Submission to the Committee on Economic, Social and Cultural Rights
MACEDONIA
Healthy Options Project Skopje's (HOPS), Coalition Sexual and Health Rights of Marginalized Communities (CSHRMC) and
International Centre on Human Rights and Drug Policy (HRDP)
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I. General information: Economic, social, and cultural rights and drug policy

Macedonia is a party to the three main UN drug control conventions, which aim to control certain psychoactive substances by restricting their supply and demand to medical or scientific purposes. While there arguably exists a certain degree in a State party's approach to implementing these obligations, the treaties require the adoption of restrictive measures towards controlled substances.[1] However, Macedonia must also fulfil its domestic constitutional obligations under the Constitution of the Former Yugoslav Republic of Macedonia[2], as well as those under international human rights law, including the *International Covenant on Economic, Social and Cultural Rights,* which Macedonia has ratified. These human rights obligations bind the state in its response to drugs.

When poorly developed and implemented, drug policies can contribute to an environment where individuals are at increased risk of experiencing violations of their economic, social and cultural rights. The 2008 Law on the Control of Narcotic Drugs and Psychotropic Substances aims to prevent and suppress the misuse of narcotic drugs and psychotropic substances.[3] The requirement to suppress the misuse of drugs has introduced a stricter policy approach that shifts the focus away from addressing health and social problems of people who use drugs, to addressing the 'drug problem' through law enforcement and criminal sanctions. In 2016, this law was amended without inclusive public consultation, to introduce highly restrictive provisions that regulate the medical use of cannabis—which will impact the accessibility and affordability of the drug for medical applications. The law also regrettably introduced criminal sanctions for possession of cannabis, which will effectively criminalise consumers possessing certain amounts of the substance for agricultural, medical and non-medical uses alike.

The criminalisation of drug possession for personal use has contributed to a significant increase in the incarceration of people who use drugs, many who are in need of medical help, not incarceration. The absence of harm reduction programmes in prisons negatively impacts the health of this vulnerable group while in custody. The new amendments to the national drug law that criminalize low-threshold possession will additionally deteriorate the situation for people who use drugs and has worrying implications for minority communities. The previous 2006 - 2012 National Strategy on Drugs called for a scale up in existing harm reduction programmes, broadening the number and regions covered. The new National Strategy on Drugs (2014-2020), is an unfortunate step back, removing all reference to harm reduction.

Information available on public spending on law enforcement, particularly on anti-drugs programmes, is unclear. However, budget monitoring of the programme for health care of people with dependencies

[1] United Nations, Single Convention on Narcotic Drugs (1961), as amended by the 1972 Protocol amending the Single Convention on Narcotic Drugs; United Nations, Convention on Psychotropic Substances (1971); United Nations, Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988).
[2] The Constitution of the Republic of Macedonia, Section II (2).
[3] Official Gazette of the Republic of Macedonia (103/2008; 124/2010; 164/2013; 149/2015; 37/2016 and 53/2016). Law on the Control of Narcotic Drugs and Psychotropic Substances, Article 2.

(including drug dependence) in Macedonia for 2011, 2012 and 2013 demonstrates a consistent decrease in spending with an average annual rate of 14,7%.[4] The Programme for social protection (Daily centres and shelters for non-institutional social protection) includes work with people who use drugs and their families. The budget monitoring of this programme demonstrates that in 2011, 2012 and 2013 only 0,73% of the Programme budget was used for work with people who use drugs and their families.[5] Since 2015 one of the two centres operating since 2005 were closed.

In addition to the above and in light of the Committee's current review of Macedonia's implementation of the International Covenant on Economic, Social, and Cultural Rights, please find below a brief overview of our main concerns related to Canadian drug law and policy.

II. Issues related to the general provisions of the Covenant (art. 1 – 5)

Equality & Non-discrimination

Discrimination, be it direct or indirect, against people on the basis of health condition is prohibited under the Law on the Prevention of and Protection against Discrimination (LPPD).[6] Nevertheless, the practice of discrimination against people who use drugs remains an ongoing and under-reported concern. People who use drugs are criminalised, rigorously pursued by law enforcement, and viewed as 'undesirable' by the broader Macedonian society.[7] Consequently, people who use drugs are a highly stigmatised and vulnerable group. In 2011, almost 97% of Macedonian citizens admitted they would not accept a person who uses drugs as a neighbour and 92,3% reported intolerance toward health institutions for drug treatment, similar intolerance and discrimination has been documented on part of health professionals charged with caring and treating people who use drugs.[8]

There are three particular groups of people who belong to other marginalised groups, but because of their drug use, suffer intersectional discrimination, which undermines their economic, social, and cultural rights: adolescents, women, and ethnic minorities.[9]

