



RESEARCH REPORT:

Accessibility and Inclusiveness of Courts in Macedonia

Skopje, July 2017



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This research conducted to learn more about accessibility and inclusiveness of courts in Macedonia is part of the project entitled "I have a right to equal access to justice" implemented by "Open the Windows", Association of Assistive Technology. This project forms a part of the civil organizations re-granting scheme under the "Network 23+" project, IPA 2015/372-126, funded by the European Union. The "Network 23+" project is implemented by the European Policy Institute (EPI), as project lead, in partnership with the Helsinki Committee for Human Rights in the Republic of Macedonia.

Both the research methodology and the report have been drafted by Ms. Radmila Stojkowska Aleksova, head of the Center of Assistive Technology within the "Open the Windows" Organisation. In the stage of field research, the following researchers were included: Ms. Sandra Peshevska Mickovska, Mr. Sabri Zendeli and Mr. Ifraim Ljuta. We would like to express our gratitude for the professionalism, timeliness and the active participation they have demonstrated, as well as for their contribution to this project.

Moreover, we would like to express our deepest gratitude to the sign language interpreters involved who shared their experiences and stories learned during their many years of professional engagement. Their genuine commitment and efforts have enriched this report.

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1. INTRODUCTION

The research presented herein refers to past experiences and initiatives aimed at ensuring accessibility and inclusiveness of courts in Macedonia. The research is part of the project entitled **“I have a right to equal access to justice”** implemented by “Open the windows”, Association of Assistive Technology. This project forms part of the civil organizations re-granting scheme under the “Network 23+” project, IPA 2015/372-126, funded by the European Union. The “Network 23+” project is implemented by the European Policy Institute (EPI), as project lead, in partnership with the Helsinki Committee for Human Rights in the Republic of Macedonia.

The research covered courts in Macedonia. It was based on a survey in the form of questionnaire which was sent to the institutions. Persons with various disabilities, working under the motto “NOTHING ABOUT US WITHOUT US” assumed the role of researchers who paid visits to the courts and carried out interviews with the contact persons suggested by the respective institutions. The research took place in the period January-March, 2017.

The use of quantitative and qualitative methods and techniques for the purpose of conducting the research has helped identify all challenges, difficulties and changes needed to improve the current state of affairs and to raise the level of accessibility and inclusiveness of Macedonian courts to ensure equal access to justice for the persons with disabilities.

During the course of the research, Open the Windows (OtW) has managed to establish good cooperation with the courts and the entire process took place without any drawbacks. This is a first activity and cooperation between the Organization and the courts throughout the country.

1.1. About the Project

The overall objective of the Project was as follows: To contribute to an improved access to justice for persons with disabilities.

The activities aimed at reaching the objective stated above were as follows:

- Researching accessibility and inclusiveness of judicial institutions in terms of exercising the right to access to justice for persons with disabilities;
- Drafting and promoting recommendations aimed at improving accessibility to judicial institution and access to justice in general for persons with disabilities;
- Drafting and publicly promoting two case studies including persons with different types of disabilities regarding their experiences in exercising their right to access to justice.

The timeframe for project implementation stretched from May 2016 to August 2017.

1.2. Methodology

The main objective of the research was to provide an insight into the current state of affairs regarding accessibility and inclusiveness of Courts in Macedonia, as well as into the services they offer to persons with disabilities.

The specific objectives of the research were as follows:

- To provide data on the physical accessibility to courts' buildings;
- To provide data on the accessibility to court services and information courts produce in their day-to-day operations, and
- To provide data on how ready court employees are to work with and provide services to persons with different types of disabilities.

Based on its character, this research was of combined type, as both **quantitative and qualitative approaches** were employed to collect the necessary data:

The **survey method** was used to collect quantitative data, and therefore, the instrument called "survey questionnaire" was used to research accessibility and inclusiveness of courts in Macedonia, which is attached in the **Appendix 1** to the present Report. In cases when particular court had appointed person responsible for dealing with persons with disabilities, the survey questionnaire was sent to them; in cases when no such person had been appointed, the questionnaire was sent to an appropriate contact person, based on the recommendation of the respective court.

Part of the data was collected by means of field research based on application of two methods: **semi-structured interview and observation**. The field research has managed to provide deeper and more insightful overview of courts' accessibility, on one hand; and it also was an opportunity to double-check the data obtained through the survey. It especially refers to courts' self-assessment in terms of their accessibility, as well as in terms of service accessibility in general. During the field visits of the courts, the instrument called "Interviewing and Observation Guide" has been used, which is also provided in the **Appendix 3** to the present Report.

Three external collaborators with different types of disability, including hearing and visual impairment, were hired for the purpose of the field research. The choice of researchers was done by taking in consideration the available communication options and collecting the data necessary.

The persons included were selected based on the following criteria:

- Previous experience in research-related tasks;
- Ability to communicate with different persons;
- Previous experience in collecting, selecting and entering data to pre-set framework;
- Motivation and interest into activities of this kind.

The persons invited to participate into this activity were selected out of the pool of contact databases collected within the frame of various projects kept by OtW.

The selected persons went through one-day workshop specifically designed to present the objective, the manner and the methods of conducting the research, as well as the personal responsibilities and tasks of each and every of the researchers.

The **case study method** was also used during this research. This Report shares some experiences and stories collected through the conversation with two sign language interpreters.

1.3. Sampling

The research included 34 courts in Macedonia. Survey questionnaire was sent to each of the institutions below. The questionnaire was sent electronically to the contact persons recommended by the courts based on previous arrangements made via phone conversations.

Before the start of the research, invitations to participate were sent to all courts included in the research. All courts provided due response, affirming their interest to participate and they recommended a contact person to facilitate any further communication.

The same persons were contacted to arrange the terms of the field visits.

The table in **Appendix 2**, shows which courts filled out the questionnaires responded and accepted the request for field visits.

1.4. Processing and Displaying Results

Depending on their nature, the collected research data were processed in both quantitative (using simple statistical procedures) and qualitative manner.

2. FINDINGS

2.1. Survey Data

This part of the Report focuses on presenting the specific characteristics of the courts involved.

1. Courts

The questionnaire was completed and sent back by 32 courts (94%) out of the total of 34 courts operating on the territory of Macedonia.

