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**Study on Homophobia, Transphobia and Discrimination on  
Grounds of Sexual Orientation and Gender Identity**

**Legal Report: “The former Yugoslav Republic of Macedonia”**

**by human rights advisor Ninoslav Mladenovic**

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## **A. Executive summary**

1. In “the former Yugoslav Republic of Macedonia” all citizens are equal in their rights and freedoms regardless of sex, race, and colour of skin, sex, national and social origin, political and religious belief, property and social status. The Constitution establishes a high standard of protection, respect and promotion of basic human rights and freedoms, but none of the articles explicitly state the right to and the freedom of sexual orientation or gender identity. This policy of not having a precise definition of legal norms leaves an open space for interpreting the legislation for some of the non-defined, but also not forbidden human rights to be taken as obvious.
2. Article 137 of the Criminal Code uses an open legal norm “personal characteristics and circumstances” in which the freedom of sexual orientation and/or gender identity can also be interpreted. According to the Criminal Code, if any person takes away or limits the rights of humans and citizens in this respect he or she, shall be punished with imprisonment of to three months to three years.
3. Legislation in “the former Yugoslav Republic of Macedonia” guarantees the freedom of personal conviction, conscience and public expression of thought. Article 20 of the Constitution guarantees the freedom of free establishment of an organisation or association for exercising and protecting political, economic, social, cultural and other rights and convictions. This has been incorporated into the Law on Civil Associations and Foundations.
4. As to the current status of LGBT rights and freedoms, LGBT persons are neither recognised nor protected in the national legislation.
5. Though the basic rights and freedoms are guaranteed as a part of the overall contingent of human and civil rights, there are still no positive legal regulations which can be applied for direct protection against insinuations of open or hidden discrimination. Discrimination of LGBT persons in “the former Yugoslav Republic of Macedonia” has always to be referred to as possible. Notwithstanding There is no officially recorded case of an LGBT person coming out in public as a result of which his or her rights would have been violated.
6. Freedom of assembly and association is guaranteed in the national constitution and further enshrined in national laws. These do not specifically mention ‘sexual orientation’ and ‘gender identity’ as non-discrimination grounds. There is a vivid LGBT civil society environment in “the former Yugoslav Republic of Macedonia” to promote LGBT rights.
7. Freedom of expression is also guaranteed by the Constitution. There is no particular protection of LGBT individuals in law as to this freedom and the Criminal Code also does not mention ‘sexual orientation’ and ‘gender identity’. However, the Code prohibits non-discrimination on the basis of ‘other personal characteristics or circumstances’, but this notion has not been tested in an case concerning LGBT plaintiffs.
8. In “the former Yugoslav Republic of Macedonia” only married couples have the right to social benefits, health insurance and other benefits related to life in the community and working ability. The Family Law in “the former Yugoslav Republic of Macedonia” explicitly defines marriage as a community of life between a man and a woman. The legislation does not give people of the same sex the right to either marriage, or to life

in a legally recognised community or partnership. Same-sex couples are not allowed to adopt children nor entitled to assisted reproduction.

9. The Constitution and the Law on Asylum and Temporary Protection opens the possibility for foreigners to be given asylum when the state institutions - the Ministry of the Interior and the Ministry of Foreign Affairs - decide that the reason for their arrival in “the former Yugoslav Republic of Macedonia” is the negation of their freedom, and they declare their democratic convictions and activities, which should implicitly incorporate the right and freedom to declare their sexual orientation as well.
10. There is no legal protection of LGBT individuals in the educational system nor legislation and sexual education is not objective as LGBT issues are not made part of the curriculum.
11. Labour legislation in “the former Yugoslav Republic of Macedonia” includes ‘sex orientation’ in its non-discrimination provision and covers harassment with reference to LGBT belonging.
12. Housing legislation does not recognise LGBT couples as a separate category in respect to the right to housing.
13. The right to healthcare applies equally to all on the basis of the Law on Health Protection. LGBT individuals, and in particular transgender persons, are not entitled to particular treatment. The Law on Protection of Patient’s Rights introduces the notion of ‘sexual orientation’ in an anti-discrimination clause, thereby underlying the human rights in the fields of medicine and health by explicitly including the rights of LGB persons, thus laying the legal grounds for realization and protection of the rights of the LGB persons in the healthcare sector.
14. There is no media legislation relevant to the protection of LGBT issues. No cases of media harassment are reported.
15. There is no legislation pertaining to transgender issues and the status of transgender persons in terms of official change of gender etc. is unclear.

## **B. Findings**

### **B.1. Overall Legal Framework**

#### ***B.1.1. Constitutional and intuitional position/system in the former Yugoslav Republic of Macedonia***

16. In compliance with the determination to respect and improve the humans rights and freedoms as the basis for development of democracy in the country, “the former Yugoslav Republic of Macedonia” has become party in a number of international conventions on human rights of the United Nations and, as a member to the Council of Europe, a party in the European Convention on Human Rights , Control mechanisms established with the purpose of implementation of these conventions are also recognized.
17. The table in Annex 1 contains a list of international conventions on human rights whereto “the former Yugoslav Republic of Macedonia” is party. The former Yugoslav Republic of Macedonia has inherited the majority of the UN instruments by way of succession from the former federation (SFRY), based on Article 5 of the Constitutional law on implementation of the Constitution of “the former Yugoslav Republic of Macedonia”.<sup>1</sup>
18. In the legal system of “the former Yugoslav Republic of Macedonia” the issue of relations between national and international law represents a constitutional and legal matter. According to Article 118 of the Constitution, the international treaties ratified in compliance with the Constitution become part of the national legal order and cannot be changed by law. In such a way, in the hierarchical set up of the legal norms, the international norms superimpose over the national laws.
19. The Government should supplement the preventive actions in the sphere of human rights with the constant monitoring of the jurisprudence of the European Court of Human Rights. A number of changes in several national laws over the past few years have been inspired exactly by the interpretations given by the European Court on cases in Strasbourg processed against other member states in the Council of Europe.
20. The Government plays an important role in implementation and monitoring of the fulfilment of responsibilities from the international conventions. However, with regards to the direct implementation of the international treaties into the national legal system, the key role has been assigned to the judiciary. Therefore, the constitutional concept of the rule of law insists on the independent position of the courts wherein regular processing and lawful means in the legal procedures the protection of the basic rights and freedoms is realised and the political authority is being controlled through the law. Here it is important to emphasise the unbreakable bond between the means to protect a given right and the right itself. Efficient instruments for the protection of rights and freedoms should be associated with all the declared proclamations.
21. Apart from the regular judiciary, an important role in the protection of human rights has been entrusted to the Constitutional Court of “the former Yugoslav Republic of

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1 O. Gazette of the former Yugoslav Republic of Macedonia Nos. 52/91 and 04/92.

Macedonia”, the Ombudsman, the Inquiry Commission on Human Rights of the Parliament of “the former Yugoslav Republic of Macedonia”. To know the system of institutions where the rights are being realised, including the right to non-discrimination, i.e. those institutions which serve to protect those rights, contributes to the facilitation of access by LGBT persons to those institutions, with the ultimate objective to realise and protect their rights.

22. “The former Yugoslav Republic of Macedonia” has recognised the right to submit individual petitions to the authorised bodies with the United Nations for an alleged infringement of the rights guaranteed by international conventions.
23. When ratifying the European Convention on the Protection of Basic Rights and Freedoms, “the former Yugoslav Republic of Macedonia” submitted a Declaration whereby endorsing the authority of the European Court on Human Rights, according to the Article 34 of the Convention..
24. It is through the system of the established national legislation that these rights and freedoms should become operational.<sup>2</sup> An analysis of the extent of harmonisation of the national legislation with the international standards should become an integral part of the legal reforms. In this sense, the ratification of these conventions by “the former Yugoslav Republic of Macedonia” should not represent just a formal obligation and an objective in itself, rather it should become part of a continuous process of implementation of the endorsed international standards on the national level.
25. The international documents whereto “the former Yugoslav Republic of Macedonia” is party, or have been ratified by “the former Yugoslav Republic of Macedonia”, prescribe a wide scope of rights of persons and citizens (to life, freedom, security, equality, freedom from torture, work, living standard providing for health and wellbeing, respect of privacy, other civil, economic, political and cultural rights). The listed documents, including therein the documents of the European Union, introduce a clear responsibility for the country to establish a broad anti-discriminatory clause that will also cover the sexual orientation and other status of a person. Only in this way (when there is no discrimination) will the realisation of the LGBT persons’ rights be safeguarded.
26. “The former Yugoslav Republic of Macedonia” is obliged to implement the listed international acts. The issue of the extent to which these documents are enforced is of great importance for the LGBT persons, not only on the level of formal declaration, but also in practice. The realisation of the LGBT persons’ rights is, in most cases, hindered by the ensuing stigmatisation and is more related to the practical enforcement of legal acts. It is therefore important to understand in which way the stigmatisation and discrimination hinder the realisation of rights in the practical life of LGBT persons.

### ***B.1.2. Stigmatisation and Discrimination of LGBT Persons in National Legislation***

27. If the implications of discrimination are clear, then it also becomes obvious why it is important to have a clear, precise and consistent definition of the term discrimination in the legislation, in accordance with the international documents whose anti-discrimination clauses also cover the sexual orientation and other status of the person. The legislation of “the former Yugoslav Republic of Macedonia”, from its Constitution onwards, contains anti-discrimination clauses of different coverage:

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<sup>2</sup> See Annex 2, National Legal Documents.

