



Women's rights in the Former Yugoslav Republic of Macedonia

Briefing for the Human Rights Committee
from the Association for Emancipation, Solidarity and Equality of Women of
the Republic of Macedonia (ESE) in partnership with the World Organisation
Against Torture (OMCT)

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Issues of concern and suggested questions with regard to women's rights in Macedonia

Articles 2 and 3

- In Macedonia there is a considerable discrepancy between the laws on equality between men and women, and the actual practices, especially in rural areas.
- What measures has the State taken to ensure de facto equality between women and men?

In Macedonia, both the Constitution and the national laws guarantee complete equality between men and women. The fact that the law does not make any distinction between the legal capacity of men and women means that there are no legal limitations for women to own property, initiate court proceedings, obtain credits, etc. But, despite this, women are often excluded from economic, social and political events.

The life of women from rural areas is even more difficult than the lives of women in urban areas. Their exclusion from (or at the very least, unequal access to) decision-making structures, health services and economic opportunities all increase their likelihood of exposure to violence. There are additionally cultural and social barriers, especially among Romany women. The attitudes and beliefs that the women themselves have on violence, indeed worsens the situation. Namely, every second rural woman believes that it is important for her husband to demonstrate that he is the head of their family, every other woman also believes that no one can intervene in her private life, even in a case of violence, and every third woman believes that is her duty to make love with her husband even if she doesn't want to.

Article 7

- Even though some measures to combat domestic violence exist within civil and criminal legislation, they are infrequently used. What steps has the State taken to address this issue?
- It is believed that the lack of an appropriate definition for rape, combined with a lack of an appropriate system for witness protection, has contributed to a low-level of reporting and prosecuting this violent crime.

Omissions have been revealed in relation to the implementation of the harmonized existing legislation related to violence against women. Since the moment the Criminal Code and the Family Law in 2004 were passed, through to the present day, there have not been any protocols or procedures enacted for implementation of these laws. Relevant government institutions operate on an ad hoc basis with poorly coordinated solutions which have detrimental consequences for the victim, and in most cases for the victim's children. One of the weakest aspects of implementation is the enforcement of civil protection orders, prescribed in the Family Code. With regard to violence against women and sexual violence, i.e. rape, the situation is particularly disheartening.

According to the data obtained through ongoing research regarding the extent and types of domestic violence (2006), the rate of reporting is 10%. However, this is not the realistic account of the prevalence given that a small number of victims reporting this type of violence have not suffered physical violence. Physical violence stands at 17.7%. Rape is punishable and prosecuted ex officio. The low reporting rate is due to the embarrassment of victims and failure of official recognition of this type of violence, in particular in cases of rape within marriage.

Another obstacle in terms of efficient implementation of laws to prevent violence against women, is the way in which it is defined. To acknowledge that rape has taken place, currently the woman-victim is required to show active and continued resistance other than when threatened. There are also problems with the process of the investigation and prosecution of these crimes, such as with the collection of evidence, prescription of mandatory forensic medicine examinations, lack of medicine protocols, lack of a set referral system for rape victims, among others.

Article 8

- It has been reported that human trafficking is a persistent problem in Macedonia, please provide statistics on its prevalence and address how existing measures are being implemented to help stop it.
- Have the measures already in place to fight trafficking and support victims been effective thus far? Please provide examples of both their successes and shortcomings.

While NGOs and the international community report that numbers for trafficking victims are increasing, the lack of a central database and accurate state statistics makes this difficult to know for sure.¹ The statistics should be broken down to reflect the prevalence of trafficking and characteristics of the victims. Reports indicate that 20% of victims are minor girls, but again, lack of reliable information makes this difficult to ascertain.² As with the prosecution of domestic violence, the process for reporting the crimes and prosecuting the traffickers is cumbersome and long with many procedural hurdles. Even if a victim does manage to navigate the difficult burdens of proof and overcome the lack of due process often present, the ultimate sentences are usually quite light.³ Further, victim assistance is insufficient with inadequate funding and requirements tied to shelters (usually with immigration consequences) make victims unable or unwilling to access help.⁴

Article 10

¹ US State Department Report 2006 <http://www.state.gov/g/drl/rls/hrrpt/2006/78826.htm>

² See id.