2. Data on Physical Accessibility to Court Buildings

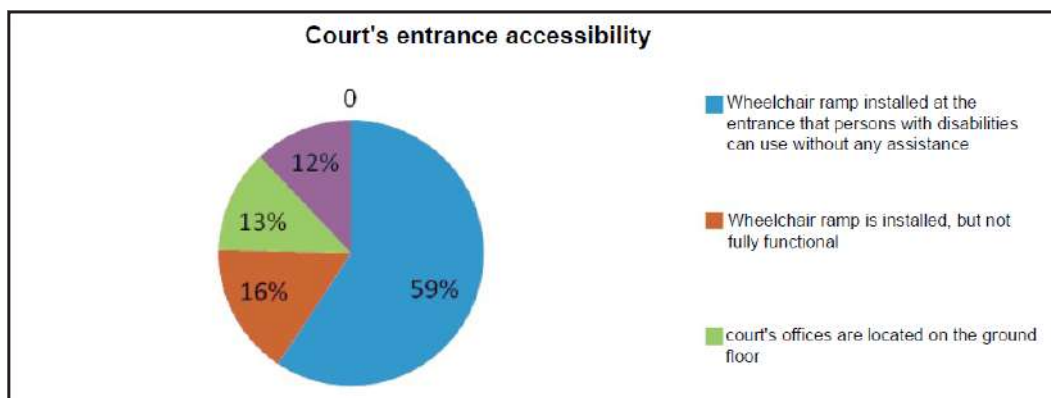
The first set of questions in the survey questionnaire focused on researching the actual physical accessibility of the courts. The degree of physical accessibility was researched based on the following parameters:

- Accessibility to court's entrance;
- Accessibility to court's interiors;
- Accessibility to restrooms;
- Accessibility for persons with visual impairment, and
- Accessibility for persons with hearing impairment.

The respondents were asked to answer five closed-ended questions. Three to five choices rating the situation in terms of the physical accessibility of the courts were offered for each of the question. Respondents were asked to choose only one of the choices offered to each of the questions.

19 (59%) of the Courts responded that there is a wheelchair ramp outside court's entrance that can be used by persons using wheelchairs without any assistance; 5 (16) of them responded that although there is a wheelchair outside the entry of the court building, it cannot be used by persons with physical disabilities; 4 (12%) of the Courts responded that they are located on the ground floor, thus eliminating the need for wheelchair ramp at the entryway; and finally, an equal number of courts (4) responded that there is no wheelchair at the entrance. None of the courts has responded that they saw no need for installing a wheelchair ramp at the entrance.

Below is the graphical representation of the responses (in percentages).



In terms of the question about the accessibility to the inside court area, only 4 (12%) of the courts responded that there is an elevator allowing persons with disabilities to move between floors; majority of the courts, or 16 (50%) of them, responded that the premises in which the services for persons with disabilities are offered are located on the ground floor; and 12 (38%) of the courts responded that no substantial physical adaptations have been done to their respective buildings to facilitate the movement of persons with disabilities.

Only 2 (6%) of the courts have stated that their buildings house restrooms that are accessible and have been adapted to respond to the needs of persons with disabilities; 9 (28%) of the Courts responded that there is no need to remodel their restrooms, as the standard ones they have can be used by all clients; and finally, 21 courts responded that there are no accessible restrooms in their respective buildings.

Majority of the courts, or 12 (38%), have responded that, so far, there have not been any adaptations done to facilitate the access of persons with hearing impairment, and only part of them have stated that they do hire sign language interpreters to meet the needs of persons with hearing impairment, and finally, 11 (34%) of the Courts responded that there is no need to provide this service, as most often, persons with hearing impairment are accompanied when they seek the services of the Court. Only 1 (3%) court responded that persons with hearing impairment are able to seek court services without sign language interpreter.

The situation in terms of the presence or absence of adaptations for persons with visual impairment is rather similar. Majority of the courts, or 18 (56%) of them, responded that they have not done any adaptations to facilitate the movement of persons with visual impairment, and 14 (44%) of them responded that they have assigned an employee to accompany persons with visual impairment seeking court services. None of the Courts has installed tactile paths or Braille signage to assist people with visual impairment in their movement.

The table below illustrates the data collected from the courts regarding physical accessibility.

Type of adaptation done by courts	No. of courts	Representation (in %)
Access wheelchair ramp installed at the entrance	24	75%
Elevator	4	12%
Ground floor premises	16	50%
Adapted restrooms	2	6%
Marked tactile path	0	0%
Braille signage	0	0%
Person designated to accompany persons with visual impairment	14	44%
Hiring sign language interpreter	8	25%

From the table above, it can be clearly noticed that majority of the courts have wheelchair ramp installed outside the entrance, but this adaptation is not fully functional in all of the cases, since, based on the answers provided by the courts, some of them can not be used by persons with physical disabilities independently. In terms of the interior area of the courts and movement between different floors, only 4 of the courts have responded that they have made some adaptations in the form of installing an elevator inside the building. Majority of the courts make some adaptations to accommodate persons with disabilities by placing the premises where services for people with disabilities are provided on the ground floor. Based on the answers collected, only 2 of the courts have responded that they have accessible restrooms, and none of the courts has put in place tactile paths or Braille signage for persons with disabilities.

Some of the courts have responded that they provide sign language interpretation services and appoint persons to accompany persons with visual impairment.

3. Data on Service and Information Availability

With the second part of the questionnaire our intention was to collect data on accessibility in terms of court proceedings and availability of support for persons with disabilities by identifying the following areas:

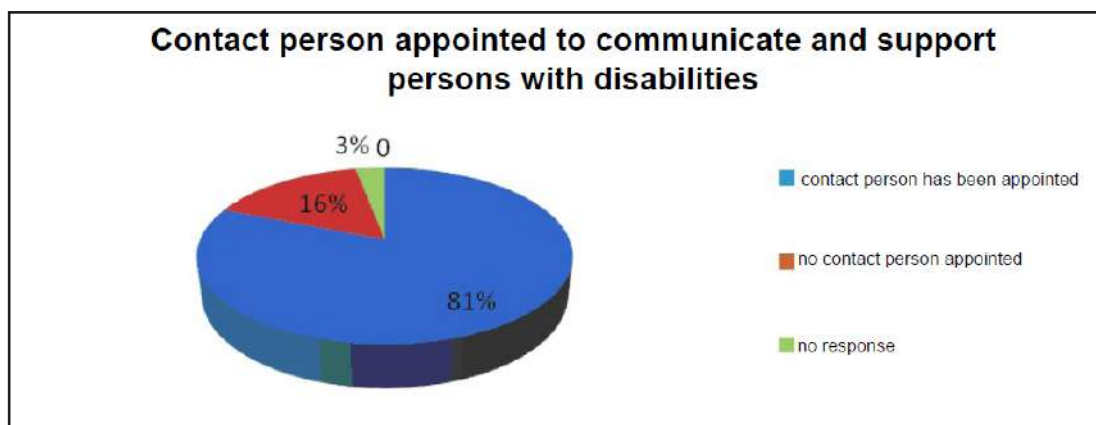
- Records of the number of persons with disabilities using court services and records of the number of persons involved as a party to court proceedings;
- How prepared court employees are to deal with persons with disabilities.

