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Joint Submission from Coalition Sexual and Health Rights of Marginalized Communities Skopje
with
LGBTI Support Centre – Helsinki Committee for Human Rights, Macedonia

CONTACTS

Coalition Sexual and Health Rights of Marginalized Communities Skopje
LGBTI Support Centre

Ms Natasha Boshkova, e-mail natasa.boskova@gmail.com

Tel ++ 389 75 200 805

www.coalition.org.mk

Ms Jovana Ananievska, e-mail jovana.ananievska@lgbti.mk

Tel ++ 389 78 221 665

www.lgbti.mk

A. Introduction

1. This submission has been prepared in cooperation with the LGBTI Support Centre and the Coalition Sexual and Health Rights of Marginalized Communities. It draws together information documented from two organizations that are active in the field of advocacy, provision of free legal aid and support of the LGBT community. This report reflects the legal and political situation regarding LGBTI issues and highlights the most burning issues of LGBTI community.
 - a. **The LGBTI Support Centre** is a branch office of the Helsinki Committee for human rights of the Republic of Macedonia, which works on the promotion of LGBTI rights since the 23rd of October 2012, as a continuance of the LGBTI program of the MHC from 2010. Via working with support groups, giving free legal aid, monitoring legislation and media, the Centre works on changing the social and legal status of LGBTI people in the Republic of Macedonia.
 - b. **The Coalition Sexual and Health Rights of Marginalized Communities Skopje** (hereinafter "Coalition") promotes protection and respect of the fundamental human rights of marginalized communities (sex workers, drug users, LGBTI and people living with HIV). It is established of five different organizations that deal with different target groups (HOPS, HERA, IZBOR, EGAL and STAR-STAR). The Coalition advocates for and promotes equal access to health, social and legal services and inclusion in all social processes by providing supportive environment for all people, in which equality, freedom and diversity is respected.
2. Two recommendations from the first cycle of the Universal Periodic Review, covering the inclusion of the sexual orientation and gender identity exclusively as grounds in the antidiscrimination legislative, were accepted by the Macedonian representatives. Anyway Macedonian institutions haven't fulfilled their duties regarding the rights of the LGBTI population.

B. Constitutional and legislative framework

1. Despite being a party to seven of the core human rights treaties, Macedonia has not completely incorporated these treaties into its domestic law and has failed to adopt a comprehensive legal framework for the protection of human rights of LGBTI people.
2. The Republic of Macedonia has not yet signed and ratified the Optional protocol to the International Covenant on Economic, Social and Cultural Rights and European Convention on violence against women. The signature of the Optional Protocol was a commitment that the state undertook to accomplish from the previous review circle.
3. Under the Constitution of the Republic of Macedonia the international agreements ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by law.ⁱ It guarantees equality in freedoms and rights, regardless of sex, race, skin color, national and social origin, political and religious beliefs, property and social status. However, there are gaps in the protection of human rights of LGBTI people and many individuals are unable to access effective remedies.
4. Since 1996, with the adoption of the new Criminal Code, homosexuality was no longer considered a crime. The Criminal Code provides protection against discrimination based on the difference in race, religion, nationality or ethnicity that violates the basic human rights and freedoms, acknowledged by the international community.ⁱⁱ The Code also sanctions persons who, based on a difference in gender, race, skin color, national and social origin, political and religious belief, wealth and social position, the language or other personal characteristics or circumstances, takes away or limits the rights of humans and citizens, determined by the Constitution, by law or by ratified international covenant, or who based

on all these differences gives citizens favors in contrary to the Constitution, some law or ratified international covenants.ⁱⁱⁱ

