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Country report

Gender equality



The former
Yugoslav Republic
of Macedonia
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Country report

Gender equality

How are EU rules transposed into
national law?

The former Yugoslav Republic of Macedonia

Mirjana Najchevska updated by Biljana Kotevska

Reporting period 1 January 2017 – 31 December 2017

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1. Introduction

1.1 Basic structure of the national legal system

The national legal system of the former¹ Yugoslav Republic of Macedonia², a successor of the Yugoslav legal system, is a continental, civil-law system in a unitary semi-parliamentarian republic. According to the Constitution, there are three branches of government in place: the legislature (the Assembly, hereinafter the Parliament), the executive (the Government and the President), and the judiciary (the regular courts, the constitutional court and the prosecutors).³ The country has a decentralised local self-government consisting of 81 local self-government units - 80 municipalities and the City of Skopje.⁴

The court system is based on a strict hierarchy, with 27 first instance courts, four second instance courts (courts of appeal) and one Supreme Court. The competence for administrative cases lies with the administrative court of first instance and the Higher Administrative Court (the court of second instance). In addition, there is the Constitutional Court, tasked with deciding on the constitutionality of laws and bylaws.⁵ Courts at all levels and instances have some competences to decide on anti-discrimination cases. In addition, the Ombudsperson and the Commission for Protection against Discrimination – two national human rights institutions with an equality mandate including on gender issues – can also decide on discrimination cases submitted to them. The latter has competences in both the public and the private sphere, whereas the former operates in the public sphere only. The most important part of the executive government with regard to gender equality law is the Ministry of Labour and Social Policy. The legislature – the Parliament – has a working body: a Commission on the Rights of Women and Men. Any text dealing with gender equality has to be discussed and approved by this body, alongside the general commission on laws.

¹ As per UN Resolution A/RES/47/225 (see the footnote below), 'the former' is spelt with lower-case letters to signify that this is a provisional description. The 'f' is not to be capitalised under any circumstances, whereas the 't' can be capitalised, but only in the following three exceptional cases: (1) at the beginning of a sentence, (2) in a 'stand-alone' entry within a table or other graphic diagram, and (3) in a vertical list of country names. Lower-case letters should also be used in running text.

Source:

https://untermportal.un.org/UNTERM/Display/Record/UNHQ/the_former_Yugoslav_Republic_of_Macedonia/1c98d616-3b6a-4d15-a7cb-f88c7f988b83. All hyperlinks were accessed on 08 February 2019.

² The constitutional name of the country is the 'Republic of Macedonia'. However, pending a settlement with Greece on the name dispute, under UN Resolution A/RES/47/225, the country was admitted as a UN member under the temporary reference 'the former Yugoslav Republic of Macedonia'. The temporary reference is used for the purposes of this report because it is the reference that the European Commission uses to refer to the country. The Prespa Agreement – which is to end this two-decade-long dispute between the two countries – has not entered into force at the time of writing, thus the temporary reference remains in use.

³ Note that the wire-tapping affair has cast doubt on whether there is respect for the separation of powers and the rule of law in the country in general. On this, see: Kotevska, B. (2017) *Non-discrimination report – FYR Macedonia*, available at: www.equalitylaw.eu/downloads/4460-fyr-macedonia-country-report-non-discrimination-2017-pdf-1-79-mb.

⁴ The former Yugoslav Republic of Macedonia, Law on Territorial Organisation of Local Self-government, 2004, Article 16. Full title: The former Yugoslav Republic of Macedonia, Law on Territorial Organisation of Local Self-government (*Закон за територијална организација на локалната самоуправа*), Official Gazette of the Republic of Macedonia, Nos 55/2004, 12/2005, 98/2008, 149-2014; Constitutional Court Decision: U.no. 40/2005 (26 October 2005).

⁵ Note, however, that this mechanism has not proved to be an effective one. Namely, the Constitutional Court has either rejected or not found discrimination in all but one case since 1991. The dominant reason for the court to reject a claim was a legal technicality, followed by the determination of the Constitutional Court not to act as a supervisory third-level court, and finally, the failure of the petitioner to present sufficient evidence. This also means that the court does not shift the burden of proof, i.e. the burden of proof still lies with the claimant. In 2017 the Constitutional Court accepted only two cases on discrimination on the basis of personal or social status (according to Article 3 of the Law on the Prevention of and Protection from Discrimination). In both cases the court recognised that there had been discrimination.

www.akademik.mk/ustavniot-sud-sopstvenitsite-na-vikend-kukite-vo-mavrovo-so-protivustavni-obvrski-i-tseni-na-uslugi-za-chistene-na-sneg/.
<http://think24.mk/2017/06/09/ustaven-sud-go-ukinuva-besplatniot-avtobuski-prevoz-na-studentite/>.

Equality is enshrined as a fundamental value and as a principle in the 1991 Constitution.⁶ Discrimination, both as an autonomous provision (Article 137(1)) and as a parasitic provision (Article 417), has been a criminal offence under the Criminal Code since 1996. There is, as yet, no related case law. In addition, the Constitutional Court is the court that deals with discrimination complaints on the grounds of sex, race and religious, ethnic, social and political affiliation.

From 2006 onwards, anti-discrimination and equality matters have been regulated by comprehensive laws, while the anti-discrimination provisions that existed in other laws remained in force (even if they were not aligned with the provisions in the comprehensive laws).

1.2 List of main legislation transposing and implementing Directives

The main national laws transposing the relevant EU directives are:

- Law on Equal Opportunities for Women and Men (Official Gazette No. 6/2012) and its amendments (last amendment Official Gazette No. 150/2015);⁷
- Law on the Prevention of and Protection against Discrimination (Official Gazette No. 50/2010) and its amendments (last amendment Official Gazette No. 31/2016);⁸
- Law on Protection from Harassment in the Workplace (Official Gazette No. 79/2013) and its amendments (Official Gazette No. 147/2015);⁹
- Law on Labour Relations (Official Gazette No. 62/2005) and its amendments (last amendment¹⁰ Official Gazette No. 27/2016);¹¹
- Law on Volunteering (Official Gazette No. 85/2007) and its amendments (last amendment Official Gazette No. 147/2015);¹²
- Law on Voluntary Financed Pension Insurance (Official Gazette No. 7/2008) and its amendments (last amendment Official Gazette No. 13/2013);¹³

⁶ Constitution of the Republic of Macedonia (*Устав на Република Македонија*). Official Website of the Assembly of the Republic of Macedonia, www.sobranie.mk/the-constitution-of-the-republic-of-macedonia.nspx.

⁷ The former Yugoslav Republic of Macedonia, Law on Equal Opportunities for Women and Men, 2013. Full title: The former Yugoslav Republic of Macedonia, Law on Equal Opportunities for Women and Men (*Закон за еднакви можности на жените и мажите*), Official Gazette of the Republic of Macedonia Nos 06/2012, 30/2013, 166/2014, 150/2015.

⁸ The former Yugoslav Republic of Macedonia, Anti-Discrimination Law, 2010. Full title: Law on the Prevention of and Protection against Discrimination (*Закон за спречување и заштита од дискриминација*) Official Gazette of the Republic of Macedonia Nos 50/10, 44/2014, 150/2015, 31/2016, Constitutional Court Decision: U.no. 82/2010.

⁹ The former Yugoslav Republic of Macedonia, Law on Protection against Harassment in the Workplace (2013), Full title: Law on Protection against Harassment in the Workplace (*Закон за заштита од вознемирување на работно место*) Official Gazette of the Republic of Macedonia Nos 79/2013 and 147/2015.

¹⁰ In 2017 there was a citizens' initiative to amend the Law on Labour Relations, with the aim of extending pregnancy leave up to 18 months (www.pravdiko.mk/predlozheni-izmeni-vo-zakonot-za-rabotni-odnosi-2/). The proposal was refused based on technical grounds (www.sobranie.mk/materialdetails.nspx?materialId=9cf2b8cf-94ba-41fc-8d5c-d3580ea7428d).

¹¹ The former Yugoslav Republic of Macedonia, Labour Law, 2005. Full title: Law on Labour Relations (*Закон за работните односи*) Official Gazette of the Republic of Macedonia Nos 62/2005, 106/2008, 161/2008, 114/2009, 130/2009, 149/2009, 50/2010, 52/2010, 124/2010, 47/2011, 11/2012, 39/2012, 13/2013, 25/2013, 170/2013, 187/2013, 113/2014, 20/2015, 33/2015, 72/2015, 129/2015, 27/2016; Constitutional Court Decisions: U.no. 139/2005, U.no. 161/2005, U.no. 134/2005, U.no. 187/2005, U.no. 111/2006, U.no. 188/2006, U.no. 170/2006, U.no. 200/2008, U.no. 20/2009, U.no. 176/2009, U.no. 263/2009, U.no. 62/2013, U.no.114/2014.

¹² The former Yugoslav Republic of Macedonia, Law on Volunteering, 2007. Full title: Law on the Volunteering (*Закон за волонтерство*), Official Gazette of Republic of Macedonia, Nos 85/2007, 161/2008, 147/2015.

¹³ The former Yugoslav Republic of Macedonia, Law on Voluntary Financed Pension Insurance, 2008. Full title: Law on Voluntary Financed Pension Insurance (*Закон за доброволно капитално финансирано пензиско осигурување*), Official Gazette of Republic of Macedonia, Nos 7/2008, 124/2010, 17/2011, 13/2013, Constitutional Court Decisions: U.no. 117/2008, U.no. 162/2008.

- Law on Social Protection (Official Gazette No. 79/2009) and its amendments (last amendment Official Gazette No. 163/2017);¹⁴
- Law on Patients' Rights (Official Gazette No. 82/2008) and its amendments (last amendment Official Gazette No. 150/2015);¹⁵
- Law on Public Health (Official Gazette No. 22/2010) and its amendments (last amendment Official Gazette No. 37/2016);¹⁶
- Law on Health Protection (Official Gazette No. 43/2012) and its amendments (last amendment Official Gazette No. 37/2016);¹⁷
- Rulebook on minimum safety standards for safety and health in the workplace in relation to pregnant workers, workers who have recently given birth or are breastfeeding (Official Gazette No. 119/2011);¹⁸

¹⁴ The former Yugoslav Republic of Macedonia, Law on Social Protection, 2009. Full title: Law on Social Protection (*Закон за социјалната заштита*), Official Gazette of Republic of Macedonia Nos 79/2009, 36/2011, 51/2011, 166/2012, 15/2013, 79/2013, 187/2013, 38/2014, 44/2014, 116/2014, 180/2014, 33/2015, 72/2015, 104/2015, 150/2015, 173/2015, 192/2015 33/2015, 72/2015, 104/2015, 150/2015, 173/2015, 192/2015, 30/2016; 163/2017, Constitutional Court Decision: U.no.165/2009.

¹⁵ The former Yugoslav Republic of Macedonia, Law on Patients' Rights, 2009. Full title: Law on Patients' Rights (*Закон за заштита на правата на пациентите*), Official Gazette of Republic of Macedonia Nos 82/2008, 12/2009, 53/2011, 150/2015.

¹⁶ The former Yugoslav Republic of Macedonia, Law on Public Health, 2010. Full title: Law on Public Health (*Закон за јавно здравје*), Official Gazette of Republic of Macedonia Nos 22/2010, 136/2011, 144/2014, 149/2015, 37/2016.

¹⁷ The former Yugoslav Republic of Macedonia, Law on Health Protection, 2012. Full title: Law on Health Protection (*Закон за здравствена заштита*), Official Gazette of Republic of Macedonia, Nos 43/2012, 145/2012, 87/2013, 164/2013, 39/2014, 43/2014, 132/2014, 188/2014, 10/2015, 61/2015, 154/2015, 192/2015, 17/2016, 37/2016. Constitutional Court Decisions: U.no. 59/2012, U.no. 69/2012, U.no. 101/2014.

¹⁸ The former Yugoslav Republic of Macedonia, Rulebook on minimum safety standards for safety and health in the workplace in relation to pregnant workers, workers who have recently given birth or are breastfeeding, 2011. Full title: Rulebook on minimum safety standards for safety and health in the workplace in relation to pregnant workers, workers who have recently given birth or are breastfeeding (*Правилник за минималните барања за безбедност и здравје при работа на бремени работнички, работнички кои неодамна се породиле или дојат*), Official Gazette of Republic of Macedonia, Nos 119/2011.

2. General legal framework

2.1 Constitution

2.1.1 Does your national Constitution prohibit sex discrimination?

Yes. The only provision that addresses sex discrimination is Article 110 (1-3) which is on the competences of the Constitutional Court and it provides a legal ground for protecting human rights and freedoms, including the prohibition of discrimination based on sex.

2.1.2 Does the Constitution contain other Articles pertaining to equality between men and women?

Yes. The Constitution addresses equality (Article 9) of all citizens regardless of sex, race, skin colour, national and social origin, political and religious beliefs, property and social status. However, it does not have a separate provision on equality between women and men as do some constitutions of the EU Member States (for example, Finland and Germany).

2.1.3 Can the Article(s) mentioned in the two previous questions be invoked in horizontal relations (between private parties)?

Yes. Article 110 promotes protection from discrimination not only against laws and/or state institutions, but also between private parties. The same holds true for Article 9.

2.2 Equal treatment legislation

2.2.1 Does your country have specific equal treatment legislation?

Yes. Chronologically, the first law dealing with equality between men and women is the 2006 Law on Equal Opportunities for Women and Men. This law deals exclusively with sex and gender discrimination. The prohibition of sex discrimination is addressed in depth in Articles 3, 4, 5, 7 and 9. The implementation of this law was lacking, and so were any visible results from it in the field of gender equality. It was therefore replaced by a new law under the same title in 2012, which was intended to enhance the potential for implementation by introducing many new legal obligations. It also transposed three EU Directives: 2002/73/EC, 2000/78/EC and 2004/113/EC. Its adoption procedure was, however, problematic. The first public consultation (discussion) took place only after the proposal reached Parliament (there were no consultations before this). The law was adopted regardless of the many critical comments and concerns raised during the public consultation.

The Law on the Prevention of and Protection against Discrimination (also Anti-discrimination Law, ADL) was adopted in April 2010 and entered into force on 1 January 2011. It regulates direct and indirect discrimination (Article 6), instruction to discriminate (Article 9) and harassment and sexual harassment (Article 7). Positive action is also part of the ADL, albeit as an exception to the prohibition of discrimination. According to Article 13 of the ADL, affirmative action taken by the authorities, the administration, bodies of local self-government, public institutions and persons is justifiable and will not be considered as discrimination until factual equality is attained. This Law also covers all other EU directives' grounds, save for sexual orientation. Article 3 prohibits discrimination on the following grounds: sex, race, colour, gender, belonging to a marginalised group, ethnic origin, language, nationality, social background, religion or religious belief, other types of beliefs, education, political affiliation, personal or social status, 'mental' and physical impairment, age, family or marital status, property status, health condition, and any other ground protected under the law or a ratified international treaty.

In 2017 a procedure to amend the ADL regarding the conditions for the appointment of members of the Commission for Protection against Discrimination (CPAD) was initiated.¹⁹ In January 2018 the initiative reached Parliament.

In the meantime, the Ministry for Labour and Social Policy, supported by the OSCE Mission to Skopje, and in cooperation with relevant civil society organisations (CSOs) (which have worked on legal aid in discrimination cases and on equality policies) established a working group tasked with preparing a new anti-discrimination law.²⁰ The draft text was made available for public discussion, albeit limited.²¹ It was also sent to, and received a positive opinion from, the Venice Commission.²² The proposal has now reached Parliament, although the procedure seems to have become bogged down for over six months (no reasons for this have been made public). The text offers definitions that are fairly in accordance with international standards; equality becomes part of the general definition; the role of the Commission for Protection against Discrimination is enhanced; sexual orientation is included as a ground for discrimination; fines are to be increased; and the novelty is the possibility to instigate legal proceedings in order to seek protection from discrimination as a ground of public interest (*actio popularis*).²³ It also introduces intersectional discrimination including by providing a definition thereof and by subjecting it to higher fines.

¹⁹ Government – sessions archive (in Macedonian language only), <http://vlada.mk/sednica/45>.

²⁰ European Commission for Democracy through Law, Draft-Law for Prevention and Protection against Discrimination, [www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2018\)003-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2018)003-e).

²¹ This included one public debate and a mandatory consultation period at the ENER government online consultation platform.

²² European Commission for Democracy through Law, Opinion of the Venice Commission on the Draft-Law for Prevention and Protection against Discrimination, [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2018\)001-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2018)001-e).

²³ Akademik (2017), 'Public debate on the new Law on prevention and protection against discrimination' (*Јавна дебата за новиот закон за спречување и заштита од дискриминација*), 20 October 2017, akademik website: <http://www.akademik.mk/javna-debata-za-noviot-zakon-za-sprechuvane-i-zashtita-od-diskriminatsija/>.

3. Implementation of central concepts

3.1 Sex/gender/transgender

3.1.1 Are the terms gender/sex defined in your national legislation?

No. The terms gender/sex are used in the national legislation (Law on the Prevention of and Protection against Discrimination, Law on Equal Opportunities for Women and Men and Law on Labour Relations); however, they are not defined in any of the laws. The term transgender is used in the Guidelines for the practice of evidence-based medicine in the treatment of transgender, where the definition is set as: 'gender identity disorder'.²⁴ Also, with the support of the OSCE Mission to Skopje, the Commission for Protection against Discrimination (CPAD) published a Guide on Discrimination Grounds. The Guide is not a legally binding document, nor is it adopted in any CPAD procedure, but it is put forward as a source to assist (potential) applicants and institutions working with the ADL to understand the discrimination grounds. It includes definitions of sex and gender.

One complaint was submitted to the CPAD, based on transgender identity, which was admitted and was followed by a decision which found that there had been discrimination. The case concerned a transgender person's access to a service; they were denied admission to a swimming pool. The Commission recommended that the impediment be removed and compensation paid to the applicant. There is no information on whether these recommendations were implemented.²⁵

Another case from 2017 dealt with a legal gender recognition request. In that case, having completed a gender reassignment procedure, the applicant applied to the competent administrative bodies requesting that their personal documents reflect this change, including by changing their unique citizen's number. This number is assigned upon birth to all people born in the country and part of it is an inbuilt numerical sex marker (450 for men and 410 for women). However, their claim was rejected. The individual therefore took their case to the first instance Administrative Court in Skopje. The Court decided in the applicant's favour, instructing the administrative bodies to implement the requested changes (Judgment U-6. No. 909/2015).

It should be noted that Article 5(2) of the Law on Labour Relations envisages that the terms 'worker' and 'employer' although used in the masculine form have a neutral meaning and are used for men and women equally.

