



NATIONAL REPORT

**ON THE VIOLATIONS
OF HUMAN RIGHTS
OF GAY AND BISEXUAL MEN,
OTHER MSM AND TRANS PEOPLE,
IN PARTICULAR RIGHT
TO HEALTH IN THE REPUBLIC
OF NORTH MACEDONIA IN 2018**

2018



National report on the violations of human rights of gay and bisexual men, other MSM and trans people, in particular right to health in the Republic of North Macedonia in 2018.

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ABBREVIATIONS

AIDS	Acquired Immune Deficiency Syndrome
ECOM	Eurasian Coalition on Male Health
Stronger Together	Association for Support of People Living with HIV
EGAL	Association Equality for Gay and Lesbians
STAR STAR	Association for support of marginalized workers STAR STAR
HIV	Human Immunodeficiency Virus
LGBTQ	Lesbian, Gay, Bisexual, Trans and Queer people
MSM	Men who have sex with men
NGO	Non-governmental organization
PLHIV	People living with HIV
SOGI	Sexual orientation and gender identity
Trans	People who have a gender identity/ expression that differs from their birth assigned sex
UN	United Nations Organization

1. METHODOLOGY USED TO COLLECT THE CASES OF HUMAN RIGHTS VIOLATIONS

This report was made completely on the basis of the Protocol of the national report on the violation of human rights of gay men, other MSM and trans people, in particular the right to health, within the ECOM regional program «Right to Health», prepared by the Eurasian Coalition on Male Health, with the purpose to describe the situation with the human rights of gay men, other MSM, and trans people, in particular the right to health in the national context of the Republic of North Macedonia in 2018.

The monitoring of the situation was conducted by using the same tools provided by ECOM used for the report made for 2017, i.e.:

- Interview with a victim;
- Examination and attaching to the interview data the relevant materials.

Nevertheless, following the political situation and changes in legislation on a daily basis, as well as information spread by the mass media, social media and consulting other NGOs working on these issues was crucial for the completion of this report.

Two types of support were provided within the project, which is primary legal consultation and case management.

The confidentiality of the client's personal information was kept on highest level, which was explained to every client individually and the previous good experience with the last cycle of documenting cases increased the number of clients that were motivated to report the violations they experience compared to last year. This was also achieved by the good work and approach of the well-trained volunteers who gained the trust of the members of the respective communities.

2. NATIONAL LEGISLATION

- Constitution of the Republic of North Macedonia
- Law on protection and prohibition against discrimination
- Law on health protection
- Law on protection of patient's rights
- Law on the police
- Law on prevention and protection against domestic violence
- Family law
- Law on general administrative procedure
- Criminal code

3. NARRATIVE REPORT ON THE CASES OF HUMAN RIGHTS VIOLATIONS

1

CASES REPORTED BY ASSOCIATION FOR SUPPORT OF MARGINALIZED WORKERS STAR-STAR SKOPJE



CASE 1

1.1. Description of the case with prejudice indicators

The victim is a transgender woman, sex worker. She was walking by a nearby bank, when the bank security officer started shouting to his colleagues: «Look what this earth holds!». The victim responded calmly and asked the officer what he meant. He started acting aggressively, started insulting her and threatened to hurt her physically. He even said that he would beat her to death. The victim said that she would report the event and left.

1.2. Source of the information

The victim.

1.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- The **right to security** of the person, guaranteed by the Universal Declaration of Human Rights, Article 3: «Everyone has right to life, freedom and security of person».
- The **right to inviolability of bodily integrity**, European Convention of Human Rights, Article 3: «No one shall be subjected to torture or to inhuman or degrading treatment or punishment».
- The **right to human dignity**: Article 25 of the Constitution of the Republic of North Macedonia: «The respect and protection of the privacy of the personal and family life, human dignity and reputation is guaranteed to every citizen».
- The **right to protection from harassment**: Article 7 of the Law on protection and prohibition against discrimination of the Republic of North Macedonia: «The harassment and degrading treatment is violation of the dignity of a person or a group of people with arises from discriminatory basis and which have an aim or results in violation of dignity of a person or in creating a threatening, hostile, degrading or frightening environment, approach or practice».

1.4. The ground of discrimination

The victim's gender.

1.5. Consequences for the victim

Creating a feeling of fear and insecurity, causing psychological and physical pain and suffering, non-material damage.

1.6. Measures taken and their results

The client reported to the Association STAR STAR and to Coalition Margini. The Coalition Margini wrote a letter to the bank stating that the employees show unprofessional and discriminatory behavior, but the bank didn't respond.

CASE 2

2.1. Description of the case with prejudice indicators

The victim is a transgender woman. The officers of the Office of management of the register of births, marriages and deaths denied issuing a Birth certificate to the victim due to the fact that she has changed the data in her ID from male to female and she has changed her name. They used the excuse that the documentation is incomplete, which was not true. The victim asked to talk with the manager, but the situation didn't improve at all. Once the manager saw her ID, he started laughing and showed her ID to everyone in the office. Then everybody started laughing to her and asked her to leave the office. The victim waited for about ten minutes when the manager came and told her to come an hour later to take her certificate. This was not true, the certificate was not ready again. She was able to take it the next day, after three weeks of waiting.

2.2. Source of the information

The victim.

2.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- The right to non-discrimination:** Article 3 of the Law on protection and prohibition against discrimination of the Republic of North Macedonia: «Any direct or indirect discrimination, call for and incitement to discrimination, and assistance in discriminatory treatment on the basis of sex, race, color, gender, belonging to a marginalized group, ethnic origin, language, nationality, social background, religion or religious beliefs, other types of beliefs, education, political affiliation, personal or social status, mental and physical impediment, age, family or marital status, property status, health condition or any other basis anticipated by a law or ratified international agreement (hereinafter: discriminatory ground) shall be prohibited».