5. There are six laws where the sexual orientation is mentioned^{iv}. For example sexual orientation^v was adopted as a discriminatory basis in the Labor Relations Act with the adoption of the new labor legislation in 2005 that was approximate with the EU directives.
6. In April 2010, the Parliament adopted the Law on Prevention and Protection against Discrimination (LPPD). Even this law, as an umbrella antidiscrimination law, does not cover sexual orientation and gender identity as prohibited ground for discrimination.
7. The Law on asylum and temporary protection defines refugee status as status of a person who is not a citizen of the Republic of Macedonia and meets the conditions from the Refugee status convention from 1951 and Refugee status protocol from 1967 and who has a well-based fear of persecution on the grounds of race, religion, nationality, membership in a particular social group, or political views. Sexual orientation and gender identity of a person, as grounds for seeking asylum, should be recognized within the category of “membership in a particular social group”, but this is left to the interpretation of civil servants and there is no guarantee that such status shall be recognized on these grounds.
8. There is no clear regulation on providing legal gender recognition in a quick, transparent and accessible manner. The lack of clarity in the legislation leads to confusion regarding which institution is relevant for changing the personal identification number, which contains a code referring to a person's physical sex.
9. The interests and needs of LGBT people have not been considered during the preparation and adoption of the National strategy for equality and non-discrimination, which covers only four grounds: ethnicity, age, mental and physical disability.
10. Apart from the preventive programs of the Global Health Fund, on combating HIV, malaria and tuberculosis, and the National HIV prevention plan, sexual orientation and gender identity have not been included in any national program, strategy or plan.

C. Equality and non-discrimination

11. In 2010 Macedonia has enacted a Law on prevention and protection against discrimination (LPPD) that prohibits discrimination on various grounds. The provision also comprises grounds recognized by international documents signed and ratified by the state. Despite the commitment from the previous round of universal review, there is still a lack of explicit referral to sexual orientation and gender identity as grounds for discrimination in the anti-discrimination law.
12. During the drafting process, sexual orientation was included in the LPPD and it was erased in the final proposal to the Parliament. The Minister of labor and social policy, who was representing the draft law, clarified that “the Law covers more grounds for protection against discrimination than the foreseen European directives do, yet it doesn’t cover homosexuals since such term does not exist in the Macedonian legislation.” The reasons behind this are that it is not in compliance with the Constitution and the laws in the Republic of Macedonia”.^{vi}
13. There were many reactions on the draft law coming from National Civil Society Organizations as well as from international human rights organizations.^{vii} The Parliament debate abounded in numerous homophobic statements, “arguments” and statements. There were disputes and derogation of the sexual orientation concept: suggestions that different sexual orientations should not be adopted as a social norm, derogatory analogies, misinterpretation of sexual orientation as sodomy. There was attempt to manipulate the notion that listing “sexual orientation” in the Law is not an EU criterion. Claiming that adoption of sexual orientation as a ground for discrimination is “odd, forced and unnatural” and will bring into question the Macedonian traditional values and the “Macedonian family model”; “Argumentation” that adoption of sexual orientation in the Law will lead towards legalization of homosexual marriages (with the possibility of adopting children by the partners), and redefining of marriage leads towards “decadence, auto-destruction”, incest, polygamy. MPs used excuses that

religious institutions and the majority of parliamentary parties “are not prepared to standardize socially the private affinity of a small group of citizens that wants to redefine this society”.^{viii}

14. Member of Parliament, a doctor by vocation, stated that, “there is no need for proposing a new draft-law unless the opposition party and its NGO’s have an intention to legalize homosexuality, homosexual marriages as well as adopting children by homosexual couples”. He attempted to present his individual views as scientific to the members of the Parliament and the invited representatives from the NGO’s: “Let me explain discrimination from a scientific view”, “this is science, not demagogy”. “Transsexuality is a severe psychological disorder, upon which the ill person demands a surgical change of sex”. “I have given this explanation, these unwanted forms of intersexuality with a sexual orientation towards the same sex in order to introduce you to homosexuality as a disease that needs to be cured, not legalized, with the possibility of marriage, or adopting children by homosexual couples”.^{ix}
15. No legal changes in LPPD were made, notwithstanding the explicit observations by the European Commission that the Law is not in line with the EU legislation, since discrimination on the grounds of sexual orientation is still not included.^x
16. There is also complete legal vacuum regarding prohibition and protection of discrimination against gender identity which was emphasized by many countries in the previous review process.
17. The state failed to introduce sexual orientation and gender identity as grounds for discrimination in the Law of equal opportunity of women and men, as a crucial law that should promote and protect the rights of transgender people.

