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ANALYSIS OF FREE LEGAL AID IN THE REPUBLIC OF NORTH MACEDONIA:

Report on improving access to justice based on analyzed data from the database and the monitoring of court proceedings



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List of used abbreviations

RNM	Republic of North Macedonia
MoJ	Ministry of Justice
LFLA	Law on Free Legal Aid
LCP	Law on Civil Procedure
LE	Law on Expertise
LCP	Law on Criminal Procedure
FLA	Free Legal Aid
PLA	Primary Legal Aid
SLA	Secondary Legal Aid
NCB	National Coordinating Body
BJE	Bureau of Judicial Expertise of the RNM
HC	Helsinki Committee for Human Rights

CONTENT

I. INTRODUCTORY REMARKS	9
1.1. Description of the project	9
1.2. Subject and purpose of the analysis	9
1.3. Methodological approach	10
II. ACCESS TO JUSTICE THROUGH FREE LEGAL AID	11
II.1. PRIMARY LEGAL AID	13
1.1. The Helsinki Committee as a primary legal aid provider	15
1.2. Demographic data for primary legal aid applicants	15
1.2.1. Gender structure	16
1.2.2. Ethnicity	16
1.2.3. Geographic coverage	17
1.3. Legal matters in which primary legal aid is provided	18
1.3.1. Protection of human rights	18
1.3.2. Labor relations	19
1.3.3. Property law issues	20
1.3.4. Social protection and insurance	20
1.3.5. Protection of children	21
1.3.6. Gender-based and domestic violence	21
1.3.7. Status issues	23
1.3.8. Pension and disability insurance	23
1.3.9. Health insurance and protection	24
II.2. SECONDARY LEGAL AID	24
2.1. Data from the database of the Helsinki Committee for Human Rights	28
2.1.1. Number of submitted requests by quarter	30
2.1.2. Data by status	30
2.1.3. Data on the outcome of the procedure	32
2.2. Demographic data of applicants for secondary legal aid	32
2.2.1. Gender structure of applicants	32
2.2.2. Place of residence of the applicants	34
2.2.3. Legal issues	34
III. MONITORING OF COURT PROCEEDINGS	35
3.1. Audio and audio-visual recording	36
3.1.1. Criminal procedures	36
3.1.2. Civil procedures	38

3.2. Adjournment of hearings	40
3.2.1. Criminal procedures	40
3.2.2. Civil procedures	42
3.2.3. Administrative disputes	43
3.3. Urgency of the procedure in labor disputes (observance of legal deadlines for action and adjudication)	44
VI. CONCLUSIONS AND RECOMMENDATIONS	46
4.1. Conclusions and recommendations for improving the system for free legal aid	46
4.2. Conclusions and recommendations for improving the efficiency and effectiveness of judicial procedures	50



I. INTRODUCTORY REMARKS

1.1. Description of the project

The Helsinki Committee for Human Rights, with the support of the Open Society Foundation - Macedonia, began implementing the project "Improving the Protective Mechanisms for Free Legal Aid and Hate Speech in the Republic of North Macedonia" on January 1, 2023. The goal of the project is to enhance its own capacities in the field of human rights and the rule of law, as well as to promote protective mechanisms for free legal aid and hate speech in the Republic of North Macedonia.

The main goal of implementing this project is to improve access to justice by offering primary legal aid to all natural persons who have a residence or stay in the territory of the Republic of North Macedonia. Additionally, the project aims to enhance access to secondary legal aid for those who meet the criteria outlined in the Law on Free Legal Aid. This can be achieved by submitting requests for secondary legal aid to the Ministry of Justice.

In addition, within the project framework, regular monitoring of court proceedings has been established for cases of primary legal aid provided and cases of public interest, with the aim of monitoring the courts' work.

Practically, a free legal aid service has been established within the project, available to all persons, especially vulnerable and marginalized communities, with the aim of providing easier access to justice.

1.2. Subject and purpose of the analysis

The data for this analysis pertain to the provision of free legal aid from January 1, 2023, to April 30, 2024 (the reporting period). This document processes and analyzes the legal areas for which free legal aid was requested, the types of requests for secondary legal aid and the procedure before the Ministry of Justice, demographic data, additional data on the monitoring of court proceedings, and identification of key problems and challenges that directly impact citizens when utilizing free legal aid.

The purpose and goal of this analysis are to provide an overview of the current situation in the field of free legal aid. The aim is to identify weaknesses in the Law on Free Legal Aid, assess the need for legal changes, and make recommendations for overcoming the identified issues in the direction of further improving and making the system for free legal aid more efficient.



1.3. Methodological approach

For the purposes of this analysis, a special and unified methodology was used, the domain of which is the comprehensive document and data processing for the provision of free legal aid from January 1, 2023, to April 30, 2024 (a reporting period covering 5 quarters). Hence, the research objectives of this paper can be categorized into three main areas:

- Analysis of demographic data and areas of legal issues for which applicants sought primary legal aid at the Helsinki Committee for Human Rights;
- Analysis of data on submitted requests for secondary legal aid to the Ministry of Justice, number of approved requests, and identification of key problems and challenges in exercising the right to secondary legal aid;
- Analysis of data from the monitoring of court proceedings by professional observers, highlighting both positive and negative aspects

This analysis contains information from an established electronic database maintained by the Helsinki Committee for Human Rights. The data includes cases of free legal aid within the project “Improving the Protective Mechanisms for Free Legal Aid and Hate Speech” in the Republic of North Macedonia. The database is organized in a way that allows for the display of the total number of submitted requests for primary legal aid, the legal areas in which it is provided, and data on the requesters’ gender, ethnicity, and geographic coverage. Requests from the parties are entered with their consent to register the legal problem, leaving space for monitoring the case until the end of the procedure.

The requests for secondary legal aid that have been submitted are recorded in an electronic database. Each request includes information about the legal issue, the date it was submitted, and the status of the request (approved/disapproved/no response provided).

Regarding court case monitoring, written reports predetermined legal issues were analyzed. Monitoring has been carried out in basic courts in various court cases, with a focus on cases of protection against discrimination, protection against domestic violence, child protection, family relations and disputes in the field of Labor relations.

In parallel with these processes, a significant amount of data is obtained by analyzing relevant laws and by-laws that pertain to free legal aid, such as the Law on Free Legal Aid and procedural laws. This analysis also encompasses the quarterly reports of the Helsinki Committee for Human Rights, publicly accessible reports from citizens’ associations regarding free legal aid, as well as the Ministry of Justice’s annual reports on the implementation of the Law on Free Legal Aid.



To supplement these tools, a significant portion of the data is collected through interviews with project coordinators and legal advisors tasked with project implementation. This approach has proven to be extremely useful, as it allows us to discuss the most common problems and challenges that arise in practice during these interviews, the main reasons why they appear, and the recommendations for overcoming them.

Limits:

The authors have prepared this document by processing and analyzing data exclusively from the Helsinki Committee for Human Rights. The purpose of using other sources in the preparation of this analysis is to ensure an accurate portrayal of the current situation in the RNM regarding the provision of FLA and access to justice. These additional sources contribute to the qualitative aspect of the analysis. On the other hand, to fulfill the goals of this analysis and maintain quantitative elements, statistical data from the Helsinki Committee's database and from the conducted monitoring of court cases were used.

Due to these limitations, this analysis does not represent the overall situation in RNM regarding the provision of FLA and access to justice for all citizens, but it focuses solely on the work of the Helsinki Committee for Human Rights

II. ACCESS TO JUSTICE THROUGH FREE LEGAL AID

“As an inherent aspect of the rule of law, access to justice also represents a fundamental requirement of any democratic society.”¹ Access to justice is a fundamental right of every individual and a fundamental principle of the rule of law in a society. Without access to justice, individuals are unable to exercise their rights, challenge discrimination, or hold decision-makers accountable.

The Charter of Fundamental Rights of the European Union ensures the right to an effective remedy, a fair trial, and legal aid² for those who lack sufficient resources. The right to a fair trial and the right to an effective remedy, established by Articles 6 and 13 of the European Convention on Human Rights, are encompassed by the broader concept of access to justice. This concept refers to the various components that lead to adequate redress against a violation of a right, such as information about rights and procedures, legal aid, legal representation, legal standing, or general access to courts. Each element of access to justice, as a general concept, encounters several obstacles that hinder equal access to justice. For certain categories of people, these barriers—be they societal, social, or legal—are more challenging to

¹ B. Netkova, August 2022, Research on the barriers of Roma women's access to justice in four countries (Bulgaria, Italy, Greece, and Romania), Council of Europe, available at: <https://rm.coe.int/research-on-the-barriers-of-roma-women-s-access-to-justice-in-four-cou/1680a7cd27>.

² See: Charter of Fundamental Rights of the European Union (2012/C 326/02), Art. 47.



overcome. “The effective enjoyment of rights by individuals is too often hampered by both practical and legal obstacles. The lack of legal information, the lack of trust in the authorities, and the incomplete legal framework applicable to specific situations significantly contribute to the persistence of barriers to access to justice.”³

Legal aid is crucial for ensuring access to justice, but also an essential element in the fight for equality. Access to legal aid is essentially access to justice for the poor, marginalized, and vulnerable categories of people. Legal aid provided at no cost protects those who cannot afford to defend their rights in the criminal justice system and represent their rights and interests in civil and administrative proceedings.

The United Nations (UN) Principles and Guidelines on Access to Legal Aid in Criminal Proceedings⁴ emphasize that legal aid is a crucial component of the right to a fair trial in criminal justice processes. This right is established by several human rights instruments that have achieved almost universal ratification status.⁵

The Guidelines on the Efficiency and Effectiveness of Legal Aid Schemes in the Fields of Civil and Administrative Law,⁶ adopted by the Council of Ministers on March 31, 2021, emphasize the importance of legal aid schemes in providing access to justice, particularly for vulnerable individuals. These guidelines are based on two general principles: a) Access to justice (“An accessible, effective, sustainable, and reliable legal aid scheme should be established to enable individuals to effectively exercise their right of access to justice”) and b) Non-discrimination: (“Legal aid should be available to any individual, regardless of age, race, color, sex, language, religion or creed, political or other opinion, national or social origin, property, nationality or domicile, birth, education, social or other status. Specific protection and aid should be provided to vulnerable people.”)

In 2009, the first Law on Free Legal Aid was passed to ensure equal access to justice for all citizens, regardless of their property or financial status. This law recognized prior legal aid and legal aid in all judicial (criminal and civil) and administrative proceedings. However, after 10 years, certain shortcomings in its implementation were identified, prompting the need for amendments. Hence, in 2019, a new law on Free Legal Aid was adopted,⁷ which introduced a series of essential innovations aimed at improving the previous legal solution. With this Law, for the first time, a clear distinction was made between primary and secondary legal aid while regulating the general rules for providing free legal aid, the types and scope of free legal aid,

³ B. Netkova, August 2022, Research on the barriers of Roma women’s access to justice in four countries (Bulgaria, Italy, Greece, and Romania), Council of Europe, available at: <https://rm.coe.int/research-on-the-barriers-of-roma-women-s-access-to-justice-in-four-cou/1680a7cd27>.

⁴ United Nations (UN) Principles and Guidelines on Access to Legal Aid in Criminal Proceedings, see https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf.

⁵ 173 member states have ratified the International Covenant on Civil and Political Rights of 1966; see: <https://indicators.ohchr.org/>

⁶ Guidelines on the Efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law, see <https://rm.coe.int/guidelines-of-the-committee-of-ministers-of-the-council-of-europe-on-t/1680a39918>.

⁷ LFLA, Official Gazette (Nos. 161/09 and 185/11), available at: www.pravda.gov.mk/upload/Documents/Zakon%20za%20besplatna%20pravna%20pomos.pdf.



providers and users of free legal aid, their obligations and responsibilities, the procedure in which the right to free legal aid is exercised, the financing, the reward and the reimbursement of costs for the provided free legal aid and other matters relating to the free legal aid.

The Law on Free Legal Aid defines free legal aid as “legal aid approved and funded by the state in the manner and under the conditions stipulated by this law.”⁸ Its purpose is to promote the right of access to justice and to ensure fair judicial protection.

II.1. PRIMARY LEGAL AID

The Law on Free Legal Aid of 2019 introduced significant and substantial changes to improve the FLA system, which was established by the former law of 2009. One of those changes refers precisely to the expansion of the scope of PLA. So, the old law of 2009, in the so-called prior legal aid, covered only three categories: initial legal advice on the right to use legal aid, general legal information, and legal aid in completing a request for free legal aid.

The new law, which has already been in force for 5 years under PLA⁹ includes several legal services. These services encompass initial legal advice on the right to use free legal aid, general legal information, general legal advice, assistance in completing the request for secondary legal aid, assistance in filling out forms issued by an administrative authority in an administrative procedure for social protection and protection of children’s rights, pension, disability, and health insurance, protection of victims of gender-based violence and domestic violence, a procedure for registration in the birth register, acquiring documents for personal identification and citizenship, as well as filing complaints to the Commission for Protection against Discrimination and to the Ombudsman, as well as requests for the protection of freedoms and rights to the Constitutional Court of the Republic of North Macedonia.

Furthermore, a step forward in offering FLA is the implementation of legal clinics at law faculties as providers of legal aid. The PLA offered by these legal clinics is in accordance with the law faculty’s curriculum, aiming to deliver hands-on training to law students.¹⁰

Hence, legal aid providers, such as authorized officials of the Ministry of Justice, authorized associations, and legal clinics, play a crucial role in providing PLA and protecting human rights. This is especially important for poor and vulnerable individuals, who are mostly financially disadvantaged and lack knowledge of legal procedures, making it difficult for them to exercise their own rights in a precisely established procedure.

In the past three years, the annual reports of the Ministry of Justice have consistently emphasized the importance of providing PLA. These reports indicate a noticeable increase in the

⁸ Law on Free Legal Aid, 2019.

⁹ Art. 6 of the Law on Free Legal Aid, 2019

¹⁰ Art. 7 par. 5 of the Law on Free Legal Aid, 2019.

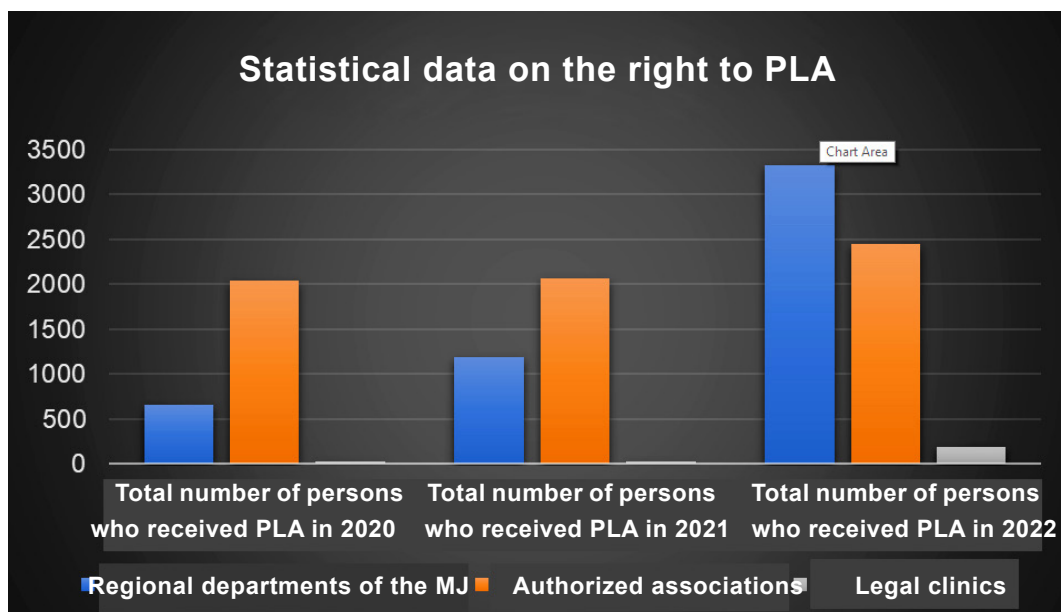


number of citizens seeking PLA. For instance, the 2020 Annual Report on the Application of the LFLA,¹¹ stated that a total of 2,727 individuals requested PLA. This included 663 requests in the regional departments of the Ministry of Justice, 2,029 requests through authorized associations, and 25 requests in the legal clinics.

