**Input to the Report by the UN Special Rapporteur on the independence of judges and lawyers**

**78th session of the General Assembly**

**The Promise of Legal Empowerment to Transform Access to Justice**

Input is provided by the Association for Emancipation, Solidarity and Equality of Women – ESE, Republic of North Macedonia.

**JUSTICE PROBLEMS, COMMUNITIES, AND APPROACHES**

* 1. ESE’s legal empowerment work is focused on improving the implementation of economic and social rights of vulnerable groups of citizens, including women, Roma, and others. Our work in this field incorporates the provision of direct support and legal empowerment of vulnerable communities for the resolution of individual unmet justice needs; strengthening the capacities of paralegals for the provision of assistance and support to different vulnerable communities; capacity building of practitioners from institutions, judiciary and CSO’s in order for them to be pro-actively engaged in legal empowerment of vulnerable groups in society; improving the understanding among the general public about legally guaranteed rights and mechanisms for their protection; advancement of the national legal and policy framework for the protection of human rights of vulnerable groups.
	2. ESE provides free legal aid to women that suffered from domestic violence and assistance and support to a number of Roma paralegals providing paralegal assistance to local Roma communities on health and different social rights, including workers’ rights, and social benefits. We are using different methods i.e. for the women that suffered domestic violence, lawyers, attorneys at law and psychologists work together to resolve the legal problems that women face on a national level in urban and rural areas. The legal aid provided to women incorporates professional legal advice, written submissions, and court representation In the procedures for protection against domestic violence and resolution of related legal problems with divorce, custody, child alimony, property division, damage compensation, etc. In Roma communities, Roma paralegals work on providing paralegal services with support to lawyers working in ESE’s office. The paralegals are covering Roma communities in four municipalities. The Roma served in these municipalities live in underprivileged settlements and are poor.
	3. In accordance with the [Analysis on the implementation of Sustainable Development Goal 16.3. (SDG) 16.3. Access to justice](https://fosm.mk/wp-content/uploads/2022/02/foom-sdg-klucni-naodi-ang.pdf), and the socio-demographic characteristics of the Roma community affect their access to justice and results in a significant portion of unmet justice needs. Roma community members are living in poverty and substandard conditions, and they are often victims of racism, discrimination, and segregation. ESE’s research on [Prevention and protection against discrimination through experiences and knowledge of vulnerable population groups](http://www.esem.org.mk/pdf/Publikacii/2020/Discrimination%20-%20perspectives%20of%20vulnerable%20groups.pdf) reveals that the Roma community is frequently discriminated against on the basis of national or ethnic background and on the basis of belonging to a marginalized group, mostly in the area of social protection and healthcare, education, science and sport, and access to goods and services. Despite these findings, they rarely recognize and report discrimination.
	4. The [latest analysis](http://www.esem.org.mk/pdf/Publikacii/2022/1/The%20Impact%20od%20Court%20fees%20and%20costs.pdf) concludes that although a sufficient legal framework has been established for women that suffered domestic violence to provide access to information and advice (primary legal aid), and to a lawyer (secondary legal aid) through the new Free Legal Aid Law (LFLA), it is still necessary to harmonize it with the legal provisions for the litigation procedure in the so-called poor law that refer to the exemption from payment of costs. In addition, there is a lack of a well-promoted and effective system for strengthening the legal awareness and information of women regarding the legal opportunities for legal aid and exemption from court costs, in order for them to apply them in the court proceedings they conduct. The quality of free legal aid and legal representation provided in accordance with the LFLA is worrying, given that women who have had such experience are generally dissatisfied with the work of certified lawyers. On the other hand, civil society organizations continue to provide the necessary legal assistance to women who run their own proceedings to address the problems they face.
	5. The establishment and revitalizing of the concept of paralegal assistance and support to vulnerable communities is a success story of ESE’s legal empowerment work. The provision of paralegal assistance and support was launched by ESE in 2011 and has gradually upgraded through broadening the scope of justice problems tackled, and the structure of vulnerable communities it provides support to.

