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Human Rights Committee

Fourth periodic report submitted by North Macedonia under article 40 of the Covenant, due in 2022^{*}, ^{}, ^{***}**

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List of abbreviations

RM	The Republic of Macedonia
MI	Ministry of Interior – Ministry of Internal Affairs
MLSP	Ministry of Labour and Social Policy
OM	Ombudsman
CPPD	Commission for Prevention and Protection from Discrimination
SEC	State Election Commission
OTA	Operational Technical Agency
DICCIPS	Department of Internal Control, Criminal Investigations and Professional Standards
AES	Administration for the Enforcement of Sanctions
ECI	Educational and Correctional Institution
PI	Penitentiary Institutions
CC	Criminal Code
AJM	Association of Journalists of Macedonia

I. General information on the national human rights situation, including new measures and developments related to the implementation of the Covenant

1. In the reporting period, the North Macedonia continued to upgrade the legal and institutional framework for effective protection and realization of human rights in accordance with the recommendations of the treaty bodies of the United Nations and the Council of Europe.
2. The Justice Sector Reform Strategy for 2017–2022 was implemented in order to promote the independence of the judiciary, access to justice and a fair trial.
3. Amendments and additions to the Criminal Code and the Law on Criminal Procedure were adopted in order to strengthen criminal legal protection for acts of hate, hate speech, gender-based violence, sexual abuse of children, prevention from torture and violence against children.
4. The Ministry of Justice and the Macedonian Association of Young Lawyers developed a Manual for submitting an individual complaint to the Human Rights Committee of the United Nations. The Manual provides simple guidelines and action steps needed in the process of submitting an individual complaint to this Committee.
5. The Law on the Ombudsman was harmonized with the Paris Principles, which improved the institutional position of this institution in the protection of human rights.
6. The State Commission for Prevention of Corruption was elected in accordance with the Law on Prevention of Corruption and Conflict of Interest.
7. In 2017 it was ratified, and in 2018 the Government accepted the Action Plan for the implementation of the Convention of the Council of Europe on preventing and combating the violence against women and domestic violence (the Istanbul Convention) for 2018–2023. In 2022, the first Report on the implementation of this Convention was submitted and the evaluation process by GREVIO began.
8. Protocol 16 to the Convention on Human Rights and Fundamental Freedoms is in the process of ratification, and in 2021 the Convention of the Council of Europe on the counterfeiting of medical products and similar crimes involving a threat to public health was signed.

II. Specific information on the implementation of articles 1–27 of the Covenant, including in relation to previous recommendations of the Committee

Constitutional and legal framework in which the Covenant is implemented (art. 2)

9. In 2016, amendments and additions to the Law on the Ombudsman were adopted in order to fulfill the criteria for a national institution with status A. With these changes, the following were introduced: promotion of human freedoms, a pluralistic approach in the election of management positions and the financial independence of this institution.
10. The Ombudsman (OM) is authorized within its competence to submit a request to the existing Commission for inquiry for the protection of freedoms and rights of the citizen in the Parliament, to examine cases of violation of constitutional and legal rights and take measures.
11. A significant innovation with these changes is the establishment of an additional mechanism that will enable the implementation of special reports regarding the disability of the Ombudsman's work and for non-compliance and non-implementation of its requests, suggestions, opinions, recommendations or indications. According to the Annual Report of

the OM for 2021, out of a total of 755 cases in which it determined violations and took all legal actions, in 66% the competent institutions accepted the interventions of the OM.

12. In 2018, consent was given for a total of ten new hires. The OM's budget in 2018 increased by 5.3% compared to 2017, while in 2019 it increased by 10% compared to 2018.

Anti-corruption measures (Art. 2 and 25)

13. The anti-corruption legal framework has been improved. With the amendments from 2018, the Whistleblower Protection Law is aligned with the standards of the Council of Europe, and in 2019, activities began in the direction of its alignment with the EU Directive 2019/1937.

14. In 2019, a new Law on the Prevention of Corruption and Conflict of Interest was adopted. The provisions for integrity in the public and private sectors have been updated, the international recommendations for the State Commission for the Prevention of Corruption and monitoring of property and interests have been incorporated.

15. With the Law on Free Access to Public Information from 2019, access to public information is facilitated.

16. In June 2022, the new Law on Lobbying started its implementation, which determined balanced obligations in providing information that is published about the lobbying and proactive transparency of the institutions.

17. The International Agreement on the Exchange of Data for Verification of Statements of Assets is in the process of ratification.

18. One of the deputies of the President of the Government is in charge of good governance policies and is responsible for monitoring the implementation of the Code of Ethical Conduct for members of the Government and holders of public offices appointed by the Government.

19. With the amendments to the Law on Internal Affairs adopted in 2022 in accordance with the recommendations of GRECO, the exclusive competence of the Director of the Public Security Bureau to issue orders in the field of police operations has been determined. For employees of the Ministry of the Interior, there is an obligation to submit a declaration of property status and interests, as well as a ban on membership of employees in a political party.

20. The Police Law establishes stricter conditions that must be met by the Chief of the Police. In addition to being required to declare no conflict of interest and pass an integrity test, the Police Chief is a subject to security clearance and a ban on membership in a political party or a body of a political party.

21. The Ministry of the Interior adopts an annual anti-corruption program that foresees measures to suppress corruption based on the identified risks and publishes an Integrity and Quality Policy.

22. In 2020, the Code of Ethics for the conduct of employees in the Ministry of the Interior was adopted. [The Department for Internal Control, Criminal Investigations and Professional Standards (DICCIPS) prepared a Program for strengthening the ethical capacities of the employees of the Ministry of the Interior, which foresees the implementation of trainings and workshops. In 2019, the Supreme Court adopted a new Code of Judicial Ethics.

23. With the commencement of the application of the Law on Public Prosecutions from 2020, on June 30, 2020, the validity of the Law on Public Prosecution Offices for the prosecution of crimes related to and arising from the content of illegal monitoring of communications ceased, and thus the Special Public Prosecutor's Office ceased to exist. The cases under the jurisdiction of this Prosecutor's Office have been taken over and assigned to further criminal prosecution by the North Macedonia Public Prosecutor's Office.

24. In October 2021, the Public Prosecutor's Office, the Ministry of the Interior and the Directorate for the Financial Police joined the UNODC Globe Network. North Macedonia became a member of the Management Committee of the Network in November 2021.

25. The European Commission's progress report for 2021 noted the following: "The country continued to consolidate its performance in the investigation, prosecution and trial of several cases of corruption, including a high-level corruption, and strengthened its institutional framework, especially the State Commission for Prevention of Corruption and the Prosecutor's Office for Organized Crime and Corruption."

26. The Directorate for Enforcement of Sanctions (DES) developed a Plan for the prevention of corruption in the prison system (2022–2026). Annual plans for the prevention of corruption and internal procedures for receiving reports from whistleblowers to the DES and all Penitentiary Institutions (PI) and Educational and Correctional Institutions (ECI) have been developed. Trainings were also held to raise awareness of the fight against corruption for newly recruited members of the prison police, as well as for the management staff in the institutions.

27. In the period from 2017 to 2022, a total of 338 cases were established, of which 61 are high-profile cases, or expressed as a percentage, 18% of all established cases in that period. In the same period, in 176 cases, Orders for investigation were passed. In the reporting period, after the completed investigative procedures, 78 charges were filed, and 86 judgments were passed, of which 39 judgements were final. In one case, property worth 10,676,653 euros was confiscated, and a proposal was submitted to confiscate property with a total value of 4,753,382 euros.

28. The largest number of cases are for the criminal acts Abuse of Official Position and Authority under Art. 353 of the Criminal Code, Money Laundering and other Proceeds from a Criminal Offense under Art. 273 of the Criminal Code, Malpractice in the Service under Art. 353-v of the CC, Receiving a Reward for Illegal Influence under Art. 359 of the CC, Accepting a Bribe from Art. 357 of the Criminal Code, and in other smaller crimes, including the crime of Fraud to the detriment of European Community funds under Art. 249-a of the CC.

29. In high-profile corruption cases, the perpetrators are high-ranking public office holders, such as: a former Prime Minister, former ministers, mayors, assistant ministers, general secretaries of the Government, a SEC President, judges, public prosecutors. So there are six cases against the former prime minister, 21 cases against former ministers, three cases against former general secretaries of the Government, one case against a former judge, one case against a former public prosecutor, five cases against a former director of the Secret Service. In addition to these, municipal employees, members of management boards, members of public procurement commissions, directors of public enterprises and funds, employees of the Ministry of the Interior are also reported as perpetrators.

30. Regarding the imposed criminal sanctions for the reporting period, there is a positive trend in the number and type of imposed sanctions. Thus, during 2017 and 2018, a total of four criminal sanctions were imposed, while from 2019, the trend of an increasing number of adjudicated cases in the field of corruption is noticeable, with a total of 11 criminal sanctions being imposed during 2019, 27 criminal sanctions were imposed in 2020, 23 sanctions were imposed in 2021, and 35 criminal sanctions were imposed in 2022. In the reporting period, three people were sentenced to 15 years in prison, two people were sentenced to 12 years in prison, two people were sentenced to nine years in prison, two people were sentenced to eight years in prison, and so on.

31. From the analysis of data, it follows that a greater number of proceedings are conducted against former public office holders, but since 2019, proceedings have also been conducted against current public office holders. An example of this is the completed procedure against one public prosecutor, as well as the criminal procedures being conducted against two General Secretaries of the Government.

Non-discrimination (art. 2, 19, 20 and 26)

32. In direction of strengthening the criminal legal protection of discrimination, in 2018, amendments and additions to the Criminal Code were adopted, which incriminate acts of hate crime. According to these changes, a definition of hate crime is introduced: "As a hate crime

expressly provided for by the provisions of this Code, a crime against a natural or legal person and related persons or property is considered to be committed in whole or in part because of a real or assumed (imagined, delusional) characteristic or connection of the person regarding to: race, color, nationality, ethnic origin, religion or belief, mental or physical disability, sex, gender identity, sexual orientation and political belief.” It also prescribes hate crime as a qualifying form of separate deeds. In the Theoretical Teaching Program for 2020/2021, which was used to conduct the theoretical teaching for the seventh generation of students of the initial training for judges and public prosecutors, it is planned to study all criminal acts, and thus also the criminal acts in which the motive of execution is based on prejudice.

33. In 2020, the Law on Prevention and Protection against Discrimination was adopted. The Parliament chose the composition of the professional and expert Commission for Prevention and Protection from Discrimination (CPPD) in January 2021, which received competences in accordance with the Paris Principles and began its work.

34. The law ensures the independence and effective functioning of the Commission for Prevention and Protection from Discrimination through its legal subjectivity, the status and the conditions for the election of the members of the CPPD.

35. “Although the Law on Prevention and Protection from Discrimination envisages independence in the planning, distribution and purpose of funds for the work of the Commission for Prevention and Protection from Discrimination (CPPD), in practice, this is not respected by the Ministry of Finance and the Parliament. The CPPD works with one fifth of the necessary human resources.”¹

36. In order to implement this law, the following draft text of amendments and additions to the Code of Administrative Officers have been prepared, as well as a draft Methodology for data collection and Guidelines for the duties of the public sector.

37. With the support of the Council of Europe/European Union, the process of drafting proposals for amendments to laws has been started, in order to bring them into line with the Law on Prevention and Protection from Discrimination.

38. The Strategy for Equality and Non-Discrimination for 2022–2026 was adopted. A National Coordinating Body for monitoring non-discrimination situations and the implementation of laws, by-laws and strategic documents in this area and a Working Group for the preparation of a Draft National Action Plan for the rights of LGBTI+ persons have been formed. Support was given to the civil sector for opening the first SOS line.

39. The Law on Prevention and Protection against Discrimination prohibits discrimination based on race, skin color, origin, national or ethnic origin, sex, gender, sexual orientation, gender identity, belonging to a marginalized group, language, citizenship, social origin, education, religion or religious belief, political belief, other belief, disability, age, marital or marital status, property status, health status, personal characteristic and social status or any other basis.

40. During the reporting period, 32 criminal charges related to hate crime and hate speech against LGBTI+ persons were filed and acted upon, whereby: four indictments were filed in relation to which by the competent three convictions and one acquittal have been pronounced by the court, 21 criminal charges have been dismissed, and seven criminal charges are in the pre-investigation phase.

