

Franet National contribution to the Fundamental Rights Report 2020

North Macedonia

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Franet country study: policy and legal highlights 2019

Issues in the fundamental rights institutional landscape	<p>New comprehensive law on equality and non-discrimination adopted: On 16 May 2019, the Parliament adopted a new Law on Prevention and Protection against Discrimination. The new law brings the national law in line with the EU <i>acquis</i>.</p> <p>New equality body still not established: A new equality body in line with the Law on Prevention and Protection against Discrimination, is yet to be established.</p>
EU Charter of Fundamental Rights	No important developments in 2019.
Equality and non-discrimination	New legislation on free legal aid removes obstacles in discrimination cases: The new Law on Free Legal Aid broadened the material and personal scope of eligibility for free legal aid, opening space for aid in discrimination cases too.
Racism, xenophobia & Roma integration	Criminal Code amendments on hate crime enter into force: The amendments to the Criminal Code , adopted in December 2018 as part of the transposition of the Framework Decision on Racism and Xenophobia, entered into force in January 2019.
Asylum & migration	New Law on Foreigners enters into force: In 2019, the implementation of the new Law on Foreigners started. The Law addresses the inconsistencies found in the previous legislation, especially in regards to accommodation of unaccompanied minors and return conditions and procedures.
Data protection and digital society	Legal commentary on draft legislation on personal data protection published: The Directorate for Personal Data Protection issued a detailed legal Commentary for the draft law on personal data protection with the purpose of ensuring the conformity of the national legislation with the GDPR.
Rights of the child	Working group for amending the Law on Justice for Children established: In August 2019, the Ministry of Justice initiated the process for amending the Law on Justice for Children. The working group, among other assignments will identify provisions where, due to successful transposition of Directive 2016/800 on procedural safeguards for children, changes are necessary.
Access to justice, including victims of crime	Criminal code amendments incorporating non-punishment principle entered into force: In January 2019 amendments to the Criminal Code entered into force, introducing two new criminal acts: the first regarding “Obstruction of justice” and the second one on “Revealing of the identity of a vulnerable witness or protected witness, collaborator of justice or a victim in the capacity of a witness”.
Convention on the Rights of Persons with Disability	New legislation promotes inclusion in primary education: The new Law on Primary Education adopted in July 2019 highlights the concept of inclusiveness for all students with and without disabilities. The law incorporates disability as a ground of discrimination and thus ensures formal equality, but not inclusive one.

Chapter 1. Equality and non-discrimination

1. Legal and policy developments in 2019 relevant to combating discrimination based on gender identity, religion or belief, disability, age or sexual orientation

There were two main legal developments in 2019 in North Macedonia. The first one is the adoption of a new Law on Prevention and Protection against Discrimination and the second is the adoption of a new Law on Free Legal Aid.

Adoption and entry into force of a new Law on Prevention and Protection against Discrimination

Following a period of impasse, the Assembly of the Republic of North Macedonia (hereinafter the Parliament) adopted the new Law on Prevention and Protection against Discrimination (Anti-discrimination Act, ADA).¹ The ADA was drafted in an almost two-year working process, with the inclusion of civil society organisations (CSOs) that work on provision of free legal aid in cases of discrimination and following several public consultations. However, it was kept off the Parliament's agenda for several months because some MPs objected to the inclusion of sexual orientation and gender identity in the article on the protected grounds. Following protests by CSOs and pressure from international representatives in the country (including those of the EU),² the text was finally adopted on 16 May 2019 and entered into force on 22 May 2019. This law replaced the old law, also titled Law on Prevention and Protection against Discrimination (adopted and in force since 2010).

The ADA brought improvements in relation to many aspects. First, it enlarged the personal scope of the law by including sexual orientation and gender identity among the protected grounds, expanding the scope of disability,³ and expanding the open-ended character of the provision.⁴ Second, the ADA defines more clearly the material scope of the protection by removing the long list of exceptions from discrimination that were included in the old law (Articles 13-15).⁵ In Article 7, titled 'Measures and actions which are not discrimination', the ADA defines affirmative action, genuine occupational requirement and different treatment of Macedonian citizens compared to non-citizens. Third, the formulations of the forms of discrimination are in line with the EU acquis, and go beyond the requirements set in the directives. Namely, the national law now has a definition of direct discrimination which fully replicates the one from the EU equality directives, and it prohibits and defines segregation, assumed discrimination, discrimination by association, and intersectional discrimination.⁶ For those forms which are included in the EU directives, the definitions are fully in line with these. For segregation and intersectional discrimination, the definitions were taken and adjusted from those proposed by the European Commission against Racism and Intolerance. The fourth improvement brought by the ADA is in relation to the equality body. The old body – the Commission for Protection against Discrimination (CPAD) has been replaced with a new body – the Commission for Prevention

¹ Law on Prevention and Protection against Discrimination (Закон за спречување и заштита од дискриминација), *Official Gazette of the Republic of North Macedonia*, (Службен весник на Република Северна Македонија) No. 101, 22 May 2019

² Kotevska, B. (2019), 'The proposed new law on anti-discrimination blocked in Parliament', European Equality Law Network. <https://www.equalitylaw.eu/downloads/4814-fyr-macedonia-the-proposed-new-law-on-anti-discrimination-blocked-in-parliament-pdf-134-kb>

³ The old law included 'mental and physical disability' among the protected grounds (Article 3), whereas this one includes 'disability' only (Article 5), thus opening space for including all kinds of disabilities, and not just mental and physical ones. In addition, the new ADA included a definition of a person with disability in Article 4 (1-3), which is 'a person having a long-term physical, intellectual, mental or sensory impairment, which in interaction with various social barriers may prevent the person's full and effective participation in society on an equal basis with others'.

⁴ In the old law, Article 3 'Discrimination Grounds' ended in 'any ground arising from another national law or ratified international treaty', whereas in the new law Article 5 'Discrimination Grounds' ends in 'any other ground'.

⁵ For criticism on the long list of exceptions, see: Kotevska, B. (2018), 'Country Report on Measures to Combat Discrimination – Macedonia 2018', Brussels, European Network of Legal Experts in Gender and Non-discrimination.

⁶ The old law outlawed 'multiple discrimination' but not 'intersectional discrimination specifically'.

and Protection against Discrimination (CPPD) which will be composed of members who will be full-time appointees, selected following a public call with stricter criteria in terms of experience and education, who will have administrative support staff and who may be dismissed, also under a clearly defined set of criteria.⁷ The fifth improvement is in relation to processing discrimination cases: explicitly including and defining situation testing as a method for proving discrimination, shifting the burden of proof in line with the EU standards,⁸ explicitly allowing for *actio popularis*, and lifting court fees for discrimination cases. The sixth and final improvement is that in Article 51 the ADA explicitly prescribes that ‘all laws containing anti-discrimination provisions need to be brought in line with the new ADL within two years of the day the law enters into force’. This was particularly important because there was a serious issue with the lack of internal harmonisation of the national legislation framework of equality and non-discrimination provisions in various laws with the old ADA.

However, some points of concern remain. The biggest one is in relation to the sanctions. It remains questionable whether the sanctions stand up to the standard of being dissuasive, effective and proportionate. While the ADA improves this, in terms of diversifying, increasing and clarifying attribution of responsibility, this issue will remain open until an overarching reform of the misdemeanours in the country is implemented.

Finally, the transitory provisions of the ADA provided that the mandate of the commissioners from the old equality body ends within a maximum of three months of entry into force of the law or immediately upon selection of the new commissioners (whichever comes first). This has resulted in the situation that the country has now been, effectively, without a functioning equality body since 23 August 2019. Namely, on this date the mandate of the old commissioners ended, so they stopped working. But the procedure under the public call for selection of new commissioners, published on 11 June 2019, has still not been completed.

Adoption and entry into force of a new Law on Free Legal Aid

The Parliament adopted a new Law on Free Legal Aid (FLAA).⁹ With prominent organisations that had years of experience in providing free legal aid, the process of adoption of the law was regarded as very participatory by all sides. The FLAA entered into force on 22 May 2019. The implementation will start in October 2019. The preparatory works show that the law was adopted as part of the transposition of the Council Directive 2002/8/EC on improving access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

There are two main novelties in this law which are of direct interest for equality and non-discrimination, and both are in relation to enlarging the scope of protection in comparison to the old Law on Free Legal Aid from 2009.¹⁰ The first novelty enlarges the material scope of application of the law, from a strictly set list of legal disputes to application ‘in any legal field’. The second novelty enlarges the personal scope of protection by expanding it to any person, regardless of citizenship, which was, again, not the

⁷ Under the old law, any person with five years of working experience and with any education falling within the social and humanistic sciences could be appointed a Commissioner. The Commissioners were not engaged full-time. The old law strictly removed the possibility for the CPAD to have an administrative support unit. Consequently the equality body was basically functioning with the help of volunteers. There were no clear criteria under the law as to how the commissioners could be dismissed.

⁸ For issues with the way the shifting of the burden of proof was defined under the old law, see: Kotevska B. (2018), ‘Country Report on Measures to Combat Discrimination – Macedonia 2018’, Brussels, European Network of Legal Experts in Gender and Non-discrimination.

⁹ Law on Free Legal Aid (Закон за бесплатна правна помош), *Official Gazette of the Republic of North Macedonia* (Службен весник на Република Северна Македонија), No.101/2019 (22.05.2019).

¹⁰ Law on Free Legal Aid (Закон за бесплатна правна помош), *Official Gazette of the Republic of Macedonia* (Службен весник на Република Северна Македонија), Nos. 161/2009, 185/2011, 27/2014, 104/2015 (30.12.2009).

case thus far, as free legal aid was available largely, though not only, to persons seeking humanitarian protection. In addition, the fact that the criteria for qualifying for free legal aid have been set lower, means that it should become available to more persons – from persons not owning a house/flat, a piece of land or a car, to persons whose income does not exceed the national minimum wage.¹¹

2. Research findings, studies or surveys on either experiences of discrimination or rights awareness

The Network against Discrimination (*Мрежа против дискриминација*) published a report on the functioning of the equality body for the entire period since it was established

With the mandate of the old equality body – the CPAD ending, the Network against Discrimination (*Мрежа против дискриминација*) – a network of CSOs providing free legal aid in discrimination cases and campaigning for equality, published a **comprehensive report covering the entire period of the work of the equality body – from 2011 up to 2019**.¹² The study is mainly a qualitative analysis, with use of descriptive statistics. It uses both primary (including interviews with commissioners from both the first and the second composition of the CPAD) and secondary data (research and studies conducted thus far). The main weakness in the methodology is that it focuses only on analysis of cases which the members of the network have submitted to the CPAD themselves.

The study found¹³ lack of professional and competent acting of both compositions of the CPAD. This was further aggravated by CPAD's tainted independence, which was quite pronounced by biased decision making on grounds of political affiliation. The CPAD, the study found, tended to favour members and affiliates of the formerly ruling political party (which was in power while both compositions of the CPAD were appointed).

There is no established case law of the body, even in very similar cases.¹⁴ Between 2011 and 2019 the CPAD overstepped deadlines for the procedures established under law, on occasions even by several months, the study found. In addition, the CPAD did not practice its protection mandate fully, failing to open cases ex officio upon receiving information of discriminatory acts, or to react upon spread of discriminatory content via media. The body did not establish a follow up monitoring mechanism through which it could monitor and further act in order to insure implementation of its opinions and recommendations.¹⁵

Barometer of Equal Opportunities survey results published by the Organisation for Security and Cooperation in Europe – Mission to Skopje.

The Organisation for Security and Cooperation in Europe – Mission to Skopje published the 2019 Barometer of Equal Opportunities.¹⁶ This publication presents the findings from their latest survey, conducted in September 2018, and compares these findings to the 2009 survey findings and, where

¹¹ In April 2019, the minimum wage was 12.507 MKD (203 EUR).

¹² Jadrovski, I., Jovanovska Kanurkova, J. and Gelevska, M. (2019), *Report on the Implementation of the Law on Prevention and Protection against Discrimination* (Извештај за имплементација на Законот за спречување и заштита од дискриминација), Network for Protection against Discrimination (Мрежа за заштита од дискриминација), http://coalition.org.mk/wp-content/uploads/2019/07/Diskriminacija_web.pdf

¹³ The study also confirmed some findings already established in other older studies, such as that the appointed members often lack any knowledge and experience in equality and non-discrimination issues, that the commissioners are not engaged full-time in the CPAD, and some of them even had a history of hate speech and discriminatory speech, and very open political affiliation. The CPAD worked without basic resources – it had no administrative support, had a very small budget, no systematised and accessible database, and even no website in 2017 and 2018.

