

SUMMARY

Overview of the situation of policies concerning LGBTI people.

Violations of the human rights of LGBTI people

1. Changes in the legal framework for protecting the rights of LGBTI people

In regard to improving the legal framework on LGBTI rights, 2018 was marked by some legal changes, **but the Law on prevention and protection against discrimination has not yet been adopted**. The Law entered the Parliament in July 2018, however it has still not made the agenda of the Commission of labor and social policy. Some of the Members of Parliament who have homophobic beliefs block the adoption of the law, while the Parliament has still not found a way to overcome this situation.

In the beginning of 2018, for the first time in the region, in the Parliament of the Republic of Macedonia there was a constitutive meeting to establish **the Inter-party parliamentary group for promoting the rights of LGBTI people**¹. The mission of this informal group is to advocate for improving LGBTI rights, by using the mechanisms available in the Parliament, in order to build a society where sexual orientation and gender identity shall not be an obstacle to full enjoyment of human rights and freedoms.

In the end of 2018, the Parliament adopted the changes to the **Law on audio and audiovisual media services**, therefore including sexual orientation and gender identity as grounds for discrimination and hate speech, as well as determining a fine for media that are using hate speech.

On December 28th, the Parliament adopted changes to the **Criminal Code** in an abbreviated procedure and without a debate. These changes improved the protection against hate crimes on several grounds, among which were sexual orientation and gender identity. Of course, this change is positive by itself, but it is more likely that the hate crimes were used as a curtain shielding the introduction of changes in other articles and introducing new types of crimes which shall directly reflect on reducing the punishment or cessation of prosecution by using the institute of obsolescence of prosecution acts related to the cases of the Special Prosecution².

¹ The group is comprised of 14 MPs from different parties, including SDSM, DOM, LDP, NSDP, DUI, independent MPs and an MP formerly from VMRO-DPMNE.

² Changes in the Criminal Code - Half of the procedures of the Special Prosecution fell down the drain, Radio Free Europe, 27.12.2018

2. Violations of the rights of LGBTI people

In 2018, Coalition Margins documented **84 cases of rights violations of LGBTI people**.

Cases in several cities in Macedonia were documented, however, the numbers are dominant in the capital Skopje (57), 17 cases in Strumica and several cases in Tetovo, Gostivar, Struga, Ohrid, Kumanovo, Veles and Shtip.

In all documented cases, the victims were gay men (73) and trans women (37), with the exception of 2 cases where the victims were trans men and 1 case where the victim is an activist from a civil organization which also works on LGBTI issues among other things.

In **most cases (49), hate violence toward LGBTI people was documented**. There are 2 documented cases of domestic violence, toward a gay man and a transgender woman. Furthermore, there are cases of robbery (23) toward gay people, which also include violence, however they have been placed as a separate category because apart from the violence there was also theft. Next in the line of most numerous cases are cases of extortion and blackmail (11), discrimination (10) and theft (8).

A total of 9 cases were documented where rights violations were committed by the police, such as psychological, verbal and physical violence, as well as lack of police action. There is also one case of violence toward a gay man in prison.

Type of rights violation ³	Characteristics of victim(s)				
	Gay	Trans women ⁴	Trans men	Other ⁵	LGBT total
1.1. Verbal and psychological violence by third parties ⁶ (hate-motivated)	10	14			24
1.2. Physical violence by third parties, including an attempt (hate-motivated)	11	5			16
1.3. SOGI-related violence by clients	1	7			8
1.4. Rape	1				1
1.0. Violence total	23	26			49
2.1. Discrimination in the access to goods and services (private sector)	1	3	1		5
2.2. Discrimination in the health care system due to LGBTI status	1	1			2
2.3. Discrimination of LGBTI people in the health care system due to HIV status					
2.4. Discrimination in employment		1	1		2
2.5. Discrimination in other state institutions		1			1
2.0. Discrimination total	2	6	2	0	10
3.1. Verbal and psychological violence by the police	3	2		1	6
3.2. Physical violence by the police	1				1
3.3. Police refused to protect rights (lack of action)		2			2
3.0. Police violations total	4	4		1	9
4.1. Theft	6				6
4.2. Theft in cruising locations	2				2
4.0. Theft total	8				8
5.1. Robbery	3				3
5.2. Robbery in cruising locations	20				20
5.0. Robbery total	23				23
6.0. Extortion and blackmail	11				11
7.0. Domestic violence (all forms)	1	1			2
8.0. Prison violence (all forms)	1				1
Total	73	37	2	1	113