3.1.2 Is discrimination due to gender reassignment explicitly prohibited in your national legislation?

No. Discrimination due to gender reassignment is not explicitly prohibited in national legislation. It is also not mentioned in any of the laws. Moreover, the legal wording in some of the laws could be interpreted as being contrary to the Directive. For example, Article 5 of the ADL contains a definition of marriage stating that it is exclusively a union between one man and one woman. It is similar in the Law on Pension and Disability Insurance.

3.2 Direct sex discrimination

3.2.1 Is direct sex discrimination explicitly prohibited in national legislation?

Yes. Direct discrimination is explicitly prohibited in national legislation. Direct sex discrimination is explicitly prohibited in the ADL (Article 6(1)); the Law on Labour Relations

²⁴ Ministry of Health, Practicing Evidence Based Medicine in Treating Transexualism (*Упатство за практикување на медицина заснована на докази при третман на транссексуализам*), <http://zdravstvo.gov.mk/wp-content/uploads/2015/08/Transeksualizam.pdf>.

²⁵ Commission for Protection Against Discrimination (2016), Opinion No.07-1117/4 (10.06.2016).

(Article 7(2)); the Law on Employment of and Work by Foreigners (Article 4); the Law on Social Protection (Article 21(1)); and the Law on Equal Opportunities for Women and Men (Article 4). The ADL contains a much more complicated definition than that in the directive. Article 6(1) of the ADL states that direct discrimination occurs when a person is treated less favourably, or when there is a differentiation, exclusion, or limitation that results or could result in a deprivation, violation or restriction of the equal recognition or exercise of human rights and basic freedoms as compared to the treatment that another person has or could have in the same or similar conditions.

‘As opposed to the simple comprehensive and encompassing wording of the definition contained in the directives, this definition includes types of treatment (which are gradations of less favourable treatment), thus adding the risk of excluding gradations that are not mentioned in the definition if a restrictive judicial interpretation is applied. However, there has been no case rendering a discrimination claim outside of the scope of the ADL on this ground. It ties the definition to human rights and basic freedoms, which is the formulation contained in the Constitution. Given the weak practice of using international human rights law in the domestic courts, this could also be interpreted restrictively by the courts (meaning that it is only applied to discrimination by a deprivation, violation or restriction of the equal recognition or exercise of rights mentioned in the Constitution).’²⁶

The Law on Labour Relations fully replicates the definition from the Recast directive, as does the Law on Social Protection. The definition in the Law on the Protection of Children is not in line with the directive since it does not include the scenario where a person would be treated less favourably (it only uses the past tense).

3.2.2 Are pregnancy and maternity discrimination explicitly prohibited in legislation as forms of direct sex discrimination?

Yes. Pregnancy and maternity discrimination are explicitly prohibited in legislation as forms of direct sex discrimination. Article 9-b of the Law on Labour Relations explicitly prohibits pregnancy, maternity and parenthood discrimination. The provision complies with Article 2(2)(c) of Directive 2006/54.

3.2.3 Are there specific difficulties in your country in applying the concept of direct sex discrimination? If so, please explain these difficulties, with reference to legislation and/or (national) case law if relevant

Under the current law, the lack of definition of ‘sex’ in the national legislation can pose difficulties for processing transgender claims of direct discrimination on grounds of sex. However, like other systems with open-ended list of grounds, lack of definitions of the individual grounds does not usually pose challenges for applicants in getting their application within the personal scope of protection of the law.

No other particular difficulties specifically arise in relation to the concept of direct sex discrimination. It should be noted, however, that general difficulties (such as the impartiality of the courts being jeopardised or a questionable rule of law) can also have an impact on addressing direct discrimination.

3.3 Indirect sex discrimination

3.3.1 Is indirect sex discrimination explicitly prohibited in national legislation?

Yes. Indirect sex discrimination is prohibited in national legislation in the Law on the Prevention of and Protection against Discrimination (Article 6(2)); the Law on Labour Relations (Article 7(3)); the Law on Employment of and Work by Foreigners (Article 4(6));

²⁶ Kotevska, B. (2017), *Non-discrimination Report – FYR Macedonia*. www.equalitylaw.eu/downloads/4460-fyr-macedonia-country-report-non-discrimination-2017-pdf-1-79-mb.

the Law on Social Protection (Articles 20(1) and 21(2)); the Law on the Protection of Children (Articles 13(1) and 14(2)) and the Law on Equal Opportunities for Women and Men (Article 4 (5)).

Indirect discrimination is defined in Article 4(5) of the Law on Equal Opportunities for Women and Men as 'when an apparently neutral provision, criterion or customary law places people of one gender into a particularly unfavourable position compared with people of the opposite gender, unless that provision, criterion or customary law is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.' The Law on the Prevention of and Protection against Discrimination, in Article 6(2), prescribes that indirect discrimination 'on discriminatory grounds shall be the placing of a person or a group of persons in an unfavourable position compared to other persons by adopting apparently neutral provisions, criteria, or by accepting certain practices, unless such provisions, criteria or practices result from a justified aim, while the means for achieving the aim referred to are appropriate and necessary. Article 7(3) of the Law on Labour Relations prescribes that indirect discrimination 'shall exist when a certain apparently neutral provision, criterion or practice, places or would place the job candidate or the employee in a less favourable position in relation to other persons due to a certain feature, status, orientation or belief.'

Because of the open-ended nature of the ADL provision on discrimination grounds, the lack of definition of gender does not pose challenges for getting a discrimination claim within the personal scope of the law. However, this will not be the case with the Law on Equal Opportunities for Women and Men, which is a single ground law. For this law, such an issue may arise. The definitions comply with the EU definitions.

3.3.2 Is statistical evidence used in your country in order to establish a presumption of indirect sex discrimination? Please provide some examples of cases, if available.

Statistics have not been used in litigation. They are, however, widely used for designing public policy documents (including regarding positive action).

3.3.3 Is in your view the objective justification test applied correctly by national courts? Please provide some examples of cases, if available.

There is no relevant case law available.

3.3.4 Are there specific difficulties in your country in applying the concept of indirect sex discrimination? If so, please explain these difficulties, with reference to legislation and/or (national) case law if relevant.

Due to the scarcity of case law, no comment can be made on the specific difficulties in applying the concept of indirect sex discrimination.

3.4 Multiple discrimination and intersectional discrimination

3.4.1 Is multiple discrimination – i.e. discrimination based on two or more grounds simultaneously – and/or intersectional discrimination – i.e. discrimination resulting from the interaction of grounds of discrimination which interact to produce a new and different type of discrimination - explicitly addressed in national legislation?

Yes. Multiple discrimination is explicitly addressed in Article 12 of the ADL. It is considered as a 'severe form of discrimination'. 'A severe form of discrimination, in terms of this Law, shall be considered the discrimination inflicted on a certain person on multiple discriminatory grounds (multiple discrimination), discrimination inflicted several times (repeated discrimination), discrimination being inflicted for a longer period (extended discrimination) or discrimination the consequences of which severely affect the

discriminated person'. Intersectional discrimination is considered to fall under multiple discrimination – discrimination inflicted on multiple discriminatory grounds.

3.4.2 Is there any case law that addresses multiple discrimination and/or intersectional discrimination (where gender is one of the grounds at stake)?

There is case law on multiple discrimination. The equality body, the CPAD, has consistently reported over the years that it has dealt with cases where discrimination was alleged on more than one discrimination ground. A third of the cases that the CPAD received in 2016 alleged discrimination on several grounds.²⁷ A case put forward by the CSO, the Helsinki Committee for Human Rights of the Republic of Macedonia (MHC) to the CPAD in 2017 was in relation to potential multiple discrimination on the grounds of sex and age in the field of employment. Namely, 'in March 2017, a hotel in Skopje published a vacancy, stating that it was looking for a woman between 30 and 45 years of age for kitchen work – serving breakfast. The Helsinki Committee filed a claim with the CPAD alleging multiple discrimination. CPAD agreed and found that there had been direct multiple discrimination in access to employment on the ground of sex, as well as discrimination against women younger than 30 and older than 45 years of age. The CPAD did not ask the hotel to respond as it found that the text of the advertisement was sufficient proof of discrimination and, because of the nature of the advertised position, the discriminatory action could not be subject to any of the exceptions to discrimination, and so could not be justified. The CPAD requested the hotel to withdraw the original advert and to republish it without the discriminatory criteria.'²⁸

3.5 Positive action

3.5.1 Is positive action explicitly allowed in national legislation?

Yes. Positive action is explicitly allowed in national legislation. According to Article 13 of the Law on the Prevention of and Protection against Discrimination, '[t]he affirmative measures undertaken by state administration bodies, bodies of the local self-government units, other bodies and organisations exercising public authority, public institutions, or by natural persons or legal entities shall not be deemed discrimination if they are established as justified in the past, in the present, or in the future and may be taken until complete factual equality is achieved'. Also, Article 15 of the same law states that '[p]rotective mechanisms for particular categories of persons shall not be deemed discrimination.' These categories are not defined in the law, they are merely listed.²⁹

²⁷ Commission for Protection Against Discrimination (Комисија за заштита од дискриминација) (2017), *2016 Annual Report* (CPAD).

²⁸ The case, *Helsinki Committee vs Hotel Glam* (19 May 2017), was reported on the Helsinki Committee's website: <http://mhc.org.mk/announcements/594#.WrgmULaZPox>. See Kotevska, B. (2017), *Non-discrimination Report – FYR Macedonia*. www.equalitylaw.eu/downloads/4460-fyr-macedonia-country-report-non-discrimination-2017-pdf-1-79-mb.

²⁹ Article 15 lists the following as protective measures that shall not be deemed to be discrimination: '1) the special protection of the pregnant woman and mother, anticipated by law, except when the pregnant woman or mother does not want to make use of this protection and notifies the employer thereof in a written form; 2) measures anticipated by law for encouraging employment; 3) the different treatment of persons with an impediment in participation in training and education in order to meet special educational needs for the purpose of equalling opportunities; 4) the anticipation of a minimum and maximum age for access to certain levels of training and education, provided that it is objectively justified for the achievement of a legitimate aim, and the extent of this differentiation does not exceed that which is necessary in relation to the nature of the training or education, or the conditions in which they are delivered and the extent of this differentiation does not exceed the level that is necessary for the achievement of this aim; 5) measures aimed at securing a balance in the participation of men and women as long as they remain necessary; 6) special measures that are beneficial for persons or groups placed in an unfavourable position as a result of any of the discriminatory grounds, for the purpose of equalling their opportunities, as long as those measures are necessary; 7) special protection, anticipated by law, for children without parents, juveniles, single parents and people with a disability; 8) measures for the protection of the specific features and identity of persons belonging to ethnic, religious or linguistic minorities and their right to cherish and develop their own identity individually or in a community with the other members of their group as well as to stimulate conditions for the promotion of that identity, and 9) measures in the field of education and

In the Law on Equal Opportunities for Women and Men, Article 3 states: 'The different treatment promoted in the Law on Equal Opportunities for Women and Men in accordance with the aims of this or another law shall not be considered discrimination.'

Article 7 of the Law on Equal Opportunities for Women and Men (special measures) states: '(1) Special measures shall be temporary measures taken for the purpose of overcoming an existing unfavourable social status of women and men, resulting from a systematic discrimination or structural gender inequality resulting from historical and socio-cultural circumstances. The special measures shall be aimed at eliminating the barriers or giving special contribution and motivation for the purpose of achieving equal starting positions for women and men, equal treatment, balanced participation or equal social status, development of individual potentials that contribute to social development and equal use of the benefits of the referred development. The special measures referred to in Paragraph (1) of this Article shall include:

- positive measures are measures whereby under equal conditions priority is given to persons of the less-represented gender, until equal representation is reached or the aim for which the measures are taken is achieved. The positive measures shall particularly be implemented in all bodies and at all levels in the field of legislative, executive and judiciary authority and in other bodies and organisations, in the local government, as well as in all other public institutions and services, in the political parties in carrying out political functions, commissions and boards, including the participation in bodies representing the State at international level, until equal participation is achieved;
- encouraging measures are measures that ensure special incentives or introduce special advantages with the purpose of eliminating the circumstances that cause unequal participation of women and men, or unequal status of one gender compared with the other or unequal distribution of social goods and resources; and
- programme measures are measures directed at awareness-raising, organising activities and drafting and implementing action plans for the purpose of motivating and promoting equal opportunities.'

In the view of the author these definitions comply with the EU definitions.

3.5.2 Are there specific difficulties in your country in relation to positive action? If so, please explain these difficulties, with reference to legislation and/or (national) case law if relevant.

There are no specific difficulties in relation to implementing positive action measures. There are difficulties in the sense of how few positive action measures have been prescribed under the law (mainly in relation to election quotas), or how different the priority in relation to positive action on other grounds is compared to gender (such as ethnicity, for example, which has a high political and security significance for the country because of the 2001 ethnic conflict and the Ohrid Framework Agreement which ended that conflict). However, these do not stem from specific difficulties related to implementing positive action specifically on grounds of sex.

3.5.3 Has your country adopted measures that aim to improve the gender balance on company boards?

No, there are no measures that aim to improve the gender balance on company boards nor provisions on quotas for women on company boards in any Macedonian law in force. Neither the Law on Commercial Companies, which regulates the work of private companies, nor the Law on Public Enterprises, which regulates the work of state-owned companies,

training which should ensure the participation of ethnic minorities, as long as those measures remain necessary.' Source: The former Yugoslav Republic of Macedonia, Anti-Discrimination Law, 2010.

nor the Law on Institutions, which regulates the work of public institutions, include any provision on quotas for women on company boards either.

The only law that has a provision related to the issue of quotas for women on company boards is the Law on Equal Opportunities for Women and Men. In Article 6, under Special Measures, it stipulates that '...priority [should be given to the under-represented gender] when there is no equal participation of women and men in the bodies of power...' in all spheres of public life including public institutions.

Based on the National Plan 2007-2012, in 2013 the Association of Macedonian Women Business Leaders was established with the aim of supporting the representation of women in the business hierarchy.³⁰ However, there have been no visible results. According to the Association of Economic Chambers, women hold only 2 % of managerial posts in large companies.³¹

Furthermore, there are no legislative proposals on quotas for women on company boards, available data on codes of conduct or corporate governance codes. Some research has been conducted by international development agencies on the regional level³², as well as by some international organisations,³³ such as the study, 'Women on the Boards of Directors'.

One of the conclusions of the conference 'EU Representation: the Process of Harmonisation to the EU from a Gender Perspective' (10 March 2016) was that there had been no visible improvement in the gender balance on Macedonian company boards.³⁴

Starting from December 2015 or January 2016, some municipalities have adopted strategies for a better gender balance, which include the issue of gender balance on company boards.³⁵ Nevertheless, no information as regards the results of these activities is available to the public.

³⁰ Promotion of the Association of Women Leaders:

[http://www.mchamber.org.mk/\(S\(bpiyarmkvfi1nz55pxhqx345\)\)/default.aspx?lId=1&mId=55&evId=17226](http://www.mchamber.org.mk/(S(bpiyarmkvfi1nz55pxhqx345))/default.aspx?lId=1&mId=55&evId=17226).

³¹ Statement made in March 2016, <https://sitel.com.mk/ssk-samo-dva-otsto-od-zhenite-vo-makedonija-se-na-rakovodni-pozicii-vo-golemite-kompanii>.

³² Women on corporate boards in Bosnia and Herzegovina, FYR Macedonia and Serbia, www.ifc.org/wps/wcm/connect/c0e2ab804fb037b6ad8cef0098cb14b9/PublicationBalkansBD2013.pdf?MOD=AJPERES.

³³ Cigna G., Kobel Y., v Sigheartau A., Corporate Governance in Transition Economies FYR Macedonia Country Report <http://iks.edu.mk/attachments/RESEARCH-REPORT-ON-GENDER-EQUALITY.pdf>.

³⁴ www.reactor.org.mk/NewsDetails.aspx?id=20&newsID=212&lang=en-US.

³⁵ It is mentioned in the strategy plan for gender equality in municipality of Bitola, for example: <http://www.bitola.gov.mk/wordpress/wp-content/uploads/2016/03/%D0%A1%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D0%B8%D1%98%D0%B0-%D0%B7%D0%B0-%D1%80%D0%BE%D0%B4%D0%BE%D0%B2%D0%B0-%D1%80%D0%B0%D0%BC%D0%BD%D0%BE%D0%BF%D1%80%D0%B0%D0%B2%D0%BD%D0%BE.pdf>.

3.5.4 Has your country adopted other positive action measures to improve the gender balance in some fields, e.g. in political candidate lists or political bodies? If so, please describe these measures.

Article 4 of the Law on Political Parties³⁶ stipulates that the political parties will take care of the implementation of the principle of gender equality but only in the area of accessibility of functions within their own political party. This actually includes positive action measures.

Article 4(3) of the Law on Elections³⁷ stipulates that each sex will be represented at a level of at least 40 % in the electoral bodies. The same quota is envisaged in the lists of candidates for Members of Parliament and for municipal councils, although worded slightly differently – every third place must go to the under-represented sex, amounting to four out of ten places being reserved for women. This does not, however, apply to mayoral lists. From 2013 to 2017 only four of the 81 local self-government units were headed by women. In the local elections of 2017, the number of women mayors increased to six. Although this is an improvement, the total number of municipalities where the mayor is a woman still only amounts to 7 %.

The lack of political participation by women at all levels still persists regardless of the changes in local and national governments that occurred in 2017. Where participation is ensured with gender quotas, it remains at around one third (for example, the participation of women in Parliament remains at 36 % even though the recent amendment to the electoral legislation increased the quota for women on electoral lists to 40 %, because the quotas apply to electoral lists not electoral results and the obligation applies to every third place, thus women often make it to the bottom end of the lists, making them less likely to be elected). However, the participation of women in parliamentary bodies was and still remains limited. In particular, women are mostly members of parliamentary bodies and committees relating to health, education and equal opportunities as opposed to defence or security. At present on the parliamentary Commission for Defence and Security, only two of the 12 members are women and on the Commission for Economic Affairs only three of the nine members are women. In contrast, on the Commission for Equal Opportunities for Women and Men, only two of the 10 members are men, indicating that women dominate in bodies dealing with advancing women's rights and gender equality in the country, but are notably excluded from key reform sectors.

