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**OUT LOUD
FOR
SEX WORKERS**

Information for the consideration to the Committee on the Elimination of Discrimination against Women in its adoption of a list of issues regarding the Sixth Periodical Report of the Republic of Macedonia under the Convention on Elimination of All Forms of Discrimination against Women, 71 Pre-Sessional Working Group, 12-16 March, 2018

STATUS OF SEX WORKERS IN MACEDONIA

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State party to which information relates: Republic of Macedonia for the period of 2013-2017

NOTE: This information can be posted on the website of the CEDAW Committee for public information purposes.



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Article 1- Definition of discrimination

1. Women in Macedonia are discriminated against on the basis of their sex. Women sex workers in Macedonia are facing discrimination that impairs the recognition of their human rights and fundamental freedoms. Their rights to access to justice, privacy, health, and freedom from inhumane and degrading treatment are constantly being violated. This adverse treatment, which impairs women's ability to fully exercise their human rights and fundamental freedoms on equal footing with men, constitutes discrimination against women as per the definition in Article 1 of the Convention. This discrimination adversely affects their enjoyment of basic human rights.
2. The Constitution of the Republic of Macedonia guarantees discrimination based on sex, race, color of skin, national and social origin, political and religious beliefs, property and social status¹, but its restrictive interpretation result in depriving vulnerable groups of Constitutional protection. The Law on Prevention and Protection against Discrimination prohibits discrimination based on sex, race, color, gender, belonging to a marginalized group, ethnic origin, language, nationality, social background, religion or religious beliefs, other types of beliefs, education, political affiliation, personal or social status, mental and physical impediment, age, family or marital status, property status, health condition or any other basis anticipated by a law or ratified international agreement.² "Belonging to a marginalized group" is an important ground for addressing discrimination against sex workers. However, stipulating it in a definition is not sufficient to achieve substantial equality if the state fails to undertake additional measures to implement this provision.
3. The failure of the state to amend the definition of discrimination in the Law on Prevention and Protection against Discrimination with sexual orientation and gender identity perpetuates the widespread discrimination against LGBT people, which additionally affects the rights of LGBT sex workers.
4. The 2012 Law on Equal Opportunities for Women and Men stipulates an explicit prohibition of discrimination, harassment and sexual harassment on the ground of sex without taking into consideration the intersectional understanding of gender equality and the experience of discrimination that women face based on other parameters and societal status than sex. The law on Equal Opportunities for Women and Men excludes protection of lesbians, bisexual women and trans people by reducing the understanding of gender

¹ Constitution of the Republic of Macedonia, Article 9.

² The Law on Prevention and Protection against Discrimination, Article 3.



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equality solely to the biological sense. Neglecting the intersectional approach in tackling gender inequality also leaves sex workers and women who use drugs outside the legal and political framework for protection of discrimination.

5. The promotion of a traditional dichotomy of men and women, while valuing the roles of men over the roles of women, leads to a devaluation of women in society. Traditional gender roles and the myths, stereotypes and expectations that accompany them, cast female sexuality and expressions of it as deviant. In a culture that is steeped in misogyny and has limited acceptable roles and expressions of femininity and womanhood, the choice to become a sex worker for women compounds and magnifies the discrimination women in Macedonia are already facing. The criminalization of sex work places women sex workers in an even more vulnerable position.
6. Women sex workers are discriminated against because of their intersectional identities of being women and being sex workers. The discrimination they experience and the violations of their basic human rights are due to the intersections of their identities as women and as sex workers. These two elements are used by the state and its officials to justify violations

Article 2 -Policy measures to eliminate discrimination

7. There is no available official statistics on the number of sex workers disaggregated by sex. Based on the 2010 Bio-behavioral study of the Public Health Institute there is an estimation of 3,588 sex workers on the territory of the Republic of Macedonia.³ There are six programmes for support of sex workers throughout the country operated by NGOs and they contact and provide direct services to 30% of the estimated number of sex workers.⁴
8. Sex work in Macedonia is regulated with two laws. The Law on Misdemeanors against Public Order from (2007)⁵ that provides administrative sanction for soliciting and the Criminal Code (1996)⁶ that bans mediation in prostitution.
9. According to the Law on Misdemeanors against Public Order only sex workers are sanctioned for soliciting. Women who work outdoor are mostly affected by this provision. Namely, in November 2008 this Law was used for organizing a police raid in an open space

³ Kuzmanovska G., Mikikj V., Memeti Sh. Report from the bio-behavioral research and estimation of the number of population of sex workers in Macedonia, 2010. Mikikj V., Arnikov A. and Kuzmanovska G. Report from the bio-behavioral research of the sex workers in Macedonia, 2014.