Harm reduction services are available to adolescents in exceptional circumstances and consist only of opioid substitution treatment (OST) programs for young people, who receive treatment only sporadically. There are no evidence based drug programmes that can guarantee access to appropriate treatment for people under 18. According to Macedonia's 2014 National Report on Narcotic Drugs, there were only five adolescents who received OST treatment. While a new Directive was issued by the Ministry of Health in 2012 removing age restrictions to access methadone, hospitals are only allowed to admit young people over 18 to drug treatment programmes.[10] These drug treatment centres are the only places legally permitted to prescribe methadone. These restrictive legal and policy barriers effectively exclude a large number of adolescents in urgent need of medical treatment and raises

[4] Dimitrievski V., Jankuloski H., Stefanov S. The possibilities for sustainable financing of the harm reduction programmes from the Budget of the Republic of Macedonia, 2015.
[5] Dimitrievski V., Jankuloski H., Stefanov S. The possibilities for sustainable financing of the harm reduction programmes from the Budget of the Republic of Macedonia, 2015
[6] The Law on the Prevention of and Protection against Discrimination (the LPPD), Official Gazette of RM, no. 50, 8 April 2010. The LPPD can be found on this following link: https://www.ecoi.net/file_upload/1226_1317212111_fyrom-law-on-protection-against-discrimination-2010-en.pdf
[7] Simoska E., Gaber N. and others. How inclusive is the Macedonian Society, 2008
[8] Klekovski S., Krzalovski A. Stojanova D. Macedonian Societal Values, MCIC 2011.
[9] Dimitrievski V., Boskova N., Improvement of the Quality of Drug Dependence Treatment Programms in Skopje: Assessment of the Quality of Drug Dependence Treatment Programs with A Community-based Monitoring by Persons Treated for Drug Dependence, 2012, p.
[10] Official Gazette of the Republic of Macedonia no. 36/2012; see also Statute of Hospital, Macedonia

questions around Macedonia's compliance to a number of national legal protections against discrimination and the right to health, including Article 3 of the LPPD, and under Article 2 (2) and 12 of the ICESCR.

Discrimination against women who use drugs is reflected by the lack of gender-sensitive planning and programming of drug dependence treatment. The current National Drug Strategy fails to incorporate a gender perspective and fails to consider the structural dimensions of women's vulnerability to HIV transmission.[11] Commitment to gender-sensitive policy serves as a mere principle without specific measures and activities to be implemented. There is no explicit obligation for the collection and analysis of gender-sensitive data.[12] The lack of available and accessible gender-sensitive drug dependence treatment has discouraged women from accessing treatment, especially in treatment centres where most of the clients are men.[13]

The Roma of Macedonia are a community that has been historically marginalised and excluded in all aspects of social, political, and economic life. According to the 2006 – 2012 National Drug Strategy, Roma people who use drugs are an insufficiently analyzed group.[14] Within Macedonia's population of people with no citizenship, 23% are Roma.[15] Without citizenship status, individuals have no access to social services and health insurance. In the context of Roma people who use drugs, this situation leads to their inability to access drug dependence treatment, despite a significant number of Roma reportedly in need of services each year.[16] An example of the structural challenges this community faces is the municipality of Shuto Orizari, which has the highest population of Roma. To date, and despite donor commitments from the international community, Shuto Orizari has no available drug dependence treatment or services.[17] More generally, there is evidence to suggest that when Roma people enter drug dependence treatment in health care settings, they are exposed to higher rates of violence from other patients.[18]

Through these examples, there is clear evidence of entrenched discrimination towards these groups, made more vulnerable as their status as women, adolescents, or Roma intersects with their status as a person who uses drugs. The Government of Macedonia has systematically failed to take necessary action to protect these groups from degrading treatment at the hands of private and public actors. Likewise, the legal framework currently in place fails to respect their entitlement to equal treatment, with punitive, restrictive, and discriminatory laws and policies around drugs and drug treatment hindering availability and equal access to services entitled to these groups under articles 2,3,10, and 12 of the ICESCR.[19] The decision to make services available to the community of people who use drugs is treated in Macedonia as a political decision, often based on public support (or lack thereof) from the community. Ensuring that all people are able to access necessary health services regardless of their