D. Hate speech and hate crime acts toward LGBTI

18. In the last few years, Macedonia is haunted by the so far strongest homophobic campaign initiated by the conservative and non-democratic political and public forces. This atmosphere is ongoing since the adoption of the LPPD and it was constantly inflamed by the political forces, media and public figures statements.
19. On the 12th of October 2012, in the frames of a public presentation related to the International Day of the Female Child, organized in collaboration with UNICEF, the Minister of labor and social policy Spiro Ristovski stated the following: *“I do not even wish to discuss the issue of allowing homosexual couples to adopt children, because I believe that a child should be brought up correctly, to grow and develop in a marriage with a mother and a father in a true and biological sense of the word.”* The same night on the 12th, in the top news term, the Minister was guest on the national TV station SITEL, well known for its pro-governmental position and explicit homophobic views. His statement was reaffirmed and supported by the journalist who aligned homosexuality with pedophilia, incest, zoophilia etc., while presenting it as a threat to the nation and the civilization, they started the homophobic campaign.
20. These statements incited discriminatory and violent acts against LGBT community. There is constant hate speech on social networks and pro-government media, which recently escalated with physical attacks on the newly opened LGBTI support center, physical attack of LGBTI activists in different cities in Macedonia as well as verbal treats expressed in public. The support center was attacked three times in five months and the attackers are not sanctioned yet. What concerns the most is the impunity of people who commit crimes against LGBT community, which is continuation of the policy of negating their rights.
21. In October 2012, few hours after the LGBTI support center was opened, the entrance window of the Center was broken. The case was immediately registered with the police which opened a procedure against unknown perpetrators. By the time this report is being written, the perpetrators are not found, and in the meantime the Center for the support of LGBT community in the Old Bazaar was the target of several more attacks (one attempted arson and another demolition of the entrance). The last attack on the LGBTI Center for support in the Old Bazaar took place on 22.06.2013, when a significant damage was done.^{xi}

22. In celebrating the International Tolerance Day, on the main city square occurred a physical attack against two activists - organizers of the March of Tolerance. The physical attack was perpetrated by a masked person who initially addressed with life threats the activists who were preparing stands with publications and leaflets of NGOs – participants in the March of Tolerance. No public condemnation of the violence by the officials was made.
23. As a result of series of cases of hate speech and crimes there were proposals from the government to make changes in the Criminal Code in its part on: sanctioning of cases motivated by hatred (including hatred on the grounds of sexual orientation and gender identity) and sanctioning of hate speech (including hate speech on the grounds of sexual orientation and gender identity). Although during the course of the legal changes concerning the decriminalization of insult and defamation it was proposed to extend the case to inciting national, racial and religious hatred, discord and intolerance (article 319 from the Criminal Code), such changes were not voted by the Parliament, as opposed to experts' recommendations.^{xii}
24. In early July 2012, about 10 activists from the newly established organization LGBT United took photos with the rainbow flag with inscriptions "gay," "lesbian," "bisexual," "transgender." The photos from this "small gay parade" went viral on numerous media, and even CNN iReport. (<http://ireport.cnn.com/docs/DOC-813337>). One of the photos was published on the Facebook wall of journalist who is known by direct incitement of violence against LGBT community.^{xiii} The photo referred to as "Small gay parade in Skopje..." provoked numerous commentators who went on spreading hate speech in Facebook against the activists of LGBT United.^{xiv}
25. The threats of violence were reported in the Ministry of Interior Affairs, but to this day there is no reaction. The same journalist continued even more actively with his homophobic campaign in the social networks, often followed by explicit calls for violence.
26. On 26.09.2012, another pro-government journalist announced through his Facebook profile a message which promoted hatred and incited violence and the elimination of homosexuals.^{xv} Having in mind that the existing decrees for protection from hate speech cover only several grounds (and not sexual orientation), the Coalition filed a criminal charge for violence to the General Prosecution with the argument that in this case there are calls for violence which endangers the security of homosexual persons. The prosecution issued a Decision which rejected the criminal charge, "since the filed case is not a criminal case to be pursued according to official entitlement."^{xvi}
27. The last attack was on 22.06.2013 on the opening of the pride week when 40 young people attacked LGBTI support center with bricks and stones, threatening the people inside the center. More than 30 people were inside the center on a movie projection on the up floor. 5 people were on the down floor in the time of the attack. One person was lightly wounded and one police officer that was out in the time was cut and wounded. It was all reported immediately and the case is ongoing.

