

# **Franet National contribution to the Fundamental Rights Report 2021**

**Republic of North Macedonia**

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## Policy and legal highlights 2020

Franet country study: policy and legal highlights 2020	
<b>Issues in the fundamental rights institutional landscape</b>	<b>Overhauled fundamental rights institutional framework:</b> In 2020, the fundamental rights institutional landscape was fully transformed. <a href="#">There has been no equality body</a> since August 2019. A selection process of new membership of the equality body was underway in late 2020. With the adoption and entry into force of the <a href="#">new Law on Private Data Protection</a> in February 2020, and the entry into force of the <a href="#">2019 Law on Free Access to Public Information</a> , the national data protection supervision authority and the body overseeing free access to public information have been revamped. The Parliament published a three month delayed public <a href="#">call for a new Ombudsperson</a> on 26 November 2020. The <a href="#">lack of transparency</a> in the announcement caused strong critical reactions among CSOs.
<b>EU Charter of Fundamental Rights</b>	No important developments in 2020.
<b>Equality and non-discrimination</b>	<b>First NAP on LGBTI drafted:</b> The work of the Government-established working group for drafting of the first National Action Plan on LGBTI is underway.
<b>Racism, xenophobia &amp; Roma integration</b>	<b>The Anti-discrimination Act was <a href="#">adopted again</a> in October 2020, following annulment by the Constitutional Court in May 2020:</b> <a href="#">The Constitutional Court annulled</a> the 2019 Anti-discrimination Act on procedural grounds – not being adopted with the appropriate majority. Following this, the unamended text of the Act was <a href="#">adopted</a> by the Parliament in October 2020 and is now in force.
<b>Asylum &amp; migration</b>	<b>Legislation on foreigners amended in view of COVID-19:</b> <a href="#">Decrees</a> with legal force were adopted to allow foreigners who could not leave the Republic of North Macedonia due to COVID-19 travel restrictions to stay on its territory during and after the state of emergency.
<b>Data protection and digital society</b>	<b>New legislation on data protection adopted:</b> A <a href="#">Law on Data Protection</a> harmonising national legislation with EU Regulation 2016/679 was adopted in February 2020. <b>ECtHR judgment:</b> In the case of <a href="#">case of Trajkovski and Chipovski v. North Macedonia</a> the Court determined a violation of article 8 of the ECHR in relation to use of personal data, in this case DNA, in police work and law enforcement procedures
<b>Rights of the child</b>	No important developments in 2020.
<b>Access to justice, including</b>	<b>New Strategic Framework for prevention and protection of children against violence:</b> <a href="#">National Strategy (2020-2025) and Action Plan (2020-2022)</a> for prevention and protection of children against violence was adopted.

victims of crime	
Convention on the Rights of Persons with Disability	<p><b>ECtHR judgment:</b> In the case of <a href="#">L.R. v. North Macedonia</a>, the ECtHR found that North Macedonia has <b>violated Article 3 of the ECHR</b> finding that the authorities had been responsible for L.R.'s placement in an institute, which could not cater for his needs, the lack of requisite care and the inhuman and degrading treatment he had endured.</p>

# Chapter 1. Equality and non-discrimination

## 1. Legal and policy developments or measures relevant to fostering equality and combating discrimination against older people and against LGBTI people.

The biggest achievement of 2019 in the area of equality and non-discrimination, the adoption of the new Law on Prevention and Protection against Discrimination (ADL) on 16 May 2019,<sup>1</sup> was reversed in 2020. The adoption of the new ADL was of particular importance for LGBTI people, since it explicitly outlawed discrimination on grounds of sexual orientation and gender identity. Age was already an explicitly prohibited ground for discrimination in the old, 2010, law.<sup>2</sup> The Commissioners of the (then) equality body – the Commission for Protection against Discrimination (CPAD), challenged the constitutionality of the ADL on formal grounds in front of the Constitutional Court. They objected to the fact that the law was voted for a second time in the Parliament,<sup>3</sup> but was not passed with “a majority vote of the total number of Representatives”, as required under Article 75 of the 1991 Constitution applicable in such cases of repeated voting. Acting upon the CPAD application, on 28 January 2020, the Constitutional Court decided that the case has merit and proceeded to process it. On 14 May 2020, the Constitutional Court adopted a judgment finding that, as claimed by the CPAD, the ADL was not adopted with the needed majority and annulled the ADL.<sup>4</sup>

The annulment of the ADL resulted in having only the Constitution and the scattered non-discrimination provisions as the only legal ground for protection against discrimination in place now. The party coalition that won the July 2020 pre-term elections had the prioritising of the adoption of the ADL as one of its election promises. Moreover, at the initiative of several networks of CSOs, political parties were invited to sign a declaration that they would prioritise the adoption of the ADL following the elections; 17 parties signed the declaration.<sup>5</sup> On 4 September 2020, following the establishment of the new government, the new Minister of Labour and Social Policy announced that the MLSP has sent the text of

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<sup>1</sup> 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. 101/2019.

<sup>2</sup> 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) Nos. 50/2010, 44/2014, 150/2015, 31/2016 and 21/2018.

<sup>3</sup> The (then) President returned the promulgation act unsigned, as he did with all other laws that contained the new constitutional name of the country. For more details regarding the process of adoption of the law and the changes it brought, see last year contribution on North Macedonia towards the Fundamental Rights Report 2020.

<sup>4</sup> Details on the case are included in Annex 2 – Case Law, section “Racism, xenophobia and related intolerance”.

<sup>5</sup> MERC, “[17 Political Parties Signed the Declaration on Prioritizing the Adoption of the Law on Prevention and Protection against Discrimination](#)” (17 политички партии ја потпишаа декларацијата за приоритетно донесување на Законот за спречување и заштита од дискриминација), *MERC*, (13.07.2020).

the ADL to the Government, which is a first step for the law to reach the Parliament.<sup>6</sup>

Following the establishment of the new Parliament composition and the appointment of the new Government, the text of the ADL, as annulled, was proposed to the Parliament for adoption and was passed in October 2020. In November 2020, the Parliament opened the public call for members of the equality body – the Commission for Protection and Prevention against Discrimination. There has been no functioning equality body in the country since August 2019.<sup>7</sup> CSOs have pressed for a participatory and transparent procedure for selection and appointment of commissioners. However, the parliamentary majority has rejected their proposals, including the proposed amendment to the ADL.<sup>8</sup> The public call for members of the equality body was published with a slight delay compared to the timeframe prescribed in the ADL. Several days after the deadline for applications had passed, a public hearing was scheduled for 29<sup>th</sup> and 30<sup>th</sup> of December 2020, in the Parliament. There was less than a day between the public hearing and the time when the full applications of the 44 applicants were published on the Parliament website. Some CSOs were invited to the hearing once again less than a day before the hearing and were allowed to ask questions to the candidates. The parliamentary opposition asked of the President of the Commission for Elections and Appointment Issues for an administrative check of the applications in order to ascertain whether the applicants fulfilled the minimum criteria required by the law, especially the ones regarding prior experience – seven years work on human rights issues out of which a minimum of five years’ work on equality and non-discrimination issues. However, the issue was deferred for a later stage of the selection process with the explanation that they cannot prevent a candidate from being heard at the hearing, since that would effectively mean eliminating them.<sup>9</sup> The hearing process was completed on December 30<sup>th</sup>, 2020. The next steps are to hold a meeting of the Commission in order to discuss the applications and propose to the Parliament a list of applicants to be appointed as commissioners at a plenary vote.<sup>10</sup>

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<sup>6</sup> Ministry of Labour and Social Policy (Министерство за труд и социјална политика), ‘[The Ministry of Labour and Social Policy Forwarded the Proposal for a Law on Prevention and Protection against Discrimination to the Government](#)’ (Министерството за труд и социјална политика го стави предлог-законот за спречување и заштита од дискриминација во владина процедура), *Official Website of the Ministry of Labour and Social Policy* (04.09.2020).

<sup>7</sup> Biljana Kotevska, European Equality Law Network - [Country report on Non-discrimination – North Macedonia – 2020](#) (European Commission, 2020), 74.

<sup>8</sup> Libertas, “Мрежа за заштита од дискриминација: Комисијата за спречување и заштита од дискриминација останува да се избира по партиски договор“ [The Network for Protection against Discrimination: the Commission for Prevention and Protection against Discrimination Remains Subject to a Political Party Deal], Libertas, <https://libertas.mk/mrezha-zashtita-od-diskriminaci-a-komisi-ata-za-sprechuva-e-i-zashtita-od-diskriminaci-a-ostanuva-da-se-izbira-po-pat-na-partiski-dogovor/>

<sup>9</sup> Commission for Elections and Appointments Issues, Commission Meeting 29-30.12.2020.

<sup>10</sup> Outside of the cut-off date for this report, the Commission on Elections and Appointments Issues held a session on January 4<sup>th</sup>, 2021. In a brief procedure and with little debate, a list proposed by the Parliamentary majority was adopted. The opposition MPs requested once again a check of the applications of the candidates in order to ascertain that they fulfil the

The mandate of the Ombudsperson, the head of another relevant institution for equality and non-discrimination, expired in September 2020. With significant delays and no transparency, the public vacancy announcement was opened on November 26<sup>th</sup>, 2020. CSOs reacted to the secrecy of the announcement, including to the fact that it was not publicised on the website of the Parliament. Only four persons applied, including the candidate announced by one of the position political parties as their candidate. The process did not progress beyond this point by the cut-off date for this report.<sup>11</sup>

As announced in 2019,<sup>12</sup> the Ministry of Labour and Social Policy (MLSP), as the competent ministry on equality and non-discrimination issues, established a working group for drafting of the first National Action Plan on LGBTI (NAP LGBTI). The NAP LGBTI will have the following priorities: improving the status of the members of the LGBTI community by improving the legal framework; strengthening the capacities of the relevant institutions for protection and promotion of the rights of the members of the LGBTI community; developing specific areas for intervention to promote the rights of members of the LGBTI community such as the areas of health, education, employment, access to rights, housing and culture; and raising community awareness of LGBTI rights and tolerance of diversity. The NAP LGBTI is still in the process of drafting. The public consultation process, originally expected to start in November 2020, is delayed.

The MLSP also provided other support in relation to LGBTI issues. The Ministry continued the financial support of the LGBT Safe House – a project initiated several years ago by the LGBT Centre, part of the civil society in the country. In addition, due to the possible escalation of violence against LGBTI persons in the newly arisen COVID-19 crisis context, the MLSP, together with the “Joint Programme of the European Union and Council of Europe ‘Horizontal Facility II’ for Western Balkans and Turkey 2019 – 2022”, supported the CSO Subversive Front in establishing an S.O.S. line to provide support to LGBTI victims of violence.<sup>13</sup> Aside from these activities, the CSOs working with LGBTI rights have been quite active during the COVID-19 crisis. Activities vary from provision of packages of hygiene products and food, to legal support in cases of violations of human rights.<sup>14</sup>

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minimum criteria under the law. However, the majority rejected this proposal. The list was on the agenda of the Plenary Session on January 12<sup>th</sup>, 2021. The opposition MPs left the session in protest, and there was no minimum number of MPs present to hold a vote. Finally, on the plenary session on January 25<sup>th</sup>, the Parliament adopted the new composition of the equality body. Source: Parliament Website, <https://www.sobranie.mk/>.

<sup>11</sup> On January 11, 2021, the Commission on Elections and Appointments Issues held a session that was not announced to the public beforehand. On the same session, it adopted a draft-decision proposing appointment of the aforementioned candidate of one of the political parties. On January 25<sup>th</sup>, 2021, with criticism by the opposition political parties, the candidate was appointed as Ombudsperson. Source: Parliament Website, <https://www.sobranie.mk/>.

<sup>12</sup> Ministry of Labour and Social Policy, “[We are Advancing the Rights of the LGBTI Community, Enabling Equal Protection for All](#)” (Ги унапредуваме правата на ЛГБТИ заедницата, овозможуваме еднаква заштита за сите), *Ministry of Labour and Social Policy Website*, (June 2019).

<sup>13</sup> Subversive Front, “[LGBTI helpline has just been launched](#)” (05.08.2020), *Subversive Front Website*.

<sup>14</sup> Civica Mobilitas maintains a platform registering the activities of CSOs during the COVID-19 crisis. All activities can be found on the following link: <https://civicamobilitas.mk/covid-19/> (the LGBTI category can be selected from the dropdown menu).