⁴ Report from HOPS's database www.hopr.org.mk

⁵ Law on Misdemeanors against Public Order, Article 19.

⁶ Criminal Code, Article 191.



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where for more than 25 years sex workers have been providing sex services (see par.26) From the press release of the Ministry of Interior published the next day, it was clear that the intention was to eradicate street prostitution based on the Law on Misdemeanors against Public Order.⁷

10. The Criminal Code bans violent and nonviolent mediation in prostitution. It also sanctions the earnings from allowing third party to use sex services, irrespectively if both sides consent. In practice, women who choose to work together from safety reason are charged for mediating in prostitution.⁸ There is no specific data on the number of women charged for these crime.⁹
11. The Criminal Code also sanctions intentional transmission of infectious disease.¹⁰ The police raid from November 2008 was used for identifying sex workers infected with blood or sexually transmitted infection and charging them criminally. Following the arrest, the sex workers were brought to the Clinic for Infectious Disease and Febrile Conditions in Skopje and were tested against their will for STIs. Seven of the sex workers who were positive on the test were convicted for intentional transmission of infectious disease without proof for the actual transmission or the intention for the transmission as two basic elements of the crime.
12. The rights of sex workers are not recognized by the State except in the context of public health and the HIV/STI prevention issue, which was introduced in the discourse through the grant supported by the Global Fund for AIDS, Tuberculosis and Malaria (GFATM).¹¹
13. The National Strategy for HIV 2012-2016 identifies sex workers as a group with risk attitude for which the state needs to develop specific interventions. The Strategy recognizes associated stigma and discrimination of sex workers as a significant factor that should be taken into consideration when creating and implementing the activities. One of the strategic interventions are empowerment and strengthening the initiatives of the community of sex workers and their meaningful inclusion in the processes of planning, implementation and evaluation of the policies and services for HIV/ADS/STIs among sex workers. The strategy

⁷ <http://vecer.mk/privedeni-33-skopski-prostitutki>.

⁸ Natasha Boshkova, Hajdi Shterjova Simonovikj. Analysis of the attitude of the sex workers on the needs to change the legal framework on sex work in Macedonia, 2015. Available at: www.hops.org.mk.

⁹ The State Directorate for Statistic publishes information on the number of convicted for crimes against sexual liberty and sexual moral which is a separate chapter in the Criminal Code that includes 10 other crimes (rape, sexual assault, displaying child pornography, incest etc.).

¹⁰ Criminal Code, Article 205.

¹¹ Government of the Republic of Macedonia. National Strategy for HIV 2006-2012 and National Strategy for HIV 2012-2016.



HOPS
HEALTHY OPTIONS PROJECT SKOPJE



also identifies the need for sensitization of social and health workers, media and police representative. In practice the sensitization work is performed by the NGOs in non-systematic manner that does not comprehend all professionals providing services to sex workers. A new HIV Strategy has not been adopted yet.

14. Despite the identified need for addressing discrimination and violence against sex workers, the representative of the Ministry of Interior from the Domestic Violence Unit emphasizes that the Ministry is not competent to sensitize police officers on the specific needs of the sex workers.¹²
15. As a result of the cooperation between the NGO Margins and the Ministry of Labor and Social Policy – Bureau for Social Activities a training module for working with marginalized communities (sex workers and people who use drugs) has been developed and since 2015 more than 150 social workers and other professional from the Centers for Social Care have been trained for working with sex workers.¹³ However, the training so far was financed by the Open Society Institute as part of the institutional grant of the Coalition Margins. In future the State should undertake the organization and financing of these trainings.
16. In May 2016, the Government adopted the National Strategy for Equality and Non-discrimination 2016-2020.¹⁴ The Strategy provides a long list of identified vulnerable groups that face discrimination, but fails to mention sex workers as one of the most marginalized and vulnerable group, for which the state should tailor specific interventions in order to address the discrimination against sex workers.
17. The Law on Prevention and Protection against Discrimination prohibits discrimination based on sex, race, color, gender, belonging to a marginalized group, ethnic origin, language, nationality, social background, religion or religious beliefs, other types of beliefs, education, political affiliation, personal or social status, mental and physical impediment, age, family or marital status, property status, health condition by public and private actors. However, the state did not take measures to ensure that sex workers are informed about their rights. The law provides remedies before the Commission for Protection against Discrimination, Ombudsperson and before court but no sex worker sought protection of discrimination before any of these institutions.