In terms of record keeping, majority of the courts, or 29 (91%) of them, do not keep records on the number of persons with disabilities who have sought court services, that is, none of the courts keeps records on how many persons with disabilities have been involved as a party to court proceedings. One of the courts has responded that it uses a special form to keep records of persons with disabilities seeking its services, while two of the courts have responded that they dispose of all means necessary to keep such records, but no persons with disabilities have sought the services of these two particular courts so far.

As regards the question about which is the most common category of persons with disabilities they encounter in daily operations, the courts have responded that the most common categories are persons with physical disabilities, persons with intellectual disabilities, as well as persons with visual and hearing impairment. So far, none of the courts responded having experience with people with autism. The following information is also quite interesting: Despite the claim that courts do not keep records about persons with disabilities because of the lack of experience in dealing with them, when enumerating the categories of persons with disabilities who have sought and received court services they do state certain categories they have dealt with in their daily operations.

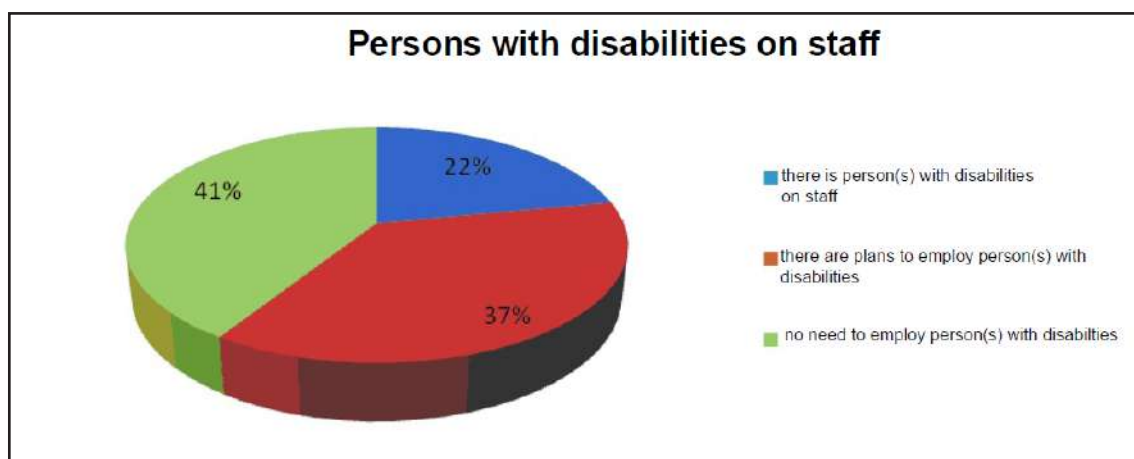
To ensure easier communication and support for persons with disabilities, some of the courts responded that they have appointed a contact person responsible for matters and services related to persons with disabilities. These particular persons have gone through specific training organized by the Ministry of Labour and Social Policy. Based on the answers provided by the courts, 81% of them have assigned contact person in charge of dealing with persons with disabilities.

The following presentation illustrates the responses:



Based on the information provided in the answers of the courts, in addition to the persons in charge of contacting with persons with disabilities, the training session organized by the Ministry of Labor and Social Policy was also attended by other employees coming from 10 courts, which equals to 30% of our research sample. To provide additional insight in terms of this question, the courts were asked to state what types of trainings they would need in order to improve the way they deal with persons with disabilities. Only two of the courts have provided additional information for this question stating that they need trainings aimed at acquiring new knowledge and skills how to communicate with persons with disabilities, or more specifically, how to interact with them.

Courts were also asked to respond if any of their staff are persons with disabilities. The chart below shows the answers obtained:



None of the courts has provided records on the number of persons with disabilities participating as party to court proceedings in capacity of defendant or plaintiff. Based on the past experience and the assessment of the state of affairs, persons with disabilities most often appear as parties to court proceedings related to declaration of legal incompetence.

4. Data on courts' readiness to work with and provide services to persons with different types of disabilities

The third section of the questionnaire focused on researching accessibility to information provided and shared by the courts. Based on the responses, the considerations of the courts are as follows: 18 (56%) of the courts responded that although they have a website, they are not sure if it has been designed in observation of accessibility standards; and 5 (16%) of them responded that their websites meet accessibility standards. None of the courts has stated that they provide easily readable materials, and 14 (44%) of them responded that the information they offer to the general public are sufficiently accessible and that they do not see a need for any additional adjustments. 8 (25%) of the courts consider that their information is available because they publish it on court's notice board, and 9 (28%) responded that they have never done any adjustment to court's materials so far.

The additional comments provided by the courts referred to the need to improve conditions, infrastructure and support for court authorities in order to improve daily activities and services delivered to persons with disabilities: *“The court has great need of adjusting court's infrastructure and barriers, as well as of more resources to observe all conditions and criteria for persons with disabilities”*; *“We need specific guidance regarding the needs of people with disabilities in order to provide measures aimed at facilitating their access.”*

3. ANALYSIS OF SURVEY RESULTS AND COMPARISON TO FIELD RESEARCH RESULTS

This section of the Report provides an overview and analyses the results collected through the survey. Additionally, these results are compared to the results of the fieldwork. The field research took place in March, 2017 and was conducted by three field researchers. The researchers visited 30 courts throughout the country and conducted interviews and observation.

Below is the analysis of the data collected in this survey:

The field research data serves to confirm the state established by the survey.

Namely, some of the courts have wheelchair ramps, but they are not fully functional and cannot be used by people with physical disabilities, especially by those who use wheelchair. These persons need additional support despite the presence of a wheelchair ramp which is supposed to provide accessibility to court's building. In some of the courts, although there is a wheelchair ramp installed outside court's entrance, the access to court's building was not ensured to all citizens as stairs have been built just past the ramp. This means that, in essence, some people with disabilities can only access the judicial police booth, meaning that they are prevented from entering the building and exercising their rights and services deriving from the law. In such situations, courts make adaptations by means of providing court services to people with disabilities outside, in front of court's entrance. In some of the courts, there is practice of installing bells, so in case a person with disabilities seeks certain court service, the employee in charge of the service requested would come downstairs and provide the service requested just outside the entrance of the building.