In addition to LGBTI, the COVID-19 crisis has been a challenging time for the elderly. In fact, one of the issues that raised largest interest in the country during this period was the difference in treatment on grounds of age, which arose because of the introduction of the COVID-19 measures. Namely, special freedom of movement restrictions were introduced for certain age groups. Persons above 67 years of age and below 18 years of age exercised an ever more limited freedom of movement than the general population. Although the curfew hours were changed several times, this decision refers to the period when there was a general prohibition for movement between the hours 19.00h and 05.00h the next day. However, for persons over 67 years of age the ban lasted from 12.00am until 05.00am the next day during weekdays and 11.00am until 05.00am during the weekend. There were limitations also for persons below 18 years of age (the main one being from 19.00pm until 13.00pm the next day during weekdays). This difference in treatment was challenged in front of the Constitutional Court. The Court found merit in the initiative and decided to process it further, considering it was potentially breaching Article 8 (paragraph 1, lines 1, 3 and 11), Article 9 (paragraph 2) and Article 27 of the Constitution, as well as Article 2 of Protocol 4 of the ECHR. However, in the meantime the Government changed the decision, which meant that officially the Constitutional Court proceedings needed to stop.<sup>15</sup>

## **2. Findings and methodology of research, studies or surveys on experiences of discrimination against older people and against LGBTI people.**

During the COVID-19 crisis, the National Network against Homophobia and Transphobia conducted the research "The Problems and Needs of Lesbians, Gays, Bisexuals, Transgender and Queer People in Times of Covid-19 in the Republic of North Macedonia". The main component of the research was a survey conducted online, on a random sample of 111 respondents. It focused on the areas "discrimination and access to health services, security and violence, access to employment and worker's rights, and education and access to education".<sup>16</sup> The initial results<sup>17</sup> illuminate several aspects of the particular ways in which LGBTI people have been affected by the COVID-19 crisis. Notwithstanding the generally unimpeded access to healthcare (84.6% report no issue in accessing healthcare in general) and the fact that 60% of the respondents reported having mental health issues related to the COVID-19 crisis, an overwhelming 70.8% of the respondents did not seek professional help. This is largely due to low attribution of seriousness to the situation at hand, experiencing apathy, lack of finances, fear from being exposed to the virus, and previous negative experiences. In relation

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<sup>15</sup> MKD, Constitutional Court, [Decision U.br.60/2020](#) [Решение У.бр.60/2020],

<sup>16</sup> Elena Petrovska, "How the Covid-19 Crisis Affects the LGBTI Community – A Brief Research Report", *Coalition Margins* (2020).

<sup>17</sup> The results will be officially published towards the end of 2020.

to the last point, it is worth noting that, when asked whether they have been discriminated against when trying to access health care, 100% responded affirmatively. There is very little knowledge of the violence-protection services offered by civil society organisations. On the economic side of the COVID-19 crisis, very few respondents know about the economic measures adopted by the government to deal with the crisis.<sup>18</sup>

## **Chapter 2. Racism, xenophobia and related intolerance**

### **1. Legal and policy developments relating to the application of the Racial Equality Directive**

The annulment of the ADL in May 2020 and its (re)adoption in October 2020 were the biggest development in relation to the application of the Racial Equality Directive. The ADL transposed fully the Racial Equality Directive and provided for the establishment of a new equality body – Commission for Prevention and Protection against Discrimination.<sup>19</sup> *(For more details on this law, see Chapter 1)*

### **2. Legal and policy developments relating to the application of the Framework Decision on Racism and Xenophobia relevant to combating hate speech and hate crime**

Developments related to the application of the Framework Decision on Racism and Xenophobia, with a focus on hate speech and hate crime, have largely been focusing on the Roma. These are described in the next chapter. *(For more details on this law, see Chapter 3)*

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<sup>18</sup> Elena Petrovska, “Analysis of the needs and problems facing lesbians, gay men, bisexuals, transgender and queer persons during COVID-19 in the Republic of North Macedonia” (Анализа на истражување за потребите и проблемите на лезбејките, геј мажите, бисексуалците, трансродовите и квир луѓето за време на КОВИД 19 во Република Северна Македонија), *Coalition Margins* (forthcoming - 2020).

<sup>19</sup> For more on the 2019 ADL, please see the 2019 Fundamental Rights Report contribution on North Macedonia.

## Chapter 3. Roma equality and inclusion

### 1. Measures and developments addressing Roma/Travellers

The 2020 state budget funds for the realization of the Strategy for Roma 2014-2020 were reduced by 34% because of the budget reallocations related to the COVID-19 crisis.<sup>20</sup> Civil society organisations have criticised this decision, which, according to them, would further contribute to exacerbating the position of the Roma community in the country.<sup>21</sup>

At the parliamentary elections of July 2020, one Roma woman was elected as a member of parliament. The new government, which took office in September 2020, for the first time in the last 12 years does not include the position of a Minister without portfolio in charge of implementation of the Roma Strategy. The prime minister has appointed a counsellor for Roma inclusion in his team.

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

The Law on Unregistered Persons in the Birth Register was adopted in February 2020.<sup>22</sup> At its session on May 29, the Government brought a Decree with legal force for the application of the Law on Unregistered Persons in the Birth Register during a state of emergency extending the stipulated deadlines for submission of requests for registration.<sup>23</sup>

In addition, the Government has adopted a Draft Law Amending the Law on Social Protection, to enable persons who received a certificate from the special birth register and identification document, in accordance with the Law on Unregistered Persons in the Birth Register, to exercise social protection rights.<sup>24</sup>

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<sup>20</sup> Decree with Legal Force for Amending the Budget of Republic of North Macedonia for 2020 during State of Emergency (Уредба со законска сила за изменување и дополнување на Буџетот на Република Северна Македонија за 2020 година за време на вонредна состојба), Official Gazette of the Republic of North Macedonia (Службен весник на Република Северна Македонија) No. 126/2020.

<sup>21</sup> Institute for Research and Policy Analysis – Romalítico, “[Reaction Regarding the Reduction of the Budget for Support of the Decade and Strategy for Roma](#)” (Реакција во однос на намалувањето на Буџетот за Поддршка на Декадата и Стратегија за Роми) (21 May 2020).

<sup>22</sup> Law on Unregistered Persons in the Birth Register (Закон за неевидентирани лица во матична книга на родени), Official Gazette of the Republic of North Macedonia (Службен весник на Република Северна Македонија) No. 42/2020.

<sup>23</sup> This solution aims to recognize 700 to 1,000 Roma and to include them in the system, so that they are recognized by the state as existing as individuals and enable access to basic human rights. See: Decree with Legal Force for the Application of the Law on Unregistered Persons in the Birth Register (Уредба со законска сила за примена на Законот за неевидентирани лица во матична книга на родени за време на вонредна состојба), Official Gazette of the Republic of North Macedonia (Службен весник на Република Северна Македонија) No. 140/2020.

<sup>24</sup> [‘Draft Law Amending the Law on Social Protection, Shortened Procedure](#) (Предлог на Закон за дополнување на Законот за социјалната заштита, по скратена постапка), *Official Website of The Assembly of The Republic of North Macedonia*.

The Ministry for Labour and Social Policy, in cooperation with CSOs, started with the implementation of two EU co-financed projects (IPA II) to improve the sustainable urban development in several Roma settlements.<sup>25</sup>

The Ministry of Education and Science opened a call for engagement of 35 Roma educational mediators in all primary schools for the academic year 2020/2021<sup>26</sup>, as foreseen in the Law on primary education.<sup>27</sup>

The **research** conducted by the civil society organisation HERA - Association for Health Education and Research,<sup>28</sup> based on a phone survey of 195 Roma women at the territory of the capital Skopje, confirmed the existing high unemployment among Roma. 67% of respondents said they do not work anywhere; as many as 68% of the surveyed unemployed Roma women are not registered within the Employment Service Agency. As many as 74% of the respondents claimed to not have enough funds due to interruption of the informal economy or part-time work.

From the multitude of **measures adopted by the Government** for dealing with the impact of the COVID-19 pandemic, the Decree with legal force for application of the Law on Social Protection during a state of emergency<sup>29</sup> which enables faster access to the system of social protection and realization of the right to Guaranteed Minimum Assistance, along with a number of additional economic measures have been of increased relevance for socially vulnerable groups. One of the measures was related to support independent artisans, i.e. financial support of 14,500 denars for self-employed, a category quite present in the Roma community.<sup>30</sup> In addition, financial support of MKD 7,000 per household was provided to unemployed people or people who are part of the so-called "informal economy",<sup>31</sup>

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<sup>25</sup> [The renovation of the houses of the Roma families in Vinica commenced](#) (Започна реновирањето на куќите на ромските семејства во општина Винаца), Roma Resource Centre, 11 June 2020.

<sup>26</sup> Ministry of education and science (Министерство за образование и наука) '[Public Call for Engagement of 35 Roma Educational Mediators to Support the Primary Education of Roma for the Academic Year 2020/2021](#)' (Јавен повик за ангажирање на 35 Ромски образовни медијатори за поддршка на основното образование на Роми за учебната 2020/2021 година), *Official Website of the Ministry of Education and Science*, 18 August 2020.

<sup>27</sup> Law on Primary Education (Закон за основно образование), Official Gazette of the Republic of North Macedonia, (Службен весник на Република Северна Македонија), No. 161/19, Article 37.

<sup>28</sup> HERA - Association for Health Education and Research (ХЕРА – Асоцијација за здравствена едукација и истражување), '[Are Roma Left out of the Systemic Solutions during the Crisis Caused by COVID-19?](#) (Остануваат ли Ромите надвор од системските решенија за време на кризата предизвикана од КОВИД-19?)', *HERA - Association for Health Education and Research*, 19 July 2020.

<sup>29</sup> Decree with Legal Force for Application of the Law on Social Protection during a State of Emergency (Уредба со законска сила за примена на Законот за социјална заштита за време на вонредна состојба), Official Gazette of the Republic of North Macedonia, (Службен весник на Република Северна Македонија) No. 89/2020.

<sup>30</sup> Decree with Legal Force for Financial Support of Individuals Who Perform Independent Activity Affected by the Health-Economic Crisis Caused by Coronavirus COVID-19 during a State of Emergency (Уредба со законска сила за финансиска поддршка на физички лица кои вршат самостојна дејност погодени од здравствено-економската криза предизвикана од коронавирусот COVID-19 за време на вонредна состојба), Official Gazette of the Republic of North Macedonia, (Службен весник на Република Северна Македонија) No. 89/2020.

<sup>31</sup> Decree with Legal Force for Application of the Law on Social Protection during a State of Emergency (Уредба со законска сила за примена на Законот за социјална заштита за време на вонредна состојба), Official Gazette of the Republic of North Macedonia, (Службен весник на Република Северна Македонија) No. 89/2020.

as well as the "Domestic Payment Voucher"<sup>32</sup> for buying products produced in North Macedonia. Last, the government adopted a decree providing for coverage of health services related to diagnosis and treatment of the coronavirus at the expense of the Health Insurance Fund, for uninsured persons, which has also been significant for the Roma community.<sup>33</sup>

The European Roma Rights Centre prepared a report on the **human rights abuses perpetrated against Roma during the time of COVID-19** lockdown measures in Europe, including North Macedonia.<sup>34</sup> The report first notes the case of a 37-year-old Romani woman who suffered complications, which resulted in the death of her baby in utero, whilst she was waiting for the results of a coronavirus test for more than six hours outside the hospital doors. The Ministry of Health has since confirmed that her results came back negative. Second, the ERRC reports on a group of nine Romani musicians who upon arrival to the country in March were taken to quarantine in army barracks, as opposed to other 190 passengers arriving in the same manner who were allowed to sign statements for self-isolation and to enter the country. To date, the government has not provided any explanation for the different treatment of the Romani musicians. Last, the report also notes cases of police brutality against the Roma during the COVID-19 pandemic.<sup>35</sup>

On September 20, a 40-year-old Roma woman from Suto Orizari and her baby who died at the state clinic in Skopje after giving birth by caesarean section were buried.<sup>36</sup> Following this event, the Minister of Health announced that the Ministry would equip a gynaecological medical practice in the municipality.<sup>37</sup>

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<sup>32</sup> Decree with Legal Force for Financial Support of Citizens and Low-Income Employees, Young People and Health Professionals by Issuing a Home Payment Card Intended for Purchase of Macedonian Products and Services during a State of Emergency (Уредба со законска сила за финансиска поддршка на граѓани и вработени лица со низок доход, млади лица и здравствени работници преку издавање на домашна платежна картичка наменета за купување на македонски производи и услуги за време на вонредна состојба), Official Gazette of the Republic of North Macedonia (Службен весник на Република Северна Македонија) No. 137/2020.

<sup>33</sup> Decree with Legal Force for Application of the Law on Health Insurance during a State of Emergency (Уредба со законска сила за примена на Законот за здравственото осигурување за време на вонредна состојба), Official Gazette of the Republic of North Macedonia, (Службен весник на Република Северна Македонија) No. 140/2020.

<sup>34</sup> Rorke, Bernard and Lee, Jonathan. (September 2020), 'Roma Rights in the Time of Covid' (European Roma Rights Centre-ERRC).

<sup>35</sup> Rorke, Bernard and Lee, Jonathan. (September 2020), 'Roma Rights in the Time of Covid' (European Roma Rights Centre-ERRC), 32-34.

<sup>36</sup> TV Kanal 5, "[The 40-year-old mother who died last night at GAK was buried, and the day before her baby](#)" (Погребана 40-годишната родилка која синоќа почина на ГАК, а ден претходно и нејзиното бебе), *TV Kanal 5 Official website*, (September 20,2020)

<sup>37</sup> Ministry of health, "[Filipche: women from the municipality of Shuto Orizari will get a gynecologist](#)", (Филипче: Жените од општината Шуто Оризари ќе добијат гинеколог), *Ministry of health Official website*, (October 2, 2020)

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

Extension of residence permits and other authorisations to stay that expired during COVID-19 pandemic measures.