The concept of provision of paralegal assistance and support was developed by ESE primarily for improving access to health protection, health insurance, and protection of patients’ rights of the Roma community which is one of the most vulnerable and marginalized groups of citizens in our society. The first paralegal programs were established in the frames of local Roma CSOs, and ESE continued to provide education to paralegals, including monitoring and supervision of their work, the establishment of the data collection and case management system, professional legal aid in individual cases of their community members, and technical support and consultation in implementation of activities with relevant stakeholders on a local level. Our work in this field is documented in the publication [ESE’s Approach – Paralegal Assistance and Support.](https://esem.org.mk/en/pdf/Publikacii/2019/ESEs%20Approach%20-%20Paralegal%20assistance%20and%20support.pdf) The work of the paralegals included the provision of information and advice, preparation of written submissions, accompaniment, and mediation for the resolution of individual health problems of their community members, but also an organization of educational activities with Roma communities and meetings with relevant health institutions on a local level, toward addressing the identified collective problems of their community members. In addition, ESE together with the Roma CSO has planned and implemented national-level advocacy activities for addressing the problems faced by the local Roma community identified by paralegals in policy making.

Taking into account the influence of social determinants on the right to health, the need for broadening the scope of the provided services in other areas of law soon emerged. Community members were highly satisfied with the provided services and started to visit the paralegal’s offices for resolution of problems faced in the area of social protection, labor relations, education, etc. As a result, the continuous education of paralegals was enriched and they have gained knowledge and skills to support their community members in resolving different types of legal problems faced. In this regard, ESE’s efforts in this field were upgraded in continuity, including the development and delivery of needs-based educational packages for paralegals; upgrade of the written forms for data collection and case management; undertaking mutual advocacy activities with Roma CSOs for addressing the needs of their communities on a national level.

Recognizing the success of this model and the potential for resolution of unmet justice needs of different vulnerable communities, since 2016 it is applied by other CSOs working with sex workers, people who use drugs, women from low-paid industries, LGBTI, and others. ESE continued to organize the capacity building of all paralegals engaged within these CSOs and enabled the strengthening of their knowledge and skills for the resolution of different everyday justice problems of their community members in the area of health protection, social protection, labor, family law, criminal law, and other areas.

* 1. When we speak about the judges’ role, there is a need of working with justice deliverers. Judges and prosecutors working on domestic violence are also not aware of the latest legal changes, including a lack of awareness of the existent services such as shelter, etc. There is also a trend of frequent legal changes which sometimes causes granting of orders that are contradictory or are not in line with the situation of women and their children. Very few CSOs work with the practitioners on a local level.

ESE works with different professional groups that have the mandate to proceed on domestic violence cases, including civil and criminal judges. Our legal empowerment approach with practitioners is twofold:

* We are providing capacity building in order to improve their knowledge and skills for the resolution of unmet justice needs of women survivors;
* Planning and implementing systemic efforts for improving the legal and policy framework for the protection and its implementation in practice, including the establishment of mechanisms for communication between the practitioners and policymakers.
	1. In this regard, in 2014 ESE started to apply court monitoring methodology on cases of VAW and domestic violence, aimed at improving the civil and criminal court protection for women survivors. This methodology incorporated establishment of close cooperation with the Basic Courts judges and their substantial involvement in each phase of the process, including: organization of training for practical application of international women human rights standards, such as the UN Convention for Elimination of all forms of Discrimination Against Women (CEDAW); development of methodological tools for collection of data from on-going court cases; deliver training to a selected group of young lawyers- court monitors; preparation of analysis with recommendations on how to improve different aspects from court proceedings in VAW cases; organization of Forums for discussing the main findings and recommendations with larger groups of practitioners and policy makers; development and dissemination of guides for women survivors on how to use court procedures for their protection; and development and implementation of advocacy plan with the judges on how to improve the legal framework and court proceeding in cases of VAW.
	2. The implemented legal empowerment efforts contributed to improving the national policy and legal framework for protection against VAW and domestic violence, including the following reforms:
* The National Action Plan for Open Government Partnership 2021-2023 incorporated a separate specific objective for the establishment of a separate data collection system for cases of VAW in the Basic Courts and Public Prosecutor Offices.
* The Law on Free Legal Aid[[1]](#footnote-1) (LFLA) recognized women victims of VAW as beneficiaries of FLA (Article 6) and introduced separate legal provisions for guaranteeing the right to free legal aid, including courts costs and attorney representation in the civil court procedure for temporary measures of protection (Article 20).
* The Law on Prevention and Protection against VAW and Domestic Violence[[2]](#footnote-2) stipulates obligations for the Ministry of Justice and other relevant ministries to plan and fund comprehensive efforts toward gender-based violence (Article 20), and obligation for the Academy for Judges and Public Prosecutors to organize introduction and continues education of practitioners for dealing with gender-based violence cases (Article 23).

