

THE LEGAL NEEDS OF THE ROMA COMMUNITY IN MACEDONIA

2018, SKOPJE

KEY FINDINGS AND THEIR IMPLICATIONS

This Report relies on the comprehensive research on legal problems encountered by Roma people in Macedonia and the roads they take to justice. The focus is on Roma people not only because they represent the most marginalized group in Macedonia, but also due to the fact that in the first national research on legal problems¹ conducted in 2012², due to the small representation of Roma people in the sample, some questions remained opened even though the findings were especially indicative. For instance, there was an alarming finding that 30% of the registered problems concerning the prohibited exit of the country referred to the Roma respondents, which is an especially high percentage, given that this nationality accounted for 1,5% in the sample.

Departing from these findings and the need to obtain a comprehensive overview of the problems that Roma people encounter and the ways they apply to tackle those problems, the Foundation Open Society- Macedonia, with the assistance from Reactor – Research in Action, conducted the research which is subject of this publication. The research was conducted through field survey on a representative sample of 1011 Roma citizens, by use of a modified version of the methodology that was prepared for the national study from 2012. The first part of the study includes the key findings and conclusions, as well as the respective implications for the public policies, and especially the implications for the public policy reform.

KEY FINDINGS:

LEGAL PROBLEMS OF THE ROMA POPULATION

Roma people increasingly come across non-trivial legal problems compared to the average citizen. The research published in 2013 showed that half (49%) of the citizens in Republic of Macedonia encountered some non-trivial problem in the last three years, whereas almost 70% of the Roma people encountered at least one non-trivial legal problem. These data show that despite numerous problems faced by the Macedonian citizens, Roma are still more vulnerable and encounter multiple marginalization, and therefore the gravity of the reported problems redefines the intensity of the term “non-trivial problems.”

Most vulnerable are the ones with the lowest income. Almost four fifths of Roma households with income below 5,000 MKD, had at least one problem in the last three years.

Those who encounter problems, face more than one problem. In average, Roma people encounter two problems, compared to the average Macedonian who encounters between 1,3 and 1,5 problems. The respondents think that their problems are not inter-related. Nevertheless, even though only 6,6% of the problems were interrelated, still there is a three times bigger frequency

² The term “legal problem“ was also used in the national study, where the following was stated: “Due to lack of adequate translation of the English term “justiciable event/problem“ in Macedonian, we have chosen a relatively general construct “legal event/problem“. It is very important to note that the phrase which is frequently used in the study has very specific meaning and implies any problem encountered by the citizens, which could have legal, i.e. court resolution. Hazel Genn, a leading authority in this area, defines the legal event as “something that the respondent experienced, which raises legal matters, regardless if recognized by the respondent as “legal matter“ and regardless if the activities to be taken to tackle the event will use some part of the civil justice system“.

than the average in the country.

Certain problems seem to be “exclusive“ for Roma people. Thus, prohibition to exit the country and homelessness are problems that disproportionately affect more Roma people.

Most prevalent are problems related to housing, money and debts, and state transfers, whereas less prevalent are legal problems arising from family relations, and problems concerning the education.

More than one third of the Roma people (38,4%) encounter the problem of housing, whereas this is true for one fourth of the average citizens (26,4%). Most of the cases refer to interrupted electricity supply due to unsettled bills, and each fourth respondent encountered the interruption of electricity supply or other utilities. The second most prevalent subcategory of the problems related to housing include the legalization of property and based on the respondents' answers, 12,1% of Roma citizens confirmed that they encountered such problem in the last three years. The proportion of such problems is significantly, i.e. three times lower among the general population³ and accounts for 3,9%. The problems related to legalization was further confirmed through the question on ownership – even though 82% of the respondents stated that a member of the family is owner of the domicile, almost 22% of them stated that they do not possess title deed for the property. This figure is as high as 39,2% in the municipality of Suto Orizari, and almost 48,3% in municipality of Kumanovo. Furthermore, almost 2% of the respondents stated that they encountered problems with homelessness, which is significantly higher compared to the general population where that accounted for 0,3%.

