

NGO: EUROPEAN CENTRE FOR LAW AND JUSTICE (ECLJ)

UNIVERSAL PERIODIC REVIEW 46th Session

STATUS OF HUMAN RIGHTS IN THE REPUBLIC OF NORTH MACEDONIA FOR THE 46th Session of the Universal Periodic Review

> www.ECLJ.org 4, quai Koch 67000 Strasbourg, France Phone:+33 (0)3.88.24.94.40

Status of Human Rights in North Macedonia for the 46th Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of North Macedonia (North Macedonia) for the 46th session of the Universal Periodic Review (UPR).

Background

2. North Macedonia is located in Southeastern Europe, north of Greece, and has a population of approximately 2.1 million people.¹ Of that, 46.1% of the population identify as Macedonian Orthodox, with 32.2% identifying as Muslim, 13.8% as other Christian, 0.5% as other and non-believers, and 7.2% for whom no religious data is available.²

3. North Macedonia's previous review was held on January 24, 2019.³ North Macedonia supported 167 of the 169 recommendations that it received.⁴ A recommendation North Macedonia supported was from Iceland to, "[m]ake medical abortion available and accessible throughout the country, in line with the World Health Organization safe abortion guidelines, and urgently remove waiting periods, biased counselling and unnecessary administrative burdens."⁵ North Macedonia also received a number of recommendations on the prohibition of slavery and human trafficking.⁶ The Maldives recommended that North Macedonia "[c]ontinue to strengthen measures to combat trafficking in persons and ensure access to remedies for victims."⁷ Similar supported recommendations were given by countries including Venezuela, the Philippines, Belarus, and the U.K.⁸

Legal Framework

Abortion

4. Article 10 of North Macedonia's Constitution states that "the human right to life is irrevocable."⁹

5. The 2019 Law on Termination of Pregnancy allows for abortion on request for up to twelve weeks of gestational age with consent from the pregnant woman.¹⁰ The consent must be written and can only be given after a doctor explains the abortion procedure as well as some of the risks involved.¹¹ If the pregnant woman is a minor, written consent must be given by her parents or legal guardians.¹² Abortions are permitted for up to twenty-two weeks of gestational age if the baby was conceived as a result of a rape, sexual assault on a child, or certain instances of adultery, if the child will be born with severe physical or mental disabilities, or if the pregnancy poses a risk to the mother's life or health.¹³ The life or health exception covers more than just serious threats to health, covering personal, family, material, and other things that could affect the mother's health.¹⁴ Termination after the twenty-second week is also possible upon special review by a committee for approval of termination of pregnancy in a health facility.¹⁵

6. North Macedonia is a party to the International Covenant on Civil and Political Rights (ICCPR).¹⁶ Article 6 of the ICCPR states that "[e]very human being has the inherent right to life. This right shall be protected by law."¹⁷

7. North Macedonia is also a party to the Convention on the Rights of the Child (CRC).¹⁸ Under Article 6, it states, "States Parties recognize that every child has the inherent right to life."¹⁹

Human Trafficking

8. Under Article 11 of North Macedonia's Constitution, "[f]orced labour is prohibited."²⁰

9. In Articles 418 and 418-a, the North Macedonian Criminal Code outlaws human trafficking.²¹ It is punishable by at least four years in prison.²² Additionally, if the victim of the trafficking was made to commit any punishable crime while they were being trafficked, they are insulated from punishment.²³

10. A law was enacted in 2022 to monetarily compensate victims of human trafficking.²⁴ The maximum amount that one victim can be compensated is 5,000 euro.²⁵

11. Further, Article 8 of the ICCPR states, "[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude."²⁶

12. North Macedonia is also a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).²⁷ Article 6 of CEDAW holds that "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women."²⁸

13. Additionally, Article 19 of the CRC states:

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.²⁹

14. Moreover, North Macedonia is also a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.³⁰ Under Article 9, Section 1 of this Protocol:

1. States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.³¹

Abortion

15. In North Macedonia, since 2019, there have been roughly 3,400 abortions performed annually in comparison to 19,100 annual live births.³²

