

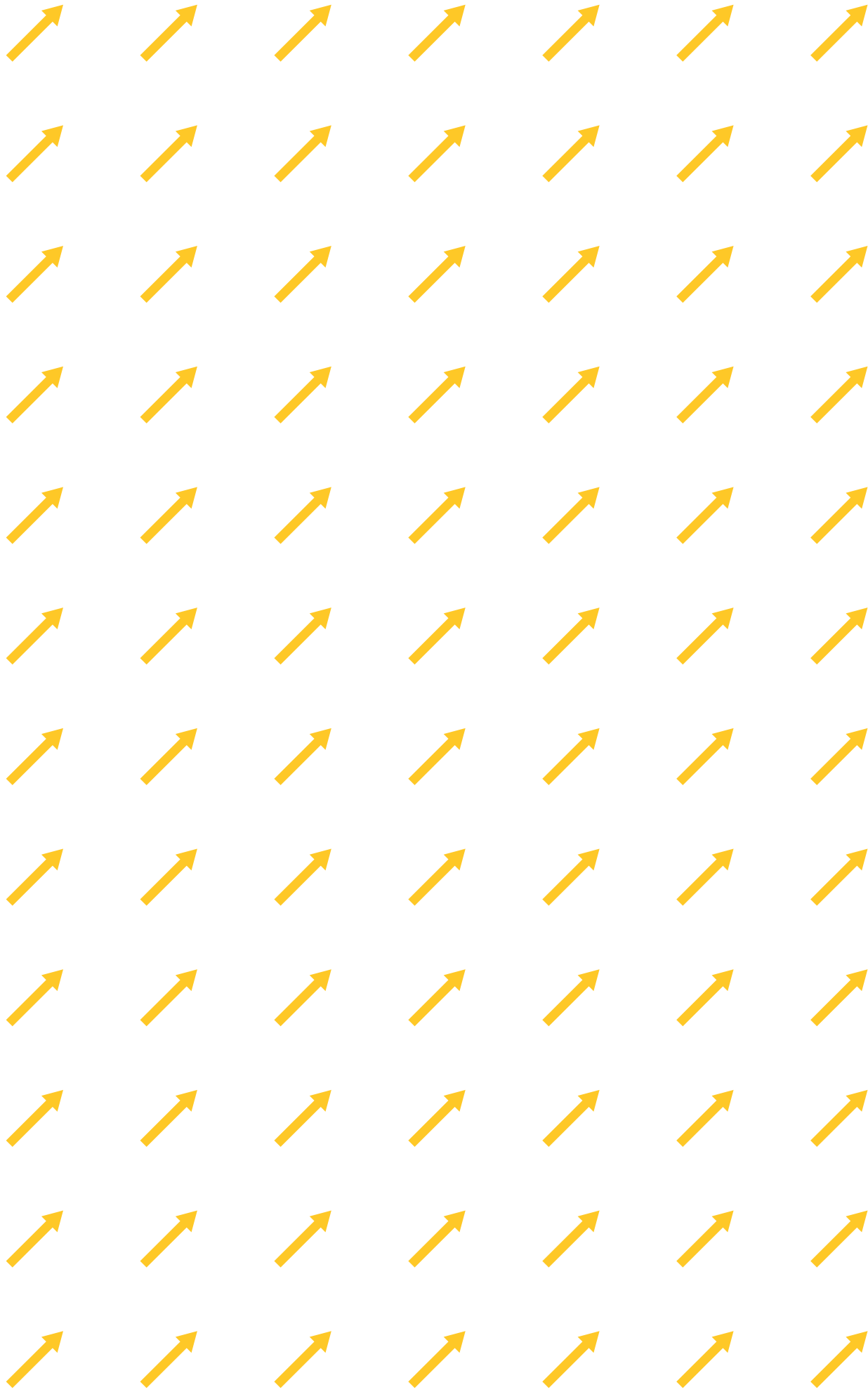
ANNUAL REPORT
2015

Sexual & health rights of

MARGINALIZED
COMMUNITIES

Coalition
HEALTH AND
SEXUAL RIGHTS
OF MEMBERS
OF MARGINALIZED
COMMUNITIES
Skopje, 2015

L G B T I D R U G U S E R S **S E X** W O R K E R S P E O P L E L I V I N G W I T H H I V



Annual report

2015

**HEALTH AND SEXUAL
RIGHTS OF MEMBERS
OF MARGINALIZED
COMMUNITIES**

Coalition

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OF MARGINALIZED COMMUNITIES

Skopje

2016

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OVERVIEW

The health rights of people who use drugs are endangered with numerous human rights violations that occur during police contact. Criminalization of people who possess drugs for personal use violates the right to their health. Most of the individuals, victims to rights violations in police actions “against drugs” are recreational users of “herbal substances.” Individuals treated from drug dependence indicate to numerous health rights violations during contact with police officers: violation of the right to treatment by illegally seizing and/or spilling methadone therapy, violation of the right to privacy and confidentiality of medical data, disturbing clients in harm reduction centres, infringement of the right to a doctor in cases of abstinence crises and abusing abstinence symptoms for extortion of confessions, involuntary urine tests etc.

The legal provisions and practices for “mandatory treatment” of “junkies” violate the right to treatment and the right to dignity of people who use drugs.

The Coalition’s expert analysis determined discriminatory treatment of people who use drugs and people living with HIV in numerous textbooks for secondary and higher education.

Cannabis for medical purposes is treated in a sensualistic manner as a pre-election topic. We need a separate law to regulate the cannabis for medical purposes, whereupon all those concerned, not only experts – as was suggested by the Prime Minister, need to be involved in its drafting and adoption.

Sustainability of the already established HIV programs for groups with particular HIV risk behaviour once the Global Fund leaves at the end of 2016 is yet to be introduced, pursuant the recommendations of the public debate held by the Health Committee of the Assembly.

The Commission for Protection from Discrimination failed to act within the legally prescribed period in cases of flagrant human

rights violations. Some of the media continue with sensational and stigmatizing approach towards people living with HIV and sex workers.

Sex workers demand that the competent institutions undertake specific measures for protection from violence. The sex workers won the lawsuit again against the Ministry of Interior (MOI) and the Primary Court Skopje I – Skopje; the latter are obliged to pay compensation for intangible damages awarded for personal rights violation caused in the raid “Street Prostitution” in November 2008.

In 2015, the negative trend of not prosecuting hate-motivated physical violence on the basis of sexual orientation and gender identity continued. The perpetrators of hate crimes have still not been identified and brought to justice. Not prosecuting violence encourages hate-motivated attackers and discourages the victims from reporting the violence and pressing charges against the perpetrators.

The Government's campaign for constitutionally defining marriage encouraged discrimination and hate speech on the basis of sexual orientation. The Government and the Assembly did not allow for sexual orientation and gender identity to be included in the Law for Prevention and Protection from Discrimination.

The trend of not prosecuting hate speech on the basis of sexual orientation and gender identity also continues. The campaign “Towards a Nation without Discrimination” was received with calls for violence on the basis of sexual orientation (liquidation calls). The competent institutions did not act urgently in the cases of hate speech, a move that encourages perpetrators and discourages victims.

During Pride Week, the LGBTI community organized several protests in front of the institutions in order to express discontent with the continuous homophobic and transphobic violence, the lack of proper institutional response, the homophobic and

chauvinist campaigns and the media silence. Despite the protests, the safety of the participants in the Lesbian picnic was endangered after the homophobic hate speech throughout the social networks.

The practice of the European Court of Human Rights is not observed and trans people are still not allowed legal recognition of their sex in Macedonia.

Universities still include discriminatory teaching materials which describe homosexuality as “unnatural,” “unhealthy,” and “threatens the existence of the human kind.”

The Commission for Protection from Discrimination adopted a “Protocol for establishing a procedure in cases of protection from discrimination on the basis of sexual orientation and gender identity.” The Commission in collaboration with civic organizations implemented a campaign for “raising the awareness among citizens and decreasing the discrimination on different basis, particularly changing the perception of people with different sexual orientation that has been created for years”. After the open call towards the end of 2015, the Assembly appointed several incompetent commissaries for protection from discrimination, including ones that publically encouraged hate against the “butchers,” “foulmouthed NGOs” and “traitors” and publically represented homophobic views that homosexuality is unnatural and abnormal.



Health Rights Violation

of Members of
Marginalized
Communities



...the right to health includes more than access to health services; it is also the right to underlying determinants of health, including equality and non-discrimination, protection against violence, participation and safe and enabling environments for health and well-being.¹



¹ Open Letter by the Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras, in the context of the preparations for the UN General Assembly Special Session on the Drug Problem (UNGASS), which will take place in New York in April 2016 <http://www.ohchr.org/Documents/Issues/Health/SRLetterUNGASS7Dec2015.pdf>

1.

HUMAN RIGHTS VIOLATION OF PEOPLE WHO USE DRUGS COMMITTED BY THE POLICE

Health rights of people who use drugs are endangered with numerous human rights violations during police contact. MIO's official statistical data leads to the conclusion that people who use drugs (for personal use) are the ones most exposed to detention and custody in police stations after police actions "against drug trade." Despite the indications of people who use drugs to the many violations of their rights during police contact, very few of them are encouraged to report the cases to the competent institutions or the civic organizations and to instigate a procedure to protect their rights.

According to the research of the Coalition for Health and Sexual Rights of Marginalized Communities (the Coalition), people who use drugs often state that during police procedures their right to dignity is constantly violated, that they are victims to discriminatory acts (mostly on the basis of their health status), that often their patients' rights are violated, that during detention or deprivation from liberty their rights are not observed, or that their personal safety is endangered. In addition, some statements indicate to torture, as well as degrading treatment in police stations, even in public places (humiliating body searches).

