ANNUAL REPORT

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

January – December 2024



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Institute for Human Rights

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

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Introduction

During 2024, the Institute for Human Rights continued its regular monitoring of the work of the Administrative Court of the Republic of North Macedonia in handling cases related to social rights (recorded in the Court's Registry under 'U'-4). The annual report is based on data obtained through direct monitoring of public hearings, analysis of published court decisions, and research into legal regulations.

The primary objective of the annual report is to summarize the findings, observations, and recommendations arising from the conducted public hearings and monitoring of procedures pertinent to social rights. The analysis in this report is based on the key principles of judicial practice: efficiency, transparency, accountability, and active participation of the parties involved. By applying such approach, the report aims not only to evaluate the court's outcomes, but also to propose directions for further improvement of access to justice.

The annual report was prepared based on:

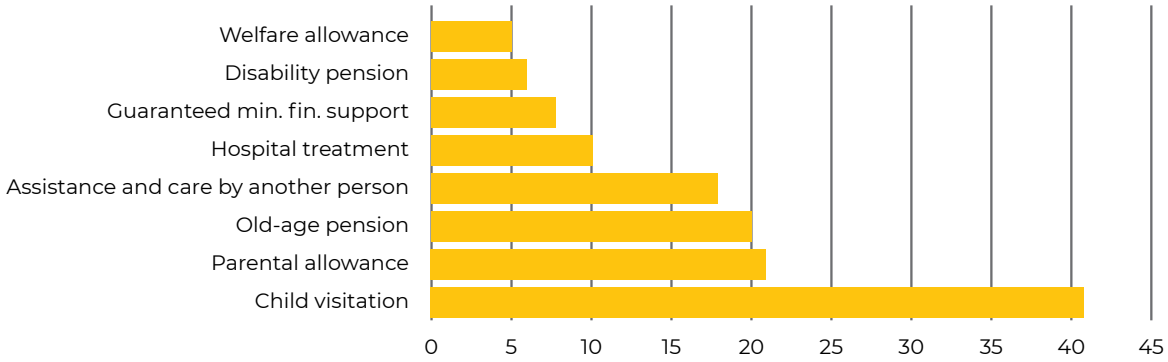
1. **Monitoring of public hearings:** analysis of the representation and treatment of different types of cases.
2. **Access to public information:** resolution obtained from the Administrative Court, providing statistical data on the most prevalent grounds in the cases of the reporting year.
3. **Quantitative and qualitative data:** review of the annual dynamics of cases, duration of procedures, and their resolution.

The monitoring results indicate a need for stronger adherence to the principles of efficiency, legality, transparency, and accountability. It was observed that certain aspects of the administrative procedures - such as the failure to resolve cases within the statutory timeframe, non-meritorious resolution of disputes, and insufficient representation of state authorities as parties in the proceedings - continue to hinder processes for citizens.

Throughout the year, over 140 public hearings were monitored, focusing on issues related to pension rights, child visitation, parental allowance, health benefits, and other social matters. These cases reflect the societal context in which the court operates and highlight the challenges faced by the most vulnerable categories of citizens, including persons with disabilities, Roma people, single parents, and the elderly.

This report not only summarizes the achievements and challenges of the Administrative Court in 2024, but also serves as a foundation for developing concrete recommendations for improving judicial practice and access to justice. The goal of the report is to ensure a fair and efficient judicial system that guarantees the rights of every citizen, with particular emphasis on vulnerable groups.

Chart 1: Number of monitored public hearings, per ground



1. OBSERVATIONS FROM THE MONITORING OF PUBLIC HEARINGS BEFORE THE RNM'S ADMINISTRATIVE COURT

During the reporting period, the Administrative Court faced a significant organizational change due to the retirement of a long-serving judge who was part of the council responsible for cases pertinent to social rights. This change, coupled with an increased volume of cases in this specific legal area, necessitated a reorganization of workload distribution among the judicial councils.

Under the new arrangement, instead of a single dedicated council handling cases in this area, such cases are now distributed across three different judicial councils, which simultaneously handle matters from other legal fields. This change was implemented to improve case flow, reduce the duration of proceedings, and address the growing demand for adjudication in cases arising from social rights, such as pensions, disability rights, parental allowances, and similar issues.

Social rights represent a critical segment of judicial practice, as they often concern vulnerable groups of citizens. Therefore, consistency and expertise in resolving these cases are of paramount importance. The new organizational structure has also introduced certain challenges, such as the time required for the new councils to adapt. This adjustment period temporarily reduced efficiency, leading to the postponement of some scheduled hearings during April and May 2024.

