



THE AIRE CENTRE
Advice on Individual Rights in Europe



**GENDER AND
THE JUDICIARY**
in the Western Balkans

Femicide in the Republic of North Macedonia: The state of affairs, the legal framework and the judicial practice

2018-2022



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» INTRODUCTION

The research shows that throughout the world, and in the Western Balkans region, violence against women is omnipresent and widespread. Femicide is the most extreme manifestation of violence against women, and in recent years it has been the subject of many scientific disciplines, in addition to the fact that the phenomenon of femicide is being talked more and more frequently in the media. The jurisprudence throughout the region is slowly developing on the issue of violence against women, and bearing in mind the latest amendments to the criminal legislation in North Macedonia, it is evident that special attention must be paid to the said issue. The comprehensive research of the legal framework and judicial practice presented in this publication clearly indicates this. Also, this research was conducted using the same methodology that was used for research on femicide in Bosnia and Herzegovina, the Republic of Serbia, Albania and Montenegro, which represents an added value, as it enables comparison with the situation in the countries of the Western Balkans.

Until now, femicide has not been universally defined, but at the international level there is agreement that femicide is a gender-based murder of a woman, as Dr. Diane Russell defined it a long time ago - femicide is the murder of women because they are women. In this research, considering that femicide was not criminalised as a separate crime in the criminal legislation of North Macedonia, the analysis of the practice of the courts in all cases of murders in which the victims are women and the perpetrators are men was made, so it was analysed whether there is a gender-based nature of these murders. In March 2023, at the exact moment when this research was completed, the Criminal Code of North Macedonia was amended and femicide was criminalised, by prescribing that a murder of a woman and a girl under 18 years of age when performing gender-based violence amounts to an aggravated form of murder. Although this definition is not ideal or comprehensive, it is very positive that femicide is criminalised as an aggravated murder, bearing in mind that the prescribed sentence is at least 10 years in prison, and life imprisonment can also be imposed.

The research was conducted as part of the "Gender equality and the fight against gender-based violence and femicide in the Western Balkans" project. This is a three-year project funded by the Government of the United Kingdom and implemented by the AIRE Centre, a non-governmental organisation from London. The goal of the project is to increase the access to justice for victims and survivors of gender-based violence, through a greater understanding of gender issues among the judiciary of the Western Balkans.

One of the first steps towards quality planning and implementation of the activities of the project is the analysis of current judicial practices in cases of femicide, which will be done for all countries of the Western Balkans. In this research, the focus is on the analysis of the legislative framework and judicial practice in cases of femicide and attempted femicide, which was analysed quantitatively and, for the qualitative part, final judgments in criminal cases were used for the case studies. We are aware of the limitations of this approach, given that neither the entire judicial proceedings, nor the actions of the competent state authorities prior to femicide were analysed, but these studies are intended primarily for judges, albeit clearly indicating the need for a deeper investigation of the entire actions of all authorities that are responsible for prevention and protection against violence, including the judiciary. After conducting the national research, a regional report will be prepared, based on which subsequent activities will be planned. The project has a great support from the Gender Champions in Judiciary Network (GCJ Network), a regional network of Western Balkans judges dedicated to the advancement of gender equality. In the implementation of this project, the AIRE Centre closely cooperates with training centres for judges and prosecutors and with non-governmental organisations from the entire region of the Western Balkans, including intensive cooperation on femicide investigations with the FemPlatz women's association from Serbia.

The research included an analysis of the legal framework on murders in North Macedonia and an analysis of the judicial practice in the period from 2018 to 2022, which includes the legal elements and features of the criminal acts of murder, phenomenological characteristics of committed crimes, profiles of perpetrators and victims, criminal sanctions, the length of court proceedings, as well as decision-making on the property claims. The research presents several isolated cases of femicide which are described in detail, in the form of case studies.

We believe that the conclusions and recommendations derived from the analysis of the judicial practice of the courts of North Macedonia will provide a clear picture for the recognition of gender-based murders of women, the effectiveness of criminal prosecution of the perpetrators, as well as the proportionality of criminal sanctions. We also hope that this research can stimulate an active dialogue between all representatives of the judicial authorities in North Macedonia, in order to standardise the judicial practice in this area, to the extent that it is possible, as well as to contribute to strengthening the capacity of the judiciary in the application of international standards in this area.

We hope that the results of this research will be a basis for further strengthening the capacity of the judiciary, for additional training of judges and prosecutors, but also for support of the further work of numerous other institutions, legal and other experts who work to raise awareness about the negative effects of gender stereotypes, improving the culture of gender equality, as well as preventing all forms of discrimination against women.

We would like to thank the authors of the publication for their high-quality and comprehensive analysis, and we especially thank the Government of the United Kingdom, which supported us and made the publication possible.

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» DEFINITION OF FEMICIDE

Pursuing the regional trends, but also, more broadly, international trends regarding the efforts to improve gender relations, the affirmation of women's rights and the application of positive gender policies and practices by each country, the attention is also directed to the new approach as to the phenomenon of the femicide. This text aims to establish the current state of affairs and to provide development guidance regarding this issue in the Republic of North Macedonia, with particular emphasis on the legal framework and judicial practice in the last four-year period. It is expected that the new approach, which analyses this phenomenon, will focus its attention on how this phenomenon is dealt with, especially in terms of the normative regulation and rendering of court decisions, in order to create a consistent and objective penal policy, which will significantly limit the occurrence of such cases in the future.

Although femicide as a term is of more recent origin, that is, a *neologism*, it has certainly existed continuously as a phenomenon, in accordance with the criminal law's general term of a crime of "murder". However, by analysing the description of the elements and features that determine this crime as a special subcategory, we realise that they distinguish it from the basic definition of the crime of "murder", hence the need for distinction and a more accurate description of femicide as a phenomenon is imposed. This type of legal distinction is needed for the future proper rendering of court decisions in such cases and weighing the punishment for a crime, especially considering the new amendments to the Criminal Code and their future application.

It is commonly accepted that *currently there is no universally accepted definition of what a "femicide" is*. From a historical development point of view, the description of this crime stems from the need to raise women's awareness of the crimes directed against them as an act of gender-based violence, the most extreme form of which is exactly the femicide. When describing the notion of this specific crime, experts refer to the femicide as a subspecies of genocide, that is, killing of women just because they are women. In our region, the occurrence of femicide is often understood as "a consequence of an unresolved or prolonged form of domestic violence against a woman."^[1]

[1] Vesna Jarić, Nadežda Radović, *Rečnik rodne ravnopravnosti [Gender Equality Dictionary]*, Heinrich Boll Stiftung, Belgrade, March 2010, p. 56.

However, in order for a crime of murder to be considered a femicide, there are certain presumptive elements that could make it eligible for this category. First of all, *what is at stake is an intentional murder, which is committed with motivation linked to the gender affiliation of the victim who is a woman (or a member of the female gender)*, and which can also be *related to*: murder of women as a result of violence by their intimate partner; discriminatory attitude towards women, girls or female children; stereotypes related to the gender patriarchal roles in the society and/or in a specific community; "honour" killing; unequal power relations between men and women; a sense of possession, dominance, contempt, sadistic pleasure by the victim's plight; misogyny; killing a female child or a fetus because of her or its gender affiliation; and the existence of social norms in a specific community that have a detrimental effect on the gender/sex equality. In its essence, according to this descriptive determination, a hate crime that is at least tolerated by the public and/or private social stakeholders is at stake.

Femicide is considered the most extreme manifestation of violence against women, *an activity with an emphasised gender motivation*, which is usually carried out by a man, but the victim is always a woman. What is important for this crime is not merely the subjective intention of the perpetrator to commit the crime, but also the essential reason – gender motivation, which is integrated with that subjective intention. Certainly, the impact on the frequency of this phenomenon is not low in societies with a more *emphasised* patriarchal and traditional structure, where gender roles are stereotyped and there is discrimination against women and girls and inequality in terms of the social positions, power and influence.^[2] But in order to get a clearer picture of the trends, the initial approach imposes the need for a more specific description of the characteristics of this criminal offence, which would distinguish it from other related criminal offences.

Some authors divide the cases of femicide into direct (as a result of intimate partner violence; "honour" killing, dowry murder, murders in the context of armed conflicts, murder due to sexual orientation and gender identity, etc.) and indirect (death due to non-professionally performed and illegal abortion, death as a result of harmful customs and practices, death as a result of human trafficking, drug trafficking, activities of gangs and organised crime, etc.).^[3] Another, broader

[2] Statistical framework for measuring the gender-related killing of women and girls, UNODC & UN WOMEN, March 2022.

[3] Rashida Manjoo, *Gender Related Killings of Women*, Report of the Special Rapporteur on violence against women, its causes and consequences, UN Human Rights Council, 2012.

definition of femicide states that it is any murder of a female person,^[4] but in that case the need for a more specific categorisation of the crime is still imposed in order to get a realistic picture of the subtypes of the crime. Precisely because of the different definitions and classifications of femicide, the United Nations Special Rapporteur on violence against women and girls believes that the collection of data in different countries is complicated and hardly comparable. Therefore, her recommendation is to collect data under two broad categories, which include subcategories specific to national environments and realities in terms of a) femicide by an intimate partner or femicide within the family, based on the relationship between the victim and the perpetrator, and b) other femicides.^[5]

From the point of view of the elements of the crime itself, the ICCS^[6] considers that this crime - murder of women or girls from a gender perspective should include the following characteristics:^[7]

- » Murder of a woman by another person (an objective criterion);
- » Existence of the perpetrator's intent to kill or seriously injure the victim (a subjective criterion);
- » The unlawfulness of the murder (a legal criterion);
- » Gender motivation of the murder.

In addition, the UNODC statistical framework identifies eight standard characteristics which feature in cases of killing of women/girls *with emphasised gender motivation*:^[8]

- » The murdered victim was subjected to previously recorded physical, sexual or psychological violence, committed by the perpetrator of the murder;
- » The murdered victim was a victim of illegal exploitation, for example, as a victim of human trafficking, forced labour or slavery;
- » The murdered victim was in a situation of being kidnapped or unlawfully deprived of her liberty;
- » The murdered victim was in the chain of prostitution;
- » The victim was subjected to sexual violence before/after the murder has been committed;

[4] Geneva Declaration on Armed Violence and Development, 2006.

[5] UNODC & UN WOMEN (March 2022), p. 8.

[6] International Classification of Crime for Statistical Purposes (ICCS).

[7] UNODC & UN WOMEN (March 2022), p. 8.

[8] *Ibid.*, p. 11.

- » The murder was accompanied by mutilation of the victim's body;
- » The victim's body was exposed in a public place;
- » The murder was gender-motivated, that is, the victim was targeted due to the perpetrator's specific prejudice against women.

It is considered that the views and information presented so far regarding the description of femicide will be beneficial for a clearer methodological approach, identification and classification of this type of crime in the Republic of North Macedonia.

» CONSTITUTIONAL FRAMEWORK - GUARANTEED RIGHTS

The Constitution of the Republic of North Macedonia^[9] in Article 8 prescribes the fundamental values of the constitutional order of the State, among which the following are listed: the basic freedoms and rights of the citizen that are recognised in the international law and are established by the Constitution;^[10] the rule of law;^[11] as well as humanism, social justice and solidarity.^[12] This is followed by Chapter II, where in the section “Basic freedoms and rights of a human and citizen”, Sub-chapter 1 - Civil and political freedoms and rights, Article 9 regulates “the equality of citizens in respect of freedoms and rights regardless of the **sex**, race, colour, national and social origin, political and religious belief, property and social position”. Paragraph 2 of this Article states that “citizens are equal before the Constitution and laws”.

The inviolability of life is regulated by Article 10, paragraph 1. According to paragraph 2 of the same Article, in the Republic of North Macedonia the death penalty cannot be imposed on any basis. Article 11 guarantees the inviolability of a person’s physical and moral integrity (paragraph 1); prohibits torture, inhuman or degrading treatment and punishment (paragraph 2) and prohibits forced labour (paragraph 3).

According to Article 12, paragraph 1, a human’s liberty is inviolable, while Article 18, paragraph 1 guarantees the security and confidentiality of personal data. Article 25 guarantees to every citizen the respect and protection of the privacy of his personal and family life, dignity and reputation.

[9] *Official Gazette of the Republic of Macedonia* nos. 52/1991, 1/1992, 4/1992, 31/1998, 91/2001, 84/2003, 107/2005, 3/2009, 7/2011 and *Official Gazette of the Republic of North Macedonia* no. 6/2019.

[10] Indent 1.

[11] Indent 3.

[12] Indent 8.

In the Sub-chapter on Economic, social and cultural rights, according to Article 35, paragraph 1, the Republic undertakes to take care of the social protection and social security of the citizens in accordance with the principle of social fairness. Pursuant to Article 40, the Republic provides special care and protection to a family (paragraph 1), while legal relations in marriage, family and cohabitation are regulated by law (paragraph 2).

The spirit and normative expression of the Constitution of the Republic of North Macedonia indicate that the State imperatively undertakes to protect the aforementioned rights. Such an expression has a certain positive political and psychological significance for the establishment and functioning of the constitutional order, which provides a basis for solid legal protection and elaboration of these rights, but also for joining them with adequate State policies, which aim at systematic completion of the protection of the proclaimed rights.

»» THE DOMESTIC LEGAL FRAMEWORK

The Criminal Code

The Criminal Code,^[13] whose basic text has so far undergone numerous amendments, in Article 122 determines the meaning of the expressions that are used in this legal act. Bearing in mind the researched topic, the expressions that are of interest include the following terms:

- »» *Domestic violence* - means harassment, insult, threat to safety, physical injury, sexual or other psychological, physical or economic violence that causes a feeling of insecurity, endangerment or fear, including threats of such actions against a spouse, parents or the children or other persons living in a marital union or cohabitation, or in a joint household, as well as against a current and former spouse, cohabiting partner or persons who have a joint child or are in a close personal relationship, regardless of whether the perpetrator shares or has shared the same residence with the victim or not.^[14]
- »» *Victim of a crime* – is any person who has suffered damage, including physical or mental injury, emotional suffering, material loss or other injury or threat to his basic freedoms and rights as a result of a committed crime; is a child as a victim of crime; is a minor under the age of 18; and a victim of gender-based violence means any woman and girl under the age of 18 against whom the crime was committed under those circumstances.^[15]
- »» *Family* - means the spouse, the cohabiting partner, children, parents, brothers and sisters and other relatives with whom the person lives in a family community.^[16]

[13] Criminal Code, *Official Gazette of the Republic of Macedonia* no. 37/96; Acts amending the Criminal Code, *Official Gazette of the Republic of Macedonia* nos. 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015, 226/2015, 97/2017, 248/2018 and *Official Gazette of the Republic of North Macedonia* no. 36/2023.

[14] Point 21.

[15] Point 22.

[16] Point 23.

- » *Hate crime* - which is expressly provided for by the Criminal Code, is considered a criminal offence against a natural or legal person and related persons or property, that is committed in whole or in part due to an actual or assumed (imagined or conceived) characteristic or connection of the person relating to race, colour, nationality, ethnic origin, religion or belief, mental or physical disability, sex, *gender identity*, sexual orientation and political opinion.^[17]
- » *Gender-based violence against women* – is violence directed against women because of their membership of the female gender, that leads or may lead to physical, sexual, psychical or economic injury or suffering of women, including direct and indirect threats and intimidation of such acts, coercion or arbitrary deprivation of liberty, regardless of whether they occur in the public or private life.^[18]

The crime of *murder* under Article 123, paragraph 1 of the Criminal Code is defined *in initio* as follows: “Whosoever deprives another person of life...”. The threatened sentence for this crime is *imprisonment of at least five years*. Even though the definition of the basic form of this crime appears to be simple, it nevertheless shows its complexity when addressing the different forms of aggravated and privileged murders. When the court delivers a judgment whereby it convicts a person for the crime of murder, apart from dealing with the general element of the said criminal offence, it inevitably determines and weighs the special elements that comprise *the definition* of the crime. Those elements can refer to *the method of committing the crime, the characteristics of the victim, subjective and other circumstances provided for by law that govern the issue of establishing an individual responsibility*.

Aggravated murders

In a theoretical sense, *an aggravated form of murder* is deliberate deprivation of someone’s life, committed under *particularly aggravating circumstances* that are prescribed by law, which raise the degree of wrongdoing and the degree of guilt of the perpetrator. In an event of existence of such circumstances, more stringent punishment is prescribed by law. The aggravated type of murder differs from an ordinary murder by certain aggravating circumstances of an *objective or subjective nature, such as the method of committing the murder, the features of the victim, the perpetrator’s motives, etc.*

[17] Point 42.

[18] Point 43.

Aggravated forms of murder are regulated by Article 123, paragraph 2 of the Criminal Code. They provide for a *prison sentence of at least 10 years or life imprisonment* and are defined as:

1. *deprivation of another person's life in a cruel or insidious manner;*
2. *deprivation of another person's life while performing domestic violence;*
 - 2a. *deprivation of life of a woman or a girl up to 18 years of age, while performing gender-based violence;*
3. deprivation of another person's life while intentionally endangering the life of yet another person;
4. deprivation of another person's life out of benefit greed, for the purpose of committing or concealing another crime, out of reckless revenge, out of hatred or out of other base motives;
5. deprivation of another person's life by someone's order;
6. deprivation of life for the purpose of removal of an organ, tissue or cells for transplantation purpose;
7. *deprivation of life of a woman whom is known to be pregnant or deprivation of life of a child;* and
8. deprivation of life of a judge, public prosecutor, during the performance of his/her office, i.e. activity, a lawyer, medical doctor or other medical worker, a journalist or other media worker or another person who exercises work of public interest in the performance of professional tasks or in connection with the performance of professional tasks which he/she undertakes within the scope of his/her powers, or deprivation of life of an official or military official in the performance of duties of public or State security or the duty of maintaining the public order, apprehending a perpetrator of a crime or keeping a person deprived of liberty.

According to paragraph 3 of the same Article, anyone who intentionally deprives of life two or more people, regarding which he has not been tried before, will be punished with imprisonment of *at least 10 years* or life imprisonment.

Murder in a *cruel manner* contains two elements: objective - particularly severe torment, pain and suffering of a physical or mental nature (special intensity or duration of the pain of the victim, who has the ability to feel pain) and subjective - the perpetrator's awareness that the victim is suffering and the will to inflict such suffering. This criminal offence can also be committed with *non-premeditated intent*.

Murder in an insidious manner is characterised by a greater intensity of covert and concealed action in order to reach the victim, to deprive the victim of her life with as little resistance as possible, while the perpetrator takes advantage of her helplessness and trust. In this case, the victim knows nothing about the attack on her life and cannot assume that she is in danger from a murderer, while the insidiousness is present at the very moment of deprivation of life, which is the way in which the perpetrator commits this crime.

In order for the crime of murder to qualify as a *murder committed while performing domestic violence*, two conditions must be met: 1. there must be an objective relationship between the perpetrator and the victim that fulfills the elements of domestic violence; and 2. there must be awareness that it is committed in conditions of violence and the subjective will to deprive a person of his/her life must be an expression of the violent attitude towards the victim. *This crime of "murder committed while performing domestic violence" has been prescribed as such since 2004.*

In the case of a murder with *intentional endangering the life of another person*, the key element is the manner of committing the crime, whereby the perpetrator acts towards such an effect or accepts a possibility that, in addition to the victim of the murder, he/she intentionally endangers the life of another person while committing the murder.

Murder out of *other base motives* includes all other base motives that can prompt the perpetrator to commit this crime. The *court decides* in each specific case whether the motives were base, taking into account the quality, that is, the appearance of the base motives and the relevant moral norms. Base motives are considered to be those motives that are in sharp contrast with generally accepted moral means. These are motives that *cannot be connected with the human dignity and the general moral views in the society* (murder due to national chauvinism, gender, racial, national or religious intolerance, egoism, envy, malice, careerism, exploitation, etc.).

Murder by order is an organised killing in which at least two people participate, namely, the person who orders the murder and the person who commits the murder. The degree of responsibility is higher in relation to ordinary murder due to the fact that the executor acts as a cold-blooded instrument to fulfill someone's order and the murder itself is reduced to the execution of some kind of a commercial deal. The orderer is liable as an inciter of an aggravated murder.

In case of a *murder of pregnant woman*, two lives are killed, one actual, of the pregnant woman, and a future one, of the fetus. The perpetrator's intent must include awareness of the victim's status as a pregnant woman. The criminal offence exists regardless of the stage of pregnancy. In case of *murder of a minor*, the minor person's status of the victim is an aggravating circumstance. The gravity of the wrongdoing of this crime increases the powerlessness of the victim. For the existence of this crime, it is necessary that the intent of the perpetrator, either purposeful or knowing, includes awareness that the victim is a minor.

The punishment prescribed for the aggravated murders is imprisonment of at least 10 years or life imprisonment and it covers the *intentional deprivation of life of two or more persons*, regarding which the perpetrator has not been previously tried, unless it is a case of murder committed by exceeding the necessity defence from a lethal attack or the extreme necessity in such circumstances. Lower penalties are prescribed for the privileged types of murders: murder out of noble motives, non-premeditated murder (manslaughter) "in an instant", and murder of a child during childbirth.^[19]

Privileged murders

The sub-Chapter of the Criminal Code that regulates *privileged murders* lists murders out of noble motives,^[20] manslaughter (the Amendments of 2023 also incorporated gender-based violence) in an instant,^[21] murder by negligence,^[22] murder of a child during childbirth,^[23] inciting someone to commit suicide and assisting in suicide,^[24] unlawful termination of pregnancy and forced sterilisation.^[25]

[19] Article 123, paragraph 3 of the Criminal Code.

[20] Article 124 of the Criminal Code.

[21] Article 125 of the Criminal Code.

[22] Article 126 of the Criminal Code.

[23] Article 127 of the Criminal Code.

[24] Article 128 of the Criminal Code.

[25] Article 129 of the Criminal Code.

In this sub-Chapter, by means of the Amendments to the Criminal Code of 2023, Article 129-a was added, which governs the *mutilation of female genital organs*. Therefore, the one who fully or partially performs cutting, infibulation or any other mutilation of the external genital organ of a woman will be punished with imprisonment from six months to five years. This punishment also applies to the one who forces a woman to undergo these actions, while the punishment for incitement or assistance is a fine or imprisonment from six months to three years. In the event of committing this act out of hatred, or against a girl, or where a severe physical injury was caused to a woman, the perpetrator shall be punished with imprisonment from one to eight years. In the event of death of a woman or girl, the perpetrator shall be punished with imprisonment from one to ten years.

The murder out of noble motives refers to the deprivation of life of another person out of noble motives. This includes euthanasia (mercy killing) and eugenics (killing a human being who is unable to live – mentally-ill, frail old people, etc.). The perpetrator's motives for committing the murder are considered to constitute a ground for privileging him or her. The Criminal Code for this offence provides for a *prison sentence of six months up to five years*.^[26]

Manslaughter in an instant^[27] is committed by instantly depriving another person of his/her life, providing that the perpetrator with no fault on his/her part was placed into a state of intense irritation by assault or by serious insult, or as a result of domestic violence by the murdered person. The circumstance that gives this act a privileged character is the special subjective state of irritation of the perpetrator that has been caused by the victim. It is one of the situations of active contribution of the victim, whereby the occasion for the murder originated from her. The basis for a more lenient treatment is the special mental state in which the perpetrator found himself/herself as a result of the victim's behavior. The affect is a special mental state of diminished consciousness, reduced ability for sober judgment and reaction, followed by external bodily phenomena, subject to existence of a surge of strong excitement of a transient nature. The prescribed punishment for this crime is *imprisonment from one to five years*.