**CHALLENGES**

* 1. In North Macedonia, we cannot say that the LE work is rejected, but at the same time, we cannot say that is recognized and most importantly financially supported. On the last consultation held with the CSO providers of LE in the country, the issue of the *financial stability of CSOs service providers was raised.*Apart from sustaining and broadening the scope of legal aid and support, financial sustainability is a necessity related to the provision of services themselves, but also for the legal empowerment work of the CSOs in general. The decreased donor support and insignificant State funding undermine the important role of CSOs and stress the need for exploring different sources of funding. The development of social enterprises involving women beneficiaries was discussed as one of the opportunities for the sustainability of legal aid and other services delivered by CSOs. Still, this is not sufficient for the financial sustainability of CSOs.
	2. Fortunately, so far, there were no attacks or criminalization of the LE practitioners. The only threat that may influence the work of LE practitioners is characterizing their work as politically affiliated. However, this is not a new phenomenon. Usually when someone was to discredit the work of CSOs in general (national and local authorities), including the LE practitioners they are labeled as “enemies of the state”.
	3. Currently, there are no problems related to the paralegal operation, however, their work is not legally foreseen. They are mainly providing services to different vulnerable groups in the country and therefore they are highly specialized and sensitive to the beneficiaries’ legal needs. There is also a small network of lawyers either trained or employed in the CSO sector which provides professional assistance and support to the paralegals.

**RECOMMENDATION**

* 1. In the era of increased vulnerability, impoverishment, social exclusion, and discrimination we highly recommend that the state and responsible state institutions pay special attention to the legal problems faced by vulnerable societal groups. In addition, the formal justice system is highly expensive and not accessible for those seeking justice. The level of financial capability and the operation of the free legal aid system is not allowing many to start with the resolution of their legal problems. The operation of CSOs and the provision of different legal aid modalities are of high importance to the vulnerable. For example, the members of the Roma community are largely satisfied with the work of paralegals and the services they provide, as this statement of a user of paralegal assistance describes the satisfaction *"We see through them, listen through them, speak through them".*
	2. In order to improve the situation, the Government needs to:
* Organize continuous education of judges and other legal professionals about the international human rights standards for the protection of women and other vulnerable groups of citizens.
* Establish mechanisms for obligatory consultation of practitioners from judiciary, institutions, and CSOs in policy-making and law reforms.
* Increase legal awareness and information of women and other vulnerable groups regarding the legal opportunities for legal aid and exemption from court costs, in order to inform them to apply them in the court proceedings they conduct.
* Expedite cases of VAW, including civil court disputes of women survivors for resolution of related legal problems, such as divorce, custody, child alimony, property division, and damage compensation.
* Secure financial means and support CSOs that provide free legal assistance and paralegal assistance to the vulnerable.
	1. Key messages for Legal empowerment:
* **To recognize and regulate the paralegal’s work.** CSOs should advocate for recognition of the paralegal’s work, including the adoption of legal definition and further legal regulation.
* **To increase financial support to CSOs working on legal empowerment.** In line with the prioritization of this issue, CSOs can undertake mutual advocacy campaigns on a national, regional, and global level for increased financial support.
* **To implement State obligations undertaken on the international and regional level, including** [**SDG 16.3**](http://www.esem.org.mk/pdf/Publikacii/2020/North%20Macedonia%20Sporlight%20%20report%202020.pdf)**,** such asthe Government to:
* Adopt a National Plan for the implementation of Agenda 2030 with specific actions for Goal 16.3. Adoption of special measures to improve access to justice for all, with a special focus on marginalized communities and considering the gender perspective of the actions;
* Establish and conduct transparent, participatory, inclusive, and regular reporting mechanisms (review) on the implementation of the SDGs through a national body, which will include broad multi-stakeholder participation; and
* Enable participation of NGOs in the design, delivery, monitoring, and accountability of the SDGs to ensure that the goals are met for everyone, including the involvement of NGOs in the implementation of SDGs, through particular institutional structures such as the National Councils for Sustainable Development.
1. Official Gazette of RM, No. 08-2895 from 2019 [↑](#footnote-ref-1)
2. Official Gazette of RNM, No. 24 from 2021 [↑](#footnote-ref-2)