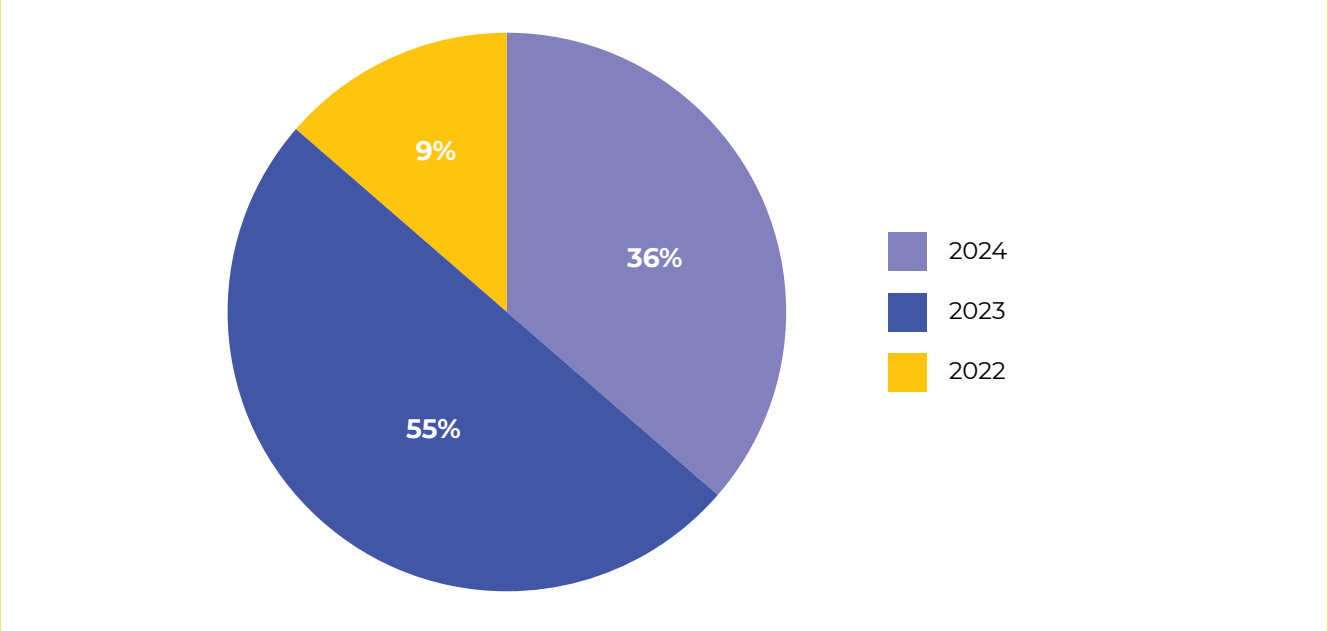
The goal of this organizational change is to ensure a more balanced workload distribution among judicial councils and more efficient handling of cases. However, it is necessary to monitor and evaluate the effects of this reorganization to maintain high standards in judicial practice and ensure access to justice for all citizens, particularly the vulnerable groups most affected by these proceedings.

1.1. THE PRINCIPLE OF ECONOMY AND EFFICIENCY OF THE PROCEDURE

The principle of economy and efficiency[1], as established in the Law on Administrative Disputes (LAD), requires that procedures be conducted promptly, simply, and with the lowest possible costs for the parties involved. This principle aims to ensure timely and fair resolution of administrative disputes by minimizing administrative and legal obstacles that could delay the process. Efficiency is particularly important in cases related to social rights, where any delay can have a serious impact on the lives and wellbeing of citizens. However, despite legal obligations, significant challenges were observed during the reporting period that hinder the application of this principle.

Despite efforts to improve efficiency, it remains evident that some cases dating back to 2022 remain unresolved. Of the 129 public hearings monitored during the reporting period, 11 cases (or 9%) involved lawsuits filed more than two years ago. This highlights the need for better time and resource management, as well as more effective coordination between the court and other public authorities.

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

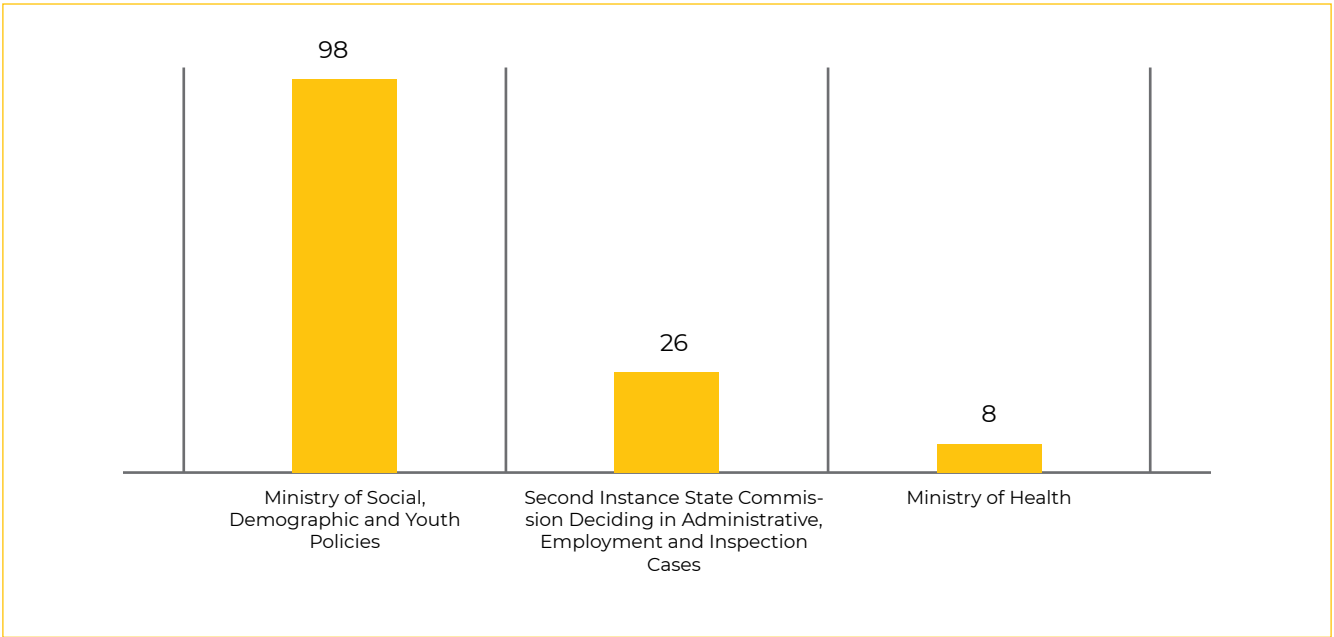


Although the majority of hearings were concluded in a single public hearing, in accordance with the Law on Administrative Disputes, during the reporting period a total of 39 public hearings, or 30% of all monitored hearings, were postponed, which represents a significant number and seriously impacts the duration of proceedings. The primary factor for the postponement of public hearings is the untimely or incomplete delivery of the documents to the parties involved. This issue is particularly noticeable in the region of the capital, where documents often arrive just before the hearing, leaving no time for it to be held, or the party has not received the documents at all, even after they were resent by the Court. This problem of the Administrative Court with the Macedonian Post - the delivery service for the Court's documents - has been ongoing for several years, and no solution has been found to resolve this issue quickly, which causes unnecessary delays in scheduled public hearings and, consequently, prolongs judicial rulings that may be of crucial importance to citizens. In addition to this factor, there are several