G. Lack of protection against discrimination?

28. In 2011 the Commission for protection of discrimination (CPD) was established. Since then there were 8 cases related to discrimination against sexual orientation. The CPD found violation in only one case, three cases were dismissed and four cases are not replied although the time prescribed in the law elapsed.
29. One of the cases is against the Minister (para. 19), therefore the commission failed to respond to the call to condemn the discriminatory statements of the Minister of labour and social policy. The chair of the Commission, who is also an employee in the Ministry of labour and social policy, publicly argued that "In Minister Ristovski's statement there is neither hate speech nor it is about discrimination." The Chair of the Commission went into interpreting the party attitudes of the Minister: "He is referring to the law, but also to the party determination, which is conservative and demo-Christian and for which the family is the priority. According to the law, but also to the natural state of affairs, a new life, conception and offspring is made by a man and a woman. The family union is created by a man, a woman and children,

this cannot be a primitive community. In our country there are also forms of extra-marital communities, which surely have rights and obligations according to law – said Dushko Minovski, the Chair of CPD.”^{xvii}

H. Discrimination in the textbooks

30. In the textbook “Criminological Psychology” with author Prof. Liljana Batkoska, in chapter 6 - “The psychological map of the crime”, in the part “Transvestism” it is stated: “Transvestites can act violently only in moments of their uncontrolled impulses, when they experience unstoppable needs to cross-dress and if someone sees them or prevents them from doing so, transvestites’ violence can be very brutal, however rare, directed against the female gender, as an act of ‘revenge’ because nature has ‘punished them’ by not giving them a complete female form.”
31. The Coalition filed a petition to the CPD because the text in the textbook stigmatizes transgender persons as a deviant phenomenon, as brutal violators against the female gender, punished by nature. The existence of a textbook with contents where transgender persons are stigmatized as violent ones with uncontrolled impulses and unstoppable needs to cross-dress is a violation of the right to protection against discrimination of transgender persons and persons with non-heterosexual orientation.
32. Previously, the CPD (Opinion No. 2/27/11 from 29.06.2011) has expressed its attitude that textbooks should not include in their contents texts that stigmatize certain groups of people, especially given that the textbook has educational and behavioral function, and according to this, the contents of textbooks should not be directed towards the violation of human rights. It is precisely due to this that the Coalition asked the CPD to confirm discrimination on the grounds of sexual orientation and gender identity in the use of the textbook “Criminological Psychology” and to give a recommendation to the Faculty of Security to withdraw the same textbook from usage. The CPD reached an opinion where it affirms that the contents of the textbook is not discriminatory, but scientific.

I. Lack of protection against domestic violence of same-sex partners

33. On 17.05.2012 the Helsinki Committee for Human Right in the Republic of Macedonia submitted an initiative to the Supreme Court to undertake a procedure for reviewing the constitutionality of article 96-b, paragraph 3 from the Family Law.^{xviii} Certain media intentionally made manipulations around the initiative, trying to represent it as an initiative to legalize same-sex marriages, striking an open homophobic campaign at that. This was used as a reason for the Minister of labor and social policy to make a statement where he reaffirmed “the family and marriage... as a community between a man and a woman.”^{xix}
34. On 28.11.2012 the Supreme Court decided to reject the initiative (Number: 71/2012-0-0). In its decision, the Supreme Court proclaimed itself incompetent with the following argument: “...according to the Court, with the contested article 94-b, paragraph 3, the term ‘close personal relations,’ as used in article 94-b, paragraph 2, line 2 of the Law, is only being explained, i.e., defined. Having in mind the aforementioned, as well as the contents itself of the quotations in the initiative, it unambiguously follows that petitioner in essence contests a decision which in its contents nothing of what according to the petitioner there should be or be regulated in certain way, of which the Supreme Court is not competent.”
35. The provided argument why the Supreme Court is not competent is logically unsustainable. Namely, what is contested is precisely the discriminatory way of regulating “close personal relations” based on gender, and the Supreme Court is competent when it comes to discrimination on the ground of gender.^{xx} What else is problematic in the elaboration? The Supreme Court operates with a concept of domestic violence, which is narrower than the definition in the Family Law, when it arrives to this conclusion.^{xxi}
36. Namely, it is not being contested that persons who live in “mutual household” are given protection from domestic violence through the decree of article 94-b, especially paragraph 2, where domestic violence