3 In some of the cases there are signs of multiple violations of rights or multiple forms of violence. These cases have been registered with more than one violation (for example, the victim endured violence, then went to the police where they faced degrading treatment).

4 The cases where trans women sex workers were victims solely due to the status of sex workers are not included (for example, non-payment by clients, or violence from clients which is not related to them being transgender).

5 In this case the victim is an employee in a civil organization which was verbally and psychologically abused by a police officer after he found out where she works.

6 Persons unknown to the victim, passerbys, neighbors, acquaintances etc.

Only four of the cases of violence and robbery of gay men have been reported to the police, while in 3 cases the perpetrators are unknown and have not been found. Only in one of the reported cases the police acted and punished the perpetrator, but in this case the perpetrator was not unknown.

A total of 4 cases were documented where the perpetrators of violence toward gay men were police officers. In three cases there was verbal and psychological violence by the police, as well as one case of physical violence. In the case of physical violence, the police officer is a neighbor of the victim. The police officer constantly mistreated the man, ridiculed him in public due to his sexual orientation, calling him "faggot" and "sick with AIDS". While walking through the park with a friend, the police officer started with verbal attacks, and later kicked him in the chest, therefore the victim fell to the ground.

2.1. Situation of the rights of transgender people

In regard to the rights of transgender people, during 2018 the advocacy for promoting the rights of trans people continued, with focus on legal gender recognition and medical gender confirmation, while there are no improvements of the legal framework or institutional practices. The most significant achievement is the positive verdict of the European Court of Human Rights in a legal gender recognition case, led by the Coalition Margins. On January 17th 2019, the Court in Strasbourg reached a positive verdict⁷ in the favor of a transgender man, in the case "X v. Macedonia", where the Court determined that the existing legal framework has gaps and serious flaws which brought the trans person in a situation of stress and uncertainty in the recognition of his gender identity.

In 2018 a total of **27 cases were documented where transgender women were victims of various forms of violence**. Cases of verbal and psychological violence are the most frequent (14), where trans women were insulted in the street, there were comments about their appearance and they could hear threats of violence.

In 2018 there were **8 cases of discrimination toward trans people**, in 6 of which the victims were trans women, while in 2 the victims were trans men.

Most cases (4) are about discrimination in the access to goods and services in the private sector. In 3 cases, trans people were denied access to a café or

⁷ Judgment, CASE OF X v. The Former Yugoslav Republic of Macedonia (Application no. 29683/16), Strasbourg, 17.1.2019

restaurant, while in 1 case a trans woman was denied services by an agency mediating in the process of acquiring Bulgarian citizenship.

What is typical about these cases is that transgender people request legal aid and want to report them to relevant institutions. Four out of eight cases were reported with a complaint to the Commission for protection against discrimination, however there is still no response. The Commission is late with the response to 3 out of 4 complaints. One of the cases is about harassment, ridicule and unprofessional and degrading treatment toward a transgender woman in the Parent Registry Office, while she tried to get a new birth certificate with her new name. The case was also reported to the Ombudsman. However, for the Ombudsman it was enough to see the birth certificate was issued in order to conclude that there was no discrimination, while they paid little attention to the harassment and unprofessional treatment by the officers toward the transgender woman. From the statement of the Ombudsman it remains unclear whether they determined there was harassment or not, rather, the response by the Office is restated and it is added that they directed the institution's director to warn the employees in order for them to conduct appropriately. In this case as well, the Ombudsman proved to be an institution lacking the capacity and willingness to protect LGBTI people from rights violations by the institutions. Instead of concluding there was harassment and recommend specific measures in order to prevent such behavior in the future, the Ombudsman merely restated the statements of the Office.