16. Mentioned above, North Macedonia's laws on abortion are quite expansive, allowing abortion for even after the twenty-second week of pregnancy. This should be concerning on many different levels. First, such a broad permission to end a human life is a direct violation of North Macedonia's own constitution as well as international human rights law. For example, the preamble of the United Nations Charter states that "the peoples of the United Nations determined . . . to reaffirm faith in fundamental human rights, in the dignity and worth of the human person³³ It is important to note that, while virtually all international treaties contain provisions for the protection and promotion of the right to life, not one contains a "right to abortion." Furthermore, U.N. Member States have had an affirmative commitment to "reduce the recourse to abortion"³⁴ and to "take appropriate steps to help women avoid abortion, which in no case should be promoted as a method of family planning," since the 1994 Cairo Conference on Population and Development.³⁵ Accordingly, there is clearly no international right to an abortion in any capacity, and such a "right" would also evidently be in violation of many international agreements. Even the law permitting abortion until twelve weeks of gestation disregards that abortion is one of the gravest of all offenses against human life and justice because it entails the deliberate killing of an innocent human being. Such an offense may not be granted at any point in time considering the inherent value of human life.

17. Second, North Macedonia's abortion laws are even broader than the State practice around the world. Out of the 193 U.N. Member States, a majority (109) of them have strict limits on abortion.³⁶ Very few countries allow abortion after fourteen weeks of gestation. While the fact that some countries allow abortion can arguably support access to abortion, the fact that there are restrictions on abortion in almost every nation shows that most countries do agree that the state has an interest, not only in protecting women and girls, but also in protecting the lives of all their citizens – including the preborn.³⁷

Third, North Macedonia's exception to allow abortion after the twenty-second week of 18. pregnancy in cases of risk to the mother's health is so broadly defined that it can cover almost anything. On the one hand, the section that allows abortion for up to twelve weeks requires that a doctor inform the mother of potential health risks of abortion, on the other hand, the section that allows abortion even after the twenty-second week creates an inherent contradiction by allowing abortion for personal or family reasons that could affect the mother's health. North Macedonia is aware of the physical harm to the mother caused by abortion, beyond the harm (i.e., death) to the preborn child, yet allows for abortion damaging the very thing it tried to protect—health of the mother. It is well known that abortion can result in perforation of the uterus or laceration of the cervix. It also deprives the mother the health benefits of continuing pregnancy (e.g., eliminating the protective effect of a full-term pregnancy against breast cancer)³⁸ and masks other dangerous symptoms (e.g., a woman with an infection or an undiagnosed ectopic pregnancy may believe her symptoms are merely normal after-effects of abortion, leading her to delay seeking medical help).³⁹ Remarkably, although lacking in legal authority, the World Health Organization's 2022 "Abortion care guideline,"40 also acknowledges the complications of abortion. In addition, post-abortive women experience a host of negative psychological side-effects, from shame to drug abuse and suicidal thoughts.⁴¹ All of these factors contribute to the negative and even devastating effects abortion has on women and girls, and hence, North Macedonia needs to take steps to protect women and preborn children from these effects. Considering the adverse health effects of abortion on women makes the exception to allow abortion for health reasons nonsensical.

19. Fourth, in regard to the exceptions allowing abortion until twenty-two weeks of gestation, any justification of abortion (aside from the extremely rare life vs. life situations where a mother is at risk of dying from continuing the pregnancy) fundamentally rests on the

proposition that some members of the human race do not have even the most basic of human rights, i.e., the right to life. What North Macedonia's exception essentially says is this: A mother's psychological health or her personal and family circumstances, which might affect her health, are so important that they trump a preborn baby's life. That proposition is incompatible not only with international law and State practice, but it is also against all human decency and morality.

20. Fifth, preferring the comfort of adults over a baby's life (a baby who might be born with some disability) also violates these basic principles. Babies born with disabilities, such as Down syndrome, are no less deserving of life than otherwise completely healthy babies. Additionally, babies born with Down syndrome are likewise capable of living long and otherwise healthy lives.⁴² Not to mention the tests used to detect these abnormalities are not consistently reliable.⁴³ As prenatal screenings are becoming more common, companies are trying to screen for more and more diseases and abnormalities. For example, studies found that a prenatal screening for Prader-Willi syndrome returned an incorrect positive result 90% of the time.⁴⁴ These babies' lives are valuable in themselves, and these babies can still bring great joy to their families. Moreover, the value of human life is not dependent upon the nature in which it begins, and the life of a preborn baby conceived by rape or incest is no less valuable and deserving of life than any other. North Macedonia should consider all of these reasons when evaluating its laws that allow abortion.