- ❑ **The right to equal, unbiased and objective application of the laws in dealing with administrative cases by administrative authorities:** Article 8 of the Law on General Administrative Procedure of the Republic of North Macedonia.
- ❑ **The right to human dignity:** Article 25 of the Constitution of the R. of North Macedonia: «The respect and protection of the privacy of the personal and family life, human dignity and reputation is guaranteed to every citizen».
- ❑ **The right to protection from harassment:** Article 7 of the Law on protection and prohibition against discrimination of the R. of North Macedonia: «The harassment and degrading treatment is violation of the dignity of a person or a group of people with arises from discriminatory basis and which have an aim or results in violation of dignity of a person or in creating a threatening, hostile, degrading or frightening environment, approach or practice».

2.4. The ground of discrimination

The victim's gender.

2.5. Consequences for the victim

Non-pecuniary damage, causing psychological pain and suffering, violation of human dignity.

2.6. Measures taken and their results

The client reported to Association STAR STAR and to Coalition Margini. The Coalition Margini reported to the Ombudsman and the Ministry of Justice. The Ministry of Justice did not take any measures. The Ombudsman answered that a Request with warning was sent to the director of the Office of management of the register of births, marriages and deaths. The Ombudsman requested from the director to warn the employees that they have to act professionally, appropriately and in humane manner and also to conduct a disciplinary procedure against the employee named in the report. Apart from this, no further data is available.

CASE 3

3.1. Description of the case with prejudice indicators

The victim and her friend (transgender women) were on their way out of the Clinical center when a group of young people started recording videos of them with their mobile phones. When the victim asked them why are they recording them, they got only insults and vulgar words in return. One of young men tried to attack the victim physically, but she managed to escape him.

3.2. Source of the information

The victim.

3.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- ❑ The **right to security of the person**, guaranteed by the Universal Declaration of Human Rights, Article 3: «Everyone has right to life, freedom and security of person».
- ❑ The **right to inviolability of bodily integrity**, European Convention of Human Rights, Article 3: «No one shall be subjected to torture or to inhuman or degrading treatment or punishment».
- ❑ The **right to human dignity**: Article 25 of the Constitution of the Republic of North Macedonia: «The respect and protection of the privacy of the personal and family life, human dignity and reputation is guaranteed to every citizen».
- ❑ The **right to protection from harassment**: Article 7 of the Law on protection and prohibition against discrimination of the Republic of North Macedonia: «The harassment and degrading treatment is violation of the dignity of a person or a group of people with arises from discriminatory basis and which have an aim or results in violation of dignity of a person or in creating a threatening, hostile, degrading or frightening environment, approach or practice».

3.4. The ground of discrimination

The victim's gender.

3.5. Consequences for the victim

Non-pecuniary damage, violation of dignity, feeling of fear and insecurity.

3.6. Measures taken and their results

The client reported to Association STAR STAR and to Coalition Margini, but no procedures can be initiated because the perpetrators were unknown.

CASE 4

4.1. Description of the case with prejudice indicators

A transgender woman and her friends were leaving a boutique, when four unknown young men verbally attacked them. They were driving in a car and started to follow the victims. When they noticed that the victims are afraid, they shouted and insulted them even more. Already feeling worried, the victims entered a taxi, but the taxi driver expelled them telling them that he does not drive homosexuals. The victims started running down the street, but the young men started throwing coins and plastic bottles at them. They turned right in the street (where car movement is prohibited) and avoided major problem.

4.2. Source of the information

The victim.

4.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- The **right to security of the person**, guaranteed by the Universal Declaration of Human Rights, Article 3: «Everyone has right to life, freedom and security of person».
- The **right to inviolability of bodily integrity**, European Convention of Human Rights, Article 3: «No one shall be subjected to torture or to inhuman or degrading treatment or punishment».
- The **right to human dignity**: Article 25 of the Constitution of the Republic of North Macedonia: «The respect and protection of the privacy of the personal and family life, human dignity and reputation is guaranteed to every citizen».
- The **right to protection from harassment**: Article 7 of the Law on protection and prohibition against discrimination of the Republic of North Macedonia: «The harassment and degrading treatment is violation of the dignity of a person or a group of people with arises from discriminatory basis and which have an aim or results in violation of dignity of a person or in creating a threatening, hostile, degrading or frightening environment, approach or practice».

4.4. The ground of discrimination

The victim's gender.

4.5. Consequences for the victim

Non-pecuniary damage, violation of dignity, feeling of fear and insecurity.

4.6. Measures taken and their results

The client reported to Association STAR STAR and to Coalition Margini, but no procedures can be initiated because the perpetrators were unknown.

CASE 5

5.1. Description of the case with prejudice indicators

The victim (transgender, sex worker) had a client who didn't pay for the sex service in total. He told the victim that he would go to his car to get the money, but never returned. Later the victim contacted him to ask for the money, but she was told that he owed her nothing.

5.2. Source of the information

The victim.

5.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- ❑ The **right to equal treatment**: Article 6 of the Law on protection and prohibition against discrimination of the Republic of North Macedonia: «Direct discrimination on discriminatory grounds shall be any unfavorable treatment, differentiation, exclusion or limitation which results or may result in deprivation, violation or limitation of the equal recognition or enjoyment of the human rights and fundamental freedoms, compared to the treatment another person gets or may get in the same or similar situation».
- ❑ The **right to protection from harassment**: Article 7 of the Law on protection and prohibition against discrimination of the Republic of North Macedonia: «The harassment and degrading treatment is violation of the dignity of a person or a group of people with arises from discriminatory basis and which have an aim or results in violation of dignity of a person or in creating a threatening, hostile, degrading or frightening environment, approach or practice».