28. Article 9 of the Chapter II of the Constitution of “the former Yugoslav Republic of Macedonia”: “Fundamental Freedoms and Rights of the Human and the Citizen” guarantees that “Citizens of “the former Yugoslav Republic of Macedonia” are equal in freedoms and rights **regardless of sex, race, colour of skin, national or social origin, political or religious belief, wealth or social status.**”<sup>3</sup> Thus formulated, this provision in the Constitution fails to guarantee equality in freedoms and rights also regardless of the sexual orientation, gender identity (or other status). This formulation is found in many other legal documents in “the former Yugoslav Republic of Macedonia”.
29. For instance, the right to freedom of conscience through public expression of thought and faith, along with some other rights, according to Article 54 of the Constitution, cannot be subjected to restriction and discrimination **on the basis of sex, race, colour of skin, language, religion, national or social origin, wealth or social status.**
30. These rights enjoy a direct constitutional-judiciary protection based on Article 110, Paragraph 1, Indent 3 of the Constitution which defines the authority of the Constitutional Court and wherein, among other things, it has been laid down that the Constitutional Court protects the freedoms and rights of persons and citizens with regards to their belief, conscience, though and public expression of thought, political association and action and **prohibition of discrimination of the citizens based on their sex, race, religious, national, social and political belonging.**
31. The Criminal Code,<sup>4</sup> in the chapter on criminal acts against the freedoms and rights of persons and citizens, in Article 137 defines as violation of the equality of citizens, the conduct of such a person who **on the basis of difference in sex, race, colour of skin, national or social origin, political or religious belief, wealth and social status, language and other personal characteristic or circumstance,** will deprive of or restrict the rights of persons and citizens defined by the Constitution, by the law or by the ratified international treaties, or, who based on these differences gives the persons benefits contrary to the Constitution, the law and the ratified international treaties.
32. The Law on Implementation of Sanctions<sup>5</sup> **prohibits discrimination on the basis of race, colour of skin, sex, language, religion, political and other beliefs, national and social origin, kinship, wealth or social status, or any other status of the person** upon which the sanction is being implemented. The religious feelings, personal beliefs and the moral norms of the person upon which the sanction is being implemented must be respected.
33. The Law on Secondary Education<sup>6</sup> defines that everyone under equal conditions laid down in this law has the right to a secondary education. Further on, this Law **prohibits discrimination based on sex, race, colour of skin, national and social origin, political and religious belief, wealth and social status.**

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3 Constitution of the former Yugoslav Republic of Macedonia, II. Fundamental Freedoms and Rights of the Human and the Citizen, 1. Civil and Political Freedoms and Rights.

4 O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 37/96, 80/99, 4/02, 43/03, 19/04, 60/06, 73/06, 7/08 and 139/08.

5 O. Gazette of the former Yugoslav Republic of Macedonia, No. 2/06.

6 O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 52/02 – consolidated text, 40/03, 42/03, 67/04, 55/05, 113/05, 35/06, 30/07, 49/07 and 81/08.

34. The Law on Courts<sup>7</sup> prescribes that in the selection of judges and jurors there must be no discrimination with regards to **sex, race, colour of skin, national and social origin, wealth and social status**.
35. The Constitutional definition of discrimination has implications on other regulations: The Law on Civil Associations and Foundations<sup>8</sup> prescribes that the activities of the civil associations shall be prohibited if such an activity violates the **human rights and freedoms guaranteed by the Constitution** or encourages national, racial, or religious hatred and intolerance.
36. The Law on Internal Affairs<sup>9</sup> in its general provisions, defines the internal affairs as affairs relating to the protection of the **freedoms and rights of persons and citizens guaranteed by the Constitution**, as well as prevention of the onset of national, racial or religious hatred or intolerance.
37. The Law on Labour Relations<sup>10</sup> in its Article 6 prescribes prohibition for the employer to place in an unequal legal position the person seeking employment (candidate) or the person employed due to **their race, colour of skin, sex, age, health condition, i.e. disability, religious, political or other beliefs, membership in union organisations, national or social origin, family status, wealth, sexual orientation or other personal circumstances**. This Law also prohibits direct or indirect discrimination relating to: employment conditions, promotion at work, access to all forms and levels of education, all rights deriving from work relations or relating to work relations, including therein the equality of salaries, termination of the work contract, work hours, health condition i.e. disability, religious, political or other beliefs, and/**or other personal reasons**.
38. Article 6 of the Law on Labour relations offers the broadest platform for protection against discrimination by also including the *sex orientation*, albeit this term in itself possesses and expressed terminological obscurity.
39. In The Law on Culture,<sup>11</sup> Article 4 lays down that **everybody has the right, regardless of their age, education, religious, ethnic or other belonging**, to free creation, professional or non-professional, as well as the right to education in the area of culture. Culture in the sense of this law is created by artists, public and private institutions, other legal and physical entities, whereby an artist is any physical person creating a copyright work in the area of artistic creation or performs a copyright work, or a piece of the folklore, **regardless of education, legal status, registration, citizenship or other kind of belonging**.
40. The Law on Social Protection,<sup>12</sup> through the newly introduced Article 7-c<sup>13</sup> emphasises the **prohibition of direct or indirect discrimination “on the basis of sex, race, colour of skin, national, social, political, religious, wealth and social belonging** in the implementation of the rights deriving from social protection laid down in this law.”

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7 O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 58/06 and 35/08.

8 O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 31/98, 29/07 and 52/10.

9 O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 19/95, 55/97, 38/02, 33/03, 19/04 and 51/05.

10 O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 62/05 and 106/08, Resolutions by the Constitutional Court, Nos. U.br.139/2005-0-0; U.br.134/2005-0-0; U.br.187/2005-0-1; U.br.188/2006-0-0; U.br.170/2006-0-1.

11 O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 31/98, 49/03 и 66/03 – consolidated text, 82/05 and 24/07.

12 O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 16/2000, 17/03, 65/04, 62/05, 21/06 – consolidated text and 40/07.

13 O. Gazette of the former Yugoslav Republic of Macedonia, No. 40/07, The Law Amending and Supplementing the *Law on Social Protection*.



41. The Law on Mental Health<sup>14</sup> prescribes that “**discrimination**” is any form of **isolation, exclusion, estrangement or another treatment having an effect of violation or infringement of the equality of enjoying the rights, except in the cases defined by this law.**
42. The Law on Health Protection<sup>15</sup> in Article 3 Paragraph 1 prescribes that **everybody has the right to protection**, thereby prescribing a broad non-discrimination clause, the same as the Law on Mental Health.
43. The Law on Protection of Patients’ Rights<sup>16</sup> prescribes that the patient has the right to realise his right prescribed with this law, **without discrimination on the basis of sex, race, colour of skin, language, religion, political or any other thought, national or social origin, belonging to a national minority, material position, origin by birth, sexual orientation or any other status..**
44. The Law on Political Parties<sup>17</sup> obliges the political parties, by means of their action, to ensure the implementation of the **principle of equality of sexes** in their access to the functions in the political party. The Law prohibits any form of discrimination based on membership or non-membership in a political party.
45. The Law on Internal Affairs in its general provisions, **defines the internal affairs as being the affairs which relate to the protection of the freedoms and rights of persons and citizens guaranteed by the Constitution**, as well as prevention of the onset of national, racial, or religious hatred or intolerance.
46. The Law on Civil Servants<sup>18</sup> prescribes that the employment in the civil administration be in compliance with two basic principles – **equal access to workplaces in the civil sector, and selection based on capacities.**
47. The Law on Employment of Disabled Persons<sup>19</sup> regulates the promotion and protection of the rights and dignity of disabled persons.
48. The Law on Equal Opportunities of Men and Women<sup>20</sup> regulates the general and specific measures to ensure equal opportunities for men and women.
49. Anti-discriminatory clauses in legislation in “the former Yugoslav Republic of Macedonia” provide a varied coverage and are mutually inconsistent on many occasions depending on the year when the particular law has been adopted. Regardless of the great number of laws dealing with the issues relating to discrimination, the expected results in suppressing the reasons thereof are not there. “the former Yugoslav Republic of Macedonia” does not have a complete legal framework for the protection of its citizens against discrimination on various bases, and there is no consistent strategic document to precisely define long-term objectives and tasks. Although the new Law on Non-Discrimination envisages establishment of a Commission, and regulates the procedure of prevention and protection against discrimination before this Commission, it fails to provide a single and solid legal framework against discrimination in all areas relevant to the LGBT persons.

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14 O. Gazette of the former Yugoslav Republic of Macedonia, No. 71/06.

15 O. Gazette of the former Yugoslav Republic of Macedonia, No. 38/91 amended and supplemented on several occasions by 2007.

16 O. Gazette of the former Yugoslav Republic of Macedonia, No. 82/08.

17 O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 76/04, 5/07 and 8/07.

18 O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04, 69/04, 81/05, 61/06 and 36/07.

19 O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 44/2000, 16/04, 62/05, 113/05 and 29/07.

20 O. Gazette of the former Yugoslav Republic of Macedonia, No. 66/06.

50. So far the broadest protection against discrimination is provided for in the Law on Protection of the Patients' Rights, which has a tendency to become a solid legal basis for the realisation of the LGBT persons' rights in the health system and stands out as a good practice in the normative regulation of discrimination. The authorised bodies and institutions set up with the purpose to protect against discrimination i.e. to protect the rights, draw on the freedoms and rights defined by the Constitution and the laws. There is not a single case brought before these bodies whereby infringement of the right to equality i.e. discriminatory conduct towards LGBT persons has been determined, which only maintains the actual *status quo* situation in the above context.