41. The Ministry of Labour and Social Policy (MLSP), in cooperation with the Council of Europe, implements the project for promotion of diversity and equality in North Macedonia, the aim of which is to strengthen the capacity of national and local capacities for a better resolution of issues related to anti-discrimination, the fight against hate speech and the protection of the rights of LGBTI+ persons, in accordance with the standards and recommendations established by the Council of Europe.

42. The general conclusion is that the implementation of the Strategy for Roma 2014–2020 and the National Action Plan for 2016–2020 has limited progress in terms of achievements in priority areas. Key challenges remain in the process of implementing of this

¹ Ibid.

Strategy and Action Plans – reduction of unemployment and transformation of the informal economy into a formal one, urbanization of Roma settlements and legalization, transition from primary to secondary education of Roma students, while in the field of health, the short life expectancy of the Roma and the high infant mortality rate.

43. A new Strategy for the Inclusion of Roma 2022–2030 has been prepared, which was adopted by the Government which covers six key areas. Negotiations are underway for the preparation of National Action Plans within the framework of the Strategy for the specific areas. The institutional set-up for the implementation of the Roma Inclusion Strategy 2022–2030 includes: National Contact Point for Roma, National Coordinator for Strategy Implementation, National Coordinating Body for implementation of the Strategy, the Sectoral Working Group for the Integration of the Roma and the Inter-Party Parliamentary Group for the Support of the Roma within the framework of the Parliament.

44. There is a constant commitment and activities for greater inclusion of the Roma in all levels of education, for increasing employment rate, as well as their participation in political and public life. In the parliamentary composition for 2020–2024, there is one female Roma MP, while at the local level, in the last local elections held in 2021, Roma political parties are represented with 13 council seats in the municipalities or 1.56%. One Roma Mayor is from the municipality of Šuto Orizari – Skopje. In 2021, the total number of Roma employed in the public sector is 1,344 people.

45. The challenges that the health care system is faced with during the Covid 19 pandemic were also felt by members of the Roma communities, as a vulnerable category of citizens. The existing barriers with inaccessibility to certain health services and facilities, the lack of necessary personal documentation, together with insufficient education and lack of information on part of the Roma community, had an impact on maintaining a level of quality health care, which includes regular vaccination of children as well as vaccination against Covid-19.

Gender Equality (Articles 3 and 26)

46. With the Self-Employment Program, non-refundable funds are allocated for opening businesses. The participation of women in opening their own businesses is constantly increasing. In 2020, the participation of women in the Self-Employment Program was 29.9% and in 2021 it is 42.7%.

47. Within the framework of the annual operational plans for employment, training measures for advanced skills for information technology are implemented. In 2020, 42% of women were involved in these trainings, and in 2021 it increased to 49%, which indicates an increase in the percentage of women's involvement in these trainings.

48. In 2022, a Memorandum of Cooperation was signed between the MLSP and the Association HERA for health care education and research for the development and implementation of special measures and activities aimed at the employment of Roma women.

49. In order to deal with Covid-19, on March 10, 2020, the Government adopted a measure that stopped the educational process and teaching in all kindergartens and elementary schools. At the same time, it was decided that one of the parents whose children up to the age of ten attend classes in kindergarten or primary school, will be released from work duties. The Government recommended to employers, depending on the type of work and the possibilities, to adapt the work to be performed from home. The Government adopted five packages of measures aimed at dealing with the negative consequences on the economy. Within these packages, about seventy different measures have been adopted, which cover and support the subjects and individuals affected by the pandemic.

50. “There is gender parity in the public sector, with 55.29% of employed women in the public sector, out of a total of 112,777 public sector employees, while 44.71% are men. Women's participation in the public sector is improving as a result of the continuous improvement of the electoral regulation. If the distribution of men and women by type and activity of institutions is analyzed, it can be concluded that women are most represented in the Constitutional Court of the Republic of North Macedonia (79.49%), followed by the

Council of Public Prosecutors Office (75%), the Judicial Council (72.73%), the Public Prosecutor's Office (70.77%) and public institutions (68.20%). The highest representation of men is in public enterprises (82.87%). In terms of activities, women are most represented in the field of labour and social work (82.11%), especially public institutions for social and child protection. The percentage participation of women in two other major sectors is also significant: health care (72.48%) and education (65.74%).²

51. The participation of women in the Parliament of the Republic of North Macedonia is 40.8% of the total number of MPs, i.e., 49 MPs who make up the eponymous club of female MPs. At the local level, the rate is low and amounts to two of the total number of mayors (eighty-one) at the local level in the country. The participation of women in the executive power is still low.

52. "Available information on net wages shows that women earn less than men in all categories of salaries. However, over time, women's wages have steadily increased. This trend is driven by the increase in the minimum wage, which was introduced in 2012 for certain sectors, such as the textile and leather industries, as low-paid sectors, in which a disproportionate number of employees are women. Over time, changes in the salary structure of employed women can also be observed. During the decade from 2009 to 2019, the number of women receiving a salary of up to 12,000 MKD decreased drastically, and the number of women receiving a salary between 12,000 and 16,000 MKD increased, as well as women receiving a salary of 20,000 to 25,000 MKD".³

Violence against women, including domestic violence (Articles 2, 3, 6, 7 and 26)

53. With the ratification of the Istanbul Convention in 2018, the Republic of Macedonia expressed readiness to take legislative and other measures in order to provide a legal, institutional and organizational framework for the prevention of violence against women, protection of victims of violence and punishment of perpetrators of violence.

54. In 2021, the Law on Prevention and Protection from Violence against Women and Family Violence, was adopted. In accordance with the provisions of this law, in 2021, the National Coordinating Body for the Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence was established and held a session. With the support of the UNFPA Office, four by-laws were adopted, and the Protocols for mutual cooperation between institutions/organizations and for the reintegration of women victims of gender-based violence and family violence were developed.

55. MLSP with the support of the European Institute for Gender Equality and UN Women prepared the first index for gender equality in the North Macedonia for 2019.

56. Amendments and additions to the Criminal Code in which the standards of the Istanbul Convention are incorporated, are in the parliamentary procedure of adoption.

57. Chapter VIII of the Law on Prevention and Protection from Violence against Women and Domestic Violence contains provisions for emergency and temporary protection measures. In paragraph 1 of Article 57 it is arranged that in order to eliminate an immediate and serious danger to the life and physical and mental integrity of the victim and members of her family, an urgent protection measure is imposed, namely the removal of the perpetrator from the home and a ban on approaching the home at the proposal of the Ministry of the Interior, without consent of the victim.

58. The Ministry of Interior submits the proposal for imposing an emergency protection measure to the competent court after the risk assessment from Article 50 paragraph (2) of

² Report from the register of employees in the public sector for 2021, March 2022: https://www.mioa.gov.mk/sites/default/files/pbl_files/documents/reports/finalen-izveshtaj_2021_rabotna_30.03.2022.pdf.

³ Women and men in North Macedonia: Statistical portrait of trends in the field of gender equality in 2022: https://www.stat.gov.mk/Publikacii/2022/MK_WandM-NMK-Report_WEB_0.pdf.

this law and the police report from Article 49 paragraph (7) of this law have been made. The emergency measure for protection from paragraph (1) of this article is imposed for a duration of at least ten, and at most up to 30 days.

59. Article 58 contains Temporary protection measures, which include, among others: prohibition to threaten to commit violence, prohibition to harass, abuse, telephone, contact or otherwise directly or indirectly communicate with the victim, prohibition to approach at a distance of less than 100 meters to the residence, school, workplace or a certain place regularly visited by the victim.

60. In Article 59, it is established that the Ministry of Internal Affairs is obliged to submit a proposal for the imposition of an emergency measure of protection from Article 57 of this law to the competent court in order to remove an immediate and serious danger to the life and physical and mental integrity of the victim and members of her family.

61. In paragraph 1, Article 62, it is determined that the temporary protection measure from Article 58 of this law can last at least three months, and at most up to one year. If the violence continues after the expiration of the period for which a temporary measure of protection has been imposed within the one-year term of paragraph (1) of this article, the victim or the Social Work Center can submit a request for the extension of the measure/s.

62. Article 64 regulates the imposition of temporary protection measures. The court, immediately and at the latest within 24 hours after receiving the proposal from the Ministry of Internal Affairs and the police report, without holding a hearing, will decide on the imposition of an emergency protection measure, removal of the perpetrator from the home and a ban on approaching the home from Article 57 from this law.

63. The court, within six hours of making the decision, delivers it to the competent police station at the place of enforcement, which immediately and at the latest within 12 hours after receiving the decision, delivers it to the perpetrator of gender-based violence against woman and other victim of domestic violence. (Article 70 paragraph 1)

64. Article 73 regulates the implementation of emergency and temporary protection measures. The rights of the victim are regulated in Articles 53–56 of the Law on Criminal Procedure: Article 53 establishes that the victim of a crime has the following rights: to participate in the criminal proceedings as a victim by joining the criminal prosecution or to accomplish the property claim for damage, to special care and attention by the authorities and subjects participating in the criminal procedure and to effective psychological and other professional help and support by authorities, institutions and organizations to help victims of crimes.

65. Special rights of vulnerable categories of victims are regulated in Article 54, and special rights of victims of crimes against gender freedom and gender morality, humanity and international law are contained in Article 55.

66. Centers for Social Work cooperate intensively with associations that work on prevention and dealing with domestic violence. In accordance with the Government's Decision on financing the program activities of associations to combat domestic violence, in 2020 MLSP concluded agreements with four associations that provide specialized services to victims of domestic violence: SOS line, Crisis accommodation 24/48 hours, Accommodation in a shelter for up to one year and Psycho-social treatment of victims of domestic violence in a counseling center.

67. During the Covid-19 pandemic, the Government and MLSP undertook measures and activities to help, support and protect women, victims of violence and domestic violence, which include, among others:

(a) MLSP in cooperation with partner organizations provided support in the form of food and hygiene packages for all registered women victims of domestic violence, i.e., 359 food packages and 359 hygiene packages were distributed:

(b) A Protocol for the prevention and control of Covid-19 has been developed for the temporary residence service for victims of domestic violence;

(c) Joint meetings were held once a week with the associations, the competent institutions and in coordination with the Crisis Staff under the Government, with the aim of joint undertaking of specific measures and activities and coordinated action and protection;

(d) MLSP and the Ministry of the Interior acted in a coordinated manner in the case of domestic violence during curfew; and

(e) The experts from the Social Work Centers had permission to move freely even during the curfew, in order for the victims to receive the necessary protection and support. During the curfew period, victims of domestic violence were exempted from the decision to ban movement.

68. Annex 1 contains an Excerpt from the special report from the NP of the conducted research on the situation with domestic violence in 2019, for the period from January to May 2020.

State of Emergency (Article 4)

69. Based on Article 58 paragraph 1 of the Law on the Protection of the Population from Infectious Diseases, the Government on March 12, 2020, adopted a Decision on measures to prevent the introduction and spread of the Covid-19 coronavirus⁴ which was immediately followed by a Decision on the existence of a state of crisis in part of the territory of the Republic of North Macedonia⁵ for the purpose of preventing the introduction and spread of the Covid-19 coronavirus, for the area of the municipality of Debar and Center Zupa, with a duration of 30 days. This decision was made on the basis of Article 31, paragraph 1, of the Law on Crisis Management.

70. Acting in accordance with this Law, the Government on March 14, 2020, adopted a Decision on the establishment of the Main Coordination Crisis Headquarters to ensure full coordination of the state administration bodies, the legal entities established by the state, as well as the local self-government units, in connection with the prevention, introduction and spread of Covid-19.

71. The Judicial Council and the Public Prosecutor of the North Macedonia made timely decisions that organized the work in the courts and public prosecutor's offices during the pandemic and the state of emergency declared by the President of the North Macedonia. The procedure for urgent cases was not delayed, and the running of the deadlines for protecting the rights of citizens before the court during the state of emergency was stopped, according to the Decree passed by the Government.

72. With this, all the rights of the citizens for access to justice were guaranteed and observed. The trial within a reasonable time for the urgent cases determined by law and the Decisions was not threatened.