is defined.^{xxii} What is contested is that protection from domestic violence is given only to persons who have close personal relations (“personal relations between persons from different-sex couples who are or have been in partner relations, and do not live in wedlock”). Namely, nowhere in the definition of “close personal relations” is it implied that these persons live in a mutual household. What is implied is only that these “are or have been in partner relations, and do not live in wedlock.” If the legislator had protected from domestic violence also the persons who “are or have been in partner relations, and do not live in wedlock” (and not only those who have “personal relations between persons from different-sex couples”), then the persons from same gender who “are or have been in partner relations, and do not live in wedlock” are not protected from domestic violence. Therefore, the elaboration that the law’s decrees are all-inclusive is illogical.^{xxiii} According to the legislator, potential victims of domestic violence can also be persons who “are or have been in partner relations, and do not live in wedlock” but the persons from same gender who “are or have been in partner relations” are subtracted from the definition.

37. Furthermore, the Supreme Court ignores that with such regulation and definition of “close personal relations”, persons from same gender are not being *recognized* the right to have close personal relations. The non-recognition of a certain right on the ground of gender is discrimination on the ground on gender. The Supreme Court also ignored that the persons who live in wedlock are also not being recognized the right to close personal relations. Namely, the persons from different-sex couple who live in wedlock (and who “are or have been in partner relations”) are also being deprived of the right to “close personal relations.” Such way of regulating “close personal relations” represents a direct violation against the persons from same gender and the persons who live in wedlock, and who “are or have been in partner relations.”

G. Transgender issues

38. Macedonia fails to provide legal gender recognition in a quick, transparent and accessible manner.
39. Regarding the change of the personal identification number, which contains a code for the person’s sex, it is unclear which organ is relevant for such a change. Two transgender persons, who should be treated equally in the process of changing the personal number, under the same conditions, initiated the procedure in two different cities, without having completed surgery. In the end, they got different results. One of them was approved the change, while the other was rejected, with an explanation that he has not completed surgery.
40. The Coalition has continuously provided legal support to a trans person for both the local and regional courts aiming to protect the right to privacy and the recognition of gender identity by the state.^{xxiv} The trans person in question has opened a procedure for gender recognition in the personal documents and personal identification number due to the number’s specification of sex in the personal identification.^{xxv} The request made to the Directorate of Registry Office is rejected, and the Ministry of justice, being the second-instance ruling body, upheld the initial decision of the Directorate.
41. Due to the need for urgent decision on the problem, the Coalition, in collaboration with InterRights – London submitted an application to the European Court of Human Rights, demanding urgent procedure by the court. The key argument in the application is the fact that there is no efficient procedure for the legal gender recognition, which allows the competent bodies to act arbitrarily, solely on the basis of their bias against transgender person and without a legally argued decision.
42. There are no legal acts regulating the placement of convicted transgender persons in prison. The case of Andrea, a transgender person who has not yet changed the personal number, was penalized by the court with a six-month conditional sentence due to not paying child support, which created confusion in the relevant bodies.^{xxvi}
43. We refer to the written submission of “ESE” regarding the problems in the sector of health for LGBT people the trans people.