Human Trafficking

21. "North Macedonia is a country of origin, transit and destination of victims of trafficking in human beings (THB)."⁴⁵ In a recent report sixty-eight victims of human trafficking were recorded from 2019-September 2022.⁴⁶ Furthermore, from 2019-2022, a total of 149 potential victims of human trafficking were identified.⁴⁷ Unfortunately, the number of victims identified drastically decreased from 124 in 2019 to only six in 2020. This decline was due to lack of funding for mobile teams who were identifying potential victims.⁴⁸

22. At least fifteen individuals were sexually exploited, often "in restaurants, bars and nightclubs in the western part of the country."⁴⁹ Human trafficking victims are most often "children from dysfunctional families with a plethora of risk factors, including domestic violence and poor social and economic conditions."⁵⁰

23. While the conviction rate for human traffickers is slowly increasing, North Macedonia needs to sentence the offenders to at least the statutory minimum or above. In 2018-2021, the government convicted fourteen human trafficking offenders, increased from ten convictions in 2013-2016.⁵¹ Despite this increase, in 2017-2022 "in the majority of the child trafficking cases (7 out of 12) and in all adult trafficking cases examined by GRETA [the Group of Experts on Action against Trafficking in Human Beings], the sentences were well below the statutory minimum."⁵²

24. North Macedonia recognizes that it needs a plan of action. In 2021, the government adopted a new action plan to combat human trafficking in 2021-2025, based on recommendations made from an evaluation by GRETA of a former action plan enacted from 2017-2020.⁵³ This plan makes "the identification and referral of victims of trafficking" a new strategic area.⁵⁴

25. Further, beyond just recognizing a need to identify and refer victims, North Macedonia also has made efforts to provide methods of compensation for victims. In 2022, North Macedonia made positive strides by implementing its new victim compensation law.⁵⁵ The state will now compensate victims for the harm that they have suffered and assist victims in

knowing their rights.⁵⁶ The law also established a Commission to handle compensation issues.⁵⁷ The law's advocates believe that "for the first time, victims of human trafficking have been treated in a fair way, giving them the opportunity to receive monetary compensation that would allow them to reintegrate into society and carry out their daily life activities without obstacles."⁵⁸ Unfortunately, despite the systems in place to monetarily compensate victims of human trafficking, these methods of compensation are not frequently awarded nor are victims commonly informed of their ability to claim such compensation.⁵⁹ On top of that, the programs in place for re-introducing trafficking victims to the labor market and providing them with vocational training do not function well due to lack of funding and insufficient involvement of more local forms of government.⁶⁰

26. North Macedonia is working to limit the after the fact impact on victims of human trafficking. As mentioned above, Article 418 of the Criminal Code removes punishment for victims for crimes that they committed while being victimized.⁶¹ This protection is valuable for victims to help them be able to continue their lives. North Macedonia also "provide[s] specialized training for the judiciary on the implementation of the non-punishment principle."⁶² In addition to that training, North Macedonia "accept[s] video-recorded testimonies from victims," which allows victims to limit their encounters with their traffickers.⁶³ Though, it has been suggested that this contributes to victim's legal representatives being absent and unable to submit their compensation claims on time.⁶⁴

27. In addition to its internal improvements, North Macedonia is working with other governments and organizations to fight human trafficking. In March 2021, North Macedonia's National Commission for Combating Trafficking in Human Beings and Illegal Migration collaborated with other organizations to hold online "[t]he first regional workshop on access to effective remedies for victims of TIP [trafficking in persons] in South Eastern Europe."⁶⁵ Also, in May 2023, North Macedonia participated in a joint Europol operation, Operation Global Chain, and arrested eleven suspects "for the sexual exploitation of minors and trafficking in human beings."⁶⁶ By collaborating with other countries and organizations, North Macedonia has taken steps to address the transitory nature of human trafficking.

Recommendations

28. While some of the policies that require informing the mother of the risks of abortion are good, North Macedonia must take greater steps to protect the life of the preborn. To accomplish this, North Macedonia must immediately adopt legislation restricting abortion in order to protect the life of the mother and the preborn child from the dangerous effects of abortion. It should narrow the exception regarding pregnancy affecting the health of the mother to only include instances of when the mother's life is at vital risk. At the very least, North Macedonia should change its laws to preserve the life of babies who could be born with a serious ailment and eliminate the exception allowing reviews to permit abortion after twenty-two weeks. By changing these exceptions, North Macedonia would better recognize the value of life.