2.

CRIMINALIZATION OF PEOPLE WHO USE DRUGS FOR PERSONAL USE ENDANGERS THEIR HEALTH RIGHT

According to the UN Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, repressive responses to drug use and non-violent misdemeanours (such as “resorting to the enjoyment of narcotic drugs”) are unnecessary risks to the public health and create significant obstacles for complete and effective realization of the right to health, particularly for people who use drugs.² Criminalization of people who use drugs seriously endangers their health.

The most numerous victims in the worldwide “war against drugs” are people who use drugs, particularly recreational marihuana users. Most of the detained individuals are listed as Individuals detained for possession of opioid drugs,” although “possession of opioid drugs” for personal use is not defined as a misdemeanour or a criminal offence in the Republic of Macedonia.

In the Coalition’s research, people who use drugs and patients on methadone therapy stated that in practice they are often treated as criminals instead of offenders and people in need of medical assistance. There is an ongoing trend to criminal-

² At the root of many health related problems faced by people who use drugs in criminalization itself, which only drives issues and people underground and contributes to negative public and individual health outcomes.” - Open Letter by the Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras.

ize people who use drugs and patients on substitution therapy, even in cases of possession of insignificant amounts of marijuana or traces of drug use.

According to the data we received from MOI, most of the individuals detained for “possession of opioid drugs” are deprived of liberty without a court order. For instance, in the first 11 months of 2015, 113 people were detained for possession of opioid drugs with a court order (or a warrant), while in the same period, 810 people were detained without a court order.

Detainment without a court order violates the provisions of the Law on Police which precisely prescribe the terms on detaining an individual caught in the act of committing a misdemeanour.³ In many cases the police detains individuals not caught committing a misdemeanour, rather on the basis of insignificant amount of drug found in their possession, although drug possession for sale is not defined as a misdemeanour or a criminal offence. Despite this, the number of individuals detained for “drug possession” does not correspond to the pressed criminal and misdemeanour charges which indicate to the large number of arbitrary detentions. Out of 923 detained individuals in the first 11 months of 2015 (113 with a written court order or a warrant and 810 without a written order), 327 criminal charges and requests for instigating a misdemeanour procedure were submitted against 163 individuals.

The victims whose rights were violated in the police actions “against drugs” are recreational users of “herbal substance.”

The Coalition asks that MOI redirects its resources towards drug traders and producers, instead of criminalizing people who possess drugs for personal use which endangers their health rights.

The victims whose rights were violated in the police actions “against drugs” are recreational users of “herbal substance.” So, according to MOI’s data, most of the people were detained for “possession of herbal substance,” by the Unit for First Response and Intervention Alpha. For instance, in the first 11 months of 2015 the “Alphas” detained 290 people, 225 of whom for „possession of herbal substance.”

³ According to the Law on Police “The police officer can detain an individual caught in the course of conducting a misdemeanor without an order from a competent court,” however only “... if it is impossible to determine the identity of the perpetrator, the perpetrator does not have a place of staying, or if by leaving the country in order to stay abroad, he/she can avoid responsibility for the misdemeanor, or there are circumstance confirming the assessment that the perpetrator will continue committing the misdemeanor or might repeat it.”

Of particular concern is MOI's information that some individuals detained for a non-existing misdemeanour are being held in police stations for longer than 12 hours,⁴ contrary the Law on Misdemeanours according to which detainment mustn't be longer than 12 hours.⁵

The Coalition asks the Ministry of Justice to work on “developing policies and laws to decriminalize injecting and other ways of drug use” (pursuant the recommendations of the World Health Organization), or, decriminalization and de-penalization of drug use and possession as a step towards the fulfilment of the right to health (pursuant the recommendations of the Special Rapporteur on health).⁶

⁴ According to the data sent by MOI, “Pursuant Article 46-b from the Law on Police, 84 people were held longer than 12 hours.”

⁵ According to the Law on Misdemeanors, “... if the perpetrator is caught committing a misdemeanor during a period when the court does not work or if there exist circumstances that he/she will escape or will continue to commit the misdemeanor or will repeat the misdemeanor, an authorized officer may detain him/her. The detention lasts until it is possible to bring the defendant before the competent court, but no more than 12 hours.”

⁶ “As a step towards the fulfillment of the right to health, drug use and possession should be decriminalized and de-penalized alongside increased investment in treatment, education and other interventions...” Open Letter by the Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras.

3.

TYPES OF HEALTH RIGHTS VIOLATIONS OF PEOPLE WHO USE DRUGS DURING POLICE CONTACT

During the Coalition's research done in 11 municipalities in Macedonia, people treated from drug addiction indicated to numerous health rights violations during contact with police officers: violation of the right to treatment by way of illegal seizure and/or spilling of methadone therapy (mostly in the vicinity of the treatment centres), violation of the right to privacy and confidentiality regarding medical data (raids in methadone treatment centres), disturbing clients in harm reduction centres, disrespecting the right to being informed on the right to an examination and infringement of the right to a doctor in cases of abstinence crises (in cases where individuals are deprived of liberty in police stations), abusing abstinence symptoms to extort confessions, involuntary urine tests, failure to undertake specific actions to provide assistance, protection of the citizens in cases of opioid overdose etc.

A classic example of how police procedures might lead to health rights violations of people treated for addiction is a health right violation case of a patient treated with methadone therapy, a violation committed by police officers in a police station.⁷ After the patient was detained in a police station on suspicion of having committed a criminal offence, N.N. stated that he was being treated from addiction (for which he provided a written

⁷ The case was documented by HOPS's activists.

The Coalition asks MOI to stop the police practice of involuntary urine testing and prosecuting people who use drugs in a misdemeanour procedure, and who are not caught while “resorting to the enjoyment of narcotic drugs” in public space.

The Coalition asks MOI to prepare a protocol that will allow people deprived of liberty and who are patients of substitution programs to receive the prescribed medicine while in police detention.

The Coalition asks MOI to prepare a policy and training for police officers on how to administer the medicine “naloxone” in overdose cases.

proof) and that he was in need of the therapy offered daily to him in the methadone centre. However, the following day (Friday), the police officers did not take him to the methadone centre on time, which closed at 1:00 pm and the patient remained without therapy for entire three days.

Another classic example of health right violations of people who use drugs is involuntary police urine testing. The Coalition’s research showed that in most municipalities people who use drugs are prosecuted in a misdemeanour procedure for “resorting to the enjoyment of narcotic drugs” merely due to positive results from involuntary urine testing, without the argument of a written court order. The police practice of establishing whether a misdemeanour was committed with a urine test, without establishing the time, place and manner in which the misdemeanour was committed and without establishing whether it was committed in a public place, is a classic example of overstepping police authorizations.

The Coalition asks MOI (in cooperation with the Ministry of Health) to issue an educational brochure intended for MOI’s authorised officers on the topic of “Health Rights of People Who Use Drugs,” in which they will stress that police officers cannot:

- a. violate the right to treatment;
- b. disturb people who use drugs in the vicinity (or inside) health centres and harm reduction centres;
- c. infringe on the mandatory advice on the right to be examined by a doctor when deprived of liberty;
- d. infringe on the right to a doctor (subject to a personal choice) when deprived of liberty;
- e. abuse the state of abstinence crisis in order to extort confessions.

4.

“MANDATORY TREATMENT” OF “JUNKIES” VIOLATES THE RIGHT TO TREATMENT AND THE RIGHT TO DIGNITY OF PEOPLE WHO USE DRUGS

The Coalition further asks the Ministry of Justice to draw up amendments to all laws and regulations that contain the discriminatory terms “junkies” and “narcomania.”

The right to treatment includes informed consent and the right to refuse treatment.⁸ Unfortunately, people who use drugs don't enjoy this right and are sentenced to “Mandatory Treatment of Drug Addicts” according to Article 65 from the Criminal Code (or as a penalty pursuant Article 24 from the Law on Misdemeanours).

Mandatory treatment is perceived as a punishment and the court can order it to be mandatorily imposed in a health or other specialized institutions (which can last up to two years).

The Coalition joins the Special UN Rapporteur for the right to health in calling for closure of compulsory drug detention and rehabilitation centres which are not only “manifestly contrary to human rights laws and standards but have proven ineffective in the treatment of drug dependence.”⁹

⁸ As was pointed out by the Un Special Rapporteur on the right to health, “...acceptability of drug treatment includes informed consent and the right to refuse treatment.”

⁹ („manifestly contrary to human rights law and standards but have proven ineffective in the treatment of drug dependence.”)

5.

INDICATIONS OF MULTIPLE HEALTH VIOLATIONS OF THE METHADONE CENTRE PATIENTS IN VELES

On November 26th, 2015, the Coalition and HOPS submitted a petition to the Ombudsman against the PHI General Hospital – Veles (Centre for Addiction) due to the indications of the patients that their rights have been violation, after we received the complaints and our visit to the Centre.

During the visit to the Veles Centre for Addiction we perceived that the methadone therapy administration station is located at the entrance of the Neuropsychiatry Department in the hospital hallway. The patients taking and drinking the therapy in front of the station window are exposed visually and to the physical contact of other patients entering the Neuropsychiatry Department which violates the right to the patients' privacy (Article 28, Law on Protection of Patients' Rights).

Above the stations window where the patients take their therapy there was a notice addressed to the Centre's patients that "methadone therapy is administered from 8 a.m. to 1 p.m.," and that "entrance in the Centre's premises is forbidden" to "patients not on the daily schedule for methadone therapy administration." The ban for accessing the health institution is contrary to the constitutionally guaranteed right to health protection and the right to accessibility to health services of all patients under equal conditions without discrimination (Article 3, paragraph 3, Law on Protection of Patients' Rights).