In 2021,¹² a total of 3,266 individuals requested PLA. Of these, 1,194 applied to the regional departments of the Ministry of Justice, 2,062 applied to the authorized associations, and 10 applied to the legal clinics.

In the 2022 Annual Report on the Application of the LFLA,¹³ a total of 5,972 individuals received PLA. This includes 3,330 individuals in the regional departments of the Ministry of Justice, 2,448 individuals in authorized associations, and 194 people in legal clinics.

Table 1



The current legal solution for the types of legal services that fall under PLA represents a significant improvement in access to justice. However, despite the expansion of the scope of PLA, certain systemic deficiencies have surfaced. Experts in the field of PLA have provided a series of recommendations for addressing these deficiencies.¹⁴

Some of the legal gaps significantly affect the efficiency and effectiveness of the FLA system, particularly impacting vulnerable and marginalized communities. As a result, it's often neces-

¹¹ Annual report on the application of the law on Free Legal Aid for 2020, Ministry for Justice.

¹² Annual report on the application of the Law on Free Legal Aid for 2021, Ministry of Justice.

¹³ Annual report on the application of the Law on Free Legal Aid for 2022, Ministry of Justice.

¹⁴ Kocevski, G., Georgievska, E., Analysis of the Law on Free Legal Aid of 2019, Skopje, 2022.



sary for legal aid seekers to be accompanied to competent institutions. This is particularly important for individuals who are not familiar with the law and are dealing with a legal issue for the first time. The provision of legal advice is really inexpedient and impractical in the specific situation, or, to be more precise, these parties, apart from legal aid, are far in need of an escort to the competent institution and assistance in submitting the necessary documentation.

For the most part, legal aid seekers are people who live in rural areas, and poor citizens for whom just coming to any of the offices of legal aid providers is a financial burden. Additionally, immobile people and people with established disabilities require home visits in order to receive legal aid. These problems are inherent to legal clinics and authorized associations because they must provide legal aid to individuals upon request while also allocating human resources and financial support for field visits to the locations where the applicants for legal aid live.

The Helsinki Committee for Human Rights has also noted the issue of not introducing escorts and field visits¹⁵.

1.1. The Helsinki Committee as a primary legal aid provider

The Helsinki Committee for Human Rights - Skopje is an independent, non-partisan, non-governmental, and non-profit association of citizens. It works to respect, protect, and promote the basic human rights and freedoms contained in the Helsinki Final Act of 1975 and other international agreements¹⁶. According to Article 4, para. 3 of the Statute of the Helsinki Committee, the objectives are achieved through the provision of PLA to the citizens of the Republic of North Macedonia. PLA in the Helsinki Committee is provided by staff lawyers in various ways to accommodate the different needs of the applicants. Hence, most often, PLA is provided through meetings held with the parties in the offices of the Helsinki Committee. Additionally, citizens can seek legal help by using the association's official phone numbers and email addresses, as well as by filling out a FLA form through the association's official website.

1.2. Demographic data for primary legal aid applicants

During the implementation of the project "Improving the Protective Mechanisms for Free Legal Aid and Hate Speech in the Republic of North Macedonia," which took place from January 1, 2023, to March 31, 2024 (the reporting period), 378 citizens applied for legal aid to

¹⁵ Vasilevski, Z., Kareva, T., Access to justice – Analysis of free legal aid provided by the Helsinki Committee for Human Rights, Helsinki Committee for Human Rights, Skopje, 2022.

¹⁶ Statute of the Helsinki Committee for Human Rights, available at: <https://mhc.org.mk/wp-content/themes/html5blank-stable/pdf/statut%20na%20MHC.pdf>.



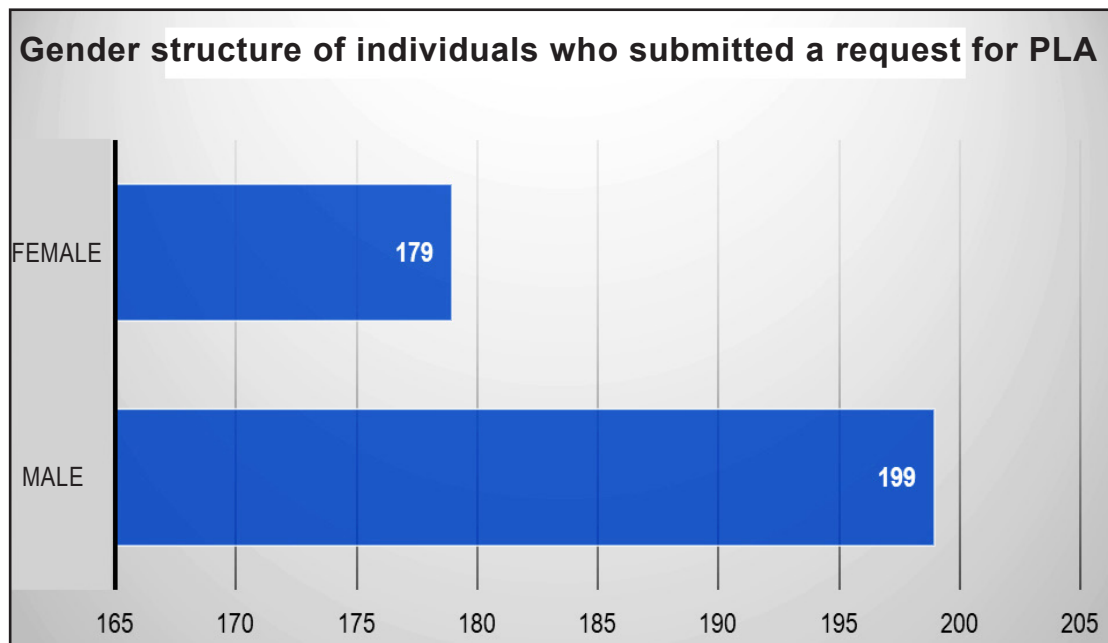
the Helsinki Committee. This data, along with information about the gender distribution, ethnic background of the applicants, and geographical coverage, are analyzed using three different approaches.

- the electronic database of the Helsinki Committee;
- published and publicly available quarterly reports, with a presentation of analyzed statistical and analytical data;
- monthly reports that the Helsinki Committee has submitted to the Ministry of Justice.

1.2.1. Gender structure

Based on the data provided in Table 2, it is evident that requests for legal aid are predominantly submitted by males rather than females. According to the analysis of the electronic database, 53% of legal aid requests are made by males, while 47% are made by females.

Table 2

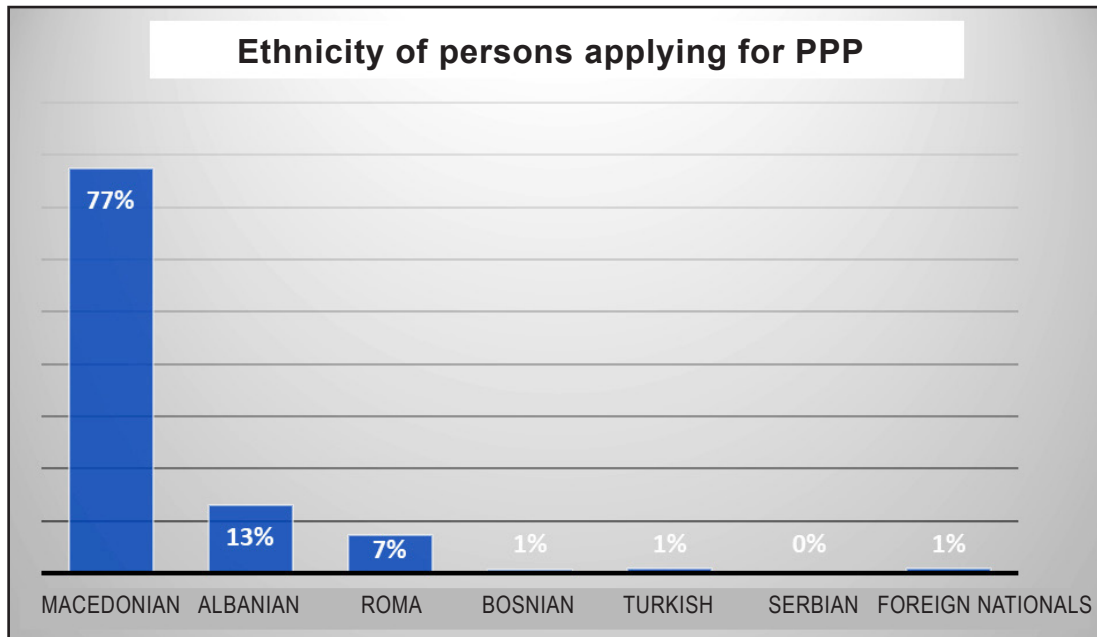


1.2.2. Ethnicity

Of all the individuals who requested legal aid, the majority, specifically 291, belonged to the Macedonian ethnic community. Additionally, 49 individuals identified as Albanian, 27 as Roma, 2 as Bosnian, 3 as Turkish, 1 as Serbian, and 3 were foreign nationals with a long-term stay permit in the RNM. Table 3 presents this information in percentages.



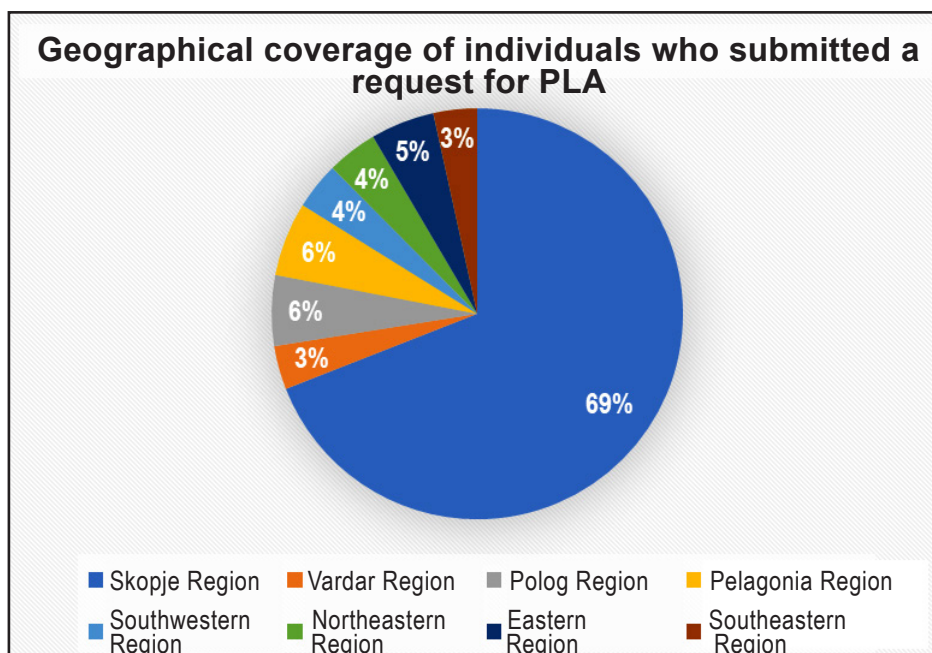
Table 3



1.2.3. Geographic coverage

Finally, the analyzed data in terms of geographical coverage is no less important. Hence, it is noted that the majority of the requests submitted come from citizens living in the Skopje Region (69%). Right behind them are the requests submitted by individuals living in the Polog Region (6%) and the Pelagonia Region (6%), followed by the requests submitted by individuals living in the Eastern Region (5%), then the Southwestern Region (4%) and the Northwestern Region (4%) and finally the requests submitted by individuals living in the Vardar (3%) and Southeastern Region (3%).

Table 4



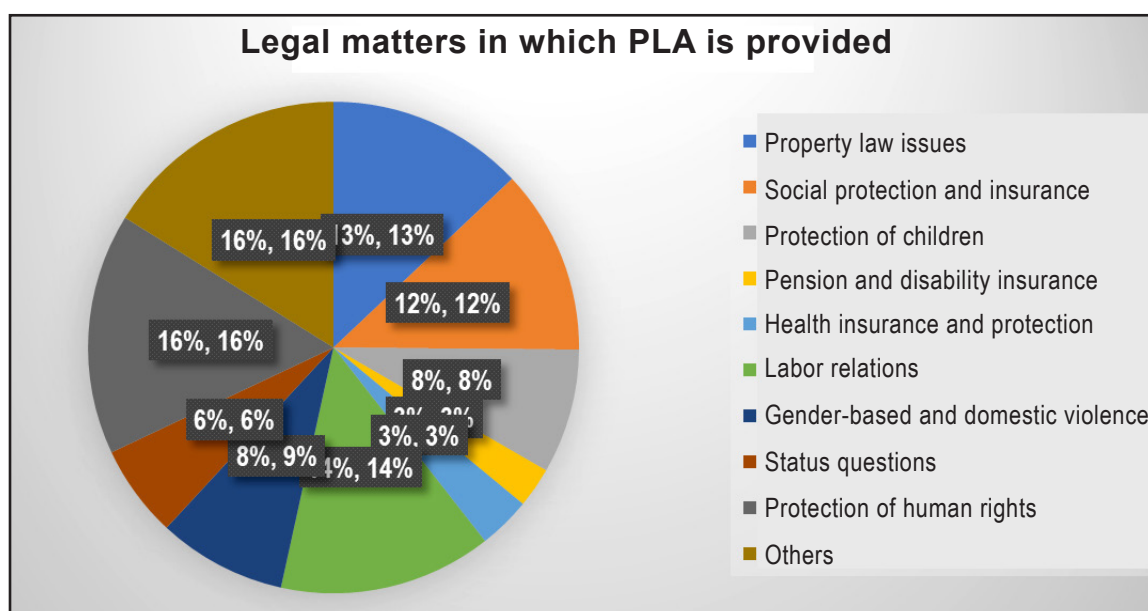


1.3. Legal matters in which primary legal aid is provided

According to the legal regulation, PLA is available to every interested individual¹⁷. This means that anyone can approach authorized FLA providers and ask for advice on their legal matter. In addition, the LFLA does not restrict the legal areas for which PLA can be provided by legal aid providers. This enables a broad framework of legal areas, for which any interested individual can request and receive PLA.

Based on the statistics provided by the Helsinki Committee, it can be concluded that the applicants applied for aid in various legal areas, among which legal issues related to the protection of human rights are the most prominent, followed by matters concerning Labor relations and property law.

Table 5



1.3.1. Protection of human rights

Requests for the protection of human rights were the most represented during the reporting period, which is the subject of this analysis. Namely, 60 individuals submitted a request for legal aid to the Helsinki Committee, or 16% of the total number of submitted requests for free legal aid, which refers precisely to issues related to the protection of human rights.

The protection of human rights is crucial for a democratic society. Therefore, great attention is paid to this issue not only in domestic legislation but also in many international documents. The most important key document is the Universal Declaration of Human Rights, adopted in 1948

¹⁷ Art. 7 of the Law on Free Legal Aid.



by the UN General Assembly. This landmark document, which later became the cornerstone for the adoption of many international conventions and agreements, protects the fundamental freedoms and rights that belong to all people equally.

A large part of the PLA requests submitted in this section refers to inhumane treatment, torture, and psychological harassment in prison wards, as well as limited access to healthcare for detainees. Additionally, requests are submitted regarding early release from prison, lack of police intervention, and inaction by the Public Prosecutor's Office, leading to consequences such as the expiration of the statute of limitations for criminal prosecution.

