



Institute for Human Rights

ANNUAL REPORT

THE WORK OF THE ADMINISTRATIVE COURT WHEN DECIDING IN CASES PERTINENT TO **SOCIAL RIGHTS**

January – December 2023



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*Liberté
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Annual Report on the Work of the Administrative Court in Deciding Cases Pertinent to Social Rights

(Reporting period: January – December 2023)

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Contents

INTRODUCTION	4
1. OBSERVATIONS FROM THE MONITORING OF PUBLIC HEARINGS IN FRONT OF THE MACEDONIAN ADMINISTRATIVE COURT	5
1.1. The principle of legality	5
1.2. The principle of transparency and accountability	6
1.3. The principle of economy and efficiency of the procedure	6
2. BINDING FORCE OF COURT DECISIONS	8
3. PARTICIPATION OF THE PARTIES IN THE PROCEDURE	8
4. FINDINGS FROM THE MONITORING OF ADMINISTRATIVE PROCEDURES PERTINENT TO SOCIAL RIGHTS	9
4.1. Old age pension	9
4.2. Family pension	10
4.3. Disability pension	11
4.4. Social welfare allowance	12
4.5. Disability allowance	13
4.6. Reimbursement for healthcare abroad and for medication costs	14
5. RECOMMENDATIONS FOR IMPROVING ACCESS TO JUSTICE FOR CITIZENS IN FRONT OF THE ADMINISTRATIVE COURT OF RNM	16

INTRODUCTION

The Institute for Human Rights monitors regularly the public hearings in cases pertinent to social rights in front of the Administrative Court. The purpose of this activity is to analyse the access to administrative justice for all citizens, with special focus on marginalized and vulnerable groups of citizens (recipients of social assistance, persons with disabilities, Roma people, single parents, senior citizens etc.).

Social rights generally refer to rights of individuals to access basic services and resources contributing to their well-being and dignity. Such rights can be instrumental to alleviating poverty by providing a safety net for those in need. Social welfare programs, unemployment benefits, and other forms of support can help individuals and families during difficult times. The importance of social rights lies in their potential to enhance human dignity, promote equality and contribute to the overall well-being of the individuals and the society.

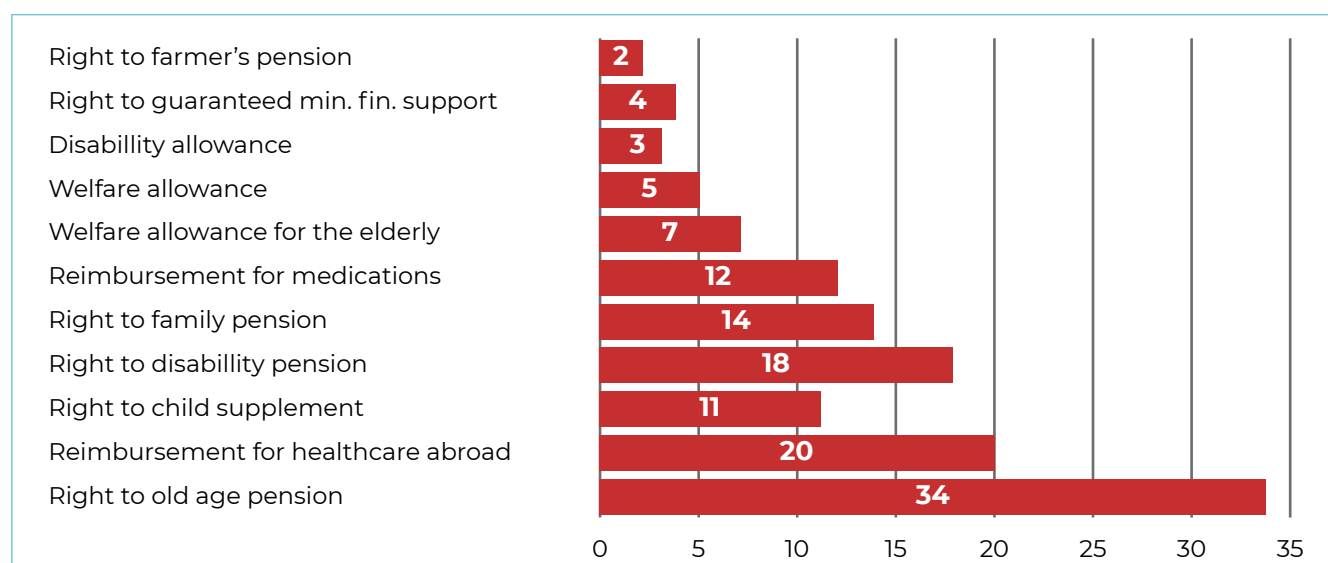
To prepare this Annual Report, the following activities were conducted to collect information:

1. direct monitoring of public hearings in front of the Administrative Court in cases pertinent to social rights;
2. review of decisions and reports published on the official website of the Administrative Court;
3. review of legal and international legislation governing administrative justice and the exercise of social rights, and
4. submitting a free access request to the Administrative Court for public information that is not publicly available, including statistical data on particular grounds kept in the Administrative Court in the U4 register.