### ***B.1.3. Institutional Mechanisms for Legal Protection***

51. The Constitution foresees several forms of constitutional-legal protection of the freedoms and rights of persons and citizens which guarantee, directly or indirectly, their realisation. In the first two forms the protection is carried out through a procedure based on the principles of their emergency and priority in the decision-making.
- **Courts of “the former Yugoslav Republic of Macedonia”:** Court authority covers the protection of citizens against individual illegal acts of the state administration and other institutions executing public competences (administrative disputes). Regular courts have a general authority for the protection of human rights.
  - **Constitutional Court of “the former Yugoslav Republic of Macedonia”:** The Constitutional Court, according to Article 110 of the Constitution of “the former Yugoslav Republic of Macedonia”, inter alia, protects the freedoms and rights of persons relating to the freedom of belief, conscience, thought and public expression of thought, political association and action and prohibition of discrimination of citizens on the basis of sex, race, religious, national, social and political belonging.,.
  - **Ombudsman:** The newly adopted Law on the Ombudsman (The Official Gazette of “the former Yugoslav Republic of Macedonia”, No. 60/03) defines the Ombudsman as a body protecting the constitutional and legal rights of the citizens that have been violated by the bodies of state administration and other bodies and organisations having public competences, that in particular pays attention to the protection of the principle of non-discrimination, adequate and fair representation of members of the communities in the bodies of the state authority, bodies of the local government, and in the public institutions and services. The Ombudsman does not reach final and executive decisions and does not decide in the right of the citizen, rather the Ombudsman is a control mechanism controlling the operation of the public administration bodies and organisations having public competences in the respect of the application of the Constitution and the laws in the implementation of a particular right of the citizen. If the Ombudsman identifies irregularities or unlawfulness the Ombudsman intervenes by giving recommendations and indications for the elimination thereof. The interventions by the Ombudsman not only help the citizens to realise their constitutional and legal rights but they also help the public bodies and organisations with public competences to improve their operation implement the civil rights more successfully.
  - **The Parliament of “the former Yugoslav Republic of Macedonia”, the Standing Inquiry Commission on the Protection of Citizens' Freedoms and Rights:** the Standing Inquiry Commission on the protection of the Citizens' Freedoms and Rights has the objective of ensuring the protection of freedoms and rights of the citizens in cases of their violation in practice or their

infringement by the state administration bodies. The establishment of this Commission makes it possible to launch a procedure for determining the liability of a person charged with public competences.

- ***The Government of “the former Yugoslav Republic of Macedonia” and the bodies of state administration:*** On the level of Government and the bodies of state administration, the institutional mechanisms safeguarding the principle of non-discrimination have been established on two levels: General level—monitoring and improvement of the human rights protection, through implementation of international standards and improvement of the implementation mechanism thereof. At this level, the Council of Europe Department and the Human Rights Department operate as part of the Ministry of Foreign Affairs, whereas the Ministry of Justice has established a Department for Human Rights, Legal Analyses and Comparative Law. Sectoral level: The Ministries, within their competences defined by the Law on the Bodies of State Administration are responsible for the enforcement of the laws pertaining their fields of interest, containing therein anti-discriminatory clauses. *Freedom of Assembly and Association*
52. *The Constitution of “the former Yugoslav Republic of Macedonia”* (The official Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) defines the right of the citizens to peaceful assembly and to express public protest without prior registration or special permission. This right **can be restricted only on cases of national emergency or war (Article 21 of the Constitution)**. **The right of the citizens of “the former Yugoslav Republic of Macedonia”** to public assembly, for the purpose of public expression of thought or public protest is regulated by the Law on Public Assembly.<sup>21</sup>
  53. The freedom of association is also one of the basic and essential rights of the citizens provided for in the Constitution of “the former Yugoslav Republic of Macedonia”. Article 20 of the Constitution of “the former Yugoslav Republic of Macedonia” guarantees citizens the freedom to associate for the purpose of implementation and protection of their political, economic, social, cultural and other rights and beliefs. For the purpose of realisation of this right, the citizens can freely establish civil associations and political parties, to join them or leave the membership thereof. The Constitution only in particular cases restricts the formation of civil associations and political parties.
  54. The Assembly of “the former Yugoslav Republic of Macedonia” in April 2010 adopted the new Law on Civil Associations and Foundations which regulates the manner, conditions and procedures to set up, register, operate and terminate civil associations and foundations (The Official Gazette of “the former Yugoslav Republic of Macedonia” No. 52/10).
  55. With the resolutions thus adopted “the former Yugoslav Republic of Macedonia” has endorsed the international treaties and conventions, such as the UN Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the amending and supplementing Protocols.
  56. In practical terms, however, there are some concerning incidents. Some LGBT events were not allowed to be held in public because they were marked as “unsuitable.”
  57. ILGA-Europe reports of an incident in October 2007, where the LGBT NGO - MASSO was denied their right to peaceful assembly. MASSO was arranging a “Love is Love” party at the square in front of the Army Club in Skopje. The party was supposed to be

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<sup>21</sup> The Official gazette of the former Yugoslav Republic of Macedonia, No. 55/95.

a part of the Queer Square Festival. The organisation submitted their application to the Centar Municipality four months before the event, but a month prior to event, they got a negative reply. The Municipality argued that another organisation (BORKA - working with cancer patients) had got the permission to hold their event instead. MASSO representatives contacted BORKA and confirmed that although their event was indeed taking place at the same day, they would be finished at 6 pm, after which MASSO could hold their party. When confronted with this fact, the Municipality still refused to issue permission. They explained it by referring to a monument of Mother Theresa on the square, saying that BORKA's event was much more serious, and morally "appropriate" for such a place.<sup>22</sup>

58. There are several organisations in "the former Yugoslav Republic of Macedonia" working on LGBT issues – an example is several NGOs collaborating in the Coalition for Protection and Promotion of Sexual and Health Rights of Marginalised Communities. Other NGOs are the Women's Alliance (primarily working with LB women) and Equality for Gays and Lesbians (EGAL - primarily working with men who have sex with men).<sup>23</sup>
59. The Queer Square Festival has, with no major obstacles other than the party mentioned in the previous chapter, been organised as a cultural/art festival in Skopje.<sup>24</sup>
60. As regards to the cases on interference with or failure to protect against public or private interference with LGBT people using their right to freedom of expression, according to the Ombudsman representatives and the Helsinki Committee, during the March for Tolerance in 2009 organised by the Helsinki Committee, counter-demonstrators were trying to provoke incidents.<sup>25</sup> Although the march was focused on anti-discrimination in general, the public reacted very negatively because the event was linked to the acceptance and promotion of rights of LGBT persons.<sup>26</sup>

## **B.2. Freedom of Expression**

61. The right to free expression is guaranteed by the Constitution of "the former Yugoslav Republic of Macedonia" in Article 16 as a complex right comprising the following components: freedom of belief, conscience, thought and public expression of thought (Article 16 Paragraph 1); freedom of speech, public performance, public information and the free establishment of institutions for public information (Article 16 Paragraph 2); free access to information, the freedom to receive and transmit information (Article 16 Paragraph 3); the right to response in the media for public information (Article 16 Paragraph 4); the right to correction in the media for public information (Article 16 Paragraph 5); the right to protection of the source of information in the media for public information (Article 16 Paragraph 6). In addition to this, Article 16 Paragraph 7 prohibits censorship.

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22 ILGA Europe, [www.ilga-europe.org/europe/guide/country\\_by\\_country/fyrom/masso\\_is\\_denied\\_the\\_right\\_to\\_the\\_freedom\\_of\\_assembly](http://www.ilga-europe.org/europe/guide/country_by_country/fyrom/masso_is_denied_the_right_to_the_freedom_of_assembly), accessed 4 October 2010.

23 Sociological Country Report, The former Yugoslav Republic of the former Yugoslav Republic of Macedonia prepared for the Commissioner for Human Rights' Comparative Study *Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity*, , p. 7.

24 Ibid.

25 Supra note 23 at p. 8.

26 Ibid.

62. The right to freedom of thought is guaranteed by the Constitution with no restrictions whatsoever, along with the freedom of belief, conscience, public expression of thought and religion, it elevates it to the level of a fundamental human right which cannot be restricted not even in cases of exceptional circumstances (war or national emergency). In addition, these freedoms and rights enjoy judicial protection, as well as a direct constitutional-judicial protection by the Constitutional Court.
63. The Criminal Code in general prohibits any form of extortion, and there from extortion with the purpose of changing people's attitude or belief. Violation of this prohibition is considered an act of crime (Article 137 of the Criminal Code – violation of the equality among their citizens which, inter alia, sanctions any form of denial or restriction of the rights guaranteed by the Constitution, the law and the international treaties, as well as providing privileges on the basis of different political or religious belief).
64. The Criminal Code sanctions as being acts of crime the following conducts: slander, insult, disclosure of personal and family circumstances, and humiliation, as general criminal acts, and also their specific forms i.e. the same acts when conducted through the media for public information.

### **B.3. Hate Crime – Criminal Code**

#### ***B.3.1. Decriminalisation of the same-sex partnership and hate speech***

65. "The former Yugoslav Republic of Macedonia" decriminalised homosexuality in 1996, which until then was regarded as "sodomy against nature." Although the Criminal Code has made progress by way of decriminalisation of the consensual homosexual conduct, it still fails to provide a coherent approach in regulation of discrimination, in so far as relevant for sexual minorities. In this regard, the Criminal Code does not provide for a provision on hate crime. Despite the absence of explicit definition of hate crime, there are articles in the act that are narrowly connected to the concept of crimes motivated by hatred. Thus, in accordance with Article 137 of the Criminal Code:
66. "a person who, on the basis of a difference in sex, race, colour, ethnic and social origin, political and religious belief, wealth and social position, language or **other personal characteristics or circumstances**, restricts or deprives of the rights of a person and citizen, as determined by the Constitution, by law or a ratified international treaty, or who, on the basis of such differences privileges a citizen, shall be punished with imprisonment of three months to three years."
67. This provision does not cover sexual orientation as it does not refer specifically to it, although "personal characteristics" can be interpreted to cover it as to encompass it. However, this has not been tested in "the former Yugoslav Republic of Macedonia" case law since the LGBT population remains largely invisible before the courts of law, which only reflects the fear and stigma they are facing.
68. In addition, **Article 417** of the Criminal Code concerning the racial and other sorts of discrimination, which fails to mention sexual minorities, and which has a provision relevant for racist hate speech, does not even include a term in which sexual orientation may be implicit. It reads as follows:
  - A person who, on the basis of a difference of race, colour, nationality or ethnic origin, violates the fundamental human rights and freedoms recognised by the

international community shall be punished with imprisonment of six months to five years.