The provision of free legal aid primarily involves offering legal advice to detainees on their rights, providing guidance on utilizing mechanisms to protect against torture, and initiating court proceedings to safeguard their rights. In several documented instances, the Helsinki Committee submitted complaints and urgent requests to the competent institutions.

1.3.2. Labor relations

Requests for PLA related to Labor relations rank second in terms of received requests for free legal aid. Specifically, 53 citizens sought legal advice on their rights and responsibilities within the context of their employment, accounting for 14% of all requests submitted for free legal aid. These requests encompass a range of issues, including different forms of discrimination during the hiring process, changes in employment status from fixed-term to indefinite, unpaid annual leave, health and social insurance during maternity or sick leave, unpaid overtime, failure to receive salary calculations, and other monetary claims related to employment. Notably, there is also a significant number of requests for legal aid pertaining to workplace harassment (mobbing).

In this section, PLA is given in the form of legal advice and information on the necessary actions that need to be taken in order to protect the rights of workers. In addition, as guidance in preparing submissions within the framework of the procedures that are conducted before the employer and submitting requests for performing extraordinary inspection supervision by the Helsinki Committee to the State Labor Inspectorate in cases where irregularities in the procedures are identified.

In view of the foregoing, it is imperative to underscore the role of the Helsinki Committee in a specific case concerning the provision of legal aid. In this instance, the request for legal aid was in relation to a decision received by the applicant to terminate an employment contract without prior notice. The applicant pursued all necessary avenues within the internal procedural framework before the employer by submitting an objection to the contract termination decision. However, in order to commence legal proceedings, the applicant sought legal counsel from the Helsinki Committee. Following the provision of legal aid, the Helsinki Committee determined that the applicant had marginally exceeded the financial threshold for applying for SLA. Without the legal aid, the applicant would have been unable to independently uphold their rights in court, and the coverage of attorney's fees would have placed them in a position of ne-



cessity. Consequently, the Helsinki Committee liaised with the union of which the applicant is a member to secure a representative for them during the proceedings, a request that was duly accepted by the union. As a result, the applicant was effectively provided with a representative for the court proceedings.

1.3.3. Property law issues

According to the data analysis, 13% of the total cases involve requests for free legal aid concerning property law issues. Specifically, during the reporting period, 49 citizens sought free legal aid from the Helsinki Committee. These requests encompass a wide range of legal matters, starting from the right of ownership and other material rights up to legal issues related to initiated general administrative procedures and administrative disputes related to denationalization and expropriation of construction and agricultural land. In this section, it is important to note that there is a serious improper and untimely action of the competent institutions, which ultimately results in unjustifiably lengthy procedures initiated by the citizens. Consequently, in some cases, the Helsinki Committee has filed multiple requests for extraordinary inspection supervision with the Administrative Inspectorate.

Furthermore, in this section, we commend the actions taken by the Helsinki Committee in relation to one of the registered cases for legal aid. Specifically, the applicant sought legal aid from the Helsinki Committee due to not receiving a response after submitting an urgent request to the Administrative Court. Upon receiving the request for legal aid, the Helsinki Committee approached the Administrative Court seeking priority handling of the case, noting that the administrative matter had remained unresolved for 11 consecutive years. Following the request, the Administrative Court responded to the Helsinki Committee, confirming approval of the request and indicating that the matter would be given priority in their work.

1.3.4. Social protection and insurance

When it comes to social protection and insurance rights, a total of 46 citizens reached out to the Helsinki Committee, accounting for 12% of the total number of submitted requests for free legal aid. The Law on Social Protection¹⁸ outlines 7 rights to financial assistance, which include guaranteed minimum assistance, compensation due to disability, compensation for help and care from another person, salary for part-time work, housing allowance, permanent compensation, and one-time cash help. Hence, during the reporting period, legal aid seekers applied for almost every one of the listed rights, most of which are rights to help and care from another person, compensation due to disability, and housing allowance. In addition to these cases, requests for legal aid were made in connection with the right to a disability pension¹⁹ in accordance with the Law on Pension and Disability Insurance.

¹⁸ Art. 27 of the Law on Social Protection.

¹⁹ Art. 50 of the Law on Pension and Disability Insurance.



In some requests for legal aid, it is clear that citizens are unhappy with the actions of social work centers. The Helsinki Committee has identified certain shortcomings in the actions of these centers.²⁰ As a result, from the database of registered cases, it can be seen that applicants have initiated an administrative procedure and then, after its completion, initiated an administrative dispute before the Administrative Court. For instance, in one case, the applicant sought legal advice on how to proceed when, despite receiving a final and enforceable judgment from the Administrative Court requiring the competent authorities to issue a new administrative act, the judgment was not acted upon. In this scenario, the Helsinki Committee approached the State Administrative Inspectorate, requesting an inspection. The response received from the Administrative Inspectorate stated that a new administrative act was indeed adopted but not delivered. This situation raises other concerns related to the efficiency and timeliness of delivering administrative acts.

It's worth noting the low level of cooperation between social work centers and civil associations. In one case, which, in fact, seems to have similar content as the previously mentioned one, a person sought legal aid after the social work centers failed to take action despite a verdict from the Administrative Court. In order to help the applicant, the Helsinki Committee approached the competent Center for Social Work to obtain more information regarding the matter; however, the Center for Social Work has not submitted a response to the Helsinki Committee regarding this matter. It's unclear why the social work centers are refusing to communicate with registered associations that provide free legal aid and operate in accordance with the LFLA, with the scope of providing easier access to justice.

1.3.5. Protection of children

In terms of requests for free legal aid for child protection, there were a total of 31 requests submitted to the Helsinki Committee, representing 8% of the total requests. The majority of these requests pertain to the actions of social work centers in cases where parents do not comply with decisions on assigning children to partial upbringing and support by one parent, as well as determining visitation rights for the non-custodial parent. The remaining requests are related to initiating procedures to increase established child support.

1.3.6. Gender-based and domestic violence

The Convention of the Council of Europe on preventing and combating violence against women and domestic violence, known as the Istanbul Convention, was adopted by the Committee of Ministers of the Council of Europe on April 7, 2011. The Republic of North Macedonia signed the Convention on July 8, 2011. This Convention is the most important international document for combatting domestic violence, as it sets out a series of standards that a signatory country must meet to prevent, protect, and punish all forms of violence. On May 21, 2021, the RNM adopted the Law on Prevention and Protection against Violence against Women and Domestic

²⁰ Quarterly report on provided free legal aid, January-March 2023, available at: <https://mhc.org.mk/reports/prv-kvartalen-izveshtaj-besplatna-pravna-pomosh-januari-mart-2023/>.



Violence. This law introduces new mechanisms for dealing with individuals who report violence. Of particular interest is the principle of due diligence,²¹ which requires all competent authorities to take all measures and actions to prevent any form of gender-based violence against women and domestic violence. Despite the established institutional legal framework, there are still a significant number of cases involving gender-based and domestic violence.

A total of 32 requests for legal aid in this area have been submitted to the Helsinki Committee, accounting for 8% of the total number of requests for free legal aid. Most of the free legal aid provided focuses on advising individuals on the process of reporting violence and the available mechanisms for protection by state institutions. A crucial aspect of this support is accompanying applicants to the police station and social work center, as well as filing complaints with relevant institutions in cases of identified shortcomings in the process of protection against gender-based and domestic violence.

A common issue in all these cases, which also represents the biggest problem, is the significant inaction of police officers in situations involving gender-based and domestic violence. As demonstrated by the registered cases for free legal aid, the police officers classify these cases as complaints rather than formal reports, preventing the procedure from progressing to the Basic Public Prosecutor's Office. Consequently, after filing a complaint, the police officers only summon the perpetrator for an informational interview, during which they give a verbal warning to cease all threatening actions. This further dissuades individuals from reporting violence, as they know that the perpetrator will not face any consequences for their actions.

As can be seen from one of the registered cases in the electronic database, an applicant filed criminal charges against her former extramarital partner. However, the violence continued even after the person left the extramarital relationship. Upon reviewing the documents submitted to the Helsinki Committee, it is clear that the reports were registered as complaints. As a result, the Helsinki Committee filed a complaint with the Department of Internal Control at the Ministry of Internal Affairs regarding the unprofessional behavior of the police officers.

In another case, an applicant turned to the Helsinki Committee for legal aid, seeking protection from domestic violence, which she reported to the police station on several occasions, especially as it took place in the presence of the children. In this case, criminal charges were also filed as complaints, citing psychological harassment by the ex-husband. The Helsinki Committee reached out to the Violent Crime Unit - Domestic Violence Department at the Ministry of Internal Affairs in Skopje, as well as the police station where the applicant had made her reports. The response from the police station indicated that if a medical report on visible physical injuries was not submitted, it was not considered domestic violence, suggesting a lack of awareness among the police about different types of domestic violence and insensitivity in handling such cases. On the other hand, the response from the Violent Crime Unit stated

21 Art. 4 of the Law on Prevention and Protection against Violence against Women and Domestic Violence.



that the applicant had not approached them, and official records showed that the complaints against the ex-husband were acted upon. Interestingly, despite a court decision being made against the perpetrator, imposing temporary measures such as a 100-meter non-approach order and other restrictions, he continued to follow and harass her after the measures expired. Consequently, the Ministry of Internal Affairs and the Center for Social Security did not take additional steps to protect the applicant, instead, they shifted responsibility to each other during the process, which contradicts the principle of due diligence and contributes to the double victimization of individuals reporting domestic violence.

1.3.7. Status issues

A total of 23 requests for free legal aid have been submitted to the Helsinki Committee regarding the resolution of certain status issues. These requests represent 6% of the total number of requests for free legal aid within the reporting period. The free legal aid provided mainly includes legal advice and information aimed at addressing legal issues. In addition, requests for legal aid have been registered in relation to the preparation of various types of submissions/forms, such as a request for the adoption of a decision on the termination of guardianship, further assistance in the preparation of forms related to the issuance of an identity card and travel document, as well as submitting requests for SLA in cases where it is necessary to conduct court proceedings to resolve the status issue.

Particular attention is paid in this section to the transfer of responsibility from one institution to another regarding pending cases. So, in one of the registered cases, the applicant submitted a request for acquiring citizenship, for which she did not receive any response. Upon reviewing the documentation, the Helsinki Committee found that the administrative procedure was stuck at the National Security Agency. As a result, the Helsinki Committee requested information about the case, and the National Security Agency responded, stating that the Department for Administrative and Supervisory Affairs at the Ministry of Internal Affairs is responsible for the prolonged duration of the case.

It can be concluded from this that state institutions are not effectively serving the citizens. Additionally, it seems that they do not collaborate with one another and lack a common goal, such as timely resolution of citizen requests. Furthermore, many citizens may be unfamiliar with the process when they approach these institutions for the first time, so it is important to clearly inform them about the expected timeframe for a decision or, at the very least, why their case has not been resolved yet.

1.3.8. Pension and disability insurance

When it comes to pension and disability insurance rights, 3% or a total of 10 individuals requested free legal aid in this area. Among the received requests for free legal aid, citizens mostly sought legal information about their eligibility for old-age pension, family pension, etc.,



as well as about the failure of the Pension and Disability Insurance Fund to timely respond to complaints submitted by citizens.

1.3.9. Health insurance and protection

A total of 13 requests for legal aid regarding health insurance and protection have been registered in the electronic database, representing 3% of the total number of submitted requests for free legal aid. In this section, citizens frequently seek legal advice and information about the provision of healthcare, their rights and obligations with the Health Insurance Fund, etc.

A situation similar to the lack of knowledge of the LFLA in the aforementioned areas is also present in this part. For example, in one case, an individual seeking legal aid approached the Helsinki Committee because a health institution was refusing to issue necessary health documents. The reason for the institution's refusal was an outstanding debt owed by the applicant. The Helsinki Committee requested the State Health Inspectorate to conduct an inspection at the gynecological-obstetrical clinic. However, the request was denied because the inspectorate required a notarized power of attorney to proceed in the case. The free legal aid request submitted as an attachment was not taken into account, in order for the procedure to continue.

The situation is completely unacceptable. The LFLA does not specify the format of the request that authorized associations should act on. Therefore, the mere request for legal aid by the applicant should be enough to start a liability procedure, especially considering that the health institution has other ways to collect the debt that do not involve withholding documents.

II.2. SECONDARY LEGAL AID

In terms of secondary legal aid, the Law on Free Legal Aid of 2019 contains a deeper and more substantial intervention. LFLA has expanded the scope of legal aid, including exemption from court and administrative fees and costs related to the procedure before the court, as well as exemption from expert costs.²² However, the LFLA does not cover mediator services for out-of-court dispute resolution and services in alternative dispute resolution procedures. At the same time, the law fails to regulate the advance payment of costs provided for by the LFLA, which, in turn, is necessary for the initiation of litigation proceedings and the delivery of evidence as a prerequisite for the merits of the lawsuit and claim.

Exemption from costs related to proceedings before the court proved to be too broad and lacking detail in practice. Namely, the LFLA does not specifically regulate the types of costs from which the user of the FLA is exempted. Instead, it refers to a separate law (Law on Civil Procedure), which has proven to be complex and ineffective in practice due to the fact that the majority of these costs must be advanced (expenses for expertise, translation of documents,

²² Article 13, paragraph 5 of the LFLA.



and their certification before a notary, provision of documents²³ from institutions that are subject to appropriate fees, etc.). Moreover, other costs that may arise during the proceedings cannot be predicted in terms of their type or amount. While the Law on Free Legal Aid does regulate the method of payment for the preparation of expert reports and expert opinions (which are advanced expenses), it does not address the legal regulation of the method, conditions, and procedure for the payment of other costs that may arise during the proceedings, bearing in mind the provisions of Articles 146 and 147 of the LCP, which regulate the rules for the obligation of each party to bear the costs caused by their actions.

On the other hand, despite the legal exemption from the costs of preparing expert findings and opinions in such a way that these costs are borne by the RNM Budget after a previously issued invoice by the expert, the Law sets a radical limitation on the authority to produce these expert findings and opinions. According to the LFLA, the only competent body for the preparation of expert findings and opinions in the procedures for secondary legal aid is the Bureau of Judicial Expertise (Art. 13 paragraph 6 of the LFLA)²⁴ in accordance with the Law on Expertise.

This limitation in the Law, in practice, proved to be a kind of barrier that significantly slowed down and made it difficult to start the procedures after the approved secondary legal aid or the very course of ongoing procedures. The lack of a sufficient number of skilled personnel in the BJE, as well as the lack of experts from certain areas,²⁵ led either to the termination of the approved secondary legal aid or to the loss of proceedings before the courts.²⁶

With the new Law on Expertise²⁷, the BJE has been transformed into an Appraisal Bureau that carries out expert work in the area of appraisal in accordance with the Appraisal Law,²⁸ which has squeezed out the competence and, in general, the possibility of the Bureau to prepare expert findings and opinions and led to a partial dysfunction of the system of FLA, bearing in mind the provision in the LFLA that explicitly refers to the BJE as the only competent body for the preparation of expert findings and opinions for the needs of SLA users. This ongoing situation, which has persisted for 6 months, causes several unwanted situations: a) the MoJ, acting on a request for approval of SLA, rejects the request due to an obvious failure in the dispute²⁹; b) the MoJ approves the user's request for SLA, and then the SLA user faces the rejection of the lawsuit and the request³⁰, however, this situation presupposes conducting a procedure until its completion with prior knowledge of failure in the dispute, which is a violation

23 Property certificate, Birth or death certificate, etc.

24 Art. 13 st.6 of the LFLA.

25 Experts in the field of DNA analysis.

26 Deficiencies that were noted in the NCB meetings; see <https://pravnapomos.mk/nacionalno-koordinativno-telo/>.

27 Law on Expertise, Sl. Journal no. 154 of July 20, 2023, available at: [www.pravda.gov.mk/Upload/Documents/zakon%20za%20veštačenje%20%20\(sl.vesnik%20na%20RNM%20154-2023\).pdf](http://www.pravda.gov.mk/Upload/Documents/zakon%20za%20veštačenje%20%20(sl.vesnik%20na%20RNM%20154-2023).pdf).