¹⁴ For example, such is the case regarding discriminatory texts on grounds of sexual orientation in mandatory textbooks for primary and secondary education.

¹⁵ Only one case of follow up has been registered.

¹⁶ Kimov Gj. and Kimova F. (2019). *Барометар за еднакви можности* (Equal Opportunities Barometar) (Skopje, OSCE – Mission to Skopje).

available, to the 2013 one. The 2009 and 2018 surveys are conducted following the same methodology and are also executed by the same poll agency – BRIMA. The representative sample in 2018 was N=1607 persons, with an error margin of ± 2.5 at 95% of confidence. It was a random, stratified sample. It follows the same categories used by Eurobarometer and adds to these political affiliation because of its importance in the local context.

The survey measured perceptions of and experiences with discrimination, and attitudes regarding equal opportunities in employment and the fight with discrimination, and rights awareness. It also looked at the impact of the social context in shaping discrimination perceptions and experiences.

The findings confirmed that discrimination on grounds of political affiliation is still the number one discrimination, both perceived and experienced. It is followed by ethnicity, also both for perception and experience. The last on the list is sexual orientation; while citizens recognise more often that discrimination on grounds of sexual orientation occurs, this does not translate into a change in attitudes. Namely, as the authors of the report note, while people are quite open to having neighbours from different ethnicities and political affiliations (the most dominant grounds of discrimination), they are still the least prepared to accept as a neighbour a person that is not a heterosexual.

Every third person has experienced discrimination and every fourth out of ten people has witnessed discrimination. The survey established a link between own experience and ability to recognise discrimination, with persons being able to recognise more the discrimination which they have personally experienced. The same goes for the ability to recognise multiple discrimination. In addition, the survey found that every fifth person has experienced multiple discrimination.

Political affiliation, age and ethnicity topped the list of grounds for discrimination in employment. With the exception of sexual orientation, the introduction of special measures in support of equality in employment is widely supported. Compared to the previous surveys, less people think that sufficient efforts are vested in the fight against discrimination; persons that have experienced discrimination think so even less.

The majority of the people stated that they do not know their rights in relation to protection against discrimination. Furthermore, a large majority pointed to the police as the first institution from which they would seek help, and did not recognise the NHRIs with equality mandate, the civil society organisations and the courts, as the relevant institutions and they would not approach these.¹⁷

Chapter 2. Racism, xenophobia and related intolerance

1. Legal, policy developments and measures relating to the application of the Racial Equality Directive

Adoption and entry into force of a new Law on Prevention and Protection against Discrimination

The most important development in 2019 in relation to the application of the Racial Equality Directive was the adoption of the new Law on Prevention and Protection against Discrimination. This law and the novelties that it brought were discussed in the previous chapter. It is worth mentioning here that, although the Law regulates equal treatment on grounds of racial or ethnic origin in the areas of employment, education, social protection, and access to and supply of goods and services (Article 3 of

¹⁷ Kimov Gj. and Kimova F. (2019). *Барометар за еднакви можности* (Equal Opportunities Barometar) (Skopje, OSCE – Mission to Skopje).

the Directive), the preparatory works for this law show that the Racial Equality directive was not cited in the transposition tables (the Framework Equality Directive, the Goods and Services Directive and the Recast Directive). The reasons behind this omission are not known. (*For more details on this law see Chapter 1*)

2. Legal, policy developments and measures relating to the application of the Framework Decision on Racism and Xenophobia

Entry into force of the hate crime Criminal Code amendments

The amendments to the Criminal Code introducing hate crime as a separate criminal charge entered into force on 8 January 2019. The preparatory work for the amendments shows that the changes were made in order to approximate the national law to that of the EU. These documents cite specifically the Framework Decision on Racism and Xenophobia: ‘Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia dated 28 November 2008 binds the EU Member States to undertake the necessary measures in order to secure that racist and xenophobic motivation of crimes will be considered as an aggravating factor or that such motivation will be taken into consideration when establishing the criminal penalties.’¹⁸ The preparatory works also cite the 2012/29 EU Directive, as well as OSCE (Council of Ministers No.9/09), CoE (the Istanbul Convention, the Recommendation CM/Rec(2010)/5) and UN documents (Article 2(1) of the ICCPR, Article 16(5) of the CRPD). It also cites a number of cases from the European Court for Human Rights (ECtHR).¹⁹

The first hate crime provisions were introduced in the Criminal Code in 2009, when committing crime because of hatred on grounds of ‘national or social origin, political or religious belief, property or social status, sex, race or colour of skin’ (Article 39(5)) was introduced as an aggravating circumstance. In 2014, the list of protected characteristics was expanded to include all grounds that were protected under the Law on Prevention and Protection against Discrimination (2010). So, Article 39(5) was amended: “When the court metes out the sentence, it shall especially consider whether the crime has been committed against a person or a group of persons or property, directly or indirectly, because of their sex, race, skin colour, class, belonging to a marginalised group, ethnic background, language, nationality, social background, religious belief, other types of beliefs, education, political affiliation, personal or social condition, mental or physical disability, age, family or marital status, property status, health condition, or any other ground foreseen by law or ratified in international agreement.”²⁰ However, the public prosecutors’ practice and judicial practice showed that these crimes were not processed. The issue was that the competent institutions did not have a clear ground to act. Consequently, as of December 2015, a working group started to look for an alternative regulation that would suit the national legal system and to draft the amendments of the Criminal Code which would upgrade the protection. The work of that working group, which also included CSO representatives that work on hate crime and hate speech, resulted in the December 2018 amendments, which entered into force this year.

¹⁸ Assembly of North Macedonia (Собрание на Северна Македонија) (2018), Draft-law Amending and Supplementing the Criminal Code (*Предлог - закон за изменување и дополнување на Кривичниот законик*), <https://www.sobranie.mk/downloaddocument.aspx?id=584483a7-9714-4de4-bf43-7dad73e9795f&t=pdf>

¹⁹ Assembly of North Macedonia (Собрание на Северна Македонија) (2018), Draft-law Amending and Supplementing the Criminal Code (*Предлог - закон за изменување и дополнување на Кривичниот законик*), <https://www.sobranie.mk/downloaddocument.aspx?id=584483a7-9714-4de4-bf43-7dad73e9795f&t=pdf>

²⁰ Criminal Code (Кривичен законик), *Official Gazette of the Republic of Macedonia*, Nos. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015, 226/2015, and 97/2017; Constitutional Court decisions U.no.220/2000, U.no.210/2001, U.no.206/2003, U.no.228/2005, and U.no.169/2016.

The Criminal Code now defines hate crimes as ‘the crime against a natural person or a legal entity and associated persons or property thereto, which is committed wholly or partially due to a real or assumed (imagined, assumptive) characteristic or association of the person in relation to race, skin colour, nationality, ethnic origin, religion or conviction, mental or bodily disability, sex, gender identity, sexual orientation and political conviction.’ (Article 122 (42)).²¹ This, and other amendments integrating this provision into other provisions (such as in the articles on murder, causing bodily harm, etc.), expanded the scope of protection from hate crimes.

²¹ Criminal Code (Кривичен законик), *Official Gazette of the Republic of Macedonia*, Nos. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015, 226/2015, 97/2017 and 248/2018; Constitutional Court decisions U.no.220/2000, U.no.210/2001, U.no.206/2003, U.no.228/2005, and U.no.169/2016.

Chapter 3. Roma integration

1. Measures and developments addressing Roma/Travellers segregation

Adoption and entry into force of the new Law on Primary Education

Segregation of Roma from regular school systems is still prevalent mainly due to (1) participation of Roma in special education and (2) inappropriate reorganization²² process where Roma children enrol and attend classes only in one school.²³ Both have been significantly targeted within the new **Law on Primary Education adopted in June 2019**²⁴ which for the first time introduced the following measures of relevance for the Roma community: educational mediators for students coming from vulnerable Roma families or children out of the educational system for a longer period to improve their access to information and schools i.e. sensitize teachers on their specific characteristics and needs; obligation for the primary school to include pupils from its area, while the parent or guardian may enrol the child in another primary school in the same or other area if he/she has the consent of the school where he/she enrolls the child, as well as of the school from the area in which he/she lives or resides; providing an educational assistant tasked with helping students with disabilities to master the curriculum and improve success, a personal assistant, appropriate professional learning support, inclusive team and assistive technology, as recommended by the expert assessment body and in accordance with the individual education plan.

Of particular importance for the reintegration of Roma returnees (including asylum seekers) are the provisions for assistance to children of citizens who have resided abroad with respect to learning their mother tongue and language of instruction. For the education of children not included in the curriculum at all, tailor-made curricula would be developed to enable inclusion in the appropriate classroom according to their age. In addition, of particular importance for the identification and prevention of child marriages is the extended content of the information on the status of the student, meaning that for the first time information will be gathered as to the reason why the student left school prematurely.²⁵

The new **Law on Prevention and Protection against Discrimination**²⁶ adopted in March 2019 introduced segregation as a form of discrimination for the first time, as well as the "instruction" for discrimination. It includes situation testing as a method of proving discrimination in court proceedings, providing an opportunity for CSOs to tackle issues in a collective manner or on behalf of victims/groups. *(For more details on this law see Chapter 1)*

Discrimination determined in access to goods and services for Roma

According to an interview with a representative from the Macedonian Helsinki Committee, discrimination of Roma in the access to public goods and places has been registered in several

²² Reorganization denotes the municipal decision on determining the areas of the primary schools located in its territory, which ensures a balanced enrolment of pupils and rational utilization of the school capacities of the municipality. The decision covers the residential areas, exact streets and numbers belonging to a particular school.

²³ A. Spítálszky. *Roma in the Republic of Macedonia: Challenges and Inequalities in Housing, Education and Health*. Minority Rights Group, 2018. Available at:

https://minorityrights.org/wp-content/uploads/2018/11/MRG_Brief_Mac_ENG_Nov18.pdf

²⁴ Law on Primary Education (Закон за основното образование), *Official Gazette of the Republic of North Macedonia* (Службен весник на Република Северна Македонија) No.161/2019, 5 August 2019

²⁵ Related to the change in the Criminal Code in December 2018 by which the age limit for sanctioning extramarital communities was raised from 16 to 18 years for those involved

²⁶ Law on Prevention and Protection against Discrimination (Закон за спречување и заштита од дискриминација) *Official Gazette of the Republic of North Macedonia*, (Службен весник на Република Северна Македонија) No. 101, 22 May 2019

municipalities.²⁷ Based on the conducted situation testing, in March 2019 a positive Opinion of the Commission for Protection against Discrimination was adopted determining direct discrimination in access to goods and services perpetrated against two persons of Roma ethnicity by Art Cafe Aporea from Prilep, on grounds of skin colour and ethnicity.²⁸

Limited access of Roma to health services

Roma women have limited or no access to a gynaecologist and/or are largely segregated in the way they receive gynaecological services and exercise reproductive rights from a single gynaecologist - a "friend of the Roma".²⁹ According to an interview with representatives of the Ministry of Health, while the National Action Plan for Roma Health foresees a planned target of 30 hired health mediators by 2020³⁰, in 2019 the total number of engaged Roma health mediators is 10 in 9 municipalities.³¹

Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion

Parliamentary resolution for changes and improvement of the position of Roma adopted

In March 2019 the Assembly adopted a **Resolution for changes and improvement of the position of Roma in the Republic of North Macedonia** upon a proposal from the **Inter-Parliamentary Group on Roma Rights** consisting of MPs from different political parties.³²

Report on Social Mapping of Roma in North Macedonia published

In July 2019 a **Report on Social Mapping of Roma in North Macedonia was published**.³³ The methodology combines qualitative participatory approach and quantitative methods based on representative probability sampling in order to provide insights into the situation of the Roma communities but also describe the characteristics of the average Roma in terms of housing, education, health, employment, infrastructure etc. According to the report, 12% of respondents stated that their houses do not have access to an asphalt concrete road. In the area of access to utilities, 18% of households do not have access to a sewage system, 30% do not have a toilet in the house, 20% do not have a toilet with a bath and about 10% have no drinking water inside the house. At municipal level,

²⁷ Interview with Macedonian Helsinki Committee, 11.09.2019. Registered cases are available in their monthly reports: <https://mhc.org.mk/en/monthly-reports-on-human-rights/>

²⁸ Commission for Protection against Discrimination, Decision No. 0801-1/3 of 15.03.2019

²⁹ K, Beker. 2019 REGIONAL REPORT on compliance with UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) relating to discrimination of Roma women in the area of healthcare, child marriages and offering support and protection to Roma women in cases of domestic violence, BIBIJA Roma Women Center, http://luludi.mk/wp-content/uploads/2019/09/REGIONAL_REPORT.pdf