During this reporting period (January-December 2023), a total of 130 public hearings in the field of social rights were monitored. The most common grounds discussed were the old-age pension, compensation for healthcare abroad, compensation for medications, family pension and other.

A summary of the most common grounds is shown in Chart 1.

Chart 1. Number of public hearings per ground



1. OBSERVATIONS FROM THE MONITORING OF PUBLIC HEARINGS IN FRONT OF THE MACEDONIAN ADMINISTRATIVE COURT

1.1. THE PRINCIPLE OF LEGALITY

During this reporting period, it was ascertained that public authorities act in accordance with the principle of legality, meaning that they fulfil their obligation to adopt certain administrative acts (decisions, licenses, approvals and the like), thereby abiding by the prescribed form and procedure. However, the principle of legality also comprises a material aspect that requires administrative acts content to be in accordance with the law, also being the aspect that public authorities did not fully respected. This is also supported by the number of complaints accepted by the judges of the Administrative Court, who noted major deficiencies in the content of the final administrative acts. This situation is also a result of the significant lack of human resources that the public authorities are facing, especially the lack of lawyers who are experts in this field. Even more concerning is the fact that in most public hearings the present representative of the public authority is not a lawyer, and hence is not entitled to represent the party in the proceedings in front of the Administrative Court.¹

With the lack of lawyers in the public bodies, another element related to the principle of legality, to the predictability, is missing, and that is the obligation of the public authorities to propose measures that improve laws when they are unclear, vague and confusing, so that interested persons would be able to understand and in relation to them predict the legal consequences of the administrative acts, including the outcome of the procedure.

Furthermore, the fact that unaware parties, who submit requests to public authorities, express dissatisfaction with their work both at first and at second level, is also worrying. This should especially be taken into account as it concerns vulnerable group of citizens that are not familiar with their rights and opportunities, and that have not been pointed out to them, nor has their practicing been facilitated by the public authorities' employees whose work should focus exactly on facilitating the process of obtaining a certain right that would mean a better and more dignified life for the concerned citizens.

1 Article 35, Law on the General Administrative Procedure, Official Gazette. 124/2015 dated 23 July 2015

1.2. THE PRINCIPLE OF TRANSPARENCY AND ACCOUNTABILITY

The daily inspection of the Administrative Court's website confirms that cases are regularly scheduled and announced in the Court Calendar. On the website, on the "Court Calendar"² page, one can easily find information about the cases, such as the date and the time of the hearing, the number of the case and the judge assigned to judge the case.

In a large number of public hearings the plaintiffs were not made familiar with the written materials that were presented as evidence by the defendant. This shows that the plaintiff does not take advantage of the opportunity to inspect the files during the procedure in front of the public authorities or during court proceedings. It can especially harm the plaintiffs when this right is not exercised by their attorneys or if they fail to inform them about it.

Most of the decisions on the cases that were monitored during this reporting year have not been published. It may be that these decisions of the Administrative Court are not yet final, or maybe the Administrative Court does not publish regularly the decisions that are not subject to legal remedies and have become final. Considering that these cases address a particular matter i.e. social rights arising from pension and disability insurance and from health insurance, and that in some situations such rights may be the only chance of the citizens for income or for obtaining healthcare, such cases could be subject to the Principle Legal Opinion of the Supreme Court of RNM from 21 December 2022³ which establishes that "the courts may publish the adopted decisions (decisions and rulings) that are not final and refer to cases of public interest at their website".

1.3. THE PRINCIPLE OF ECONOMY AND EFFICIENCY OF THE PROCEDURE

According to the principle of efficiency, under the Law on Administrative Disputes, the court should administer the procedure quickly, without unnecessary actions and costs, and make the decision within a reasonable time, not to exceed nine months following the date of submission of the documents or the creation of conditions for decision-making on the complaint.⁴ The monitoring process showed that there were complaints filed and cases established as early as 2021. In 2023, from a total of 130 public hearings, the court brought decisions in 9 cases that were pending since 2021.