The ground for privileging is only *strong irritability*, that is, a higher degree of affect is required. It is not excluded that a degree of strong irritation that falls within the ambit of significantly diminished capacity (accountability) may be attained, in which case the crime should be qualified as "manslaughter in an instant", and not

[26] Article 124 of the Criminal Code.

[27] Article 125 of the Criminal Code.

as murder in a state of significantly diminished capacity (accountability). Also, the perpetrator should be brought to a state of *strong irritation through no fault of his own*, meaning that he did not provide any occasion for an attack or for insult by the victim, that is, he is not to be blamed for the situation in which he was attacked or insulted. The state of strong irritation should be caused by an *attack or serious insult by the murdered person*. This means that the *application of this provision is excluded in cases where the provocation originates from the perpetrator*, who incites the victim to attack or insult him/her, so that he/she can justify the murder.

Close to the state of affect is the *murder as a consequence of the difficult mental state of the victim of domestic violence who was a perpetrator of the crime of murder*. The causal link between the activities of domestic violence that were undertaken by the murdered person and the murder that was committed is of a psychological-pathological nature. In the perpetrator's mind a special mental state is created, which is close to an affect, although it does not necessarily contain the elements of manslaughter in an instant and the state of necessity defence. It is a case when the victim of domestic violence is pushed "to the wall" and there is no other way *how to save herself from the violent person who is a perpetrator of domestic violence*. It is not excluded that this crime of murder as a result of domestic violence may be committed both in an instant and in circumstances of necessity defence.

Negligent homicide^[28] differs from the basic crime of murder in its subjective aspect, because its definition includes a violation of the rules of due care, in addition to causing the consequence. For the responsibility of the perpetrator, it is irrelevant whether the negligence is conscious (recklessness) or unconscious, if the fatal consequence occurs as a result of the perpetrator's negligence. It can be determined whether it is a case of negligent homicide or murder with knowing intent only by establishing the mental attitude of the perpetrator towards the murder. The punishment for this crime is imprisonment from six months to five years.

The murder of a child during childbirth is a type of privileged murder, which differs from other acts of murder, depending on the special mental state of the mother, and the crime is committed in a special state in which she finds herself during the childbirth. The basis for the privilege is the special state of the mother in the period of childbirth. It is a special crime that only a baby's mother can commit. The other participants in the crime (accomplices, co-perpetrators) are

[28] Article 126 of the Criminal Code.

responsible for ordinary or aggravated murder. The punishment for this crime is *imprisonment from three months to three years*. The attempt to commit this crime is also punishable.

The bodily injury^[29], which may cause health impairment, is punishable by a fine or imprisonment for up to three years. In cases of bodily injury during gender-based violence, violence against women or domestic violence or violence out of hatred or against a person who is particularly vulnerable due to his/her age, severe physical or mental disabilities or pregnancy, the offender will be punished with imprisonment from six months to five years (paragraph 2). The punishment referred to in this paragraph 2 is also provided for an offender who commits the crime out of hatred.

The crime of *severe bodily injury*^[30] or severe impairment of health is punishable by a prison sentence of six months to five years. Severe bodily injury committed while performing gender-based violence, violence against women or domestic violence or violence out of hatred or against a person who is particularly vulnerable due to his/her age, severe physical or mental disabilities or pregnancy, is punishable by imprisonment from one to five years (paragraph 2). In cases of severe bodily injury or severe health impairment as a result of which the injured person's life will be endangered or a vital part of the body or a vital organ will be destroyed or permanently and significantly weakened, or a permanent incapacity will be caused for work in general or for the work for which he or she is qualified, or his or her health will be permanently and severely impaired or he or she will be disfigured, the perpetrator shall be punished by imprisonment from one to ten years. In the event of occurrence of death, the perpetrator shall be punished with imprisonment of at least one year.

The relationship between the crime of murder and the crime of severe bodily injury: There is a unity between the crime of murder and the crime of severe bodily injury, and *the legal concurrence* of these two crimes *is excluded*. That is why it is necessary to clarify the situations in which the qualification of the activity as severe bodily injury may come into consideration. In an event of the perpetrator's intent to deprive the victim of her life with activity causing a bodily injury, and if the injured person did not die, there will be attempted murder. On the contrary, when there is intent to cause bodily injury, and the death of the injured person has occurred, in that case it will be a crime of severe bodily injury, aggravated by

[29] Article 130 of the Criminal Code.

[30] Article 313 of the Criminal Code.

a lethal outcome. In order to make this distinction between the two crimes, it is important whether the offender's intent during the commission of the crime includes a lethal outcome of the injury, and if it so, then there is a criminal offence of murder; or whether his/her intent includes only infliction of an injury, from which death had occurred. Or, it is possible that in some cases distinction should be made between negligent homicide and severe bodily injury with fatal consequences. It is clear that this is a subjective element that is difficult to establish and prove, and the court would have to realistically weigh the subjective and objective elements of each case.

It is difficult to establish whether there was *premeditation*, hence this element is established by the objective features of the crime, that is, by means of analysing the activities of committing the crime, but also by taking into account other circumstances of the criminal event itself, from the aspect of Art. 123, paragraph 1 of the Criminal Code. But *the motive* is an important element when it comes to murder under Art. 123, paragraph 2 of the Criminal Code, because, depending on the motivational ground in general, several categories of murders are distinguished, such as murder out of benefit greed, murder for the purpose of concealing another crime, murder out of hatred, murder out of envy, murder out of revenge and similar motives.

In relation to the *unlawful deprivation of liberty*,^[31] the offender who unlawfully imprisons another person, keeps him/her imprisoned or otherwise deprives him or her of his or her freedom of movement or restricts the latter, shall be punished with a fine or imprisonment of up to one year. In an event of committing the crime while performing gender-based violence, violence against women or domestic violence or violence out of hatred or against a person who is particularly vulnerable due to his/her age, disability or pregnancy, the perpetrator will be punished with imprisonment from six months to three years.

Endangering the safety is again regulated by the amended Article 144 of the Criminal Code. Whoever seriously threatens another person to attack his/her life or body or the life or body of a person closely related to him/her with the intention of disturbing or intimidating him/her shall be fined or sentenced to imprisonment of up to six months. If that activity causes a feeling of insecurity, endangerment or fear to the victim, the perpetrator shall be fined or sentenced to imprisonment of up to one year. Also, whoever commits the crime while performing gender-based violence, violence against women or domestic violence or violence out of

[31] Article 140 of the Criminal Code.

hatred or against a person who is particularly vulnerable due to his/her age, severe physical or mental disabilities or pregnancy, shall be sentenced to imprisonment of three months up to three years. Additionally, paragraph 5 of this Article deals with a threat to a person, expressed publicly or through an IT system, that the perpetrator will commit a criminal offence, for which a prison sentence of five years or a heavier penalty is prescribed, against the said person due to his/her race, colour, origin, national or ethnic affiliation, *sex, gender*, sexual orientation, gender identity, membership of a marginalised group, language, nationality, social origin, education, religion or religious belief, political belief, other belief, disability, age, family or marital status, property status, state of health, personal feature and social status or any other ground provided by law or an international agreement that is ratified in accordance with the Constitution of the Republic of North Macedonia. The punishment that may be imposed is a prison sentence ranging from one to five years. The prosecution for the offence of endangering the safety is undertaken by a private lawsuit.

The new Amendments to the Criminal Code from 2023 also include the crime of “stalking”, for which a fine or a prison sentence of up to three years is prescribed.^[32] The crime of “sexual harassment” was also regulated, for which a prison sentence of six months to three years is provided.^[33]

The criminal offence of “*sexual assault and rape*”^[34] was also amended to define it as follows: He who, contrary to the clearly expressed will of another person, assessed in the context of the circumstances of the case, will perform sexual intercourse or some other sexual act equivalent to it, which consists of vaginal, anal or oral penetration with any part of the body or object, or who induces another person without his or her consent to perform sexual intercourse or other sexual act with a third person, or to perform sexual act on himself, shall be sentenced to imprisonment of one to eight years. In case when the crime is committed against a child who has turned 15 years of age, the perpetrator shall be sentenced to imprisonment of at least three years, and if the crime has been committed by using force or threatening another person to directly attack his/her life or body or the life or the body of a person close to him/her, the perpetrator shall be sentenced to imprisonment of three to 10 years. If the crime resulted in a severe bodily injury, death or other severe consequences or the crime was committed by several persons or in an especially cruel or degrading manner or

[32] Article 144 of the Criminal Code.

[33] Article 190-a of the Criminal Code.

[34] Article 186 of the Criminal Code.

out of hatred, the perpetrator shall be sentenced to *imprisonment of minimum ten years or to life imprisonment*. It is important that this Article also regulates marital rape, that is, according to paragraph 8, if the crime is committed by a current or former spouse or intimate partner, that person shall be punished with imprisonment of at least three years. In case the crime was committed with serious use of force or threat by a current or former spouse or intimate partner, the perpetrator shall be punished with imprisonment of at least five years. There is a similar approach towards the regulation of these crimes in the amendments to the Criminal Code that also include the acts of “sexual abuse of a powerless person”^[35] and “rape of a child who has not turned 15 years of age”.^[36]

General principles of the Criminal Code regarding the responsibility of the offender

According to the Criminal Code, *criminally responsible* is the perpetrator who is *accountable* and who have committed the crime *intentionally or by negligence* and thereby was aware or was obliged and could have been aware of the prohibition of the offence. For a crime committed due to negligence, the perpetrator is criminally responsible only when the law prescribes such responsibility.^[37]

Regarding *accountability*, the perpetrator is not accountable if he/she, at the time of committing the crime, could not understand the meaning of his/her act or could not manage his/her actions due to a permanent or temporary mental illness, temporary mental disorder or retarded mental development, or other particularly severe mental obstacles. It is possible to punish more leniently the perpetrator of a crime whose ability to understand the meaning of his/her act or the ability to manage his/her actions was significantly diminished (significantly diminished capacity). Criminally responsible is the perpetrator of a crime who, by using alcohol, drugs or in another way, will put himself in a state in which he could not understand the meaning of his criminal activity or could not manage his actions, if beforehand he was put in that state, the crime was covered by his premeditation or in relation to the crime there was negligence on his part, and the law for such a crime provides for criminal responsibility for negligence as well.^[38]

[35] Article 186 of the Criminal Code.

[36] Article 187 of the Criminal Code

[37] Article 11, paragraphs 1 and 2.

[38] Article 12, paragraphs 1, 2 and 3.

A criminal offence is committed with *premeditation* when the perpetrator was aware of his/her offence and wanted to commit it (purposeful intent, i.e. malice aforethought), or when he/she knew that his/her acting or failure to act may result in a harmful consequence, but still accepted the occurrence thereof (knowing intent).^[39]

A criminal offence is committed by *negligence* when the perpetrator was aware that due to his/her action or omission a harmful consequence could occur, but he/she recklessly thought that he/she would be able to prevent it or that it would not occur (recklessness), or when he/she was not aware of the possibility of occurrence of a harmful consequence, although according to the circumstances and according to his personal characteristics he was obliged and could have been aware of that possibility.^[40]

When the criminal act resulted in a more severe consequence for which the law prescribes a more stringent punishment, that punishment can be imposed if the perpetrator acted negligently in relation to the consequence.^[41]

A person who deliberately commences the commission of a crime, but does not complete it, will be punished for *an attempt to commit a crime* for which the law prescribes imprisonment of five years or a heavier penalty, and for an attempt to commit another crime – only when the law expressly prescribes punishment for an attempt as well. The perpetrator will be punished for an attempt within the limits of the punishment prescribed for the crime, and he/she may also be punished more leniently.^[42]

A crime can be *committed by ac or by omission*. A criminal offence can be committed by omission only when the perpetrator has missed the activity that he was legally obliged to perform, and the omission has equal meaning as the causing of the consequence of the crime by acting.^[43] The object of protection of all definitions of crimes of murder is the human life, and it is always the life of another person. The consequence consists of occurrence of death, while the act is considered to have been completed at the moment of occurrence of the death.

[39] Article 13.

[40] Article 14.

[41] Article 15.

[42] Article 19, paragraphs 1 and 2.

[43] Article 29, paragraphs 1 and 2.

There must be a causal link between the act of committing the crime and the consequence (the death of the victim). In order to determine the causal link according to our judicial practice, it is only relevant that, from the moment of undertaking the act until the occurrence of death, the same causal chain initiated by the act of committing the crime continues to persist, that is, there is no interruption of the causal flow or no interference by other causal flow(s) exists.

Complicity in a crime

The Criminal Code lists the following types of joint participation (complicity) in a crime: joint participation in committing the crime, incitement, and aiding and abetting.^[44]

In case of *joint participation* by two or more persons, by participating in an activity of committing the crime or by other notable contribution to the commission of the crime, when they jointly commit a crime each of them will be punished with the penalty prescribed for that crime. He/she who intentionally *incites* another person to commit a crime shall be punished as if he/she had committed it himself/herself. In a n event of intentional incitement to commit an offence which according to law is punishable by five years in prison or a heavier penalty, the offender will be punished as if he/she had attempted a crime. For *aiding* another with premeditated intent to commit a crime, the offender will be punished as if he/she committed it himself/herself, but he/she may be punished more leniently. The criminal liability of the accomplice, inciter, abettor and aider depends on the limits of their intent (premeditation) or negligence.^[45]

Types of penalties under the Criminal Code and general rules for weighing the penalty

According to Article 4 of the Criminal Code (CC), the following criminal sanctions are foreseen: *finest, alternative measures, security measures and educational measures*. Within the framework of the determination of the *types of penalties* (punishments), the following penalties can be imposed for criminal activities by criminally responsible perpetrators, according to Article 33 paragraph 1 of the CC:

- » imprisonment;
- » fine;

[44] Articles 22, 23 and 24.

[45] Article 25.

- » prohibition on practicing a profession, performing an activity or duty;
- » prohibition on operating a motor vehicle;
- » expulsion of a foreigner from the country; and
- » prohibition on attending sports matches.

Imprisonment can only be imposed as a main penalty. The fine can be imposed as a main penalty and as a secondary penalty together with the imprisonment or with the suspended sentence, where the latter established a possibility of its replacement with an actual imprisonment. If the law prescribes imprisonment or fine for a specific crime, only one of them can be imposed as a main penalty, unless a law prescribes that both penalties can be imposed.^[46]

Imprisonment can be neither shorter than 30 days, nor can it be longer than 20 years. For crimes for which a sentence of life imprisonment is prescribed, too, a sentence of long-term imprisonment of 40 years can be imposed. If a 20-year prison term is prescribed for a crime that was intentionally committed, life imprisonment can also be prescribed for severe forms of that crime. The sentence of life imprisonment cannot be prescribed as the only main penalty and cannot be imposed on an offender who, at the time of commission of the crime, has not reached the age of 21. When a prison sentence is prescribed for criminal acts without specifying the minimum duration, and the maximum duration does not exceed three years, in addition to that sentence, a fine is also mandatory prescribed.^[47]

The *fine* shall be imposed in a form of daily fines, whereas the number of the daily fines may not be less than five or more than 360 daily fines. The court shall specify the number of daily fines in accordance with the general rules for weighing the fine. The court shall determine the amount of the daily fine considering the material and personal circumstances of the offender, starting, as a rule, from the net daily income that the offender makes or might make, as well as the family and other obligations of the offender and his property at the time of adopting the court decision. The lowest amount of a daily fine shall be one Euro in a Denar counter-value, and the highest amount shall be 5,000 Euros in a Denar counter-value. In case when a fine is imposed as a secondary penalty in addition to imprisonment, the court shall determine the financial amount; the fine, if applied as a secondary penalty, cannot be less than 20 Euro in a Denar counter-value, nor can it be more than 5,000 Euro in a Denar counter-value.^[48]

[46] Article 33, paragraphs 2, 3 and 4.

[47] Article 35, paragraphs 1, 2 3, 4 and 6.

[48] Article 38, paragraphs 1, 2, 3 and 6.

Regarding the *limitations in the enforcement* of criminal sanctions, Article 5 regulates that an offender can be deprived of certain rights or limited in the exercise thereof during the enforcement of a criminal sanction only to the extent which corresponds to the nature and contents of such sanction, and only in a manner that provides respect of the offender's personality and his/her human dignity.

The court shall mete out a sentence to the offender within the limits prescribed for a specific crime by law, bearing in mind the criminal liability of the offender, the gravity of the crime and the purposes of punishing. In doing so, the court shall consider all the circumstances affecting the decrease or increase of the sentence (mitigating or aggravating circumstances), and especially: the level of criminal liability, the motives for the perpetrated crime, the extent of jeopardising or damaging the protected goods and interests, the circumstances under which the crime was committed, the contribution of the victim to the commission of the crime, the previous life of the offender, his/her personal circumstances and his/her behaviour after the committed crime, as well as other circumstances that concern the personality of the offender.^[49]

When meting out the sentence, the court shall in particular take into account the total effect of the sentence and its consequences for the personality of the offender and the needs for his/her resocialisation. When the court metes out the sentence for the offender of a recidivist crime, it shall especially consider whether the previous crime is of the same kind as the new crime, whether the crimes are committed out of the same motives, and how much time has passed from the previous sentence, that is, the sentence that was served or pardoned.^[50]

*When meting out the sentence, the court will in particularly consider whether the crime has been committed against a person or a group of persons or property, directly or indirectly, because of his/her or their **sex**, race, skin colour, **gender**, membership of a marginalised group, ethnic affiliation, language, nationality, social origin, religion or religious belief, other types of beliefs, education, political affiliation, personal or social status, mental or physical disability, age, family or marital status, property status, state of health, or any other ground that is prescribed by law or a ratified international agreement.* ^[51] If the court does not apply the provision of paragraph 5 of this Article, it is obliged to explain the reasons for such a decision.

[49] Article 39, paragraphs 1 and 2.

[50] Article 39, paragraphs 3 and 4.

[51] Article 39, paragraph 5.

When meting out a *fine*, the court shall also consider the property state of the offender, herewith considering his other incomes, his property and his family obligations.^[52]

According to Article 40 of the Criminal Code, the court may *mete out a punishment to the offender below the limit prescribed by law or apply a more lenient form of punishment in the following cases*: 1) where the law foresees that the offender *may* be punished more leniently; 2) where it is established that there are *particularly mitigating circumstances* indicating that the purpose of the sentence may be achieved by a lenient sentence as well; or 3) adoption of a judgment on the basis of an *agreement* between the Public prosecutor and the suspect.

The court may *acquit the offender from a punishment only when the law foresees this explicitly*. When the court is authorised to acquit the offender from a punishment, it may mitigate the sentence without the limitations prescribed for the mitigation of a sentence.^[53]

In order to analyse the application of the aforementioned provisions of the Criminal Code to cases of femicide in the Republic of North Macedonia, it would be useful to provide a summarised overview of the most frequent types of sentences that were issued by the courts in the past four years, considering the overall context of events. It should be established whether the courts tend more often to impose more lenient punishments, or suspended sentences or fines that are proportionate to the severity of the committed acts in cases of femicide; whether and how much the procedure itself is delayed; if there are property claims, and if they are addressed within a single proceedings or they are referred to a civil litigation proceedings, etc. Such statistical monitoring of the situation from the practice is of particular importance in order to achieve a more efficient systemic response to cases of femicide, with the aim of increasing the trust in the judicial institutions.

It should be noted that according to the State's strategies and action plans, which are in line with the State's obligations under CEDAW and the Istanbul Convention, there is ongoing work on a new legal text that aims to introduce changes to the Criminal Code regarding: criminalisation of rape in the context of domestic violence; adding elements of the crime of femicide according to the UN standards; including stalking, sexual harassment, genital mutilation and other

[52] Article 39, paragraph 7.

[53] Article 42, paragraphs 1 and 2.

offences that are already referred to by other related legal acts. As part of the penal policy, there is a commitment to implement more stringent punishments or sentencing for crimes that are committed with the aim of preserving the honour. In line with these stated priorities, there are plans to amend the Police Act in order to enable police officers to take actions for removal of a perpetrator from home in cases of gender-based violence and domestic violence.

The Prevention and Protection against Violence against Women and Domestic Violence Act

The Prevention and Protection against Violence against Women and Domestic Violence Act^[54] is a new legal text, which, given the solutions it offers, has received positive reviews from the public. However, it is acknowledged that there is always room for improvement and further development of the legal text, as well as of the efforts towards better practical implementation of the norms in the future. This Act is particularly closely related to the problem of femicide, considering that the world, regional and even domestic experiences show that such cases are mostly related to domestic violence when it occurs.

The Act regulates the *activities of the institutions* with due care when taking *measures for the prevention* of gender-based violence against women and domestic violence,^[55] the activities of the institutions for the protection of women from GBV and DV, *the mutual coordination* of institutions and organisations, the *services* for the protection of victims and the collection of data on GBV and DV.^[56] The purpose of the Act is based on the principle of equality and elimination of stereotypes concerning the gender roles.^[57]

The defined terms that are encompassed by the Act, which may be related to the topic of femicide, are as follows: violence against women, gender-based violence, domestic violence, close personal relationships, violence by the intimate partner, sex, gender, victim, perpetrator, woman (also including girls under 18), child, physical violence, psychological violence, sexual violence and rape, trafficking in women, forced control over women.^[58]

[54] Official Gazette of the Republic of North Macedonia no. 24/2021.

[55] Hereinafter: GBV and DV.

[56] Article 1 of the Act.

[57] Article 2 of the Act.

[58] Article 3 of the Act.

The legal text separately lists the State institutions that have direct responsibility and competence for the implementation of activities against GBV and DV (state administration bodies, *courts*, *the Public Prosecution Office*, local self-government units and legal entities exercising public powers in accordance with the law),^[59] requiring them to develop and maintain institutional and multisector cooperation.^[60] A special role and competences *ratione materiae* are given to the National Coordinating Body for the Implementation of the Istanbul Convention.^[61] Of particular importance is the collection of relevant data, both statistical and administrative, concerning the situation regarding GBV and DV.^[62]

The procedure for reporting and processing cases of GBV and DV by officials,^[63] the judicial protection of victims,^[64] as well as the services intended for women victims of GBV and DV are also covered.^[65]

The Prevention and Protection against Discrimination Act

The Prevention and Protection against Discrimination Act^[66] dates from 2020 and includes a wide range of prohibitions on numerous discriminatory grounds, such as race, colour, origin, national and ethnic affiliation, *sex, gender, sexual orientation, gender identity*, belonging to a marginalised group, language, nationality, social origin, education, religion or religious belief, political belief, other belief, disability, age, *family or marital status*, property status, health condition, personal characteristic and social status or any other ground.^[67]

The Act's Glossary^[68] defines the following terms: equality, person, person with disability, adequate adaptation, accessibility to infrastructure, goods and services, marginalised group, legitimate and objectively justified aim, discrimination by association, discrimination by perception, multiple discrimination, repeated

[59] Article 11 of the Act.

[60] Article 12 of the Act.