¹² Analysis on the legal framework and the institutional response on the violence against women, 2017. <http://www.esem.org.mk/pdf/Publikacii/2017/Analiza%20na%20zakonska%20ramka.pdf>.

¹³ 2015 Coalition Annual Report . www.coalition.org.mk

¹⁴ Government of the Republic of Macedonia. National Strategy for Equality and Non-discrimination 2016-2020, May 2016.



HOPS
HEALTHY OPTIONS PROJECT SKOPJE



18. Research shows that 96% of the sex workers and 98% of the people who use drugs have faced legal problem in the last three years in comparison with the 49% of the general population. Sex workers have 13 times more frequent legal problems than the general population and the frequency of legal problems increases whenever there is an intersection of sex workers who use drugs.¹⁵ Only 15% of the sex workers have initiated a court procedure in cases when they faced injustice.¹⁶
19. Most of the sex workers have a frequent need of legal aid but they mistrust the system and do not take measures to legally solve their problems. Almost a third of the sex workers first try to solve the problem on their own. Only 6% first contacted a lawyer/attorney, and 5% asked for help from the ombudsperson office, the Sector for Internal Control within the Ministry of Interior, other commissions etc. It is concerning that ¼ of the sex workers did not take any action although they faced serious legal matters in the last three years.
20. In the absence of a functional social and legal system the sex workers mostly trust the NGOs, which are the major provider of legal aid to sex workers and people who use drugs.¹⁷ More than 40% of sex workers do not contact other institutions or organizations than HOPS (organization that provides services and support for sex workers).¹⁸
21. Most of the services for support of sex workers, including the legal services, were funded by GFTAM and from January 2018 the funding should be undertaken by the Ministry of Health. Based on the adopted state budget for 2018, the legal services for sex workers and harm reduction services for people who use drugs are removed from the 2018 HIV Prevention Programme.¹⁹ Despite the advocacy efforts by the NGOs and the Platform for Sustainability and Prevention of HIV, the state failed to take all necessary measures to continue funding the legal aid for sex workers, which throughout the years has been the only source for legal support and empowerment of women sex workers.
22. In the last six years, the Law on Free Legal Aid²⁰ has failed to ensure access to justice for all, including sex workers. There is a trend of declining interest among citizens for obtaining free attorney services, mainly as a result of the complicated procedure on

¹⁵ Ivica Cekovski, Vanja Dimitrievski. Legal needs and access to justice of people who use drugs and sex workers in Macedonia, 2017.

¹⁶ *Idem.*

¹⁷ *Idem.*

¹⁸ Report form the database of HOPS. www.hops.org.mk

¹⁹ Budget of the Republic of Macedonia for 2018. <http://www.finance.gov.mk/mk/node/4105>.

²⁰ Law on Free Legal Aid. Consolidated text dated 12 July 2012.



HOPS
HEALTHY OPTIONS PROJECT SKOPJE



approving free legal aid. A serious problem that has endured for a long period of time is the non-functionality and inadequacy of the overall system on provision of free legal aid, especially for citizens at social risk who are intended beneficiaries of this law, which is best represented by the continuously decreasing number of citizens that have exercised their right to free legal aid.²¹

Gender Based Violence Against Women

23. The law perpetuates violence against sex workers because the Criminal Code and the Law on misdemeanor against public peace and order are used for criminalization of sex workers which is opposite to the recommendations of the CEDAW Committee who calls states to repeal the legal provisions that criminalize women involved in sex work.²²
24. Based on the research among sex workers (2015), more than 30% of the sex workers in Macedonia face domestic violence.²³ Being a victim of domestic violence is one of the most frequent reasons for sex workers to undertake legal action, but as a result of the inert system it stops at the level of lodging a police report.²⁴ The Law on Prevention, Elimination and Protection of Domestic Violence does not provide a specific provision that addresses violence against sex workers.²⁵ Based on the National Strategy for Prevention and Protection against Domestic Violence 2012-2015, a new institutional and legal framework was established for tackling all forms of domestic violence and all categories of women, with specific accent to women with multiple vulnerabilities.²⁶ Being a woman sex worker, moreover being a trans sex worker who uses drugs, is not recognized as an intersecting identity that needs to be addressed with specific provisions and interventions. On the other hand, research demonstrates intersectional discrimination of sex workers and the impossibility to enjoy their rights as a result of their specific status in the society and exposure to violence.²⁷ The scoping study on gender based violence and discrimination against women and girls in urban public spaces of the City of Skopje in 2012 showed that

²¹ Report on implementation of the Law on Free Legal Aid in 2016-2017. Foundation Open Society –Macedonia (FOSM), 2017.