The field research was conducted by three researchers who were selected based on a pre-set criteria.. Their findings have shown that the concept of physical accessibility is poorly understood and equally poorly applied by these institutions. The presence of a wheelchair ramp at court's entrance is perceived as accessibility; however, the necessary and prescribed standards are not taken in consideration. In this section, the research has confirmed that improvisations are found on the field which is not always beneficial for the citizens.

Accessibility to interiors is the second element of accessibility which was subject of this research. The survey clearly points out to a lack of accessibility to courts' interiors. Only four of the courts have interior elevators in their buildings. Such elevators meet accessibility standards only in some of the cases in terms of how big they are to accommodate a person using a wheelchair and how user-friendly they are to persons with visual impairment. The researchers have not witnessed any large-sized or Braille floor number signs in any of the courts. Moreover, they have also noticed that there were no wall-mounted handrails in hallways to facilitate the movement of persons with physical disabilities in any of the courts. The field research also revealed that there are no accessible restrooms in any of the visited courts. Some of the courts, or two of them to be precise, have stated in the survey that they have accessible restrooms in their buildings, however, the field research has shown that the concept of restroom accessibility is not quite clear after all. None of the courts had an accessible restroom built in observation of standards, meaning that the existing court restrooms are not at all available to persons with disabilities. The situation with

interior premises is quite similar. The most often used adaptation by courts is providing services to persons with disabilities within the ground floor court premises. However, there are also cases when persons with disabilities cannot even access the ground floor because of lack of accessibility. Usually, it is the case with older buildings in which there is no option of integrating an elevator. Some of the courts are located on non-accessible locations, along a busy main street, meaning that the independence of movement of persons with disabilities has been rendered impossible because of safety reasons.

During the field visits, in one of the courts, we saw an accessible courtroom. Namely, the courtroom was located on the ground floor and a wheelchair ramp was mounted at the back section of the court building leading directly to the courtroom.

None of the courts ensure accessibility to persons with visual and hearing impairment. The findings, and interviews and observation data confirm that the level of awareness regarding accessibility of this category of citizens to courts is at extremely low level, or better said, courts are unfamiliar with the concept of accessibility. It is due to the fact that in most of the cases, when these persons seek court services, they usually appear in court accompanied by another person, or in the case of hard of hearing, those persons usually tend to develop some kind of lipreading mechanism and are able to request services without any assistance.

When it comes to providing services to persons with disabilities, courts state that they have always dealt and have provided services to persons with disabilities. They do not keep statistical records on services provided to persons with disabilities. Only one of the courts has provided a form it uses to keep some kind of statistical records on the number of persons with disabilities to whom services have been provided. This form, entitled “List tracking the number of disabled persons seeking assistance in exercising their rights”, contains the following elements:

- Name of institution;
- Date;
- Authorised person/deputy;
- Grounds for seeking assistance;
- Type of disability – different categories of disability are listed;
- Indications on the presence of any communication difficulties, and
- Information whether the person seeking court service has actually managed to exercise their rights, and if yes, which rights.

According to the information we have obtained from the court, the use of this form has been suggested by the Ministry of Labor and Social Policy and is mandatory for all courts. However, the rest of the courts did not provide any information whether they use it in practice and whether its use is mandatory or not.

Although there are no statistical data on the number of persons getting court services or participating in any type of court proceedings, each individual court has stated that they have had experience dealing with people with disabilities. When asked what the most common categories of persons with disabilities seeking court services are, courts responded that persons with physical and intellectual disabilities are the most common. We consider that the reason why these two types of disabilities have been pointed out by the courts is that those disabilities are easily recognizable, especially in the case of persons with physical disability. The largest majority of courts proceedings involving persons with disabilities as either of the parties are proceedings related to declaration of legal incompetence, in which persons with intellectual disabilities are the most predominant category. This information has been confirmed by the fact that the court representatives have not attended any training as a potential source of additional information on disabilities, meaning that there is a lack of information and knowledge, although there is an undisputable altruistic desire to assist and support persons with disabilities. None of the courts has stated that they refuse providing

services to clients with disabilities, and all of them have stated that they need support and training. Most often, they point out that they need special training to recognize people with disabilities and adjust the way they deal with persons with disabilities.

One of the initiatives found in 81% of the courts, is that the courts appoint a contact person responsible to deal with the persons with disabilities. During our field visits, in most of the cases, we actually interviewed these contact persons. One of the most striking pieces of information was the fact that these persons are usually located on the second or the third floor and that most often, there is no elevator or the access is limited. Some of them have been appointed only recently and so far, they have not had any experience with persons with disabilities seeking court services. We believe that this is due to the physical inaccessibility. Part of the courts or 22% of them, pointed out that there is at least one person with disabilities on staff. Another interesting fact is that in one of the courts, one of the judges is actually a person with disabilities. Court representatives said that they do not tend to perceive their colleague as a person with disabilities, and they added that he has managed to integrate excellently and that he is highly professional. We have obtained similar information from the rest of the courts, who have informed us that there are persons with disabilities on staff, working as associates or couriers.

The most common service that courts offer to persons with disabilities is sign language interpretation. The fee for this service is covered by courts, and it is court's obligation to provide sign language interpreter.

When speaking about information accessibility, so far, courts have not considered adjusting existing forms and general information to fit the needs of people with disabilities. There is a complete lack of understanding of the concept of information accessibility in this field. Although courts have webpages, none of them is accessible. They usually publish all information on court's notice board, and some of the courts dispose of info front desks provided to them in the form of donation. We have noticed these desks during our field visits. They are designed to provide information in electronic manner; however, in the courts we have visited, they were not functional. This makes access to information to persons with disabilities even harder.

In general, the information we have gathered through the survey were largely confirmed by our field visits. Some of the findings from the survey do not match the actual state, however, we believe that it is due to the lack of information and knowledge about the concept of disability, accessibility and inclusion.