[61] Articles 15 and 16 of the Act.

[62] Chapter IV of the Act.

[63] Article 41 and Chapter VIII of the Act.

[64] Chapter IX of the Act.

[65] Chapter X of the Act.

[66] *Official Gazette of the Republic of North Macedonia* no. 258/2020.

[67] Article 5 of the Act.

[68] Article 4 of the Act.

discrimination, continued discrimination, intersectional discrimination, situation testing.

The legal text regulates the forms and types of discrimination,^[69] as well as the establishment of the Commission for the Prevention and Protection against Discrimination, and the competences and the procedures that take place before it.^[70] Apart from persons who consider that they have been discriminated against and are entitled to submit complaints to the Commission, this procedure can be initiated by organisations that have a justified interest in protecting others from discrimination, as well as *ex officio* by the Commission itself.^[71] If the Commission finds that the claim of the petitioner is plausible, then the burden of proof is shifted to the person against whom the petition was filed.^[72] Chapter V of the Act regulates *the judicial protection against discrimination*, where the possibility of a lawsuit for protection against discrimination in the public interest - *actio popularis* is stated.^[73]

The Family Act

The Family Act^[74] has special provisions relating to domestic violence. Article 4, paragraph 2 refers to the State's obligation to provide protection against domestic violence, and Article 33-a *explicitly* prohibits any type of violence in marriage and in the family.

Chapter IV-A specifically regulates domestic violence, prohibiting any type of violence between family members, regardless of gender and age.^[75] This Chapter of the Act regulates the obligations of the Social Welfare Centre in a case of domestic violence, and the obligations of the competent court, as well as the assistance from, and the independent activities of, civil society organisations which are active in this area.

[69] Chapter II of the Act.

[70] Chapters III и IV of the Act.

[71] Article 23 of the Act.

[72] Article 26 of the Act.

[73] Article 35 of the Act.

[74] *Official Gazette of the Republic of Macedonia* nos. 38/2004, 33/2006, 67/2010, 38/2014 and 150/2015.

[75] Article 94-b of the Act.

Domestic violence means harassment, insult, endangering the safety, physical injury, sexual or other psychological or physical violence that causes a feeling of insecurity, endangerment or fear, directed towards:

- » the spouse, the parents or children, or other persons living in a marital union or cohabitation, or in a joint household;
- » the former spouse or persons who have a joint child or are in a close personal relationship, including relationships resulting from adoption and guardianship;
- » brothers and sisters, half-brothers and half-sisters;
- » older members in the family or joint household; and
- » persons who are members of the family or the joint household, who are partially or completely deprived of legal capacity.

Close personal relationships, within the meaning of this Act, mean personal relationships between persons of different sexes who are or have been in partner relationships, and do not live in cohabitation.

The Act on the Payment of Monetary Compensation to the Victims of Violent Crimes

By the adoption of the Act on the Payment of Monetary Compensation to the Victims of Violent Crimes,^[76] the domestic legislation is brought into line with the Directive 2004/80/EC.

This Act regulates the right to monetary compensation for the victims of violent crimes, the conditions for exercising the right to monetary compensation, the types of monetary compensation, the establishment, status, composition and competences of the Commission for Providing Compensation to the Victims of Violent Crimes, its election, term of office and dismissal, the means for payment of monetary compensation to the victims, the process of informing and educating the victims, the procedure for attaining the right to monetary compensation, the right to recourse, the procedure in cross-border cases, as well as the records and storage of data for the exercise of the rights under this Act.^[77]

At the same time, any type of discrimination is prohibited in the exercise of the rights that are regulated by this Act, and also in accordance with international

[76] *Official Gazette of the Republic of North Macedonia* no. 247/2022.

[77] Article 1 of the Act.

agreements.^[78] The aim is to provide monetary compensation to the victims of crimes that are committed with elements of violence, as a form of assistance from the State, in accordance with the principle of social solidarity, and to prevent possible victimisation and secondary victimisation as additional suffering that victims may undergo due to the attitude of the competent bodies.^[79]

A *violent crime*, within the meaning of this Act, is: a crime committed intentionally by the use of a physical force or by other activities that result in severe health impairment, as well as *gender-based violence against women and domestic violence*, crimes related to the establishment of slavery and transportation of persons in slavery, human trafficking and child trafficking, in accordance with the provisions of the Criminal Code; a *crime that violates gender integrity* or a crime that endangers a person's life or property by a generally dangerous activity, tool or means, which has caused death or severe bodily injury or severe impairment of the physical or mental health of one or more people, which is prescribed in the Criminal Code as an aggravated form of the basic form of the crime.^[80] The Act includes and defines both direct and indirect victims of violent crimes.^[81]

The Free Legal Aid Act

The Free Legal Aid (FLA) Act^[82] guarantees first-instance and second-instance legal aid for citizens who do not have sufficient funds to pay for it. This category of citizens can receive FLA for property-legal disputes, debtor-creditor relations, pension and disability insurance issues, for representation of victims of domestic violence, for obtaining social welfare, for disputes with insurance companies and for other needs. Women who are victims of gender-based violence and domestic violence are covered by this Act.

Other normative acts and strategies of relevance for the topic

The systemic and normative completion of the national efforts to prevent and/or deal with cases of gender-based violence and domestic violence, which in their extreme manifestation can end into femicide, is also addressed through a plethora of other laws, by-laws and national strategies. All the mentioned acts and/or

[78] Article 3 of the Act.

[79] Article 4 of the Act.

[80] Article 9 of the Act.

[81] Articles 10-12 of the Act.

[82] *Official Gazette of the Republic of North Macedonia* no. 101/2019.

documents have been supplemented or completely new texts have been adopted in the last few years, with their content being adapted to the requirements of the international standards and the strategic commitments of the State. Of particular practical importance are the by-laws, which regulate in detail the procedures that the State authorities should apply in the cases of gender-based violence and domestic violence.^[83] The list of these acts and documents is as follows:

- » Equal Opportunities for Women and Men Act;^[84]
- » Rulebook on the manner of implementation and monitoring the imposed interim protection measures;^[85]
- » Rulebook on the manner of conducting a risk assessment of serious danger to the life, physical and psychological integrity of the victim and the members of her family and of the risk of recurrence of violence, the appropriate risk management, implementation and monitoring the measures for protection of female victims of gender-based violence and victims of domestic violence, undertaken by the Social Welfare Centre and the requisite forms;^[86]
- » Rulebook on the manner of enforcing the imposed interim protection measure - removal of the perpetrator from the home and prohibition of approaching the home, and interim protection measures;^[87]
- » Rulebook on the manner of conducting a risk assessment of serious danger to the life, physical and psychological integrity of the victim and members of her family, and of the risk of recurrence of violence, the appropriate risk management, the template of the police report and of the proposal for imposing an interim protection measure - removal of the perpetrator from the home and prohibition of approaching the home;^[88]
- » Rulebook on the content and manner of gathering and keeping special records in the courts on the number of cases of gender-based violence against women and victims of domestic violence based on sex, gender, age,

[83] Gender-based violence and domestic violence.

[84] *Official Gazette of the Republic of Macedonia* nos. 6/12, 166/2014, 150/2015 and *Official Gazette of the Republic of North Macedonia* no. 53/2021.

[85] Adopted by the Ministry of Labour and Social Policy, *Official Gazette of the Republic of North Macedonia* no. 248/2021.

[86] Adopted by the Ministry of Labour and Social Policy, *Official Gazette of the Republic of North Macedonia* no. 240/2021.

[87] Adopted by the Ministry of Interior, *Official Gazette of the Republic of North Macedonia* no. 210/2021.

[88] Adopted by the Ministry of Interior, *Official Gazette of the Republic of North Macedonia* no. 210/2021.

ethnicity, disability, residence and other grounds, as well as data relevant to monitoring the situation concerning gender-based violence against women and domestic violence;^[89]

- » Rulebook on the content and manner of gathering and keeping special records in the public prosecutors' offices on the number of cases of gender-based violence against women and victims of domestic violence based on sex, gender, age, ethnicity, disability, residence and other grounds, as well as data relevant to monitoring the situation concerning gender-based violence against women and domestic violence;^[90]
- » National strategy for equality and non-discrimination 2022-2026.^[91]
- » Gender Equality Strategy 2022-2027.^[92]

The national coordinating body at the Ministry of Labor and Social Policy is in the final process of harmonising the following by-laws:

- » The Rulebook on the form and content of analysis and statistical processing of data from the system of social rights and services on the situation concerning gender-based violence against women and domestic violence;
- » The Rulebook on the form, content and manner of integrated gathering of statistical and administrative data on the situation concerning gender-based violence against women and domestic violence, based on sex, gender, age, affiliation to a community, residence and other data.

Already finalised and submitted to the Ministry of Labor and Social Policy for their adoption are the following by-laws:

- » The Rulebook on the manner of issuing consent to the Programme for initial and continuous education on gender-based violence against women and domestic violence;
- » The Rulebook on the form, content and manner of keeping a register of individuals who are trained for implementation of the initial and continuous education on gender-based violence against women and domestic violence.

[89] Adopted by the Ministry of Justice, *Official Gazette of the Republic of North Macedonia* no. 268/2022.

[90] Adopted by the Ministry of Justice, *Official Gazette of the Republic of North Macedonia* no. 267/2022.

[91] Adopted in April 2022.

[92] Adopted by the Assembly of the Republic of North Macedonia, *Official Gazette of the Republic of North Macedonia* no. 170/2022.

» THE RESEARCHES ON FEMICIDE

The authors who deal with monitoring the problem of domestic violence and more specifically the femicide in the Republic of North Macedonia consider that “the impunity for all forms of gender-based violence increases the mistrust in institutions, encourages the repetition of violence and its culmination in femicide”.^[93]

It is estimated that the Macedonian society shows a tacit tolerance of violence towards women, considering it “normal” or “usual”, as part of the traditional culture of the society. The research conducted by the OSCE^[94] on violence against women in Southeast Europe, including our country, also presents disturbing trends. A high prevalence of various forms of violence against women has been observed, but the low level of reporting the cases of gender-based violence and domestic violence is also worrying. The reasons for the low level of reporting of the cases of gender-based violence and domestic violence to the competent authorities are considered to be: the shame and stigma due to disturbed family relationships; victims’ low awareness of their rights; but also the lenient penalties to the offenders who made resort to violence.

The research on femicides in Macedonia by the National Network against Violence against Women and Domestic Violence from 2017^[95] concluded that: “In more than 60% of the analysed cases of murder of women in Macedonia, the crime was committed by the current or former marital or cohabiting partner with whom they lived in a community. In practice, the most common cases are those of bodily injury, endangering the safety and severe bodily injury committed in the context of domestic violence. In more than 80% of the cases, the murder took place in the joint home or, if divorce proceedings have been commenced, in the

[93] Bojana Jovanovska, *When the failure to act is a murder – analysis / Кога непостанувањето е убиство – анализа*, Helsinki Committee for Human Rights, 2022.

[94] *Well-being and security of women, North Macedonia – Results report [Благосостојба и безбедност на жените, Северна Македонија – Извештај од резултатите]*, carried out by the OSCE on violence against women in North Macedonia, OSCE, 2018. A total of 1910 women from 18 to 74 years of age were targeted by the survey.

[95] Bojana Jovanovska (2022).

home of the victim's parents. This fact leads us to the conclusion that women in Macedonia are most unsafe at their homes".

Given that the State does not keep a separate, official record of the number of cases that could be counted as femicide, according to the data shared by the National Network against Violence against Women and Domestic Violence, 32 cases of femicide were registered in the period 2001-2016, while in the period 2017-2020 there were 22 femicides. These numbers also coincide with the UNDP research, which states that in the period from 2008 to 2020, a total of 96 women were killed, of whom it is considered that *at least 50 cases constituted femicide*. During the pandemic emergency in 2020, two cases of femicide occurred in Skopje in just two months. In any event, the provided statistics, given the lack of systematic methodological recording of femicide cases, may not correspond to the actual occurrence of these cases, but it is still an indicator of the situation in our country.

One of the reasons for inadequately addressing the cases of femicide in North Macedonia is considered to be the weak, ineffective implementation of the laws. Despite the fact that the femicide is not explicitly mentioned as a crime in the current Criminal Code, even now, and especially after the latest amendments, there is still a normative possibility for a court to consider, as an aggravated form, the murder of a woman resulting from domestic violence, where the domestic violence has occurred as a result of the fact that the woman belonged to the female gender. A court can take into account the motives and motivation of the perpetrator for the purpose of treating the crime as aggravated, and the femicide can be an aggravating circumstance in the course of making a court decision. The judicial authorities should demonstrate greater will, thoroughness in analysis and proper understanding of this type of crime, with the aim of providing more appropriate treatment in the proceedings and, ultimately, developing an appropriate penal policy for the offenders.

Impunity and/or inadequate punishment of all forms of gender-based violence, especially femicide as its most severe form, further affects the increase of mistrust in the institutions and the number of victims' failures to report such cases, which, on the other hand, encourages the recurrence of violence and its culmination in femicide.

» THE SIGNIFICANCE OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) IN THE DOMESTIC CONTEXT

The United Nations, as an international organisation that is the world's most influential, most significant and most comprehensive in terms of the number of member States, primarily provides *the universal system of protection of women from discrimination*. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has been in force since 1981,^[96] while our country ratified it by way of succession on 18 January 1994. It is the result of the long-term efforts, deriving from the United Nations Charter and the Universal Declaration of Human Rights, through numerous conventions adopted subsequently that refer to or include, among other things, the position of women and their rights. However, this Convention is significantly different from the remaining conventions in *an emphasised affirmative sense*, because it is the first significant step in developing the standards for the basic human rights of women and has a direct binding component towards the signatory States (members) accompanied by the operational mechanism that is established to monitor the implementation of its proclaimed principles. CEDAW can be seen as a precursor of the Istanbul Convention, given that it elaborates on one of the forms of discrimination included in CEDAW.

The framework of the obligations of the member States under CEDAW is constructed upon three main principles: *the obligation to respect equality in laws and policies; the obligation to protect through non-discrimination - direct and indirect; and the obligation to preserve equality and eliminate gender discrimination*

[96] Adopted in 1979.

in the entire sphere of social and economic life. These three principles are underlying basis of the “prism” of women’s human rights, by providing some possibilities of observing the situation from various aspects and angles, and by examining and rectifying all occurrences of gender discrimination.

Apart from the revision of the national laws, which should address the principles of CEDAW in their substantive aspect, affirmative measures and policies are required to be undertaken to improve the conditions in various areas and to achieve the set goals. *The judiciary*, through its work, plays an essential role in the revival and the practical application of the Convention’s principles. Therefore, *judges should know* the principles guaranteed by this Convention, in order to achieve gender sensitisation when dealing with cases of discrimination against women, that is, when making the judicial decisions. The continuous education of the existing judicial staff, the adequate educational preparation of the future staff and the constant monitoring of the new judicial practice is the most successful combined approach that aims to introduce progressive changes in every country.

An important component of the Convention^[97] is the obligation of the *States to report* to the competent body - the Committee for the Elimination of Discrimination against Women *on the progress and actions taken* for the purpose of fulfilling the proclaimed goals that are included in the Convention. The Republic of North Macedonia submitted its Sixth Periodic Report in 2017. Subsequently, in 2018 the CEDAW Committee adopted its Concluding observations and recommendations, thereby providing a further follow-up to the monitoring of the situation, which noted a progress compared to the situation from 2013.^[98]

[97] *Part Five* - Articles 17-22.

[98] The progress achieved was noted in the legislative reforms and practical policies, namely: the Prevention and Protection against Domestic Violence Act (2014) and the related by-laws (2015), as well as the established and implemented measures for the protection and compensation of the victims of domestic violence; the establishment of the National Coordinating Body against Domestic Violence (2017); the National Action Plan for Gender Equality (2018-2020); the National strategy and the national action plan to combat human trafficking and illegal migration (2017-2020); the Gender Equality Strategy (2013-2020) and its action plans (2013-2016 and 2017-2020); the action plans for sexual and reproductive health in crisis situations, as well as the standard operative procedures for prevention and institutional response to gender-based violence; the new Strategy for Roma (2014-2020) with its Action Plan (2016-2020); the Methodology on gender-responsive budgeting for State administrative bodies (2014); as well as the importance of the ratification of the Council of Europe’s Convention on Preventing and Combating Violence against Women and Domestic Violence (2017).

Regarding the issue of *gender-based violence against women*, the Committee praised the adoption of the Action plan for the period until 2023, for the implementation of the Council of Europe's Convention on Prevention and Combating Violence against Women and Domestic Violence. However, the Committee expressed concern that: *all forms of gender-based violence against women and girls are still not recognised and criminalised*, including physical, sexual, psychological and economic violence, in the public and private spheres and that the current legislation regarding domestic violence is gender neutral and does not recognise specific gender aspects of domestic violence; the high prevalence of gender-based violence against women and girls and the **high number of femicides**; the absence of a comprehensive system for collection of data, disaggregated by relevant factors, regarding the various forms of gender-based violence against women and girls, including information on the relationship of the perpetrator to the victim; the obstacles faced by women in obtaining interim protection orders, as well as the delays in maintenance and the lack of a gender-sensitive approach during the procedures and the lack of mechanisms to monitor their implementation; the existence of a limited number of shelters available, despite the high occurrence of gender-based violence against women and girls, including domestic violence; etc.

The Committee, invoking the General recommendation No. 35 (2017) *on gender-based violence against women*,^[99] and the update of the General recommendation No. 19, *recommends*:

- » To *grant priority* to the adoption of legislation to cover all forms of gender-based violence, including violence occurring in marriage and in *de facto* communities, especially marital rape, either in the public and private life, *to reconsider gender-neutral provisions* in the Prevention and Protection against Domestic Violence Act and to guarantee that the gender dimensions of domestic violence will be taken into account in the procedures for the implementation of the law.
- » To ensure that the national coordinating body against domestic violence has a mandate for *all forms of gender-based violence* against women and that it adopts measures to identify and combat specific aspects of *gender-related* domestic violence.

[99] This newer term is used as a more precise term that makes explicit the gender-related causes and impacts of the violence. The term further reinforces the understanding of violence as a social, and not an individual, problem, requiring comprehensive responses, which should go beyond those of specific events, individual perpetrators and victims or survivors.

The recommendations in the section on the *legislation*, among others, require: from the State to criminalise wrongdoings and introduce without delay or strengthen the existing legal *sanctions commensurate to the gravity of the crime*, as well as to put in place civil remedies for all forms of gender-based violence against women in all spheres, given that such violence amounts to a violation of their physical, sexual or psychological integrity; from the respective legal system to protect victims/survivors of gender-based violence against women and to ensure access to justice and an effective remedy; to revoke, including in customary, religious and indigenous laws, all legal provisions that discriminate against women and thereby prescribe, encourage, facilitate, justify or tolerate any form of gender-based violence; to ensure that sexual assault, including rape, is characterised as a crime against the right to personal safety and physical, sexual and psychological integrity and that the definition of sexual crimes, including marital rape, is based on the lack of freely given consent and takes into account the circumstances of compulsion.

The recommendations in the field of *prevention*, among others, require from the State to adopt effective *legislative* and other appropriate preventive measures to address the root causes of gender-based violence against women, including the patriarchal attitudes and stereotypes, family inequality and the neglect or denial of civil, political, economic, social and cultural rights of women and to promote the empowerment of women.

The recommendations in the field of *protection* include, among other things, the adoption and implementation of effective measures for the protection and assistance of female complainants and witnesses of gender-based violence *before, during and after the court proceedings*, in order to protect their privacy and safety, through gender-sensitive court proceedings, measures and procedures in relation to victims, survivors, witnesses and defendants.

The recommendations in the area of *prosecution and punishment* state *the need for effective access of victims to a court and require from the authorities to respond appropriately to all cases of GBV against women, including through the application of criminal law and, where appropriate, ex officio prosecution and the conduct of fair and impartial judicial process*; cases of gender-based violence against women should not necessarily be referred to alternative dispute resolution procedures, but those procedures should be applied only when the previous assessment by a specialised team ensures free and informed consent of the victims, without this being an obstacle for women's access to formal justice.

As regards *reparations*, it is recommended that they should be effective for victims of gender-based violence, but also diverse, such as payment of monetary compensation, provision of legal, social and health services, including sexual, reproductive and mental health services for full recovery.

» THE SIGNIFICANCE OF THE ISTANBUL CONVENTION IN THE DOMESTIC CONTEXT

After the adoption of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), a new pervasive and progressive influence was later exerted with the adoption of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011), colloquially called the Istanbul Convention, which was ratified by our State in 2018. It is the first legally binding instrument that "creates a comprehensive legal framework and approach to combating violence against women" and is aimed at preventing domestic violence, protecting victims and prosecuting accused perpetrators of crimes.

Through this document and its embodying in practice, a new cultural-gender identity of the 21st century is realised. Given that gender relations and family relations represent a very sensitive area that invades privacy and intimacy, their regulation by treaties and statutory acts at the national level paves the way where we strive to develop as societies. Each state creates *its own framework* for prevention and protection against gender-based violence against women and domestic violence, through which it strives to reach the Convention's goal. At the same time, there should be *an institutional response* to prevent possible retrograde processes in this area, and all societal stakeholders must be mobilised in these endeavours. Thus, the modern welfare state places this issue within its *range of powers and obligations*.

The realisation of the objectives of the Convention is multi-purpose and multi-faceted. Apart from the part that has a statutory or systemic-legal outcome, it also includes numerous practical policies and activities whose effect is to prevent or remedy the consequences of gender-based violence against women and domestic violence. This set of activities also includes appropriate training, by means of which legal and other professionals, including representatives of civil society organisations, will be well prepared for the future work challenges; as well as the monitoring of statistics and trends that occur in this area.

The Republic of North Macedonia has adopted *the National Action Plan for the Implementation of the Convention on Preventing and Combating Violence Against Women and Domestic Violence (2018-2023)*, a document that is still valid. The State is committed to take legislative and other measures in order to provide a legal, institutional and organisational framework for the prevention of violence against women, protection of victims of violence, and punishment of perpetrators of violence. In that sense, the National Action Plan has three basic objectives: harmonisation of the legal framework with the provisions of the Convention; establishing general and specialised services to improve the protection of victims of gender-based violence and victims of domestic violence; and implementation of activities for the prevention of gender-based violence and domestic violence.

From the list of legal acts that are referred to in this text and the time period in which they were adopted, it appears that there is an evident effort of the State to achieve a higher degree of harmonisation of the national laws with the Convention, as numerous laws important for gender relations and gender-based violence and domestic violence have been adopted. Most recently the amendments to the Criminal Code were adopted, following which adequate amendments to the Criminal Procedure Act should be adopted, too. Among other things, with the aim of improving the efficiency of protection of victims of domestic violence, especially those in life-threatening situations, it is foreseen to widen the competences of the police by enabling it to immediately remove the abuser from the home without any need to involve the civil court, independently from the ownership issue.

Pursuant to the laws that regulate gender-based violence, the State has the obligation to take all appropriate measures to prevent and also to investigate cases of gender-based violence, to prosecute and punish the perpetrators and to provide compensation to the victims for the failure of the State to prevent the violence. The criminal prosecution of the perpetrators will be provided in accordance with Article 55 of the Convention and it will not depend entirely on the filing of a lawsuit by the victim, whereas the proceedings may continue even if the victim has withdrawn the complaint.