EUMS/ Republic of North Macedonia, Republic of Serbia	Category of TCN	Brief description of the measure	Legal source (legislation or case law as relevant) with hyperlink	Comments
	Complete this row if measures concern all/most of the TCN listed below whose (national or EU law based) permission to stay expired during COVID-19 related travel restrictions. In this case indicate in the next rows the categories to which the measure applies	A foreigner staying in the Republic of North Macedonia for a short time with or without a visa, was allowed to stay on the territory of the country after the expiration of the short-term stay, i.e. after the expiration of the visa for short-term stay, during the state of emergency and after the cessation of the state of emergency until August 31, 2020.  Moreover, the validity of the temporary residence permit and the permanent residence	<a href="#">A Decree with legal force on implementation of the Law on Foreigners</a> (Official Gazette of the Republic of North Macedonia no. 71/20) Article 2 and Article 3; <a href="#">Decree with legal force on amending the Decree with legal force on implementation of the Law on Foreigners</a> (Official Gazette of the Republic of North Macedonia no. 125/20) Article 2 and	There was no differentiation between the categories of TCN. The first Decree was adopted on 20 March 2020, allowing the foreigners residing in North Macedonia with or without a visa to remain on the territory of the country for the entire duration of the emergency (Article 2). The Decree also extended the validity of the temporary and permanent residence permits (Article 3). On 18

		<p>permit whose validity period had expired, i.e. expired during the duration of the state of emergency was extended during the duration of the state of emergency, as well as after the termination of the state of emergency until August 31, 2020.</p>	<p>Article 3 and <a href="#">Decree with legal force on amending the Decree with legal force on implementation of the Law on Foreigners</a> (Official Gazette of the Republic of North Macedonia no. 169/20)</p> <p><a href="#">Unofficial consolidated text</a></p> <p><a href="#">Translation in English</a></p> <p><a href="#">Announcement for foreigners</a> published by the Ministry of Interior in English:</p>	<p>May 2020, the Decree was amended in order to extend the period of residence after the termination of the state of emergency, until 31 August (Article 1 amending Article 2). In addition, the Decree extended the validity of residence permits that were supposed to expire during the state of emergency (Article 2 amending Article 3). Finally, the last amendments of the Decree extended the validity of residence permits that were supposed to expire after the termination of the state of emergency until August 31, 2020 (Article 1 amending Article 3). The media reported on the measure, following the</p>
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				announcement of the Ministry of Interior. There were no reports on the implementation of the measure and its effectiveness.
	<p> Holders of visas issued based on the <a href="#">Visa Code</a> No. 810/2009 (as last amended by <a href="#">Regulation (EU) No. 2019/1155</a>) (Schengen visas)</p>	Included in the measure		
	<p> Visa-free TCN who reached the maximum of 90 days in any 180-day period under Article 4 of the <a href="#">Visa List Regulation</a> (Regulation (EU) 2018/1806)</p>	Included in the measure		
	<p> Holders of long-term visas issued by the EUMS (under <a href="#">Regulation (EU) No.</a></p>	Included in the measure		



	<a href="#">265/2010</a> and beyond, under national law)			
	Holders of residence permits issued under <a href="#">Regulation (EC) No. 1030/2002</a> (as last amended by <a href="#">Regulation (EU) 2017/1954</a> )	Included in the measure		
	Holders of local border traffic permit under <a href="#">Regulation (EC) No. 1931/2006</a>	Not applicable		
	Any other category of TCN not listed above.	/		

Notes:

TCN = third-country nationals

EUMS = EU Member State

## Chapter 5. Information society, privacy and data protection

### 1. Legal and political initiatives that have been implemented to support access to, and use of, personal data.

The most important legal development is the adoption of a **new** 'Law on Personal Data Protection' on 16 February 2020.<sup>38</sup> This law seeks to **harmonise national legislation with the applicable EU legislation** on data protection (particularly Regulation 2016/679). The new national law adopts the EU rules, including definitions with regard to what constitutes personal data, the obligations and authority of the Agency for Data Protection, clarifies and sets obligations for data controllers, provides rules on monitoring the implementation. With the adoption of the new law on data protection, the Agency's status was changed from a Directorate into an Agency.

Impacted by **COVID-19**, the **Personal Data Protection Agency** delayed several planned trainings for data protection officers. More importantly, the **Agency reacted to media's wrongful use of personal data** in a public manner in offering the information of patients infected by the virus. Specifically, on 10 April 2020, the Agency issued a Statement pointing to the wrongful and alleged illegal use of personal data of patients and **filed a criminal charge** against the perpetrator with the Public Prosecutor's office.<sup>39</sup>

COVID 19 has created specific challenges related to data protection in several sectors; with education, being one of the most affected as teaching was largely transferred online. The Ministry of Education has general information available on the protection of personal data, but no specific information regarding teaching and learning online due to the pandemic with a focus on personal data protection was identified.<sup>40</sup>

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<sup>38</sup> Law on Personal Data Protection (Закон за заштита на личните податоци), *Official Gazette of the Republic of North Macedonia* (Службен весник на Република Северна Македонија) No. 42/2020.

<sup>39</sup> Personal Data Protection Agency (Агенција за заштита на личните податоци), [Statement](#) (Укажување), *Official website of the Personal Data Protection Agency*, 10 April 2020.

<sup>40</sup> Republic of North Macedonia, Ministry of Education (Министерство за образование), [Educational videos](#) (Едукативни видеа) *Official website of the Ministry of Education*.

Discussions regarding possible regulation of illegal content online took place within the context of Ministry of Finance as a preventive measure for citizens' manipulation of financial data.<sup>41</sup>

In 2020, North Macedonia had **early parliamentary elections** and the Personal Data Protection Agency had a number of activities to safeguard and monitor the protection of personal data during the campaigns. In July 2020, the Agency initiated a procedure for **conducting supervision over the legality of the activities** undertaken in the processing of personal data and their protection **by the State Election Commission**, related to the security incidents in the early parliamentary elections in 2020.<sup>42</sup>

The **Personal Data Protection Agency** has established a series of activities and tasks on supervising the processing of personal data. The 2020 annual plan in terms of fields that will be reviewed includes the following: state institutions (includes state bodies and agencies); financial institutions; organisations in construction, insurance, and trade; the judiciary, local governance and private security bodies.<sup>43</sup>

## 2. Artificial intelligence and big data

Please fill in the table below with any initiatives you may identify in your country:

MS	Actor*	Type* *	Description	Are Ethical concern	Are Human Rights	

<sup>41</sup> Macedonian Information Agency (Македонска информативна агенција), [The Ministry of Finance should offer a solution to deal with the illegal games of chance by foreign entities](#) Министерството за финансии треба да понуди решение за справување со нелегалните игри на среќа од интернет од странски приредувачи, 27 May 2020.

<sup>42</sup> Personal Data Protection Agency (Агенција за заштита на личните податоци), [Information](#) (Известување), *Official website of the Personal Data Protection Agency*, 29 July 2020.

<sup>43</sup> [2020 Annual Programme for supervision](#) (Годишна програма за вршење инспекциски надзор за 2020 година). Directorate for protection of personal data (Дирекција за заштита на личните податоци).

				<b>s mention ed? (yes/no )</b>	<b>issues mentione d? (yes/no)</b>	<b>Reference</b>
	President of Republic of North Macedonia	Other projects	At the first meeting within the Security Council since the parliamentary elections in July 2020 leading to a new government term, the President of North Macedonia announced that North Macedonia would seek to sign a Memorandum of Understanding with NATO for the establishment of 5G technology.	No	Yes (indirectly, by referring that such technology would be implemented within the framework of North Macedonia's international commitment).	Public Announcement by the President of North Macedonia, reference by Radio Free Europe, original source digitally available in Macedonian, see <a href="#">here</a> .

\*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



## Chapter 6. Rights of the child

### 1. Measures taken during the COVID 19 to ensure the well-being of children living in poverty and the protection of children from violence.

<b>Measures to address the specific vulnerabilities of children living in poverty</b>	<b>Governmental measures taken by the decrees with legal force:</b>  With the <b>Decree with legal force for application of the Law on Child Protection during a state of emergency</b> , the Government extended the deadlines set in the Law on Child Protection for submitting a request for the right to one-time financial assistance for a new born, the request for realisation/extension of the right to parental allowance for a third/fourth child, as well as for reviewing the attendance condition for payment of the educational allowance for the academic year 2019/2020. <sup>44</sup>  With the <b>Decree with legal force for application of the Law on Social Protection during a state of emergency</b> , materially deprived households as defined in the law were provided assistance in exercising their right to guaranteed minimum assistance for the months of April and May 2020, obtaining a monetary supplement to cover part of the costs for energy consumption, as well as the deadline for reporting any change affecting the exercise of these rights. <sup>45</sup>  With the <b>Decree with legal force for application of the Law on Labour Relations during a state of emergency</b> , the paid maternity leave was extended until the expiration of the temporary measures for protection against spread and prevention of coronavirus COVID-19. <sup>46</sup>  Assistance specifically to young people was provided with the <b>Decree with Legal Force for Granting Financial Support to Students Enrolled in Public High Schools for the Purchase of School Supplies Who Are from</b>
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<sup>44</sup> Decree with Legal Force for Application of the Law on Child Protection during State of Emergency (Уредба со законска сила за примена на Законот за заштита на децата за време на вонредна состојба), Official Gazette of the Republic of North Macedonia, (Службен весник на Република Северна Македонија) No. 88/2020.

<sup>45</sup> Decree with Legal Force for Application of the Law on Social Protection during State of Emergency (Уредба со законска сила за примена на Законот за социјалната заштита за време на вонредна состојба), Official Gazette of the Republic of North Macedonia, (Службен весник на Република Северна Македонија) No. 89/2020.

<sup>46</sup> Decree with Legal Force for Application of the Law on Labor Relations during State of Emergency (Уредба со законска сила за примена на Законот за работните односи за време на вонредна состојба), Official Gazette of the Republic of North Macedonia, (Службен весник на Република Северна Македонија) No. 90/2020.

	<p><b>Low-Income Households<sup>47</sup> and the Decree with Legal Force for Issuing Vouchers for Young People for Digital Skills Training for Improving Their Competitiveness in the Labour Market.<sup>48</sup></b></p> <p><b>Measures/actions taken by the Ministry of Labour and Social Policy:</b></p> <p><b>Hygiene packages for families living in substandard conditions</b> were distributed to over 400 families living in substandard conditions;<sup>49</sup></p> <p>The MLSP in cooperation with UN Women – the UN Body for Gender Equality and Women's Empowerment and financial support from the Swiss Agency for Development and Cooperation (SDC) and the Swedish International Development Cooperation Agency - SIDA, provided <b>1,860 packages with food and hygiene products</b> for 368 single-parent families, beneficiaries of guaranteed minimum assistance, of which the largest percentage (95%) are women; 329 registered victims of domestic violence; and shelters and crisis centres for victims of gender-based violence across the country.<sup>50</sup></p> <p><b>Care for the youngest through a paid educational supplement for a child</b> With the reform of the social assistance introduced in 2019, the number of beneficiaries of the conditional cash benefit program increased from</p>
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<sup>47</sup> Decree with Legal Force for Granting Financial Support to Students Enrolled in Public High Schools for the Purchase of School Supplies, Who Are from Low-Income Households, during State of Emergency (Уредба со законска сила за доделување на финансиска поддршка на ученици запишани во Јавните средни училишта за купување на училишен прибор, а кои се од семејни домаќинства со низок доход, за време на вонредна состојба), Official Gazette of the Republic of North Macedonia, (Службен весник на Република Северна Македонија) No. 157/2020.

<sup>48</sup> Decree with Legal Force for Issuing Vouchers for Young People for Digital Skills Training for Improving Their Competitiveness in the Labor Market during State of Emergency (Уредба со законска сила за издавање на ваучери на млади лица за обуки за дигитални вештини заради подобрување на нивната конкурентност на пазарот на трудот за време на вонредна состојба), Official Gazette of the Republic of North Macedonia, (Службен весник на Република Северна Македонија) No. 157/2020.

<sup>49</sup> Ministry of Labour and Social Policy (Министерство за труд и социјална политика), '[MLSP: We Provide Hygiene Packages for Families Living in Substandard Conditions](#)' (МТСП: Обезбедуваме хигиенски пакети за семејствата што живеат во супстандардни услови)', *Official Website of The Ministry of Labour and Social Policy*, 20 March 2020.

<sup>50</sup> Ministry of Labour and Social Policy (Министерство за труд и социјална политика), '[MLSP: 1.860 Food Packages and Hygiene Products Provided to Single-Parent Families Receiving Social Assistance, Victims of Domestic Violence and Shelter Centers](#)' (МТСП: Обезбедени 1.860 пакети со храна и хигиенски производи за еднородителски семејства корисници на социјална помош, жртви на семејно насилство и шелтер центри)', *Official Website of The Ministry of Labour and Social Policy*, 8 May 2020.