[11] Badarevski B., Savovska M, Dimitrievski V. Assessment of gender related issues and their connection to the risk of HIV/AIDS and the barriers conditioning the equal access to adequate HIV/AIDS prevention and treatment services, 2012, p. 11 – 13.
[12] Badarevski B., Savovska M, Dimitrievski V. Assessment of gender related issues and their connection to the risk of HIV/AIDS and the barriers conditioning the equal access to adequate HIV/AIDS prevention and treatment services, 2012, p. 21.
[13] Badarevski B., Savovska M, Dimitrievski V. Assessment of gender related issues and their connection to the risk of HIV/AIDS and the barriers conditioning the equal access to adequate HIV/AIDS prevention and treatment services, 2012, p. 23.
[14] Ministry of Health. National Drug Strategy 2006-2012, December 2006.
[15] Dimitrievski V., Improving drug using Romas' right to access to social and health services. Skopje: HOPS, 2011, p. 9.
[16] Of the people who use drugs accessing harm reduction programmes in Skopje, 16% of the total number are Roma
[17] Dimitrievski V., Boskova N., Improvement of the Quality of Drug Dependence Treatment Programms in Skopje: Assessment of the Quality of Drug Dependence Treatment Programs with A Community-based Monitoring by Persons Treated for Drug Dependence, 2012, p. 21.
[18] Dimitrievski V., Improving drug using Romas' right to access to social and health services. Skopje: HOPS, 2011, p. 20.
[19] Also see LPPD, Art. 5

status must not be viewed as a policy option. In Macedonia, it is a legal obligation under articles 12 and 2 of the ICESCR.

Further, The LPPD does not achieve any progress in this field and the evaluation of the implementation of the LPPD does not propose any changes in the future. The latest evaluation of the LPPD by the Ministry of Labour and Social Policy refers only to the campaigns on elimination of stigma and discrimination against people who use drugs organized by NGOs. The law lacks an explicit framework that both guarantees and recognises the state's obligations to protect people who use drugs from all forms of discrimination. As a State party of the ICESCR, Macedonia has an immediate obligation to ensure that the realisation of economic, social and cultural rights occurs without discrimination.[20] This obligation requires the State to protect, promote and fulfil the the guarantees provided for within the Covenant without discrimination of any kind, including on basis of health or social status, including a person who uses drugs or a person who is experiencing drug dependence.[21]

III. Issues related to specific provisions of the Covenant (art. 6 – 15)

The right to health (Article 12)

According to the available data, there are approximately 10,300 people living with opioid dependence in Macedonia. However, only around 1,750 of them are documented as receiving treatment.[22] More than 80% of people who are reported to be opioid dependent in Macedonia have no access to drug dependence treatment. Likewise, harm reduction coverage is limited in scale and geographic scope, with only 16 harm reduction programmes country-wide, of which 25% are concentrated in the capital.

In Macedonia, access to treatment services for drug dependency is guaranteed under the 2012 Law on Health Insurance for the first 30 days of treatment.[23] However, drug treatment and harm reduction is not included in the core package of essential medical interventions guaranteed after the 30-day period and individuals in need of ongoing treatment face additional barriers to access, including user fees and denial of medication in the event of relapse. Barriers to access are further heightened for vulnerable groups including women, adolescents, and ethnic minorities. The lack of data disaggregation is a further impediment to understanding and ensuring accessible, available, acceptable and quality health service for the community of people using drugs and in need of medical care in Macedonia.

The right to health under the Covenant obligates State parties to ensure health services, goods, and facilities be made available in adequate numbers and provided without discrimination. The Committee has articulated health services to include drug dependence treatment and harm reduction interventions such as opioid substitution therapy, needle and syringe exchange programmes, and access to naloxone for the prevention of opiate overdose.[24] The right also requires these health services to be accessible

[20] International Covenant on Economic, Social and Cultural Rights, UNTS Vol. 993, P. 3, 16 December 1966, Article 2.
[21] Committee on Economic, Social and Cultural Rights, General Comment 14: The Right to the Highest Attainable Standard of Health, UN Doc. E/C.12/2000/4, 11 August 2000, para 18; and Committee on Economic Social and Cultural Rights, 'General Comment No. 19, The Right to Social Security', UN Doc no E/C.12/GC/19, 30 January 2008, para 29
[22] Dimitrievski V., Cvetković I., Dekov V., Macedonia: Community monitoring and advocacy in highly stigmatizing circumstances, 2014
[23] Law on Health Protection, Official Gazette of the Republic of Macedonia No. 3/2014.
[24] UN Committee on Economic, Social and Cultural Rights. 'Concluding Observations on Ukraine' (E/C.12/UKR/CO/6) 2014; UN Committee on Economic, Social and Cultural Rights, 'Concluding Observations on Uzbekistan' (E/C.12/UZB/CO/2) 2014; UN Committee on Economic, Social and Cultural Rights. 'Concluding Observations on Belarus' (E/C.12/BLR/CO/4-6) 2013; UN Committee on Economic, Social and Cultural Rights. 'Concluding Observations on Mauritius' (2010) E/C.12/MUS/CO/4; UN Committee on Economic, Social and Cultural Rights. 'Concluding Observations on the Russian Federation' (2011) E/C.12/RUS/CO/5

geographically for all populations, particularly for vulnerable and marginalised groups.[25] Accessibility also means prevention, harm reduction and drug treatment services must be affordable for the population, with particular attention to the most vulnerable groups. Importantly, drug prevention, harm reduction, and treatment services must be delivered in a manner that is acceptable within the framework of medical ethics and designed to address the unique needs of the current population of people who use drugs. This must also include sensitivity towards gender and the unique needs and evolving capacities of adolescents. The right to health also requires that health services to address drug use be of sufficient quality, based on scientific evidence, and delivered by health professionals with adequate training and skills to provide care to this vulnerable population compassionately, ethically, without judgement.