Women continue to be under-represented in key decision-making positions, including ministerial positions. This is the case for both the previous and current government. Within the previous government, there were only three female ministers out of 22 (14 %). In the newly established government, this number is four out of 25 ministerial positions (16 %). Furthermore, if we take the first wave of staffing for the new government as an indicator, women are significantly under-represented in all government bodies (at one point, of the 68 newly appointed state positions only eight (11 %) were women). Even though the current government has included gender equality as a strategic priority in its election campaign, and the new Prime Minister has publicly stated that gender equality is a government priority, this is not currently reflected in the government's appointments.³⁸ No further measures have been undertaken to improve the situation.

³⁶ The former Yugoslav Republic of Macedonia, Law on Political Parties (*Закон за политичките партии*), Official Gazette 76/2004.

³⁷ Law on Elections (*Изборен законик*), Official Gazette 40/2006 (last amendment 1 August 2016).

³⁸ Reactor, CEDAW submission, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_NGO_MKD_30045_E.pdf.

3.6 Harassment and sexual harassment

3.6.1 Is harassment explicitly prohibited in national legislation?

Yes, harassment is explicitly prohibited in national legislation.

In the Law on the Prevention of and Protection against Discrimination, the definitions of both harassment (Article 7(1)) and sexual harassment (Article 7(2)) are transposed fully in line with the EU directives. Article 7(1): 'Harassment and humiliating treatment shall be a violation of the dignity of a person or a group of persons that results from a discriminatory ground and is aimed at or results in violation of the dignity of a particular person or the creation of an intimidating, hostile, humiliating or offensive environment, approach or practice.'). Article 7(2) states the following: 'Sexual harassment shall be unwanted behaviour of a sexual nature, manifested physically, verbally or in any other manner, aimed at or resulting in a violation of the dignity of a person, especially when creating a hostile, intimidating, degrading or humiliating environment.'

In the Law on Equal Opportunities for Women and Men, the wording concerning harassment and sexual harassment was actually based on the definitions in the directives (Article 3(3)) 'Discrimination, harassment and sexual harassment on the grounds of gender shall be prohibited in the public and private sector in the spheres of employment and labour, education, science and sports, social security, including social protection, pension and disability insurance, health insurance and health protection, judiciary and administration, housing, public information and media, information and communication technologies, defence and security, membership and active participation in union organisations, political parties, associations and foundations, other membership-based organisations, culture and other spheres defined by this or another law.')

According to this law 'Gender-based harassment is unwanted behaviour associated with the gender of a person, aimed at or resulting in violation of the dignity of a person, and the creation of an intimidating, hostile, degrading, humiliating or offensive environment'.

The same goes for the definitions in Article 9 of the Law on Labour Relations, which deals with harassment and sexual harassment. The last and specific formulation of these two definitions was introduced in 2008, thus aligning them with the EU directives ('Harassment and sexual harassment shall constitute discrimination in terms of Article 6 of this Law. Harassment, in terms of this Law, shall be considered any unwanted behaviour caused by any of the events referred to in Article 6 of this Law that aims at or constitutes a violation of the dignity of the job candidate or the employee, and which causes fear or creates a hostile, humiliating or offensive behaviour. Sexual harassment, in terms of this Law, shall be considered any verbal, non-verbal or physical behaviour of a sexual nature that aims at or constitutes violation of the dignity of the job candidate or employee, and which causes fear or creates hostile, humiliating or offensive behaviour.').

The definitions in the three laws are in line with the directives, including references both to the purpose or effect of violating the dignity of a person. Thus, harassment '...is an unwanted conduct ... with the purpose or effect of violating the dignity of a person ... and of creating an intimidating, hostile, humiliating or offensive environment'. Sexual harassment '...is every verbal, nonverbal or physical conduct of sexual character with the purpose or effect of violating the dignity of a person ... and of creating an intimidating, hostile, humiliating or offensive environment'.

However, further on, there is a stipulation (Article 9-a(2)) on so-called 'mobbing' or psychological harassment, inspired by the Swedish experience (not only legislation but also practice). 'Psychological harassment' is any negative and repetitive (lasting at least six months) conduct with the purpose or effect of violating the dignity of the applicant for employment or the worker and of creating an intimidating, hostile, humiliating or offensive

environment, and whose final objective is ending the working relationship or causing the worker to leave that working position.'

The Law on Protection from Harassment in the Workplace³⁹ lays down a ban on any kind of harassment, as well as a concept of 'abuse of the rights on [non]harassment' (Article 4), defining sexual harassment as 'every verbal, non-verbal or physical behaviour of a sexual character aimed at or constituting a violation of dignity... and which causes a feeling of fear or creates inconvenience or humiliation'. The legislator seems to have intended to create a distinction between harassment in the workplace and other activities that would not be considered as such, including 'any unjustified distinction during unequal treatment towards the employee on any ground of discrimination which is prohibited and for which protection is provided for under a law'.⁴⁰ However, the law does leave room for a conflict between the concept of harassment as prescribed in the Labour Law and the ADL, and that in the Law on Harassment.

This is well illustrated in case No. 'POЖ-316/15' of 15 September 2016⁴¹. In this case, the Skopje Court of Second Instance upheld the decision of the Court of First Instance, rejecting the complaint of the claimant that the Court of First Instance had itself selected which part of the case it would deal with under the Law on Labour Relations and which part under the Law on Protection from Harassment in the Workplace, in such a way that it could rule against her mobbing complaint.

The Macedonian Criminal Code does not follow these changes in the Law on Equal Opportunities for Women and Men. The only possibility to address harassment in a criminal procedure is Article 143 on 'In-service Maltreatment', which is a sort of residual article in the chapter concerning protection of human rights and freedoms, in addition to the general article on discrimination: Article 137 on 'Violation of Citizens' Equality'.

3.6.2 Please specify the scope of the prohibition on harassment (e.g. does it cover employment and access to goods and services; is it broader?).

The definition of harassment covers a broader scope going beyond the field of employment and it is related to all fields of discrimination mentioned in the Law on the Prevention of and Protection against Discrimination (Article 4): '1) labour and labour relations; 2) education, science and sport; 3) social security, including the area of social protection, pension and disability insurance, health insurance and health protection; 4) judiciary and administration; 5) housing; 6) public information and media; 7) access to goods and services; 8) membership and activity in unions, political parties, citizens' associations and foundations or other membership-based organisations; 9) culture, and 10) other areas determined by law.'

3.6.3 Is sexual harassment explicitly prohibited in national legislation?

Yes, sexual harassment is explicitly prohibited in national legislation.

The distinction between 'harassment' and 'sexual harassment' is included in the Law on the Prevention of and Protection against Discrimination and in the Law on Equal Opportunities for Women and Men. However, in the special Law on Protection from Harassment in the Workplace of 2013, both types of harassment are combined.

³⁹ The former Yugoslav Republic of Macedonia, Law on Protection against Harassment in the Workplace (2013), Full title: Law on Protection against Harassment in the Workplace (*Закон за заштита од вознемирување на работно место*) Official Gazette of the Republic of Macedonia No. 79/2013.

⁴⁰ The former Yugoslav Republic of Macedonia, Law on Protection against Harassment in the Workplace (2013), Article 8(3).

⁴¹ [Skopje Appellate Court, case No. 'POЖ-316/15' of 15 September 2016.](#)

Article 7(2) of the Law on the Prevention of and Protection against Discrimination states: 'Sexual harassment shall be unwanted behaviour of sexual nature, manifested physically, verbally or in any other manner, aimed at or resulting in the violation of the dignity of a person, especially when creating a hostile, intimidating, degrading or humiliating environment.'

The Law on Equal Opportunities for Women and Men states: 'Gender-based sexual harassment is any type of unwanted verbal, non-verbal or physical behaviour of sexual nature, aimed at or resulting in the violation of the dignity of a person, especially when an intimidating, hostile, degrading, humiliating or offensive atmosphere is created.' Both definitions comply with the EU definition in Article 2(1)(d) of Directive 2006/54.

Article 9 of the Law on Labour Relations explicitly prohibits harassment and determines it as discrimination, while copying the EU definition (Article 9(4)).

In the Law against harassment in the workplace the definition of a harasser is sexually neutral, thus covering both men and women. In addition to the harassed worker, those who are legally entitled to submit a case on his/her behalf as legal representatives based on his/her written consent are:

- 1) a trade union representative or an employees' representative;
- 2) a person in charge of health and safety or of human resources.

A good aspect of this Law is the provision stipulating protection from victimisation, meaning that the person who initiates a procedure for protection from harassment in the workplace, or takes part as a witness, is protected against less favourable treatment in working relations and dismissal. This protection lasts for two years from the initiation of the procedure.⁴² However, a CSO study on legal protection from harassment in the workplace has found that 'the adopted Law has not contributed to significant progress in the fight against this phenomenon in our country nor has it gained the citizens' confidence that its provisions guarantee a firm basis for positive settlement through the procedures against harassment in the workplace.'⁴³ Even the latest research⁴⁴ highlights the problem that '[s]exual violence is one of the most widespread forms of violence in Macedonia, and yet at the same time it is one of the least reported'. So far, none of these forms of sexual violence has been recognised as gender-based violence, while women and girls are neither recognised nor treated as a particularly vulnerable category.

3.6.4 Please specify the scope of the prohibition on harassment (e.g. does it cover employment and access to goods and services; is it broader?).

In the same way as the definition of harassment, the definition of sexual harassment covers a scope that is broader than employment and is related to all fields of discrimination mentioned in the Law on the Prevention of and Protection against Discrimination (Article 4): '1) labour and labour relations; 2) education, science and sport; 3) social security, including the area of social protection, pension and disability insurance, health insurance and health protection; 4) judiciary and administration; 5) housing; 6) public information and media; 7) access to goods and services; 8) membership and activity in unions, political parties, citizens' associations and foundations or other membership-based organisations; 9) culture, and 10) other areas determined by law.'

⁴² The former Yugoslav Republic of Macedonia, Law on Protection against Harassment in the Workplace (2013), Article 30.

⁴³ Page. 38, Survey on legal protection of the victims of harassment on working place, www.esem.org.mk/pdf/Publikacii/2016/Pregled%20na%20pravnata%20zastita%20-%20voznemiruvanje.pdf.

⁴⁴ NMNPZ, Study on different forms of sexual violence, <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2013/11/studija-za-seksualno-nasilstvo-vo-rm.pdf>.

- 3.6.5 Does national legislation specify that harassment and sexual harassment as well as any less favourable treatment based on the person's rejection of or submission to such conduct amounts to discrimination (see Article 2(2)(a) of Directive 2006/54)?

Yes, the national legislation specifies that harassment and sexual harassment as well as any less favourable treatment based on the person's rejection of or submission to such conduct amounts to discrimination.

3.7 Instruction to discriminate

- 3.7.1 Is an instruction to discriminate explicitly prohibited in national legislation?

Yes, the instruction to discriminate is explicitly prohibited in national legislation.

Article 9 (Call for and incitement to discrimination) of the Law on the Prevention of and Protection against Discrimination states: 'Discrimination shall also be any activity on the basis of which a person directly or indirectly calls for, encourages, gives directions or incites another person to discriminate.' Article 5(4) of the Law on Protection from Harassment in the Workplace includes a provision along the same lines.

- 3.7.2 Are there specific difficulties in your country in relation to the concept of instruction to discriminate? If so, please explain these difficulties, with reference to legislation and/or (national) case law if relevant.

There are some reports on this issue,⁴⁵ yet there are no cases dealing with it in relation to sex. A case on an instruction to discriminate in relation to racial or ethnic origin was reported to the equality body in 2013 by Sumnal (a CSO dealing with Roma rights).⁴⁶ 'A company that was contracted by a large (now closed) supermarket located in one of the largest malls in the country had instructed its sub-contracted company to 'remove' all employees of Roma ethnic origin who worked in the food department. Although the instruction to discriminate was evident, the case was found to be one of direct discrimination by the contracted company and there was no deliberation on the element of an instruction to discriminate.'⁴⁷

3.8 Other forms of discrimination

Are any other forms of discrimination prohibited in national law, such as discrimination by association or assumed discrimination?

No. Discrimination by association and assumed discrimination are not prohibited under the ADL. However, there are other forms of discrimination which are tied to specific discrimination grounds which are not related to sex (such as reasonable accommodation, tied to disability, in Article 8(2) of the ADL).

⁴⁵ MHC, Annual Report 2013, http://www.mhc.org.mk/system/uploads/redactor_assets/documents/681/Helsinki_Godisen_2013.pdf, p. 79, accessed 15 September 2015 <http://bezomrazno.mk/tolerancijata-na-qovor-na-omraza-vodi-kon-dela-od-omraza/>.

⁴⁶ Commission for Protection against Discrimination (Комисија за заштита од дискриминација) No. 07-633/4 *Association for the Development of the Roma Community Sumnal vs Marcem DOO Skopje*, 23 May 2013.

⁴⁷ Kotevska, B. (2017), *Non-discrimination Report – FYR Macedonia*. <https://www.equalitylaw.eu/downloads/4460-fyr-macedonia-country-report-non-discrimination-2017-pdf-1-79-mb>.

4. Equal pay and equal treatment at work (Article 157 TFEU and Recast Directive 2006/54)

4.1 Equal pay

4.1.1 Is the principle of equal pay for equal work or work of equal value implemented in national legislation?

The principle of equal pay for equal work or work of equal value is implemented in national legislation.

The Law on Labour Relations,⁴⁸ both in the anti-discrimination provisions (Articles 6 and 7) and in the provisions on salaries (Article 108), clearly states that for equal work male and female workers should be equally paid.⁴⁹

Article 108 of the Law on Labour Relations contains a special and explicit provision concerning equal remuneration for men and women, providing that 'an employer has a duty to determine equal remuneration for men and women for the same kind of work or work of equal value.' According to the same Article, all provisions in a contract for employment or in a collective contract and general actions of the employer that deviate from this rule will be annulled. The equal pay provisions under the Law on Labour Relations are also applicable to civil servants.

The Law on Civil Servants has a whole range of provisions introducing so-called salary scales. Salaries are elaborated in detail, but without naming specific categories of employees.⁵⁰

The Law on Agencies for Temporary Employment,⁵¹ has a provision (Article 14) declaring that temporary employee (employees hired via the agency; subcontractors) cannot be paid less than non-agency employees for the same or similar work.

This is not the case, however, for seasonal and part-time workers and for home workers.⁵² There are no clauses on their protection except for part-time workers, where the word 'proportionally' is used concerning pay. For all these categories, the issue of remuneration should be regulated exclusively by the employment contract between the employer and the employee.

So far no claims have been brought before the courts. There is also a large gap between the formal recognition of the principle of equal pay and its implementation in practice, including by reflecting the principle in relevant laws. For example, despite the amendments to the Law on the Minimum Wage adopted in February 2014, the difference between the minimum wage in the textile industry and all other sectors remains.⁵³ Employees in the textile industry (mainly women) used to receive 10 % less than all other workers.⁵⁴ This gap was bridged with the amendments to this Law in September 2017.⁵⁵ Although these amendments increased the nominal amount of the minimum wage, the conditioning of the salary upon the achievement of predefined work results remained. According to Article 3 of the Law on the Minimum Wage, the minimum salary shall be the lowest monthly amount

⁴⁸ Law on Labour Relations, Official Gazette, No. 62/2005 (last amendment: No. 39/2014).

⁴⁹ In the FYR of Macedonia, generally, the policies of employment are gender neutral.

⁵⁰ Law on Civil Servants (revised), Official Gazette, No. 108/2005 (last amendment: No. 24/2014).

⁵¹ Law on Agencies for Temporary Employment, Official Gazette, No. 49/206 (last amendment: No. 136/2014).

⁵² Law on Labour Relations, Official Gazette, No. 62/2005 (last amendment: No. 39/2014).

⁵³ For further information see: European Network of Legal Experts in the Field of Gender Equality, M. Najcevska (2013), 'FYR of Macedonia' in: *Law Review 1/2013* pp. 89-91, European Commission 2013, available at: http://ec.europa.eu/justice/gender-equality/files/law_reviews/egelr_2013-1_final_web_en.pdf.

⁵⁴ Law on the Minimum Wage – including amendments (2017) <http://www.mtsp.gov.mk/content/pdf/zakoni/Zakon%20za%20minimalna%20plata%20precisten.pdf>.

⁵⁵ Official Gazette 132/2017, www.slvesnik.com.mk/Issues/29e386280616444b906426bc91fb7005.pdf.

of the basic salary which the employer is obliged to pay to the employee for work done during full-time hours and is conditional upon predefined work results (determined by the employer on a yearly basis) being achieved. These results are to be determined by the employer in cooperation with the employees, and they should be achievable for at least 80 %⁵⁶ of the employees in each technical and technological unit. The employer is obliged, at the end of every month, to issue a certificate to the employee showing the predefined work results that have been achieved together with the written calculation of the employee's salary. This raises a suspicion that the Law might be misused by employers who can determine unrealistically high and unachievable predefined work results so that workers fail to achieve them and employers can lawfully pay them less than the legally determined minimum wage. Such a suspicion is well founded, as is illustrated by reports from CSOs. Namely, in 2017, the CSO MHC documented 308 instances of textile workers who had received salaries that were lower than the legally determined minimum salary because they had failed to achieve the unrealistically high and unachievable predefined work results.⁵⁷

According to a CSO analysis '...women in Macedonia are paid 14.1 % less than men before adjusting for human capital characteristics. With the adjustments the gap increases to 19.2 %'.⁵⁸ The econometric analysis by the ILO, *The gender and motherhood wage gap in the FYR of Macedonia*, also reveals the existence of a large gender pay gap up to 19 % of the general wage and up to 28 % of the wage for non-qualified labour.⁵⁹

In 2017, the problem of the pay gap received more attention from both the expert public and state bodies. One of the priority strategy goals of the National Strategy on Equality and Non-discrimination 2016-2020 is in fact 'raising public awareness of the employers for equal validation of the work of people with a disability, as well as based on sex'. The pay gap is also mentioned in the National Employment Strategy 2016-2020: 'Hence, the pay gap between men and women (providing that they have the same level of education, the same work experience, work in the same sector, profession etc.) is 17.5 %. The pay gap is the largest in industry and traditional services.'⁶⁰

Low economic participation rates remain high. In 2016, 56.2 % of working age women remained economically inactive, making up 64.6 % of the total economically inactive population in the country. The economic inactivity rates remain consistently high among women even when older generations (where gaps between men and women are more pronounced) are now aging out of the labour market and women's qualifications have reached and surpassed educational qualifications among men - at present 31.5 % of women have completed university education, whereas among men this is only 17.5 % of the working age population. Despite the fact that many government documents attribute the lack of women's participation in the labour market to traditional attitudes, this claim is not supported by evidence. Research has shown that, actually, discrimination in the labour market, the lack of policies to reconcile work and family life, the lack (and the cost) of care and childcare facilities all contribute to the high economic inactivity rates among women. Economically inactive women have not been specifically targeted with the active employment measures introduced by the Agency for Employment, nor with any other systematic measures or policies to integrate economically inactive women into the labour

⁵⁶ It is not stated that these results will have to be amended if it appears that less than 80 % of the workers can actually achieve these results.

