



Institute for Human Rights

THE IMPORTANCE OF THE **HUMAN RIGHTS-BASED APPROACH** IN THE RESPONSE TO THE COVID-19 HEALTH CRISIS IN THE REPUBLIC OF NORTH MACEDONIA



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INTRODUCTION

The pandemic caused by COVID-19 caused a health, economic and social crisis in the Republic of North Macedonia. In response to the pandemic, the government took a number of restrictive measures to prevent people from being exposed to the virus, thus slowing down its spreading, and introduced a set of measures to mitigate the adverse effects of the imposed restrictions. The adopted measures contributed significantly towards restricting citizens' rights, and included a curfew, maintaining social distance, restricting movement and gathering, closing borders and stopping air traffic, online education, and the like. While such restrictions of the freedoms and rights may have, in part, been necessary to control the pandemic, many of them were too broad or neglected to consider effects on the most vulnerable categories of citizens, not only of the virus, but also of the socio-economic consequences.

Hence, the purpose of this public policy paper is to analyze the response of the Government of RNM (strategies, decisions, and full access to institutions) to the health crisis, as well as the consequences thereof for the marginalized citizens, and thus underline the importance of applying the human rights-based principle as the most effective solution for creating inclusive public policies, especially in times of crisis. This analysis covers the period 2020 - 2021 and provides conclusions and recommendations the purpose of which is to improve government measures in future, and to ensure that restrictions provide a solid basis for respect of the human rights of all citizens, especially of those belonging to vulnerable groups.

The methodology applied included desk research and structured focus groups. The desk research was based on collection and analysis of primary and secondary data sources. Primary data sources included adopted measures, strategies, and decisions of the Government of the RNM, as well as available documents and data on the implementation of the decrees and the functioning of the measures for reducing pandemic consequences. Secondary data sources included analyzes, reports and documents prepared by relevant domestic and international institutions, academic papers, and reports and analyzes of relevant CSOs from RNM, as well as media sources. Furthermore, in order to determine the impact of the measures on the individual marginalized communities, two structured focus groups were organized, with a total of 30 participants - representatives of 21 civil society organizations, in 2021. The aim of the focus groups was for civil society organizations to exchange their views and experiences by way of examples of and discussion about the implementation of the human rights-based approach (HRBA) in our country in times of global pandemic. Focus groups discussed the challenges and issues detected during implementation of the government measures, impact of the measures on the vulnerable groups of citizens, and examples of human rights violations and discriminating procedures.

1.

WHY IS IT NECESSARY TO APPLY THE HUMAN RIGHTS-BASED APPROACH FOR PUBLIC POLICYMAKING IN RESPONSE TO COVID-19?

Protection of public health may have implications on human rights, including the rights to freedom of movement and association, education, equal treatment and non-discrimination, and others. The pandemic has shown that when it comes to decision-making in the fight against the coronavirus, *human rights are often present on both sides of the equation, most often posing the dilemma between protecting the health and lives of the entire population (on one hand) and (...) the unnecessary interference in the exercise of freedoms and rights, such as the freedom of movement and the freedom of association¹ (on the other)*. The situation imposed by the health crisis inevitably required that the state make urgent decisions so as to prevent the spreading of the virus; however, this must not be understood to mean that human rights need to be considered after the fact. On the contrary, in times of crisis, what is necessary is *more human rights, more human rights arguments, more human rights assessments and even more rights.²* Human rights should become a part of the public agenda when creating any policy or measure by way of a consistently applied HRBA and become the main organizational framework.

But what exactly should the human rights-based approach be?

HRBA is a methodological framework that aims to integrate human rights in every development program and (...) ensure significant and systematic inclusion and empowerment of the most vulnerable categories of citizens.³ It strives to give full meaning and life to the universal human rights standards, moving them from the margins of the expert debates and ordinary proclamations to the decision-making and governance centers. However, HRBA is much more than operationalization of international human rights standards and principles. It implies a change in the focus and in the motives for implementation of public policies, which shifts the focus from meeting the needs to the realization of

1 EUI Working Papers, Pandemics and human rights: three perspectives on human rights assessment of strategies against COVID-19, SCHEININ Martin and MOLBÆK-STEENSIG Helga, 2021, ctp. 20, available on: <https://cadmus.eui.eu/handle/1814/69576>

