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Report on

in 2014-2015

IMPLEMENTATION OF THE LAW ON FREE LEGAL AID



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ABBREVIATIONS

LFLA	Law on Free Legal Aid
MYLA	Macedonian Young Lawyers Association
FOSM	Foundation Open Society – Macedonia
NRC	National Roma Centrum – Kumanovo
YCC	Youth Cultural Centre – Bitola
EHO	Educational Humanitarian Organization – Stip
LLP	Law on Litigation Procedure
LGAP	Law on General Administrative Procedure
LCP	Law on Criminal Procedure
LPDI	Law on Pension and Disability Insurance
LSP	Law on Social Protection
LB	Law on Bar
AF	Attorneys' Fee
LAD	Law on Administrative Disputes
LF	Law on Family
LATP	Law on Asylum and Temporary Protection
LJC	Law on Justice for Children
Mol	Ministry of Interior

REPORT ON
IMPLEMENTATION
OF THE **LAW ON
FREE LEGAL AID**
IN 2014—2015

1.

INTRODUCTION

The Law on Free Legal Aid¹ (LFLA) is an instrument for protection and exercise of the constitutionally guaranteed *right to equality* and *right to equal access to justice* that are closely correlated. Having in mind the increasing complexity and dynamics of modern-day legal systems, access to quality legal aid is of crucial importance in regard to efficient exercise and protection of citizens' rights. However, findings presented in this report show that quality legal aid is unavailable for majority of citizens living in poverty, thus putting them in subordinated and unequal position in terms of exercising and protecting their rights before courts and administrative bodies, compared to other citizens that can afford to retain services of attorneys-at-law. In order to address such violation of one of fundamental human rights and freedoms, the states usually resort to various models and mechanisms which, in essence, are reduced to exemption from payment of costs related to procedures and/or provision of free legal aid.

By adopting the Law on Free Legal Aid, the Republic of Macedonia for the first time introduced the right to free legal aid with a view to enable equal access for citizens and other persons to the system institutions, as well as to familiarize and enable them to benefit from effective legal aid, in compliance with the principle on equal access to justice. The Law on Free Legal Aid was adopted in December 2009, and its implementation started on 7th July 2010.

1 "Official Gazette of the Republic of Macedonia" no. 161/09;

1. According to the Law, beneficiaries of the right to free legal aid are citizens of the Republic of Macedonia with permanent residence on its territory, which are also:

- » beneficiaries of social allowance;
- » beneficiaries of disability allowance, which do not earn other type of income or property revenue;
- » beneficiaries of the lowest pension allowance, which live in households with two or more dependants; and
- » families or single parents with one or more minors, which are entitled to child support allowance.

In addition, the right to free legal aid is granted to:

- » persons whose right to asylum has been recognized, internally displaced persons, as well as displaced or exiled persons with temporary residence on the territory of the Republic of Macedonia;
- » foreign nationals which, in compliance with the international treaties and irrespective of their permanent or temporary residence on the territory of the Republic of Macedonia, exercise certain rights in front of competent state bodies in the Republic of Macedonia;
- » stateless persons with legal residence in the Republic of Macedonia;
- » citizens of EU Member States, under terms and conditions and in manner stipulated under this law.

2. Free legal aid is provided in the form of:

- » preliminary legal aid, which includes initial legal advice about the exercise of rights, general legal information and legal assistance in completing applications for free legal aid; and
- » legal aid in front of competent bodies, which includes representation and drafting of written submission in court and administrative procedures.

3. According to the Law, free legal aid is provided by the Ministry of Justice, attorneys-at-law and authorized associations.

- » Preliminary legal aid is provided by the 34 regional offices of the Ministry of Justice and associations authorized for provision of preliminary legal aid.

- » Legal aid in administrative and court procedures is provided by authorized attorneys-at-law.

4. Body competent to decide upon applications for free legal aid.

Applications for free legal aid are submitted in person or via registered mail to the 34 regional offices of the Ministry of Justice covering the area where the applicant resides, on pre-defined application forms and attached statement on the material and social status of the applicant and family members with whom he/she shares the household, including consent for insight into all data concerning their property status. Upon receipt of applications and based on data enlisted therein, the regional office completes the application with required documents obtained from the Agency for Real Estate Cadastre, Public Revenue Office, Social Work Centre, Pension and Disability Insurance Fund, and other competent bodies, and forwards them to the Ministry of Justice for further decision making.

Ministry of Justice takes decisions on approval or rejection of applications for free legal aid submitted. Applicants are entitled to initiate an administrative dispute against decisions on rejecting their applications for free legal aid.

With start of LFLA's implementation, the Ministry of Justice established the Department on Free Legal Aid and assigned it with the following competences:

- » to take decisions upon applications for free legal aid;
- » to keep the Registry of Attorneys-At-Law Providing Legal Aid;
- » to keep the Registry of Associations Authorized for Provision of Preliminary Legal Aid;
- » to take decisions on remuneration for attorneys-at-law and reimbursement of costs to associations for legal aid provided;
- » to supervise the work of attorneys-at-law and authorized associations;
- » to supervise implementation of the Law; and
- » to organize days of free legal aid.

As part of this document titled “Access to Justice in Macedonia – **Report on Implementation of the Law on Free Legal Aid in 2014 - 2015**”, the *Foundation Open Society – Macedonia* and associations authorized for provision of preliminary legal aid, those being: *Macedonian Young Lawyers Association from Skopje*, *National Roma Centrum from Kumanovo*, *Youth Cultural Centre from Bitola*, *EHO from Stip*, “Izbor” from Strumica and “8th September” from Skopje, present their reconsiderations, positions and recommendations aimed to improve the free legal aid system in Macedonia.

The report includes analysis of data collected by means of monitoring the implementation of the Law. Direct participation of authorized associations in monitoring activities and data collection related to the performance of the free legal aid mechanism rendered these data and information authentic and diverse. The Foundation Open Society – Macedonia, assisted by the network of associations authorized for provision of preliminary legal aid, has been monitoring implementation of this law for six years in a row. This project was implemented as part of the 18-months grant from the EU’s European Instrument for Democracy and Human Rights (EIDHR) awarded to FOSM and its informal free legal aid network.

Monitoring activities were taken with a view to assess the Law’s implementation in practice and establish whether its enforcement has facilitated access to justice for poor and socially excluded citizens. They resulted in identification and analysis of problems faced by applicants for free legal aid, as well as challenges faced by the state in implementing the Law. Moreover, the report includes recommendations aimed to improve the free legal aid system and to facilitate access to justice for poor and socially excluded citizens.

The Law on Free Legal Aid, provisions included therein and results of its implementation were subject of analysis under the previous four reports produced by FOSM and dedicated to this subject matter.² This report is a separate publication, focused on results achieved within the project

2 “Report on Implementation of the Law on Free Legal Aid”, FIOSM and MYLA, March 2010; “Fairly Tale or Reality!? – Free Legal Aid in the Republic of Macedonia”, MYLA and FOSM, February 2012; “Analysis of the Implementation of the Law on Free Legal Aid (2010-2012)”, MYLA and FOSM, January 2013;

“Access to Justice in Macedonia”, and builds upon the methodology basis established by the previous annual reports.

All four reports have established serious problems in implementation of the Law on Free Legal Aid, which are primarily result of poor quality of legal solutions, while some of them are result of insufficient institutional, i.e. staff and technical capacity at the Ministry of Justice of the Republic of Macedonia, as the central body within the free legal aid system.

Acting as the central body within the free legal aid system, the Ministry of Justice should design adequate ways to “unlock” access to legal aid and make it available for the most vulnerable populations, especially having in mind that the number of vulnerable citizens and the scope of legal issues are increasing from year to year.

The very narrow coverage of citizens eligible for free legal aid, non-alignment with the Law on Litigation Procedure and the Law on Court Administrative Fees, locked list of legal issues for which free legal aid could be approved, extensive procedure on decision-taking upon applications for free legal aid, as well as problems related to provision of preliminary legal aid (very narrow scope, unprepared regional offices, strict requirements governing authorization of associations and inability to collect reimbursement of costs incurred for provision of preliminary legal aid for legal issues that could be resolved) are just few of the substantial shortfalls of the Law on Free Legal Aid which, as demonstrated in the course of time, seriously affected exercise of equal access to justice for all citizens.

Findings and recommendations put forward in this report will be duly presented to the Ministry of Justice as part of the process on substantial changes to the Law on Free Legal Aid, which started in 2012 and continues in 2015, but unfortunately has not been completed. Furthermore, the report includes conclusions concerning the shortfalls in the free legal aid system, identified on the basis of relevant experiences of authorized associations, which is of crucial importance for objective analysis of this system. This analysis should serve as baseline for introducing quality and thorough changes in the Law on Free Legal Aid, which should be implemented under guidance from the Ministry of Justice both, truthfully and realistically.

Protection of human rights is a strategic commitment of the Foundation Open Society – Macedonia throughout its long-standing operation. Aware that citizens of disadvantaged material status are not able to cover costs in procedures for exercising their rights, especially those implied in complex court and administrative procedures, by supporting authorised associations we are committed to advancing the free legal aid system. From today's time distance, after almost six years of active participation in implementation of the Law on Free Legal Aid, it has been proved that, in addition to poor citizens, in Macedonia there is significant number of marginalized and vulnerable groups, such as: victims of domestic violence, children and minors, victims of human trafficking, homeless people, people without identification documents, members of the Roma community, asylum seekers and other persons which, due to lack of education, poverty or prejudices, are in need of free legal aid to exercise a particular right.

Based on analysis and synthesis of data related to implementation of the Law on Free Legal Aid, this report provides a brief summary of the role of the mechanism on free legal aid in our legal system. An attempt was made to “assess” this matter through the prism of several subjects that are affected by the Law or are part of the institutional framework established by the Law, those being: citizens as potential beneficiaries of free legal aid, Ministry of Justice, associations authorized for provision of legal aid and the Administrative Court, as a body responsible for judicial oversight of decisions taken upon applications for free legal aid. They are all interrelated within the “mechanism” making desperate efforts to function efficiently.