5.4. The ground of discrimination

The victim's gender.

5.5. Consequences for the victim

Pecuniary damages, violation of dignity.

5.6. Measures taken and their results

The client reported to Coalition Margini, but didn't report what steps were taken.



CASE 1

1.1. Description of the case with prejudice indicators

The victim (gay man) was walking in the center of the city of Skopje, when two police officers stopped him and started asking him questions. They asked to see his ID and without any reason started asking if he knew that the place he was going is a place where male prostitutes operate. They were very impolite and asked him whether he offers sex favors. He explained that he is a volunteer of EGAL and then they became even more unprofessional telling him that his movement in that place is prohibited. They also threatened that they could arrest him right away. They also wanted to search his vehicle, but at the end they didn't do that.

1.2. Source of the information

The victim.

1.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- Constitutional right to **free movement** guaranteed in Article 27 of the Constitution of the Republic of North Macedonia;
- Violation of Article 22 of the Law on the police of the Republic of North Macedonia: «While performing police duties, the police officer is obliged to act in humane manner and to respect **the dignity, reputation and honor of the people**, as well as the fundamental rights and freedoms».
- Violation of Article 33 of the Law on the police of the Republic of North Macedonia: «The police officer in uniform when performing police duties, is obliged to show legitimation».

The police officers overstepped their powers.

1.4. The ground of discrimination

Considering the situation described, human rights restriction/violation was based on the victim's sexual orientation.

1.5. Consequences for the victim

Non-pecuniary damage, violation of the freedom of movement.

1.6. Measures taken and their results

The client reported to EGAL.

CASE 2

2.1. Description of the case with prejudice indicators

The victim (gay man) was walking through the so called Lawyer's street in Skopje where often a police patrols are positioned on duty. When they saw him, they immediately asked for his ID and wanted to search his vehicle. They told him to get out of that street as soon as possible because that was a place where «gays» gather at that time of the day (evening). He talked with them and they told him that they can arrest him if he supports prostitution. He was together with a colleague and the police officers wanted to know how the two men know each other and why are they standing in that street. As in previously reported case, the victim told the police officers that he works for EGAL and he is an activist for the human rights of LG-BTQ. The police officers verbally attacked him, saying that people like him see the law only from their perspective and partially. One of them said that he also had a similar conflict with activists from the Helsinki Committee in R. Macedonia for this same matter. Then he added that he just represents Macedonian law. After that he was asked to leave and not bring himself in a situation to be arrested for breaking the public order. On his question: «But what have I done wrong?», the police officer said: «I will find something».

2.2. Source of the information

The victim.

2.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- Constitutional right to **free movement** guaranteed in Article 27 of the Constitution of the Republic of North Macedonia;
- Violation of Article 22 of the Law on the police of the Republic of North Macedonia: «While performing police duties, the police officer is obliged **to act in humane manner and to respect the dignity, reputation and honor of the people, as well as the fundamental rights and freedoms**».
- Violation of Article 33 of the Law on the police of the Republic of North Macedonia: «The police officer in uniform when performing police duties, is obliged to show legitimation».
- The police officers overstepped their powers.

2.4. The ground of discrimination

Considering the situation described, human rights restriction/violation was based on the victim's sexual orientation.

2.5. Consequences for the victim

Non-pecuniary damage, violation of the freedom of movement.

2.6. Measures taken and their results

The client reported to EGAL.



CASE 3

3.1. Description of the case with prejudice indicators

The victim (gay men) reported that three police officers stopped him while passing by the so called Lawyer's street in Skopje and faced discriminatory behavior by the police officers. He reported that they were impolite, unprofessional, they searched his vehicle without a warrant, prohibited him to pass by that area, threatened to arrest him, that he would be brought in front of a court. Then they searched his wallet and ironically asked him whether he prays in the nearby church.

3.2. Source of the information

The victim.

3.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- Constitutional **right to free movement** guaranteed in Article 27 of the Constitution of the Republic of North Macedonia;
- Violation of Article 22 of the Law on the police of the Republic of North Macedonia: «While performing police duties, the police officer is obliged to act **in humane manner and to respect the dignity, reputation and honor of the people**, as well as the **fundamental rights and freedoms**».
- Violation of Article 33 of the Law on the police of the Republic of North Macedonia: «The police officer in uniform when performing police duties, is obliged to show legitimation».
- The police officers overstepped their powers.

3.4. The ground of discrimination

Considering the situation described, human rights restriction/violation was based on the victim's sexual orientation.

3.5. Consequences for the victim

Non-pecuniary damage, violation of freedom of movement.

3.6. Measures taken and their results

The client reported to EGAL.

CASE 4

4.1. Description of the case with prejudice indicators

This case was reported by a relative of the victim. It was 02.02.2018. The victim was a pregnant woman who came to the City Hospital in Gostivar and she was already in labor. Once she was examined, the doctor said: «Let's not deliver the baby today, people will say that he is gay because is born on 02.02». Shortly after, a nurse gave her injection with painkillers and sent her home.

4.2. Source of the information

The victim.