Among those respondents who had not tackled their problem with housing, the biggest part or 37,3% stated that they did not have funds to take action. In the context of housing-related problems, even though the percentage of the sample concerning the number of citizens who had experience with property lease in the last three years is very small, the percentage of those who encountered problems within this category is relatively high (57,8%).

Almost every third Roma person (27%) has problems arising from money or debts, which is significantly more frequent compared to the average (16%). This category of problems mostly includes problems related to settlement of debts older than one year and collection through enforcement officers.

The third most prevalent category of problems is related to the **problems with state transfers.** Almost half (48%) of the respondents requested or received some form of state assistance in the last three years, and more than one third (35%) requested or received social financial allowances, whereby almost 30% of the respondents who requested state assistance reported some problem concerning the exercising of the rights. These problems are more frequent among the younger respondents as well as those who are economically inactive.

Problems related to work or employment are encountered by one fifth of the overall Roma population, or one third of those who stated that in the last three years they had a job or were looking for job, i.e. those who are treated as economic active population. The most prevalent problem in this category is the unregistered employment, without health and social insurance, which is the case with **38,5% of the citizens** who were employed in certain time period during the last three years. **Among those who were seeking employment in the last three years, almost one tenth (9,1%) think that they were unfavorably treated because they are Roma.**

³ Korunovska Srbijanko, J., Korunovska, N., and Maleska. T. (2013). Legal problems and roads to justice in Republic of Macedonia. Foundation Open Society - Macedonia.

Around 15% of the respondents encountered the **problem related to consumption**. Most frequent are problems related to products out of order (e.g computers, washing machine, telephone, food, etc.) that is, 8,9% of the citizens, and problems concerning paid but not completed services (e.g. from plumbers, electricians, construction workers) , that is, 5% of the citizens.

The percentage of legal **problems related to the access to health services** in Roma is twice bigger compared to the general population (13% in Roma compared to 6% in the general population⁴). Given that 63% of the respondents live in households with total monthly income lower than 10.000 MKD, one can note with concern that the most prevalent problems that Roma face are related to the collection of charges for medical services that should be free of charge (4,3%), non-issuance of fiscal bill for charged medical services (3,9%) and charging more for medical services or medicaments than the regular charges (3,4%). There is a remaining open question how many of such violations were left “unnoticed“ because, it may be expected that illegal charges could have been reported as problem only by the respondents who were able to recognize them, that is, only those who were familiar with their rights as patients.

Finally, if we consider the problems related to the right to free movement, that is, **problems related to crossing the state borders**, there are striking representative findings: every fourth person (25%) who tried to travel outside of Republic of Macedonia in the last three years was prevented exit from the country, every fifth person (20,1%) was returned from the border crossing without being given written explanation about the reasons, and every tenth person (10,6%) was ill-treated by the border police. Most vulnerable are Roma with the lowest income in the household, and among them more than one third (36%) had problem with crossing the state border (36%).

KEY FINDINGS: ROADS TO JUSTICE

In order to resolve legal problems, Roma people “rely“ on themselves, their social circles and the free aid from civil organizations. Only 4,7% of those who faced problems did request advice from an attorney at law (compared to 23% of the general population), and only for 2,1% of the problems they requested justice through court proceedings. Thus, one can reach the conclusion that the judicial system is practically inaccessible to the Roma citizens.

Almost one half of the Roma citizens took no action to tackle their problems (compared to one third of the average Macedonian) whereby the most prevalent reasons are lack of funds or lack of information who should be approached. This is indicative that passivity is not their choice, but rather results from their financial inability and social exclusion that leads to legal disadvantage.

