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Mission Report on bilateral meetings with stakeholders on the

‘Needs Assessment of DFLA and FLA Regional Offices in the FLA system of the Republic of North Macedonia’

25-26 September and 2-3 October 2023, Skopje

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Aim of the mission

The mission took place under the auspices of EU/Council of Europe HF III Action “Towards a Consolidated and More Efficient Free Legal Aid (FLA) System in North Macedonia”.

As far as the Needs Assessment is concerned, the objective was to reinforce and progress the principles and actions identified by the Needs Assessment document developed earlier in 2023 under the HF III Action. That document had already surveyed in detail the challenges, shortcomings and needs of the Central Unit of the MoJ (DFLA) and the Regional Offices (ROs). It had then set out some 60 or so specific recommendations and steps as a short to medium term programme for improvement and remediation. Attached to that document, there was an annex setting out a timeframe stretching from the fourth quarter of 2023 to the end of 2024.

That was in March/April 2023. Half a year on, this present mission sought to afford those recommendations some further traction and concrete reality, by

- freshly sounding out key stakeholders, particularly those connected with Ministry of Justice (MoJ);
- identify and assess if some of the recommendations proposed have been addressed or some actions for their implementation have been initiated;
- reassessing the prospects of actually delivering the changes proposed; and
- promulgating and promoting the recommendations with some renewed energy.

The underlying objective, still shared by this mission just as with the last one, is to achieve better functioning of the MoJ’s Central Unit, and increased effectiveness and better coordination of, and communication with, ROs.

The mission activities regarding the Needs Assessment dealt with here, cannot be wholly disentangled from the parallel mission objective relating to the Feasibility Study on a Single Unitary Body to govern FLA in North Macedonia. Whilst their timescales are different, and the level of achievability discloses very different modalities – they require two different roadmaps – nonetheless they should be seen as a continuum with considerable synergy between the two projects. The roadmaps may eminently be stitched together. Hence, though majoring on Needs Assessment, this report does not seek to make an artificial distinction between the two, and where appropriate addresses the convergence of the two initiatives.

The mission team and interlocutors

On the Council of Europe side, the mission team was represented by CoE national expert Mr Goce Kocevski and CoE international expert Mr John Eames. Also present, though not with any Needs Assessment brief, were CoE national expert Ms Bojana

Netkova and CoE international expert Mr Victor Zaharia. At all meetings and networkings, the team of consultants benefited from full support of the project team, including brief updating to the interlocutors on the project objectives and activities.

The mission's interlocutors comprised a number of significant stakeholder entities.

The two key stakeholders in the management and delivery of civil free legal aid (FLA) were included as interlocutors in the mission's agenda of bilateral meetings. They were

- Mr Muhamed Tochi, State Secretary for the Ministry of Justice, and
- the staff team at the central Department for Free Legal Aid (DFLA) (Ms. Vesna Nakovska, Ms. Salije Ibraimi & Mr. Oliver Davidovski).

Outside the bilateral model, wider and more informal contact was made with the range of stakeholders networked at two FLA-focused meetings:

- the National Coordinating Body (NCB) 13th meeting in Skopje, and
- the third meeting of the Stip Local Coordinating Body (LCB).

As well as other main stakeholders, both those important meetings were attended by staff from some of the ROs – important to note because of their centrality in the Needs Assessment.

Additionally, the mission incorporated a legal aid-specific half-day workshop at the Stip Faculty of Law International Conference *Social Changes in the Global World*, at which a number of other key stakeholders and observers of the legal aid scene were present. At the conference's Legal Aid workshop CoE national expert Mr Goce Kocevski made a presentation on *Work of the National Coordination Body for FLA – best practices and challenges*, and CoE international expert Mr John Eames made a presentation on *the Main findings of the Needs Assessment for DFLA and ROs*, and views were exchanged in that panel on matters contained in the Needs Assessment.

It was gratifying that the mission met with state secretary Mr Tochi not only in the specific bilateral meeting, but also at the NCB meeting and the Stip Conference. This enhanced the sense of an ongoing dialogue and a warm partnership with the state secretary.