73. Five Decisions have been made to determine the existence of a state of emergency by the President of the North Macedonia, based on the reasoned proposal of the Government no. 44-2329/1 from 18.3.2020 to the Parliament, which establishes the existence of a pandemic epidemic declared by the World Health Organization, as a new type of virus that has spread to all continents and covers the territory of the North Macedonia and the notification by the President of the Parliament no. 09-1690/2 from 18.03.2020 that the Parliament in accordance with the Decision on the dissolution of the Parliament of "Official Gazette of the North Macedonia" no. 43/20, cannot convene a session to consider the proposal submitted by the Government:

⁴ Decision on the existence of a state of crisis in part of the territory of the Republic of North Macedonia, for the purpose of preventing the introduction and spread of the coronavirus COVID-19, ("Official Gazette of the RNM no. 62/2020).

⁵ Decision on the existence of a state of crisis in part of the territory of the Republic of North Macedonia, for the purpose of preventing the introduction and spread of the coronavirus COVID-19, ("Official Gazette of RNM" no. 62/2020).

(a) Decision on determining the existence of a state of emergency no. 08-526/2 from 18.03.2020, for a period of 30 days;

(b) Decision on establishing a state of emergency No. 08-607/2 of April 16, 2020, for a period of 30 days;

(c) Decision on establishing a state of emergency no. 08-682/2 of May 16, 2020, for a period of 14 days;

(d) Decision on determining the existence of a state of emergency No. 08-729/2 from May 30, 2020, for a period of 14 days and

(e) Decision on determining the existence of a state of emergency No. 08-777/3 from June 15, 2020, for a period of eight days, adopted for the purpose of preparation and implementation of early elections for deputies in the Parliament of the Republic of North Macedonia, with measures to protect the public health in the context of the Covid-19 coronavirus pandemic.

74. For the duration of the state of emergency, the Government of North Macedonia passed 250 Decrees with legal force.

75. “During the state of emergency, there was an absence of parliamentary control, due to the fact that the Parliament was dismissed before the start of the pandemic. Only the Constitutional Court, with its decisions, exercised control over the decrees with legal force, which takes the position that: “the measures provided for by the decrees with legal force should be in a functional relationship with directly or indirectly confronting and overcoming the causes and consequences of the state of emergency”. In this way, the Constitutional Court had the role of controller of the constitutional powers of the Government during the state of emergency. However, the analyzes of the associations noted that poor and marginalized groups were disproportionately affected by measures enacted during the state of emergency.”⁶

76. The constitutional provisions, where the matter related to the state of emergency is precisely regulated, were the foundations of social life during the duration of the state of emergency. Article 54 of the Constitution of the North Macedonia, which stipulates that the freedoms and rights of a human and a citizen can be limited only in cases determined by the Constitution. Possible restriction of human freedoms and rights can only occur in cases where it is provided for by the Constitution.

77. Freedoms and rights of man and citizen can be limited during a state of war or emergency, according to the provisions of the Constitution.

78. The restriction of freedoms and rights cannot be discriminatory on the basis of gender, race, skin color, language, religion, national or social origin, property or social position. The restriction of freedoms and rights cannot refer to the right to life, the prohibition of torture, inhuman and degrading treatment and punishment, the legal certainty of criminal acts and punishments, as well as the freedom of belief, conscience, thought, public expression of thought and the creed.

79. This provision refers to the fact that the Constitution provides for two types of restrictions on human freedoms and rights: restrictions that are precisely determined when guaranteeing individual freedoms and rights and a general provision for limiting freedoms and rights during a state of war or emergency.

80. The first type of restrictions is provided for the following freedoms and rights: the inviolability of human freedom (Article 12 of the Constitution); the secrecy of letters (Article 17 paragraph 1 of the Constitution); freedom of association (Article 20 of the Constitution); the right to peaceful assembly (Article 21 of the Constitution); the inviolability of the home (Article 26 of the Constitution); the right to free movement on the territory of the Republic and to freely choose the place of residence (Article 27 of the Constitution); the right to property (Article 30 of the Constitution); the right to establish trade unions (Article 37 of the Constitution); and the right to strike (Article 38 of the Constitution).

⁶ Comments of the Justice Reform Blue Print Group.

81. The terms “military” and “state of emergency” are defined by the Constitution, in Article 124. A state of emergency, according to Article 125 of the Constitution, occurs when major natural disasters or epidemics occur. Martial law is declared by the Parliament with a two-thirds majority vote of the total number of MPs on the proposal of the President of the Republic, the Government or at least 30 MPs.

82. If the Parliament cannot meet, the President of the Republic makes a decision to declare martial law and submits it to the Parliament for confirmation as soon as it is able to meet.

83. The same rules also apply regarding the state of emergency, with the difference that the Constitution stipulates that the decision determining the existence of the state of emergency is valid for a maximum of 30 days. In the event of a state of war or emergency, the Government, in accordance with the Constitution and the law, adopts decrees with legal force.

84. With such a decree with legal force, the constitutional provisions are not suspended, which means neither are the corresponding rights, but only a stricter and more restrictive regime for their realization can be foreseen (for example, in relation to freedom of movement and settlement, etc.).

Voluntary termination of pregnancy and sexual and reproductive rights (Articles 6, 7 and 8)

85. The Law on Termination of Pregnancy adopted in 2019 abolishes the administrative procedures that delayed the implementation of the procedure for termination of pregnancy. Termination of pregnancy is a special medical intervention for which the pregnant woman freely decides. The possibility of terminating the pregnancy up to the ninth week of gestation with a medical method and in a primary health care facility is regulated. Pregnancy can be terminated until the end of the twelfth gestational week with the written consent of the pregnant woman. If the pregnant woman is a minor or her legal capacity has been taken away, the termination of the pregnancy can be carried out with the written consent of the parent, that is, the guardian of the pregnant woman.

86. With the adoption of this Law, women are provided with complete, objective and accurate information regarding the method of performing the intervention, which can be expected during the termination of pregnancy and after the procedure, about the methods of contraception before and after carrying out the termination of the pregnancy in a way that is understandable for the woman, in order to be able to make a decision and give a statement of consent, and at the same time, the administrative barriers are abolished, i.e. waiting for three days after the counselling.

87. Based on the guidelines from the World Health Organization, the Guidelines for termination of pregnancy were adopted in order to provide high-quality health services for termination of pregnancy up to the 22 gestational weeks, based on modern practices and medical evidence and focused on the needs of the patients.

Torture and excessive use of force (Articles 6, 7, 10 and 21)

88. The Constitution of the North Macedonia and the Law on Police guarantee the right to appeal to any person who believes that they are a victim of police abuse or that their rights have been violated during the assumption of police powers. Pursuant to the Law on Internal Affairs, the Ministry of the Interior is obliged within 30 days from the receipt of the complaint to respond and inform the petitioner in written form about the established situation and the measures taken.

89. The Department for Internal Control, Criminal Investigations and Professional Standards (DICCIPS) is an internal control mechanism in the Ministry of Internal Affairs that implements control for respect and protection of human rights and freedoms when assuming police powers. The DICCIPS without exception acts and examines all allegations in the

petitions without a selective approach in the work, with equal treatment to all citizens regardless of ethnic, religious, gender, sexual or any other type of affiliation.

90. In the period from 2015–2021, 419 complaints were submitted against police officers for the use of physical force. Of the total number of submissions, 25 or 6% are founded, 167 or 40% are unfounded, for 225 there were no evidence and two are partially founded.

91. During this period, six complaints were received from petitioners who stated that as a result of their belonging to the Roma community, they were discriminated against by the police officers. The DICCIPS performed the necessary checks, after which it was determined that five complaints were unfounded, and there was no evidence for one complaint.

92. An evaluation of the use of means of coercion during the disturbance of public order and peace on a larger scale at the state border was carried out in three cases, where it was established that the use of means of coercion was founded, justified and correct.

93. In the area of the Sector for Internal Affairs, Skopje, from June 13 to 30, 18 protests were held, of which in three cases it was registered disturbance of public order and peace.

94. On June 13, 2018, ten people from the “Komiti” a football fan group were detained, because the participants used pyrotechnics, torches and firecrackers, and plastic and glass bottles were thrown at the Parliament building, as well as a Molotov cocktail that failed to ignite.

95. On June 17, 2018, means of coercion were used, because some of the citizens present at the protest removed the protective fence placed in front of the Parliament building and the police cordon, and several masked people participating in the protest started throwing objects – torches, flares, stones and similar objects to the police cordon. In order to prevent further disruption of public order and peace, the police used chemical agents against the participants of the protest. During the protest, seven people were injured – civilians, and ten uniformed police officers, and 26 people were arrested and detained for further proceedings.

96. On June 18, 2018, a person was punished for a misdemeanour for disturbing public order and peace because, after the protest was over, he belittled and disobeyed the order of the police officer.

97. In the Department for Internal Control, Criminal Investigations and Professional Standards (DICCIPS) has been systematized with a Department for Integrity, Prevention of Corruption and Protection of Human Rights, which is responsible for the prevention and protection of human rights and freedoms from acts of unprofessional, illegal and unethical behaviour of employees of the Ministry of the Interior.

98. With the amendments to the Law on the Public Prosecutor’s Office from 2019, a specialized Department for the Investigation and Prosecution of crimes committed by persons with police powers and members of the prison police is established in the Basic Public Prosecutor’s Office for Prosecution of Organized Crime and Corruption.

99. According to the amendments to the Law on Police from 2019, the Ministry of the Interior is obliged to immediately notify the Department for the investigation and prosecution of crimes committed by persons with police powers and members of the prison police after receiving a criminal report or receiving knowledge that a police officer committed a criminal offense while performing an official duty or committed a criminal offense outside the service with the use of serious threat, force or means of coercion resulting in death, serious bodily harm, bodily injury, unlawful deprivation of liberty, torture and other cruel, inhuman or humiliating treatment and punishment, if the law provides for criminal prosecution ex officio. An identical standard is provided for in the Law on Enforcement of Sanctions.

100. With the amendments and additions to the Law on the Ombudsman in 2018, a special unit was established within the office of the Ombudsman as a Civil Control Mechanism which:

(a) Initiates a procedure at the request of a victim or a member of his family, at the initiative of representatives of the non-governmental sector, as well as at their own initiative after receiving information (upon heard voice/information) about possible violations of the

right to life and the prohibition of torture from the European Convention on Human Rights; and

(b) Is composed of one state adviser and two advisers and it started working in 2019. It implements the activities foreseen by the Annual Work Program.

101. According to the decision of the Parliament from 2019, three associations of citizens were selected to participate in the work of this mechanism.

102. The Ombudsman is a National Preventive Mechanism since 2011, it has the legal authority to regularly examine the treatment of persons deprived of their liberty and make recommendations to the competent authorities in order to prevent torture and other forms of inhumane treatment, and if deemed necessary, by submitting proposals and observations regarding the existing condition or by draft – the legislation.

103. In order to ensure a multidisciplinary approach during the implementation of preventive visits, experts from various fields and representatives from higher education institutions and civil society organizations are engaged.

104. During 2021, the team of the Ombudsman – National Preventive Mechanism, conducted a total of 33 unannounced visits, of which: eight visits to police stations under general jurisdiction in the area of the Departments of Internal Affairs in Strumica and Ohrid, five visits to police border control or surveillance stations, 14 visits to PI (Penitentiary Institutions) and ECI (Educational and Correctional Institutions) as well as six visits to places where foreigners and asylum seekers are housed or detained.

Treatment of persons deprived of liberty (Article 10)

105. On July 13, 2021, the Government adopted the National Strategy for the Development of the Penal and Correctional System in North Macedonia 2021–2025. According to the Action Plan, the planned activities are carried out in accordance with the strategic goals.

106. In May 2022, an inter-departmental group was formed to monitor and evaluate the implementation of the activities provided for in the Strategy, which prepared an Annual Report on the activities implemented.

107. In order to reduce overcrowding in penitentiary institutions (PI), through the construction of new and expansion of existing accommodation facilities and through the establishment of a sustainable probation system for the enforcement of alternative measures, the PI Bitola Prison was completely reconstructed and put into operation in October 2020 and a new Correctional Institution was made operational in November 2020.

