

Legal environment and space of civil society organisations in supporting fundamental rights

North Macedonia

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1 Five most significant civic space developments in 2020

We report five significant civic space developments for 2020 which refer to continuing experiences and/or to the COVID-19 pandemic. Context-wise, North Macedonia proclaimed a state of emergency from 18 March until 14 June 2020.¹ In relation to this, from 1 April until 29 June 2020, North Macedonia had derogated² from the European Convention of Human Rights' Article 8, Article 11, Article 2 of Protocol 1 and Article 2 of Protocol 4.³

1.1 Participation in decision-making

Research has found that there are improvements in the way information on (legislative) decision-making processes is shared, in its quality and consultation timeframes, and in the participation of civil society organisations (CSOs) in these processes, as well as in the general openness of the government for such participation. The one-stop-shop for information on public consultations Edinstven Nacionalen Elektronski Registar (Unique National Electronic Register - ENER)⁴ is a contribution in this direction. However, CSO expertise is still rarely used as opposed to others (such as university professors, experts and consultancy firms).⁵ Participation of CSOs in decision-making is obstructed by the (ab)use of expedited and urgent legislative procedures in the Parliament. These procedures include less possibility for discussion and amendments, which makes their use potentially worrying from a CSO viewpoint. The numbers for 2020 are still not available, but the ones for 2019-2015 show that, with the exception of 2018, expedited procedures are the dominant pathway for legislative proposals through the Parliament.⁶

1.2 Financing of civil society work

There are two main issues that shape the civic space in terms of finance and funding of CSOs in general, thus also of CSOs working with fundamental rights. The first is the continuously insufficient and inadequate funding, and the second is the cutting of funds induced by the COVID-19 pandemic. The form of funding provided by the state to CSOs is largely short-term and project based. Analysis of

¹ [Одлука за утврдување на постоење на вонредна состојба](#) [Decision Establishing State of Emergency], *Official Gazette of the Republic of North Macedonia*, No.68/2020.

² Council of Europe, Reservations and Declarations for Treaty No.005 - Convention for the Protection of Human Rights and Fundamental Freedoms - [Declarations in force as of today](#) (Status as of 22/01/2021).

³ Council of Europe, [Note Verbale, JJ9021C Tr./005-232](#), *Council of Europe* (02.04.2020).

⁴ ENER, [ener.gov.mk](#)

⁵ RCGO, [Огледало на Владата](#) [Government Mirror] (2020), 15-20.

⁶ Year - laws adopted (laws adopted in expedited procedure): 2019 – 170 (104), 2018 – 246 (71), 2017 – 33 (24), 2016 – 340 (238), 2015 – 574 (339). Sources: Annual reports for 2015-2019, available at <https://www.sobranie.mk/godishen-izveshtaj.nspix>

government financial support of CSOs⁷ has shown that institutional funding per se remains limited and in the form of regular annual allocation of funds from the state lottery to organisations working with disability and with domestic violence.⁸ Under Law, 50% of the annual turnover from the games of chance and the entertainment games (or between 813,000 EUR and 1,950,000 EUR) go to “national disability organisations, their associations and their union, the citizens’ associations in relation to domestic violence, and the Red Cross”.⁹ Co-funding support has been introduced, but it is sporadic and low. The regulatory framework regarding funding of CSOs in any form remains a patchwork. Other types of support, such as equipment and training, have been decreasing throughout the years.¹⁰ The Government accepted the recommendations from the above-mentioned analysis and included them in the 2020-2024 Government Programme.¹¹

As part of the efforts for dealing with the COVID-19 pandemic, the government adopted a number of economic measures which resulted in rebalancing the national budget. In this rebalance, funds that were already allocated and awarded to CSOs were cut in a non-transparent manner, despite CSOs’ criticism.¹² Following this, the Government published a special call for CSO activities in relation to the COVID-19 crisis. The call was largely focused on service provision and information and awareness raising, and offered limited possibility for applying with activities on monitoring of the government and the implementation of the various newly introduced measures.¹³

⁷ FOOM, *Анализа на финансиската поддршка за здруженијата и фондациите од буџетот на Република Северна Македонија* [Analysis of the Financial Support for the Associations and Foundations from the Republic of North Macedonia Budget] 93.

⁸ Ibid.

⁹ Закон за игрите на среќа и забавните игри [Law on the Games of Chance and Entertainment Games], *Official Gazette of the Republic of North Macedonia*, No.24/2011 (and subsequent amendments). Art.16.