- The punishment under paragraph 1 of this Article is also applicable to a person who persecutes organisations or individuals because of their commitment to the equality of people.
- A person who disseminates ideas of superiority of one race over another, or who advocates racial hatred or instigates to racial discrimination, shall be punished with imprisonment of six months to three years.

69. Furthermore, the 2004 amendments of the Criminal Code have introduced Article 144, paragraph 4, which prescribes that a person using a computer system to threaten with perpetration of crime for which the law prescribes imprisonment of five years or higher, on the grounds of a person's affiliation with a national, ethnic or racial group or religion, will be punished with imprisonment from one to five years. While the provisions in the Criminal Code are very important and valuable for protection of sexual minorities, by the current state of affairs, LGBT can scarcely benefit from them and from the opportunities to seek protection under this Code.

### ***B.3.2. Legal protection of LGBT persons as victims of sexual or other violence in the course of criminal procedures***

70. Stigmatisation and discrimination following the LGBT persons frequently leads to committing sexual and other violence and renders them the victims thereof. There is no special protection of the LGBT persons in the course of criminal procedures, except in the case of minors, which has been introduced with the latest changes in the Law on Criminal procedures.<sup>27</sup> In accordance with this law, if the court finds it necessary, and for the purpose of their protection, an underage person victim of sexual or other offence can be heard by the pedagogue or a psychologist. In the course of the hearing various audio and video techniques can be utilised for the purpose of protection of the underage persons. Victims and witnesses can be provided with medical and psychological protection, in the regular procedures if the healthcare system and health insurance.

### ***B.3.3. Civil Offences Liability***

71. The Law on Civil Offences<sup>28</sup> lays down the general conditions for regulation of civil offences, civil sanctions, general conditions for determination of civil offences liability, imposition and execution of civil sanctions, and it also describes the civil procedures to be conducted by courts or civil offence bodies (Article 1). All regulations include offences for a particular area they refer to. The Law on Offences against Public Order and Peace<sup>29</sup> proscribes a number of offences relevant for the LGBT persons and their exposure to stigmatisation. Namely, the following is considered an offence against public order and peace:

- quarrelling, shouting, or obscene or audacious conduct (Article 4);
- harassment of another person in an apartment (Article 7);

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<sup>27</sup> Law amending and supplementing the *Law on Criminal Procedures*. O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 15/97, 44/02, 74/04 and 83/08.

<sup>28</sup> O. Gazette of the former Yugoslav Republic of Macedonia, No. 62/06.

<sup>29</sup> O. Gazette of the former Yugoslav Republic of Macedonia, No. 66/07.

- harassment, humiliation, degradation and insult of another person or forcing of another person (Article 10);
  - physical attack of another person in a public place (Article 12).
72. This law also imposes civil sanctions against the one who « indulges in prostitution, or rents or makes available premises for the conduct of prostitution » (Article 19).

#### **B.3.4. Accountability of Officials and Compensation**

73. Accountability of officials is an important element in the enforcement of the regulations. It has been regulated by a number of laws, the most important of which are the Law on Civil Servants and the Law on the Police. These laws provide for disciplinary measures and civil sanctions in the cases of non-professional conduct. The responsible work of the officials is an important element for the enforcement of the regulations on the protection of the LGBT persons' rights.
74. The right to indemnity of an inflicted damage, and the procedures to indemnify such a damage (compensation) have been adequately regulated by the criminal and civil law. In the compensation procedures it is important to make use of the Law on Mediation<sup>30</sup> which provides for the resolution of conflicts between physical and legal entities by way of treaties, legal obligation, instruction or recommendation by court, arbitrary council or another body, except in the cases of collective workplace conflicts, criminal and administrative procedures (Articles 1 and 2).

#### **B.4. Family Issues**

75. The Family Law of “the former Yugoslav Republic of Macedonia” (The Official Gazette of “the former Yugoslav Republic of Macedonia” , No. 83/04 of 24 November 2004) is governed by the traditional notion of marriage and family. Thus, Article 6 stipulates that *marriage* is a **union between a man and woman** regulated by law, and that the **man and the woman** determine their relations by their own decision based on equality, mutual respect and assistance. In addition, Article 17 prescribes that a marriage can be concluded between **two persons of opposite sex**. Other provisions as relevant regulating the very procedure of concluding a marriage, employ the same language-namely presuppose that the marriage is a legal union between a man and woman. *Common-law marriage* is governed by Article 13 of the same act. It also refers to a union between a man and woman, and does not extend to same-sex partners, thus rendering the rights that stem from common law marriage unavailable for same-sex couples. As a result, LGBT people in “the former Yugoslav Republic of Macedonia” are neither allowed to adopt children, nor can they benefit from the assisted reproduction available to heterosexual couples. There is no mention in the Law of transgender persons.
76. MASSO has worked on a Draft Law on Registered Partnerships with Macedonian Helsinki Committee in line with the European standards, which has not been enacted to date. It is necessary that this Law is passed in order to provide with foresee ability and legal certainty for sexual minorities, as principles stemming from the rule of law.

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<sup>30</sup> O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 60/06 and 22/07.

## B.5. Asylum and Refugee Issues

77. One of the fundamental values of the constitutional order of “the former Yugoslav Republic of Macedonia” is the respect of the generally adopted norms and basic freedoms and rights of persons and citizens recognised by the international law and the Constitution as the highest legal act (Article 8, Constitution of “the former Yugoslav Republic of Macedonia”).<sup>31</sup>
78. Inter alia, **the Constitution** guarantees the freedom of movement of every citizen of “the former Yugoslav Republic of Macedonia”, except in the cases when it is necessary to restrict this freedom for the purpose of conducting a criminal procedure, protection of safety or health of the people (Article 27, Constitution of “the former Yugoslav Republic of Macedonia”).<sup>32</sup> The enjoyment of rights and freedoms of foreigners in “the former Yugoslav Republic of Macedonia” as guaranteed by the Constitution is restricted under the conditions defined by the law and international treaties (Article 29, Constitution of “the former Yugoslav Republic of Macedonia”).<sup>33</sup> The Constitution also guarantees the right to asylum to foreigners and persons without citizenship prosecuted on grounds of democratic political belief or action.<sup>34</sup>
79. In this direction, of particular importance for this analysis is the provisions of the Law on Movement and Residence of Foreigners<sup>35</sup> and Law on Asylum and Temporary Protection.<sup>36</sup> **The Law on Movement and Residence of Foreigners** in Articles 17 and 30 gives a taxonomic list of reasons why a foreigner can be refused entry into “the former Yugoslav Republic of Macedonia” or revoked the previously issued permit for temporary or permanent residence, among those: whose residence would represent financial burden for the state; coming from areas affected by contagious diseases, and cannot produce evidence of vaccination; and in matters of protection of the health of the citizens. This law also partly explains the rights of foreigners given the right to asylum.<sup>37</sup>
80. The manners and procedures to give or take away the right to asylum has been in detail regulated by the **Law on Asylum and Temporary Protection**. In accordance with Article 2 of this law, the right to asylum can only be given to a person having the status of a refugee or a person subject to humanitarian protection.
81. While the legal regulations given above fail to provide for an explicit restriction of the freedom of movement and residence of the LGBT persons in “the former Yugoslav Republic of Macedonia”, the given legal vacuum and the open legal formulations should not in any single case be used to the detriment of the rights and freedoms of the LGBT persons recognised by the international community and guaranteed by the international law.

## B.6. Social Security, Social Care and Insurance

82. The issue of access to social security and social insurance is neither specially regulated for LGBT persons, nor is there any reported case on discrimination in the area of social security, social care and insurance.

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31 Constitution of the former Yugoslav Republic of Macedonia, O. Gazette of the former Yugoslav Republic of Macedonia, No. 52/91.

32 Ibid.

33 Ibid.

34 Ibid.

35 O. Gazette of the former Yugoslav Republic of Macedonia, No. 36/92.

36 O. Gazette of the former Yugoslav Republic of Macedonia, No. 49/03 of 22/07/2003.

37 Article 42 and 43 of the *Law on the Movement and Residence of Foreigners*.



83. The right to social security and topical insurance, underlining the right to social security with reference to particular categories of people, is provided for in Articles 35 and 36 of the Constitution of “the former Yugoslav Republic of Macedonia”.<sup>38</sup> The right to social security is the right of a particular category of people to social aid in cases of unemployment or low wages or pensions. The funds for this kind of social security are raised by the state in manners defined by the law and by the collective agreement. This right comes into focus in particular in cases of greater unemployment and low wages for greater number of workers.
84. In addition to the Constitution of “the former Yugoslav Republic of Macedonia”, the main legal framework has been regulated by the Law on Social Security. Article 4 of this Law defines certain “social risks” to which a citizen can be exposed and the social security aims at prevention and combating these social risks. In the sense of this law, social risk includes:
- risk to health (sickness, injury and disability);
  - risk of aging (old age and survival);
  - risks of maternity and family;
  - risks of unemployment, and professional unsuitability, and
  - risks from inconformity with the social environment.<sup>39</sup>
85. Due to the high level of discrimination, sexual orientation can fall into the category of “risks of inconformity with the social environment”. Notwithstanding, such a provision does not open the possibility of having access to social benefits for LGBT persons solely on the base of their sexual orientation and/or gender identity.
86. Social security also includes the right to healthcare, and this is defined in Article 32 of this Law: “Beneficiaries of permanent financial aid, persons lodged with another family or with institutions for social security, and beneficiaries of monetary compensation for assistance and care if they cannot be secured on other grounds have the right to healthcare.”<sup>40</sup>

## **B.7. Education**

87. The right to education and the rights relating thereto are guaranteed in Articles 44, 45 and 46, and the freedom to scholarly, artistic, and other forms of creative work in Article 47 of **the Constitution** (The Official Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 52/91, 01/92, 31/98, 91/01 and 84/03). Article 44 of the Constitution defines that everybody has the right to education, that education is accessible to anyone under equal conditions, and that primary education is free of charge and compulsory.
88. **The Law on Secondary Education** (The Official Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 52/02 – consolidated text, 40/03, 42/03 and 67/04) lays down that everybody under equal conditions defined in this law has the right to secondary education. Further on, the same law **prohibits discrimination based on sex, race, colour of skin, national and social origin, political and religious belief, welfare and social status.**

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<sup>38</sup> Constitution of the former Yugoslav Republic of Macedonia (Article 35 and 36).