Practices and analyses thereof have shown that the current Law on Free Legal Aid contains substantial shortfalls and ambiguities that prevent its implementation and attainment of the overall goal - equal access to justice for citizens. The Law's restrictive approach related to the requirements citizens must fulfil in order to be eligible for legal aid, non-implementable preliminary legal aid, approval procedure that cannot be described as urgent, and multitude of ambiguous and non-operational legal provisions, render it inadequate to address citizens' need for quality legal aid or to contribute to exercise of constitutionally guaranteed rights,

i.e. the derived right to equality and equal access to justice. Therefore, the present report duly addresses these findings and infers conclusions that provide the baseline for recommendations for future changes to the Law on Free Legal Aid. Our general recommendation to address the current state-of-affairs is to undertake a transparent procedure on thorough changes to the Law, which would essentially, instead of only formally, involve all stakeholders. Also, there is no dilemma that future reforms of the free legal aid system must be based on adequate research of problems faced by citizens, as well as their perception about the fairness of the legal system. In the following period, FOSM and the network of associations will focus their attention on this field.

METHODOLOGY ON REPORT DEVELOPMENT

2.

METHODOLOGY ON REPORT DEVELOPMENT

Methodology

The Report on Implementation of the Law on Free Legal Aid in 2014 - 2015 is a result of monitoring activities targeting enforcement of LFLA performed by authorized associations [Macedonian Young Lawyers Association (MYLA), National Roma Centrum from Kumanovo, Youth Cultural Centre from Bitola, EHO from Stip and “Izbor” from Strumica] and based on the previously developed methodology designed by the Foundation Open Society – Macedonia (FOSM).

Research question

The basic research question underlying monitoring activities taken as part of this project inquired *whether implementation of the Law on Free Legal Aid is adequate to legal needs of citizens in Macedonia, i.e. whether the Law needs to be changed.*

In addition, this report provides an overview of legal issues and categories of citizens for which authorized associations from the network have provided information or have taken legal actions. This report attempts to present arguments that the legal framework and the interactions among stakeholders in the field of free legal aid are inadequate to the reality and to the actual legal issues faced by an entire segment of the society.

In that, individual questions that emerged, and are aimed to assess LFLA's impact on various stakeholders³ include:

- » *Five years from its adoption, how successful is the Law, as a system that enables actual and elementary access to justice, in addressing citizens' needs?*
- » *Does the Law allow utilization of civil society's capacity and experience (through the authorized associations) in facilitating access to justice for citizens in need?*
- » *The Administrative Court is the competent body for judicial oversight of decisions taken upon applications for free legal aid. What results have been achieved by this institution?*

Timeframe

This report covers the period from mid-February 2014 until mid-August 2015. It relies on data obtained from the Ministry of Justice and related to LFLA's implementation in the course of 2014, as well as information collected through the work of authorized associations that were involved in project implementation with duration of 18 months.

Data collection

Development of this report relied on application of combined analytical and methodology approach, which includes methods on both quantitative and qualitative data collection and their respective analysis.

Quantitative data collection

- » *Insight into and statistical analysis of numerical data concerning the number of submitted applications for free legal aid, as well as the number of approved versus rejected applications in the reporting period, by means of submitting Freedom of Information applications.⁴*

3 Including the impact of the Administrative Court of the Republic of Macedonia as stakeholder in LFLA's implementation.

4 Total of 22 FOI applications were submitted. Most of them were addressed to the Ministry of Justice – 15; Administrative Court – 2; Basic Court in Stip – 1; Basic Court in Strumica – 1; Basic Court in Veles – 1; Basic Court in Bitola – 1; Basic Court 2 in Skopje – 1.

- » *Insight into numerical data published* by state bodies in the Republic of Macedonia that are relevant for this analysis' subject matter.⁵
- » *Insight into and statistical analysis* of systematically collected data concerning the number and type of cases in which preliminary legal aid was provided by authorized associations.

Qualitative data collection

- » *Monitoring cases in which free legal aid was approved.* Monitoring activities implied attendance at hearings in court procedures in which free legal aid was approved and completion of questionnaires by attorneys-at-law, judges and beneficiaries of free legal aid in individual cases. Monitoring activities targeted a total of 36 procedures in which free legal aid was approved. They resulted in data collection concerning efficiency, effectiveness and quality of legal aid in cases of approved free legal aid.
- » *Strategic litigation for legal protection of persons whose applications for legal aid have been rejected.* The project methodology anticipated legal aid for persons whose applications for free legal aid have been rejected, comprised of provision of legal representation before the Administrative Court of the Republic of Macedonia. This activity secured data on availability and efficiency of legal remedies in cases when applications for free legal aid have been rejected. Total of 16 lawsuits were motioned.
- » *Direct involvement in the free legal aid system by obtaining authorization for provision of preliminary legal aid.* Macedonian Young Lawyers Association from Skopje, National Roma Centrum from Kumanovo, Youth Cultural Centre from Bitola, "8th September" from Skopje, EHO from Stip and "Izbor" from Strumica, supported by FOSM and the European Commission, were engaged in provision of preliminary legal aid pursuant to LFLA, which allowed them inside knowledge about the system and access to data on LFLA's implementation.

5 Ministry of Justice, State Statistical Office, Ministry of Labour and Social Policy, Pension and Disability Insurance Fund, Ministry of Interior.

- » *Insight into and analysis of free legal aid decisions* (total of 90) by means of which the Ministry of Justice decided upon applications for free legal aid, which were obtained by means of intermediate interaction of authorized associations with citizens that have applied for free legal aid and with the Ministry of Justice, as the first instance decision-making body.
- » *Insight into and analysis of rulings* taken by the Administrative Court of the Republic of Macedonia upon lawsuits motioned to contest decisions on rejecting applications for free legal aid. There were no such rulings in the course of the project implementation. In response to submitted FOI applications, the Administrative Court informed us that by March 2015, a total of 22 lawsuits motioned against negative decisions concerning approval of free legal aid are in process.

Subject matter

Subject matter of this report is implementation of the Law on Free Legal Aid in the course of 2014 and 2015, as well as effects from its implementation on particular stakeholders and entities, such as: citizens as beneficiaries of free legal aid, associations authorized for provision of free legal aid, Ministry of Justice as the state body deciding upon applications for free legal aid, Administrative Court as the body responsible for judicial oversight and ruling in lawsuits motioned against decisions on rejecting applications for free legal aid, and other institutions that have daily contacts and work with marginalized groups that face legal issues.⁶

Implementation of the Law on Free Legal Aid in 2014–2015

Subject of monitoring was implementation of the Law in 2014 and 2015, in particular: the number of submitted applications for free legal aid, the number and the ratio of approved versus rejected applications for free legal aid, the Law's implementation from the European Commission's point of view, duration and course of procedures on approving applications for free legal aid, providers of free legal aid, and financing of free legal aid. This section also includes legislative initiatives and activities related to the Law on Free Legal Aid.

6 The Inter-Municipal Social Work Centre in Suto Orizari is an example of such institution.

» **Citizens as beneficiaries of free legal aid**

This section includes analysis of citizens' need for legal aid, identification of individual categories of citizens in need of legal aid, and analysis whether and to what extent the Law contributes and responds to citizens' needs.

» **Associations as providers of free legal aid**

Having in mind the importance of providers of free legal aid, this section is dedicated to the role of individual providers of legal aid, as well as problems they face when providing free legal aid to end beneficiaries.

» **Role of the Administrative Court in implementation of the Law**

This section covers the number of administrative disputes motioned against decisions on rejecting applications for free legal aid, strategic litigation, analysis of rulings taken by the Administrative Court, as well as their effect on implementation and interpretation of the Law on Free Legal Aid.

IMPLEMENTATION
OF THE **LAW ON**
FREE LEGAL AID
IN 2014—2015

3.

IMPLEMENTATION OF THE LAW ON FREE LEGAL AID IN 2014–2015

The Law on Free Legal Aid was adopted with a view to enable equal access to system institutions for citizens and other persons defined by the law, for the purpose of familiarization, exercise and attainment of effective legal aid, pursuant to the principle on equal access to justice. This was pursued with establishment of the so-called *right to free legal aid* targeting particular categories of citizens that need to fulfil law-stipulated requirements in order to resolve particular issues of litigation and administrative nature, as well as to recognize their right to attorney-at-law whose services are paid by the state. The Law on Free Legal Aid adopted in 2009 did not offer solutions for the exercise of access to justice, which was duly noted by several civil society organizations. Inconsistencies in the Law surfaced from the very start of its implementation, giving rise to serious problems that have prevented the Law to become an efficient instrument that facilitates access to justice for poor citizens. Problems originate in the combination of inadequate quality of legal solutions and insufficient capacity at the Ministry of Justice and its regional offices, as well as the inactivity of the Administrative Court, related to implementation of the Law in effect.

Detailed analysis of the Law and of results from its implementation from the Law's adoption to the cut-off date for this report was presented in

the four previous annual reports on implementation of LFLA, as indicated above.

First, we provide brief chronology of amendments and attempts to change LFLA. In 2012, based on the evaluation conducted in 2011⁷ pursuant to their annual program of work,⁸ the Ministry of Justice initiated changes to the Law on Free Legal Aid by establishing *working group*,⁹ which started its operation in late September 2012.¹⁰ Macedonian Young Lawyers Association was invited and actively participated in this working group, notably by drafting proposed amendments to the Law.¹¹ When drafting the proposed amendments, the working group focused on attainment of several goals: (1) to make requirements for obtaining the right to free legal aid less stringent; (2) to clarify the legal issues eligible for obtaining free legal aid; (3) to improve nominal and technical quality of the Law and to align it with other laws; (4) to introduce precise regulation of costs in cases in which free legal aid is approved, i.e. reimbursement of such costs; and (5) to introduce precise regulation of preliminary legal aid and role of authorized associations in provision of preliminary legal aid.