28 Art. 46 paragraph 2 of the Law on Expertise.

29 Art. 22 st. 1 paragraph 15 of the LFLA.

30 According to the LLA, the evidence is submitted by each of the parties with a lawsuit or before the first preparatory hearing. The failure to submit the evidence on time, including the expert report, is a basis for rejecting the lawsuit.

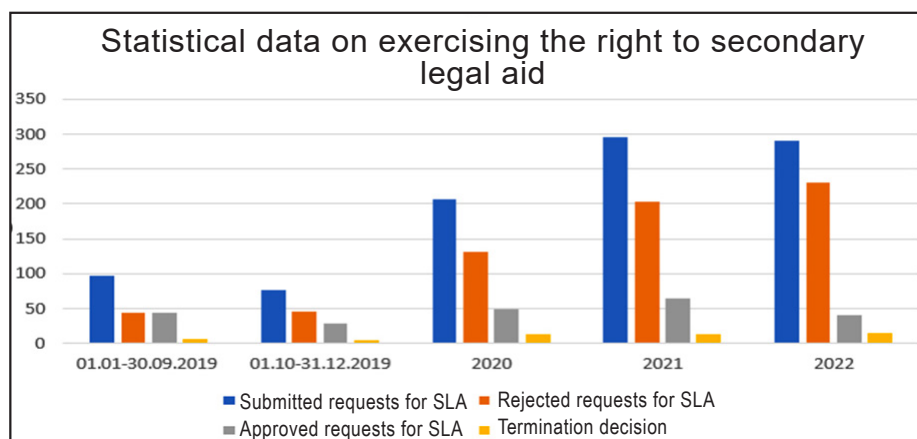


according to the LFLA³¹ and c) the user of SLA to co-finance the approved secondary legal aid, which in our law is not provided as a possibility but is not excluded as a possibility. Also, this presents a difficulty for users who wouldn't have sought SLA if they had the means to conduct necessary procedures.³²

The law also expanded the types of legal issues for which secondary legal aid can be granted in all stages of civil court proceedings, administrative proceedings, and administrative disputes, except for issues for which it is expressly provided that secondary legal aid will not be granted.³³ However, the new law has abandoned the possibility of providing secondary legal aid in criminal proceedings,³⁴ which is a step back in terms of citizens' access to justice.

One of the most important changes in the law pertains to the **easing of criteria for the approval of SLA** in consideration of the financial circumstances of applicants for SLA. The Law distinguishes between³⁵ the applicant's income and³⁶ the applicant's assets. The improvement of the conditions regarding the financial situation of SLA applicants represents a kind of roadmap for the state's commitment to strengthen and advance the FLA system in such a way that those restrictive elements that characterize the property situation of the applicant and the applicant's income in the old legal decision from 2009 have now been replaced by more lenient criteria, which has contributed to an increased number of submitted requests for secondary legal aid.

Table 6³⁷



31 Art. 22 paragraph 1 line 15 and Art. 26 paragraph 1 line 3 of the LFLA.

32 See: **MINUTES** of the thirteenth (13) meeting of the National Coordinating Body for Free Legal Aid held on **September 27, 2023** and **Minutes** of the fourteenth (14) meeting of the National Coordinating Body for Free Legal Aid held on **March 20, 2024**.

33 Customs and tax affairs; defamation and insult; compensation for non-material damage, except in cases for victims of crimes, as well as in case of death or severe disability; offenses; public and communal services (issues related to the supply of electricity, water, heating, etc.); property issues in administrative proceedings (denationalization, expropriation, privatization, legalization); defense in criminal proceedings.

34 With Article 49 of the "Transitional and Final Provisions", Article 8 of the old Law on Free Legal Aid is partially left in force in the area of protection of victims of criminal offenses and victims of human trafficking, leaving the possibility of approved secondary legal aid in criminal proceedings exclusively for representation but not for defense.

35 Art. 18 of the LFLA.

36 Art. 19 of the LFLA.

37 The statistics shown in Table 6 are a summary of the Annual Reports of the Ministry of Justice.



Compared to 2019, as shown in the table, in 2020, the number of submitted requests for secondary legal aid increased by 25.5%. The number of approved requests for secondary legal aid in 2020 increased by 31.8%. The number of rejected requests for secondary legal aid decreased in 2020 compared to 2019 by 32.8%.

In 2021, the number of submitted requests for secondary legal aid increased by 42% compared to 2020. The number of approved requests for secondary legal aid increased by 53%. The number of rejected requests for secondary legal aid decreased by 7.2% compared to 2020.

In 2022, the number of requests for approval of secondary legal aid decreased slightly compared to 2021. A total of 295 requests were submitted in 2021, and 291 requests were submitted in 2022, showing a decrease of -1.35%. The approved requests increased by 13.79%, while the number of rejected requests decreased significantly by -38.46%.

Despite the simplified criteria regarding the financial situation of the applicants, as can be seen from the statistical data shown in Table 1 by year, it can be concluded that except in the first year after the entry into force of the new Law, where the number of applications for secondary legal aid is almost doubled, in all other years, the number of requests stagnated, with small oscillations towards a decrease in the number. On the other hand, the number of approved requests is continuously increasing, regardless of the number of submitted requests for SLA approval.

What is missing in the statistical presentation by the Ministry of Justice during the preparation of the annual reports are data on the type of legal issues³⁸, gender, ethnic, and age structure of the applicants for secondary legal aid, reasons for the rejection of the applications, and the basis for termination of the approved secondary legal aid. Furthermore, additional statistical data that would be useful and which are missing in the annual reports are the data on which non-governmental associations and legal clinics have submitted applications for SLA approval, which of those applications have been approved, and which have been rejected.

The 2019 law introduces two significant changes. Firstly, it allows for **the possibility of approving secondary legal aid without determining the financial situation** in the following cases: a) when the applicant is placed in foster care, in a supportive housing unit, or in a social protection institution as decided by the Center for Social Work; b) when the applicant needs initiation and representation in a procedure for imposing temporary measures for protection against domestic violence before a competent court; or c) when the applicant, due to a natural disaster, force majeure or other circumstances beyond their control, is unable to independently protect their rights;³⁹ **and decentralization of the decision-making process for requests for secondary legal aid.**⁴⁰

³⁸ In the reports of the Ministry of Justice, it is only noted that the most frequently submitted requests for SLA are in the field of: property law matters, divorce, imposing temporary measures for the protection of victims of domestic violence, protection of children, establishing paternity, etc.

³⁹ Article 20 of the LFLA.

⁴⁰ The decision-making process, following the requests for secondary legal aid, was transferred from the Ministry to the regional departments, through specially authorized officials who are responsible for bringing real acts (Article 13, Paragraph 4). The need for this change arose from the idea to speed up the procedure and avoid forwarding the documentation after the



In the period of application of the Law on Free Legal Aid from its implementation in 2019 till 2024, in February 2020, the National Coordinating Body for the Application of the Law on Free Legal Aid (NCB)⁴¹ was established in February 2020 with the assistance of the Council of Europe. The NCB serves as a platform for sharing information, communication, and coordination among stakeholders on topics of importance for the application of the Law on Free Legal Aid and for facilitating access to justice at the national level. The objectives and functions of the NCB are: a) improving the quality and accessibility of free legal aid to potential users; b) improving communication between stakeholders, including sharing information, coordinating individual cases, and providing timely data for processing requests for secondary legal aid. c) enhancing mutual understanding among stakeholders regarding their responsibilities, functions, expertise, and challenges related to the implementation of the LFLA; d) identifying problems and challenges in the implementation process of the LFLA.

The NCB consists of 28 members, representatives of non-governmental associations, legal clinics, the Bar Association of the RNM, state bodies, institutions, and organizations that affect or are affected by the application of the LFLA or are otherwise involved in facilitating access to justice for citizens.

Numerous shortcomings have been identified in the application of the LFLA within the work of the NCB. These include exemptions from administrative fees, fees before notaries in proceedings, costs for temporary representatives in civil proceedings, and the preparation of expert reports by the Expert Bureau. These factors undoubtedly confirm the relative dysfunctionality of the FLA system in RNM and citizens' limited access to justice.⁴²

2.1. Data from the database of the Helsinki Committee for Human Rights

As a primary legal aid provider,⁴³ if the Helsinki Committee determines that the legal problem faced by a PLA user is one that should continue in court proceedings, it has the obligation to assist the user in preparing and submitting a request for approval of secondary legal aid, depending on the applicant's place of residence, before the competent regional department of the Ministry of Justice.

request to Skopje and back. In the direction of an immediate response, the Law provided for the possibility of immediate action on the request.

41 See: <https://pravnapomos.mk/nacionalno-koordinativno-telo/>.

42 For a more detailed insight into the identified deficiencies in the LFLA during its application from 2019 to 2024 and the malfunctions in the FLA system, see: <https://pravnapomos.mk/nacionalno-koordinativno-telo/>; Analysis of the Law on Free Legal Aid 2019, authors: Goce Kocevski, Elena Georgievska, contributors: Bojana Netkova, John Eames, November 2022, Council of Europe, available at: <https://rm.coe.int/assessment-of-the-law-fla-in-mk-mkd/1680a96a76>; Analysis of free legal aid provided by the Helsinki Committee for Human Rights, Zoran Vasilevski, Tona Kareva, 2022, Helsinki Committee for Human Rights, available at: <https://mhc.org.mk/wp-content/uploads/2022/11/pristap-do-pravda.pdf>.

43 In 2016, the HC acquired the right to provide primary legal aid by the Decision of the Minister of Justice No. 11-340/2 of March 31, 2016, see: <https://pravda.gov.mk/bpp>.



The Helsinki Committee maintains a database for the provided legal aid, which was created under the operational grant IPA/2019/413-342. The purpose of the database is *to record and systematize the socio-demographic characteristics of those seeking free legal aid and to assess the effectiveness and efficiency of the institutions within the system. The database uses an external software system coordinated by the legal advisors of the Helsinki Committee, and the data is collected and used in accordance with the Law on the Protection of Personal Data.*

The database is a tool for collecting data on free legal aid services that are the basis for statistical analysis and allow for a contribution to the creation of specific proposals for public policies. The following types of data are processed in the database:

- *personal data of the applicant for free legal aid (name and surname, municipality, town, age, sex, gender, gender identity, sexual orientation, ethnicity, education, religion or religious belief, state of health, political affiliation, marital status and other);*
- *the legal problem of the applicant;*
- *given legal advice;*
- *date of submission of the request for free legal aid;*
- *date of submission of the letter to the competent institution;*
- *waiting period for a response from the institution;*
- *date of submission of the request for secondary legal aid to the Ministry of Justice;*
- *waiting period for a response to a request for secondary legal aid from the Ministry of Justice;*
- *information on whether the request for secondary legal aid has been approved or rejected.”⁴⁴*

As part of the project “Improving the protective mechanisms for free legal aid and hate speech in the Republic of North Macedonia” in the reporting period from January 1, 2023, to March 31, 2024, the Helsinki Committee for Human Rights provided primary legal aid to a total of 378 citizens.⁴⁵ Out of these 378 citizens, the Committee identified and provided primary legal aid, including legal advice and assistance in preparing and submitting a request for approval of secondary legal aid to the Ministry of Justice, for 9 citizens, based on the type of legal issue and the need for appropriate court proceedings.

The Committee organizes these requests based on the specified columns in the database (as mentioned above) such as gender, place of residence, type of legal issue, legal area pertaining

⁴⁴ Goce Kocevski, 2020, PROTECTING HUMAN RIGHTS THROUGH PROMOTING FREE LEGAL AID – Policy recommendations based on analysis of free legal aid provided by the Helsinki Committee for Human Rights, Helsinki Committee for Human Rights.

⁴⁵ These data are available on the HC database and are publicly published quarterly on the HC website, see: <https://mhc.org.mk/izveshtai/>; <https://mhc.org.mk/reports/prv-kvartalen-izveshtaj-besplatna-pravna-pomosh-januari-mart-2023/>; <https://mhc.org.mk/reports/besplatna-pravna-pomosh-za-periodot-april-juni-2023-godina/>; <https://mhc.org.mk/reports/besplatna-pravna-pomosh-za-periodot-juli-avgust-2023-godina/>; <https://mhc.org.mk/reports/besplatna-pravna-pomosh-za-periodot-oktomvri-dekemvri-2023-godina/>; <https://mhc.org.mk/reports/besplatna-pravna-pomosh-za-periodot-januari-mart-2024-godina/>.



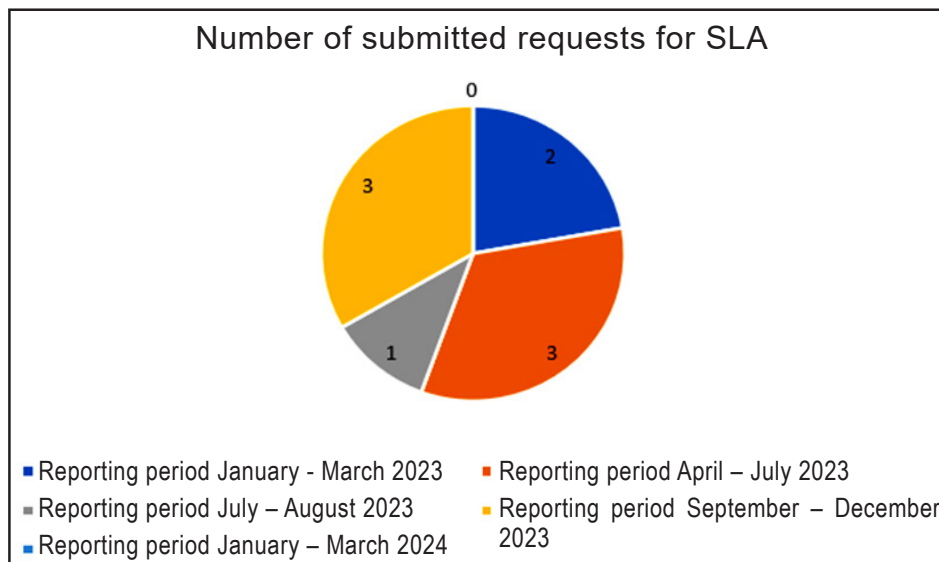
to the issue, date of submission of the request for SLA, processing status (whether the request has been decided upon), and outcome (if the SLA request is approved).

On the other hand, the Helsinki Committee for Human Rights presents these statistical data in the quarterly reports by legal area (e.g., family relations, property law, etc.), type of case (e.g., divorce proceedings, child support, etc.), and status (approved or rejected).

2.1.1. Number of submitted requests by quarter

Out of a total of 9 requests submitted to the Ministry of Justice for approval of secondary legal aid by the Committee: 2 requests were submitted from January to March 2023; 3 requests were submitted from April to June 2023; 1 request was submitted from July to August 2023; 3 requests were submitted from September to December 2023. No requests were submitted from January to March 2024.

Table 7



Based on the statistical data in Table 7, it can be concluded that there were no significant fluctuations, i.e., increases or decreases in the number of requests for secondary legal aid submitted to the Committee by quarter during the reporting period from January 1, 2023, to March 30, 2024. What is interesting to note is the small number of submitted requests for SLA in relation to the number of citizens who turned to the Committee and who were provided with primary legal aid. Out of the 378 citizens who received primary legal aid, only 9 submitted requests for secondary legal aid, representing just 2.38% of the total number of citizens seeking assistance from the Committee for a legal issue.

