

# HELSINKI COMMITTEE FOR HUMAN RIGHTS



Skopje, 5 May, 2017

## SPECIAL REPORT

### ON IDENTIFIED AND POSSIBLE CRIMES COMMITTED DURING THE VIOLENT ATTACK

#### ON THE ASSEMBLY ON 27 APRIL 2017

Immediately after the election of the new President of the Assembly of RM by the parliamentary majority, on 17 April 2017, around 19:00, the organizers and participants of the protest group known as "For a United Macedonia" (Mac. "За заедничка Македонија") forcibly entered the parliament building. According to the numerous video recordings, police officers in charge of keeping the public order and safety of the participants in the parliamentary halls allowed the protesters to enter the building unhindered. Persons who were wearing face masks and carried hard and sharp objects intended to endanger the physical integrity of those present in the Assembly were allowed to enter as well. Shortly afterward, around ten MPs were injured (of which at least one suffered severe injuries) as well as journalists, citizens over 70 and over 20 police officers. The Ministry of Interior in coordination with the Public Prosecutor's Office Skopje identified around twenty perpetrators of crimes. Some of them have been taken for questioning, while others were placed in detention, house arrest or faced other precautionary measures. For the time being, the identified perpetrators are suspected of committing three types of crimes: participation in a crowd which prevents an official person from performing an official action, participation in a crowd which commits a crime and causing a general danger.

This special report covers the committed crimes identified through photos, audio-visual recordings, and testimonies as well as the suspected crimes for which it has not been yet investigated whether they have been actually committed or by whom. The report addresses the violations of rights and freedoms guaranteed by the Constitution and sanctioned under the Criminal Code. The report aims to inform the public, but also to serve as a useful tool for judicial authorities in making decisions related to the identification of crimes and individualization of criminal responsibility in the process of imposition of fines by the court. It contains a total of 27 crimes, 17 of which are already provable with considerable evidence, and 10 suspected crimes. The possible perpetrators are divided into four groups: 1) organizers, 2) perpetrators, 3) police officers and 4) their superiors. The crimes are established as such in 8 chapters of the Criminal Code, and were directed against: 1) the life and body, 2) the freedoms and rights of citizens, 3) property, 4) security, 5) State, 6) office, 7) judiciary and 8) public order. The role of the judicial authorities is to determine whether and which of the said crimes have been committed or if there was an attempt to commit those crimes as well as to prevent erroneous determination, joint accountability and arbitrary sanctions.

VIOLATIONS OF THE RIGHTS AND FREEDOMS GUARANTEED IN THE CONSTITUTION	
RIGHT OR FREEDOM	VIOLATED BECAUSE:
<b>Right to life</b> Article 10	The police failed in fulfilling their positive obligation to protect the life of the attacked MPs.
<b>Right to a physical and moral dignity</b> Article 11	The police are passive, they do not take official action for protection and knowingly fail to perform their obligations.
<b>Right to liberty</b> Article 12	Some MPs were unlawfully deprived of their liberty for more than three hours
<b>Right to take part in the performance of public office</b> Article 23	The organized attack was aimed at suspending the right of the newly elected President of Assembly, but also of other MPs.
<b>Right to health care</b> Article 39	The protesters did not allow timely access to medical vehicles. The police's reaction was delayed.

CATEGORIES OF PERPETRATORS OF CRIMES	
<b>1. Organizers</b>	Persons suspected of ordering, conspiring, planning or instigating the crimes. The investigation should include the protest organizers of the initiative called "For a United Macedonia" to establish the possible status as organizers in a criminal sense as well as the political party VMRO DPMNE for establishing the party's possible role as an instigator in the criminal sense.
<b>2. Perpetrators</b>	All persons who forcibly entered the Assembly as evident in existing photos, audio and video records, testimonies or confessions that they have committed a crime. Direct attackers and persons who allowed, assisted or concealed crimes.
<b>3. Police officers</b>	All persons who did not use their police authority, abused their authority or position and enabled the perpetration of crimes.
<b>4. Superior police officials</b>	All persons in the hierarchy of the Operative Headquarters of MOI suspected of issuing illegal

