioned for soliciting. Women who work outdoors are mostly affected by this provision. Namely, in November 2008 this Law was referred to for organizing a police raid in an open space, in which sex workers have worked for more than 25 years. (see par.26) From the press release issued by the Ministry of Interior the next day, it was clear that the intention was to eradicate street prostitution based on the Law on Misdemeanors Against Public Order.⁷
8. Based on the information from the Ministry of Interior in the period between 2013 and 2018, eleven people were sanctioned for soliciting and ten of them were women,⁸ which demonstrates that the penalization of sex work disproportionately affects women. Those who are not sanctioned for soliciting face other violations under the threat that could be penalized. In a 2015 study on access to justice of sex workers, 15% of sex workers in Macedonia reported that they experienced condom seizure or mistreatment by police, 5% reported physical violence at the hands of police and 38% of street sex workers reported being displaced in the past 12 months due to police repression.⁹ Police repression of clients also affects women sex workers in Macedonia, and 20% of sex workers in this study also reported being displaced in the past 12 months due to repression of their clients.
9. The Criminal Code bans mediation in prostitution. It also sanctions the earnings from allowing third party to use sex services, regardless of whether both sides consent. In practice, women who choose to work together for safety reasons are charged for mediating in prostitution.¹⁰ There is no specific data on the number of women convicted for this crime.¹¹ Based on the information of the Ministry of Interior in the period between 2013 and 2018, there were 20 people charged for mediation in prostitution, out of which two were women.¹²

⁴ Report from HOPS's database www.hopr.org.mk

⁵ Law on Misdemeanors against Public Order, Article 19.

⁶ Criminal Code, Article 191.

⁷ <http://vecer.mk/privedeni-33-skopski-prostitutki>.

⁸ Ministry of interior. Reply on the request for access to public information no. 16.1.2.-1880/1 from 09.08.2018.

⁹ SWAN. Failure of Justice, State and Non-state Violence Against Sex Workers and the Search for Safety and Redress, 2015.

¹⁰ Natasha Boshkova, Hajdi Shterjova Simonovikj. Analysis of the attitude of the sex workers on the needs to change the legal framework on sex work in Macedonia, 2015. Available at: www.hops.org.mk.

¹¹ The State Directorate for Statistic publishes information on the number of convicted for crimes against sexual liberty and sexual moral which is a separate chapter in the Criminal Code that includes 10 other crimes (rape, sexual assault, displaying child pornography, incest etc.).

¹² Ministry of interior. Reply on the request for access to public information no. 16.1.2.-1880/1 from 09.08.2018.

10. The Criminal Code also sanctions 'intentional' transmission of infectious disease.¹³ The police raid from November 2008 was aimed at identifying sex workers infected by blood or sexually transmitted infections and charging them criminally. Following the arrest, the sex workers were brought to the Clinic for Infectious Diseases and Febrile Conditions in Skopje and were tested against their will for STIs. Seven of the sex workers who were positive on the test were convicted for intentional transmission of infectious diseases without proof of actual transmission or the intention to transmit HIV as two basic counts of the criminal charges.
11. The rights of sex workers are not recognized by the State except in the context of public health and HIV/STI prevention, which was introduced in the discourse through a grant supported by the Global Fund for AIDS, Tuberculosis and Malaria (GFATM).¹⁴
12. The National Strategy for HIV 2012-2016 identified sex workers as a risk group for which the state needs to develop specific interventions. The Strategy recognized stigma and discrimination of sex workers as a significant factor that should be taken into consideration when creating and implementing the activities. A new HIV Strategy has not been adopted yet, but the draft text also recognizes that key populations, including sex workers, who are disproportionately affected by HIV, and that stigma and discrimination are caused by the prejudices related to HIV infections.
13. Most sex workers have a frequent need of legal aid, but they distrust the system and do not take measures to utilize the legal system to solve their problems. Almost a third of sex workers first try to solve the problem on their own. Only 6% first contacted a lawyer/attorney, and 5% asked for help in the Ombudsperson Office, the Sector for Internal Control within the Ministry of Interior, other commissions etc. It is troubling that ¼ of the sex workers did not take any action, even though they had faced serious legal issues in the last three years.¹⁵
14. In the absence of a functional social and legal system, sex workers mostly trust the NGOs, which are the major provider of legal aid to sex workers and people who use drugs.¹⁶ More than 40% of sex workers do not contact institutions or organizations other than HOPS (organization that provides services and support for sex workers).¹⁷
15. Prior to 2018, most of the services for support of sex workers, including the legal services, were funded by GFTAM. From January 2018, funding for these services have been undertaken by the Ministry of Health. Based on the adopted State Budget for 2018, legal services for sex workers and harm reduction services for people who use drugs are removed from the 2018 HIV Prevention Program.¹⁸ Despite the advocacy efforts by the NGOs and the Platform for Sustainability and Prevention of HIV, the state failed to take all necessary