108. With financial support from the Development Bank of the Council of Europe, the project for the reconstruction, renovation, construction and equipping of the PI Idrizovo is being implemented. In 2023, a public procurement will be announced for the second phase – stage 1.

109. The Directorate for Enforcement of Sanctions (DES) prepares an Annual Program for financing the construction, reconstruction, maintenance of facilities and equipping of PI and ECI.

110. The DES provided funds for capital investments in PI and ECI for 2022 in the amount of 14,433,000.00 MKD.

111. According to the Annual Program of the DES for 2022, renovations and remediation of the determined bad conditions were carried out in 5 PI: Kumanovo, Tetovo, Gevgelija, Strumica and Skopje and 3 PI: Stip, Prilep and Struga.

112. In the women's department in the largest Idrizovo Prison, the living conditions of female convicts have been improved, that is, the renovation of this part of the institution has been carried out.

113. Since June 2019, health workers from PI and ECI have been fully taken over by the Ministry of Health and have concluded an agreement with a public health institution for the provision of health care.

114. In October 2021 DES, with the support of the Council of Europe, delivered medical equipment worth 50,000.00 Euros, which was put into use in six institutions.

115. Eleven standard operating procedures have been revised for several areas of work in penitentiaries and correctional facilities. During 2022, trainings were conducted on the following topics: Anti-corruption measures, Code of conduct for officials, Trainings for health workers, Trainings for screening of convicted radicalized persons and Trainings for the prison police. Several public procurements have been carried out for the purchase of video surveillance equipment and its installation.

116. Since the beginning of the pandemic, health care measures have been observed in PI and ECI to protect the health of the inmates staying there, as well as the employees of the institutions. During the reception, all inmates were separated for 14 days in a separate section, and in the rooms for visiting the detained persons, contact with the visitors was limited by plexiglas partitions, in order to prevent the spread of the virus.

117. During 2021, a vaccination procedure was carried out for convicted and detained persons and employees. In order to prevent the spread of Covid-19, the Director of the DES issued orders by which convicted persons were prohibited from using facilities (going outside the institution, working outside the institution, visits, etc.) and prohibited visits by visitors who did not have a vaccination certificate.

118. “Access to health care, the educational process and the process of resocialization of convicted persons and the ineffective internal and external mechanisms for reporting and prosecuting cases of torture and inhumane treatment of convicted persons remain the most pressing problems in the penitentiary system:

- In the closed department of the PI Idrizovo, convicts sleep twelve people in a room, on three floor beds, sometimes without adequate hot water for bathing, with electricity cables that can be a risk for their lives and health;
- For girls, undergoing educational correctional measures, there were announcements that they will be placed in a special department of the Educational and Correctional Home – Tetovo in the village of Volkovija, but this has not been done yet. Judges do not refer girls to undergo educational correctional measures because the conditions in the women’s department of Idrizovo are inadequate for their needs and for the process of their resocialization;
- Education in the educational and correctional home is insufficient and discontinuous. Children serving educational measures in the Tetovo penitentiary facility, as well as in the women’s department in the Idrizovo Prison, do not attend classes from September 2021;
- One of the biggest problems in the prison system is the shortage of health care personnel, as well as the lack of medical therapy and therapy for drug addicts. Almost half of the prison institutions do not have a doctor. In order to overcome this problem, some of the prisons hire doctors themselves, so as not to leave convicted and detained persons without access to primary health care;
- There are ineffective internal and external mechanisms for reporting and prosecuting cases of torture and inhumane treatment of convicted persons.⁷

Freedom and security of inmates (Article 9)

119. According to Amendment III of the Constitution, “The detention until the indictment, according to the decision of the court, can last a maximum of 180 days from the day of detention. After the indictment is filed, the detention is continued or determined by the competent court in a case and in a procedure established by law.”

120. Article 164 of the Law on Criminal Procedure stipulates that detention can be determined only under the conditions provided for in this law. The duration of detention must

⁷ Ibid.

be reduced to the shortest necessary time. During the entire procedure, the detention will be abolished as soon as the reasons on the basis of which it was determined, cease.

121. Article 171 regulates the matter of the duration of detention in the investigative procedure. The total duration of the detention in the investigative procedure, including the duration of the deprivation of liberty before the adoption of the detention decision, cannot be longer than 180 days, and upon the expiration of that period, the detainee will be released immediately.

122. Article 172 regulates the matter of the duration of detention after approval of the indictment. After the finality of the charge/indictment, the detention can last up to: one year for crimes punishable by up to fifteen years in prison and two years for crimes punishable by life imprisonment.

123. According to the Rulebook on house rules for the implementation of detention measures in detention departments of prisons adopted in 2020, all detained persons are allowed to move in fresh air, free activities, sports and recreation. During supervision, DES gave special instructions for respecting the right to fresh air for all detained persons, regardless of the accommodation facilities in the premises.

Elimination of slavery, addiction and human trafficking (art. 2, 7, 8 and 26)

124. In April 2021, the Government adopted a National Strategy and a National Action Plan for Combating Human Trafficking and Illegal Migration and a National Action Plan for Combating Child Trafficking 2021–2025. The implementation and coordination of activities is carried out by the National Coordinating Body for Combating Human Trafficking and Illegal Migration through the preparation of annual Operational Plans and annual reports. The strategy was developed based on an evaluation and the recommendations of the National Strategy 2017–2020. Each institution plans the funds within its budgets for the realization of the planned activities.

125. The budget of the Ministry of the Interior foresees a linear budget for activities to combat human trafficking, which are provided for in the Annual Plan for Public Procurement of the Ministry of the Interior. Donators and partners contribute to the implementation of the planned activities.

126. During the reporting period, some of the investigations into the above-mentioned crimes included officials, civil servants and police officers as perpetrators of crimes, which indicates the absence of selectivity or the creation of a climate of impunity or a violation of the efficiency of the investigations.

127. The procedures and the way of providing assistance and protection to all victims of human trafficking are regulated in the Standard Operating Procedures for Dealing with Victims of Human Trafficking (adopted in 2008, adopted by the Government of the Republic of Macedonia in 2010, revised in 2018).

128. The North Macedonia upgraded the legal framework for combating human trafficking and illegal migration in accordance with European legislation and international standards.

129. The amendments to the Criminal Code of 2015 and 2018 provide for the punishment of the actions of begging or exploiting a child for an activity prohibited by law and a prison sentence of at least 12 years for users of sexual services from a child under the age of 14.

130. In order to incorporate the recommendations of GRETA and comply with Article 8 of the Directive 2011/36/EU, the principle of non-punishment of victims of human and child trafficking has been incorporated. According to the data, in 2018, nine victims were identified, in 2019, eight, in 2020, seven, and in 2021, 48.

131. In 2018, the Law on Foreigners was adopted, which fulfills GRETA's recommendations regarding the temporary residence permit for victims of human trafficking, the period for recovery and reflection, and providing more rights for victims.

132. The Parliament of the Republic of North Macedonia on November 16, 2022 adopted the Law on Payment of Monetary Compensation to victims of violent crimes. Victims of human trafficking in accordance with the provisions of this law have the right to compensation for damage, which is in accordance with the Convention of the Council of Europe on Action against Trafficking in Human Beings and international standards regarding the effective realization of the right to compensation of victims by of the state.

133. In the Law on Prevention and Protection from Violence against Women and Family Violence, trafficking in women and girls is defined as a form of gender-based violence and provides for sheltering of victims of human trafficking in a Center for Victims of Human Trafficking.

134. In 2018, a National Unit for the Suppression of Migrant Smuggling and Human Trafficking (Task Force) was established, headed by a Public Prosecutor from the Basic Public Prosecutor's Office for the Prosecution of Organized Crime and Corruption. It is financed from the foreseen budgets of the Ministry of the Interior and the Public Prosecutor's Office of the Republic of Macedonia, as well as from international funds.

135. In order to strengthen national capacities for identifying victims/potential victims of human trafficking, a Memorandum of Understanding was signed in 2018 between the Ministry of the Interior and the Ministry of Labor and Social Policy for the establishment of Mobile Teams for the identification of vulnerable categories, including victims of human trafficking. The teams are composed of a social worker, a police officer and a representative from the civil sector and are established in five cities in the North Macedonia: Skopje, Kumanovo, Tetovo, Bitola and Gevgelija. The work of the mobile teams has been further strengthened by the establishment of the Direct Assistance Fund⁸ through which support is provided.

136. In the course of 2015, the application "Red Button" was put into use, as well as the free telephone line "199", which enables citizens to electronically report via the MOI's web site a certain crime, knowledge or information related to child abuse, human trafficking as well as hate crime.

137. The following were concluded: Additional Protocol for intensifying cooperation in the fight against human trafficking between the Government of the Republic of Macedonia and the Council of Ministers of the Republic of Albania and Agreements for police cooperation in the fight against trafficking with the Governments of the Republic of Slovenia, Bulgaria, Kosovo and Serbia. Annex 1 contains an overview with available data on initiated investigations, charges and verdicts for the acts of human trafficking.

138. Pursuant to paragraph (1) of Article 151 of the Law on Justice for Children, it is established that for the purpose of compensating a child who is a victim or has been harmed by an act which is provided by law as a crime of violence and other acts of individual or group violence, funds are allocated within the budget of the Ministry of Justice. The Minister of Justice, in accordance with the provisions of articles 151 and 152 of this law from 2014, adopts a Program for compensation of a child victim or a harmed person by an action that is recognized by law as an act of violence and other acts of individual or group violence. For this program for 2020 and 2021, one million denars have been allocated from the budget of this Ministry. From January to June 2021, four decisions were made and paid for the compensation of child victims-girls in the total amount of 1,500,000.00 MKD. The payment was made within the framework of the Program for the compensation of a child who is a victim or has been harmed by an action that is provided by law as a crime of violence and other acts of individual or group violence for the year 2021 ("Official Gazette of the North Macedonia", no. 32/21).

139. The rights of victims are regulated in Articles 53–56 of the Law on Criminal Procedure: Pursuant to Article 53 paragraph (1): "The victim of a crime has the right to participate in the criminal proceedings as a victim by joining the criminal prosecution or for

⁸ The support included medical support (psychological, psychiatric, hospitalization, dental and medications), educational (online courses and training to improve professional skills), food and hygiene supplies, clothing, therapeutic assistance (painting classes, pilates classes, video materials and workshops) and resocialization activities.

the realization of the property-law claim for damage compensation. Also, in accordance with Article 57 paragraph (1) point 3, it is regulated that in the criminal procedure the injured party has the right to submit a proposal for the realization of the property claim. The provisions for property-legal claim are contained in articles 110–120. The court decides on the property claim. With the verdict by which the defendant is declared guilty, the court decides fully on the property claim or in part, and for the remaining amount of the property claim, it directs the injured party to pursue it in a dispute. If the evidence in the criminal procedure does not provide a sufficient basis for a full or partial adjudication of the property claim, and for their additional provision there is a danger of unjustified prolongation of the criminal procedure, the court will instruct the injured party to pursue the property claim in a dispute.

Freedom of movement (art. 2, 12 and 26)

140. The Constitutional Court of the North Macedonia with Decision U. no. 189/2012⁹ as of June 25, 2014, Article 37 paragraph (1) point 6 and Article 38 paragraph (4) of the Law on Travel Documents of the Republic of Macedonia was repealed (“Official Gazette of the Republic of Macedonia” No. 67/1992, 20/2003, 46/ 2004, 19/2007, 84/2008, 51/2011 and 135/2011).

141. “The court determined that according to article 37 paragraph (1) point 6 of the Law on travel documents of the citizens of the Republic of Macedonia, the submitted request for the issuance of a passport or visa will be rejected and no passport or visa will be issued if the person is forcibly returned or expelled from another country for acting contrary to the regulations for entry and residence in that country. According to the contested Article 38 paragraph (4) of the Law, it will be considered that the reasons for rejecting the request for the issuance of a passport or visa from Article 37 paragraph (1) point 6 of this law have expired after the expiration of one year from the date of adoption of the decision from Article 39 of this law. The constitutional provision of Article 27 paragraph (3) allows limitation of the right to leave the country only due to circumstances such as protection of the security of the Republic, conduct of criminal proceedings or protection of people’s health, so that the protection of the reputation of the country and the protection of the regime for entry and stay in other countries, (e.g. the Rules for entry and stay in the countries of the European Union that are part of the Schengen zone) according to the Court’s assessment, could not be submitted under any of the stated grounds from Article 27 paragraph (3) from the Constitution. The court considered that the measure itself is disproportionate and represents an excessive restriction of the person’s freedom of movement, that is, the right to travel abroad. According to the opinion of the Court, in order for a state to restrict the right, i.e. the freedom to leave its own country, to its own citizen who possesses a valid travel document, there must be really serious and exceptional circumstances, such as those listed in Article 27 of The Constitution. For those reasons, the Court determined that the contested provisions of Article 37 paragraph (1) point 6 and Article 38 paragraph (4) of the Law on Travel Documents of Citizens of the Republic are contrary to Article 27 of the Constitution of the Republic of Macedonia.”