i. Recommendations

- Include sexual orientation and gender identity as a grounds for discrimination in the Criminal Code and the Law on Prevention and Protection from Discrimination.
- Include gender identity as a prohibited ground for discrimination in the Labour Relations Act.
- Amend the Criminal Code in order to sanction act of hate speech and hate crime on basis of sexual orientation and gender identity.
- Promote tolerance for LGBT people and condemn homophobic and transphobic speech and violence that can be qualified as hate crimes because of a person's sexual orientation and gender identity.
- Provide legal protection of domestic violence of same-sex partners. Amend Article 94-b, paragraph 3 of the Family Law Act (this article defines close personal relations as personal relations between persons of the opposite sex who either are, or were in partnership, but do not live in an extra marital community and enjoy the special protection from domestic violence) with the purpose of extending its effect to same-sex couples.
- Undertake measures (to initiate a procedure and to provide trainings for the professional health care workers) that will provide effective access to appropriate gender reassignment services for transgender people, including gender reassignment surgery
- Ensure funds that will cover surgery for gender reassignment.
- Adopt provisions that will clearly regulate the procedure of legal gender recognition without the requirement for forced sterilization and performance of gender reassignment surgery as pre-condition.
- Remove the textbooks for secondary school and the Medical Faculty at Ss. Cyril and Methodius University to revise and remove the textbooks for higher education which describe homosexuality or bisexuality as a disease, mental disorder, sexual perversion etc.
- Provide access for the NGOs that work on LGBT issues to take part in awareness raising programs for students in primary and secondary schools and university students, but also to hold trainings for the educational staff.
- Include topics of sexual orientation and gender identity in initial and in-service training programs for judges and other members of the legal profession and law enforcement officials.
- Amend the law on execution of sanctions in order to make it possible for the Minister of Justice to enact regulations through which it will be ensured that the gender identity of inmates is respected, especially with regards to their placement in a male or a female prison.

ⁱ Article 118, Constitution of the Republic of Macedonia 1991.

ⁱⁱ Article 417, Criminal Code of the Republic of Macedonia.

ⁱⁱⁱ Article 137, Criminal Code of the Republic of Macedonia.

^{iv} Law on Public Health, (Official Gazette of Republic of Macedonia, No. 22 of 15 February 2010) in the Section governing the activities of the Institute for Public Health and the Centres, Article 16. Law on Higher Education, (Official Gazette of Republic of Macedonia, No. 35 of 14 March 2008) in the Section governing the studies enrolment procedures and requirements, Article 108. Law on Protection of Patient's Rights, (Official Gazette of Republic of Macedonia, No. 82 of 08 July.2008) in the Section on patient's rights, Article 5; Family Law Act (Official Gazette of Republic of Macedonia, No. 157/08 of 12 December 2008), in the Section on victims of trafficking and their families, Article 177-I; Law on Establishing a National Agency for European Educational Programs and Mobility, (Official Gazette of Republic of Macedonia, No. 113 of 20 September 2008) in the Section on Youth in action program, articles 7 and 8;

^v In the Labor Law, sexual orientation is a ground for discrimination, but it is referred to as "sexual inclination", which may be considered to be discriminatory terminology which only considers the sexual act, and not all the other aspects of sexual orientation (emotional, romantic, spiritual etc.). Gender identity is not mentioned.

^{vi} Coalition Sexual and Health Rights of Marginalized Communities, Annual report 2010.

vii First one to react was ILGA Europe on 01.02.2010, calling for “non-discrimination on the grounds of sexual orientation in the draft-Law on Anti-discrimination, which is being reviewed in the Republic of Macedonia”. The letter stressed that “As a country-candidate for membership in the European Union, Republic of Macedonia is expected to introduce a comprehensive Antidiscrimination Law that shall provide protection against discrimination on 6 grounds of discrimination, including sexual orientation”. Human Rights Watch also reacted with a letter “to the Prime Minister of Macedonia” asking for amendment to the draft-Law and introduction of sexual orientation and gender identity. The representative of EU also reacted demanding that the Government respect European standards. The members of the European Parliament reacted on couple of occasions. Source: Coalition Sexual and Health Rights of Marginalized Communities Skopje, Annual report 2010.

viii Coalition Sexual and Health Rights of Marginalized Communities Skopje, Annual report 2010.

ix Notes from the 20th session of the Query Commission of the Parliament of the Republic of Macedonia, held on 16 March 2010. Also see the Annual report for 2010 of the Coalition Sexual and Health Rights of Marginalized Communities.

x The Anti-Discrimination Law is still not fully in line with the *acquis*; discrimination on the grounds of sexual orientation is still omitted. The Lesbian, Gay, Bisexual and Transgender (LGBT) community continue to suffer from discrimination and stigmatisation.“ (2012 PROGRESS REPORT,

http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/mk_rapport_2012_en.pdf)

xi In the communication issued by MIA titled “Citizens, police officers and firemen wounded during yesterday’s protests, big material damages done” there was no mention whatsoever of the damaging of LGBTI Center of Helsinki Committee, although the damaging of the Holocaust Museum, the VMRO Museum and the newly built theater were mentioned.