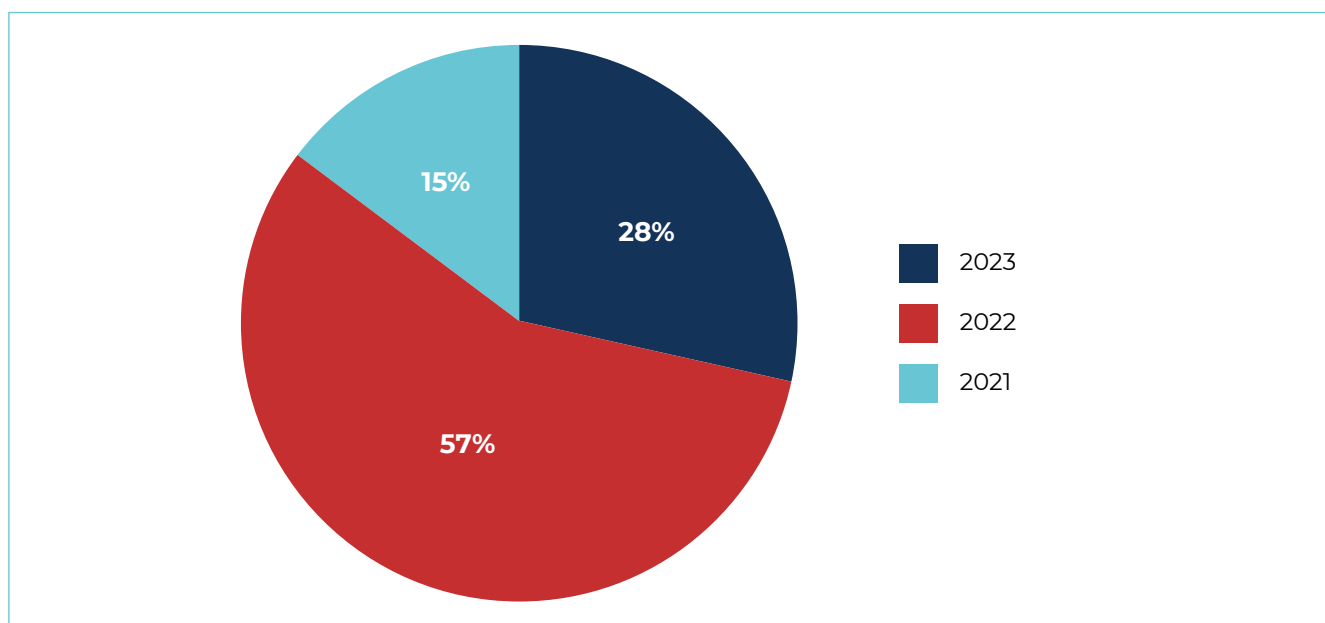
2 Court Calendar– Administrative Court http://www.vsrn.mk/wps/portal/usskopje/sud/kalendar!ut/p/z1/IY_BCoJAFEW_pYXLfC8Um9pNkIIQRnZ24TGNArqyDgl_X1GK6m17u5ezlIcIEiA6vRWyNQUqk7LvH_JO3mB6yJb4XqDPkMehV4Uo-uwAKHlcB22wXyJU5ZPOMY-Aj0L_8OPH38Eo69T7-QEEiWKnu94XXmMAMkxUVooe2r7ufcmKadW2hh13W2VEqWwj6rysJPSq5aA8mQhKbaJzim7N7x0QNOmM2e/dz/d5/L2dBISEvZ0FBIS9nQSEh/?uri=nm%3Aoid%3AZ6_6G4408K0L00F80AMJ6MT0438T1

3 Principle Legal Opinion of the Supreme Court of RNM from 21.12.2022, available at: http://www.vsrn.mk/wps/wcm/connect/vsrn/6963e6e5-bab8-458c-acc2-f25717610f60/%D0%9D%D0%B0%D1%87%D0%B5%D0%BB%D0%B5%D0%BD+%D1%81%D1%82%D0%B0%D0%B2+-%D0%BE%D0%B1%D1%98%D0%B0%D0%B2%D1%83%D0%B2%D0%B0%D1%9A%D0%B5+%D0%BD%D0%B0+%D0%BD%D0%B5%D0%BF%D1%80%D0%B0%D0%B2%D0%BE%D1%81%D0%B8%D0%BB%D0%BD%D0%B8+%D0%BE%D0%B4%D0%BB%D1%83%D0%BA%D0%B8.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE.Z18_L8CC1J41L0B520APQFKICD0CU3-6963e6e5-bab8-458c-acc2-f25717610f60-lpacrVh

4 Article 11 of the Law on Administrative Disputes, Official Gazette of RNM no. 96/2019 dated 17 May 2019.

The table below presents the frequency of cases per year that were monitored this year.