4.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- Constitutional **right to health care** (Article 39 of the Constitution of the Republic of North Macedonia) Violation of Article 2 of the Law on protection of patient's rights of the Republic of North Macedonia: «Quality and continual healthcare, in accordance with the current achievements in health and medicine, within the framework of the healthcare protection and health insurance system, appropriate to the individual needs of the patient, with absence of any kind of mental or physical abuse, **with total respect for the dignity of patient's personality and in his/her best interest**, shall be provided by protecting patient's rights».
- Violation of Article 3 paragraph 1 and 2 of the Law on protection of patient's rights of the Republic of North Macedonia: «The patients' rights protection shall be based on the principles of humanity and availability. The humanity principle shall be based on: **respect for the person's personality, as a human being**; respect for the personal self-determination; the physical and mental integrity of the person, as well as the **person's security**; respect for the person's privacy; **humanely (humane) relations among the patient, the health worker and the health associate based on ethical and deontological principles**; the right to express pain and to relief of unnecessary pain in accordance with the up-to-date knowledge in medicine; and humane healthcare of terminally ill persons».

4.4. The ground of discrimination

The behavior is prompted by homophobic beliefs and behavior.

4.5. Consequences for the victim

Non-pecuniary damage, violation of the humanity principle in the health care.

4.6. Measures taken and their results

The client was not willing to start any official procedure.

CASE 5

5.1. Description of the case with prejudice indicators

The victim and his friend were walking in the center of the capital city, when suddenly three people started following them and shouting. They started calling them with vulgar names, to insult them, pointing out the homosexual orientation of the victim and his friend. Shortly after, they physically attacked the victim and his friend and the victim was seriously injured. The attacker took victim's phone, but his friend succeeded to get it back. Then the victim and his friend escaped the attackers.

5.2. Source of the information

The victim's friend.

5.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- The right to **security of the person**, guaranteed by the Universal Declaration of Human Rights, Article 3: «Everyone has right to life, freedom and security of person».
- The right to **inviolability of bodily integrity**, European Convention of Human Rights, Article 3: «No one shall be subjected to torture or to inhuman or degrading treatment or punishment».
- The right to **human dignity**: Article 25 of the Constitution of the Republic of North Macedonia: «The respect and protection of the privacy of the personal and family life, human dignity and reputation is guaranteed to every citizen».
- The right to **protection from harassment**: Article 7 of the Law on protection and prohibition against discrimination of the Republic of North Macedonia: «The harassment and degrading treatment is violation of the dignity of a person or a group of people with arises from discriminatory basis and which have an aim or results in violation of dignity of a person or in creating a threatening, hostile, degrading or frightening environment, approach or practice».

5.4. The ground of discrimination

Sexual orientation

5.5. Consequences for the victim

Creating a feeling of fear and insecurity, causing psychological and physical pain and suffering, non-material damage.

5.6. Measures taken and their results

The case was reported to the police, but afterwards the victim refrained from taking any further action. There is no available data regarding the outcome of the reporting to the police.



CASE 6

6.1. Description of the case with prejudice indicators

During a family gathering, the victim was verbally attacked by his brother with hate speech and discrimination due to his sexual orientation. After that, the brother punched the victim in the face with his fists. The next day, the attacker threatened the victim: «If you want to go out, you will have to ask me first».

6.2. Source of the information

The victim.

6.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- The right to **security of the person**, guaranteed by the Universal Declaration of Human Rights, Article 3: «Everyone has right to life, freedom and security of person».
- The right to **inviolability of bodily integrity**, European Convention of Human Rights, Article 3: «No one shall be subjected to torture or to inhuman or degrading treatment or punishment».
- The right to **human dignity**: Article 25 of the Constitution of the Republic of North Macedonia: «The respect and protection of the privacy of the personal and family life, human dignity and reputation is guaranteed to every citizen».
- The right to **protection from harassment**: Article 7, Law on prohibition and protection against discrimination of the Republic of North Macedonia: «The harassment and degrading treatment is violation of the dignity of a person or a group of people with arises from discriminatory basis and which have an aim or results in violation of dignity of a person or in creating a threatening, hostile, degrading or frightening environment, approach or practice».

- The right to **protection from domestic violence**, Article 3, Law on prevention and protection against domestic violence of the Republic of North Macedonia: «Under domestic violence is considered ill-treatment, insulting, violation of security, body injury, gender or other psychological, psychical or economical violence which causes feelings of insecurity, endangering or fear, including threats for such actions, towards spouse, parents or children or other people who live in or out of wedlock or mutual household, as well as towards present or ex-spouse, extramarital partner or people who have children together or are in close mutual relations, regardless whether the perpetrator shared or shares the same household with the victim or not».

6.4. The ground of discrimination

Sexual orientation.

6.5. Consequences for the victim

Creating a feeling of fear and insecurity, causing psychological and physical pain and suffering, non-material damage.

6.6. Measures taken and their results

The case was reported to the LGBTI Macedonia, the victim was admitted to the Shelter center of LGBTI Macedonia and had a meeting with psychotherapist, but didn't want to take any further actions.



CASE 7

7.1. Description of the case with prejudice indicators

The victim was leaving the bank, when three people stopped him and pulled him by his shirt. One of them tried to punch him in the face, but instead he just pushed him and he fell on the ground. During the fight they were constantly insulting him and calling him with vulgar names pointing out his homosexual orientation. They even asked who pays him to be homosexual.

7.2. Source of the information

The victim.

7.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- The **right to security** of the person, guaranteed by the Universal Declaration of Human Rights, Article 3: «Everyone has right to life, freedom and security of person».
- The right to **inviolability of bodily integrity**, European Convention of Human Rights, Article 3: «No one shall be subjected to torture or to inhuman or degrading treatment or punishment».