xii Thus, outside “the reach of such discrimination lies the provoking of other collective feelings or attitudes among members of different social groups (hatred, intolerance etc. on the ground of sexual orientation against the gay population...)” (Academic Vlado Kambovski and Doctor Mirjana Lazarova Trajkovska, “Legal analysis of the concept of criminal case and hate speech,” September 2012, Skopje, <http://www.jpacademy.gov.mk/upload/PDF%20Files/Pravna%20analiza.pdf>)

xiii In 2009 called for (<http://jadiburek.blog.mk/2009/03/27/podrshtka-za-izgradba-na-crkvata-na-ploshtad>) a counter-protest against the “bunch of gays and atheists” who “will try to spread vileness under the guise of care for the city architecture and against the building of a church.”

xiv Among the numerous insulting homophobic comments there were those who openly called for or stimulated violence: “Why was not there someone to pull them into the fountain,” “all of them in the rotary pump,” “Slaughter for all of you!,” “in the cauldron – into feet soap,” “these should be killed!!!”...

xv On his facebook profile, the journalist published the following contents: “All who are faggots should be exterminated, fuck them idiots. Freaks.” After this statement another comment was published on another profile: “All should be exterminated until the last faggot!!!!”.

xvi In the elaboration, the general prosecutor points out that “the state of this case in a way demands attitude of brutality, i.e., a continuing aggressive tendency in the personality’s behavior, on the one hand, and ill-treatment, on the other, that the rough insult, the endangering of security or the perpetration of brutal violence be manifested by way of various forms of attack against some person.”

xvii “Homosexuals are brought together by power and opposition, ” Dnevnik, 15.10.2012, <http://dnevnik.com.mk/default.asp?ItemID=CFE39E2302B8E246990D93316902F049>

xviii In the initiative of the Helsinki committee it is argued: “The contested line 3 from article 94-b defines close personal relations as personal relations between persons from different gender, who are or have been in partnership relations, and do not live in extramarital community. However, the Law neatly defines the category close personal relations, since it contains much larger number of persons who are or have been in partnership relations with other persons, and have not lived in extramarital community and the same ones could be victims of domestic violence. With such rigid and limited definition of close personal relations as personal relations between persons from different genders, the law-giver has conducted direct discrimination against the the rest of the persons who have personal relations with persons from the same gender and these have to be contained in the category close personal relations, which the Law protects.”

xix <http://coalition.org.mk/2012/06/ministerot-za-trud-i-socijala-ke-go-brani-tradicionalniot-brak/>

xx According to article 110 from the Constitution of Republic of Macedonia, “The Constitutional Court of Republic of Macedonia:... protects the freedoms and the rights of the human and the citizen that are related to the freedom of belief, conscience, thought and public expression of thought, political association and action and the prohibition of discrimination of the citizens on the grounds of gender, racial, religious, national, social and political belonging.”

xxi “The Court finds that no category of citizens that could be potential victims of family violence is deprived of protection from family violence considering paragraphs 1 and 2 of line 2 from article 94-b, which are all-inclusive.”

xxii “...[W]hat is implied [by family violence] is ill-treatment, physical injury, sexual or other psychological or physical violence which provokes a sense of insecurity, threatening or fear from the conjugal partner, parent and children or other persons who live inmarital or extra-marital community and mutual household, former conjugal partner of persons who have a common child or who is in close personal relations, including the relations that have appeared by the adoption and the guardianship, brothers and sisters, half-brothers and half-sisters, older family or household members, persons that are members of the family or the mutual household whose working ability is partially or entirely impaired.”

^{xxiii} The Court finds that no category of citizens that could be potential victims of family violence is deprived of protection from family violence.”

^{xxiv} The case is about a trans person who wants to undergo procedure for gender reassignment, but due to the incapacities of the health institution and lack of educated medical staff for the purpose of such activities was forced to seek health services in the neighbouring Serbia (as most of the other trans persons).

^{xxv} The trans person in question is in a limbo situation of inconformity of the physical outlook (male) with the personal identification documentation (which signifies that the person is of the female gender). This aggravates the communication with institutions and violates the privacy of the person on a daily basis, since he is forced to provide personal data for his health situation.

^{xxvi} Report on implementation of the Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation and gender identity by the Republic of Macedonia