²² General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, par.31.

²³ Natasha Boshkova, Hajdi Shterjova Simonovikj. Analysis of the attitude of the sex workers on the needs to change the legal framework on sex work in Macedonia, 2015. Available at: www.hops.org.mk.

²⁴ Ivica Cekovski, Vanja Dimitrievski. Legal needs and access to justice of people who use drugs and sex workers in Macedonia, 2017.

²⁵ Law on Prevention, Elimination and Prevention of Domestic Violence???

²⁶ Government of the Republic of Macedonia. National Strategy for Prevention and Protection of Domestic Violence 2012-2015.

²⁷ Natasha Boshkova, Hajdi Shterjova Simonovikj. Analysis of the attitude of the sex workers on the needs to change the legal framework on sex work in Macedonia, 2015. Available at: www.hops.org.mk



HOPS
HEALTHY OPTIONS PROJECT SKOPJE



only women sex workers face hate crimes because they are women who are involved in sex work.²⁸

25. As the Committee give broad interpretation of GVAW, the denial of the sex workers' medical treatment in detention due to their status as sex workers during the police raid in 2008, causing them pain and suffering falls under inhumane, cruel and degrading treatment.

26. Two months after the Law on termination of pregnancy came into effect (2013), there were two documented cases indicating the negative impact of the Law on the life and health of women when two women were left to wait three days with a dead foetus because the doctors were afraid to perform the abortion before the expiration of three day after the counselling.²⁹ Both of these women were sex workers who used services from the NGO HOPS and were accompanied in the hospital by a social worker from the NGO. As the Committee has already emphasized that delay in abortion and post abortion treatment can amount to inhumane, cruel and degrading treatment.³⁰

27. Case study of the Police raid 2008:

On 20.11.2008 in Skopje, the police officers in uniform and civilians from the special unit "Alfa" arrested 32 people, 23 were women sex workers, an activist from the local NGO HOPS and 8 men - potential clients. All 32 people were brought to the police station, but the men were promptly released from the station. The sex workers remained in the station with no further information on the arrest. The photos of the sex workers being taken to the police station were posted on the web site of the Ministry of Interior together with the information on the police action called "Eradication of Street Prostitution". The videos filmed in the police station were shared with all national and local printed and electronic media, which further distributed the news national wide. The sex workers waived their right to attorney because the police convinced them they will be released soon as in other cases before. Instead they were taken to a room where they were stripped and searched by female police officers in the presence of male police officer. The sex workers were left all night in the cell without access to food, water and sanitation. One of them is a long term patient with coronary disease and two weeks prior her detention she had survived a heart attack

²⁸ Reactor –research in action. Scoping Study on gender based violence and discrimination against women and girls in urban public spaces of the City of Skopje, 2012.

<http://www.reactor.org.mk/CMS/Files/Publications/Documents/scoping%20study%20%20VAV%20public%20spaces%20Skopje.pdf>.

²⁹ H.E.R.A.-The Health Education and Research Association and others. Updated information for the consideration to the Human Rights Committee regarding the review of the Third Periodical Report of the Republic of Macedonia under the International Covenant on Civil and Political Rights, 114th Session, 29 June - 24 July, 2014

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=899&Lang=en.

³⁰ General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, par.18.



HOPS
HEALTHY OPTIONS PROJECT SKOPJE



and was hospitalized. Another sex worker who breastfed her two months-old baby was not allowed to see and feed her baby. Seven of the sex workers were drug dependent and had withdrawal syndrome with pains, sweating and screaming and episodes of diarrhea and vomiting as a result of the withdrawal. There was only one bottle of water for all 23 detainees and some of the women were using the water to clean their faces after episodes of vomiting. One of the sex workers had two epileptic episodes during the detention as a result of the stress and pressure in the police station. The police officers at first did not want to call a medical doctor since they blamed the sex workers for faking the pains and attack in order to be released sooner. However, when the second epileptic episode occurred, the woman was provided with medical care in the police station, outside the cell. The following day around 9 a.m. the police took a group of sex workers to the Clinic for Infectious Disease in order to test them. The Clinic refused to perform the testing without a written court order. The court order was obtained without presenting the judge the reasonable doubt why these people should be tested, who the victims in the case were, who precisely should be tested for what etc. Subsequently, 4-5 women were taken for testing to the same clinic. This time there was a presence of media with photo and video cameras, shooting scenes how the women were taken from the police van into the Clinic for testing. They were tested without informed consent.