Chart 2: Years when the cases deliberated this reporting year were filed.



Even though most hearings were completed in one session, some public hearings were postponed in accordance with the provisions of the Law on Administrative Disputes (26 public hearings), at the hearing or before they were held. There are several reasons that caused postponing of public hearings. The most common cause for postponing the public hearings was the untimely delivery of the documents to all the parties in the procedure. This is mostly the case with the plaintiffs from the capital, who, due to inexplicable reasons did not timely receive the summons or the documents delivered via the Macedonian Post, which is the courier for documents from the Administrative Court. Another factor that appears to be a reason for postponing public hearings is the significant lack of human resources in the Administrative Court. This factor seriously affects the delay of public hearings, as well as their excessive duration. However, in addition to these causes, there is also the possibility that the parties themselves may request a postponement for various reasons, some of them being unfamiliarity with the new evidence submitted by the opposing party, introducing an interested person in the procedure, inability of the parties or their proxies to be present, and other reasons that may arise before the beginning of the public hearing.

Additionally, the monitoring revealed continuous delays in the timetable of the scheduled trials, i.e. non-compliance with the scheduled slots for the trials as a result of delays in the previous trials. Some factors causing delays include poor staffing of the court and inadequate time management of the scheduled slots for hearings, thus preventing a more efficient performance of the work tasks. All these contribute to protracting the scheduled slots for the public hearings during the day and to their overlapping.

This issue should be solved as soon as possible in order to provide citizens with efficient access to justice and access to court. All the more so as these are citizens (plaintiffs) who, due to the specificity of their health situation, such as disability, age and the like, are not able to wait longer than expected for their case.

2. BINDING FORCE OF COURT DECISIONS

During this reporting period, the Administrative Court received a large number of cases that were previously reviewed. The issue with such returned cases is that some of them have the same content as the previous administrative acts that were annulled by the Administrative Court. The Administrative Court instructs the public authority to change the decision, but the public authority does not comply, and even adopt a new administrative decision with the same disposition. Hence, it can be concluded that the public authorities do not respect the provision of the Law on Administrative Disputes⁵ stating that the court's final decision is legally binding for the parties in the procedure, including the public authorities.

This creates a problem for the citizens as, with such practice, they are exposed to higher costs and to a prolonged process for the realization of their right that can be of key importance to improving the situation in which they find themselves. Therefore, the public authorities should, especially in these domains, perform their tasks professionally and efficiently, and respect the instructions of the judges laid down in the court decisions, so as to ensure that this group of citizens is exercising the rights they are legally entitled to.

3. PARTICIPATION OF THE PARTIES IN THE PROCEDURE

It can be concluded from the continuous monitoring of public hearings that the sued authorities failed to attend most of the scheduled hearings (out of a total of 130 public hearings monitored, the sued authorities were present at 35 hearings only). In some of the cases, the absence of the representatives was not justified, or was not previously announced, and hence, a complete perception of the case could not be formed. In such cases, it is up to the court to evaluate the facts and the evidence presented by the defendant, without any presentation of the allegations and proposals of the opposite side. This makes it impossible to respect the principle of contradiction and the equality of arms in the procedure. Even though writs are regularly sent by the sued authorities as required under the LAD, judges criticize that not all relevant evidence that could seriously contribute to a stronger judgement was sent to the court. Furthermore, the sued authorities regularly reply to the complaints, but in most cases, the reply is general, short and of a formal nature, lacking a detailed explanation of the reason for the adoption of the challenged decision and the facts and the evidence on which it was adopted.

Chart 3. Public authorities sued in front of the Administrative Court, in cases pertinent to social rights.

