

HELSINKI COMMITTEE FOR HUMAN RIGHTS

ХЕЛСИНШКИ КОМИТЕТ ЗА ЧОВЕКОВИ ПРАВА НА РЕПУБЛИКА МАКЕДОНИЈА
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Ms. Dubravka Šimonović
Special Rapporteur on violence against women
Palais des Nations
CH-1211 Geneva 10, Switzerland
By email: vaw@ohchr.org

30 June 2020

SUBJECT: Submission to The United Nations Special Rapporteur on violence against women

Dear Ms Dubravka Šimonović,

With regards to your call for submissions - COVID-19 and the increase of domestic violence against women - the Helsinki Committee for Human Rights welcomes this opportunity to submit our views, comments and recommendations to you.

CONTEXT - Providing free legal aid during the COVID-19 pandemic

The outbreak of COVID-19 affects people's lives daily. As the number of infected people in our country began to mount in March, our Government introduced measures¹ in a period of only a few days, in an effort to contain the spread of the virus. This report contains data on the State's response to the COVID-19 pandemic and the human rights implications of the introduced measures. Based on the collected data from the provided legal aid during this period, the report highlights how the virus and the measures may affect fundamental rights and furthermore how they affect the rights of everyone but in different ways, i.e. that certain individuals and groups are particularly vulnerable during the pandemic because of their overall health and socio-economic situation.

Ever since the beginning of the pandemic in our country, the Helsinki Committee for Human Rights (MHC) remained open² for providing legal aid to people in need. In the period between March and May 2020, MHC has provided preliminary legal aid in 330 cases. The cases involved approximately 2857 people in the Committee's various areas of work, such as labour rights and access to employment, domestic and gender-based violence, social protection, discrimination, hate speech and hate crimes, etc. In comparison, during the whole period of 2019 the Committee provided legal aid in 400 cases of violation of human rights.

¹ On 11 March 2020, WHO declared that the COVID-19 outbreak had reached the level of a global pandemic. On 10 March the Macedonian Government introduced the first measure to contain the spread of the virus. On 18 March the President declared the state of emergency on the whole territory of the country.

² Considering the adopted measures for social distancing and the need for adjusting the work process, people reported violations of their rights via free SOS telephone line (0800 44 222), as well as through the available MHC phone numbers: +38923119073 and +38972278436, the MHC web-site and the official Facebook page.

Statistics of reported cases of domestic and gender based violence

As a result of the crisis caused by the pandemic, the risk of increased domestic violence augmented simultaneously with the alerts from the organizations for protection of human rights. Although there was no official data for this relatively short period, the initial statistics from the countries where the virus had already significantly expanded indicated a substantial increase of domestic violence, which was undoubtedly one of the side effects of the application of restrictive prevention measures. The restrictive measures adopted by the Government of North Macedonia since the beginning of the pandemic, including the recommendations for self-isolation, were a serious factor for the increased risk of domestic and gender based violence. MHC requested that the institutions act accordingly and in a timely manner on reports of domestic and gender based violence in order to prevent the increase of violence as well as its fatal consequences. During this period, the support and encouragement of the victims to report violence was of particular importance, as the experience suggested that one of the most serious problems is the non-reporting of violence by the victims. Namely, while the rate of reporting violence in Europe is around 14%, in our country only 2% of women who have experienced violence from a partner have reported the case to the police,³ which mainly is a result of mistrust in institutions, impunity for perpetrators, fear and also non-recognizing the violence by the victims themselves.

According to the statistics of the Ministry of Internal Affairs and the Ministry of Labour and Social Policy, there is no increase in the number of cases of domestic violence compared to the same period last year. On a weekly basis, the only increase was recorded in the first week of April, while in the remaining weeks the cases of domestic violence were stagnant.⁴ MHC continued to provide free legal aid and support for victims of domestic and gender based violence during the isolation period. During the state of emergency, the Helsinki Committee registered a total of five reports of domestic violence, which does not indicate a trend of increasing cases. However, we believe that this was due to the practice of non-reporting of violence by the victims, as well as the inadequate qualification of domestic violence cases as offenses against the public peace and order. Regarding available services, victims could report violence to the National Free Mobile SOS Line for Victims of Domestic Violence, which provides 24-hour confidential information on victim protection, services and telephone counseling for victims, as well as information on the nearest Police Station or the competent Center for Social Work. Since the number of reported domestic violence cases did not increase, there was no need the State to look for alternatives of shelters for victims as the existing ones were open and available with sufficient capacity.

Access to justice

During the state of emergency, the courts in North Macedonia were open only for cases which are urgent, such as trials for imposing temporary measures for protection from domestic violence. According to the non-governmental organization "Coalition All for Fair Trials" there were only few trials for imposing temporary measures for protection from domestic violence for which the hearings were held in Skopje.