	<p>2,877 to 24,461 children.<sup>51</sup> Specifically during the COVID pandemic, the Government adopted a Decree terminating the requirement for a certificate of regularity for payment of the education supplement for the third and fourth measurement period for the academic year 2019/2020, in order to facilitate the access to these rights.<sup>52</sup></p> <p><b>Cross-sectoral measure:</b></p> <p>The MLSP and the Institute of Public Health issued a <b>Protocol for prevention and control of COVID-19 in the small group homes.</b><sup>53</sup></p> <p>Local self-government bodies as well as the business community also provided assistance.<sup>54</sup></p>
<p><b>Measures to protect children from violence</b></p>	<p><b>Measures/actions taken by the Ministry of Labour and Social Policy:</b></p> <p><b>Guide for internet child protection and safety</b> for parents, guardians, caregivers, educators, teachers and for professionals in Centres for social work, especially for educators in small group homes.<sup>55</sup></p> <p>There was no increase in the number of staff or special trainings regarding issues related to violence and COVID-19. Similarly, the standard operating procedures for health and social workers to ensure identification and referral of victims of violence during COVID-19 were not revised. All of them followed the regular Government Protocols: Protocol no. 3 on the organisation of working meetings, trainings, courses and seminars<sup>56</sup>, Protocol no. 9 on activities in institutions for care and education of</p>

<sup>51</sup> Ministry of Labour and Social Policy (Министерство за труд и социјална политика), '[MLSP: We Continue to Care for the Youngest, for 24,461 Children Paid Educational Allowance](#) (МТСП: Продолжуваме со грижата за најмладите, за 24.461 дете исплатен образовен додатор)', *Official Website of The Ministry of Labour and Social Policy*, 28 May 2020.

<sup>52</sup> Decree with Legal Force for Application of the Law on Child Protection during State of Emergency (Уредба со законска сила за примена на Законот за заштита на децата за време на вонредна состојба), *Official Gazette of the Republic of North Macedonia*, (Службен весник на Република Северна Македонија) No. 88/2020.

<sup>53</sup> Not available online. Institute for public health - <https://www.iph.mk/> - [To be added in later revisions.](#)

<sup>54</sup> Some of these efforts include: Municipality of Butel (Општина Бутел), 'Today The Municipality of Butel Brought Smiles to 55 Children! (Општина Бутел денеска донесе насмевки на 55 детски лица!)', *Official Website of the Municipality of Butel*, 15 May 2020, <https://opstinabutel.gov.mk/?p=15830>; [The Company "Ekolog" Donates Several Thousand Tablets for Children to Attend Online Classes](#) (Компанијата „Еколог“ донира неколку илјади таблет-компјутери за децата да следат онлајн настава), *360 Stepeni*, 25 April 2020.

<sup>55</sup> Guide on Internet Protection and Safety of Children (Водич за интернет заштита и безбедност на децата)

Not available online. Institute for social activity Skorje (Завод за социјални дејности), [www.zsd.gov.mk](http://www.zsd.gov.mk)

<sup>56</sup> Commission for Infectious Diseases at the Ministry of Health (Комисија за заразни болести при Министерство за здравство), '[Protocol for Organization of Work Meetings, Trainings, Courses and Seminars](#) (Протокол за организација на работни состаноци, обуки, курсеви и семинари)' (Government of the Republic of North Macedonia (Влада на Република Северна Македонија),

	<p>children<sup>57</sup>, Protocol no. 38 on the operation of daily centres for children/persons with disabilities.<sup>58</sup></p> <p>The MLSP, in cooperation with the OSCE Mission to Skopje, prepared a campaign for prevention and protection against domestic violence in the state of emergency COVID-19.<sup>59</sup></p>
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## 2. Legal and policy measures or initiatives developed about criminal proceedings

<b>Legislative changes</b>	There were no developments in 2020.
<b>Policy developments</b>	<p><b>Link: Directive 2016/800 - Article 20 - Training Trainings for defence lawyers for rights of the child</b> – there were two trainings in December 2019 and June 2020 (total of 30 defence lawyers), organised by the Ministry of Justice, UNICEF in North Macedonia and the Union for the Prevention of Juvenile Delinquency;</p> <p><b>Rights of the victims of trafficking during court procedure, including trafficked children</b> – two online trainings were organised for judges, prosecutors and defence lawyers by the Council of Europe in Skopje.</p>
<b>Other measures or initiatives</b>	<p><b>Link: Directive 2016/800 Preamble, recital (1) - to prevent children from re-offending and foster their social integration and Article 20 - Training</b></p> <p><b>A new and modern correctional institution for children near Tetovo</b> was opened for children who have been in the Ohrid Prison for the past 5 years.<sup>60</sup> The</p>

<sup>57</sup> Commission for Infectious Diseases at the Ministry of Health (Комисија за заразни болести при Министерство за здравство), '[Protocol for the Activities in the Institutions for Care and Education of Children Afer Lifting the State of Emergency](#)' (Протокол за активности во установите за згрижување и воспитание на деца по укинување на вонредната состојба)' (Government of the Republic of North Macedonia (Влада на Република Северна Македонија).

<sup>58</sup> Commission for Infectious Diseases at the Ministry of Health (Комисија за заразни болести при Министерство за здравство), '[Protocol for the Work of the Daily Centers for Children/Persons with Disabilites](#)' (Протокол за работа на дневните центри за деца/лица со попреченост)' (Government of the Republic of North Macedonia (Влада на Република Северна Македонија),

<sup>59</sup> Ministry of Labour and Social Policy (Министерство за труд и социјална политика), '[MLSP with a Campaign for Prevention and Protection from Domestic Violence: Be Encouraged, Report the Perpetrator!](#)' (МТСП Со кампања за превенција и заштита од семејно насилство: Охрабри се, пријави го насилникот!)', *Official Website of The Ministry of Labour and Social Policy*, 5 May 2020.

<sup>60</sup> Ministry of Justice (Министерство за правда), '[After 19 Years a New Correctional Institution Was Built in Tetovo](#)' (После 19 години, изграден нов Воспитно поправен дом во Тетово)', *Official Website of The Ministry of Justice*, 30 May 2020.

	<p>Ombudsman expressed concerns of the foreseen transfer prior to providing appropriate education and health care services in the facility.<sup>61</sup></p> <p><b>Memorandum of Understanding between the State Council for Prevention of Juvenile Delinquency, the national Chamber of Mediators and the Academy for Judges and Public Prosecutors of the Republic of North Macedonia</b> was signed. It regulates the rules of cooperation and coordination, in terms of application of the Law on Justice for Children and the Law on Mediation, increases the knowledge of the judicial authorities and mediators for children, by encouraging actions that lead to avoiding criminal proceedings against children and protecting them against stigmatisation and secondary victimisation.<sup>62</sup></p> <p><b>Memorandum of Understanding between The State Council for Prevention of Juvenile Delinquency, the Association of Rotary Clubs of Macedonia and the Association of Local Self-Government Units</b> was signed, for mutual cooperation and coordination of activities and for the promotion of the justice system for children with special emphasis on prevention of juvenile delinquency;<sup>63</sup></p>
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<sup>61</sup> Republic of North Macedonia, Ombudsperson (Народен правобранител), '[SPECIAL REPORT on the Ascertained Conditions from the Re-Visit of the Correctional Facility Tetovo \(Which Operates within the Ohrid Prison Penitentiary\)](#) (ПОСЕБЕН ИЗВЕШТАЈ за констатираните состојби од повторната посета на воспитно-поправниот дом Тетово (кој функционира во КПУ затвор Охрид)' (Skopje, July 2019); Available at: State Council for Prevention of Juvenile Delinquency (Државен совет за превенција на детско престапништво), '[Act carefully with the Transfer of the Protégés from the Correctional Facility to the New Facility in Volkovija](#) (Внимателно со префрлање на штитениците од ВПД во новиот објект во Волковија)', *State Council for Prevention of Juvenile Delinquency*, 4 July 2020.

<sup>62</sup> State Council for Prevention of Juvenile Delinquency (Државен совет за превенција на детско престапништво), '[Signed Memorandum of Cooperation with the Academy for Judges and Public Prosecutors and the Chamber of Mediators of RNM](#) (Потпишан Меморандум за соработка со Академијата за судии и јавни обвинители и со Комората на медијаторите на РСМ)', *State Council for Prevention of Juvenile Delinquency*, 10 June 2020.

<sup>63</sup> State Council for Prevention of Juvenile Delinquency (Државен совет за превенција на детско престапништво), '[Signed Memorandum of Cooperation with the Association of Rotary Clubs of Macedonia and ZELS](#) (Потпишан Меморандум за соработка со Сојузот на ротари клубовите од Македонија и ЗЕЛС)', *State Council for Prevention of Juvenile Delinquency*, 8 June 2020.

# Chapter 7. Access to justice including crime victims

## 1. Victims' Rights Directive

In January 2020, the Government adopted a National Strategy (2020-2025) and Action Plan (2020-2022) for prevention and protection of children against violence.<sup>64</sup> Like in 2019, the Compensation Fund for Children Victims (established in 2014) for 2020 was set again to MKD 1.000.000,00.<sup>65</sup>

The amendments to the Criminal Procedure Code<sup>66</sup> and the Law on Justice for Children<sup>67</sup>, as well as the new Law on the Payment of Monetary Compensation to Victims of Criminal Offences<sup>68</sup> have still not been adopted.

Through the Action "Preventing and Combating Human Trafficking in North Macedonia"<sup>69</sup> an Analysis of the rights of victims of human trafficking in court procedures<sup>70</sup> was prepared and 48 legal professionals - judges, prosecutors, lawyers and criminal investigators, have completed a HELP (Human Rights Education for Legal Professionals) anti-trafficking course.<sup>71</sup>

The Macedonian Young Lawyers Association (MYLA) has prepared a GAP Analysis of the legislation and practice of victims' rights in the Republic of

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<sup>64</sup> Government of the Republic of North Macedonia (Влада на Република Северна Македонија), '[National Strategy \(2020-2025\) and Action Plan \(2020-2022\) for Prevention and Protection of Children from Violence](#)' (Национална стратегија (2020-2025) и Акциски план (2020-2022) за превенција и заштита на децата од насилство)' (Ministry of Labour and Social Policy (Министерство за труд и социјална политика), December 2019).

<sup>65</sup> 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 2020, (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 насилство за 2020 година), Official Gazette of the Republic of North Macedonia, (Службен весник на Република Северна Македонија) No. 17/2020.

<sup>66</sup> Ministry of Justice (Министерство за правда), Republic of North Macedonia, Draft Law on Criminal Procedure Code (Предлог на Закон за кривичната постапка), available at [https://ener.gov.mk/default.aspx?item=pub\\_regulation&subitem=view\\_reg\\_detail&itemid=TT7CpU7vsOTQOUB7mUvMCA==](https://ener.gov.mk/default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=TT7CpU7vsOTQOUB7mUvMCA==)

<sup>67</sup> 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/ria1/1\\_895959817PREDLOG%20ZAKON%20%20PRAVDA%20NA%20D ECATA.docx](https://ener.gov.mk/files/propisi_files/ria1/1_895959817PREDLOG%20ZAKON%20%20PRAVDA%20NA%20D ECATA.docx)

<sup>68</sup> 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](https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=54834)

<sup>69</sup> '[Preventing and Combating Human Trafficking in North Macedonia](#)', Official Website of Council of Europe Programme Office in Skopje.

<sup>70</sup> Lazetnik, Gordana and Zdravkova, Irena. (2020), '[The Rights of Victims of Human Trafficking in Court Proceedings](#)' (Правата на Жртвите на Трговија со Луѓе во Судските Постапки)' (Council of Europe, July 2020).

<sup>71</sup> '[Legal Professionals Enhanced Their Skills to Ensure Protection of Victims of Human Trafficking in North Macedonia](#)', Official Website of Council of Europe Programme Office in Skopje, 15 July 2020.

North Macedonia with the EU Directive on rights, support and protection of victims of crimes.<sup>72</sup> The analysis concludes that the legal framework is generally in line with the standards of Victims' Rights Directive and other European standards, which have supremacy of binding international legal acts over the laws as guaranteed by the Constitution. It assesses that the national laws and policies are internally consistent, while most legal acts and documents apply the participatory approach, including through the involvement of CSOs, with certain doubts as to the latter's effective influence on policies. The analysis concludes that there are sufficiently elaborated national strategies, as well as programme and operational documents for their realisation. Weaknesses are identified in national legal provisions that do not fully reflect the standards from the Directive, for example in relation to lack of access of victims of torture to free psychosocial, health or other support. In addition, the analysis highlights practices that undermine the effective exercise of rights, as well as a lack of financial resources and their inadequate planning and use.