The Report on Implementation of the Law on Free Legal Aid in 2013 noted that, despite the jointly drafted proposed amendments to the Law, which implied consensus among members of the working groups and would have significantly improved the legal text, these changes did not happen. In the absence of formal explanation of reasons behind the suspension of the working group, the response provided by the Ministry of Justice on the FOI application addressed to them indicated that the Law on Free Legal Aid will be subject of strategic regulation within the Strategy on

7 Ibid.

8 Notification from the Ministry of Justice of the Republic of Macedonia no. 19-2139/2 from 21.6.2012;

9 By means of decision taken by the Ministry of Justice no. 07-3192/7 from 28.9.2012.

10 The working group invited and included representatives from MLSP, MoJ, Bar Chamber of the Republic of Macedonia, judicial authorities, authorized associations and employees at the Department on Free Legal Aid within the Ministry of Justice. MYLA was invited to nominate its representative in the working group.

11 Rulebook on Nominal and Technical Rules, Government of the Republic of Macedonia, Secretariat on Legislation, Skopje 2007;

Strengthening the Judiciary System (2014-2016),¹² and that the Law will be changed once this strategy is drafted.

Due to above indicated problems and challenges faced by the associations in regard to LFLA's implementation, the urgent need for essential changes to the Law was reiterated on several occasions for the purpose of actual, instead of formal, facilitation of access to justice for citizens in the Republic of Macedonia. Based on long-term monitoring of LFLA's implementation, the associations drafted a joint policy paper¹³ and submitted it to the Ministry of Justice in July 2014. The policy paper contained guidelines for amending the Law on Free Legal Aid and description of the procedure¹⁴ on amending the Law.

In the meantime (November 2014 – March 2015), working group was established and tasked with drafting the strategy and action plan on judiciary reforms, especially in regard to access to justice, including LFLA. Macedonian Young Lawyers Association actively participated in this working group, notably by putting forward recommendations based on its long-standing experience in the field of free legal aid. The final result produced by this working group is yet to be seen, i.e. although its task has been formally completed, the strategy is still under reconsideration by an expert team, which provides the conclusion that by the cut-off date for this report, there are no updated information about the strategy's status. Therefore, changes to LFLA will directly depend on results produced by this strategy, only after it will be finalized.

Contrary to all efforts, from its adoption in 2009 to present, changes made to the Law on Free Legal Aid are limited only to:

-
- 12 FOI response from the Ministry of Justice no. 19-3162/2 from 22.9.2013
 - 13 URGENT AND ESSENTIAL CHANGES TO THE LAW ON FREE LEGAL AID IS NEEDED, policy paper available at: <http://pristapodpravda.mk/wp-content/uploads/2012/10/javna-politika-0620141.pdf>
 - 14 “Transparent and public procedure, managed by the Ministry of Justice of the Republic of Macedonia, with meaningful participation of stakeholders, through their representatives [attorneys-at-law, associations, judges (first instance civil courts), employees from the branch offices, employees from the Social Work Centres]. In parallel with the procedure, there is a need for undertaking sustained and in-depth analyses of citizens' legal needs, impact of the regulation (RIA), when drafting changes to the Law, as well as financial analysis of the Law's fiscal implications”.

- » 2011 amendment,¹⁵ implying addition of new categories of applicants for free legal aid, i.e. inclusion of *asylum seekers* and recognition of their right to free legal aid in the procedure on recognizing their right to asylum;
- » In the second half of 2013 the *Law on Justice for Children (LJC)* was adopted.¹⁶ One novelty, on whose account adoption of LJC is relevant for LFLA's implementation and would affect the free legal aid system, concerns the fact that remuneration for attorneys-at-law representing *children at risk* and *children who have committed criminal offences and misdemeanours* will be made pursuant to provisions contained in LFLA, i.e. from the annual budget allocated to finance free legal aid. LJC stipulates the procedures (actions) necessitating participation of attorneys-at-law, who will represent the interests of minors, which would fall on the burden of the Budget of the Republic of Macedonia and will be paid in compliance with LFLA. According to LJC, participation of attorneys-at-law is mandatory in following cases:
 - » when the child at risk is called for conversation at Social Work Centres (Article 25 of LJC);
 - » in all stages of court proceedings (Article 90 of LJC);
 - » when the child is interrogated by the public prosecutor (Article 107 of LJC);
 - » when the child is called by Mol and detained at police stations (Article 116 of LJC).
- » Followed by the amendment to LFLA adopted by the Parliament of the Republic of Macedonia by the end of June 2015, whereby the Ministry of Justice is tasked, within a period of three months from the entry in effect of the law's amendment, to establish electronic links with the Agency on Real Estate Cadastre.¹⁷

15 Published in the "Official Gazette of the Republic of Macedonia" no. 185 from 2011.

16 "Official Gazette of the Republic of Macedonia" no. 148/2013. On the day the Law on Justice for Children enters in effect, the Law on Juvenile Justice will be revoked, whereby treatment of children at risk and children who have committed criminal offences and misdemeanours falls within the realm of the Law on Justice for Children.

17 <http://sobranie.mk/downloaddocument.aspx?id=eb4f4033-of9f-4a11-88b1-d9385af477a2&t=pdf>

Findings on implementation of LFLA in 2014–2015

As indicated in the previous section, the Law on Free Legal Aid did not undergo substantial changes and entered the sixth year of its implementation. This section provides an overview of monitoring results concerning LFLA's implementation performed by the authorized associations and expressed in terms of number of citizens that have applied for free legal aid and number of citizens that have been approved free legal aid. It also includes the list of providers of preliminary legal aid, as well as data concerning financing of free legal aid in 2014 and 2015.

Number of citizens applying for free legal aid in 2014–2015

In 2014, the Ministry of Justice issued a total of **254 decisions upon applications** for free legal aid. According to the Ministry of Justice's annual report, total of **270 applications were submitted** in the course of 2014.¹⁸ Compared to the situation in 2013, there is visible increase of the number of citizens applying for free legal aid.¹⁹ This trend can be attributed to two possible reasons: increased number of legal issues faced by citizens, and increased awareness about the possibility to benefit from free legal aid paid by the state. Here, due consideration should be made of the six-year active participation, implementation and promotion activities for the Law. The most influential role in increased number of applications is attributed to authorized associations which, by means of field work and direct communication with citizens, have informed them of their right to free legal aid and have assisted them in completing and submitting applications for free legal aid. Field work, promotion in the media and on social networks, as well as the web portal www.pristapdopravda.mk, have informed the public about the project and the toll-free line established. All these activities contributed to active promotion of the right to free legal aid. This was confirmed by the high number of applications submitted in 2014, whereby 131 of the total of 270 applications were submitted through the six authorized associations involved in the project.

18 2014 Annual Report on Implementation of LFLA, available at: http://pravda.gov.mk/documents/bpp_2015.pdf

19 162 applications for free legal aid were submitted in the course of 2013. 2013 Annual Report on Implementation of LFLA, available at: <http://pravda.gov.mk/documents/izvestaj-2014-bpp.pdf>

In the period January – August 2015, these associations assisted in completion of 28 applications for free legal aid. Throughout the 18-month project “Access to Justice in Macedonia”, a total of 159 applications for free legal aid were submitted through the six authorized associations.

Overview of the number of applications for free legal aid (and relevant decisions taken) submitted through the authorized associations involved in the project

	Applications submitted	Applications approved	Applications rejected	Discontinued procedure	Pending decision
MYLA	74	9	11	42	10
NRC	25	9	11	1	4
EHO	30	18	10	1	1
“8th September”	1	0	0	0	1
“Izbor”	14	9	2	3	0
YCC	15	6	6	0	3
Total	159	51	40	47	19

February 2014 – August 2015

From total of **159** applications submitted, **51** were approved, **40** were rejected and procedure was discontinued for **48** applications. In that, decision-making upon **41** applications for free legal aid in the asylum procedure has been discontinued because the applicants have left the territory of the Republic of Macedonia. Free legal aid was approved for only one application related to the asylum procedure. Decision is pending for **19** applications for free legal aid, while one application for free legal aid is put on hold, and one application was withdrawn by the applicant.

There is visible increase of the number of submitted applications for free legal aid compared to the situation observed in the previous years, which is certainly result of increased information among state bodies that refer citizens to apply for legal aid and is result of the work of authorized associations and their promotional activities. However, the increased number of applications submitted does not necessarily imply improved implementation of the Law. Namely, relevant statistics show that high number of citizens is prevented from exercising their right to free legal aid, in particular because 40 applications submitted through the authorised associations were rejected, while the procedure was discontinued for 48

applications. Almost two thirds of applicants attempting to exercise their right through some of authorized associations were not successful in their intention.

As regards decisions taken in the course of 2014, the Ministry of Justice adopted a total of **254** decisions upon **270** applications submitted, whereby free legal aid was approved in **114** cases and **140** applications were rejected.²⁰ Fluctuating dynamic of decision making procedures was observed, but the trend on high number of rejected versus approved applications continues and is result of stringent requirements for citizens' eligibility for free legal aid. Finally, the conclusion is inferred that accelerating the procedure on decision taking upon applications is not sufficient, especially in the absence of changes to and streamlining of requirements that citizens should fulfil in order to benefit from free legal aid and exercise unhindered access to justice.

Ratio of rejected versus approved applications for free legal aid

2011	2012	2013	2014
2,3	1,9	1,4	1,2

The decision making procedure breaches the law-stipulated deadline and is not guided by the principle of urgency

Average time for decision making upon applications for free legal aid is marked by decrease, following the alarming postponement of this procedure observed by the end of 2014. In November 2014, as part of its newsletter, the project “Access to Justice in Macedonia” informed that in some cases first instance decisions upon applications for free legal aid are taken within an average timeframe of 80 days, which imply appointment of state-financed attorney-at-law.²¹

Nevertheless, according to practices so far, it seems that it is almost impossible to have a decision taken within the law-stipulated deadline of 20 days and to assess that the procedures complied with the principle

20 2014 Annual Report on Implementation of LFLA, available at: http://pravda.gov.mk/documents/bpp_2015.pdf

21 Monthly newsletter of the project “Access to Justice in Macedonia”, November 2014, available at: <http://pristapdopravda.mk/wp-content/uploads/2014/11/press-release-19.11.2014-MK1.docx>

of urgency underlying them. Procedure on decision making upon applications for free legal aid, which could last up to two months and longer, does not allow approval of free legal aid for legal issues that are regulated with shorter deadlines for legal actions (labour relations, pension and disability insurance, health insurance, as well as certain property rights that imply shorter deadlines).