1 Article 7 from the Law on the General Administrative Procedure

other factors that also lead to postponements of public hearings, although in an insignificant number of cases. These include: requests for postponements by one of the parties for various reasons; submission of new evidence just before the hearing, without the opposing party being informed; interfering of an interested party in the proceedings; and written requests from proxies or parties for a postponement due to their inability to attend the public hearing.

Chart 3: Administrative bodies sued most often in the reporting period



One of the key issues undermining economy and efficiency is the absence and lack of engagement from ministries and other public bodies, acting as secondary authorities. In numerous cases, these secondary authorities fail to provide quality responses to lawsuits, are absent from public hearings (attended only 13 hearings, or 10% of all monitored public hearings), or submit case documents with delays. This not only prolongs the duration of proceedings but also generates additional costs for the parties and the court.

A particularly critical aspect of this issue is the **failure of secondary authorities to submit official documents**, leaving parties without access to the necessary information to effectively advocate for their rights. Due to such practice, the Administrative Court has imposed only two fines, amounting to up to 20% of the monthly salary of the responsible individuals in the authorities that failed to submit the required documents in administrative cases. While this sanctioning mechanism represents a positive step toward strengthening oversight over administrative bodies, it is clear that such control needs to be applied more frequently and rigorously. **Regular oversight and sanctioning of responsible individuals would have a preventive effect, motivating the administrative apparatus to submit the necessary documents and files in a timely and transparent manner.** Furthermore, the specificity of cases involving social rights demands prompt and professional resolution, as these cases directly affect the fundamental rights of vulnerable citizen groups. In this context, introducing a single-tier administrative system could be an effective solution. Such a system would allow cases to be resolved directly before the Administrative Court, reducing waiting times and eliminating the impact of the improper functioning of the secondary authorities.

These findings underscore the need for improved organizational procedures, more efficient communication with the parties, and the introduction of mechanisms to prevent frequent delays.

Only through full adherence to the principles of economy and efficiency can the Administrative Court meet citizens' expectations for fair, swift, and accessible resolution of their disputes.

1.2. THE PRINCIPLE OF TRANSPARENCY AND ACCOUNTABILITY

The principle of transparency and accountability is essential for building trust in the judicial system and ensuring access to justice for citizens. Pursuant to this principle, the Administrative Court continues to publish information about scheduled public hearings on its website, under the "Court Calendar" [2] section. This information, which includes the date, time, judge, and case details, provides easy access for citizens and other interested parties.

However, to further enhance transparency, a useful measure would be to include information indicating whether a scheduled case pertains to a public hearing or the announcement of a decision. This would facilitate the parties' preparation and help prevent misunderstandings regarding the nature of the scheduled hearing.

Although the "For Judges"[3] section of the website exists as an important resource for the public, it is not fully updated. It still lists retired judges as active, and at the same time, it does not specify the case assignments for active judges, which causes confusion among the parties. Regular updates to this information are necessary to ensure the transparency and accuracy of the data available to the public.

The principle of accountability involves regular reporting on the work of the Administrative Court by way of annual reports submitted to the Judicial Council and publicly published on the Court's website. However, there is a need for these reports to contain more detailed information, such as the most common reasons for the annulment of administrative decisions, the number of fines imposed on officials, and the number of cases where it was determined that authorities did not act in a timely manner. Such data would contribute to increased accountability and enable administrative bodies to improve their practices. In addition to annual reports, it is crucial for the Administrative Court to publish monthly and quarterly reports, which would be available to the public. This would enhance transparency, strengthen citizens' trust in the judicial system, and improve the efficiency and accountability of administrative bodies and officials.

1.3. THE PRINCIPLE OF LEGALITY

The principle of legality[4] is a fundamental principle in administrative proceedings, according to which all acts issued by administrative bodies must comply with legal provisions. This principle is essential for ensuring fairness and protecting the rights of citizens. However, practice shows that there are significant shortcomings in the observance of this principle by administrative bodies, resulting in serious consequences for the parties involved.

One of the main issues is the lack of qualified personnel within administrative bodies. A large number of employees are not legal experts and lack sufficient knowledge of what an administrative act should contain. This leads to the drafting of acts that are incomplete, unclear, or outright illegal. Such acts are often annulled by the courts, but this results in prolonged and costly proceedings for the parties, who struggle for years to exercise their rights.

2 Court Calendar - ***http://www.vsrm.mk/wps/portal/usskopje/sud/kalendar/!ut/p/z1/***

3 For Judges - ***http://www.vsrm.mk/wps/portal/usskopje/sud/za-sudot/za-sudiite/***

4 Article 7 of the Law on Administrative Disputes

Additionally, second-instance bodies often provide responses to complaints that are purely formal, brief, and lack substantial reasoning for the disputed act. Instead of justifying their position, these bodies, in most cases, fail to attend public hearings, further reducing the efficiency of proceedings and burdening the court with the analysis of poorly substantiated acts.