## **2. Violence against women**

The COVID-19 pandemic had significant impact on the violence against women and girls, mostly in the delayed realisation of the National Action Plan to Implement the Istanbul Convention (2018-2023).<sup>73</sup> This resulted in no progress in the legislation and the system of protection of women and girls victims against violence, as well as a lack of actions in the field of prevention. The draft Law on Prevention and Protection against Violence against Women and Domestic Violence<sup>74</sup> was proposed in January 2020, but was not adopted as the Assembly dissolved due to the scheduling of early parliamentary elections in April 2020. The Draft-Law was adopted by the Government on the 9th of November 2020<sup>75</sup> and was submitted to the Assembly.<sup>76</sup>

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<sup>72</sup> Zoran Gavrilovski, GAP Analysis of compliance with the Law and practice of Victims' Rights in the Republic of North Macedonia with the norms and standards of the European Union established in the EU Directive on rights, support and protection of victims of crimes, 2020, link will be available in September/October 2020 (the analysis is not published yet)

<sup>73</sup> Ministry of Labour and Social Policy (Министерство за труд и социјална политика), [Republic of North Macedonia, Action plan for implementation of the Convention for Prevention and Combating Violence against Women and Domestic Violence of the Republic of Macedonia 2018-2023](#) (Акциски план за спроведување на Конвенцијата за спречување и борба против насилството врз жените и домашното насилство на Република Македонија 2018-2023).

<sup>74</sup> See [Proposal for a Law on Prevention and Protection from Violence against Women and Domestic Violence](#), National Register of Regulations [Предлог- Закон за спречување и заштита од насилство врз жените и семејно насилство].

<sup>75</sup> Government of the Republic of North Macedonia (Влада на Република Северна Македонија), 18th session of the Government (18-та седница на Владата), 9<sup>th</sup> November 2020.

<sup>76</sup> Outside of the reporting period, the Parliament adopted the Law on Prevention and Protection against Violence against Women and Domestic Violence on January 27<sup>th</sup>, 2021.

The MLSP started 2020 off with 11 newly established specialized services for victims of gender-based violence and domestic violence<sup>77</sup>: 2 Shelter centres and 2 Crisis centres (24h-48h) for women victims of GBV and DV and 7 Counselling centres for women and children victims of violence, in 8 regions of the country. The rest of the activities of the MLSP assigned in the NAP scheduled for 2020 and some from 2019 remain delayed.<sup>78</sup>

## **“Stay at home” is not safe for everyone/ COVID-19 pandemic effect on domestic violence**

During the state of emergency, recommendations and government measures were issued to stay at home, limiting movement outside the homes with a curfew for all the citizens of the country. This created a specific situation for women and children, increasing the risk of domestic violence which is something that the civil society organisations alarmed about in the press release published by the National network to end violence on 19<sup>th</sup> of March 2020<sup>79</sup>, followed by *Request for issuing urgent measures for protection of women and children against domestic violence during the state of emergency*<sup>80</sup> on 13<sup>th</sup> of April 2020. The Government adopted four sets of measures on dealing with the COVID-19 pandemic<sup>81</sup> but there were no emergency measures adopted for women victims of violence addressing the specific risks of this particularly vulnerable group. Following the request for urgent measures by the civil society, the Ministry of Interior announced that victims of crime, including victims of domestic violence would not be subject to sanctions if they leave their homes due to violence to seek help in police stations.<sup>82</sup> An informative video, flyers and banners were prepared and

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<sup>77</sup> List of established specialized services by the Ministry of Labour and Social Policy, 2020. <http://www.mtsp.gov.mk/prijavi-semejno-nasilstvo.nspj>

<sup>78</sup> Sector for coordination and technical assistance of the Minister- Ministry of Labour and Social Policy (Сектор за координација и техничка помош на министерот- Министерство за труд и социјална политика), ‘[Response to a Request for Free Access to Information of Public Importance](#) (Одговор на Барање за слободен пристап до информации од јавен карактер)’, 16 June 2020.

<sup>79</sup> National network to end violence against women and domestic violence, ‘[Increased Risk of Domestic and Intimate-Partner Violence during a State of Emergency](#)’, *Official Website of the National Network to End Violence against Women and Domestic Violence*, 19 March 2020.

<sup>80</sup> National network to end violence against women and domestic violence (Национална мрежа против насилство врз жените и семејното насилство), ‘[SUBJECT: Request for Imposing Urgent Measures for Protection of Women and Child Victims of Domestic Violence during the State of Emergency](#) (ПРЕДМЕТ: Барање За Изрекување На Итни Мерки За Заштита На Жените и Децата Жртви На Семејно Насилство Додека Трае Вонредната Состојба)’, 13 April 2020.

<sup>81</sup> List of Government sessions and sets of measure adopted during CIVD-19 crisis, Government of R. of North Macedonia, 2020. <https://koronavirus.gov.mk/en/governments-measures>

<sup>82</sup> [The persons reporting a crime are not to be sanctioned during the curfew](#) (За време на ограничувањето на движење не се санкционираат лицата што пријавуваат кривично дело), Ministry of Interior (Министерство за внатрешни работи), 10 April 2020.



published by the MLSP, but the government did not adopt most of the requested urgent measures.<sup>83</sup>

According to the official records released by Ministry of Interior<sup>84</sup> in the period between January – June 2020, 6 murders related to domestic violence's were recorded, while in 2019 only two were recorded for the same period. There was no significant increase in the number of criminal acts related to domestic violence in the first half of 2020 (435) compared to 2019(433). However, an increase of 18% was recorded in the number of reports related to domestic violence for the period January - June 2020 (1874), compared to the same period in 2019 (1541). 65% of the victims were women, and the highest number of assaults against women victims were committed by a current or ex-partner.

The MLSP published weekly reports for the months of May and June 2020 with data on newly registered victims of domestic violence. According to these reports, in May 2020<sup>85</sup> there were 174 (124 women), and in June 2020<sup>86</sup> there were 253 (176 women) newly registered victims of domestic violence, showing 30% increase in reported cases of domestic violence after the end of the emergency situation in the country. This increase has been considered as an indicator that women victims of domestic violence faced difficulties in reporting during the state of emergency.

The MLSP, together with the National Network to End Violence against Women and Domestic Violence, and with the support of the OSCE Mission to Skopje organised a campaign aimed at preventing domestic violence and protecting victims during the state of emergency brought on by the COVID-

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<sup>83</sup> National network to end violence against women and domestic violence, '[Overview of Urgent Measures and Steps for Protection of Women and Children Victims of Domestic Violence Undertaken by the Competent Institutions](#)', *National Network to End Violence against Women and Domestic Violence*, 19 May 2020.

<sup>84</sup> Department of Public Relations and Strategic Affairs- Sector for Public Relations and Protocol (Оддел за односи со јавност и стратешки прашања (Сектор за односи со јавност и протокол), '[Determination for Responding to a Request for Free Access to Public Informations No. 16.1.2-912/1](#)' (Решение за одговор на Барање за слободен пристап до информации од јавен карактер )' (Ministry of Interior (Министерство за внатрешни работи), 11 August 2020).

<sup>85</sup> Ministry of Labour and Social Policy (Министерство за труд и социјална политика), Weekly report for May - Reported domestic violence in the centres for social work (Неделен извештај за месец мај - Поднесени пријави на семејно насилство во центрите за социјална работа), 2020.

<sup>86</sup> Ministry of Labour and Social Policy (Министерство за труд и социјална политика), Weekly report for June - Reported domestic violence in the centres for social work (Неделен извештај за месец јуни - Поднесени пријави на семејно насилство во центрите за социјална работа), 2020.

19 pandemic.<sup>87</sup> The National Network to End Violence against Women and Domestic Violence launched hotlines to provide help and support to victims in the form of free legal aid, psychological counselling and counselling on social protection rights.<sup>88</sup> The Network criticised the lack of state measures for the victims of violence and proposed a number of measures that could be undertaken during the pandemic and the state of emergency<sup>89</sup>, some of which were adopted.<sup>90</sup>

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<sup>87</sup> Ministry of Labour and Social Policy (Министерство за труд и социјална политика), '[MLSP: Be Encouraged. Report the Perpetrator!](#)' (МТСП: Охрабри се, пријави го насилникот!), *Official Website of The Ministry of Labour and Social Policy*, 11 May 2020.

<sup>88</sup> OSCE- Organization for Security and Co- operation in Europe, '[OSCE Mission to Skopje and Its Partners Call for Proactive Approach on Domestic Violence Prevention](#)', *OSCE Mission to Skopje*, 6 April 2020.

<sup>89</sup> National network to end violence against women and domestic violence (Национална мрежа против насилство врз жените и семејното насилство), '[SUBJECT: Request for Imposing Urgent Measures for Protection of Women and Child Victims of Domestic Violence during the State of Emergency](#)' (ПРЕДМЕТ: Барање За Изрекување На Итни Мерки За Заштита На Жените и Децата Жртви На Семејно Насилство Додека Трае Вонредната Состојба)', 13 April 2020'.

<sup>90</sup> National network to end violence against women and domestic violence, Austrian Development Cooperation and The Kvinna till Kvinna Foundation. (18 May 2020 ), '[Review of the Urgent Measures and Steps Taken to Protect Women and Child Victims of Domestic Violence by the Government and the Competent Institutions](#)' (Преглед на преземени итни мерки и чекори за заштита на жените и децата жртви на семејно насилство од Владата надлежните институции)'.



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

## 1. CRPD policy & legal developments

### Measures for increasing the political participation of people with disabilities

The State Electoral Commission (SEC) put in place measures<sup>91</sup> to assist people with disabilities in realising their right to political participation at the 2020 parliamentary elections, as the electoral legislation overall is not aligned with the CRPD. The SEC measures included: installation of auxiliary ramps at the polling stations (setting up accessible voting pulls, the possibility for people with sensory disabilities to use a Braille template); a free telephone number in an accessible format where people with sensory disabilities could communicate via video call with the SEC.<sup>92</sup> The SEC certified trainers for the mandatory training of the election bodies (54 in total) including 4 people with disabilities, 3 of which were women with disabilities.<sup>93</sup> Out of 21 issued instructions by SEC for the 2020 parliamentary elections, only the instruction for voting of blind people was made in audio format.<sup>94</sup>

### Adopted measures for fight with COVID-19 and CRPD

Even in the state of emergency that lasted between 18<sup>th</sup> March and 23<sup>rd</sup> of June 2020 in North Macedonia, in addition to the ECHR, the State was obliged to undertake actions and measures under the Convention on the Rights of Persons with Disabilities (CRPD). The CRPD states that “States shall take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters” (Art.

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<sup>91</sup> State Election Commission (Државна изборна комисија), ‘[Infographic: Voting Rights for the Citizens with Disabilities at the Early Parliamentary Elections 2020](#)’ (Инфографик: Можности за лицата со попреченост на Предвремените парламентарни избори 2020)’.  
<sup>92</sup> See website of the [State Election Commission](#) ((Државна изборна комисија).

<sup>93</sup> Report for the implemented trainings for the electoral boards by certified trainers, SEC 2020.

<sup>94</sup> SEC Instruction for the Parliamentary elections 2020, SEC, Available on: <https://www.sec.mk/upatstva-2/>.

11). Additionally, the Convention calls for international humanitarian law to be read through a human rights-based approach to disability, as well as maintaining the principles of dignity and non-discrimination and legal capacity towards people with disabilities in emergency situations.

The state declaration of emergency resulted with a derogation from the ECHR. By analogy from this derogation and drawing on Article 11 of the Convention on the Rights of Persons with Disabilities (CRPD), it is safe to conclude that the state of emergency also meant the country is not in a position to guarantee articles 9, 14, 18, 20, 21, 22, 23 and 24 of the CRPD.

The pandemic has exacerbated what was already weak realisation of the CRPD standards in the national legislative framework. In 2018, the CRPD Committee has noted that the country needs to “a) revise its legislation, policies and guidelines to ensure that disaster risk reduction management and humanitarian aid are accessible to and inclusive of persons with disabilities; (b) provide emergency numbers in accessible formats, equipment and emergency and rescue training courses for persons with disabilities”.<sup>95</sup> In addition, the Committee has on other occasions elaborated on the standards applicable in emergencies, for example, regarding accessibility or equality and non-discrimination,<sup>96</sup> but North Macedonia is yet to abide by these standards. Furthermore, there is no knowledge and awareness of CRPD among policy makers, central and local administration and public at large. This results in continuous charity-driven and exclusion-oriented attitudes to persons with disabilities at all levels.<sup>97</sup>

The primary method of communication of the adopted measures at the beginning of the state of emergency were government press conferences. Following reactions from the CSO Polio Plus – movement against disability, sign language interpretation was included at the press conferences, which was initially not the case. Except for the press conferences, all other information considering the epidemic was not published in accessible formats, including also the COVID 19 specifically developed government websites and emergency numbers. In such circumstances, people with

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<sup>95</sup> Committee on the Rights of Persons with Disabilities, ‘[Concluding Observations on the Initial Report of the Former Yugoslav Republic of Macedonia](#)’ (United Nations-Convention on the Rights of Persons with Disabilities, 29 October 2018), para. 20.

<sup>96</sup> See, for example, CRPD/C/11/3 paras 20 and 33, CRPD/C/AZE/CO/1, para. 25; CRPD/C/MEX/CO/1, para. 22(c); and CRPD/C/DEN/CO/1, para.31.