Above the station's window there was also an "Order" from the Ministry of Health (signed by the director of the PHI General Hospital – Veles) that "the methadone therapy must be administered daily due to complaints to MOI – Veles and the Ministry of Health from citizens and parents from the Primary School "Blaže Koneski." The Order further on states: "In order to avoid the possible closure of the Methadone Centre and in agreement with the aforementioned institutions and in the presence of MOI's officials,¹⁰ the therapy shall be administered DAILY from 11:30 a.m. without the possibility for additional changes in the schedule. Individuals who disagree with this order and fail to observe the order shall be removed from the program."¹¹

The Order is contrary to the provisions from the Law on Protection of Patients' Rights and the Manual on how to conduct health work regarding the application of methadone in treating opioid dependence. The draw up and implementation of the plan for individual patient treatment upon the order of the Ministry of Health is contrary to the law and evidence-based medicine. Daily mandatory treatment with a fixed time for when patients can take their therapy obstructs their rehabilitation and re-socialization process and their opportunity for employment and dealing with daily family chores, which additionally influences the achievement of the highest attainable personal standard of health.

¹⁰ This part can be interpreted as an order to administer therapy in the presence of officers from MOI, which is a violation of several provisions from the Law on Protection of Patients' Rights. Pursuant Article 28 from the Law, medical intervention shall be administered in the presence of the individuals needed to conduct the intervention. The presence of police disrupts the patient's confidentiality regarding the type and quantity of the treatment, and violates the patient's trust in the health institutions. Patients' distrust can lead to endangering the progress of the therapy, a risk of deteriorating the health of the existing patients and refusing to include new patients in dependence treatment programs.

¹¹ Patients have the obligation to respect the house rules in health institutions and the dignity of health workers if the house rules are pursuant the laws and do not violate the patients' rights. According to the Manual on methadone substitution therapy treatment, disrespecting the treatment agreement and the house rules can be reasons for changing the therapy regime, while violent behavior can be a reason for exclusion from the program and referring the patient to another institution.

The notices on the station window led to the conclusion that patients who refuse to drink their therapy daily, in public and in the hallway shall be removed from the program. These house rules are not pursuant the Law on Protection of the Patients Rights and the Manual on methadone substitution therapy treatment, and if practiced might lead to human rights violation of the patients on treatment.

The Coalition and HOPS asked the Ombudsman to inspect the Addiction Centre in Veles, to establish whether there is a violation and if so to demand that PHI General Hospital – Veles:

- a. standardizes the spatial conditions pursuant the Rulebook and protects the patients' right to privacy;
- b. provides unlimited access for patients to the health institution during the Centre's working hours;
- c. plans and implements the treatment plan in accordance with the patients, not pursuant the unlawful directives of the Ministry of Health;
- d. bans access to MOI's authorized officers during therapy administration to patients;
- e. standardizes the house rules pursuant the Law on Protection of Patients' rights and the Manual on methadone substitution therapy treatment.

6.

DISCRIMINATORY TEXTBOOKS ON THE GROUND OF HEALTH STATUS: TREATMENT OF PEOPLE WHO USE DRUGS AND PEOPLE LIVING WITH HIV IN SECONDARY AND HIGHER EDUCATION

In 2015, the Coalition issued an analysis on the treatment of people who use drugs and people living with HIV in secondary and higher education “Drug Use and Living with HIV in Education.”¹²

¹² We analyzed 22 textbooks and teaching materials in total used in secondary and higher education in the field of sociology, pedagogy, ethics, psychology, psychiatry, criminal law, criminology, penology and clinical toxicology. Subject of analysis were mostly textbooks used in state universities, the St. Cyril and Methodius University and St. Clement of Ohrid University, published within the study programs in 2014/2015.

The following problems were concluded in the textbooks:

1. Use of terminology that violates the dignity of people who use drugs and people living with HIV: stigmatizing terms "junky," "narcomania" and "plague of the 20th century," "ill from AIDS" and not making a distinction between the HIV virus and the abbreviation AIDS.
2. Propaganda, insults and criminalization of people who use drugs: negative representation not only of drug use, rather of the users themselves, bias, moralizing and judgmental attitude, not making a distinction between drug use and harmful use and dependence and arbitrary identification of people who use drugs as criminals (despite the fact that drug use is not a criminal offence in Macedonia).
3. Biased and non-critical representation of the existing drug related laws and practices: not making a distinction between personal drug use and drug trade.
4. Arbitrariness in representation of drug dependent individuals as patients.¹³
5. Homophobia in texts regarding HIV.¹⁴
6. Disregarding the problems and discrimination people who use drugs and people living with HIV face.¹⁵

¹³ In the textbook "Psychiatry – Volume 1", the author Chadlovski presented people dependent on drugs as patients with poor therapeutic results and "low motivation" for treatment. Such views are arbitrary, and the guilt is located in the patients instead of reexamining the current dependence treatment programs. It can negatively influence the motivation of future professionals in the treatment of people dependent on drugs, creating the perception that their efforts will be in vain and that these individuals are beyond help.

¹⁴ In "Ethics for III year Gymnasium Education," the author Temkov, apart from claiming that most of the "ill from AIDS" are "junkies and homosexuals," he further continues to claim that they infect each other with "their homosexual friends" on purpose in order to suffer together.

¹⁵ The representation of drug use from a human rights aspect and patients' rights aspect is missing from the textbooks. The authors, instead of speaking

The Coalition asks that the Ministry of Education and Sciences and the Rector's Office at the St. Cyril and Methodius University revise the aforementioned textbooks pursuant the experts' recommendations.

The recommendations of the analysis' authors generally refer to the need for complete revision of textbooks, standardization of terminology, removing discriminatory and incorrect contents and substituting them with contemporary, professional contents standardized with contemporary science and the international standards for human rights protection of people who use drugs and people living with HIV.

of the stigma and the discrimination towards PWD spread it. Basic, relevant information are missing regarding HIV, from spreading incorrect information on HIV itself, to not mentioning the existence of antiretroviral therapy. Of course, health rights violations and stigmatization of PLHIV is not even mentioned.

7.

DRAFT-AMENDMENTS FOR LEGALIZATION OF “CANNABIS FOR MEDICAL PURPOSES”

The issue of legalizing cannabis for medical purposes was brought about by the Prime Minister Nikola Gruevski in his speech on Independence Day, September 8th, 2015. Initially, he stated his position that “general legalization of marihuana cannot be accepted.” The Prime Minister then continued to stress that “the issue of import and use of the medicine based on cannabis oil with a doctor’s prescription under strictly regulated conditions” should be broadly studied and publicly debated, but only by “doctors specializing in these fields, pharmacists, doctor of sciences and imminent scientists solely on scientific basis,” and not by “politicians or journalists, or political analysts.”

On December 16th, 2015, during a press conference, the Minister of Health, Nikola Todorov announced the “Draft-law for legalization of cannabis for medical purposes.” However, this is not a separate law, rather a draft amendment to the Law on Control of Opioid Drugs and Psychotropic Substances in the direction of legally controlled use of cannabis products for medical purposes in the Republic of Macedonia (drafted by the Ministry of Health in cooperation with the Agency on Medicines and Medicinal Products of Macedonia).¹⁶

¹⁶ It is necessary to thoroughly study why in some states in Europe and USA these medicines are allowed, while in some aren’t, and what the experiences are. Then we can form our position regarding this type of medicine. (Prime Minister Gruveski’s address on Independence Day, <http://www.vlada.mk/node/11087>)

The Coalition appeals not to treat the cannabis for medical purposes in a sensationalistic manner as a pre-election topic and supports HOPS' position for the adoption of a separate law that will regulate the cannabis for medical purposes, whereupon all concerned parties shall be involved in its adoption, not only experts, as the Prime Minister suggested.

On December 24th, 2015, HOPS held a press conference asking for a separate law for regulation of the cannabis for medical purposes in Macedonia and for the possibility to include experts and public debates in order to find the most convenient model for the regulation of the medical use of cannabis in Macedonia. HOPS believes that the new law "should provide easy access to cheap medicine, including cannabis oil, in pharmacies or special stores, however patients who are not able to buy the medicine or wish to grow their medicine should also have the opportunity to do so."¹⁷

¹⁷ HOPS believes that "cannabis for medical purposes should be available in different forms (for smoking, vaporized delivery method, in capsules, different kinds of cookies or in the form of cannabis oil)." In addition, cannabis for medical purposes shouldn't be restricted by conventional medical practice." (The position of HOPS – Healthy Options Project Skopje regarding cannabis for medical purposes in Macedonia, http://www.hops.org.mk/sites/default/files/stav_na_hops_finalen.pdf)

8.

THE ASSEMBLY OPENS THE ISSUE ON THE MODELS AND POSSIBILITIES FOR PROVIDING SUSTAINABILITY OF HIV PROGRAMS

On December 11th, 2015, a public debate entitled “Providing sustainability of the established HIV programs for groups most-at-risk of HIV after the departure of the Global Fund at the end of 2016 – Possibilities and Challenges” was held, organized by the Health Committee in collaboration with the Interparty Parliamentary Group on HIV and the Platform for HIV.

During the debate it was pointed out that all established services are under the risk of closure once the Global Fund withdraws at the end of 2016 unless finances for further activities are provided. Several important conclusions resulted from the discussion.