The unlawful actions of administrative bodies often lead to dissatisfaction among the parties, which they express during hearings. Parties note that, in many cases, they encounter incompetence and irresponsibility from officials, with a particular emphasis on suspicions of corrupt activities, especially within first-instance bodies. These corrupt practices undermine citizens' trust in the system and raise doubts about the purpose of administrative justice.

Administrative bodies often fail to observe the principle of active assistance to the parties[5]. Instead of offering legal advice on what documents are needed to assert their rights or whether their requests meet legal conditions, the parties are left to fend for themselves. This not only creates uncertainty for citizens but also results in the submission of incomplete or incorrect applications, leading to their rejection. In many cases, parties initiate long-term proceedings that end without a positive outcome, representing an additional waste of time, finances, and energy.

Non-compliance with the principle of legality by administrative bodies not only leads to additional administrative and judicial procedures, but also causes significant material and psychological harm to the parties involved. Citizens, especially those from vulnerable groups, remain without access to their basic rights, such as social rights, for years. This further emphasizes the urgent need for administrative reform and strengthening of its expertise and integrity.

2. BINDING FORCE OF COURT DECISIONS

The principle of the binding nature of court decisions is a fundamental principle in the legal system[6], aiming to ensure legal certainty and protect the rights of the parties involved in proceedings. However, during the reporting period, significant violations of this principle were observed, leading to serious consequences for the parties and undermining the principle of efficiency in administrative justice.

During the reporting period, it was noted that the same cases, with the same parties, were repeatedly brought before the Administrative Court. This indicates a failure by administrative bodies to comply with the instructions given in previous court rulings. Instead of correcting the identified deficiencies, the bodies issue new acts with the same content, forcing the parties to initiate proceedings once again. This not only generates additional financial and administrative costs for the parties but also prolongs the resolution of their rights, leaving them in uncertainty and often without access to essential social or administrative rights.

It was also noted during the reporting period that the Administrative Court, even when dealing with the same cases with identical content and parties, records the new complaints under new case numbers. This raises questions about the accuracy of statistics regarding resolved cases, as the same case may appear before the court multiple times, often more than three times. Such practices call into question the effectiveness of the judicial system and create room for non-compliance with the provisions of the Law on Administrative Disputes, which require merit-based decisions when an administrative body has failed to act in accordance with the instructions in the initial ruling.

5 Article 17 of the Law on the General Administrative Procedure

6 Article 12 of the Law on Administrative Disputed

A problem is also the relatively low number of merit-based decisions brought by the court. In many cases, the court limits itself to annulling administrative acts and returning the cases for reconsideration, without making an independent decision on the substance of the dispute. This approach leads to repeated proceedings and adds further burden to the parties.

According to Article 60 (1) of the Law on Administrative Disputes (LAD), should the court find that the contested administrative act is unlawful, it shall accept the claim, annul the contested individual administrative act, and decide the administrative matter itself with the judgment fully replacing the annulled individual act - judgment in a case of full jurisdiction.

In summary, this refers to a judgment of full jurisdiction, or a judgment in which the Administrative Court makes a merit-based decision on the administrative matter. In such cases, the court's judgment completely replaces the unlawful act of the defendant body. Merit-based decision-making in a full jurisdiction dispute is the rule, according to LAD, and the goal of administrative litigation is for the court to make a merit-based decision, annulling the public body's act and not sending it back for reconsideration.

Therefore, it is crucial to ensure the proper application of these LAD provisions, particularly the use of the return for reconsideration as an exception, as stipulated in Article 60, paragraph 3[7], which should be used only in rare cases. The Administrative Court should strive to avoid returning the annulled act for reconsideration in as few cases as possible. Additionally, it is necessary to introduce sanctions for administrative bodies that fail to comply with the court's instructions. This would increase their accountability and prevent the repetition of the same mistakes.

3. PARTICIPATION OF THE PARTIES IN THE PROCEDURE

The participation of parties in administrative proceedings is a key aspect of ensuring fairness and equal access to justice. However, practice shows that the participation of the authorities, as the defendant in the proceedings, is often insufficient, creating significant obstacles in the proceedings and undermining the fundamental principles of adversarial proceedings and proportionality.

During the reporting period, there was a notable absence of representatives from the defendant authorities at scheduled public hearings. This prevents a genuine exchange of arguments and evidence, directly violating the principle of adversarial proceedings. The parties, particularly the claimants, remain unaware of the reasons why their requests were denied or what conclusions were reached during the preparation of the administrative act. The lack of attendance from the defendant authorities further shifts the burden onto the court, which is forced to independently analyze the data and make decisions without substantial support from the parties. This not only delays the process, but also puts claimants in a disadvantaged position as they seek clarification of their rights.

In administrative proceedings, particularly in cases related to social rights, claimants are often vulnerable categories of citizens: individuals with low incomes, the unemployed, single parents, or people with disabilities. These parties rarely have the financial means to hire a representative

7 As an exception to paragraph (1) of this article, the court shall annul the challenged individual administrative act and return it for reconsideration to the body that issued it, in the following cases: if the defendant body acted based on discretionary judgment, or if the nature of the administrative matter does not allow for full jurisdictional decision-making, meaning the court cannot fully determine the facts on substantive issues and the true factual situation needs to be established in the administrative procedure.

or attorney to represent them throughout the process. This means they face proceedings for which they lack sufficient knowledge, further hindering their access to justice.

An additional challenge is the insufficient awareness of parties about the possibilities provided by the Law on Free Legal Aid.[8] Many claimants are unaware that, under certain conditions, they can receive free legal assistance, including the appointment of a lawyer to represent them in administrative proceedings or disputes. This lack of awareness limits their ability to participate effectively in the process and reduces their chances of obtaining a fair resolution.