142. In the period from 2016–2022, 113 lawsuits were filed against the Ministry of Internal Affairs for discrimination based on belonging to the Roma community and violation of the right to free movement. The amount of damages awarded to the victims of discrimination by the court is from 25,000.00 to 30,000.00 MKD.

143. Also, citizens of the North Macedonia submitted applications against the North Macedonia to the European Court of Human Rights. They complained that they were not allowed by police officers to leave the country, which is violation of their right to freedom of movement under Article 2 of Protocol 4 (freedom of movement), Article 14 in relation with Article 2 of Protocol 4 and Article 1 of Protocol 12 of the Convention, and that this constitutes discrimination on the basis of origin as Roma.

⁹ Decision of the Constitutional Court U. no. 189/2012 (“Official Gazette of the Republic of Macedonia”, no. 106/14).

144. In the following applications from citizens of the North Macedonia to the European Court of Human Rights, friendly settlement declarations signed by the Government and the applicant were submitted, with which the applicant agrees to withdraw all claims against the North Macedonia, and the Government to pay them a monetary amount of 2500 Euros for non-material damage as well as costs:

(a) Application no: 19137/18 Vites Asanovski and others against the Former Yugoslav Republic of Macedonia;

(b) Application no: 44027/16 Muamed Abedinov against the Former Yugoslav Republic of Macedonia;

(c) Application no. 16460/17 Sejat Zekirov against the Former Yugoslav Republic of Macedonia;

(d) Application no. 43440/15 Dzenifer Dzeladin against the Former Yugoslav Republic of Macedonia and 2 other applications.

145. Since its establishment, the CPPD (Commission for Prevention and Protection from Discrimination) has not received a single complaint about discriminatory targeting and ethnic profiling of Roma at border crossings.

Treatment of foreigners, including migrants, refugees and asylum seekers and statelessness (art. 7, 9, 12, 13, 24 and 26)

146. Temporary detention of a foreigner is governed by Articles 158–161 of the Law on Foreigners. The law stipulates that for security purposes in the removal procedure, the foreigner can be detained by the Ministry of Internal Affairs for a maximum of twenty-four hours. The foreigner is immediately notified of the reasons for the detention and of the possibility, at his request, to inform the diplomatic-consular representation of the country of which he is a citizen, to make contact with a legal representative and members of their family.

147. The detention of a foreigner ends immediately after the reasons for his detention cease, and at the latest until the expiration of this term. The detention of an unaccompanied minor is immediately reported to the Center for Social Work and the diplomatic-consular representation of the country of which he/she is a citizen.

148. Article 159 regulates the accommodation of a foreigner in the Reception Center for Foreigners of the Ministry of Internal Affairs. In a special room for minors within the Reception Center, an unaccompanied minor who, for objective reasons, cannot immediately be handed over to the authority of the state of which he/she is a citizen, is housed and the Center for Social Work is notified of this for the purpose of determining a guardian in accordance with the Law on Family which respects the principle of the best interest of the child.

149. Unaccompanied minor children and families with minor children are kept in the Reception Center only as a last resort and for as short a period of time as possible.

150. The Ministry of the Interior decides on accommodation in the Reception Center with a decision. Against the decision, the foreigner can initiate an administrative dispute before a competent court in accordance with the Law on Administrative Disputes. The initiation of an administrative dispute before a competent court does not delay the enforcement of the decision. The procedure before a competent court is urgent.

151. The foreigner is temporarily kept in the Reception Center until the reasons that prevented his removal from the North Macedonia territory cease to exist, but not longer than six months. As an exception, the detention can be extended for a maximum of twelve months, under the conditions of Article 161 of this law. After the expiration of these terms, the foreigner leaves the Reception Center.

152. In practice, there have been no cases of retention for even half of the maximum stipulated term.

153. The legal framework for the right to asylum is the Law on International and Temporary Protection, adopted on April 4, 2018. The law in its entirety is in accordance with Directive no. 2013/33/EC of the European Parliament and the Council.

154. The asylum seeker may in exceptional cases be restricted in his freedom of movement, if other less coercive alternative measures in accordance with the national legislation (revocation of identification document, regular registration) cannot be effectively applied. Exceptional cases are defined in Article 63 paragraph 2 of this law.

155. Freedom of movement can be restricted by the following measures: prohibition of movement outside the Reception Center for asylum seekers or another place of accommodation determined by the MLSP or accommodation in the Reception Center for foreigners.

156. The measures are imposed for a maximum of three months, from the day when the decision was submitted, which imposed a measure restricting freedom of movement, and exceptionally, if the reasons for their imposition still exist, they can be extended for a maximum of another three months. The manner of limitation of the freedom of movement of an asylum seeker is prescribed by the Minister of the Interior.

157. The Ministry of the Interior adopts a decision on imposing a measure to restrict the movement of the asylum seeker, which determines the duration of the measure. Against the decision, the applicant for the right to asylum has the right to submit a lawsuit to the competent court within five days from the day of receipt of the decision. The lawsuit does not delay the enforcement of the decision. The procedure before the competent court is urgent.

158. With the adoption of the Law on unregistered persons in the Birth Register, a legal basis was created for solving the problem of approximately 700 persons in the North Macedonia who are without documents and personal identification.

159. They were deprived of access to health and social protection, education and no access to justice at all. These persons give birth to children who are then also not registered because their parents are persons without identification in the system.

160. The enactment of this law aimed to register persons who are not registered in the birth register in a separate birth register, in order to obtain a birth certificate from the separate birth register and an identification document, in order to exercise basic human rights, such as the right to education, health care, social protection and employment with mandatory social insurance.

161. With the identification document issued by the Ministry of the Interior, the persons registered in the special register of births prove their identity to the competent authorities and institutions in relation to the exercise of their rights in the field of education, health care, social protection and employment with mandatory social insurance, however not for acquiring the North Macedonia citizenship.

162. From October 2020 to September 2021, 83 cases have been resolved so far, that is, extracts from the special birth register have been issued for 83 people. Preparation of decisions for 62 persons who submitted a request for registration in the special registry book for those born in Skopje is in progress. Regarding submitted requests for filling out new questionnaires in 2021 for the period from 01.01.2021 till the month of September, questionnaires were filled out for six people.

Access to justice, independence of the judiciary and fair trial (art. 2 and 14)

163. With the Justice Sector Reform Strategy 2017–2022 and the Action Plan for its implementation, adopted in 2017, the weakest points in the justice system were determined and indicated in detail and appropriate directions, measures and activities were foreseen to overcome them. This particularly related to enabling the independence of the judiciary, access to justice and a fair trial.

164. Laws were passed in the area of the judiciary and the Public Prosecutor's Office, which were aimed at strengthening their independence and strengthening the role of the Judicial Council and the Council for Public Prosecutors, as well as their increased transparency. Strengthened criteria for the election of members of the Councils were introduced and a procedure was prescribed for dismissing a member of the Council in the event of a violation.

165. "Although since 2019, for the first time, judges have been given the opportunity to directly submit a request to initiate a procedure for disciplinary responsibility against a member of the Judicial Council they have chosen, so far no request has been submitted to initiate a procedure for disciplinary responsibility against a member of the Judicial Council. In December 2019, the Judicial Council revoked the judicial immunity of a member of the Judicial Council as the first defendant, who was charged by the Public Prosecutor's Office for prosecuting organized crime and corruption, and the court accepted the charge and started court proceedings. However, the Judicial Council did not initiate a procedure for his temporary removal from performing the function of a member of the Council."¹⁰

166. With the amendments to the Law on Courts and the new Law on the Judicial Council in 2018 and 2019, the new Law on Public Prosecutions and the amendments to the Law on the Council of Public Prosecutors from 2020 and the by-laws adopted by the Judicial Council and the Council of Public Prosecutors the following significant innovations were introduced: – strengthened, objective and measurable criteria for the election and promotion of judges and public prosecutors were introduced. The Judicial Council and the Council of Public Prosecutors have additionally adjusted with by-laws the provisions on the method of ranking during election and promotion.

167. The evaluation of the judge's work is carried out regularly every four years or an extraordinary evaluation is made when judges apply for a higher court, through defined qualitative and quantitative criteria in the ratio of 60% versus 40% and through introduced objective criteria for evaluating judges.

168. "In 2020, the Judicial Council adopted the Methodology for the qualitative evaluation of the presidents of the courts and the Methodology for evaluating the work of a judge based on the fulfillment of the qualitative criteria for judicial work. In 2021, the Methodology with indicators for determining the complexity of the cases and Rulebook on the way of forming commissions for evaluating the work of judges and presidents of courts. In 2020, the Rulebook for evaluating the work of public prosecutors was adopted, in which the evaluation criteria and procedure are explained in more detail. In 2021, the Council of Public Prosecutors adopted the Rulebook on the manner of conducting a procedure for determining the responsibility of a public prosecutor for a committed disciplinary violation."¹¹

169. Public Prosecutors are evaluated according to precisely determined criteria, among which are: promptness and efficiency, impartiality and conscientiousness, reputation and ethics – worthy of the position, and cooperation and attitude towards the parties and other employees of the Prosecutor's Office.

170. Disciplinary violations are clearly regulated and the principle of proportionality and the possibility of dismissal are incorporated only for the most serious disciplinary violations.

171. These provisions enabled transparent elections of quality judges and public prosecutors according to objective criteria of competence and merit.

172. By adopting the necessary by-laws, internal promotions were made possible for professional judicial and public prosecutor officers. Also, in 2020, Human Resources Strategies for the judicial and public prosecution network 2021–2026 were adopted, with strategic directions and priorities for overcoming the challenges and with the aim of introducing a human resources management system.

¹⁰ Comments of the Justice Reform Blue Print Group.

¹¹ Ibid.

Right to privacy (Art. 17 and 19)

173. Acting on the recommendations of the group of senior experts on systemic issues from the rule of law in connection with the monitoring of communications, the Government of the Republic of Macedonia adopted a Plan for urgent reform priorities: “The 3-6-9 Plan”, in order to efficiently and promptly fulfil the established priorities.

174. According to the plan, a new Law on Monitoring Communications and Law on Operational Technical Agency were adopted, as well as amendments to the Law on Criminal Procedure, the Law on Electronic Communications and the Law on Classified Information.

175. The Law on Monitoring of Communications regulates the procedure for implementing a special investigative measure: monitoring and recording of telephone and other electronic communications; the conditions and procedure for implementing the measures for monitoring communications for the purpose of protecting the interests of the security and defense of the state; the obligations for OTAs and operators, as well as the supervision and control over the implementation of communications monitoring measures.

176. In order to exercise civil supervision over the legality of the implementation of measures to monitor communications, the establishment of the Council for Civil Control was foreseen, which is composed of a president and six members appointed by the Parliament, who are elected on the basis of a public announcement and fulfillment of the prescribed conditions. The Council can act on its own initiative or on a petition submitted by a citizen that represents an additional guarantee for the effective performance of supervision.

177. The public prosecutor of the North Macedonia and the judge of the Supreme Court who issued the order to monitor the communications, control the legality of the implementation of the measures to monitor the communications in order to protect the interests of the security and defense of the state.

178. Pursuant to the Law on Operational Technical Agency, an Operational-Technical Agency is established as an independent and state body that provides technical connection between operators and authorized bodies, its competences and management.

179. The Law on the National Security Agency regulates the establishment, purpose, competence, management and internal organization of the National Security Agency, the manner of its work, etc.