³⁰ Ministry of Labor and Social Policy (Министерство за труд и социјална политика), National Action Plan for Health of Roma 2015-2020 (Национален акциски план за здравство 2015-2020) http://mtsp.gov.mk/content/pdf/dekada/28.7_NAP%20zdravstvo2016.pdf

³¹ Government of Republic of North Macedonia (Влада на Република Северна Македонија), Decision number 45-6941/1 - Skopje, 29 October 2019

³² Assembly of North Macedonia (Собрание на Северна Македонија), Resolution for changes and improvement of the position of Roma in the Republic of North Macedonia (Предлог на резолуција за промени и подобрување на положбата на ромите во Република Северна Македонија) Plenary session No.91, 14 March 2019 <https://sobranie.mk/sessiondetails.nspx?sessionDetailsId=ef789996-5f1a-4a1b-9d97-6a2c4b2f0d5a>

³³ The social mapping was conducted by AECOM in coordination with the Delegation of the European Union Skopje along with the Ministry of Labor and Social Policy and the Cabinet of the Minister without Portfolio responsible for implementation of the Roma strategy, as final beneficiaries. See http://mtsp.gov.mk/content/pdf/dokumenti/2019/Final%20Social%20mapping%20report_English.pdf

the most vulnerable is the situation in Shuto Orizari, Prilep and Kumanovo.³⁴ In response, the Ministry of Transport and Communications increased the budget by 20.000.000,00 denars for the realization of communal infrastructure projects and other projects in line with the adopted Strategy for Roma 2014-2020 and the National Housing Action Plan.³⁵ In parallel, the budget of the Ministry of Local Self-Government for supporting the implementation of the Local Action Plans in the units of local self-government where such plans have been adopted and developed based on the Strategy for Roma has also been increased.³⁶

At the beginning of June 2019, a **Draft Law on Persons without Regulated Civil Status** was prepared, which regulates the manner of collecting and recording personal data on persons without regulated civil status, the type of data being recorded, the procedure (manner) for acquiring property of a person with a special civil status and the additional entry of these persons in the register of births.³⁷ The Ministry of Labour and Social Policy identified 700 Roma as persons without personal documentation as part of the Action for their registration in 2018 who would be able to receive ID or birth certificate and thereby exercise their rights on social assistance, health insurance, employment and/or education, pending the adoption of this law.³⁸

In May 2019, a new **Law on Social Protection**³⁹ was adopted introducing the right to a guaranteed minimum allowance for a household that is materially unsecured, does not have property and property rights to support it, as well as other social benefits including housing allowance, permanent compensation and one-off financial assistance. This law also provides the health protection of the beneficiaries of the exercised rights if they cannot obtain insurance on other grounds.

In May 2019, the **Law on Social Security for the Elderly**⁴⁰ was adopted introducing the right to a social pension to a person with citizenship, with permanent residence, who does not own property, is not a user of regular pension and has not had any income in the last three months before submitting the request.

The school year 2019/2020 started with the **new kindergarten in Shuto Orizari**, which will provide places for 160 children.⁴¹ According to an interview with a representative from the Ministry of Labour and Social Policy, fourteen (14) municipalities followed the recommendation of this Ministry to fully fund the stay of Roma children in kindergarten, while five (5) were not able to comply with the recommendation due to lack of funds within their budgets for 2019.

Representatives of the Ministry of Labour and Social Policy confirmed the ongoing transfer of the **staff engaged in the Roma Information Centres** to the Centres for Social Work for the purposes of

³⁴ AECOM International Development Europe SL, Report on Social Mapping, July 2019 http://mtsp.gov.mk/content/pdf/dokumenti/2019/Social%20mapping%20report%20final_Macedonian.pdf

³⁵ Government of Republic of North Macedonia, Decision number 45-5717/1 - Skopje, 9 July 2019

³⁶ Government of Republic of North Macedonia, Decision number 45-5422/1 - Skopje, 13 August 2019

³⁷ Ministry of Labor and Social Policy [Министерство за труд и социјална политика], Draft Law on Persons without Regulated Civil Status [Предлог закон за лицата без регулиран граѓански статус], June 2019 https://ener.gov.mk/default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=15Ekpu4NNCkqhyrzHHepqw%3d%3d

³⁸ Interview with a representative of the Ministry of Labor and Social Policy, 10.09.2019

³⁹ Law on Social Protection (Закон за социјалната заштита), *Official Gazette of the Republic of North Macedonia* (Службен весник на Република Северна Македонија) No.104/2019 23 May 2019

⁴⁰ Law on Social Security for the Elderly (Закон за социјална сигурност за старите лица), *Official Gazette of the Republic of North Macedonia* (Службен весник на Република Северна Македонија) No.104/2019 23 May 2019

⁴¹ See http://mtsp.gov.mk/pocetna-ns_article-carovska-shuto-orizari-dobiva-nova-sovremena-gradinka-vlozuvame-vo-idninata-na-nashite-deca.nsp.x.

mainstreaming Roma policies, which is expected to be completed by the end of 2019. By September 2019 this process was completed in five out of fourteen municipalities in total.⁴²

According to the interviewed CSO representatives, in the first three months of 2019 the **number of Roma active job seekers increased by 25%**, due to the policies on activation of the unemployed people on the labour market and the social protection reforms.⁴³ The Operational plan for employment⁴⁴ contains specific measures for encouraging employers to hire Roma or to develop their own businesses, as well as measures to increase the skills of the unemployed people.

⁴² Interview with a representative of the Ministry of Labor and Social Policy 10.09.2019

⁴³ Interview with a Roma rights civil society organisation representative, 04.09.2019

⁴⁴ Ministry of Labour and Social Policy (Министерство за труд и социјална политика), Revised Operational Plan for active programmes, employment measures and labour market services for 2019 (Ревидиран оперативен план за активни програми и мерки за вработување и услуги на пазарот на трудот за 2019 година) <https://av.gov.mk/content/Dokumenti/Koregiran%20OP-2019%2012%20juli.pdf>

Chapter 4. Asylum, visas, migration, borders and integration

Unaccompanied children reaching the age of majority

Area of support	Description
<p>Residence permit</p> <p><i>Reception conditions</i></p> <p><i>Directive (article 6 and 7) and Qualification Directive (articles 24 and 31)</i></p>	<p><i>Please explain whether unaccompanied children (non-asylum seekers and asylum seekers) get temporary permits and if they expire when turning 18. Please elaborate on which type of permit is granted when they reach 18 years and under which conditions (e.g. being enrolled in education, or having an employment contract.)</i></p> <p>There are three types of regulated stay of unaccompanied children: temporary stay due to humanitarian reasons; recognized refugee; and person under subsidiary protection.</p> <p>According to the Standard Operating Procedures on Unaccompanied Children (SOPs), before making the application, the child needs to be informed about the legal procedures, its benefits and the procedure for family reunion, in a manner that is appropriate for his/her age, level of maturity and country of origin.⁴⁵</p> <p>The Law on Foreigners allows for “temporary stay” due to humanitarian reasons.⁴⁶ More precisely, the Law stipulates the conditions for providing temporary residence permit; however, in a case of an unaccompanied child, the MoI can issue a temporary residence permit even if those conditions have not been met.⁴⁷ The permit is issued for a period of one year and it may be renewed if it is found that humanitarian grounds still exist.⁴⁸ It is important to mention that the new Law on Foreigners determines that applications of unaccompanied children are being handled upon an urgent procedure.</p>

⁴⁵ Government of the Republic of North Macedonia (Влада на Република Северна Македонија): Standard Operating Procedures for Dealing with Unaccompanied and Separated Children (SOPs), (Стандардни оперативни процедури за постапување со непридружувани деца – странци) November 2015. Page 23. Available at: <http://nacionalnakomisija.gov.mk/wp-content/uploads/2016/12/SOP-za-postapuvanje-so-nepridruzuvani-deca-stranci.pdf>

⁴⁶ Law on Foreigners, (Закон за странци), Official Gazette of the Republic of North Macedonia (Службен весник на Република Северна Македонија), no.97/2018. Article 71, paragraph.1 line 10

⁴⁷ Ibid, Article 120, paragraph 1

⁴⁸ Ibid, Article 120, paragraph 2

	<p>There are no legal provisions determining the end of the residence permit in case of reaching majority. Given that the initial permission for stay is given for a period of one year, the authorities would reassess the justification of the humanitarian reasons when making the decisions for extending the temporary stay of the person in question.</p> <p>Unaccompanied children who have applied for international protection receive an identification document of an asylum seeker within 15 days of the submission of the asylum application.⁴⁹ The document is valid until receiving the final decision on granting protection (in a case of a positive decision), or until the date when the person leaves the country.⁵⁰ This document acts as a residence permit.</p> <p>Children who are at least 15 years old, who are granted the status of a “recognized refugee” or “person under subsidiary protection” can apply for an Identification Document (ID) in agreement with the guardian⁵¹. The ID for a recognized refugee is valid for at least three years and shall be extended afterwards, unless this is not possible due to reasons related to national security and public order.⁵² The ID for a person under subsidiary protection is valid for at least one year, while it can be extended by at least two years, unless that is not possible due to reasons related to national security and public order.⁵³</p> <p>In a case of a recognized refugee, the Ministry of Interior also issues a passport which is valid for two years.⁵⁴</p> <p>The status of protection of an unaccompanied child is not affected when reaching majority.</p>
<p>Guardianship (representative under Reception Conditions)</p>	<p><i>Please elaborate on how the role of guardians is affected when the child reaches 18, and of any initiatives to expand the guardian’s support, for example transforming the guardian into a ‘mentor’ supporting the child until a certain age.</i></p> <p>According to the national legislation, guardianship ends when the child reaches 18.⁵⁵ However, the legislation allows the possibility for the Centre of Social Work to continue providing support to the person who is no longer under guardianship, if due to justified reasons, the child was not able to become capable of living and working independently.⁵⁶ The law refers to all children that are under</p>

⁴⁹ Law on International and Temporary Protection (Закон за меѓународна и привремена заштита), *Official Gazette of the Republic of Macedonia* (Службен весник на Република Северна Македонија) no. 64/2018, Article 54, paragraph 1

⁵⁰ Ibid. Article 54, paragraph 2

⁵¹ Ibid. Article 5, paragraph 2

⁵² Ibid. Article 54, paragraph 3

⁵³ Ibid. Article 55, paragraph 4

⁵⁴ Ibid. Article 56

⁵⁵ Law on Family (Закон за семејството), Article 163

⁵⁶ Ibid.

Directive Article 24.1)	guardianship, regardless of their asylum status. However, it is not clear what types of support would be provided in such cases, as the legal provision is rather broad and there is no established practice for this purpose. There have been no changes in legislation or policies regarding the role of guardians and guardians' support.
Accommodation Reception Conditions Directive Article 24.2	<p><i>Please explain what children reaching 18 years are entitled to in terms of accommodation, for example extension of foster care programmes until the age of 21, only transfer to an adult accommodation, or other accommodation support.</i></p> <p>In 2019, the implementation of the new Law on Foreigners started which improves the accommodation conditions for unaccompanied children and addresses the inconsistencies found in the previous legislation.⁵⁷ Namely, according to the previous legislation, unaccompanied children who were not seeking asylum were accommodated in a special facility for children at the Centre for Foreigners,⁵⁸ which is a closed-type detention facility and not appropriate for accommodating children. The latest annual report of the Ombudsman - National Preventive Mechanism against Torture for 2018, criticizes the authorities for accommodating children in the Centre for Foreigners, without referring to alternative modes of detention.⁵⁹ Under the latest legislation, the child is supposed to be accommodated at a location proposed by his/her guardian; while accommodation at the Centre for Foreigners is allowed only in exceptional circumstances and for the shortest period possible.⁶⁰</p> <p>In cases of unaccompanied children who are asylum seekers, the guardian plays a key role in determining the type of accommodation. According to the SOPs, the decision for accommodation of an unaccompanied child shall be made depending on previously conducted risk assessment, individual needs assessment, plan for assistance, but also the capacities of the Ministry of Labour and Social Policy; however, it should always be based on the best interest of the child.</p> <p>The Ministry of Labour and Social Policy runs a Reception Centre for Asylum Seekers in Vizbegovo, which is also equipped to serve the needs of unaccompanied children. If the child reaches 18, but is still waiting for the decision on his/her asylum application and residing at the Reception Centre for Asylum Seekers in Vizbegovo, he/she continues to live in the same facility. Depending on the vulnerability of the child in question, there was an opportunity for him/her to be accommodated in a Safe House which used to be a</p>

⁵⁷ Law on Foreigners (Закон за странци), *Official Gazette of the Republic of North Macedonia* (Службен весник на Република Северна Македонија), no.97/2018. Article 71, paragraph.1 line 10

⁵⁸ Law on Foreigners (Закон за странци), *Official Gazette of the Republic of Macedonia* (Службен весник на Република Македонија), nos. 35/2006, 66/2007, 117/2008, 92/2009, 156/10, 158/11, 84/12, 13/13, 147/13, 148/15 and 217/15, Article 112.