³ OSCE-led survey on violence against women: North Macedonia
<https://www.osce.org/files/f/documents/3/5/419264_1.pdf>.

⁴ DW, "What are the stories hidden behind the MoIA's statistic?", <<https://bit.ly/3eAbyoD>>.

Femicides

In cases where domestic violence goes unreported or the relevant authorities do not provide adequate protection of the victims, it is more likely that the violence will escalate into femicide. During this period, the media published reports on two murders of women by an intimate partner. Considering that in the country the femicide is not criminalized in the Criminal Code and qualifies only as a more serious form of murder when committed as a result of domestic violence, the lack of available data on femicides remains a serious problem.

Urgent measures for protection of victims of domestic and gender based violence

On 9 April 2020, the National Network to End Violence Against Women and Domestic Violence, where the Helsinki Committee for Human Rights is an active member, submitted a Request to the Government⁵ to amend the decision for restriction on the freedom of movement of citizens throughout the country, in order to exempt women victims of violence and their children when they are in need of leaving their homes due to the threat and direct risk of violence. Shortly after the Request was submitted, the Ministry of Internal Affairs issued a statement that victims of violence will be able to leave their homes and go to the nearest police station during the curfew or to the nearest health facility, if they needed medical attention, without the need of a special movement permit.⁶ On 13 April 2020, the Network submitted another official Request to the Government⁷ suggesting urgent measures for protection of women and children victims of domestic violence during the state of emergency. The Request addressed the specific risks of domestic violence and contained a proposal with a list of urgent measures to tackle violence, as well as suggestions on preparation of a protection system for dealing with cases of domestic violence after the end of the pandemic.

During this period, it was of crucial importance for the Government to find new and creative solutions to support and protect victims of violence, in order to prevent violence and its consequences. Given the limited opportunities for reporting of domestic violence, in situations where most of the time the partner is at home and the movement outside the home is kept to a minimum, many countries have introduced alternative ways to report domestic violence, using existing tools such as social media, SMS, WhatsApp, but also through development of new free applications, sending messages to locate victims through GPS, as well as the use of secret codes when visiting pharmacies and stores.

With the beginning of the isolation period, the Ministry of Labour and Social Policy warned about the risk of increasing domestic violence by sharing contacts from the services for reporting and supporting the victims. During May after the Network's submission the Ministry launched a

⁵ Helsinki Committee for Human Rights "Request to the Government to amend the decision for restriction on the freedom of movement of citizens throughout the country", <<https://mhc.org.mk/news/baranje-do-vlada-na-rsm-za-dopolnuvanje-na-odlukata-za-zabrana-za-dvizhenje-na-graganite-vo-celata-teritorija-na-drzhavata/>>.

⁶ MoIA "Persons who report a crime will not be sanctioned for the duration of the restriction of movement" <https://mvr.gov.mk/vest/11716?fbclid=IwAR22dRPTvDTbXfoYH_G93_i2vY21o4tz0qHkt-1I3qy7-U8A14EZqBFnWKO>.

⁷ National Network to End Violence Against Women and Domestic Violence "Request to the Government for urgent measures for protection of women and children victims of domestic violence during the state of emergency", <<http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/04/Itni-merki-za-zashtita-na-zhenite-i-detsata-zhrtvi-na-semejno-nasilstvo-vo-kriza.pdf>>.

campaign for reporting domestic violence in an emergency situation, which in our opinion was belated to fulfill the aims. Also, the Ministry of Labour and Social Policy, in cooperation with UNDP, is launching a joint activity for the development of the BE SAFE mobile application in our country for reporting gender-based violence to support victims of violence in the conditions of COVID-19. The BE SAFE mobile application was firstly developed in Montenegro. A member from the Helsinki Committee participated in the first working group for creating this application which was held on 26th of June. Despite the proposed measures, apart from the measure for uninterrupted reporting of violence during the curfew, until now the state has failed to implement any creative solutions to prevent violence or facilitate reporting.

Recommendations:

- The State should adopt The Law on Protection from all Forms of Violence against women and Domestic violence in order to harmonize the national legislation with the Istanbul Convention.
- The State should adopt the amendments of The Criminal Code which will criminalize all the forms of gender based violence including the femicide.
- The State should directly apply the Istanbul Convention until these laws are adopted.
- The State should act promptly in the process of creating the BE SAFE application so the application's aims of preventing the violence and facilitate reporting could be fulfilled, not only in a state of emergency but also in regular conditions.
- The State should find more alternative and creative solutions to prevent violence or facilitate reporting.
- The State's measures for protection and prevention from COVID – 19 should never restrict the victim's movement when they are in need to report the violence or need medical attention.

Helsinki Committee for Human Rights
Executive Director
Uraniya Pirovska



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