Article 5- Sex role stereotyping and prejudice

28. The general perception towards women involved in the sex industry influences the treatment of sex workers from state and non-state actors. One of the concerns is related to the increased trend in the promotion of regressive traditional models for division of roles and family values through interventions, laws and policies, as well as a large number of media campaigns supported with significant funding from the state budget.³¹ A recent analysis conducted by the Broadcasting Council shows significant absence of gender sensitivity in the program concepts and the content of the broadcasters.³² There is also a trend of a continuously high prevalence of domestic violence and violence against women in the last years.³³ Research on violence against women in public spaces showed that sex

³¹ Association for Emancipation Solidarity and Equality. Shadow report on the implementation of the Convention of Elimination of all forms of discrimination against women, 2012. <http://www.esem.org.mk/pdf/Publikacii/Republic%20of%20Macedonia%20-%20Shadow%20Report%20on%20CEDAW.pdf>.

³² Broadcasting Council, Gender and TV programs, Report on the gender analysis of representation of women and men in the program concepts and the content of the media. Institute for Social Sciences and Humanities Skopje. Gender in television programs: Report from the research of gender issues and representation of women and men in the programme of broadcasters, 2013. <http://isshs.edu.mk/documents/-----2013.pdf>.

³³ http://mtsp.gov.mk/WBStorage/Files/semajno_nasilstvo_anketa.pdf and <http://www.independent.mk/articles/15102/Violence+against+Women+in+Macedonia+Continues+to+Rise>



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workers are the only group of women that suffer from hate crimes as a result of their intersectional identities as women, sex workers, and members of marginalized groups.³⁴

29. Following the police raid mentioned previously, the Minister of Interior gave a statement portraying sex workers as criminals presenting the profile of the whole group of women, stating: "All (women) are exceptionally in bad economic situation and against all of them subsequently were submitted criminal and misdemeanor charges". In support of these statement the Ministry of Interior published videos of the arrest of the sex workers and their presence in the police station.³⁵
30. Generally, the government officials in the period of 2006-2017 publicly promoted gender stereotypes portraying women in their reproductive role. The former prime minister publicly criticized women's emancipation stating that "We live at a time when it's not just a great rarity to have a second child in the family, let alone a third or fourth, but on the contrary we have debates about warped values, [...] about some women's rights, then about men, who is more represented out of the two in politics or in business, and all along while we are wasting energy on such topics we are running out of people as a state."³⁶
31. This period was also marked as a time when the highest state officials and media close to the government fueled homophobia and transphobia and incited group attacks and individual incidents against LGBT people and activists.³⁷
32. Since 2008, the position of women has deteriorated due to measures taken by the government that restrict women's rights, advocate for, rather than challenge stereotyped roles, and promote stigmatising and discriminatory perceptions of women who have abortions. Namely, the Government of the Republic of Macedonia in 2009 published a call for tenders for a campaign which aimed to inform the public about the purported consequences of abortion, and to "emphasise the message that creating a new life – your own child - is a blessing from God". This was accompanied by a number of articles by

³⁴ Reactor –research in action. Scoping Study on gender based violence and discrimination against women and girls in urban public spaces of the City of Skopje, 2012.

<http://www.reactor.org.mk/CMS/Files/Publications/Documents/scoping%20study%20%20VAW%20public%20spaces%20Skopje.pdf>.

³⁵ The Fight for Sex Workers' Rights in Macedonia: *Sex Worker and NGO Response to the Police Forces' "Coordinated Action to Fight Street Prostitution"* HOPS, 2015.

³⁶ Speech for marking the national holiday of the Macedonian Revolutionary Struggle on 23 October, 2012 "Gruevski: VMRO is a historically recognizable code of the Macedonian people," available at: <http://vlada.mk/node/4747>.

³⁷ Human Right Committee, Concluding observations on the third periodic report of the former Yugoslav Republic of Macedonia CCPR/C/MKD/CO/3, August 2015. Annual report for 2014, Coalition Sexual and Health Rights of Marginalized Communities, 2015. Available on: http://coalition.org.mk/publikacii_cat/izveshtai/.



HOPS
HEALTHY OPTIONS PROJECT SKOPJE



**OUT LOUD
FOR
SEX WORKERS**

representatives of the Orthodox Church in the media where women who have had an abortion were labelled murderers.