- ❑ The **right to human dignity**: Article 25 of the Constitution of the Republic of North Macedonia: «The respect and protection of the privacy of the personal and family life, human dignity and reputation is guaranteed to every citizen».
- ❑ The **right to protection from harassment**: Article 7 of the Law on protection and prohibition against discrimination of the Republic of North Macedonia: «The harassment and degrading treatment is violation of the dignity of a person or a group of people with arises from discriminatory basis and which have an aim or results in violation of dignity of a person or in creating a threatening, hostile, degrading or frightening environment, approach or practice».

7.4. The ground of discrimination

Sexual orientation.

7.5. Consequences for the victim

Creating a feeling of fear and insecurity, causing psychological and physical pain and suffering, non-material damage.

7.6. Measures taken and their results

The victim called the police and the police took the attackers to the police station. But once the attackers apologized for the behavior, they were released. No further action was taken.

CASE 8

8.1. Description of the case with prejudice indicators

In the period of two days (from 11.06.2018 to 13.06.2018) the victim was constantly getting messages on Messenger with life threats for him and his family. The reason for this was the fact that he is a man with homosexual orientation and is a president of an LGBTQ organization working in Tetovo. He wanted to organize celebration of Ramazan Bayram (Muslim holiday) in the office of the organization. Two days after the threats begin, he reported to the police. The police opened an investigation and a public prosecutor started an official procedure.

8.2. Source of the information

The victim.

8.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- ❑ The **right to security** is violated; a **threat to the security by mean of information system** is punishable according to Article 144, par. 4 of the Criminal Code of the Republic of North Macedonia: «Whosoever, by means of information system threatens to commit a crime being subject to prescribed imprisonment of five years or more serious sentence against a person because of their gender, race, color of the skin, class, **member of marginalized group**, ethnic background, language, nationality, social origin, religious belief, other beliefs, education, political affiliation, personal or social status, mental or physical impairment, age, family or marital status, property status, health condition, **or any other ground** foreseen by law or ratified international agreement, shall be sentenced to imprisonment of one to five years».
- ❑ The **prohibition of hate speech**, Article 137 par. 1 of the Criminal Code of the Republic of North Macedonia: «Whosoever, based on the difference in gender, race, color of the skin, class, **member of marginalized group**, ethnic background, language, nationality, social origin, religious belief, other beliefs, education, political affiliation, personal or social status, mental or physical impairment, age, family or marital status, property status, health condition, **or any other ground** foreseen by law or ratified international agreement, deprives or limits another from his human and citizen rights, determined by the Constitution of the Republic of Macedonia, a law or a ratified international agreement or who based on these differences favors the citizens contrary to the Constitution of the Republic of Macedonia, a law or a ratified international agreement, shall be sentenced to imprisonment of three months to three years».

8.4. The ground of discrimination

Sexual orientation.

8.5. Consequences for the victim

Creating a feeling of fear and insecurity, causing psychological and physical pain and suffering, non-material damage.

8.6. Measures taken and their results

The case was reported to the police, official investigation was opened, 12 people were brought in to the police station to give statements. The process is pending.



CASE 9

9.1. Description of the case with prejudice indicators

A group of young men created a false profile on gay online dating site and arranged a meeting with a user of the site. The person showed up at the location and the group started to attack him verbally and threatened him that if he wants them to remain silent about his homosexuality he will have to satisfy them sexually whenever they please.

9.2. Source of the information

Unrelated person who heard indirectly that the event happened.

9.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated

- The right to **security of the person**, guaranteed by the Universal Declaration of Human Rights, Article 3: «Everyone has right to life, freedom and security of person».
- The right to **inviolability of bodily integrity**, European Convention of Human Rights, Article 3: «No one shall be subjected to torture or to inhuman or degrading treatment or punishment».
- The right to **human dignity**: Article 25 of the Constitution of the Republic of North Macedonia: «The respect and protection of the privacy of the personal and family life, human dignity and reputation is guaranteed to every citizen».
- The right to **protection from harassment**: Article 7 of the Law on protection and prohibition against discrimination of the Republic of North Macedonia: «The harassment and degrading treatment is violation of the dignity of a person or a group of people with arises from discriminatory basis and which have an aim or results in violation of dignity of a person or in creating a threatening, hostile, degrading or frightening environment, approach or practice».

9.4. The ground of discrimination

Sexual orientation.

9.5. Measures taken and their results

The case was reported to EGAL by the person who heard about this event worried that the situation may escalate.



CASE 10

10.1. Description of the case with prejudice indicators

The victim agreed to have sexual relations with a male person he did not know before. But in the moment he realized that the sex was unprotected, he objected. The other person got angry and started punching him, pulling him, insulting him and swearing. He said that this is what homosexuals deserve.

10.2. Source of the information

The victim.

10.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated

- The right to **security of the person**, guaranteed by the Universal Declaration of Human Rights, Article 3: «Everyone has right to life, freedom and security of person».
- The right to **inviolability of bodily integrity**, European Convention of Human Rights, Article 3: «No one shall be subjected to torture or to inhuman or degrading treatment or punishment».
- The right to **human dignity**: Article 25 of the Constitution of the Republic of North Macedonia: «The respect and protection of the privacy of the personal and family life, human dignity and reputation is guaranteed to every citizen».
- The right to **protection from harassment**: Article 7 of the Law on protection and prohibition against discrimination of the Republic of North Macedonia: «The harassment and degrading treatment is violation of the dignity of a person or a group of people with arises from discriminatory basis and which have an aim or results in violation of dignity of a person or in creating a threatening, hostile, degrading or frightening environment, approach or practice».

10.4. The ground of discrimination

Sexual orientation.

10.5. Measures taken and their results

Creating a feeling of fear and insecurity, causing psychological and physical pain and suffering, non-material damage.

10.6. Measures taken and their results

The case was reported to the LGBTI Macedonia.