⁵⁹ Republic of North Macedonia, Ombudsperson (Народен правобранител), National Preventive Mechanism: Annual Report 2018 (Национален превентивен механизам: Годишен извештај 2018), page 89. Available at:

<http://ombudsman.mk/upload/NPM-dokumenti/2018/NPM%20Godisen%20izvestaj-2018.pdf>

⁶⁰ Law on Foreigners (Закон за странци), Article 146, paragraph 6.

	<p>specialized facility for accommodating asylum seekers who are part of vulnerable groups. However, since July 2019, the Safe House has not been operational, due to administrative procedures. The Safe House was operated by the Jesuit Refugee Service JRS, based on a Memorandum of Understanding with the Ministry of Labour and Social Policy; however, the MoU has expired and has not been prolonged.⁶¹</p> <p>Upon regulation of the stay of the unaccompanied child, the guardian and the expert team from the Centre of Social Work decide on the type of accommodation. The SOPs prescribe that the best type of accommodation would be a family-type accommodation such as foster family or a small group home.</p> <p>However, given that most of the asylum seekers including unaccompanied children leave the country in irregular ways before getting a final decision on their application, there is limited practice for assessing the country's approach in accommodating the accommodation/care needs of this target group and there have been no developments in terms of development of related policies or programmes. The Special Report of the Ombudsperson on the conditions in the Reception Centres for Refugees and Migrants (January – August 2019) contains information on two minors who were accommodated with a foster family, but also managed to escape twice and went to the Reception Centre for Asylum Seekers. During the interviews by the Ombudsperson's team with the children, it was established that they did not want to stay in the Republic of North Macedonia.⁶² The Ombudsperson has issued a recommendation to the Ministry of Interior and the Ministry of Labour and Social Policy to strengthen the control of unaccompanied children in order for them to be provided with proper treatment and prevented from leaving the reception centres on their own, without giving any notification.⁶³</p>
<p>Return <i>Return Directive, Article 10</i></p>	<p><i>Please explain whether there are any special measures to prepare unaccompanied children for a return procedure and whether young adults receive any form of free assistance during eventual return procedures.</i></p>

⁶¹ Republic of North Macedonia, Ombudsperson (Народен правобранител), National Preventive Mechanism: 2019 Special Report on the Conditions in the Reception Centers for Refugees/Migrants (Национален превентивен механизам: Посебен извештај за состојбите во Прифатните центри за сместување и задржување на бегалци/мигранти 2019), page 8. Available at:

<http://ombudsman.mk/upload/NPM-dokumenti/Izvestai/Poseben%20izvestaj-januari-avgust%202019.pdf>

⁶² Ibid, pg 1-3

⁶³ Ibid. page 18

The new Law on Foreigners addresses the inconsistencies found in the previous legislation, where it was unclear whether the child is supposed to be immediately returned to their country of origin (as per Article 112), while at the same time, there were provisions forbidding for the return of an unaccompanied minor, until there were appropriate guarantees (Article 113).

The latest legislation is in line with the Return Directive, and it states that “The return of the foreigner shall be performed in accordance with the principle of non-refoulement, best interests of the children and the needs of other vulnerable persons and human trafficking victims, the family life and the health condition of the foreigner.”⁶⁴ As for the children, there are legal guarantees that “Children-foreigners may not return to the country of origin or to a third country which agrees to admit him or her as long as this country does not provide appropriate admission conditions”⁶⁵ while also “The child must not be returned to a third country where his or her return would be contrary to the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or the Convention for the Protection of Human Rights and Fundamental Freedoms.”⁶⁶

In a case when an unaccompanied child is found to be staying illegally, the Ministry of Interior immediately informs the diplomatic-consular representation of his/her country of origin, in order to identify his/her family members. At the same time, the MoI immediately informs the Centre for Social Works so a guardian can be appointed.⁶⁷

Unaccompanied children can be returned for the purpose of family reunification which is safe and in the best interest of the child, meaning that forced return is not allowed. The preparations include: adopting a decision for return, informing the child on the decision for return, preparation/agreement by the child to be returned and preparing travel documents.⁶⁸ According to the SOP, when making the decision for return, the child shall be presented with the legal possibilities and opportunities in North Macedonia and in the country of origin in relation to: regulation of stay, possibility to be granted asylum, available social services, medical care, specialized support, education, accommodation, any consequences in the country of origin and contact persons and organisations.⁶⁹

During 2019, IOM Skopje provided AVRR assistance to a total of 15 migrants. There were no cases of assisted voluntary return and reintegration of unaccompanied children and young adults (i.e. children that turned 18). The youngest assisted case was a 20-year old

⁶⁴ Law on Foreigners (Закон за странци), Article 146, paragraph 1

⁶⁵ Ibid. paragraph 3

⁶⁶ Ibid. paragraph 4

⁶⁷ Law on Foreigners (Закон за странци), Article 146, paragraph 5

⁶⁸ SOPs, page 29

⁶⁹ SOPs, page 30

	<p>migrant who was provided with the following free assistance: interview and assessment of the needs and vulnerabilities, individual return counselling, medical assessment and fitness to travel, coordination of the return and assistance with relevant partners, assistance in obtaining travel documents, travel assistance, reception in the country of return and reintegration support.⁷⁰</p>
<p>Others</p>	<p><i>e.g. special permissions to stay based on education or employment programme, etc.</i></p> <p>There have been no other developments facilitating the integration of unaccompanied children reaching majority.</p> <p>According to the Law on Social Protection, all refugees and persons under subsidiary protection have equal access to social services as all other citizens of North Macedonia.</p> <p>Unfortunately, the Strategy for Integration of Refugees and Foreigners 2017-2027 is still pending Government's adoption. The draft strategy envisages measures for early integration, during the phase of asylum application, which would be a novelty compared to the previous strategy and existing practices. The Reception Centre for Asylum Seekers does have a Programme for Early Integration; however, the Ombudsperson has noted lack of implementation of the envisaged activities.⁷¹ The programme is an internal document of the Reception Centre for Asylum Seekers, and is mentioned only in the Ombudsman's Special Report. According to the report, the programme has three components: short-term (up to 7 days), mid-term (up to 6 months) and long-term stay at the reception centre (over 6 months). The measures include: group and individual counselling for improving the psycho-social conditions of the persons, advanced language courses (Macedonian and foreign languages), vocational training and various workshops. The same report notes that the Programme has been implemented only sporadically.</p>

⁷⁰ Information obtained from IOM Skopje by e-mail, 16.09.2019

⁷¹ Republic of North Macedonia, Ombudsperson (Народен правобранител), National Preventive Mechanism: Special Report on the Conditions in the Reception Centers for Refugees/Migrants (Национален превентивен механизам: Посебен извештај за состојбите во Прифатните центри за сместување и задржување на бегалци/мигранти), page 17. Available at: <http://ombudsman.mk/upload/NPM-dokumenti/Izvestai/Poseben%20izvestaj-januari-avgust%202019.pdf>

Chapter 5. Information society, data protection

1. Activities developed and launched by national data protection supervisory authorities (SAs) to implement and enforce the GDPR

The **draft Law on Personal Data Protection**, available on the website of the Ministry of Justice since December 2018, has still not been adopted.⁷² The **Directorate for Personal Data Protection** (herewith: Directorate) issued a **detailed legal Commentary** on the draft Law on Protection of Personal Data with the purpose of ensuring the conformity of North Macedonia's national legislation with the GDPR.⁷³ The legal Commentary provides guidance on each article by offering an interpretation and elaboration of the law. The Directorate's legal Commentary was supported by EU projects and conducted in consultation with the IPS Institute in Slovenia as well as the National Authority for Data Protection and Freedom of Information in Hungary.

Furthermore, the Directorate has organised a series of trainings on monthly basis for data controllers and data processors in a wide range of sectors and fields, including, but not limited to, the judiciary, IT, infrastructure, tourism, state agencies. The Directorate has also issued public statements to raise awareness about the use of personal data during election campaigns, for social media and the risk of fake accounts. In December 2018, the Directorate issued its yearly programme for inspections to be conducted during 2019.

Between May and December 2019, the positions of the director and deputy director were empty thus severely limiting the exercising of the Directorate's role. 268 complaints about possible breaches of data protection were filed pertaining to breaches in social media, video surveillance and marketing between January and October 2019.⁷⁴ A new director was appointed on 25th December 2019.

⁷² Ministry of Justice (Министерство за правда), Republic of North Macedonia, Draft Law on Personal Data Protection (Предлог на Закон за заштита на личните податоци), available at: <http://www.pravda.gov.mk/Upload/Documents/%D0%97%D0%97%D0%9B%D0%9F%2006.12.2018.docx>

⁷³ Directorate for Personal Data Protection (Дирекција за заштита на лични податоци), 2019 Legal Commentary for the draft law on protection of personal data [Коментар/толкување на нацрт-Законот за заштита на личните податоци] available at: https://dzlp.mk/sites/default/files/9._komentari_i_tolkuvanja.pdf

⁷⁴ Vidi Vaka video, web page of the Directorate for Personal Data Protection available at: <https://bit.ly/2RhLwxX>

2. Artificial intelligence and big data

MS	Actor*	Type*	Description	Are Ethical concerns mentioned? (yes/no)	Are Human Rights issues mentioned?(yes/no)	Reference
MK	Government	Other projects	In July 2018, the Ministry of Information Society and Administration issued a National Strategy for Cybersecurity for 2018-2022.	No	Yes (Privacy, Data Protection, intellectual property)	North Macedonia, Ministry of Information Society and Administration, <i>National Strategy for Cybersecurity for 2018-2022</i> , July 2018 (see original: http://www.mio.gov.mk/sites/default/files/pbl_files/documents/strategies/ns_sajber_bezbednost_2018-2022.pdf)

*For the actors, please pick from the following suggestions:

- Government/ Parliamentary
- DPA
- NGO/Other Non Profit
- Academia
- Domestic Courts
- Business

- Independent State Institution
- Other

** for the type, please pick from the following suggestions:

- National Draft Acts / Adopted Acts
- report/study
- other projects

3. Data retention

Chapter 6. Rights of the child

1. Procedural safeguards for children who are suspects in criminal proceedings

Legislative changes	<p>In August 2019, the Ministry of Justice established a Commission⁷⁵ for amending the Law on Justice for Children with a task, among other issues, to identify provisions where alignment is necessary for successful transposition of Directive 2016/800 on procedural safeguards for children.⁷⁶</p> <p>The guarantees regarding suspected or accused children are prescribed by the Law on Justice for Children and the Code of Criminal Procedure.⁷⁷ The Republic of North Macedonia, as a candidate country, is not yet obliged to apply the proceeding with EAW, so in that part there is no provision in the domestic legislation (Article 17 - European arrest warrant proceedings).</p> <p>The Law on Justice for Children and the Code of Criminal Procedure are aligned with the Directive 2016/800, with the exception of the following provisions: Article 3 - ‘holder of parental responsibility’ means any person having parental responsibility over a child; and ‘parental responsibility’ means all rights and duties relating to the person or the property of a child which are given to a natural or legal person by judgment, by operation of law or by an agreement having legal effects, including rights of custody and rights of access; Article 4; Article 5; Article 6 - the child shall be assisted by a lawyer prior to questioning by the police or by another law enforcement or judicial authority; Article 7 - If the elements that form the basis of the individual assessment change significantly, Member States shall ensure that the individual assessment is updated throughout the criminal proceedings; Article 8 - The initiative for carrying out medical examination and obligation that the conclusion of the medical examination shall be recorded in writing; Article 12 - when a detained child reaches the age of 18, Member States shall provide for the possibility to continue to hold that person separately from other detained adults where warranted, taking into account the circumstances of the person concerned, provided that this is compatible with the best interests of children who are detained with that person; Article 15; Article 18 and Art 22.</p>
Policy developments	<p>Article 101 para. 3 of Law on Justice for Children, stipulates a legislative obligation for judges for children, public prosecutors, lawyers and officials from the Ministry of Interior to attend specialized training with a duration of at least five days annually, in the country or abroad.⁷⁸</p> <p>In the new Training Program⁷⁹ of the Academy for Judges and Prosecutors, the rights of children as suspects/accused/victims are included in the initial training for all candidates for judges and prosecutors and the continuous training programme for judges and prosecutors.</p>

⁷⁵ Information from the Ministry of Justice.