<sup>97</sup> E. Kochoska K. Panajotova, Report: Work assistance and support for employment of people with disabilities leaving institutional care, UNDP Skopje 2020 (unpublished work – to be published by January)

disabilities have faced challenges in accessing relevant information. As most of the medical facilities are also not accessible, the COVID testing centres have not been an exception.

The State has not taken activities to inform or train all civil staff, rescue and emergency personnel and all potential actors involved in the management of the state of emergency as to the need of the people with disabilities. There have been no activities to adequately inform the disability community and service providers to persons with disabilities in homes or institutions.

The realisation of the right to personal mobility (article 20 of the CRPD), already a matter of concern, was challenged during the COVID-19 crisis as well. In the periods of lockdown, people with disability were not able to obtain send and submit requested documents to the Fund for Health insurance to receive mobility aids and assistive technologies, putting in question the right to independent living for people with disabilities.

The ban for public transport deprived people with disability of adequate public transport to go to hospitals or some institutions. Access to health care, including medication, for persons with disabilities and their families has been further challenged due to the loss of the pre-existing modest services and other issues. People with intellectual and psychosocial disability have been hit the hardest, as their conditions are not recognised as disabilities, but as mental illnesses at the national level, which is also not in line with Article 1 of the CRPD.

As for social support and services, persons with disability reported high level of social isolation, disruption of services and support.<sup>98</sup> Domestic violence, although on the rise due to the pandemic, is not seen as an issue of relevance for persons with disabilities, as shelter centres for victims of domestic violence are generally not accessible for them.

The measures of transferring educational activities online also did not take into consideration the need of children and pupils with disabilities. For example, online educational classes aired on national television were not

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<sup>98</sup> M. Risteska, 2020. Gender and Diversity Analyses of the impact of Covid – SARS – 19, OSCE Skopje, 2020 (unpublished work – to be published by January)

adapted for pupils and children with disabilities. In addition, children with disability who were educated in special schools were not targeted by any educational measure during the school year. As a result, the country was not able to guarantee the realisation of the right to education without discrimination and based on equal opportunity, as foreseen in article 24 of the CRPD.

The impact of the governmental measures for tackling the COVID-19 pandemic on the people with disability remains unknown. From the aspect of health policy, there is no available data of the number of affected people with disabilities. In addition, there were no specific activities to protect the institutionally accommodated people with disabilities such as targeted screenings and testing. There is no data available as to the impact of the alleviating economic, financial and social measures adopted on people with disabilities.<sup>99</sup>

### **Adopted measures for inclusive education and online education**

In July and August 2020, the Ministry for Education adopted two key documents in the field of education. The **Concept for inclusive education**<sup>100</sup> was prepared after the adoption of the Law on Inclusive Education in 2019. The document is not in line with the CRPD provisions by dividing children and pupils with disabilities in different categories and fails to regulate services for support in the educational setting needed by children and pupils with disability. A Medical approach of disability underpins the adopted measures despite government efforts to revise this practice. The **Concept for online/distance education**<sup>101</sup> does not incorporate a disability dimension and does not foresee how distance education will be provided for children and youth attending special or regular educational providers. The Ombudsperson confirmed these assessments in the Opinion considering the online education, assessing that “educational institutions were not fully prepared for distance learning, especially in the beginning of the Corona crisis, and at the same time, they are most affected by the

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<sup>99</sup> Response to a Request for Free Access to Public Information to the Government of the Republic of North Macedonia No:2931/2, from 29.05.2020

<sup>100</sup> Ministry of Education and Science (Министерство за образование и наука) (2020), ‘[The Concept for Inclusive Education](#) (Концепција за инклузивно образование)’.

<sup>101</sup> Ministry of Education and Science (Министерство за образование и наука), ‘[Concept for Developing a Distance Education System in Primary and Secondary Schools in the Republic of North Macedonia](#) (Концепт за развивање систем за образование од далечина во основните и во средните училишта на Република Северна Македонија)’, July 2020.

situation students, especially those in rural areas, as are students from socially vulnerable families as well as students with disabilities".<sup>102</sup>

The State did not organise consultations and has not provided active involvement of Organizations of Persons with disabilities (OPDs) in the process of the development, implementation and monitoring of emergency-related legislation and policies.

## **2. CRPD monitoring at national level**

The team established in the Ombudsman office for monitoring of the CRPD in July 2019, is still not functioning in line with CRPD provisions. The Ombudsman Office has linked this delay with the COVID-19 pandemic and has announced the setting up of a National Monitoring Network under CRPD as a partnership between the Ombudsperson, OPDs and CSOs to enhance disability inclusion by the end of 2020.<sup>103</sup>

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<sup>102</sup> Republic of North Macedonia, Ombudsperson (Народен правобранител), 'Subject: [Opinion Regarding Distance Learning](#) (ПРЕДМЕТ: Мислење Во Врска Со Наставата Во Услови На Далечинско Учење)', 2020.

<sup>103</sup> Information received from the Ombudsman office.

# Annex 1 – Promising Practices

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one example of a promising practice to tackle discrimination against older people or LGBTI people such as awareness raising campaigns or ethical codes for healthcare staff held in your country in 2020. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2020 relevant to equality and non-discrimination of older people or LGBTI people, preferably one conducted by a national equality body.
Title (original language)	Интерпартииска парламентарна група за унапредување на правата на ЛГБТИ лицата
Title (EN)	Inter-Party Parliamentary Group for Advancing the Rights of LGBTI Persons (IPGLGBTI)
Organisation (original language)	Националната мрежа против хомофобија и трансфобија и Собрание на Република Северна Македонија
Organisation (EN)	National Network against Homophobia and Transphobia and Assembly of the Republic of North Macedonia
Government / Civil society	Civil Society / National Parliament
Funding body	/
Reference (incl. url, where available)	Assembly of the Republic of North Macedonia, “Конститутивна седница на интерпартииската парламентарна група за унапредување на правата на ЛГБТИ луѓето” [Founding Session of the Inter-Party Parliamentary Group for Advancing the Rights of LGBTI Persons], <i>Official Website of the Assembly of the Republic of North Macedonia</i> , <a href="https://www.sobranie.mk/2020-2024-aktivnosti-ns_article-konstitutivna-sednica-na-interpartiskata-parlamentarna-grupa-za-unapreduvanje-na-pravata-na-lgbti-lu.nspix">https://www.sobranie.mk/2020-2024-aktivnosti-ns_article-konstitutivna-sednica-na-interpartiskata-parlamentarna-grupa-za-unapreduvanje-na-pravata-na-lgbti-lu.nspix</a>

	<p>Assembly of the Republic of North Macedonia, "Конститутивна седница на интерпартиската парламентарна група за правата на ЛГБТИ луѓето" [Founding Session of the Inter-Party Parliamentary Group on the Rights of LGBTI Persons], <i>Official Website of the Assembly of the Republic of North Macedonia</i>, <a href="https://www.sobranie.mk/2016-2020-soopstenija-ns_article-konstitutivna-sredba-na-interpartiskata-parlamentarna-grupa-za-pravata-na-lgbti-licata.nspX">https://www.sobranie.mk/2016-2020-soopstenija-ns_article-konstitutivna-sredba-na-interpartiskata-parlamentarna-grupa-za-pravata-na-lgbti-licata.nspX</a></p>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	23 February 2018 – ongoing
Type of initiative	Members of Parliament group
Main target group	Members of Parliament
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>The IPGLGBTI has the aim to work on advancing the rights of LGBTI persons. It was first established on 23 February 2018, upon initiative of the National Network against Homophobia and Transphobia – a network of CSOs established in 2014 in order to counter violence and discrimination against the LGBTI community and to advance the protection of LGBTI persons. Following the parliamentary elections in July 2020, on Human Rights Day - 10 December 2020, the MPs from the new parliament composition continued the IPGLGBTI for a second term. The number of members of the group has grown, as has the number of opposition MPs that have joined the group. When first formed, the IPGLGBTI was a historic development for LGBTI rights, since it was the first strong political signal for and to LGBTI persons that their rights have room on the parliamentary agenda and that MPs can and do represent LGBTI persons too.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	<p>The IPGLGBTI is a promising practice of joint work of a number of CSOs and parliamentary groups. Every country in Europe has a national parliament (with one or more houses), thus</p>

	such a group can be established in any country where the member of parliament consider that LGBTI rights are to be given visibility and place on the policy agenda.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This group has been established for a second mandate now. It can be sustainable if there is persistent political will and a well organised CSO coalition (formal or otherwise) that will (re)initiate the founding of such a group.
Give reasons why you consider the practice as having concrete measurable impact	The practice has a concrete measurable impact because the IPGLGBTI has helped already to raise the visibility of LGBTI rights in the Parliament. It has supported legislative proposals of relevance for LGBTI persons (including the Anti-discrimination Law). It has acted as an ally to the LGBTI community by supporting and organising relevant events.
Give reasons why you consider the practice as transferable 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 LGBTI persons.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	n/a
Explain, if applicable, how the practice provides for review and assessment.	n/a

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b>
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	Please provide one example of a promising practice to address racism and xenophobia in the context of the COVID-19 pandemic. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
	No promising practice has been identified for this thematic area.

<b>Thematic area</b>	<p><b>ROMA EQUALITY AND INCLUSION</b></p> <p>Please provide one example of promising practice in relation to the legal and policy developments in regard to Roma/Travellers (or any group covered by this term as per the Council of Europe definition) in 2020 that relate to the (1) application of the EU Framework on national Roma integration strategies and (2) the preparations for the new post-2020 initiative on Roma equality, inclusion and participation or in relation to any measures in your country in 2020 to address Roma inclusion and prevent discrimination, hate crime and hate speech with a particular focus on COVID-19.</p>
	No promising practice has been identified for this thematic area.

<b>Thematic area</b>	<p><b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b></p> <p>Please, provide one example of a promising practice related to any of the topics addressed in the chapter – i.e. in relation to data protection, and/or artificial intelligence systems - in 2020.</p>
	No promising practice has been identified for this thematic area.

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> Please provide one example of a promising practice relating to the topics addressed in this chapter.
	No promising practice has been identified for this thematic area.

<b>Thematic area</b>	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide one example of a promising practice relating to the topics addressed in this chapter.
Title (original language)	Куќа за отворено домување на жени жртви на семејно насилство кои ја напуштиле насилната средина
Title (EN)	House for open housing for women victims of domestic violence who left the violent surroundings
Organisation (original language)	Национална мрежа против насилство врз жените и семејно насилство
Organisation (EN)	National network to end violence against women and domestic violence
Government / Civil society	Civil society
Funding body	City of Skopje
Reference (incl. url, where available)	City of Skopje, public announcement on opening of House for open housing, 10.03.2020: <a href="https://skopje.gov.mk/mk/vesti/2019/10032020_obebeduvame_bezbedno_domuvanje_za_zenite_zrtvi_na_semejno_nasilstvo/">https://skopje.gov.mk/mk/vesti/2019/10032020_obebeduvame_bezbedno_domuvanje_za_zenite_zrtvi_na_semejno_nasilstvo/</a>

	<p>National Network to end Violence against women and domestic violence, Press release, 10.03.2020 mk:  <a href="http://www.glasprotivnasilstvo.org.mk/10-03-2020-soopshtenie-za-mediumi-za-prv-pat-vo-zapaden-balkan-se-otvori-kuka-za-optvoreno-domuvane-za-zheni-zhrtvi-na-semejno-nasilstvo/">http://www.glasprotivnasilstvo.org.mk/10-03-2020-soopshtenie-za-mediumi-za-prv-pat-vo-zapaden-balkan-se-otvori-kuka-za-optvoreno-domuvane-za-zheni-zhrtvi-na-semejno-nasilstvo/</a></p> <p>National Network to end Violence against women and domestic violence, Press release, 10.03.2020 en:  <a href="http://www.glasprotivnasilstvo.org.mk/en/10-03-2020-the-first-open-housing-center-for-women-victims-of-domestic-violence-opened-in-the-western-balkans/">http://www.glasprotivnasilstvo.org.mk/en/10-03-2020-the-first-open-housing-center-for-women-victims-of-domestic-violence-opened-in-the-western-balkans/</a></p>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	The House for open housing was established during the month of February 2020 and it was officially opened on the 10 <sup>th</sup> of March 2020. This project is ongoing, and it is planned to continue throughout 2020 and 2021.
Type of initiative	Reintegration and rehabilitation specialized service for women victims of violence
Main target group	Women victims of domestic violence who left or are in the process of leaving the violent surroundings
Indicate level of implementation: Local/Regional/National	Local/ The City of Skopje
Brief description (max. 1000 chars)	The House for open housing is a form of supported living for women victims of domestic violence and their children who left the violent surroundings. The house provides safe and free housing for 6 months to 2 years, depending on the individual needs of the women and covers all living costs. A social worker, who works with a team composed of a legal advisor, psychologist, and employment mentor, manages the house. All of the members of the team work with the victims and their children with the final goal of ensuring economic independence and safe long-term housing of the victims after they leave the open house. This is a reintegration and rehabilitation service and is available to women who are unemployed, do not have property in their own name or cannot live with