2.1.2. Data by status

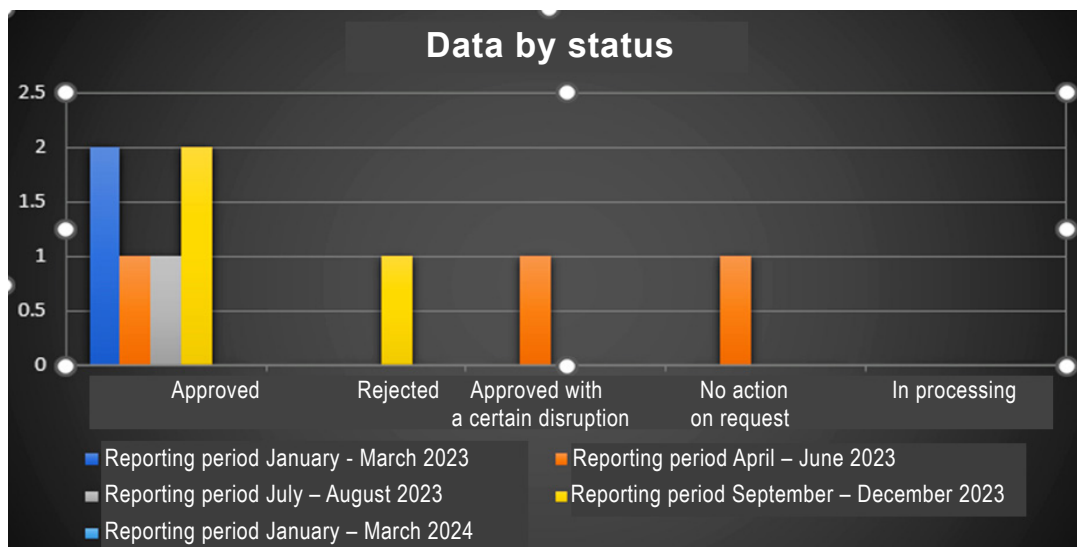
Data by status refers to whether the submitted request for approval of secondary legal aid has been approved or rejected by the MoJ. According to the LFLA, the Ministry, through its regional



departments, approves the application for secondary legal aid if the applicant meets the conditions outlined in articles 17, 18, 19, and 21 of the Law. The Ministry is obligated to inform the applicant of the approved legal aid and the assigned lawyer by arranging an initial meeting between the lawyer and the applicant. However, the regional departments at the Ministry of Justice also have the authority to reject a submitted request and are required to notify the applicant of the rejection in accordance with Article 22 of the LFLA, but they are not obligated to notify any associations.

Due to a lack of legal provisions, there is no requirement to inform the association that submitted the request for SLA approval about the status of the request. This legal gap means that authorized associations either lack sufficient data on the status of their submitted requests, as they are unable to maintain up-to-date statistics, or they must reach out to the relevant parties to obtain information on whether the request has been approved or rejected.

Table 8



Out of the 9 applications submitted for SLA approval, more than half were approved,⁴⁶ which represents 77.77% of the total. Specifically, 7 applications for secondary legal aid were approved, 1 application was rejected due to failure to meet the financial criteria provided for in LFLA, and 1 request was not acted upon because a notification was received from the Ministry of Justice that a request for approval of secondary legal aid from another association has already been submitted for the same applicant on the same legal issue.⁴⁷

The inflexible approach of the LFLA regarding financial criteria persists as a barrier to citizens' access to the court. This approach often leads to the rejection of the submitted claims because a) either the claimants have incomes that are above the legal minimum, and yet they belong to a vulnerable category of citizens (poor citizens) who cannot afford to bear the costs of the

⁴⁶ Information on the status of requests was received by the Helsinki Committee personally from the parties/users of the FLA.

⁴⁷ Information obtained from the conducted interviews with employed representatives in the Helsinki Committee for Human Rights.

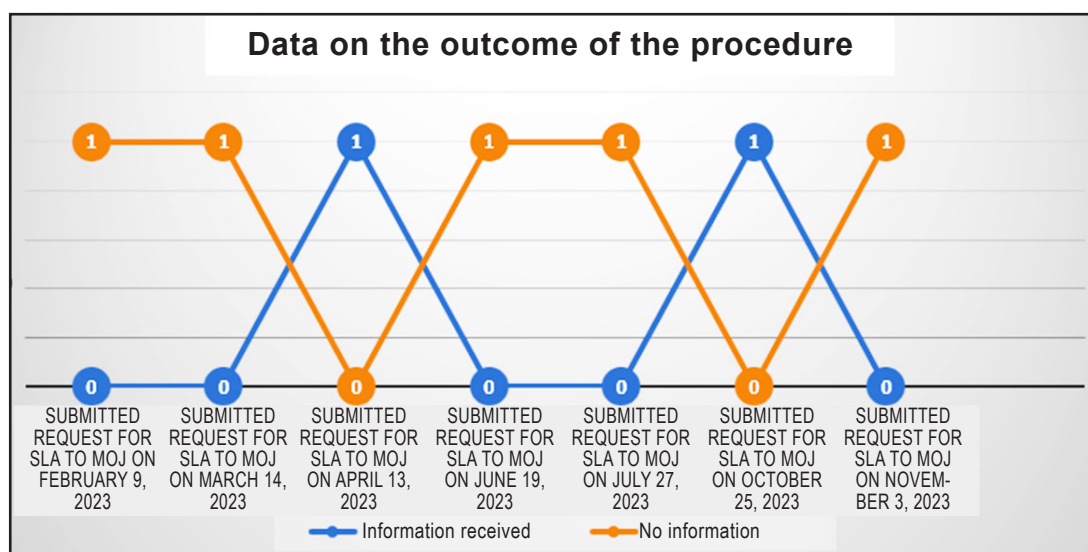


court proceedings, b) or they have a vehicle that has a larger engine displacement than legally provided for.

2.1.3. Data on the outcome of the procedure

Regarding the outcome of the procedure after approved secondary legal aid, the associations, and thus the Helsinki Committee for Human Rights, are once again faced with a lack of information, which, in this case, they should receive either from the appointed lawyer or from the party itself/ SLA user.

Table 9



Regarding the approved requests for SLA in the reporting period, the Committee received information about the stage of progress for only 2 out of 7 approved requests for SLA. This represents 28.57% of the total number of approved requests and initiated procedures.

According to the data obtained from the interviews conducted with representatives of the Helsinki Committee, one case is currently suspended due to the appointed lawyer's inability to contact the user of the secondary legal aid, i.e., the SLA user has been deported from the state. The second case is scheduled for a hearing in front of the competent criminal court.

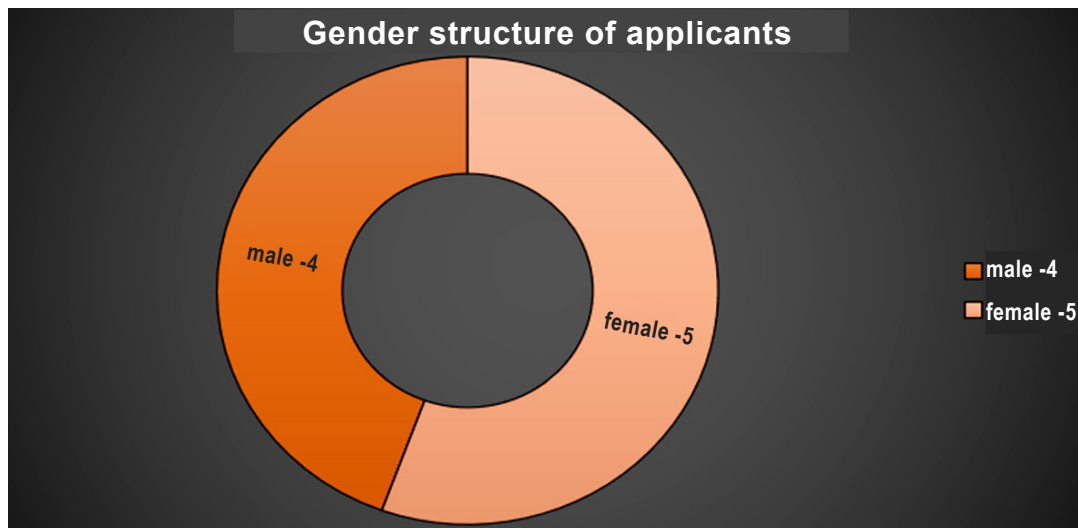
2.2. Demographic data of applicants for secondary legal aid

The data discussed in Chapter II of this analysis was gathered from the Helsinki Committee for Human Rights database and quarterly reports. It pertains specifically to 9 individuals for whom the Committee has requested approval for secondary legal aid.

2.2.1. Gender structure of applicants

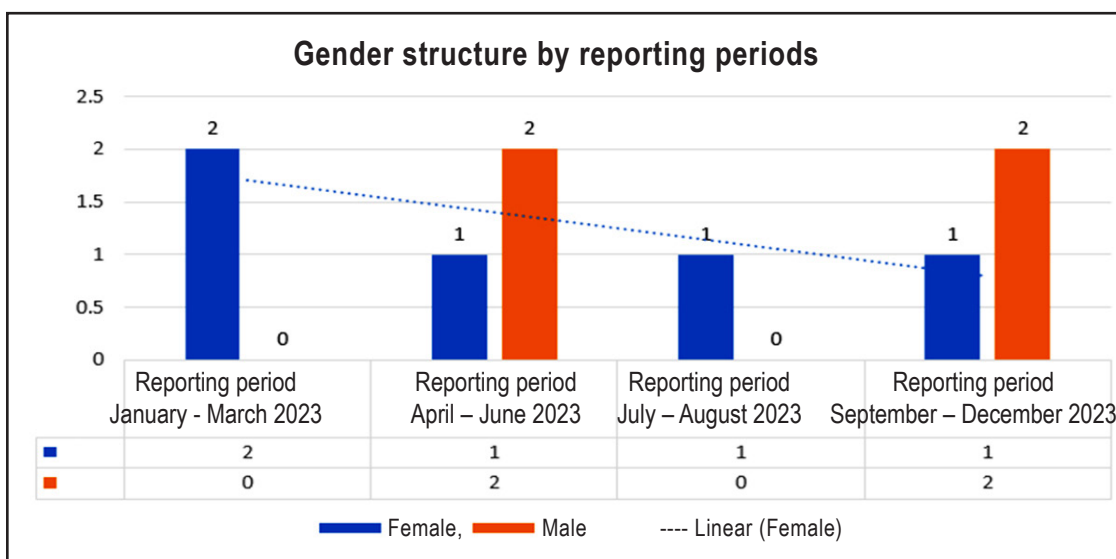
Out of the total number of citizens who turned to the Committee and for whom applications were submitted for the approval of secondary legal aid, the number of women (5) is slightly higher than men, i.e., 55.55% were women, while 44.44% were men (4).

Table 10



When looking at the number of male and female applicants for SLA to the Helsinki Committee by quarters, that is, according to reporting periods, it can be seen that in the first quarter from January to March 2023, out of the 2 individuals who sought secondary legal aid, both of them were female; in the period from April to June 2023, out of 3 citizens who approached the association, 2 were male, and, 1 was female; in the reporting period from July to August 2023, only 1 female person addressed the need to submit a request to the Ministry of Justice for approval of SLA; and in the period from September to December 2023, out of 3 requests for SLA approval, two requests refer to 2 male persons and one request is for a female person.

Table 11

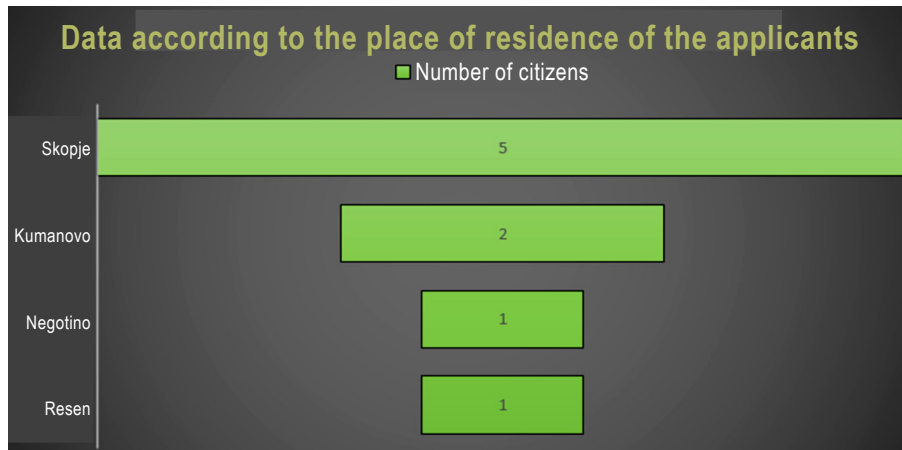




2.2.2. Place of residence of the applicants

Based on the data analysis of the association's database and quarterly reports, 9 citizens sought help from the Committee to submit a request to the Ministry of Justice for the approval of secondary legal aid. The majority, 5 citizens, or 55.55%, were from Skopje; 1, or 11.11%, were from Negotino; 2, or 22.22%, were from Kumanovo; and 1, or 11.11%, were from Resen.

Table 12



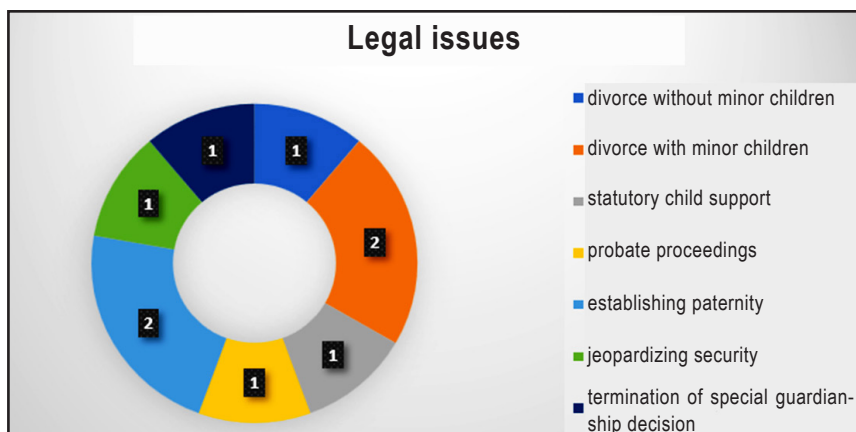
2.2.3. Legal issues

The type of legal issues, i.e., problems for which citizens addressed the Committee in the reporting period from January 2023 to March 2024, covers several areas, such as family relations, property law matters, child protection, domestic violence, and status issues. The most common are divorce issues (4), then establishing paternity (2), child support (1), and probate proceedings (1).

In terms of the type of proceedings in which these legal issues fall, more than half are legal issues for which civil proceedings have been initiated, i.e. 7 or 77.77% of the total number of submitted requests for SLA. For 1 (11.11%) legal issue, a request for approval of the SLA was submitted in an administrative procedure, and 1 (11.11%) legal issue falls under the criminal matter.

The data show that the number of legal issues in civil matters is greater and more frequent than that in criminal and administrative matters.

Table 13





Legal issues related to family relations include divorce without minor children, divorce with minor children, and statutory child support. Out of 9 citizens who sought approval for SLA for these family issues (family relations), 4 people (44.44%) approached the Committee. Out of these 4 individuals, one person (11.11%) needed to initiate proceedings before the civil court for divorce without minors, while 2 individuals (22.22%) needed to initiate proceedings for divorce with minor children. Additionally, one person (11.11%) needed to file a lawsuit to increase the amount of legal child support.

In the area of property legal relations, only 1 (11.11%) legal issue was processed in the reporting period, and that was for the initiation of probate proceedings before a notary while, on the other hand, in the area of child protection, 2 requests were submitted (22.22%) for approval of SLA on the basis of establishing paternity.⁴⁸

III. MONITORING OF COURT PROCEEDINGS

As part of the project “Improving the Protective Mechanisms for Free Legal Aid and Hate Speech in the Republic of North Macedonia,” one of the activities is to monitor court proceedings. The monitoring during the project implementation was conducted using a previously established methodology, which involved the use of two methods:

- Field research by hiring professional observers to monitor the scheduled hearing in person. For the implementation of this activity, external professionals (in the following text: observers) who have experience in the criminal, civil, and administrative fields were hired.
- An analysis of a specially determined and created questionnaire in order to address the needs of the main hearing. After the monitoring, the observers entered the data from the scheduled hearing, with a special emphasis on several segments, such as the way of keeping minutes for the main hearing, the urgency of the proceedings, equality of arms, the imposition of temporary measures in proceedings for family and gender-based violence and reasons for the postponement of court hearings. These data are not part of the electronic database; rather, they are separated and systematized in the questionnaires.