Almost 76% of those who had problems to cross the state borders, took no action to tackle the problem, and the majority of the citizens are also passive when it comes to the problems

⁴ One should note that the study from 2013, included also the category of violations related to traffic accidents and injuries at public or workplace, that were considered as separate category. For increased comparability, if the category of problems related to access to health services is also supplemented with problems related to traffic accidents and injuries at public and workplace, the percentage of respondents with at least one problem increases to 15,1%. Given that it was not treated as a legal problem, if one also adds the respondents without health insurance, but did not report another problem related to access to health services, the prevalence of respondents with at least one problem in this category increases to 17,1% which is three times bigger when compared to the general population.

of discrimination (68%), access to health services (68,5%), employment (66%) and problems related to the state assistance (56%). Most often the reason for inactivity is lack of knowledge – 32% stated they do not know who to approach – or lack of money (28,5%). One fourth of the respondents gave no answer why they did not take action, and almost 13% did not take action due to distrust in the judiciary.

Among those who made efforts to solve the problems, the most frequent method they applied for problem resolution was to contact the opposing party for informal settlement (59% of the active). Then follows their relying on the services offered by civil organizations (25%) as well as the support from friends and relatives (22%). The courts and traditional legal services from attorneys and lawyers are “peripheral to the everyday justice“ for Roma citizens. Only 4,7% of those who encountered problems did ask for advice from an attorney, and only in 2,1% of the problems they sought justice through court proceedings. Almost 7 in 15 respondents stated that they had no representative, while 6 were represented by an attorney. This means that in more than half (53,8%) of the cases, the citizens represented themselves individually. Five of those who represented themselves stated that they had no money to pay an attorney, one respondent stated that he did not need representation, and one respondent did not provide answer about the reason.

In fact, one of the conclusions is that **Roma citizens can afford legal aid only if provided for free** and 78% of those respondents who sought advice from more than one place, were not supposed to pay for the aid obtained from the most essential advisor.

Half of the problems were stated to be settled, however, in half of the settled problems that was done spontaneously, and whether something was undertaken or not with regard to the problem does not determine whether the problem no longer exists. With regard to settled problems, those respondents who took action are more satisfied with the outcome, whereas, with regard to unsettled problems, the expected satisfaction of the outcome is not dependent on the fact whether action was taken or not. Half of the reviewed problems still persist, and for 89% of the citizens the resolution lasts longer than they expected. The probability to take action for problem resolution increases with the increased value of the problem, however, the bigger the value of the problem the bigger is the probability that it will not be resolved. Whether a problem is settled or not, also depend on the category of the problem, that is, whether the citizen encounters the problem continuously or at intervals based on certain circumstances. Namely, 70% of the reviewed problems concerning the housing were assessed as unsettled, whereas 90% of the reviewed problems concerning the crossing of state borders were assessed as settled. In 52,8% of the reviewed problems, the opposing party is the state. In 18,8% of the cases, the other party to the problem is a private organization, and in 7,5% of the cases that is the employer.

The perception about experienced injustice is more probable if the opposing party is a state institution (71,3%), employer (66,7%) and private organization (65,9%), which implies the existence of bigger asymmetry of power when legal entities are involved in the legal problems.

With regard to the satisfaction from outcome of resolved problems, in almost two thirds (64%) of the citizens whose problem was settled, the outcome was not just. More than one third or 35% of the respondents were not satisfied with the outcome at all, unlike 15% who stated that they were very satisfied.