It is also necessary to increase the role of the Ombudsman in monitoring femicides (to establish a *Femicide watch* mechanism, following the example of Croatia).

Monitoring the *operational implementation* of the principles proclaimed in

the Istanbul Convention by the member States is needed.^[100] The monitoring mechanism provides for the establishment of a *special group of experts for action against violence against women and domestic violence named GREVIO*.^[101] The meaning of GREVIO reports is manifold, first of all from the aspect of standardised assessment and treatment of each member State, genuine monitoring of the situation, as well as formulation of recommendations that share methods, good practices, efficient policies, plans and priorities in the area of GBV and DV. In this way the member State itself receives expert help and support for its efforts and for finding a more efficient solution to this serious problem.

According to the Convention, the parties, based on a questionnaire,^[102] submit to the Secretary General of the Council of Europe (for consideration by GREVIO), a report on the legislative and other measures that give legal effect to the provisions of this Convention. *It is considered that this unified methodology can detect cases when activity is needed in order to prevent serious wrongdoing, where there is a mass or frequently repeating pattern of GBV towards women and DV, that is, any act of violence that is covered by the Convention.* The evaluation procedure that follows is divided into rounds, the length of which is determined by GREVIO, including the establishment of the most appropriate means and methods for conducting the monitoring procedure, for each round separately.

The national report of the Republic of North Macedonia to GREVIO was submitted on 5 April 2022, while GREVIO's visit to the country took place later that year. The findings from the visit of this body, as well as its recommendations to the State are presented below.

[100] Regulated in Chapter IX (Articles 66-70 of the Convention).

[101] The composition of this body must ensure equal representation, in terms of equal gender and geographical representation, professional multidisciplinary character, high moral attitude, independence, impartiality and expertise in the field of human rights.

[102] This document had been first adopted in March 2016, following which the first evaluation procedure started.

» FEMICIDE ACCORDING TO THE DATA FROM THE JUDICIAL PRACTICE – 2018-2022

In order to get an idea on the frequency of cases of femicide in the Republic of North Macedonia, as well as on the characteristics of the proceedings that have been conducted and the court decisions that have been made, gathering information and data from the courts regarding this type of court rulings from all appellate areas in the country was facilitated by the Academy for the Training of Judges and Public Prosecutors “Pavel Shatev”. The time period covered by the analysis is four years, that is, from 2018 to 2022, during which 17 proceedings concerning femicide were conducted and completed by a final decision on the territory of the Republic of North Macedonia.

At the appellate courts' instance, 14 out of a total of 17 completed proceedings were in the area of competence *ratione loci* of the Skopje Court of Appeal and 3 in the competence area of the Bitola Court of Appeal.

Skopje Court of Appeal	14	82%
Bitola Court of Appeal	3	18%
Štip Court of Appeal	/	
Gostivar Court of Appeal	/	

In the area of the Skopje Court of Appeal, 8 proceedings were conducted before the Skopje Basic Criminal Court, 3 proceedings were conducted before the Veles Basic Court, 2 proceedings were conducted before the Kavadarci Basic Court and 1 proceeding was conducted before the Kumanovo Basic Court.

Skopje Basic Criminal Court	8	57%
Veles Basic Court	3	22%
Kavadarci Basic Court	2	14%
Kumanovo Basic Court	1	7%

In the area of the Bitola Court of Appeal, one set of proceedings was conducted before the Prilep Basic Court, one set of proceedings was conducted before the Ohrid Basic Court and one set of proceedings was conducted before the Struga Basic Court.

Prilep Basic Court	1	33.33%
Ohrid Basic Court	1	33.33%
Struga Basic Court	1	33.33%

In one out of a total of 17 proceedings, the defendant was accused and convicted of four crimes that were committed in concurrence (multiple offences), three of which were femicide. Thus, in terms of the legal qualification in proceedings involving a total of 19 criminal offences, 8 proceedings were conducted and completed for the crime of "Murder committed while performing domestic violence" under Article 123, paragraph 2(2) of the CC, as a completed crime; while 8 proceedings were conducted for the *attempted* crime of "Murder committed while performing domestic violence" under Article 123, paragraph 2(2) in conjunction with Article 19 of the Criminal Code. One set of proceedings was conducted and completed for the crime "Murder in its basic form" under Article 123, paragraph 1 of the Criminal Code. One set of proceedings was launched for the *attempted* crime of "Murder committed while performing domestic violence", but in the course of the proceedings the legal qualification was *changed* to the crime of "Severe bodily injury while performing domestic violence" under Article 131, paragraph 2 of the Criminal Code. In the course of one set of proceedings the trial was conducted for the crime of "Murder in a cruel and insidious manner" under Article 123, paragraph 2(1) of the Criminal Code, but, in the course of the said proceedings, the legal qualification was *changed* to the *basic form of the crime of Murder* under Article 123, paragraph 1 of the Criminal Code.

All criminal offences are provided for in the Criminal Code of the Republic of North Macedonia.

Murder under Article 123, paragraph 2(2) of the Criminal Code	8	42%
Murder under Article 123, paragraph 2(2) in conjunction with Article 19 of the Criminal Code (Attempt)	8	42%
Murder under Article 123, paragraph 1 of the Criminal Code	1	5%
Changed legal qualification	2	11%

Out of a total of 17 proceedings, 3 charges were filed in 2018, 2 charges were filed in 2019, 4 charges were filed in 2020, 7 charges were filed in 2021 and 1 charge was filed in 2022.

2018	3	18%
2019	2	12%
2020	4	23%
2021	7	41%
2022	1	6%

The Criminal Offence

Out of 19 crimes, 3 were committed in rural areas and 16 were committed in urban areas.

Rural areas	3	16%
Urban areas	16	84%

All 19 crimes were committed in an apartment, house or yard.

Apartment, house, yard	19	100%
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One of the crimes was committed in 2000, 3 were committed in 2018, 2 in 2019, 8 in 2020 and 5 in 2021.

2000	1	5%
2018	3	16%
2019	2	11%
2020	8	42%
2021	5	26%
2022	0	0%

6 crimes were committed with the use of firearms, 9 with the use of cold weapons and 4 in another way: one by suffocation with a bag, two by physical assault and blows, and one by blows with a cable.

Firearms	6	32%
Cold weapons	9	47%
In another way	4	21%

In 5 cases there were observers who witnessed the crime, and in the remaining 14 there were no observers.

There were observers	5	26%
There were no observers	14	74%

In 3 cases a minor witness was present, and in the remaining 16 there were no minor witnesses.

A minor witness was present	3	16%
No minor witness	16	84%

In 8 cases the accused person possessed a firearm, in 3 cases he did not possess a firearm, and in the remaining 8 cases it was not established and thus it is unknown whether the perpetrator possessed a firearm.

The perpetrator possessed a firearm	8	42%
The perpetrator did not possess a firearm	3	16%
Unknown	8	42%

In 6 cases, the perpetrator used the firearm he owned, and in the remaining cases he did not use a firearm.

The perpetrator used the firearm	6	32%
The perpetrator did not use the firearm	13	68%

The Personality of the Perpetrator

Out of a total of 17 perpetrators of femicide, three perpetrators were at the age of 18-25 years, two aged 25-32 years, 4 aged 33-40 years, 3 aged 41-48 years, 2 aged 49-56 years, 2 aged 57-65 years and 1 aged over 65 years.

18-25 years old	3	18%
25-32 years old	2	12%
33-40 years old	4	23%
41-48 years old	3	18%
49-56 years old	2	12%
57-65 years old	2	12%
>65 years old	1	5%

Regarding the marital status, 5 perpetrators were married, 5 perpetrators were in a cohabitation, 4 were divorced and 3 were not married.

Married	5	29%
In cohabitation	5	29%
Divorced	4	24%
Not married	3	18%

Four perpetrators had no children, four had one child, two had two children, five had three or more children, and for two perpetrators it is not known whether they had children.

Without children	4	23%
With one child	4	23%
With two children	2	12%
With 3 or more children	5	30%
Unknown	2	12%

Two of the perpetrators had no education, two had not completed primary education, five had completed primary education, seven had completed secondary education and one of the perpetrators had completed higher education.

No education	2	12%
Incomplete primary education	2	12%
Primary education	5	29%
Secondary education	7	41%
Higher education	1	6%

Three perpetrators were employed, 13 were unemployed and one of the perpetrators was retired.

Employed	3	18%
Unemployed	13	76%
Retired	1	6%

Out of a total number of 17 perpetrators 7 were previously convicted, while 10 were not previously convicted.

Previously convicted	7	41%
Previously not convicted	10	59%

All 7 recidivists were previously convicted of another crime and all had served their sentence.

Special recidivist	0	0%
Recidivist	7	100%
Had served his sentence	7	100%

Three out of a total of 17 perpetrators were convicted as minors, 10 were not convicted as minors, and for four of them this fact is unknown.

Convicted as minors	3	18%
Have not been convicted as minors	10	59%
Unknown	4	23%

The attitude of the perpetrators towards the crime was such that 10 confessed that they have committed the crime, 1 shifted the blame to the victim, 1 did not give an explanation, three did not confess and for two perpetrators this fact is unknown because they did not give a statement during the criminal proceedings.

Confessed the commission of the crime	10	59%
Shifted the blame to the victim	1	6%
Have not provided any explanation	1	6%
Has not confessed the crime	3	17%
Unknown	2	12%

All 10 perpetrators who confessed the crime also expressed remorse. Of the remaining 7, four did not repent, and for three this fact remained unknown.

Expressed remorse	10	59%
Did not express remorse	4	23%
Unknown	3	18%

5 of the perpetrators had a psychopathic personality structure, 5 did not have such a personality structure, and for 7 of them the above is unknown.

Psychopathic structure of the personality	5	29%
No psychopathic structure of the personality	5	29%
Unknown	7	42%

Out of the 17 perpetrators, two were alcoholics, 5 were not, and for 10 this fact is unknown.

Alcoholics	2	12%
Have not used alcohol	5	29%
Unknown	10	59%

Two perpetrators were users of narcotic drugs, five were not, and this fact has not been established in respect of the remaining 10.

Drug user	2	12%
Have not used drugs	5	29%
Unknown	10	59%

8 of the perpetrators had psychosis, three did not have it and this fact is not known for the remaining 6.

Psychosis	8	47%
Have not had psychosis	3	18%
Unknown	6	35%

Out of a total of 17 perpetrators, during the commission of the crime 10 were accountable, four had significantly diminished capacity and three could not be held accountable.

Accountable	10	59%
Significantly diminished capacity	4	23%
Unaccountable	3	18%

During the commission of the crime, only one perpetrator was under the influence of alcohol, 10 were not under the influence of alcohol, and in respect of 6 this fact has not been established.

The perpetrator was under the influence of alcohol during the commission of the crime	1	6%
The perpetrator was not under the influence of alcohol during the commission of the crime	10	59%
Unknown	6	35%

During the commission of the crime, 7 perpetrators were not under the influence of narcotic drugs, and for 10 this fact remained unknown.

The perpetrator was under the influence of narcotic drugs	0	0%
The perpetrator was not under the influence of narcotic drugs	7	41%
Unknown	10	59%

The Victim

In the criminal proceedings, 19 women appeared as victims. 1 of the victims was aged 18-25 years, two were aged 25-32 years, 4 aged 33-40 years, 3 aged 41-48 years, none aged 49-56 years, 6 aged 57-65 years, and 3 aged over 65 years.

18-25 years old	1	5%
25-32 years old	2	10%
33-40 years old	4	21%
41-48 years old	3	16%
49-56 years old	0	0%
57-65 years old	6	32%
>65 years old	3	16%

Out of a total of 19 victims, 10 were married, 3 were in a cohabitation, 3 were divorced, 1 was unmarried and for 2 this fact is unknown.

Married	10	53%
In a cohabitation	3	16%
Divorced	3	16%
Unmarried	1	5%
Unknown	2	10%

One of the victims was childless, 6 had one child, 4 had two children, 5 had three or more children and for 3 of them this fact is unknown.

Childless	1	5%
One child	6	32%
Two children	4	21%
Three or more children	5	26%
Unknown	3	16%

Five of the victims were the perpetrator's wives, 3 were cohabiting partners, 4 were ex-wives, 2 were the perpetrator's mothers, 5 were in another relationship and three were the perpetrator's grandmothers, one was the perpetrator's mother-in-law and one was the wife of the perpetrator's brother-in-law.

Wife	5	26%
Cohabiting partner	3	16%
Former wife	4	21%
Mother	2	11%
Other (mother-in-law, wife of the perpetrator's brother-in-law)	5	26%

Before the event, four of the victims were ill-treated by the perpetrator, five of them were not ill-treated, and this fact is unknown for the remaining 10.

Previously ill-treated	4	21%
Previously not ill-treated	5	26%
Unknown	10	53%

Five of the victims did not seek assistance from a social welfare centre or other relevant institution(s), and this fact is unknown for the remaining 14.

Did not seek assistance	5	26%
Sought assistance	0	0%
Unknown	14	74%

Before the incident, one of the victims reported to the police that she was abused by the perpetrator, 3 did not report it, and this fact is unknown concerning the remaining 15 victims.

Did not report to the police any previous ill-treatment	3	16%
Reported to the police the previous ill-treatment	1	5%
Unknown	15	79%

No action was taken in that single case when the victim reported to the police that she was ill-treated by the perpetrator.

During the commission of the crime, none of the victims had a weapon with them and none of the victims used a weapon.

12 of the victims were not under the influence of alcohol at the time when the perpetrator committed the crime, and for seven of the victims this fact has not been established.

The victim was under the influence of alcohol	0	0%
The victim was not under the influence of alcohol	12	53%
Unknown	7	37%

In none of the total of 17 proceedings with 19 victims did the court determine that the victim influenced the execution of the crime.

The victim has contributed to the crime	0	0%
The victim has not contributed to the crime	19	100%

The Criminal Proceedings

In all 17 criminal proceedings, pre-trial detention was ordered against the perpetrator.

In 14 proceedings, the court rendered a judgment by which the perpetrator was declared guilty and sentenced according to the law. In 3 proceedings, "compulsory treatment in a health facility" was ordered as a security measure against the perpetrator, given that the perpetrator was unaccountable at the time of the crime. Pursuant to the Criminal Code and the Criminal Procedure Act, no criminal sanction is imposed against a perpetrator who was unaccountable during the commission of the crime; instead, a special procedure is conducted in which a security measure of compulsory treatment in an institution or compulsory treatment at liberty is imposed.

Prison sentence	14	82%
Security measure	3	18%

Of the 14 convictions, 8 were up to 10 years in prison, 5 were over 10 years in prison, and one sentence was life imprisonment.

Imprisonment up to 10 years	8	57%
Imprisonment over 10 years	5	36%
Life imprisonment	1	7%

Appeals were filed against 12 judgments and extraordinary remedies before the Supreme Court were filed against 4 judgments.

Ordinary remedy	12	75%
Extraordinary remedy	4	25%

Of the 12 appeals lodged, 6 judgments were upheld; 2 were overturned and the case was remitted for retrial and, after the remittance and retrial, the judgments were upheld; while 4 judgments were modified upon appeal.

Upheld judgment	6	50%
Overtured judgment	2	16.6%
Modified judgment	4	33.3%

Out of the 4 submitted extraordinary remedies, all 4 were dismissed as unfounded and the impugned judgments were upheld.

Upheld judgment	4	100%
Overtured judgment	0	0%
Modified judgment	0	0%

Out of a total of 17 conducted proceedings, 12 were completed by a final decision within a period shorter than one year, whereas 5 procedures were completed within a period longer than one year and shorter than two years.

Proceedings completed within one year	12	71%
Proceedings completed within a period longer than one year and shorter than two years	5	29%

» SELECTED CASES OF FEMICIDE FROM THE JUDICIAL PRACTICE

For the purposes of this manual, data and decisions have been obtained from the basic courts and the appeal courts in the Republic of North Macedonia on finally completed criminal proceedings concerning femicide in the period from 2018 to 2022. An analysis of the submitted data and decisions was carried out, during which five cases were selected, which we considered to best reflect the state of affairs in the Republic of North Macedonia in terms of how the Public Prosecutor's offices and the courts dealt with femicide. A detailed analysis of the selected five cases was carried out as follows:

Case 1

Method of committing, characteristics, and legal qualification of the criminal offence

An indictment, IV KO no. 522/2020 of 25.02.2021, was filed with the Veles Basic Court against the defendant Z.K. for the criminal offence of Murder under Article 123, paragraph 2(2) in conjunction with Article 19, paragraph 1 of the Criminal Code (attempted murder committed while performing domestic violence).

The first-instance court declared the accused Z.K. guilty of the crime of Murder under Article 123, paragraph 2(2) in conjunction with Article 19, paragraph 1 of the Criminal Code for the reason that it found that on 4.11.2020 in the time period from 5:30 p.m. to 7:30 p.m. at the family house, the accused Z.K. while performing domestic violence intentionally tried to take the life of his wife, the victim S.K., in a way that, by the use of a black cable with a length of 70 cm, he entered the bedroom and ordered her to lie down on the bed, hit her on the head, arms and legs, then took a break drinking brandy, after which he continued to hit her saying the words: "You whore, slut, let your mother rise from the grave, you should lie down, I will kill you". He forced her to sit down, and then hit her several times on her head with the cable, 2-3 times in the head's front part, and once on the head's back left side. The victim begged him to allow her to drink water and to wash herself, but he answered: "You may not do that, you should die" and he

was beating her for two hours until their daughter A.K. arrived. A.K. requested intervention from the Veles Department of the Ministry of Internal Affairs (police). The victim sustained severe physical injuries, such as bruises in the area of both forearms, bruise in the area of the left upper leg, bruise in the area of the left side of the chest, and fracture of the right ulna in the distal end above the wrist.

The legal qualification of the crime in the judgment is the same as in the Indictment for the crime - Murder under Article 123, paragraph 2(2) in conjunction with Article 19, paragraph 1 of the Criminal Code.

In the expert finding and opinion of the Saints Cyril and Methodius University - Medical Faculty, Institute for Forensic Medicine, Criminalistics and Medical Deontology, it is stated that the victim during the incident that had occurred on 04.11.2020, sustained injuries in the area of the body and limbs in a form of blood stains (bruises) in the front part of the forearms of both hands, the left thigh and the left side of the chest and fractures of the ulna bones of both forearms, which occurred as a result of a direct impact of a dynamic blunt and hard force (blow) and that all ascertained injuries with their overall effect on the victim's body amount to severe bodily injury, which led to significant, but not permanent damage to an important part of the body and do not represent an actual threat to life. In the expert report and the opinion of the experts - a psychologist and a neuropsychiatrist, it was established that the accused person, during the commission of the crime, reasoned rationally and acted accordingly, that he was able to understand the meaning of the crime and to manage his actions and he was thus capacitated and accountable during the commission of the crime.

In the second instance proceedings, the Skopje Court of Appeal by its Decision KŽ no. 803/21 of 14.10.2021 upheld the defendant's appeal and overturned the first-instance judgment. In its decision, the Appellate Court stated that the facts established by the first-instance court do not correspond with the evidence presented during the proceedings, and that the way of committing the crime does not correspond with the testimony of the injured party, and the injuries do not correspond with the findings, written opinion and the verbal testimony of the experts from the judicial-medicine field. It is stated that no injuries were found on the victim's head, and the rest of the victim's injuries amount to severe bodily injury. For those reasons, the case was remitted to the first-instance court for re-examination and decision-making.

Acting upon the instructions of the Skopje Court of Appeal, the Veles Basic Court held a main hearing on 06.12.2021 at which the concluding remarks were

delivered. The Public Prosecutor amended the Indictment's legal qualification of the criminal offence whose commission was attributed to the accused Z.K., from the crime of Murder under Article 123, paragraph 2(2) in conjunction with Article 19, paragraph 1 of the Criminal Code into the crime of Severe bodily injury under Article 131, paragraph 2 in conjunction with paragraph 1 of the Criminal Code.

The Veles Basic Court declared the accused Z.K. guilty for the crime of Severe bodily injury under Article 131, paragraph 2 in conjunction with paragraph 1 of the Criminal Code because on 04.11.2020 in the time period from 5:30 p.m. to 7:30 p.m. in the family house, the accused Z.K. while performing domestic violence, intentionally inflicted serious injuries to his ex-wife, the victim S.K., in such a way that, by using a 70 cm long black cable, he hit her on the arms and legs in the bedroom, telling her the words: "You whore, slut, let your mother rise from the grave, you should lie down". So he hit her with the cable several times until the victim got up and knelt down begging him to drink water, but he answered: "You should die, I'm not giving you water", until the arrival of their daughter A.K. who requested intervention by the Veles Department of the Ministry of Internal Affairs. The victim suffered severe physical injuries from the blows, expressed in bruises in the area of both forearms, a bruise in the area of the left thigh, a bruise in the area of the left side of the chest and a fracture of the right ulna in the distal end above the wrist.

The legal qualification of the crime in the judgment is the same as the qualification introduced by the Public prosecutor's amendment of the Indictment at the main hearing – criminal offence of Severe bodily injury under Article 131, paragraph 2 in conjunction with paragraph 1 of the Criminal Code.

No appeal has been filed against the judgment.

The personality and the conduct of the perpetrator

At the time of the incident, the perpetrator lived in a house with the victim, his wife. They had two children in their marriage, who were adults at the time of the crime. Their daughter was married and lived separately from them, and their son has moved out to Germany. The perpetrator and his wife were unemployed and obtained means of subsistence through buildings' hygiene maintenance activities. He was 57 years old with a neat and unremarkable appearance. There are no indications of psychopathological deviations in terms of basic mental functions, thinking, perception, attention, concentration, or visual-motor skills. There are no indicators of possible organic dysfunction of cognitive functioning. This is a person

with intellectual abilities below average, without test indicators of a current decline in mental efficiency. His personality has a passive-aggressive structure, with features of emotional immaturity, instability, infantility, egocentrism, with hysterical characteristics, impulsive, and with insufficient capacity to delay impulses, accompanied by anger and irritation at small obstacles and frustrations. He had an increased need for dependence and inability to refrain from expressing hostility to others and was prone to "acting out" reactions. He was constantly in a bad relationship with his wife, stating that his wife was not pure and allegedly was involved in a relationship with a pensioner. He was very angry to her because in the proceedings against him concerning the rape of her sister she did not take his side, but supported, according to him, the defamation by her sister, and so he spent six months in prison, while his wife didn't care at all.

On the critical day, 4.11.2020, the perpetrator was at work together with his wife. When they finished, they went separate ways: the perpetrator went to meet his friend, while the victim went home to make lunch. The lunch was partially ready, so she left it to be finished at the time of the forthcoming arrival of the perpetrator so that it would be warm. The perpetrator returned and found her watching television. She told him that the lunch was not ready, following which the perpetrator started insulting her, shouting loudly. He told her that he did not want anything from her and also told her to go to the bedroom and lie down. He sat in the room that was on next to the bedroom, started drinking brandy and asked the victim if she understood him or not, insisting to receive some answers. At one point of time, he took a black cable, entered the bedroom and started hitting her on the head, arms and legs, telling her the words: "You whore, slut, let your mother rise from the grave, you should lie down." The victim covered herself with the blanket, but he uncovered her and hit her several times on the head with the cable, 2-3 times on the front part of the head and once on the back left side of the head, whereas the victim begged him to drink water and to wash herself, but he answered: "You may not do it, you should die", and he was beating her for two hours, until the arrival of their daughter, who called the police. The police came to the crime scene and arrested the perpetrator.