⁵⁷ Law on Amending the Law on the Minimum Wage, Official Gazette of the Republic of Macedonia, No. 132/17.

⁵⁸ Page 82, https://issuu.com/financethink/docs/gender_wage_and_motherhood_gaps_-_m.

⁵⁹ Petreski, M. and Mojsoska Blazevski, N. (2015), *The gender and motherhood wage gap in the former Yugoslav Republic of Macedonia: An econometric analysis*, ILO, Working Paper 6/2015. Available at: www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_447699.pdf.

⁶⁰ National Employment Strategy 2016-2020. Available (in Macedonian) at: www.mtsp.gov.mk/content/pdf/strategii/Nacionalna%20Strategija%20za%20Vrabotuvane%20na%20Republika%20Makedonija%20za%20Vlada%2016102015.pdf.

market for that matter.⁶¹ One of the most important problems and challenges that Macedonia's labour market is facing is the very high degree of gender segregation.

In 2017 the Government Cabinet was still planning to adopt concrete measures (for instance, a special strategy on women's entrepreneurship in 2017-2020, the first of its kind in the Republic of Macedonia).⁶²

However, CSOs are still the primary source of in-depth analyses and proposed tools and solutions.⁶³ Their recommendations have already been implemented in the public policies of the Government or have been included in strategic documents.⁶⁴ Nevertheless, some CSOs still believe that plans and programmes are being adopted without sufficient and appropriate analyses of the situation.⁶⁵

4.1.2 Is the concept of pay defined in national legislation?

The concept of pay is defined in national legislation as an 'obligation for job payment'. Article 41 of the Law on Labour Relations states that the employer shall be obliged to ensure the employee appropriate remuneration for their work. Article 105(3) and Article 106 of the Law on Labour Relations envisage that the pay is composed of three components: basic pay in accordance with the conditions of the place of work; work results; and pay supplements related to shift work, night work etc.

4.1.3 Does the definition of 'pay' comply with the definition of Article 157(2) TFEU.

The definition of 'pay' complies with the definition of Article 157(2) TFEU.

4.1.4 Is a comparator required in national law as regards equal pay?

The comparator is mentioned only in the Law on Labour Relations, Article 7: Direct discrimination, in terms of Paragraph (1) of this Article, shall be any action conditioned by any of the discrimination grounds referred to in Article 6 of this Law by which the person has been, is or could be put in a less favourable position than other people in comparable circumstances.

4.1.5 Does national law lay down parameters for establishing the equal value of the work performed, such as the nature of the work, training and working conditions?

Not entirely; however, there is a general phrase in Article 108 of the Law on Labour Relations stating that equal pay is based on equal work and: 'equal requirements for the job'. The term 'requirements' usually means educational level and work experience, sometimes training of the worker in order to respond to the working conditions.

Article 105 of the Law on Labour Relations states that '(1) The employee shall be entitled to payment of earnings – salary, in accordance with the law, collective agreement and employment contract'.

Article 106 of the Law on Labour Relations includes an explanation of the structure of the salary and elements for its calculation.

⁶¹ Reactor, CEDAW Submission, [INT CEDAW NGO MKD 30045 E.pdf](#).

⁶² Employment and social reform programme 2020, Government of the Republic of Macedonia, July 2017, [www.mtsp.gov.mk/content/word/esrp_dokumenti/ESRP%20Macedonia%20-%20final%20\(ENG\).pdf](#).

⁶³ [https://issuu.com/financethink/docs/gender-wage-and-motherhood-gaps-m](#), [www.financethink.mk/analysis-of-gender-wage-gap-when-women-are-highly-inactive-evidence-from-repeated-imputations-with-macedonian-data/](#), [www.financethink.mk/wp-content/uploads/2017/04/FT-comment_10.pdf](#).

⁶⁴ [www.mtsp.gov.mk/content/word/esrp_dokumenti/ESRP%20Macedonia%20-%20final%20\(ENG\).pdf](#).

⁶⁵ [http://zdrzenska.org.mk/wp-content/uploads/2018/02/Предлог-приоритети-предизвици-препораки-и-мерки-за-Националниот-акциски-план-на-РМ-за-родова-еднаквост-2018-2020.pdf](#).

The Ministry of Information Society and Administration publishes a job classification system without determining pay, but based on the same criteria for both men and women.

4.1.6 Does national (case) law address wage transparency in any way?

Although there is no specific legal provision on wage transparency, there are cases where pay is considered, in practice, to be covered by worker confidentiality. There are no court cases; however, employers are using protection of privacy to treat wage levels as confidential data. Some employers include a confidentiality clause regarding wages in the employment contract.

4.1.7 Is the European Commission's Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency applied in your country?

No, the European Commission's Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency is not applied in Macedonia.

4.1.8 Which justifications for pay differences are allowed in legislation and/or case law?

In the public sphere, pay differences are prohibited by Article 6 of the Law on Labour Relations. Legally, the only general justification for pay differences is the variable 'work results' envisaged in Article 106(2) of the Law on Labour Relations (see 4.1.2).

In the private sector, in addition to work results, a specific justification for pay difference applies to managers for whom Article 54 of the Law on Labour Relations envisages total freedom for fixing the pay at any level that the employer and the manager would agree upon.

4.1.9 Are there specific difficulties related to the application of the principle of equal pay for equal work and work of equal value in practice? For example in case of outsourcing?

Gender segregation of the workforce in the different sectors and branches of the economy is one of the reasons for the gender pay gap. A cross-sector comparison of collective agreements is lacking and should be conducted.⁶⁶

The decrease in the gender pay gap might partially be a result of the amendments to the Law on the Minimum Wage, which target specific industries where women are predominantly employed.⁶⁷ However, all other open issues remain.

This issue has been tackled in only one case so far, which was brought before the Constitutional Court by the women's division of the association of trade unions. The applicants challenged the limitation of payment during pregnancy and maternity leave, by means of which women in higher positions and with higher salaries would not receive payment according to their salaries but rather only up to a maximum of two average salaries as per the national level.⁶⁸ The decision of the Constitutional Court was negative (with a separate opinion from one judge), i.e. the Court believed that this provision was not discriminatory.

In addition to the legal provisions detailed above, gender equality coordinators are appointed in all ministries, and commissions for equal opportunities are established at the

⁶⁶ In some sectors (agriculture, transport and construction) the difference is up to 40 %, Ananiev J. (2015), *Research report: Gender pay gap on national level*, University Goce Delchev – Stip.

⁶⁷ www.mtsp.gov.mk/pocetna-ns_article-carovska-vo-on.nsp.

⁶⁸ Negative decision of the Constitutional Court <http://ustavensud.mk/?p=9041>.

local level. They have not been used thus far to tackle the gender pay gap. Collective bargaining and the respective agreements currently also do not play any significant role in promoting the principle of equal pay in the country.

4.2 Access to work and working conditions

4.2.1 Is the personal scope in relation to access to employment, vocational training, working conditions etc. defined in national law (see Article 14 of Directive 2006/54)?

Yes. Article 5 of the Law on Labour Relations includes a definition of 'employee' as 'any natural person employed on the basis of a concluded employment contract'. According to the view of the author, this definition complies with the CJEU definition.

Article 25(11) of the Law on Labour Relations also envisages equal access concerning vocational training for fixed-term workers. Self-employed workers are not mentioned in this context.

Article 3 read together with Article 4 of the Law on the Prevention of and Protection against Discrimination includes the full scope of the Recast Directive.

The Law on Agencies for Temporary Employment,⁶⁹ in Articles 3-b, 3-c and 3-d, stipulates a clause of non-discrimination and equality between regular and temporary employees in all of the above-mentioned aspects, except promotion, which is not mentioned at all.

4.2.2 Is the material scope in relation to (access to) employment defined in national law (see Article 14(1) of the Recast Directive 2006/54)?

Yes. Article 6(2) of the Law on Labour Relations enumerates the areas of the material scope: 'Women and men must be provided equal opportunities and equal treatment in connection with: access to employment, including promotion and work-related vocational and professional training; working conditions; equal payment for equal work; occupational social security schemes; absence from work; working hours, and termination of employment contract.' The scope is along the lines of the EU scope.⁷⁰

Article 1 of the Law on Equal Opportunities for Women and Men states that it will be applied in the fields of health protection and health insurance, social protection, access to goods and services, economy, labour relations and employment, education and professional development, economic and proprietary relations, use of public products and services (consumer rights), culture and sport, information and communication technologies, defence and security, judiciary and administration, housing, public information and media, state and public administration and other spheres of social life.

Article 4 of the Law on the Prevention of and Protection against Discrimination includes employment and vocational training. It extends its scope to any other area stipulated by law, which includes the full scope of the Recast Directive.

4.2.3 Has the exception on occupational activities been implemented into national law (see Article 14(2) of Recast Directive 2006/54)?

Yes, the exception on occupational activities has been implemented into national law.

Under the title 'Exceptions to the ban on discrimination', Article 8 of the Law on Labour Relations (Paragraph 1) states that '[a]ny distinction, exclusion or preference in respect to

⁶⁹ Law on Agencies for Temporary Employment, Official Gazette, No. 49/206 (last amendment: No. 136/2011).

⁷⁰ Law on Labour Relations, Official Gazette, No. 62/2005 (last amendment: No. 39/2012), Article 6.

certain work shall not be considered discrimination when the nature of the work or the conditions in which it is performed are such that the characteristics related to some of the [protected grounds of discrimination] referred to in Article 6 of this Law represent a real and determining occupational requirement, provided that the goal that is aimed to be accomplished is legitimate and the requirement is proportionate.'

This exception is also included in the Law on the Prevention and Protection against Discrimination. According to Article 14 the different treatment of people on the basis of characteristics referring to any of the discriminatory grounds, in cases when those characteristics, due to the nature of the occupation or the activity, or due to the conditions under which that occupation is carried out, represent an essential and decisive requirement, the aim is legitimate, and the requirement does not exceed the necessary level for its accomplishment, will not be deemed discrimination. The same exception is connected to the different treatment of people on the basis of religion, belief, sex or other characteristics related to an occupation carried out in religious institutions or organisations when, according to the nature of the relevant occupation or activity, or due to the requirements under which the religion is exercised, the belief, sex or other characteristics represent an essential and decisive requirement from the point of view of the institution or the organisation, when the aim is legitimate, and the requirement does not exceed the necessary level for its accomplishment. Finally, the establishment of a requirement for a minimum age, professional experience or length of service in selection processes, or the granting of certain privileges, as well as the establishment of a requirement for a maximum age in the employment process related to the need for training or due to the needs of rational time limitations related to retirement anticipated by law are also part of these exceptions.

Article 15 provides for the following: 'any legal measure encouraging employment, any differential treatment of persons with an impediment in the participation in training and receiving education in order to meet the special educational needs for the purpose of equal opportunities, measures aimed at securing a balance in the participation of the men and women, until those measures are no longer necessary, and special measures beneficial for the persons or groups which are placed in an unfavourable position as a result of any of the discriminatory grounds, for the purpose of equal opportunities, as long as those measures are necessary, shall not be deemed discrimination.'

So far no assessment has been made as to whether maintaining the occupational requirements referred to in Article 14(2) is still justified in the light of social developments.

4.2.4 Has the exception on protection for women, in particular as regards pregnancy and maternity, been implemented in national law (see Article 28(1) of Recast Directive 2006/54)?

Yes, Article 15 of the Law on the Prevention of and Protection against Discrimination stipulates that special protection shall be given to the pregnant woman and mother, anticipated by law, except when the pregnant woman or mother does not want to benefit from this protection and notifies the employer thereof in writing, and this shall not be deemed to be discrimination.

4.2.5 Are there particular difficulties related to the personal and/or material scope of national law in relation to access to work, vocational training, employment, working conditions etc.?

No, there are no particular difficulties. However, instead of systematic solutions addressing the employment gap between women and men, public support for the active exercise of women's rights is led through individual projects and programmes.⁷¹

⁷¹ www.mrfp.org.mk/mk/za-nashata-rabota/promocija-pretpriemnistvo/partnerstva-za-razvoj-na-mali-pretprijatija/pristap-do-samo-vrabotuvanje.html.

One of the strategic goals of the National Strategy for Equality and Non-discrimination 2016-2020 is the '[i]mplementation of the recommendations of the ILO Convention concerning Discrimination in Respect of Employment and Occupation No. 11 (1958)'. However, this goal has not yet been achieved (nor acted upon).

In the 'Operative plan on active measures and programmes for employment' of the Ministry of Labour and Social Policy for 2017, these issues are treated in a very general way. The Plan states: 'As a general rule in all services and programmes for employment mentioned in the Operative Plan, efforts will be made to achieve equal representation of men and women, as well as participation of young people (up to 29 years of age) of at least 30 %'. However, women and sex are not specifically mentioned in any of the measures and no specific targets are set for the enhanced employment of women.⁷²

⁷² www.mtsp.gov.mk/content/pdf/dokumenti/dokumenti%202017/operativen_plan_2017.pdf.

5. Pregnancy, maternity, and leave related to work-life balance (Directive 92/85, relevant provisions of the Directives 2006/54 and 2010/18)

5.1 Pregnancy and maternity protection

5.1.1 Does national law define a pregnant worker?

Yes. Article 2 of the Rulebook on the minimum safety standards for safety and health in the workplace in relation to pregnant workers, workers who have recently given birth or are breastfeeding⁷³ defines a pregnant worker as 'a worker who in order to exercise her rights and protection of her health or the health of her child, has informed the employer of her condition'. This definition is in line with Article 2 of Directive 92/85. In addition, Article 42 of the Law on Labour Relations does not directly define a pregnant worker, but it does prescribe a list of duties for the employer at all stages of the pregnancy upon receiving information that a female worker is pregnant. This is in line with Article 2 of Directive 92/85.

5.1.2 Are the protective measures mentioned in Articles 4-7 of Directive 92/85 implemented in national law?

According to the Law on Labour Relations, the employer should evaluate and adjust the working environment in order to create safe working conditions and must not place a pregnant worker in a risky position (Articles 42, 162-164); may not require work longer than full-time work unless the pregnant worker voluntarily agrees to work overtime (Articles 120, 164); and may not redistribute the working hours of a pregnant worker (Article 124). Night work is generally prohibited for female workers in the industry and construction sectors for the period of 10 p.m. to 5 a.m. (Article 131). As a special protection this is envisaged (Article 164) for pregnant workers and mothers until the child is one year old. The prohibition may be lifted for one of the parents of a child aged up to seven years, or a child with medical problems, only with written consent from that worker.

The measures are elaborated in detail in the 'Rulebook on minimum requirements for health and safety at work of pregnant workers, workers who have recently given birth or breastfeeding workers'.⁷⁴

5.1.3 Is dismissal prohibited in national law from the beginning of the pregnancy until the end of the maternity leave (see Article 10(1) of Directive 92/85)?

In Article 101 of the Law on Labour Relations, there is a general and complete ban on dismissal from work on the basis of pregnancy, maternity, paternity, parental, adoption, childcare and care leaves. Exceptions are permitted only in relation to very serious violations of work duties and/or work discipline (Article 101(4)). Although Article 95 on collective dismissal due to redundancy does not specifically mention pregnancy, maternity etc., the enumeration of the exceptions in Article 101(4) supports the interpretation that the dismissal of a pregnant worker based on redundancy is not allowed.

5.1.4 In cases of dismissal from the beginning of pregnancy until the end of maternity leave, is the employer obliged to indicate substantiated grounds for the dismissal in writing (see Article 10(2) of Directive 92/85)?

The employer is obliged to give substantiated grounds for the dismissal in writing (Articles 72, 74 & 75) in order to acquire the consent of either the trade union (Article 101(5-7)) or

⁷³ The former Yugoslav Republic of Macedonia, 'Rulebook on the minimum safety standards for health and safety in the workplace in relation to pregnant workers, workers who have recently given birth or are breastfeeding', 2011.

⁷⁴ <http://www.mtsp.gov.mk/WBStorage/Files/bremeni.pdf>.

the Labour Inspectorate (Article 101(9 & 10)). If there is no such consent, the employer has to institute legal proceedings in a court of law (Article 101(8)).

However, it seems that private employers have found a way to circumvent these provisions. They hire workers for six months or one year and if, in the meantime, a female worker becomes pregnant, they simply do not renew the contract. In such a case, the Skopje Court of First Instance found discrimination based on gender/pregnancy. Yet, the Skopje Court of Second Instance (POЖ-12/17) revoked this decision and instructed the Court of First Instance to review the case and this is still to take place. Regardless of this, the two courts agreed that the dismissal of pregnant workers during a fixed-term employment contract is prohibited. In case PO-980/1 the Court of First Instance first accepted that there had been discrimination against a pregnant worker and compensated her both for the dismissal and for the following period, presuming that she would have been hired for a further period of time had she not become pregnant. The Court of Second Instance dismissed that decision and sent the case back to the Court of First Instance. The case is still to be decided.

5.2 Maternity leave

5.2.1 How long (in days or weeks) is maternity leave? Please specify the relevant legislation and Article(s).

According to Article 165 of the Law on Labour Relations, female workers are entitled to a maternity leave of nine months. The maternity leave is longer in case of a multiple birth (15 months). In cases when the child is retained in medical care and the mother or father is back at work, leave due to childbirth and parenting is temporarily suspended and they have the right to use the unused part later.

After the paid maternity or adoption leave, there is a possibility of prolonging these leaves in the form of unpaid parental leave, although only as an individual right for the employed mother, transferable to the father. This is unpaid leave of a total duration of three months that can be used until the child reaches the age of three (Article 170-a), regardless of the reasons for using it.

Hence, the overall maternity (non-medical) leave is 52 weeks (in case of a multiple birth 78 weeks).

5.2.2 Is there an obligatory period of maternity leave before and/or after birth?

According to Article 166 of the Law on Labour Relations, at least 28 days must be taken before the birth. Concerning the leave after the birth, the female worker may decide to stop her paid parental leave 45 days after the birth of the child. In such a case she is entitled not only to her full salary paid by the employer, but also to 50 % of the so-called salary compensation (i.e. allowance) paid by social security. This right is not transferable from the mother to the father.

Hence, compulsory maternity leave is 73 days or 45 days in case of premature birth.