More peripherally – due to the dual-purpose nature of the mission encompassing not only this needs assessment but the Feasibility Study on a Single Unitary Body for legal aid – other stakeholders were consulted, namely Secretary General of the Government of North Macedonia, Bar Association, Minister of Information Society and Administration, Ministry of Labour and Social Policy, Basic Criminal Court, Basic Civil Court. In those meetings that Feasibility Study naturally took precedence, and it was agreed that the Needs Assessment was not the main subject for discussion.

Some achievements so far

At the start of the mission, the project experts were briefed by Ms Irena Cuculoska-Jakimovska of the CoE project team as to progress since the publication of the Needs Assessment in May 2023. Thanks to her interventions and discussions taking place over the last 4 months, a significant number of achievements could be reported:

- better support in IT for the regional offices, including getting existing new computers up and running (they had been supplied, but were not yet functioning – now they are)
- new availability of on-demand IT support for the regional offices on a face-to-face peripatetic basis
- further developments on ROs' staff training
- better availability of online databases and Official Gazette for ROs
- fresh attention on the part of MoJ to the severe problems with RO premises
- ROs invited to self-audit their premises and physical environment needs
- provision by COE of printed takeaway material for ROs to display and offer
- formal agreement from MoJ that ROs do not need permission to undertake local promotions (indeed, they are encouraged to; but do not need to wait for the encouragement in order to do it)
- regarding corporate identity/logo: there already is one, and this is being put into use

A conclusion here is that certain measures can be very positively achieved by one-to-one private lobbying and encouragement. These measures are incremental changes but highly important, and all of them key to the better professionalisation and quality improvement of the ROs.

The issue regarding premises is ongoing, and current assurances by MoJ, whilst welcome, do need further formal follow-up and there needs to be a budget assigned. A further first step would be a more formal audit of the ROs' premises and physical environment needs.

Key points arising from discussions

State Secretary, Ministry of Justice

Although initially the team had scheduled meeting with the Minister of Justice, Mr Krenar Loga, due to unforeseen obligations he cancelled the meeting. Instead of him the team met with the State Secretary at the MoJ, Mr Muhamed Tochi. The two CoE

experts briefed Mr Tochi with a summary review of the short- and mid-term recommendations.

In terms of the need for linked messaging, as between the Needs Assessment and the Single Unitary Body concept, these were presented as closely-related, if not inseparable, topics. By the time of the meeting with Mr Tochi, the team had already been apprised of his preliminary view that the state of delivery of free legal aid via the ROs needed to mature and develop before that delivery apparatus could be ready for the single body. He confirmed that view to us, but with a much more positive spin. It seemed to the experts that this presented an opportunity for integrating short-term first-aid and remedial reform with the longer term strategic vision. It was immediately apparent that Mr Tochi's view is that bringing the current system into a mature and fully functioning state is a necessary precondition for establishing the new single unitary body.

Because the State Secretary favours such a step-by-step approach to the Single Unitary Body reform, there was agreement that it is necessary to strengthen the capacities of the ROs to a certain level; only after that the idea for integrating the criminal legal aid under a single authority can be contemplated.

On behalf of the CoE experts, Mr John Eames reviewed the Needs Assessment's findings on key challenges regarding the institutional capacities of the Ministry of Justice and particularly the DFLA and the ROs. The State Secretary concurred. He improved in particular he approved in particular the proposal within the Needs Assessment that **there should be a 'roving' peripatetic regional office support person**, to assist, support and service ROs across the country. They would not take on extra authority. ROs would not be accountable to, or managed by, this support worker. It is a support and assistance role, not a line-manager and not above the ROs in a hierarchy. As well as giving the relevant hands-on support, advice, and help, such a support worker would be the first step in conferring some leadership, co-ordination and central direction to the presently somewhat unruly network of ROs. The secretary of state considered this a positive concept. Indeed, he felt that there was a need to **nominate a person to oversee the network**.