The perpetrator was previously convicted of the crime of Rape under Article 186 of the Criminal Code, which he had committed against his wife's sister. On account of committing that crime, he was sentenced to prison for 6 (six) months.

In the findings and opinion of the psychologist and neuropsychiatrist experts, it is stated that the accused person does not suffer from a permanent or temporary mental illness, he does not have a temporary mental disorder, he is a person with

intellectual capacities below average and is emotionally unstable, but during the commission of the crime he was fully conscious, the activities comprising the crime were rationally thought out, and the motive was not of a pathological nature, but one of common sense. In the expert report and opinion, the experts stated that the accused person believed that his wife, now an injured person, had contributed to his conviction for the crime of raping her sister, on account of which he served six months in prison.

At the main hearing, the defence attorney submitted as evidence the Finding and opinion no. 13/70 of 24.11.1970; Medical Pedagogical Counseling document No. Sl. of 28.09.1971; the Testimony No. 1133 dated 31.08.1981; and the Decision No. 269 of 25.04.1983, adopted by the Veles Social Welfare Centre, in which it was stated that the accused was categorised as a person with disabilities in the physical and mental development.

The perpetrator did not present his defence at the main hearing.

The defence counsel during the main hearing, prior to the issuance of the first judgment, argued that there was no evidence that the injuries sustained by the victim were caused by a blow to the head by the defendant, and that all allegations that the defendant struck the victim's head were unfounded. The defence also claimed that the defendant's intent was not manifested through the physical harm that was inflicted on the victim, and that the defendant did not have intent to kill the victim.

Regarding accountability of the perpetrator, the court established that during the commission of the crime the perpetrator was accountable, was fully conscious, the actions comprising the crime were rationally thought out, and the motive was not of a pathological nature, but one of common sense, and that during the commission of the crime the perpetrator was able to reason rationally and act accordingly.

Information about the victim

In the neuropsychiatric expert examination by a psychologist and a psychiatrist of 16.12.2020, the victim is described as a 57-year-old woman, outwardly unimpressive, meticulous, and modest in demeanour. She was the first child out of a total of two children who were born in the marriage of her parents. Disappointment, lack of self-confidence, pessimism regarding the future, with the presence of somatic-vegetative difficulties, sensitiveness, frustrational

intolerance, and suppression of stressful situations were noted. She was a person with average intellectual capacities. Early psycho-motor development proceeded properly. She went to school on time and completed secondary textile education. She was employed in three companies, but after their collapse she was unemployed and earned by maintaining hygiene in buildings. She neither suffers from a permanent or temporary mental disorder, nor does she was retarded in the mental development. She was married to the perpetrator for more than 38 years. Their relationship was conflicting one and without mutual understanding and empathy. The perpetrator's behavior towards the victim before serving his prison sentence for the crime that he had committed against her sister was similar. His behaviour towards her after that life episode became even more hostile and aggressive.

During the commission of the crime, the victim was in a state of acute stress disorder, in a life-threatening situation, but her mental functions of perception, data processing, awareness and insight, as well as her ability to reason were not affected or impaired. She was able to understand the meaning of the activities taken by the perpetrator, she is not prone to fantasies and fabrications and is not under the influence of others when presenting the event.

Course of the criminal proceedings

On 5.11.2020, the Veles Basic Public Prosecutor submitted a Proposal for Imposing of Detention Measure and initiated an investigation for the criminal offence of Murder under Article 123, paragraph 2(2), in conjunction with Article 19, paragraph 1 of the Criminal Code. The accused was placed in detention on remand by a decision dated 5.11.2020. After the completion of the investigation, on 25.02.2021, the Veles Basic Public Prosecutor filed before the Veles Basic Court an Indictment against the accused concerning the same criminal offence.

In the course of the criminal proceedings, the following evidence were presented: the victim S.K. from Veles and the witness A.K. from Veles, were examined as witnesses, and the following documents were read: report of 04.11.2020 of the PHI General Hospital Veles; report-radiodiagnostic findings of 04.11.2020; certificate for temporarily confiscated items no. 268 of 05.11.2020, issued by the Ministry of Internal Affairs's department in Veles; record of the alcohol test that was performed on a driver with a Dräger apparatus by the Ministry of the Interior's department in Veles; neuropsychiatric expert examination by the experts Z.M. and A.S.T. of 16.12.2020, neuropsychiatric findings and opinion on the accused from December 2020 by the experts Z.M. and A.S.T.; record of inspection of a

secured place of the incident no. 22.23. 4.5.1311 of 05.11.2020 of SVR Veles; notification no. 1108-2021 of 28.01.2021 from AKN OKN Veles; certificate of realised income of 20.01.2021 from RSM-MF-UJP-RD Prilep to Veles; delivery of data KR no. 165/21 of 15.01.2021; list of criminal records from the Veles Basic Court of 15.01.2021; notice from the misdemeanor department of the Veles Basic Court KR no. 165/21 of 15.01.2021; medical report dated 25.11.2020 from the PHI General Hospital Veles; orthopedics report from the PHI General Hospital Veles dated 09.11.2020 and 16.11.2020; report radiodiagnostic findings dated 09.11.2020 and dated 16.11.2020 of the PHI General Hospital Veles; orthopedics report from 11.16.2020, 03.12.2020, and 07.12.2020 from the PHI General Hospital Veles and report-radio diagnostic finding from 07.12.2020 of the PHI General Hospital Veles; and photo documentation no. 754/20 of the Ministry of Interior – Veles; examination of the expert R.J. and reading the findings and the opinion no. 13/70 of 24.11.1970; Medical Pedagogical Counseling document No. Sl. dated 28.09.1971; certificate no. 1133, dated 31.08.1981 and Decision no. 269 of 25.04.1983 of the Veles Social Welfare Centre; and reading the expert report no. 24/1301-1342/20 of 25.12.2020, issued by the Institute of Forensic Medicine, Criminalistics and Medical Deontology at the Faculty of Medicine, Skopje.

The victim as a witness stated at the hearing that on the critical day they were working together, cleaning a building, that the accused had left and the victim came home after cleaning the building, that the accused had not yet been returned and he came later around 10 or 11 o'clock after shopping, she started preparing lunch and he went out to his cousin's facility again to feed the pigeons, that before he went out she asked him if he wanted to make him coffee and the accused answered with the words: "I don't want anything from you", and that he was angry to her. She cooked a liver for lunch and put it aside, and when he returned at 5:30 p.m. and entered the house, she answered that the meal was not yet read, as the liver should be fried. The accused did not say anything to her, following which she entered their bedroom because he told her that he did not want anything from her. The accused got himself brandy to drink and started asking her questions to which she answered briefly with "yes" and "no", while he was insulting her with insulting words, and the victim listened to him because the accused was sitting on the couch in the room next to the bedroom and she listed everything. Then the accused entered the bedroom and told her: "Now you will see", he left the bedroom, took the cable and entered the bedroom where the victim was located and started hitting her with the cable. The victim does not know where the defendant got the cable by which he hit her, but she thinks that he had taken it from the yard of the house. The defendant started hitting her and she was in a lying position and defended herself, so he hit her first on the right

side of her hand and it hurt her a lot, while she defended herself with her left hand the whole time. As he hit her hands, the victim defended herself, so she bowed her head and she thinks that he also hit her on the back of the head. The accused then went to the other room to drink brandy and again addressed her with derogatory words, namely: "You whore, slut". He asked her if she understood, to which she answered briefly with "yes" out of fear, and he again went to the bedroom and hit her with the cable. After some time, the victim knelt on the ground and begged him to give her water, and the first time he did not let her drink, but then he allowed her. The accused shouted at her to remove her mother from the grave and for her to lie down in her place, because her mother was deceased. The accused was nervous, the whole time he was yelling, screaming and yelling for her to die with the words: "die and save me from you" and she screamed, while the accused shouted at her not to scream, so that their neighbors wouldn't hear. The victim begged him to let her go, to allow both to go their own way. After some time at 7:30 p.m., she heard that someone came and it was their daughter who heard her shouting at her father: "What have you done?!". The accused chased her outside and their daughter called the police. Subsequently, the accused was taken to the police station and the victim was taken to the hospital where she was given medical assistance and her injuries were ascertained. The injured party stated that she does not seek damages and does not join the criminal prosecution. The witness A.K, the daughter of the accused and the victim, stated that she would exercise her right not to testify, thus she did not testify.

The Veles Basic Court by its judgment declared the defendant guilty of the crime of Murder under Article 123, paragraph 2(2) in conjunction with Article 19, paragraph 1 of the Criminal Code and sentenced him to a prison term of 10 (ten) years. The actual length of the sentence included the time spent in detention from the day of the accused's deprivation of liberty to the day when he began serving the prison sentence. The detention measure against the accused was extended until the start of serving the prison sentence.

The Appellate Court annulled the first-instance judgment and stated that the facts established by the first-instance court do not correspond with the evidence presented during the proceedings and that the way of committing the crime does not correspond to the statement of the injured party (i.e. victim), and the injuries do not correspond to the finding and the opinion and testimony of experts from the forensic-medical field. It stated that no injuries were found on the victim's head, and the rest of the victim's injuries amounted to severe bodily injury. For these reasons, the case was remitted to the first-instance court for a retrial.

During the retrial, the same evidence was presented at the main hearing before the court. The Public Prosecutor in the concluding remarks amended the description of the Indictment and also amended the legal qualification from the crime of Murder to the crime of Severe Bodily Injury.

After the changes were made to the indictment by the Public Prosecutor, the accused gave a statement of confession of guilt. Based on the guilty plea by the defendant and the presented evidence, the court rendered a judgment on 6.12.2021, thereby declaring the accused guilty of the crime of Severe bodily injury, as prescribed by Art. 131, paragraph 2 in conjunction with paragraph 1 of the Criminal Code and sentenced him to a prison sentence of 3 (three) years and, within the above sentence, the time spent in detention from the day of his deprivation of liberty until the day he started serving the prison sentence was also calculated. The detention measure against the accused was extended until the start of serving the prison sentence.

No appeal was filed against the judgment and it became final on 30.12.2021.

From the date of commission of the crime on 4.11.2020, to the issuance of the final judgment by the first-instance court on 6.12.2021, one year, one month, and two days have passed. From the date of issuance of the Order for Conducting Investigation Procedure on 5.11.2020, to the date of issuance of the final judgment by the first-instance court on 6.12.2021, one year, one month, and one day have passed.

Criminal sanction

The first-instance court, upon rendering its initial judgment, sentenced the accused to a term of imprisonment of 10 (ten) years. When choosing the type and amount of the criminal sanction, the court took into account the following mitigating circumstances: the correct attitude of the accused during the proceedings, the fact that he is unemployed, has poor property, the fact that no proceedings for another criminal offence was conducted and that he is not registered as a perpetrator, and it also took into account his age, the fact that the crime remained an attempt, that the injured party (victim) does not join the criminal prosecution and does not claim damages. As aggravating circumstances, the court took into account the following circumstances: the type and gravity of the crime, the way of committing the crime, the degree of the defendant's criminal responsibility, his previous conviction, the protected interest and the fact that the victim divorced the defendant after the incident and lives at another address.

In the second judgment, by which the accused was sentenced to a prison term of 3 (three) years, the court of first instance took into account the following mitigating circumstances: the correct behaviour (confession) of the accused, his remorse for what he had done, his conduct during the proceedings, the fact that the accused is unemployed and his poor property, the fact that proceedings for another criminal offence are not being conducted and that he is not currently registered as a perpetrator of offences, his age, and the fact that the victim is not seeking damages. The court took into consideration the following aggravating circumstances: the nature and severity of the criminal offence, the manner in which the offence was committed, the degree of criminal responsibility of the defendant, his prior conviction, the protected interest, and the fact that the victim of the criminal event has separated from the defendant and resides at a different address.



COMMENTS

According to the data from the case, prior to the commission of the crime there was a continuously bad relationship between the accused and the victim. In a marriage that lasted more than 38 years, their relationship was conflicted and without mutual understanding and empathy.

The perpetrator's behavior towards the victim before serving his prison sentence for the crime he had committed against her sister was similar. His behavior towards the victim after that life episode became even more hostile and aggressive. The perpetrator was accusing the victim of not being pure and having a relationship with a pensioner. And he was angry because in the proceedings against him concerning the rape of her sister, she did not stand behind him, but supported her sister, and that is why he was in prison for six months. In connection with this, the Court, when determining the punishment, did not actually deal with the relationship between the accused person and the victim that preceded the event, although their mutual hostility resulted in the commission of the crime.

Also, when determining the punishment, the court took into account the statement of the victim that she does not

seek damages from the accused person and does not join the criminal prosecution. The court did not show gender sensitivity when determining the sentence, as the first sentence reached the minimum threshold that is provided for the crime of murder (prison sentence of at least 10 years to life imprisonment).

The perpetrator was previously convicted of raping the victim's sister, but the court only declaratively stated the previous conviction as an aggravating circumstance, without embarking on an evaluation of the fact of the type and gravity of the crime, that it is a crime of Rape and that it has been committed against the victim's sister.

The Appellate Court, when deciding upon the appeal and annulling the first judgment of the Basic Court, stated that the injuries of which the victim talked about in the area of the head were not ascertained by the experts, but it did not take into account that the examination of the victim by the experts of forensic medicine was carried out one month after the incident and it did not fully appreciate the statement of the victim who stated that the accused hit her on the head, saying that she should lie down instead of her mother, who was dead, which indicates that it is possible that the accused's intent was to kill the victim instead of inflicting severe bodily injury to her.

During the retrial by the first-instance court, the said court again did not evaluate the relations between the accused and the victim that preceded the event. When assessing the sanction, a prison sentence of 3 (three) years that was based on the defendant's guilty plea and the court considered the defendant's remorse (a fact that does not emerge from the evidence in the proceedings) as a mitigating circumstance. Also, when determining the punishment, the court took into account the statement of the victim that she does not seek damages from the accused and does not join the criminal prosecution.

The Public Prosecutor did not show gender sensitivity either, considering that no appeal was filed against the decision on the criminal sanction, thereby asking for increase of the sentence.

Taking into account the standards pertinent to a trial within a reasonable time, the proceedings was conducted without unnecessary delays.

Case 2

Method of committing, characteristics, and legal qualification of the criminal offence

An indictment of 7.09.2021 was filed with the Kumanovo Basic Court against the defendant E.T. for the criminal offence of Murder under Article 123, paragraph 2(2) in conjunction with Article 19 of the Criminal Code (attempted murder committed while performing domestic violence).

The first-instance court found the accused E.T. guilty for the crime of Murder under Article 123, paragraph 2(2) in conjunction with Article 19 of the Criminal Code for the reason that it determined that on 11.03.2021, around 20:00 in Kriva Palanka, in the yard of a third person's family house, while performing domestic violence with the use of force and a dangerous weapon - a knife, he deliberately tried to take the life of his ex-wife M.T. from Kriva Palanka, with whom they have children together. While she was visiting her brother-in-law, he was hiding behind the house and when the victim went out to go down to the lower floor of the house, he came out of the place where he was hiding with the knife that he carried with him and attacked her, inflicting several stab wounds, namely: 1 (one) stab wound in the neck region, 4 (four) stab wounds in the left flat belt area, 1 (one) fatal wound in the left lumbar region, after which air collections occurred on the left, in the basal part of the neck, supraclavicular to distal infraclavicular, ventrally and posteriorly, behind the pentacrylar muscles, but also affecting them, descending distally to the subscapular musculature, pneumothorax left from apical and ventrally downward and laterally, but also paramediastinally, formation of a hematothorax, with the largest diameter of 19 mm from the height of the hilus, back and below. Afterwards the accused person fled from the place of the incident.

The legal qualification of the crime in the judgment is the same as in the Indictment for the crime of Murder under Article 123, paragraph 2(2), in conjunction with Article 19 of the Criminal Code.

In the expert report and opinion of the Saints Cyril and Methodius University's Faculty of Medicine, Institute of Forensic Medicine, Criminalistics and Medical Deontology, it is stated that the victim suffered multiple stab wounds during the critical event that occurred on 11.03.2021, namely: 1 (one) stab wound in the region of the neck, 4 (four) stab wounds in the region of the left flat belt, 1 (one) stab wound in the left lumbar region, after which there were air collections on the left, in the basal part of the neck, supraclavicular distally infraclavicular, ventrally and posteriorly, behind the pectoral muscles, but also affecting them, descending distally to the subscapular musculature, pneumothorax to the left of the apical and ventral downwards and laterally, but also paramediastinally, forming a hemothorax, with the largest diameter of 19 mm from the height of the hilus, back and down. Then the accused persons fled from the place of the incident.

In the expert opinion and evaluation by the experts - a psychologist and a psychiatrist, it has been established that the defendant was capable of understanding the nature of the offence and of managing his actions during the commission of the crime.

In the second instance proceedings before the Skopje Court of Appeal, by its Judgment KŽ. no. 1125/21 of 13.12.2021, the appeal of the defence was dismissed and the judgment of the Kumanovo Basic Court K. no. 510/21 of 29.10.2021 was upheld.

The personality and the conduct of the perpetrator

The perpetrator was 47 years old, divorced, the father of three minors, had not even completed primary education and was unemployed. The perpetrator had a disturbed relationship with the victim regarding their minor son.

On the critical day, 11.03.2021, around 8 p.m., the accused came to the yard of the house of the victim's brother, whom the victim was visiting. The defendant was hiding behind the house and when the victim came out to go down to the lower floor of the house, he came out of the place where he was hiding and attacked her with the knife he was carrying, inflicting five stab wounds, namely: 1 (one) stab wound in region of the neck region, 4 (four) stab wounds in the region of the left flat belt, 1 (one) fatal wound in the region of the left lumbar region, after which there were air collections on the left, in the basal part of the neck, supraclavicular to distal infraclavicular, ventral and towards the back, behind the pectoral muscles, but also affecting them, descending towards the distal to

the subscapular musculature, pneumothorax to the left of the apical and ventral downwards and laterally, but also paramediastinally, forming a hemothorax, with the largest diameter of 19 mm from the height of the hilus, back and below. After that he fled from the place of the incident.

The perpetrator was previously convicted of two crimes: once in 1988, by a suspended sentence and once in 2011, by a suspended fine but, according to Article 104 of the Criminal Code, legal rehabilitation of the convictions took place.

In the Finding and opinion of the expert psychologist and neuropsychiatrist, it is stated that the perpetrator did not show signs of retarded mental development. He did not suffer from a permanent mental illness, he was not in a state of temporary mental disorder. His personality was inadequately structured and it was dominated by patterns of emotionally unstable personality disorder. The perpetrator was prone to alcohol abuse, which emphasises the characteristics of the disorder. At the time of committing the crime, the perpetrator, although under the influence of alcohol, was capable of understanding the nature of the offence and controlling his actions.

The perpetrator gave a statement of confession of guilt and expressed remorse for the committed crime, while apologising to the victim for the injuries caused.

Regarding the accountability of the perpetrator, the court found that during the commission of the crime the perpetrator was accountable.

Information about the victim

The victim is the ex-wife of the accused, she is divorced and the mother of three minor children. Their relationship with the perpetrator was troubled over their minor child. On the day when the incident took place, just before the incident, the perpetrator dialled the victim's phone and threatened her. The victim reported the perpetrator to the police.

Course of the criminal proceedings

The Kumanovo Basic Public Prosecutor's Office on 12.03.2021 filed a Proposal before the Kumanovo Basic Court for determination of a detention measure, and also started an investigation procedure for the crime of Murder pursuant to Art. 123, paragraph 2(2), in conjunction with Article 19 of the Criminal Code. A measure of detention on remand was determined against the accused person

by a decision of 12.03.2021. After the end of the investigation proceedings, on 09.07.2021 the Kumanovo Basic Public Prosecutor's Office filed an Indictment before the Kumanovo Basic Court against the accused person on account of the same crime.

During the criminal proceedings, the accused made a guilty plea in relation to the crime, so based on the statement thus given, the Kumanovo Basic Court rendered a judgment based on a guilty plea, by which the accused was declared guilty of the crime of Murder under Article 123, paragraph 2(2), in conjunction with Article 19 of the Criminal Code and was sentenced to imprisonment for a term of 8 (eight) years and 6 (six) months, and the time he spent in detention from the day of his deprivation of liberty until the day he started serving the prison sentence (i.e. until the judgment become final) was calculated within the sentence. The measure of detention against the accused was extended until the start of serving the prison sentence, that is, until the judgment became final.

An appeal was filed by the defence against the judgment, challenging the severity of the sentence.

The Skopje Court of Appeal issued a Judgment KŽ. no. 1125/21 of 13.12.2021, thereby dismissing the appeal of the defence and upholding the judgment of the Kumanovo Basic Court K. no. 510/21 of 29.10.2021.

From the date of the commission of the crime on 11.03.2021, to the issuance of the final judgment by the Appellate Court on 13.12.2021, nine months and two days have elapsed. From the date of the issuance of the Order for Conducting the Investigation on 12.03.2021, to the issuance of the final judgment by the first-instance court on 13.12.2021, nine months and one day have elapsed.

Criminal sanction

Upon rendering the first-instance judgment, the court sentenced the defendant to a prison term of 8 (eight) years and 6 (six) months. However, the court mitigated the sentence against the defendant by applying the provisions of Articles 40 and 41 of the Criminal Code.

When choosing the type and amount of the criminal sanction, the court took into account the following mitigating circumstances: an adult at the age of 47, divorced, father of three minor children, unemployed, with poor income, previously unconvicted, no other criminal proceedings were conducted against

him, he regrets what he had done and promises that he will not commit further criminal offences, he apologised to the victim for the injuries he caused to her, and due weight was given to his conduct before the court, as well as to the fact that he had admitted his guilt. As aggravating circumstances, the court took into account the following circumstances: the degree of unlawfulness of the committed crime, the degree of criminal responsibility of the defendant, the degree of threat to the protected interest and the legally prescribed sanction for the crime of at least 10 years in prison or life imprisonment.

In its decision, the Appellate Court accepted that the first-instance court correctly assessed the mitigating circumstances that the accused is a 47-year-old adult, divorced, father of three minor children, unemployed, has poor property, has no previous convictions, is not being prosecuted for another crime, is remorseful for what he had done and promises that he will not commit such and similar crimes in future, he apologised to the victim for the injuries she sustained during the commission of the crime, his conduct in the court, as well as the fact that the accused pleaded guilty to the crime he is accused of, thereby contributing to the efficient completion of the criminal proceedings. Also, the Appellate Court accepted that the first-instance court correctly assessed as aggravating circumstances: the degree of unlawfulness of the committed crime, the degree of criminal responsibility of the accused, the degree of threat to the protected interest, the consequences of the committed crime, and the legally prescribed criminal sanction for it. The first-instance court, when deciding on the type and amount of the criminal sanction, correctly took into account the list of criminal records of the Kriva Palanka Basic Court from 04.09.2021, in which it was stated that against the accused during 1998 a suspended sentence for a crime under Art. 341 of the Criminal Code was imposed and that during 2011 he was sentenced to a fine, which was later suspended, but the judgments by which the punishments were imposed on him were expunged pursuant to the law.