Reasons for breaching the law-stipulated deadline²² are primarily identified in the number and diversity of data which the regional office is obliged to collect for the purpose of establishing whether the applicant fulfils all requirements anticipated by the Law, i.e. data that are collected from different holders of information, as part of written procedure nonetheless, instead of being provided electronically or by allowing electronic insight into the records kept at relevant institutions.

One new association obtained the authorization for provision of preliminary legal aid

In April 2014, one new association obtained the authorization for provision of preliminary legal aid and was added in the Registry of Authorized Associations kept by the Ministry of Justice of the Republic of Macedonia. The new association is “8th September” from Skopje, and is already part of the project “Access to Justice in Macedonia”. With this addition, the number of authorized associations enlisted in the Registry amounts to 9 and they are distributed in larger towns across the country (Skopje, Bitola, Prilep, Kumanovo, Stip, Strumica and Tetovo).²³

Registry of Authorized Associations is uploaded on the Ministry of Justice’s website

The Law on Free Legal Aid prohibits authorized associations to use any form of advertising by means of which they would promote their work in the field of free legal aid, and therefore the obligation for promotion of these associations and provision of information for citizens about their work is exclusively performed by the Ministry of Justice. Hence the basic obligation²⁴ of the Ministry of Justice is to keep the Registry of Authorized

22 For more reasons behind delayed decision making procedures see Section 6 in “Analysis on Implementation of LFLA (2010-2012)”;

23 Registry of Associations Authorized for Provision of Free Legal Aid, available at: http://pravda.gov.mk/documents/reg_zdr_pred_pravna_pomos.pdf

24 Article 19, paragraphs 2 and 3 of LFLA;

Associations and upload it on its website (www.justice.gov.mk), i.e. to provide public information about the entities enlisted in the Registry of Associations Authorized for Provision of (Preliminarily) Legal Aid.

For more than four years, authorized associations appealed to and urged the Ministry of Justice to comply with this legal obligation and upload the Registry of Authorized Associations on its website.

Regional offices of the Ministry of Justice, as providers of preliminary legal aid, do not keep system records on citizens that have requested preliminary legal aid due to the fact that neither the Law nor any bylaw has established this obligation.

In addition to authorized associations, regional offices of the Ministry of Justice are also anticipated as providers of preliminary legal aid, provided they fulfil the requirement on having employed at least one lawyer with passed bar exam. By the end of 2014, three regional offices (Sveti Nikole, Veles and Karpos) have not fulfilled this requirement. Previously (in 2013), only 10 of the total of 33 regional offices have employed lawyers with passed bar exam and deployed them to work on in this field. The current situation is indicative of positive changes made, but an additional problem affecting provision of legal aid on the part of regional offices is the absence of system records on provided preliminary legal aid, which is indicative of the fact that the Ministry of Justice does not collate statistics per regional office concerning the number of cases, i.e. the number of citizens that have been provided preliminary legal aid. There are still no analyses that would provide the baseline for planning and improving legal aid, which the institutions must provide, in one way or another.

Small interest on the part of attorneys-at-law to get involved in the free legal aid system

In 2014, only 12 attorneys-at-law applied for and were enlisted in the Registry of Attorneys for Provision of Free Legal Aid, while one attorney-at-law was deleted therefrom. By the end of 2014, the Registry of Attorneys kept by the Ministry of Justice enlisted 262 attorneys-at-law from the pool of more than 2,000 attorneys practicing law in the Republic of Macedonia.

Minimum state finances allocated for free legal aid in 2014 and 2015

In 2014 and 2015, the budget of the Ministry of Justice of the Republic of Macedonia allocated total of 3,000,000.00 MKD or around 50,000 EUR to finance free legal aid.²⁵ Compared to budget funds allocated for this purpose in the previous years, there are no changes in relevant amounts, which means the budget remained the same. From the total amount of 3,000,000.00 MKD, by 31 December 2014, around 748,101.00 MKD were spent on remuneration for attorneys and 22,600.00 MKD were spent on reimbursement of costs incurred by authorized associations, i.e. total of 770,701.00 MKD were spent on provision of free legal aid.²⁶ There is an obvious increase in payment of attorney remuneration on the basis of completed cases and submitted lists of expenses; however, compared to the amount of funds approved, only small share of funds allocated for this purpose is actually spent. As regard the associations, despite the high number of cases in which they have provided preliminary legal aid and due to the regulations governing reimbursement of their costs, the amount of 22,600 MKD paid to them is insufficient to cover actual monthly costs of only one authorized association.

According to past experiences, the annual amount of funds needed to cover only operational costs of the six associations authorized for provision of preliminary legal aid is at the level of funds allocated by the state for overall implementation of LFLA, i.e. around 3,000,000 MKD. This does not includes costs for attorney remunerations, employees at the regional offices and other costs related to the Law's implementation.

According to the findings presented in the European Commission's Report on Efficiency and Quality of Justice in Council of Europe's countries from 2014²⁷, Macedonia's annual budget for the sector on justice and judiciary is comparatively low, when analysed against others countries with similar demographic and economic data.

25 FOI responses from the Ministry of Justice of the Republic of Macedonia no. 19-538/2 and no. 19-533/2 from 10.3.2015.

26 2014 Annual Report on Implementation of LFLA, available at: http://pravda.gov.mk/documents/bpp_2015.pdf

27 http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport_2014_en.pdf

Conclusions on implementation of the Law on Free Legal Aid in 2014–2015

In July 2015, the Law on Free Legal Aid entered its sixth year of implementation, but has not been subject of substantial and thorough changes, with the exception of three “purposeful” amendments. One of them concerned expansion of the list of applicants for free legal aid with the addition of asylum seekers, the second concerned “late” alignment with the Law on Justice for Children, while the third amendment was adopted in so called “back-door” procedure in June 2015, whereby the Ministry of Justice is obliged to establish connections and links to the Agency on Real Estate Cadastre within a period of 3 months.

Absence of substantial changes to the Law on Free Legal Aid resulted in identical problems and challenges persisting for almost six years and duly noted in all previous reports.²⁸ The Ministry of Justice was timely informed of these problems and challenges, and has also identified the gaps in the free legal aid system.

On this account, conclusions presented in this report do not differ from those integrated in the previous reports. Here, it should be noted that formulation of conclusions made due consideration of 2013 findings. Accordingly, conclusions about the implementation of the Law on Free Legal Aid in 2014 – 2015 are:

- » Compared to citizens’ actual need for legal aid established by relevant research studies,²⁹ and given the number of poor citizens in the state, it is obvious that this number of citizens is too low in order to contribute to actual facilitation of access to justice.
- » The number of individuals that have applied for and the number of individuals that have been approved free legal aid remain very low.
- » Related to the previous conclusion are the restrictive law-stipulated requirements concerning citizens’ material status for the purpose of obtaining the right to free legal aid. These requirements are too

28 Available at: <http://www.fosm.org.mk/mk/Home/Publications?catID=9&additionallID=80>

29 Jana Korunovska Srbjanko, Neda Korunovska, Tanja Maleska; “Legal Needs and Path to Justice in the Republic of Macedonia”, FOSM, Skopje 2013, available at: <http://www.fosm.org.mk/CMS/Files/Documents/20131810-Analiza-mk.pdf>

stringent, ungrounded and prevent high number of poor citizens to exercise their right to free legal aid solely on the grounds that they are in possession of particular property (where they reside). Last changes made to the Law attempted to increase control, especially in terms of real estate possessed by applicants for free legal aid.

- » The Law on Free Legal Aid failed in establishing a functional two-tiered system on free legal aid, although the legislator's intention in this regard was more than obvious: first tier should include legal information, advice and referral as precondition for the second tier, i.e. representation in court or administrative procedure.
- » Scope of the right to free legal aid is insufficient to facilitate access to justice for citizens in specific court and administrative procedures, in particular because it does not anticipate exemption from payment of court administrative fees and evidence-related costs (forensic expertise and the like) that are significant burden for people living in poverty who cannot afford such costs, although their evidentiary procedures depend on these actions.
- » Average time for the Ministry of Justice to take decision upon applications for free legal aid and the law-stipulated deadline of 20 days do not correspond to citizens' needs, especially in cases when particular legal actions are required within a deadline of 8 or 15 days, whereby citizens are unable to benefit from services provided by attorneys-at-laws pursuant to the rules governing free legal aid. Timeframe in terms of rulings taken by the Administrative Court is measured in years. This is yet another serious problem that prevents two-instance decision making on this right of citizens.

LAW ON **FREE
LEGAL AID
THROUGH
THE PRISM
OF VARIOUS
ENTITIES**

AFFECTED BY OR
INVOLVED IN ITS
IMPLEMENTATION

4.

LAW ON FREE LEGAL AID THROUGH THE PRISM OF VARIOUS ENTITIES AFFECTED BY OR INVOLVED IN ITS IMPLEMENTATION

This section of the report provides an overview of LFLA's utilization on the part of citizens as beneficiaries, associations as providers and the Administrative Court as the second instance body deciding upon applications for free legal aid, on the basis of information collected in the course of 18 months.

4.1 CITIZENS AS BENEFICIARIES OF THE RIGHT TO FREE LEGAL AID AND THEIR LEGAL NEEDS

The mechanism on free legal aid exists for the purpose of facilitating access to justice, primarily for poor citizens in specific cases when they face particular problems of legal nature, but due to their disadvantaged material status are unable to exercise or protect particular right they are entitled to.