First of all, it was stressed that the Government of Macedonia and the Ministry of Health have the obligation “to implement the national plan for transition from donations to finances provided from the Budget of Macedonia.¹⁸”

¹⁸ The obligation implies establishing “effective legal mechanisms and bylaws in order to provide sustainability of the already established HIV preventive programs before the support from the Global Fund comes to an end in order to maintain low HIV rate in the country.”

Further on, the Committee adopted several conclusions on including civic organizations "as being crucial for providing responsible transition" and as implementers of the Program for Protection of the Population from HIV/AIDS, including the recommendation that "the Ministry of Health should provide finances for civil society organizations offering services to groups most-at-risk of HIV within the Program for Protection of the Population from HIV/AIDS for 2016."

One of the conclusions drawn from the public debate was that the Ministry of Health and the Agency for Medicine should undertake measures to provide registration of all necessary antiretroviral medicine for HIV treatment and prevention.

9.

SEX WORKERS SEEK PROTECTION FROM VIOLENCE

On the International Day to End the Violence against Sex Workers, December 17th, “The Red Umbrella March” traditionally took place while several organizations took the opportunity to emphasize the problem¹⁹ and asked for specific measures against the violence.²⁰

The presentation of the March was proper, whereupon the Star-Star organization expressed “particular gratitude for the manner of reporting because all media without exception presented the sex workers in the March with dignity and respect.”²¹

¹⁹ HOPS’s representative stated: “We would strongly like to emphasize that violence is a big problem for sexual workers in Macedonia. Out of 310 surveyed sex workers, 211 stated that they face violence, i.e. 12% stated that they were victims of sexual violence at least once, while as much as 10% stated that they have been in a situation where the clients forced them to unprotected sexual intercourse without their consent” (“Naumovska-Ilieva: No one protects sex workers from violence,” www.a1on.mk).

²⁰ “Several NGOs asked urgent and thorough investigations against uniformed individuals in cases of assaults who abused their function to extort services from sex workers, as well as суштинска inclusion of sex workers in draft-laws, policies and programs that directly influence the conditions in which they live and work. They asked that the regulations prescribing fines for sex workers who are consciously and willingly involved in the sex industry be repealed.” (“March of the Sex Workers, they ask a law for protection from violence,” www.mkd.mk.)

²¹ In addition, all TV articles, investigative stories, photo stories and journalists’ stories in the daily newspapers and on the internet portals paid particular attention to hide their identity, used politically correct terminology and objectively reported on the event. (Gratitude for the support and media professionalism, <http://starsexwork.org/?p=915>)

This year as well HOPS announced an open call for journalist texts on sex work in order to encourage research journalism on subjects relevant to the human rights of sex workers as a way to motivate the media to report on this subject while taking into consideration human rights instead of sensationalism and discriminatory speech.

10.

CRIMINALIZATION AND NEGATIVE REPRESENTATION OF SEX WORKERS IN TV SHOWS

On December 28th, 2015, the Coalition submitted a complaint to the Council of Media Ethics of Macedonia against a TV-show,²² in which the author criminalized people who do sex work and filmed them without their knowledge and consent. Although it was the journalist's duty to defend dignity and human rights, sex workers were ridiculed and their dignity was violated.

The largest violation was in the part where personal information of the sex workers was released without their knowledge and consent (photographs received through private Skype Conversation, contents of Skype conversations, taped telephone conversations without the knowledge and consent of the other speaker). The author falsely presented himself as a potential client to the sex workers in order to extort their personal information and abuse the same by releasing it in public. The show also revealed the location and the interior of transgender sex workers' home, without their knowledge or consent.

The part of the show that dealt with sex work in student dormitories revealed the name of a student, the student dormitory where she lived and photographs of her received through a pri-

²² The show "In the center with Vasko Eftov: Prostitution in Macedonia," broadcasted on December 7th, 2012 at 10 p.m. on Channel 5 TV. The show is available for viewing on Vasko Eftov's Youtube channel: https://www.youtube.com/watch?v=H_g50FqhC2Q.

The Coalition would like to remind the journalists that it is their ethical duty to “give voice to the voiceless,” the marginalized and victims of stigma, discrimination and violence and not represent them as criminals. However, it is also the ethic duty of journalists, particularly in contexts where sex work is criminalized by the police, to protect the identity of sex workers with the use of different journalist techniques.

vate conversation. By releasing personal information without authorization the journalist encourages stigma, thus increasing the risk of hate speech and violence from her environment.

The show disregarded the other aspect of the story, i.e. it failed to present the daily violence against sex workers and the violations of their rights.²³

²³ “There are a number of well-established journalist techniques that could disguise the identity of sex workers, such as blurring their faces or distorting their voices if they are being filmed. These options should be discussed with the interviewee to establish what s/he would prefer. Proper consent should then be obtained, preferably in the form of a written agreement, with signed copies to both the interviewer and the interviewee.” “See, “A Guide to Respectful Reporting and Writing on Sex Work,” <https://www.opendemocracy.net/beyondslavery/marlise-richter-ntokozo-yingwana-lesego-tlhwale-ruvimbotenga/guide-to-respectful-repo>.

11.

DISCRIMINATORY ENROLMENT CALL ON THE BASIS OF HEALTH STATUS

The announcement for the 2014-2015 enrolment of students at the master studies of the Justinianus Primus Faculty of Law (law studies, political studies and studies in journalism) had the following discriminatory requirement: "Foreign citizens shall attach documents confirming HIV and Hepatitis C testing from the Student Polyclinic in Skopje to their enrolment application forms."

After consultation with the Network for Protection against Discrimination, on March 10th, 2015 "Stronger Together – Association for Support of People Living with HIV" submitted a request for access to public information to the Rector's Office of the St. Cyril and Methodius University, asking:

"Are foreign citizens interested in enrolling at master studies of the University faculties obliged to submit results from HIV and Hepatitis C testing from the Student Polyclinic in Skopje as a mandatory part of the requested enrolment documentation for master studies? If delivering these tests results is mandatory, why and pursuant which legal acts or bylaws is that requested? What would happen if a foreign citizen interested in enrolling at the University master studies has a positive HIV or Hepatitis C results? Is a negative HIV and Hepatitis C test result a requirement for enrolment at master studies at the University? How is the data from the HIV and Hepatitis C test results kept? Are Macedonian citizens interested in enrolling at the University master studies required to submit HIV and Hepatitis C test

The Coalition asks that the Rector's Office of the St. Cyril and Methodius University adopts a specific document that will reflect the University's unequivocal efforts towards developing possibilities for equal opportunities and non-discrimination against the academic community.

The Coalition asks that the Rector's Office conducts special training on sensitizing all employees in the University administration on discrimination and protection from discrimination.

results from the Student Policlinic in Skopje as part of the necessary enrolment documentation for master studies?"

On March 13th, 2015, we received an answer from the Rector that the requested document "is not on the list established with the open call" and that "foreign citizens are enrolled and educated at the second cycle of studies at the University units under the same requirements as are the citizens of the Republic of Macedonia." However, the Rector did not offer explanation why the discriminatory requirement was contained in the open call for enrolment, even though the document for HIV and Hepatitis C testing from the Student Policlinic in Skopje is not on the list established with the open call.

"Stronger Together – Association for Support of People Living with HIV" submitted a request to the Faculty of Law as well, however we did not receive an answer until the end of 2015.

12.

THE COMMISSION FOR PROTECTION FROM DISCRIMINATION DOES NOT COMPLY WITH THE LEGALLY PRESCRIBED PERIOD FOR ACTING ON CASES OF FLAGRANT HUMAN RIGHTS VIOLATIONS

The Coalition asks that the Commission urgently decides on the cases of discrimination on the basis of health status.

In the 2014 Annual Report, the Coalition reported on multiple discrimination against a patient in Ohrid on the basis of his health condition (HIV status): HIV testing without prior consent from the patient, revealing his HIV positive status, as well as discriminatory behaviour during his stay at the health institution.

The paradox in this case of flagrant human rights violation was that the Ombudsman determined discrimination and issued specific recommendations while the State Sanitary and Health Inspectorate determined that "there wasn't a case of discrimination."

We did not receive an answer to the petition submitted to the Commission on October 16th, 2014 in 2015 either, despite the legally prescribed period of 90 days!

13.

SENSATIONAL AND STIGMATIZING MEDIA APPROACH TOWARDS PEOPLE LIVING WITH HIV

The Coalition appeals that the media avoid sensationalistic approach when reporting on people living with HIV.

On April 1st, 2015, several media released sensationalist, incorrect, manipulative and discriminatory articles on the “newly infected” with “HIV/AIDS,” the “ill from AIDS” who “were infected from homosexual relations,” “all are homosexuals,” etc.

The Coalition used the legal opportunity for “Correction” in order to indicate to the media that HIV and AIDS differ, that revealing new patients’ sexual orientation is stigmatizing, that there is risky sexual behaviour, not risky sexual orientation, that they should use the health term MSM (which does not stand for sexual orientation) and that they should report carefully in order not to cause panic among the population.

The correction had a positive effect on most media that broadcasted the main points of the Coalition’s remarks.²⁴

²⁴ “There are a number of well-established journalist techniques that could disguise the identity of sex workers, such as blurring their faces or distorting their voices if they are being filmed. These options should be discussed with the interviewee to establish what s/he would prefer. Proper consent should then be obtained, preferably in the form of a written agreement, with signed copies to both the interviewer and the interviewee.” “See, “A Guide to Respectful Reporting and Writing on Sex Work,” <https://www.opendemocracy.net/beyondslavery/marlise-richter-ntokozo-yingwana-lesego-tlhware-ruvimbotenga/guide-to-respectful-repo>.