Sued authority	Number of complaints
State second-instance commission for deciding in administrative disputes and employment procedure	65
Ministry of health	30
Ministry of labour and social policy	35

5 Article 13 of the Law on Administrative Disputes, Official Gazette of RNM No. 96/2019 dated 17 May 2019.

Out of the 130 public hearings monitored, the plaintiff was represented by an attorney-at-law in 78. In 40% of the public hearings, the plaintiff, for various reasons, was not able to hire a representative to represent them at the public hearing or an attorney-at-law who would prepare the complaint, represent them at the public hearing and advise them of their rights in the procedure. The main reason for the plaintiffs not to hire their own legal representative was that they were recipients of social welfare or did not have any monthly income and were not financially able to pay the attorney's fees for the full administrative procedure. Also, the citizens were not familiar with the possibilities offered by the Law on Free Legal Aid⁶, as well as that the Ministry of Justice can approve the appointment of an attorney to represent them in the administrative procedure, or in an administrative dispute, provided they meet the requirements under the said law.

4. FINDINGS FROM THE MONITORING OF ADMINISTRATIVE PROCEDURES PERTINENT TO SOCIAL RIGHTS

4.1. OLD AGE PENSION

Pursuant to the Law on Pension and Disability Insurance, the insured person acquires the right to an old-age pension when they reach 64 years of age (men) or 62 years of age (women) and have not less than 15 years of pensionable service.⁷ The procedure starts by filing a Request for exercising the right to an old-age pension with the branch offices and business bodies of the Pension and Disability Insurance Fund of North Macedonia (PDFNM), at the last place of insurance.

For the insured person to be able to exercise the right to old age pension, they are required to submit the following documents accompanying the request:

- work book and evidence of pensionable service that is not entered in the work book;
- birth certificate or the identity card, for inspection;
- decision for termination of employment, that is, termination of insurance (form M2).

The insured person should, before submitting the Request for exercising the right to old age pension, check whether the employers have paid them the benefits for pension and disability insurance. If the benefits were not paid, they will not be included in the final pensionable service calculated by PDFNM.

6 Article 5 and Article 13 of the Law on Free Legal Aid, Official Gazette of RNM No. 101/2019 dated 22 May 2019.

7 Article 18 of the Law on Pension and Disability Insurance, Official Gazette of RNM No.s 98/2012, 166/2012; 15/2013; 170/2013; 43/2014; 44/2014; 97/2014; 113/2014; 160/2014; 188/2014; 20/2015; 61/2015; 97/2015; 129/2015; 147/2015; 154/2015; 173/2015; 217/2015; 27/2016; 120/2016; 132/2016; 27/2018; 35/2018; 220/2018; 245/2018; 180/2019; 275/2019; 31/2020; 267/2020; 67/2022; 79/2023;

Chart 4. Information received from the Administrative Court pursuant to a request for free access to public information, for cases involving the right to old age pension, for the period from 1 of January 2023 to 15 November 2023 (Decision 0809 SPI No. 03/2023).⁸

Initiated cases	Brought decisions	Appeals filed with the Higher Administrative Court
58	70 <i>(26 accepted; 33 rejected; 6 refused and 5 suspending the procedure)</i>	21

Exercising the right to an old age pension is the most common ground in the cases filed with the Administrative Court that pertain to social rights. In these cases there are doubts among the parties and among the judges about the method of calculating the old age pension, especially with respect to the calculation formula which is considered to be extremely complicated to the extent that, except for some representatives of the Pension and Disability Insurance Fund of North Macedonia (not even all of them know it), another citizen will not know how to calculate the work experience despite the fact that they have at disposal the appropriate documentation. Furthermore, the biggest problem faced by the citizens is the lack of knowledge of the fact whether the employer, with whom they gained their work experience, paid the pension and health insurance benefits.

The monitoring of the public hearings demonstrated that this phenomenon is very common and that plaintiffs do not know that their employers have not paid their benefits. Consequently, the period for which the pension and health insurance benefits were not paid is not taken into account in the calculation of the total pensionable service.

4.2. FAMILY PENSION

In accordance with Article 57 of the Law on Pension and Disability Insurance, family members can receive a family pension, including:

- the spouse;
- the children (born in marriage or out of wedlock, or adopted, stepchildren supported by the insured, grandchildren and other children without parents supported by the insured) and
- the parents (father and mother, stepfather and stepmother) and the adoptive parent, supported by the insured.

A spouse from a divorced marriage may also receive a family pension, if the right to support has been determined by a court decision. In addition, the legislator has provided that orphaned grandchildren, other orphaned children and parents supported by the insured may also receive a family pension, if they were not employed and did not receive a salary on other basis, and are not beneficiaries of old age, disability or family pension. In addition to the above, in order to be able to obtain a family pension, it is necessary that the cadastral income from agricultural activity, per member of the immediate, i.e. extended family, does not amount to more than 25% of the average salary earned in the Republic in the previous year, and all other monthly income per family member do not amount to more than 25% of the average salary earned in the Republic in the previous year.⁹

⁸ Statistical data relating to the right to receiving old age, family or disability pension, social welfare allowance, disability allowance or reimbursement for healthcare abroad or medication costs, received by the Administrative Court pursuant to a request for free access to public information - Decision 0809 SPI No.03/2023.