In ideal conditions, the mechanism on free legal aid should be an instrument that would respond to citizens' needs in adequate and efficient manner. Therefore, an essential precondition in this regard would imply proper design of the free legal aid system that is able to respond to

citizens' needs by verifying the following aspects: 1. establish the legal issues faced by citizens of disadvantaged material status; 2. analysis of these problems for the purpose of finding the best possible solution; and 3. identify the consequences from non-resolution of their legal problems.

Acknowledging citizens' specific needs is one of the reasons why there is no universally accepted and broadly applied system on free legal aid, but individual states organize their systems for the purpose of establishing balance between citizens' needs and the state's possibility to finance such system.

Due to this mechanism's poor structure, including the non-innovative approach imposed by the Law in effect, the state is unable to keep records and analyse demographic data which, in turn, prevents clear overview of legal issues and data about their frequency.

Description of most frequent legal issues faced by citizens and description of categories of citizens in need of free legal aid are available in the publication titled "Legal Needs and Path to Justice in the Republic of Macedonia".³⁰ This publication is first of this type and is based on the research that provides actual image about legal issues faced by citizens in the Republic of Macedonia. In the last 18 months, work and experiences of authorized associations on implementation of the project "Access to Justice in Macedonia" resulted in collection of relevant data that confirm findings presented in the said research study.

According to data collected in the course of project implementation, authorized associations provided citizens with legal aid in relation to **1,839 legal issues**. Legal aid provided, for most part, included provision of **general legal information (1,830 cases)**, **initial advice on the right to free legal aid (835 cases)**, while **assistance for completion of applications for free legal aid was provided in 159 cases**.

These 1,839 interventions concerned a total of **1,829 persons** that have contacted the lawyers from the six associations. Among them, **900 were women and 929 were men**.

30 Jana Korunovska Srbjanko, Neda Korunovska, Tanja Maleska; "Legal Needs and Path to Justice in the Republic of Macedonia", FOSM, Skopje 2013, available at: <http://soros.org.mk/CMS/Files/Documents/20131810-Analiza-mk.pdf>

Among total of 1,829 persons, 1,006 were Macedonians, 39 were Albanians, 620 were Roma and 164 were members of other ethnic groups.

In the period February 2014 – August 2015, legal issues for which authorized associations provided preliminary legal aid are:

Field of legal issues	No. of interventions
Social insurance	494
Property tenure issues	381
Family relations	150
Health insurance	124
Victims of domestic violence	97
Labour relations	89
Pension and disability insurance	78
Protection of children and minors	74
Recognition of the right to asylum	41
Protection of victims of criminal acts	12
Various types of legal issues beyond this list ³¹	299
TOTAL	1,839

Is LFLA sufficient to address legal issues faced by vulnerable citizens?

According to information collected in the course of 18-month project implementation, legal issues faced by citizens in the Republic of Macedonia are presented in the table above. Categories of citizens that are expected to be in need of free legal aid (disadvantaged material status or social exclusion) are identified under the 2013 research on legal needs.³²

LFLA stipulates a locked list of legal issues eligible for free legal aid and the single requirement in this regard is for these issues to be of interest for the applicant. The list of legal issues pertaining to litigation and administrative procedures includes: *rights in the field of social, health,*

³¹ The last row includes additional legal issues for which citizens requested legal aid, but cannot be categorized under the existing classification.

³² Jana Korunovska Srbijanko, Neda Korunovska, Tanja Maleska; “Legal Needs and Path to Justice in the Republic of Macedonia”, FOSM, Skopje 2013, available at: <http://soros.org.mk/CMS/Files/Documents/20131810-Analiza-mk.pdf>

pension and disability insurance; labour relations; protection of children and minors; victims of domestic violence; protection of victims of criminal acts; protection of victims of human trafficking; and property tenure issues. At first glance, analysis of the table above provides the conclusion that certain legal issues for which citizens need free legal aid are not included in the law-stipulated list of legal issues eligible for free legal aid (for example, **social protection**³³). Also, certain specific needs (**exercising the right to citizenship, status issues**) of vulnerable groups of citizens are not included in the list of legal issues eligible for free legal aid.

As regards legal issues anticipated by LFLA, current implementation thereof provides a perspective about their scope and coverage. Being the most frequent legal issues, definition of **property tenure issues** raises several dilemmas in terms of their scope and coverage, which were further confirmed with several decisions taken by the Ministry of Justice whereby *indemnity awarded* was not treated as property issue. This provided grounds for motioning lawsuits in front of the Administrative Court, which decided that property tenure issues cover all property-related, contractual and inheritance issues.³⁴ On the other hand, legal issues that are defined in general manner and are intended for protection of particular category of applicants, such as: *victims of domestic violence, victims of criminal acts and victims of human trafficking*, do not offer precise definition about legal issues covered under each category, which could open space for arbitrary decision making and negatively affect the legal security. Although anticipated under LFLA, *rights in the field of social, health, pension and disability insurance and labour relations* are almost non-existing in practice because, according to the nature of procedures under which these rights are exercised, legal actions need to be taken within precisely defined deadlines (8, 15 or 30 days), which is an impossible deadline for the Ministry of Justice

33 Social insurance does not concern and is not related to social protection. Social insurance concerns mandatory contributions that should be paid by all persons employed in the Republic of Macedonia, and includes payment of: 1) pension and disability insurance on the basis of monthly wage payments; 2) mandatory capital pension insurance; 3) insurance under the accelerated retirement scheme; 4) mandatory health insurance; 5) insurance in case of unemployment.

34 For more information see Section 3.4. The Role of the Administrative Court in “Report on Implementation of LFLA in 2013”, available at: <http://www.fosm.org.mk/CMS/Files/Documents/lzvestaj%20BPP%202013%20MK%20-%20vnatresni%20ZA%20PECAT.pdf>

to adopt decision on approving the free legal aid. This feature of the free legal aid system in place affects other legal issues as well, especially when exercise of certain rights in the specific cases is tied to particular deadline.

Most frequent legal issues faced by the citizens, per field

Field	Legal issues pertaining to this field
Property tenure	- Protection of the right to possession in court procedures;
	- Implementation of procedures on inheritance issues;
	- Implementation of procedures on denationalization, legalization of illegally constructed buildings and privatization of state-owned land;
	- Obtaining construction permits and other administrative permits;
	- Issues related to forceful execution concerning immovable property;
	- Issues originating from lease contracts;
Labour relations	- Non-payment of salary and salary contributions;
	- Violation of labour rights (daily, weekly and annual hiatus);
	- Non-enforcement of regulations concerning safety and health at work
	- Divorce petitions and procedures;
Family and family relations	- Regulation of property tenure relations between former spouses;
	- Arranging custody over children;
	- Sustenance of children and spouses;
	- Persons without citizenship and identification documents of family members ;

In addition to legal issues and procedure on approving free legal aid, it is important to analyse whether the Law also covers persons that need to exercise their right to free legal aid.

The law-stipulated requirement whereby citizens should be (cumulatively) of particular status, i.e. to earn less than 10,500 MKD³⁵ and to possess property whose value does not exceed five gross monthly salaries in the Republic of Macedonia calculated for the previous month, is completely unjustified and decimates the number of citizens eligible for free legal aid, although according to all parameters they are considered to be in disadvantaged material situation.

According to LFLA in effect, persons that do not earn income and do not possess any property, but are not beneficiaries of social allowance, are not **eligible for free legal aid**. Moreover, multimember household sustaining itself only on social allowance and not earning additional income would not be eligible for free legal aid merely on the grounds of holding tenure over house or apartment where they reside.

Conclusion

The free legal aid system is insufficient to enable quality and efficient access to justice for persons who, due to their poverty status or social exclusion, are unable to exercise their rights guaranteed by the Constitution and the laws. The long period for decision taking upon applications for free legal aid, which does not comply with the law-stipulated deadline of 20 days, the Law's narrow scope and citizens' lack of information, do not allow efficient protection of these rights.

The Law does not anticipate legal aid for certain legal issues for which these categories of citizens need legal aid (social protection, consumer protection, status issues) or these issues are regulated in ambiguous manner, thus leaving space for arbitrary interpretation of legal provisions (protection of particular categories of persons).

Due to longevity of procedures on decision making upon applications for free legal aid (lasting more than one month), all legal issues whose resolution necessitates legal actions to be taken within specifically defined deadlines cannot be exercised within the realm of free legal aid.

35 According to the Law on Free Legal Aid, income on all grounds earned by the person in question and members of his/her household should not exceed 50% of average monthly salary in the Republic of Macedonia paid in the previous month at the time when the application for free legal aid is submitted.

The very narrow scope of categories of citizens eligible for free legal aid prevents LFLA to become truthful and efficient instrument that facilitates access to justice for citizens.

4.2 authorized associations for provision of preliminary legal aid

This section of the report provides description of the role played by authorized associations in the free legal aid system established by the Law, through the prism of 6 (six) from the total of 9 (nine) associations authorized for provision of preliminary legal aid by 2015.

Authorized associations are entitled to reimbursement of costs for preliminary legal aid provided. After six years of LFLA's implementation and continuous monitoring of associations' performance, problems created by the inadequate mechanism for financing costs related to free legal aid bring under question the normal operation of authorized associations without additional donor support.

Practices have shown that work of authorized associations is additionally burdened because:

1. The state reimburses costs for preliminary legal aid provided only in cases in which free legal aid has been approved for court and administrative procedures.
2. Preliminary legal aid has very narrow scope.
3. Requirements which the organizations must fulfil are inadequate and do not correspond to their authorization.
4. Associations are prohibited to pursue any form of advertising to inform citizens about possibilities they offer and provide pursuant to LFLA.

LFLA – instrument that exists for provision of legal aid in court and administrative procedures

LFLA includes insufficiently clear provisions³⁶ regulating provision of preliminary legal aid on the part of authorized associations. The Law does not provide clear answer whether preliminary legal aid is an instrument intended for all citizens that fulfil the requirements stipulated under LFLA and that need particular legal information or only citizens that, in addition to receiving preliminary legal aid, have also applied and have been approved free legal aid in court and administrative procedures.