29. North Macedonia is to be commended for codifying a protection from prosecution for victims of human trafficking and training the judiciary in this specific area of victim protection. It is also to be commended for working with other countries and organizations and countries to combat human trafficking, which it should continue to do. However, North Macedonia should take greater steps in implementing and enforcing the anti-trafficking infrastructure already in place, as well as develop more effective strategies to reduce trafficking in persons. This includes prosecuting and convicting more human traffickers, increasing sentences for offenders beyond the minimum, and ensuring that the victim compensation structure is working

effectively. North Macedonia must also provide the necessary resources for its anti-trafficking programs to function properly.

docs/HRBodies/UPR/Documents/Session32/MK/UPR32_NorthMacedonia_Thematic_List_Recommendations.d ocx (last visited July 10, 2023).

⁷ Id.

⁸ Id.

⁹ CONSTITUTION OF NORTH MACEDONIA 1991 (amended 2011), art. 10,

https://www.constituteproject.org/constitution/Macedonia_2011.pdf.

¹⁰ Decree for the Proclamation of the law on Termination of Pregnancy, 2019 art. 3 (Ep. 08-2893/1) (North Macedonia), https://abortion-policies.srhr.org/documents/countries/06-Law-on-Termination-of-Pregnancy-No-08-2893-1-2019.pdf (unofficial translation).

¹¹ *Id.* art. 7.

¹² *Id*. art 3.

¹³ *Id.* art. 4.

¹⁴ *Id*. art. 8.

¹⁵ *Id.* art. 9.

¹⁶ Ratification Status for North Macedonia, OHCHR,

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=173&Lang=en (last visited Aug. 15, 2023).

¹⁷ International Covenant on Civil and Political Rights art. 6, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171, https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights [hereinafter ICCPR].

¹⁸ Ratification Status for North Macedonia, supra note 16.

¹⁹ Convention on the Rights of the Child art. 6, adopted Nov. 20, 1989, 1577 U.N.T.S. 3,

https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child [hereinafter CRC].

²⁰ CONSTITUTION OF NORTH MACEDONIA 1991 (amended 2011), art. 11.

²¹ CRIMINAL CODE art. 418, 418-a (North Macedonia),

 $https://legislationline.org/sites/default/files/documents/67/fYROM_CC_2009_am2018_en.pdf.$

 22 *Id.*

 23 *Id*.

²⁴ New Comp. Law Adopted in North Macedonia, LA STRADA INT'L (Nov. 28, 2022),

https://www.lastradainternational.org/news/new-compensation-law-adopted-in-north-macedonia/ $^{\rm 25}$ Id.

²⁶ ICCPR art. 8, *supra* note 17.

²⁷ Status of Ratification – North Macedonia, OHCHR, https://indicators.ohchr.org/ (last visited July 26, 2023).
²⁸ Convention on the Elimination of All Forms of Discrimination against Women art. 6, adopted December 18, 1979, 1249 U.N.T.S. 13, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=_en.

²⁹ CRC art. 19, *supra* note19.

³⁰ Chapter XVIII Penal Matters: 12. a Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, UNITED NATIONS TREATY COLLECTION,

https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18 (Aug. 15, 2023, 9:15 AM).

³¹ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime art. 9, § 1, *adopted* on

¹ North Macedonia, THE WORLD FACTBOOK, https://www.cia.gov/the-world-factbook/countries/north-macedonia (July 14, 2023).

 $^{^{2}}$ Id.

³ Universal Periodic Review – North Macedonia, OHCHR, https://www.ohchr.org/en/hr-bodies/upr/mk-index (last visited July 5, 2023).

⁴ North Macedonia Infographic, OHCHR, https://www.ohchr.org/sites/default/files/lib-

docs/HRBodies/UPR/Documents/Session32/MK/Infographic_NorthMacedonia.pdf (last visited July 10, 2023). ⁵ Id.