Mr Eames also set out some of the Needs Assessment's unfavourable findings as to lack of innovation, lack of leadership, low usage, risk of stagnation, and poor motivation in the ROs. This was not news to the Secretary of State. He recognised in particular that the **main cause for concern is the low numbers**. He accepted that RO resources are underutilised, citizens still are not informed sufficiently about legal aid via the ROs, but also that the employees in the regional offices are yet to become skilled in working as legal aid providers. Whilst justifiably proud of the opening of three new regional offices, including a long-desired one in Shuto Orizari, Mr Tochi considered it important to focus on quality, not just quantity. There should be an improvement in the depth of quality as well as breadth of coverage.

Mr Tochi agreed that there is risk of stagnation in some parts of the RO network. He cited Kicevo (staffing level 9 people), where he said there was a lot of slack and not enough cases. There was a case for redeploying people from the overstaffed Kicevo

RO to understaffed ROs. Tetovo too was an outlier (staffing level 21 people) though some of the staff from Tetovo was moved to new regional offices opened in rural municipalities in the vicinity of the city.

He said that the regional offices should start communicating via local media; they required better self-confidence as to occupying their place in the community, liaising with other local institutions including government offices like the MLSP Centres for Social Work. Currently he acknowledged there was low usage, lack of dynamism and not enough proactivity. He considered that if the **ROs were somewhat repurposed into Citizen Advisory Centres with welcoming walk-in availability**, as he had observed in certain other countries, this concept would be among other things easy to sell to MLSP.

Mr Tochi presented the challenges from the side of the Ministry. He stressed that legal aid is and will remain a high priority for the Ministry. This is visible through the more frequent promotional activities, the opening of those new regional offices as well as by the commitment to work on improvement of the system.

The State Secretary advocated an idea that should further strengthen the capacity of the ROs to become much more visible at local level. Firstly, a **brief guideline, a manual outlining the key tasks that each RO should be doing** on regular basis in their communities (for example meetings with different sectors of the municipality, meetings with courts and other institutions, communication with NGOs, showing up on local media, public awareness activities etc.). Then, these guidelines should be discussed and agreed on in a lunch **meeting** for the heads of the ROs.

The State Secretary also proposed a **meeting where the legal clinics** will participate since they have the expertise in different areas of law and use that meeting for knowledge sharing.

Conclusions

It was unfortunate not to be able to meet the Minister of Justice. That said though, Mr Tochi's overall support for and interest in the development of the ROs and DFLA is invaluable and not in doubt. Whilst we cannot gauge at first hand the level of interest on the part of the Minister, Mr Tochi has the Minister's ear. His understanding of the issues, and his genuine support for a programme to revitalise FLA through the ROs will provide an essential tool to bring the RO network up to the requisite level of quality and functionality and to eventually leverage the single unitary body structural reform.

There is agreement that some **urgent remedial improvements** are necessary, and this is the first step to securing the budget that is needed for some of them – in particular, the **improvements to premises**. More tangibly, Mr Tochi's support for the peripatetic regional office support worker (PROSW) could well crystallise into reality.

Considering where the next steps lie in terms of achieving this relatively modest proposal, it seems to the project experts that an initial stage will be to produce a short **proposal document**, setting out the role, responsibilities and work-programme of the peripatetic regional office support worker, plus a simple costing, along with a plan on

how to select and recruit the person from among existing under-utilised RO staff, and how the role will sit in the hierarchy.

Mr Tochi has progressive ideas about **repurposing the regional offices** in a way that will **locate them at the heart of their communities**, and remedy some of the stagnation, and we should fully endorse this; it can be part of the peripatetic regional office support worker's workplan, if her/his resource allows, and needs to be built into the philosophy of the Single Unitary Authority in the longer term.

Unfortunately, the team did not hear any plans for strengthening the capacities of the Department for Legal Aid. The significant understaffing was raised in the report from the previous mission. The Department strives to complete all workload vested in them as central body. Also, the on the issue of reorganization of the department and raising it to a level of sector there is no improvement. These shortcomings are bearing the inherent risk to significantly undermine all efforts in strengthening the capacity of the legal aid administration.

MoJ Department for Free Legal Aid

The experts and project team met with DFLA staff Vesna Cekova, Oliver Davidovski and Salije Ibraimi to discuss specifics within the Needs Assessment about challenges and shortcomings in both DFLA itself, the ROs and the relationship between the two.