COMMENTS

According to the data from the case, prior to the commission of the crime there was a continuously disturbed relationship between the accused and the victim. Before the event, the defendant threatened the victim and she reported the threats to the police, but the incident however happened.

In this regard, it appears that the police did not give proper attention to the victim's report and did not demonstrate promptness and seriousness in handling of the situation.

Also, when determining the sentence, the Court did not actually deal with the relationship between the accused and the victim that preceded the event, and such hostility resulted in the commission of the crime. When determining the sentence, the Court took into account the defendant's statement that he was sorry and that he apologised to the victim for the injuries he had caused. The Court did not show gender sensitivity when determining the sentence, as it sentenced the defendant to a prison term below the legal minimum that is prescribed for the crime of Murder pursuant to Art. 123, paragraph 2(2), in conjunction with Art. 19 of the Criminal Code (a prison sentence of at least 10 years to life imprisonment is foreseen).

The Public Prosecutor did not file an appeal against the severity of the imposed sanction, thus indicating that this State body accepted the arguments of the Kumanovo Basic Court.

The Appellate Court in making its decision, complied with the principle "not to act to the detriment of the accused" in a situation of the Prosecutor's failure to challenge the punishment by seeking to have the sentence increased, so it had no legal possibility to increase the sentence that was imposed on the accused. However, the Appellate Court, when explaining the circumstances that influenced the determination of the amount of the sanction, neither referred to the previously disturbed relationship between the perpetrator and the victim that had led to the criminal event, nor did it refer to the fact that the victim had reported to the police the threats that the perpetrator had uttered before the incident, and the police did not adequately protect the victim.

Taking into account the standards pertinent to a trial within a reasonable time, the proceedings was conducted without unnecessary delays.

Case 3

Method of committing, characteristics, and legal qualification of the criminal offence

On 14.07.2021 the Struga Public Prosecutor's Office filed with the Struga Basic Court the Indictment no. 107/21 against the defendant J.R. for the crime of Murder under Article 123, paragraph 2(2) of the Criminal Code.

The first-instance Court declared the defendant J.R. guilty for the crime of Murder under Art. 123, paragraph 2(2) of the Criminal Code for the reason that the court determined that on 20.04.2021, around 7:30 p.m., due to previously disturbed family relations he killed his wife, now deceased S.R., while performing domestic violence, in a way that after he had gone to visit his neighbour E.T., in the apartment no. ... on the street. "....." building .. entrance .. in S., after a short time his wife S.R. came to the apartment. At one point of time there was a quarrel between the accused and the now deceased S., after which the accused got up from the sofa where he was sitting, took out from his belt a knife with a blade whose length is 19 cm and a knife handle with a length of 12 cm, and suddenly stabbed her twice, inflicting wounds on the now deceased S.R. in the area of the chest on the left back side and a cutting wound in the area of the left buttock region. As a consequence of that activity, there was a 14 cm long channel damage to the chest cavity through the musculature on the back side of the chest, the seventh rib and the seventh intercostal muscle, the lower cut of the left lung, the heart sac and the left atrium. These wrongdoings caused damage to the internal organs and blood vessels, which led to profuse bleeding, and this further led to the development of a severe shock state of the body, the disruption and cessation of the work of vital organs, and finally S.R. died.

The legal qualification of the crime in the judgment is the same as in the Indictment for the crime of Murder under Art. 123, paragraph 2(2) of the Criminal Code.

In the Section Protocol of an autopsy that was performed by the University of Sts. Cyril and Methodius - Faculty of Medicine's Institute of Forensic Medicine, Criminalistics and Medical Deontology, the course of the incident that occurred on 20.02.2021 was described, by stating that the victim was given two stab wounds in the area of the chest on the left back side and a cut wound in the area of the left buttock region, as a result of which there was a 14 cm long channel damage to the chest cavity through the muscles on the back side of

the chest, the seventh rib and the seventh intercostal muscle, the lower lobe of the left lung, the heart sac and the left atrium. These wrongdoings caused damage to the internal organs and blood vessels, which resulted in profuse bleeding, and this further led to the development of a severe shock state in the body, disruption and cessation of the work of vital organs and the death of the victim. In a neuropsychiatric expert report on the defendant, it was stated that at the time of taking the actions, the defendant was aware of his actions, but due to the disturbed marital relations with his wife - the victim, his mental tension increased during the quarrel with the victim, which somewhat reduced his ability to manage his own actions, but not to a degree that would call into question his ability to reason and make decisions.

No appeal was filed against the judgment.

The personality and the conduct of the perpetrator

The perpetrator was married, he was the father of five minor children. He had completed the second grade of school education. He was previously convicted. Before the incident, he was working and providing a living for his family with whom he lives in a rented facility. He was married to the victim for 15 years. Their relations with the victim were disrupted.

On the critical day 20.04.2021, around 7:30 p.m., the accused went to visit his neighbour in the apartment, after a short time the victim also came to the apartment and at one point a quarrel broke out between the accused and the victim. The accused got up from the sofa where he was sitting, took out from his belt a knife with a 19 cm long blade and a 12 cm long knife handle and suddenly stabbed the victim twice in the chest area on the left back side and cut a wound in the area of the left buttock region. Because of this, there was of 14 cm long channel damage to the chest cavity through the musculature on the back of the chest, the seventh rib and the seventh intercostal muscle, the lower lobe of the left lung, the heart sac and the left atrium. These wrongdoings caused damage to the internal organs and blood vessels, from which there was abundant bleeding, which led to the development of a severe shock state of the body, and it further resulted in the disruption and cessation of the work of vitally important organs and the death of the victim.

The perpetrator had previously been convicted for the criminal offence of Aggravated theft under Article 236 of the Criminal Code, for which a suspended sentence was imposed, and for the criminal offence of Theft under Article 235 of

the Criminal Code, for which he was sentenced to a 3 (three)-month prison term. In the Finding and opinion of the expert neuropsychiatrist, it is stated that, during the taking of the actions, the accused was aware of his actions, but due to the disturbed marital relations with his wife - the victim, his mental tension increased during the quarrel with the victim, which somewhat reduced his ability to manage his own actions, but not to a degree that would call into question his ability to reason and make decisions.

At the main hearing, the defendant admitted his guilt. Regarding the accountability of the perpetrator, the court found that during the commission of the crime the perpetrator was accountable.

Information about the victim

The victim was married to the accused person (the defendant) in a period of 15 years. She was a mother of five minor children, and was unemployed. They lived with the defendant in a rented housing facility. The defendant provided for her livelihood. He and the victim had a previously disturbed relationship.

Course of the criminal proceedings

On 20.04.2021 the Struga Basic Public Prosecutor's Office addressed the Struga Basic Court by filing a Proposal for imposing a detention measure and started an investigation proceedings for the crime of Murder pursuant to Art. 123, paragraph 2(2) of the Criminal Code. A detention measure was imposed against the accused by a decision dated 20.04.2021. After the end of the investigation proceedings, on 14.07.2021 the Struga Basic Public Prosecutor's Office filed an Indictment with the Struga Basic Court against the defendant on account of the same crime.

During the criminal proceedings, the accused pleaded guilty, so the Struga Basic Court on 18.10.2021 issued a judgment by which the defendant was declared guilty of the crime of Murder under Art. 123, paragraph 2(2) of the Criminal Code and was sentenced to a prison term of 12 (twelve) years, in which sentence the time spent in detention from the day of his deprivation of liberty to the day he started serving the prison sentence was included. The detention measure against the accused was extended until the start of serving the prison sentence.

No appeal was filed against the judgment.

From the date of the commission of the crime on 20.04.2021 until the issuance of the final judgment by the first-instance court on 18.10.2021, a total of five months and 28 days have passed.

Criminal sanction

During the judgment, the court sentenced the accused to a prison term of 12 (twelve) years. When choosing the type and amount of the criminal sanction, the court took into account the following mitigating circumstances: the personal circumstances of the accused, he is a young man, who before the criminal event worked and provided livelihood for his family and enabled his family to live in a rented apartment, the fact that he is the father of 5 minor children, the defendant's conduct at the main hearing before the court, he admitted his guilt for the crime that he had committed and he expressed sincere remorse for it, thereby contributing to the efficient completion of the criminal proceedings, as well as the fact that the defendant on the critical day, while taking of the actions, was aware of their meaning, but due to the disturbed marital relations with his wife, now deceased, his mental tension increased during the quarrel with the now deceased, which somewhat reduced his ability to manage his own actions, but not to a degree that would call into question his ability to reason and make decisions.

As aggravating circumstances, the court took into account the following circumstances: the accused's acting with premeditation (malice aforethought) when committing the crime; the degree of endangerment of the protected interest according to the law, bearing in mind that by committing the specific crime the right to life of the person is protected, and this protection has an absolute character, and in the specific case it is a crime committed while performing domestic violence, which indicates a higher degree of violation of the protected object according to the law; the former life of the accused, so far known as a perpetrator of criminal acts, who on two occasions was convicted of criminal crimes against property and once faced an effective prison sentence, which apparently did not help him to be more careful about his behavior in the future, bearing in mind that he had already faced the prison environment once.



COMMENTS

Before the commission of the crime, there was a disturbed relationship between the accused and the victim, with whom he was married for 15 years. He did not appear as a perpetrator of crimes in the field of domestic violence, but he was a criminogenic person, given that he was previously convicted on two occasions for property offences, and for one of them he was convicted and sentenced to 3 (three) months.

When meting out the sentence, the court did not deal with the relationship between the accused and the victim which preceded the event, which resulted in the commission of the crime. The court did not take into account the recklessness expressed by the fact that the incident took place in the presence of the defendant's neighbour, in his apartment. Also, when meting out the sentence, the court took into account the defendant's guilty plea, considering this as his contribution to the efficient completion of the proceedings. The Court considered as mitigating the circumstance that the accused was the father of five children, but it did not take into account that, by committing the femicide, the accused left those five children without their mother.

However, the Court demonstrated gender sensitivity when determining the punishment because, as an aggravating circumstance, he referred to the fact of violation of one of the most protected legal goods – the life, and noted that the offence was committed while the defendant was performing domestic violence, which indicates a higher degree of violation of the protected interest according to the law.

However, the sentence imposed by the Court is close to the legal minimum provided for the crime of Murder pursuant to Art. 123, paragraph 2(2) of the Criminal Code (a prison sentence of at least 10 years up to life imprisonment is foreseen).

The perpetrator was previously convicted of property crimes, but the court only declaratively stated this fact as an aggravating circumstance and did not note that the served prison sentence

for one of the crimes did not contribute to his reeducation and resocialisation.

Taking into account the standards pertinent to a trial within a reasonable time, the proceedings was conducted within a reasonable time, without unnecessary delays.

Case 4

Method of committing, characteristics, and legal qualification of the criminal offence

An Indictment KO no. 1/2020 of 3.07.2020 was filed with the Prilep Basic Court against the accused N.P. for the crime of Murder under Art. 123, paragraph 2(2) of the Criminal Code (an aggravated form of murder, committed while performing domestic violence), the crime of Murder under Art. 123, paragraph 1 of the Criminal Code (a basic form of murder) and two crimes of Murder under Art. 123, paragraph 1 in conjunction with Art. 19 of the Criminal Code (two crimes of attempted murder in its basic form).

The first-instance Court declared the accused N.P. guilty of the criminal offence Murder under Article 123, paragraph 2(2) of the Criminal Code, the criminal offence Murder under Article 123, paragraph 1 of the Criminal Code, and two counts of the criminal offence Murder under Article 123, paragraph 1 in conjunction with Article 19 of the Criminal Code, for the reason that it found that on 11.01.2020, in the town of P., at around 8:00 a.m., while performing domestic violence, the defendant intentionally deprived of life the deceased A.P., his wife with whom they had not lived together for several years, and T.K., A.'s mother, both from the town of P. When he arrived in front of the house at the address "... in P. where A.P. lived with her parents and the now deceased T.K. opened the house door to N.P., he committed the first crime by shooting at her three bullets with his semi-automatic handgun - brand "VIZOR 50", a 7.65 mm caliber with a factory number S09241 for which he had a permit and carried it with him. He thus inflicted three gunshot wounds to T.K., one behind the right earlobe in the neck area on the right side, and in the upper part of the right shoulder, causing death as a result of brain damage. Then he went upstairs where he killed his wife A.P. in the living room by shooting three bullets at her, thereby inflicting two gunshot wounds and one through-and-through wound, above the left buttock in the outer

left part of the abdomen, and in the upper third of the left thigh on the front outer side, resulting in death as a result of hemorrhagic shock caused by bleeding due to gunshot injuries. Then, still carrying the handgun, he turned towards the injured Z.K., who was the sister-in-law of the accused's wife and was on the upper floor. The accused tried to kill Z.K., but she grabbed his right arm that held the handgun in an effort to disarm him, and yet he still shot at her twice, hitting her in the knee of the left leg and in the upper part of the foot of the left leg, thereby inflicting bodily injuries which manifested as an incised wound in the area of the left knee and left foot, and a gunshot wound in the area of the thumb of the left foot, and afterwards they started to fight. After about 20 seconds the accused saw Lj.K. – the brother of the accused's wife (i.e. the accused's brother-in-law), who was about 1 meter away, so he aimed the handgun at Lj.K.'s head, trying to kill him, but Lj.K. put his right hand in front of him to defend himself, and when the accused fired the bullet, it entered Lj.K.'s arm and exited above the elbow. Afterwards the accused fired one bullet towards the head of the then already injured Lj.K., but because the injured person turned his head, the bullet hit him in the left ear, and when Lj.K. approached the accused, the latter fired a third bullet into Lj.K.'s stomach, which entered from one side and exited from the other, causing him severe physical injuries manifested by gunshot wounds in the abdominal area, inflammation of the stomach lining, and damage to the transverse part of the colon near the hepatic flexure. Despite of being severely injured, the injured person grabbed the accused by the throat and they started struggling, moving through the hallway into the bedroom, where they broke the windows and a glass table, and fought on the broken glass. During the entire time, the accused kept cocking the handgun and attempting to shoot Lj.K. At one point of time, when the victim's father V.K. encountered them, Lj.K. asked him to provide an object for the purpose of hitting the accused, and after receiving a hammer from V.K., Lj.K. used it to strike the accused's head, thereby incapacitating him.

The legal qualification of the criminal offences in the judgment is the same as in the Indictment for the criminal offence of Murder under Article 123, paragraph 2(2) of the Criminal Code, the criminal offence of Murder under Article 123, paragraph 1 of the Criminal Code, and two criminal offences of Murder under Article 123, paragraph 1, in conjunction with Article 19 of the Criminal Code (attempts to murder).

In two autopsy reports it was stated that the deceased mother-in-law of the accused had three gunshot wounds inflicted upon her, located behind the right earlobe in the neck area on the right side, and in the upper part of the right shoulder, resulting in death due to brain damage, while the wife of the accused

had two gunshot wounds and one gunshot through-and-through wound, above the left lumbar region on the outer left side of the abdomen, and in the upper third of the left shin on the front outer side. Her death occurred as a result of hemorrhagic shock caused by bleeding due to gunshot injuries.

In the autopsy report it was also noted that the deceased sister-in-law of the accused's wife had been hit by two bullets in the left knee and the upper part of the left foot, resulting in an incised wound in the area of the left knee and a lacerated wound on the thumb of the left foot. In the case of the injured brother of the accused's wife, it was established that a bullet entered his arm and exited above the elbow, then another bullet hit his left ear, and a third bullet struck his abdomen, entering from one side and exiting from the other one, resulting in a severe bodily injury manifested as a gunshot wound in the abdominal area, inflammation of the stomach lining, and damage to the transverse part of the colon at the hepatic flexure.

In the written psychiatric findings and opinion of the expert, MD S.P., who had an immediate meeting and prolonged contact and conversation with the defendant after the incident, as well as in the opinions of the experts, MD A.M. and MD A.R.O. that were given at the trial, it was stated that the defendant N.P. does not have any illness or temporary or permanent health condition that renders him incapable or with diminished capacity during the commission of the criminal offence, thereafter the defendant was conscious, oriented, realistic, and able to comprehend the significance of his actions during the commission of the criminal offence and able to manage his behaviour, he was accountable and had no history of illness, had never been sick, was born healthy, had no mental retardation, schizophrenia, or processual illness, he was neither in a state of affect during the commission of the criminal offence, nor did he commit the offence impulsively. Furthermore, his condition of acute psychosis that he had experienced during 2018 and 2019 was a fluctuating state of health, and the affective reactions of anger and rage due to his inability to see his child, the strained interpersonal relationships with the now deceased A., and additionally the event that should have happened on the day when the incident took place - the baptism of the accused's son, did not significantly affect his cognitive functions and willpower dynamics, they did not exhibit characteristics of pathological affect, meaning that the accused, at any given moment during the event, was able to comprehend his actions and act deliberately.

According to the psychological assessment and opinion of the psychologist S.E, a specialist in medical psychology, no data were obtained regarding the current

psychopathological dimensional deviations in the basic mental functions of the accused person such as perception, thinking, memory, attention, and visual-motor coordination. Instead it was stated that there is a tendency for symptom exaggeration or maximal overemphasis, that the defendant was emotionally immature with unstable personality, manifesting passive-aggressive features in the character structure, impulsivity, egocentrism, low frustration tolerance, lack of strength and of ability to cope with difficulties, poor aggression control, a propensity for stressful situations, and he was reacting with aggressive outbursts and violent behaviour.

In the forensic examination that was conducted by the Ministry of Interior's (MOI) Criminalistics Technical Examination and Expertise Department, it was established that the submitted handgun "VIZOR 50" of 7.65 mm caliber with a serial number C09241 was a semi-automatic handgun and was functioning properly, the submitted 9 cartridges, which originated from the 7.65 mm caliber ammunition, were fired from the gun "VZOR 50" of 7.65 mm caliber with a serial number C09241, and the analysed 5 bullets are 7.65 mm caliber ammunition, while the functionality of the submitted bullets was confirmed through test firings of 2 samples out of the submitted 5 bullets.

In the appellate proceedings, the Bitola Court of Appeal by its judgment KŽ. no. 184/21 dated 26.04.2021 upheld the judgment of the Prilep Basic Court, K. no. 533/20 dated 25.02.2021.

The personality and the conduct of the perpetrator

The perpetrator was from the town of P. He had secondary education and was unemployed. The accused was married to the victim for 22 years and they had one joint child who was 10 years old. The relationship between the accused and the victim had deteriorated, and for a period of approximately one to two years prior to the incident they did not live in the same household.

The accused N.P. was born healthy, had no history of illness, was not mentally ill, did not have schizophrenia or any other mental disorder. The accused's acute psychotic state that was diagnosed during 2018 and 2019 was a fluctuating condition. The accused had a strained relationship with the victim because he was unable to exercise visitation rights in order to meet with their joint child, which led to an affective reaction of anger and resentment. From a psychological perspective, no data were obtained regarding the then ongoing dimensional deviations in the basic mental functions such as perception, thinking, memory,

attention, and concentration, including visual-motor coordination. There was a tendency for symptom exacerbation, with maximal exaggeration of symptoms. The accused was described as emotionally immature and unstable, with passive-aggressive traits in his character structure, as a man who was impulsive, egocentric, with low frustration tolerance, lacked coping skills and resilience, had a poor aggression control, tendency towards stressful situations, and was reacting with aggressive outbursts and violent behaviour.

The accused has previously been convicted for a criminal offence under Article 380, paragraph 1 of the Criminal Code.

On 11.01.2020, the wife of the accused, along with their minor son, visited and stayed at the house of her parents – the mother T.K. and the father V.K., in P. The victims Lj.K. and Z.K., who were the brother and sister-in-law of the accused's wife, along with their two minor children Dj. and A., were also present and staying at the house. They had the intention to celebrate the baptism of the joint son of the accused and the victim on that day. The night before the event everyone was at home and sleeping. The mother and father of the victim were sleeping in the small bedroom on the upper floor of the house, the sister-in-law with the minor son were sleeping in the large bedroom on the upper floor, while the victim with her son and the son of her brother were sleeping in the open area of the living room. The injured party Lj.K. arrived late in the evening and stayed in the lower floor of the house where there was a combined office and residential space.

On 11.01.2020, around 8:00 a.m., the defendant arrived at the house of his wife's parents and rang the front doorbell. The door was opened by his mother-in-law. The defendant immediately fired three bullets from his semi-automatic handgun, "VIZOR 50", with a caliber of 7.65 mm, with factory serial number C09241, which he had with him, causing three gunshot wounds to the back of the right earlobe, the right side of the neck, and the upper part of the right shoulder of the victim, and the victim died instantly as a result of the gunshot wounds of the brain.

The defendant climbed the stairs to the floor of the house where his wife and her sister-in-law, along with her son, Dj. and the victim's son, were already in the living room. In their presence, the defendant shot and killed his wife by firing three bullets and causing two gunshot wounds, one above the left inguinal region in the outer part of the abdomen, and one in the upper third of the left shin from the front outer side. Death occurred shortly thereafter at the scene as a result of hemorrhagic shock caused by bleeding due to gunshot injuries. The minor child,

upon seeing his mother lying covered in blood, threw himself onto her, kissed her, and cried out to the defendant, "Don't shoot my mommy, daddy!"

The sister-in-law of the accused's wife yelled at the accused to stop shooting because the children were here, so she went into the bedroom to hide, but after a short while she came out again into the living room, where the accused was about 1 meter away with a handgun in his hand, ready to kill her. In the meantime, the sister-in-law of the accused's wife attempted to disarm the accused and rushed towards him. The accused uttered the words, "If you will celebrate without me, I will kill you all", and fired two shots from the handgun, hitting the sister-in-law of his wife in the left knee and the upper part of her left foot, causing her bodily injury in a form of laceration on the left knee and left foot, as well as a gunshot wound on the thumb of her left foot. Despite this, they continued to struggle.

When he heard the gunshots, the injured Lj.K., who was the brother-in-law of the accused, ran towards the upper floor of the house where he noticed his mother lying lifeless on the floor. On the same floor, he also noticed his sister, who was the wife of the accused, lying lifeless on the floor. He saw his own wife struggling with the accused. When the accused realised that Lj.K. had arrived, he let go of Lj.K.'s wife and pointed the handgun towards Lj.K. The accused then fired a shot towards the head of Lj.K. with the intention to kill him, but Lj.K. raised his right arm in front of him, and the bullet entered his arm above the elbow. After this, the accused fired another shot towards the head of Lj.K., but Lj.K. turned his head and was hit in the area of his left ear. When the injured Lj.K. saw that there was no other way out, and with the aim of protecting the other members of the family, he jumped towards the accused, and at that moment the accused fired a third shot at the injured Lj.K., hitting him in the stomach. The bullet entered the injured Lj.K. from one side of the stomach and exited from the other side, causing him severe bodily injury expressed as a gunshot wound in the abdominal area, inflammation of the stomach lining, and damage to the transverse part of the large intestine at the hepatic flexure.