Evidence in support of this dilemma is found in contradictory provisions governing the cases in which authorized associations are entitled to have their costs reimbursed. Unlike LFLA, which stipulates that associations are entitled to have their costs reimbursed only when there is decision on approved free legal aid in court and administrative procedures, the Rulebook³⁷ on the template and contents of lists of expenses does not include the obligation to indicate the number and date of such decision (contrary to the Rulebook on the template and contents of list of expenses for attorneys, where it is clearly stipulated that they should indicate the decision on approved free legal aid³⁸). Based on experiences of authorized associations, the conclusion is inferred that the Ministry of Justice reimburses them only the costs incurred **in the cases when application for free legal aid has been submitted and approved**.³⁹ In that, legal services provided in the cases when application for free legal aid has not been submitted (because the person resolved his/her legal issued by means of general legal information) or in the cases when the application has been rejected are not valued and the Ministry of Justice does not reimburse the costs, although the authorized associations have provided legal aid.

Small number of cases in which the associations can reimburse their costs compared to the vast number of citizens addressing them on daily basis with requests for information, which are duly provided by these

36 For more information see “Fairy Tale or Reality – Free Legal Aid in the Republic of Macedonia”, pp. 21 and 22, MYLA and FOSM, 2011;

37 Rulebook on the template and contents of lists of expenses concerning the work performed by authorized associations.

38 Rulebook on the template and contents of lists of expenses concerning the work performed by attorneys-at-law

39 Notification from the Ministry of Justice no. 11 – 3312/2 from 15.9.2011

authorized associations, is indicative of major discrepancy between citizens' needs and manner in which this matter is regulated under the relevant acts. Accordingly, the conclusion is inferred that associations authorized for provision of free legal aid are "neglected".

There is complete and utter disregard for the activity on provision of information and advice to citizens, as well as the possible resolution of their legal issues without initiating expensive and extensive court procedures that only burden the free legal aid system. Legal provisions in effect and interpretation thereof impose direct limitation on access to justice for large number of citizens whose legal issues could be solved with provision of quality and clear legal information or advice, thus avoiding initiation of unnecessary administrative and court procedures. By pursuing these practices, the state sends the message that free legal aid promotes initiation of expensive and extensive court procedures, instead of activities aimed at improving legal information for citizens and resolution of disputes by means of mediation.

Narrow scope of competences

Preliminary legal aid covers a very narrow scope of legal services that are insufficient to enable substantial legal counselling for citizens that would allow them to exercise the right for which they have requested legal aid. With the exception of general legal information,⁴⁰ preliminary legal aid has been reduced to promotion of LFLA (*initial legal advice*) or administrative completion of applications for free legal aid (*legal aid in completing applications for free legal aid*). According to the legal provisions in effect, preliminary legal aid does not address citizens' needs for legal information and counselling prior to initiation of particular administrative or court procedure, which is the primary goal of this type of legal aid.

Existing forms of preliminary legal aid do not allow thorough reconsideration of specific circumstances in the individual cases (legal advice is not anticipated as form of preliminary legal aid), which is of crucial importance when reconsidering options available for citizens to exercise or protect their rights. Instead, the associations are only allowed to provide "general and principled guidelines on the legal regulations"

40 Which is already narrow in scope and defined as form of free legal aid that includes general and principled guidelines on legal regulations in given field.

(which is far from sufficient, especially in cases of law illiterate clients) and to submit application for free legal aid without advising the client in advance about the case, which is possible only by providing legal advice.

In addition to the need for legal advices, citizens – especially law illiterate clients – often need assistance in drafting simple statements/depositions, completing templates and forms, as well as drafting submissions related to particular administrative procedures (social protection, pension and disability insurance, health insurance), which is not covered under existing forms of legal aid.

High requirements—low reimbursement

Legal requirements that associations need to fulfil in order to be involved in the free legal aid system raise concerns⁴¹ about enforceability of this idea, in particular due to the disproportion between costs incurred by the associations to qualify for provision of preliminary legal aid and amount of costs reimbursed by the state for services they have provided.

One requirement implies that authorized associations should have employed, i.e. established job position for graduated lawyer with passed bar exam. For the purpose of fulfilling this requirement, the association should allocate at least 30,000.00 MKD as gross salary for this employee. At the same time, due to the manner in which costs are reimbursed (described above), for the entire period of 6 years all 9 authorized associations were cumulatively reimbursed an amount that would not suffice to cover several monthly salaries of one person tasked with provision of preliminary legal aid. In other words, without support from the donors, none of these associations would be able to fulfil this requirement. In addition to establishing employment relation, the requirement whereby this person should have passed the bar exam does not correspond to the type and scope of preliminary legal aid. As indicated above, LFLA stipulates that graduated lawyers can provide only legal information and technical assistance.

41 For more information see “Report on Implementation of LFLA”, MYLA and FOSM, 2011

Prohibition for any form of advertising

Final among the four key problems affecting authorized associations in the free legal aid system is prohibition for any form of advertising their work, without having integrated in the Law definition of advertising (for example, whether leaflets and posters for promotion of associations' work amount to advertising). Moreover, prohibited advertising is stipulated as basis for suspending the association's authorization for provision of preliminary legal aid. In order to bridge this gap and address their need for promotion, the Ministry of Justice is legally obliged to promote these associations and their work. By the end of 2013, although stipulated as its legal obligation, the Ministry of Justice had not published the Registry of Authorized Associations on its website. This Registry was published as late as 2014. Nevertheless, despite these unfavourable circumstances, within the period of 18 months, the six associations provided legal aid to more than 1,800 citizens, by means of field visits and direct contacts with citizens.

As indicated earlier, from LFLA's entry in effect until the cut-off date for this report in 2015, a total of 9 associations obtained authorization for provision of preliminary legal aid. They are distributed in different regions throughout the country and provide protection for various categories of citizens.

Overview of associations authorized for provision of preliminary legal aid

2011	2012	2013	2014
National Roma Centrum – Kumanovo	Multiculture – Tetovo	EHO – Stip “Izbor” – Strumica	“8th September” – Skopje
Macedonian Young Lawyers Association – Skopje		Centre for Development and Promotion of Public Life – Tetovo	
Roma SOS – Prilep			
Youth Cultural Centre – Bitola			

What did the six authorized associations provide within the project “Access to Justice in Macedonia”?

Authorized associations from the *network on free legal aid* provided preliminary legal aid in compliance with LFLA to all citizens that are likely to fulfil the legal requirements, based on clearly defined rules and standards that guarantee professionalism, expertise and confidentiality of preliminary legal aid provided. Authorized associations provide only the forms of preliminary legal aid stipulated in LFLA.

Overview of applications for preliminary legal aid submitted by citizens to the six authorized associations in the period February 2014 – August 2015

Association	No. of citizens applying for preliminary legal aid
NRC – Kumanovo	449
MYLA – Skopje	472
“8th September” – Skopje	127
YCC – Bitola	285
EHO – Stip	302
“Izbor” – Strumica	193
TOTAL:	1.829

Overview of applications submitted and approved, reimbursed costs and monitoring of legal aid cases in the period February 2014 – August 2015, by the six authorized associations

	Applications submitted	Applications approved	Reimbursed costs upon approved applications	Monitored cases where free legal aid is approved
MYLA	74	9	4	4
NRC	25	9	6	10
EHO	30	18	13	14
“8th September”	1	0	0	0
“Izbor”	14	9	2	3
YCC	15	6	6	3
Total	159	51	31	34

In the period February 2014 – August 2015, authorized associations from the project “Access to Justice in Macedonia” assisted in submission of 159 applications for free legal aid to the Ministry of Justice. Almost one third of them (51) were approved.

In the course of 2014, authorized associations from the network were reimbursed the costs incurred in relation to 14 approved applications for free legal aid. In the course of 2015, the Ministry of Justice reimbursed the costs of these six associations in relation to 17 approved applications for free legal aid.

Within the period of 18 months, 34 cases in which legal representation was approved pursuant to LFLA were monitored. As part of such monitoring visits, interviews were conducted with clients that have been awarded legal representation pursuant to LFLA, attorneys-at-law and residing judges in these cases.

Informative sessions

On two occasions (16.6.2015 and 14.7.2015), the project team of “Access to Justice in Macedonia” organized informative meetings at the premises of the Inter-Municipal Social Work Centre in Suto Orizari.

Informative meetings were organized for the purpose of familiarizing citizens in the Municipality of Suto Orizari and administrative staff at the Inter-Municipal Social Work Centre about the right to free legal aid.

At these meetings, lawyers from the authorized associations engaged in conversations with citizens and provided assistance in completing applications for social assistance and social allowance, provided them general legal information on legal regulations governing issues of interest for the local population and information on the requirements they need to fulfil in order to be eligible for free legal aid.

At these informative meetings, preliminary legal aid was requested by **65 citizens**.

Gender breakdown of applicants for preliminary legal aid attending these two informative sessions, expressed in percentages, is the following: 46.2% were women (30) and 53.8% were men (35).

Age group breakdown, expressed in percentages, is the following: 69.2% were aged 20 to 50 years (45) and 30.8% were aged above 50 years (20).

Ethnic structure of citizens attending these two meetings is the following: 92.3% were Roma (60), 4.6% were Albanians (3) and 3.1% were Turks (2).

Legal problems for which applicants requested legal aid at the two informative sessions are shown in the table below.

Rights in the field of social protection (49) – 73.1%
Property tenure issues (6) – 8.9%
Protection of children and minors (5) – 7.5%
Criminal procedures (2) – 3%
Pension and disability insurance (1) – 1.5%
Labour relations (1) – 1.5%
Administrative procedure (1) – 1.5%
Status issue (1) – 1.5%
Right to free legal aid (1) – 1.5%

Administrative staff was asked to complete evaluation forms about the implementation of these informative meetings on the right to free legal aid.