Among the issues raised by the staff were these:

- there are a small number of repeat clients ("problem clients") who keep returning, unhappy with the way DFLA is handling their refused legal aid applications, and it is said there is no way to finish off and close their cases because there is no such action available to staff. These clients return every other day, it is reported, and staff say that they have "tried everything" to dissuade or prohibit them from coming. Asked how many such persons there were, the reply was 4. It was claimed that a formal letter asking them to desist would be to no avail. It was also rejected that better communication with these clients was a necessity. Overall, it seems like an impasse, but not one to which CoE should devote particular resource. All advice outlets suffer from problem clients, repeat clients whose case is without merit, and the like; it's a fact of life, and it seems to the experts that very firm, clear but kind messaging to such clients is the only way to solve the problem.
- there is still a problem with the ambiguity of wording setting out the scope of a lawyer's conduct of a given legally-aided case as allowed by the certificate of authority that is issued.
- lawyers do continue to pester DFLA with simple questions about the functioning of FLA, often questions which they should be able to answer themselves; the day FLA staff appeared to warm to the idea of drawing up an FAQ with answers, to be promulgated in printed form and online.

- the registration of lawyers is still an issue; the nature of the difficulty is still not wholly clear.
- the 2 ROs in central Skopje have a problem in that lawyers do not want to take on FLA cases that the ROs attempt to assign to them; although it was reported to us that staff have their own workarounds for this (we do not know what this entails).
- there is frustration at the way the administrative court meddles in the decisions of DFLA staff as to individuals' eligibility for FLA (however we should note that the Administrative court in conducting judicial review has the power to decide upon the merits and to issue mandatory directions to the administrative body, in this case, the Ministry of Justice).
- DFLA will attend training for lawyers: this is a positive
- there is strong agreement that the ROs do need oversight from DFLA (which they are not currently empowered to exercise); Mr Oliver Davidovski explained the practical de facto support he provides to ROs informally (and with skill, as a former RO worker himself). Indeed he performs some of the functions that we would propose be adopted by the peripatetic regional office support worker role, end of discussion acknowledged that he was performing an extremely valuable role here, though not officially recognised.
- As to the issues with lawyers, there was vigorous discussion as to how to address this with one or more meetings between Bar and DFLA. There is a view that a well-chaired bilateral meeting or series of meetings between DFLA and representatives of the Bar would still be a potential solution – as proposed already in the Needs Assessment. But it was reiterated – and the CoE experts endorse this – that there needs to be a clear agenda of issues to be worked through and agreed on, line by line, with the benefit of CoE acting as mediator/broker/arbitrator. Those issues are enumerated already in the Needs Assessment, and a couple more were added at the present meeting. It is the view of the experts that some written proposals done in advance should accompany such a meeting or series of meetings. It is also important that whoever attends to represent the Bar, must have '*authority to settle*', in other words enough delegated power to agree or disagree with whatever is proposed, with the expectation that the Bar will follow any agreement made in their name.

Conclusions

The headline takeaway from this meeting was completely consonant with the headline from meeting Mr Tochi: **the ROs need centralised support, and urgently.**

It is already a truism that the 100 or so staff in the 35 or so ROs, constitute much too flat an organisation; in other words, it is very broad and large team without a head. It needs one. It is a given in the present meeting that ultimately the Single Unitary Body concept would fill this lacuna. But it is equally agreed-upon in the view of the experts, that short-term measures are highly necessary. DFLA too are of one voice on this, and there is absolute consistency of views in noting the need for leadership, coordination,

support, quality control, centralised training, imposed partnership, and all of the other improvements that would be delivered by a director or manager. In the interim, it is not formalised leadership but **support and co-ordination** that can be made available through the proposed role of peripatetic regional office support worker (PROSW). It is realistic to suppose that this could be in action during 2024.

Here the expert would reiterate the recommendations on the institutional set up for legal aid provided in an assessment carried out by Goce Kocevski and Elena Georgievska under the HFII project and shared with the Ministry in November 2022. Implementation of these recommendation is crucial to have a tangible improvement in the status of the Department for Free Legal Aid at the MoJ.