33. Media also fuels the stigma against sex workers by publishing harassing articles which label sex workers as immoral, barriers of diseases, promoters of debauchery.³⁸ Following the police raid, all national media published videos of the arrest of the sex workers, their presence in the police station and their entrance in the Clinic for Infectious Disease and Febrile Conditions for testing. These videos are still present on some of the internet portals and are reused by part of media to discriminate against sex workers.³⁹

Article 6 - Trafficking and exploitation of prostitution

34. In 2004, the State adopted amendments to the Criminal Code introducing a separate provision on trafficking in human beings, while the existing provision on mediating in prostitution is still in force. The Criminal Code defines trafficking in accordance to the Palermo Protocol, but it does not provide a clear definition for determining the exploitation, sexual exploitation, abuse of power, position of vulnerability. In 2014, the provision was amended with new forms of exploitation such as: forced pregnancy, begging and exploitation through legal activity.
35. Having in force two separate provisions that can sanction sexual exploitation violates the legal certainty of people involved in the sex industry and at the same time of victims of trafficking. In practice, the prosecution indicts the perpetrators for trafficking and in the course of the criminal procedure changes the indictment for mediation in prostitution, which undermines the fight against trafficking in human beings.⁴⁰ On the other hand, the provision for Mediation in Prostitution from the Criminal Code is used for criminalization of women who from safety reasons work together (in the same apartment) and provide sex services to clients.⁴¹

³⁸ The Fight for Sex Workers' Rights in Macedonia: *Sex Workers and NGO Response to the Police Forces' "Coordinated Action to Fight Street Prostitution"* HOPS, 2015.

³⁹ <http://hops.org.mk/mk/content/sovetot-za-etika-na-mediumite-vo-makedonija-po-zhalba-na-hops-odluchi-deka-portalot-skopje24>.

⁴⁰ www.lastrada.org.mk

⁴¹ www.hops.org.mk.



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Article 12 – Right to health

36. Article 12 of CEDAW requires State Parties to take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
37. During the November 2008 raid, only one bottle of water was provided to all of the detainees to share. Not only is this a concern for hygiene reasons, but based on the number of detainees present in the cell, one bottle of water was not a sufficient resource to ensure proper hydration. Furthermore, one of the detainees had previously suffered a heart attack. While in detention, she experienced high blood pressure and felt unwell. Though she requested a doctor to attend to her needs, her request was denied on the grounds that she was allegedly “faking it.”
38. Some of the detainees involved in the November 2008 raid were women who use drugs. During detention, they suffered from severe withdrawal symptoms, which manifested in various ways. Some women were screaming due to the pain they felt, while others experienced diarrhea and vomiting.
39. During detention, one detainee had an epileptic fit and experienced a seizure. Once again, she was denied assistance of a doctor on the grounds that she was allegedly “faking it.” It was only after she suffered a second epileptic fit that the police provided her with a doctor’s assistance. Finally, as a result of the Raid, the detainees were coercively tested for sexually transmitted diseases without their consent. This testing occurred without a court order authorizing it.
40. These incidents demonstrate how access to health care of the women sex workers in custody was denied in contravention of Article 12. As has been demonstrated in the preceding paragraphs, the women sex workers were placed in these conditions due to their intersecting realities of being women and being sex workers. Therefore their access to healthcare under Article 12 was denied on the basis of their being women and sex workers. This is discrimination against women regarding their access to healthcare, and violates Article 12.
41. Generally, women in Macedonia face challenges related to their sexual and reproductive health. The access and availability to modern methods of contraception in Macedonia is



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very limited.⁴² In 2011, the Government of the Republic of Macedonia adopted the National Strategy for Sexual and Reproductive Health 2010-2020, but it has not adopted the action plans and did not allocated money for its implementation. Furthermore, a worrying issue is the infant mortality rate, 10.7 dead per 1,000 live births⁴³, which is several times higher than the European average of 4.2 dead per 1,000 live births.