On the question inquiring about their opinion concerning the idea to organize informative meetings, 66.7% (4) indicated an assessment of 5 and 33.3% (2) indicated an assessment of 4.

On the question inquiring about their opinion concerning the contents of meetings held, 66.7% (4) indicated an assessment of 5; 16.7% (1) indicated an assessment of 4; and 16.6% (1) indicated an assessment of 3.

On the question inquiring about their opinion concerning behaviour of the project team of “Access to Justice in Macedonia” towards employees at the regional office, 83.3% (5) indicated an assessment of 5 and 16.7% (1) indicated an assessment of 4.

On the question inquiring about their opinion concerning behaviour of the project team of “Access to Justice in Macedonia” towards beneficiaries of rights in the field of social protection exercising or aspiring to exercise such rights before the Inter-Municipal Social Work Centre in Suto Orizari, 66.7% (4) indicated an assessment of 5; 16.7% (1) indicated an assessment of 4 and 16.6% (1) indicated an assessment of 3.

On the question inquiring about their opinion concerning the interest shown by beneficiaries of social rights for the right to free legal aid at these meetings, 66.7% (4) indicated an assessment of 5; 16.7% (1) indicated an assessment of 4 and 16.6% (1) indicated an assessment of 3.

*possible answers: 1, 2, 3, 4 and 5 (where 1 is very bad and 5 is very good)

Web portal www.pristapdopravda.mk

Activities under the project “Access to Justice in Macedonia” included design and establishment of the web portal www.pristapdopravda.mk, intended to bring the right to free legal aid closer to citizens.

By means of this web portal, citizens were familiarized with their right to free legal aid, legal issues eligible for free legal aid, property status as precondition for obtaining free legal aid, as well as manner in which the right to free legal aid is exercised, including providers of free legal aid. In addition to information dissemination, citizens were allowed to ask questions and request information about legal problems of their interest.

In the period February 2014 – August 2015, a **total of 113 questions** were submitted through this web portal. Gender breakdown of citizens requesting general legal information is the following: 55.8% were men (63) and 44.2% were women (50). Breakdown per age groups, expressed in percentages, is the following: 51.3% (58) were aged 20 to 50 years and 11.5% (13) were aged above 50 years, while 37% (42) did not indicate their age group. Breakdown per ethnic groups, expressed in percentages, is the following: 53.1% (60) were Macedonians, 2.6% (3) were Albanians, 1.8% (2) were Serbs and 1.8% (2) were Roma.

Geographic distribution of web portal's users
(www.pristapdopravda.mk)
February 2014 – August 2015

(60) from Skopje
(2) from Kumanovo
(2) from Kicevo
(1) from Ohrid
(1) from Kavadarci
(1) from Tetovo
(1) from Gevgelija
(1) from Probistip
(1) from Negotino
(43) unknown

Legal issues for which citizens requested preliminary legal aid on the web
portal www.pristapdopravda.mk
February 2014 – August 2015

Property tenure issues (48) - 42.5%
Labour relations (16) - 14.1%
Rights related to social, health, pension and disability insurance (9) - 7.9%
Execution procedures (6) - 5.3%
Protection of children (3) - 2.7%
Administrative procedures (2) - 1.8%
Protection of victims of domestic violence (1) - 0.9%
Other legal issues (28) - 24.8%

Statistics about the toll-free line 0800 44 222

Activities under the project “Access to Justice in Macedonia” included establishment of the toll-free line (0800 44 222) where citizens can obtain general information about legal regulations governing particular legal issues of their interest.

In the period February 2014 – July 2015, a total of **197 calls have been made** to this toll-free number, operated by MYLA - Skopje.

*Frequency and gender breakdown of people calling the toll-free line
(0800 44 222)*

February 2014 – July 2015

Month:	Number	Gender breakdown
February 2014	5	3 (60%) men and 2 (40%) women
March 2014	9	6 (66.67%) men and 3 (33.33%) women
April 2014	12	5 (41.67%) men and 7 (58.33%) women
May 2014	16	10 (62.50%) men and 6 (37.50%) women
June 2014	11	5 (45.45%) men and 6 (54.54%) women
July 2014	12	8 (66.67%) men and 4 (33.33%) women
August 2014	/	/
September 2014	9	7 (77.78%) men and 2 (22.22%) women
October 2014	13	5 (38.46%) men and 8 (61.54%) women
November 2014	12	6 (50%) men and 6 (50%) women
December 2014	5	4 (80%) men and 1 (20%) woman
January 2015	7	4 (57.14%) men and 3 (42.86%) women
February 2015	16	4 (25%) men and 12 (75%) women
March 2015	48	20 (41.67%) men and 28 (58.44%) women
April 2015	6	2 (33.33%) men and 4 (66.67%) women
May 2015	6	2 (33.33%) men and 4 (66.67%) women
June 2015	8	5 (62.50%) men and 3 (37.50%) women
July 2015	2	100% women
August 2015	/	/
Total:	197	96 (48.73%) men and 101 (51.27%) women

*Legal issues for which general legal information was requested
through the toll-free line (0800 44 222)
February 2014 – July 2015*

Legal issue:	Number	Share
Procedural issues (issues resolved as part of court and administrative procedures)	14	7,11%
Protection of children	12	6,09%
Execution and executive procedure	10	5,08%
Rights in the field of social protection	21	10,66%
Property tenure issues (to be solved in administrative procedure)	24	12,18%
Property tenure issues (to be solved in court procedure)	33	16,75%
Labour relations and disputes	17	8,63%
Rights in the field of pension and disability insurance	13	6,60%
Status issues (divorces, enlistment in general records, etc.)	10	5,08%
Consumer rights	3	1,52%
Neighbour relations	2	1,01%
Domestic violence	2	1,01%
Contractual relations	12	6,09%
Miscellaneous	24	12,18%
TOTAL	197	100%

Most frequent were legal problems in the field of property tenure issues to be resolved in court procedure (16.75%, i.e. 33 calls), property tenure issues to be resolved in administrative procedure (12.18%, i.e. 24 calls), rights in the field of social protection (10.66%, i.e. 21 calls) and rights pertaining to labour relations and disputes (8.63%, i.e. 17 calls).

Conclusion

The fact that nine associations have been authorized to provide preliminary legal aid is an indicator on the civil society's interest to get involved in the national system on free legal aid. Manner in which preliminary legal aid is regulated does not allow long-term sustainability of authorized associations. In case of discontinued donor support, on

whose basis the associations are able to secure monthly salary for their employed lawyer with passed bar exam, they will not be able to fulfil the law-stipulated requirement and will lose their authorization. On the other hand, due to the very narrow scope of preliminary legal aid, the same plays an insignificant role in terms of improving dissemination of legal information and resolution of citizens' legal issues.

4.3 ROLE OF THE ADMINISTRATIVE COURT IN IMPLEMENTATION OF THE LAW ON FREE LEGAL AID

Citizens whose applications for free legal aid have been rejected by the Ministry of Justice are entitled to initiate an administrative dispute in front of the Administrative Court of the Republic of Macedonia.⁴² Administrative disputes are a mechanism of *court protection* that provide assessment of *legality* of individual acts adopted by state administration bodies (in this case, against decisions of the Ministry of Justice on rejecting applications for free legal aid). In other words, administrative disputes enable a form of supervision over the performance of the Ministry of Justice, i.e. assessment whether the Ministry of Justice has complied with LFLA and other relevant laws when taking its decisions. Administrative disputes are motioned by means of lawsuit submitted to the Administrative Court against individual decisions taken by the Ministry of Justice. When assessing legality of these decisions, the Administrative Court establishes: 1. *whether the Law on Free Legal Aid has been properly applied*; 2. *whether the factual situation* (family and property status of the applicant and the legal issue for which legal aid is requested) *has been rightfully and completely established*; and 3. *whether the procedure has been properly conducted*. Exactly this feature of administrative disputes is of key importance for the Administrative Court to act as second instance body that can be actively involved in implementation of LFLA.

Rulings taken by the Administrative Court are binding⁴³ for the Ministry of Justice, which is obliged to adopt new decision based on the binding legal opinion provided by the Court in the place of revoked decisions,

⁴² See Article 23 of LFLA.

⁴³ See Article 52 of the Law on Administrative Disputes.

immediately or within a period of 30 days the latest from the receipt of such ruling. In that, the Ministry of Justice should act according to the remarks put forward by the Court and related to its procedure on free legal aid. This legal provision grants the Administrative Court power to essentially influence the implementation of LFLA.

In specific cases, the Administrative Court provides objective assessment whether the Ministry of Justice has properly implemented LFLA, but on the other hand, it establishes a case law on implementation of ambiguous provisions from LFLA. As part of its rulings, the Administrative Court can confirm the legality of particular decisions or revoke said decisions and return them for repeated decision making, by providing clear guidelines for adoption of legally-grounded decision. On the account of their importance, administrative disputes on contesting the procedure on free legal aid were analysed as part of this report.

For that purpose, strategic litigation was initiated in front of the Administrative Court to protect applicants whose applications for free legal aid have been rejected. These lawsuits served the purpose of collecting necessary data concerning decision making in second instance upon applications for free legal aid. Strategic litigation cases were led by three attorneys-at-law whose fees were covered under the project “Access to Justice in Macedonia”. Overall idea behind these efforts was to find answers to the question **about the role and influence of the Administrative Court, as the body for judicial oversight on decisions taken upon applications for free legal aid**, by analysing the rulings taken by the Administrative Court.