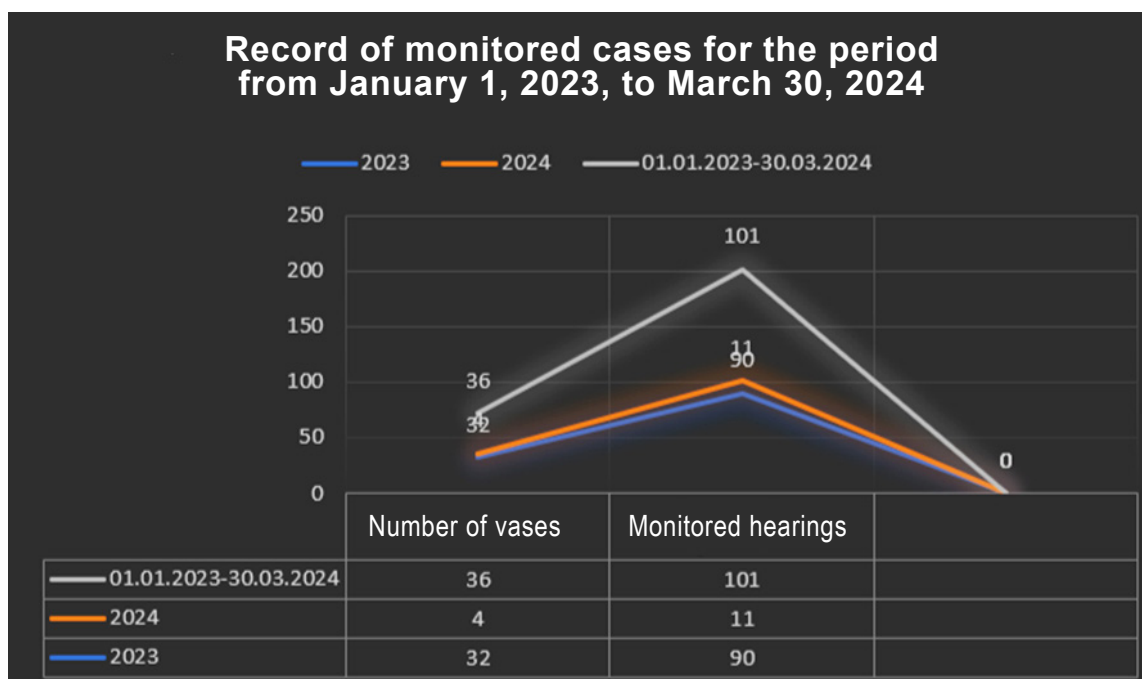
The court cases being monitored are selected in two ways. Most of the cases are referred by citizens who have previously sought help from the Helsinki Committee for legal aid. The remaining cases are those that have been brought to light by the media, addressing significant issues of public interest and for which the public has shown a high level of interest in the outcome of the proceedings.

During the reporting period, 36 cases, encompassing 101 hearings, were monitored. In 2023, 90 hearings within 32 cases were monitored, and in 2024, 11 hearings were monitored within 8 court proceedings, of which 4 cases were carried over from the previous year (2023).

⁴⁸ For the one request on the basis of establishing paternity, the MoJ did not act because for the same applicant on the same basis, another association had already submitted a request for approval of SLA.



Table 14



For the purposes of this analysis, 3 indicators will be processed that are strategically separated from the questionnaires being analyzed in the monitoring section. The data is organized by subjects and according to the determined indicators and is divided into civil, criminal, and administrative disputes. The analysis of the available data will involve drawing parallels between the types of areas to which the subjects belong, as well as identifying the most common deficiencies within the established indicators.

3.1. Audio and audio-visual recording

3.1.1. Criminal procedures

The Law on Criminal Procedure sets out the procedures for keeping the minutes for the main hearing⁴⁹. The main hearing is recorded in audio or audio-visual format, and at the beginning of the hearing, the president of the council informs the parties present and other participants in the procedure that the hearing is being recorded and that the recording is an audio or audio-visual recording of the hearing. Audio recordings provide a comprehensive and accurate account of the proceedings, minimizing the risk of errors in the minutes. This is especially important during witness examinations because no time is lost to enter the statement into the record, as well as the way of asking questions in the part of cross-examination and raising objections from the opposite side, as well as the behavior of the court during the main hearing. However, data analysis from questionnaires indicates a low use of the sound recording equipment in

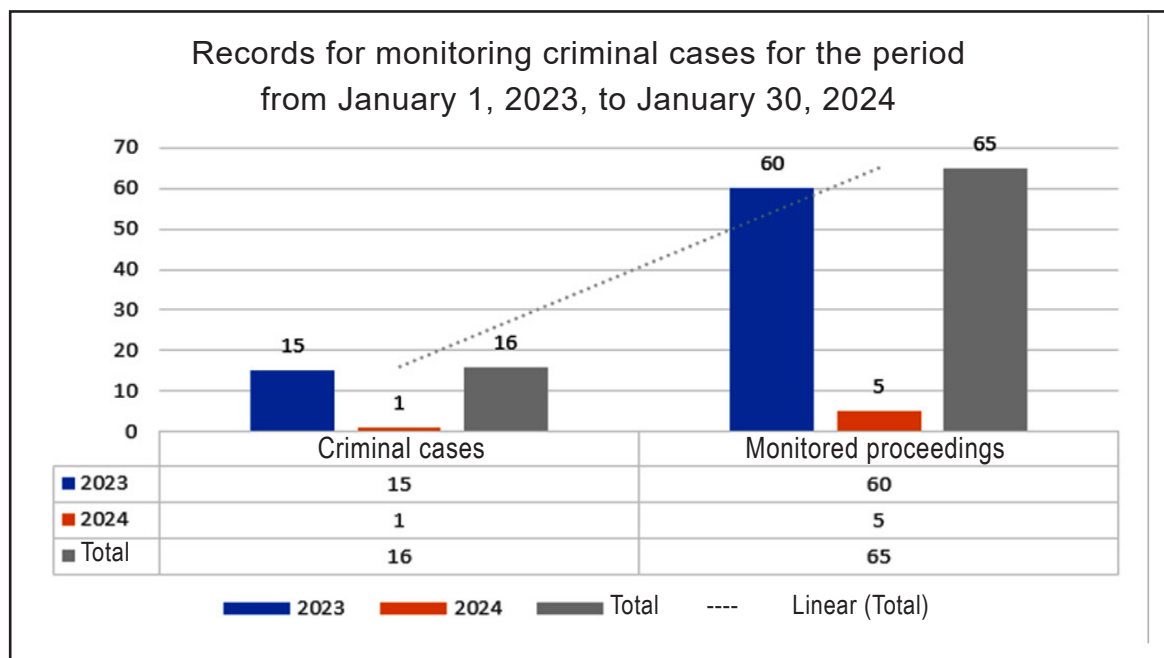
⁴⁹ Art. 374 of the LCP.



those courtrooms where it is installed, while in the rest of the courtrooms where there are no technical conditions for audio-visual and audio recording, the trial judge (individual judge) or the president of the council refer to paragraph 3 of article 374 of the LCP⁵⁰. This practice was documented several years ago by the civil sector in the country⁵¹, urging the need to “equip the courtrooms for the audio and visual recording of the hearings, as provided for by the LCP.”⁵²

According to the available data during the reporting period from January 1, 2023, to January 30, 2024, a total of 16 criminal cases were monitored. Two of these cases were monitored in both 2023 and 2024. In the monitoring of these 16 criminal cases, 65 main hearings were observed. Specifically, 60 hearings were monitored in 15 court proceedings in 2023, while in 2024, 5 hearings were monitored in a total of 3 proceedings, with 2 cases carried over from the previous year (2023).

Table 15



Out of a total of 16 criminal cases in which monitoring was carried out, 9 criminal cases were filed in the Basic Criminal Court Skopje and 1 case each in the Basic Courts in Ohrid, Struga, Kumanovo, Strumica, Tetovo, Negotino and Bitola.

⁵⁰ Art. 374 paragraph 3: “When there are no technical conditions for audio or audio-visual recording of the course of the main hearing, the president of the council can order that a stenographic record be kept of the course of the main hearing.”

⁵¹ Avramovski, D., Petkovska, I., Tutikj, L., Analysis of data from monitored court proceedings in criminal cases in 2022, Coalition “All for a fair trial,” Skopje, 2022.

Avramovski, D., Petkovska, I., Tutikj, L., Analysis of data from monitored court proceedings related to organized crime and corruption in 2022, Coalition “All for a fair trial,” Skopje, 2022.

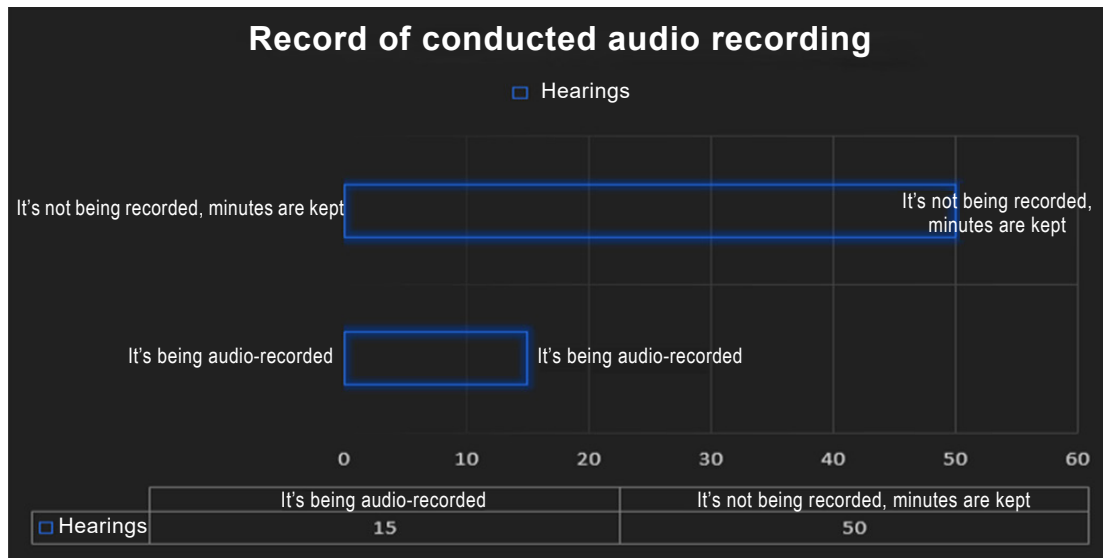
Petkovska, I., Systemic and thematic monitoring of court proceedings, Coalition “All for a fair trial,” Skopje, 2021. Petrovska, N., Avramovski, D., Systemic monitoring of criminal court proceedings in 2020, Skopje, 2021.

⁵² Avramovski, D., Petkovska, I., Tutikj, L., Gojo, A., Analysis of data from monitored court proceedings in 2023, Coalition “All for a fair trial,” Skopje, 2024.



Based on the provided data from monitoring questionnaires, out of 16 cases and 65 observed hearings, audio recording was present in only 2 cases (12.5%) of the total number of cases or 15 hearings (23.07%) out of a total of 65 hearings that were conducted before the Basic Criminal Court Skopje. In the remaining 14 cases (87.5%) or 50 hearings (76.92%), there were no conditions for audio recording which means that the appropriate equipment for audio and visual recording was not installed in the courtrooms, or if it was installed, it is non-functional, which is why minutes were kept.

Table 16



One important thing to note is that one of the two cases in which the audio recording was conducted was a high-profile case with widespread media coverage, and this leads to the inevitable conclusion that due to the court's display of transparency, it was audio-recorded.

3.1.2. Civil procedures

The requirement for audio recording is governed by the Law on Civil Procedure, particularly Article 107⁵³, which mandates the court to audio record the hearing. The audio recording captures the proceedings during the hearing,⁵⁴ where the presiding judge or the president of the council oversees the recording process.⁵⁵ They inform all present parties and other participants in the procedure that the hearing is being recorded and that the recording represents the proceedings of the hearing.⁵⁶

During the reporting period from January 1, 2023, to March 30, 2024, the Helsinki Human Rights Committee monitored 15 civil cases. Out of these, 12 cases (80%) were in 2023, and 3 cases (20%) were in 2024. Out of the 12 cases monitored in 2023, 2 cases carried over into 2024.

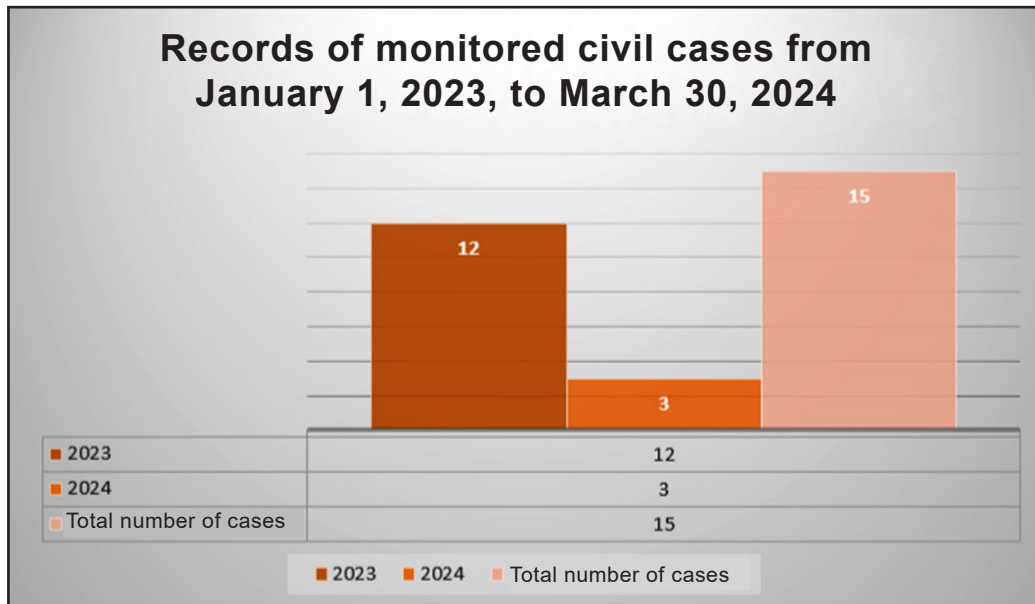
⁵³ LCP, Art. 107 paragraph (1): "The hearing, as a rule, is held in the courthouse and audio recorded."

⁵⁴ Art. 115 of the LCP.

⁵⁵ LCP, Art. 119, paragraph 1.

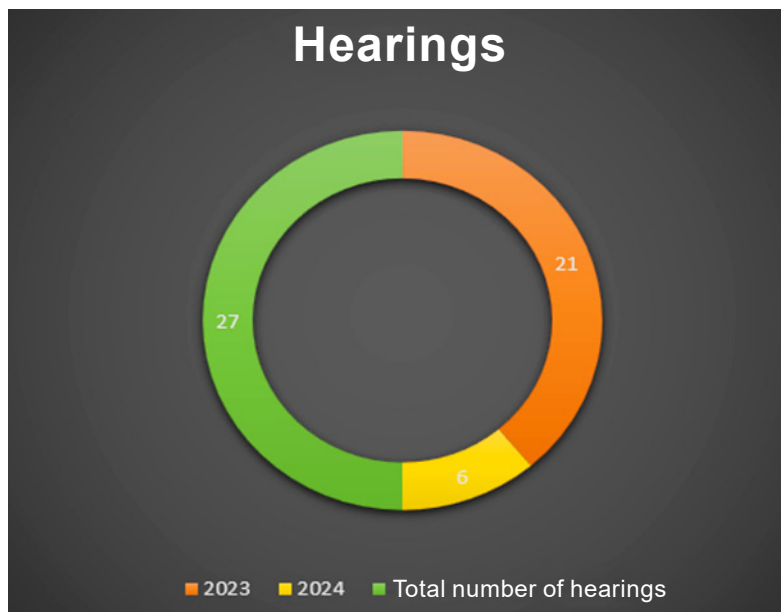
⁵⁶ LCP, Art. 119-2 paragraph 4.