¹³ Criminal Code, Article 205.

¹⁴ Government of the Republic of Macedonia. National Strategy for HIV 2006-2012 and National Strategy for HIV 2012-2016.

¹⁵ Ivica Cekovski, Vanja Dimitrievski. Legal needs and access to justice for sex workers and people who use drugs in Macedonia.,HOPS 2018.

¹⁶ *Idem*.

¹⁷ Report form the database of HOPS. www.hops.org.mk

¹⁸ Budget of the Republic of Macedonia for 2018. <http://www.finance.gov.mk/mk/node/4105>.

measures to continue funding the legal aid for sex workers, which throughout the years has been the only source for legal support and empowerment for women sex workers.

16. In the last six years, the Law on Free Legal Aid¹⁹ has failed to ensure access to justice for all, including sex workers. The complexity of the procedure for soliciting and securing free legal aid has resulted in a downward trend in the number of citizens seeking to obtain free attorney services. The non-functionality and inadequacy of the overall system of free legal aid provision, especially for citizens at social risk who are the intended beneficiaries of this law, has been a serious, enduring problem evidenced by the continuously decreasing number of citizens that have exercised their right to free legal aid.²⁰

Gender Based Violence Against Women

17. In 2015, 68% of sex workers stated that they face some form of violence as a result of their work. Most of them face verbal and physical violence and 20% of the respondents in the research reported sexual violence. Those sex workers who reported violence, 87% of the cases were perpetrated by someone posing as a client, while 43% were perpetrated by police officer. Almost 30% of sex workers that faced violence reported that the violence was perpetrated by a member of their family.
18. The legal framework that sanctions sex workers is frequently (mis)used by the police through frequent raids; unlawful detention in police stations; insults, degrading treatment; extortion of sex services from sex workers; or taking the money sex workers earned "for letting them go without sanction", as sex workers reported in the latest research among the community. Some of the respondents explained: *"When police finds me on my working place they bring me to the police station and mistreat me"....., "The police asks for money (to safeguard us who work on the street), otherwise they threaten the clients that will take the money for exchange of not reporting them"....., "I'm under stress that the police will punish me and put me to jail."*²¹
19. In addition to this, the current legal framework is used by the court to justify the violence against sex workers by state officials during the police raid in 2008 (see more in paragraph 43).
20. Based on research among sex workers (2015), more than 30% of sex workers in Macedonia face domestic violence.²² Being a victim of domestic violence is one of the most frequent reasons for sex workers to undertake legal action, but as a result of the inert system, legal action ceases at the level of submitting a police report.²³ The Law on Prevention, Elimination

¹⁹ Law on Free Legal Aid. Consolidated text dated 12 July 2012.

²⁰ Report on implementation of the Law on Free Legal Aid in 2016-2017. Foundation Open Society –Macedonia (FOSM), 2017.

²¹ Natasha Boshkova, Hajdi Shterjova Simonovikj. Analysis of the attitude of the sex workers on the needs to change the legal framework on sex work in Macedonia, 2015. Available at: www.hops.org.mk

²² Ibid.