180. The matter of the special investigative measures regulated in the Law on Criminal Procedure is fully in line with international standards. Special investigative measures can be determined, when there are grounds for suspicion of criminal acts for which a prison sentence of at least four years is prescribed, and are being prepared, are in progress, or have been committed by an organized group, gang or other criminal association, or a list of specific criminal acts specified in the law. The application of the most intrusive measures is determined by the judge of the preliminary procedure, while the Public Prosecutor determines the rest. The Public Prosecutor once a year submits a report on the special investigative measures to the Parliament that were requested in the previous calendar year.

181. The special investigative measures are carried out by the Public Prosecutor or the judicial police, under the control of the Public Prosecutor. During the enforcement of the measure, the judicial police prepares a report which it delivers to the Public Prosecutor at his request and in any case every thirty days, while after the implementation of the measures the judicial police prepares a final report which it delivers to the Public Prosecutor.

182. The duration of the measures is limited to a maximum of four months, and their extension is possible only in specific cases in a strictly defined procedure.

183. With regard to the rights of the person to whom the measures are applied, the provision according to which after the termination of the special investigative measures, if it does not harm the procedure, at the request of the affected person, the Public Prosecutor will deliver the written order, which is also significant. The concerned person can also submit the request to the court.

184. A criminal case was established for the illegal monitoring of communications and destruction of the interception of communications equipment: “Target - Fortress”, allegedly committed by four defendants, including the former Minister of Internal Affairs and the former Head of the Fifth Directorate in the Directorate of Security and Counterintelligence.

185. The indictment included 12 accused persons for the crime of criminal association in accordance with Article 394 paragraph (1) of the Criminal Code and abuse of official position and authority in accordance with Article 353 of the Criminal Code. One of them decided to plead guilty before the start of the court proceedings, so the proceedings against her were suspended and she was sentenced to a conditional six-month prison sentence, on the condition that she does not commit any new crime during the probationary period of two years. According to the indictment, the destruction of the monitoring equipment caused damage to the state budget in the amount of MKD 87, 261, 058.50.

186. According to the indictment, the former director of the Directorate of Security and Counterintelligence formed a criminal organization with the aim of conducting illegal monitoring of communications on a large scale, and in order to acquire information about all social spheres, thereby gaining political and business benefit.

187. The Basic Criminal Court Skopje, with a judgment KOK No. 55/17 from 26.02.2021, imposed prison sentences against six people: for the former director of the Security and Counterintelligence Directorate: for a period of 12 years, for two persons: for a period of 15 years, one person: for a duration of six years, for one person: for a duration of four years and for one person: for a duration of three years, while alternative measures were imposed against five persons: a suspended sentence with a determined prison sentence for a duration of two years, which will not be enforced, if the defendants do not commit a new crime within the next five years. After an appeal was filed against the court’s decision, the Court of Appeal annulled the first-instance verdict and returned the case to the Basic Criminal Court of Skopje for further proceedings and decision-making.

188. The Skopje Court of Appeal, while reviewing the verdict, concluded that the first-instance court, when dealing with the case, committed substantial violations of the provisions of the Law on Criminal Procedure, which are of an absolute nature (which the second-instance court pays attention to ex officio), which called into question the factual situation and the correct application of the Criminal Code.

189. The legal and institutional framework relating to the protection of personal data in the North Macedonia is established by the Law on the Protection of Personal Data, which fully transposes Regulation (EU) 2016/679 of the European Parliament and of the Council for the Protection of Natural Persons in relation to the processing of personal data and the free movement of this data and for the repeal of Directive 95/46/EC (General Regulation for the Protection of Personal Data).

190. The law was adopted by the Parliament and entered into force on February 24, 2020. The Law regulates the protection of personal data and the right to privacy in connection with the processing of personal data, and in particular, the principles related to the processing of personal data, the rights of the subject of personal data, the position of the controller and the processor, the transfer of personal data to other countries, the establishment, status and competences of the Agency for the Protection of Personal Data, special operations of personal data processing, legal remedies and responsibility in the processing of personal data, supervision over the protection of personal data, as well as offenses and misdemeanor proceedings in this area.

191. Article 249 of the Law on Criminal Procedure stipulates that samples for carrying out DNA analysis can be taken when it is necessary for the purpose of identification of persons or for the purpose of comparison with other biological traces and other DNA profiles, and this does not require the consent of the person. If no proceedings are initiated, the samples taken in accordance with this article may be kept until the criminal prosecution expires, according to the provisions of the Criminal Law.

192. The Guidelines for the manner and methods of criminal technical registration and identification of persons and unknown corpses and the Police Law regulate the procedure for

providing biological material for DNA analysis and the handling of the obtained DNA profiles.

193. The deadlines for keeping DNA data are regulated by the amendments to the Law on Police from 2022, while additional by-laws are being drafted for their deletion. The revision of the Guidelines is in progress, which will be harmonized with the changes in the Law on Police and the expert recommendations from the conducted assessment of the capacities of the Department for Criminal Technical Examinations and Expertise in the Ministry of the Interior for automated processing and exchange of DNA data.

Freedom of conscience and religious belief (art. 2, 18, 22 and 26)

194. According to the Law on the Legal Position of a Church, religious community and religious group, all churches, religious communities and religious groups are equal.

195. No church, religious community or religious group receives public benefits that cannot be received or enjoyed by another church, religious community or a religious group. Registration is not a recurring process. There is no license, or any kind of permission to perform their activity.

196. With the registration, religious entities acquire the status of a legal entity and are entered in the Single Judicial Register of Religious Entities, which is maintained by the Basic Civil Court in Skopje, as well as in the Central Registry of the North Macedonia. The Commission for Relations between Religious Groups and Religious Communities keeps records of registered churches, religious congregations and religious groups.

197. All those who were registered before the adoption of the new law in 2007 had a legal obligation to submit a request for registration in the new register, and at the same time, they were recognized with the already acquired legal subjectivity. Independent and effective supervision over the registration of religious entities is carried out by the Basic Civil Court in Skopje as the competent court for registration. This ensures non-interference in the executive process and legal remedies are available after any court decision.

198. In the cases of Application No. 3532/07: Orthodox Ohrid Archdiocese (Greek-Orthodox Ohrid Archdiocese of the Peć Patriarchy and the application no. 48044/10: Bektashi Community and Others), The European Court of Human Rights found that the Republic of Macedonia violated the applicants' right to freedom of association due to the authorities' refusal to register them as religious entities (violation of Article 11 interpreted in terms of Article 9).

199. The Government submitted to the Committee of Ministers of the Council of Europe a Revised Action Plan for the implementation of the Judgment from November 16, 2017, effective on April 9, 2018, and the Judgment of April 12, 2018, effective on September 10, 2018:

"II. Individual measures

9. The authorities took measures to ensure that the violations ceased and the applicants were compensated for the negative consequences.

A. Reopening of the domestic procedure

10. At the outset, the authorities indicate that the domestic legislation provides for a concrete and effective way to obtain reconsideration of the applicants' cases. In particular, the provision of Article 400 of the Law on Civil Procedure, gives the opportunity to submit a request for the re-opening of the procedure after the judgment of the European Court established a violation. Information regarding the re-opening of the dispute procedure is provided below.

11. The authorities would like to point out that the current judgments and findings of the Court were discussed during the 15th meeting of the Interdepartmental Commission for the Enforcement of Decisions of the European Court of Human Rights, held on 20 September, 2018. Pursuant to the legal powers, the Commission, among other things, adopted conclusions recommending the registration court to inform the

Government Agent whether the applicants requested the reopening of the disputed procedure or submitted new applications for the registration of their associations. The Commission also recommended the registration court to take into account the Court's findings and principles in case the applicant associations file a request for re-opening of the disputed procedure or a new request for registration.

(i) Orthodox Ohrid Archdiocese

12. In June 2018, the applicant, the Greek Orthodox Ohrid Archdiocese of the Patriarchate of Pec, submitted a request to the Basic Court Skopje II (registry court) for "enforcement of this judgment" and for registration under the name "Greek Orthodox Ohrid Archdiocese of the Patriarchate of Pec" through Mr. Jovan Vraniskoski. Following this request, on October 1, 2018, in a letter (first letter) and February 22, 2019 (second letter) addressed to the applicant – Association, the registry court called upon it to reconsider, within thirty days, the use of the reference "Archdiocese of Ohrid" in its name and to submit documentation according to the Law on the Legal Status of Churches, religious communities and religious groups.

28. The authorities would like to emphasize that the applicant – Association did not submit new documentation for registration, despite numerous invitations from the registration court.

30. In addition, the authorities would like to note that in accordance with the relevant legislation, the applicant association has the right to submit a new application for registration together with new documentation which the domestic courts are expected to examine in a manner consistent with the Convention. To the best of the Government's knowledge, the applicant – Association has not submitted a new request for registration.

32. On December 15, 2021, the Constitutional Court made a decision rejecting the request of the appellant – Association, due to lack of jurisdiction.

(ii) Bektash community

33. On October 8, 2018, the applicant, the Bektash community, submitted requests for the reopening of the two above contested proceedings to the Basic Court Skopje II (now, the Basic Civil Court Skopje). Following this request submitted by the Bektash Community (Bektash Religious Community of the Republic of Macedonia), on October 22, 2018 (first letter) and February 22, 2019 (second letter), the registration court sent letters inviting the applicant to submit documentation within 30 days, in accordance with the Law on the Legal Status of Churches, Religious Communities and Religious Groups.

34. Also, taking into consideration the fact that on November 7, 2017, another religious community was already registered in the Judicial Register of Churches, Religious Communities and Religious Groups with an identical name to the name of the applicant – Association, the applicant was advised to consider changing your name.

35. On November 30, 2018, the association of the applicant, the Bektash community, replied that they consider that there is no need to submit new documents for registration. In this context, it was pointed out that they do not intend to reconsider any changes in their name. The same letter of the applicant – Association was sent to the court on March 26, 2019 and requested the court to hold a hearing.

44–46. Due to the lack of any communication from the applicant association after the hearing, held on July 10, 2019, other hearings scheduled for September 30, October 24, and November 20, 2019 were postponed, following a request submitted by a representative of the Bektash community.

47. On March 3, 2020, the registry court rejected the request of the applicant – Association for the re-opening of the disputed procedure because the applicant association did not comply with the court requests repeated on four occasions.

49. *The appellant – Association challenged the Decision of March 3, 2020 before the Court of Appeal. On September 30, 2020, the Court of Appeal accepted the appeal, reversed the first-instance decision, and remanded the case.*

50. *After returning the case, the registry court scheduled several hearings, on February 26, 2021, March 9, 2021 and March 24, 2021. At the request of the representative of the applicant – Association, the hearings were postponed (except for the hearing scheduled for February 26, 2021, which was postponed due to the announced protests).*

51. *On May 18, 2021, after the hearing, the registry court issued a decision approving the reopening. In that way, it canceled the contested decisions from 2009 and 2011. The decision became final on September 29, 2021.*

52. *On January 5, 2022, the registration court sent a letter to the representative of the applicant – Association, inviting them to state the name under which the association wishes to be registered and to submit new documentation in accordance with the provisions.*

53. *The retrial is currently ongoing before the registry court. The authorities undertake to inform the Committee of Ministers about the outcome of this procedure.”¹²*

Freedom of expression (art. 19 and 20)

200. According to the data from the Public Prosecutor’s Office, ten criminal charges related to threats, harassment and attacks against journalists were processed during the reporting period, including through social media, while five criminal charges were dismissed with a decision to dismiss the criminal charges, in relation to four criminal reports, indictments were submitted, after which, two convictions and two acquittals were pronounced by the competent court, and in relation to one criminal report, a proposal was submitted for the issuance of a criminal order. With one of the convictions, an alternative measure of suspended sentence was imposed, with which the accused was sentenced to three months in prison, which will not be carried out if he does not commit a new crime within one year, and with the other conviction, the defendant was sentenced to one year and eight months in prison.