5.2.3 Is there a legal provision insuring that the employment rights relating to the employment contract are ensured in the cases referred to in Articles 5, 6 and 7 of Directive 92/85?

The legal provisions quoted in 5.1.2 stipulate the same protection as for the pregnant worker.

- 5.2.4 Is there a legal provision that ensures the employment rights relating to the employment contract (including pay or an adequate allowance) during the pregnancy and maternity leave?

Since the allowance is paid by state organs, it cannot be altered by the employer.

- 5.2.5 Is pay or an allowance during the pregnancy and maternity leave at the same level as sick leave or is it higher?

During maternity leave women receive salary compensation (allowance) paid from the State Budget. According to Article 16 of the Law on Health Insurance⁷⁵ this compensation is the average amount of pay of that worker in the last 12 months for which the contributions for compulsory health insurance were paid.

The ceiling of the salary compensation amounts to four average monthly wages paid in the country in the previous calendar year. For 2014 this amounted to approximately EUR 1 400.

- 5.2.6 Are statutory maternity benefits supplemented by some employers up to the normal remuneration?

No.

- 5.2.7 Are there conditions for eligibility for benefits applicable in national legislation (see Article 11(4) of Directive 92/85)?

The condition for receiving the compensation for maternity leave is continuous health insurance cover for at least six months before the start of the maternity leave and regularly paid contributions to this end.⁷⁶

- 5.2.8 In national law, is there a provision that guarantees the right of a woman to return after maternity leave to her job or to an equivalent job, on terms and conditions that are no less favourable to her, and to benefit from any improvement in working conditions to which she would have been entitled during her absence (see Article 15 of Directive 2006/54)?

Article 166 of the Law on Labour Relations, which covers both the private and public sectors, contains a provision guaranteeing the right of a woman after maternity leave to return to her job or to an equivalent job, on terms and conditions that are no less favourable to her. There is no provision concerning benefiting from any improvement in working conditions to which she would have been entitled during her absence. However, the rights acquired or in the process of being acquired by the worker on the date on which parental leave starts are at least maintained as they stand (*‘мирување’*; Law on Labour Relations, Article 147) until the end of the parental leave. This formulation theoretically allows the worker to be granted improvements in working conditions. This also applies to the status of the employment contract or employment relationship for the period of the parental leave.

The amendments of the Law on Employment and Insurance in case of Unemployment of 27 August 2015⁷⁷ improve the guarantees of the rights related to pregnancy and maternity leave in private companies by giving private employers who need to employ a replacement for a worker on maternity leave the possibility to waive some of their tax duty. Furthermore, private employers are obliged, after a worker returns from maternity leave,

⁷⁵ Law on Health Insurance, Official Gazette No. 25/2000 (last amendment No. 26/2012).

⁷⁶ Law on Health Insurance, Official gazette No. 25/2000, Article 15.

⁷⁷ The amendments in the Official Gazette:
www.slvesnik.com.mk/Issues/114414020d134af6af8201aebd70cec8.pdf (page 122).

to return the worker to her job or to an equivalent job, on terms and conditions that are no less favourable to her, and for at least the period during which their tax duties were waived.⁷⁸

5.3 Adoption leave

5.3.1 Does national legislation provide for adoption leave?

Adoption leave is treated as, and regulated by, the same legal provisions as maternity and parental leave. Since it can be taken after an adoption, the only difference regards the age of the child when adopted. If the adopted child is older than nine months, there is a period of 'accommodation' that should not be less than two months or more than three months. If the child is younger than nine months, the same conditions apply to adoption leave as those that apply to maternity leave, commencing on the date of the child's adoption, including transferability of the leave to the father. However, adoption leave is until the child is nine months old; if more children (two or more) are adopted, until the children are 15 months old.

After this, there is the possibility, as for maternity leave, of unpaid leave of a total duration of three months that can be used until the child reaches the age of three.

The same goes for the pay and the conditions for the adoption leave.

5.3.2 Does national legislation provide for protection against dismissal of workers who take adoption leave and/or specify their rights after the end of adoption leave (see Article 16 of Directive 2006/54)?

Adoptive parents are legally in the same position as biological ones.

5.4 Parental leave

5.4.1 Has Directive 2010/18 been explicitly implemented in your country?

Directive 2010/18 has not been transposed into national legislation and no implementation is foreseen in the immediate future. Macedonian legislation does not conform to some of the obligations of the Directive and some of the clauses of the Directive do not have any corresponding provision in Macedonia's legislation. This is the case, for example, for Clause 2 of the Directive which introduces a non-transferable part of parental leave, and also for Clause 7 concerning measures to entitle workers to time off from work on grounds of *force majeure* for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable.

However, Macedonia has developed a complex family policy, providing childcare services, universal child benefits and various leaves for family reasons in order to facilitate the reconciliation of work, private and family life.

5.4.2 Is the national legislation applicable to both the public and the private sector (see Clause 1 of Directive 2010/18)?

National legislation is applicable to both the public and the private sector.

⁷⁸ An explanation of amendments can be found on the commercial site for legal issues, *Akademik* (2015), 'Amendments to the Law on employment: the state will pay the contribution for substituting pregnant women', 26 August 2015. Available at: www.akademik.mk/izmeni-na-zro-drzhavata-ke-gi-plaka-pridonesite-za-zamenite-na-zhenite-na-porodilno-3/.

- 5.4.3 Does the scope of the national transposing legislation include contracts of employment or employment relationships related to part-time workers, fixed-term contract workers or persons with a contract of employment or employment relationship with a temporary agency?

The scope envisaged by national legislation includes contracts of employment or employment relationships related to part-time workers, fixed-term contract workers or people with an employment contract or employment relationship with a temporary agency. This can be derived from Article 9(b) of the Law on Labour Relations: 'all forms of discrimination against workers because of pregnancy, childbirth and parenting, irrespective of the duration and type of employment are prohibited if the work relationship is established according to the law'.

- 5.4.4 What is the total duration of parental leave? If the provisions regarding duration differ between the public and the private sector, please address the two sectors separately.

The duration is the same as that of maternity leave (see 5.2.1). Article 167 states: '[i]f the female employee does not take the maternity leave referred to in Article 165 of this Law, the child's father or the adoptive parent shall be entitled to take a parenthood leave'. Hence, the overall maternity (non-medical) leave is 52 weeks (in case of a multiple birth 78 weeks).

The provision does not differ between the public and the private sector.

- 5.4.5 Is the right of parental leave individual for each of the parents?

The right to parental leave is individual only for the mother. The paid leave can be exercised by either of the parents; yet, fathers can use the leave only if the mother does not use it (cannot or does not want to).

For unpaid leave this is unclear, as the wording of the relevant article only refers to the mother; yet, the title is 'Unpaid Parental Leave'.⁷⁹ Hence, it could be concluded that fathers are entitled to the right by substitution. There has been no relevant case law on this point.

- 5.4.6 What form can parental leave take (full-time or part-time, piecemeal, or in the form of a time-credit system)? Do the various available options allow taking into account the needs of both employers and workers and if so, how is that done (see Clause 3 of Directive 2010/18)?

According to the Law on Labour Relations, which in practice is the only law dealing with these issues, parental leave can only take the form of full-time leave. The only exception is for a child with a disability or long-term illness. In such case, one of the parents is entitled to work half of the full-time hours.

There is no provision on the possibility to postpone parental leave for justifiable reasons related to the operation of the organisation and there are no special arrangements for small firms.

- 5.4.7 Is there a notice period and if so, how long is it? Does the national legislation take sufficient account of the interests of workers and of employers in specifying the length of such notice periods and how is that done? (see Clause 3 of Directive 2010/18)?

⁷⁹ Article 170-a of the Law on Labour Relations.

The parent is obliged to announce the beginning and end of parental leave to the employer 30 days before beginning/ending the leave (both for paid and for unpaid leave).⁸⁰ No adjustments seem to be offered in relation to the length or the manner of giving the notice.

5.4.8 Did the Government take measures to address the specific needs of adoptive parents (see Clause 4 of Directive 2010/18)?

No.

5.4.9 Is there a work and/or length of service requirement in order to benefit from parental leave?

The length of service requirement in order to benefit from parental leave is six months before the birth or adoption of a child. In case of successive fixed-term contracts with the same employer, the sum of these contracts is taken into account for the purpose of calculating the qualifying period.

5.4.10 Are there situations where the granting of parental leave may be postponed for justifiable reasons related to the operation of the organisation?

No.

5.4.11 Are there special arrangements for small firms?

No.

5.4.12 Are there any special rules/exceptional conditions for access and modalities of application of parental leave to the needs of parents of children with a disability or a long-term illness?

Article 169 of the Law on Labour Relations stipulates that one of the parents of a child (until the age of 18) with developmental disabilities and special needs has the right to work half of the full-time hours if both parents are employed or if it is a single-parent family. The part-time work shall be considered as full-time, and the compensation of salary will be paid from the State Budget.

5.4.13 Are there provisions to protect workers against less favourable treatment or dismissal on the grounds of an application for, or the taking of, parental leave (see Clause 5 of Directive 2010/18)?

During maternity/parental leave, the worker enjoys very strong protection against dismissal. Article 77 of the Law on Labour Relations entitled 'Unfounded Reasons for Dismissal' stipulates that the worker should not be dismissed while on approved leave for pregnancy, birth or parenthood, including unpaid parental leave.

5.4.14 Do workers benefitting from parental leave have the right to return to the same job or, if this is not possible, to an equivalent or similar job consistent with their employment contract or relationship?

After parental leave the worker has the right to return to the same job or, if that is not possible, to an equivalent or similar job consistent with their employment contract (Law on Labour Relations, Article 166).

⁸⁰ Article 170-a of the Law on Labour Relations.

5.4.15 Are rights acquired or in the process of being acquired by the worker on the date on which parental leave starts maintained as they stand until the end of the parental leave?

They are maintained, as they are for maternity leave (see 5.2.8).

5.4.16 What is the status of the employment contract or employment relationship for the period of the parental leave?

They are maintained, as they are for maternity leave (see 5.2.8). Article 166 of the Law on Labour Relations contains a provision guaranteeing the right of a woman after maternity leave to return to her job or to an equivalent job, on terms and conditions that are no less favourable to her. There is no provision concerning benefiting from any improvement in working conditions to which she would have been entitled during her absence. However, the rights acquired or in the process of being acquired by the worker on the date on which parental leave starts are at least maintained as they stand ('мирување'; Law on Labour Relations, Article 147) until the end of the parental leave. This formulation theoretically allows the worker to be given improvements. It also applies to the status of the employment contract or employment relationship for the period of the parental leave.

5.4.17 Is there continuity of the entitlements to social security cover under the different schemes, in particular healthcare, during the period of parental leave?

There is continuity, as is true for maternity leave.

5.4.18 Is parental leave remunerated by the employer? If so, how much and in which sectors?

No, parental leave is remunerated by the State. Voluntary parental leave is unpaid leave.

5.4.19 Does the social security system in your country provide for an allowance during parental leave? If so, how much and in which sectors?

There is no allowance yet; the contributions for health insurance are paid from the State Budget.

5.4.20 In your view, regarding which issues does the national legislation apply or introduce more favourable provisions (see Clause 8 of Directive 2010/18)?

The Macedonian maternity leave is much longer than that provided for by the Directive, as it can last nine months for one child (as paid leave) and an additional three months (as unpaid leave). After the birth of the child the father may substitute the mother. Moreover, this is an unrestricted right and the social security system provides for an allowance for the parents to be able to take this parental leave. The parent's job is secured during the parental leave. Also, if the parent decides to end the leave early, she/he will receive plus 50 % of the payment for parental leave in addition to the regular salary. The impact of this (or the lack thereof) on encouraging women to return to work earlier has not been researched.

However, some very essential issues of the Directive have not been implemented (e.g. the non-transferable character of at least part of the parental leave, and parental leave granted also to the father as an individual right, and not as a right to substitute the mother).

In addition, some detrimental effects of the parental leave scheme have been noted. An extended leave, especially for unskilled women, could have a negative impact on women's careers and earnings profiles (it could also reflect on their future pension amount).

Another problem is the confusion in terminology. For instance, the general title of parental leave covers articles that are clearly related only to maternity leave, or female pronouns are used in relation to the rights of both parents. For this reason, there is a growing debate in the FYR of Macedonia about ensuring the use of clear concepts and precise terminology along the lines of the EU Directive.

Another point where national law provides more favourable provisions than Directive 2010/18 is in relation to care infrastructure, care facilities and accessibility of childcare for all working parents. This is an extremely important issue, especially for the reconciliation of family and working life. The Law on the Protection of Children⁸¹ regulates the system and organisation for the protection of children. According to this Law, '[s]tate and local governments ensure the provision of adequate financial assistance to parents for support, awareness, care and protection of children and organising and ensuring the development of facilities and services for the protection of children' (Article 2).

Institutions for the care and nurture of children in kindergartens and centres for early childhood development can be public (state, municipal and municipality in Skopje) and private. The Macedonian system incorporates state subsidies for kindergartens which allow parents to divide the tasks related to their children, thus enabling mothers to balance their professional and family duties. However, because of the high level of poverty and unemployment and the overall limited capacity (in terms of available spaces) and geographically uneven distribution of the kindergarten network, even with such large subsidies and keeping the overall price quite low (starting from about EUR 25 per child per month), only 11 % of children of the relevant age are in kindergartens. There is only a small number of private kindergartens (which are not subsidised); they work on a commercial basis, but there are no data on the number of children they take care of. An additional form of childcare is day care in schools for children from the first to the fourth grade of elementary education.

5.5 Paternity leave

5.5.1 Does national legislation provide for paternity leave?

Employed fathers enjoy up to seven days of paid leave for the birth of their child (Article 146 of the Law on Labour Relations) as a sort of exclusive, individual right of the father in parallel to that of the female worker who has given birth to their child.

Otherwise, there is a general clause (Article 167 of Law on Labour Relations) enabling the father, after the birth or adoption of a child, to use the same leave as the mother in cases where the mother does not use it. It could therefore be concluded that fathers are entitled to this right by substitution.

5.5.2 Does national legislation provide for protection against dismissal of workers who take paternity leave and/or specify their rights after the end of paternity leave (see Article 16 of Directive 2006/54)?

Since paternal rights are activated in cases of substitution when the mother does not or cannot use her maternal rights, the way the legislation is formulated leads to the conclusion that the protection granted to the mother in such cases also applies to fathers.

⁸¹ Law on the Protection of Children (*Закон за заштита на децата*), Official Gazette of the Republic of Macedonia No. 23/2013.

5.6 Time off/care leave

- 5.6.1 Does national legislation entitle workers to time off from work on grounds of force majeure for urgent family reasons in case of sickness or accident (see Clause 7 of Directive 2010/18)?

Yes, but this applies to all workers. Otherwise, this clause has not been implemented at the national level in direct relation to pregnant workers or working parents as an entitlement to time off from work on grounds of *force majeure* for urgent family reasons in case of sickness or accident. However, a paid leave is recognised in case of the sickness of a child. Every employee is eligible for paid leave to care for a sick child under the age of three. For other close members of the family (or a child over the age of three) paid leave is possible, but limited to 30 days per year.

5.7 Leave in relation to surrogacy

- 5.7.1 Is parental leave available in case of surrogacy?

According to the Law on Biomedical Assisted Insemination⁸² both the surrogate and the social mother are entitled to the pregnancy and maternity rights as stipulated by the Law on Labour Relations, as well as social and health insurance. The surrogate mother is entitled to 45 days of birth leave, while the social mother is entitled to maternity and other parental leaves.⁸³ If the social mother cannot or will not use the parental leave, then the social father can substitute for her in accordance with the Law on Labour Relations.

5.8 Leave sharing arrangements

- 5.8.1 Does national law provide a legal right to share (part of) maternity leave?

Since the right of the father is only to substitute if the mother cannot or does not want to use the maternity rights (as explained in 5.5.1), there is no other form or possibility of sharing the rights and responsibilities.

- 5.8.2 Is there a possibility for one parent to transfer part of the parental leave to the other parent?

Only the mother can transfer her rights to the father (Article 167 of the Law on Labour Relations).

5.9 Flexible working time arrangements

- 5.9.1 Does national law provide workers with a legal right (temporarily or otherwise) to reduce working time on request?

The only possibility is related to children with disabilities, as explained in 5.4.11. In 2017, CSO MHC was approached by the mother of a child with a disability complaining, first, that her private employer had not allowed her to work on a part-time basis and, second, that she was subsequently denied her annual leave allowance. After the involvement of this CSO, the employer agreed to both requests.⁸⁴

⁸² Law on Biomedical Assisted Insemination (Законот за биомедицинско потпомогнато оплодување), Official Gazette 149/2014. Available at: www.slvesnik.com.mk/Issues/c755863f5aaa468c92da417fa34e6261.pdf - page 51 (last amendments in the Official Gazette 37/2016).

⁸³ First procedures for surrogacy: www.time.mk/c/f34d1c2d08/prvi-postapki-za-surogat-majcinstvo.html.

⁸⁴ MHC, CEDAW Submission, available at: http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_NGO_MKD_30018_E.pdf.

For quite some time, CSOs have been proposing solutions regarding flexible time arrangements.⁸⁵ This issue was also part of the electoral programmes of some of the political parties that took part in the December 2016 parliamentary elections, including the winning coalition which formed a Government in June 2017. At the cut-off date for this report, there had been no developments on this matter.⁸⁶

5.9.2 Does national law provide workers with a legal right to adjust working time patterns (temporarily or otherwise) on request?

Workers returning from parental leave can request changes to their working hours and/or patterns for medical reasons until the child is three years old.

5.9.3 Does national law provide workers with a legal right to work from home or remotely (temporarily or otherwise) on request?

Yes, according to Article 50 of the Law on Labour Relations, '[b]y virtue of the employment contract for work at home, the employer and the employee may agree that the employee carries out the work, which falls within the employer's activity or which is necessary for carrying out the employer's activity, at home'. This right is not limited to certain groups only and there are no eligibility criteria. This means that the provision does not mention parenthood in any way.

The size of the employer is not a qualifying condition in any of the previous three cases.

There is no obligation on the side of the employer to comply with a request to work remotely, and any other related issues have to be regulated in the employment contract.

5.9.4 Are there any other legal rights to flexible working arrangements, such as arrangements by which workers can 'bank' hours to take time off in the future?

No.

⁸⁵ www.edplako.mk/zheni-i-majki/.

⁸⁶ <http://a1on.mk/archives/703065>.

6. Occupational social security schemes (Chapter 2 of Directive 2006/54)

6.1 Is direct and indirect discrimination on grounds of sex in occupational social security schemes prohibited in national law?