	<p>their primary family. This prevents the risk of homelessness and future violence against the woman and her children.</p>
<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<p>The concept of the House for open housing is based on cooperation of the local self-government and women's civil society organisation. It is based on a reintegration and rehabilitation model, which is available by web (<a href="http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/01/predlog-model-final.pdf">http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/01/predlog-model-final.pdf</a>) and it is complete with a rulebook, forms templates and a programme which can be implemented anywhere in urban areas. The concept as a whole, the service as a whole, is transferable.</p>
<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>The cooperation with the local self-government is key for the practice to be sustainable. After the piloting phase, it is planned that the practice is acknowledged by the MLSP as a service provided by the state and is supported through a mutual program of the Ministry and the local self-government.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>The concept has monitoring and evaluation mechanisms in place, with base indicators, goal indicators, progress reports and final reports. The users of the service (women victims and their children) are evaluated throughout their stay in the house, following an individual work plan, and their progress is recorded. If a women victim who left the violent surroundings becomes economically independent and can provide safe and long-term housing for herself and her children, the risk of homelessness is neutralised, and the risk of future violence is minimised, as she will not enter a new violent relationship due to financial dependence.</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>The concept of the House for open housing is a project piloted by the City of Skopje and the National Network to End Violence Against Women and Domestic Violence. As a whole, the concept can be reproduced and implemented in any urban area, wherever cooperation between the local self-government and WCSO is possible – the local-self-government can finance the practice, and the WCSO can manage it.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the</p>	<p>The concept is based on an individual approach to working with every victim and her children, according to their individual needs. The individual work plan is based on her needs, skill, current situation, and the following steps are planned jointly (by the victim</p>

<p>design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>and the service provider). However, as mentioned before, the practice is at a pilot phase and the users of the services (women victims) are the ones who give recommendations and suggestions regarding what works, what is missing, and what needs to be improved in the work of the practice.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>The manager of the House for open housing is responsible for submitting monthly reports, and there are quarterly reports submitted to the City of Skopje. Every user has their dossier (folder) which is managed through the case management system. The dossiers are not available for public review due to personal information protection, but a visual inspection is allowed, without recording or copying the personal data in the files. All the reports, including the personal progress of the users (personal information withheld) are available for review. At the end of the year, the team and the City of Skopje do a final evaluation, which will result in a final report, available for review and assessment.</p>

<p><b>Thematic area</b></p>	<p><b>DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)</b></p> <p>Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.</p>
	<p>No promising practice has been identified for this thematic area.</p>

## Annex 2 – Case Law

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one high court decision addressing discrimination against older people or against LGBTI people. Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.
<b>Decision date</b>	14.05.2020
<b>Reference details</b>	MKD, Constitutional Court, Decision U.br.115/2019 [Решение У.6р.115/2019], <a href="http://ustavensud.mk/?p=18839">http://ustavensud.mk/?p=18839</a>
<b>Key facts of the case</b> (max. 500 chars)	Having failed to be promulgated by the President following the first vote in March 2019, the new Law on Prevention and Protection against Discrimination (ADL) was adopted by the Parliament again in May 2019 with 55 (out of 120) votes. The ADL was to align the national law with the 2000/78 Framework Equality Directive and the 2000/43 Racial Equality Directive. Under the Constitution, in a repeated vote, the President is “obliged to sign the promulgation in so far as it is adopted by a majority vote of the total number of Representatives” (Art.75). The (then) equality body – the Commission for Protection against Discrimination (CPAD), considered that, since the ADL was not adopted with an absolute majority, this article was breached and challenged the ADL in front of the Constitutional Court.
<b>Main reasoning/argumentation</b> (max. 500 chars)	In their initiative to the Constitutional Court, the CPAD members clearly stated that they interpret Article 75 of the Constitution as a provision imposing an obligation for the Parliament to adopt the ADL with an absolute majority, rather than as a provision removing the right to veto of the President for an act that was adopted at a repeated vote with an absolute majority. In line with this interpretation, the law should have been adopted with a minimum of 61 votes, instead of 55. This was the first initiative of the CPAD to the Constitutional Court since it started operating (in January 2011). This is an interesting fact because the entry into force of the ADL meant a pre-term end of the mandate for the members of the CPAD; their mandate was to end in January 2020, but with the ADL it was to end in August 2019. Therefore, at their initiative, they asked the Constitutional Court for interim measures – stopping the entering into force of the ADL. The Constitutional Court did not institute such a measure, but it considered the case quite expeditiously. The Constitutional Court agreed with the CPAD and

	declared the ADL annulled. It did not provide the Parliament with an additional deadline to correct the formal condition; in fact, there is no such practice in the court.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	The court's decision is fully focused on the formal aspect of the issue. It challenges no material aspects of the law. It also does not contain any reflection from the Constitutional Court on the importance of the ADL for the constitutional order in the country, considering that equality can be considered as part of the founding values of the Constitution. The formal ground trumped the importance of the ADL.
<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	The annulment of the ADL caused a serious disruption in the national legal system. The legal outcome of this is that both the old (2011) and the new (2019) comprehensive laws on prevention and protection against discrimination are now out of force. This means that there is no comprehensive ADL in place. What made this decision of the Constitutional Court even graver is the fact that, at the time, the Parliament was already dissolved for pre-term elections and the fact that the decision was adopted during a state of emergency due to the COVID-19 crisis.
<b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)	<p>MK: "Во случајов Уставот предвидува посебно мнозинство, а тоа во правната ситуација предвидена во членот 75 од Уставот е апсолутното мнозинство, односно консензус од 61 пратеник, со што само во тој случај би можело да се смета дека законот е полноважно донесен. Но, како предметниот закон е донесен без потребното мнозинство во смисла на член 75 став 3 од Уставот, Судот основано ја доведе согласноста на оспорениот закон со Уставот на Република Северна Македонија."</p> <p>EN: "In this case, the Constitution foresees a special majority which, in the situation regulated by Article 75 of the Constitution, is the absolute majority, which is a consensus of 61 MPs which would be the only case in which the law would be considered as legally adopted. However, the law under discussion was adopted without the necessary majority foreseen in Article 75 paragraph 3 of the constitution. Thus, the Court rightfully challenged the alignment of the law [the ADL] with the Constitution of the Republic of North Macedonia."</p> <p>MKD, Constitutional Court, Decision U.br.115/2019 [Решение У.6р.115/2019], <a href="http://ustavensud.mk/?p=18839">http://ustavensud.mk/?p=18839</a>, para.4.</p>

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE.</b> Please provide the most relevant high court decision concerning the application of <u>either</u> the Racial Equality Directive <u>or</u> the Framework Decision on racism and xenophobia, addressing racism, xenophobia and other forms of intolerance more generally.
	No case law has been identified for this thematic area.

<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide the most relevant high court decision addressing violations of fundamental rights of Roma and Travellers.
<b>Decision date</b>	02.07.2020
<b>Reference details</b>	Court of Appeals Bitola, <i>S.P., E.P, M.B. and N.P. vs. JZU Klinička bolnica ,D-r Trifun Panovski` Bitola and JZU ,Opšta bolnica D-r Trifun Panovski` Prilep</i> , Case No: ГЖ-681/20.
<b>Key facts of the case</b> (max. 500 chars)	This case originates in 2012, when Sabina Veselovska - a 24-year-old Roma woman, died of unknown causes during a caesarean delivery in the Department of Gynaecology and Obstetrics at the Clinical Hospital D-r Trifun Panovski in Bitola. Her new-born baby survived. The causes of death included malpractice by the anaesthesiologist, failure in coordination among the employees in the gynaecological unit, and lack of adequate equipment in the institution, as found by the commission promptly established by the Minister of Health. A 2013 indictment by the Public Prosecutor's Office, against the doctor administering the anaesthetics, <sup>1</sup> resulted in a judgment in May 2017, finding the doctor guilty, but assigned only an alternative measure, <sup>2</sup> which was confirmed in an appeal process in September 2018, thus ending the criminal proceedings (KZ-543/17 from 22.05.2018 of the Court of Appeals Bitola). On grounds of this, a civil lawsuit on damages was filed on behalf of the out-of-wedlock husband and the three underage children, which they won at the first instance (Case No: П4-59/17 (04.09.2019).) The case was then appealed by both parties and finally decided

<sup>1</sup> The doctor was prosecuted for "Grave crimes against the health of people" because of an incorrectly placed tube (rather than in the airway, the tube was placed in the oesophagus).

<sup>2</sup> This was probation and a prison sentence of 6 months for which it was determined that it would not be enforced if the doctor did not commit another crime within 2 years.



	on 02 July 2020 with the sole outcome of confirmation of the first instance decision, except regarding the reimbursement of costs and expenses, for which the Court of Appeals Bitola overturned the decision and awarded expenses.
<b>Main reasoning/argumentation</b> (max. 500 chars)	The court placed the whole weight on the suffered psychological and emotional consequences for the husband, and psychological, emotional and developmental consequences for the three children. It grounded its decision on the Law on Obligations, Article on non-pecuniary damage in relation to; inter alia, death of a family member.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	The court used the possibility under the law to award non-pecuniary damages to the family of the 24-year-old Roma woman who died at birth, because of medical malpractice. It acknowledged the suffering of the family and the many dimensions of the consequences that they faced, and on grounds of that decided on non-pecuniary damages accordingly. <sup>3</sup>
<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	The court of appeals confirmed the award of 2.550.000 denars (about 41.463 EUR) to the husband and the children. In addition, it overturned the decision of the first instance court, in which that court refused to award reimbursement for the costs and expenses incurred. The Court of Appeals Bitola awarded to the husband and the children non-pecuniary damages totalling 679,892.00 denars (about 11.055 EUR).  Although this case may look like tangentially related to the issue of concern in this section of the report, and to be a "simple" damages cases, it is actually quite important for two main reasons. Firstly, this case is one in a series of cases on strategic litigation for the right to healthcare of Roma brought by Roma SOS - a Roma rights organisation. <sup>4</sup> It is part of a larger legal action targeting discriminatory behaviour against Roma persons who try to access healthcare in the public healthcare system. Secondly, both the initial criminal finding, even if it was as mild as in this case, and the damages awarded, are a stepping stone towards ending the impunity of medical personnel for medical malpractice against the Roma people who try to access public healthcare in the country.
<b>Key quotation in original language and translated into English with</b>	„Се задолжува тужениот ЈЗУ Клиничка болница Д-р Трифун Пановски од Битола по основ нематеријална штета да му плати на тужителот Санин Пелифановиќ износ од

<sup>3</sup> There is no comparative study which may help to determine where does the damage awarded to Sabina's family stand vis-à-vis the amount of similar damages awarded in other similar cases.

<sup>4</sup> For more on the strategic litigation efforts, see: Roma SOS (2014), Salioska N. and Trenkoska T., [Law in practice: Analysis of the challenges in the legal protection of the right to health and health care of the Roma from the practice of ROMA S.O.S.](#) (Prilep, Roma SOS).

<b>reference details</b> (max. 500 chars)	<p>750.000 денари, а на тужителите Ердоан Пелифановиќ, Марвил Веселовски и Назиф Пелифановиќ да им плати по 600.000 денари со законска затезна камата.“</p> <p>„Се задолжуваат тужените на тужителите солидарно да му исплатат првостепени процесни трошоци во износ од 679.892,00 денари, во рок од 15 дена по приемот на пресудата.“</p> <p>“The accused are to reimburse costs and expenses for the first instance proceedings in the amount of 679,892 MKD within 15 days of receipt of this judgment.”</p> <p>Court of Appeals Bitola, <i>S.P., E.P, M.B. and N.P. vs. JZU Klinička bolnica ,D-r Trifun Panovski' Bitola and JZU ,Opšta bolnica D-r Trifun Panovski' Prilep</i>, Case No: ГЖ-681/20 (02.07.2020).</p>
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<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please provide the most relevant high court decision related to the topics addressed in the chapter, i.e. in relation to data protection, and/or artificial intelligence systems.
<b>Decision date</b>	13 February 2020
<b>Reference details</b>	European Court of Human Rights, Case of Trajkovski and Chipovski v. North Macedonia, Application 53205/13 and 63320/13.
<b>Key facts of the case</b> (max. 500 chars)	The applicants were subjected to DNA tests by the police, the results of which were later used as incriminating evidence by the police. The applicants had filed a complaint to the Personal Data Protection Directorate alleging a violation of privacy. In April 2010, the Directorate (now Agency) dismissed the complaint. Upon such a decision, the applicants filed a case with the Administrative Court. Both instances of the case (Lower Administrative Court and Higher Administrative Court) dismissed the case, upon which the applicants had exhausted the national legal remedies and filed a complaint with the ECtHR.
<b>Main reasoning/argumentation</b> (max. 500 chars)	The ECtHR acknowledged that there was no dispute by any party that the data constituted ‘personal data’. Upon establishing this first important legal step, the ECtHR goes on to examine whether such data is processed lawfully.