²³ Ivica Cekovski, Vanja Dimitrievski. Legal needs and access to justice of people who use drugs and sex workers in Macedonia, 2017.

and Protection of Domestic Violence does not provide a specific provision that addresses violence against sex workers.²⁴ Based on the National Strategy for Prevention and Protection Against Domestic Violence 2012-2015, a new institutional and legal framework was established for tackling all forms of domestic violence and all categories of women, with specific focus on women with multiple vulnerabilities.²⁵ Despite this, women sex workers, transgender women, and women who use drugs are not recognized as a priority group for specific provisions and interventions. On the other hand, research demonstrates intersectional discrimination against sex workers and the impossibility to enjoy their rights as a result of their specific status in society and exposure to violence.²⁶ In a 2012 study on gender found instances of violence and discrimination in urban public spaces in the City of Skopje, sex workers were the only group of women that had experienced hate crimes. These hate crimes were due to their involvement in sex work.²⁷

21. The Draft Action Plan for Implementation of the Convention on Preventing and Combating Violence Against Women and Domestic Violence provides repealing penalization of solicitation of sex work. The action plan also obliges the state to establish services for victims of gender-based violence that will address the specific needs of vulnerable people including sex workers, lesbians, bisexual women and transgender people.

Article 5- Sex role stereotyping and prejudice

22. The promotion of regressive traditional models for division of roles and family values through interventions, laws and policies, as well as a large number of media campaigns supported by significant funding from the state budget, affects the perception of women.^{28,29} A recent analysis conducted by the Broadcasting Council shows significant absence of gender sensitivity in the program concepts and the content of the broadcasters.³⁰

²⁴ Official Gazette of the Republic of Macedonia no. 138/2014. Law on Prevention, Elimination and Prevention of Domestic Violence.

²⁵ Government of the Republic of Macedonia. National Strategy for Prevention and Protection of Domestic Violence 2012-2015.

²⁶ Natasha Boshkova, Hajdi Shterjova Simonovikj. Analysis of the attitude of the sex workers on the needs to change the legal framework on sex work in Macedonia, 2015. Available at: www.hops.org.mk

²⁷ 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>.

²⁸ Association for Emancipation Solidarity and Equality. Shadow report on the implementation of the Convention of Elimination of all forms of discrimination against women, 2012. <http://www.esem.org.mk/pdf/Publikacii/Republic%20of%20Macedonia%20-%20Shadow%20Report%20on%20CEDAW.pdf>.

²⁹ Generally, government officials in the period of 2006-2017 publicly promoted gender stereotypes portraying women in their reproductive role. The former prime minister publicly criticized women's emancipation, stating that "We live at a time when it's not just a great rarity to have a second child in the family, let alone a third or fourth, but on the contrary we have debates about warped values, [...] about some women's rights, then about men, who is more represented out of the two in politics or in business, and all along while we are wasting energy on such topics we are running out of people as a state." Speech for marking the national holiday of the Macedonian Revolutionary Struggle on 23 October, 2012 "Gruevski: *VMRO is a historically recognizable code of the Macedonian people*," available at: <http://vlada.mk/node/4747>.

³⁰ Broadcasting Council, Gender and TV programs, Report on the gender analysis of representation of women and men in the program concepts and the content of the media.

Institute for Social Sciences and Humanities Skopje. Gender in television programs: Report from the research of gender issues and representation of women and men in the programme of broadcasters, 2013. <http://isshs.edu.mk/documents/-----2013.pdf>.