42. This situation disproportionally affects more women vulnerable to violence and HIV infections. More than 30% of the sex workers who are in contact with NGOs reported that they did not used gynaecological services prior their contact with the NGO and 71% of them have limited information on HIV transmission.⁴⁴ More than half of the sex workers have had at least one abortion.⁴⁵
43. Most of the services for sex workers are covered by NGOs with funds secured by GFTAM. As previously mentioned, since January 2018 these funds are no longer available for Macedonia and therefore the Government should secure its funding from the state budget. Based on the estimated amount spent for preventive activities for HIV in the previous years, including services for support of sex workers and harm reduction services for people who use drugs, the Government was supposed to allocate 103 million MKD and instead the actual budget provides 95 million MKD e.g. 8 million MKD less for the NGOs activities on prevention of HIV.⁴⁶ Decrease of the finances allocated to NGOs that support sex workers and people who use drugs can significantly affect their health and limit their access to sexual and reproductive services including information and services for HIV prevention.
44. Following the disturbing campaign against abortion (see par. 33), the Law on Termination of Pregnancy was adopted in an accelerated procedure, without consulting experts and without any public debate⁴⁷. There was no legal or scientific based explanation on the reasons for the adoption of the law. Thus far, the number of abortions in the country has been in a permanent decrease. The abortion rate in Macedonia in 2000 was 38.9 per 100

⁴² UNECE, *Regional Report ICPD Beyond 2014: The UNECE Region's Perspective*(2013)

available at: http://www.unece.org/fileadmin/DAM/pau/icpd/Conference/Other_documents/Report_ICPD_beyond_2014.pdf. The Third Report of the Republic of Macedonia (Paragraph 9) contains information from 2009 which shows that only 9.8% of women in the country use modern methods of contraception. Even though the most recent Multiple Indicator Cluster Survey (2013) conducted by UNICEF shows improvement, the usage rate of any type of modern method of contraception in women between 15 to 49 years of age is still low at just 12.8%.

⁴³ State Statistical office of the Republic of Macedonia, *Statistical yearbook of Republic of Macedonia (2014)*, available at: http://www.stat.gov.mk/PrikaziPublikacija_1_en.aspx?rbr=485

⁴⁴ Mikikj V., Arnikov A. and Kuzmanovska G. Report from the bio-behavioral research of the sex workers in Macedonia, 2014.

⁴⁵ *Idem*.

⁴⁶ Budget of the Republic of Macedonia for 2018. <http://www.finance.gov.mk/mk/node/4105>.

⁴⁷ Article in the daily newspaper Nova Macedonia "Women offended by the new abortion law: free choice with a mandatory request", 30.05.2013



HOPS
HEALTHY OPTIONS PROJECT SKOPJE



live births⁴⁸, while in 2012 the rate was reduced to 23⁴⁹. The amendments to the Law on Termination of Pregnancy, which came into effect on 25.06.2013⁵⁰ introduced the following additional restrictive provisions: 1) Mandatory filing of a written request for the termination of unwanted pregnancy by the woman to the appropriate health institution; 2) Mandatory counselling about the potential advantages of continuing the pregnancy, as well as about the health risks for the woman from undergoing an abortion; 3) Mandatory waiting period of three days after counselling before medical intervention is conducted to terminate the pregnancy.

45. Two months after the Law came into effect, there were two documented cases indicating the negative impact of the Law on the life and health of women when two women were left to wait three days with a dead foetus because the doctors were afraid to perform the abortion before the expiration of three day after the counselling.⁵¹ Both of these women were sex workers who used services from the NGO HOPS and were accompanied in the hospital by a social worker from the NGO.⁵²

Article 15- Equality before the law

46. Article 15 paragraph 1 states that all women are to be treated equally with men before the law. This article guarantees equal access to justice, and is violated when women are discriminatorily denied legal recourse for the wrongs committed against them. This concerns their interactions with the law at all levels, including their encounters with the police.
47. Women sex workers in Macedonia are constantly denied access to justice. When they try to report to the police accounts of violence against them, they are dismissed and ridiculed. As the women are seen as sexually deviant because of their occupation, their valid complaints of violence perpetrated against them are ignored. They are ignored by state officials such as the police and the courts because they are seen to be deserving of this type

⁴⁸ Ministry of Health of Republic of Macedonia, *National Strategy for Sexual and Reproductive Health 2010-2020* (2009)

⁴⁹ State Statistical Office of the Republic of Macedonia, *Men and Women in the Republic of Macedonia* (2014) available at: <http://www.stat.gov.mk/Publikacii/Gender2014.pdf>

⁵⁰ Ministry of Health, *Law on Termination of Pregnancy* (as published in the Official Gazette of the Republic of Macedonia, no. 87/2013) available at: http://hera.org.mk/wp-content/uploads/2014/06/pregnancy_termination_bill.pdf

⁵¹ H.E.R.A.-The Health Education and Research Association and others. Updated information for the consideration to the Human Rights Committee regarding the review of the Third Periodical Report of the Republic of Macedonia under the International Covenant on Civil and Political Rights, 114th Session, 29 June - 24 July, 2014

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=899&Lang=en.