	<p>The ECtHR held that 'the mere retention and storage of personal data by public authorities is to be regarded as having a direct impact on the private-life interest of the individual concerned, irrespective of whether subsequent use is made of the data' (para. 51). As a result, the ECtHR held that 'the blanket and indiscriminate nature of the powers of retention of the DNA profiles of the applicants, as persons convicted of an offence, coupled with the absence of sufficient safeguards available to the applicants, fails to strike a fair balance between the competing public and private interests'. The ECtHR reasoned that a fair balance must be struck between compelling public interest and the private interest of the party involved. Furthermore, appropriate safeguards were missing and the powers to use personal data were deemed blanket and indiscriminate. In light of these reasons, the ECtHR found that national authorities had failed to strike a fair balance.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)</p>	<p>The case is significant in determining the limits for use of personal data, in this case DNA, in police work and law enforcement procedures. The case reiterates the importance of privacy and limits state action where it constitutes a disproportionate interference with the applicants' right to respect for private life and cannot be regarded as necessary in a democratic society.</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>A violation of Article 8 of the European Convention on Human Rights.</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p>"the blanket and indiscriminate nature of the powers of retention of the DNA profiles of the applicants, as persons convicted of an offence, coupled with the absence of sufficient safeguards available to the applicants, fails to strike a fair balance between the competing public and private interests and that the respondent State has overstepped the acceptable margin of appreciation in this regard. Accordingly, the retention at issue constitutes a disproportionate interference with the applicants' right to respect for private life and cannot be regarded as necessary in a democratic society."  Case of Trajkovski and Chipovski v. North Macedonia, App. Nos. 53205/13 and 63320/13, <i>European Court of Human Rights</i> (13 February 2020), para.54.</p>

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> Please provide the most relevant high court decision relating to the topics addressed in this chapter.
<b>Decision date</b>	12 February 2020
<b>Reference details</b>	Court of Appeals Skopje, Case No: КЖМ-2/20
<b>Key facts of the case</b> (max. 500 chars)	The case before the Court of Appeals Skopje was instituted by the defence lawyer of the child in conflict with the law against a Decision of the Court of First Instance Veles, which held a session of the council for children without presence of the defence lawyer. In the appeal, the defence lawyer stated that there is a substantial violation of the provisions of the Law on Justice for Children. Namely, Article 90 of this law stipulates that the defence lawyer shall be present at every action taken during the criminal proceeding against a child in conflict with the law.
<b>Main reasoning/argumentation</b> (max. 500 chars)	The Court of Appeals Skopje accepted the appeal, abolished the decision and returned the case for retrial to the Court of First Instance Veles due to the violation of the fundamental right of the child in conflict with the law to be represented by a defence lawyer during the procedure.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	In the reasoning of the decision, the Court of Appeals Skopje stated that there is violation of the right to a defence lawyer. Since the child cannot represent himself, this is a violation of a substantive nature. The Court, thus, abolished the Decision of the Court of First Instance Veles and the case was returned back for retrial.
<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	The session of the council for children, as well as any hearing against the child in conflict with the law shall not be held without the presence of their defence lawyer.
<b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)	„Исто така, основано се укажува во жалбата на детето за сторена суштествена повреда на одредбите од ЗКП и Законот за малолетничката правда, бидејќи видно од списите на предметот, на седницата на советот одржата на ден 04.09.2019 година бил присутен само јавниот обвинител, а не бил присутен бранителот на детето, адвокат Е.К од Велес, која не била уредно известена за седницата на советот, бидејќи видно од потврдата за

електронска достава приложена во списите на предметот произлегува дека покаата за бранителот Е.К, адвокат од Велес по електронски пат била испратена на 03.09.2019 година, бранителот ја примила истата по електронски пат на 05.09.2019 година, а седницата на советот за деца била одржана еден ден претходно, на 04.09.2019 година, поради што судот погрешно констатирал дека се исполнети законските услови за одржување на седницата, без да има предвид дека согласно чл. 90 од Законот за правда за децата е предвидена задолжителна одбрана во сите фази на судската постапка."

"Also, there is a reasonable indication in the child's appeal regarding substantial violation of the provisions of the Law on Criminal Procedure and the Law on Juvenile Justice, because as can be seen from the case file, only the public prosecutor was present at the session of the council for children held on 04.09.2019, and the lawyer E.K. from Veles was not present, due to the fact that she was not duly notified about the session of the council, because it is evident from the confirmation for electronic delivery attached to the case file that the summon for the defence counsel E.K., lawyer from Veles was sent, electronically on 03.09.2019, the defence counsel received it electronically on 05.09.2019, and the session of the council for children was held one day earlier, on 04.09.2019, due to which the court erroneously concluded that the legal requirements for holding the session were met, without taking into account that Art. 90 of the Law on Justice for Children provides for mandatory defence at all stages of the court proceedings."

<b>Thematic area</b>	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide the most relevant high court decision relating to the topics addressed in this chapter.
<b>Decision date</b>	12 March 2020
<b>Reference details</b>	Basic Criminal Court Skopje, Case no. II KOK.no.86/19
<b>Key facts of the case</b> (max. 500 chars)	The defendant committed a criminal offence - child trafficking under Article 418-d paragraph 1 in conjunction with Article 22 of the Criminal Code. The defendant was sentenced to imprisonment for a term of 4 years. The child victim was represented by an attorney during the criminal procedure and, according to Article 114 from the Criminal procedure Code, she had filed a property claim for non-pecuniary damage. The property claim was partially accepted and the defendant was obliged to pay to the injured child victim, through her legal representative, a total amount of 300.000,00 MKD as a fair monetary compensation for non-pecuniary damage for violation of her personal rights to physical and mental health.
<b>Main reasoning/argumentation</b> (max. 500 chars)	The court was deciding upon a criminal offence and found the defendant guilty. The child victim had also filed a property claim for a non-pecuniary damage and the criminal court has partially accepted the claim.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	Within the national context, this case is unique because the court used the possibility under law to award non-pecuniary damages to the child victim in criminal proceedings. Namely, in criminal cases in the national context, when a non-pecuniary damage is filled by the damaged party – the victim, the criminal court very rarely (or better said - never) decides upon the damage and, instead, advises the victim to initiate a civil lawsuit for the damages. Thus, the key milestone development in this case is the fact that it is the first case in North Macedonia where the defendant has paid the damages to the victim based on a criminal court decision.
<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	The defendant was sentenced to imprisonment for a term of 4 years. One mobile phone was confiscated. The defendant was ordered to pay a court lump sum for MKD as well as to reimburse the remaining costs in the criminal proceedings of the amount of 46.552,00 MKD.

	<p>The defendant was ordered to reimburse the costs of the procedure for reward and necessary expenses of the attorney of the damaged child victim for MKD.</p> <p>The property claim was partially accepted and the defendant was ordered to pay to the injured child victim, through her legal representative, a total amount of 300.000,00 MKD as a fair monetary compensation for non-pecuniary damage from violation of her personal rights to physical and mental health with legal penalty interest on those amount calculated from the day of the judgment 12.03.2020 until the day of the final payment.</p> <p>The defendant was ordered to pay the property-legal claim within 15 that from the validity of the judgment, as well as the costs of the procedure, and if he fail to do it, the payment will be executed, according to Article 135 paragraph 6 of the CPC from the money that were temporarily confiscated from the defendant and handed over to the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption Skopje, and after the execution of the decision in this part, the remaining amount of the confiscated money in the amount of 24.800,00 EUR to be returned to the defendant.</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p>“Согласно член 114 од ЗКП, предјавеното имотно-правно барање за надомест на нематеријална штета на оштетеното дете - жртва , поднесено преку нејзиниот полномошник адвокат Павлина Зефиќ, делумно се усвојува.</p> <p>Се задолжува обвинетиот да и плати на оштетеното дете- жртва, преку нејзиниот законски застапник, вкупен износ од 300.000,00 денари на име справедлив паричен надомест на нематеријална штета од повреда на нејзините лични права на телесно и душевно здравје и тоа</p> <ul style="list-style-type: none"> <li>- за претрпени физички болки износ од 60.000,00 денари,</li> <li>- з апретрпен страв износ од 240.000,00 денари</li> </ul> <p>со законска казнена камата на овие износи сметано од денот на пресудувањето 12.03.2020 до денот на конечната исплата.</p> <p>Се задолжува обвинетиот да го плати имотното-правно барање во рок од 15 дека од правосилноста на пресудата, во спротиво наплатата на имотното - правно побарување како и трошоците на постапката согласно чл.135 ст.6 од ЗКП да се изврши од парите што од обвинетиот се привремено одземени и предадени во Основното јавно обвинителство за гонење на организиран криминал и корупција Скопје, а по извршувањето на одлуката во овој дел, преостанатиот износ од вкупно одземените пари од 24.800 евра, да му бидат вратени на обвинетиот.”</p>

"Pursuant to Article 114 of the CPC, the declared property claim for non-pecuniary damage to the injured child victim, submitted through her attorney Pavlina Zefic, is partially adopted.

The defendant is obliged to pay the victim child victim, through her legal representative, a total amount of 300.000,00 MKD in the name of fair monetary compensation for non-pecuniary damage from violation of her personal rights to physical and mental health, as follows:

- for physical pain in the amount of 60.000,00 MKD,
- for an unbearable fear amount of 240.000,00 MKD

with legal penalty interest on these amounts calculated from the day of the judgment 12.03.2020 until the day of the final payment."

The defendant is obliged to pay the property-legal claim within 15 that from the validity of the judgment, contrary to the collection of the property-legal claim as well as the costs of the procedure according to Article 135 paragraph 6 of the LCP to be executed from the money that the defendant were temporarily confiscated and handed over to the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption Skopje, and after the execution of the decision in this part, the remaining amount of the confiscated money of 24,800 euros to be returned to the defendant.

Basic Criminal Court Skopje, Case no. II KOK.no.86/19



<b>Thematic area</b>	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.
<b>Decision date</b>	23 January 2020
<b>Reference details</b>	European Court of Human Rights, <i>Case of L.R. v. North Macedonia</i> , Application no. 38067/15.
<b>Key facts of the case</b> (max. 500 chars)	The applicant born in 2004 was abandoned at birth and, upon his grandmother’s request, was placed in an Orphanage where the Social Welfare Centre was appointed as his guardian. In 2008 the applicant was diagnosed as suffering from a moderate mental disability, the most severe form of physical disability (cerebral palsy), and a speech disability (alalia). In 2008 the applicant’s guardian placed him in B. Rehabilitation Institute where he was diagnosed with mental, physical and speech disabilities. He was discharged in 2012 and placed in the Rehabilitation Institute B.B.S. (“the RIBBS”), an open-type state-run institution for people with physical disabilities and no mental disabilities.
<b>Main reasoning/argumentation</b> (max. 500 chars)	In 2013, upon a monitoring visit to the institution, the Ombudsperson found that the applicant was tied to his bed by his leg and later that year issued a special report on the situation in the RIBBS. Acting upon the information in the report, in 2014, the Helsinki Committee for Human Rights – a CSO providing free legal aid, submitted a criminal complaint against the director of the RIBBS and other employees for torture and other cruel, inhuman or degrading treatment or punishment and for ill treatment in the performance of their duties. They argued this on grounds of the fact that the applicant was tied with a rope by the leg which was short enough so that he could not reach the corridor. In addition, he was not provided with the adequate care and treatment he was entitled to, to such an extent that it amounted to complete neglect, which had been compounded by the fact that the RIBBS did not have any qualified personnel that could meet the applicant’s needs, which had resulted in his health deteriorating.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	The Court found that North Macedonia has violated Article 3 of the ECHR because of the inappropriate placement of the applicant, lack of requisite care and inhuman and degrading treatment.  One of the key issues arising in the case, when assessed in the overall body of ECtHR case law, is in relation to the procedural issue of representation. Namely, the Court allowing the

	<p>HCHR to represent the child. The Court held that the applicant was a „highly vulnerable person who is manifestly incapable of expressing any wishes or views regarding his own needs and interests, let alone wishes and views on whether to pursue any remedies“(para.48), that the child was to be protected from the legal guardian and that the case raises „serious issues under Article 3 of the Convention“. Thus, the ECtHR called upon these being exceptional circumstance, and allowed for the representation of the HCHR.</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>North Macedonia is to pay to the applicant 18,000 EUR for non-pecuniary damage and 1,650 EUR plus taxes for costs and expenses.</p> <p>As for the issue of representation, the ECtHR did not set any clear standard and instead called upon the exceptional circumstances in this case. Thus, the impact of this judgment on future cases is yet to be seen.</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p>„the Court considers that, in the exceptional circumstances of this case and bearing in mind the serious nature of the allegations, the HCHR should be granted standing to act as the applicant’s representative.“</p> <p>European Court of Human Rights, <i>Case of L.R. v. North Macedonia</i>, Application no. 38067/15, para.53.</p> <p>„In the Court’s view, and notwithstanding that the authorities, as they held, were not confronted with allegations of wilful ill-treatment, their overall response in investigating the allegations of serious human rights violations, as in the present case, cannot be regarded adequate. The absence of any appropriate reaction, let alone redress, with respect to the events complained of, cannot be said to be compatible with the procedural obligation of the State under Article 3 of the Convention.“</p> <p>European Court of Human Rights, <i>Case of L.R. v. North Macedonia</i>, Application no. 38067/15, para.94.</p>