⁶ OHCHR, UPR of North Macedonia (3rd Cycle – 32nd Session): Thematic List of Recommendations https://www.ohchr.org/sites/default/files/lib-

Nov. 15, 2000, 2237 U.N.T.S. 319, https://treaties.un.org/doc/treaties/2000/11/20001115%2011-38%20am/ch_xviii_12_ap.pdf.

³² Historical Abortion Statistics, North Macedonia, JOHNSTON'S ARCHIVE,

http://www.johnstonsarchive.net/policy/abortion/ab-macedonia.html (last visited Sept. 7, 2023).

³⁴ Report of the International Conference on Population and Development, Cairo A/CONF/F.171/13/Rev.1 at 58 (5-13 Sept. 1994).

https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/a conf.171 13 rev.1.pdf

³⁵ *Id.* at 46 (emphasis added).

³⁶ Id.

³⁷ The World's Abortion Laws, CTR. FOR REPORD. RTS. (Feb. 23, 2021),

https://reproductiverights.org/sites/default/files/WALM 2021update V1.pdf.

³⁸ See Justin D. Heminger, Big Abortion: What the Antiabortion Movement Can Learn from Big Tobacco, 54 CATH. U.L. REV. 1273, 1288-89 & nn.119 & 121 (2005).

³⁹ See generally *Physical Effects of Abortion: Fact Sheets, News, Articles, Links to Published Studies and More,* THE UNCHOICE, www.theunchoice.com/physical.htm (listing sequelae and referencing sources).

⁴⁰ Abortion Care Guideline, WORLD HEALTH ORG. & HUMAN REPROD. PROGRAMME 79 (Mar. 8, 2022), https://www.who.int/publications/i/item/9789240039483.

⁴¹ Priscilla K. Coleman, Ph.D., et al., Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experiences, J. OF AMERICAN PHYSICIANS & SURGEONS, Vol. 22 No. 4, p. 115, 116-17. (2017),

available at https://www.jpands.org/vol22no4/coleman.pdf.

⁴² Data and Statistics on Down Syndrome, CDC,

https://www.cdc.gov/ncbddd/birthdefects/downsyndrome/data.html (last visited June 29, 2023).

⁴³ When They Warn of Rare Disorders, These Prenatal Tests Are Usually Wrong, N.Y. TIMES (Jan. 1, 2022). https://www.nytimes.com/2022/01/01/upshot/pregnancy-birth-genetic-testing.html.

 44 *Id*.

⁴⁵ Id.

⁴⁶ EVALUATION REPORT: NORTH MACEDONIA 9 (GRETA 2023), https://rm.coe.int/greta-evaluation-report-onnorth-macedonia-third-evaluation-round/1680aaa573.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ *Id*. ⁵⁰ Id.

⁵¹ EVALUATION REPORT, *supra* note 46, at 29 n.68.

⁵² *Id.* at 25, 29.

⁵³ *Id.* at 12.

⁵⁴ Id.

⁵⁵ In North Macedonia Adopted the Law on State Compensation for Victims of Violent Crimes (the Law). Successful Advocacy and Lobby by Open Gate/La Strada, LA STRADA, https://lastrada.org.mk/in-northmacedonia-adopted-the-law-on-state-compensation-for-victims-of-violent-crimes-the-law-successful-advocacyand-lobby-by-open-gate-la-strada/?lang=en (last visited Aug. 15, 2023).

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ EVALUATION REPORT, *supra* note 46, at 21.

⁶⁰ *Id*. at 20.

⁶¹ CRIMINAL CODE art. 418, 418-a (North Macedonia).

⁶² UNITED NATIONS OFF. ON DRUGS & CRIME, EXPLOITATION AND ABUSE: THE SCALE AND SCOPE OF HUMAN TRAFFICKING IN SOUTH EASTERN EUROPE 22 (2022), https://www.unodc.org/documents/human-

trafficking/Exploitation and Abuse.pdf. 63 *Id.* at 44.

⁶⁴ Id.

⁶⁵ UNITED NATIONS OFF. ON DRUGS & CRIME, *supra* note 62, at 7.

⁶⁶ 1,426 Potential Victims Identified in Global Operation Against Human Trafficking, EUROPOL (June 1, 2023), https://www.europol.europa.eu/media-press/newsroom/news/1-426-potential-victims-identified-in-globaloperation-against-human-trafficking.

³³ U.N. Charter preamble.