

North Macedonia

Ombudsman of North Macedonia

Independence and effectiveness of the NHRIs

International accreditation status and SCA recommendations

The NHRI in North Macedonia was first **accredited** with B status in 2011. The SCA observed that the law did not provide for a clear, transparent and participatory selection process and that pluralism could be enhanced. Moreover, while acknowledging the NHRI's promotional activities and relationship with international human rights actors, the SCA encouraged the NHRI to advocate for a wider mandate and further engaging with European NHRIs, as well as NGOs and CSOs.

Developments relevant for the independent and effective fulfilment of the NHRIs' mandate

Currently the country functions with a technical government for the purpose of organizing the early Parliamentary elections which were due to take place on April 12, 2020. However, due to the COVID-19 outbreak, the elections were postponed.

Our latest Annual Report has not detected significant changes that affect the independent and effective functioning of our institution.

Changes in the national regulatory framework applicable to the NHRI change since the last review by the SCA

A new law on the Ombudsman Office was adopted in 2016.

The new Law on the Ombudsman introduced several changes in respect to the functioning of the institution. The Law introduced a reference to the Ombudsman's function to ensure promotion of human rights (article 2 of the Law on the Ombudsman). The law further introduced changes to the manner of selecting the Ombudsman and his/her deputies (Article 5 of the Law on the Ombudsman), also providing that one of the deputies could be a professional with legal or other background (Article 6 of the Law on the Ombudsman). The law also introduced changes as regards the termination of the mandate of the Ombudsman (Article 9 of the Law on the Ombudsman).

In respect to the overall mandate of the Office, the law also introduced several new competences and mechanisms to improve the Ombudsman's effectiveness and independence.

These include the introduction of an Ombudsman-Civil Control Mechanism (Articles 11-b, c, d, e and f and article 31-c of the Law on the Ombudsman), and of the possibility to submit Amicus Curiae (Article 12, 30-b of the Law on the Ombudsman).

Article 25 of the Law on the Ombudsman further provides for a new manner of addressing public bodies (authorities within our competence) in case they do not comply with the recommendations, or object the work, of the Ombudsman. Article 30-a provides the Ombudsman with a power to submit a request to the Permanent Committee of Inquiry for Protection of the Freedoms and the Rights of the Citizen of the Assembly of the Republic of Macedonia for the purpose of investigating the cases and taking measures in cases of breach of the constitutional and legal rights of a larger number of citizens, minors and disabled persons.

With two different decisions adopted by the Government in 2018 and 2019, the Ombudsman was formally identified as a monitoring body for the implementation of the UN Convention on the rights of persons with disabilities (2018) and also as National Rapporteur on Trafficking in Human Beings and Illegal Migration (2019).

Finally, Article 34 of the law explicitly describes the obligations of public bodies towards the Ombudsman, while Article 36 concerns the obligations of the Government towards the Assembly in relation to the implementation of the Ombudsman's recommendations.

References

- 2019 Annual Report (In Macedonian language)
<http://ombudsman.mk/upload/Godisni%20izvestai/GI-2019/GI-2019.pdf>

Human rights defenders and civil society space

In its latest Annual Report, and also in its day to day work, the Ombudsman office has not detected evidence that negatively impact the civil society space or the human rights defenders. In multiple occasions the civil society sector is our ally and we work closely with them in order to jointly contribute towards strengthening the human rights in the country

and be more vocal on some issues. The civil society organisations are our partners in the implementation of the institution's several functions such as: National Preventive Mechanism, External Oversight Mechanism, Monitoring of the implementation of the UN Convention of rights of persons with disabilities, etc.

Checks and balances

The Ombudsman has not detected breaches of the system of checks and balances. However, challenges affect the functioning of the judiciary. Complaints in the field of judiciary, as reported in the latest Annual Report, were the most numerous: mostly citizens pointed out that they face significant difficulties in achieving their rights due to the long duration of the proceedings before the Administrative Court, the first instance courts, the courts of second instance, the Public Prosecutor's Office, the Judicial Council of North Macedonia, as well as the procedures for protection of the right to a trial within a reasonable time. The Ombudsman concluded that the Administrative Judiciary is still dysfunctional and fails to guarantee protection of citizens' rights and the rule of law (further below 'functioning of justice systems'). In 2019, a new Law on Administrative Disputes was adopted, the implementation of which begins in 2020 and it regulates the procedure before the Administrative Court and the Higher Administrative Court.