⁷⁶ Law on Justice for Children (Закон за правда на децата), *Official Gazette of the Republic of Macedonia* (Службен весник на Република Македонија) nos. 148/2013 and 152/2019.

⁷⁷ Criminal Procedure Code (Закон за кривична постапка), *Official Gazette of the Republic of Macedonia* (Службен весник на Република Македонија) no. 150/2010, 100/2012, 142/2016, 198/2018 (2018).

⁷⁸ Law on Justice for Children (Закон за правда на децата), *Official Gazette of the Republic of Macedonia* (Службен весник на Република Македонија) nos. 148/2013 and 152/2019.

⁷⁹ Academy of Judges and Public Prosecutors (Академија за судии и јавни обвинители), ‘General programme for continuous training of judges and public prosecutors 2019 – 2020 (Општа програма за континуирана обука на судиите и јавните обвинители 2019 – 2020)’, 11 April 2019.

	<p>The training of the defence lawyers shall start by the end of this year in accordance with the MOU signed by the Ministry of Justice, the Bar Association, UNICEF and the Council for Prevention of Juvenile Delinquency.⁸⁰</p> <p>The following curricula of the Faculty for Security include justice for children: in the first cycle of studies, Juvenile delinquency and crime to the detriment of children and Criminology⁸¹ and in the second cycle of studies: Juvenile delinquency and child victims and Criminology.⁸²</p> <p>Within MOI until August 2019, a total of 39 police officers had attended trainings for professional development on children's rights.⁸³</p> <p>In accordance with the previous Social Protection Act⁸⁴ specialized teams from the Centres for Social Work were obliged to attend trainings on justice for children, organized by the Institute for Social Activities.⁸⁵ The new Law on Social Protection⁸⁶ foresees accreditation of special training programs and inclusion of external educators.</p> <p>The State Council for prevention of child delinquency⁸⁷ established by Parliament upon the Law on Justice for children, prepares annual reports for monitoring the implementation of this law. The report is based on 32 data indicators regarding children at risk; child victims; children in conflict with the law (suspects, accused and sentenced). The data was collected from 78 institutions in the juvenile justice system, including the Sectors of Internal Affairs, Centres for Social Work, Basic Courts, Basic Public Prosecutor's Offices and the Public Prosecution Office for Organized Crime and Corruption. In its Annual Report for 2018, the Council notes an increase of 17% of children at risk, and a decrease of 21,5% of the number of children in conflict with the law in comparison to 2017.⁸⁸</p>
<p>Other measures or initiatives</p>	<p>There are no special activities for promotion of alternatives to detention, or for dissemination and information in relation to the entering into force of the Directive.</p>

⁸⁰ United Nations (UN), The United Nations Children's Fund (UNICEF) North Macedonia, 'Memorandum of Understanding signed to promote justice for children', 17 December 2018, <https://www.unicef.org/northmacedonia/press-releases/memorandum-understanding-signed-promote-justice-children>

⁸¹ Faculty of Security, Republic of North Macedonia, Elaborate for re-accreditation of the study programme in Criminology - first cycle of four-year university studies (Елаборат за повторна акредитација на студиската програма по Криминалистика – прв циклус на четиригодишни универзитетски студии). <http://fb.uklo.edu.mk/fs?file=postgraduate/Reakreditirana%20studiska%20programa%202012.pdf>

⁸² Curriculum - Criminology. Second Cycle Studies (Студиска програма – Криминалистика. Втор Циклус Студии). <http://fb.uklo.edu.mk/fs?file=postgraduate/Masister.kriminalist.pdf>

⁸³ Data received from the MOI.

⁸⁴ Law on Social Protection (Закон за социјална заштита), *Official Gazette of the Republic of Macedonia* (Службен весник на Република Македонија) nos. 79/2009, 36/11, 51/11, 166/12, 15/13, 79/13, 164/13, 187/13, 38/14, 44/14, 116/14, 180/14, 33/15, 72/15, 104/15, 150/15, 173/15, 192/15, 30/16, 163/17 и 51/18)

⁸⁵ Public Institution Institute for Social Work - Skopje (ЈУ Завод за социјални дејности – Скопје) http://www.mtsp.gov.mk/institucii-ns_article-zavod-za-socijalni-dejnosti.nspix

⁸⁶ Law on Social Protection (Закон за социјална заштита), *Official Gazette of the Republic of North Macedonia* (Службен весник на Република Северна Македонија) No. 104/2019

⁸⁷ <https://dspdp.com.mk>

⁸⁸ Republic of North Macedonia, State Council for Prevention of Child Delinquency (Државен совет за превенција на детско престапништво), 'Annual Report on the Work of the State Council for Prevention of Child Delinquency and the State of Child Rights and Child Delinquency in 2018 (Годишен извештај за работата на државниот совет за превенција на детско престапништво и за состојбите во областа на правата на детето и детското престапништво 2018 година)' (Skopje 10 October 2019), <https://www.sobranie.mk/downloaddocument.aspx?id=62f5efa9-40dd-4160-ad92-a80086c80b70&t=doc>

2. Legal and policy measures or initiatives developed about child internet safety

CHILD INTERNET SAFETY

The key strategic document in this thematic area is the **National Cyber Security Strategy 2018 – 2022 and its corresponding Action plan**.⁸⁹

The most recent relevant information on child internet safety has been included in the **2018 Cyber security capacity review on the country** prepared by the Global Cyber Security Capacity Centre in collaboration with the World Bank and upon invitation of the Ministry of Information Society and Administration.⁹⁰ The findings of the study confirm that children are generally vulnerable to cybercrime due to lack of security consciousness and awareness; users are either not aware that they have become a victim of cybercrime or do not perceive the event as a crime, such as in the case of cyberbullying; and that awareness around the protection of personal information and security concerns regarding personal data is generally low.

Despite IT courses being offered, cybersecurity has not been integrated in the educational curricula. The National Cyber Security Strategy 2018 – 2022 and Action plan include development and promotion of study programs and trainings in the area of cyber security at all levels of education, continuous education of judicial authorities in the field of cyber security, cybercrime and electronic evidence.

Comprehensive legislation on protection of children online has been adopted and enforced under Articles 193 (Showing pornographic materials to a child) and 193a (Production and distribution of child pornography) of the **Criminal Code**.⁹¹ Since 2010, new amendments have been added to the Criminal Code that include the legal provisions on online sexual grooming. Since 2018, there is a new definition in the Criminal Code regarding violence against children (art. 122 p. 41), which means "...psychological violence, online violence, peer violence, and child molestation and surveillance".⁹²

The Metamorphosis Foundation, which conducts awareness raising efforts around **personal data protection**, in cooperation with the Directorate for Personal Data Protection and with support of the EU is implementing the project **Children's Rights on the Internet – Safe and Protected (CRISP)**⁹³. 5th of February is celebrated as the **International Safer Internet Day** under the motto "Together for a Better Internet".

[AUDIOVISUAL MEDIA SERVICES DIRECTIVE \(EU\) 2018/1808 - Articles 6a and 28b](#)

⁸⁹ Republic of Macedonia, Ministry of Information Society and Administration (Министерство за информатичко општество и администрација), 'National Cyber Security Strategy 2018 – 2022 Action Plan 2018 – 2022' (Национална стратегија за сајбер безбедност на Република Македонија 2018 – 2022 Акциски план 2018 – 2022), December 2018, http://mioa.gov.mk/sites/default/files/pbl_files/documents/strategies/ap_cybersec_v1.13_eng.pdf

⁹⁰ Dr. Nagyfejeo, E., Weisser, C., Griffin, M., 'Cyber security capacity review Former Yugoslav Republic of Macedonia' (Global Cyber Security Capacity Centre), July 2018 http://mioa.gov.mk/sites/default/files/pbl_files/documents/reports/cmm_fyrom_report_final_13_august2018_2.pdf

⁹¹ Criminal Code (Кривичен законик), *Official Gazette of the Republic of Macedonia* (Службен весник на Република Македонија) no. 37/96, 80/99, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/11, 135/11, 185/11, 142/12, 166/12, 55/13, 82/13, 14/14, 27/14, 28/14, 115/14, 132/14, 160/14, 199/14, 196/15, 226/15, 97/17, 248/2018 (n.d.).

⁹² Ibid.

⁹³ <http://crisp.org.mk/>

The Law on Audio and Audiovisual Media Services was adopted in 2013 and since then has been amended several times.⁹⁴ The principles of broadcasters are stipulated in Art. 61 of the Law on Audio and Audiovisual Media Services and include: developing human and moral values of the human being and protecting the privacy and dignity of the individual; equality of freedoms and rights irrespective of sex, race, national, ethnic and social origin, political and religious conviction, property and social status of man and citizen; fostering a spirit of tolerance, mutual respect and understanding among individuals of different ethnic and cultural backgrounds; protection of the identity of the victims of violence; fostering international understanding and cooperation, public perception of fairness and protection of democratic freedoms etc.

Art. 50 of the Law on Audio and Audiovisual Media Services stipulates protection of minors from the broadcasting programs that may impair the physical, mental or moral development of minors.

The Rulebook for the protection of minors⁹⁵ defines the method of categorization and periods of broadcasting of audiovisual programs that can be harmful to the physical, mental and moral development of minors, acoustic and visual warning shapes, visual signs, technical measures for the protection of minors, as well as the manner of acting of audiovisual media service providers to which the obligation to protect minors applies.

In accordance with the Art. 50 of the Law on Audio and Audiovisual Media Services, unnecessary violence is the proliferation of textual, verbal, and visual messages that glorify physical, verbal, or psychological forms of sadism or similar forms of violence intended for themselves and not in terms of the programme available to minors that cannot be justified either by the context of the genre or the motives of the dramatic action of the programme being presented. The prohibition shall also apply to other programs likely to harm the physical, psychological or moral development of minors, except where provided for their broadcasting or broadcasting within a specified period of time; or by the application of a specific technical measure, minors will not normally hear or see those programs during the broadcast or broadcast period. When such programs are broadcast or reproduced in unencrypted form, the audiovisual media service provider shall provide prior acoustic warning and the opportunity to be recognized by visual signs throughout their duration prior to their broadcast.

In accordance with Art. 50 the operators of public electronic communications networks may broadcast or retransmit programme services with pornography only in coded form. Art. 50 also forbids broadcasting or retransmitting child pornography (Art. 28b para. 1/(c) of the Directive).

Regarding violence or hatred directed against a group of persons or a member of a group based on any of the grounds (Art. 28 b para. 1/(b) (c) of the Directive) there are special prohibitions in Art. 48 of the Law. It stipulates that audio and audiovisual media services must not contain programs that incite or spread discrimination, or intolerance based on race, skin colour, origin, national or ethnic origin, gender, gender, sexual orientation, gender identity, belonging to a marginalized group, language, citizenship, social origin, education, religion or religion co beliefs, political convictions, other beliefs, disability, age, family or marital status, property status, health status, personal characteristics and social status, or any other ground.

⁹⁴ Law on Audio and Audiovisual Media Services (Закон за аудио и аудиовизуелни услуги), *Official Gazette of the Republic of Macedonia* (Службен весник на Република Македонија) No. 184/2013, 13/2014, 44/2014, 101/2014, 132/2014, 142/2016, 132/2017, 168/2018, 248/2018, 27/2019.

⁹⁵ Rulebook for the Protection of Minors (Правилник за заштита на малолетни лица), *Official Gazette of the Republic of Macedonia* (Службен весник на Република Македонија), No. 172/2014 § (2014).

Full transposition of the Art. 28b para. 1/(c) requires legislative amendments regarding prohibition of public provocation to commit a terrorist offence.

Chapter 7. Access to justice including crime victims

1. Victims' Rights Directive

Amendments to the Criminal Code entered into force

In January 2019 the amendments to the Criminal Code⁹⁶ entered into force, introducing two new criminal acts: the first one regarding “Obstruction of justice” and the second one on “Revealing of the Identity of a Vulnerable Witness or Protected Witness, Collaborator of Justice or a Victim in the Capacity of a Witness”. With these amendments to the criminal act of human trafficking, the victim of human trafficking coerced to commit a criminal or another punishable act directly related to their position of victim, while he/she was a victim, will be excluded from criminal responsibility.