<sup>39</sup> Ibid Article 4.

<sup>40</sup> Ibid Article 32.

89. A study on "discourses, power, and sexual minorities in transitional "the former Yugoslav Republic of Macedonia" concludes the following in the area of education:
90. "Although there are few positive examples, "the former Yugoslav Republic of Macedonia" institutional scientific (and educational) system still lacks a serious interdisciplinary approach that would reconsider issues of culture, gender and sexuality in its approach and curricula. This is firmly connected to the same lack in epistemologies and methodologies arts, humanities and social sciences are operating with. There is still significant lack of direct tackling of issues of sexuality in academic curricula. Worrying fact is that there are still put in circulation textbooks which explicitly promote homophobic attitudes, and the same are supported by the state University or the Government itself. However, the recent years also have showcased very few positive examples of inclusion of courses in the official curricula treating sexuality in non-heteronormative and non-homophobic manner."<sup>41</sup>
91. The lack of effective legal protection is predominantly visible in the recurring presence of discriminatory contents in the textbooks which are in use, and the lack of institutional reaction on the matter - a reaction which should be undertaken under the auspices and on behalf of the Public Prosecution, the Ombudsman, and/or the Constitutional Court.

## B.8. Employment

92. The Constitution guarantees the right to **protection in the workplace**. This right is further on detailed in the legislation relating to labour, with all the elements of this right contained in the European Social Charter (Article 3).<sup>42</sup> There are numerous regulations on the safety and protection at workplace, as there are numerous measures to control the implementation of these regulations. In practice, however, there are several examples of infringement which leads to violation of the right to workplace safety and protection.
93. In addition to the Constitution, the main legal framework is given in the Law on Labour relations. Article 6, Paragraph 1 of this Law expresses the prohibition of discrimination: „The employer must not place the job seeker / candidate for employment or the worker in an unequal position because of their race, colour of skin, sex, age, health status i.e. disability, religious, political or other belief, membership in union organisations, national or social origin, family status, welfare, **sex orientation or because of other personal circumstances**. On the other hand, there are exceptions to the prohibition of discrimination "when the nature of work is such, or the work is carried out under such circumstances, where the characteristics relating to any of the cases of Article 6 of this Law represent the true and decisive condition for the execution of the work" (Article 8).
94. Furthermore, this Law covers direct and indirect discrimination, as well as harassment. In the case of a dispute, the burden of proof is on the employer. In the case a workplace discrimination is identified, Article 10 of this Law establishes the rectification of the damage inflicted by the act of discrimination.<sup>43</sup>

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41 Dimitrov, S., *Sexualities in Transition: Discourses, Power and Sexual Minorities in Transitional the former Yugoslav Republic of Macedonia*, Euro-Balkan - Institute for Humanities and Social Science research, Skopje, 2009, p. 86.

42 European Social Charter, Article 3.

43 In cases of discrimination of Article 6 of this Law the candidate for employment or the employed worker has the right to claim compensation for the damage in the amount of five average salaries in the former Yugoslav Republic of Macedonia. Article 10 of the *Law on Labour Relations*.

95. However, the basic problem with this provision is that it uses a term that could be translated as "sex orientation" (*полова насоченост*), and not sexual orientation. What is the problem with the language employed in the law? Namely, 'sexual orientation' has to be distinguished from the narrow concept that the term 'sex orientation' evokes. The internationally used term 'sexual orientation' refers to sexuality, underlying the conceiving of sexuality in all of its aspects, including the biological, cultural, social, psychological and political condition (gender norms as well) in the development and the forming of sexuality. On the contrary, the term 'sex orientation' not only refers rigidly to the biological sex (and not to sexuality in its complexity), but even more, is a term that cannot be found and adjusted to any international legislation or any contemporary theory and methodology. Given the use of such an ambiguous term, the LGBT population can hypothetically be under the protection of this Law, as much as within the scope of "other personal circumstances."
96. Apart from the previous remark, the Law is largely harmonised with the relevant EU Directives. Yet, it does not include provisions regarding *instructions to discriminate*, nor does it cover issues related to *secondary victimisation*. This is especially important in light of the fact that there are very little data on discrimination against LGBT people in the workplace, and the fact that there have been no LGBT related cases before the "the former Yugoslav Republic of Macedonia" labour tribunals or other competent institutions.
97. As far as confidentiality is concerned and the protection of personal data in relation to sexual orientation, the Law on Labour Relations regulates the obligation for protection of the worker's personality (Article 43) and the protection of personal data of the worker (Article 44). According to Article 43, Paragraph 1 "The employer is obliged to protect and respect the worker's personality and dignity, and also ensure the protection of the privacy of the worker."<sup>44</sup>
98. With regards to the privacy and confidentiality of the citizen in the role of an employed worker, the Constitution in 25<sup>45</sup> provides for an explicit guarantee of the right to privacy laying down that respect and protection of the privacy of one's personal and family life, of dignity and esteem is guaranteed to everybody. The Law on Protection of Personal Data defines the following as being a special category of personal data: "Special categories of personal data" are the personal data revealing the racial or ethnic origin, political, religious or other belief, membership in a union organisation and **data referring to the health status and sexual life**" (Article 2). According to this definition, the determined sexual orientation shall qualify for a "special category of personal data" that are especially sensitive when it comes to their collection, processing, use and transmission to third persons. The new law is compatible and harmonised with the criteria and standards for protection defined by the European Parliament and the Council of Europe given in the form of Directive on the Protection of Individuals with regard to the Processing of Personal Data and on the Free Movement of such Data 95/46/EC of 1995 and the Convention for the Protection of Individuals with regards to Automatic Processing of Personal Data No. 108 of the Council of Europe of 28.01.1981 which has recently been ratified by "the former Yugoslav Republic of Macedonia".<sup>46</sup>

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44 O. Gazette of the former Yugoslav Republic of Macedonia, No.62/05, Law on Labour relations, Article 44.

45 Constitution of the former Yugoslav Republic of Macedonia, O. Gazette of the former Yugoslav Republic of Macedonia No. 52/91, Article 25.

46 O. Gazette of the former Yugoslav Republic of Macedonia, No. 07/05.

## B.9. Housing

99. The key referent legal text in this area is the **Law on Housing** which, in the context of its main objectives in this subject area, also envisages the possibility for renting state-owned apartments to socially endangered and homeless persons in accordance with Articles 34 and 35 of the Law on Social Protection. This Law has provided *de facto* a legal basis for adoption of the two key policy documents in this area: the **National Strategy for Housing (2007-2012)** and the **Operative Plan** related thereto.
100. The Strategy's key objective is to achieve a long-term, standardised and harmonised development of the housing policy, according to the modern standards for a quality life. To this end, it includes an analysis of the actual *status quo* situation in the area, while stipulating the specific priorities and aims, thus identifying the factors influencing the housing policy. It also describes in more details the broader international and domestic legal framework, and indicates the key actors to be involved in its implementation. Furthermore, the Strategy deals with the issue of social housing and housing of the vulnerable social groups: **children without parents or without parental care, users of social and permanent financial assistance, persons affected by natural disasters, disabled persons and persons who need assistance and care by other persons, socially endangered persons belonging to the Roma community, and single parents of minors.**
101. The two afore-mentioned housing-related documents should be seen in a close relation with other strategic documents, including the *2010 National Strategy for Reduction of Poverty and Social Exclusion*, which stipulates specific measures and recommendations related to the housing needs of identified marginalised social groups.
102. The existing normative framework does not recognise LGBT couples as a separate category in respect of their right to housing, thus they do not enjoy the same rights as heterosexual couples.
103. An international portal on LGBT issues around the world, , tells the story of a gay couple, who were thrown out of their apartment by the landlord because of their sexual orientation. The couple were unable to find a new apartment until one of their female friends agreed to "play the part of" a girlfriend to one of them.<sup>47</sup>
104. Otherwise, when renting apartment, there is a tendency that same-sex couples present themselves as friends living together - something not unusual due to the current economic situation in "the former Yugoslav Republic of Macedonia".<sup>48</sup>

## B.10. Health Care

105. **The Law on Health Protection of 1991** (amended and supplemented on number of occasions by 2007) contains a chapter discussing the rights and obligations when using the healthcare services. This chapter contains the general rights of beneficiaries of the healthcare and the obligations of healthcare organisations when providing healthcare protection.