	orders or knowingly waiving the issuance of lawful and binding orders.
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I. CRIMES AGAINST LIFE AND BODY	
CRIMINAL CODE	EVIDENCE, REASONABLE DOUBT, RESPONSIBILITY, AND SENTENCE
<b>1. Attempted murder</b> Article 123 in conjunction with Article 19	The evidence includes severe injuries, photos and video recordings and testimonies regarding the attempted murder of MP Zijadin Sela as well as testimonies of the attacked MPs as victims.  <u>Responsibility:</u> Organizers and perpetrators  <u>Sentence:</u> Imprisonment of at least 5 years
<b>2. Bodily injury</b> Article 130	The evidence includes minor bodily injuries (for persons with permission to enter Parliament) in the form of sores, redness, bruises or scratches where the perpetrator acted alone. The prosecution is undertaken upon a private lawsuit.  <u>Responsibility:</u> Perpetrators and state (for damages)  <u>Sentence:</u> Fine or imprisonment up to 3 years
<b>3. Severe bodily injury</b> Article 131	The evidence includes established severe bodily injuries and damage to the physical and mental health of the victims.  <u>Responsibility:</u> Organizers, perpetrators and state (for damages).  <u>Sentence:</u> imprisonment of 6 months to 5 years
<b>4. Participation in a fight</b> Article 132	The evidence includes photos and video recordings of participants in fights in which several victims were seriously injured, including injuries to victims who acted in self-defense for which they do not bear criminal responsibility.  <u>Responsibility:</u> Perpetrators  <u>Sentence:</u> imprisonment of 3 months to 3 years
<b>5. Threatening with a dangerous tool during a fight or a quarrel</b> Article 133	The evidence includes photos and video recordings in which all persons participating in the fights or quarrels were evidently reaching for a dangerous

	<p>tool (eg. video camera stand, parts of furniture, metal rods, etc.).</p> <p><u>Responsibility:</u> Perpetrators</p> <p><u>Sentence:</u> A fine or imprisonment up to 3 years</p>
<p><b>6. Exposure to danger</b></p> <p>Article 134</p>	<p>The evidence includes photos and video recordings as well as testimonies regarding all those who did not help the victims whose life was in danger, which they themselves have caused. Perpetrators are also those who did not allow evacuation and access of ambulances for the victims.</p> <p><u>Responsibility:</u> Perpetrators</p> <p><u>Sentence:</u> imprisonment of 3 months to 3 years or 5 years if the victim suffered severe bodily injuries</p>
<p><b>7. Not providing help</b></p> <p>Article 136</p>	<p>The evidence includes photos and video recordings as well as testimonies regarding people who did not offer medical care for victims whose life was in danger (no criminal liability when offering help would put them or others in danger)</p> <p><u>Responsibility:</u> Everyone present in the Assembly</p> <p><u>Sentence:</u> A fine or imprisonment up to 1 year</p>

II. CRIMES AGAINST THE FREEDOMS AND THE RIGHTS OF HUMANS AND CITIZENS	
<p><b>8. Unlawful deprivation of liberty</b></p> <p>Article 140</p>	<p>The evidence includes photos and video recordings as well as testimonies regarding persons who forcibly held some of the MPs thus depriving them of or limiting their freedom of movement.</p> <p><u>Responsibility:</u> Perpetrators</p> <p><u>Sentence:</u> a fine or imprisonment up to 1 year</p>
<p><b>9. Threatening the safety</b></p> <p>Article 144</p>	<p>The evidence includes photos and video recordings as well as testimonies regarding persons who expressed serious threats towards MPs to attack their life or body or the life or body of those related to them. A threat towards one person is prosecuted in a private lawsuit, while threats against several persons are prosecuted ex officio.</p> <p><u>Responsibility:</u> Perpetrators</p> <p><u>Sentence:</u> a fine or imprisonment up to 6 months or up to 3 years if the threat is aimed at several persons</p>

III. CRIMES AGAINST PROPERTY	
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<p><b>10. Damage to objects of others</b> Article 243</p>	<p>The evidence includes photos and video recordings of persons who damaged, destroyed or caused irreparable damage to objects in the Assembly.</p> <p><u>Responsibility</u>: Perpetrators</p> <p><u>Sentence</u>: a fine or imprisonment of up to 3 years or 5 years if the damage is significant</p>
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IV. CRIMES AGAINST THE GENERAL HUMAN SAFETY AND PROPERTY	
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<p><b>11. Causing a general danger</b> Article 288</p>	<p>The evidence includes photos and video recordings of all those who by a generally dangerous action (eg. removing barricades) or means (eg. video camera stands and metal bars) caused significant danger to the life or body of a large number of participants in the assembly and property to a large extent.</p> <p><u>Responsibility</u>: Perpetrators</p> <p><u>Sentence</u>: imprisonment of 1 to 5 years</p>
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V. CRIMES AGAINST THE STATE	
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<p><b>12. High treason</b> Article 305</p>	<p>There is reasonable doubt that by the use of force or serious threat there has been an attempt to change the constitutional order (rule of the minority instead of the majority) or an attempt to bring down the Assembly as one of the highest state authorities.</p> <p><u>Responsibility</u>: Organizers and perpetrators</p> <p><u>Sentence</u>: Imprisonment of at least 5 years</p>
<p><b>13. Violence against representatives of the highest state authorities</b> Article 311</p>	<p>There is reasonable doubt that there was the intention of endangering the constitutional order or the state's security by a serious threat to obstruct the performance of duty of the newly elected President of the Assembly.</p> <p><u>Responsibility</u>: Organizers</p> <p><u>Sentence</u>: Imprisonment of at least 4 years</p>