Preparation of a new Criminal Procedure Code (CPC)

The Criminal Procedure Code was introduced in 2010 and entered into force in 2013.⁹⁷ During the last few years, the law was amended four times. Currently a **new CPC is under preparation**, which among the other changes will address the victims' position and rights during the procedure implementing the Victims' Directive.⁹⁸

The Ministry of Justice in its Strategic Plan 2019-2021⁹⁹, in the Strategy for Reform of the Judicial Sector for the period 2017-2022 with an action plan¹⁰⁰, as well as in their Annual Plan for 2019¹⁰¹ has recognized the need of harmonization of the EU law with the national legislation regarding the victims' rights. Therefore, in August, 2018 the Ministry of Justice published their Strategic Plan 2019-2021 in which they announced that they were planning to **draft a Law on the Payment of Monetary Compensation to Victims of Criminal Offences**. In September 2019 the Ministry of Justice announced that the Law on the Payment of Monetary Compensation to Victims of Criminal Offences will be prepared between 16.09.2019 until 31.10.2019.¹⁰² A draft law was prepared, in consultation with international experts, and put up for further consultations at the end of November 2019 at the national electronic registry for this purpose.

⁹⁶ Criminal Code (Кривичен законик), *Official Gazette of the Republic of Macedonia (Службен весник на Република Македонија)* nos. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015, 226/2015, 97/2017 and 248/2018

⁹⁷ Criminal Procedure Code (Закон за кривичната постапка), *Official Gazette of the Republic of Macedonia (Службен весник на Република Македонија)* nos.150/2010, 100/12, 142/16 and 198/18

⁹⁸ Ministry of Justice (Министерство за правда), Republic of North Macedonia, Draft Law on Criminal Procedure Code (Предлог на Закон за кривичната постапка) https://ener.gov.mk/default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=TT7CpU7vsOTQUOB7mUvMCA==

⁹⁹ Ministry of Justice (Министерство за правда), Republic of North Macedonia, Strategic plan 2019-2021, (Стратешки план 2019 – 2021) <http://www.pravda.gov.mk/Upload/Documents/STRATESKI%20PLAN%202019-2021%20god.pdf>

¹⁰⁰ Ministry of Justice (Министерство за правда), Republic of North Macedonia, Strategy for Reform of the Judicial Sector for the period 2017-2022 with an action plan, (Стратегија за реформа на правосудниот сектор за периодот 2017 – 2020 со акциски план) http://www.pravda.gov.mk/Upload/Documents/Strategija%20i%20akciski%20plan_ANG-web.pdf

¹⁰¹ Ministry of Justice (Министерство за правда), Republic of North Macedonia, Annual Plan for 2019, (Годишен план за работа за 2019 година) <http://www.pravda.gov.mk/Upload/Documents/Programa%20MP%202019.pdf>

¹⁰² Ministry of Justice (Министерство за правда), Republic of North Macedonia, Notification on starting of preparation of a Law on the Payment of Monetary Compensation to Victims of Criminal Offences, <http://www.pravda.gov.mk/vest/3006>

¹⁰³ The law has still not been adopted. The need for this type of legislation was recognized by the National Committee for Combating Trafficking in Human Beings and Illegal Migration and was stipulated in the National Strategy for combating trafficking in human beings and illegal migration in the Republic of Macedonia 2017 – 2020.¹⁰⁴

Increased budget to the Compensation Fund for Children Victims

The Law on Justice for Children¹⁰⁵, introduces enhanced protection of children - victims of crimes, procedural provisions concerning the main hearing, facilitates the access of children-victims to legal advice and representation, and set up a Compensation Fund for Children Victims. The Compensation Fund was established in 2014 with a limited budget of 500.000,00 denars per year. For the first time in 2019 the budget was increased to 1.000.000,00 denars.¹⁰⁶ Draft amendments of the Law on Justice for Children related to the new Law on Free Legal Aid¹⁰⁷ have been in consultation procedure since early July 2019.¹⁰⁸

Ministry of the Interior activities on victims

The Ministry of the Interior in its Strategic Plan 2019-2021¹⁰⁹ stipulated the continuation of the trainings and workshops of police officers dealing with victims of violence, especially children victims. The Police Development Strategy 2016-2020¹¹⁰ foresees trainings for appropriate treatment of the victim during the criminal procedure, as well as on-going training encouraging communication and development of standards for interviewing children victims.

¹⁰³ See Draft Law on the Payment of Monetary Compensation to Victims of Violent Criminal Offences [Нацрт – закон - Предлог на Закон за исплата на паричен надоместо на жртви од кривични дела], available at https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=54834

¹⁰⁴ National Committee for Fight Against Trafficking in Human Beings and Illegal Migration, Republic of North Macedonia (Национална комисија за борба против трговија со луѓе и илегална миграција на Република Северна Македонија), National Strategy for combating trafficking in human beings and illegal migration in the Republic of Macedonia 2017 – 2020, (Национална стратегија за борба против трговијата со луѓе и илегалната миграција во Република Македонија 2017 – 2020) <http://nacionalnakomisija.gov.mk/wp-content/uploads/2016/12/Nacionalna-strategija-i-akciski-plan-za-borba-protiv-trgovija-so-lugje.pdf>

¹⁰⁵ Law on Justice for Children (Закон за правда за децата), *Official Gazette of the Republic of Macedonia* (Службен весник на Република Македонија) nos. 148/13, 152/19

¹⁰⁶ Programme for compensation of a child who is a victim or damaged by actions included as a criminal part of violence or other acts of individual or group violence for 2019 (Програма за обесштетување на дете кое е жртва или е оштетено со дејствие кое со закон е предвидено како кривично дело на насилство и на други акти на индивидуално или групно за 2019 година) *Official Gazette of the Republic of North Macedonia* (Службен весник на Република Северна Македонија) no.29/19

¹⁰⁷ Law on Free Legal Aid (Закон за бесплатна правна помош), *Official Gazette of the Republic of North Macedonia* (Службен весник на Република Северна Македонија) no. 101/19

¹⁰⁸ See Draft Law for amendments to the Law on justice for children (Нацрт - закон_Предлог на Закон за измени и дополнување на Закон за правда на децата по скратена постапка), available at https://ener.gov.mk/files/propisi_files/ria/1_895959817PREDLOG%20ZAKON%20%20PRAVDA%20NA%20ECATA.docx

¹⁰⁹ Ministry of the Interior (Министерство за внатрешни работи), Republic of North Macedonia, Strategic Plan 2019-2021 (Стратешки план 2019 – 2021) https://mvr.gov.mk/Upload/Editor_Upload/190313-SP-2019-2021-finalen-sajt.pdf

¹¹⁰ Ministry of the Interior (Министерство за внатрешни работи), Republic of North Macedonia, Police Development Strategy 2016-2020, [https://mvr.gov.mk/Upload/Editor_Upload/publikacii%20pdf/Police%20Development%20Strategy%202016-2020%20\(1\).pdf](https://mvr.gov.mk/Upload/Editor_Upload/publikacii%20pdf/Police%20Development%20Strategy%202016-2020%20(1).pdf)

2. Violence against women

The country ratified the **Istanbul Convention in March 2018** and it entered into force in July 2018.¹¹¹ The Action Plan for its implementation was adopted on October 9th, 2018, containing measures for preventing and combating violence against women and domestic violence for the period from 2018 to 2023.¹¹² The Action Plan foresees the adoption of a systemic law on integrated and coordinated actions in all forms of gender-based violence in 2019. Such a law has not been adopted yet, although local CSOs have informed that they participate in a working group for this purpose.¹¹³ The Ministry of Labour and Social Policy has been supported by the Law on Prevention, Combating and Protection against Domestic Violence,¹¹⁴ adopted in 2014 and amended twice in 2015, which remains the basic law on domestic violence.

The new **Law on Prevention and Protection against Discrimination**¹¹⁵ introduces sexual orientation and gender identity as grounds for discrimination, as well as intersectional discrimination as a separate form of discrimination. (*For more details on the law see chapter 1*)

2019 OSCE Survey on Violence against Women published

In 2019 the OSCE published a **Study on violence against women** based on a methodology which combined expert interviews with a representative sample of 1,910 women, eight focus groups and four in-depth interviews with women who experienced violence.¹¹⁶ According to the study, nearly half of all women believe that domestic violence is a private matter, and three in ten believe that victims exaggerate claims of abuse or rape. Very few women have reported violence due to a number of factors such as identifying shame, financial reasons, lack of information and mistrust of services, fear and lack of understanding of what counts as violence. Intimate partner violence has been experienced by 45% of women, 9% have experienced physical violence at the hands of a partner and 44% have experienced psychological abuse. Nearly half (48%) of the women surveyed agree that domestic violence is a private matter, and almost three out of ten (28%) believe that violence is often provoked by the victim.¹¹⁷ Women from rural areas are at increased risk due to their distance from support services and lack of financial independence.¹¹⁸

¹¹¹ Law Ratifying the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Закон за ратификација на Конвенција на Советот на Европа за спречување и борба против насилството врз жените и домашното насилство), *Official Gazette of the Republic of Macedonia* [Службен весник на Република Македонија] No. 198/17

<http://www.slvesnik.com.mk/Issues/f23f26cea7264a069145406e60f6b8f6.pdf>

¹¹² North Macedonia, Ministry of Labor and Social Policy (2018), Action Plan for implementation of the Convention on preventing and combating violence against women and domestic violence 2018 – 2023 (Акциски план за спроведување на Конвенцијата за спречување и борба против насилството врз жените и семејно насилство на Република Македонија, 2018 – 2023) 9 October, 2018.

¹¹³ Helsinki Committee for Human Rights (Хелсиншки комитет за човекови права), February 2019 Monthly report on the state of human rights (Месечен извештај за состојбата со човековите права) <https://mhc.org.mk/wp-content/uploads/2019/04/mesecen-izvestaj-hr-feb2019.pdf>

¹¹⁴ Law on Prevention, Combating and Protection against Domestic Violence (Закон за превенција, спречување и заштита од семејно насилство), *Official Gazette of the Republic of Macedonia*, (Службен весник на Република Македонија) No. 138/14; 33/15 and 150/15.

¹¹⁵ Law on Prevention and Protection against Discrimination (Закон за спречување и заштита од дискриминација), *Official Gazette of the Republic of North Macedonia*, (Службен весник на РСМ) No. 101, 22 May 2019

¹¹⁶ OSCE, (2019), Survey on Violence against Women: Main report. Well-being and Safety of Women for North Macedonia, project funded by the EU, <https://www.osce.org/secretariat/419264?download=true>

¹¹⁷ Ibid.

¹¹⁸ Ibid.

Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

1. CRPD policy & legal developments

Public opinion on the position of persons with disabilities

The **2019 OSCE Barometer of Equal Opportunities**¹¹⁹ confirms that discrimination on the ground of disability is ranked fourth as in all previous surveys, although there is a continuous drop in the number of answers stating that it is widespread, from 45% in 2009 to 42% in 2013 and 41% in 2018. Persons with disabilities and the parents of children with disabilities consider that they are not equal with other citizens (99.5%), do not enjoy equal protection before the law in comparison with other citizens (83%).

Adoption and entry into force of the Law on Prevention and Protection against Discrimination

The new **Law on Prevention and Protection against Discrimination**¹²⁰ extends the protection against discrimination on all grounds including disability, to all public and private activities in all areas of society. Apart from the term people with disability, in its provisions the law also defines denial of reasonable accommodation as discrimination. The Law also defines “segregation” and “intersectional discrimination” which are very significant for people with disabilities. When it comes to the definitions of key grounds and forms, the law is largely in line with the CRPD standards. (*For more details on the law see chapter 1*)

Adoption and entry into force of new Law on Social Protection

The **new Law on Social protection** adopted in May 2019¹²¹ includes a general anti-discrimination clause, where disability is covered. Although the law strives to ensure a systematic approach to provide social security and protection, it is still not in line with the CRPD and the Government has not included the latest General Observation (Articles: 19, 28) from the CRPD committee.¹²² The terms *support needs*, *reasonable accommodation*, among others, have not been defined. While the law ensures formal equality, it does not ensure an inclusive one, which is a requirement by the CRPD. The Law defines a person with a disability as “a person that has long-term physical, intellectual, mental or sensory impairments which in interaction with various obstacles can prevent her/his full and effective participation in society on an equal ground with all.” (Article 4(5)). According to the Law, the process of defining the eligible criteria for each social benefit, and services for people with disabilities will be led from the medical categorization for people with disabilities (Article 295) and for each service and benefit

¹¹⁹ Kimov Gj. and Kimova F. (2019). *Барометар за еднакви можности* [Equal Opportunities Barometer] (Skopje, OSCE – Mission to Skopje).