11.1. Description of the case with prejudice indicators

The victim (bisexual man) applied to a job vacancy for a salesman in a boutique and he was called to an interview. During the interview he was asked about his work experience. He said he did not have such, except that he went to competitions for modern dancing. Simultaneously, a woman that was present (the manager of the company) asked if he was gay. She said she didn't mind, but she didn't want him to bring there «freaks» like him. She said she needed a man to pull crates and not to dance ballet. The victim started explaining that he is not gay, but a bisexual, although that had nothing to do with her and the interview he came for. Then he was asked again does his wife know that he is bisexual or she is blind and stupid enough not to notice that. The manager said that she will employ him, but if she sees that he has slightest affection towards a customer or a colleague she would fire him. This was told in a very rude, impolite and insulting manner. After two days, the manager called the victim and said that he can work there if he accepts her conditions and that he should leave at home everything that is in regard with his homosexuality. He accepted the job, because he really needed it, but says he is constantly trying to look «straight» as his boss ordered.

11.2. Source of the information

The victim.

11.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated

- The **right to equal treatment**, Article 6 of the Law on prevention and protection against discrimination of the Republic of North Macedonia: «The employer **must not treat** the job seeker (hereinafter: the job candidate) or the employee **unequally** because of racial or ethnic origin, color, gender, age, health condition, that is, disability, religious, political or other belief, membership in trade unions, national or social origin, family status, property situation, **sexual orientation**, or other personal circumstances».

11.4. The ground of discrimination

Sexual orientation.

11.5. Measures taken and their results

Creating a feeling of fear and insecurity, causing psychological and physical pain and suffering, non-material damage.

11.6. Measures taken and their results

The case was reported to EGAL. The victim does not want to take further action.

12.1. Description of the case with prejudice indicators

The victim is a university student from Italy who came to study in Macedonia. After two months living with his roommate he decided to confide with her about his homosexual orientation considering her to be his good friend. But he faced unpleasant situation. The roommate revealed his secret to all the other students and soon everybody knew that the victim is a homosexual. The roommate also asked the university's management to throw out the victim from the apartment they shared. She was acting very impolitely, telling people that homosexuals can infect others with all different kinds of infections.

12.2. Source of the information

The victim.

12.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated

- The right to **human dignity**: Article 25 of the Constitution of the Republic of North Macedonia: «The respect and protection of the privacy of the personal and family life, human dignity and reputation is guaranteed to every citizen».
- The right to **protection from harassment**: Article 7 of the Law on protection and prohibition against discrimination of the Republic of North Macedonia: «The harassment and degrading treatment is violation of the dignity of a person or a group of people with arises from discriminatory basis and which have an aim or results in violation of dignity of a person or in creating a threatening, hostile, degrading or frightening environment, approach or practice».

12.4. The ground of discrimination

Sexual orientation.

12.5. Measures taken and their results

Psychological pain and suffering.

12.6. Measures taken and their results

The victim first reported to the coordinator at the faculty, and the coordinator contacted with EGAL, asking for advice. Then the university management had separate talks both with the victim and his roommate. At the end the university's management decided that the victim has right to stay in the apartment and that the roommate is the one that should decide whether she wants to stay or find another apartment.



CASE 1

1.1. Description of the case with prejudice indicators

The victim's father found out that his son is gay, he confronted him and insulted him. At the end, the father expels the victim from their house, although the victim is underage, a high school student and has no other place to go.

1.2. Source of the information

The victim.

1.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- The right to **parent care**: Article 40 of the Constitution of the Republic of North Macedonia: «The parents have right and obligation to care and financially support their children».
- The right to **parent care**: Article 11 of the Family Law of the Republic of North Macedonia: «The support is right and obligation of the parents to their children and other members determined by this law».
- The right to **protection from domestic violence**, Article 3, Law on prevention and protection against domestic violence of the Republic of North Macedonia: «Under domestic violence is considered ill-treatment, insulting, violation of security, body injury, gender or other psychological, psychical or economical violence which causes feelings of insecurity, endangering or fear, including threats for such actions, towards spouse, parents or children or other people who live in or out of wedlock or mutual household, as well as towards present or ex-spouse, extramarital partner or people who have children together or are in close mutual relations, regardless whether the perpetrator shared or shares the same household with the victim or not».

1.4. The ground of discrimination

Sexual orientation.

1.5. Consequences for the victim

Psychological pain and suffering, non-material damages.

1.6. Measures taken and their results

The victim did not want to take up any measures.

2.1. Description of the case with prejudice indicators

The victim's right of professional health care was violated due to homophobic beliefs and behavior of a psychologist. The victim reported to Association «Stronger Together», which provided him with free legal aid and sent request for professional opinion and initiated procedure in front of the Chamber of psychologists, regulatory and supervisory body of the psychology professionals. The Chamber did not respond for 9 months, although it was asked to do so by the Ombudsman and the Sanitary and Health Inspectorate in front of which also procedures were initiated. When asked, the president of the Chamber answered that the Chamber did not have any regulation on how to lead disciplinary procedures against the Chamber members and that they have to wait in order such to be enacted. When finally, the answer from the Chamber was sent to the association, not only that it did not answer the crucial questions that were asked, but also it was obvious that the Chamber stood in direct and subjective defense of its own member. The Chamber send minutes from the disciplinary procedure led by the Court of Honor of the Chamber. The lawyer of Stronger Together found many formal omissions in the procedure which legally cause the decision to be non-valid. Although, the procedure was initiated by the association as a third party, according to the new regulation the Chamber enacted, third parties do not have the right to send complaints on the decisions of first instance. As this is contrary to legal principle of two instances, the association will nevertheless, try to abolish the decision.