1. Harmonization of the MoJ's internal organization act with the Law on Free Legal Aid
2. In a mid term, the Department for Free Legal Aid should be raised to the level of the Sector for Free Legal Aid
3. The regional departments of the Ministry of Justice, under the assumption that they will only perform tasks arising from the Law on Free Legal Aid, should be structurally subordinated to the Sector for Free Legal Aid
4. Three separate departments should be established within the Sector for free legal aid:
 1. Department for policy creation and monitoring;
 2. Department for training and coordination of regional departments;
 - and 3. Department for handling administrative procedures.
5. It is necessary to strengthen the human capacities of the department for free legal aid as an essential prerequisite for raising it to the level of an independent Sector for free legal aid. The sector should have at least 7 employees, of which 1 head of department, 3 heads of departments and 3 executors.
6. The network of regional departments, especially the number of employees, should be optimized and correspond to the real work obligations arising from the competences that ROs have. The optimization should be carried out in such a way as to limit the maximum number of executors in one regional department according to the number of the population covered by the regional departments.
7. All persons who are involved in providing primary legal aid as well as in handling and deciding on requests for secondary legal aid should be graduated lawyers with a passed bar exam.
8. To consider the possibility of the existing persons working in the regional departments, who, according to the systematization act , are assigned to jobs that require an intermediate professional level, in accordance with the mobility procedure, to be moved to other regional offices of the state administration bodies (inspectors, departments for internal affairs of the Ministry of Internal Affairs, regional departments of the State Election Commission, etc.).
9. In the annual training plan, it is mandatory to provide a special section that refers to the Law on free legal aid
10. Adequate technical equipment of regional departments is necessary in order to ensure interoperability with other state authorities

Other meetings

The other meetings did not have the Needs Assessment as their primary objective, apart from CoE expert Mr Eames' presentation to the Legal Aid workshop at the Stip International Conference. So the following is a gathering-together of some findings we made tangentially in the settings of those other meetings.

- Reference was made in meeting the President of the Bar to the need for guaranteeing decent geographical coverage of the country by legal aid-accredited lawyers – something not presently the case, with the risk of advice deserts in some less populated regions, or regions comprising small towns and villages only. The experts agree that this is a matter for the ROs to take an interest in, and that any coordinating person assigned to the ROs could eventually have a remit that includes strategic mapping of the availability of secondary legal aid. One of the issues always to be considered is alternative modes of delivery of FLA, even for secondary legal aid.
- The President of the Bar also underlined that the ROs were crucial to the frontline delivery of legal aid; he was reassured that they would not be closed, but that on the contrary there had been a programme of expansion.
- Feedback and discussion in the context of the two CoE experts' presentations at the Stip Conference included reference to the acute cultural shortcomings in the way the ROs function: judicial participants among others asserted that there is a fundamental need for the ROs to change course, from their traditional legacy of being a regional presence, representing a centrist state in the provinces, to an **active local neighbourhood service embedded in its community** and with a strong adherence to a **service culture**. We wholeheartedly endorse this as CoE experts, and that cultural shift is undoubtedly very necessary, if the ROs are to perform a genuinely client-focused job, *facing* the public rather than *shying away* from the public. It was said that it is about having an open door, not being a gatekeeper.
- In presenting the findings of the Needs Assessment to the Legal Aid workshop at the Stip Conference, Mr Eames posed the question why there were no queues at the regional offices every morning at opening time. That was a **fundamental and acute low-usage issue** which was picked up by Secretary of State for Justice, Mr Tochi later in the bilateral meeting. Participants in the conference workshop endorsed that this was an issue, and it underlines the seriousness of the situation, looking again at both the anecdotal figures and those listed as official in the Ministry of Justice Free Legal Aid Annual Report for 2022.
- It is axiomatic that the end-user of the whole FLA system is typically someone who is socially disadvantaged, financially impoverished, or otherwise a challenged member of society; this was repeatedly underlined by our various interlocutors, but none more so than the Minister for Labour and Social Policy, Ms. Jovana Trencavska. We take that as a broad but firm acknowledgement of **commonality**

of purpose, as between a functioning FLA system and the delivery of overall social protection and social justice for North Macedonia citizenry. It is one building block in an overall alliance that must continue to be built in order to create buy-in for the long-term goal of the single unitary authority as well as the shorter-term goal of revitalizing ROs into service delivery points for the community.