4. THE WORLD OF SILENCE AND JUSTICE - EXPERIENCE AND STORIES SHARED BY TWO SIGN LANGUAGE INTERPRETERS

This part of the Report focuses on the experiences and the stories arising from the abundant experience of two sign language interpreters, who preferred to stay anonymous, working in the area of justice. The interviews with them is no coincidence, as the majority of the courts included in our research have stated that the most common service provided to persons with hearing impairment is precisely sign language interpretation, which was confirmed during our field visits. More specifically, courts provide sign language interpretation services for the needs of this category of clients.

4.1. Story no. 1

Justice in the world of silence

Although the legal system in Macedonia guarantees the right to speak in one's mother tongue, in our field of interest where deaf persons experience communication barriers in terms of the use of sign language, it is much harder for them to exercise their right in the field of justice. Therefore:

- Sign language interpreters are hired from the pool of interpreters of the National Association of Deaf and Hard of Hearing (NADHH), and they are hired by all courts in Macedonia to assist in any type of court proceedings;

- There is a dilemma about who should cover the costs for hiring a sign language interpreter in providing this type of service, although the Law on Sign Language Usage clearly states that: ***“all public and state institutions shall provide due compensation for this type of service”***;

- In practice, it often happens that interpreters do not get paid, or deaf persons, in the capacity of a party to court proceedings, are the ones who are expected to pay the fee, or the best scenario is the one in which courts finally manage to provide the funds long after the termination of the respective procedure.

After the first hearing in court proceeding, once the court establishes that one of the parties is a deaf person, the court sends an ex officio invitation asking for provision of sign language interpretation services through the deaf person or to the NADHH, or the court contacts a sign language interpreter directly.¹

All persons involved in court proceedings usually use specific legal and court-related terminology, so sign language interpreters are put into a rather complex situation, requiring them not only to interpret, but also to find synonyms and simpler explanations to such terminology in

¹ According the Law for sign language use, article 5

order to make it easier to the deaf person to follow the course of the proceeding which is otherwise confusing. When doing their job, interpreters often check with the professionals involved to get a confirmation about what is discussed during court proceedings, so they can be sure that they are conveying the intended message in a simplified, but not misleading manner.

“From my experience so far as a sign language interpreter in various court proceedings, I usually come across judges who are positively inclined towards making the court procedure as clear as possible for deaf persons, irrespective whether they appear in capacity of defendant, plaintiff or witness. They also adjust to the situation, as the interpreter needs to stand opposite the deaf person to ensure better visibility when interpreting and provide assistance whenever the interpreter is not sure how to make a terminological delimitation of certain phrases or terms.“

Certainly, there are also exceptions or examples of poor practice: there have been cases when the judge did not allow the persons present in the courtroom to position themselves as they wish, or when a judge has stated that the interpreter is required to provide a prior permission to stand where they deem most fit, or even cases when interpreters’ labor has been devalued in terms of the remuneration and travel costs incurred (in case they have to travel outside their place of residence).

Case study – Abuse

This case study refers to a court proceeding annulling a father’s will (elderly deaf illiterate person) leaving different shares of his property (a house) to his seven children. Namely, in the period prior to the court proceeding, he had “made” a solemn statement certified by a Notary Public for the benefit of his daughter (one of his seven children), leaving the entire property he owned to her, and leaving nothing to his six other children, making them feel disadvantaged.

The proceedings were lasting for more than 2 years, mainly focusing on establishing father’s true will, who declared that he had not understood anything when signing his will before the Notary Public. Then, the circumstances in which the father had made the statement were examined (no sign language interpreter had been provided, and the father was illiterate), and also, his statement recorded as a video material (used as evidence) he provided prior to signing the will document was also examined.

In this type of cases, the true need of a sign language interpreter as an impartial party consistently transferring information was emphasized, especially in cases such as this one, when the deaf person is also illiterate and disposes of a rather rudimentary fund of words (signs). Because of his advanced age, the movement of his hands and fingers was restricted, creating a series of “distorted” signs, while the information transferred to him was simplified so he can understand it.

In the entire proceeding, due consideration was given to the extent to which the person could follow the course of the proceeding and whether he understood the questions, as well as whether the answers he provided reflected his true will and if he understood the consequences of this proceeding.

There is no doubt that these situations have happened before and they will surely happen again, but the most important aspect is whether a simplified linguistic access to legal terminology has been provided, or more specifically, how well do common citizens understand legal terminology and how clear is it to them, and even more importantly, how understandable it is in the world of silence. If it necessary to adjust court proceedings or sign language interpreters should become “legal professionals” themselves to be able to recognize legal terms and convey them into another linguistic system, but in a simpler way, without distorting the very essence.

Case study - Lawyers' game

An elderly deaf woman and I, in the role of interpreter, had a rather unpleasant courtroom experience. This old lady had been summoned to witness in court regarding a statement of another woman (deceased at that time) made several years before. Since the matter was related to a number of chronological events going back in the past, it was challenging to explain the deaf woman which was the statement that the court actually wanted to hear. The judge wanted to assist to make thing a bit simpler.

However, the lawyer representing the other party tried to refute deaf woman's testimony and demonstrated a pernicious behavior, asking the woman vague and confusing questions. I noticed that the deaf woman suddenly became confused and agitated, so I asked the lawyer to make his questions a bit clearer.

In the next set of questions related to the year and the date on which the statement in question had been made, the lawyer made rough allegations that the interpreter is leading the witness. The idea behind these allegations was to harm the credibility of the deaf woman's testimony.

The witness (the deaf woman) became visibly upset (and she even started feeling sick) and wanted to leave the courtroom as soon as possible.

What is the conclusion drawn from this experience? Deaf persons' statements can easily turn into lawyers' pray, as they skillfully use the linguistic gap appearing when transferring words from one to another specific linguistic system.

4.2. Story no. 2 - Relationship between courts and deaf people

Based on the past thirty years of professional career as journalist, but also as a child of deaf parents, I would like to point make several points regarding the relationship between courts and deaf people. On the road to justice, there are many unresolved issues that make everyday life of this category of citizens that much harder.

If we consider the fact that deaf citizens have almost the same needs in relation to these institutions, here are my personal views from the experience I have had so far:

1. An omission has been made in the Law on Sign Language Usage in Macedonia by not allowing deaf persons to choose sign language interpreter from the list of certified interpreters independently, because this is important from several aspects.

2. The list of certified sign language interpreters has not been delivered to all courts in Macedonia, so persons coming from certain cities in the country are not informed how they can hire sign language interpreter as fast as possible. Moreover, the list is not regularly updated in case of change of interpreter's address or phone number.