⁹ On the general and the special requirements for exercising the right to a family pension please see Articles 58-61 of the Law on Pension and Disability Insurance.

Chart 5. Information received from the Administrative Court

Initiated cases	Brought decisions	Appeals filed with the Higher Administrative Court
14	27 (15 accepted; 11 rejected and 1 refused)	21

Exercising the right to a family pension is one of the regular grounds on which a complaint is filed with the Administrative Court. Citizens are largely not familiar with both the general and the special conditions for exercising this right. Particularly notable was the lack of knowledge of the order of priority among the persons who have the right to inherit the family pension.

4.3. DISABILITY PENSION

An insured person who is incapacitated for work, as well as an insured person with residual work ability who, due to reaching certain age, cannot become able to perform another suitable job with professional rehabilitation, acquire the right to a disability pension¹⁰ if they fulfil the following:

- where the disability was caused by an injury at work or an occupational disease - regardless of the length of pensionable service, or
- where the disability was caused by an injury outside of work, or by an illness, provided that before the onset of the disability or on the day of termination of the insurance after the onset of the disability, the person is over 45 years of age and has completed at least 12 years of pensionable service, or
- where the disability was caused by an injury outside of work, or by an illness, when the insured is over 30 to 37 years of age, provided that their pensionable service covers 30% of their total work life, counting full years as work service; and where the insured is over 37 to 45 years of age, that their pensionable service covers 40% of their total work life, counting full years as work service.

Chart 6. Information received from the Administrative Court

Initiated cases	Brought decisions	Appeals filed with the Higher Administrative Court
31	52 (29 accepted; 17 rejected; 4 refused и 2 suspending the procedure)	11

Cases on exercising the right to a disability pension as a social right are initiated more often in front of the Administrative Court. These cases account for the highest percentage of accepted decisions by the judges. This is mostly due to the fact that, although the parties have all the documents, especially with an insight into their factual situation, their requests are rejected by the public authorities. The parties also submit expert reports that confirm their situation. Still, even with all the evidence presented, the public authorities fail to provide a detailed reasoning

¹⁰ See Article 50 from the Law on Pension and Disability Insurance.

of their decision. Even more worrying is the fact that the cases invoking such grounds are cases that were returned to the Administrative Court many times, after being previously reviewed, because the public authorities bring identical decisions without taking into account the instructions of the Administrative Court provided in the final decision.

4.4. SOCIAL WELFARE ALLOWANCE

The right to social welfare allowance encompasses also the right to a guaranteed minimum financial assistance, as well as the right to social security for the elderly.

A household that is financially unstable and does not own property and property rights wherefrom to support itself is entitled to a guaranteed minimum financial assistance. Financially unstable household is that where the total average amount of the incomes of all household members, on all grounds, in the last three months prior to the submission of the request for exercising the right and during the exercise of the right, is lower than the amount of the statutory determined guaranteed minimum financial assistance. As an exception, where there are extraordinary circumstances (established crisis situation, declared epidemic, i.e. pandemic, fires, floods or other major natural disasters), a household is considered financially unstable if the total amount of incomes of all household members, on all bases, in the month prior to submitting the request for exercising the right to a guaranteed minimum financial assistance and in the month preceding the current month of exercising the right, is lower than the amount of the guaranteed minimum financial assistance.¹¹

The Social Work Centre determines the holder of the right to a guaranteed minimum financial assistance. The holder of the right, when submitting the request, is obliged to report the number of household members as well as the personal property situation and that of all household members, and to inform the Social Work Centre within 15 days from the emergence of any change during the exercise of the right that affects the realization and the exercise of that right. The Social Work Centre will, *ex officio*, check the financial situation of the holder of the right to a guaranteed minimum financial assistance and of all adult members of the household, by collecting data on the earned monthly incomes from the official records of the Ministry of Finance, that is from the Public Revenue Office as the competent authority.

The social security for elderly persons is ensured in accordance with the principles of social justice, humanity and solidarity. A person over 65 years of age is entitled to social protection for the elderly under the terms and conditions provided by the Law on Social Security for Elderly Persons. Where the petitioner for the exercise of the right has a spouse, or the person with whom they cohabitate has reached the age of 65, the right is exercised only by one person.