23. The previous period was also marked as a time when the highest state officials and media close to the government fueled homophobia and transphobia and incited group attacks and individual incidents against LGBT people and activists.³¹
24. Media also fuels the stigma against sex workers by publishing harassing articles which label sex workers as immoral, carriers of diseases, promoters of debauchery.³² In December 2015, a national TV station broadcasted a show on the Prostitution in Macedonia where sex workers were presented as immoral women who are too lazy to work other decent jobs. The show contained videos of women who offer sex services without their faces or voices blurred and that the public could recognize.
25. The stigma and prejudice against people living with HIV exacerbates the situation of women, including those who are working in the sex industry. A needs assessment of people living with HIV in Macedonia conducted in 2014³³ shows that people living with HIV are subject to gossip, insults, mobbing, threats, sexual rejection and stigmatization. In research on common societal stereotypes of women living with HIV, a woman living with HIV, aged 39, from Skopje stated: *“This disease is very difficult and you cannot tell because everyone thinks of the worse, they think that this disease is a consequence of prostitution.... The conclusion is that you should remain silent, because anyway they cannot understand you. It is for the best that I do not tell (to anyone), although I have the need to talk and to be understood by someone.”*
26. The stigma against people living with HIV was one of the main driving forces of the Ministry of Interior in 2008 to detain and test the sex workers without proper court order.

Article 10 – Education

27. The state has failed to ensure protection against discrimination in terms of access to education for sex workers at all levels of education. The Law on Higher Education prohibits discrimination only on limited ground, excluding sexual orientation, marginalized groups, health status and other grounds relevant for marginalized women. The new Comprehensive Strategy on Education 2016-2020 fails to recognize discrimination, bullying and violence as problems that need to be addressed in the respective period, although there is a rising problem of homophobic and transphobic bullying in schools.
28. A study on health behavior in school-aged children in Macedonia from 2014 confirms that the experience of isolation, segregation, exclusion and violence of this young group of people leads to a number of health disorders. Homosexual or bisexual students are more frequently

³¹ Human Right Committee, Concluding observations on the third periodic report of the former Yugoslav Republic of Macedonia CCPR/C/MKD/CO/3, August 2015. Annual report for 2014, Coalition Sexual and Health Rights of Marginalized Communities, 2015. Available on: http://coalition.org.mk/publikacii_cat/izveshtai/.

³² The Fight for Sex Workers’ Rights in Macedonia: *Sex Workers and NGO Response to the Police Forces’ “Coordinated Action to Fight Street Prostitution”* HOPS, 2015.

³³ Research of the need of the people living with HIV in Macedonia 2014 – informative card for decision-makers and activists, Association of people living with HIV – Stronger Together Skopje, H.E.R.A. – Association for health education and research – Skopje, Skopje, 2014

victims of bullying in schools and victims of mental and physical violence in their homes in comparison to their heterosexual peers.³⁴ Transgender women sex workers report that they dropped out of school as a result of the unbearable bullying in the school because of their gender identity.³⁵

29. The stigma against sex workers, people who use drugs and people living with HIV is perpetuated by the textbooks with outdated, non-scientific information and with homophobic and transphobic content. Textbooks used in high school and university contain propaganda, insults and information that promote criminalization of people who use drugs.³⁶ The authors of a textbook use terminology that is a source of additional stigmatization, such as: “Plague of the XX-th century”, “sick from AIDS” (for people living with HIV), “risk groups”, “carriers of the virus” etc. There is a lack of basic relevant information about HIV and drug use in the textbooks for medical students. Antiretroviral therapy is not even mentioned in most of the textbooks when elaborating on HIV.³⁷

Article 12 – Right to health

30. The HIV prevention services for sex workers implemented since 2000 have good documented results. According to a 2014³⁸ survey among sex workers the estimated HIV prevalence among female sex workers is 0%; however, this population is vulnerable to HIV and other infections, which the estimated prevalence of syphilis of 2,9%, and of Hepatitis B of 5,7% is indicative of. In addition, 39% of sex workers had STI symptoms in the past 12 months; 56.2% had an abortion; 18,7% had never visited a gynecologist or dermatologist; and only 5.7% have used other contraceptives besides condoms. This data points to the need for scaling up the services for SRH and prevention of other STI.
31. Generally, women in Macedonia face challenges related to their sexual and reproductive health. Access to and availability of modern methods of contraception in Macedonia is very limited.³⁹ In 2011, the Government of the Republic of Macedonia adopted the National Strategy for Sexual and Reproductive Health 2010-2020, but it has not acted on the action plans or allocated money for its implementation.
32. More than 30% of sex workers who are in contact with NGOs reported that they did not use gynaecological services before their contact with the NGO and 71% of them have limited

³⁴ Kjostarova-Unkovska Lina. How equal and safe are the young people in Macedonia in their sexual development and sexual experiences?, 2016.