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47 Global Gayz, [www.globalgayz.com/country/the former Yugoslav Republic of Macedonia/view/MKD/gay-macedonia-news-and-reports-2#article0](http://www.globalgayz.com/country/the-former-Yugoslav-Republic-of-Macedonia/view/MKD/gay-macedonia-news-and-reports-2#article0), accessed 3 February 2010.

48 Supra note 23 at p. 13.

106. Access to healthcare is a right regulated by the **Law on Health Protection**, and with regards to the funding (as financial access to health care) in the **Law on Health Insurance** and the by-laws operating it.
107. Patients' rights (healthcare rights) are regulated in other legal documents of the so-called « healthcare legislation » of "the former Yugoslav Republic of Macedonia". This law comprises more than 20 or so regulations, out of which greater importance for the LGBT persons lays in the **Law on Mental Health** and the **Law on Protection of Patients' Rights**, which make a huge progress in the sense of protecting the rights of the patients, explicitly including the healthcare rights of LGBT persons.
108. The Law on Protection of the Patients' Rights regulates the following rights of the patients (healthcare rights): the right of the patient to take part in the decision-making; right to information; right to a second expert opinion; the right to accept or reject a particular medical intervention; the right to protection in scientific research and medical lectures; rights relating to operations on the human genome; the right to access to the medical file; right to confidentiality etc.
109. The Law on Protection of the Patients' Rights expects to provide quality and continuous healthcare protection, based on the principles of humanity and accessibility in accordance with the current achievements in healthcare and medicine, **without any form of psychological or physical abuse**, with full respect of the patients' personality and in the best of their interest.
110. This law is yet another important step in the protection of the right to healthcare and means codification of the most important "healthcare rights". Although complementary with the other regulations in the field of healthcare legislation, this law completes the regulation of the healthcare rights of patients, where the broad anti-discriminatory clause from a normative aspect does not discriminate against anyone.
111. Patients' rights in the healthcare system i.e. healthcare rights regulated by the Amsterdam Declaration are guaranteed by the Constitution and regulations from the so-called "healthcare legislation". Analysis shows that from the normative and legal aspect, the "Amsterdam criteria" on patients' rights protection have been satisfied in the national legislation. In "the former Yugoslav Republic of Macedonia" a visible problem is the one of **implementation of the regulations in practice**, which is why patients frequently get the impression that their rights have not been guaranteed or protected by law, rather that such regulations do not even exist.<sup>49</sup> It is therefore exceptionally important for the citizens to be informed about their rights and the ways for their protection, so as to become able to seek their realisation. In this way citizens themselves shall appear in the role of promoters of supervision authorities over the implementation of the legislation (executive and judiciary authorities). Anti-discrimination clauses are the strongest in regulations relating to healthcare, and the accomplishments of the highest possible standards of health also normatively includes the sexual health, as well as accessibility to the healthcare service providers (protection of the sexual and reproductive health).
112. Despite this voluminous forming of healthcare protection which (normatively) provides access (also financial) to healthcare, LGBT persons are not given special treatment in the healthcare legislation. But it is important that from a normative aspect there is no discrimination against anyone. Discrimination of LGBT persons in the field of healthcare in "the former Yugoslav Republic of Macedonia" has not been researched

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<sup>49</sup> Research by the NGO MIA "Patients' Rights in the former Yugoslav Republic of Macedonia", 2004.

as a special case.<sup>50</sup> The new regulations relating to the patients' right protection have brought about a new definition of discrimination, also including therein sexual orientation, which gives an opportunity for a further improvement of the rights of the LGBT population. Nevertheless, it must be underlined that the introduction of such an anti-discriminatory clause does not resolve all the problems deriving from the realisation of healthcare rights. Constant improvement of health, sexual health included therein, should represent a key activity in "the former Yugoslav Republic of Macedonia". Therefore there is a need for a special investigation into the formal and factual realisation of sexual and health rights of LGBT persons which will then determine specifically the characteristics and the needs necessary for identification of actions to be undertaken so as to further improve the realisation of their rights.

#### **B.11. Access to Goods and Services**

113. There are no official cases on discrimination in access to goods and services.
114. A specific problem to be mentioned is the access to venues such as bars or clubs which is at times restricted for Roma people.<sup>51</sup> Such discrimination is exacerbated by the fact that the access to for example, LGBT events is already limited because Roma people most often live outside of Skopje, where events usually take place, and that their mobility is in practice often limited due to poverty.

#### **B.12. Media**

115. The role of the media from the aspect of the LGBT persons' rights can be regarded in two directions:
- The media can be promoters of the rights, and
  - The media can be an obstacle in the implementation and the protection of the rights, i.e. the media themselves can violate these rights.
116. In "the former Yugoslav Republic of Macedonia" the electronic media are regulated by the Law on Broadcasting.<sup>52</sup> The law clearly states that, inter alia, is to protect the interest of the customers, as well as the freedom of expression in the broadcasting activity in accordance with the Constitution of RN and with the international treaties that "the former Yugoslav Republic of Macedonia" is party thereof (Article 2). The licence to operate in the field of broadcasting activity is issued under the condition that, inter alia, variety and quality of programmes have been satisfied to fit the needs of the viewers (Article 46).
117. The programme-related standards include, inter alia: fostering and development of humane and moral values and the protection of privacy and dignity of a person, equality of freedoms and rights regardless of sex, race, national or ethnic and social origin, political and religious belief, wealth and social status of the person and the citizen, encouragement of the spirit of tolerance, mutual respect and understanding of persons of different ethnic and cultural backgrounds, encouragement of the international understanding and cooperation, the sense of the public for justice and defence of democratic freedoms, openness of the programmes for expression of

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50 There are no official data on discrimination in the health system. Anecdotal evidence points to situations where several LGBT persons were unable to visit their partners in hospital, or receive information, because they were not recognised as next of kin.

51 Supra note 23 at p.13.

52 O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 100/05 and 19/07.

various cultures that are integral part of the society, preservation and fostering of the national identity, language culture and national creation, openness to varied political opinions and positions, objective and unbiased presentation of events with equal treatment of the different opinions and positions, and giving the possibility to the public to freely shape an opinion on specific events and issues, respect of copyright and related rights, respect of the secrecy of the source of information, and guaranteeing the right to response and correction (Article 68).

118. Radio and Television in “the former Yugoslav Republic of Macedonia” is responsible to plan and develop its programme in the interest of the entire public and to produce and broadcast programmes for all segments in society, without discrimination, taking into consideration the specific social groups (Article 121(1)). The right to a free of charge response and correction is given to every physical and legal entity in the case of airing an incorrect or incomplete information that violates the legitimate right or interest of a person, especially their dignity, honour or esteem (Article 52(1)). The Broadcasting Council supervises the implementation of this Law (Article 163(1)). Monetary fines shall be imposed in the case of violation of the provisions of this law.
119. There is no particular legislation in “the former Yugoslav Republic of Macedonia” regarding the printed media.
120. The Law on Protection of Personal Data and the Criminal Code are valid for all types of media. The Criminal Code sanctions slander and insult as being acts of crime against the dignity and esteem of a person. (Slander (Article 172): the person who delivers or transfers something incorrect about another person that may be deemed harmful for the other person’s dignity and esteem, shall be punished ... if the act is committed through the press, radio, television, electronic mail or through other media form public information ... the person shall be punished with a monetary fine or sentenced to imprisonment of up to one year (172(2)) and Insult (Article 173: the person that insults another person... through the press, radio, television, electronic mail or other media for public information shall be punished with a monetary fine or be sentenced to imprisonment of up to six months (Article 173(2)).
121. As regards LGBT persons, the situation with the media seems to be good comparing with other fields of investigation.
122. A study on media representations of LGBT people note (at least prior) tendencies to portray homosexuality as a Western phenomenon as well as tendencies of sexualisation. The following quote sums up the analysis of the media from 1999/2000 on.<sup>53</sup>
123. "From 1999/2000 on the situation has drastically changed which has been influenced by the growing emergence of new Media, printed and electronic as well. Besides the difference that can be noticed on a quantitative level in the general treatment of the topic, it should still be noted that there is an increase in the number of articles related to homosexual individuals and “the former Yugoslav Republic of Macedonia”. This has further been caused by the emergence of LGBT activism mostly.
124. The main characteristics of the newspapers’ articles from this period, and their main difference from the previous one, is that homosexuality is not anymore just a Western phenomenon, but it has now acquired status of visibility in the local context as well. It is still significant that a demarcation line between ‘Us’ and ‘Them’ is drawn, but it has now been internalised, and the binary division is further sustained (hetero/homo). Considering the influence of NGOs targeting human rights of LGBT people, the media

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53 Supra note 41 at p. 88.

discourse showcases significant increase in this direction. Important discursive characteristic of media articles from this period is the tendency for normalisation. Most of these arguments are used as implicit justification for enjoying equally the rights ascribed for heterosexuals."

125. The analysis further shows that neutral or affirmative attitudes are prevalent, and that the use of stigmatising terms and words has significantly decreased.

### **B.13. Transgender Issues**

126. Transgender persons in "the former Yugoslav Republic of Macedonia" are a more complex and non-homogenous group that also needs the provision of legal and in particular health protection in accordance with the specificities deriving from their orientation, as is the general case with the LGBT persons. For this population, of particular importance is the issue of medical procedures and surgical operations relating to gender reassignment treatment, although their rights in the healthcare legislation are not specifically regulated by the Law on Health Protection, the Law on the Protection of Patients' Rights, and the Law on Conditions for Extracting, Exchanging, Transferring and Transplanting of Part of the Human Body for the Purpose of Medical Treatment.
127. In addition to the implementation of these regulations, the professional healthcare workers are also guided by the stances of the medical doctrine for the patients capacities and safety (health risks). Psychiatric diagnosis and treatment may be required to access gender reassignment treatment. A further prerequisite may be the requirement to live as a member of the preferred gender for a period of time, known as the "Real-Life Test" or Experience.
128. It is neither clear whether "the former Yugoslav Republic of Macedonian" legislation permits transgender persons to change their registered gender on identity documents, nor the eligibility requirements to change are clearly established by law. Furthermore, the legal definition of sex has varying degrees of specificity, subject to much variance in interpretation and practice. Therefore, the law could allow transgender persons to change their registered gender once they have taken decisive steps, which may or may not include medical treatment or particular surgical intervention, to live in a different gender.
129. Since there has been no identified case of a transgender person seeking access to medical treatment to date, it remains unknown whether gender reassignment treatment is excluded from health insurance coverage or not.