3. The existing court offices in charge of dealing with persons with disabilities do not employ persons able to provide services to deaf citizens, as court contact persons and other court staff do not know sign language. I once asked a court clerk how they would communicate with a deaf person, and this is the answer I got: "well, bit by lipreading, bit by writing." This is surely in violation of deaf persons' right to express their will in their mother tongue. Courts have also gone trough trainings, but the trainers were not fully familiar with the specifics of this population, so they provided some instructions for work which are not quite appropriate.

4. Another issue is if a deaf person would like to ask a question or say something at court's counters, it is impossible to do so through the opaque glass and the small opening which resemble the ones we see in cartoons.

5. Interpreters participating in court proceedings submit expense lists. Since there is no a pre-set form template, each interpreter makes their own template. This is due to the fact that there is no sign language association in the country, although these associations are common around the world.

6. During a court trial, there was a situation when the judge asked me to omit some of the information that was supposed to be translated to the deaf person involved. This is contrary to sign language interpreters' code, but it also a violation of deaf persons' rights.

7. Many of the sign language interpreters wait for several years for payments from the courts.

8. The last court trial I was invited to interpret at was composed of a series of hearings. I have filed an expense list to the court for each of the hearings, and once the case when closed, I ended up facing a rather absurd situation. Pursuant to a decision passed by the Ministry of Labour and Social Policy, the rate for one hour (60 minutes) of sign language interpretation is EUR 20. So, the fee for the first hour of interpretation is MKD 1,200 and MKD 600 for each consecutive hour. In the court decision that I got, the judge had actually made a sum of the minutes per hearing. She calculated that I had been working for 80 minutes, which equals to a fee amounting MKD 1,800. I lodged an appeal to this decision, and now the case is reviewed by the Court of Appeals.

9. Many deaf persons who are being detained in police stations and then brought before court are interrogated without sign language interpretation, which makes it impossible to establish clear communication.

10. I remember a case when a deaf person had rented a car. Then, that person was involved in a minor car accident and the car was damaged. The owner of the car had brought the deaf person to a Notary Public, accompanied by two other persons. A notary act had been drafted, but in the absence of a certified interpreter. When I asked why the person has not apposed his signature on the document and why a sign language interpreter was not hired, all I got was an impertinent behavior. The deaf boy's mother contacted the Ombudsman, the National Alliance of Deaf Persons, the media, but it was all in vain. The amount that the boy had to compensate to cover the damages was also questionable.

11. In Tetovo, there was a case of an elderly man with hearing impairment owning a house in the center of the city who was tricked by his grandson into signing an agreement he did not actually understand.

12. In one of the courts in Macedonia, the court reporter employed in the court was hired by the court to provide sign language interpretation services because she was child of deaf parents, with a single objective of avoiding additional costs for the court. However, certified sign language interpreters are held liable for the interpretation they provide, which is not the case with the courts reporter in this case. In the absence of sign language interpreters in public institutions, sometimes the children of deaf parents play the role of interpreters. There have been cases when underage child had been brought to a police station to interpret. Namely, in this case, deaf parents have reported that their daughter went missing in the presence of their six-year-old son who was doing the interpretation. The risk of traumatizing the child has not been considered in this particular case, and it has been reported to the First Children's Embassy Megjashi.

5. CONCLUSIONS

The following conclusions were produced based on the findings in the research and field visits:

1. Past experiences of Macedonian courts have confirmed that there is general lack of information and knowledge regarding disabilities and accessibility. The physical arrangements in which services to people with disabilities are provided are not sufficient to respond to their needs. Hence, some of services provided by courts still remain inaccessible to persons with disabilities, meaning that the current services are not sufficient.

2. Courts do not apply interior accessibility standards and the options for people with disabilities to access and move around court buildings independently are limiting.

3. According to the data obtained and in line with the Law on Prevention and Protection Against Discrimination, Article 8, paragraph 2 stating as follows: “***Discrimination of the persons with intellectual and physical disability persists in case when measures for elimination of the limitations shall not be adopted, i.e. adjustment of the infrastructure and the space, utilization of publicly accessible resources or participation in the public and social life***”, we can draw a conclusion that on the road to ensuring access to justice, persons with disabilities face discrimination due to lack of appropriate conditions and accessibility.

4. Court staffs are trying to offer support to persons with disabilities, despite the fact that they have not been properly educated and trained how to recognize and adequately treat persons with disabilities.

5. Courts do not keep statistical data regarding the number of persons with disabilities seeking court services or being involved in any type of court proceeding. The research has revealed that there is no unified and systematic approach to this issue, that is, this issue has not yet been recorded and it has not been raised up to being mandatory for all courts.

6. Courts invest efforts into ensuring accessibility to persons with hearing impairment by providing sign language interpretation services; however, there is still no a single unified model as to how to provide this service.

7. The concept of information accessibility is still not well known, nor has it been appropriately applied in the work of the courts so far.

6. RECOMMENDATIONS

The following recommendations were produced based on the conclusions drawn from the research and field visits:

1. To improve physical arrangements by taking into consideration accessibility standards when rehabilitating existing or building new buildings in order to make them accessible to all citizens and to meet the needs of persons with disabilities with single objective of increasing their independence and finally, of improving the quality of their lives.

2. To strengthen court staff capacities through trainings and other learning and development options so they can be able to recognize persons with disabilities and address their needs accordingly.

3. To improve information access to persons with disabilities in order to make them less dependent in exercising their fundamental rights and needs;

4. To reform courts operations by giving due consideration to the needs of persons with disabilities and by designing new services and providing support in getting such services, and

5. To establish unified and systematic approach to keeping statistical records regarding disability and access to justice.

APPENDICES

**Appendix 1:
Questionnaire on courts' accessibility and inclusiveness**

QUESTIONNAIRE

on accessibility and inclusiveness of Macedonian courts

Dear Sir/Madam,

This questionnaire has been designed with the objective of collecting data about accessibility and inclusiveness of the courts in Macedonia. Accessibility does not refer only to physical accessibility, but equally to the accessibility to information and services provided to all citizens, with emphasis of persons with disabilities.

Answering these questions will take around 20-30 minutes of your time.

The research of accessibility and inclusiveness of the courts in the country is part of the project entitled "I have a right to equal access to justice" implemented by the Open the Windows Association, supported by the European Policy Institute (EPI) and the Helsinki Committee for Human Rights in the Republic of Macedonia. The project "I have a right to equal access to justice" aims at contributing to better access to justice for persons with disabilities, and its implementation timeframe is May 2017 - August 2017.