¹²⁰ Law on Prevention and Protection against Discrimination (Закон за спречување и заштита од дискриминација), *Official Gazette of the Republic of North Macedonia*, (Службен весник на РСМ) No. 101, 22 May 2019

¹²¹ Law on Social Protection (Закон за социјалната заштита), *Official Gazette of the Republic of North Macedonia* (Службен весник на Република Северна Македонија) No.104/2019 23 May 2019

¹²² Concluding observations on the initial report of the former Yugoslav Republic of Macedonia, FYR of Macedonia, article 28, Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fMKD%2fC%2fO%2f1&Lang=en

a person will need to go to a separate Medical Commission. In addition, the eligibility criteria for people with disability include age and degree of impairment, i.e. persons with disability are eligible for the predicted benefits and services if they're over 26 years of age and if they have 100% degree of impairment. The benefits and services for parents of children with disability do not ensure equal material support to biological and foster families.

Adoption and entry into force of the new Law on Primary Education

The **new Law on Primary Education adopted in July 2019** highlights the concept of inclusiveness for all students with and without disabilities.¹²³ The law incorporates disability as a ground of discrimination and thus ensures formal equality, but not inclusive one. Denial of reasonable accommodation is not mentioned as a form of discrimination. The Law does not distinguish between reasonable accommodation and accessibility and does not define “reasonable adaptation”. The Law stipulates that “the infrastructure, goods, individualized support and other services in primary education shall be reasonably adapted to ensure the enjoyment or exercise of the right of primary education for the pupils with disabilities on an equal basis with others (Article 11 (5))”.

The law opens up the possibility for establishing resource centres which will provide advisory, consultative, vocational and practical support to other primary schools. However, it is not clear whether the establishing of such centres will be optional or obligatory since Article 16 foresees that each school should have a resource centre, but Article 20 (10 and 11) states that “the State *may* [emphasis added] establish a primary school with a resource centre (Article 20 (10 and 11)).

The Law foresees individualized support for inclusion of pupils with disability with the support of a special educator and rehabilitators, educational assistants, personal assistant etc., however their work is to be specified with a by-law that needs to be enacted by the Minister of Education. It also foresees the development of an Individual educational plan for students with disabilities prepared by the Inclusive education team (the teacher, pedagogue, psychologist, special educator and rehabilitators, and the parent) formed in the School (article 15).

The Law, however, does not foresee mechanisms that will ensure the participation of children with disabilities in decision-making processes affecting their lives, particularly the right of children with disabilities to have their views taken into account on matters pertaining to them. Detailed policy documents as to the provision of the foreseen adequate support and required resources to foster inclusion are still missing. OPDs consider they were not sufficiently consulted in the preparation of the Law.¹²⁴

Implementation of the National Deinstitutionalization Strategy 2018-2027

The Government continued with the implementation of the National Deinstitutionalization Strategy “Timjanik” covering the period 2018–2027 and the accompanying midterm Action Plan (2018-2020).¹²⁵ In 2019, the Government continued the process of deinstitutionalization focusing on children with and without disabilities. In 2019, 3 (three) persons with disabilities from the Special Institute Demir Kapija were accommodated in the group home in village

¹²³ Law for Primary Education (Закон за основното образование), *Official Gazette of the Republic of Macedonia* (Службен весник на Република Северна Македонија) No.161/2019 5 August 2019

¹²⁴ Letter sent from Polio Plus Movement to the Ministry of Education 4th July 2019.

¹²⁵ Ministry for Labour and Social Policy (Министерство за труд и социјална политика) National Strategy for deinstitutionalization 2018-2027 (Национална стратегија за деинституционализација 2018 – 2027), http://www.mtsp.gov.mk/content/pdf/2019pravilnici/23.4_National%20Deinstitutionalisation%20Strategy%20and%20Action%20plan.pdf

Koreshnica (mountain village).¹²⁶ Several people with disabilities were relocated to the city of Strumica near the Special Institution Banja BANSKO.¹²⁷

The Organizations of persons with disabilities (OPDs) have considered that the deinstitutionalization process is unjustified pointing out that the Government does not adhere to its obligations under the CRPD and General comment No. 5 (2017)¹²⁸ on living independently and being included in the community.¹²⁹ The OPDs are foremost critical of the deinstitutionalization process for creating small group homes, i.e. transfer of persons with disabilities out of urban areas without support services, including accessible and available infrastructure, or appropriate human resources.

Adoption of a Declaration on the right of political participation of people with disabilities by the national Assembly

On December 23rd 2019 the Assembly of the Republic of North Macedonia adopted a Declaration on Active Political Participation of Persons with Disabilities with 76 votes.¹³⁰ The Declaration calls the executive and all other stakeholders to create conditions in order for citizens with disabilities to be able to exercise their voting rights on equal grounds with all other citizens without disabilities.

¹²⁶ Information for the deinstitutionalization of 3 persons with disabilities in Koreshnica, MLSP http://mtsp.gov.mk/pocetna-ns_article-carovska-prodolzuva-me-so-deinstitucionalizacijata-koreshnica-stana-nov-dom-na-tri-lica-od-zavodot-de.nsp

¹²⁷ http://www.mtsp.gov.mk/juli-2019-ns_article-carovska-vo-poseta-na-prvite-lica-koishto-izlegoa-od-banja-bansko-prodolzuva-procesot-na-deinstituci.nsp

¹²⁸ General comment No. 5 (2017) on living independently and being included in the community https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/5&Lang=en

¹²⁹ OPDs have raised these concerns in the Shadow Report in relation to the CRPD implementation. Summary Report of the state responses to the questions related to the initial report of the Republic of Macedonia on the implementation of the Convention on the rights of persons with disabilities, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fCSS%2fMKD%2f31979&Lang=en

¹³⁰ Draft declaration on the right of political participation of people with disabilities (Предлог - декларација за правото на политичко учество на граѓаните со попреченост) <https://sobranie.mk/materialdetails.nsp?materialId=6ada71f6-21ad-40f6-9401-9d144d8a3a71>

2. CRPD monitoring at national level

a) Monitoring of CRPD implementation at national level

The Ombudsman establishes a department for monitoring the CRPD

The Ombudsman¹³¹ established a team for monitoring of the CRPD within its structure in July 2019.

b) Table: Structures set up for the implementation and monitoring of the CRPD

EUMS	Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1)	Coordination mechanism – Article 33 (1)	Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2)
MK	The Chair person of the National Coordinative Body for the implementation of the CRPD within the Government of the Republic of North Macedonia is acting as a focal point Претседавачот на Националното координативно тело за имплементација на КПЈП делува како Национален координатор за имплементација на Конвенцијата.	National Coordinative Body for the implementation of the CRPD within the Government https://vlada.mk/KoordinativnoTelo/PravaNaLicaSoPoprechenost	Ombudsman http://ombudsman.mk/

¹³¹ North Macedonia, Activities of the Ombudsman (Народен Правобранител), press release 03 December 2019 http://ombudsman.mk/MK/aktivnosti/241615/odbelezhan_megjunarodniot_den_na_licata_so_poprechenost.aspx. Although requests were sent from OPDs, there is no available information on the structure, budget of the team or involvement of OPDs and people with disabilities.

Annex 1 – Promising Practices

Thematic area	<p>EQUALITY AND NON-DISCRIMINATION</p> <p>Please provide one example of a rights awareness campaign held in your country in 2019 relevant to equality and non-discrimination, preferably one conducted by a national equality body. Where no such campaign was held, please provide an example of a promising practice implemented in 2019 in your country (this could include innovative initiatives at local level) to combat discrimination on any one of the following grounds: religion or belief, disability, age, sexual orientation, gender identity or sex characteristics. Where relevant, always highlight any relevance or reference to multiple discrimination.</p>
Title (original language)	Информатор за дискриминација
Title (EN)	Infosheet on Discrimination
Organisation (original language)	Хелсиншки комитет за човекови права во Република Македонија и Организација за безбедност и соработка во Европа – Мисија во Скопје
Organisation (EN)	Helsinki Committee on Human Rights in the Republic of Macedonia (MHC) and Organisation for Security and Cooperation in Europe – Mission to Skopje (OSCE)
Government / Civil society	Civil society and international organisation
Funding body	Organisation for Security and Cooperation in Europe – Mission to Skopje
Reference (incl. url, where available)	<p>Newest edition of the monthly Infosheet (November 2019): https://mhc.org.mk/wp-content/uploads/2019/12/discrimination-monitor-noemvri-2019.pdf</p> <p>Newest edition of the annual Infosheet (2018): https://mhc.org.mk/wp-content/uploads/2019/08/Godisen-izvestaj-2018-III-1.pdf</p> <p>Generated search results for all infosheets on the MHC Website: https://mhc.org.mk/?s=информатор+за+дискриминација</p>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Start date: March 2016 (ongoing)
Type of initiative	Publication/Information/Awareness raising
Main target group	General public
Indicate level of implementation: Local/Regional/National	National

<p>Brief description (max. 1000 chars)</p>	<p>The MHK and the OSCE started publishing the Infosheet on Discrimination in order to present in a succinct and visual manner information of relevance for the protection against discrimination. They focus the Infosheet on the following information: number of registered cases on discrimination in the country on a monthly level, opened procedures for protection against discrimination, brief presentation of the court practice at the domestic courts, the NHRIs with an equality mandate, and selected cases from the EctHR and the ECJ. They also publish one annual summary of the information published throughout the year. They also include information on any outstanding activities and initiatives undertaken by the civil society in the area of protection against discrimination.</p>
<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<p>Publishing information on discrimination cases from multiple forums at the national level is a transferable element for any context where there is an issue with lack of access to information on/regarding judicial and other practice on discrimination cases.</p>
<p>Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’)</p>	<p>The methods and the collection and publication channels have been well established and the publication is running for a third year now, every month and, in addition, once a year.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>The concrete measurable impact is in bringing to light the implementation of the non-discrimination legislation in the country by bringing to light information about discrimination cases. Since the publishing of the Infosheet, there is a clearer picture on the developments at the national level.</p>
<p>Give reasons why you consider the practice as transferrable to other settings and/or Member States?</p>	<p>Information on court practice regarding discrimination cases is missing in many member states. The tools used in this initiative to collect the information (free access to information requests, contacts with courts, and other professional associations) are available in all member states. They can be mobilised in order to gather the necessary information in other contexts as well.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>The type of practice is turns highly professional and legal information into information easily accessible to the public. Consequently, this question does not seem applicable.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>While each information product could use regular review and assessment, it does not seem to have been done in this case. It is, however, possible for it to be done both via survey and via focus group.</p>

Thematic area	RACISM, XENOPHOBIA AND RELATED INTOLERANCE Please provide one example of a promising practice to address discriminatory ethnic profiling within law enforcement agencies and other relevant national authorities. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
Title (original language)	Платформа “Говор на омраза”
Title (EN)	Platform “Hate speech”
Organisation (original language)	Хелсиншки комитет на Република Македонија
Organisation (EN)	Helsinki Committee of the Republic of Macedonia (МНК)
Government / Civil society	Civil Society
Funding body	National Endowment for Democracy (USA)
Reference (incl. url, where available)	www.govornaomraza.mk/main
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2014 – onwards
Type of initiative	A one-stop-shop website providing hate speech reporting application, and comprehensive information about hate speech and support for victims.
Main target group	General public
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The website is a one-stop-shop which hosts a hate speech reporting application, and comprehensive information about hate speech and support for victims. The aim is to provide an internet platform for reporting cases motivated by hate through a very easy to use and accessible tool. It is not necessary to provide personal data in order to report a case, which works in favour of privacy of the reporting. Any interested person can also browse all reported cases, as well as access a tool which makes it possible to compare the data gathered via citizens’ reporting. The platform also provides other resources which can inform people about what hate crime is, including by simple, everyday examples.
Highlight any element of the actions that is transferable (max. 500 chars)	Organising a one-stop-shop platform, which will include a citizens’ reporting tool that guarantees privacy, provides good ground for transferring the practice.
Give reasons why you consider the practice as	Once set up, the website can be technically managed with small funds. The content is mainly citizens’ generated, thus as long as there is interest

sustainable (as opposed to 'one off activities')	among the citizens, there will be new content generated. The other content which is not citizen generated would have been generated as part of the initial setup of the platform and would require little funds to be maintained.
Give reasons why you consider the practice as having concrete measurable impact	The number of reports (publically visible) and website hits can be used as ground for measuring impact since it can show whether citizens feel more encouraged to report hate speech. Also, the types of reports can attest to whether the citizens have understood well what hate speech is, which can also help to measure impact.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	Hate speech is an issue in all Member States. Encouraging reporting, enhancing knowledge and providing tools for monitoring hate speech could be of benefit to any country which does not have such a platform and has identified underreporting and lack of knowledge and awareness as weaknesses.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The internet platform enables reporting of cases motivated by hate through an accessible tool which any person can use freely and easily. It is not necessary to provide personal data in order to report a case, which works in favour of privacy of the reporting. Persons can provide feedback to the platform, however it is not known whether and how this data is used.
Explain, if applicable, how the practice provides for review and assessment.	There is no sufficient published information on this. However, it can be presumed that the number of reports (publically visible) and website hits are sufficient ground for review and assessment.