The pension system is composed of three pillars established by three laws: the Law on Pension and Disability Insurance, the Law on Mandatory Fully-Funded Pension Insurance, and the Law on Voluntary Fully-Funded Pension Insurance. The composition of this three-pillar system was introduced in 2000,⁸⁷ following a World Bank proposal, and it is different from the pillars in the EU countries.⁸⁸

There are no articles on discrimination or equality in the Law on Pensions and Disability Insurance.⁸⁹ The Law on Mandatory Fully-Funded Pension Insurance (last amended in 2009⁹⁰) states in Article 59: 'The form of contract for membership under paragraph (1) of this Article is the same for all members of the pension fund that manages the company'. This might be interpreted as guaranteeing equal treatment. However, the author of this report could not find any case law in this regard. Only the Law on Voluntary Fully-Funded Pension Insurance explicitly mentions the prohibition of discrimination (in Article 3).

In addition, Article 6 of the Law on Labour Relations specifically declares that men and women have equal opportunities and treatment related to professional insurance schemes.

The Law on Agencies for Temporary Employment has no provisions specifically on professional insurance schemes concerning temporary (seconded) employees (temporary employees transferred from one organisation to another). However, Article 6 Paragraph 4 gives priority to 'payment of the unsettled contributions for pension and disability insurance, when activating the bank guarantee'.

6.2 Is the personal scope of national law relating to occupational social security schemes the same, more restricted, or broader than specified in Article 6 of Directive 2006/54? Please explain and refer to relevant case law, if any.

The personal scope of national law relating to occupational social security schemes is more restricted than what is specified in Article 6 of Directive 2006/54.

There is no precise definition related to an obligation for implementation of anti-discriminatory activities related to self-employed people. However, the self-employment programmes of the Ministry of Labour and Social Policy as well as the self-employment programmes of the municipalities envisage measures with a gender dimension.⁹¹

In the articles of the Law on Employment and Insurance in case of Unemployment, which defines the mandate of the employment agency, there are no activities to ensure or promote equality between women and men or to enable equal treatment of women and men.

⁸⁷ www.financethink.mk/models/pension-system-of-macedonia/.

⁸⁸ Law on Pension and Disability Insurance (*Закон за пензиско и инвалидско осигурување*), Official Gazette, No. 80/93, Law on Voluntary Fully Funded Pension Insurance (*Закон за доброволно капитално финансирано пензиско осигурување*), Official Gazette, No. 7/2008, Law on Mandatory Fully Funded Pension Insurance (*Закон за задолжително капитално финансирано пензиско осигурување*), Official Gazette, No. 29/2002.

⁸⁹ Law on Pension and Disability Insurance (*Закон за пензиско и инвалидско осигурување*), Official Gazette, No. 80/93 (in the period 1993-2009, 19 amendments were made to this law).

⁹⁰ In November 2017 the Proposal to amend the Law on pension and disability insurance entered the Parliamentary stage.

⁹¹ <https://bcm.mk/%D0%BF%D1%80%D0%BE%D0%B3%D1%80%D0%B0%D0%BC%D0%B0-%D0%B7%D0%B0-%D1%81%D0%B0%D0%BC%D0%BE%D0%B2%D1%80%D0%B0%D0%B1%D0%BE%D1%82%D1%83%D0%B2%D0%B0%D1%9A%D0%B5-%D0%B7%D0%B0-%D1%81%D0%B0%D0%BC%D0%BE%D1%85/>.

6.3 Is the material scope of national law relating to occupational social security schemes the same, more restricted, or broader than specified in Article 7 of Directive 2006/54? Please explain and refer to relevant case law, if any.

The material scope of national law relating to occupational social security schemes is more restricted than what is specified in Article 7 of Directive 2006/54. The implementing legislation covers pension schemes as well as occupational pension schemes for all categories of workers (including public servants). There are two requirements for retirement - age depending on sex (62 for women and 64 for men) and at least 15 years of accrued pension contributions. Should a person wish to continue working past this age, they can do so until the mandatory retirement age of 67, provided that the employer consents. There are no other differences.

The difference in the retirement age based on sex affects all calculations, including the disability pension.

The Constitutional Court has found, in Decision No. 81/2016-0-0 of 9 November 2016,⁹² that this difference in the retirement age does not constitute discrimination. But it does constitute, the Court concluded, positive discrimination grounded in the special societal care for mothers and motherhood, as well as women's biological and psychological characteristics. The Court also treated this case as *res judicata* since it had already adopted the same view in five decisions between 2004 and 2009.

However, it elaborated upon this concept of positive discrimination in a recent case regarding the mandatory retirement age which used to be set at 65 for women and 67 for men. The Court found that positive discrimination should not prevent equality between the sexes which setting different mandatory retirement ages did. It therefore declared Article 104 of the Law on Labour Relations null and void, thus creating a legal condition for implementing the general labour law provision whereby both sexes can postpone retirement until the age of 67.⁹³ Later, an almost identical case was filed and was successful in challenging Article 98(5-6) of the Law on Administrative Servants, which was a provision mirroring the annulled provision from the Law on Labour Relations.⁹⁴

6.4 Has national law applied the exclusions from the material scope as specified in Article 8 of Directive 2006/54?

The three-pillar pension system is based on some exclusions (e.g. individual contracts for self-employed people or single-member schemes for self-employed people). However, they are not part of the *lex generalis* Law on Pension and Disability Insurance. Thus, there are exclusions mirroring those in Article 8 of Directive 2006/54.

6.5 Are there laws or case law which would fall under the examples of sex discrimination as mentioned in Article 9 of Directive 2006/54?

Yes, there are laws which could fall under the examples of sex discrimination as mentioned in Article 9 of Directive 2006/54.

In the Law on Pension and Disability Insurance, contrary to Article 9 of the Recast Directive, according to the main pension legislation (Article 18), there are different retirement ages for men and women (62 versus 64). Furthermore, the calculation of pension on the basis of disability is different for men and women (Article 52). Concerning the maximum age for retirement, the two years of difference envisaged by the Law on Labour Relations (Article

⁹² Constitutional Court, [Decision No. 81/2016-0-0](#) (9 November 2016).

⁹³ Constitutional Court Decision No. 114/2014-0-1 (29 June 2016), available at: <http://lkm.org.mk/db/images/2012/odluka%20na%20ustaven%20sud%20od%2029.6.2016.pdf>.

⁹⁴ Constitutional Court Decision No. 121/2015-0-1 (1 February 2017), available at: <http://ustavensud.mk/?p=4963>.

104) in case of prolongation of the retirement age (65 against 67) no longer applies. On 29 June 2016 the Constitutional Court of the Republic of Macedonia adopted a decision (No. 114/2014-0-1)⁹⁵ annulling the part concerning the personal scope, while leaving the part concerning the material scope in force. This means that the final outcome is the possibility of prolongation of the employment contract only if the worker so wishes and regardless of their sex until the age of 67.

6.6 Is sex used as an actuarial factor in occupational social security schemes?

No. Sex is not used as an actuarial factor in occupational social security schemes, meaning that the contributions are the same for men and women.

6.7 Are there specific difficulties in your country in relation to occupational social security schemes, for example due to the fact that security schemes in your country are not comparable to either statutory social security schemes or occupational social security schemes? If so, please explain with reference to relevant case law, if any.

There are no specific difficulties.

⁹⁵ [Constitutional Court](#), Decision No. 114/2014-0-1 of 29 June 2016 (accessed 08 February 2019).

7. Statutory schemes of social security (Directive 79/7)

The FYR of Macedonia is declared to be a social State and social security is defined in the Constitution. According to Article 34 of the Constitution, 'the citizens have the right to social security and social insurance'. Article 35 of the Constitution stipulates: 'The Republic takes care of the social protection and social security of citizens under the principle of social justice'.

Equality between insured people, therefore also gender equality, is among the guiding principles of the FYR of Macedonia's social security system. Various laws regulate social benefits, such as the Law on Health Insurance, the Law on Social Protection,⁹⁶ the Law on Pension and Disability Insurance,⁹⁷ and the Law on Employment and Social Protection in case of Unemployment,⁹⁸ the Law on Contributions for Mandatory Social Insurance.⁹⁹

However, the main reasons for excluding people from receiving benefits are unpaid social security contributions and participation in non-remunerated jobs. Since women prevail in such jobs, they are more often deprived of social security.

Regarding family benefits, there is no difference based on sex. As regards survivors' benefits, there are also equal conditions for claiming a widow's and a widower's pension. The only difference is the age which must be reached in order to be able to claim a survivor's pension for an unlimited period.

Women with four children receive special financial benefits. With the last changes of the Law on Social Protection, victims of domestic violence receive a lump-sum benefit.

7.1 Is the principle of equal treatment for men and women in matters of social security implemented in national legislation?

The principle of equal treatment for men and women in matters of social security has been implemented under the general anti-discrimination provisions in the Law on Social Protection, Article 20.

7.2 Is the personal scope of national law relating to statutory social security schemes the same, more restricted, or broader than specified in Article 2 of Directive 79/7? Please explain and refer to relevant case law, if any.

The personal scope relating to statutory social security schemes is broader than what is specified in Article 2 of Directive 79/7. Articles 7, 8, 9 and 10 of the Law on Contributions for Mandatory Social Insurance cover all categories of people who are obliged to pay contributions for mandatory pension and disability insurance.

7.3 Is the material scope of national law relating to statutory social security schemes the same, more restricted, or broader than specified in Article 3 par. 1 and 2 of Directive 79/7? Please explain and refer to relevant case law, if any.

The material scope of national law relating to statutory social security schemes is very similar to what is specified in Article 3 Paragraphs 1 and 2 of Directive 79/7. The material scope is defined in Article 2 of the Law on Social Protection.

⁹⁶ Law on Social Protection (*Закон за социјалната заштита*), Official Gazette, No. 79/09, Article 20 (last changed 2017 www.mtsp.gov.mk/content/pdf/zakoni/ZSZ%20konsolidiran%20%20IX-2015.pdf).

⁹⁷ Law on Pension and Disability Insurance (*Закон за пензиско и инвалидско осигурување*), Official Gazette, No. 80/93 (in the period 1993-2009, 19 changes were made to this Law).

⁹⁸ Law on Employment and Social Protection in case of Unemployment (*Закон за вработувањето и социјална заштита во случај на невработеност*), Official Gazette, No. 37/97.

⁹⁹ Law on Contributions for Mandatory Social Insurance, (*Закон за придонеси од задолжително социјално осигурување*), Official Gazette, No. 142/2008.

7.4 Has national law applied the exclusions from the material scope as specified in Article 7 of Directive 79/7? Please explain (specifying to what extent the exclusions apply) and refer to relevant case law, if any.

The exclusions from the material scope as specified in Article 7 of Directive 79/7 have been implemented in the Law on Contributions for Mandatory Social Insurance. Article 10-a defines the situations where people are not obliged to pay contributions.

7.5 Is sex used as an actuarial factor in statutory social security schemes?

Sex is not used as an actuarial factor in statutory social security schemes

7.6 Are there specific difficulties in your country in relation to implementing Directive 79/7? For example due to the fact that security schemes in your country are not comparable to either statutory social security schemes or occupational social security schemes? If so, please explain with reference to relevant case law, if any.

No.

8. Self-employed workers (Directive 2010/41/EU and some relevant provisions of the Recast Directive)

8.1 Has Directive 2010/41/EU been explicitly implemented in national law?

Directive 2010/41/EU has not been explicitly implemented in national law. However, there are several laws where the definition of a self-employed person is in line with the Directive: the Law on Health and Safety, the Law on Employment and Insurance in case of Unemployment, the Law on Health Insurance, the Law on Pension and Disability Insurance, and the Law on Contributions for Mandatory Social Insurance.

8.2 What is the personal scope related to self-employment in national legislation? Has your national law defined self-employed or self-employment? Please discuss relevant legislation and national case law (see Article 2 Directive 2010/41/EU)

Macedonian law defines self-employed people, but not self-employment itself. According to the law: 'Self-employed person means any natural person who performs an independent economic activity, or professional or other intellectual service generating income, in accordance with law',¹⁰⁰ or a 'self-employed person is a natural person who performs an independent economic activity or renders expert or other intellectual services which generate income for his/her own benefit, under the conditions determined by law'.¹⁰¹

The same term, 'self-employed person', is used in the publications of the State Statistical Office. However, some official statistical publications¹⁰² use the term 'own-account worker'.

8.3 Related to the personal scope, please specify whether all self-employed workers are considered part of the same category and whether national legislation recognises life partners.

There is a difference in what the term means/includes when it is mentioned in laws and in statistical data. On the one hand, the law treats the self-employed as people who could be employers at the same time, but not farmers.¹⁰³ On the other hand, according to the State Statistical Office: 'Self-employed [are] persons who work in their own business, professional practice or farm for the purpose of earning a profit and who do not employ any other person', while '[e]mployers [are] persons who run their own business entity or owners who work in their shops or owners of an agriculture estate, who employ other people.'

Macedonian national legislation does not recognise life partners in relation to self-employed people. However, Article 16(2) of the Directive is partially implemented: the spouses referred to in Article 2(b) can benefit as any other spouse of an insured worker from the social protection in accordance with national law, but life partners cannot. Life partners are excluded from any benefits related to the self-employment of their partner. Even though in the Family Law formal and non-formal marriages are equalised, this only relates to the care of children, not to social security and pension benefits.

¹⁰⁰ Law on Contributions for Mandatory Social Insurance, Official Gazette No. 142/2008.

¹⁰¹ Law on Employment and Insurance in case of Unemployment, Official Gazette No. 37/1997.

¹⁰² Women and Men in the Republic of Macedonia, 2014, Republic of Macedonia State Statistical Office, <http://www.stat.gov.mk/Publikacii/8.4.9.02.pdf> and <http://www.stat.gov.mk/Publikacii/8.4.9.02.pdf>.

¹⁰³ Law on Health Insurance, Official Gazette No. 25/2000 (last amendment No. 26/2012) and Law on Pension and Disability Insurance, Official Gazette No. 98/2012.

8.4 How has national law implemented Article 4 Directive 2010/41/EU? Is the material scope of national law relating to equal treatment in self-employment the same, more restricted, or broader than specified in Article 4 Directive 2010/41/EU?

Self-employment is mentioned neither in the Law on Labour Relations nor in anti-discrimination legislation (the Law on Equal Opportunities for Women and Men and the Law on Prevention of and Protection against Discrimination). Yet, the principle of equal treatment *per se* is included in these three laws; hence, theoretically speaking, any sex discrimination could be challenged.

8.5 Has your State taken advantage of the power to take positive action (see Article 5 Directive 2010/41/EU)? If so, what positive action has your country taken? In your view, how effective has this been?

The positive measures related specifically to the self-employment of women are set out in the 'National strategy for reducing poverty and social exclusion in the Republic of Macedonia'.¹⁰⁴ In the strategy for gender equality adopted by Parliament on 20 February 2013, self-employment and support for women when starting enterprises is described as a significant element for reaching gender equality.

In the 'Operative Plan for active programmes and measures for employment and services on the labour market for 2017'¹⁰⁵ concrete measures targeting women were not envisaged. Unlike this plan, the operative plan for 2018¹⁰⁶ does contain some concrete measures related to women (particularly women from non-majority ethnic communities, single mothers etc.), such as mentoring support and activation measures in relation to unemployed people including subsidising salaries (from three up to 12 months). So, the gender dimension is quite visible and present.

In March 2017 the operative plan for the implementation of the 'Strategy for gender-responsible budgeting 2012-2017' was adopted. According to this plan every ministry has to make a 'Gender budgetary declaration' in which it will present areas where gender budgeting might be implemented, and the ways in which this could be done.¹⁰⁷ This was meant to be a plan concerning the last year of the five-year cycle (2012-2017). However, the real effects should be expected in 2018 and thereafter.

There is a number of projects and programmes aimed at promoting entrepreneurial initiatives among women, e.g. training courses, government support for enterprises owned and operated by women, mentorship, and gender-sensitive development of human resources. On the other hand, there are no adequate analyses to assess the effectiveness of these measures. According to the statistical data the percentage of self-employed women has increased (which is presented as a positive result), as confirmed by the female director of the Agency for Employment of Skopje:¹⁰⁸ 'The participation of women in self-employment is 35.8 %, and in self-employment supported by financial credit 33.3 %, which indicates that female entrepreneurship is at a very high level'. When compared with the overall number of self-employed people, women represent 18.4 %.¹⁰⁹

The projects to support self-employment of women, entitled 'Active measures for support of women in the private sector', and 'Inclusion of women from ethnic communities in the

¹⁰⁴ http://mtsp.gov.mk/WBStorage/Files/revidirana_str_siromastija.pdf, accessed 08 February 2019.

¹⁰⁵ AVRМ, 'Operational Plan', <http://www.avrm.gov.mk/content/%D0%94%D0%BE%D0%BA%D1%83%D0%BC%D0%B5%D0%BD%D1%82%D0%B8/%D0%9E%D0%9F%202017.pdf>.

¹⁰⁶ <http://www.mtsp.gov.mk/dokumenti.nsp>.

¹⁰⁷ Link to the Declaration of the Ministry of Defence: http://morm.gov.mk/wp-content/uploads/2018/03/Rodovo-budzetska-izjava_koregirana.pdf.

¹⁰⁸ <http://www.marili.com.mk/dropion/?page=1373>.

¹⁰⁹ <http://www.stat.gov.mk/Publikacii/Gender2016.pdf>, page 65.

labour market' continue.¹¹⁰ According to these projects, the main reason for insufficient usage of the possibilities for self-employment among women is a lack of awareness and active choice by women.

While the gender dimension was not mentioned in the 'Operative Plan for active programmes and measures for employment and services on the labour market for 2017',¹¹¹ in promoting the new Operative Plan for 2018 the Minister of Labour and Social Policy stated that: 'By creating these measures we are trying to achieve the equal presence of women and men in order to secure equal opportunities for all'.¹¹²

Self-employment is not mentioned at all in the Ministry of Labour and Social Policy's Strategic Plan for 2018-2020.¹¹³ Yet it is elaborated upon in the Programme for Reforms of Employment and Social Policy 2020.¹¹⁴

8.6 Does your country have a system for social protection of self-employed workers (see Article 7 (Directive 2010/41/EU)?

Self-employed workers are covered by the same legislation on social protection as other employees. Social protection covers health, pensions, disability and (periods of) unemployment. They are specifically mentioned as people obliged to pay contributions and as beneficiaries by the Law on Contributions for Mandatory Social Insurance (Articles 7, 10 & 12) and also by the Law on Personal Income Tax.