¹⁰ RCGO, [Огледало на Владата](#) [Government Mirror] (2020), 14.

¹¹ FOOM, [Прифатени препораките кои придонесуваат во унапредување на околината во која работи и се развива граѓанското општество](#) [Recommendations on Advancing the Environment for Work and Growth of the Civil Society] (2020).

¹² EPI, [CSOs Call on RNM Government to Change the Decision to Drastically Reduce the Financial Support for the Civil Society](#).

¹³ Government of the Republic of North Macedonia, [“Оглас за финансиска поддршка на здруженија и фондации за мерки за справување со COVID-19 кризата”](#) [Call for Applications for Financial Support of Associations and Foundations for COVID-19 Crisis Measures].

1.3 Data Protection

The new Law on Data Protection was adopted and entered into force in February 2020.¹⁴ With it, the space for CSOs to act in the area of data protection expanded. Under the law, CSOs that are registered as acting in the area of data protection, can submit requests for data protection on behalf of individuals. This is a rather new development, thus the implementation of this provision is yet to be assessed.

1.4 Freedom of Expression

The freedom of expression developments that shape the civic space were marked by two main issues. The first is the issue of impunity for attacks and/or other affronts on journalists. This is a continuous issue in North Macedonia.¹⁵ The second are freedom of expression restrictions related to the COVID-19 pandemic. This includes restrictions to media freedom and to artistic freedom. Regarding media freedom, there were several restrictions on media reporting, mainly related to cases where health authorities have prohibited or prevented journalists from filming or otherwise working near a health facility.¹⁶ Further, during the state of emergency, journalists and other media staff needed to acquire permits in order to move freely during hours when movement was restricted. One condition for acquiring these passes included registration in two existing media registrars. The Association of Journalists of Macedonia objected to this and demanded that permits are issued to all media workers,¹⁷ which was later accepted. The Government introduced measures to support the media in order to prevent layoffs during the pandemic, by providing minimal salary for journalists from TV stations, which was met with a written public reaction from radio stations claiming discrimination of radio stations in comparison to the treatment of TV stations.¹⁸ The COVID-19 situation also adversely affected artistic freedom by diminishing or rescinding the possibility for artists to perform, musicians in specific. The CSO "Muzika sega!", composed of COVID-19-crisis affected musicians from different genres, proposed specific measures to the government that would enable musicians (largely from the independent and alternative scene) to continue to

¹⁴ Law on Data Protection, *Official Gazette of the Republic of North Macedonia*, No.42.2020.

¹⁵ State Department, [Human Rights Report – North Macedonia](#) (2019); Biljana Kotevska and Ismail Kamberi, "[North Macedonia](#)", in *Human Rights Defenders in the Western Balkans – Intimidation Instead of Recognition* (Civil Rights Defenders 2019).

¹⁶ ZNM, [Здравствените власти да не ја попречуваат работатата на новинарите](#) [Health Authorities Should Not Obstruct the Work of Journalists] (30.11.2020).

¹⁷ ZNM, [Регистарот на СЕММ и ЗНМ постои за препознавање на професионалните медиуми, а не за делење дозволи за движење](#) [The Register of SEMM and ZNM is a Tool for Recognising Professional Media, Not for Granting Movement Permissions] (22.03.2020).

¹⁸ АРЕММ, [Одлуката на Владата за помош на медиумите е дискриминаторска за радијата](#) [The Government Decision is Discriminatory Towards Radio Stations]

perform.¹⁹ However, their recommendations were mainly not accepted and, with the exception of the summer, these musicians were not able to perform.²⁰ Finally, radio channel Radio 103 – formed 30 years ago as a de facto autonomous (alternative and non-commercial) part of the national broadcasting company MRT – is still off the FM air as ordered by the Agency for Electronic Communication to the MRT Programme Council in 2019 which found that the radio aired on ‘illegal frequency’.²¹ This decision came after decades of work of the station within MRT.