³ US State Department Report 2006 <http://www.state.gov/g/drl/rls/hrrpt/2006/78826.htm>; See also, CEDAW Concluding observations [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/f3b95778cc6b5f85c1257289004ba19d/\\$FILE/N0623824.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/f3b95778cc6b5f85c1257289004ba19d/$FILE/N0623824.pdf) pg 2; Helsinki Committee for Human Rights Annual Report 2005 http://www.mhc.org.mk/eng/a_izveshtai/a_2005gi.htm#IV5

⁴ Helsinki Committee for Human Rights Annual Report 2005 http://www.mhc.org.mk/eng/a_izveshtai/a_2005gi.htm#IV5; See also, US State Department Report 2006 <http://www.state.gov/g/drl/rls/hrrpt/2006/78826.htm>

- Please provide information regarding the treatment of women while in detention and in police custody.

Article 23

- There is a persistent presence of a traditional model in the division of roles in the family, where the man is expected to be the bread winner and the woman must raise the children.
- There is no provision in the civil law to forbid contractual marriage or marriage entered into for the purpose of ensuring economic safety, as well as measures leading to eradication of contractual marriages among the Romany and Albanian population.
- There is a need to introduce measures to eliminate the existing frequent practice of leaving the estate to the male heirs, in spite of the fact that under the inheritance law both male and female siblings are equally entitled to this right.

There is a patriarchal matrix in the family relations in Macedonia. In rural areas especially, there are few exceptions to this model. The role of the mother is dominant in the raising and development of children. In raising girls, there is a rule that they should be 'calmer than boys, servile, quiet, and always nice.'

According to domestic law, women can exercise their right to decline the proposal to enter into marriage. However, members of the Romany and Albanian population often enter into arranged marriages where the parent-father has the main say. So indeed, although legally men and women enjoy equal rights, the factual situation, is often quite different.

Property, i.e. real estate is usually registered under the name of men. An important fact which should be stressed is that even though legally men and women have equal rights in terms of property ownership, this equality is rarely practiced. Women are also often placed in an inferior position when it comes to making financial decisions. The reasons for these situations can be found in traditions, customs, and in certain objective circumstances.

Article 25

- There is a visible presence of the family and proxy voting where male members of the family will vote on behalf of the female members.
- There is a need to undertake activities aimed at eliminating the negative attitude towards women who are engaged in politics harbored by the majority of population; and to provide for provisions which ensure proportionate representation of women in the Government of Macedonia at an international level.

Women mainly exercise their right to vote. However, among voters in the Albanian ethnic community, especially in the rural areas, there continues to be an issue with family, or proxy voting. Further, within the Roma ethnic community, some women notably abstain from exercising the right to vote.

The following may be identified as obstacles, preventing women from exercising their right to vote: tradition, poor economic conditions of certain women and low levels of education. There are communities that look negatively at participation of women in the political life.

There is a very small number of women at positions that include representing the Government at an international level, as there is a small number of women in international organizations and diplomacy. The Law on Foreign Affairs, (article 36) emphasizes that when the nomination of the candidates for Ambassadors occurs, special attention would be paid to the equitable representation of non-majority communities and on the equal opportunities, thus failing to establish clear terms how this proportion would be done.

Article 26

- Macedonian legislation does not adequately address gender discrimination specifically, instead bundling it, with all other forms of discrimination. The same holds true for harassment (“annoyance”) and sexual harassment (“gender related annoyance”).
- There is also a lack of instruments and mechanisms to ensure full implementation of the principle of non-discrimination.

The Labor Relations Act covers all forms of discrimination, including discrimination on the grounds of sex, within one single provision. All further provisions vis-à-vis separate forms of discrimination do not explicitly state whether they are perpetrated on the grounds of sex, but on all grounds in general. Hence, definitions of annoyance (i.e. harassment) as well as gender-related annoyance (i.e. sexual harassment) do not refer to grounds such as gender. The prohibition of discrimination (direct and indirect) i.e. the principle of equal opportunities and equal treatment became operational for the first time with the new Labor code enacted in 2005.

It is worth mentioning that the Law on equal opportunities, adopted in 2006, defines discrimination in the same way as it is defined in the Labor code as the Law on social protection, without defining available mechanisms and bodies. Apart from these laws, a draft Anti-discrimination Law is also in the process of preparation, specifying separate types of discrimination including gender-based discrimination. This draft law however, stipulates additional instruments for protection from discrimination. The interaction of the above-mentioned laws remains unclear, and it is thus difficult to ascertain which of these laws will be most useful for efficient protection of gender-based discrimination.