³⁵ Focus group discussion with trans women sex workers in August 2018 in Skopje.

³⁶ Coalition Sexual and Health Rights of Marginalized Communities. Drug use and living with HIV in the education, 2015.

³⁷ *Idem*.

³⁸ Mikic V, Arnikov A, Kuzmanovska G, Naumova S,. Report on the bio-behavioral survey with the male and female sex workers in Macedonia : 2014. Skopje: Ministry of Health, 2015.

³⁹ UNECE, *Regional Report ICPD Beyond 2014: The UNECE Region's Perspective*, 2013.

available at: http://www.unece.org/fileadmin/DAM/pau/icpd/Conference/Other_documents/Report_ICPD_beyond_2014.pdf. The Third Report of the Republic of Macedonia (Paragraph 9) contains information from 2009 which shows that only 9.8% of women in the country use modern methods of contraception. Even though the most recent Multiple Indicator Cluster Survey (2013) conducted by UNICEF shows improvement, the usage rate of any type of modern method of contraception in women between 15 to 49 years of age is still low at just 12.8%.

information on HIV transmission.⁴⁰ More than half of the sex workers have had at least one abortion.⁴¹

33. Most HIV/STI services for sex workers are provided by NGOs. The Macedonian Government took over funding for HIV programming from GFTAM in January 2018. Based on past spending on NGO-led prevention activities for sex workers and people who use drugs, the Macedonian Government was supposed to allocate 103 million MKD for these activities in 2018. The actual budget is 95 million MKD, which is 8 million MKD less.⁴² The decrease in finances allocated to NGOs that support sex workers and people who use drugs affects their rights, since legal services, free gynaecological services and information related to sexual and reproductive rights are no longer covered. Since 2018, legal aid services for sex workers are significantly reduced and NGOs are covering these reduced activities with funding from other donors. The budget for the next year is in a planning phase and the prospects are that it will be approximately the same as in 2018.
34. During the November 2008 raid,⁴³ sex workers were deprived of medical help while suffering withdrawal, including high blood pressure and epileptic seizure. Request for medical attention was denied on the grounds that they were allegedly “faking it.”⁴⁴ The women sex workers were placed in these conditions due to their intersecting realities of being women and being sex workers. Therefore, their access to healthcare under Article 12 was denied on the basis of their being women and sex workers. The procedure for protection of their rights is still pending.
35. A field where women living with HIV experience violation of rights and discrimination the most is definitely the healthcare system. A woman living with HIV, aged 37, from Skopje stated: *“Because of my HIV status I cannot obtain healthcare services normally, as the other people.”* A woman living with HIV, aged 21, stated: *“The problem with my doctor arose after I was diagnosed with HIV. When I disclosed my status to her, she wrote that in my health book with capital letters and everyone could see that, even in the pharmacy.”*
36. When HIV-positive status is disclosed, access to health services is often denied. Health workers still lack appropriate education on HIV and fail to follow good practices when handling patients living with HIV. NGOs working in this field are trying to organize special services for these patients (for example, free gynecological services for women offered by NGO H.E.R.A.) or find doctors who are willing to cooperate and accept patients living with HIV. However, aside from the efforts of the NGOs, the state needs urgently to organize training for all type of healthcare workers in order to ensure that people living with HIV will not be deprived of their right to health by the healthcare institutions.