### **B.14. Good Practices**

130. Policies and practices relating to public health seem to be entirely harmonised with the international documents and European good practices. The healthcare legislation which makes these policies operational, is an example of a good practice, in laying the legal grounds for realisation and protection of the rights of the LGBT persons in the healthcare sector. This legislation gained quality by way of adoption of the **Law on Mental Health** and the **Law on Protection of Patients' Rights**, which underlines the human rights in the fields of medicine and health, explicitly including the rights of LGBT persons.



131. **The Law on Labour Relations** is another piece of legislation which refers to **sexual orientation**, as a separate ground of prohibited conduct regarding employment. Hence, in Article 6, this law stipulates that the employer may not put the employee in an unequal position on account of race, colour, gender, age, health condition, or disability, religious, political or other belief, trade union membership, national and social background, wealth, **sex orientation** or other personal characteristic. It covers direct and indirect discrimination, as well as harassment. In case of a dispute, the burden of proof is on the employer. In case a workplace discrimination is identified, Article 10 of this Law establishes the rectification of the damage inflicted by the act of discrimination. Apart from the ambiguous language/terminology employed in the law, the act is largely harmonised with the relevant EU Directives.

## **B.15. Conclusions and Recommendations**

### ***B.15.1. Conclusions***

132. In “the former Yugoslav Republic of Macedonia”, stigmatisation, discrimination and isolation closely follow LGBT persons mostly because of the inadequate legislation, lack of information about the legal methods of protection, and the fear of possible exposure of their LGBT status. As a consequence few LGBT persons exercise their rights regulated by law and use the legally established services which provide an adequate legal treatment. Stigmatisation and discrimination are still present to a great extent in health, social and other public institutions and represent an obstacle in the realisation and protection of LGBT persons’ rights.
133. Significant influence in the recognition, improvement and protection of LGBT persons’ rights has been exerted by the international community through international documents, both the ones general in their character (documents on human rights protection), and the ones specifically dealing with the LGBT persons’ rights. Such an influence by the international documents directly or indirectly affects the creation of the national legal system in “the former Yugoslav Republic of Macedonia”. Ratification of the international documents is an integral part of the legal order in “the former Yugoslav Republic of Macedonia”. Indirect influence is exerted by the recommendations given by the international organisation where “the former Yugoslav Republic of Macedonia” is a member state (UN and its agencies, Council of Europe). The broad milieu of such documents also includes the documents produced by various non-governmental organisations influencing the development of the situation relating to LGBT persons’ rights.
134. Having in mind the political orientation of the country for European integration, the national legislation regulating the LGBT persons’ rights is in part built and is being built in compliance with the defined national situation and particular needs, but is to a greater extent under the influence of the country’s openness for the global integration processes, and in particular with the European region and the sub-region of the European Union, whose processes directly affect the creation of the national legislation. According to this, LGBT persons’ rights have been founded in the established legal system, which is under the influence of the international documents, to an extent to which they have become part of the national legal order or are becoming part thereof, i.e. to an extent to which the country has been or is being integrated in particular international organisations and structures. Hence, the transposition of the international legal instruments in the national legislation can play the role of a corrective and accelerate the process of improvement of the LGBT persons’ rights through national legislation and practice, where the change in patterns, without such an influence, happens slowly and not easily.

### **B.15.2. Recommendations**

- All future actions aimed at improving the LGBT situation in “the former Yugoslav Republic of Macedonia” should be extremely public awareness-raising oriented, to make known those sections of domestic law and practice, explicitly and even implicitly guaranteeing the rights and freedoms of the LGBT people, yet to make known the internationally imposed obligations on “the former Yugoslav Republic of Macedonia” as a Council of Europe member state and candidate for association with the European Union - with special reference to the obligations assumed by the decisions of the European Court of Human Rights, Copenhagen Political Criteria, and the Amsterdam Treaty.
- Public awareness-raising campaigning should be immediately focussed on two target groups – first, the general public so as to provide wide approval of LGBT supportive legislation and second, the LGBT people so as to awaken them, and make them want to exercise their own rights and freedoms and protect themselves against all forms of discrimination.
- There is a pressing need for amendments in the Constitution and all relevant laws containing a broad clause on discrimination which will duly include sexual orientation and gender identity as a separate ground. The general prohibition of discrimination needs to be amended in order to include a number of other grounds as well. If not by prescribing expressly so, the notion of “other status” or “other personal circumstances” can be used, provided that a coherent practice is developed in line with international landmark decisions that the terms include sexual orientation as well, such as the ones reached by the UN Human Rights Committee, the European Court of Human Rights and the European Court of Justice.
- Amendments to the Criminal Code should be initiated, that will include a definition of hate crime that will entail a number of grounds including sexual orientation and gender identity. In this regard, two options may be considered- prescribing stricter penalties for crimes that have been hate-driven, or taking the fact that the motives had been driven by hatred as an aggravating circumstance for the perpetrator when imposing the penalty within the legally prescribed minimum and maximum.
- The Anti-Discrimination law should also introduce discrimination on grounds of sexual orientation and gender identity, so that the country conforms with relevant EU *acquis*. It is important that complementary antidiscrimination provisions be adopted, and to ensure that similar provisions clarifying the treatment of LGBT persons be included in other relevant laws.
- The Draft Law on Registered Partnerships should be passed in near future, where same-sex couples would have the same rights as heterosexual ones.
- In order to strengthen the public perception that discrimination on the ground of sexual orientation and gender identity is prohibited, competent authorities should enhance institutional protection of the rights of LGBT persons, and build affirmative action programmes.
- To intervene with Ministry of Education and seek the immediate withdrawal from use all obligatory and free-choice students books, handbooks, teachers manuals etc which explain sexual orientation and gender identity in a way which violates, misrepresents or encourages persecution and opposes legal protection.
- Sexual health education should be introduced to primary and secondary schools that will openly address sexuality and issues faced by LGBT persons.

## **B.16. List of Annexes**



## Overview of Multilateral Relations

Ministry of Foreign Affairs of the Republic of Macedonia

<i>Title of the document</i>	<i>Date and place of adoption</i>	<i>Depository</i>	<i>Signed by the former Yugoslav Republic of Macedonia</i>	<i>Published in O. Gazette of the former Yugoslav Republic of Macedonia</i>	<i>Ratification</i>	<i>Entry into force</i>	<i>Cease of validity</i>
<b>MAJOR HUMAN RIGHTS TREATIES</b>							
<i>Declarations relating to the provisions from the Charter of the UN (Admission of the states in UN, according to the Article 4 of the Charter)</i>	<i>Resolution No. 47/225</i>	<i>Secretary-General of the UN</i>	<i>08.04.1993</i>			<i>08.04.1993</i>	
<i>The Charter of the United Nations and the Statute of the International Court of Justice</i>	<i>26.06.1945, San Francisco</i>	<i>Secretary-General of the UN</i>		<i>No. 5/1945</i>		<i>08.04.1993</i>	
<b>UNITED NATIONS</b>							
<i>Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict</i>	<i>25.05.2000, New York</i>	<i>Secretary-General of the UN</i>	<i>17.07.2001</i>	<i>No. 44/2003</i>	<i>12.01.2004</i>	<i>12.01.2004</i>	
<i>Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography</i>	<i>25.05.2000, New York</i>	<i>Secretary-General of the UN</i>	<i>17.07.2001</i>	<i>No. 44/2003</i>	<i>17.10.2003</i>	<i>17.10.2003</i>	
<i>Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women</i>	<i>06.10.1999, New York</i>	<i>Secretary-General of the UN</i>	<i>03.04.2000</i>	<i>No.44/2003</i>	<i>17.10.2003</i>	<i>17.10.2003</i>	
<i>Amendment to Article 43 (2) of the Convention on the Rights of the Child</i>	<i>12.12.1995, New York</i>	<i>Secretary-General of the UN</i>			<i>16.10.1996</i>	<i>18.11.2002</i>	
<i>Second Optional Protocol to the International Covenant</i>	<i>15.12.1989, New York</i>	<i>Secretary-General of the UN</i>			<i>26.01.1995</i>		

on Civil and Political Rights,  
aiming at the abolition of the  
death penalty

<i>The Convention on the Rights of the Child</i>	20.11.1989, New York	Secretary-General of the UN		No. 15/1990	02.12.1993	17.11.1991
<i>Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment</i>	10.12.1984, New York	Secretary-General of the UN		No. 9/1991	02.12.1994	17.11.1991
<i>Convention on the Elimination of All Forms of Discrimination Against Women</i>	18.12.1979, New York	Secretary-General of the UN		No. 11/1981	18.01.1994	17.11.1991
<i>International Convention on the Suppression and Punishment of the Crime of Apartheid</i>	30.11.1973, New York	Secretary-General of the UN		No. 14/1975	18.01.1994	17.11.1991
<i>Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity</i>	26.11.1968, New York	Secretary-General of the UN		No. 50/1970	18.01.1994	17.11.1991
<i>International Covenant on Economic, Social and Cultural Rights</i>	16.12.1966, New York	Secretary-General of the UN		No. 7/1971	18.01.1994	17.11.1991
<i>International Covenant on Civil and Political Rights</i>	16.12.1966, New York	Secretary-General of the UN		No. 7/1971	18.01.1994	17.11.1991
<i>Optional Protocol to the International Covenant on Civil and Political Rights</i>	16.12.1966, New York	Secretary-General of the UN	12.12.1994	No. 7/1971	12.12.1994	17.11.1991
<i>Convention on the Elimination of All Forms of Racial Discrimination</i>	21.12.1965, New York	Secretary-General of the UN		No. 6/1967	18.01.1994	17.11.1991
<i>Convention on the Prevention and Punishment of the Crime of Genocide</i>	09.12.1948, New York	Secretary-General of the UN		No. 2/1950	18.01.1994	17.11.1991