Although feeling weakened due to the injuries sustained, the injured Lj.K. grabbed the accused by the throat and they continued to struggle, moving from the hallway to the bedroom where they shattered a glass table, causing the accused's handgun to fall from his hand. The accused picked up the handgun again and started to reload it with the intention of continuing to shoot, but at that moment the injured Lj.K. managed to grab it with his left hand and began hitting the accused on the head with his right hand in an attempt to disable him from shooting. At the same time, the accused continued to reload the handgun

and fired 6-7 shots that hit the walls of the room. The injured Lj.K. managed to turn the accused around, who kicked and shattered the windows of the bedroom with the feet, causing both of them to fall on the floor, where they continued to struggle among the broken glass from the shattered table and windows. The injured Lj.K. ended up on top of the accused, and the accused fired several more shots in an attempt to hit the injured Lj.K., but he failed to hit the target. At that moment, the accused's father-in-law (father of Lj.K.) entered the room, and the injured Lj.K. asked him to provide an object for using it against the accused. The accused's father-in-law gave Lj.K. a metal hammer, which the injured Lj.K. used to strike the accused several times on the head and torso, incapacitating him and preventing him from firing further shots.

Regarding the accountability of the perpetrator, the court found that during the commission of the crime the perpetrator was accountable.

Information about the victim

The victim in the criminal case of Murder under Article 123, paragraph 2(2) of the Criminal Code, was the defendant's wife. The victim in the criminal case of Murder under Article 123, paragraph 1 of the Criminal Code, was the defendant's mother-in-law. The victims in two criminal cases of attempt to Murder under Article 123, paragraph 1 in conjunction with Article 19 of the Criminal Code, were the defendant's brother-in-law and the latter's wife.

The case files do not contain specific data about the victims of the criminal offences, except for their familial relationships and the previously mentioned strained relations between the defendant and his wife.

Course of the criminal proceedings

On 13.01.2020, the Prilep Public Prosecutor's Office before the Prilep Basic Court filed a Proposal for imposing detention measure and initiated an investigation proceedings for the criminal offences of Murder under Article 123, paragraph 2(2) of the Criminal Code, Murder under Article 123, paragraph 1 of the Criminal Code, and two counts of Murder under Article 123, paragraph 1 in conjunction with Article 19 of the Criminal Code (attempt to murder). The defendant was placed in detention on remand. Upon completion of the investigation procedure, on 3.07.2020, the Prilep Public Prosecutor's Office filed before the Prilep Basic Court an Indictment against the defendant for the same criminal offences.

During the course of the criminal proceedings, the following evidence were presented: a record of the found items; a record of the on-site inspection conducted by the Ministry of Internal Affairs, Prilep Police Station, on March 11, 2020; a review of the weapon registry from 13.01.2020, a confirmation of temporarily seized items from S.P. dated 11.01.2020; decision KPP-2/20 from 11.01.2020, issued by the Prilep Basic Court; invoice No. 02-20 from DPPU Vesa DOOEL Prilep; Forensic autopsy protocol No. 701/2-20 from 11.01.2020, for the deceased A.P., and Forensic autopsy protocol No. 701/20 from 11.01.2020, for the deceased T.K., both conducted by MD Z.V. and MD M.N.; expert opinion and findings from MD S.P., a specialist in psychiatry, forensic-technical processing and securing of traces of biological origin from the Ministry of Interior, Forensic-Technical Institute Skopje; examination of traces of biological origin from the Ministry of Interior, Forensic-Technical Institute Skopje, dated 5.03.2020; examination of firearms, ammunition, and comparative analysis of cartridge cases and projectiles from the Ministry of Interior, dated 21.02.2020; analysis report of firearm traces from the Ministry of Interior, Forensic-Technical Institute, dated 10.02.2020, expert opinion No. TD 89/20 dated 28.02.2020; release letter No. 91/20 from the University Clinic for Digestive Surgery concerning L.K.; specialist report from N.P. dated 24.10.2019, from Psychiatry Kumanovo, and specialist reports from "Ego Medika" Specialist Psychiatry Clinic dated 24.12.2017, concerning N.P.; four reports concerning Z.K.; four reports concerning A.P.; two specialist-subspecialist reports concerning A.P.; record of on-site inspection at the scene by OJO Prilep, dated 11.01.2020; list of items that were seized from the defendant; expert opinion and findings by MD Z.K.; one 7.65 "Browning" bullet PPU 92-7.65 with box no. 657/4; one "Samsung" mobile phone in a white colour without A SIM card, model GT 19185; one H. mobile phone in a black colour with SIM card; one sheet of paper with a text labeled 6 K-533/20; a notarial act from Notary B.D.ODU, no. 1201/18 dated 18.12.2018; one hammer, one handgun, three bullets, nine projectiles, lower tracksuit pants and blouse, long-sleeved black shirt, jeans, upper and lower pajamas, black tank top with straps, long-sleeved blouse, upper pajamas, lower tracksuit pants and black tank top with measurements, handmade cigar with plant material; finding, evaluation and opinion of the Ministry of Defense Medical Commission No. 516 dated 10.05.2001; report of the specialist - subspecialist at the Public Health Institution "EGO Medika" from Kumanovo, MD D.G.-P. No. 1974/1, dated 05.11.2018; report of the specialist - subspecialist at the Public Health Institution "EGO-Medika" from Kumanovo without number, dated 20.11.2018; the report of the specialist - subspecialist at the Public Health Institution "EGO-Medika" from Kumanovo; MD D.G.-P. No. 2338/1, dated 24.12.2018, and the report of the specialist - subspecialist at "EGO Medika" by MD D.G.-P. from K. no. 2279/3/1, dated 24.10.2019; review of the testimony of the witness from the evidence list

of the defence, MD D.G.-P., recorded in minutes K-533/20 dated 30.09.2020 and minutes from 21.10.2020; the expert opinion of the expert witness MD Z.K., recorded in minutes K-533/20 dated 02.12.2020; and written finding and opinion from the Bureau of Forensic Examinations Skopje SV 1-0270-1/2020 from January 2021, prepared by expert witnesses A.R.O., specialist psychiatrist, A.M., specialist psychiatrist, and S.E., clinical psychologist. The expert witnesses MD A.M. and MD A.R.O. were heard, and the accused was examined.

The injured party Lj.K. (the brother-in-law of the accused), Z.K. (the wife of the accused's brother in law), and V.K. (the father-in-law of the accused) in their testimonies before the court stated that on 11.01.2020, the wife of the defendant along with her minor son A. had come to Prilep and stayed at the house of her parents - the late T.K. and the witness V.K. The injured parties Lj.K. and Z.K., who were the brother and sister-in-law of the accused's wife, as well as the brother-in-law and sister-in-law of the accused, along with their two minor children Dj. and A., also came and stayed there. They had intended to baptize the accused's son on 11.01.2020. However, in the night before the incident, everyone was at home and asleep, as stated above. The accused's mother-in-law was awake, and around 8:00 a.m., the accused arrived and rang the bell on the front door of the house. His mother-in-law opened the door, and the accused immediately shot and killed her by firing three bullets from a semi-automatic handgun "VIZOR 50" of 7.65 mm caliber, with a factory number S09241.

The injured Z.K. testified in the court that after the accused had killed the deceased T.K., he climbed up the stairs to the attic of the house where the accused's wife had already left the living room, along with the injured Z.K. and her son Dj., who was sleeping with her. The accused killed his wife in their presence by firing three shots and causing two gunshot wounds and one through-and-through wound. The accused's minor child, upon seeing his mother lying in a pool of blood, threw himself on her, kissing her and telling the accused, "Don't shoot my mommy, daddy!" The injured party Z.K. tried to take the accused's handgun away and rushed towards him, and then the accused said, "If you will celebrate without me, I will kill you all", and he fired two shots, hitting and injuring Z.K.

The injured party Lj.K. testified that, upon hearing the gunshots, he ran barefoot in his pajamas and went to the upper floor of the house, where he saw his mother lying lifeless on the floor, and his sister also lying lifeless on the floor of the upper floor. He noticed the injured party Z.K. (who was his wife) and the accused struggling. When the accused saw that the injured party Lj.K. had arrived, he let go of the injured party Z.K. and pointed the handgun towards the injured

party Lj.K., firing a shot towards his head. The injured party Lj.K., in an attempt to protect himself, raised his right arm in front of him, resulting in the bullet entering and exiting above his elbow. The accused fired another shot at the victim's head, but the victim turned his head and was hit in the area around his left ear. When the injured Lj.K. saw that there was no other way out, he lunged at the accused, and the accused fired a third shot at the injured Lj., hitting him in the stomach. However, they continued to struggle until the arrival of the accused's father-in-law V.K., and at the request of the injured Lj.K., the latter was given a hammer from V.K. which he used to strike the accused in the torso and thereby to neutralise him.

The witness G.K. stated that the injured party Z.K., along with her son Dj. and A., fled to G.K.'s house, which was immediately next to the house where the criminal incident occurred, and asked her to call the police and emergency services, which the witness promptly did.

The accused stated that he does not remember anything related to the criminal incident due to consuming numerous medications for his mental health issues.

The accused's defense attorney stated that due to the accused's condition, characterised as an anxious depressive disorder, which constituted a mental impairment resulting from external stress factors which manifested in a form of a chronic stress, the accused had very limited ability to adapt to his environment, thus leading to impulsive actions, such as the one that occurred during the criminal incident.

According to the judgment of the Prilep Basic Court, the accused was pronounced guilty of the crime of Murder under Article 123, paragraph 2(2) of the Criminal Code, the crime of Murder under Article 123, paragraph 1 of the Criminal Code, and two counts of Murder under Article 123, paragraph 1 in conjunction with Article 19 of the Criminal Code (attempt to murder). The accused was sentenced to a single punishment of life imprisonment, which included the time spent in detention since the day of his deprivation of liberty.

The Appellate Court, by its judgment no. 184/21 dated 26.04.2021, upheld the judgment of the Prilep Basic Court.

Regarding the allegations against the defendant that he does not remember the actions that he had taken, and the statements made by the defence that, as a result of his impaired mental health, the defendant had a very limited ability to adapt

to his surroundings, which led to his impulsive behavior, including the criminal event in question, both the Prilep Basic Court and the Bitola Appeal Court have ruled that they do not accept them for reasons related to all the conducted expert evaluations regarding the defendant's accountability, including the evaluation by the expert MD S.P, the written psychiatric findings and opinions from the experts MD A.Z. and MD A.R.O, who gave their testimonies in the court, as well as the psychological findings by the psychologist S.E., a specialist in medical psychology. It was established that the defendant, at the time of committing the criminal act, was capable of comprehending and managing his actions, and that therefore, from a legal perspective, the defendant was considered to be accountable during the commission of the criminal act.

From the date of committing the crime on 11.01.2020, until the judgment was delivered by the appellate court on 26.04.2021, a total of one year, three months, and 15 days had passed.

Criminal sanction

The Prilep Basic Court has sentenced the defendant to life imprisonment. When determining the type and length of the criminal sanction, the court only took into account the circumstance of the defendant's financial situation as a mitigating factor. The court took into consideration the following aggravating circumstances: the nature and character of the criminal offences that were attributed to the defendant, their number (having committed 4 criminal offences), the manner in which the criminal offences were committed, the persistence shown in their execution, the intention to deprive other family members of life, the societal danger posed by committing such criminal offences where the protection of human life is the highest constitutional right and inviolable for every individual, the motives behind the commission of the criminal offences, the degree of criminal responsibility of the defendant, and the circumstances under which the offences were committed. These circumstances were also accepted by the Bitola Court of Appeal.



COMMENTS

In this case, both the Prilep Basic Court and the Skopje Appeal Court expressed a serious stance regarding the interest protected by the legal definition of the crimes that have been committed by the defendant. Although the femicide is not explicitly mentioned

as an aggravating circumstance in this specific case, the imposed sanction on the defendant leads to the conclusion that the courts properly fulfilled their duties.

Considering the standards of timely proceedings, the volume of evidence, and the fact that an appeal was filed against the first-instance judgment, this proceeding was conducted without unnecessary delays.

Case 5

Method of committing, characteristics, and legal qualification of the criminal offence

An Indictment, no. 476/18 dated 26.02.2019, against the accused I.K. for the criminal offence of Murder under Article 123, paragraph 2(1) of the Criminal Code (aggravated form of Murder – a Murder committed in a cruel or insidious manner), has been filed with the Ohrid Basic Court.

The first instance Court has found the accused I.K. guilty of the criminal offence of Murder under Article 123, paragraph 2(1) of the Criminal Code, on the grounds that it has been established that during an unspecified time period between 16:30 on 29.08. 2018, and 17:00 on 31.08.2018, acting with intention and in a cruel manner, he deprived the late B.P. of life by placing a plastic bag over her head, knowing that it would interrupt her breathing and prevent her from inhaling oxygen, and by tying the plastic bag with an elastic band around her neck, while watching the late B.P. struggle and suffocate, thereby causing her death by asphyxiation.

The legal qualification of the criminal offence in the judgment is the same as in the Indictment for the criminal offence of Murder under Article 123, paragraph 2(1) of the Criminal Code.

According to the Section Protocol with finding and opinion Kp. 645/39-18, dated 01.09.2018, and the immediate examination of the victim by the forensic experts on pathology, the death of the victim was violent and occurred as a result of mechanical asphyxiation that was caused by simultaneous closure of the airways. The interruption of breathing of the victim had occurred due to the closure of the mouth and nose with a gradually tightening plastic bag over

the head, secured with an elastic band around the neck, resulting in a rapid fatal outcome. Additionally, a bruise with dimensions of 11x10 cm was observed on the left temporal region of the victim's head during the autopsy, indicating the application of a blunt force with strong intensity, suggesting the possibility that the victim may have been unconscious prior to the occurrence of death.

In the Expertise Report B-1659/18, issued by the Ministry of Interior's Criminalistic Police Department in Skopje, and in the statement of the expert witness, it was noted that traces of biological origin were found on the examined material - a piece of elastic band tied in a knot around the neck of the deceased B.P, which amounts to a mixture of biological traces, some of which originate from the deceased B.P, and it cannot be excluded that some of the traces originate from the accused I.K. It was further established that additional identification was performed through analysis of short tandem repeat (STR) site on the Y chromosome, and a match was found in the alleles of the examined site with the DNA profile obtained from the Y chromosome of the accused.

In the appellate procedure before the Bitola Court of Appeal, its Decision No. 27/20 of 4.03.2020 upheld the appeal of the defence, and the first-instance judgment was overturned. In its decision, the Appellate Court stated that the lower court did not substantiate the essential elements of the criminal offence that were attributed to the accused - a murder committed in a cruel or insidious manner. The Appellate Court also instructed the first-instance court to summon the expert witness who conducted the DNA analysis of the traces from the elastic band that was used to tie the victim's neck, for the purpose of supplementing the earlier findings and opinion regarding the DNA profiles that were identified in the traces. The Court further noted that a psychiatric examination of the perpetrator had not been conducted.

Following the instructions of the Bitola Court of Appeal, the Ohrid Basic Court held a main hearing at which the Public Prosecutor maintained the crime's legal qualification as a Murder under Article 123, paragraph 2 in conjunction with paragraph 1 of the Criminal Code.

The lower court, with its judgment K. no. 76/20, dated 26.03.2020, found the accused I.K. guilty of the criminal offence of Murder under Article 123, paragraph 1 of the Criminal Code, as it established that during the time period from 16:30 on 29.08.2018 to 17:00 on 31.08.2018, acting with intention, I.K. deprived the deceased B.P. of her life by placing a plastic bag over her head, knowing that it would interrupt her airflow and prevent her from breathing, thereby causing

the desired outcome and during the specified time, he placed a plastic bag over the deceased's head, securing it with an elastic band around her neck, thereby depriving her of oxygen and causing her death by asphyxiation.

The legal qualification of the criminal offence in the judgment is not the same as the legal qualification proposed by the Public Prosecutor in the submitted Indictment. The court, *ex officio*, changed the legal qualification of the criminal offence from Murder under Article 123, paragraph 2(1) of the Criminal Code (murder in a cruel or insidious manner) to Murder under Article 123, paragraph 1 of the Criminal Code (the basic form of this criminal offence). The court made this decision in compliance with the instructions from the Bitola Appeal Court. In particular, the Ohrid Basic Court in its judgment explained that, based on the instructions from the higher court, it reclassified the criminal offence that was attributed to the defendant by taking into consideration that the court's statement of facts included finding that the death of the deceased person had occurred as a result of mechanical asphyxiation, caused by simultaneous closing of the airways, and the cessation of breathing of the deceased person had occurred due to the closing of the mouth and nose of the deceased with the gradually tightening plastic bag on the head, fastened with an elastic band around the neck, resulting in a rapid fatal outcome. Furthermore, the court specifically took into consideration the finding by the MD K. that a hematoma with dimensions of 11x10 cm had been identified in the left occipital region of the deceased's head during the autopsy, indicating the application of blunt force with strong intensity, which suggested that the victim may have been in an unconscious state prior to death. For these reasons, the court determined that the murder of the victim was not committed in a cruel or insidious manner, and therefore it rejected the legal qualification proposed by the Public Prosecutor for the crime of Murder under Article 123, paragraph 2(1) of the Criminal Code.

The judgment was appealed by both the Public Prosecutor and the defence. The judgment of the Basic Court in Ohrid was upheld by the judgment of the Bitola Appeal Court, KŽ no. 240/20, dated 1.07.2020.

The personality and the conduct of the perpetrator

The perpetrator lived in a village near Ohrid. He had completed primary education and worked as a lumberjack. He was a father of two adult children. The accused was in a non-marital relationship with the victim, and they lived together for approximately 11-12 months prior to the incident.

In the two to three months leading up to the incident, there were frequent arguments and disputes between the accused and the victim, with whom he was in a non-marital relationship. During these arguments, the accused had physically assaulted his partner. The victim, after starting a cohabitation with the accused, changed her behaviour by withdrawing and cutting off contacts with other people. After the victim started living with the accused, she occasionally visited the house where her daughters lived, always in her two rooms. On one occasion on 22.04.2018, the accused came alone to the house, in an intoxicated state, threatened, shouted loudly, and cursed at the victim, even though she was not with him, he also damaged and knocked over the items in the premises. As a result, the daughters of the victim called the police, and the husband of one of the daughters suffered a heart attack due to the distress caused by the incident.

The accused, during the time period after 16:30 on 29.08.2018, until 17:00 on 31.08.2018, at the house where they previously lived together, intentionally and in a cruel manner deprived the victim of life by placing a plastic bag over the victim's head, tying it with an elastic band around her neck, depriving the victim of oxygen and thereby causing the death of the victim. The cessation of breathing of the deceased occurred due to the closing of the mouth and nose of the deceased with the gradually tightening plastic bag over the head, fastened with an elastic band around the neck, resulting in a rapid fatal outcome.

The accused had previously been repeatedly convicted for criminal offences, in respect of for which he had been given effective prison sentences, and as a minor, he had been convicted and served a sentence for the committed criminal offence of Murder under Article 135, paragraph 1 of the Criminal Code of the Socialist Federal Republic of Yugoslavia.

During the proceedings, no psychiatric assessment of the accused was conducted.

The perpetrator did not plead guilty during the trial. He claimed that he was at a logging site with his own witnesses during the critical period. The defence counsel at the main hearing argued that there is no evidence that the accused is the one who deprived the victim of her life.

Regarding the accountability of the perpetrator, the court found that during the commission of the crime the perpetrator was accountable.

Information about the victim

The victim was a widow and had two daughters. About 11-12 months prior to her death, she lived with the accused in a common-law relationship, in her own house in a village near Ohrid. A part of the house where the victim and the accused lived was owned and possessed by the victim. It was used as an enclosed terrace and a shop where the victim worked, engaging in sewing activities.

After starting a common-law relationship with the accused, the victim changed her behaviour by withdrawing and cutting off contacts with other people. In particular, during the duration of the common-law relationship between the victim and the accused, the victim was exposed to domestic violence, and the accused exerted aggressive behavior and was physically violent towards her. As a result, she changed her behaviour, limited her contacts with other people, and worsened her relationship with her daughters. In the last two to three months leading up to the incident, there were frequent arguments between the accused and the victim, and during court hearings the accused was reported to have exerted physical violence against the victim.

Course of the criminal proceedings

On 31.08.2018, the Ohrid Basic Public Prosecutor's Office filed a Proposal for imposing detention measures and initiated an investigation proceedings for the criminal offence of Murder under Article 123, paragraph 2(1) of the Criminal Code. The accused was placed in detention on remand by a decision dated 31.08.2018. After the completion of the investigation proceedings, on 26.02.2019, the Ohrid Basic Public Prosecutor's Office filed an Indictment with the Ohrid Basic Court against the accused for the same criminal offence.

During the criminal proceedings, the following evidence were presented: testimonies of witnesses V.P. and M.P., and the expert witness Lj.T.; reading of a document from the Veles Basic Court that was issued concerning the defendant, dated 28.09.2018; report from the forensic examination B-1659/18, issued by the Ministry of Interior's Sector for Criminalistic and Technical Operations – Skopje; record of alcohol analysis in blood and urine no. 1201/1 for 2018 with an attached cost list, and record of alcohol analysis in blood and urine no. 1201/3 for 2018 with an attached cost list, both prepared by the Ministry of Interior's Sector for Criminalistic and Technical Operations – Skopje; analysis of phone communication No. 32.2.2-188 dated 02.11.2018, prepared by the Ministry of Interior's Sector for Organized Crime and Corruption, pages 1-6 with an attached 1 CD from the

VIP operator' review of data provided on a CD by the mobile operator VIP ONE with letter no. 13-6016/2 dated 09.10.2018; notification of analysis of textile fibers MT458/18, delivered with the letter no. 23.5-70299/1, dated 14.09.2018; preliminary analysis report reg. no. 23.5.2.1-70299/2, dated 09.01.2019, issued by the Ministry of Interior's Sector for Criminalistics and Technical Operations – Skopje; notification reg. no. 23.5.1.2.2-70299/1, dated 05.09.2018, issued by the Ministry of Interior's Sector for Criminalistics and Technical Operations – Skopje; minutes on examination of the expert witness MD Z.K.; the autopsy report with findings and opinion no. 645/39-18, dated 01.09.2018, issued by the primary autopsy experts MD Z.K. and MD M.N., along with two requests for cost reimbursement dated 08.09.2018 and supplement to the opinion dated 11.06.2019 by MD Z.K. and MD M.N. that were read; examination of the defense witnesses and of the accused I.K.; and conducting a review and reproduction of an image from the material contained on a CD from the autopsy.

During the trial, the witnesses stated that they were immediate neighbours of the victim, their houses were adjacent, and they had frequent interactions with the victim, based on their familial relationship. They also had knowledge that there were disputes between the accused and the victim, and that they had seen the victim the day before the murder, "Wednesday, after 16:00." Specifically, one witness, a neighbour of the victim, stated that as a neighbour he exercised daily observations of the victim, and for two to three months prior to the murder the relationship between the accused and the victim had deteriorated, with frequent arguments, physical assaults, and yelling by the accused, who had physically attacked the victim.

The daughters of the victim, who were also injured parties in the trial, stated that they had been living with the family in a part of a house in Ohrid, which was partly owned by the victim. This part was physically separated - two rooms with a separate entrance. They further stated that their mother, the victim, had requested their agreement to sell the house in which they were living; and that when the victim first introduced to them the accused, who came to the house where they were living together, the victim requested that they sell the house, and the accused became angry and allegedly set fire to that house using gasoline. The victim reported the incident to the police due to the pressure she was facing, and the incident allegedly occurred on 22.04.2018, when the accused came to their house, he was alone but was yelling, cursing, breaking things, and threatening the victim, which greatly distressed them, they called the police, and due to the intense distress, the spouse of one of the injured parties (victims) suffered a heart attack.