Share of strategic litigation cases in total number of administrative disputes
January 2014 – March 2015

	Total number of administrative disputes	Strategic litigation cases
Lawsuits motioned	22	16
Rulings taken	0	0

In the course of 2014, total of 16 *citizens* have initiated administrative disputes against decisions taken by the Ministry of Justice on rejecting their applications for free legal aid. By March 2015, additional 6 lawsuits were registered in the records kept at the Administrative Court.⁴⁴ Among the total of 22 administrative procedures motioned, 16 are result of strategic litigation for protection of applicants whose applications have been rejected. This means than only 6 citizens have motioned administrative disputes on own initiative and at own costs in this reporting period. Such situation is quite expected, because persons applying for free legal aid cannot afford to pay court administrative fees for motioning administrative disputes or attorney fees for composing the lawsuit. Without strategic litigation, the number of administrative disputes motioned would have been even lower. No ruling has been taken under the total of 22 lawsuits motioned. This information provides the conclusion that the average time for taking rulings in administrative disputes is longer than 18 months.

As result of the Administrative Court's inertness in taking rulings, it was impossible to obtain answers to the above indicated question in the last 18 months.

What is the possible impact of the Administrative Court on LFLA's implementation?

Rulings taken by the Administrative Court are binding⁴⁵ for the Ministry of Justice and it is obliged, on the place of the revoked decision, without delay and within a deadline of 30 days the latest from the ruling's receipt, to take new decision according to the binding legal opinion of the court, and should act upon remarks made by the court in relation to the procedure. This legal provision allows the Administrative court to have essential impact on LFLA's implementation. The Administrative Court may identify certain practices that are erroneous, which the Ministry of Justice is obliged to correct by means of new decisions. In the past and based on monitoring of the Law's implementation, indications made by the Administrative Court concerned improvements to the procedure on decision making upon applications for free legal aid, as well as addressing problematic legal issues for which free legal aid is proved,

⁴⁴ Notification from the Administrative Court of the Republic of Macedonia no. 03-7/4 from 3.3.2015;

⁴⁵ See Article 52 of the Law on Administrative Disputes;

whereby the Ministry of Justice was obliged to correct its decision in the cases returned for repeated decision making. In practice, it is expected that these corrections should also be applied to future cases.

Conclusion

Judicial oversight on decisions taken by the Ministry of Justice upon applications for free legal aid allows thorough and sustained assessment whether actions taken in the decision making procedures have complied with the law or not. This is of particular importance for establishing practices and unified application and interpretation of the Law. Be that as it may, the Administrative Court and lawsuits for motioning administrative disputes in front of this court are insufficiently available for applicants whose applications have been rejected, in particular because these legal remedies imply court administrative fees and costs related to composing the lawsuit. Without activities and additional funding, such as those taken and secured within the project, there would not be even minimum number of cases necessary to establish the practice. In the last 18 months, the Administrative Court has not taken ruling in any lawsuit related to free legal aid.

RECOMMENDATIONS
TO IMPROVE THE
**LAW ON FREE
LEGAL AID**

5.

RECOMMENDATIONS TO IMPROVE THE LEGAL FRAMEWORK GOVERNING THE FREE LEGAL AID SYSTEM

The general recommendation that has been duly noted in all previous reports on implementation of the Law on Free Legal Aid implies **the need for in-depth and substantial changes to the Law that could be pursued only by adoption of new law**. Only thorough changes to the system in place could actually facilitate access to justice for poor people and people from vulnerable categories, which is not the case nowadays. Occasional changes are not only non-conductive to facilitated access to justice, but further complicate the existing free legal aid system.

From the start of its implementation, the Law contains **formal and substantial shortcomings** that render its implementation difficult. **They include:**

- » Multitude of ambiguities and gaps identified in relation to this mechanism's set up, as well as its non-alignment with relevant provisions from procedural laws (Law on Litigation Procedure and Law on General Administrative Procedure), which make the Law's implementation difficult, especially the legal provisions governing reimbursement of costs, thus leaving space for inconsistent and arbitrary action on the part of institutions competent for its implementation.

- » Substantial shortcomings contained in the Law, primarily related to utterly restrictive and unjustifiable requirements imposed by the Law in terms of citizens' eligibility for free legal aid. These requirements are more restrictive and more stringent than those stipulated under the Law on Social Protection and related to citizens' eligibility for the right to social allowance.
- » In addition, approval and use of free legal aid are prolonged for more than 50 days, due to the absence of interconnections among competent institutions and difficult communications among them for the purpose of verification of data concerning citizens' fulfilment of requirements stipulated under the Law on Free Legal Aid.
- » Preliminary legal aid is completely unenforceable, due to its narrow definition and coverage of very small portion of actual needs of citizens, and is burdened with long and complex procedure on whose account the associations have no logical interest to engage in provision of preliminary legal aid pursuant to the Law.
- » In addition to the legal text, LFLA's implementation was made difficult also by insufficient technical and staff resources⁴⁶ at the Ministry of Justice and its regional offices.

The following recommendations are valid for the purpose of adopting new Law on Free Legal Aid that would essentially facilitate access to justice and set the foundations for an efficient and quality national system on free legal aid:

- » **Changes to LFLA should be drafted and adopted as part of transparent procedure that essentially, and not only formally, involves all stakeholders.**

Ongoing practices on adopting laws in fast track and non-transparent procedures under the auspices of complying with commitments assumed as part of the EU accession process should be discontinued, especially in cases of laws that concern fundamental human rights and freedoms, such as LFLA. Regulation of free legal aid must essentially and meaningfully involve representatives of attorneys-at-law, judges from first instance

⁴⁶ Jasna Buturac, Report on Implementation of Free Legal Aid, OSCE, Skopje 2012;

courts, representatives of the Ministry of Labour and Social Policy, Ministry of Interior and associations with built capacity and experience in provision of preliminary legal aid. On the contrary, legal provisions adopted would continue to be inconsistent and non-implementable, as is the case with the current law.

- » **When establishing eligibility requirements for citizens, due consideration should be made of the European Convention on Human Rights and especially of criteria set by the European Court of Human Rights in the case *Airey v. Ireland*.**

According to the European Court of Human Rights, under certain circumstances, the states are obliged to provide free legal aid for their citizens as part of guaranteeing the right to fair trial stipulated under Article 6 of ECHR. Failure in this regard could lead to procedures motioned in front of the European Court of Human Rights whereby the state would be obliged to pay indemnity to the person in question. ECtHR requires the state to provide free legal aid in specific cases, by making due consideration of following criteria: importance of the case for the individual; complexity of the case; ability of the individuals to represent themselves and settle procedure-related costs; and ability of clients to represent themselves in court.

- » **Single instrument should be established to facilitate access to justice which, in addition to free legal aid, would cover court administrative fees and costs for securing evidence.**

The Law on Free Legal Aid needs to be aligned with the Law on Court Administrative Fees and the Law on Litigation Procedure, thus establishing the single right to free legal aid that would integrate all instruments for facilitating access to justice. For that purpose, relevant experience from the Republic of Croatia can be used where the right to free legal aid, *inter alia*, includes exemption from payment of court administrative fees and procedure-related costs. In this regard, legal provisions governing reimbursement of costs by the party that has lost the dispute need to be aligned as well.

- » **Activities should be taken to improve staff and technical capacity of the Ministry of Justice and its regional offices with a view to enable fast and efficient exercise of the right to free legal aid, as well as to enable quality management of the entire system.**

When performing this role, it is of key importance for the Ministry to be equipped with staff that holds solid knowledge in the field of free legal aid and access to justice and that is sensitive to vulnerable categories of citizens. Furthermore, improvements are needed to spatial and technical capacity at regional offices and their connections, as part of an integrated computer system, with other state bodies in possession of information relevant for free legal aid.

- » **Analyses and research should be conducted about access to justice and free legal aid, in particular by the Ministry of Justice of the Republic of Macedonia, civil society sector and academic community, thus contributing to adoption of quality and enforceable provisions under LFLA.**

In order to improve the efficiency, it is of great importance for proposed changes to LFLA to be based on relevant analyses and research studies. Regulation of legal issues eligible for approval of free legal aid, without in-depth knowledge about citizens' actual need for legal aid, would be incomplete and erroneous. Establishment of property-related criteria in the absence of data about the poverty rate and the average monthly costs of living could contribute to overly stringent criteria that most of the population will not fulfil in order to qualify for free legal aid. Same is true for the need of detailed analyses about LFLA's fiscal implications. Such analyses would provide clear image about the legal needs and would result in system where equal access to justice is considered the highest imperative.

- » **Preliminary legal aid should be strengthened, as an institute that could successfully address the issues of population's legal alienation and illiteracy and could facilitate resolution of legal issues prior to initiation of court procedures. This goes hand in hand with encouraging out-of-court resolution of disputes as "cheaper" form of free legal aid.**

Enabling easy access for citizens to relevant information about the legal system in clear and understandable manner would contribute to reduced legal alienation among citizens and their better familiarization with the legal system and legal professions. If people are correctly informed

about their rights and liabilities, as well as the manners in which they are exercised and protected, they would be able to make reasonable decision as to whether and when to initiate legal procedures without burdening the courts with ungrounded petitions, on one hand, and would provide an opportunity for people that actually need and have the grounds to exercise particular right to pursue that path, on the other hand.

- » **Associations that provide legal aid should be integrated within the free legal system in order to contribute to more efficient use of free legal aid on the part of citizens.**

Beneficiaries of free legal aid are persons on the margins of society which, due to their poverty status, low level of education and discrimination, have been socially excluded. They are not able to protect their rights on their own, primarily due to being socially excluded. In that regard, an efficient manner to address this situation is for associations to contact these categories of citizens. In the Republic of Macedonia there are several associations with long-standing experience and build capacity for provision of legal aid to vulnerable categories of citizens.⁴⁷ These associations need to be utilized and supported by the state, by means of integrating them in the national system and reimbursing their costs.

- » **Cooperation and information exchanges should be established and maintained among all stakeholders involved in the free legal aid system.**

Finally, it should not be forgotten that free legal aid is an area that involves several institutions and actors, and is regulated by several laws governing different fields. Therefore, it is of crucial importance to establish and maintain electronic communication and information exchanges among stakeholders at central, and especially at local level.

⁴⁷ Victims of domestic violence, Roma community members, victims of human trafficking, people who use drugs, people living in extreme poverty, people with disabilities, refugees, persons without identification documents, etc.

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