While covering December 1st, most of the media reported properly and professionally, however the tendency to connect HIV to the sexual orientation was once again present in the media.²⁵ Particularly positive in this respect was the media presentation of the video "We All Are Part of the Change" – social experiment by "Stronger Together" to bring to light the prejudice issue towards people living with HIV.²⁶

²⁵ Several media reported "The infection was transmitted through heterosexual intercourse in the case with most of the infected individuals."

²⁶ "We choose the City Park as a location and created a situation where people think they have physical contact with an HIV person – young boy who serves coffee was wearing a T-shirt saying "I am HIV positive". In addition we included a participant who pretended to be waiting in line for coffee and stressed that an HIV person is serving drinks." The question we wanted to answer was: How do participants of such situations react? To our pleasant surprise, the participants supported and defended the barista in full from the actor's attacks, stressing that HIV is not transferred in that manner and appealed against such prejudices." "We are all part of the change," Stronger Together, <https://www.youtube.com/watch?v=PsxkicWEGpw>

14.

THE SEX WORKERS VICTIMS OF THE “STREET PROSTITUTION” ACTION WIN AGAIN THE LAWSUIT AGAINST MOI AND PRIMARY COURT SKOPJE I – SKOPJE

The Coalition welcomes the court’s decision and expresses concern due to the fact that after seven years the court procedures for protection of the rights are still not finalized.

The Primary Court Skopje II – Skopje on May 28th, 2015 for the second time made a first instance court decision in a civil procedure whereupon it partially approved the lawsuit of 12 sex workers and obliged MOI and the Primary Court Skopje I – Skopje to pay compensation for intangible damages in the amount of 1,430,000 MKD awarded for personal rights violation caused in the raid “Street Prostitution” in November 2008.

In the verdict explanation, the court determined violation of Article 8, paragraph 2 from the European Convention on Human Rights – ECHR (because they were filmed on the premises of MOI and the recordings were broadcasted before instigating a criminal procedure), violation of Article 3 from ECHR,²⁷ violation

²⁷ The court established a violation because of “...the humiliating treatment towards the plaintiffs by the competent in MOI during the detention which was carried out as group detention, with group body searches and taking the plaintiffs to the Infective Clinic, without informing them where they are being taken and forced them to blood test analysis,” and because “in the Bit Pazar Police Station the plaintiffs were placed in one room with only two benches, 25 or 26 individuals, they weren’t allowed to drink water, food or go to the toilet...”

of Article 5, paragraph 1 (b) from ECHR,²⁸ violation of Article 5, paragraph 1 (d) from ECHR (for illegal detention of a minor), violation of Article 5, paragraph 2 from ECHR (because all the plaintiffs were not immediately informed on the reasons why they were deprived of liberty and of what they are being suspected) and other violations.

²⁸ The court established a violation because “the plaintiffs were first detained, without previously supplying evidence for the offence they were being suspected of “Procuring Prostitution.” The court established that the sex workers were first arrested-detained, while the court order was provided later, i.e., that “the deprivation of liberty, the arrest, i.e. the detainment of the plaintiffs by MOI was made with an attempt to provide evidence for the existence of a criminal offence...”

15.

ADOPTION OF A MODULE FOR TRAINING SOCIAL WORKERS AND OTHER PROFESSIONALS FROM SOCIAL WORK CENTRES WHO WORK WITH MARGINALIZED COMMUNITIES

The Coalition welcomes the Institute for Social Activities' initiative and asks that all social workers have the opportunity to take the training module 19.

The Coalition in cooperation with the Institute for Social Activities prepared a manual for working with marginalized communities/groups at risk which then developed into an official training module within the program for continuous development of professionals within the social protection system. Module 19 is one of the optional modules within the Program for improvement of professionals working in the field of social protection in Macedonia. The Module aims to help social workers and other professionals to acquire the knowledge and skills necessary in order to become more efficient in their work with people living with HIV, sex workers and people who use drugs.

In 2015, 50 social workers and professionals who work in social work centres from several cities throughout Macedonia passed the training held pursuant Module 19.



LGBTI

Human Rights

1.

NON-PROSECUTION OF HATE-MOTIVATED VIOLENCE ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY

The negative trend of not prosecuting hate-motivated physical violence on the basis of sexual orientation and gender identity continued in 2015, despite the LGBTI protests organized by the National Network against Homophobia and Transphobia (NNHT) (see more in the section “Pride Week”).

There was also a failure to identify the masked attackers who in 2014 stoned Damar Cafe in the Old Bazar (where the LGBTI Support Centre²⁹ of the Helsinki Committee for Human Rights was celebrating its two-year anniversary), and to identify and bring to justice the hate crime perpetrators in 2012, 2013 and 2014 (the attacks of the LGBTI Support Centre and the stoning committed by masked attackers during the Pride Week in 2013). There is also no first instance court verdict for the assault against two activists at the Tolerance March on November 17th, 2012.

Such circumstances create the notion among the public and the LGBTI community that violence on the basis of sexual orientation and gender identity is unpunished. Not prosecuting this violence encourages hate-motivated attackers, while it dis-

²⁹ In the first two years of its opening, the LGBTI Support Center and their activities were a target of six attacks, while a court procedure was instigated only for one of these attacks (the procedure in front of the Court of Appeals is still ongoing, while the perpetrators have still not been sanctioned.)

The Coalition calls the Public Prosecution's Office and MOI to identify and bring to justice all previous perpetrators of hate-motivated crimes due to sexual orientation and gender identity in order to discourage homophobic attackers and encourage victims to report hate-motivated violence.

The Coalition asks that the Government of Macedonia recognizes sexual orientation and gender identity as discriminatory bases in the Law on Prevention and Protection from Discrimination and stops abusing this issue in campaigns that encourage negative prejudices, discrimination, hate speech and violence.

courages victims to report violence and instigate procedures against the perpetrators.

For instance, a Coalition's activist witnessed an organized violent hate-motivated attack on the basis of sexual orientation in the Skopje Old Bazaar but the victim was not encouraged to report the case due to the police's inefficiency in solving the previous cases of violence in the Old Bazaar. The Coalition has information that this is not the only homophobic attack in the Old Bazaar and that other physical attacks against members of the LGBTI community are never reported due to the lack of trust in the system's institutions.

Even when encouraged to report violence, in many cases LGBTI individuals are discouraged because they might suffer prejudices, discrimination, even threats from police officers that they would reveal their sexual orientation or gender identity. For instance, after a taxi driver physically attacked several transsexual individuals, the latter reported the case to the police, however the police officers made fun of their appearance and asked them whether they were men or women. One of the victims was recognized by a police officer who morally judged her and threatened to tell her parents and even the entire city about her gender identity. As a result of the physical fear she suffered, the victim did not instigate a procedure for protection of her rights.

The Coalition also documented a case of discriminatory treatment and violation of the dignity on the basis of sexual orientation by a bus driver at a bus stop, in the presence of a police officer who also joined in the negative remarks and made fun of the passenger. This case also revealed that a large number of the police officers are not sensitized on violence and discrimination on the basis of sexual orientation and gender identity, an additional factor that discourages victims to report violence to the police.

In 2015, only one case of hate-motivated violence on the basis of gender identity against a transgender person was reported, which was followed by criminal charges for bodily injuries and impaired physical and mental health.

2.

GOVERNMENT CAMPAIGN FOR CONSTITUTIONAL DEFINITION OF MARRIAGE ENCOURAGES DISCRIMINATION AND HATE SPEECH ON THE BASIS OF SEXUAL ORIENTATION

At the beginning of 2015, the Government continued the campaign for constitutional changes regarding the definition of marriage, registered partnerships and extramarital unions. On January 20th, 2015, the Assembly adopted Amendment XXXIII with 72 votes for and 4 against.

However, the adoption of such an Amendment stirred strong domestic and international reactions. Amnesty International warned that the Assembly vote "is another addition to discrimination, violence and intolerance on the basis of sexual orientation and gender identity in Macedonia."³⁰ Amnesty International reminded that "same-sex partnerships cannot be registered under current Macedonian law" and asked the authorities "to repeal the discriminatory laws and guarantee that people living in same-sex partnerships are able to enjoy their human rights without discrimination."

³⁰ Gauri van Gulik, Deputy Director for Europe at Amnesty International, „Macedonia: Same-sex marriage ban will entrench discrimination“, <https://www.amnesty.org/en/articles/news/2015/01/macedonia-same-sex-marriage-ban-will-entrench-discrimination/>

On January 20th, 2015, while the Assembly debated on the restrictive definition of marriage (Amendment XXXIII), the National Network against Homophobia and Transphobia organized a public protest and indicated to the real problems – violence and discrimination against the LGBTI community and the institutions' silence.

However, the Assembly session during which the constitutional amendments were to be adopted is still registered as on-going because the proposer (the Government) in the meantime lost the necessary two-thirds majority votes.

In conclusion, the months-long campaign for institutional changes was reduced to a media campaign for constitutional "defence of marriage" in which the LGBTI community was negatively presented in the media as the main threat against marriage, while certain media went as far as to present them as a threat against humanity.³¹³²

Instead of homophobic media campaigns for constitutional cementing of the discrimination resulting from the current Law on Family, the Coalition asks the Government to propose a law that will provide equality of couples and unions from same and different sex, their human right under Article 8 from the ECHR.

³¹ "A life union of one man and one woman not in accordance with the provisions of the Law (extramarital union), which lasted for at least one year, is equated with marriage union regarding the right to the mutual care and the property acquired in that union." (Article 13 from the Law on Family (consolidated text) Official Gazette of the Republic of Macedonia, no.153 from 20.10.2014)

³² "The Law defines close personal relations as personal relations between people from different sex who are or were in a partnership, not living in an extramarital union." (Article 94 b, Law on Family (consolidated text) Official Gazette of the Republic of Macedonia, no.153 from 20.10.2014)

3.