The results will serve as a baseline to produce recommendations aimed at facilitating and modernizing access to justice for people with disabilities.

This questionnaire will be delivered to all courts in Macedonia. Your participation and sharing timely and objective information will be very valuable in terms of establishing the actual state of affairs and the existing possibilities for persons with disabilities to access justice.

Please fill in the questionnaire and send it to the Citizens Association "Open the Windows" to the following address: Bul. Partizanski odredi, 62/2-29, Skopje, by 25.01.2017.

Thank you for your time and cooperation.

I. CONTACT INFORMATION

Court: _____

Municipality: _____

**Name and last name of the person
filling out the questionnaire:**

Job position:

Contact information of the person filling out the form:

Tel.: _____

e-mail: _____

Date:

Signature and seal:

II. QUESTIONS ABOUT THE PHYSICAL ACCESSIBILITY OF THE COURT

1. Is there a wheelchair ramp outside court's building?

- There is a wheelchair ramp at court's entrance which can be used by persons in wheelchair without any assistance.
- There is a wheelchair ramp at the entrance, but it cannot be used by persons with physical disability.
- Court's premises are located on the ground floor and there is no need for wheelchair ramp.
- There is no wheelchair ramp.
- There is no need for wheelchair ramp because there are no persons with disabilities seeking court services.

2. How the movement of persons with disabilities is enabled in court's interior?

- There is an interior elevator that persons with disabilities can use to move between floors.
- The premises in which services for persons with disabilities are provided are located on the ground floor.
- No significant adaptations have been made to facilitate the movement of persons with disabilities in the interior of the court.
- There is no need for adaptation of the interior, because there are no persons with disabilities seeking court services.

3. Is there an accessible restroom in the court?

- Yes, court's restroom has been adapted to meet the needs of persons with disabilities.
- There is no need for restroom adaptation, because all clients can use the standard restroom.
- There is no an accessible restroom.

4. How the movement of persons with visual impairment is enabled in court's interior?

- There is a clearly marked tactile path that persons with visual impairments can use to move around.
- Court's signage is also done in Braille.
- The court has appointed an employee to assist persons with visual impairment.
- No adaptations have been made to enable persons with visual impairment move around court's building.

5. Does the court provide sign language interpretation services to people with hearing impairment?

- The court provides this service to all persons with hearing impairment.
- There is no need for this service, as persons with hearing impairment are usually accompanied.
- Persons with hearing impairment are able to seek its services without a sign language interpreter.
- So far, the court has not had any experience with persons with hearing impairment.

III. QUESTIONS ABOUT THE ACCESSIBILITY OF COURT PROCEEDINGS AND THE SUPPORT PROVIDED TO PERSONS WITH DISABILITIES

6. Has the court kept any records in the past five years regarding the number of persons with disabilities seeking court services and if yes, what parameters are included? Please explain briefly.

7. According to your information and the experience so far, what is the most common category of persons with disabilities seeking court's services? Multiple choice is possible.

- Intellectual disability
- Physical disability
- Visual impairment
- Hearing and speech impairment
- Combined impairment
- Autism
- Other (please state):

8. Is there a specially appointed person from court's staff, in charge of dealing with persons with disabilities?

- yes no

9. If yes, has this person attended any workshops and/or trainings in the area of disabilities?

- yes no

Please state which trainings.

10. Has court's staff, or any of its members, attended any workshops and/or trainings in the area of disabilities?

- yes no

Please state what training would court's staff need to strengthen and improve your work with persons with disabilities?

11. Is there a person with disabilities on staff in your court?

- Yes, there is a person with disabilities on court's staff.
- No, but the court is considering employing persons with disabilities.
- There is no need for hiring persons with disabilities in our court.

12. Does the court keep any records on the number of persons with disabilities directly involved in court proceedings?

- yes no

If yes, please state the number:

- Plaintiffs with disabilities _____ defendants with disabilities _____

13. Based on your experience in the past five years, what are the most common court proceedings involving persons with disabilities? Please state briefly:

IV. QUESTIONS ABOUT INFORMATION ACCESSIBILITY

14. Is there court's website? If yes, has it been built in observation of the standards for accessibility for persons with disabilities?

- Yes, the court has a website built in line with the applicable accessibility standards.
- Yes, the court has a website, but it has not been built in line with the applicable accessibility standards.
- The court has a website, but I'm not sure if it meets any accessibility standards.
- The court does not have a website.

15. Is court's information available to persons with disabilities?

- Yes, information is available and published on court's notice board.
- Yes, information is available and provided in adjusted form (easily readable materials, Braille, sign language interpretation etc).
- So far, the court has never adjusted its materials.
- Court's information is made available to all citizens without any adjustment.
- There is no need for adjustment of court's information.

16. Please state any additional information, experiences or suggestions related to court's work with persons with disabilities.

Appendix 2:
Table with information for participation of Courts in the survey

No.	Court	Activities	
		Completed survey questionnaire	Conducted field visit
1.	Supreme Court of the Republic of Macedonia	✓	✓
2.	Higher Administrative Court of the Republic of Macedonia	✓	✓
3.	Administrative Court	✓	✓
4.	Court of Appeals Bitola	✓	✓
5.	Court of Appeals Gostivar	✓	✓
6.	Court of Appeals Skopje	✓	✓
7.	Court of Appeals Shtip	✓	✓
8.	Court of First Instance Veles	✓	✓
9.	Court of First Instance Kavadarci	✓	✓
10.	Court of First Instance Kriva Palanka	✓	✓
11.	Court of First Instance Negotino	✓	
12.	Court of First Instance Skopje II	✓	✓
13.	Court of First Instance Gevgelija	✓	✓
14.	Court of First Instance Kratovo	✓	✓
15.	Court of First Instance Kumanovo	✓	
16.	Court of First Instance Skopje I		✓
17.	Court of First Instance Bitola	✓	✓
18.	Court of First Instance Resen		
19.	Court of First Instance Ohrid	✓	✓
20.	Court of First Instance Krushevo	✓	✓
21.	Court of First Instance Prilep	✓	✓
22.	Court of First Instance Struga	✓	✓
23.	Court of First Instance Gostivar	✓	✓
24.	Court of First Instance Debar	✓	✓
25.	Court of First Instance Tetovo	✓	✓
26.	Court of First Instance Kichevo	✓	✓
27.	Court of First Instance Berovo	✓	✓
28.	Court of First Instance Delchevo	✓	
29.	Court of First Instance Radovish	✓	✓
30.	Court of First Instance Strumica	✓	✓
31.	Court of First Instance Vinica	✓	✓
32.	Court of First Instance Kochani	✓	✓
33.	Court of First Instance Sveti Nikole	✓	✓
34.	Court of First Instance Shtip	✓	✓
Total:		32	30

Appendix 3: Interview Guide

INTERVIEW GUIDE

(interviewer's guidelines applicable during courts visits to observe inclusiveness and accessibility of court's building and court's information)

Introductory guidelines for the interviewer

Make an appointment with courts' contact persons or the persons who have filled out the questionnaire prepared to research courts' inclusiveness and accessibility. First, start by explaining the respective contact person what the main objective of your visit is and point out that the information that will be shared will be very useful in terms of improving the access to justice for persons with disabilities.