Only three of the hate violence cases against trans people have been reported to the police. In one of the cases, where the perpetrator was known, the police reacted and initiated a civil procedure, where the punishment was pecuniary. Even in this case, which has a positive ending, we cannot say that the police reacted appropriately, because it did not recognize the act as a hate crime, therefore the perpetrator was punished in according to the Law on misdemeanors. In two of the reported cases, the victims faced lack of action by the police, accompanied with verbal violence.

3. Situation in the media

In 2018 the number of homophobic and transphobic articles in the media was reduced, however, **there were three⁸ documented cases of unethical reporting, containing hate speech toward LGBTI people.** The agency for audio and audiovisual media services promoted its research on the public opinion in 2017 where for the first time public opinions were measured regarding the representation of LGBTI people in the media. The results show a worrying degree of prejudice and intolerance toward LGBTI people. For example, only 8% responded that they are not bothered at all by intimate scenes between two men, while other people stated they are bothered to varying degrees. The Coalition Margins, together with the Council for media ethics, the Journalists' Association in Macedonia and the Agency for audio and audiovisual media, initiated signing a Declaration for ethical and professional reporting on LGBTI-related topics⁹. The Declaration was signed by 24 media and media associations.

In the campaign "Don't judge the love of others", only on Facebook there were over 3500 comments on 27 posts comprising the videos and photos with statements of all MPs in Macedonian and Albanian language, promoting the rights of LGBTI people. Most of the comments contain hate speech, insults and prejudice toward LGBTI people. A large portion of the comments contain threats and calls to violence.

The most explicit comments were sent in a report to the Department of electronic crime in the Ministry of Interior Affairs. Considering that the number of hate speech comments increased daily, apart from the comments, the entire Facebook page of the campaign, containing the original posts of videos and photos was also sent in the report. Unfortunately, the Ministry has still not issued any response or information for any action.

The year was also marked by two important events for promoting LGBTI rights. In October, the third regional LGBTI conference "Against all odds we claim the future" took place in Skopje, attended by LGBTI activists from the entire region and beyond, and it was organized in cooperation with the Ministry of Labor and Social Policy, the Ministry of Exterior Affairs and the Parliament of the Republic of Macedonia.

⁸ "Gay parade in Skopje supported by the Ministry of Culture", Kurir, 12.2.2018.

"The cultural marxism of Alagjovovski: LGBT + UCK + Islamists", Republika, 19.02.2018

"Bizarre: The Government is funding the procurement of lubricants - tender issued!", Lider, 9.10.2018.

⁹ The Declaration is available on www.avmu.mk

This year's Skopje Pride Weekend took place in Skopje for the sixth time, under the main idea "Queering the political". Eminent queer artists participated in the festival and drew the attention of a large audience. The festival was financially supported by the Ministry of Culture for the first time.

4. Recommendations for improving the situation

The Coalition Margins recommends the institutions to start promoting the rights of LGBTI people by means of legal changes, building the capacities of institutions and changing institutional practices which violate or restrict the rights of LGBTI people.

The Coalition emphasizes the following priority recommendations:

- The Parliament should adopt the new Law on prevention and protection against discrimination as soon as possible.
- The relevant ministries should adopt a legal solution providing a quick, transparent and accessible legal gender recognition, based on the dignity and integrity of transgender people as soon as possible.
- The Ministry of Interior should start taking measures to build the trust by the LGBTI community by improving its capacities for recognizing and resolving hate crimes based on sexual orientation, punishing police officers who are perpetrators in hate crimes and who act unprofessionally and harass LGBTI people.
- Reform of the Ombudsman institution by improving the legal and institutional framework in line with international standards for equality bodies, strengthening the human resource capacities with staff trainings, as well as appointing adequate staff on key positions in the institution.
- The media should provide pluralism of gender and sexual identities in their content, should stop using hate speech and not use LGBTI people for everyday quarrels between political parties.