Table 17



In the 15 civil cases, a total of 27 hearings were monitored. Out of these, 21 hearings, which is 77.77% of the total number of hearings, were monitored in 2023, while 6 hearings, accounting for 22.22% of the total, were monitored in 2024.

Table 18



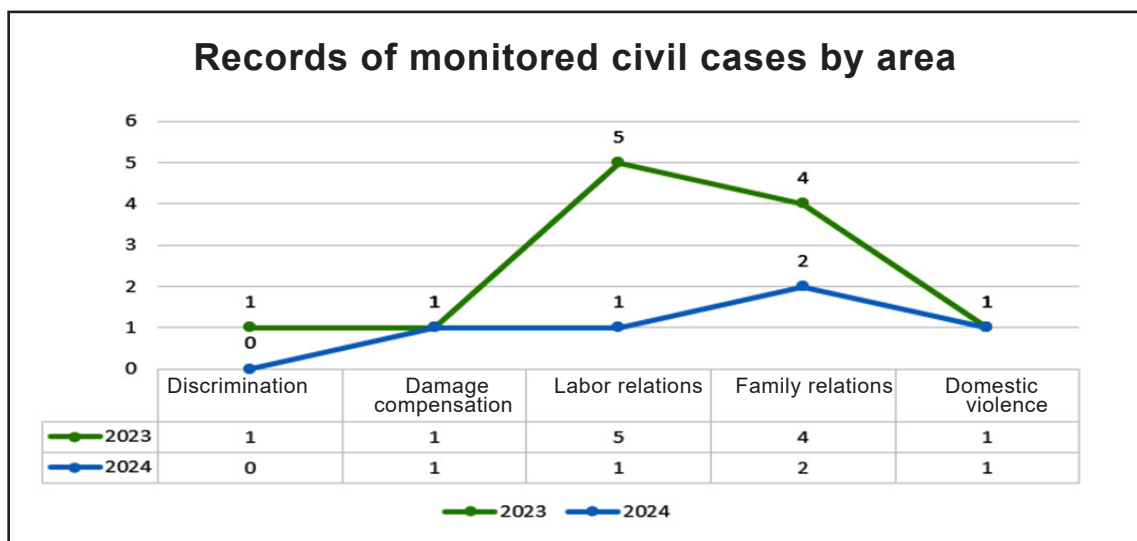
The monitoring of 15 civil cases for the reporting period from 1 January 2023 to 30 March 2024 was conducted in the areas of discrimination, compensation for damage, labor relations, family relations, and domestic violence.

In 2023, 1 case was monitored in the areas of discrimination, domestic violence (imposing temporary measures), and compensation for damage. There were 5 cases in the area of labor relations and 4 cases in the area of family relations. In 2024, 1 case was monitored for damage



compensation and labor relations, which have been ongoing since 2023. There were 2 cases from the area of family relations and 1 case from the area of domestic violence.

Table 19



Out of a total of 15 civil cases, there were 27 monitored hearings. In none of the cases or hearings was audio recording carried out. Instead, the hearings were documented by keeping minutes.

Based on the data from the analyzed questionnaires for the conducted monitoring, it can be concluded that the main reason for the court's non-compliance with legal obligations is the absence of technical conditions for audio recording during hearings. This means that either the necessary equipment is not installed or it is not functioning properly. This non-compliance goes against the principles of the rule of law, which depend on having a functioning and independent judicial system and ensuring transparency in legal proceedings.

3.2 . Adjourment of hearings

3.2.1. Criminal procedures

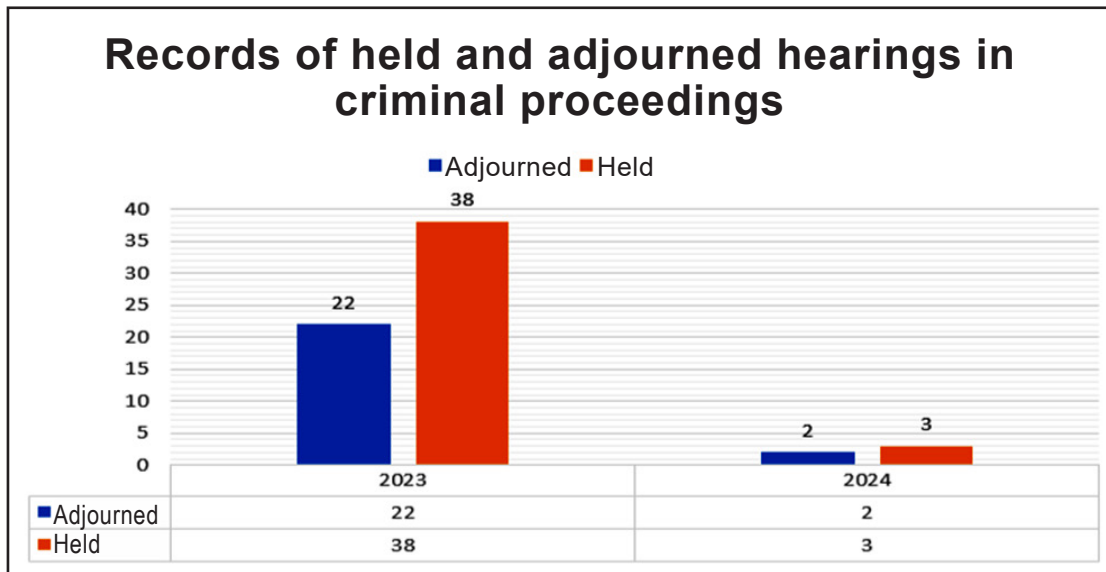
According to the LCP⁵⁷, the main hearing must be held without interruption. If, by chance, it is not possible to finish the main hearing in one hearing, the president decides to continue the main hearing on the next working day.

During the reporting period, out of 16 monitored cases with a total of 65 observed hearings, 25 hearings were adjourned. The most frequently cited reasons for adjourning the hearings are: a) at the request of the defense, b) the absence of the defendant(s), and c) the need to call witnesses or experts.

⁵⁷ Art. 359 paragraph 1.



Table 20



It can be seen from the data in Table 20 that in 2023, 22 hearings, or 36.66% of the number of observed hearings in 2023, were adjourned, while 38 hearings, or 63.33%, were held. In 2024, out of a total of 5 observed hearings, 2 were adjourned, while 3 hearings were held.

In 2023, the most common reasons for the adjournment of hearings were: a) the absence of the accused - 10 adjourned hearings; b) the absence of a witness or expert/technical advisor – 3 adjourned hearings; c) the absence of counsel - 2 adjourned hearings; d) the absence of judge/public prosecutor - 2 adjourned hearings; e) upon motion of the court - 2 adjourned hearings; and f) protest of the court administration - 2 adjourned hearings. In 2024, out of a total of 5 observed hearings, 2 were adjourned due to the absence of a defense attorney and the accused.

Table 21

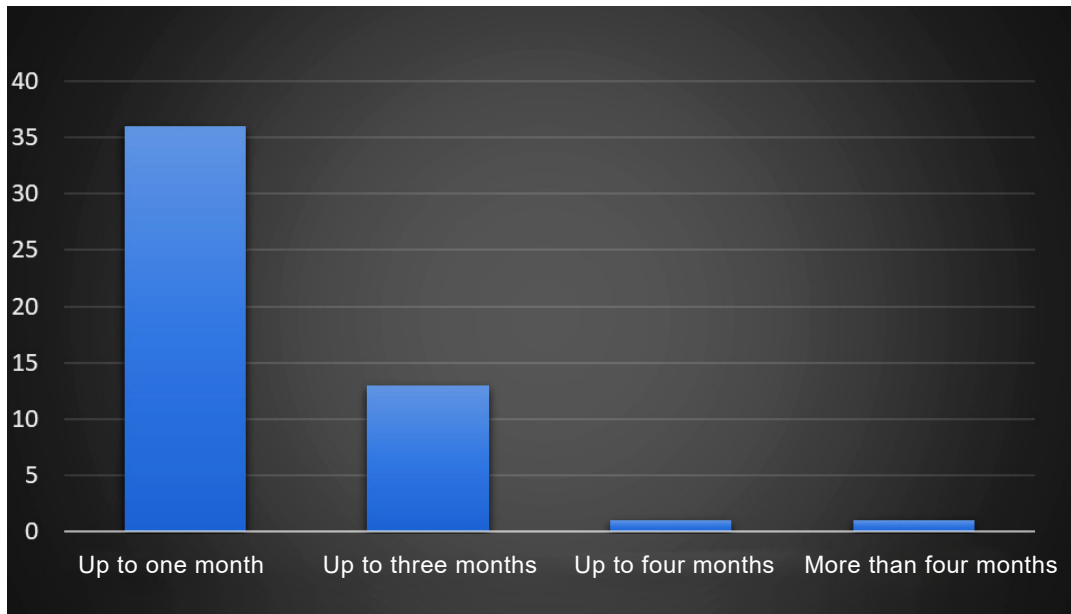
Record of reasons for the adjournment of hearings

Reasons	2023	2024
<i>absence of the accused</i>	10	1
<i>absence of a witness or expert/technical advisor</i>	3	/
<i>absence of counsel</i>	2	1
<i>absence of a judge/public prosecutor</i>	2	/
<i>upon motion of the court</i>	2	/
<i>protest of the court administration</i>	2	/



The time between hearings is typically around one month, with each individual hearing lasting up to three months. There have been only two instances where the period between hearings for the main hearing was longer. One of these cases occurred in the Basic Criminal Court Skopje, where the time between hearings is up to 4 months. The other case was handled in the Basic Court Struga, where the time between hearings was longer than 4 months.

Table 22



3.2.2. Civil procedures

The LCP governs the conduct of the main hearing by outlining specific steps.⁵⁸ First, the president of the council, who is the individual judge, will commence the main hearing by announcing its subject. Then, the president will confirm the presence of all invited parties. If any invitees are absent, the president will verify if they were properly invited and if they provided a valid reason for their absence. What is particularly important in civil proceedings is the mandatory presence of the plaintiff at the main hearing. Unjustified absence will result in the lawsuit being considered withdrawn. In cases where the main hearing needs to be adjourned, the president of the council will ensure that all evidence scheduled for presentation during that hearing is obtained for the next hearing and that other preparations are made so that the process can be completed at that next hearing⁵⁹.

From the total number of monitored hearings for the reporting period from 1.1.2023 to 30.3.2024, 13 hearings were held, while 8 hearings were adjourned due to the absence of the judge, delivery of evidence at the hearing, due to the expiration of the judge's security certificate and using annual leave.

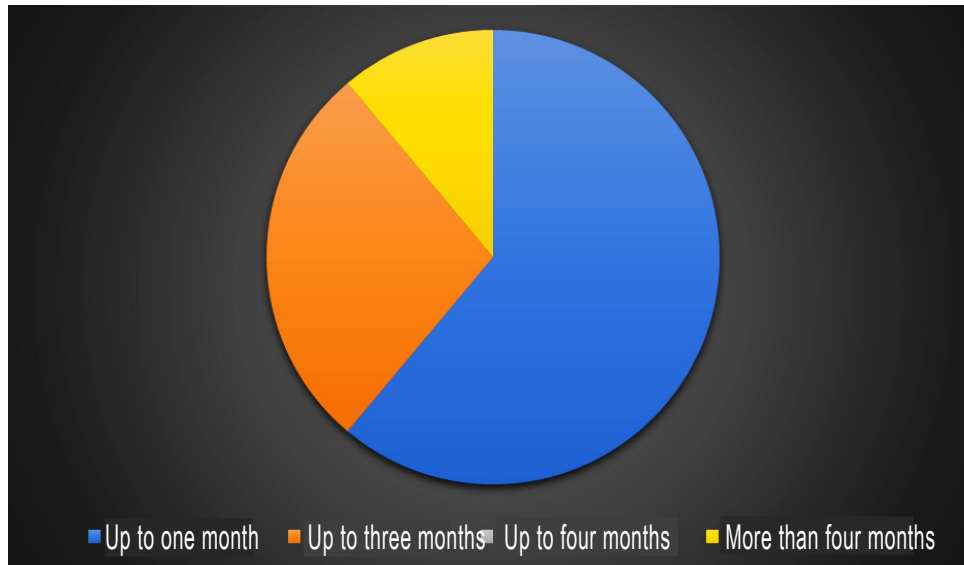
⁵⁸ Art. 279 of the LCP.

⁵⁹ Art. 300 from the LCP.



According to the available data, the time between consecutive hearings is typically around one month. Subsequent hearings usually last up to three months. However, in two cases conducted in the Basic Civil Court Skopje, the time between hearings was extended to more than four months.

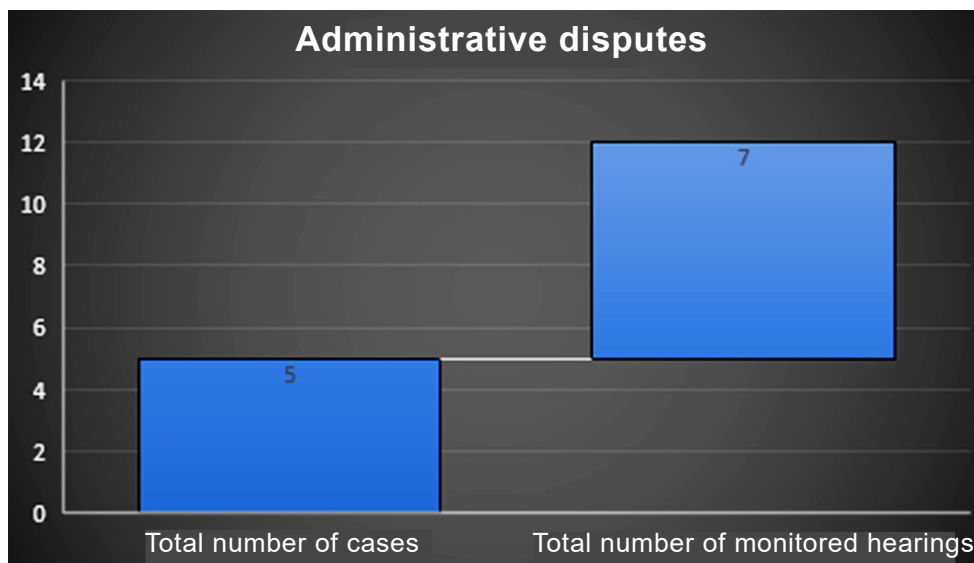
Table 23



3.2.3. Administrative disputes

Regarding administrative disputes, the court typically schedules only one hearing for the presentation of evidence, as per legal regulations. In 2023, a total of 5 administrative disputes or a total of 7 hearings were monitored within the reporting period.

Table 24





Out of the total number of monitored cases, i.e., 11 monitored hearings in 2023, 5 hearings were held, and only 2 hearings were adjourned due to lack of orderly delivery and absence of the defendant.

What is interesting to note is that in one case, the hearing was adjourned due to the defendant's absence, despite the fact that their presence is not mandatory if the summons for the scheduled hearing date is ordered delivered to the defendant. This represents the ineffectiveness of the procedure and goes in the direction of negative judicial practice that is in contradiction with the legal provisions.