2.2. Source of the information

The victim.

2.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- The right to **personality, dignity and non-discrimination as a patient**: Article 5 of the Law on patients' right of the Republic of North Macedonia: «The patient shall have the right to exercise the rights prescribed by this Law, without any discrimination based on gender, race, skin color, language, religion, political or other opinion, national or social origin, national minority, material status, origin by birth, sexual orientation or any other status. The personality and dignity of every patient must be respected».
- The right to **protection from harassment**: Article 7 of the Law on protection and prohibition against discrimination of the Republic of North Macedonia: «The harassment and degrading treatment is violation of the dignity of a person or a group of people with arises from discriminatory basis and which have an aim or results in violation of dignity of a person or in creating a threatening, hostile, degrading or frightening environment, approach or practice».

2.4. The ground of discrimination

Sexual orientation, health condition – positive HIV status.

2.5. Consequences for the victim

Psychological pain and suffering, non-material damages.

2.6. Measures taken and their results

A complaint is about to be sent to the Chamber of psychologists and other actions are planned.

CASE 3

3.1. Description of the case with prejudice indicators

The victim (HIV positive man) was at the Clinic for infective diseases and febrile conditions because he had an appointment at 9 o'clock. The appointment was scheduled through the electronic health system. But although he arrived on time, he had to wait for two and a half hours before he entered his doctor's office. While he was waiting he was obliged to meet other patients which was embarrassing for him because seeing him in front of the door of the HIV specialist office revealed to them that he was a person living with HIV.

3.2. Source of the information

The victim.

3.3. Violated/restricted rights

As a result of the above-mentioned circumstances, the following rights were restricted/violated:

- The right to **quality health treatment**: Article 39-b of the Law on Health protection of the Republic of North Macedonia: «The health worker who gives specialist-consulting services is obliged to respect the appointment schedules through the electronic list of appointed medical check-up and interventions».

3.4. The ground of discrimination

Health condition – positive HIV status.

3.5. Consequences for the victim

Psychological pain and suffering.

3.6. Measures taken and their results

The association will send written explanation to the Clinic and warning for respect of patients' rights.

4. CONCLUSIONS AND RECOMMENDATIONS

TOTAL NUMBER OF CASES: 20

The process of documenting cases which lasted from the beginning until the end of 2018, resulted in a base of 20 cases which were carefully documented by volunteers of the Consortium implementing the Program «Right to Health: Community Actions to Increase Access of MSM and Transgender People to HIV Services in Central and Eastern Europe and Central Asia» (the associations: Stronger Together Skopje, EGAL Skopje and STAR STAR Skopje). The purpose of this national report was to describe the situation with the human rights of gay men, other MSM, and trans people, in particular the right to health. Compared to the report from 2017¹, it is encouraging to see that the number of documented cases has increased from 7 in 2017 to 20 in 2018, which means the willingness of the members of the community to at least share the experience of the violation and the trust in the Consortium has increased.

MOST WIDE SPREAD VIOLATIONS:

- Discrimination (20);
- Violation of dignity (14);
- Harassment (12);
- Violation of right to health (3);
- Limitation of freedom of movement (3);
- Violation of security and bodily integrity (9);
- Domestic violence (2);
- Hate speech (1).

Having in sight the type of violations of rights that were reported by the victims, (in some cases there was violation of several rights), we can see that in only 3 out of 20 cases, violation of the right to health was reported. In these cases, discrimination, harassment and violation of dignity was also identified. Having in consideration all the reported cases, it can also be noted that many other violations of rights were reported, such as: the right to security, the right to bodily integrity, the limitation of freedom of movement, hate speech and domestic violence. These cases are included in this report in order to reflect the picture of the unfair treatment this community gets from the society and the discouraging environment that is all around it. In 100% of the cases reported here, discrimination is the basis for the violation.

¹ National report of violation of human rights of gay men, other MSM and trans people, in particular right to health in the Republic of North Macedonia in 2017

Violation of dignity (in 70% of the cases) and harassment (in 60% of the cases) also very often go hand in hand with the other violations of rights. This causes huge consequences to the mental well-being of the members of the mentioned communities. On one hand, they face self-stigma as a direct consequence because all around there are signals that being MSM and trans person is somehow wrong and unacceptable to others. Moreover, even when people are self-aware and try to get help in order to overcome this situation, they can again face problems, such as in the case num. 2² reported in this report, when a psychologist asked for help became the perpetrator of rights. Therefore, this totally induces mistrust not only in the health care professionals, but also in the police³ and other representatives of state institutions who instead of being the protectors of the rights, are actually the perpetrators.

WHO IS THE VICTIM IN MOST CASES

This analysis refers to gay men and other MSM and trans people in particular. The documented violation of rights in this reports is based mostly on discriminatory grounds - sexual orientation and gender. Still, in some of the cases, the analysis shows cases of multiple discrimination where the ground of discrimination is the victim's sexual orientation/gender in correlation with his/hers profession (sex work) and in some cases the ground of discrimination is the victim's sexual orientation in correlation with the victim's health condition (HIV positive status).