201. “In 2017, two journalists reporting on a protest were physically attacked by unknown persons – participants in the protest, because they did not belong to a pro-government media. They were hit several times, as a result of which they suffered physical injuries, after which they were kept in the hospital for 24 hours. The case was reported to the police and the Public Prosecutor’s Office opened an investigation, with the court imposing a prison sentence of six months on the attackers. Threats and insults were directed against a journalist and deputy editor of a portal via the Telegram social network. An indictment was filed for the crime of Endangering security, and on March 16, 2020, the court sentenced the person who sent these messages to one year and eight months in prison. In December 2021, a court verdict was passed – a suspended sentence with a suspended prison sentence for the perpetrator of this crime in favor of JAM (Journalist Association of Macedonia) for an online threat written on JAM’s Facebook page. This is the first example of the Prosecution Office and the Court investigating and sanctioning a serious online threat directed at journalists.”¹³

202. “JAM recorded a total of five attacks and gross threats during 2021, which is a decrease compared to 2020, when fourteen such incidents were recorded by JAM. In addition, in the State Department’s 2021 report it has been determined that there is progress in respecting the freedom of the media and freedom of expression in North Macedonia, but there are still problems that persist from previous years, such as violence and intimidation of

¹² Revised Action Plan: Orthodox Ohrid Archdiocese (Greek-Orthodox Ohrid Archdiocese of the Peć Patriarchy), app. no. 3532/07, judgment of 16 November 2017, final on 9 April 2018: [https://hudoc.exec.coe.int/eng?i=DH-DD\(2022\)354E](https://hudoc.exec.coe.int/eng?i=DH-DD(2022)354E).

¹³ “North Macedonia indicators for the degree of freedom of the media and the safety of journalists 2021”.

journalists, and that the response from the institutions in terms of the protection of journalists and media workers is slow and ineffective.”¹⁴

203. In 2021, a positive step was taken because the amendments and additions to the Criminal Code and a new Law on Civil Liability for Insult and Defamation were made.

204. Regarding the proposed amendments to the Criminal Code: new criminal offenses are introduced: “Hindering journalists in the performance of their professional tasks” and “Attack on journalists in the performance of their professional duties” and in certain criminal offenses a qualifying form is prescribed if the crime is committed against a journalist, for which stricter penalties are prescribed. These are the following criminal acts: Murder, Obstructing an official in the performance of an official act, Endangering security and Coercion.

205. With the proposed changes, journalistic teams will receive increased protection in the performance of their professional obligations. The protection will be in accordance with international and European standards and the practice of the European Court of Human Rights, which in several decisions emphasized that the “positive obligation” of the state, based on Article 10 of the European Convention on Human Rights, (for) a safe environment for enjoyment of freedom of expression (*Özgür gundem v. Turkey*, 2000 *Dink v. Turkey*, 2010).

206. The Law on Civil Liability for Insult and Defamation was adopted in November 2022. This law removes the deficiencies found in its application after its adoption in 2010, when insult and defamation were decriminalized and civil liability was prescribed for them. The law significantly reduces the maximum amounts that the court can award as compensation for non-material damage caused by insult or defamation by a journalist in the exercise of a journalistic profession, by an editor or the person who replaces them or by a legal entity. JAM was part of the process of drafting these legal amendments and all their proposals were accepted.

207. The Academy for Judges and Public Prosecutors, in cooperation with JAM, continued to conduct trainings with journalists and representatives of the judiciary in 2021, and in addition, topics related to freedom of expression are part of the Academy’s regular training curriculum, intended for judges and prosecutors.

208. With the entry into force of the Law on Audio and Audiovisual Media Services in 2014, the Broadcasting Council was renamed the Agency for Audio and Audiovisual Media Services, the structure of which and its competencies are determined by the aforementioned law.

209. The legal amendments of December 31, 2018 introduced a provision that prohibits advertising for state bodies, state administration bodies, public enterprises, local self-government units, public institutions and institutions, as well as legal entities with public powers and commercial companies in full state ownership, but that does not pertain to broadcasters. At the same time, with the mentioned changes, the provisions for the right to compensation for covering the costs of the broadcasters in the amount of 50% for the production of domestic documentary and feature programs were abolished.

210. With the abolition of the broadcasting fee in 2017, the Agency is partially financed by the Budget of the Republic of North Macedonia. Although the Law provides that the percentage of funds that will be transferred to the Agency will constantly increase so that it will amount to 0.8% in 2019, 0.9% in 2020, i.e., 1% starting from 2021, this percentage not only has been reached, but is constantly decreasing (in 2022 it is approximately 0.4% of realized revenues in 2021).

¹⁴ Comments of the Justice Reform Blue Print Group.

Rights of the child (art. 2, 7, 23, 24, 26 and 27)

211. In February 2022, the KZD adopted a general recommendation for the desegregation of Roma children in education¹⁵. In the general recommendation, the KZD recommends that the competent authorities of the local self-government undertake activities for consistent compliance with the area acts in their municipalities, which would aim at the desegregation of Roma children. It also recommended an increase in teaching assistants in schools, which will lead to greater socialization and respect between children, greater cooperation between municipal authorities and civil society organizations in terms of sensitization of non-Roma parents.

212. In view of the legal solution in relation to the Law on Basic Education, the CPPD (Commission for Prevention and Protection from Discrimination) recommended that the Ministry of Education and Science determine stricter criteria for enrolling a child in another area, which would reduce the outflow of children to other schools, which would contribute to the reduction of segregation.

213. In Article 5 of the new Law on Basic Education from 2019, it is prescribed that any discrimination is prohibited in basic upbringing and education.

214. In primary education, policies and curricula are created based on the principles of the Convention on the Rights of Children. Curricula, textbooks and other teaching materials include content that present people from vulnerable groups as equal members of society and encourage tolerance, equality and respect for diversity.

215. Given the fact that in the 2021/2022 academic year, the implementation of the new curriculum for the first and fourth grades began, about 3,000 grade schoolteachers were trained for gender sensitivity. For the academic year 2022/2023, when, according to the new concept, a new curriculum is being introduced for second and fifth grade students, training is also planned for an additional group of teachers.

216. Acting in accordance with the Law on Secondary Education, the Ministry of Education and Science allocates funds in the amount of up to 30,000 denars per school every year for activities that induce respect for differences, multicultural values and individualized approach to students.

217. In 2018, the implementation of the Roma educational mediators program (a previous measure from the National Roma Strategy 2014–2020) began with the hiring of 20 local educational mediators in 16 municipalities in the Republic of Macedonia. This measure ensures an increase in the coverage of Roma children in primary education, a reduction in the number of students who drop out of school, strengthening the ties between the Roma community, parents and schools, and combating social exclusion.

218. The North Macedonia legislation guarantees criminal-legal protection and the right to appeal before the Ombudsman and CPPD (Commission for Prevention and Protection from Discrimination) for the protection of the child's right against ill-treatment.

219. According to the Law on the Ombudsman, the Ombudsman is authorized to protect the rights of citizens as individuals, and within that framework, the rights of children guaranteed by international acts ratified in accordance with the Constitution, which represent part of the internal legal order.

220. A petition can be submitted by the child personally, by the parent or by the guardian on behalf of the child and any other person, authority or organization who will come to knowledge that the child's right has been violated. When the Ombudsman ascertains that the constitutional and legal rights of the child have been violated, it can give recommendations, suggestions, opinions and indications on how to remove the ascertained violations.

221. According to the Law on Prevention and Protection from Discrimination, persons who believe that they have suffered discrimination can submit a complaint to the CPPD. With a

¹⁵ General recommendation no. 08-244 from 27.04.2022, available at: https://kszd.mk/wp-content/uploads/2022/04/0807-244_1_Општа-препорака-сегрегација.pdf.

written opinion and after the established discrimination, the Commission recommends a way to remove the violations of the right.

222. In the past three years, the National Strategy for Deinstitutionalization has been actively and dedicatedly implemented. Institutions that provided residential care for children have already been transformed and no longer accommodate children without parental care and children with disabilities. With this Strategy, activities are carried out in the direction of reducing the risks of ill-treatment of children, among other things, services in the community such as early childhood development, inclusive education and other appropriate services are developed in parallel.

223. A total of 20 small group homes were established in Skopje, Negotino, Bitola, Demir Kapija and Stip, which accommodate between three and seven children without disabilities, that is, up to five children with disabilities. 24-hour care is provided for them by professionals and caregivers, including more than 40 new employees. For all employees working in group homes, trainings were provided for working in an extra-institutional environment and for care based on the user's personality (person-centered care).

224. The relocation of the children was done by applying the principle of best interest and an individual approach to the needs of each child. Each child placed in group homes has a family doctor selected near their residence. If necessary, employees in group homes ensure access for children, according to medical instructions, to secondary or tertiary health care.

225. During 2021, a Law was passed to amend the Law on Social Protection, which enabled the application of a new model for assessing the needs of persons with disabilities in accordance with the International Classification of Functioning.

226. With the reform of the social protection system, which was implemented in 2019, as providers of social services in addition to public institutions, it was possible to include the local self-government, as well as associations, natural persons and the private sector. In this direction, a system of licensing of social service providers was introduced.

227. Professional workers from the Centers for Social Protection in working with children prepare an individual plan in which the measures and activities undertaken to help the child and their family members, the bearers of the measures and the time for their implementation are determined. Based on the implementation of the individual plan, appropriate measures are taken to protect and realize the best interest of the child.

228. The child or his/her legal representative can submit a report to the Center for Social Work and the MLSP and express dissatisfaction with the actions of the service providers. After the notification, the Public Institution for Social Activities-Skopje acts by conducting supervision over professional work in the institution and its employees, and a Report is drawn up in which deadlines and recommendations/measures that need to be taken to overcome the detected irregularities/shortcomings are determined.

229. MLSP carries out inspections in order to determine the legality of the actions of the professionals in the Centers for Social Work and implementation of the procedures within the legal deadlines.

230. In the past years, the Public Institution Social Activities Office-Skopje acted in seven cases of complaints concerning children/persons with disabilities who use services from public social service providers. The institution followed the action of the competent institutions to remove the identified shortcomings and concluded that for two children with disabilities their inclusion in the educational process was enabled, for two people the service of staying in the day care center was adjusted according to their individual needs, for one child, health care was provided and for one child, the European Court of Human Rights issued a verdict that established that North Macedonia violated Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Participation in public affairs (art. 25–26)

231. CPPD on 03.12.2021 issued a general recommendation by which it instructed the State Election Commission (SEC) to take all necessary actions in the shortest possible time

in the direction of ensuring accessibility and appropriate adaptation of the polling stations, which will enable equal access to persons with physical disabilities to and in the polling stations throughout the country. These measures and actions should ensure that voting procedures, facilities and materials are appropriate, accessible and understandable for persons with disabilities, in order to exercise the right to participate in public and political life of persons with disabilities on an equal basis with others.

232. The SEC constantly monitors the need for the protection of the rights of persons with disabilities and, in accordance with the possibilities provided by law, continuously undertakes activities for the protection of the rights of persons with disabilities. In that direction, the campaign for voters is also conducted with sign language, the sessions of the SEC are followed by sign language, a few election cycles ago Braille alphabet was in use during voting, during the elections, the SEC has provided a special telephone line for persons with disabilities and equipment for inaccessible polling stations, which is delivered, if necessary, on election day to a specific polling station for which such a need arose.

233. As part of the certified trainers, persons with disabilities were hired to train electoral authorities on the rights of persons with disabilities, and an interactive e-course for the inclusion of persons with disabilities was introduced, which is publicly available through the website of the SEC.

Minority rights (Art. 25 and 27)

234. The North Macedonia continued to upgrade the legal framework in accordance with the Ohrid Framework Agreement. In 2020, the Early Parliamentary Elections for MPs were held in the Parliament and there were 943,750 voters or 52.02% of the total number of registered voters voted. Out of a total of 120 deputies, in the last parliamentary composition, 78 (65%) are Macedonians, 32 (26.7%) are Albanians, three (2.5%) are Turks, one (0.8%) is Roma, two (1.7%) are Serbs, one (0.8%) are Bosniaks, one (0.8%) are Vlach and two (1.7%) are other.

235. In 2014, the Parliament of the Republic of Macedonia adopted the Law on Administrative Officials and the Law on Employees in the Public Sector. Article 20-a of the Law on Employees in the Public Sector regulates the content of the annual employment plan, whereby it is determined that employment in public sector institutions is carried out on the basis of annual employment plans that are prepared according to the Methodology for Employment Planning in the public sector, in accordance with the principle of adequate and fair representation. According to the Methodology, the Annual Employment Plan contains three parts, where the third part should contain a plan for the distribution of the number of new hires in the coming year by community affiliation.