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

Monitoring of proceedings related to social rights reveals significant challenges in the realization of citizens' rights before administrative authorities and the Administrative Court. Social rights, such as the right to old-age pension, parental allowance for children, the right to child visitation, and other forms of social protection, represent fundamental rights for the protection of dignity and well-being of individuals. However, practice shows a range of issues, such as improper application of laws, delays in decision-making, insufficient reasoning of decisions, and non-compliance with previously made decisions. These problems diminish legal certainty and citizens' access to justice, particularly for marginalized and vulnerable groups. The findings from the monitoring aim to identify these deficiencies and propose measures to improve efficiency, transparency, and respect for citizens' rights in proceedings concerning social rights.

4.1. CHILD VISITATION

Child visitation proceedings represent one of the most sensitive and complex administrative and judicial disputes handled by the Administrative Court. These proceedings most often arise from disagreements between parents following the dissolution of their relationship (divorce or breakup of a cohabitation union), where the non-custodial parent seeks regular and continuous visitation with their child. The primary goal of these proceedings is to ensure continued contact between the child and the non-custodial parent, while safeguarding the best interests of the child.

Visitation proceedings are regulated by several laws and secondary legislation that govern family relations, children's rights, and procedures before the Administrative Court. The key legislative acts applied in these proceedings include the Family Law[9] (Articles 76-82), which regulates the parents' right to visitation and contact with the child; the Law on General Administrative Procedure (LGAP) [10], which governs the rules for administrative procedures conducted by social work centers and relevant institutions; and the Law on Administrative Disputes (LAD) [11], which provides for filing a lawsuit with the Administrative Court in cases when challenging administrative acts issued by social work centers or other public authorities.

8 Article 5 and Article 13 of the Law on Free Legal Aid, Official Gazette of RNM no. 101/2019 dated 22.05.2019

9 Law on Family – Official Gazette of RM no:80/1992 dated 22.12.1992

10 Law on General Admirative Procedure - Official Gazette of RM no:124/2015 dated 23.07.2015

11 Law on Administrative Disputes - Official Gazette of RM no:96/2019 dated 17.05.2019

The proceedings begin with the submission of a request to the Social Work Center by the non-custodial parent. The request specifies the desired visitation arrangements and times. The Social Work Center then reviews the request, assesses the best interests of the child, and communicates with both parents. If necessary, the Center may involve a psychologist, pedagogue, or social worker to assess the psychosocial condition of the child and their parents. The Center then issues a decision outlining the visitation regime (how often, on which days, and for how long the visitation will occur). This decision is binding on the parents and must be respected. If the parties are dissatisfied with the decision, the process continues with an appeal to the Ministry of Social, Demographic and Youth Policies, and ultimately, a lawsuit before the Administrative Court. If the Administrative Court's decision becomes final, the parents are required to respect the visitation regime. Should one party fail to comply with the decision, enforcement measures are applied or criminal charges are filed for obstructing the right to contact with the child.

Graph 4: Information obtained from the Administrative Court based on the submitted Request for Access to Public Information, regarding cases related to the right of visitation, for the period from 1 January 2024 to 1 November 2024 (Decision 0819 SPI No. 03-22/2024)[12].

Initiated cases (2024)	**Brought decisions** (2024)	**Appeals filed with the Higher Administrative Court** (2024)
35	**66** (15 upheld; 40 rejected; 2 refused и 9 suspending the procedure)	**25**

Child visitation is the most common ground for cases before the Administrative Court relating to social rights. One of the most frequent issues in child visitation proceedings is the non-compliance with previously issued decisions by one of the parents. Although the Social Work Center issues binding decisions regarding when and how often the non-custodial parent can see the child, in practice, these decisions are often ignored. Throughout the monitoring of judicial proceedings, a very concerning trend has been observed - child visitation proceedings are often used as a means of "revenge" or "spite" between former partners. Instead of focusing on protecting the best interests of the child, parents engage in legal battles that are used as a way to demonstrate power or "defeat" of other parent. In such cases, children become victims of the conflicts between parents and are used as a "tool" to achieve personal goals. This has long-term consequences on the psychological and emotional wellbeing of children, who often feel under pressure or forced to take sides. The rights of the child should be central in visitation proceedings. However, in practice, children are rarely consulted when decisions about visitation are made. The Family Law stipulates that children should be heard when they are capable of expressing their opinion. This rule is not adequately applied. Children are often not consulted, or their opinions are not taken into account when decisions are made. This can lead to dissatisfaction among children and further tensions in their relationships with parents.

12 The statistical data related to the right to receive an old-age pension, family pension, disability pension, welfare assistance, assistance and care from another person, parental allowance for a child, a disability allowance, child visitation rights, and reimbursement of costs for hospital treatment and purchased medications were obtained from the Administrative Court based on a submitted request for access to public information, Decision 0819 SPI no. 03-22/23.

4.2. PARENTAL ALLOWANCE

The parental allowance is a financial support provided by the state for families with children, aimed at promoting natality and ensuring financial security for parents. This right is part of the social protection system and is regulated by laws and secondary legislation. There are several types of this allowance: parental allowance for a third child, education allowance for children, one-time monetary allowance for a newborn child, and allowance for foster care of a child without parents. While obtaining this allowance should be a straightforward process, legal disputes often arise in practice due to the rejection of claims by the Social Work Centers.

The main laws and regulations governing the procedure for the parental allowance are: the Law on Child Protection[13], which regulates the types of allowances and the conditions for obtaining them (Articles 21-40); the Law on General Administrative Procedure (LGAP), which governs the procedure for submitting requests and issuing decisions by the Social Work Centers; the Law on Administrative Disputes (LAD), which provides for filing a lawsuit with the Administrative Court when challenging the administrative acts (decisions) of the Social Work Centers or the Ministry of Social, Demographic and Youth Policies; regulations and guidelines from the Ministry of Social, Demographic and Youth Policies governing the manner of obtaining the parental allowance and the required documentation.