THE GOVERNMENT AND THE ASSEMBLY AGAINST INTRODUCING SEXUAL ORIENTATION AND GENDER IDENTITY IN THE LAW ON PREVENTION AND PROTECTION FROM DISCRIMINATION

On July 30th, 2015, the Member of Parliament Liljana Popovska submitted a "Draft-proposal for amendment of the Law on Prevention and Protection from Discrimination," suggesting addition of the words "sexual orientation and gender identity" in Article 3 that lists the bases for discrimination. The proposer asked that sexual orientation and gender identity was included as separate protected discriminatory bases pursuant the Treaty of Lisbon and the EU Convention for the Protection of Human Rights and Fundamental Freedoms in order to align the Macedonian anti-discriminatory legislation with the European.³³

On August 25th, 2015, the Government of the Republic of Macedonia submitted an Opinion to the Assembly proposing that the law not be adopted. In the explanation the Government

³³ The proposer invoked the Conclusions of the Third Periodic Report of the UN Human Rights Committee (to which Macedonia is a member as well) from July 20th, 2015, whereupon the Committee recommends that "The state should change the Law on Prevention and Protection from Discrimination by explicitly forbidding discrimination on the basis of sexual orientation and gender identity."

claimed that “the institution that shall apply the Law (the Commission for Protection from Discrimination or the courts) provides legal protection to people with non-heterosexual orientation precisely due to the fact that they consider the broadness of the list for discriminatory bases.” Then, the Prime Minister Nikola Gruevski, signatory of the Opinion, proceeded to submit a list of laws (all adopted while he was in office) in which sexual orientation is a basis of discrimination.³⁴

During the assembly procedure, the Commission for Labour and Social Politics and the Legislative Committee unanimously “ascertained” not to adopt the law and failed to provide an explanation.

In the absence of the opposition and in a brief procedure, with 60 votes for (less than half of the MPs), the Assembly decided that the “Draft-proposal for amendment of the Law on Prevention and Protection from Discrimination submitted by Liljana Popovska shall not be accepted and cannot be passed to a further second reading.”

The Coalition would like to stress that the Government indicating on the laws adopted since 2008 and in which sexual orientation is a basis for discrimination cannot be an argument against amending the Law on Protection from Discrimination with the basis “sexual orientation and gender identity.” It can be an argument against the discriminatory campaigns on the basis of “sexual orientation” led by the ruling party and initiated with the adoption of the Law on Prevention and Protection from Discrimination lasting until today. Namely, although the Government had no problem in adopting several laws that include sexual orientation as a basis for discrimination, why is it then that they persist in creating a problem out of amending the Law on Protection from Discrimination with the phrases “sexual orientation and gender identity?”

³⁴ Law on Public Health (2010), Law on Higher Education (2008), Law on Protection of Patients’ Rights (2008), Law on Family (2008), Law on Establishing the National Agency for European Educational Programs and Mobility (2008), Law on Labour Relations (2010).

4.

NOT PROSECUTING HATE SPEECH ON THE BASIS OF SEXUAL ORIENTATION

1. The Public Prosecutor's Office Still Acting on a Case of Hate Speech Reported in 2014.

The Coalition, the Helsinki Committee of Human Rights of Macedonia and the LGBTI Support Centre in 2014 pressed charges against two journalists with the Public Prosecutor's Office because: a) one of them justified violence and spread hate speech towards the LGBTI community with a post on his website; b) both allowed and failed to erase comments that spread hate speech and called for violence and other criminal acts on their Facebook fan page.

The Primary Public Prosecutor's Office rejected the charges with the explanation that they are not prosecuted ex officio. Furthermore, they indicated that owners of Facebook profiles cannot be responsible for comments left by their fans.

In the appeals filed to the Higher Public Prosecutor it was indicated that the legislator failed to consider that all of the criminal charges were prosecuted upon a private lawsuit. Furthermore, we indicated to the example of the court practice of the European

The Coalition encourages the Public Prosecutor's Office to press charges against the suspected in the case, and continue to conduct efficient and timely investigations against individuals that spread hate speech and call to violence towards sexual and gender minorities.

We call the Public Prosecutor's Office and the other competent institutions to apply the ECHR's practice in cases of hate speech and encouraging violence via electronic media.

Court of Human Rights, which has already deliberated on cases related to establishing liability of fan pages owners.³⁵

On March 31st, 2015, the Higher Public Prosecutor's Office rejected the first complaint as unfounded, while on April 20th, 2015 the Public Prosecutor's Office accepted the second complaint and obligated the primary public prosecutor to further continue with the procedure. In the second case, the Higher Public Prosecutor's Office concluded that the contested ruling "is not clear, comprehensible and is unsuitable for examination"³⁶ and that "the Public Prosecutor did not consider all possibilities to determine certain facts that would direct him towards the correct decision."

2. A TV Show Host Supports a Call to Violence on the Basis of Sexual Orientation Life on TV

The Coalition submitted a complaint to the Commission for Appeals within the Council of Media Ethics of Macedonia (CMEM) on the ground of hate speech in the show "Jedi Burek" (Eat Burek) on Sitel 3 television on February 25th, 2015. A viewer called in with a statement that openly called to violence on the basis of sexual orientation: "I think that all these faggots calling should be impaled on a pole!"

The host did not disassociate himself from the hate speech, rather he disassociated himself only from the vulgarity, while he agreed with the call to violence: "I'll ask you to mind your lan-

³⁵ In the case *DELFI AS v. ESTONIA* (app. no. 64569/09) the Court holds that blog-owners, fan pages, internet portals and similar are liable for the comments left by their fans and users and they cannot allow hate speech on their sites. The Court holds that blog-owners are liable for the comments published by their fans and users and they are held liable to recognize and determine the effect of these people's posts.

³⁶ The Public Prosecutor's Office established that "the criminal charges in the contested ruling were rejected because the charges are not prosecuted *ex officio*, while the explanation concludes that in the specific case there is no reason to suspect that the person charged committed the criminal offences which makes it unclear and incomprehensible."

guage and avoid vulgarity, small children might be watching... although I do agree with you (followed by laughter)."

On June 11th, 2015, the CMEM made the decision that the complaint was founded and that Articles 10, 11 and 15 from the Code of Journalists of Macedonia have been violated.

3. The Campaign "Towards a Nation without Discrimination" Greeted with Calls for Liquidation

On November 18th, 2015, the Coalition pressed charges to MOI (Department for Computer Crime and Digital Forensics) for Spreading racial and xenophobic material via computer system and Causing discord or national, racial, religious and other intolerance, which implicitly includes protection on the basis of sexual orientation and gender identity.

The Coalition asks that the competent institutions act urgently on cases of hate speech because avoiding prosecution encourages the perpetrators and discourages the victims.

The reaction was due to the comments left below the video "Towards a Nation without Discrimination" promoted by the Coalition, HERA and the Commission for Protection from Discrimination on November 17th, 2015. Some of the comments called to violence on the basis of sexual orientation and political affiliation ("SIEG HEIL 14/88 exterminate the scum," "Death for the Liberal Parasites!").

5.

THIRD PRIDE WEEK IN SKOPJE

The National Network against Homophobia and Transphobia (NNHT) and the Coalition organized the third Pride Week in Skopje, held from June 22nd to 27th, 2015. The main purpose of “Pride Week” was to alarm the system’s institutions on cases of violence, hate speech and discrimination on the basis of sexual orientation and gender identity for which the system has failed to undertake specific prevention measures or sanctions against the perpetrators. Among other, Pride Week aimed towards increasing the visibility of the LGBTI community, mobilizing the community and its supporters with cultural and educational events and building the capacity of LGBTI activists.

The most important part of Pride Week were the three protest addresses to the institutions with the purpose to express the LGBTI community's discontent with the continuous homophobic and transphobic violence, absence of proper institutional response, homophobic and chauvinistic campaigns and media silence.

The first protest address was held in front of the building of the Primary Public Prosecutor’s Office. The activists asked that the Public Prosecutor Marko Zvrlevski resign from his position for failing to find the attackers of the LGBTI Support Centre and Damar Café in the past three years, stressing that this created space for further homophobic attacks and deprived the LGBTI community from the right to safety. The second protest address was held in front of the Government in order to emphasize the reasons for which the LGBTI community asked

the Government of VRMO-DPMNE to resign.³⁷ The last protest address was held in front of the public service - the Macedonian Radio Television, where the activists asked that it be liberated from the Government's influence and the silence regarding LGBTI related topics stops. They also expressed revolt towards the chauvinist campaigns broadcasted by the public service MRTV.³⁸

Pride Week offered several educational events such as trainings on LGBTI activism and creative activism, a workshop on sexually transmitted diseases and HIV, lectures on "Online Gay representation and HIV/AIDS Discourse in Serbia" and "Fagots and the Party: Unnatural Fornication in Yugoslavian Manner (1945 1989)". The cultural events included film projections, a lesbian picnic and parties. During Pride Week there was also a tribune on "LGBTI activism, anti-capitalism and anti-nationalism – linking points for creating joint resistance," organized in cooperation with the leftist movement Solidarity.

Pride Week was traditionally ignored by the state institutions and the pro-government media, and this year was publicly supported only by the American Embassy in Skopje which posted on its Tweeter profile: "We wave the rainbow flag in celebration of Pride Week in Macedonia."

³⁷ The activists left a funeral wreath in front of the Government's building as a symbol for the "political death" of the current government.