236. After the constitutional amendments of 2001 and the adoption of the Law on the Ombudsman in 2003, the Ombudsman monitors the conditions of respect for the application of the principle of adequate and fair representation of the members of the communities and the principle of non-discrimination in the bodies of the state government, the bodies of local self-government units and in public institutions and services.

237. Implementing the constitutional and legal competence, the NP annually conducts research on the degree of implementation of the principle of adequate and fair representation among the institutions from the public sector. According to the Report on monitoring the situation with the application of the principle of adequate and fair representation for 2020: from 2007 to 2020 (except 2019), the following situation can be observed. The representation of: Macedonians in the public sector from 83.72% in 2007 to 73.3% in 2020, Albanians from 10.8% in 2007 to 20.1% in 2020, Turks from 1.1% in 2007 and in 2020 it is 2.1%, Roma employed in the public sector in 2007 was 0.8% and in 2020 their representation is 1.3%, Bosnians in 2007 were represented by 0.3% and in 2020 by 0.5%, while all those who declared themselves as belonging to some other ethnic community that is not listed in the Preamble of the Constitution, are represented by 0.6% of the total public sector employees in 2020.

238. The Secretariat for the Implementation of the Ohrid Framework Agreement from 2020 has been transformed into the Ministry of Political Systems and Inter-Community Relations, which performs the tasks relating to: functioning of the political system, provision and coordination of support to the Government in the realization of the strategic priority related to the obligations arising from the Framework Agreement, provision and realization of financial resources necessary for the successful implementation of the process of realization of the obligations arising from the Framework Agreement within the framework of the Budget and from donors and other authorities regulated by law.

239. On March 14, 2019, the Law on the Use of Languages was adopted:

- Pursuant to Article 1 of this law, the official language of the entire territory of the North Macedonia and its international relations is the Macedonian language and its Cyrillic alphabet. In paragraph 2, it is determined that another language spoken by at least 20% of the citizens is also an official language with its alphabet, according to this law;
- In all organs of the state government, central institutions, public enterprises, agencies, directorates, institutions and organizations, commissions, legal entities that exercise public powers in accordance with the law and other institutions, the official language in addition to the Macedonian language and its alphabet is the language that at least 20% of citizens speak and its alphabet, in the manner determined by this law. (Paragraph 3);
- Paragraph 4 stipulates that in local self-government units, the language and alphabet used by at least 20% of the citizens is the official language, in addition to the Macedonian language and its Cyrillic script. The bodies of the local self-government units decide on the use of the languages and scripts spoken by less than 20% of the citizens in the local self-government units;
- In Article 2 it is determined that: "Citizens have the right to use any of the listed official languages and their alphabets from Article 1 paragraph (1) and (2) of this law, and the institutions from Article 1 paragraph (3) of this law as and other institutions have the obligation to enable citizens to use, and to apply those official languages and their alphabets in any procedure, as well as the implementation of those procedures in that official language and alphabet.";
- Paragraph (3) of this article determines the scope of application and the institutions in which the official language, in addition to the Macedonian language and its alphabet, there is the language spoken by at least 20% of the citizens of North Macedonia and its alphabet: the Parliament, the President, the Government, the Public Prosecutor's Office, the Constitutional Court, the Ombudsman, in the electoral process, education, science, health, culture, in the application of police powers, in broadcasting, notary, enforcement, infrastructure facilities, birth records, personal documents, finance, economy, as well as in other areas;
- Article 3 stipulates that elected or appointed officials of the institutions from Article 1 paragraph (3) and Article 2 paragraph (3) of this law, as well as other institutions whose headquarters are in Skopje or the municipalities in which at least 20% of the citizens speak the language other than the Macedonian language, in their official communication they use the Macedonian language and its Cyrillic alphabet, as well as the language spoken by at least 20% of the citizens and its alphabet, if at least one of the elected or appointed officials speaks an official language other than the Macedonian language;
- Articles 4 and 5 regulate the use of languages in the Parliament and the Government;
- Article 6 regulates the obligations of the institutions in the application of this law: "The institutions from Article 1 paragraph (3) and Article 2 paragraph (3) of this law, as well as all other institutions, are obliged by official duty to ensure that the use, communication and procedures, take place in the language that is spoken by at least 20% of the citizens in the North Macedonia and its alphabet, if the person, that is, the participant, speaks a language spoken by at least 20% of the citizens in the North Macedonia.";

- Articles 9 to 12 regulate the use of languages in court proceedings, in the enforcement of sanctions, in proceedings before a notary and enforcement agents, and registry office;
- Pursuant to Article 9 paragraph 1: “In judicial, administrative, enforcement proceedings, sanctions enforcement proceedings, pre-investigation and investigation proceedings, criminal and misdemeanor proceedings, litigation and non-litigation proceedings, as well as other proceedings before the courts, public prosecutor’s offices and all other authorities, bodies and institutions, the Macedonian language and its Cyrillic alphabet are used, as well as the language spoken by at least 20% of the citizens and its alphabet.”;
- All proceedings from paragraph (1) of this article are conducted in the Macedonian language and its Cyrillic alphabet and in the language spoken by at least 20% of the citizens in the North Macedonia and its alphabet if a judge, public prosecutor, party or other participant in the procedure is a person who speaks a language spoken by at least 20% of the citizens;
- Articles 13 and 14 regulate the use of languages when issuing an identity card and forms of travel and other documents. Pursuant to Article 13: “For citizens who speak a language other than the Macedonian language, which is spoken by less than 20% of the citizens of the North Macedonia, the form of the identity card is printed in the language and alphabet used by the citizen.”;
- In order to achieve the goals of this law, promotion, protection and uniform application of the official language spoken by at least 20% of the citizens of the Republic of Moldova and its script, the Agency for the Application of the Language Spoken by at least 20% of the Citizens of the Republic of Macedonia was founded, with the capacity of legal entity, responsible for standardizing and uniform use of the language spoken by at least 20% of the citizens of North Macedonia and its letter with auxiliary bodies to support the institutions from Article 1 paragraph (3) and Article 2 paragraph (3) of this law, as and all other institutions. (Article 18);
- Pursuant to Article 20: “For the supervision of the full and consistent implementation of the provisions of this law relating to the use of languages, an Inspectorate for the use of languages is established within the Ministry of Justice as a legal entity.”

240. Bearing in mind Article 20 of this law, on October 21, 2019, a Law on the Inspectorate for the Use of Languages was adopted:

- This law regulates the competence, organization and procedures of the inspection supervision of the inspectorate. The purpose of this law is to organize an efficient system of inspection supervision over the implementation of Amendment V of the Constitution, as well as the provisions of the Law on the use of languages in the territory of North Macedonia;
- Inspection supervision in the field of the application of Amendment V of the Constitution of the Republic of North Macedonia and the provisions of the Law on the Use of Languages is carried out by the Inspectorate for the Use of Languages as a body within the Ministry of Justice. The inspectorate has the capacity of a legal entity;
- The supervision includes: supervision over the application of the Law on the use of languages in proceedings before the institutions, supervision over the names and seals of the institutions, supervision over the names of infrastructure facilities, supervision over the publication in the “Official Gazette of the Republic of North Macedonia” of laws, by-laws, decisions and announcements and other things determined by law, which refer to the application of the Law on the use of languages. Inspection supervision is carried out in accordance with the provisions of the Law on Inspection Supervision.

241. In 2020, a Law on the rights of communities that are less than 20% of the population was adopted. This law governs the realization, promotion and protection of the rights of members of the communities that are less than 20% of the population in the guaranteed by

the Constitution, as well as the supervision over the implementation of the provisions of this law and the laws that establish those rights.

242. The realization, promotion and protection of the rights of the members of the communities, in accordance with this law, especially refers to the areas of protection of the rights of the communities, their identity, the use of language and writing, education (primary, secondary and higher), culture, the media and employment in accordance with the principle of adequate and fair representation of the members of the communities as well as other areas in which the rights of the members of the communities are regulated by law.

243. For the realization, promotion and protection of the rights of the members of the communities that are less than 20% of the population in the North Macedonia guaranteed by the Constitution, as well as the supervision over the implementation of the provisions of this law and the laws by which those rights are determined is competent The Agency for the realization of the rights of communities as an independent body of the state administration with the capacity of a legal entity, with headquarters in Skopje.

244. In North Macedonia in primary and secondary schools, teaching is taught in Macedonian, Albanian, Turkish and Serbian language of instruction. According to the concept of nine-year primary education, the Roma community studies their mother tongue through the optional subject: Language and culture of the Roma, from the third to the ninth grade in five municipalities: Skopje, Šuto Orizari, Chair, Stip, Kumanovo and Kicevo, and the teaching is currently followed by over 2200 Roma students.

245. Within the framework of the free textbooks for all project, during the 2010/11 school year, for the first time, the Ministry of Education provided textbooks in the Romani language for the optional subject: Romani language and culture for the third, fourth and fifth grades. The study of the mother tongue as an optional subject: Roma language and culture is followed by difficulties due to the lack of qualified staff for quality teaching.

246. As of June 2022, the total number of Roma children enrolled in kindergartens at the national level is 462 children out of the total number of children enrolled in kindergartens, 36,711 children, which is 1.25%.

247. On the basis of a recommendation from the North Government for the exemption from participation of Roma children who are at social risk with the supported participation of local self-government units and within the framework of the project Inclusion of Roma children in preschool education until the end of the second half of the school year 2021 /2022, included 247 Roma children from families who are a social risk in twenty kindergartens.

Annex

An overview of available data on initiated investigations, charges and convictions for human trafficking offences*

1. During 2015, including the cases received from previous years, a total of 175 people were sentenced to prison. In this current year, a verdict was passed by which a person employed in the Ministry of Internal Affairs was sentenced to four years in prison.
2. During 2016, including the cases received from previous years, a prison sentence in 69 cases was imposed on a total of 85 people, while a suspended sentence was imposed on 14 people. 96 are men and three are women. The duration of the rendered prison sentences range from eight months to 18 years.
3. During 2017, including the cases received from previous years, a prison sentence was imposed on 33 persons in 33 cases, while a suspended sentence was imposed in three cases to three persons. The duration of the rendered prison sentences range from eight months to 15 years.
4. During 2018, a prison sentence was imposed on 20 people in ten cases, while a suspended sentence was imposed in 13 cases to 20 people. The duration of the rendered prison sentences range from one to six years.
5. During 2019, there are 44 final cases in which 50 people were sentenced to prison, while 33 people were sentenced to probation, and the proceedings were stopped for one person. The duration of mandatory prison sentences ranges from one to 13 years.
6. In 2020, there are 54 final cases in which 66 people were sentenced to prison, while 30 people were rendered a suspended sentence. The duration of mandatory prison sentences ranges from one to seven years in prison.
7. In 2021, there are 76 final cases in which 78 people were sentenced to prison, while 22 people were sentenced to probation. The duration of mandatory prison sentences ranges from one to 12 years of imprisonment.

Excerpt from a special report by the Ombudsman from the conducted research on the condition with domestic violence in the Republic of North Macedonia in 2019 and from January to May 2020

8. For the two examined periods, the most procedures were initiated for bodily/physical violence (total of 265 procedures), followed by mental abuse (total of 35 procedures), as well as procedures for gender-based violence (total of 32).
9. Data on the total number of victims of domestic violence by gender indicate that women are about three times more often victims than men.
10. Not a single procedure has been initiated for sexual violence, neither in 2019 nor in the research approach for 2020. In the period March – May (during the state of emergency), the most proceedings were initiated for bodily/physical violence (22), for gender-based violence (nine) and for psychological abuse (seven).
11. Conditional sentences for both periods were passed for bodily/physical violence (122 in total), then for gender-based violence (18 in total), and for psychological violence (11 in total).

* For the data of this review, the Annual Reports on the work of the National Coordinating Body for Combating Trafficking in Human Beings and Illegal Migration were used.

12. For the total number of convictions with an imprisonment sentence, according to the type of domestic violence, which were started and completed in 2019, i.e., in the period January–May 2020, the most verdicts are pertaining to physical violence with Imprisonment sentence (a total of 31), followed by prison sentences for gender-based violence (six in total), and two for psychological violence/abuse.