A person may exercise the right to social security for the elderly¹² if they fulfil the following requirements:

- is a citizen of the Republic of North Macedonia;
- has a permanent residence in the Republic of North Macedonia in the last 15 years prior to submitting the request;
- does not own property and property rights wherefrom they can support themselves;
- is not a beneficiary of a pension from the Republic of North Macedonia, or of any type of payment based on old age, disability or work experience from another country, and

¹¹ Article 28 of the Law on Social Protection, Official Gazette of RNM No. 104/2019, 146/2019; 275/2019; 302/2020; 311/2020; 163/2021; 294/2021; 99/2022; 236/2022; 273/2022; 65/2023.

¹² Article 4 of the Law for social security of elderly, Official Gazette of RNM No. 104/2019.

- has not earned income on any grounds for the last three months prior to submitting the request.

The legislator provided that the right to social security for the elderly may not be exercised by a person who, by the decision of the Social Work Centre, has been placed for more than 30 days in an institution for non-familial social protection, healthcare or another institution. The amount of the monthly allowance for the right to social security for elderly persons is MKD 6,000. The amount of the monthly allowance for social security of elderly persons is adjusted upwards in line with the living costs for the previous year, as published by the State Statistical Office in January of the current year.

Chart 7. Public information on cases addressing the right to a social welfare allowance, for the period from 1 January 2023 until 15 November 2023

Initiated cases	Brought decisions	Appeals filed with the Higher Administrative Court
48	70 (30 accepted; 31 rejected; 6 refused and 3 suspending the procedure)	26

During the public hearings, as with the rest of the rights, a lack of knowledge of the requirements for acquiring this right was noted. A large number of the citizens - plaintiffs are not aware that the terms for exercising this right applied to them as well as to their spouse or the person with whom they cohabitate. However, there are also cases where the acquired right to a social welfare allowance has ceased when the beneficiary received additional funds (mostly from games of chance) but did not inform the public authority that this was only a one-time payment, and hence they had to submit the request for exercising the said right again.

4.5. DISABILITY ALLOWANCE

Disability allowance¹³ is paid to encourage social inclusion, and to provide equal opportunities to a person who is:

- with a severe or profound intellectual disability,
- with the most severe physical disability,
- completely blind person, and
- completely deaf person.

Disability allowance may be claimed by a person who has reached the age of 26, and is used regardless of the age of the beneficiary. The right to a disability allowance is realized on the basis of a medical opinion (consilium) of a first-instance medical commission consisting of three members and their deputies and specialists from a relevant tertiary healthcare institution. The method of exercising the right to a disability allowance, the necessary documentation, the composition of the first-level and second-level medical commissions, the form and the content of the medical opinion, as well as the fee for issuing the medical opinion are prescribed by the Minister of Labor and Social Policy, in agreement with the Minister of Health.

13 See Article 44 of the Law on Social Protection.

Chart 8. Public information on cases addressing the right to a disability allowance, for the period from 1 January 2023 until 15 November 2023.

Initiated cases	Brought decisions	Appeals filed with the Higher Administrative Court
10	5 (4 accepted and 1 rejected)	1

The right to a disability allowance is addressed less often in the cases in front of the Administrative Court. This fact may be due to the lack of knowledge that this right exists on the part of the parties who would benefit from it. Again, this situation could also be caused by the lack of financial means on the part of the citizens to pay an attorney to write the complaint and initiate a lawsuit in front of the Administrative Court, because of which they wave this right.

4.6. REIMBURSEMENT FOR HEALTHCARE ABROAD AND FOR MEDICATION COSTS

Exercising the right to a medical treatment abroad is one of the most common grounds in the complaints filed in front of the Administrative Court.

During the monitoring process, it was found that complaints filed concerning the exercise of this right are rejected due to the fact that the parties failed to submit all necessary documentation to the Health Insurance Fund. In accordance with the Rulebook on Healthcare Services for Insured Persons Abroad¹⁴, the procedure is carried out as follows:

- The procedure for referral for medical treatment abroad is initiated at the request of the insured person.** The request is filed directly with the Fund or via the regional office of the Fund in the place where the applicant is registered for mandatory health insurance. For minors and persons without business capacity, the request is submitted by the parent, the adoptive parent or the guardian.
- The insured person accompanies the request with:**
 - proposal for referral for treatment abroad from the appropriate University Clinic in Skopje;
 - necessary medical and other documentation on the course of treatment in the healthcare institutions in the Republic;
 - proof that the petitioner possesses a transaction account.