1.5 Lack of Systematic Support for Human Rights Defenders

The civic space features in the area of fundamental rights greatly depend on the situation of human rights defenders (HRDs). While no significant changes to the situation took place in 2020, there is a continuation of the climate of impunity for attacks on HRDs and overall invisibility of their particular position, vulnerability and role, including a complete disregard for the specificity of the position and work of women human rights defenders. There is still no special mechanism for the protection of HRDs. In a 2019 regional research on HRDs in the Western Balkans, HRDs from North Macedonia reported that the competent state institutions are not sensitive towards the particular position of HRDs, and that they lack capacities for implementing the legislative framework that is in place, thus leaving crimes against HRDs, including hate crime and hate speech, unsanctioned. In addition, the research found “limitations in the exercise of the freedom of assembly, right to protest, freedom of access to information, and the freedom of opinion and expression.”²² Women human rights defenders (WHRDs) reported sexual harassment, threats of sexual violence and rape, the majority of which goes unsanctioned.”²³

¹⁹ Muzika sega!, [Иницијатива на музичарите и музичките работници за итно враќање на музичките настапи](#) [Musicians and Musical Workers Initiative for Immediate Return of Music Events], Muzicki registar (2020).

²⁰ Radio MOF, [„Музика – сега“ бара механизми за работа, ревизија на протоколи и поголем ангажман на македонски музичари](#) [Music Now! Demands Mechanisms to Go Back to Work, Protocols Revision, Larger Engagement of Macedonian Musicians], (15.10.2020)

²¹ SDK, [Култното музичко радио канал 103 по 29 години е исклучено како нелегално, МРТ цела година одлучува да го официјализира](#) [Cult Music Radio Station Kanal 103 Off Air as Illegal, MRT Legalisation Decision Pending for a Full Year] (26.08.2020).

²² Biljana Kotevska and Ismail Kamberi, (n14), 68.

²³ Ibid.

2 Examples of promising practice

Council for Cooperation with and Development of the Civil Society Sector

In 2017, the Council for Cooperation with and Development of the Civil Society Sector (the Council) was formed as an advisory body to the government on issues related to cooperation, dialogue and development of the civil society sector. Part of its members are from the relevant government ministries, whereas the majority are CSO representatives selected through a public election procedure and votes by CSOs themselves. The Council has a number of tasks, including monitoring of the Strategy on Cooperation between CSOs and the Government. The Council also monitors the process of allocation of finances to CSOs under the annual government call, and it did the same for the special COVID-19 call. During the pandemic, the Council was invited to nominate an observer to the government's COVID-19 group which is tasked to propose and adopt measures for dealing with the pandemic.²⁴

National Parliament Interparty Groups Focused on Human Rights Issues

The interparty groups are mechanisms focused on improving human rights of specific groups. There are two such groups in the national Parliament, one on persons with disabilities and one on LGBTI persons. The former has existed since 2003, the latter since 2014. Its members are MPs across party lines, from both the majority and the opposition, working on advancing the rights of these groups.²⁵ They also support CSO advocacy efforts from within the Parliament.

One-Stop-Shop for Information on Public Consultations

In December 2009, the one-stop-shop for information on public consultations – ENER - started operating. This online platform provides information on upcoming, current and past consultations regarding legislative proposals. Under the Rules of Procedure of the Government of the Republic of North Macedonia, each legislative text needs to be uploaded on ENER for at least 20 days before it is submitted to the Parliament. ENER enables users to comment on draft laws and bylaws. According to the statistics available on the portal itself, the majority of ENER's users are citizens and CSOs.²⁶

²⁴ Website of the Council for Cooperation with and Development of the Civil Society Sector: <https://www.nvosorabotka.gov.mk/?q=node/99>

²⁵ Assembly of the Republic of North Macedonia, [Constituent Meeting of the Inter-Party Parliamentary Group for Improvement of the Rights of LGBTI People](#), *Official Website of the Assembly of the Republic of North Macedonia* (2020).

²⁶ ENER, <https://ener.gov.mk/Default.aspx?item=analysis#!#initiatives>

Open Government Partnership

North Macedonia has been a member of the global initiative for cooperation of the government and civil society, Open Government Partnership, since 2011,²⁷ and has implemented four action plans. The fifth plan for the 2021-2023 period was drafted and discussed with CSOs in September 2020.²⁸

²⁷ Open Government Partnership, Members: North Macedonia,
<https://www.opengovpartnership.org/members/north-macedonia/>

²⁸ МИОА, [Одржана е-конференцијата „Отворено владино партнерство – дијалог за Националниот акциски план 2021-2023“](#) [Conference held “Open Government Partnership – Dialogue on the National Action Plan 2021-2023”] (30.09.2020).