Self-employed people may be covered by the Law on Voluntary Fully-Funded Pension Insurance.

Official marriage is a requirement to ensure that spouses can benefit from social protection in accordance with national law. Contrary to spouses, life partners cannot benefit from life pensions.

There are no schemes in the FYR of Macedonia which are mandatory for the self-employed worker's spouse or life partner, but voluntary ones are available.

8.7 Has Article 8 Directive 2010/41/EU regarding maternity benefits for self-employed workers been implemented in national law?

The legislators have chosen not to mention the self-employed in the main legislation on this topic, the Law on Labour Relations, but in other laws that deal with these matters. This means that voluntary maternity benefits are actually covered by the Law on Health Insurance, and specifically Articles 12 and 14, but only for self-employed women. They are entitled to compensation of the average loss of income or profit at the level at which the health contribution was paid, in relation to a comparable preceding period (twelve months), and subject to a ceiling of not more than four times the national average monthly salary at state level. The compensation is provided from the national State Budget.

The female spouse or life partner is not covered, i.e. cannot enjoy maternity leave.

There are no existing services supplying temporary replacements or similar instruments. However, the Amendments of the Law on Employment and Insurance in case of Unemployment of 27 August 2015 foresees the possibility to waive the tax duty for private employers where they employ a replacement for a worker on maternity leave. Although

¹¹⁰ According to unofficial statements, up until now with the support of incentives from the Government in the period 2007-2016, over 3 109 women become entrepreneurs. Their participation in the overall newly open business sector is over 37 % <http://www.marili.com.mk/dropion/?page=1302>.

¹¹¹ http://www.mtsp.gov.mk/content/pdf/dokumenti/dokumenti%202017/operativen_plan_2017.pdf.

¹¹² http://www.mtsp.gov.mk/pocetna-ns_article-operativen-plan-2018.nspix.

¹¹³ <http://www.mtsp.gov.mk/dokumenti.nspix>.

¹¹⁴ [http://www.mtsp.gov.mk/content/word/esrp_dokumenti/ESRP%20Makedonija%20-%20final%20\(MKD\).pdf](http://www.mtsp.gov.mk/content/word/esrp_dokumenti/ESRP%20Makedonija%20-%20final%20(MKD).pdf).

the self-employed are not mentioned, theoretically speaking there are no visible impediments to using this instrument in such cases.

Since self-employed people are not mentioned in the Law on Labour Relations, this means, for instance, that they are not entitled to reduced working hours because of breastfeeding, a ban on night work or prolonged working hours etc. However, in theory one could argue that all these rights should be extended to a pregnant self-employed person who was engaged by a company based on a so-called Special Contract according to Article 252 of the Law on Labour Relations (concerning services not covered by the mandate of that company).

8.8 Has national law implemented the provisions regarding occupational social security for self-employed persons (see Article 10 of Recast Directive 2006/54)?

No.

8.9 Has national law made use of the exceptions for self-employed persons regarding matters of occupational social security as mentioned in Article 11 of Recast Directive 2006/54? Please describe relevant law and case law.

No.

8.10 Is Article 14(1)(a) of Recast Directive 2006/54 implemented in national law as regards self-employment?

No.

9. Goods and services (Directive 2004/113)

9.1 Does national law prohibit direct and indirect discrimination on grounds of sex in access to goods and services?

The Law on Equal Opportunities for Men and Women as regards the access to and the supply of goods and services has implemented all articles of Directive 2004/113/EC. Its Article 3 (Implementation of the law) Paragraph 2 specifies public and private entities providing goods and services as the subjects responsible for the implementation of equal treatment of men and women in the access to and supply of goods and services all state. Paragraph 4 of the same Article 'prohibits discrimination based on sex in access to goods and services in the public and private sector, including discrimination in premiums from insurance schemes'. The personal scope related to the access to and supply of goods and services can be found in Chapter 4 of this Law (Entities responsible for adoption and implementation of measures in establishing the equal opportunities of women and men, and their duties).

Equality in the access to and supply of goods and services is also guaranteed by the Law on the Prevention of and Protection against Discrimination. In fact, this law prescribes discrimination in access to goods and services as a separate form of discrimination in Article 11. This article states the following: 'Hindering or limiting the use of goods and services by a person or group of persons on any of the grounds referred to in Article 5 point 3 of this Law shall be discrimination.' This Law applies to anyone who supplies goods and services to the public, both in the public and the private sector, offering goods and services outside the private and family sphere.

9.2 Is the material scope of national law relating to access to goods and services more restricted or broader than specified in Article 3 of Directive 2004/113?

The material scope of national law related to access to goods and services is broader than specified in Article 3 of Directive 2004/113.

Article 3 of the Law on Equal Opportunities for Women and Men states the following: 'Entities that establish equal opportunities and equal treatment of women and men shall be the bodies of the legislative, executive and judiciary authority, the local self-government units and other bodies and organisations of the public and private sector, public enterprises, political parties, mass media and the civil sector, and all the entities providing goods and services available to the public and offered outside the area of private and family life and the transactions carried out in that context, regardless whether the referred entity is part of the public or private sector.'

9.3 Has national law applied the exceptions from the material scope as specified in Article 3(3) of Directive 2004/113, regarding the content of media, advertising and education?

No. The CSO MHC initiated a procedure before the Commission for Protection against Discrimination against three radio broadcasters due to their joint campaign to spread 'misogyny and sexism' (October 2017) which, it believed, was in flagrant violation of the Macedonian Law on Audio and Audio-visual Media Services. Before a decision was issued, the three radio broadcasters terminated the campaign and apologised, declaring that they thought that their campaign would encourage the emancipation of women. The Commission delivered its Opinion three months after the broadcasts¹¹⁵ finding the campaign to be discriminatory and it issued a Recommendation for all media to abstain from such campaigns.

¹¹⁵ Decision of the Commission No. 08-229/3 – 8 February 2018, <http://avmu.mk/wp-content/uploads/2018/02/Mislenje-za-Siti-Radio-od-Komisija-za-zastita-od-diskriminacija.pdf>.

The same CSO initiated a procedure before the Ombudsperson against the Ministry of Education and Science concerning the textbook *Civic education* for eighth grade pupils as it claimed that it contained illustrations and comments which promoted gender discrimination and prejudice. In reaction to the recommendation of the Ombudsperson, the Ministry then withdrew the disputed textbook.¹¹⁶

9.4 Have differences in treatment in the provision of the goods and services been justified in national law (see Article 4(5) of Directive 2004/113)? Please provide references to relevant law and case law.

There is no specific justification.

9.5 Does national law ensure that the use of sex as a factor in the calculation of premiums and benefits for the purposes of insurance and related financial services shall not result in differences in individuals' premiums and benefits (see Article 5(1) of Directive 2004/113)?

No, there is no such guarantee in national law, but neither are there any indications or reports of such differences in practice.

9.6 How has the exception of Article 5(2) of Directive 2004/113 been interpreted in your country? Please report on the implementation of the C-236/09 *Test-Achats* ruling in national legislation.

There is no interpretation of this exception.

9.7 Has your country adopted positive action measures in relation to access to and the supply of goods and services (see Article 6 of Directive 2004/113)?

Yes. Article 5 of the Law on Equal Opportunities of Women and Men states that 'General measures for the implementation of the principle of Law on Equal Opportunities for Women and Men shall be normative measures in the field of health protection and health insurance, social protection, access to goods and services'. Also, in Article 7 it is underlined that 'encouraging measures are measures that ensure special incentives or introduce special advantages with the purpose of eliminating the circumstances that cause unequal participation of women and men, or unequal status of one gender against the other or unequal distribution of social goods and resources'. Thus, positive measures in relation to access to and the supply of goods and services are allowed under the law.

However, this possibility has not yet been used in practice. Furthermore, it could be argued that, in the last five to six years, access to certain services for women has decreased (especially gynaecologists and appropriate medical and other protection of motherhood) which has resulted in a trend towards an increase in the mortality of both newborn babies and women who have recently given birth. Even in cases where citizens signal a lack of services at an elementary level, the authorities have not responded with appropriate action.¹¹⁷ According to some CSOs, this situation was still continuing in 2017. Field and research data show that there is widespread practice of primary healthcare gynaecologists charging illegal fees.¹¹⁸ Furthermore, according to this report, in September 2017, after ten years, the State party finally took measures to provide gynaecological services in the largest Roma municipality in the Republic of Macedonia, Shuto Orizari. Despite this

¹¹⁶ MHC, 'The Ombudsperson found discrimination in the textbook on civic education', www.mhc.org.mk/announcements/631?locale=mk#.W_NL5C_My8o.

¹¹⁷ <http://prizma.mk/ginekolozi-ni-za-lek-reshenieto-na-baven-kolosek/>.

¹¹⁸ Roma Women's Initiative, CEDAW Submission, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_NGO_MKD_30007_E.pdf.

measure, there is an unequal distribution of gynaecologists at the national level, which is also a serious barrier to access to reproductive health services.¹¹⁹

9.8 Are there specific problems of discrimination on the grounds of pregnancy, maternity or parenthood in your country in relation to access to and the supply of goods and services? Please briefly describe relevant case law.

The case No. POЖ-158/16 of 7 December 2016 at the Skopje Appellate Court¹²⁰ provides an indicative example. It upheld the verdict of the Skopje Basic Court concerning disciplinary measures against a female gynaecologist who performed a caesarean section on one of her patients with a difficult pregnancy without the formal approval of the physician on duty for that evening shift. It was undisputed that the patient insisted that the procedure be performed by the gynaecologist who had been looking after her during her pregnancy. The employer, the Public Health Institution, fined the female gynaecologist for not acquiring that formal approval, in spite of the urgent circumstances and obvious successful treatment; both of the courts supported the claimant and annulled the fine. While commending the verdicts of both of the courts, it should be noted that they based their verdict on a legal technicality instead of considering whether the bylaws inhibit the performance of proper services for pregnant women both in general and in this case, bearing in mind the sensitivity of the relationship between the pregnant woman and her gynaecologist.

¹¹⁹ Roma Women's Initiative, CEDAW Submission, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_NGO_MKD_30007_E.pdf.

¹²⁰ Skopje Appellate Court, case No. [POЖ-158/16](#).

10. Violence against women and domestic violence in relation to the Istanbul Convention

10.1 Has your country ratified the Istanbul Convention?

Yes. In 2017 the Macedonian Parliament passed the act ratifying the Istanbul Convention.¹²¹ Macedonia was amongst the first countries to sign this Convention (on 8 July 2011), just two months after its adoption. However, the previous Government did not commence the ratification process. The current Government (in office since 1 June 2017), as promised in its electoral campaign, saw the ratification of this Convention as a priority. The Government's Cabinet procedure was completed on 5 December 2017 and the Parliamentary process was completed on 22 December 2017.

With the Law on Ratification, the country entered a number of reservations which enable it to work on adjusting its legal system in line with the Convention. This same law contains a long list of laws that are currently in force in the country (31 in total) that need to be amended in order to be brought into line with the Istanbul Convention. First, the Law on Gender-Based Violence should be completely changed and a new Law could even be adopted. The Law on the Prevention of and Protection from Domestic Violence, the Law on Social Protection, the Law on the Prevention of and Protection against Discrimination, the Law on Equal Opportunities for Women and Men, the Law on the Family, the Law on the Protection of Children, the laws on the police, the courts and criminal procedure, as well as the laws on education, administration and health, and the Law on Personal Data, *inter alia*, are included in the ambitious and comprehensive list of 30 other pieces of legislation.

The focus on sexual violence against women is increasing. In 2017 a study entitled 'Scoping study on different forms of sexual violence in the Republic of Macedonia' was published.¹²² It was conducted by the network of CSOs – the National Network to End Violence against Women and Domestic Violence – with financial support being provided by the Swedish foundation Kvinna till Kvinna. However, the legal framework for combating violence against women still does not recognise all forms of gender-based violence. Domestic violence is the only form of gender-based violence that is regulated by a special Law on the Prevention of and Protection from Domestic Violence. The Law is not gender-sensitive, it does not define domestic violence as being gender-based violence and it does not recognise girls and women as a particularly vulnerable group.¹²³

The envisaged legal protection from domestic violence includes both criminal and civil litigation. The criminal procedure is embedded in the Criminal Code and in the Law on Criminal Procedure, while the civil procedure is regulated by the Law on the Prevention of and Protection from Domestic Violence, adopted in 2014, which entered into force on 1 January 2015. This Law regulates the activities of the institutions, but also activities of CSOs.

Particularly important laws closely related to the system of protection for victims of domestic violence are the Law on Social Protection and the Law on Free Legal Aid. The former regulates the rights in the area of financial support for women who are victims of domestic violence and provision of shelter for them, while the latter enables women to be entitled to free legal aid (counselling and representation) during all court and administrative procedures, provided these are related to questions of the victim's interests, including rights in the areas of social, health, pension and disability insurance, labour relations, protection of children, protection from crimes and property issues.

¹²¹ Proposal for ratification and voting results: www.sobranie.mk/materialdetails.nsp?materialId=53d249d3-50bb-44ae-b643-a86295d10b1f.

¹²² www.glasprotivnasilstvo.org.mk/wp-content/uploads/2013/11/Scoping-study-on-sexual-violence.pdf.

¹²³ Monitoring report on the implementation of the Law on the Prevention of and Protection from Domestic Violence, available at: http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_NGO_MKD_30018_E.pdf.

In 2017 women remained the most frequent victims of domestic violence.¹²⁴

The National Strategy on the Prevention of and Protection from Domestic Violence identifies the unequal power relations and deeply embedded patriarchy in Macedonian society as reasons for domestic violence, which places women in a position of oppression. Women, children and the elderly are distinguished as the most vulnerable groups. Gender and age inequality are treated as special categories, although gender is emphasised as the most significant.

Violence against women (gender-motivated violence) outside the family is not the subject of wider research or specific legal protection. It falls under the chapter of the Criminal Code on 'Crimes against Gender Freedom and Gender Morals'.

The Cabinet adopted a decision on establishing a national coordinating body to combat domestic violence within the framework of the Ministry of Labour and Social Policy.¹²⁵

¹²⁴ State Statistics Agency, Statistical data on domestic violence, <http://zsd.gov.mk/статистички-податоци-за-семејно-наси/>.

¹²⁵ http://www.mtsp.gov.mk/januari-2018-ns_article-odrzana-konstitutivna-sednica-na-nacionalnoto-koordinativno-telo-protiv-semejno-nasilstvo.nsp.x.

11. Enforcement and compliance aspects (horizontal provisions of all directives)

11.1 Victimisation

11.1.1 Are the provisions on victimisation implemented in national legislation and interpreted in case law?

Victimisation is covered in national legislation by the Law on the Prevention of and Protection against Discrimination (Article 10), which considers it as a form of discrimination. It is also covered by the Law on Labour Relations (Article 11(3)), yet it does not apply to all anti-discrimination procedures but instead only to anti-mobbing procedures. It is defined as unfavourable treatment and exposing a person to endure damages because of having initiated a procedure or even testifying in such a procedure. It is also proscribed under the Law on Psychological and Sexual Harassment (Article 30). This means that the protection against victimisation does not entirely comply with the EU Directives.

There is no provision envisioning assistance for the 'victim'. However, according to Article 39 of the same Law, in proceedings before a court of law, the victims of discrimination may formally be supported by trade unions and civil society organisations, which can join the litigation on the side of the victim. When the rights of many individuals have been violated, the organisations mentioned can initiate discrimination litigation before a court of law (Article 41). No specific threshold as to how many people's rights should be at stake has been established.

11.2 Burden of proof

11.2.1 Does national legislation and/or case law provide for a shift of the burden of proof in sex discrimination cases?

The shifting of the burden of proof is prescribed in the following laws: the Law on Equal Opportunities for Women and Men (Article 36), the Law on Labour Relations (Article 11), the Law on the Prevention of and Protection against Discrimination (Article 38), the Law on Protection from Harassment at the Workplace (Article 33), the Law on Social Protection (Article 23), and the Child Protection Law (Article 9-I). Not all of the rules on the burden of proof comply with EU law. Article 38 of the ADL states that it is up to the respondent to prove that no violation of the right to equal treatment has occurred. However, in order for a procedure to be initiated, the law requires facts and proof from the complainant. This places a greater burden on the applicant than is prescribed by the directive by 'asking for the submission of *'facts and proofs* from which the act or action of discrimination can be *established*', unlike the directives, which require *facts* from which the discrimination may be *presumed* (emphasis added).'¹²⁶ So, it is a step further from *onus proferendi* to *onus probandi*.

The provision in the Child Protection Law (Article 9-I) first stipulates the shifting of the burden of proof, but in the second paragraph its application is excluded in misdemeanour and criminal proceedings. This leads to the conclusion that the shifting of the burden of proof is only applicable in administrative procedures and civil litigation.

11.3 Remedies and sanctions

11.3.1 What types of remedies and sanctions (e.g. compensation, reinstatement, criminal sanctions, administrative fines etc.) exist in your country for breaches of EU gender equality law? Please specify the applicable legislation.

¹²⁶ Kotevska, B. (2017), *Non-discrimination Report – FYR Macedonia*, available at: www.equalitylaw.eu/downloads/4460-fyr-macedonia-country-report-non-discrimination-2017-pdf-1-79-mb.

Macedonia is not a member of the EU. Thus, there are no specific remedies and sanctions for breaches of EU gender equality law. However, there are remedies for breaches of the gender equality law provisions adopted as part of the process for alignment with the EU *acquis* or otherwise. A gender discrimination claim can be submitted as a discrimination claim in accordance with the laws regulating the relevant area/field (for example: health insurance, social insurance, labour relations, pensions).

Protection through litigation may be initiated before a court of law based on all laws that include anti-discrimination provisions. The litigation might lead to compensation for pecuniary and non-pecuniary damage and to reinstatement.

Criminal proceedings may be initiated based on the Criminal Code. Relevant sanctions include imprisonment for at least three months.

Civil servants can initiate an administrative procedure and submit an administrative complaint. The administrative procedure and complaint are subject to strict time limits, but the procedure and complaint are not complex and also not very costly. This procedure may lead to reinstatement.

A specific administrative procedure may be initiated based on the Law on Equal Opportunities for Women and Men by lodging a complaint to the Labour Inspectorate. This procedure may lead to administrative fines for the perpetrator. Under Article 37 of the Equality Law, the Labour Inspectorate is authorised to issue administrative fines without a court-of-law procedure; furthermore, the inspectorate should assess the fault and actions that should be undertaken in order to address the fault.