Start the conversation by saying something about you (name and position). Explain the respondents the most important information about the project and the next steps. For detailed information and explanations, please refer them to OtW. Do not forget to explain that in this stage of the project, the team will visit 34 courts throughout the country to collect information on courts' accessibility and inclusiveness.

During the conversation with the respondents, follow the steps referred to in this Guide and make sure to fill in all the information obtained in the form "Report on court visits, interviews and observation of accessibility and inclusiveness of court's building and court's information" (please find the form below). The form is a combination of two tools: Quantitative questionnaire and qualitative representation of the impressions from interviews and observation as technique that will be used during the research. In addition, use the form to fill in all respondent's answers, and your comments and remarks as well. In the section below, please find additional guidelines and instructions on each individual topic.

I. CONTACT INFORMATION

In this section, please fill in the general information about the court, such as: official court's name and municipality. Ask the respondent to give you their full name and last name, position and also write down some personal contact information (phone number(s), email). In addition to their principal position, please also state the position of contact person of the representative of the court recommended to that end.

II. INFORMATION ON THE PHYSICAL ACCESSIBILITY OF THE COURT

In this section of the form, please try to collect information regarding the physical accessibility of court's building:

- Collect information about the access to court's building: is there an access wheelchair ramp at the entrance. If you get an affirmative response, ask for brief description about the access,

whether the wheelchair ramp has been built according to the applicable standards; whether a person with disability would be able to move on it without any assistance; ask if the ground surface past the ramp is leveled or there are some obstacles.

- Ask for information about the accessibility to court's interiors. Ask if the court is located on one or several floors; how persons can move from one floor to the other; how the court deals if a person with disabilities needs to go to the second floor; how the movement of persons with visual impairment is ensured; are court's restrooms accessible.

- Collect data on accessibility of persons with hearing and visual impairment. Ask if the court has provided accessibility to persons with visual impairment; how often do persons with visual impairment seek court's services; how the court deals with such situations; do those persons usually appear in court accompanied or the court has assigned an employee to accompany such person; are there any persons with hearing impairment seeking court's services; have there been any persons seeking sign language interpretation services; how often do people seek this service and how court's staff communicates with these people.

Discuss these questions with the respondents and ask them to show you in what conditions does the court work with persons with disabilities. Moreover, ask them to support their answers with practical examples from their day-to-day work.

Compare these data to the data provided by the courts. In case of significant deviations, talk about the potential reasons for such disparities and state them in the table.

III. INFORMATION ON THE ACCESSIBILITY OF COURT PROCEEDINGS AND THE SUPPORT PROVIDED TO PERSONS WITH DISABILITIES

In this section of the form, include all data referring to:

1. Recording, tracking and statistics about persons with disabilities

Discuss with the respondents whether they keep any records on persons with disabilities and what they include in such records, if any. Based on respondent's free estimate or actual records, please collect information about which is the most common category of persons with disabilities seeking court's services. Ask them if they think that court services are sufficiently available and accessible to other categories of citizens with disabilities. If the court does not keep such records, ask them to give brief explanation why it is so and what is the most important challenge they face.

2. Information on how prepared court employees are to deal with persons with disabilities.

In this section of the interview, respondents are expected to state whether the court has assigned a person responsible to deal with persons with disabilities, the grounds for appointment, what is the biggest challenge and difficulty faced by persons with disabilities, or if they have had any training on working with persons with disabilities and what is missing to improve the cooperation and the treatment of persons with disabilities seeking court's services. If possible, ask the respondent to provide examples from their day-to-day work.

3. Information on involvement of persons with disabilities in court proceedings and court operations

When talking to the respondents, ask them to give you information on involvement of persons with disabilities in court proceedings: How are persons with disabilities involved in court proceedings; is the court taking any measures to make sure that the location is accessible to persons with disabilities; does the court provide information that is sufficiently accessible and understandable to the participants in court proceedings; does the court offer additional support to persons with disabilities and what kind of support. Moreover, discuss about what are the most common types of court proceedings involving persons with disabilities and does the court keep records and statistical data regarding this matter. **Ask the respondents to point out some examples of court proceedings in which persons with disabilities have appeared as plaintiffs or defendants.**

Additionally, try to get a feel of what respondents think about a person with disabilities being employed at the court. Ask them where do they think that their role would be most necessary, or more specifically, what would be the optimal position for persons with disabilities in the court and if they have any expectations regarding disabilities, that is, what would be the best position for persons with disabilities so they can respond to working tasks in the most efficient manner.

IV. INFORMATION ON ACCESSIBILITY OF INFORMATION PROVIDED BY THE COURT

Try to collect data on accessibility of information provided by the court; can court's website be accessed; how the court defines information accessibility; has the court ever made any reflections in this respect; does the court deem information it offers sufficiently understandable and accessible to all; have persons with disabilities had any difficulties understanding any court's information, and how the situation has been resolved. Ask respondents to support their answers with examples from their day-to-day work.

V. CONCLUSIONS AND RECOMMENDATIONS

1. Conclusions drawn from interviews and observation

Please state your conclusions from court visit. Use the information and data collected during the interview and your observation. Try to draw conclusions in the following areas:

- Court's inclusiveness (general position and attitudes towards persons with disabilities, accessibility and inclusiveness of the courts, adequate conditions for persons with disabilities, presence/absence of records and statistics on persons with disabilities);
- Need for assistance (recognizing the need for support and adjustment, court staff training, hiring persons with disabilities);

2. Recommendations

Please state your recommendations for further activities based on the conclusions drawn before. Please focus on your conclusions and formulate your recommendations based on them.