Based on the analyzed data, it is noted that in one case, the period from filing the lawsuit to scheduling the first hearing was 11 months, leading to a direct prolongation of the procedure. The average duration between hearings is two weeks. This suggests that the main issue in administrative disputes is the lengthy period from filing the lawsuit to scheduling the first hearing.

3.3. Urgency of the procedure in labor disputes (observance of legal deadlines for action and adjudication)

Procedures in Labor disputes are regulated in the section on special procedures in the LCP. There is no doubt why the legislator specifically regulated these procedures, taking into account their nature, attention, and the need for immediate resolution. That is why, in these procedures, the deadlines are shorter, from the initiation of the court procedure until the final completion. As a consequence of this, the main hearing in labor disputes must be held within 30 days from the day of receipt of the response to the lawsuit, while, on the other hand, the court proceedings before the first instance court must be completed within six months from the day of the filing of the lawsuit⁶⁰.

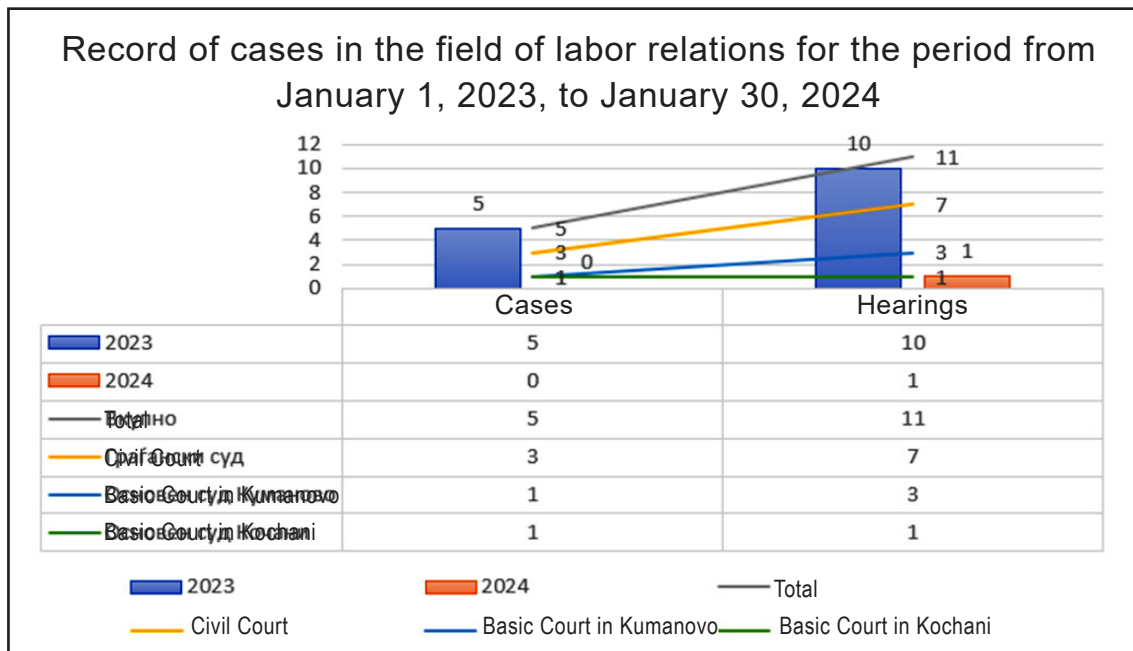
This legal arrangement requires the judges to schedule and hold the hearings as soon as possible and thus make a meritorious decision. However, in practice, this legal solution is hardly applied.

During the reporting period, a total of 5 cases from the field of labor relations were monitored, with a total of 11 monitored hearings. Out of these, 10 hearings took place in 2023 and 1 in 2024. Specifically, 3 cases comprising of 7 hearings were monitored in the Basic Civil Court in Skopje, 1 case with 3 hearings was monitored in the Basic Court in Kumanovo, and 1 case with 1 hearing was monitored in the Basic Court in Kochani.

⁶⁰ Art. 405 paragraph 3 and para. 4 of the LCP.



Table 25



So, after analyzing the questionnaires for executive monitoring during the reporting period from January 1, 2023, to March 30, 2024, several irregularities were identified regarding the duration of these procedures and adherence to the legally stipulated deadlines. Out of the 11 monitored hearings, 3 were adjourned. One was due to the judge’s illness, another because the judge’s security certificate had expired, and for the third hearing, the reason for the adjournment was unknown. At the next hearing, the defendant asked for a deadline to decide on the submission made by the plaintiff. Although the plaintiff objected, the judge decided to adjourn the hearing for over 5 months due to the high number of cases on the judge’s docket. On the other hand, in a case of workplace mobbing, which is also being conducted in the Basic Civil Court Skopje, one year passed from the filing of the lawsuit to the scheduling of the first hearing, with 2 hearings being adjourned, one due to the use of the judge’s annual vacation and the latter because the judge’s security certificate had expired. An apparently similar situation was observed in the Basic Court of Kochani, where 4 months passed from the filing of the lawsuit to the holding of the first hearing.

Access to justice includes efficient, effective, and timely court proceedings. It’s important for court cases to be conducted within legal deadlines. The judge having too many cases to deal with should not cause the legal deadline of 6 months for the completion of employment procedures to be exceeded, especially since these procedures are by their nature considered emergency procedures.

When it comes to the principle of publicity and the transparency of the courts, it has been observed that sometimes the postponement of a hearing is only known by court staff or the parties involved, because there is no public and timely information available. Considering that court hearings are generally public, except in special circumstances defined by law, it is impor-



tant for the public to be informed if a hearing is postponed. This notification can be provided by the official parties of the court or through a notice displayed in the courtroom.

The position of the Supreme Court of the RNM as emphasized in the case PSRRG-92/23 of December 25, 2023, is that the violation of the right to trial within a reasonable time and the violation of Art. 6 paragraph 1 of the European Convention on Human Rights is due to the passivity of the first-instance courts, not the complexity of the case or the behavior of the petitioner.

IV. CONCLUSIONS AND RECOMMENDATIONS

4.1. Conclusions and recommendations for improving the system for free legal aid

- ▶ **Revising the legal framework of the system for free legal aid by expanding the scope of PLA to include field visits and escorts to competent institutions.**

The experiences of the authorized associations for providing FLA show that it is necessary to introduce field visits and escorts to legal aid seekers in order to fully complete the process of providing legal aid. The very fact that a large part of the applicants who apply for PLA come from socially vulnerable groups, it is important to accompany these individuals to help them effectively address their problems and find the right solutions. For this very reason, it is necessary to make appropriate changes in the existing legal regulations.

- ▶ **To increase and promote the use of tools to educate citizens about the right to FLA, as well as the distinctions between PLA and SLA.**

A large part of the citizens are not sufficiently informed about their own rights, nor about the procedure they need to initiate in order to protect their rights. That is why state institutions, and especially the Ministry of Justice, have the obligation to constantly inform citizens about the right to FLA and the differences between PLA and SLA. This is especially crucial given the observations of associations indicating a lack of awareness regarding the competencies that the associations have, which do not correspond to the demands of the citizens (e.g., composition of a lawsuit, preparation of a complaint, etc.). To address this, it is recommended that the Ministry of Justice legally empower citizens by increasing efforts to produce educational materials like brochures and flyers about the right to FLA, organizing campaigns, educational sessions, and round table discussions, and particularly giving attention to citizens in rural and remote areas. Implementing these recommendations will lead to a sustainable process that improves access to justice in the long term.



► **Promotion of cooperation between authorized associations and legal clinics for giving free legal help and state institutions.**

It is important to take steps to enhance cooperation, communication, and mutual understanding between state institutions, authorized associations, and legal clinics in order to bridge the current communication gap. The recommendation for this is to establish communication channels, such as regular meetings, conferences, and round table discussions between state institutions, authorized associations, and legal clinics. Strengthened communication and coordination should lead to the development of additional measures to promote FLA.

► **An increase in the budget and financing of the authorized associations and the legal clinics, which provide primary legal aid.**

The legal framework for financing associations and legal clinics provides a solid foundation for improving access to justice, but it is not being utilized effectively. At the 14th meeting of the National Coordinating Body for Free Legal Aid, it was noted that the Ministry of Justice has not announced a funding call for legal aid providers for the second year in a row. This situation was deemed concerning for this sector. As a result, legal aid providers are relying solely on donor projects for financing. It is crucial for the state to play a role in funding authorized associations and legal clinics to ensure their sustainability and effective operation when providing legal aid. It is essential to align the processes of financing and increasing the budget for free legal aid with the supervising of authorized associations and legal clinics to ensure efficient allocation and use of funds, including strengthened control and measures in case of non-compliance with reporting requirements.

► **Change in the reporting method by the MoJ, specifically the alteration of the format of the annual report published by the MoJ to include information on the types of legal issues⁶¹, gender, ethnic, and age structure of the applicants for secondary legal aid, reasons for the rejection of the requests, and grounds for the pronounced termination of the approved secondary legal aid.**

The Ministry of Justice's statistical presentation during the preparation of the annual reports lacks data on the type of legal issues,³⁸ gender, ethnicity, and age structure of the applicants for secondary legal aid, reasons for rejecting the applications, and grounds for the pronounced termination of the approved secondary legal aid. Furthermore, **additional statistical data that would be useful and are missing in the annual reports, are the data on which non-governmental associations and legal clinics have submitted applications for the approval of SLA, which of those applications have been approved and which have been rejected.**

⁶¹ The MoJ reports only note that the most frequently submitted requests for SLA are in the fields of property law issues, divorce, imposing temporary measures for the protection of victims of domestic violence, protecting children, establishing paternity, etc.



In terms of legal issues, it is necessary for the reports to clearly state how many requests were submitted for each type of legal issue, how many were approved, and how many were rejected individually.

- ▶ **Revision of the legal framework in view of the expansion of the scope of SLA in such a way that the possibility of providing secondary legal aid will be introduced in all notarial procedures, where the Law on Notaries stipulates the mandatory presence and representation of a lawyer. Additionally, secondary legal aid would be provided in cases where debtors need to submit written statements (objections, appeals, submissions to the competent executor) against irregularities during execution according to the Executors Lax.**

In procedures before notaries, such as payment orders, certification of documents, and probate procedures, the LN stipulates the mandatory presence and representation of a lawyer, which poses difficulties for citizens who cannot afford legal representation. On the other hand, when it comes to objecting to the actions of the executor or appealing to the court after a decision, this involves a court procedure that requires the approval of the SLA. However, it's important to note that the LFLA is limited exclusively to cases involving the sale of real estate, specifically the property described in Article 19, paragraph 1, line 1,⁶² (that is, the property where the debtor and their family reside). All other cases of execution are exempted from the LFLA and from the scope of the SLA. In order to ensure access to justice, it is necessary for citizens to have access to legal aid in these procedures in order to exercise their rights and protect their interests that may be affected by the actions of notaries and executors in these procedures.

- ▶ ***“It is necessary to expand the scope of secondary legal aid for matters that disproportionately affect low-income citizens. This includes disputes pertaining to public and communal services (such as electricity, heat supply, water, and telecommunications), issues related to non-material damage compensation, and property issues in administrative proceedings.”*⁶³**

Exemption of these kinds of disputes from FLA (electricity, water, heating, etc.) puts poor citizens in a disadvantageous position and inability to dispute the most often wrongly issued invoices or, in the worst case, outdated invoices, thus putting them in a position of additional impoverishment. *“Property issues in administrative procedures are issues related to the legalization of illegally built buildings, the purchase of land under a residential unit, expropriations, etc.”*⁶⁴ Limiting legal aid only to compensation for non-material damage, except for victims of

⁶² The applicant for legal aid and their family members own only one single-family building or apartment, which is a separate part of the building in which they live.

⁶³ Vasilevski, Z., Kareva, T., Analysis of free legal aid provided by the Helsinki Committee for Human Rights, 2022, Helsinki Committee for Human Rights; Koceski, G., Georgievska, E., Netkova, B., Eames, J., Analysis of the Law on Free Legal Aid 2019, 2022, Council of Europe.

⁶⁴ Koceski, G., Georgievska, E., Netkova, B., Eames, J., Analysis of the Law on Free Legal Aid 2019, 2022, Council of Europe.



criminal acts, as well as for death or severe disability, makes it impossible to conduct court proceedings for discrimination, mobbing or violation of personal rights.”⁶⁵ The relatively low number of submitted requests for SLA in relation to the number of citizens who turned to the Committee and who were provided with primary legal suggests strict approval criteria and reflects the specific legal issues for which SLA is granted. Of the 378 citizens who were provided with primary legal aid, only 9 citizens submitted requests for SLA, which represents 2.38% of the total number of citizens who addressed the Committee with a legal problem.

- ▶ **Easing the criteria for the approval of SLA in the part of the financial conditions, that is, in the part of the claimants’ income, in such a way that the condition of the minimum wage will be replaced by an average wage. The property conditions of the claimants will be changed in the way that in paragraph 1, line 1, the wording “in which they live” shall be deleted, and in paragraph 3, the wording “whose engine displacement does not exceed 1 200 cubic centimeters” shall be deleted.**

A problem that continues to exist and represents a kind of barrier to citizens’ access to court is still the rigid approach of the LFLA in the area of financial criteria. This limitation leads to the rejection of the submitted applications because a) the applicants have incomes that are above the legal minimum, but still belong to a vulnerable category of citizens (poor citizens) who cannot afford to bear the costs of the court proceedings, or b) they have a vehicle that has a larger engine displacement than legally provided for. In order to remove this illogicality and to enable as many citizens as possible to access the courts and exercise their rights, it is necessary to ease the financial criteria in the LFLA.

- ▶ **To introduce an obligation for the Ministry of Justice to notify associations and legal clinics about the status of the submitted requests for approval of the SLA.**

As a peculiar shortcoming in the legal provisions, there is no obligation to inform the associations and legal clinics that have submitted requests for SLA approval about the status of the submitted requests. Due to this legal irregularity, the authorized associations and legal clinics either do not have adequate data on the status of the submitted requests and consequently are not able to keep timely and updated statistics, or they have to ask the parties for information about the status of the request, whether it is approved or rejected.

⁶⁵ Koceski, G., Georgievska, E., Netkova, B., Eames, J., Analysis of the Law on Free Legal Aid 2019, 2022, Council of Europe.



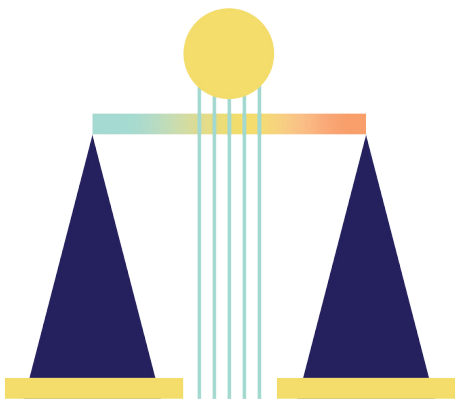
4.2. Conclusions and recommendations for improving the efficiency and effectiveness of judicial procedures

► Introduction and installation of audio and visual recording equipment in all courtrooms.

Equipping the courtrooms with audio and visual recording equipment is essential to effectively enforce the provisions of the procedural laws. For this purpose, the court presidents must prioritize this issue in court management. If the allocated funds are insufficient for installing equipment in all courtrooms, it would be advisable to advocate for an increase in the court budget specifically for the installation of audio and audio-visual recording equipment.

► Change in judges' actions regarding scheduling hearings with the aim of maintaining continuity of the procedure.

It is essential for judges to schedule hearings in a continuous manner, as established in procedural laws, in order to reduce the duration of proceedings. This implies, among other things, not allowing the parties to abuse the rights available to them during the proceedings. In this section, the recommendation is particularly aimed at judges who are assigned to adjudicate labor disputes, taking into account the urgency of the procedure. This would stop citizens from seeking recourse from the Supreme Court for a breach of their right to a trial within a reasonable time. It would also prevent any decrease in the funds allocated in the court budget for compensation related to this violation.



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