⁵² www.hops.org.mk



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of treatment. They are denied access to justice at all levels as even the courts are unwilling to hold perpetrators accountable, whether state or non-state actors.

48. The constant dismissal of these women's reports of extreme violence demonstrates an extreme injustice being done to these women, and a clear violation of the Article 15 obligation to ensure equality before the law.
49. This discrimination is also evident in the ways they are treated in the court system. The testing of the women sex workers for sexually transmitted diseases, without their consent was court ordered. The same judge that authorized the testing also heard their case against the police for their conduct during the raid. Complicit in this discrimination, it is unsurprising that the judge found in favour of the police.
50. The court procedure on the violations from the police raid in 2008 are still pending and the sex workers have not received redress.
51. The Appellate Court Skopje in 2015 delivered a decision quashing the first instance judgement in the case against the Ministry of Interior and the Criminal Court by stating that: *"...Namely, detention and limitation of the right to freedom itself does not lead to violation of the private and family life and does not damage a person's reputation seeing that pursuant the law it should be determined whether the public authorities acted unlawfully and whether they overstepped their authorizations. In the specific case, the first instance court indisputably established that the plaintiffs offered sexual services, confirmed by their statements as well, whereupon it should be considered **that offering sexual services is against the law and an offence according to Macedonian legislation, and this offence always leads to the danger of spreading sexually transmitted diseases, a sufficient reason established by law to undertake actions on the part of the defendants. Namely, the plaintiffs were detained by the police and were brought to an investigative judge who issued an order for medical examinations, upon which it was concluded that they carry the virus Hepatitis C – a sexually transmitted disease.....***

*.....It is pertinent to the case that the defendants acted within their legal authorizations and that no irregularities or any overstepping of authorizations was determined, leading to the conclusion that there is no guilt on their part, therefore there are no legal grounds for the plaintiffs' lawsuit. **The plaintiffs in this case were detained in order to gather evidence to establish whether a criminal offence had been committed, which, on the other hand, is determined pursuant the Law on Criminal Procedure, which prescribes the manner and***



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procedure for gathering evidence in case of reasonable suspicion that an offence has been committed and which is prosecuted ex officio."⁵³

52. The Appellate Court with such reasoning sustains the stigma against the sex workers and approves the violation by the police and the criminal court based on the assumption that they do illegal job.
53. Although the police did not present sufficient evidence that there is a reasonable suspicion for issuing a court order to gather evidence from the blood testing, the court issued a general court order without reference to the evidence that supports the claim for a court order.
54. Regarding the procedure for protection of the right to privacy violated by the media during the police raid and the testing in 2008, the Directorate for Personal Data Protection in 2009 established a violation of privacy by three national media and referred sex workers to claim non-pecuniary damage in a civil procedure before the court. The civil court in 2014, instead of deciding on the redress, refused the claim and changed the decision of the Directorate and established that the media did not violate the law by publicly presenting videos from the sex workers without blurred images.⁵⁴

Recommended Questions to be addressed by the Government of the Republic of Macedonia

In light of this information, we hope that the CEDAW Committee will consider addressing the following questions to the Government of the Republic of Macedonia:

1. Bearing in mind that the current legislation sanctions sex workers for soliciting and mediation in prostitution please provide information whether the state plans to introduce legislative reform on the regulation of sex work and ensure that the Law on misdemeanor against the public order and the Criminal Code are not used to penalize sex workers?
2. What measures has the State party adopted in order to improve the rights of women involved in sex work?
3. What measures has the State party adopted in order to improve access to justice for sex workers, specifically their access to legal services and services for prevention of HIV?

⁵³ Judgment of the Appellate Court Skopje GZ- 1582/16 from 28.11.2016.

⁵⁴ Judgement of the Basic Court Skopje 2 Skopje P. no. 1483/10 from 15.11.2012 and judgment of the Appellate Court Skopje GZ no. 2987/13.



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4. What measures has the State taken to prevent violation, humiliation and disenfranchisement of sex workers during police raids?
5. What measures has the State taken to protect the rights of the sex workers affected by the police raid from 20th of November 2008?
6. What measures has the State party taken to address the impunity of State and non-State actors in instances of violence and discrimination against sex workers?
7. What measures is the State party taking to remove historical discriminations and to achieve substantive equality for sex workers?