⁴⁰ Mikikj V., Arnikov A. and Kuzmanovska G. Report from the bio-behavioral research of the sex workers in Macedonia, 2014.

⁴¹ *Idem.*

⁴² Budget of the Republic of Macedonia for 2018. <http://www.finance.gov.mk/mk/node/4105>.

⁴³ See more in the Information for the consideration to the Committee on the Elimination of Discrimination against Women in its adoption of a list of issues regarding the Sixth Periodical Report of the Republic of Macedonia under the Convention on Elimination of All Forms of Discrimination against Women 71 Pre-Sessional Working Group, 12-16 March, 2018 submitted by Coalition Margins, HOPS and STAR.

⁴⁴ Zarko Trajanoski, Marija Tosheva and others. The Fight for Sex Workers’ Rights in Macedonia: Sex Workers and NGO Response to the Police Forces Coordinated Action to Fight Street Prostitution, HOPS 2015.

37. Regarding reproductive rights, following a disturbing campaign against abortion, the Law on Termination of Pregnancy was adopted in an accelerated procedure, without consulting experts and without any public debate⁴⁵. Thus far, the number of abortions in the country has been in a permanent decrease. The abortion rate in Macedonia in 2000 was 38.9 per 100 live births⁴⁶, while in 2012 the rate was reduced to 23⁴⁷. The Amendments to the Law on Termination of Pregnancy, which came into effect on 25th June 2013,⁴⁸ introduced the following additional restrictive provisions: 1) Mandatory filing of a written request for the termination of unwanted pregnancy by the woman to the appropriate health institution; 2) Mandatory counselling about the potential advantages of continuing the pregnancy, as well as about the health risks for the woman of undergoing an abortion; 3) Mandatory waiting period of three days after counselling before medical intervention is conducted to terminate the pregnancy.
38. Two months after the Law came into effect, there were two documented cases indicating the negative impact of the Law on the life and health of women when two women were left to wait three days with a dead foetus because the doctors were afraid to perform the abortion before the expiration of three day after the counselling.⁴⁹ Both of these women were sex workers who used services offered by NGO HOPS and were accompanied in the hospital by a social worker from the NGO.⁵⁰

Article 15- Equality before the law

39. Women sex workers in Macedonia are constantly denied access to justice. When they try to report acts of violence against them to the police, they are dismissed and ridiculed. This is a consequence of the fact that these women are seen as sexually deviant because of their occupation; therefore their valid complaints of violence perpetrated against them are ignored. They are ignored by state officials such as the police and the courts because they are seen to be deserving of this type of treatment. They are denied access to justice at all levels, even the courts are unwilling to hold perpetrators accountable, whether state or non-state ones.
40. Sex workers who were raped and reported the case to the police were discouraged to proceed with the case because of harassment and degrading treatment from the police. A sex worker reported to HOPS: *"When I went to the police to report rape I was told: Hm a nun came to report rape!"*... In research from 2015, sex workers reported: *"The clients don't pay and they beat me and I don't have anyone to report to...the police do not take anything.... The police*

⁴⁵ Article in the daily newspaper Nova Macedonia *"Women offended by the new abortion law: free choice with a mandatory request"*, 30.05.2013

⁴⁶ Ministry of Health of Republic of Macedonia, *National Strategy for Sexual and Reproductive Health 2010-2020* (2009).

⁴⁷ State Statistical Office of the Republic of Macedonia, *Men and Women in the Republic of Macedonia* (2014). available at: <http://www.stat.gov.mk/Publikacii/Gender2014.pdf>

⁴⁸ Ministry of Health, *Law on Termination of Pregnancy* (as published in the Official Gazette of the Republic of Macedonia, no. 87/2013) available at: http://hera.org.mk/wp-content/uploads/2014/06/pregnancy_termination_bill.pdf

⁴⁹ H.E.R.A.-The Health Education and Research Association and others. Updated information for the consideration to the Human Rights Committee regarding the review of the Third Periodical Report of the Republic of Macedonia under the International Covenant on Civil and Political Rights, 114th Session, 29 June - 24 July, 2014

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=899&Lang=en.