³⁸ During the protest, representatives from the Network made the following statement for the media: "As a public service, MRTV has the obligation to protect the rights and report on the rights of the most marginalized. However, instead of that, MRTV is a propaganda machine of the ruling party in which the obedient editors broadcast preordered news. MRTV hasn't reported on any of the protests in front of the Primary Public Prosecutor's Office, on any of the Pride Weeks, the problems troubling the LGBTI community, and has never invited a guest to a show or has asked for a statement from LGBTI activists".

6.

ENDANGERING THE SAFETY OF THE PARTICIPANTS IN THE LESBIAN PICNIC AFTER A HOMOPHOBIC HATE SPEECH ON THE SOCIAL NETWORKS

The Coalition asks that MOI identifies the individuals who spread hate speech, endangered the safety and obstructed the right to peaceful gathering and press charges against them.

The Lesbian Picnic was organized by the group “LezFem” on June 25th, 2015 at 5 p.m. in the City Park, a public space. The event was posted on the social network Facebook where immediately after the posting a homophobic and chauvinistic hate speech was initiated.³⁹ The comments arrived constantly and were coordinated, leaving the impression that it was an organized action.

The organizers reported the hate speech to the Department for Computer Crime Investigations within MOI, and asked for increased police presence due to the possibility of physical attacks. In response to the request, the police sent several teams to secure the perimeter around the event. Thirty minutes into the event, a group of young individuals (7-10) started gathering in the vicinity and after a while they moved closer to the participants of the lesbian picnic after which the police prevented them from approaching completely and inspected their personal identification documents. The police notified the Picnic’s participants that it is not safe to continue with the event and suggested its

³⁹ The homophobic comments varied from threats to violence and rape to attempts for “humorous” comments.

closure in order to prevent possible incidents. The organizers took the police's advice and left the park in an organized manner.

7.

SYSTEMATIC VIOLATION OF THE RIGHT TO PRIVACY AND THE RIGHT OF TRANS PEOPLE TO PROTECTION FROM DISCRIMINATION

In 2015, the Coalition continued with advocacy activities for the rights of trans people by providing legal assistance and instigating legal procedures with the Office for Management of Registers of Birth, Marriages and Deaths, the Ministry of Justice and the Administrative Court for legal recognition of sex change in the personal identification records. Apart from the legal procedures, the Coalition is also working on sensitizing health workers on medical, social and legal needs of trans people and the necessity of providing proper access to health services.

The Coalition also provides psychosocial help and support to trans people and helps them in their networking and cooperation with trans communities in countries from the region. Starting from 2014 until today, the Coalition has identified a team of doctors willing to cooperate with us and has mobilized health workers and other professionals to join the joint front advocating for the rights of trans people.

On April 29th, 2015, a group of trans people submitted a petition to the Ombudsman against the Office for Management of Registers of Birth, Marriages and Deaths and the Ministry of Justice for violation of the right to privacy and the right to pro-

The Coalition calls the competent institutions to draft, in consultation with experts, organizations and the trans community, a law that will provide quick, easy and transparent procedure for legal recognition of the sex in the personal identification records pursuant the current trends of legislative adoption in the region and throughout the world.

tection from discrimination on the basis of gender identity. The petition resulted from the fact that trans people cannot realize their right to legal recognition of the sex change in front of the Office for Management of Registers of Birth, Marriages and Deaths which does not allow change of the sex in the personal identification records.

So far, the Office for Management of Registers of Birth, Marriages and Deaths has approved only one request for change of the sex in the personal identification records. Although the ECHR has ruled that the states that have ratified the European Convention on Human Rights have a legal obligation to recognize the sex change in identification documents, by failing to comply with this obligation, Macedonia continues systematically to violate the right to privacy of trans people (Article 8 from the Convention).

The Coalition calls the competent institutions, particularly the Office for Management of Registers of Birth, Marriages and Deaths and the Ministry of Justice to abstain from making arbitrary decisions not to recognize the legal change of trans people thus violating trans people's rights.

The Coalition calls the Office for Management of Registers of Birth, Marriages and Deaths to respect the Constitution, the laws and the ECHR's practice, as well as its previous legal practice that allowed change of the sex designation in the personal identification records of trans people and allow legal recognition of trans people's sex in Macedonia.

8.

THE COMMISSION FOR PROTECTION FROM DISCRIMINATION PASSES A “PROTOCOL FOR ESTABLISHING THE PROCEDURE IN CASES OF PROTECTION FROM DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY”

“The Commission for Protection from Discrimination, pursuant Article 3 from the Law on Prevention and Protection from Discrimination, shall act in cases of protection from discrimination on the basis of sexual orientation and gender identity”

Article 1 from the Protocol

The Protocol for establishing a procedure in cases of protection from discrimination on the basis of sexual orientation and gender identity was a result of the partnership project with HERA – Health Education and Research Association, the Coalition and the Commission for Protection from Discrimination.⁴⁰ The adoption of the Protocol was motivated by the explicit non-recognition of sexual orientation and gender identity (SORI) as discrimination bases in Article 3 from the Law on Prevention and Protection from Discrimination (LPPD)⁴¹ and the several unsuc-

⁴⁰ The Protocol is available on the Commission’s web-site <http://kzd.mk/mk/dokumenti>

⁴¹ Although Article 3 “Discrimination Basis” contains an open clause, still, removing sexual orientation as a discrimination basis from the draft-law

The Coalition welcomes the Commission's initiative for adopting the Protocol, its efforts towards raising the awareness and encouraging members of the LGBTI community to submit discrimination petitions.

The Coalition shall continue to fight for recognition of sexual orientation and gender identity as discrimination bases in the Law for Prevention and Protection from Discrimination.

cessful initiatives in the Assembly to include SORI in Article 3 from the LPPD.

The Protocol adoption is a clear, unequivocal expression of the Commission's intention to act on procedures on the basis of sexual orientation and gender identity of the LGBTI community.⁴² The Commission's procedure in cases of protection from discrimination on the basis of SORI was specified with the Protocol as were mechanisms for cooperation and exchange of information with civic organizations that protect the rights of the LGBTI community. Furthermore, the Protocol itself was informational and educational for LGBTI people and future Commission members because it contains all necessary information regarding the procedure, terminology and legal practice that shall alleviate the LGBTI community's access to the mechanisms and help Commission members to provide proper protection from discrimination on the basis of SORI.⁴³

on prevention and protection from discrimination in 2010 sent a negative message and discourages LGBTI people from using this protection mechanism.

⁴² The Commission stressed that the Protocol "provided a document that will alleviate and ce забрза the process, as well as the efficiency in solving discrimination cases on the basis of sexual orientation and gender identity." (The Commission began the promotion of the campaign "Towards a Nation without Discrimination," <http://www.kzd.mk/mk/novosti/128-komisijataza-pocnasopromocijanakampanjatanacijabezdiskriminacija>)

⁴³ The Commission publically stated that it amended the form for submitting a petition, including the basis sexual orientation as a basis for discrimination.

9.

CAMPAIGN “TOWARDS A NATION WITHOUT DISCRIMINATION”

The Commission for Protection from Discrimination, in cooperation with HERA and the Coalition prepared the video “Towards a Nation without Discrimination” as part of the campaign for “raising the awareness of citizens and decreasing discrimination on different bases, particularly changing the image of people with different sexual orientation created for years.”⁴⁴

At the video promotion, the Commission stated: “This campaign is of particular importance for the Commission’s work as well as for people with different sexual orientation who we want to encourage to submit petitions for discrimination so we can together move towards eliminating the stigma and discrimination of LGBTI people because it is the only way to achieve equal and tolerant society where we accept and celebrate differences.”⁴⁵

The video “Towards a Nation without Discrimination⁴⁶” was broadcasted on three national televisions for a month. We also sent a request to broadcast the video as a campaign of public

⁴⁴ Press release of the Commission for Protection from Discrimination for the promotion of the video “Towards a Nation without Discrimination.”

⁴⁵ The Commission launched the promotion of the campaign “Towards a Nation without Discrimination,” <http://www.kzd.mk/mk/novosti/128-komisi-jatazapocnasopromocijanakampanjatanacijabezdiskriminacija>

⁴⁶ “Towards a Nation without Discrimination,” <https://www.youtube.com/watch?v=FA2nry3A3qs>

The Coalition asks the institutions for human rights protection in Macedonia to continue the campaigns for raising awareness on the rights of members of LGBTI community.

interest to the public service – the Macedonian Radio Television, however we did not receive a response to our request.

The Coalition asks the Macedonian Radio Television as a public service:

- a. to produce and broadcast TV articles towards raising the awareness for protection from discrimination on the basis of sexual orientation and gender identity;
- b. to fulfil its obligation to report on human rights violations of the LGBTI community and activities being carried out by activists;
- c. to create a policy of difference that would allow for the “voice of the voiceless” to be heard, meaning employing journalists sensitized to covering subjects related to discrimination and human rights of members of the LGBTI community.

10.

SCANDALOUS CHOICE OF INCOMPETENT COMMISSARIES FOR PROTECTION FROM DISCRIMINATION

The Assembly of the Republic of Macedonia on December 1st, 2015 made a decision to announce a public call for appointing members of the Commission for Protection from Discrimination. In early January 2016, seven candidates were proposed at an assembly commission. Neither the public nor the MPs were informed on the number and expertise of all the candidates, and there was no explanation on the choice of the proposed members and why more women were not proposed or members of smaller ethnic communities.⁴⁷ Despite the strong reactions among the public, the session was held on January 11th, 2016, the Assembly confirmed the decision for the appointment of the seven proposed members for the Commission for Protection from Discrimination, one of whom is a woman.