The procedure for obtaining the parental allowance begins with submitting a request to the competent Social Work Center based on the applicant's place of residence. The request is accompanied by the necessary documents, such as the child's birth certificate, the parent's ID card, and a citizenship certificate. The Center reviews the documents and, if the conditions are met, issues a positive decision for the allowance. If the request is rejected due to incomplete documentation or failure to meet the conditions, the applicant has the right to file an appeal with the Ministry of Social, Demographic and Youth Policies. If the Ministry's decision is also negative, the applicant can file a lawsuit with the Administrative Court, which checks the legality of the previous decisions. The Administrative Court may confirm the decision, annul it and return the case for reconsideration, or make a merited decision that will be binding on both parties in the procedure.

Graph 5. Public information on cases invoking the right to parental allowance for the period from 1January 2024 to 1 November 2024.

Initiated cases (2024)	**Brought decisions** (2024 година)	**Appeals filed with the Higher Administrative Court** (2024)
32	**36** (21 upheld; 14 rejected and 1 refused)	**9**

One of the most significant problems in realizing the right to parental allowance is that applicants are often not familiar with the provisions of the secondary legislation and the regulations governing this area. Although the Law on Child Protection establishes the basic conditions for receiving the allowance, the details regarding the required documentation, family budget criteria, and procedures for checking applicants are included in the secondary legislation. The lack of awareness leads to many requests being rejected, for example, due to exceeding the family budget limit. A common case is when an influx of funds in the form of a lump sum (e.g., betting winnings, donations, or assistance from relatives) or a salary of one of the parents exceeds the allowed threshold, resulting in rejection or termination of the parental allowance. Another frequent reason for the termination of the allowance is when one of the children in the family starts working, thus increasing the family income beyond the legal limit. In most cases, parents are unaware of these restrictions and do not know that any change in income must be reported to the Social Work Center, which further creates legal uncertainty.

13 Law on Child Protection Official Gazette of RM. no:23/2013 dated 14.02.2013

Another often observed issue is the issuance of decisions terminating the parental allowance due to an alleged improvement in the child's condition. This problem is especially pronounced with allowances for children with special needs or disabilities. Administrative bodies, based on assessments that should be made by experts (doctors, educators, psychologists), issue blanket decisions stating that the child's health condition has "improved," without providing clear and detailed justification for such a conclusion. Furthermore, these decisions are not accompanied by specific medical evidence or expert findings, which raises doubts about the objectivity of the process. Such decisions are frequently challenged before the Administrative Court, where the court annuls the decisions and returns the case for reconsideration, but this further prolongs the applicants' rights. Parents believe that such decisions are made without in-depth analysis or consultations with experts.

In practice, there have been cases where administrative bodies (the Social Work Center) issue decisions based on an alleged "home visit" to the applicants, even though no such visit has taken place. The decisions often state that representatives of the Social Work Center conducted an inspection of the home and found facts that then serve as the basis for terminating or rejecting the parental allowance. In reality, these "visits" are often not conducted, and families do not receive any notification that inspectors will inspect their home. Such actions contradict the principles of transparency and material truth, which are regulated by the Law on General Administrative Procedure (LGAP). This phenomenon creates legal uncertainty for the parties and often motivates them to file a complaint with the Administrative Court, requesting evidence of when and how the visit was made. In such cases, the court often annuls the decision of the Social Work Center due to lack of evidence of the visit.

4.3. OLD-AGE PENSION

According to the Law on Pension and Disability Insurance[14], the right to an old-age pension is granted to men who reach the age of 64 and women who reach the age of 62, provided they have at least 15 years of pensionable service. The old-age pension is obtained by initiating a procedure for obtaining an old-age pension and submitting an application to the branches or offices of the Pension and Disability Insurance Fund of North Macedonia (PDIFNM) based on the place of the last insurance.

It is the responsibility of insured individuals to timely check whether their employers have regularly paid the contributions for pension and disability insurance. If the contributions have not been paid, they will not be considered in the pensionable service, which can reduce the amount of the old-age pension. The method of calculating the old-age pension is not clear and is entirely unpredictable.

Graph 6. Publicly available information on cases pertinent to the right to an old-age pension for the period from 1 January 2024 to 1 November 2024.

Initiated cases (2024)	**Brought decisions** (2024)	**Appeals filed with the Higher Administrative Court** (2024)
36	**28** (9 upheld; 16 rejected; 2 refused and 1 suspending the procedure)	**12**

14 See Article 18 of the Law on Pension and Disability Insurance- Official Gazette of RM. No.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; 193/2024;

A large number of claimants seeking legal protection complain that their pension has been incorrectly calculated. The biggest problem arises from the application of the formula for calculating the old-age pension, which is considered complicated and difficult to understand. Even some representatives of the Pension and Disability Insurance Fund are not fully familiar with it. Furthermore, there is a lack of transparency, as parties find it difficult to check whether their pension has been correctly calculated.

Many claimants have discovered that their employers have not paid the contributions for pension and health insurance. Workers were unaware of this situation because employers did not inform them of such omissions. In such cases, the period for which the contributions were not paid **is not considered part of the pensionable service**, meaning that period is not included in the calculation of the old-age pension. These cases most often end up in lawsuits before the Administrative Court, where the parties request the recognition of the time worked or demand that the employer be obligated to pay the contributions.

4.4. ASSISTANCE AND CARE FROM ANOTHER PERSON

The right to assistance and care from another person is a form of social protection granted to individuals who, due to health, physical, or mental disabilities, are unable to care for their basic daily needs independently. This right is awarded as a monetary allowance to cover the costs of care and support from another person, who assists the beneficiary with daily activities such as feeding, dressing, maintaining hygiene, mobility, and other essential care. The goal of this right is to improve the quality of life for individuals with disabilities, chronic illnesses, or permanent incapacity.