- And in fact, there is a synergy between Ms Trencevska's emphasis on this point, and justice state secretary Mr Tochi's reference to MLSP liking the idea of citizen advice centres. Ms Trencevska made the point herself, that **strengthening FLA capacity would assist social workers**, and moreover that the **better connections that could be built between FLA ROs and her Ministry's Centres for Social Work**, the better this would serve the client-group and create efficiencies.

Overall conclusions and action points

- Good progress can be made with informal, behind-the-scenes, one-to-one lobbying and encouragement on small but crucial practical measures contained in the Needs Assessment; this process should continue – especially courtesy of the CoE project team’s incomparable work in this direction.
- The Department for Free Legal Aid on short term should be staffed with at least three new employees that can be driven from the ROs staff and in the same time the act on internal organization of the MoJ should be amended so that there is clear hierarchical subordination between the Department and the ROs.
- Pressure needs to be maintained for **a budget and action on the question of premises and physical environment** for the ROs.
- There needs to be a continuing push to **appoint a peripatetic regional office support worker**. CoE action on this should comprise a brief document, setting out roles, responsibilities, practicalities, recruitment and assignment tasks for completion during 2024; as well as ongoing liaison with Mr Tochi about this
- There is continuing strong support for the notion that **regional offices should be re-purposed** so as to take on more of a role of **citizen advice centres** at the heart of their communities.
- One specific in relation to ROs’ increasingly community-based operations should be gradual **development of a relationship between ROs and the MLSP’s Centres for Social Work**. Consideration should be given to beginning to formalise this promising bilateral partnership.
- **Cultural change in the ROs is essential**, and likely to be welcomed both at MoJ level and within the RO staff.
- Fresh emphasis on **self-promotion by ROs at local level** goes hand-in-hand with the above point, is now officially endorsed, and should be encouraged to take place.
- CoE should support and take over the task of writing and issuing the guidelines or **manual for ROs** as to their key tasks and responsibilities, that was advocated by Secretary of State Mr Tochi.
- There should be a plan for the **meeting for the heads of ROs**: this should take place on a regular basis in the form of hybrid meetings (but with strong encouragement to attend in person) 2-4 times per year, depending on resource and enthusiasm. It should not include other stakeholders, but should be a space solely to promote and develop partnership horizontally between the ROs, including discussion of future development, problem-sharing, and a more formalised input into the development of the Single Unitary Authority.

- DFLA should continue to be given the help it needs from CoE; although this may include handling ‘problem clients’, it would be disproportionate to put too much resource in that direction; but practical **support and training on dealing with difficult clients** is a wider topic for training that would be wholly valuable.
- DFLA could be assisted to draw up a **short FAQ document for lawyers**, addressing some of the simpler enquiries that lawyers frequently make, to which they ought to know the answers, and assistance given to publishing it in printed and electronic formats.
- As regards the ongoing long list of alleged **difficulties between DFLA and lawyers**, there still needs to be a meeting or **series of meetings** with highly agendarised topic-by-topic, line-by-line discussion to achieve agreement on wording, ultimately forming a **rulebook or protocol** as to how lawyers will manage their legal aid fee, claims and DFLA will handle those claims at its end. As already urged, CoE will broker this discussion.

It should be emphasised that the conclusions and action points in this Mission Report do not supersede or override the overall long list of recommendations in the Needs Assessment. Nearly all of those are still current; many are urgent. However, the timescale for the Needs Assessment recommendations should probably now be adjusted so that all recommendations in it are for completion by the end of 2024. Many of the urgent recommendations there are partially completed and should be even more so by end of 2023, only two months away, so adjusting the timescale for all remaining activity in the assessment is rational and in no way a climbdown.

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