<p><b>14. Terrorist endangering of the constitutional system and security</b></p> <p>Article 313</p>	<p>There is reasonable doubt that there was intent to endanger the constitutional order and security of the country through serious threats and acts of violence which caused a sense of insecurity and fear among the citizens. The doubt is reinforced by the discovery of an improvised bomb found in the Assembly, composed of a gas cylinder and fireworks.</p> <p><u>Responsibility:</u> Organizers and perpetrators</p> <p><u>Sentence:</u> imprisonment of at least 10 years</p>
<p><b>15. Sabotage</b></p> <p>Article 315</p>	<p>There is reasonable doubt that some of the MPs in the performance of the duties caused significant damage to the Assembly with intent to endanger the constitutional order and security of the state in a secretive and insidious way. The suspicion arises from videos recordings which show MPs deliberately opening the door of the Assembly and communicating with the organizers and perpetrators while directing their movement.</p> <p><u>Responsibility:</u> MPs-perpetrators</p> <p><u>Sentence:</u> Imprisonment of at least 4 years</p>
<p><b>16. Call for a violent change of the constitutional order</b></p> <p>Article 318</p>	<p>There is reasonable doubt that there was intent to endanger the constitutional order and security of the state by publicly inciting and calling for immediate execution or support for the execution of points 13-15 in this text. The doubt arises from the social network posts by the organizers of the protest "For a United Macedonia" as well as the rhetoric used during the protests.</p> <p><u>Responsibility:</u> Organizers and perpetrators</p> <p><u>Sentence:</u> Imprisonment of 3 months to 5 years</p>
<p><b>17. Causing hatred, discord or intolerance</b></p> <p>Article 319</p>	<p>There is reasonable doubt that through coercion, harassment and endangering the safety, hatred, discord and intolerance were triggered and fueled on the basis of political affiliation and ethnicity, which resulted in chaos and violence against people as well as major damage to property. The confirmation of this doubt would mean that some crimes were acts of hatred, which creates aggravating circumstance for the possible perpetrators.</p> <p><u>Responsibility:</u> Organizers and perpetrators</p>

	<u>Sentence</u> : Imprisonment of 1 to 10 years
<b>18. Sheltering and assisting an offender after committing a crime</b> Article 325	<p>There is reasonable doubt that the possible perpetrators of points 12-15 herein were assisted, sheltered, used for maintaining communications and related actions were taken aimed at preventing their detection or capture. The suspicion arises from allegations that some of the suspects who were detained in the evening, were released on their way to the police station and that a part of the video footage from the security cameras was destroyed.</p> <p><u>Responsibility</u>: organizers, police officers and superiors officers</p> <p><u>Sentence</u>: imprisonment of 1 to 10 years</p>

<b>VI. CRIMES AGAINST OFFICIAL DUTY</b>	
<b>19. Abuse of official position and authorization</b> Article 353	<p>Evidence arises from the photos and video recordings of police officers abusing their official position or authority by not performing their official duty and causing a serious violation of the rights of victims and a great damage to the property of the Assembly.</p> <p><u>Responsibility</u>: police officers and superiors officers (if they have issued illegal order)</p> <p><u>Penalty</u>: Imprisonment of 6 months to 5 years</p>
<b>20. Failure to execute an order</b> Article 353-b	<p>There is reasonable doubt that the police officers, in the performance of duties relating to the prevention and detection of crime, apprehension of the perpetrators and the maintenance of public order, peace and security of the country, did not execute or refused to execute an order from their superior to take an official action which resulted in a violation of the rights of those present in the Assembly, in severe disturbance of the and public order and peace as well as considerable property damage. There is no crime if the police officers refused to carry out an illegal order, in which case the superior officer is liable under point 19 of this text.</p> <p><u>Responsibility</u>: Police officers and superiors officers</p> <p><u>Sentence</u>: Imprisonment of 3 months to 3 years</p>

VII. CRIMES AGAINST THE JUDICIARY	
<p><b>21. Not reporting a crime or an offender</b></p> <p>Article 364</p>	<p>There is reasonable doubt that officers and MPs deliberately did not report the crimes they witnessed while performing their duties when those crimes are punishable by imprisonment of five years or more (see points 1, 12-18, 19-22 and 26 in this text).</p> <p><u>Responsibility:</u> police officers, superior police officers, MPs and employees of the Assembly</p> <p><u>Sentence:</u> Imprisonment of 1 to 3 years</p>