Functioning of justice systems

The excessive length of court proceedings and disregard for the principle of trial within a reasonable time, in particular by the administrative courts, remains the main reason for the big number of complaints in the area of judiciary. There is a need for a full reform of the administrative judiciary for ensuring the application of legal norms in favour of governance of law and the principle of justice and fairness, as well as full and effective respect for human rights. There is a need for amending the Law on administrative courts in the area of liability of the public authorities for the delivery of documents and data. Claims related to the protection of the right to trial within a reasonable time filed before the Supreme Court of the Republic of North Macedonia are not resolved within the stipulated deadlines; as a result, citizens suffer even further delays in the enforcement of their right to a trial within a reasonable time before such court which is legally mandated to decide on such claims.

In-focus section on COVID-19 measures

Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law in the country

The Government of North Macedonia has imposed measures over the whole country in order to prevent the uncontrolled spread of COVID-19. The President of the country declared state of emergency for a second time, the first time on 18 March 2020 in duration of 30 days and re-declared it on 16 April for additional 30 days. In the meantime, the President declared twice in the row state of emergency in duration of 14 days, the third one on 16 of May and the forth one on 30th May for another 14 days.

Among the numerous measures declared by the Government was the curfew. There were many variations in the manner it was introduced. At the beginning it started at 21h in the evening and lasted until 5h in the morning but between 8th April and 22nd April 2020 the curfew hours were in between 16h until 05h during the week days, and between 16h on Fridays until 5h on Mondays during the weekends.

The longest hours of curfews were introduced for the Orthodox Easter weekend (Friday 16h-Tuesday 5h)- for more than 80 consecutive hours.

After Easter the hours were shortened (between 19h-5h). However, curfew was imposed for the whole duration for the 1st of May weekend (Friday-Monday) and Eid Bayram (between 11h Sunday and 5h Tuesday).

The curfew was annulled on 27th of May, however due to arising number of new COVID-19 infected persons, there are speculations of possibility to be re-introduced in the most affected regions.

The Ombudsman Office closely follows the situation with the human rights respect and the measures the Government takes. In three occasions the Ombudsman issued recommendations that particularly tackle the vulnerable categories of citizens (persons with disabilities and children), so as persons deprived of liberty.

References

- http://ombudsman.mk/EN/news_and_events/241627/ombudsman%E2%80%99_recommendations_exercising_children's_rights_in_conditions_of_state_of_emergency.aspx
- http://ombudsman.mk/EN/news_and_events/241626/ombudsman's_recommendation_to_the_government_of_the_republic_of_north_macedonia_to_protect__.aspx
- http://ombudsman.mk/EN/news_and_events/241625/recommendations_for_treatment_of_persons_deprived_of_liberty_in_conditions_of_pandemia_of_COVID-19.aspx

Most important challenges due to COVID-19 for the NHRI's functioning

The Ombudsman Office performs its work online with officers on duty on a daily basis.

All visits, hereby including those to places of deprivation of liberty have been suspended during the pandemic. However, the citizens are free to submit complaints by email or phone call and their access to the Office in such way is unlimited.

Although the Ombudsman Office has amended its usual manner of work and diverted to online receipt of complaints and serving citizens, during the month of May, with the support of the USAID, the Office implemented a wide range of promotional campaign with particular focus on the newly acquired competences introduced with the Law on the Ombudsman since 2016. The immediate benefit of the campaign was the increased number of received complaints in May and the beginning of June in comparison to March and April when due to the amended manner of work people temporarily refrained from addressing the Office.

As of 1st of June the regular working hours in the office were resumed.

In addition, the Ombudsman Office has been closely monitoring all measures, ordinances and decrees that the Government adopts, especially since the country has a so called technical government in place since the parliament was dissolved in February due to the early parliamentary elections (scheduled for 12 April but postponed as a result of the COVID-19 pandemics).