The right to assistance and care from another person is regulated by several laws and subordinate acts: the Law on Social Protection[15], governing the right to assistance and care from another person, the conditions for acquiring the right, the amount of the allowance, and the procedure for realizing the right (Articles 48-54 of the Law); the Law on General Administrative Procedure (LGAP), governing the procedure for submitting requests and making decisions by the Social Work Center; the Law on Administrative Disputes (LAD), providing for filing a complaint before the Administrative Court if the applicant believes that the administrative body (Social Work Center) or the second-instance body (Ministry of Social, Demographic and Youth Policies) has made an unlawful decision; secondary legislation and regulations adopted by the Ministry of Social, Demographic and Youth Policies to regulate the details of the criteria for assessing the functional incapacity of the individual and the required documentation for obtaining this right.

The procedure for exercising the right to assistance and care from another person begins with the submission of a request to the competent Social Work Center based on the applicant's place of residence or their legal representative. The necessary documents, such as the birth certificate, identity card of the applicant, and medical documentation confirming the health condition of the person, must be attached to the request. The Social Work Center forms an expert commission consisting of a social worker, psychologist, and health worker, who assess the person's ability to perform basic life activities independently. After the assessment, the Center makes a decision to approve or deny the right to assistance and care from another person. If the request is denied, the party has the right to appeal to the Ministry of Social, Demographic and Youth Policies. If the Ministry's decision is also negative, the party can file a lawsuit with the Administrative Court, which reviews the legality of the previous decisions and makes a final ruling or sends the case back for reconsideration.

15 Law on Social Protection – Official Gazette of RM no.32/2024 dated 12.02.2024

Graph 7. Public information regarding cases pertinent to the right to assistance and care from another person, for the period from 1 January 2024 to 1 November 2024.

Initiated cases (2024)	**Brought decision** (2024)	**Appeals filed with the Higher Administrative Court** (2024)
55	**59** (37 upheld; 17 rejected; 2 refused and 3 suspending the procedure)	**14**

One of the most common problems in exercising the right to assistance and care from another person is the improper and unprofessional assessment of the individual's health condition by the administrative bodies. Social work centers and expert commissions often issue decisions rejecting the request or discontinuing the right to assistance and care, claiming that the person is capable of independent living and does not require support from another person. The problem arises when this assessment is not supported by appropriate medical findings or specialist opinions. On the contrary, in many cases, medical reports clearly indicate a permanent or significant inability of the person to perform basic daily activities (such as feeding, maintaining hygiene, and moving), yet the expert commission ignores or misinterprets the findings. In the decisions, instead of providing a detailed explanation of how the conclusion about the individual's capability was reached, general phrases are often used, such as: "It is concluded that the person can care for themselves independently." As a result of such assessments, parties are forced to file complaints and lawsuits with the Administrative Court, which in many cases upholds the complaints and annuls the decisions made by the administrative bodies.

Another significant problem is the automatic termination of the right to assistance and care if the party fails to submit the requested additional medical findings or reports within the specified time frame requested by the Social Work Center. According to the Law on General Administrative Procedure (LGAP), the authority is required to inform the parties of their obligations and the deadlines they must adhere to. In practice, these notifications are often provided only in writing, but given that the individuals in question have impaired health conditions, struggle to move, or have limited access to communication channels, they do not always manage to submit the required documents on time. The administrative body does not provide additional support or use alternative methods of communication, such as phone calls, emails, or SMS notifications. This leads to the automatic termination of the right, which seriously threatens the rights of the individuals who depend on this assistance for their daily care. An additional problem is that in order to reactivate their right, individuals must submit a new application and undergo the entire process again, which can take several months.

Blanket decisions made by administrative bodies are yet another serious issue, leading to delays in the process of obtaining the right to assistance and care. In their decisions, Social Work Centers and the Ministry of Social, Demographic and Youth Policies often use generic wording without specifying the concrete facts and evidence on which the decision is based. For example, many decisions state that "based on the conducted assessment, it was determined that the person is capable to function independently", but it is not specified when the assessment took place, who conducted it, what the specific findings were, and which facts were considered. Such generalization continues during administrative disputes before the Administrative Court, where the defendant (the Center or Ministry) in its responses to the complaint(s) does not provide specific arguments or facts, but uses general statements. This approach often results in the court upholding the complaint, as the court annuls the decision due to a lack of explanation and failure to comply with the obligation for transparency and full fact-finding.

Particularly concerning is the situation when administrative bodies claim to have conducted a "home assessment" of the party, yet no such review was actually performed. In some cases, employees of the Social Work Center simply visit the home, but do not conduct a proper assessment of the individual's condition, instead providing prepared reports that state the person is capable of self-care. In these cases, the parties are put in a position where they are asked to sign a report containing findings they do not agree with. If the party refuses to sign the report, the Center still uses it as evidence for issuing a negative decision. This practice represents a serious violation of the parties' right to a fair and transparent process. In many of these cases, the Administrative Court upholds the lawsuits, pointing out that it cannot be determined whether the review was actually conducted and whether there are relevant and valid pieces of evidence on which the decision was based.

4.5. WELFARE ASSISTANCE

Social welfare assistance is a form of financial support provided by the state to citizens who are at social risk and do not have sufficient means to meet their basic living needs. The goal of this right is to ensure a minimum income for individuals and households that are materially insecure and to protect them from poverty and social exclusion. This right is granted based on an individual assessment of the household's condition and is linked to criteria such as the family's income, the number of household members, the health condition of the members, and the property status. The right to welfare assistance can be realized through several types of financial support, including: guaranteed minimum financial assistance, disability allowance, social security allowance for the elderly, and one-time cash assistance.