VIII. CRIMES AGAINST THE PUBLIC ORDER	
<p><b>21. Preventing an official person in performance of an official act</b></p> <p>Article 382</p>	<p>There is reasonable doubt that police officers, through harassment, assault, force or serious threat of an attack on their life or body, were prevented from performing their duty.</p> <p><u>Responsibility:</u> Organizers, supervisors police officers, perpetrators</p> <p><u>Sentence:</u> a fine or imprisonment of up to 3 years</p>
<p><b>22. Attack upon an official person, when performing security activities</b></p> <p>Article 383</p>	<p>Evidence arises from the detected injuries of the police officers or persons who assisted in keeping the public safety or protection of the constitutional order (the Assembly's security and bodyguards).</p> <p><u>Responsibility:</u> Organizers and perpetrators</p> <p><u>Sentence:</u> A fine or imprisonment of up to 3 years or 5 years if there were harassment, insult and bodily injury</p>
<p><b>23. Participation in a crowd, which prevents an official person from performing an official action</b></p> <p>Article 384</p>	<p>Evidence arises from photos and video recordings as well as testimonies regarding people who participated in the crowd which by joint action prevented or attempted to prevent police officers from performing their official duties.</p> <p><u>Responsibility:</u> Organizers and perpetrators</p> <p><u>Sentence:</u> Imprisonment of 1 to 3 years for the perpetrators and up to 5 years for the organizers (leaders of the crowd)</p>
<p><b>24. Participation in a crowd which commits a crime</b></p>	<p>Evidence arises from the photo and video materials and testimonies of participants in the crowd which by joint action committed acts of violence against</p>

Article 385	<p>people and damaged and destroyed the property of great value.</p> <p><u>Responsibility:</u> Organizers and perpetrators</p> <p><u>Sentence:</u> A fine or imprisonment of 3 to 5 years if a person is severely injured or if substantial damage was caused, up to 10 years for the organizer (leader of the crowd)</p>
<p><b>25. Violence</b></p> <p>Article 386</p>	<p>Evidence arises from photos and video recordings as well as testimonies regarding individuals who harassed, grossly insulted, threatened the safety of those present in the Assembly or acted violently towards them, and thus caused a feeling of insecurity, threat or fear among the public.</p> <p><u>Responsibility:</u> Organizers and perpetrators.</p> <p><u>Sentence:</u> Imprisonment of 3 months to 3 years for violence committed by one person, up to 5 years for the organizer or if it is committed by two or more people, over more persons present in the Assembly, there was a fight, disorder, and damage to property of high value or caused bodily injury, and up to 10 years if a severe bodily injury was caused.</p>
<p><b>26. Criminal association</b></p> <p>Article 394</p>	<p>There is reasonable doubt that for the incidents in the Assembly, a group or gang was created which was aimed at committing criminal offenses that are punishable by imprisonment of three or more years. The suspicion arises from masked and coordinated attackers, their way of movement through the Assembly building, their organized action and established communication with some police officers.</p> <p><u>Responsibility:</u> Organizers and perpetrators</p> <p><u>Sentence:</u> Imprisonment of 1 to 10 years for the organizer (the creator of the group) and 6 months to 5 years for a group member</p>
<p><b>27. Spreading racist and xenophobic material via information system</b></p> <p>Article 394-d</p>	<p>There is reasonable doubt that some of those present in the Assembly and others, through a computer system, publicly spread racist and xenophobic written material, pictures and other representations of ideas or theories that helped, promoted or incited hatred, discrimination and violence against certain individuals and groups based on ethnicity and political affiliation. The doubt comes from materials spread through social networks which</p>

	<p>resulted in disorder and violence against people and significant property damage.</p> <p><u>Responsibility:</u> Organizers and perpetrators</p> <p><u>Sentence:</u> Imprisonment of 1 to 10 years</p>
<p><b>28. Manufacturing and procurement of weapons and means intended for committing a crime</b></p> <p>Article 395</p>	<p>Evidence includes the discovered improvised bomb in the Assembly made of a gas cylinder and fireworks. The bomb was apparently made with the purpose of committing a crime against those attending the Assembly and causing significant material damage.</p> <p><u>Responsibility:</u> Organizers and perpetrators</p> <p><u>Sentence:</u> Imprisonment of 1 to 5 years</p>

**According to Article 273, paragraph 3 of the Criminal Procedure Law, anyone can report a crime that is prosecuted ex officio. By delivering this Special Report to the Public Prosecutor and the Ministry of Interior, we require an initiation of a preliminary investigation for establishing criminal responsibility for the crimes covered in the Report in accordance with the provisions of the Criminal Procedure Law.**