The insured person who is a child with special needs is required to accompany the request with a decision from the Ministry of Labour and Social Policy, i.e., the Social Welfare Centre. A proposal for referral abroad for a medical treatment is made by a consilium of medical doctors comprising at least three medical doctors - subspecialists/specialists and the director of the pertinent University Clinic in Skopje. This referral proposal is valid for six months from the date of issue. Upon return, the insured person and their companion (if any) is required to submit to the Fund, no later than within 7 days following the completion of the medical treatment abroad, a written report with all necessary medical and other documentation about the treatment.

¹⁴ Official Gazette of RNM No. 234/2022.

Chart 9. Information received from the Administrative Court for cases addressing the reimbursement of costs for healthcare abroad and for medications costs, for the period from 1 January 2023 until 15 November 2023.

Initiated cases	Brought decisions	Appeals filed with the Higher Administrative Court
10	0	0

This applies to cases addressing the Request for reimbursement of medications costs and the Request for reimbursement of healthcare costs abroad. On their own initiative, or only upon a verbal proposal of the medical doctor, without a medical opinion (consilium) or any written evidence that the medication or the medical treatment is not available or cannot be obtained in the country, the individuals buy the medication or receive a medical treatment or interventions abroad and thus find themselves in a situation where the costs are not recognized by the Health Insurance Fund.

The monitoring of public hearings made it possible to ascertain that citizens are not familiar with the procedures for exercising certain social rights in front of the public authorities.

Another element that was observed during the monitoring is the lack of knowledge on the side of the parties of the Law on Administrative Disputes (LAD), in particular with respect to the public hearings and specifically the presentation of new evidence. Many of the plaintiffs, and their attorneys, present new evidence at the public hearing, which is not allowed under the LAD as the law provides that all evidence should be presented to the court prior to the day of the hearing. The summons delivered to the parties state that the evidence may be presented to the Court until the day of the main hearing, which could be the cause for misunderstanding among the plaintiffs concerning the timeframe for presentation of new evidence. It is necessary to clarify the text in the summons and precisely define the timeframe when at the latest new evidence may be presented in line with the statutory provisions governing administrative disputes.

It is also noted that the majority of the plaintiffs, or their attorneys, pay the court fees that **according to Article 11 of the Law on Court Fees are not mandatory when the case concerns social rights, i.e., social cases are exempt from court fees**. Hence, the question: Why, when filing the complaints, the parties are not informed by the court administration that for the said cases they are exempt from court fees, i.e. that they do not need to pay them? Another question is: Why are the attorneys not familiar with the exemption from court fees on these grounds although they are obliged to know this, and thus expose the parties to unnecessary costs!?

5. RECOMMENDATIONS FOR IMPROVING ACCESS TO JUSTICE FOR CITIZENS IN FRONT OF THE ADMINISTRATIVE COURT OF RNM

Recommendations for the administration and the public bodies in administrative procedures include:

- active participation of the public authorities in the proceedings in front of the Administrative Court, timely and complete delivery of the necessary documents and taking action by the authorities according to the instructions laid out in the decisions of the court;
- abiding by and application of the instructions given by the Administrative Court when an administrative act is annulled or the public authorities need to take action again;
- consistent application of the provisions of the Law on the General Administrative Procedure.

Recommendations for the Administrative Court in handling and conducting administrative proceedings include:

- observing the scheduled dates for the hearings, so as to abide by the principle of efficiency, especially due to the specific health situation of the plaintiffs (citizens), bearing in mind that they belong to the marginalized and vulnerable groups of citizens;
- considering the possibility to publish not yet final decisions that are of interest to the public, in accordance with the Principal Position of the Supreme Court of the RNM, and thus increase the transparency and the accountability of the Administrative Court;
- consistent application and observance of the provisions of the LGAP and the LAD by the attorneys during representation at public hearings;
- staffing and strengthening the court administration (typists, professional associates, archives) as soon as possible, in order to conduct the hearings more efficiently;
- respecting the principle of effective conduct of the hearing (proper management of time and the course of the hearing);
- applying the European Convention for the Protection of Human Rights and implementing the caselaw of the European Court of Human Rights;
- finding alternative ways for orderly delivery of the writs, by hiring couriers or other postal services;
- respecting the principle of service orientation of the public authorities, by enabling easier and more efficient access to justice for these.