Thematic area	<p>ROMA INTEGRATION</p> <p>Please provide one example of promising practice in relation to addressing a Roma/Travellers segregation at either national, regional or local. These could be (not limited to) in the area of segregation in education, residential segregation, segregation in healthcare services or in employment.</p>
	No promising practice has been identified for this thematic area.

Thematic area	<p>Asylum, visas, migration borders and integration</p> <p>Please provide a promising practice on the support provided to unaccompanied children when reaching majority.</p>
	No promising practice has been identified for this thematic area.

Thematic area	INFORMATION SOCIETY, DATA PROTECTION Please provide one example of a promising practice in relation to one of the topic addressed in this Chapter
	No promising practice has been identified for this thematic area.

Thematic area	RIGHTS OF THE CHILD Please provide one example of a promising practice in relation to one of the topics addressed in this Chapter.
	No promising practice has been identified for this thematic area.

Thematic area	ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter
	No promising practice has been identified for this thematic area.

Thematic area	Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.
Title (original language)	Интерпартиска парламентарна група за правата на лицата со хендикеп (ИППГ)
Title (EN)	Inter-Party Parliamentary Group for the Rights of People with Disabilities (IPPG)
Organisation (original language)	Полио Плус – движење против хендикеп
Organisation (EN)	Polio Plus – movement against disability
Government / Civil society	Civil society
Funding body	The process is led and supported by the CSO Polio Plus with occasional funding from the EU.
Reference (incl. url, where available)	/

Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2003 to date
Type of initiative	CRPD
Main target group	Members of Parliament
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The IPPG - as a mechanism for improving human rights of people with disability is directly related with the enacting of the legislative change as it is linked to the national Parliament (Assembly). In 2003, upon an initiative of Polio Plus, several Members of Parliament joined to establish the first Inter-Party Parliamentary Group with the aim to uphold, protect and promote the rights of people with disabilities in the Parliament, raising the issue of disability on the parliamentary agenda.
Highlight any element of the actions that is transferable (max. 500 chars)	The IPPG is an example of joint work of civic and parliamentary groups. The Parliament of the Republic of Macedonia adopted the Declaration for Protection and Promotion of the Rights of People with Disabilities. Some of the major achievements are the following: building partnerships (among the OPDs, but also between the Parliament and the civic sector), raising public awareness (participation and taking into consideration the disability issue in the Parliament sessions), putting effort to change the legislation framework in line with the CRPD, organising public debates, hearings, and advocating in the name of the disability community.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The sustainability of this promising practice is contingent on two things, the second of which is the more important one. First, finances secured by CSOs. Second, continued interest and political will to continue the inter-party cooperation on disability issues.
Give reasons why you consider the practice as having concrete measurable impact	The practice has a concrete measurable impact because it helps to discuss disability as an issue which should not be subject to party politics. Thus, it is easy to follow and see the impact from the work of the IPPG by the number of issues it has processed and activities organised.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The practice is transferable because inter-party dialogue is a challenge in other places as well. In addition, establishing an inter-parliamentary group is, by the nature of the action, transferable to places where parliaments are in operation and where CSOs are willing to work with MPs in order to secure progress with the rights of persons with disabilities.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The IPPG does not have strict formal structure, nor rigid working agenda or regulations. However, in order for the group to function, it has members, a session spokesperson - a president (person from the ruling party), vice presidents (who are members of the opposition and other political parties) and a technical secretary (composed of OPDs and the officer who should be a person with disability). One of the principles is that the Technical secretary/committee that organises and connects all deputies, should be a person with disability. The wider group of the IPPG are composed of representatives from the wider community, such as media, experts from different fields, individuals, professors etc.

<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>The Technical Secretary together with the Members of Parliament, members of the group are the working base for the annual working program with concretely defined tasks and aims that need to be achieved. At the end of the year, they make evaluation and monitor what has been done and in which manner.</p>
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Annex 2 – Case law

Thematic area	<p>EQUALITY AND NON-DISCRIMINATION</p> <p>Please provide one high court decision addressing discrimination on any one of the following grounds: gender identity, religion or belief, disability, age, or sexual orientation. Where relevant, always highlight any relevance or reference to multiple discrimination in the case you report</p>
	No case law has been identified for this thematic area.

Thematic area	<p>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</p> <p>Please provide the most relevant high court decision concerning the application of either the Racial Equality Directive, the Framework Decision on racism and xenophobia, or relevant to addressing racism, xenophobia and other forms of intolerance more generally.</p>
Decision date	18.07.2019
Reference details	Second Instance Court Bitola, J.K., R.E., A.E., D.A., O.A., R.A. and ERRC vs Megagrup DOOEL and JP Strezhevo, Case No: TCЖ-42/19 (18.07.2019).
Key facts of the case (max. 500 chars)	This is a case of discrimination in relation to access to goods and services on grounds of ethnicity. The European Roma Rights Center (ERRC), an NGO working on Roma rights including by providing free legal aid, received information that Roma people are being denied access to the open swimming pool Dovledzik in the town of Bitola. Therefore, the ERRC organised situation testing in order to investigate and secure evidence of the reported discriminatory practice. The Second Instance Court confirmed the First Instance Court ruling (dated 13.11.2018) that discrimination had occurred and that damages should be awarded.
Main reasoning/argumentation (max. 500 chars)	The Second Instance Court confirmed that there had been discrimination on grounds of ethnicity and colour of skin in the field of access to goods and services against the individual applicants. The situation testing evidence was submitted and was considered sufficient for shifting the burden of proof. The accused, the Court found, did not prove that they had not discriminated against the applicants or that they had had any justification for the unequal treatment. It examined whether the accused actually considered any rules in place at the pool for how (potential) guests should behave in order to decide whether the applicants acted in line with this. However, it found that no such rules were broken and that the applicants were denied access solely because they are Roma.
Key issues (concepts, interpretations) clarified	<p>Situation testing is clearly accepted as valid proof.</p> <p>Shifting of the burden of proof is clearly applied.</p>

by the case (max. 500 chars)	
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	<p>All applicants were awarded 1.000 EUR (60.000 MKD) each, for suffered distress and emotional pain. The discriminator was prohibited from treating unequally in access to the pool, or from applying unequal treatment in similar situations in the future.</p> <p>This case is important because it is the first time that a national court has accepted situation testing as evidence in court. Before this case, situation testing was accepted by the Ombudsperson and the national equality body.</p>
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>“Тестирањето ситуација претставува метод што се користи за докажување на директна дискриминација кон одредена личност која има конкретни идентитетски карактеристики заштитени со закон, со ставање во споредбена ситуација со друга личност која не ги поседува конкретните карактеристики и кон која не се врши дискриминација.”</p> <p>“Situation testing is a method used to prove direct discrimination towards a person with specific personal characteristics protected under law, by placing in a comparable situation another person that does not have these characteristics and towards whom there is no act of discrimination.”</p> <p>Second Instance Court Bitola, J.K., R.E., A.E., D.A., O.A., R.A. and ERRC vs Megagrup DOOEL and JP Strezhevo, Case No: TCЖ-42/19 (18.07.2019).</p>

Thematic area	<p>ROMA INTEGRATION</p> <p>Please provide the most relevant high court decision addressing violations of fundamental rights of Roma in the context of education, employment, health, housing, etc. In particular, focus on cases where discrimination or segregation (not limited to segregation in education or housing) are addressed.</p>
Decision date	13.12.2019
Reference details	Second Instance Court Bitola, E.A., S.Š., S.A. and F.A. vs Municipality Prilep and Public Communal Enterprise Water and Sewer Prilep, Case No: ГЖ-1671/19 (13.12.2019).
Key facts of the case	The applicants, all of Roma ethnic origin, live in part of the town of Prilep where there is no access to water and sewage system. They found out that

(max. 500 chars)	the access to this system is not available in the parts where they live, which is entirely inhabited by Roma. They complained that, by not providing an access to the water and sewage system for this part of the town, the Municipality of Prilep violated their right to equal treatment in relation to equal access to clean, drinkable, water. Interpreting the factual situation as a failure of the applicants to apply for access to the water and sewage system, the first instance court found that the claim is unfounded and decided in favour of the respondents. The applicants complained to the second instance court.
Main reasoning/argumentation (max. 500 chars)	The second instance court found that the first instance court has wrongly interpreted the factual situation; it disregarded that the infrastructure of the water and sewage system does not reach the parts where Roma live, and that the current access to water, which is neither clean nor drinkable, has been secured by improvised efforts of the applicants themselves, and not by the respondents. So, the court found discrimination on grounds of ethnicity in relation to the human right to water, and in particular the elements of availability and accessibility of sufficient quantity of water of appropriate quality.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The crux of the court's interpretation is in (1) making a distinction that water should be considered as a public good, and not as a mere service, and (2) that it should be provided without discrimination. On the first point, the court cited a 2019 Constitutional Court decision which annulled a provision enabling water providers to cut off access to water to non-paying users. On the second point the court cited UN standards establishing an obligation of the state to 'undertake steps to remove de facto discrimination on any prohibited discrimination ground where individuals or groups have been denied the right and means needed to acquire access to water'.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The respondents are to pay to each applicant non-pecuniary damages of 30.000 denars (about 500 EUR) for mental distress, and to cover their procedural costs, worth 271.440 denars (about 4.413 EUR).
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>„ Се утврдува дека тужените им го повредиле правото на тужителите на еднаков третман ... поради нивната етничка припадност и извршиле дискриминација оневозможувајќи им пристап до чиста и здрава вода за пиење не преземајќи посебни мерки за заштита.“</p> <p>'The Court finds that the respondents violated the applicants' right to equal treatment ... because of their ethnicity and discriminated them by way of preventing them from accessing clean and healthy drinking water and by not undertaking special protection measures.'</p> <p>Second Instance Court Bitola, E.A., S.Š., S.A, and F.A. vs Municipality Prilep and Public Communal Enterprise Water and Sewer Prilep, Case No: ГЖ-1671/19 (13.12.2019).</p>

Thematic area	INFORMATION SOCIETY, DATA PROTECTION
	Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter
	No case law has been identified for this thematic area.

Thematic area	<p>RIGHTS OF THE CHILD</p> <p>Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter.</p>
	No case law has been identified for this thematic area.

Thematic area	<p>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</p> <p>Please provide the most relevant high court decisions in relation to one of the topic ad-dressed in this Chapter.</p> <p>7.2.2. Violence agaist women</p>
Decision date	23.01.2019
Reference details	North Macedonia, Court of Second Instance Štip (Апелационен суд Штип), КЖ-15/19, 23.01.2019
Key facts of the case (max. 500 chars)	The Appeal Court in Štip received an appealed case from the Primary Court in Strumica which was presented by the Primary Public Prosecutor of Strumica. The case relates to an aggravated physical assault against a woman in the city of Strumica. The key facts mentioned in the verdict by the primary court are as follows: on the day of the crime the perpetrator M.M., who was in a close relationship with the victim A. S., arrived at the apartment of the victim. While there, he punched her several times about the face and head causing her serious physical injuries.
Main reasoning/argumentation (max. 500 chars)	This case was clearly an aggravated physical assault against a woman, as evidenced by the medical documentation. The perpetrator pleaded guilty to this crime. No further argumentation was needed.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	This crime was judiciously classified as an aggravated physical assault, committed act of domestic violence according to Article 131, paragraph 2, and item 1 of the Criminal Code. For this criminal offense a minimum sentence from one to five years is prescribed. Mitigating circumstances were divergent from the Court and the Public Prosecutor’s Office.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Appeal Court in Štip upheld the verdict of the Primary Court in Strumica by finding the perpetrator guilty, but issued alternative measures instead of prison. The court issued a suspended sentence of one year in prison providing that the perpetrator does not commit any new crime within two years. The Appeal court found the suspended sentence to be appropriate in this case even though the victim of the crime suffered serious physical injuries.
Key quotation in original language and translated into English with reference details (max. 500 chars)	„Според тоа по наоѓање на овој суд изречената условна осуда и утврдена казна затвор во траење од една година... е доволна и нужна за постигнување целите на казнувањето како на планот на специјалната, така и на планот на генералната превенција.“

	<p>“Upon the finding of this court a suspended sentence and a one-year prison sentence... is sufficient and necessary to achieve the goals of punishment in both the special and general prevention plan.”</p>
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Thematic area	<p>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</p> <p>Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.</p>
	<p>No case law has been identified for this thematic area.</p>