<i>Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention (CETS No. 194)</i>	13.05.2004, Strasbourg	Secretary General of CE	15.09.2004	No. 30/2005	15.06.2005		
<i>Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances (CETS No.: 187)</i>	03.05.2002, Vilnius	Secretary General of CE	03.05.2002	No. 30/2004	13.07.2004	01.11.2004	
<i>Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin (CETS No. 186)</i>	24.01.2002, Strasbourg	Secretary General of CE	15.03.2002				
<i>Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No. 177)</i>	04.11.2000, Rome	Secretary General of CE	04.11.2000	No. 30/2004	13.07.2004	01.04.2005	
<i>Protocol of Amendment to the European Convention for the Protection of Vertebrate Animals used for Experimental and Other Scientific Purposes (CETS No.170)</i>	22.06.1998, Strasbourg	Secretary General of CE	22.01.2004	No. 13/ 2002	22.01.2004	02.12.2005	
<i>Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regards to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings (CETS No.168)</i>	12.01.1998, Strasbourg	Secretary General of CE	12.01.1998				
<i>Convention for the Protection of Human Rights and Dignity of the Human Being with</i>	04.04.1997, Ovideo	Secretary General of CE			04.04.1997		

<i>regards to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (CETS No. 164)</i>							
<i>European Convention on the Exercise of Children's Rights (CETS No. 160)</i>	<i>25.01.1996, Strasbourg</i>	<i>Secretary General of CE</i>	<i>03.04.2001</i>	<i>No. 12/2002</i>	<i>15.01.2003</i>	<i>01.05.2003</i>	
<i>Protocol No.1 to the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CETS No. 151)</i>	<i>04.11.1993, Strasbourg</i>	<i>Secretary General of CE</i>	<i>14.06.1996</i>	<i>No. 23/1997</i>	<i>06.06.1997</i>	<i>01.03.2002</i>	
<i>Protocol No.2 to the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CETS No. 152)</i>	<i>04.11.1993, Strasbourg</i>	<i>Secretary General of CE</i>	<i>14.06.1996</i>	<i>No. 23/1997</i>	<i>06.06.1997</i>	<i>01.03.2002</i>	
<i>Protocol amending the European Social Charter (CETS No. 142)</i>	<i>21.10.1991, Turin</i>	<i>Secretary General of CE</i>	<i>05.05.1998</i>		<i>31.03.2005</i>		
<i>Protocol to the Convention on the Elaboration of a European Pharmacopoeia (CETS No.134)</i>	<i>16.11.1989, Strasbourg</i>	<i>Secretary General of CE</i>			<i>30.03.1994</i>	<i>01.07.1994</i>	
<i>Additional Protocol to the European Social Charter (CETS No. 128)</i>	<i>05.05.1988, Strasbourg</i>	<i>Secretary General of CE</i>	<i>05.05.1998</i>				
<i>European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CETS No. 126)</i>	<i>26.11.1987, Strasbourg</i>	<i>Secretary General of CE</i>	<i>14.06.1996</i>	<i>No. 23/1997</i>	<i>06.06.1997</i>	<i>01.10.1997</i>	
<i>European Convention for the Protection of Vertebrate Animals used for Experimental and Other Scientific Purposes (CETS No.123)</i>	<i>18.03.1986, Strasbourg</i>	<i>Secretary General of CE</i>	<i>22.01.2004</i>	<i>No.13/2002</i>	<i>22.01.2004</i>	<i>01.08.2004</i>	
<i>Proticol No.8 to the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No.118)</i>	<i>19.03.1985, Vienna</i>	<i>Secretary General of CE</i>	<i>09.11.1995</i>	<i>No. 11/1997</i>	<i>10.04.1997</i>	<i>10.04.1997</i>	

<i>Protocol No.7 to the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No.117)</i>	22.11.1984, Strasbourg	Secretary General of CE	14.06.1996	No. 11/1997	10.04.1997	01.07.1997	
<i>Convention for the Protection of Individuals with Regards to Automatic Processing of Personal Data (CETS No.108)</i>	28.01.1981, Strasbourg	Secretary General of CE	24.03.2006	No. 7/2005	24.03.2006	01.07.2006	
<i>Protocol No.5 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 22 and 40 of the Convention (CETS No. 055)</i>	20.01.1966, Strasbourg	Secretary General of CE	09.11.1995	No. 11/1997	10.04.1997	10.04.1997	
<i>Convention on the Elaboration of a European Pharmacopoeia (CETS No. 050)</i>	22.07.1964, Strasbourg	Secretary General of CE		No. 2/1991	30.03.1994	01.07.1994	
<i>Protocol No. 2 to the Convention for the Protection of Human Rights and Fundamental Freedoms, conferring upon the European Court of Human Rights competence to give advisors opinions (CETS No. 044)</i>	06.05.1963, Strasbourg	Secretary General of CE	09.11.1995	No. 11/1997	10.04.1997	10.04.1997	
<i>European Social Charter (CETS No.035)</i>	18.10.1961, Turin	Secretary General of CE	05.05.1998	No. 89/2004	31.03.2005	30.04.2005	
<i>Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No.009)</i>	20.03.1952, Paris	Secretary General of CE	14.06.1996	No. 11/1997	10.04.1997	10.04.1997	
<i>Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No.005)</i>	04.11.1950, Rome	Secretary General of CE	09.11.1995	No. 11/1997	10.04.1997	10.04.1997	



**B.16.1. List of relevant national laws**

135. Constitution of “the former Yugoslav Republic of Macedonia”, O. Gazette of the former Yugoslav Republic of Macedonia, Nos. 52/91, 01/92, 31/98, 91/01 and 84/03.
136. Criminal Code, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 37/96, 80/99, 4/02, 43/03, 19/04, 60/06, 73/06, 7/08 and 139/08.
137. Law on Implementation of Sanctions, O. Gazette of “the former Yugoslav Republic of Macedonia”, No. 2/06.
138. Law on Secondary Education, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 52/02 – consolidated text, 40/03, 42/03, 67/04, 55/05, 113/05, 35/06, 30/07, 49/07 and 81/08.
139. Law on Courts, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 58/06 and 35/08.
140. Law on Civil Associations and Foundations, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 31/98 and 29/07 and 52/10.
141. Law on Internal Affairs, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 19/95, 55/97, 38/02, 33/03, 19/04 and 51/05.
142. Law on Labour Relations, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 62/05 and 106/08, Resolutions by the Constitutional Court, Nos. U.br.139/2005-0-0; U.br.134/2005-0-0; U.br.187/2005-0-1; U.br.188/2006-0-0; U.br.170/2006-0-1.
143. Law on Culture, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 31/98, 49/03 и 66/03 – consolidated text, 82/05 and 24/07.
144. Law on Social Protection, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 16/2000, 17/03, 65/04, 62/05, 21/06 – consolidated text and 40/07, The Law Amending and Supplementing the Law on Social Protection.
145. Law on Mental Health, O. Gazette of “the former Yugoslav Republic of Macedonia”, No. 71/06.
146. Law on Health Protection, O. Gazette of “the former Yugoslav Republic of Macedonia”, No. 38/91 amended and supplemented on several occasions by 2007.
147. Law on Protection of Patients’ Rights, O. Gazette of “the former Yugoslav Republic of Macedonia”, No. 82/08.
148. Law on Political Parties, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 76/04, 5/07 and 8/07.
149. Law on Civil Servants, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04, 69/04, 81/05, 61/06 and 36/07.
150. Law on Employment of the Disabled Persons, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 44/2000, 16/04, 62/05, 113/05 and 29/07.
151. Law on Equal Opportunities of Men and Women, O. Gazette of “the former Yugoslav Republic of Macedonia”, No. 66/06.
152. Law on Public Assembly, O. Gazette of “the former Yugoslav Republic of Macedonia”, No. 55/95.

153. Law on Police, O. Gazette of “the former Yugoslav Republic of Macedonia”, No. 114/06, and O. Gazette of “the former Yugoslav Republic of Macedonia”, No. 6/09, Law supplementing the Law on the Police.
154. Law on Family, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 80/92, 9/96, 38/04, 33/06, 84/08 (consolidated text: 22.12.2008).
155. Law on Criminal Procedures and the Law Amending and Supplementing the Law on Criminal Procedures, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 15/97, 44/02, 74/04 and 83/08.
156. Law on Civil Offences, O. Gazette of “the former Yugoslav Republic of Macedonia”, No. 62/06.
157. Law on Mediation, O. Gazette of “the former Yugoslav Republic of Macedonia”, Nos. 60/06 and 22/07.
158. Law on Movement and Residence of Foreigners, O. Gazette of “the former Yugoslav Republic of Macedonia”, No. 36/92.
159. Law on Asylum and Temporary Protection, O. Gazette of “the former Yugoslav Republic of Macedonia”, No. 49/03 of 22/07/2003.
160. Law on Broadcasting, O. Gazette of “the former Yugoslav Republic of Macedonia”,