⁵⁰ www.hops.org.mk

abuse me instead of helping me... "...Sex workers conclude: "the clients call us bad names and the police puts the wind up us..."

41. This discrimination is also evident in the ways they are treated in the court system. The testing of the women sex workers for sexually transmitted diseases, without their consent, was court ordered (see par. 10).
42. The court procedure on violations from the police raid in 2008 are still pending and the sex workers have not received redress.
43. The Appellate Court Skopje in 2015 delivered a decision quashing the initial judgement in the sex workers' case against the Ministry of Interior and the Criminal Court by stating that: *"... In the specific case, the first instance court indisputably established that the plaintiffs offered sexual services, confirmed by their statements as well, whereupon it should be considered that offering sexual services is against the law and an offence according to Macedonian legislation, and this offence always leads to the danger of spreading sexually transmitted diseases, a sufficient reason established by law to undertake actions on the part of the defendants. Namely, the plaintiffs were detained by the police and were brought to an investigative judge who issued an order for medical examinations, upon which it was concluded that they carry the virus Hepatitis C – a sexually transmitted disease....."*

*.....It is pertinent to the case that the defendants acted within their legal authorizations and that no irregularities or any overstepping of authorizations was determined, leading to the conclusion that there is no guilt on their part, therefore there are no legal grounds for the plaintiffs' lawsuit. **The plaintiffs in this case were detained in order to gather evidence to establish whether a criminal offence had been committed**, which, on the other hand, is determined pursuant the Law on Criminal Procedure, which prescribes the manner and procedure for gathering evidence in case of reasonable suspicion that an offence has been committed and which is prosecuted *ex officio*."⁵¹*

44. Transgender sex workers do not have equal and effective protection against discrimination before the law. The absence of specific provisions that prohibit discrimination or violence (crimes) based on gender identity prevents transgender people from asserting their rights in court. There is no court case on protection against discrimination based on gender identity, although in practice there are frequent situation when transgender people are exposed to discrimination, harassment or violence, even by the court.
45. In 2016 two transgender women sex workers claimed protection of their right to private life against a national TV station and the editor that publicly released their data. Meanwhile, one of the plaintiffs started the process of legal gender recognition and changed her name to a typically female name. When a copy of the official certificate with the changed name was presented in court, the judge and the defendants started to laugh. Beside the laughter, there were inappropriate comments by the defendant and his representatives such as: *"whether the plaintiff has gone to gender reassignment surgery; whether she is male or female; it is irony*

⁵¹ Judgment of the Appellate Court Skopje GZ- 1582/16 from 28.11.2016.

how the plaintiff complains violation of personal data and s/he changes the data during the process; the decision of the Ministry of Interior is a complete idiocy” etc.

46. These cases highlight that sex workers cannot utilize the laws and legal remedies available against discrimination in the rare cases when they choose to pursue court cases. Most sex workers are discouraged to use formal or informal mechanisms for protection of their rights.

Recommendations:

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

1. The State party should introduce legislation to repeal penalization of soliciting for sex work.
2. The State party should 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.
3. The State party should revise the provision from the Criminal Code on *intentional transmission of infectious disease* and prevent the possibility the provision to be arbitrarily used against the sex workers.
4. The State party should introduce intersecting discrimination as aggravating form of discrimination in the Law on Prevention and Protection against Discrimination and Law on Equal Opportunities of Women and Men in order to ensure substantial protection from discrimination of marginalized women.
5. The State party should improve the access to sexual and reproductive health services for sex workers.
6. The State party should improve sex workers' access to justice by continuing the financing of the legal services for sex workers.
7. The State party should ensure domestic violence services available to sex workers.
8. The State party should ensure sex workers can report violence and pursue cases against perpetrators without being victimized.
9. The State party should take all appropriate measures to prevent violation, humiliation and disenfranchisement of sex workers during police raids.