While the fulfilment of the right to health is subject to progressive realisation and resource constraints, some obligations must be implemented immediately including non-discrimination and other core obligations. Macedonia has a core obligation to adopt a national public health strategy, which addresses the health of the entire population, with particular attention to marginalised groups, including people who use drugs.[26] Another core obligation is the requirement to take measures to prevent, treat and control epidemics.[27] This in turn, demands immediate commitment of resources to the delivery of harm reduction and treatment programmes, which have been proven effective in the prevention of HIV/AIDS transmission.

The current scale and coverage of harm reduction and drug treatment services across the country indicates Macedonia is currently not in compliance with their obligations under the Covenant. The case of Shuto Orizari is a clear example of the need to remind Macedonia that providing health care and harm reduction services is a legal obligation and must not be treated as a policy decision based on popularity. As the evidence has suggested above, there is an immediate need to address the poor quality of health service provision through better training of health care professionals charged with the care and treatment of people who use drugs.[28] The current national health strategy, which only guarantees 30 days of access to drug treatment fails to comply with the Macedonia's core obligation to address infectious disease transmission.[29]

The lack of data on the community of people who use drugs in Macedonia, specifically that is disaggregated by age, sex and ethnic background presents one of the biggest challenges to promoting the rights of people who use drugs.[30] Without adequate data, States lack evidence to inform health policy, identify gaps, and support the allocation of appropriate resources. Without making this data publicly available, Macedonia is unaccountable in relation to their obligations under the Covenant. The lack of disaggregated data, further renders marginalised groups such as the Roma, adolescents, and women invisible.[31]

In light of the issues presented above, we wish to make the following recommendations:

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[25] CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Article 12 of the Covenant), 11 August 2000, UN Doc. E/C.12/2000/4, para. 12.
[26] CESCR, General Comment 14, para. 43(f).
[27] [27] CESCR, General Comment 14
[28] Dimitrievski V., Cvetković I., Dekov V., Macedonia: Community monitoring and advocacy in highly stigmatizing circumstances, 2014
[29] Programme for protection of the population against HIV/AIDS in the Republic of Macedonia for 2016. http://www.fzo.org.mk/WBStorage/Files/PROGAMA_ZA_ZDRAVSTVENA__ZASTITA_NA_NASELENIETO_OD__HIV__SIDA_VO_REPUBLIKA_MAKEDONIJA_ZA_2016_GODINA.pdf
[30] State of the World's Children, Adolescence An Age of Opportunity, UNICEF 2011
[31] Committee on the Elimination of Discrimination against Women, Concluding Observations: Macedonia, CEDAW/C/MKD/CO/4-5, 2013, para. 33

- Commit to transparency related to Macedonia's public spending on addressing issues related to drug use and enforcement. It is recommended that Macedonia make provisions in law that require the collection of disaggregated public health and epidemiological data around drug use and drug law enforcement to adequately understand resource investment and gaps.
- Take concrete, targeted measures to fully implement the LPPD in accordance with obligations under the ICESCR, which fully recognises the unique needs of the community of people who use drugs in Macedonia. This should include:
    - An independent study to examine the unique needs of the Roma population currently affected by drug use and barriers to accessing goods and services to treat and address related harms associated with drug use
    - Scale up availability of evidence-based treatment and harm reduction services for adolescents
    - Remove legal barriers to drug treatment service and access to OST for adolescents including parental consent and other onerous qualification criteria. Additionally, take steps to reconcile national directives on access to methadone to ensure adolescents have real access to this service at hospital treatment centres.
    - Commit resources towards the disaggregation of drug use and services data, with a particular focus on ethnicity, gender, children—including adolescents aged 10-19, to better understand the needs and barriers to health services of this vulnerable population
- Conduct a comprehensive reform of the current national drug strategy, which fully integrates a human rights-based approach to drug policy and includes:
    - Provisions for the immediate scale up of harm reduction services throughout the country, including in prisons, to include OST, needle exchange, and overdose prevention.
    - Budgetary allocation for the progressive realisation of these services to be delivered without discrimination
    - Disaggregated data collection and public dissemination
    - Removal of criminal sanctions regarding cannabis possession