On January 13th, 2016, the Network for Protection from Discrimination reacted to the newly appointed Commission, indicating that “the Assembly decided to appoint new members, most of whom have no previous experience in the field and

⁴⁷ To the journalists’ question how the choice was made, the ruling VMRO-DPMNE “briefly stated that this has always been the practice – at the proposal of the Commission’s president to make a selection, adding that the selected candidates are eminent staff and university professors.” (“A New Team in the Commission for Protection from Discrimination,” www.utrinski.mk/, 08.1.2016)

The Coalition would like to state that it is not normal nor is it natural that people who openly encourage discrimination, hate speech and disrespect of differences have a decision-making role in the Commission. Such selection discourages victims of discrimination to submit petitions for protection from discrimination and even further decreases the trust in the system for human rights protection.

in working with vulnerable groups.⁴⁸ Apart from the inexperience, the Network also alerted to partisanship, i.e. the obvious connection of some members to the ruling coalition.⁴⁹ The incompetent choice was made possible by voids in the legislation which allowed for the appointment of unsuitable candidates as Commission members without experience with human rights.

The Coalition is completely discourage from the selection of commissaries for protection from discrimination who have encouraged hate speech in public against the “tyrants,” “disreputable NGOs” and “traitors”⁵⁰, and who openly expressed homophobic views in public.

For instance, the appointed commissary Toni Naunovski in a TV debate⁵¹ on hate speech towards sexual minorities stated that he is against including different (sexual) distinctions in the laws and the Constitution because “it will shake the low birth rate of the Macedonians.” At the same debate, Naunovski publically declared his negative prejudices towards homosexuality with the use of traditional homophobic arguments that it is unnatural and abnormal.⁵²

⁴⁸ “Furthermore, we believe that the Commission’s состав does not foster respect towards differences, particularly since only one of the members is a woman and there are no members of the ethnic communities.” (“Incompetent состав of the Commission for Protection from Discrimination,” <http://www.mhc.org.mk/announcements/357#>)

⁴⁹ “Namely, Aleksandar Sapsenovski was an MP from VMRO-DPMNE from 2006 to 2014, while Irfan Deari was an MP from DUI from 2011 to 2014. The newly appointed members Toni Naunovski and Aleksandar Dashevski publicly support the policies of the ruling party, particularly policies that does not provide equal treatment of ethnic minorities in the country.” (“Incompetent состав of the Commission for Protection from Discrimination,” <http://www.mhc.org.mk/announcements/357#>)

⁵⁰ Toni Naunovski, “Historical and legal liability for those striving to overthrow the government” (“За пучистите историска и судска одговорност”), Dnevnik, 23.3.2015.

⁵¹ TVdebatededicatedtohatespeechtowardssexualminorities,Macedonian Media Institute, <https://www.youtube.com/watch?v=dj8ARh3ww8A>

⁵² At the debate, Naunovski publically stated that “it is not natural for a man to be with another man” and that he is “...absolutely against someone наметнува values that it is normal for a man to live or marry another man. If it is so, the world would cease to exist, there wouldn’t be children.” Naunovski also intervened for “prohibition for the penetration of some new values that shall negatively affect the survival of the Macedonian state and nation.”

11.

HOMOPHOBIC BOOKLET IN WHICH HOMOSEXUALITY IS DESCRIBED AS “UNNATURAL,” “UNHEALTHY” AND A “THREAT” TO THE SURVIVAL OF THE HUMAN KIND”

On June 29th, 2015, the Coalition sent a request to the Rector's Office of the St. Cyril and Methodius University to revise a teaching material, a booklet (“Personality – Introduction to Personology” by prof. D-r Blagoja Janakov), used as a basic literature for subjects in the psychology study program.

In the booklet, the author devalues homosexuality, homosexual relations, marriage and families as “unnatural” and “unhealthy.” Homosexuality is described as “unnatural, immature, unhealthy and non-optimal sexual intercourse,” while serious homosexual relationships, same-sex marriage and families as “even more unnatural, immature and unhealthy.”

Apart from devaluation strategy, the author uses the strategy of causing fear from homosexuality, presenting it as a danger and threat for the survival of the human kind. “Homosexuality is a threat to the survival of the human kind, humanity, culture and civilization.” According to the author, “if people become homosexuals – the human kind shall seize, be extinct, while culture and civilization shall be destroyed.”

In its request to the Rector's Office, the Coalition reminded that countries have obligation to provide education without discrimination and exclusion, and asked that the discriminatory and disturbing contents on the basis of sexual orientation be removed. The Coalition invoked the previous decisions of the Commission for Protection from Discrimination according to which the contents of a high school textbook that presented homosexuality as "evil", and homosexuals as participants in "perverted", "unnatural" and "abnormal sexual life" were assessed as discriminatory and disturbing. Furthermore, the Commission had also ruled "disturbance on the basis of sexual orientation" and had demanded that the contents be removed from several university textbooks in psychiatry and medical psychology which describe homosexuality as dysfunction, deviation or a disorder.⁵³

On July 24th, 2015, the Rector's Office delivered a response from Blagoja Jankov, Ph.D., a professor at the Faculty of Philosophy within the St. Cyril and Methodius University. On one page the author of the booklet claims that the disputed data and views towards homosexuality were made "on the basis of relevant scientific literature (citing two known experts from the USA), the century-long tradition and folk wisdom."

In the response, the author attempts to transfer the burden of providing evidence to the Coalition, i.e. he is waiting for "facts and serious arguments" that the aforementioned statements are discriminatory and disturbing for people with homosexual orientation.⁵⁴

The Coalition would like to remind once again that the Commission for Protection from Discrimination already estab-

⁵³ The Coalition is pleased that the textbooks were finally withdrawn from sale by the authors.

⁵⁴ Further on, the author asks the following two questions which implicitly contain negative prejudices and homophobic views (fears) and encourage inequality and discrimination on the basis of sexual orientation:

1. "...won't the large majority (with heterosexual orientation) be confused and distressed by the claim that both orientations (heterosexual and homosexual) are equally natural, productive and valuable?"
2. "...do you propose that in front of the students I should claim that both orientations are equally natural, productive and valuable, and encourage them to homosexuality?"

Consequently, the Coalition asks that the Rector's Office remove the discriminatory contents from the teaching material as soon as possible.

lished that "... textbooks must not contain stigmatizing texts towards a certain group of people..." that "textbooks must not lead towards human rights violations," and that contents that present homosexuality as "evil, dysfunction, a deviation or a disorder" have already been assessed as "disturbing on the basis of sexual orientation."

APPENDIX: CONCLUSIONS FROM THE RESEARCH ON THE REPRESENTATION OF GENDER MINORITY GROUPS IN MEDIA IN MACEDONIA, SERBIA AND MONTE NEGRO

The research on the representation of gender minority groups in the media in Macedonia, Serbia and Monte Negro was focused on two key events: the Pride Parade in Belgrade and Podgorica and the Pride Week in Skopje. The period researched was from 2013 to 2014, while the research subject were printed and electronic media. The research showed that Macedonia is significantly lagging behind Serbia and Monte Negro with regards to the media interest and treatment of LGBTI related issues.

The research results showed that in 2013 the percentage of articles in the printed media related to Pride Week amounted to 0.92% from the total number of newspaper pages. Televisions pay even less attention. Still, the new media⁵⁵ are leading in quantity regarding their interest on the subject. Typically for the new media, although they contain the most publications related to the subject of interest, part of them are the most radical form of hate and discriminatory speech. When we speak of quantity of media material we have to stress that this percentage also includes all indirectly related news and publications koi go gradat the context and the discursive environment of the topics directly related to LGBTI people's rights and Pride Week, making the percentage of covering news directly related to the subject significantly smaller (not more than 4 texts). In 2014, the

⁵⁵ Web portals, web portals of printed newspapers and television stations.

percentage of publications expressed in total number of pages was 0.51%, none of which were directly related to Pride Week or the LGBTI rights in Macedonia.

In 2013, this subject was mostly presented in the section - chronicle, due to the violence during the opening of the first Pride Week. The Pride Week in 2014 passed without any violence and without any media coverage.

In both periods, the printed media more often and more broadly reported on subjects related to the analysis, however in indirect speech or coverage of the LGBTI rights topic. In 2013 (the research period) the media most often covered the following subjects: birth rate, families with more children, demography, abortion. In 2014, in the period before, during and after Pride Week the media did not cover the subject of Pride Week, rather: marriage, traditional marriage, definition of marriage as a community only between a man and a woman.

It is more than obvious that the LGBT subculture as presented in the Macedonian media, on the basis of the contents covered in 2013-2014, is largely on the margins of social life.

The media, quantitatively, are dominantly and positively oriented towards informing on family values, while events and activism within the LGBTI culture, officially not accepted, are present with subjects related to violence against members of the community and human rights activists.

In the present day cultural context, the processes related to elevating the values of our national identity are in the focus of the media attention. Hence, the media emphasize the importance of the population growth (birth rate) and family values. They choose as subjects the Government's incentives to provide benefits for families with more children. In accordance, there is proposal of draft amendments to the Constitution making marriage a constitutional category. Everywhere else marriage is dealt with laws.

Bearing in mind that same-sex unions/marriages are not legal in Macedonia, hence adoption of children either, any support of this subculture means endorsing phenomena that opposes the national identity. Those advocating for these processes are against the nation and thus are explicitly divided from the nation as outsiders.

In conclusion, with the LGBTI subculture marked as a representative of Western ideologies, an LGBTI member in Macedonia when represented in the media most often becomes a victim facing labels, an object of ridicule and irony and a member of a community with small political platform, minor political support and absence of political future.



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Author: Zarko Trajanoski

Assistant: Dragana Drndarevska

Translation: Julija Micova

Design: Igor Delov

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