RECOMMENDATIONS FOR PUBLIC POLICIES

- 1) On the market of legal and paralegal services, civil organizations are the only available legal service for Roma citizens. The resources of these organizations are used for mediation in the interaction of the citizens with the institutions and the access to justice of these citizens. Given the findings that citizens most often recognize the civil organizations and not the traditional legal advice sector (of attorneys or lawyers), the state should undertake these models or provide direct funding for their existent form. Even though many of the local organizations can offer only paralegal aid, it is the “cheaper“ aid that is more efficient for meeting the everyday legal needs of the citizens, which are most often related to the burden of administrative procedures.
- 2) Majority of Roma citizens can afford legal aid only if it is free of charge. Therefore, one can especially welcome the announcements for a new Law on Free Legal Aid, which in its existing version (given the restrictions in terms of the scope) deprives the most disadvantaged citizens from justice. Given the lack of interest on the part of the attorneys to provide free legal aid (it can be concluded from the low number of registered lawyers as providers of free legal aid), the key link with the system should be the authorized associations. Thus, either the scope of services for free legal aid should be expanded or the restrictive conditions that endanger the sustainability of the organizations that may also offer free legal aid should be alleviated.
- 3) For most of the Roma citizens, their inactivity is not a choice but necessity due to lack of legal power. Most of them cannot tackle the problems either because of lack of knowledge or they cannot afford it due to lack of funding. Given the high proportion of people without formal education or only completed primary education, one challenge that is necessarily imposed refers to the interventions or programs for legal literacy that will enable bigger legal security of the citizens and more efficient utilization of the law and the legal system.
- 4) Having in mind that that the majority of Roma citizens are vulnerable to problems related to exercising rights to social protection, public policy creators should first identify the mechanisms for sequencing the steps for exercising the rights. The information on which beneficiaries base their choice should be clear, and the administrative procedures need to be short. In this context, enhanced efforts will be required for decentralization of social protection⁵.
- 5) In half of the reviewed problems that Roma citizens face, the opposing party is the state. Public policy creators need to revise the contradictory practices⁶ that systematically deprive those citizens of their rights⁷. Through the ethnic profiling by the border police done until

⁵ Institute for Human Rights “Loudvig Boutzvan“ – BIM-FV (2012). *Decentralization of social protection in Republic of Macedonia – factual situation, challenges and opportunities on local level*. Available at:

⁶ Ombudsman of Republic of Macedonia (2017). *Report on conducted research about the exercising of the right to social financial assistance in Republic of Macedonia*. Available at:
<http://ombudsman.mk/upload/Posebni%20izvestai/2017/Izvestaj%20SPP-2017.pdf>

⁷ Even though the last change in the Rulebook on establishing the citizen income, restores the right to the citizen users, according to the Ministry of Labor and Social Policy, total of 910 citizens in R.Macedonia lost their right to social financial assistance due to fast transfer of money, although that money is “neither subject of taxation or
(footnote continued)

recently, Macedonia was one of the countries where discrimination was institutionalized in this way⁸. According to the findings from this research, 75,6% of the citizens who were prohibited to exit the country, took no action even though their constitutionally guaranteed right to movement was violated.

- 6) Many Roma citizens in certain period of time during the last three years lived in “darkness“ due to unpaid electricity bills. It is apparent that the established mechanisms for alleviating the debtor-creditor relations between those citizens and EVN (electricity company) do not function. Based on the research findings, only 4,2% of the citizens requested or used subsidies for electricity, even though 26,8% live in households with monthly income lower than 5.000 MKD.
- 7) From the detailed description of problems provided by the respondents, it was obvious that the “non-triviality“ of problems encountered by Roma citizens is qualitatively different from non-trivial problems of the general population, and for some of them it also puts their survival under question. Among the general population, most prevalent are problems related to housing and property ownership, however, some of the respondents in this research could not exercise their fundamental right to housing. In the light of the multiple marginalization, the interventions in the system should not be incidental or palliative (such as temporary placement of displaced citizens).
- 8) Finally, the State Statistics Office and other stakeholders dealing with statistical operations should fulfill the obligation for generation and dissemination of data about ethnic minorities. Given the inexistence of official data that would provide descriptions about the respective population, any attempt for mapping the legal problems would be decontextualized.
- 9) While official statistics is missing, local civil organizations might be very beneficial. If one strengthens the “statistics infrastructure“ of those organizations for administering the users of their services, this shall increase the scope and availability of referential data that would inform the public policies and interventions, but also for measuring the implementation of existing strategic and national documents on social inclusion of Roma citizens. In the meantime, the national and action plans undergo changes, however, nobody knows whether changes have really taken place.

prescribed by the Public Revenue Office.“. Some of those cases were also registered in the findings of this research. Official information available at: http://www.mtsp.gov.mk/juli-2017-ns_article-ministerkata-carovska-gi-povika-licata-koi-go-izgubile-pravoto-na-koristenje-na-socijalna-pomosh-por.nspix

⁸ Telegram of the Ministry of labor and social policy, which practically imposes the racial profiling. The wording is quoted in the Judgment of the case XXVIII Π4-1228/13 (Basic court Skopje 2)