The witnesses, who are relatives of the accused, stated that during the period from 25.08.2018 to 31.08.2018, when the accused was detained on remand, he stayed at the family house in Struga, where he worked intermittently with his son-in-law and grandson on chopping wood.

The accused claimed that on 28.08.2018, he was in Struga and got injured while working. As a result, he stayed home on the 29th of August, while other family members went to work in the village. However, later in the day, he worked with his malfunctioning woodcutting machine along with his grandson. In the afternoon, he worked on repairing the machine after buying a motor oil from the store. Then, in the evening, he and his son-in-law and grandson continued repairing the machine. But unlike the actions mentioned individually for each day, on 30.08.2018, he only repaired the machine, and on 29.08., he went out alone to buy oil and parts for the machine, and on other days, he went out, worked, and returned home at different times.

The judgment of the Ohrid Basic Court found the accused guilty of the criminal offence of Murder under Article 123, paragraph 2(1) of the Criminal Code, and sentenced him to 20 (twenty) years of imprisonment, taking into account the time spent in detention since the day of his deprivation of liberty.

The Appellate Court by its decision overturned the first-instance judgment, stating that the essential elements of the criminal offence of murder, committed in a cruel or insidious manner, were not sufficiently reasoned in relation to the accused. Additionally, the Appellate Court instructed the first-instance court to summon the expert who conducted the DNA analysis in order to supplement the findings and opinions regarding the DNA profiles obtained from the traces on the elastic band that tied the nylon which was used to suffocate the victim. It was also noted that no psychiatric evaluation had been conducted concerning the accused. For these reasons, the case was remitted to the first-instance court for a retrial.

Following the instructions of the Bitola Appeal Court, the Ohrid Basic Court held a main hearing, during which the Public Prosecutor maintained the legal qualification of the offence as a Murder under Article 123, paragraph 2(1) of the Criminal Code.

The Ohrid Basic Court, after a retrial and re-examination of the same evidence, found the defendant I.K. guilty, but it did not accept the legal assessment of the case that was proposed by the Public Prosecutor, instead finding the defendant I.K. guilty of the criminal offence of Murder under Article 123, paragraph 1 of the

Criminal Code, and sentenced him to 15 (fifteen) years of imprisonment, which included the time spent in detention since the day of his deprivation of liberty.

An appeal was filed by the Public Prosecutor against the judgment due to the change of the legal qualification of the criminal offence in comparison with the Indictment, and an appeal was also filed by the defence. In relation to the appeals, the Bitola Appeal Court issued the Judgment no. 241/20, dated 1.07.2020, by which it upheld the judgment of the Ohrid Basic Court.

From the date of the commission of the criminal offence (from the time period after 16:30 on 29.08.2018 to 17:00 on 31.08.2018), until the issuance of the judgment by the Bitola Appeal Court no. 241/20 on 1.07.2020, one year, 10 months, and one day have passed.

Criminal sanction

At the occasion of issuing the initial first-instance judgment, the court sentenced the defendant to a term of imprisonment of 20 (twenty) years. In determining the type and severity of the criminal sanction, the court took into consideration the following mitigating circumstances: the personal, family, and material circumstances of the defendant, the fact that the defendant is an adult, and the advanced age of the defendant. As aggravating circumstances, the court considered the severity of the committed criminal offence, the degree of threat to the protected interest, the harmful consequences resulting from the offence, the strong public impact and public threat, particularly due to the manner in which the criminal offence was committed, and the defendant' prior convictions, as the defendant is a repeat offender (recidivist) of such criminal offences.

The second judgment, by which the defendant was sentenced to a 15 (fifteen) years prison term, took into consideration the same mitigating and aggravating circumstances as the first-instance court. These mitigating and aggravating circumstances were also accepted by the Bitola Court of Appeal.



COMMENTS

According to the data from the case and the evidence presented during the proceedings, the accused and the victim were living in a non-marital partnership (cohabitation). These relations fulfill

the conditions defined in Article 122(19) of the Criminal Code, which defines the concept of domestic violence. This fact was established by the Ohrid Basic Court in its judgments.

Furthermore, the Ohrid Basic Court has established that during the cohabitation between the victim and the accused, the victim was subjected to domestic violence by the accused. The accused manifested aggressive behaviour, was physically violent, which resulted in the victim's change of her behaviour, limitation of her contacts with others, and deterioration of her relationship with her daughters. The Ohrid Basic Court also established that in the two to three months leading up to the incident, there were frequent conflicts between the accused and the victim, and during the court hearings it was stated that the accused had exerted physical violence against the victim. These facts were also accepted by the Bitola Appeal Court.

However, despite the established facts by the Ohrid Basic Court and the Bitola Appeal Court that the accused and the victim were living in a cohabitation, during which the accused perpetrated domestic violence against the victim, resulting in the murder of the victim, the Ohrid Basic Court remained gender-insensitive for the following reasons:

Specifically, the Ohrid Basic Court had the opportunity, according to Article 398, paragraph 2 of the Criminal Procedure Code, to amend the legal qualification of the criminal offence from Murder under Article 123, paragraph 2(1) of the Criminal Code (Murder committed in a cruel or insidious manner) to Murder under Article 123, paragraph 2(2) of the Criminal Code (Murder committed while performing domestic violence), as for both criminal offences the same penalty is prescribed, thereby avoiding violation of the principle "not to cause detriment to the accused".

However, the Ohrid Basic Court has decided to change the legal qualification in favour of the accused, by reclassifying the aggravated form of the criminal offence of aggravated form of Murder under Article 123, paragraph 2(1) of the Criminal Code, into a basic form of Murder under Article 123, paragraph 1 of

the Criminal Code. Consequently, based on this amended legal qualification, the Ohrid Basic Court sentenced the accused to a reduced term of 15 (fifteen) years of imprisonment, which is more lenient compared to the initially imposed sentence of 20 (twenty) years of imprisonment. For the same reasons, it can be argued that the Public Prosecutor was gender insensitive, as no resort was made to the possibility, pursuant to Article 393, paragraph 1 of the Criminal Procedure Act, to change the legal qualification of the criminal offence to a Murder under Article 123, paragraph 2(2) of the Criminal Code (Murder committed while performing domestic violence) before the conclusion of the main trial. It was not done, because the Public Prosecutor maintained the initial legal qualification of the criminal offence.

The Public Prosecutor filed an appeal, complaining about the court's failure to accept the Public Prosecutor's legal qualification of the crime as a Murder under Article 123, paragraph 2(1) of the Criminal Code (Murder committed in a cruel and insidious manner), but no reference was made to the domestic violence that the accused had perpetrated against the victim, which eventually caused deprivation of the victim of her life.

It should be noted that, according to the legal theory, when an accused's actions involve multiple aggravated forms of the crime of Murder for which the same penalty is prescribed, there is a fictitious concurrence of multiple criminal offences in a form of alternativity, and it is at the discretion of the Public Prosecutor to pursue the prosecution of the perpetrator under a provision of his/her choice. The same applies regarding the Court when rendering a judgment, given that according to Article 398, paragraph 2 of the Criminal Procedure Act, the Court is not bound by the prosecutor's proposals regarding the legal qualification of the offence.

Although an appeal was filed by the Public Prosecutor's Office regarding the basic Court's change of the legal qualification of the crime, the Bitola Court of Appeal dismissed the appeal and upheld the position of the Ohrid Basic Court, maintaining unchanged the judgment which declared the defendant guilty and convicted the defendant for the basic form of the criminal offence of Murder

under Article 123, paragraph 1 of the Criminal Code. This indicates that the Bitola Court of Appeal remained “silent” on the fact that the defendant deprived his cohabiting partner of her life in the course of performing domestic violence.

Considering the standards pertinent to a trial within a reasonable time, the volume of evidence, and the fact that appeals were filed twice against the first-instance judgments, the proceeding was conducted without unnecessary delays.

» CONCLUSIONS AND RECOMMENDATIONS

This analysis aims to describe and sublimate the state of affairs regarding femicide in the Republic of North Macedonia, both from a systemic and normative aspect, as well as from an empirical aspect.

The concluding observations concerning the existing normative framework and systemic guidelines refer to the fact that, primarily, there should be greater awareness of the general public about the phenomenon of femicide, but also a clear description and recognition of that crime that is specific in its nature, as opposed to the basic form of the crime of murder.

The basic human rights and freedoms, but also the remaining body of human rights, as regulated by the Constitution of the Republic of North Macedonia and further elaborated in the substantive laws, offer a good basis for protecting women against domestic and gender-based violence and against femicide as their most extreme phenomenon. This view is due to the considerable number of laws that directly or indirectly regulate this matter and have been passed in the last few years, such as: the Free Legal Aid Act (2019); the Prevention and Protection against Discrimination Act (2020); the Prevention and Protection against Violence against Women and Domestic Violence Act, and the Equal Opportunities of Women and Men Act (2021); the Act on the Payment of Monetary Compensation to the Victims of Violent Crimes (2022), The Act amending the Criminal Code (2023), etc. A new Act on Gender Equality is about to be adopted.

For a more effective practical realisation of the adopted laws, some by-laws have already been adopted by the Ministry of Labor and Social Policy, the Ministry of Justice and the Ministry of Internal Affairs regarding the handling of cases of gender-based violence, the risk assessment, the enforcement of urgent measures, as well as the recording and collecting data on the occurrence of such cases in practice. Other by-laws, which further regulate the process of data collection and realisation of educational activities in relation to gender-based violence, are in the process of being adopted. It is important to note that, during the adoption of all new legal acts and by-laws, due consideration was given to the need to incorporate the principles and recommendations stemming from the Istanbul Convention and the CEDAW.

At the same time, two national strategies were adopted in 2022, which are particularly important in relation to the gender-based violence and the domestic violence - the National Strategy for Equality and Non-Discrimination 2022-2026 and the Gender Equality Strategy 2022-2027.

The empirical aspect of this analysis is built upon the assessments made by analysts and civil society organisations that "one of the reasons for inadequately addressing the cases of femicide in North Macedonia is considered to be the weak, ineffective implementation of the laws". There is a commitment that the judicial authorities demonstrate greater will, analytical approach and understanding of this type of crime, with the aim of attaining a more appropriate treatment of the perpetrators during the proceedings and, ultimately, development of an appropriate penal policy for the perpetrators. Special attention should be paid to the risk of impunity and/or inadequate punishment for all forms of gender-based violence, especially femicide as its most severe form, given that such a behaviour will continue to influence the increase of mistrust in the institutions and the practice of non-reporting by the victims, which, on the other hand, encourages the perpetual recurrence of violence that culminates in femicide.

According to the data collected by the Academy for the Training of Judges and Public Prosecutors from all appellate areas, which concerned the frequency of cases of femicide in the Republic of (North) Macedonia in the period between 2018 and 2022, it was established that 17 proceedings concerning femicide were conducted and completed by a final judgment. Of these 17 completed proceedings, 14 (82%) were in the area of the Skopje Court of Appeal and 3 (18%) in the area of the Bitola Court of Appeal. The largest number of proceedings (8) were conducted before the Skopje Basic Criminal Court.

In one of a total of 17 proceedings, the defendant was charged and convicted of four crimes that were committed in concurrence (multiple offences), three of which concerning a femicide. In terms of the legal qualification of a total of 19 criminal offences, 8 proceedings were conducted and completed by a final judicial decision concerning the crime of Murder committed while performing domestic violence, pursuant to Article 123, paragraph 2(2) of the Criminal Code, as an act which was not only attempted, but was fully completed; and 8 proceedings concerned the attempted crime of Murder committed while performing domestic violence, pursuant to Article 123 paragraph 2(2) in conjunction with Article 19 of the Criminal Code. One of the proceedings, which was conducted and completed by a final court decision, was conducted for the crime of Murder in its basic form, pursuant to Article 123, paragraph 1 of the Criminal Code. One of the proceedings,

which was conducted and completed by a final decision, was instigated in relation to the attempted crime of Murder committed while performing domestic violence, pursuant to Article 123, paragraph 2(2) in connection with Article 19 of the Criminal Code, but during the proceedings the legal qualification was changed to the criminal offence of Severe bodily injury while performing domestic violence, pursuant to Article 131, paragraph 2 of the Criminal Code. With respect to another set of proceedings, which was conducted concerning the crime of Murder that was committed in a cruel or insidious manner, pursuant to Article 123, paragraph 2(1) of the Criminal Code, the legal qualification was changed during the proceedings into the basic form of the crime of Murder, pursuant to Article 123, paragraph 1 of the Criminal Code. All criminal offences are provided for in the Criminal Code of the Republic of North Macedonia.

The largest part (84%) of crimes were committed in urban areas, while all were committed in an apartment, house or yard. Most of the crimes were committed in 2020 (42%) and 2021 (26%), that is, during the period of the Corona virus pandemic. Almost half of the crimes (47%) were committed with cold weapons, one third (32%) with firearms, while the remaining crimes were committed in other ways. In a quarter of the cases (5 cases or 26%) there were observers and a child was present in 3 of them, while in the remaining cases there were no observers. The perpetrator owned a firearm in 8 cases (42%), in 3 (16%) he did not, while this fact is unknown in the remaining cases. The firearm that the perpetrator possessed was used in 6 cases (32%).

As to the personality of the perpetrator of the crime, out of a total of 17 perpetrators of femicide, three perpetrators (18%) were aged 18-25 years, two (12%) were aged 25-32 years, four (23%) aged 33-40 years, three (17%) aged 41-48 years, two (12%) aged 49-56 years, two (12%) aged 57-65 years and one (5%) was aged over 65 years. These data show that the age limit of perpetrators does not show any particular frequency in relation to any age group. A similar trend occurs in relation to the marital status of the perpetrator: 5 perpetrators (29%) were married, 5 perpetrators (29%) were cohabiting, 4 (24%) were divorced and 3 (17%) were not married. Regarding whether the perpetrator had children, the data show that four perpetrators had no children, four of them had one child, two had two children, five had three or more children and it is unknown if two perpetrators had children.

In contrast to the previous dispersed distribution of the data in relation to the perpetrator's characteristics, the education variable is of a certain relevance. Most of the perpetrators had a secondary (41%) or primary (29%) education, a total of

24% had not completed their primary education or had no education at all, while only one perpetrator had completed a higher education. This result shows that the perpetrators of this type of crime mostly have a lower education, which might be an indirect indicator of belonging to the poorer, i.e. economically vulnerable social groups. This conclusion is confirmed by the following data, which shows that 76% of the perpetrators were unemployed, 18% employed and one of them (6%) was retired. Seven perpetrators (41%) had been previously convicted, while 10 (59%) were not previously convicted. The aforementioned seven recidivists were all convicted of another crime and all had served their sentences. Of these seven recidivists, three were convicted as minors.

The attitude of more than half of the perpetrators (59%) towards the crime was such that they confessed that they had committed the crime, three (17%) did not confess, one shifted the blame to the victim, one did not give any explanation, while for two of them this fact is unknown because they did not testify during the criminal proceedings. All 10 perpetrators (59%) who confessed the crime expressed remorse. Regarding the remaining perpetrators, four did not repent, and for three perpetrators this fact remained unknown. About 1/3 of the perpetrators (5 of them) had a psychopathic personality structure, other 1/3 of them did not have such a personality structure, while this fact was unknown for 7 perpetrators. From the group of 17 perpetrators, two were alcoholics, five were not, and for 10 of them (59%) this fact is unknown. Two perpetrators (12%) were users of narcotic drugs, five were not, and for the remaining 10 this fact was not established. Eight perpetrators (47%) had psychosis, three did not have it, and for the remaining six this fact is unknown. More than half of the perpetrators (59%) were accountable when committing the crime, four had significantly diminished capacity and accountability, and three were unaccountable. During the commission of the crime, only one perpetrator was under the influence of alcohol, 59% were not under the influence of alcohol, and for 6 of them this fact was not established. Also, during the execution of the crime, 7 perpetrators (41%) were not under the influence of narcotic drugs, and for 59% of them this fact remained unknown.

In the criminal proceedings covered by the research, 19 women appear as victims. One of the victims was aged 18-25 years, two (10%) aged 25-32 years, four (21%) aged 33-40 years, three (16%) aged 41-48 years, six (32%) aged 57-65 years and three (16%) aged over 65 years. Half of the victims were married, three (16%) were in a cohabitation, the same number (16%) were divorced, one was not married and for two victims this fact is unknown. One third (32%) of the victims had one child, five victims (26%) had three or more children, four victims (21%) had two children, one victim was childless, and for three victims

this fact remained unknown. About $\frac{1}{4}$ (26%) of the victims were the perpetrator's wives, $\frac{1}{4}$ (26%) of them were in another type of relationship and three were the perpetrator's grandmothers, one was the perpetrator's mother-in-law, one was the wife of the perpetrator's brother-in-law, three (16%) were cohabiting partners, four (21%) were ex-wives and two were mothers of the perpetrator.

In more than a half of the cases it is unknown whether the victims were ill-treated by the perpetrator before the incident, four of them (21%) were previously ill-treated, while five of them (26%) were not previously ill-treated. It is indicative that $\frac{1}{4}$ or five of the victims did not seek assistance from a social welfare centre or other relevant institutions, and for the remaining $\frac{3}{4}$ this fact is unknown. Only one of the victims had reported to the police before the incident that she was ill-treated by the perpetrator, three had not reported this, while this fact is unknown in respect of the remaining 15 perpetrators. It is important to point out that it appears that no action was taken in the only case in which the victim had reported to the police that she had been ill-treated by the perpetrator.

During the commission of the crime, none of the victims had a weapon with them and none of the victims used a weapon. It has been proven that more than half of the victims were not under the influence of alcohol at the time the perpetrator committed the crime, while this fact has not been established for the remaining victims. In the proceedings covered by the research, the respective court has not determined that the victim influenced the commission of the crime.

In relation to all 17 criminal proceedings that are covered by this research, in all cases a pre-trial detention was ordered against the perpetrator. In 14 proceedings (82%) the court issued a judgment by which the perpetrator was declared guilty and sentenced according to the law, and in three proceedings (18%) a security measure of compulsory treatment in a health facility was imposed on the perpetrator due to the fact that the perpetrator was unaccountable when committing the crime. Out of the 14 sentences that have been imposed, eight (57%) sentenced the perpetrator to imprisonment of 10 years, five (36%) to imprisonment of over 10 years and one sentence was a life imprisonment.

12 appeals (75%) were filed against the impugned decisions and extraordinary remedies were filed with the Supreme Court of the Republic of North Macedonia against 4 decisions (25%). Of the 12 appeals that were filed, 6 judgments were upheld, 2 judgments were overturned and remitted for retrial, and after the retrial they were upheld, while 4 judgments (25%) were modified. All 4 extraordinary remedies were dismissed as unfounded.

Regarding the duration of the proceedings, 12 out of all 17 proceedings were completed by a final court decision within a period shorter than one year, whereas 5 proceedings were terminated by a final court decision within a period longer than one year and shorter than two years. Considering that the analysed cases had a fatal outcome (femicide), it appears that, regardless of the imposed convictions, on average the severity of the penalty does not correspond to the crime which had been committed. Also, the civil law aspect of the respective crime(s) was not apparently included in the criminal proceedings, as it was rather left to be resolved by other competent courts. This fact has perpetuated the trauma suffered by the injured parties who remain in the proceedings (the children and the other family members) and it prolongs their economic and existential uncertainty.

The **recommendations** provided in this research have their own strategic and particularly practical and applicable dimension. The prevention and the efficient handling of femicide as a phenomenon will be achieved only by the overall efforts of the State for the progressive realisation of gender equality in all areas of social life. That goal also implies a permanent policy of deconstruction of the traditional gender roles and all forms of discrimination stemming from gender differences.

Regarding the systemic and strategic changes that the Republic of North Macedonia is undergoing, the following actions are missing:

- » To supplement the Criminal Code with regard to the specific definition of the criminal offence of femicide, in line with the most recent amendments of 2023 and determination of a proper sentence for this offence as an aggravated form of murder, in connection with Article 123, paragraph 2 of the Criminal Code, but also, if possible, with paragraphs 1 and 7. This legal distinction is necessary for the future proper rendering of court decisions in this type of cases and proportionately weighing the penalty for the offence;
- » To adopt a new Gender Equality Act;
- » To establish relevant judicial practice regarding the cases of femicide, whereby in accordance with the principle of respect for the judicial discretion, guidelines recommending proper penalties shall be taken into consideration, also considering the information concerning the victim, the previous violence, the mitigating and the aggravating circumstances, weighing the penalty, as well as inclusion of the civil-law aspects in the same proceedings, with an emphasis on the reparations;
- » To establish special protocols for the processing of cases of femicide by the competent judicial bodies;

- » To ensure speedy, efficient, safe and gender-sensitive judicial procedure at all stages, which protects the complainants, victims, survivors and witnesses of gender-based violence;
- » To conduct the investigation of femicide cases diligently and to avoid limiting it to mere establishment of the facts of the case, taking into account the possible presence of misogynistic attitudes of the perpetrator, the physical superiority and dominance, the inequality of physical strength and power;
- » To adopt the remaining by-laws and action plans related to the national strategies and to enact the legal acts which are currently being developed;
- » To implement and to apply the recommendations that the Republic of North Macedonia will receive from GREVIO in the upcoming period;
- » To detect all potential forms of gender discrimination in all spheres of social life;
- » To promote systemic promotion and strengthening of women's civil, political, economic, social and cultural rights.

Regarding the practical and applicable dimension, the recommendations are as follows:

- » To gather relevant statistical indicators that will provide a realistic picture regarding the occurrence and characteristics of femicide, with the aim of establishing more effective measures to suppress and prevent the occurrence of femicide;
- » To include a special module dedicated to femicide, related to the problem of GBV and DV, in the initial and continuous training of judges and public prosecutors;
- » To adopt specialised and tailor-made training events for the application of the by-laws that govern the treatment of victims by all involved State bodies: social welfare services, police, judicial authorities, health institutions, as well as civil society organisations;
- » To identify the obstacles faced by women in obtaining interim protection orders, as well as delays in maintenance and lack of gender-sensitive approach during the procedures and lack of mechanisms to monitor their implementation;
- » To construct shelters throughout the Republic, to meet the needs in all regions;
- » To secure effective provision of free legal aid, social welfare and health services, including sexual, reproductive and mental health services for the full recovery of victims;

- » To launch periodic national and local campaigns aiming to inform, educate and empower women when addressing cases of GBV and DV, with the participation of police, social workers, local self-government, civil society organisations, as well as individuals who enjoy reputation in the local environment;
- » To strengthen the role of the Ombudsman in monitoring femicides;
- » To establish a *Femicide watch* mechanism;
- » To facilitate the access to justice and to their own rights for women who are victims of GBV and DV, by using the opportunities offered through the free legal aid scheme;
- » To ensure the implementation of adequate programmes for working with the perpetrators of crime, as well as, if necessary, addictions treatment programs, as well as programmes for reintegration and rehabilitation within the penal institutions.

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