2 Ibid, p.20

3 Handbook for application of the human rights-based approach, Goce Kocevski, Maja Atanasova, Natali Petrovska, Darko Avramovski, Ena Bendevska, Maja Stojanoska, Institute for Human Rights, p.6, available on: https://civicamobilitas.mk/wp-content/uploads/2019/03/PRIRACHNIK_ENG.pdf

rights. This means that people are not passive users of services, but holders of rights⁴ who may seek exercising and protection of their rights from the holders of duty⁵ who should ensure that such rights are exercised. Hence, when this methodological framework is applied, public policy is formulated and implemented to guarantee the human rights of the individuals. It is important to note here that the application of HRBA is to the benefit all citizens, but requires priority action for the most vulnerable, as their human rights are often denied or not exercised = “Leave no one behind”.⁶

Hence, we can conclude that there are many great benefits from applying the HRBA, not only in the making of public policies (including the implementing measures, strategies, and decisions) that are in the focus of this document, but also in the making of development programs, in litigation and in advocacy. With the application of this method the policy becomes legitimate, as HRBA is based on the international law and is accepted globally. Furthermore, it puts marginalized and vulnerable populations first and ensures their inclusion, thus ensuring that everyone’s human rights are exercised.

4 Holders of rights are everyone entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights.

5 “Holders of duty are those who have the duty to uphold, protect, improve, and exercise human rights and refrain from violating them.

6 Leave No One behind, UN Sustainable Development Group, available on: <https://unsdg.un.org/2030-agenda/universal-values/leave-no-one-behind>

2.

CONCLUSION

The protection of human rights is the duty of every government, and consistent respect for human rights is a key to successfully dealing with the health crisis caused by Covid-19. The measures, strategies and decisions adopted by the Government of RNM in response to the crisis did not fully abide by the standards for protection of human rights and the recommendations of international bodies for protection of human rights. The protection and prevention measures and recommendations for Covid-19, and the Government's economic measures for dealing with the crisis were not based on a systematic mapping of the citizens' needs, especially not of the vulnerable and marginalized, as they did not take into account and did not address their specific needs. They reflected the needs of these citizens on an ad hoc basis only and under pressure from the public or from civil society organizations. The measures taken were largely reactive in nature and aimed to protect the health system from a collapse, without significantly reducing the number of people infected with or dead due to the coronavirus. It is especially devastating that the Government took measures without consulting the stakeholders, and only upon a reaction of the associations it took some delayed corrective action. That is exactly why the measures often did not correspond to the epidemiological situation in the country and did not prevent the virus from spreading.

It is consequently quite clear why HRBA is the best tool for formulating both current and post-Covid-19 measures that put everyone at the center of the response. HRBA provides guidelines for action with focus on the equality and dignity as the highest values. With targeted and separate actions HRBA addresses the most vulnerable and demands that those who are particularly or severely affected are present at the decision-making table. For example, if the human rights-based approach was applied as soon as Covid-19 appeared, preventive measures would have been established early enough, certain categories of vulnerable people would not have been "forgotten", and special measures to alleviate domestic violence would have been implemented quickly, while the urgent economic measures would have had broader effects. Hence, a systematic application of the human rights-based approach can save lives, improve the well-being of people, and contribute towards sustainable development of the Republic of North Macedonia.

In times of crisis, the human rights-based approach equips the state with an irreplaceable and reliable tool to ensure that no one is left behind and that principles especially important for the human well-being are integrated into a fairer, more realistic, and sustainable direct or long-term response to the pandemic.

3.

RECOMMENDATIONS

- Measures that the state introduces in response to a pandemic must be necessary, proportionate to the assessed risk, applied in a non-discriminatory manner, have a specific focus and duration, be in line with the state's obligations under the applicable international human rights law, and recognize the needs of all stakeholders.
- Any intervention in the public health, education, economy, and the other sectors affected by the crisis should assign priority and additional support (social, financial, and medical) to the most vulnerable populations, so as to better control the pandemic and ensure the health and human rights of those most affected; that is apply the human rights-based approach in the decision-making for the intervention.
- In order to self-assess the efforts and learn lessons for better policies, the state should, in the future, do a detailed assessment of the effects of each individual measure and policy by using the *Checklist for a Human Rights-Based Approach* - a UN tool.⁷
- Recovery plans should be prepared by accurately identifying the needs of the identified vulnerable groups and responding to their needs. Additionally, when shaping these plans, the assessments of the impact of the current crisis response on such citizens carried out by international and civil society organizations, as well as the lessons learned, should be taken into account.
- In shaping future policies and measures, the state should recognize the important role played by all stakeholders in the society, including vulnerable categories of citizens, civil society organizations, national human rights institutions, the media and the like, and thus ensure their active involvement and participation in the decision-making process.

⁷ Checklist for a Human Rights-Based Approach to Socio-Economic Country Responses to COVID-19, April 2020, UNDP, available on: <https://www.undp.org/publications/checklist-human-rights-based-approach-socio-economic-country-responses-covid-19>