The right to welfare assistance is governed by the Law on Social Protection, which defines the types of welfare assistance, the conditions for exercising the right, and the procedure for receiving this assistance; the Law on General Administrative Procedure (LGAP), which governs the process of submitting applications, issuing decisions, and appeals; and the Law on Administrative Disputes (LAD), which provides for filing a complaint with the Administrative Court in case of a dispute regarding the decision of the Social Work Center or the Ministry of Social, Demographic and Youth Policies.

The process of exercising the right to welfare assistance begins with submitting an application to the competent Social Work Center according to the applicant's place of residence. The application is accompanied by necessary documents such as an ID card, income certificates for the household, property documents, and medical documentation (if needed). The Social Work Center assesses the material condition of the household and, if necessary, conducts a home visit to establish the factual condition. Based on the gathered evidence, the Center issues a decision to approve or deny the request. If the decision is negative, the applicant has the right to file an appeal with the Ministry of Social, Demographic and Youth Policies. If this decision is also negative, the party may file a complaint with the Administrative Court, which examines the legality of the decisions and may annul or uphold the decision.

Graph 8. Public Information on cases pertinent to the right to welfare assistance from 1 January 2024 to 1 November 2024.

Initiated cases (2024)	**Brought decisions** (2024)	**Appeals filed with the Higher Administrative Court** (2024)
51	**37** (15 upheld; 15 rejected; 5 refused and 2 suspending the procedure)	**15**

One of the most common problems faced by recipients of welfare assistance is the obligation for regular medical check-ups and the constant submission of the same documentation, even though the person has been diagnosed with a **permanent and incurable illness**. Administrative bodies (the Social Work Center and the Ministry of Social, Demographic and Youth Policies) require recipients to periodically submit medical reports and specialist findings as evidence that their condition has not changed, even though the diagnosis is permanent and known to the authorities. This request is not only unnecessary but also burdens the recipient with additional financial costs for medical exams and the issuance of new reports. Furthermore, this practice is problematic for individuals with **limited mobility, disabilities, or mental health issues,** as they are not able to easily access healthcare services. Instead of recognizing the permanent nature of the illness, authorities treat recipients as though they need to "prove" their condition constantly, which adds an extra psychological and financial burden. Such requirements are contrary to the principle of economy and appropriateness in administrative procedures, as established in the Law on General Administrative Procedure (LGAP).

Another serious issue is the automatic termination of the right to welfare assistance due to the inflow of funds from various sources, most commonly from winnings from games of money and chance. When an inflow appears in the recipient's transaction account, authorities automatically interpret it as a change in the recipient's material condition. Instead of suspending the right only for the month in which the inflow occurred, authorities **typically terminate the right entirely**, even if the inflow is a one-time event and does not represent regular income. This is especially true for winnings from games of money and chance, which in some cases may be small amounts, but due to the inflexible approach of the administrative bodies, the recipient permanently loses their right to social assistance. This approach is contrary to the principle **of proportionality** in administrative procedures, as the authorities fail to distinguish between a one-time inflow and regular monthly income. The termination of the right without prior assessment of the circumstances leads to serious consequences for recipients, as they must restart the entire procedure to obtain the right, which can take several months.

When the right to social welfare assistance is terminated, the applicant must restart the entire process of exercising the right. This process is complex and time-consuming, as it involves submitting a new application, resubmitting documents, a visit from the Social Work Center, and a new decision being issued. Meanwhile, the recipients are left without financial support, which further worsens their material condition. The system does not provide for the possibility of **temporary suspension of the right** but instead fully terminates it, which is an excessive and unnecessary measure.

Recipients of social assistance are often vulnerable categories of citizens (people with disabilities, elderly individuals, people with chronic illnesses) who have limited access to communication channels. In practice, authorities often contact recipients **only through written notifications**, with deadlines for submitting new reports or documents. These notifications do not always reach the recipients on time, especially if they live in rural areas or cannot regularly check their mail. Instead, authorities should use multiple forms of communication, such as phone calls, SMS messages, or email notifications, as stipulated with the Law on General Administrative Procedure (LGAP) under the principle of procedural efficiency. Failure to adhere to this principle leads to **late submission of documents**, resulting in the termination of the right to assistance.

5. RECOMMENDATIONS FOR IMPROVING ACCESS TO JUSTICE FOR CITIZENS BEFORE THE ADMINISTRATIVE COURT OF THE REPUBLIC OF NORTH MACEDONIA

- Strengthening the staffing and professional capacity of administrative bodies by hiring qualified lawyers or training the existing staff to produce legally sound and high-quality administrative acts.
- Improving transparency and updating data by regularly updating the Administrative Court's website.
- Strict adherence to the LAD and merit-based decision-making in disputes as a rule, while returning cases for reconsideration should be an exception.
- Application of LAD provisions governing the imposition of penalties on administrative bodies that fail to comply with court instructions or fail to submit case files, thus causing delays or repetitive handling of cases.
- Strengthening the adversarial procedure and proportionality principle by requiring defendant bodies to attend public hearings and actively participate with arguments and explanations.
- Administrative bodies should ensure active legal assistance by providing clear guidelines to parties on the necessary documentation and conditions for the realization of their rights, as well as informing citizens about the Law on Free Legal Aid and how to utilize free legal aid.
- Exploring the possibility of introducing a one-step administrative system for specific categories of cases, which would shorten waiting times, ensure efficient resolution or simplification of procedures, and reduce administrative barriers for parties caused by the improper functioning of second-instance bodies.
- Increasing transparency in the operations of administrative bodies, especially first-instance bodies, to prevent corrupt practices.