However, the amounts of administrative fines have decreased significantly. This was a change that did not specifically target these laws, but it was the result of an overall reform of the administrative fines system. Consequently, for example, a fine that would previously have been EUR 400 is now limited to EUR 70.¹²⁷ The administrative fines contained in the ADL also decreased.

11.3.2 In your opinion, do the remedies and sanctions meet the standards of being effective, proportionate and dissuasive? Please explain, if possible referring to relevant legislation or case law.

It cannot be concluded that the remedies and sanctions meet the standards of being effective, proportionate and dissuasive. First of all, unlike the ADL, the Law on Equal Opportunities for Women and Men has not been used as a basis for legal proceedings, either by claimants or by the courts themselves. Secondly, court processes in relation to gender equality are rare and slow. For example, the first court of law verdict stating discrimination against a pregnant worker based on the Law on the Prevention of and Protection against Discrimination was only taken on 3 March 2016, that is six years after the adoption of the law. Since this verdict is in appellate procedure, the court decision is still not final.¹²⁸ The verdict has still not been published. Thirdly, both the Gender Equality Body and the CPAD exhibit serious weaknesses and ineffectiveness. The Gender Equality Body is a department of the Ministry of Labour and Social Policy where one person - one of the employees at the Ministry of Labour and Social Policy - is appointed as a legal defender. The CPAD was established as an 'autonomous and independent body'; yet, ever

¹²⁷ The change to the Law was carried out in a short (or abridged) procedure, without any discussion (either in a plenary session or in the Commission on Equal Opportunities for Women and Men), www.sobranie.mk/materialdetails.nsp?materialId=c88da9f4-f206-491a-aa81-714494a882bd.

¹²⁸ See an interview with the lawyer responsible on the commercial site for legal issues, Akademik (2016), 'Првата Пресуда За Дискриминација Врз Основа На Бременост Е Многу Важна За Остварувањето На Работничките Права – Адвокат Софија Бојковска', 1 May 2016. Available at: www.akademik.mk/prvata-presuda-za-diskriminatsija-vrz-osnova-na-bremenost-e-mnoгу-vazhna-za-ostvaruvaneto-na-rabotnichkite-prava-advokat-sofija-bojkovska/.

since its first composition, its independence has been tainted by the election of political appointees to serve as members.

Fourthly, when compared to the available sanctions provided for other misdemeanours,¹²⁹ the anti-discrimination sanctions cannot be seen as being dissuasive, effective or proportionate. This is also the finding of an analysis of the harmonisation of equality and non-discrimination legislation.¹³⁰

11.4 Access to courts

11.4.1 In your opinion, is the access to courts safeguarded for alleged victims of sex discrimination? Please explain and discuss particular difficulties and barriers victims of sex discrimination have encountered. Refer to relevant legislation and case law.

Access to the courts for sex discrimination victims might be impeded due to physical and financial barriers. Firstly, for applicants who also have a disability, obstacles can arise due to the general inaccessibility of public spaces. To date, there has been no case law to challenge this. Secondly, court procedures are costly. Aside from incurring expenses, potentially for extended periods of time (due to the length of the procedures), if the applicant loses the case, they might have to pay all the expenses. This also makes it difficult for CSOs to bring cases to the courts, as they rarely have the finances to do this, especially as donors rarely support such activities. For example, the case mentioned in section 11.3.2 above was led by lawyers¹³¹ financed by an international NGO. However, this is only one of two projects with the necessary means for undertaking court procedures.

11.4.2 In your opinion, is the access to courts safeguarded for anti-discrimination/gender equality interest groups or other legal entities? Please explain and refer to relevant legislation and case law.

There are no relevant cases since representative organisations do not take part in court proceedings, but only support the claimant (with advice or financially). Nevertheless, in one case the involvement of a trade union was rejected by the Appellate Court which declared that the issues were not part of the 'trade union's rights', without pointing out what rights the trade union did have.¹³²

11.4.3 What kind of legal aid is available for alleged victims of gender discrimination?

The general mechanism for free legal aid is only available in criminal cases, which is inadequate and faces problems of its own. The State is failing to provide effective legal protection for women who have suffered violence, even though the law clearly stipulates that victims of domestic violence and victims of human trafficking should benefit from free legal aid. The limited scope of free legal aid, the restrictive criteria for being granted free legal aid and decision-making deadlines not being adhered to are the main obstacles that seriously affect women's access to free legal aid in this regard.¹³³

¹²⁹ For example, the amount of the fine in some discrimination cases is equal to the amount of a fine for dropping a cigarette end in the street.

¹³⁰ Kotevska, B. (2016), *Analysis of the harmonization of national equality and non-discrimination legislation*, Skopje, OSCE and CPAD.

¹³¹ <http://myla.org.mk/wp-content/uploads/2016/09/Pristap-do-pravda-za-zeni-Analiza.pdf>.

¹³² This is an unpublished case and therefore no reference to it can be provided.

¹³³ http://zdruzenska.org.mk/wp-content/uploads/2018/02/Written-submission-for-pre-session-WG_71-session-on-CEDAW_12-16-March-2018.pdf.

11.5 Equality body

11.5.1 Does your country have an equality body that seeks to implement the requirements of EU gender equality law?

The relevant body and procedure are defined in the Law on Equal Opportunities for Women and Men (Chapter 6, Articles 20-31); the procedure for the detection of unequal treatment of women and men is conducted by a legal representative at the Ministry of Labour and Social Policy, which is meant to act as a Gender Equality Body. The wording of the law suggests that this should be an individual, employed by the Ministry, thus the question of their independence is problematic, and they have no powers for independent investigation, monitoring and reporting. The Ministry has not provided adequate financial and human resources in order to fulfil this legislative obligation.¹³⁴ It should also be added that there is no information on the functioning of this body and it has no website. On the website of the Ministry of Labour and Social Policy the only information that could be found is the fact that within the Ministry there is a unit called the 'Sector for Equal Opportunities' and that there are state counsellors in charge of creating and developing policies on equal opportunities and on non-discrimination and human rights.

People who feel they have been discriminated against on the ground of their sex may also seek protection from the Ombudsperson and from the Commission for Protection against Discrimination.¹³⁵

11.6 Social partners

11.6.1 What kind of role do the social partners in your country play in ensuring compliance with and enforcement of gender equality law? Are there any legislative provisions in this respect?

The Law on Equal Opportunities for Women and Men, in Articles 9 and 10, envisages cooperation between Parliament and the Cabinet of Ministers with the social partners in monitoring the progress of harmonisation of national legislation with the legislation of the EU. During 2017, the Cabinet and Parliament increased their cooperation with civil society organisations both in the preparation of certain documents and in the implementation of joint programmes. In August 2017, the inter-sectoral consultative group on equal opportunities for women and men was re-established and reactivated. It is composed of state officials, representatives of civil society organisations, associations of employers, experts, and representatives of local self-government, trade unions and other entities. This inter-sectoral group is responsible for promoting the concept of gender equality in the general policies of all public institutions, for following up on gender mainstreaming in the sectoral policies in cooperation with the social partners and institutions in specific areas, for monitoring the progress of the harmonisation of legislation with the European Union standards on gender issues, for becoming involved in and providing guidelines in the preparation of the Strategy on Gender Equality, and for monitoring the periodic reports of certain institutions.¹³⁶

Finally, it is worth noting that there are no women at all in the leadership of the majority of trade unions. This is also true for the largest trade union – the Alliance of Trade Unions of Macedonia – and its Executive Board.¹³⁷

¹³⁴ Reactor, CEDAW Submission, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_NGO_MKD_30045_E.pdf.

¹³⁵ <http://www.kzd.mk>, <http://ombudsman.mk/>.

¹³⁶ www.slvesnik.com.mk/Issues/3a8c562fb36d4501ab7343864cb0fd13.pdf.

¹³⁷ www.ssm.org.mk/mk.

11.7 Collective agreements

11.7.1 To what extent does your country have collective agreements that are used as means to implement EU gender equality law? Please indicate the legal status of collective agreements in your country (binding/non-binding, usually declared to be generally applicable or not).

Collective agreements, although legally binding, are not used as a means to implement EU gender equality law. However, some of them do contain anti-discrimination provisions. For example, the Collective Agreement for the Ministry of the Interior includes, in Articles 76-78, the prohibition of discrimination, harassment and mobbing.

An example of the opposite is the General Collective Agreement for the Economy Sector of the FYR of Macedonia where, under the general title 'Prohibition of discrimination', it actually stipulates that the worker has the right to request compensation of five net salaries in case of discrimination.

12. Overall assessment

Unlike in the past, gender equality is gaining visibility and is present in many drafted and adopted public policy documents, including documents harmonising national and EU law¹³⁸ and the strategic documents of relevant ministries.¹³⁹ The Ministry of Labour and Social Policy has declared its commitment to enhancing the establishment of a correct balance between work and family life.¹⁴⁰ After a break of a few years, the School of Philosophy at the Saints Cyril and Methodius University of Skopje has recommenced its post-graduate gender studies programme at the Institute of Gender Studies.¹⁴¹

In 2017 e-modules on gender equality, which are intended to educate the state administration concerning the inclusion of gender equality in establishing policies, have been developed.¹⁴²

The main problem remains the enormous gap between legislation and enforcement. Prior to 2017, a new National Action Plan for 2017-2020 was to be produced by the Ministry of Labour and Social Policy in cooperation with civil society and other relevant stakeholders. However, this process was delayed and it was first initiated in May 2017, but with minimum inclusion of civil society. The process was delayed yet again, until November 2017, when a new draft National Action Plan was created with the assistance of CSOs. However, the time which was available for creating a draft Action Plan was brief and the plan itself was not based on an evaluation of the previous Action Plan.¹⁴³ The Minister of Labour and Social Policy addressed this problem. According to her, for instance: 'The state adopted the strategy for gender-responsible budgeting five years ago, yet it did not steer the budget in the direction of securing equal opportunities for women and men. According to Minister Carovska systematic support must be introduced by all of the parties involved, i.e., institutions and international and civic organisations, in order to improve gender equality in our state.'¹⁴⁴

Overall, information on the results of the implementation of the strategic documents and plans is still lacking. The state does not publish reports from which what is being done and how could be clearly seen. The annual report of the Ministry of Labour and Social Policy on the activities undertaken and the progress achieved in establishing equal opportunities for women and men in the Republic of Macedonia in 2016 (submitted to the Cabinet in July 2017 and to Parliament in November 2017)¹⁴⁵ still does not provide appropriate data which can be used to assess the success of the policies which have been implemented.

A vast number of activities remain within the framework of individual projects that cannot achieve sustainability. The financial resources that are available are from outside sponsorship, without any financial assistance being provided by state funding.

It is worth noting that the Ministry of Education and Science reacted to CSO complaints by withdrawing, in July 2017, two textbooks in which discrimination had been detected. In

¹³⁸ НПАА 2017, Влада на Република Македонија, www.sobranie.mk/content/%D0%9D%D0%A1%D0%95%D0%98/00_NPAA2017_Vlada_31.07.2017.pdf.

¹³⁹ Strategic plan of the Ministry of Labour and Social Policy for 2017-2019

www.mtsp.gov.mk/content/pdf/strategii/Strateski_plan_MTSP%20za%202017-2019%20kv.pdf.

¹⁴⁰ http://www.mtsp.gov.mk/noemvri-2017-ns_article-mila-carovska-sozdavame-uslovi-za-pristojna-rabota-i-ednakvi-moznosti-za-mazite-i-zenite.nspix.

¹⁴¹ Ministry of Education and Science, Annual report on equality between women and men, http://www.mon.gov.mk/images/documents/Strateshki_plan_MON/Извештај_за_naпредokot_na_sostojbat_a_na_ednakvi_moznosti_na_zenite_i_mazite_za_2017_godina.pdf.

¹⁴² <https://www.facebook.com/mioarm/videos/1661702693863349/>.

¹⁴³ Reactor, CEDAW Submission, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_NGO_MKD_30045_E.pdf.

¹⁴⁴ http://www.mtsp.gov.mk/dekembri-2017-ns_article-carovska-rodovo-odgovornite-budzeti-se-klucni-za-sozdavanje-ednakvi-moznosti-za-zenite-i-za-mazite.nspix.

¹⁴⁵ www.sobranie.mk/materialdetails.nspix?materialId=9aeca255-c640-4871-92d8-0e20b98760e5.

one case this was based on gender and sex. Furthermore, some of the ministries have started to implement a new, gender-sensitive methodology for presenting relevant data.¹⁴⁶

According to the CSO MHC, the emancipation of women is not occurring with the same intensity throughout the state, and needless to say, women from rural areas are often forgotten by the state. In order for rural women to achieve full equality in society, greater economic autonomy and independence are needed, as well as greater representation in political life.¹⁴⁷

In addition, multiple discrimination against women with disabilities (specifically the pay gap of working women with disability) has been analysed and highlighted as a problem in several research projects,¹⁴⁸ and the same applies to intersectional discrimination and the need to introduce it explicitly as a form of discrimination under the law.¹⁴⁹

There is still a lack of statistics on child marriages. The Ministry of Labour and Social Policy has no system for registering extramarital communities, thus also those where one or both partners are juveniles. The irregularity of extramarital communities prevents the relevant institutions from acting in the best interests of the child.¹⁵⁰ The Roma rights CSO Roma S.O.S. has been particularly vocal on this issue, by bringing to light information on child marriages among Roma and in the Roma communities and by demanding a change in policy.¹⁵¹

In 2017, the CSOs HERA and the Centre for Reproductive Rights documented the human rights impact of the retrogressive Macedonian legislation on women's access to abortion services.¹⁵² In September 2017, HERA organised an expert meeting to discuss the restrictive provisions of the abortion law. Representatives of the Macedonian Government and Parliament, as well as representatives of gynaecological associations and civil society participated in the meeting. The participants agreed that the current abortion law should be amended in order to remove restrictive provisions. Shortly after the meeting the Ministry of Health established a working group which was assigned to review the law and to prepare the necessary amendments that would bring the law into line with public health and human rights standards on abortion care.¹⁵³

The change in the government's approach towards the question of gender equality is also visible in the opening of the media to issues related to gender equality.¹⁵⁴

¹⁴⁶ www.mon.gov.mk/index.php/dokumenti/strateshki-plan.

¹⁴⁷ MHC, CEDAW Submission, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_NGO_MKD_30018_E.pdf.

¹⁴⁸ For example, Ananiev, J. (2015), *Research report: Gender pay gap on national level*, University Goce Delchev – Stip.

¹⁴⁹ Kotevska B. (2016), *Analysis of the harmonization of national equality and non-discrimination legislation*, Skopje, OSCE and CPAD.

¹⁵⁰ MHC, CEDAW Submission, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_NGO_MKD_30018_E.pdf.

¹⁵¹ Roma S.O.S., 'Public discussion: Child marriages in the Roma community', <http://romasosprilep.org/javna-diskusija-detski-brakovi/>.

¹⁵² H.E.R.A. & Center for Reproductive Rights (2017), *Documenting the human rights impact of retrogressive legislative and policy barriers on women's access to abortion in Macedonia: key findings and recommendations*, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_NGO_MKD_30062_E.pdf.

¹⁵³ H.E.R.A. & Center for Reproductive Rights (2017), *Documenting the human rights impact of retrogressive legislative and policy barriers on women's access to abortion in Macedonia: key findings and recommendations*, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_NGO_MKD_30062_E.pdf.

¹⁵⁴ AVMU, <http://avmu.mk/rodot-i-mediumite-art/#>.

However, despite all of the changes, civil society organisations are still not satisfied with the level of citizens' involvement in preparing key documents related to gender equality (for instance, the National Plan for Action). According to them, even these new documents and plans have not been based either on analyses of the current situation or on assessments of the results of previous activities.¹⁵⁵

There is still no systematic approach to addressing gender equality. Positive action measures providing visible results are still lacking. The strategies and action plans adopted during the current reporting period¹⁵⁶ do not offer the necessary measures or means to improve the situation and to address the identified problems. This means that there is a lack of viable measures to implement equality laws. Proposed activities primarily target capacity-building aimed at identifying and introducing the gender dimension in the work of the administration and other state bodies.¹⁵⁷ Even so, these proposed activities are performed very seldom. There are still no sufficient and adequate statistical data disaggregated by sex which could be used in establishing policies as well as in individual cases of discrimination processed by the courts of law.

According to CSOs,¹⁵⁸ there is a mismatch between the overall aims and the specific aims set out in strategic documents. Namely, although some overall aims are underscored by strategic thinking and should lead to major institutional and organisational changes, they cannot be achieved through the specific aims envisaged. In addition, these set aims are not measurable and it will not be possible to evaluate their implementation in the future. CSOs have also underlined that the body that is responsible for the main activities related to gender equality – the Ministry of Labour and Social Policy – does not have the necessary capacity within the framework of the Cabinet to implement this complex task. They also believe that the financing problem (still heavily dependent on outside donations instead of state budgeting) still remains. They are specifically concerned about the lack of liability of those responsible for the implementation of the formulated objectives and aims.

This holds true for all ministers and the Government in its entirety. There are a vast number of strategies, strategic plans, action plans, plans for implementation and operational plans. Practice during the last few years has shown that the implementation is not followed by a proper monitoring and evaluation process. This gives the overall impression that no one takes responsibility for the outcome of the adoption of these documents; as if their adoption becomes an objective per se. Thus, there is a need for a clearer line of responsibility in relation to implementation and a more diligent monitoring and evaluation process. What could also help is establishing one central unit that would be tasked with and held responsible for monitoring and evaluating the implementation of these documents. At present, implementation is divided among many ministries, state agencies and other actors, but in fact no one takes overall responsibility for implementation.¹⁵⁹

¹⁵⁵ Akcija Zdruzenska, <http://zdruzenska.org.mk/wp-content/uploads/2018/02/Предлог-приоритети-предизвици-препораки-и-мерки-за-Националниот-акциски-план-на-РМ-за-родова-еднаквост-2018-2020.pdf>.

¹⁵⁶ Strategic documents and action plans adopted by the Ministry of Labour and Social Policy, www.mtsp.gov.mk/dokumenti.nsp.

¹⁵⁷ For example, the National Action Plan for Gender Equality (2013-2016).

¹⁵⁸ Akcija Zdruzenska, <http://zdruzenska.org.mk/предлог-приоритети-предизвици-препо/>.

¹⁵⁹ This, of course, does not mean that there is not one sponsor or competent ministry for these documents. Of course there is. However, this responsibility of the competent ministries becomes watered down following the adoption of these strategic public policy documents.

Annexes

Legislation

- Law on the Prevention of and Protection Against Discrimination (*Закон за спречување и заштита од дискриминација*), Official Gazette No. 50/2010 (last amendments 2016).
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