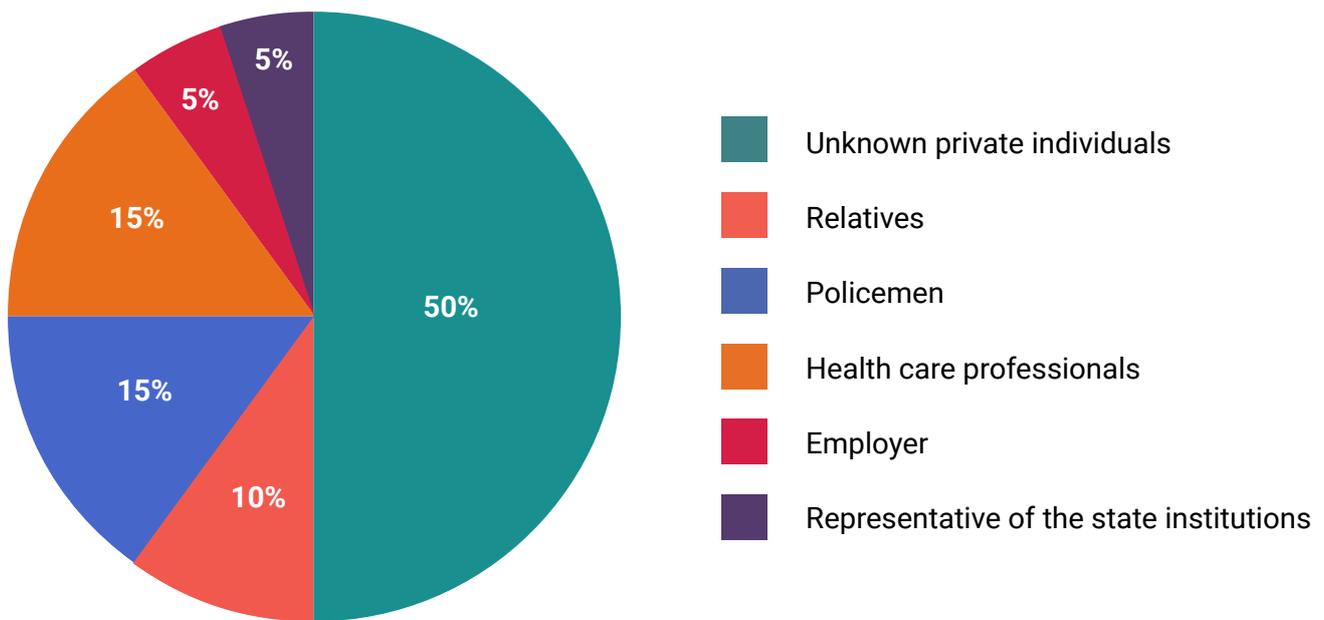
WHO IS THE PERPETRATOR IN MOST CASES

In this analysis which covers 20 reported cases in 2018, the structure is as follows:

- Unknown private individuals – 10;
- Relatives – 2;
- Policemen – 3;
- Health care professionals – 3 (2 doctors and 1 psychologist);
- Employer – 1;
- Representative of the state institutions – 1;

² Case num 2, reported by Stronger Together, page 18

³ About violation of rights by policemen, it is reported in case num. 1, 2, 3 reported by EGAL, page 9-12 of this report



REASONS FOR FAILURE TO CLAIM ONE'S RIGHTS/RELUCTANCE TO PROTECT ONE'S RIGHTS

The reasons for failure are multiple. Firstly, the fear of stigmatization and excommunication from the community in case the sexual orientation, profession (sex work) and health status (HIV positive status) is revealed in broader context is still on a high level among community members. Also, there is still high level of mistrust of the institutions of the system. A major step forward was made when in February 2017, an inter-party parliamentary group of parliament members for promotion of the human rights of LGBTQ people was formed in the Parliament of the country, which boosted positive atmosphere among the community. But, on the other hand, the recently proposed draft Law on prevention and protection against discrimination which has now been amended to explicitly include SOGI as discriminatory ground has been for months stuck in parliamentary procedure. Furthermore, many cases of homophobia and transphobia remain uninvestigated by the institutions which leaves doubts about the sensitivity of the state institutions to LGBTQ rights and their effective protection.

RECOMMENDATION ON HOW TO IMPROVE THE SITUATION ON NATIONAL LEVEL

RECOMMENDATIONS TO CIVIL SOCIETY ORGANIZATIONS:

- ❑ Civil society organization have to ensure personal data protection in order to ensure higher trust and encourage their target groups to report the cases of violation of rights;
- ❑ Civil society organizations should continue educating relevant institutions, in particular those that are responsible to prevent and protect from discrimination, on the specific issues related to SOGI and HIV;
- ❑ Community based NGOs should consider providing continued psychological and legal assistance services and including those services within their program planning, including the Program for protection of the population from HIV infection;
- ❑ Organizing campaigns against stigma and raising awareness of the general public, with partnership of the state institutions as well as international donors;
- ❑ Civil society organizations need to continue their work with law enforcement (educate tolerance and nondiscrimination in partnership with both the Ministry of Health (as the institution responsible for the implementation of the National HIV Program) and the Ministry of Interior Affairs.

RECOMMENDATIONS TO INSTITUTIONS:

- ❑ The Ministry of education has to ensure that all the textbooks included in every level of education are revised and all the homophobic, transphobic wording and hate speech against LBGTQ and PLHIV is removed;
- ❑ The Ministry of health should ensure sustainability in the given support;
- ❑ The justice system must ensure that hate crimes based on homophobia and transphobia for which judicial procedures were initiated, have a just outcome and the perpetrators are appropriately punished;
- ❑ The Agency of the audio and audiovisual medium services, (an independent regulatory body of the media in the country) which is also competent to sanction spread of hate and discrimination by the media, has to provide training programs for the members of the Agency which conduct these procedures and make decisions. The training programs shall educate them how to handle cases of hate speech and discrimination, particularly hate speech and discrimination based on SOGI, health status (HIV infection) or profession (sex work), especially because SOGI, health status and belonging to marginalized group as a discriminatory ground were introduced in the Law on audio and audiovisual medium services only one month ago, on 31.12.2018.

